

Town of Mesilla, New Mexico

**THE PLANNING, ZONING AND HISTORICAL APPROPRIATENESS COMMISSION
(PZHAC) REZONE HEARING AT THE MESILLA TOWN HALL,
2231 AVENIDA DE MESILLA.
MONDAY- AUGUST 19, 2024, AT 5:00 PM**

ATTENDEES:

Commission: Chairperson Lucero
Commissioner Gallegos
Commissioner Walkinshaw
Commissioner Miller
Commissioner Mulvihill

Staff: Community Development (CDC) Eddie Salazar
Town Attorney Benjamin Young

Public: Enrique Vigil Nora Barraza
Melanie Vigil Mary Lucero
Anton Magallanez Susan Krueger
Bill Cook Trina Witter

- 1. PLEDGE OF ALLEGIANCE**
- 2. ROLL CALL AND DETERMINATION OF A QUORUM**

Chairperson Lucero – present
Commissioner Eric Walkinshaw – present
Commissioner Lori Miller – present
Commissioner Eric Gallegos – arrived 3 min after roll call
Alternate Commissioner Martha Mulvihill - present

- 3. REZONE Case# 061870 - A request has been submitted to rezone a Residential Agriculture (RA), Dona Ana County parcel #4-007-137-162-321, at 2750 Old Farm Rd, to Residential (R-1) for the purpose of subdividing into three-1 acre lots.**

CDC Salazar- introduced the case to the commission, reviewing packet and proposed rezone from residential Agriculture (RA) to single-family residential (R-1) zone.

Proposed rezone was heard last year and denied by the PZHAC. Preservation of the green zone and subdivision does not meet town minimum of 1-acre per parcel.

Applicant's property was previously 3 individual 1-acre parcels zoned RF and considered to be non-conforming due to being under 5-acre minimum requirement. Property was rezoned to RA in order for applicant to be able to build their primary residence. CDC Salazar – swore in all individuals who will be giving testimony during the hearing.

Anton Magallanez – representing the applicant, gave presentation on request. Stating he has reviewed both Mesilla town code (MTC) and Mesilla's comprehensive plan. Was not able to find in either, why the applicant's request to rezone should be denied. Petition to rezone was previously submitted last year and the reason for denying applicant was due to preservation of "green belt." According to comprehensive plan, green belt is referred to the RF (rural farm) of 5 acres or more. Applicant's property is only 3-acres and in residential agriculture (RA), green zone reasoning to deny should not apply.

Not to be considered spot zoning, as this property is the only RA zone surrounded by R-1 and RF. If anything, it should be considered spot zoning as it is in its present state. Susan Krueger – difficult to manage this type of request if we approve and started to allow rezones to accommodate these requests to rezone. Also, the zone change and subdivision are two totally different things and should not be confused that a subdivision is approved if the zone change is. A subdivision request will need to be submitted after.

Nora Barraza – pointed out some areas in the comprehensive plan and pointed out it to be a community-based plan based on community involvement. Many of the residents in the interviews expressed a desire to continue historic preservation and protection of agricultural land. Need to protect our green belt/agricultural land. Challenge the zoning map, the property adjacent to the west of it is also RA, does not know when it had changed to R-1 zone.

Mary Lucero – resident and also wants to preserve the green belt. Even if approved, applicant would not be able to subdivide because the solar panels next to his property would be on a different parcel. Even if the farm lands are unable to farm and empty, tourist that live in big cities come to see that as well. Is against the petition to rezone property and protect our green zone.

Jeffrey Burras – town of Mesilla's population is decreasing, there are plenty of empty properties and buildings in Mesilla for people to build/live. No need to rezone precious agricultural land into residential land.

Bill Cook – strongly in favor in retaining our green zone and not splitting it up. If they allow it once, it's a possibility builders in the future could come and build in the green zone. Mr. Foreman – lives across from applicant and asked, if it was previously 1-acre parcels before, why can't it go back to 1-acres?

4. ADJOURNMENT – 5:38 pm

ATTENDEES

Chairperson Lucero

Commissioner Gallegos
Commissioner Miller
Commissioner Walkinshaw
Commissioner Mulvihill

Staff: Community Development (CDC) Eddie Salazar
Town Attorney Benjamin Young

Public:	Enrique Vigil	Nora Barraza
	Melanie Vigil	Mary Lucero
	Anton Magallanez	Susan Krueger
	Bill Cook	Trina Witter
	Andrea Bryan	Greg Lester
	Jesus Lopez	Nathan Smith
	Catherine Walkinshaw	Mary H Ratje
	Janice Cook	

**THE PLANNING, ZONING AND HISTORICAL APPROPRIATENESS COMMISSION
(PZHAC) REGULAR MEETING AT THE MESILLA TOWN HALL,
2231 AVENIDA DE MESILLA.
MONDAY- AUGUST 19, 2024, AT 6:00 PM**

- 1. PLEDGE OF ALLEGIANCE**
- 2. ROLL CALL AND DETERMINATION OF A QUORUM**

Chairperson Lucero – present
Commissioner Eric Walkinshaw – present
Commissioner Lori Miller – present
Commissioner Eric Gallegos – arrived 3 min after roll call
Alternate Commissioner Martha Mulvihill – present, will be filling in for Commissioner Salas

3. CHANGES / APPROVAL OF AGENDA

Chairperson Lucero – motioned to postponed short-term rental (STR) on our agenda; STR case #1254, #1255 & #1256. Requested for a second and motion was seconded by commissioner Mulvihill.

Commissioner Gallegos – asked if the proposed postponement by the chair was for the cases mentioned or all future STR cases as well.

Chairperson Lucero – stated there is an ad hoc committee established to put together a STR ordinance. Have had 12 STRs since the beginning of the year. Is concerned we have too many STR in Mesilla.

Benjamin Young – asked to address the commission and cautioned, the commission their role. The PZHAC is an advisory committee and needs to review cases as the ordinance is currently written and not be in the future.

Chairperson Lucero – continued in discussion to recommend postponement of present cases and future STR applications until an ordinance is in place.

Commissioner Walkinshaw – asked attorney regarding conflict of interest due to him being an owner of an STR.

Benjamin Young – conflict of interest only applies when the case at hand is directly affecting the elected official. A case such as this motion on the floor is more of a broader decision that affects the community as a whole and not for a particular person. Stated Commissioner Walkinshaw can recuse himself if he feels to but is not necessary just because he is a STR owner making a decision for the community as a whole.

1st motion to postpone STR cases listed on agenda and all future cases until an ordinance is in place made by Chairperson Lucero

2nd motion to postpone STR cases listed on agenda and all future cases until, and ordinance is in place made by Commissioner Mulvihill.

Commissioner Gallegos – no
Commissioner Miller – no
Commissioner Walkinshaw – no
Chairperson Lucero – yes

Nora Barraza – called a point of order. She advised there was no proper motion on the floor to vote to postpone STR applications. Continued by coaching Chairperson Lucero on how to conduct the vote.

After discussion, CDC Salazar continued to take the vote of the commission.

Commissioner Mulvihill – yes

Vote – motion to postpone was denied 3 – 2.

Chairperson Lucero called for the vote for approval of consent agenda with the same motion.

Commissioner Gallegos – no
Commissioner Miller – no
Commissioner Walkinshaw – no
Chairperson Lucero – yes
Commissioner Mulvihill – yes

4. PUBLIC INPUT

The public is invited to address the commission regarding items listed on the agenda as allowed by the chair. You can also email your comments to clerk@mesillanm.gov at least seventy-two (72) hours prior to the meeting.

Mary Helen Rajte – recommended not to have a moratorium and review the current and future cases based on the ordinance that's in place. Is part of the short-term rental ad hoc committee. We can't deny these people.

Trina Witter – is part of STR ad hoc committee concur with Mrs. Ratje. Do not have a moratorium and go with the ordinance you have now.

Mary Lucero – is not an STR owner but is also part of the STR Ad hoc committee. In 5-mile radius, have counted 54 to possibly 58 in Mesilla. Unregistered STR owners should have consequences and is not fair to those that are. Those that are operating illegally should not be approved until the ordinance is passed.

Nora Barraza – according to our ordinance, RF zone, a guest house is permitted not to be rented or used to conduct business. STRs are rentals, and according to this code (18.20.020(D), they should not be allowed. Also, against too many STRs in our community. Need to encourage families to move into Mesilla.

Jefery Burras – submitted an STR application since December, miscommunication from government administration. Is one of the cases that is being heard tonight. Noted operating an STR is the only way he is able to live in Mesilla.

Dasa Bausova – stated she is also on the agenda for STR approval. Reminded commission of precedence set has already approved 2 STR on RF zone. Is also in ad hoc committee, the amount of STRs in Mesilla earlier mentioned of 54 is not a final number, we are still verifying.

5. APPROVAL OF CONSENT AGENDA

**Note: Items on the Consent Agenda, indicated by an asterisk (*), will be voted on with one motion unless a commissioner requests that a specific item be removed for discussion.*

Chairperson Lucero – read a script regarding Robert’s Rule of Order to make a motion to approve minutes on consent agenda. Commissioners are able to vote although they were not present or participated in the meeting.

- a. PZHAC MINUTES:** * JULY 17, 2024, Work Session
- b. PZHAC MINUTES:** * JULY 17, 2024, Regular Meeting Minutes
- c. PZHAC MINUTES:** *AUGUST 5, 2024, Work Session/Historic Appropriateness Permit Minutes
- b. PZHAC MINUTES:** *AUGUST 5, 2024, Regular Meeting Minutes

1st motion to approve minutes made by Chairperson Lucero

2nd motion to approve minutes made by Commissioner Mulvihill

Commissioner Gallegos – yes

Commissioner Miller – yes

Commissioner Walkinshaw – yes

Chairperson Lucero – yes

Commissioner Mulvihill – yes

6. ACTION AND CONSIDERATION

a. **STR CASE #1256** – 2729 Calle de San Albino, submitted by Ruben Smith. Requesting approval to operate a short-term rental on the property. ZONE: Historical Residential (HR).

1st motion to approve made by Walkinshaw
2nd motion to approve made by Gallegos

Discussion

Chairperson Lucero – stated, is uncomfortable approving the STR case.

Commissioner Gallegos – yes
Commissioner Miller – yes
Commissioner Walkinshaw – yes

Chairperson Lucero – no
Commissioner Mulvihill – no

Approved; 3-2.

b. **STR CASE# 1254** – 2935 Estrada Rd, submitted by Dagmar Bausova. Requesting approval to operate a short-term rental (STR) on her property. ZONE: Residential Agriculture (RA).

1st motion to approve made by Walkinshaw
2nd motion to approve made by Gallegos

Discussion

Commissioner Walkinshaw – asked if applicant would be living at the property. Mrs. Bausova said responded with a yes.

Commissioner Gallegos – yes
Commissioner Miller – yes
Commissioner Walkinshaw – yes

Chairperson Lucero – no
Commissioner Mulvihill – no

Approved; 3-2.

c. **STR CASE #1255** - 2872 Calle de San Albino, submitted by Jeffrey Buras. Requesting approval to operate a short-term rental on property. ZONE: Historic Zone (HR).

1st motion to approve made by Gallegos
2nd motion to approve made by Walkinshaw

Commissioner Gallegos – asked if there are any penalties for an unregistered STR.

CDC Salazar – there is a penalty that can be imposed, codes department regulates fines and penalties for violations of our code.

Chairperson Lucero – how long have you been operating and have applicant been paying Lodger’s tax.

Jefery Burras – been operating STR since January and have been paying Lodger's tax.

Commissioner Gallegos – yes
Commissioner Miller – yes
Commissioner Walkinshaw – yes
Chairperson Lucero – no
Commissioner Mulvihill – no

Approved; 3-2.

- d. **PZHAC CASE #061880** – 2586 Calle de Principal, submitted by Teresa Turudy. Requesting approval to install two metal security gates on the perimeter fence of her property. ZONE: Historical Residential (HR).

1st motion to approve made by Chairperson Lucero
2nd motion to approve made by Commissioner Miller

Commissioner Gallegos – yes
Commissioner Miller – yes
Commissioner Walkinshaw – yes
Chairperson Lucero – yes
Commissioner Mulvihill – yes

Approved; 5-0.

- e. **PZHAC CASE #061881** – 2011 Avenida de Mesilla, submitted by Grady Oxford. Requesting approval to place a 7ft x 8 ft wooden shed on property. ZONE: Historical Commercial (HC).

1st motion to approve made by Commissioner Gallegos
2nd motion to approve made by Commissioner Miller

Commissioner Gallegos – yes
Commissioner Miller – yes
Commissioner Walkinshaw – yes
Chairperson Lucero – yes
Commissioner Mulvihill – yes

Approved; 5-0, with conditions. Needs to be made of fire-resistant material in order to be within 3-feet of property line. If not made of fire-resistant material, it will require a 7-foot setback.

7. COMMISSIONERS / STAFF COMMENTS

Chairperson Lucero – asked if any letters of interest for an alternate position in the PZHAC. Also, vice-chair Salas has mentioned when he will be returning. She requested a secretary for the commission be added to PZHAC upcoming agenda.

Also asked Mr. Salazar to schedule a discussion on short-term rental update from ad hoc committee. Need to know what is going on.

CDC Salazar – discussion with the property 2551 Calle de Principal. Property has erected an illegal addition that is an eye sore to the public and property owners within the vicinity. Codes department Officer Garcia is actively investigating the case at this time.

Ad hoc committee has been working hard putting together an ordinance. Thanked members in the committee for their hard work and commitment. Currently we are distinguishing how many short-term rentals are operating legally and illegally. Densities are being considered in how many allowable are going to be permitted.

Chairperson Lucero – requested a workshop on STRs to update commission and discuss the ad hoc progress on ordinance.

CDC Salazar – will be scheduling workshops to review code topics such as STRs. Ad hoc updates will be given every meeting under staff comments.

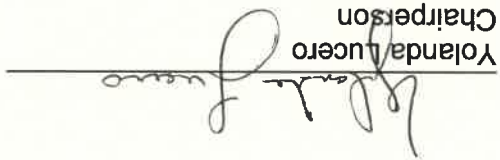
Will be scheduling tonight's hearing case as an action and consideration under a special meeting, possibly on Tuesday, August 27, 2024. At this time, commission will only be meeting to vote on the outcome of the rezone case. If you have any questions or concerns that will prevent you to make a decision on the case, contact him.

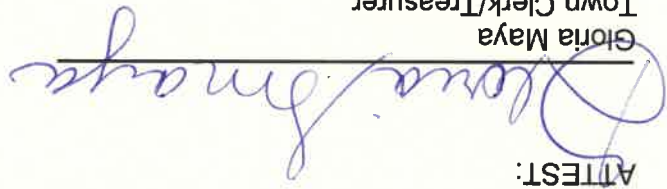
8. ADJOURNMENT - 6:58 PM

NOTICE

If you need any accommodation for a disability to enable you to fully participate in the hearing or meeting, please contact us on 524-3262 at least 48 hours prior to the meeting.

Posted on 8/12/2024 at the following locations: Town Hall - 2231 Avenida de Mesilla; Public Safety Building - 2670 Calle de Parian; Mesilla Community Center - 2251 Calle de Santiago; Shorty's Food Mart - 2290 Avenida de Mesilla; and the U.S. Post Office – 22e. 53 Calle de Parian; Mesilla website <https://www.mesillanm.gov/minutes-agendas/>


Yolanda Lucero
Chairperson

ATTEST:

Gloria Maya
Town Clerk/Treasurer