

City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 10 Ordinance/Resolution# 11-020 Council District:

For Meeting of July 19, 2010

(Adoption Date)

A RESOLUTION APPROVING THE TRANSFER OF OWNERSHIP AND LOCATION OF LIQUOR LICENSE NO. 652 FROM T. D. INDUSTRIES, INC. TO PIC QUIK STORES, INC. D/B/A PIC QUIK STORE #3, TO BE LOCATED AT 1501 EAST AMADOR, LAS CRUCES, NEW MEXICO.

PURPOSE(S) OF ACTION: To approve, disapprove, or not approve the transfer of ownership and location of Liquor License No. 652 to Pic Quik Stores, Inc. d/b/a Pic Quik Store #3.

Name of Drafter: Monica Campbell <i>mc</i>		Department: Legal		Phone: 541-2128	
Department	Signature	Phone	Department	Signature	Phone
Originating Department		541-2128	Budget	<i>Robert F. Lundeen</i>	541-2107
			Assistant City Manager	<i>[Signature]</i>	541-2271
Legal	<i>Ray [Signature]</i>	541-2128	City Manager	<i>[Signature]</i>	541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

Pursuant to state law, the application for transfer of ownership and location of a liquor license must be accompanied by a resolution of the City Council approving of and consenting to the transfer after a public hearing.

Pic Quik Stores, Inc. d/b/a Pic Quik Store #3 applied to the Alcohol & Gaming Division of the Regulation and Licensing Department of the State of New Mexico ("Alcohol and Gaming) for a transfer of ownership and location of Liquor License No. 652 to 1501 East Amador, Las Cruces, New Mexico. Alcohol and Gaming granted preliminary approval on June 10, 2010.

The City Council is required to hold a public hearing within 45 days after the date of receipt of the preliminary approval from Alcohol and Gaming. A public hearing to review this issue is scheduled for Monday, July 19, 2010, beginning at 1:00 p.m., in the City Council Chambers, City Hall, 700 North Main Street, Las Cruces, New Mexico. Notice of this public hearing was published in the *Las Cruces Bulletin* on June 25 and July 2, 2010.

Council may approve or disapprove the transfer. However, Council's disapproval must be based on substantial evidence that the transfer of ownership and location of the license would adversely affect the health, safety or welfare of the citizens of the City of Las Cruces.

(Continue on additional sheets as required)

Council may also fail to either approve or disapprove the license. If Council fails to approve or disapprove the license within 30 days after the public hearing, the Director of Alcohol and Gaming may give final approval of this license.

SUPPORT INFORMATION:

Fund Name / Account Number	Amount of Expenditure	Budget Amount
N/A	N/A	N/A

1. Resolution with Alcohol and Gaming’s preliminary approval with the application attached as Exhibit “A”.
2. Notice of Intent to Adopt, Attachment “1”.
3. Traffic Impact Report from the Traffic Engineering Section, Attachment “2”.
4. Liquor License Impact Report (zoning) from the Community Development Department, Attachment “3”.
5. Liquor License Impact Report (registration and permits) from the Economic Development Department, Attachment “4”.
6. Criminal Activity Report from the Las Cruces Police Department, Attachment “5”.
7. Fire and Safety Compliance Report from the Las Cruces Fire Department, Attachment “6”.

OPTIONS / ALTERNATIVES:

1. Approve the resolution and consent to the transfer of ownership and location of Liquor License No. 652 to Pic Quik Stores, Inc. d/b/a Pic Quik Store #3. Approval will allow Alcohol and Gaming to continue with its application process.
2. Disapprove the resolution. Council’s disapproval must be based on substantial evidence that the transfer of ownership and location of the liquor license would adversely affect the health, safety or welfare of the citizens of the City of Las Cruces.
3. Not approve or disapprove the Resolution. If the Council fails to either approve or disapprove the transfer of ownership and location of the liquor license, the Director of Alcohol and Gaming may give final approval to said transfer.

RESOLUTION NO. 11- 020

A RESOLUTION APPROVING THE TRANSFER OF OWNERSHIP AND LOCATION OF LIQUOR LICENSE NO. 652 FROM T. D. INDUSTRIES, INC. TO PIC QUIK STORES, INC. D/B/A PIC QUIK STORE #3, TO BE LOCATED AT 1501 EAST AMADOR, LAS CRUCES, NEW MEXICO.

The City Council of the City of Las Cruces is informed that:

WHEREAS, Pic Quik Stores, Inc. d/b/a Pic Quik Store #3 applied to the Alcohol and Gaming Division of the Regulation and Licensing Department of the State of New Mexico ("Alcohol and Gaming") for a transfer of ownership and location of Liquor License No. 652 to 1501 East Amador, Las Cruces, New Mexico; and

WHEREAS, on June 10, 2010, Alcohol and Gaming granted preliminary approval for the transfer of ownership and location, as evidenced by their letter with the application attached; and

WHEREAS, pursuant to law, the application for transfer of ownership and location of a liquor license must be accompanied by a resolution of the City Council approving of and consenting to the transfer after a public hearing upon reasonable public notice of such hearing; and

WHEREAS, the City Council did on this date hold a public hearing after reasonable public notice setting forth the appropriate information concerning the public hearing. The City Council has considered the transfer of ownership and location of the liquor license and it has determined that the approval of said transfer is not detrimental to the public health, safety or welfare of the City of Las Cruces.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LAS CRUCES:

(I)

THAT the transfer of ownership and location of Liquor License No. 652 to Pic Quik Stores, Inc. d/b/a Pic Quik Stores #3, to be located at 1501 East Amador, Las Cruces, New Mexico, is hereby approved.

(II)

THAT a copy of this Resolution shall be conveyed to the Director of the Alcohol and Gaming Division of the Regulation and Licensing Department, Post Office Box 25101, Santa Fe, New Mexico 87504-5101.

(III)

THAT City staff is authorized to do all deeds necessary to accomplish the intent of this Resolution.

DONE AND APPROVED on this 19 day of July 2010.

Mayor

ATTEST:

City Clerk

{SEAL}

Moved by: _____

Seconded by: _____

Mayor Miyagishima:	_____
Councillor Silva:	_____
Councillor Connor:	_____
Councillor Pedroza:	_____
Councillor Small:	_____
Councillor Sorg:	_____
Councillor Thomas:	_____

APPROVED AS TO FORM:



City Attorney



New Mexico Regulation and Licensing Department
ALCOHOL AND GAMING DIVISION

Toney Anaya Building ▪ 2550 Cerrillos Road ▪ Santa Fe, New Mexico 87505
(505) 476-4875 ▪ Fax (505) 476-4595 ▪ www.rld.state.nm.us/agd

June 10, 2010

Bill Richardson
GOVERNOR

Kelly O'Donnell, Ph.D.
SUPERINTENDENT

Julie Ann Meade
DEPUTY
SUPERINTENDENT

Gary J. Tomada
DIRECTOR

Certified Mail No: 7009 2820 0001 0028 5123

City of Las Cruces
Attn: Ester Martinez, Clerk
PO Box 20000
Las Cruces, NM 88004

Re: License / App. No. 652/565211
Applicant Name: Pic Quik Stores, Inc.
Doing Business As: Pic Quik Store #3
Proposed Location: 1501 E. Amador Ave., Las Cruces, NM

ATTENTION: Department or person responsible for conducting or preparing the public hearing for liquor license transfers or issuance of new liquor licenses. *(Please review the revised instructions for approval or disapproval below.)

Greetings:

The Director of the Alcohol and Gaming Division has granted Preliminary Approval for the referenced application and is being forwarded to you in accordance with Section 60-6B-4 NMSA of the Liquor Control Act.

Within forty-five days after receipt of a notice of preliminary approval from the Alcohol and Gaming Division, the governing body shall hold a public hearing in the question of whether the department should approve the proposed issuance or transfer. Notice of the public hearing required by the Liquor Control Act shall be given by the governing body by publishing a notice of the date, time and place of the hearing at least once a week for two consecutive weeks in a newspaper of general circulation within the territorial limits of the governing body, which requires that two weeks of publication must be satisfied before a hearing can be conducted. The notice shall include: (A) Name and address of the Applicant/Licensee; (B) The action proposed to be taken by the Alcohol and Gaming Division; (C) The location of the licensed premises. The governing body is required to send notice by certified mail to the applicant of the date, time and place of the public hearing. The governing body may designate a hearing officer to conduct the hearing. A record shall be made of the hearing.

The applicant is requesting a Transfer of Ownership & Location:

The governing body may disapprove the issuance or transfer of the license if:

The proposed location is within an area where the sale of alcoholic beverages is prohibited by the laws of New Mexico. (The governing body may disapprove if the proposed location is within 300 feet of a church or school unless the license has been located at this

Alcohol and Gaming Division
(505) 476-4875

Boards and Commissions Division
(505) 476-4600

Construction Industries Division
(505) 476-4700

Financial Institutions Division
(505) 476-4885

Manufactured Housing Division
(505) 476-4770

Securities Division
(505) 476-4580

Administrative Services Division
(505) 476-4800

location prior to 1981 or unless the applicant/licensee has obtained a waiver from the local option district governing body for the proposed licensed premises.)

The issuance or transfer would be in violation of a zoning or other ordinance of the governing body. The governing body may disapprove if the proposed location is not properly zoned. Because this office is in receipt of a zoning statement from the governing body, this is not a basis for disapproval.

The issuance would be detrimental to the public health, safety or morals of the residents of the local option district. Disapproval by the governing body on public health, safety or morals must be based on and supported by substantial evidence pertaining to the specific prospective transferee or location and a copy of the record must be submitted to the Alcohol and Gaming Division.

*Within thirty (30) days after the public hearing, the governing body shall notify the Alcohol and Gaming Division *in writing* as to whether the local governing body has approved or disapproved the issuance of transfer of the license *and* by signing the enclosed original Page 1 of the application. *The letter of approval/disapproval and the Page 1 must be returned together with the notice of publication(s).* If the governing body fails to either approve or disapprove the issuance or transfer of the license within thirty days after the public hearing, the director may give final approval to the issuance or transfer of the license.

If the governing body disapproves the issuance or transfer of the license, it shall notify the Alcohol and Gaming Division within thirty (30) days setting forth the reasons for the disapproval. A copy of the minutes of the public hearing shall be submitted to the Alcohol and Gaming Division with the notice of disapproval (page 1 of the application page noting disapproval).

Sincerely,


Annette R. Brumley
Hearing Officer

ENCLOSURES: Original Page 1 of Liquor License Application
Copy of page 2 Premises, Location, Ownership & Description of Premises



New Mexico Regulation and Licensing Department - Alcohol and Gaming Division
P.O. Box 25101 • Santa Fe, New Mexico 87504-5101 • (505) 476-4875 • Fax (505) 476-4595 • www.rld.state.nm.us/agd

4/27/10
Annex 2

LIQUOR LICENSE APPLICATION

Application fee - \$200.00 Fees are non-refundable.
Record Owner of Existing License T.D. INDUSTRIES, INC.
Current D/B/A Name SHORTY'S FOODMART #3
Current Premises Address 7320 NORTH MAN STREET, LAS CRUCES, NM



State Liquor License # 0652
Application Number 505811
Local option (AGD use) _____
Transfer Ownership of Existing License Transfer Location

Application is for: Change of Stock Change of Officers/Directors
Issue New License Type of License being applied for _____
Applicant is: Individual Corporation Partnership (General or Limited) Limited Liability Company

NAME OF APPLICANT (company or individual)
PIC QUIK STORES, INC.

ADDRESS (including city, state, zip)
2240 E. MISSOURI, SUITE A, LAS CRUCES, NM 875-523-5000

D/B/A name to be used: PIC QUIK STORE #3

Phone number for licensed premises: N/A

Physical location where license is to be used: 1501 E. ANADOR AVENUE, LAS CRUCES, DONA ANA COUNTY, NEW MEXICO 88001

TELEPHONE NUMBER
575-523-5000

Mailing address: 2240 E. MISSOURI, SUITE A, LAS CRUCES, DONA ANA COUNTY, NEW MEXICO 88005

Are alcoholic beverages currently being dispensed at the proposed location? Yes No If yes, give license number and type N/A

I, (print name) LUIS OSCAR ANDRADE as (title) PRESIDENT being first duly sworn upon oath deposes and says: that he/she is the applicant or is authorized by the applicant to make this application; that he/she has read the same; knows the contents therein contained are true. Applicant(s) agree(s) that if any statements or representations herein are found to be false, the director may refuse to issue or renew the license or may cause the license to be revoked at any time.

You must sign and date this form in the presence of a notary public.

Signature of Applicant Luis Oscar Andrade Date 4-20-10

SUBSCRIBED AND SWORN TO before me this 20th day of April, 2010 by Luis Oscar Andrade

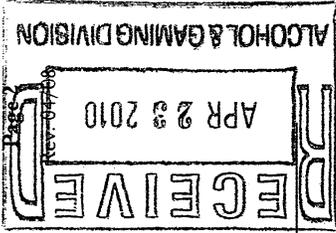


Notary Public Mary E. Woodton My Commission Expires 1-15-13

Local Governing Body of: _____ (City or County). Hearing held on _____ 20____

Check one: Approved Disapproved City/County Official _____ (Signature & Title)

Approved _____ Disapproved _____ Director Approval _____ Date _____
For Alcohol and Gaming Division Use Only



PREMISES LOCATION, OWNERSHIP, AND DESCRIPTION
 SS-60-6B-10

COPY

1. The land and building which is proposed to be the licensed premises is (check one):

Owned by Applicant _____ Leased by Applicant (attach copy of deed or lease) Other (provide details) _____

2. If the land and building are not owned by Applicant, indicate the following:

A. Owner(s) ANDRASE PROPERTIES, INC.

B. Date and term of lease April 29 2010 Initial Term of 15 years with three (3) five year options (Subsidiary "A")

3. Premises location is zoned (example C-1) C-2 (Commercial Medium Density) See Exhibit "B"

If the premises is zoned, attach zoning statement from local government giving location address and type of zone, stating whether alcoholic beverages are allowed at proposed location. If there is no zoning, attach confirmation from local government indicating there is no zoning.

4. Distance from nearest church *(Property line of church to licensed premises—shortest distance). See Area map Exhibit "C"

Miles/feet 0.2 mi Name of church St. Patrick's AUGUSTAN Address/location of church 151 S. SALVADO DR. LAS CRUCES, NM 88001

5. Distance from nearest school *(Property line of school to licensed premises—shortest distance).

Miles/feet 0.3 mi Name of school HERNANDEZ HEIGHTS Address/location of school 11055 E. AMADOR AVE, LAS CRUCES, NM 88001

6. Distance from military installation *(Property line of military installation to licensed premises—shortest distance.)

Miles approx 70 Name of Military Installation, circle one: White Sands Missile Range (Las Cruces),
 Holloman Air Force Base (Alamogordo), Cannon Air Force Base (Clovis).

7. Attach, on a separate sheet, the detailed floor plan for each level (floor) where alcoholic beverages will be sold or consumed. Show exterior walls, doors, and interior walls. This will be the licensed premises. The floor plan should be no larger than 8 1/2 x 11 inches, and must include the total square footage of premises. SEE EXHIBIT "D"

*If the distance is beyond 300 feet, but less than 400 feet, a registered engineer or licensed surveyor must complete a Survey Certificate showing the exact distance.

8. Type of Operation:

Lounge _____ Restaurant _____ Package Grocery Racetrack _____ Hotel _____ Other (specify) _____



AD FORM

LAS CRUCES BULLETIN	
CLASSIFIED LEGAL AD	
DATES TO PUBLISH: JUNE 25 AND JULY 2, 2010	
CITY CONTACT & PHONE NUMBER: MONICA CAMPBELL 541-2128 FAX: 541-2017	BILL TO: <u>CITY CLERK</u> P O Box 20000 LAS CRUCES, NM 88004
PROOF OF PUBLICATION REQUIRED.	

COPY TO PUBLISH:

NOTICE OF INTENT TO ADOPT

Notice is hereby given that the Las Cruces City Council will hold a Public Hearing to discuss approval or disapproval of the Transfer of Ownership and Location of Liquor License No. 652 from T. D. Industries, Inc. to Pic Quik Stores, Inc. d/b/a Pic Quik Store #3, to be located at 1501 East Amador, Las Cruces, New Mexico.

The Public Hearing will be held in conjunction with the regular meeting of the Las Cruces City Council to be held on Monday, July 19, 2010, at 1:00 p.m. in the City Council Chambers, 700 North Main Street, City Hall. If passed, the State of New Mexico Regulation & Licensing Department may approve the transfer.

Witness my hand and seal of the City of Las Cruces on this the 16th day of June 2010.



 Esther Martinez, CMC, City Clerk



City of Las Cruces®
PEOPLE HELPING PEOPLE

**INTER-DEPARTMENTAL
MEMORANDUM**

=====

TO: Harry "Pete" Connelly, Interim City Attorney

FROM: Dan Soriano, Traffic Engineer, Public Works 

SUBJECT: Traffic Investigation Report

DATE: June 21, 2010

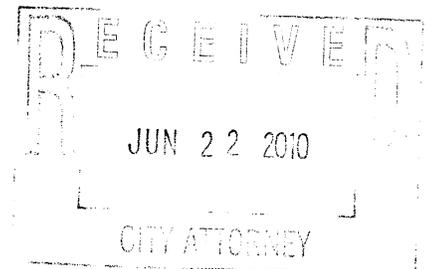
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As requested, Traffic Engineering has completed a traffic investigation for Pic Quik Stores Inc. located at 1501 E. Amador Avenue, Las Cruces., New Mexico. The following information is submitted for review:

- Amador Avenue at this location carries approximately 11,500 vehicles per day.
- Amador Avenue is operated as a four lane one way arterial roadway and primarily serves commercial development.
- Access to the property in question is off of Amador Avenue and Church Street. No potential sight distance or operational problems exist.
- The speed limit on Amador Avenue is 30 mph.

The approval of a Liquor License Transfer at this location does not appear it will adversely impact traffic operations along this segment of roadway.

Should any additional information be needed, please contact me.



City of Las Cruces
Community Development Department

LIQUOR LICENSE IMPACT REPORT

Transfer of Ownership and Location for Liquor License No. 652

1501 E. Amador Avenue
Pic Quik Store #3

June 25, 2010

**LIQUOR LICENSE IMPACT REPORT
Transfer of Ownership and Location**

**Pic Quik Store #3
1501 E. Amador Avenue**

The purpose of this report is to review, analyze and determine any possible impacts of a liquor license relating to land use and other planning related issues.

PROPERTY INFORMATION:

Location: 1501 E. Amador Avenue
Applicant: Pic Quik Stores, Inc.
Business Name: Pic Quik Store #3

LAND USE AND ZONING INFORMATION:

Subject Property Zoning: C-2 (Commercial Medium intensity)
(See attached Statement of Zoning and Vicinity Map)

Subject Property Current Land Use:

<u>Adjacent Land Uses</u>	<u>Zoning</u>	<u>Land Use</u>
North	C-2	Commercial
South	C-2	Commercial
East	C-2	Commercial
West	C-2	Commercial

DISTANCE REQUIREMENTS:

Greater than 300 feet to a school: YES
Greater than 300 feet to a church: YES
Greater than 300 feet to a military installation: YES

TRAFFIC COUNT AND ACCESS INFORMATION:

Roadway: Amador Avenue
Classification: Principal Arterial
Number of Lanes: 4
Site Access: 3
Nearest Intersections: Amador Avenue & Nevarez Street

PARKING REQUIREMENTS:

The 2001 Las Cruces Zoning Code, as amended, requires one (1) automobile space for every 200-300 sq. ft. of Gross Floor Area (GFA) and one (1) bicycle parking space for every 2,000 sq. ft. of GFA for gas stations with convenience stores in the C-2 zoning district. Parking requirements will be verified upon the submittal of a building permit.

IMPACT ANALYSIS:

The subject property is located off of Amador Avenue which is designated as a principal arterial roadway and is designed to accommodate moderate to heavy traffic and land uses such as gas stations and convenience stores. Zoning in this area is C-2 (Commercial Medium Intensity) which permits this use and uses related to it. The applicant is requesting a transfer of ownership and location of a liquor license. In terms of a transportation and land use perspective, this seems to be an appropriate location and request.



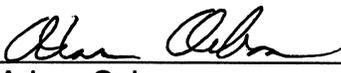
STATEMENT OF ZONING

The property located at 1501 E. Amador Avenue, and having a Map Code Number or Parcel ID Number of 02-10362, in Las Cruces, New Mexico, is zoned as follows:

C-2 (Commercial Medium Intensity)

The above described property located in the City of Las Cruces, New Mexico, has been reviewed and found to be zoned as indicated above in accordance with the Las Cruces Zoning Atlas. Accordingly, I do hereby approve and issue this Statement of Zoning.

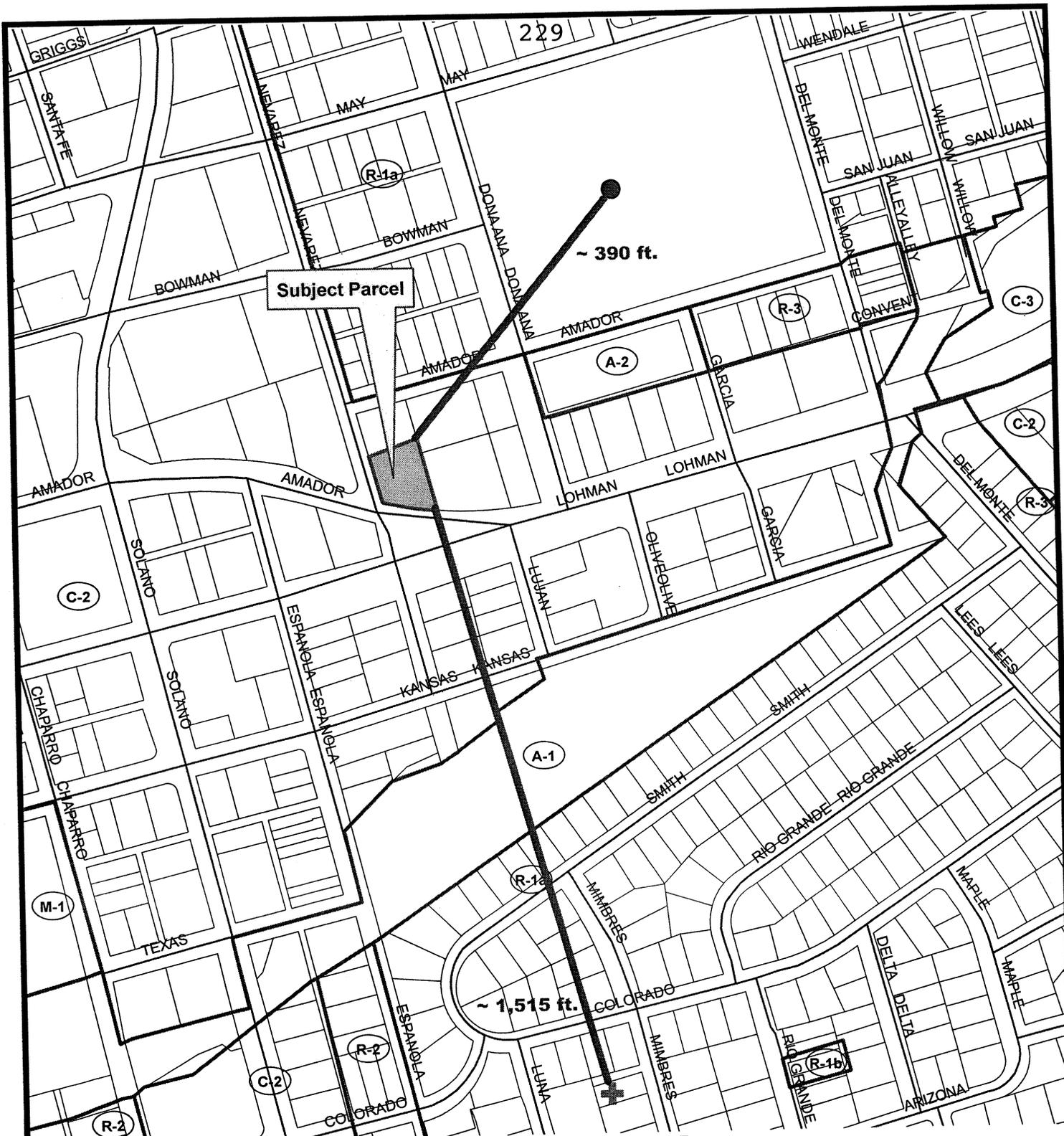
June 25, 2010
Date



Adam Ochoa
Acting Planner

Comments: The C-2 district facilitates and encourages development of those uses which provide retail and service activities as a convenience to adjacent neighborhoods and whose use generally serves a population of 5,000 to 30,000. Retail packaged liquor sales is a permitted use in C-2 districts, provided all requirements as prescribed for liquor establishments by the State of New Mexico are met (as per Section 38-44.C.4a 2001 Las Cruces Zoning Code as amended).

Please be advised that the information presented on this document is taken from the City of Las Cruces Zoning Atlas. Nothing shall prevent the City of Las Cruces from amending this information if review of the Zoning Ordinance shows the Atlas to be in error.



Zoning/Vicinity Map

1501 E. Amador Avenue

Parcel ID#: 02-10362

Zoning: C-2

Distance to nearest school: ~ 390 feet

Distance to nearest church: ~ 1,515 feet



Zoning



Church



School



0 112.5225

450

675

900

Feet

This map was created by Community Development to assist in the administration of local zoning regulations. Neither the City of Las Cruces or the Community Development Department assumes any legal responsibilities for the information contained in this map. Users noting errors or omissions are encouraged to contact the Community Development Department at (505) 528-3043.

Community Development Department
575 S Alameda Blvd.
Las Cruces, NM 88001
(505) 528-3222

Economic Development Report

From: Christine Logan
Sent: Tuesday, June 15, 2010 4:13 PM

Pic Quik # 3 is still under construction and as such, no business registration is required as of yet.

From: Monica Campbell
Sent: Tuesday, June 15, 2010 4:03 PM
To: Christine Logan
Cc: Vicki Montez
Subject: Review of liquor license application

Attached is Alcohol & Gaming's letter with the application for the transfer of ownership and location of liquor license #652 to Pic Quik #3, 1501 East Amador.

Please review the application and report on whether or not this business has obtained applicable licenses and/or permits.

In order to meet the time limits and publication deadlines imposed by law, I would appreciate it if you would submit your report no later than **July 1, 2010**.

Monica Campbell
Legal Dept. Operations Analyst
City Attorney's Office
541-2128

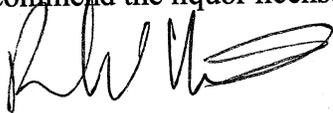
INTEROFFICE MEMORANDUM

LAS CRUCES POLICE DEPARTMENT

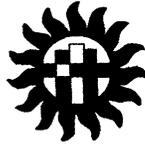
DATE: July 2, 2010
TO: Pete Connely, City Attorney
From: Richard Willams, Chief of Police
Subject: Pic Quik Stores, Inc. d/b/a Pic Quik #3

I have reviewed all available statistical information obtained from the Las Cruces Police Department Crime Analyst in reference to the attached liquor license application for Pic Quik Stores # 3 located at 1501 E Amador, Las Cruces, NM.

No anomalies were found that would warrant denial of this license; therefore, I recommend the liquor license application for Pic Quik # 3 to be approved.



Richard Williams
Chief of Police

**City of Las Cruces**

TO: Harry (Pete) Connelly, Interim City Attorney

FROM: Lt. Robert P. Gonzales, Prevention Bureau

RS

SUBJECT: Liquor License / Application #652/565211

DATE: 6/23/10

FILE #:

Our Fire Department has reviewed the liquor license application #652/565211 for Pick Quik Store #3 located at 1501 E. Amador Avenue, Las Cruces, NM 88001. This applicant is requesting a Transfer of Ownership & Location of the liquor license.

The building at 1501 E. Amador Avenue has been demolished and at the present time, the property is empty. The applicant will be submitting construction drawings for a new building at this address.

This application is approved with the condition that the construction drawings submitted to the Fire Department for review will be in compliance with the 2006 International Fire Code (IFC) and are in conformance with the requirements for a facility that sells alcoholic beverages.

Please contact me if you have questions or desire additional information.

