

City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 9Ordinance/Resolution# 12-083For Meeting of _____
(Ordinance First Reading Date)For Meeting of November 21, 2011
(Adoption Date)

TITLE: A RESOLUTION APPROVING THE TRANSFER OF LOCATION OF STATE LIQUOR LICENSE #2539 TO OM-HOTEL PARTNERS, LLC D/B/A SARATOGA ROOM, LOCATED AT 1763-A UNIVERSITY BOULEVARD, LAS CRUCES, NEW MEXICO.

PURPOSE(S) OF ACTION:

To approve, disapprove, or not approve the transfer of location of a liquor license.

COUNCIL DISTRICT: 2		
<u>Drafter/Staff Contact:</u> Monica Campbell	<u>Department/Section:</u> Legal	<u>Phone:</u> 541-2128
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

Pursuant to the New Mexico statutes, an application for the transfer of 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.

OM-Hotel Partners, LLC d/b/a Saratoga Room applied to the Alcohol and Gaming Division of the Regulation and Licensing Department of the State of New Mexico ("Alcohol and Gaming") for the transfer of location of State Liquor License #2539 to 1763-A University Boulevard, Las Cruces, New Mexico. Alcohol and Gaming granted preliminary approval on October 21, 2011.

The City Council is required to hold a public hearing within 45 days of the receipt of the preliminary approval letter from Alcohol and Gaming. A public hearing to review the transfer of location of the liquor license is scheduled during the regular City Council meeting to be held on Monday, November 21, 2011, beginning at 1:00 p.m., in the City Council Chambers, City Hall, 700 North Main Street, Las Cruces, New Mexico. Notice of the public hearing was published in the *Las Cruces Bulletin* on November 4 and 11, 2011, and in the *Las Cruces Sun-News* on November 6 and 13, 2011.

Council may approve or disapprove the transfer. However, Council's disapproval must be based on substantial evidence that the transfer of the 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 the 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 the license.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A". Alcohol and Gaming's letter with the application.
3. Attachment "1". Notice of Intent to Adopt published in the *Las Cruces Bulletin*.
4. Attachment "2". Notice of Intent to Adopt published in the *Las Cruces Sun-News*.
5. Attachment "3". Traffic Impact Report from the Traffic Engineering Section.
6. Attachment "4". Liquor License Impact Report (zoning) from Development Services.
7. Attachment "5". Business Registration Report from Development Services.
8. Attachment "6". Criminal Activity Report from the Las Cruces Police Department.
9. Attachment "7". Fire and Safety Compliance Report from the Las Cruces Fire Department.

SOURCE OF FUNDING:

Is this action already budgeted? N/A	Yes	<input type="checkbox"/>	See fund summary below	
	No	<input type="checkbox"/>	If No, then check one below:	
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____	
	<input type="checkbox"/>	<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)	
			<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue?	Yes	<input checked="" type="checkbox"/>	Funds will be deposited into this fund: <u>1015-10180020-520002, Permits-Liquor Licenses</u> in the amount of <u>\$600.00</u> for FY12.	
	No	<input type="checkbox"/>	There is no new revenue generated by this action.	

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

(Continue on additional sheets as required)

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve of and consent to the transfer of location of State Liquor License #2539 and Alcohol and Gaming will continue with the application process.
2. Vote "No"; this must be based on substantial evidence that the transfer of the location of the license would adversely affect the health, safety or welfare of the citizens of the City of Las Cruces.
3. Vote to "Amend"; this is not permitted by the Liquor Control Act, NMSA 1978, Section 60-6B-4.
4. Vote to "Table"; this is not permitted by the Liquor Control Act, NMSA 1978, Section 60-6B-4.

REFERENCE INFORMATION:

N/A

RESOLUTION NO. 12-083**A RESOLUTION APPROVING THE TRANSFER OF LOCATION OF STATE LIQUOR LICENSE #2539 TO OM-HOTEL PARTNERS, LLC D/B/A SARATOGA ROOM, LOCATED AT 1763-A UNIVERSITY BOULEVARD, LAS CRUCES, NEW MEXICO.**

The City Council is informed that:

WHEREAS, OM-Hotel Partners, LLC d/b/a Saratoga Room, applied to the Alcohol and Gaming Division of the Regulation and Licensing Department of the State of New Mexico ("Alcohol and Gaming") for the transfer of the location of State Liquor License #2539 to 1763-A University Boulevard, Las Cruces, New Mexico; and

WHEREAS, on October 21, 2011, Alcohol and Gaming granted preliminary approval for the transfer of the location of the license, as evidenced by its letter and the application; and

WHEREAS, pursuant to law, the application for transfer 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 location of the liquor license and it has determined that the approval of said license 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 State Liquor License #2539 to Om-Hotel Partners, LLC d/b/a Saratoga Room located at 1763-A University Boulevard, 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 of the State of New Mexico, Post Office Box 25101, Santa Fe, New Mexico 87504-5101.

(III)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the hereinabove.

DONE AND APPROVED on this 21st day of November 2011.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

VOTE:

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

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



Deputy City Attorney

170



New Mexico Regulation and Licensing Department
ALCOHOL AND GAMING DIVISION

Toney Anaya Building ▪ 2550 Cerrillos Road ▪ Santa Fe, New Mexico 87505
PO Box 25101, Santa Fe, NM 87504-5101
(505) 476-4875 ▪ Fax (505) 476-4595 ▪ www.rld.state.nm.us/agd

Susana Martinez
GOVERNOR

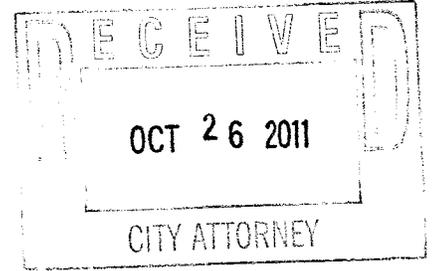
J. Dee Dennis, Jr.
SUPERINTENDENT

Steven A. Reinhart, Esq.
DIRECTOR

October 21, 2011

Certified Mail No.: 7006 3450 0000 3001 0296

City of Las Cruces
Esther Martinez, City Clerk
P.O. Box 20000
Las Cruces, NM 88004-0000



Re: License / App. No.: License #2539/Application #A-579572
Applicant Name: OM-Hotel Partners, LLC
Doing Business As: Saratoga Room
Proposed Location: 1763-A University Blvd.
Las Cruces, New Mexico 88001

ATTENTION: Department or person responsible for conducting or preparing the public hearing for liquor license transfers or issuance of new liquor licenses.

Greetings:

The Director of the Alcohol and Gaming Division has reviewed 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 (45) days after receipt of a Notice 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; and (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 SEEKING A TRANSFER OF LOCATION.

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

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

- 1) 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 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).
- 2) 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. Attached is a copy of a Zoning Statement from the local governing body.
- 3) 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 as to whether the local governing body has approved or disapproved the issuance of transfer of the license by signing the enclosed original Page 1 of the Application. The original Page 1 of the Application 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,



Rose L. Garcia
Hearing Officer
Alcohol & Gaming Division
505-476-4552

Enclosures:

1. Original Page 1 of the Application (must be signed and returned).
2. Copy of Page 2 of the Application.

State Liquor License # 2539

Application Number 579572

Local Option (AGD use) _____

9/20/11
al post



STATE OF NEW MEXICO
REGULATION AND LICENSING
DEPARTMENT
ALCOHOL AND GAMING DIVISION

P.O. BOX 25101 Santa Fe,
New Mexico 87504-5101
505-476-4570

RECEIVED
SEP 15 2011

Current D/B/A Name Las Cruces Holiday Inn & Sporting News Restaurant
Current Premise Address 700 South Telstor Blvd.
Las Cruces, New Mexico 88001

Liquor License Application
Non Refundable Application Fee- \$200.00

ALCOHOL AND
GAMING DIVISION

Application is for: (check one) Change of Stock _____
Transfer of Ownership and Location _____

Change of Officers/Directors _____
Transfer Location _____

Transfer of Ownership of Existing License _____
Issue New License _____

Applicant is: Individual _____

Corporation _____

Partnership (General or Limited) _____

Limited Liability Company _____

NAME OF APPLICANT (company or individual):

OM-Hotel Partners, LLC

P.O. Box 1627, Santa Fe, New Mexico 87504

505-982-6504

Notice also to: Linda L. Aikin, Esq., 530B Harkle Road, Santa Fe, NM 87505 PH: 505-982-6224 FAX: 505-982-0352

DBA Name to be used: Saratoga Room

Phone Number for licensed premises TBA

Physical Address Where license is to be used: _____

1763-A University Blvd. Las Cruces 88001
(Street No./Highway No./State Road/City/County)

Mailing Address: _____

P.O. Box 1627, Santa Fe, New Mexico 87504
(Street No./P.O. Box/City/State/Zip)

Are alcoholic beverages currently being dispensed at the proposed location? No

If yes, give license number _____

I, Daisy B. Young, as (title) RESIDENT AGENT, 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 contents thereof and that all statements 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 said license or may cause such license to be revoked at any time.

Signature of Applicant(s) _____

Daisy B. Young

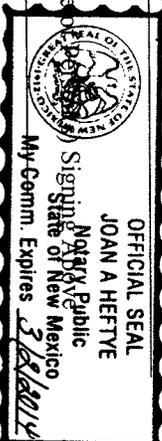
Notary Public Use Only

Date 8.4.2011

SUBSCRIBED AND SWORN TO before me this 4th day of August, 2011 by _____

CRISTINA B. YOUNG
My Commission Expires: _____

(Name of Applicant)
3/2/2014



Local Governing Body of: _____

PLEASE CHECK ONE: APPROVED

DISAPPROVED CITY/COUNTY OFFICIAL (Signature and Title): _____

(CITY OR COUNTY)

Hearing Held on: _____

AGD Use Only

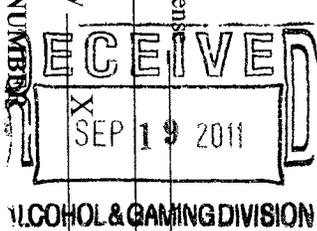
APPROVED _____

DISAPPROVED _____

DIRECTOR _____

APPROVAL _____

DATE _____





AD FORM
LAS CRUCES BULLETIN
LEGAL CLASSIFIED

City contact: Monica Campbell; 541-2014 / 541-2128

Proof of publication/bill to: City Clerk, PO Box 20000, Las Cruces, NM 88004

Dates to Publish: November 4 and 11, 2011

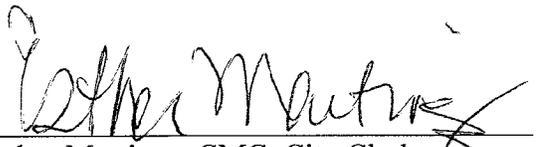
Copy to publish:

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 location of State Liquor License #2539 to OM-Hotel Partners, LLC d/b/a Saratoga Room, located at 1763-A University Boulevard, 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, November 21, 2011, 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 issuance.

Witness my hand and seal of the City of Las Cruces on this the 31st day of October 2011.



Esther Martinez, CMC, City Clerk



AD FORM
LAS CRUCES SUN NEWS
LEGAL CLASSIFIED

City contact: Monica Campbell; 541-2014 / 541-2128

Account No. 26484 (Bill to City Clerk, PO Box 20000, Las Cruces, NM 88004)

Dates to Publish: November 6 and 13, 2011

Copy to publish:

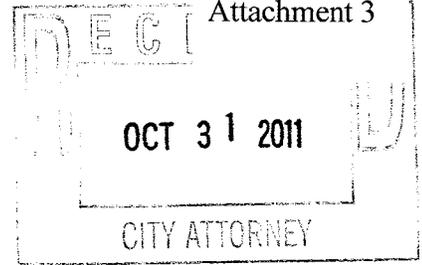
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Witness my hand and seal of the City of Las Cruces on this the 31st day of October 2011.


Esther Martinez, CMC, City Clerk



City of Las Cruces
PEOPLE HELPING PEOPLE

**INTER-DEPARTMENTAL
MEMORANDUM**

=====

TO: Harry "Pete" Connelly, City Attorney
FROM: Dan Soriano, Traffic Engineer, Public Works 
SUBJECT: Traffic Investigation Report

DATE: October 27, 2011

=====

As requested, Traffic Engineering has completed a traffic investigation for OM-Hotel Partners d/b/a Saratoga Room located at 1763-A University Boulevard, Las Cruces., New Mexico. The following information is submitted for review:

- University Avenue at this location carries approximately 25,000 vehicles per day.
- University Avenue is operated as a four lane roadway and primarily serves commercial and high density residential properties in this area.
- Access to the property in question is off of both University Avenue and Locust Street. No potential sight distance or operational problems exist.
- The speed limit on University Avenue is set at 40 mph and on Locust Street it is posted at 35 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 Location of Liquor License No. 2539

Saratoga Room
1763-A E. University Avenue

November 2, 2011

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: 1763-A E. University Avenue
 Applicant: Om-Hotel Partners, LLC
 Business Name: Saratoga Room

LAND USE AND ZONING INFORMATION:

Subject Property Zoning: UD-UAZ (University District-University Avenue Zone)
 (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	UD-UAZ	Commercial/Religious Institution/Vacant
South	N/A	New Mexico State University
East	UD-UAZ	Commercial/Vacant
West	UD-UAZ	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: University Avenue
 Classification: Principal Arterial
 Number of Lanes: 4
 Site Access: 5
 Nearest intersection: University Avenue and Locust Street

PARKING REQUIREMENTS:

The business is located in a shopping/business center. The 2001 Las Cruces Zoning Code, as amended, requires a shopping/business center to provide one (1) auto parking space for every 250-350 square feet of gross floor area. As the center currently exists, it complies with current parking standards.

IMPACT ANALYSIS:

The site of the Saratoga Room is located along a Principal Arterial roadway which is designed to accommodate heavy traffic and land uses such as an eating and drinking establishment. The subject property is zoned UD-UAZ which allows an eating and drinking establishment as a permitted use by right. The applicant is requesting a transfer of location of a liquor license for this location. 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 1763-A E. University Avenue in Las Cruces, New Mexico, and having a Map Code Number or Parcel Identification Number of 02-15266 is zoned as follows:

UD-UAZ (University District-University Avenue Zone)

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.

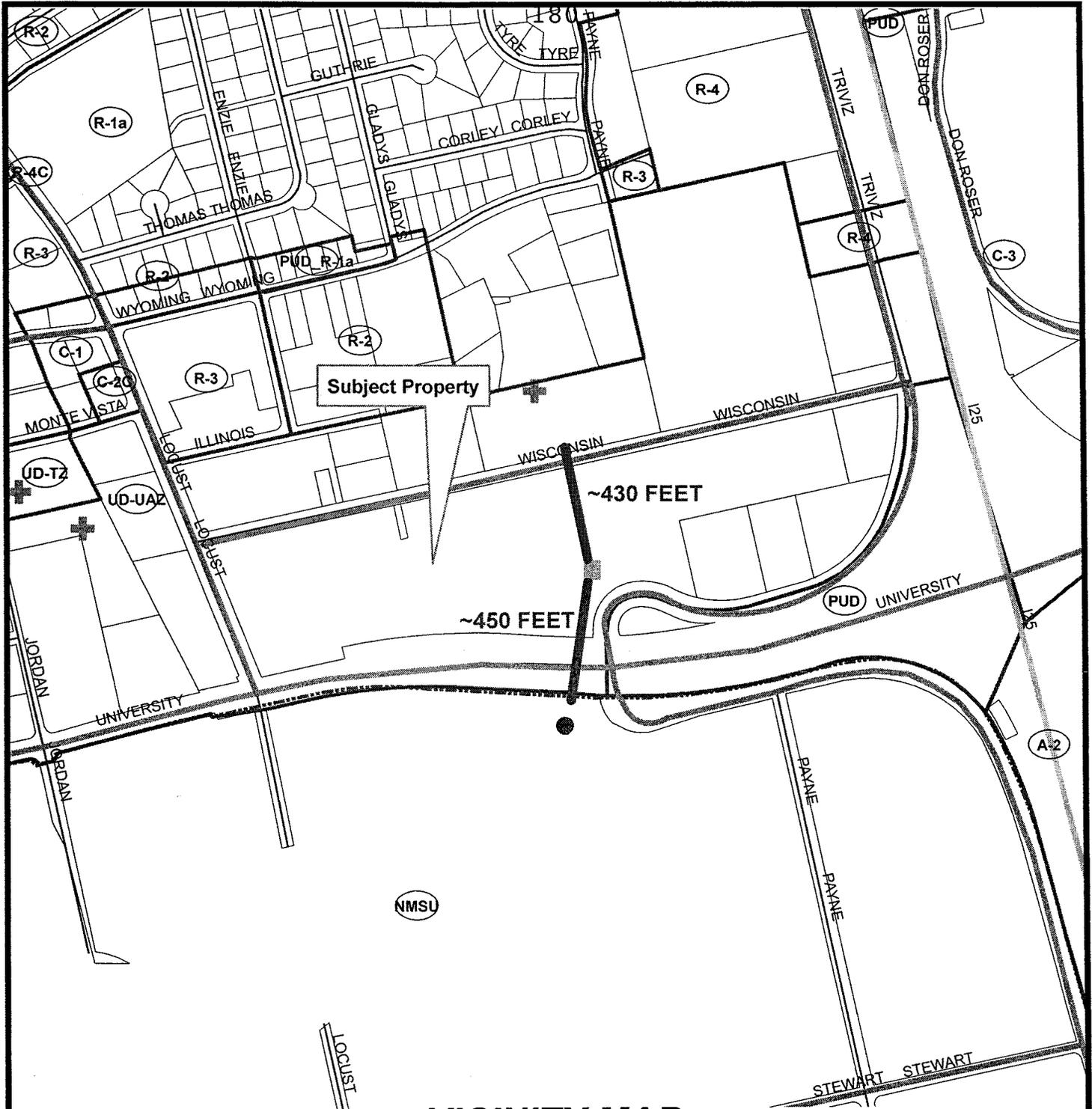
November 2, 2011

Date

Lorenzo Vigil
Planning Technician, Sr.

Remarks: The UD-UAZ is assigned to land appropriate for an urban neighborhood center with a mix of building types and uses. These lands are generally occupied by attached residential houses, apartment buildings, and commercial or mixed-use buildings. Civic and religious use buildings may also be present. Lands may also be used for playgrounds, squares, and plazas. Two-to-five story buildings are encouraged. Block sizes are limited to create a walkable and well connected network of streets. Streets are designed to encourage pedestrian activity by generally including on-street parking, curbs and gutters, parkways with street trees, and wide sidewalks. University Avenue shall be the primary frontage for properties on University Avenue. A eating and drinking establishment with a dispenser's licenses is a permitted use within the UD-UAZ, provided all requirements as prescribed for liquor establishments by the State of New Mexico are met.

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.



VICINITY MAP

1763-A E. UNIVERSITY AVENUE

PARCEL ID#: 02-15266

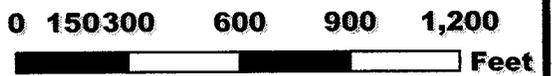
ZONING: UD-UAZ

DISTANCE TO NEAREST SCHOOL PROPERTY: ~450 FEET (NMSU)

DISTANCE TO NEAREST CHURCH PROPERTY: ~430 FEET

● SCHOOL + CHURCH

■ SUBJECT BUILDING



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.



BUSINESS REGISTRATION REPORT

From: Lora Dunlap

Subject: RE: Report request - liquor license application/resolution

A business registration application was submitted by Prime Corporation d/b/a Saratoga Event Room at 1763-A University Avenue on July 19, 2011. The certificate was issued August 16, 2011.

Lora Dunlap
Business Registrations
Community Development
City of Las Cruces
P.O. Box 20000
Las Cruces, NM 88004
Office: 575-541-2287
Fax: 575-528-3155

From: Monica Campbell

Sent: Wednesday, October 26, 2011 2:50 PM

To: Cheryl Rodriguez; Adam Ochoa

Cc: Lora Dunlap

Subject: Report request - liquor license application/resolution

Attached is Alcohol & Gaming's preliminary approval for a liquor license transfer for OM-Hotel Partners d/b/a Saratoga Room, 1763-A University Boulevard, Las Cruces. The City has 45 days from the receipt of this letter to have the transfer of location of the liquor license brought before the City Council for a public hearing.

Please review the attached application and prepare the liquor license reports for 1) zoning and 2) business registration.

The report is due to my attention at the City Attorney's office on or before **Wednesday, November 2, 2011** so that the complete resolution packet can be submitted by the City Clerk's deadline of Friday, November 4, 2011. The resolution will be submitted for the November 21, 2011 City Council meeting.

Let me know if you have any questions or need more information. Thank you.

Monica Campbell
Legal Dept. Operations Analyst
City of Las Cruces
575-541-2014 / 575-541-2128
Fax 575-541-2017



LAS CRUCES POLICE DEPARTMENT
PO BOX 20000
217 E. Picacho
Las Cruces, New Mexico 88004

DATE: *November 4, 2011*

TO: *Pete Connelly, City Attorney*

From: *Richard Williams, Chief of Police*

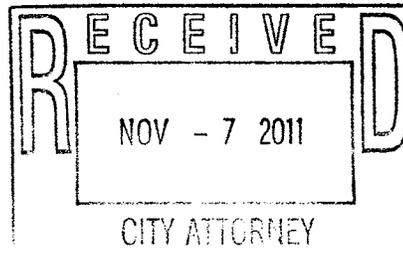
Subject: *OM-HOTEL PARTNERS, LLC*

I have reviewed all available statistical information obtained from the Las Cruces Police Department in reference to the attached liquor license application for OM Hotel Partners, LLC, Saratoga Room located at 1763-A University Blvd. Las Cruces, NM 88001.

No anomalies were found that would warrant denial of this license; therefore, I recommend the liquor license application for Saratoga Room be approved.

A handwritten signature in black ink, appearing to be "Richard Williams".

Richard Williams
Chief of Police



FIRE SAFETY AND COMPLIANCE REPORT

From: Billy Chaires

Subject: RE: Report request - liquor license application/resolution

I went by the Saratoga Room today, and the application is Approved on the Fire Department end.

From: Monica Campbell

Sent: Wednesday, October 26, 2011 2:53 PM

To: Travis Brown; Ted Sweetser; Billy Chaires

Cc: Mary Helen Sarabia

Subject: Report request - liquor license application/resolution

Attached is Alcohol & Gaming's preliminary approval for a liquor license transfer for OM-Hotel Partners d/b/a Saratoga Room, 1763-A University Boulevard, Las Cruces. The City has 45 days from the receipt of this letter to have the transfer of location of the liquor license brought before the City Council for a public hearing.

Please review the attached application and prepare a fire and safety compliance report.

The report is due to my attention at the City Attorney's office on or before **Wednesday, November 2, 2011** so that the complete resolution packet can be submitted by the City Clerk's deadline of Friday, November 4, 2011. The resolution will be submitted for the November 21, 2011 City Council meeting.

Let me know if you have any questions or need more information. Thank you.

Monica Campbell
Legal Dept. Operations Analyst
City of Las Cruces
575-541-2014 / 575-541-2128
Fax 575-541-2017