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**City of Las Cruces**<sup>®</sup>  
 PEOPLE HELPING PEOPLE

**Council Action and Executive Summary**

Item # 8      Ordinance/Resolution# 12-090

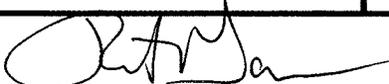
For Meeting of \_\_\_\_\_  
 (Ordinance First Reading Date)

For Meeting of December 5, 2011  
 (Adoption Date)

**TITLE:** A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION FOR THE ISSUANCE OF A WINE GROWER OFF-SITE LIQUOR LICENSE FOR ON PREMISE CONSUMPTION AND PACKAGE SALES TO CENTRAL TAVERN, LLC D/B/A MIMBRES VALLEY BREWING CO., AT 915 UNIVERSITY AVENUE, BUILDING 985, SUITE 1B, LAS CRUCES, NEW MEXICO. SUCH APPROVAL WILL ALLOW THE APPLICANT TO PROCEED WITH THE APPLICATION PROCESS.

**PURPOSE(S) OF ACTION:**

To approve or disapprove the issuance of a waiver of the church/school distance restriction for a liquor license applicant.

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

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

Pursuant to the New Mexico statutes, no license for the sale of alcoholic beverages shall be issued to a premises that is within 300 feet of a church or school unless the governing body of the local option district grants a waiver of the distance restriction.

A waiver is required prior to the issuance of a Wine Grower off-site liquor license to Central Tavern, LLC d/b/a Mesilla Valley Brewing Co. because the approximate distance from the property line at 915 East University Avenue, Building 985, Suite 1B to the New Mexico State University property line is 85 feet.

The property owners within 300 feet of 915 University Avenue, Building 985, Suite 1B were notified by U. S. Mail of the City Council meeting to approve or disapprove the waiver and issuance of the license.

The approval or disapproval of the issuance of the Wine Grower off-site liquor license is presented in a separate agenda item and its approval is contingent upon approval of a waiver of

(Continue on additional sheets as required)

the distance restriction. Granting a waiver to Central Tavern, LLC d/b/a Mimbres Valley Brewing Co. will allow the applicant to proceed to the next step of the application process.

**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". Map showing distances between Central Tavern, LLC d/b/a Mimbres Valley Brewing and NMSU.
6. Attachment "4". List of property owners within 300 feet of 915 East University Avenue, Building 985, Suite 1B, Las Cruces, New Mexico.

**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"/>	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?  N/A	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: _____ in the amount of \$ _____ for FY ____.
	No	<input checked="" type="checkbox"/>	There is no new revenue generated by this action.

**BUDGET NARRATIVE:**

N/A
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**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 the resolution and consent to the waiver of the church/school distance restriction. Approval will allow Central Tavern, LLC d/b/a Mimbres Valley Brewing Co. to proceed with the application process.
2. Vote "No"; this means that the New Mexico Regulation and Licensing Department, Alcohol and Gaming Division ("Alcohol and Gaming") will be notified of the reason(s) the resolution was not approved and the Director of Alcohol and Gaming shall not approve the issuance of the liquor license.
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- 090**

**A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION FOR THE ISSUANCE OF A WINE GROWER OFF-SITE LIQUOR LICENSE FOR ON PREMISE CONSUMPTION AND PACKAGE SALES TO CENTRAL TAVERN, LLC D/B/A MIMBRES VALLEY BREWING CO., AT 915 UNIVERSITY AVENUE, BUILDING 985, SUITE 1B, LAS CRUCES, NEW MEXICO. SUCH APPROVAL WILL ALLOW THE APPLICANT TO PROCEED WITH THE APPLICATION PROCESS.**

The City Council is informed that:

**WHEREAS**, according to NMSA 1978, Section 60-6B-10, no license shall be issued for the sale of alcoholic beverages at a licensed premises that is within 300 feet of a church or school; however, in 1997 Section 60-6B-10 was amended to allow for the granting of a waiver of the distance restriction by the local option district governing body for the proposed licensed premises; and

**WHEREAS**, the approximate distance from the property line of 915 University Avenue, Building 985, Suite 1B to the property line of New Mexico State University is 85 feet; and

**WHEREAS**, a waiver of the distance restriction is required prior to the approval of the issuance of the liquor license; and

**WHEREAS**, approving this resolution will allow the applicant to proceed to the next step of the application process.

**NOW, THEREFORE**, Be it resolved by the governing body of the City of Las Cruces:

**(I)**

**THAT** the issuance of a waiver to Central Tavern, LLC d/b/a Mimbres Valley Brewing Co. at 915 University Avenue, Building 985, Suite 1B, 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 5<sup>th</sup> day of December 2011.

APPROVED:

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
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:

  
\_\_\_\_\_  
City Attorney



107  
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 26, 2011

Certified Mail No.: 7006 3450 0000 3001 0449

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

Re: License / App. No.: A-790541  
Applicant Name: Central Tavern LLC  
Doing Business As: Mimbres Valley Brewing Co.  
Proposed Location: 915 University Ave., Bldg. 985, Suite 1B  
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 WINE GROWER OFF-SITE LICENSE FOR ON PREMISE CONSUMPTION AND PACKAGE SALES.**

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

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

- 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 or 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  
 NM Regulation & Licensing Dept.  
 Alcohol & Gaming Division  
 Phone: 505-476-4552  
 Fax: 505-476-4595  
 Email: [rosel.garcia@state.nm.us](mailto:rosel.garcia@state.nm.us)

Enclosures:

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

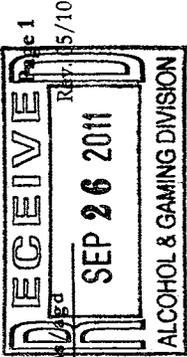
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**New Mexico Regulation and Licensing Department**  
 ALCOHOL AND GAMING DIVISION



9/27/11  
ROR  
PK

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



### LIQUOR LICENSE APPLICATION

Application fee - \$200.00 Fees are non-refundable.

State Liquor License # 790541  
Application Number 200  
Local option (AGD use) \_\_\_\_\_  
Record Owner of Existing License \_\_\_\_\_  
Current D/B/A Name \_\_\_\_\_  
Current Premises Address \_\_\_\_\_

Application is for: Change of Stock \_\_\_\_\_ Change of Officers/Directors \_\_\_\_\_ Transfer Ownership of Existing License \_\_\_\_\_ Transfer Ownership and Location \_\_\_\_\_ Other \_\_\_\_\_  
Issue New License  Type of License being applied for: Winegrower off-site Martin # 6/58  
\_\_\_\_\_ Partnership (General or Limited) \_\_\_\_\_ Limited Liability Company

NAME OF APPLICANT (company or individual) CENTRAL TAJER, LLC  
ADDRESS (including city, state, zip) 200 S. GOLD AVE. DEMING, NM 88030  
TELEPHONE NUMBER 575-202-2763

D/B/A name to be used: MIMBRES VALLEY BREWING CO Phone number for licensed premises: 575-202-2763

Physical location where license is to be used: 915 UNIVERSITY AVE. BUILDING 985 SUITE 1B, LAS CRUCES, NM 88001  
(Include street number / highway number / state road, city and county, state, and zip code)

Mailing address: 200 S. GOLD AVE. DEMING, NM 88030

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

I, (print name) BRYAN REEDY, as (title) MEMBER, 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.

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

Signature of Applicant Bryan Reedy Date 9/21/11

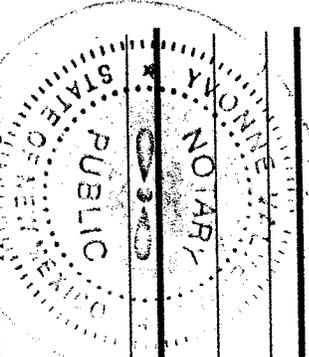
SUBSCRIBED AND SWORN TO before me this 22 day of September, 2011 by Bryan Reedy

Notary Public Juanne Salvende My Commission Expires 12-10-2013

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*

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) CERVANTES III LTD. CO.  
 B. Date and term of lease SEPTEMBER 6, 2011 (5 YEARS)

3. Premises location is zoned (example C-1) UD - UAZ  
 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).

Miles/feet 1335.45' Name of church NEWMAN CENTER CHURCH BLDG Address/location of church 2615 S. SOLANO, LAS CRUCES, NM

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

Miles/feet 442.01' Name of school NEW MEXICO STATE UNIV. Address/location of school UNIVERSITY PARK, LAS CRUCES, NM

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

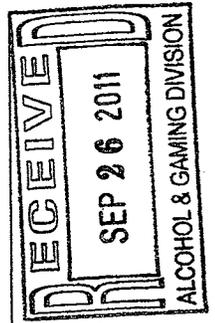
\*Miles 98.1 MILES Name of Military Installation, circle one: White Sands Missile Range (Las Cruces),  
 Holloman Air Force Base (Alamogordo), Cannon Air Force Base (Clovis).

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.

\*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) \_\_\_\_\_



Return this form to the Alcohol and Gaming Division, 2550 Cerrillos Road, Santa Fe, New Mexico 87505, if using overnight delivery.



**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 18 and 25, 2011

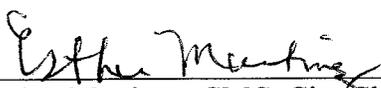
Copy to publish:

**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 waiver of the church/school distance restriction for the issuance of a Wine Grower off-site liquor license for on premise consumption and package sales to Central Tavern, LLC d/b/a Mimbres Valley Brewing Co. at 915 University Avenue, Building 985, Suite 1B, 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, December 5, 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 17<sup>th</sup> day of November 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 20 and 27, 2011

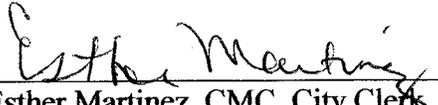
Copy to publish:

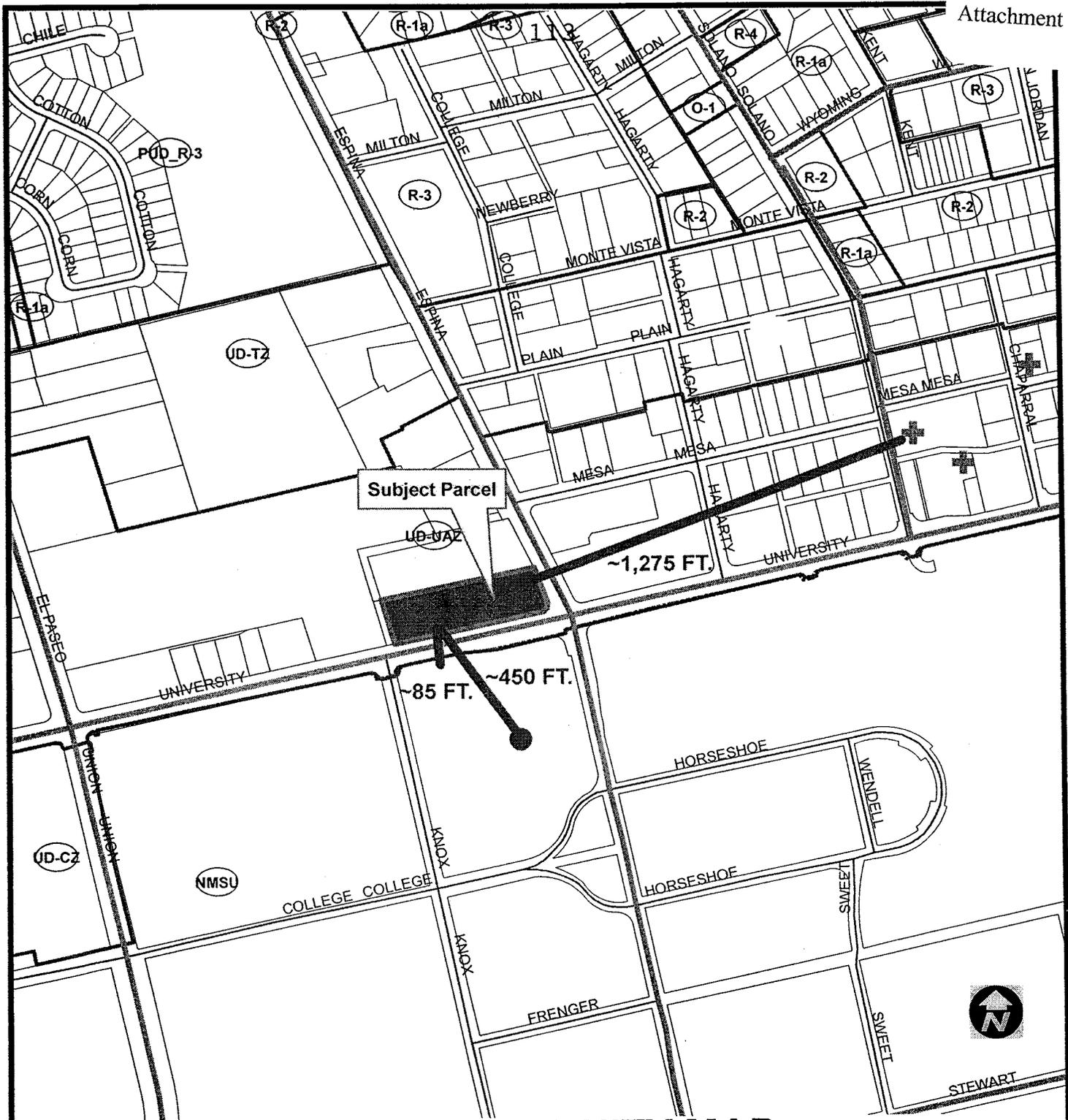
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Witness my hand and seal of the City of Las Cruces on this the 17<sup>th</sup> day of November 2011.

  
\_\_\_\_\_  
Esther Martinez, CMC, City Clerk



# ZONING/VICINITY MAP

915 UNIVERSITY AVENUE  
 PARCEL ID#: 02-40890  
 ZONING: UD-UAZ  
 DISTANCE TO NEAREST CHURCH: ~1,275 FEET  
 DISTANCE TO NEAREST SCHOOL (PROPERTY): ~85 FEET  
 DISTANCE TO NEAREST SCHOOL (BUILDING): ~450 FEET

 ZONING  
 CHURCH  
 SCHOOL  
 0 100 00 400 600 800  
 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 City. (575) 528-3043.*

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ANDERSON KENNETH W  
PO BOX 700  
BOERNE, TX. 78006

BCF PROPERTIES LP  
2510 S ESPINA # 1  
LAS CRUCES, NM. 88001

CASA BANDERA INVESTORS LLC ET AL  
C/O AMERICAN SPECTRUM REALTY  
MGMT  
1443 E WASHINGTON BLVD STE 820  
PASADENA, CA. 91104

CERVANTES INVESTMENTS &  
DEVELOPMENT LLC  
PO BOX 158  
LA MESA, NM. 88044

CERVANTES JOSEPH & ORLANDO  
2610 S ESPINA  
LAS CRUCES, NM. 88001

DICKERSON HOLDING LLC  
PO BOX 161  
FAIRACRES, NM. 88033

LAULES+M FAMILY RENTALS LLC  
C/O LAURA CONNIFF  
2223 MISSOURI AVE  
LAS CRUCES, NM. 88001

N M ALPHA GAMMA RHO BUILDING  
ASSN  
C/O JUSTIN NORSWORTHY  
329 LINDA VISTA RD  
LAS CRUCES, NM. 88005-2007

NEW MEXICO STATE UNIVERSITY  
DIRECTOR OF REAL ESTATE - MSC  
ORE  
PO BOX 30001  
LAS CRUCES, NM. 880038001

PHILIPPOU LLC  
PO BOX 6190  
LAS CRUCES, NM. 88006

Bruce Kite, General Counsel  
New Mexico State University  
PO Box 30000, MSC 3UGC  
Las Cruces, NM 88003-8001