

471
City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 24 Resolution# 09- 310 Council District:

For Meeting of June 15, 2009

(Adoption Date)

A RESOLUTION APPROVING THE ISSUANCE OF A RESTAURANT LIQUOR LICENSE (BEER AND WINE ONLY) TO CHONG MESKIMEN D/B/A 5 BROTHERS CHINESE, LOCATED AT 1001 EAST UNIVERSITY AVENUE, SUITES C-1 AND C-2, LAS CRUCES, NEW MEXICO.

PURPOSE(S) OF ACTION: To approve, disapprove, or not approve or disapprove the issuance of a Restaurant Liquor License (Beer and Wine Only) to 5 Brothers Chinese.

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>[Signature]</i>	541-2107
			Assistant City Manager	<i>[Signature]</i>	541-2271
Legal	<i>[Signature]</i>	541-2128	City Manager	<i>[Signature]</i>	541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS: Pursuant to state law, the application for the issuance of a Restaurant Liquor License (Beer and Wine Only) must be accompanied by a resolution of the City Council approving of and consenting to the issuance after a public hearing.

Chong Meskimen d/b/a 5 Brothers Chinese applied to the Alcohol & Gaming Division of the Regulation and Licensing Department of the State of New Mexico ("Alcohol and Gaming") for a Restaurant Liquor License (Beer and Wine Only) at 1001 East University, Suites C-1 and C-2, Las Cruces, New Mexico. Alcohol and Gaming granted conditional preliminary approval on May 8, 2009.

The restaurant is 80 feet from the New Mexico State University ("NMSU") property line, and 320 feet from the Music Center building, the first functional building on NMSU property. Property that is owned by a school, per se, is not enough; the property must be used in conjunction with a "function" of the school, for example, a classroom used by students attending classes. As a result, the City need not grant a waiver of the school distance, as the first functional use on NMSU property is outside the 300 foot distance restriction.

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, June 15, 2009, beginning at 1:00 p.m., in the City Council Chambers, City Hall, 200 North Church Street, Las Cruces, New Mexico. Notice of this

(Continue on additional sheets as required)

public hearing was published in the *Las Cruces Sun-News* on May 24 and 31, 2009, and in the *Las Cruces Bulletin* on May 22 and 29, 2009.

Council may approve or disapprove the issuance of the license. However, Council's disapproval must be based on substantial evidence that the issuance of the license would adversely affect the health, safety or welfare of the citizens of the City of Las Cruces. 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. Notices of Intent to Adopt, Attachments "1" and "2".
3. Traffic Impact Report from the Traffic Engineering Section, Attachment "3".
4. Liquor License Impact Report (zoning) from the Community Development Department, Attachment "4".
5. Liquor License Impact Report (registration and permits) from the Economic Development Department, Attachment "5".
6. Criminal Activity Report from the Las Cruces Police Department, Attachment "6".
7. Fire and Safety Compliance Report from the Las Cruces Fire Department, Attachment "7".

OPTIONS / ALTERNATIVES:

1. Approve the resolution and consent to the issuance of a Restaurant Liquor License (Beer and Wine Only) to Chong Meskimen d/b/a 5 Brothers Chinese. 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 issuance of the Restaurant Liquor License (Beer and Wine Only) would adversely affect the health, safety or welfare of the citizens of the City of Las Cruces.

(Continue on additional sheets as required)

3. Not approve or disapprove the Resolution. If the Council fails to either approve or disapprove the issuance of the Restaurant Liquor License (Beer and Wine Only), the Director of Alcohol and Gaming may give final approval to said issuance.

RESOLUTION NO. 09- 310

A RESOLUTION APPROVING THE ISSUANCE OF A RESTAURANT LIQUOR LICENSE (BEER AND WINE ONLY) TO CHONG MESKIMEN D/B/A 5 BROTHERS CHINESE, LOCATED AT 1001 EAST UNIVERSITY AVENUE, SUITES C-1 AND C-2, LAS CRUCES, NEW MEXICO.

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

WHEREAS, Chong Meskimen d/b/a 5 Brothers Chinese applied to the Alcohol and Gaming Division of the Regulation and Licensing Department of the State of New Mexico ("Alcohol and Gaming") for a Restaurant Liquor License (Beer and Wine Only) at 1001 University Avenue, Suites C-1 and C-2, Las Cruces, New Mexico; and

WHEREAS, on May 8, 2009, Alcohol and Gaming granted conditional preliminary approval for the issuance of the liquor license, as evidenced by their letter with the application attached; and

WHEREAS, the restaurant is 80 feet from the New Mexico State University ("NMSU") property line, and 320 feet from the Music Center building, the first functional building on NMSU property. Property that is owned by a school, per se, is not enough; the property must be used in conjunction with a "function" of the school, for example, a classroom used by students attending classes. As a result, the City need not grant a waiver of the school distance, as the first functional use on NMSU property is outside the 300 foot distance restriction; and

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

WHEREAS, the City Council did on this date hold a public hearing after reasonable notice setting forth the appropriate information concerning the public hearing. The City Council has considered the issuance of the liquor license and it has determined that the approval of said issuance 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 issuance of a Restaurant Liquor License (Beer and Wine Only) to Chong Meskimen d/b/a 5 Brothers Chinese, located at 1001 East University Avenue, Suites C-1 and C-2, Las Cruces, New Mexico, is hereby approved.

(II)

THAT a copy of this Resolution shall be conveyed to Chong Meskimen d/b/a 5 Brothers Chinese, located at 1001 East University Avenue, Suites C-1 and C-2, Las Cruces, New Mexico 88001, and 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 15 day of June 2009.

Mayor

ATTEST:

City Clerk

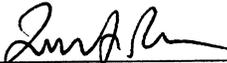
{SEAL}

Moved by: _____

Seconded by: _____

Mayor Miyagishima:	_____
Councillor Silva:	_____
Councillor Connor:	_____
Councillor Archuleta:	_____
Councillor Small:	_____
Councillor Jones:	_____
Councillor Thomas:	_____

APPROVED AS TO FORM:



City Attorney



477

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

Bill Richardson
GOVERNOR

Kelly O'Donnell, Ph.D.
SUPERINTENDENT

Julie Ann Meade
DEPUTY
SUPERINTENDENT

Gary J. Tomada
DIRECTOR

May 8, 2009

Certified Mail No.: 7006 3450 0001 4339 5310

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

Re: License / App. No.: Application #A-594858
Applicant Name: Chong Meskimen
Doing Business As: 5 Brothers Chinese
Proposed Location: 1001 E. University Avenue, Suites C-1 & C-2, Las Cruces, NM 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 for **Conditional Preliminary Approval** 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 RESTAURANT LIQUOR LICENSE (BEER & WINE ON-PREMISE CONSUMPTION ONLY). THE APPLICANT IS ALSO SEEKING AN APPROVED WAIVER FROM THE CITY OF LAS CRUCES. THE PROPOSED LIQUOR-LICENSED PREMISES ARE WITHIN 300 FEET OF THE NEAREST SCHOOL, NEW MEXICO STATE UNIVERSITY.

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

EXHIBIT A

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

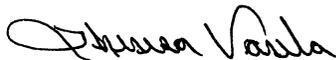
the proposed location ~~478~~⁴⁷⁹ within 300 feet of a church or school unless the license has been located at this location prior to 1981 or unless the Applicant/Licensee has obtained a waiver from the Local Option District governing body for the proposed licensed premises).

- 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,



Theresa Varela
Administrative Law Judge

ENCLOSURES

1. **Original Page 1 of the Application (must be signed and returned).**
2. **Copy of Page 2 of the Application.**
3. **Copy of Zoning Statement.**
4. **Copy of Floor Plan (no outdoor patios).**



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

FEB 24 2009



Page 1
REV. 04/08

LIQUOR LICENSE APPLICATION

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

State Liquor License # 594858

Application Number 594858

Local option (AGD use) Las Cruces

Record Owner of Existing License _____

Current D/B/A Name _____

Current Premises Address _____

Application is for: Change of Stock _____

Issue New License

Individual

NAME OF APPLICANT (company or individual)
Chong Meski Men

~~Chong Meski Men~~

~~5 Brothers Chinese~~

~~5 Brothers Chinese~~

Change of Officers/Directors _____

Corporation _____

Partnership (General or Limited) _____

Transfer Ownership of Existing License _____

Transfer Ownership and Location _____

Transfer Ownership and Location _____

Beer and wine

Beer and wine

Beer and wine

Limited Liability Company _____

Limited Liability Company _____

Limited Liability Company _____

ADDRESS (including city, state, zip)
1001 E. University Ave Suite C-1 Las Cruces, NM 88001

1001 E. University Ave Suite C-1 Las Cruces, NM 88001

1001 E. University Ave Suite C-1 Las Cruces, Dona Ana, NM 88001

1001 E. University Ave Suite C-1 Las Cruces, NM 88001

TELEPHONE NUMBER
(575) 532-6208

(575) 532-6208

(575) 532-6208

(575) 532-6208

Physical location where license is to be used: _____
(Include street number / highway number / state road, city and county, state, and zip code)

Mailing address: 1001 E. University Ave Suite C-1 Las Cruces, NM 88001

Are alcoholic beverages currently being dispensed at the proposed location? Yes _____ No If yes, give license number and type _____
I, (print name) Chong S Meski Men as (title) Owner 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 therein contained are true. Applicant(s) agree(s) that
if any statements or representations herein are found to be false, the director may, in his/her discretion, 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 Chong S Meski Men



Date 2-18-09

SUBSCRIBED AND SWORN TO before me this 18 day of February, 2009 by Chong S Meski Men

Notary Public Gloria M Triste My Commission Expires 8-30-2011

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

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

For Alcohol and Gaming Division Use Only

Approved _____ Disapproved _____ Director Approval _____ Date _____

"CONDITIOINAL"
Waiver required.



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

FEB 24 2009

RECEIVED

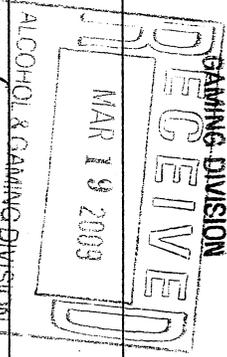
1. The land and building which is proposed to be the licensed premises is (check one):

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) ~~Phillips~~ Phillipor, LLC TV 03-10-09

B. Date and term of lease ~~5 years with 5-year renewal option.~~ May 1st 2009 - April 30th 2014 ~~the will be renewed~~



3. Premises location is zoned (example C-1) ~~MAC-A~~ UAC-A Area A (University Avenue Corridor, Dayley Zone - A-1) TV 03-10-09
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).
2 tents of a wife, per posting. Wesleyan Church, per posting.

Miles/feet 910 Name of church Baptist Student Union Address/location of church 1313 E. University Ave LC.NM TV 03-30-09

5. Distance from nearest school * (Property line of school to licensed premises-shortest distance).
226 Feet South, per posting. Address unavailable, per posting. TV 03-30-09

Miles/feet ~~1145~~ 1475 Name of school NMSU Address/location of school 1700 E. University Ave LC.NM TV 03-30-09

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

Miles 15 miles Name of Military Installation, circle one: Kirtland Air Force Base (Albuquerque) 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 (fl...) 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.



STATEMENT OF ZONING

The property located at 1001 E. University Avenue, Ste. C-1 & C-2 in Las Cruces, New Mexico, and having a Map Code Number or Parcel Identification Number of 02-26375 is zoned as follows:

UAC - Area 4 (University Avenue Corridor Overlay Zone - Area 4)

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.

January 15, 2009
Date


Adam Ochoa
Associate Planner

Remarks: The purpose of the University Avenue Corridor Plan Overlay Zone District is to implement land use and urban design policies as established in the University Avenue Corridor Plan. A restaurant with a beer and wine dispenser's licenses is a permitted use within Area 4 of the UAC Overlay, 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.

RECEIVED

FEB 20 2009

ALCOHOL AND
GAMING DIVISION

P.O. BOX 20000
LAS CRUCES
NEW MEXICO
88004-9002
505.541.2000

AN EQUAL OPPORTUNITY EMPLOYER

Floor Plan

Stamp: MAR 19 2009 ALCOHOL & GAMING DIVISION

Restroom Restroom

Total Sq. Foot 3000 - 2400

WALK-IN cooler WALK IN Freezer

(C-1)

table

prep table

Booth table Booth

ALL SERVERS WORKSTATION

Office

Chinese wok

COFFEE/Tea counter

cooler

prep table

double soap

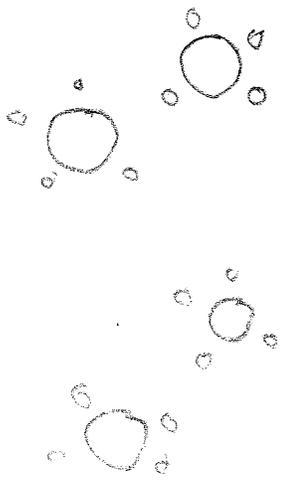
5 1/2

Booth

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FEB 20 2009

ALCOHOL AND GAMING DIVISION



FOOD COUNTER

cooler

Steam Table

Booth Booth

FOOD COUNTER

Booth

482

751



AD FORM

LAS CRUCES BULLETIN	
CLASSIFIED LEGAL AD	
DATE TO PUBLISH: 05/22/09 & 05/29/09	
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.	

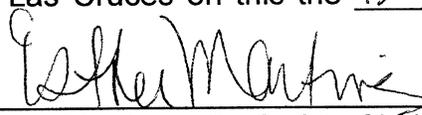
COPY TO PUBLISH:

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 **Issuance of a Restaurant Liquor License (Beer and Wine Only) to Chong Meskimen, d/b/a 5 Brothers Chinese, 1001 East University Ave., Suites C-1 and C-2, Las Cruces, New Mexico.**

The Public Hearing will be held at a meeting of the City Council on Monday, June 15, 2009, at 1:00 p.m. in the City Council Chambers, 200 North Church, City Hall. If passed, the State of New Mexico Regulation & Licensing Department, Alcohol and Gaming Division, may approve the issuance of the Restaurant Liquor License.

Witness my hand and seal of the City of Las Cruces on this the 15th day of May 2009.



 Esther Martinez, CMC, City Clerk



AD FORM

LAS CRUCES SUN NEWS	
CLASSIFIED LEGAL AD	
DATE TO PUBLISH: 05/24/09 & 05/31/09	Account No. 720680
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.	

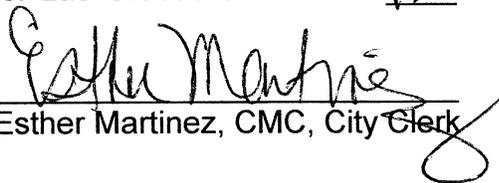
COPY TO PUBLISH:

NOTICE OF INTENT TO ADOPT

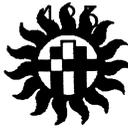
Notice is hereby given that the Las Cruces City Council will hold a Public Hearing to discuss approval or disapproval of the **Issuance of a Restaurant Liquor License (Beer and Wine Only) to Chong Meskimen, d/b/a 5 Brothers Chinese, 1001 East University Ave., Suites C-1 and C-2, Las Cruces, New Mexico.**

The Public Hearing will be held at a meeting of the City Council on Monday, June 15, 2009, at 1:00 p.m. in the City Council Chambers, 200 North Church, City Hall. If passed, the State of New Mexico Regulation & Licensing Department, Alcohol and Gaming Division, may approve the issuance of the Restaurant Liquor License.

Witness my hand and seal of the City of Las Cruces on this the 19th day of May 2009.

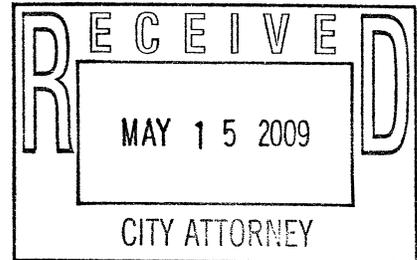


 Esther Martinez, CMC, City Clerk



City of Las Cruces

**INTER-DEPARTMENTAL
MEMORANDUM**



=====

TO: Fermin A. Rubio, City Attorney

FROM: Dan Soriano, Traffic Engineer, Public Works 

SUBJECT: Traffic Investigation Report

DATE: May 14, 2009

=====

As requested, Traffic Engineering has completed a traffic investigation for 5 Brothers Chinese, located at 1001 E. University, C-1 and C-2, 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 major arterial roadway used for commercial and residential use.
- Access to the property in question is off of University Avenue with no sight distance problems.
- The speed limit on Amador Avenue in this area is 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

Restaurant Liquor License Application No. A-594858
(Beer and Wine Only)

5 Brothers Chinese
1001 E. University Avenue, Ste. C-1 & C-2

May 20, 2009

LIQUOR LICENSE IMPACT REPORT
Restaurant Liquor License (Beer & Wine ONLY)

5 Brothers Chinese
1001 E. University Avenue, Ste. C-1 & C-2

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: 1001 E. University Avenue, Ste. C-1 & C-2
 Applicant: Chong Meskimen
 Business Name: 5 Brothers Chinese

LAND USE AND ZONING INFORMATION:

Subject Property Zoning: UAC-4 (University Avenue Corridor Overlay Zone - Area 4)
 (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	UAC-4	Restaurant
South	N/A	New Mexico State University
East	UAC-2	Multi-family Residential
West	UAC-4	Commercial & Multi-family Residential

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: 3
 Nearest intersection: University Avenue and Espina Street

PARKING REQUIREMENTS:

The 2001 Las Cruces Zoning Code, as amended, requires restaurants to provide 1 auto parking space per 2-5 seats. However, because the business is in a shopping center, one (1) space for each 200-300 square feet of gross floor area is required. As the center currently exists, it complies with current parking standards.

IMPACT ANALYSIS:

The site of 5 Brothers Chinese is located at the intersection of a minor and a major arterial roadway. Both of these roadways are designed to accommodate heavy traffic and land uses such as restaurants. The subject property is zoned UAC-4 which allows restaurants as a permitted use by right. The applicant is requesting a new restaurant liquor license (beer & wine only) 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 1001 E. University Avenue, Ste. C-1 & C-2 in Las Cruces, New Mexico, and having a Map Code Number or Parcel Identification Number of 02-26375 is zoned as follows:

UAC- 4 (University Avenue Corridor Overlay Zone - Area 4)

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.

May 20, 2009
Date

Adam Ochoa
Associate Planner

Remarks: The purpose of the University Avenue Corridor Plan Overlay Zone District is to implement land use and urban design policies as established in the University Avenue Corridor Plan. A restaurant with a beer and wine dispenser's licenses is a permitted use within Area 4 of the UAC Overlay, 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.

From: Christine Logan
Subject: RE: Liquor license application (restaurant)

5 Brothers Chinese has a current City Business registration certificate #6800 through April of 2010.

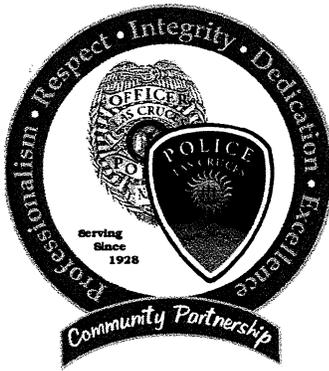
From: Monica Campbell
Sent: Thursday, May 14, 2009 11:04 AM
To: Christine Logan
Cc: Vicki Montez
Subject: Liquor license application (restaurant)

Attached is a copy of the Alcohol and Gaming letter and application for a restaurant liquor license for 5 Brothers Chinese, located at 1001 East University, Suites C-1 and C-2.

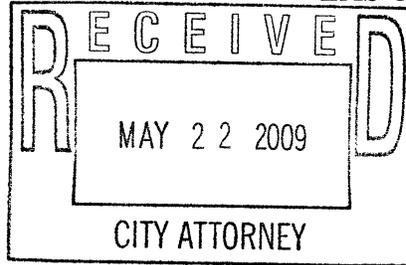
Please review this application and confirm whether this business has a valid business license and all permits, if applicable.

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 **May 28, 2009**.

Monica Campbell
City Attorney's Office
541-2128



LAS CRUCES POLICE DEPARTMENT

PO BOX 20000
217 E. Picacho
Las Cruces, New Mexico 88004

DATE: *May 19, 2009*

TO: *Fermin A. Rubio, City Attorney*

From: *Harry Romero, Chief of Police*

Subject: *5 Brothers Chinese*

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 5 Brothers Chinese, located at 1001 E University Avenue, Suite C-1 & C-2 Las Cruces, NM 88001

No anomalies were found that would warrant denial of this license; therefore, I recommend the liquor license application for 5 Brothers Chinese to be approved.

Harry Romero
Chief of Police



Interdepartmental Memorandum

TO: Fermin A. Rubio, City Attorney
FROM: Travis A. Brown, Deputy Chief *TAB*
SUBJECT: Liquor License Review
DATE: June 27, 2009 **FILE #:**

Our department has reviewed the liquor license application for Chong Meskimen, d/b/a 5 Brothers Chinese, located at 1001 E. University Avenue, Suites C-1 & C-2, Las Cruces, New Mexico.

This is an existing building that was inspected for compliance with the 2006 International Fire Code (IFC). The following deficiencies were noted and our department will conduct a re-inspection to ensure corrective measures are taken.

1. The occupant shall install larger suite numbers on the front doors.
2. The exit and emergency lights at the front doors shall be serviced.

The building is in compliance with the requirements for a facility that serves alcoholic beverages. Please contact me if you have questions or desire additional information.

Attachment 7

