

City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 3 Ordinance/Resolution# 13-004

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of July 16, 2012
(Adoption Date)

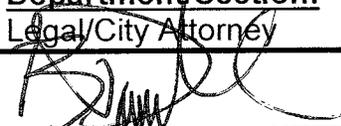
Please check box that applies to this item:

QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION FOR A SPECIAL DISPENSER PERMIT APPLICATION TO THE FOUNDATION FOR LAS CRUCES MUSEUMS FOR AN INVITATION ONLY GRAND OPENING OF THE MUSEUM OF NATURE & SCIENCE, 411 NORTH MAIN STREET, TO BE HELD ON THURSDAY, NOVEMBER 1, 2012 FROM 5:00 P.M. TO 7:00 P.M.

PURPOSE(S) OF ACTION:

Approve or disapprove the issuance of a waiver.

COUNCIL DISTRICT: 1		
<u>Drafter/Staff Contact:</u> Monica Campbell	<u>Department/Section:</u> Legal/City Attorney	<u>Phone:</u> 541-2128
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

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 the statute was amended to allow for the granting of a waiver of the distance restriction by the governing body of the local option district.

The Foundation for Las Cruces Museums ("FLCM") is hosting an invitation only grand opening of the Museum of Nature & Science ("MoNaS"), located at 411 North Main Street, on Thursday, November 1, 2012. The Latter Rain Harvest Fellowship Church is within 300 feet of the MoNaS.

The FLCM has hired Hotel Encanto de Las Cruces to provide alcoholic beverages for sale and consumption at the invitation only grand opening. The Alcohol and Gaming Division of the Regulation and Licensing Department requires a waiver of the church/school distance restriction by the City Council for the Special Dispenser Permit to be approved.

The approval or disapproval of the Special Dispenser Permit Application is presented as a separate agenda item and its approval is contingent upon approval of a waiver of the church/school distance restriction.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A". Map showing the location of the MoNaS and the nearest church and school..
3. Attachment "1". Special Dispenser Permit Application.
4. Attachment "2". List of property owners within 300 feet of the location of the MoNaS.
5. Attachment "3". Form of letter sent to the property owners listed in Attachment "2".

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?	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

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

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve of and consent to the issuance of a waiver of the church/school distance restriction. Approval will allow the Foundation for Las Cruces Museums and Hotel Encanto de Las Cruces to continue with the application process.

(Continue on additional sheets as required)

2. Vote "No"; if the Council does not approve the waiver, Alcohol & Gaming will be notified of the reason(s) the waiver was not approved and the Director of Alcohol & Gaming shall not approve the Special Dispenser Permit.
3. Vote to "Amend"; any amendments must comply with state statute and/or the requirements of Alcohol & Gaming.
4. Vote to "Table"; if the Council fails to either approve or disapprove the issuance of a waiver, the matter will be submitted to Alcohol & Gaming for further proceedings.

REFERENCE INFORMATION:

N/A

RESOLUTION NO. 13-004

A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION FOR A SPECIAL DISPENSER PERMIT APPLICATION TO THE FOUNDATION FOR LAS CRUCES MUSEUMS FOR AN INVITATION ONLY GRAND OPENING OF THE MUSEUM OF NATURE & SCIENCE, 411 NORTH MAIN STREET, TO BE HELD ON THURSDAY, NOVEMBER 1, 2012 FROM 5:00 P.M. TO 7:00 P.M.

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 premises that is within 300 feet of a church or school. However, in 1997, the statute was amended to allow for the granting of a waiver of the distance restriction; and

WHEREAS, the Latter Rain Harvest Fellowship Church is within 300 feet of the Museum of Nature & Science ("MoNaS"), as noted on Exhibit "A" attached; and

WHEREAS, the Foundation for Las Cruces Museums ("FLCM") is funding the invitation only grand opening and has hired Hotel Encanto de Las Cruces to provide alcoholic beverages for sale and consumption at the event; and

WHEREAS, the Alcohol and Gaming Division of the New Mexico State Regulation and Licensing Department requires that the FLCM must obtain a waiver of the church/school distance restriction from the City Council for the Special Dispenser Permit to be approved for the event; and

WHEREAS, granting a waiver of the church/school distance restriction will allow the FLCM 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 of the church/school distance restriction to the Foundation for Las Cruces Museums for an invitation only grand opening of the Museum of Nature & Science to be held on Thursday, November 1, 2012, at 411 North Main Street, from 5:00 p.m. to 7:00 p.m. is hereby approved.

(II)

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

DONE AND APPROVED on this _____ day of _____, 2012.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

VOTE:

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

Moved by: _____

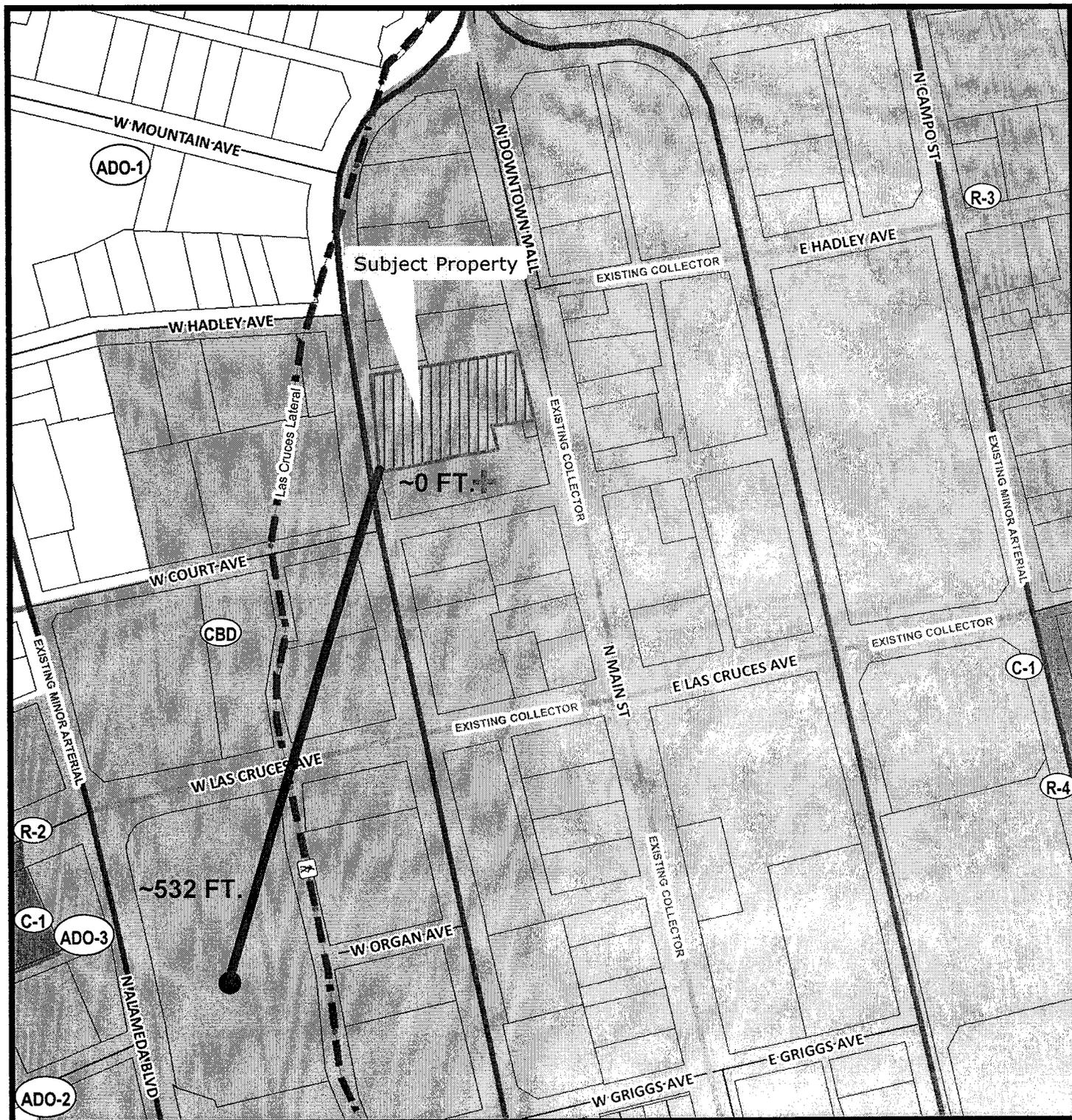
Seconded by: _____

APPROVED AS TO FORM:



City Attorney

ZONING/VICINITY MAP



○ ZONING ● SCHOOL + CHURCH



100 50 0 100 200 300 Feet

411 N. MAIN STREET
 PARCEL ID # 02-05954
 ZONING: CBD

DISTANCE TO NEAREST SCHOOL: ~532 FEET
 DISTANCE TO NEAREST CHURCH: ~0 FEET

Community Development Department
 700 N Main St
 Las Cruces, NM 88001
 (575) 528-3222

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.

SPECIAL DISPENSER PERMIT APPLICATION (60-6A-12)

Fee Per day: \$50.00 Public Celebration

\$25.00 Private Event (Catered) (all fees are non refundable)

A copy of all approved permits will be sent to the Special Investigations Division of the Department of Public Safety. They will notify you directly if they need additional information.

Business Name (DBA) Hotel Encanto de las Cruces Liquor License # 019D
Street Address 702 S. Telshore Blvd Mailing Address Samsel
City, State & Zip Las Cruces, NM 88011 Telephone # 575 522 4300 Fax # 575 521 4707

EVENT INFORMATION

Description of Event Museum of Nature: Science Date(s) of Event 11/18 Begin Time 5:00 pm End Time 7:00 pm
Physical Address of Event 411 N. Main St. Las Cruces, NM 88001 Number of Persons expected 200
Description of Security 2 Guards Number of Security personnel to be at this function 2
Security Contact Name Geno Tafaya Telephone # 575-526-1294

SPONSOR INFORMATION

Sponsor of Event N/A Contact Name _____ Signature _____ Telephone # _____

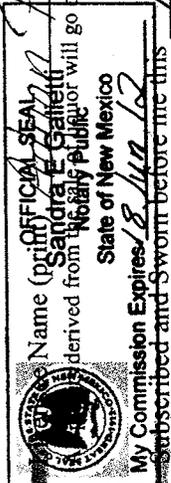
BUILDING OWNER APPROVAL

Name (print) Robert Garza Signature _____ Telephone # _____ Date 5/3

LICENSE HOLDER & SERVER CERTIFICATION: I, _____ (Licensee) hereby certify that this event is within the same local option district as the dispenser's license, that event is not within 300 Ft. of a church or school unless alcoholic beverages were sold there prior to July 1, 1981 or a waiver is obtained from the local governing body. I further certify that all persons providing the service of alcoholic beverages are server certified and that they are my employees and that ALL the information in this application is true and correct.

NOTE: List of servers including name, server permit # and server expiration date must be attached to permit application. Licensee agrees that if any statements or representations herein are found to be false, the director may refuse to issue additional permits.

Name (print) Sandra E. Gallenti Signature (Licensee Only) _____ Date 6/18/12
My Commission Expires 2/12/13 derived from Notary Public Only the owner or authorized person under this license may sign the permit. (seal)



NOTARY INFORMATION

Signature _____ Date _____ Exp. 01/20/13

LOCAL GOVERNING BODY APPROVAL

Print Name Robert Garza Title City Manager Date _____ Signature _____
Phone 541-2016 Fax 541-2119

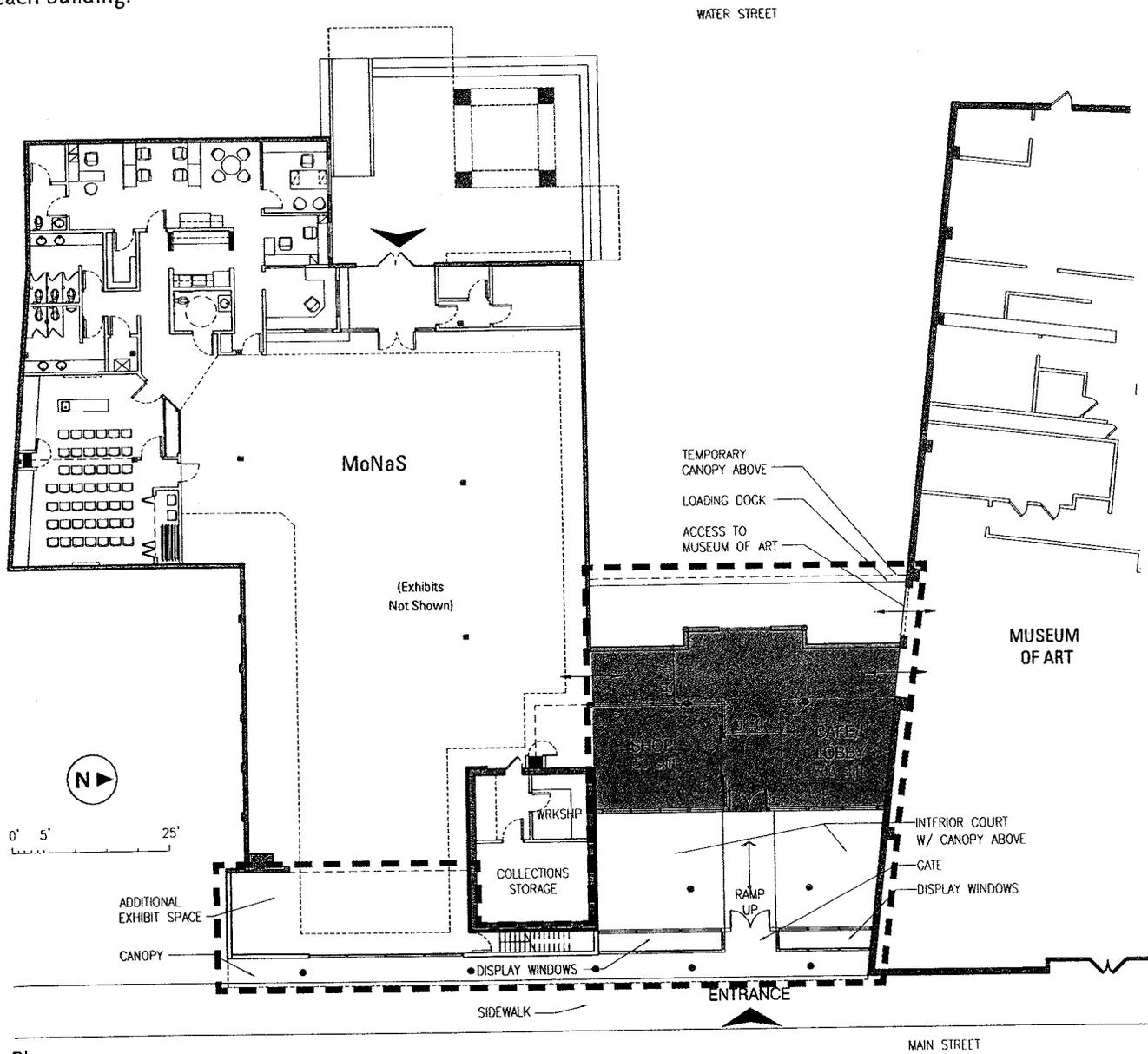
ALCOHOL & GAMING DIVISION USE ONLY

Approved by: _____ Date _____ Permit Number _____
Attachments: 1) Floor plan 2) Fees (listed on top of page) 3) Server information list

ADDING SPACE: PHASE 1

Several schemes for adding space to the current building footprint were examined, but filling in the vacant space between MoNaS and Museum of Art has the most potential. New-built central space will provide the two institutions with new, shared facilities—in Phase 1 a shop on Main Street, a café/lobby and a loading dock, with a connecting corridor providing a new visitor entrance to each building.

KEY	
	Space to be added in Phase 1



Plan

**NM Alcohol & Gaming Division Server Certificate Holders
Hotel de Encanto de Las Cruces-Liquor License No. 0190
November 1, 2012 Invitation Only Gala Opening
Museum of Nature & Science (MoNaS), 411 N. Main Street, Las Cruces, NM
Friends of Las Cruces Museums**

Name	Permit #
Garcia, Cesar	190862
Hill, DeWayne	181418
Rodriguez, Francisco	227526
Ruiz, Adrian	205316
Telles, Derek	220623
Warner, Roger	Temp. (awaiting permit card)
Wiley, Ronald	200237

116 COMMERCIAL PROPERTIES LLC
116 W LAS CRUCES AVE
LAS CRUCES, NM. 88001

AGUIRRE PETE ~~MR~~^{FR}
PO BOX 2276
LAS CRUCES, NM. 88004-2276

AMERICAN LINEN SUPPLY OF N M
550 N CHURCH ST
LAS CRUCES, NM. 88001-3440

AVASIL PROPERTIES LLC
406 N MAIN ST
LAS CRUCES, NM. 88001

BANK OF THE RIO GRANDE NA
421 N WATER
LAS CRUCES, NM. 88001

CM ASSOCIATES LLC
212 WEST HADLEY
LAS CRUCES, NM. 88005

COAS PROPERTIES LLC
317 N MAIN ST
LAS CRUCES, NM. 88001

EXC II LLC
116 W LAS CRUCES AVENUE
LAS CRUCES, NM. 88001

GIBSON EDWARD & PEGGY R
2990 AVENIDA DE MESILLA
LAS CRUCES, NM. 88005

HADLEY AVE INVESTMENTS LLC
253 W HADLEY AVE
LAS CRUCES, NM. 88005

HAMILL-BUCKLEY LLC ET AL
1437 FAIRWAY VILLAGE
LAS CRUCES, NM. 88007

HERMAN PETER & CEIL
430 N DOWNTOWN MALL
LAS CRUCES, NM. 88001

LAS CRUCES LODGE #2081 LOYAL
ORDER
514 N MAIN
LAS CRUCES, NM. 88001-1256

LATTER RAIN HARVEST FELLOWSHIP
PO BOX 1927
LAS CRUCES, NM. 88004

LOOMIS NEIL
127 HARVARD
LAS CRUCES, NM. 88005-1708

LYNER L L C
PO BOX 2274
LAS CRUCES, NM. 88004-2274

MRMJ PROPERTIES LLC
560 N WATER ST
LAS CRUCES, NM. 88001

OVERMYER CARL R
340 N WATER
LAS CRUCES, NM. 88001

PIONEER CONSTRUCTION LLC
PO BOX 397
LAS CRUCES, NM. 88004

RAINBOW REAL ESTATE CO
PO BOX 16134
LAS CRUCES, NM. 88004

ROBERT F SANDOVAL & JENNIFER C &
1224 ACADEMY CT
LAS CRUCES, NM. 88007

SANDOVAL GABRIEL C & MINERVA N
2000 E LOHMAN STE C
LAS CRUCES, NM. 88001

SCHWAIGER GLENN & LEEANN
MEADOWS
3810 N VALLEY DR
LAS CRUCES, NM. 88007

SCIENTIST
325 W MOUNTAIN
LAS CRUCES, NM. 88001

SCOTT JAMES M & MARTA H
TRUSTEES
216 PRINCETON
LAS CRUCES, NM. 88005-1728

STUDIO D ARCHITECTS PA
6490 VISTA VALLEY TRL
LAS CRUCES, NM. 88007

SUNSHINE BUILDING OF LAS CRUCES
LLC
PO BOX 578
LAS CRUCES, NM. 88004

TEXAS-NM NEWSPAPERS
PARTNERSHIP
256 W LAS CRUCES AVE
LAS CRUCES, NM. 88005



June 26, 2012

Dear Property Owner:

The Foundation for Las Cruces Museums ("FLCM") is planning an invitation only grand opening of the Museum of Nature & Science ("MoNaS") located at 411 North Main Street, on Thursday, November 1, 2012 from 5:00 p.m. to 7:00 p.m. FLCM has hired Hotel Encanto de Las Cruces to offer alcoholic beverages for sale and consumption at the event. As part of the approval process, the Liquor Control Act ("LCA") requires FLCM to obtain approval of Hotel Encanto's Special Dispenser Permit from the governing body of the City of Las Cruces.

This matter will come before the City Council during its regular meeting on Monday, July 16, 2012 at 1:00 p.m. in the City Council Chambers located at City Hall, 700 North Main Street.

Because the Latter Rain Harvest Fellowship Church is within 300 feet of the MoNaS, a waiver of the church/school distance restriction is on the agenda for approval or disapproval. The LCA prohibits the sale and consumption of alcoholic beverages within 300 feet of a church or school unless a waiver has been granted.

If you wish to share your views concerning the impact of the Special Dispenser Permit at the MoNaS event, please attend the City Council Meeting on July 16, 2012, or you may submit your views in writing to the City Attorney's Office, Post Office Box 20000, Las Cruces, New Mexico 88004. Letters must be received by 5:00 p.m. on Thursday, July 12, 2012.

If you have any questions or need additional information, please contact Monica Campbell at 575-541-2128.

Sincerely,


Harry S. (Pete) Connolly
City Attorney