

City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 4 Ordinance/Resolution# 13-023

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of September 4, 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 TO THE LAS CRUCES SYMPHONY ASSOCIATION FOR THE PUBLIC CELEBRATION PERMIT APPLICATIONS FOR A FUNDRAISING EVENT AT THE BRANIGAN CULTURAL CENTER, 501 NORTH MAIN STREET, TO BE HELD ON SATURDAY, SEPTEMBER 8, 2012 FROM 5:30 P.M. TO 10:30 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 Las Cruces Symphony Association ("Symphony Association") is hosting a fundraising event, with music and an auction, at the Branigan Cultural Center ("Center"), located at 501 North Main Street, on Saturday, September 8, 2012. The Center for Spiritual Living is approximately 95 feet from the Center and Latter Rain Harvest Fellowship Church is approximately 200 feet from the Center.

The Symphony Association has hired St. Clair Winery to provide alcoholic beverages for sale and consumption at the fundraising event. 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 Public Celebration Permits to be approved.

(Continue on additional sheets as required)

The approval or disapproval of the Public Celebration Permits 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 Branigan Cultural Center and the distance of the building from the nearest church and school.
3. Attachment "1". Public Celebration Permit Application – St. Clair Winery & Bistro V.
4. Attachment "2". Public Celebration Permit Application – St. Clair Winery.
5. Attachment "3". List of property owners within 300 feet of the Branigan Cultural Center.
6. Attachment "4". Form of letter sent to the property owners listed in Attachment "3".

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 Las Cruces Symphony Association to continue with the permitting 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 Public Celebration Permits.
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. 13-023

A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION TO THE LAS CRUCES SYMPHONY ASSOCIATION FOR THE PUBLIC CELEBRATION PERMIT APPLICATIONS FOR A FUNDRAISING EVENT AT THE BRANIGAN CULTURAL CENTER, 501 NORTH MAIN STREET, TO BE HELD ON SATURDAY, SEPTEMBER 8, 2012 FROM 5:30 P.M. TO 10:30 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 Center for Spiritual Living is approximately 95 feet from Branigan Cultural Center ("Center"), and the Latter Rain Harvest Fellowship Church is approximately 200 feet from the Center, as noted on Exhibit "A" attached; and

WHEREAS, the Las Cruces Symphony Association ("Symphony Association") is holding a fundraising event and has hired St. Clair Winery 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 Symphony Association must obtain a waiver of the church/school distance restriction from the City Council for the Public Celebration Permits to be approved for the event; and

WHEREAS, granting a waiver of the church/school distance restriction will allow the Symphony Association 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 Las Cruces Symphony Association for a fundraising event at the Branigan Cultural Center, 501 North Main Street, to be held on Saturday, September 8, 2012, from 5:30 p.m. to 10:30 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: _____

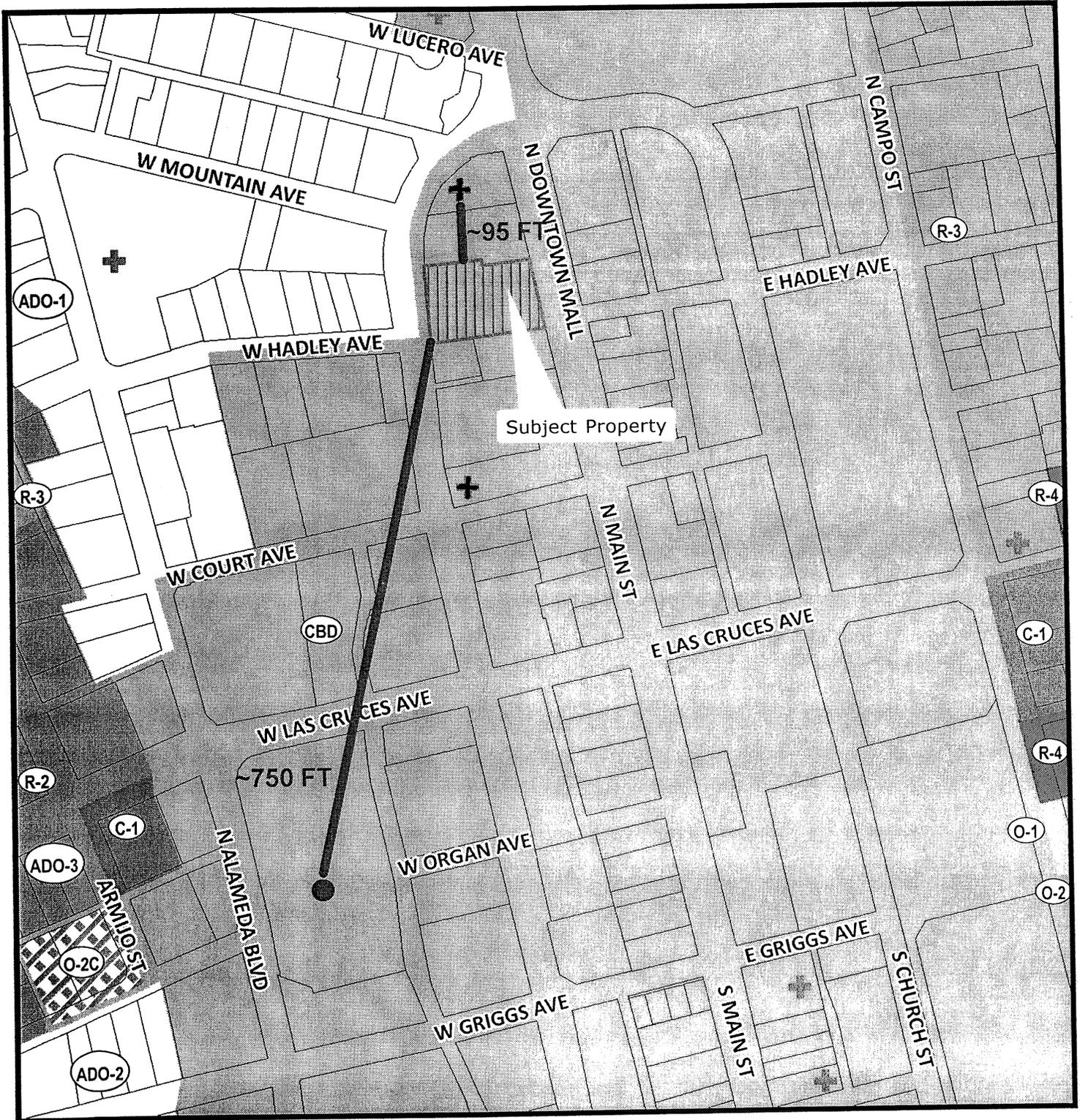
Seconded by: _____

APPROVED AS TO FORM:

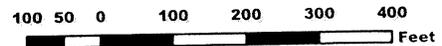


City Attorney

ZONING/VICINITY MAP



○ ZONING ● SCHOOL + CHURCH



501 N MAIN STREET
 PARCEL ID # 02-05938
 ZONING: CBD
 DISTANCE TO NEAREST SCHOOL: ~750 FEET
 DISTANCE TO NEAREST CHURCH: ~95 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.

ALCOHOL & GAMING DIVISION
PUBLIC CELEBRATION PERMIT APPLICATION WINEGROWER & SMALL BREWER LICENSE HOLDERS
(60-6A-11 / 60-6A-26.1 NMSA)
FEES ARE \$10 PER DAY -
Fees are non-Refundable

Instructions - Please Read Carefully

APPLICATION WILL BE RETURNED IF INCOMPLETE

LICENSE HOLDER INFORMATION:

Business Name (DBA) St Clair Winery & Bistro Her Name St. Clair Winery & Bistro # 10160
Street Address: 1700 Avenida de Mesilla city Los Cruces nm 88007 county Dona Ana
Phone Number: 575-546-1179 Fax number: 575-546-0007

EVENT INFORMATION: Celebration type: State Fair ___ County Fair ___ Community Fiesta ___ Cultural/Artistic Performance X

Date: Sept 8, 2012 Begin/end Time 5:30-10:30 PM

Description of Celebration: "Sounds Delicious" Fundraising Event with music & auction.

Number of Security to be Provided 4 Company: Branigan Volunteers Number of Guests Expected: 200

Contact Name & Number: Rebecca Slaughter 575-652-1619

Physical Address of Event: Branigan Cultural Center city: Los Cruces county: Dona Ana
501 Main St.

SPONSOR OF EVENT: Name of Organization/Person Sponsoring Celebration: Los Cruces Symphony Association
Contact Name (print) Katie Tomicek Title: Executive Director Date: 7-26-12 Signature: [Signature]

LICENSE HOLDER CERTIFICATION: I Florent Lescombes (Licensee) hereby certify that this 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 ALL information in this application is true and correct. Licensee Signature: [Signature]

Notary Information
Subscribed and Sworn To Before Me This 24th day of July 2012 Notary Public: [Signature] Exp. 12/09/2012

BUILDING OWNER CONSENT

Contact Name Rebecca Slaughter Facility Name Branigan Cultural Center Date 8/1/12 Signature [Signature] Phone 541-2156

LOCAL GOVERNING BODY APPROVAL/ACKNOWLEDGMENT

Print Name _____ Title _____ Date _____ Signature _____ Phone _____ Fax _____

Alcohol and Gaming Division Use Only
Approved By: _____ Date: _____ Permit # _____

PLEASE INCLUDE LIST OF SERVERS AND THEIR SERVER PERMIT NUMBER WHO WILL BE AT THE EVENT. A DETAILED FLOOR PLAN MUST ALSO BE SUBMITTED DESIGNATING RESTRICTED AND UNRESTRICTED AREAS.

ALCOHOL & GAMING DIVISION
PUBLIC CELEBRATION PERMIT APPLICATION WINEGROWER & SMALL BREWER LICENSE HOLDERS
(60-6A-11 / 60-6A-26.1 NMSA)
FEES ARE \$10 PER DAY -
Fees are non-Refundable
Instructions - Please Read Carefully
APPLICATION WILL BE RETURNED IF INCOMPLETE

LICENSE HOLDER INFORMATION:

Business Name (DBA) S. Clair Winery Owner Name S. Clair Winery & Tasting Room LLC
Street Address: 1335 De Baca Rd City State Zip Deming, NM 88831 County Luna
Phone Number: 575-546-1179 Fax number: 575-546-2027

EVENT INFORMATION: Celebration type: State Fair ___ County Fair ___ Community Fiesta ___ Cultural/Artistic Performance X

Date: Sept 8, 2012 Begin/end Time 5:30-10:30pm

Description of Celebration: "Sounds Delicious" Fundraising Event with music + auction.

Number of Security to be Provided 4 Company: ICSA Volunteers Number of Guests Expected: 200

Contact Name & Number: Katie Tomicek 575-646-3374

Physical Address of Event: Branigan Cultural Center 501 Main St. city: Las Cruces, NM County: Dona Ana

SPONSOR OF EVENT: Name of Organization/Person Sponsoring Celebration: Las Cruces Symphony Association
Contact Name (print) Katie Tomicek Title: Executive Director Date: Sept 8, 2012 Signature: [Signature]

LICENSE HOLDER CERTIFICATION: I Florent Lescombes (Licensee) hereby certify that this 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 ALL information in this application is true and correct. Licensee Signature: [Signature]

Notary Information
Subscribed and Sworn To Before Me This 6th day of July 2012 Notary Public: [Signature] Exp. 12/09/2012

BUILDING OWNER CONSENT
Contact Name Zbecca Slaughter Facility Name Branigan Cultural Center Date 8/11/12 Signature [Signature] Phone 541-2154

LOCAL GOVERNING BODY APPROVAL/ACKNOWLEDGMENT
Print Name _____ Title _____ Date _____ Signature _____ Phone _____ Fax _____

Alcohol and Gaming Division Use Only
Approved By: _____ Date: _____ Permit # _____

PLEASE INCLUDE LIST OF SERVERS AND THEIR SERVER PERMIT NUMBER WHO WILL BE AT THE EVENT. A DETAILED FLOOR PLAN MUST ALSO BE SUBMITTED DESIGNATING RESTRICTED AND UNRESTRICTED AREAS.

AGUIRRE PETE MRS
PO BOX 2276
LAS CRUCES, NM. 88004-2276

59
AMERICAN LINEN SUPPLY OF N M
550 N CHURCH ST
LAS CRUCES, NM. 88001-3440

AVASIL PROPERTIES LLC Attachment 3
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

ENGEL JOHN J & SARA J
133 W LUCERO AVE
LAS CRUCES, NM. 88005

FIRST CHURCH OF RELIGIOUS
~~SCIENCE INC~~
PO BOX 6181
LAS CRUCES, NM. 88006

FIRST STATES INVESTORS 5200 LLC
PO BOX 167129
IRVING, TX. 75016-7129

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

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

HUERTA DANNY C & MARY ELLEN
1003 DEVENDALE
LAS CRUCES, NM. 88005-0936

HULL ERROL T & GUADALUPE
145 W MOUNTAIN AVE
LAS CRUCES, NM. 88005-1826

LAS CRUCES LODGE #2081 LOYAL
ORDER OF MOOSE
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

MRMJ PROPERTIES LLC
560 N WATER ST
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

WALKER FAMILY LP
PO BOX 1638
ROSWELL, NM. 88202-1638

ZESSEL ROBERT & TRACIE
6420 PONY EXPRESS CT
LAS CRUCES, NM. 88007



August 14, 2012

Dear Property Owner:

The Las Cruces Symphony Association ("Symphony Association") is hosting a fundraising event to be held at the Branigan Cultural Center, located at 501 North Main Street, on Saturday, September 8, 2012 from 5:30 p.m. to 10:30 p.m. The Symphony Association has hired St. Clair Winery to provide alcoholic beverages for sale and consumption at the event. As part of the approval process, the Liquor Control Act ("LCA") requires the Symphony Association to obtain approval of St. Clair Winery's Public Celebration Permit Applications from the governing body of the City of Las Cruces.

This matter will come before the City Council during its regular meeting on Tuesday, September 4, 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 Branigan Cultural Center, 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 Public Celebration Permit Applications at the Symphony Association event, please attend the City Council Meeting on September 4, 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, August 30, 2012.

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

Sincerely,


Harry S. (Pete) Connelly
City Attorney