

City of Las Cruces[®]

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # _____ Ordinance/Resolution# 13-101

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of January 14, 2013
(Adoption Date)

Please check box that applies to this item:

QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION AUTHORIZING KEY CI, INC. GENERAL CONTRACTOR FOR WALMART TO WORK OUTSIDE OF THE HOURS OF 7:00 A.M. TO 6:00 P.M. AS REQUIRED BY THE CITY OF LAS CRUCES MUNICIPAL CODE, SECTION 19-131.

PURPOSE(S) OF ACTION:

Allow construction outside hours prescribed by the Municipal Code.

| | | |
|--|---|---------------------------|
| COUNCIL DISTRICT: 6 | | |
| Drafter/Staff Contact: David Weir <i>DW</i> | Department/Section: Community Development/A&G | Phone: 528-3067 |
| City Manager Signature:  | | |

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

KEY CI, Inc. is the general contractor constructing the new Walmart store at 3331 Rinconada Boulevard and is requesting a variance to the City of Las Cruces Municipal Code, Section 19-131 that stipulates construction hours of 7 a.m. to 6 p.m. The construction of the store is at a point that will require a great deal of concrete to be poured. The contractor is requesting the variance because of concerns that this construction activity will affect and impede traffic on US 70 and Northrise Drive.

Staff has reviewed the request and determined that this construction activity will have minimal impact to any nearby residential area and minimizes potential impacts to the traffic flow on US 70 and Northrise Drive. Staff will coordinate and monitor the conditions and any concerns raised as a result of the variance and will facilitate immediate action by the contractor and their project manager to address them.

SUPPORT INFORMATION:

1. Resolution.
2. Attachment "A", Las Cruces Municipal Code Section 19-131.
3. Attachment "B", Project Location Map.

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 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 authorize KEY CI, Inc. to work outside the hours of 7:00 a.m. to 6:00 p.m. on the Walmart Store at 3331 Rinconada Boulevard.
2. Vote "No"; this will not authorize KEY CI, Inc. to work outside the hours of 7:00 a.m. to 6:00 p.m. on the Walmart Store at 3331 Rinconada Boulevard.
3. Vote to "Amend"; this could authorize KEY CI, Inc. to work outside the hours of 7:00 a.m. to 6:00 p.m. on the Walmart Store at 3331 Rinconada Boulevard.
4. Vote to "Table"; this would allow Council to postpone consideration on this Resolution to determine an alternate course of action.

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

1. N/A

RESOLUTION NO. 13-101

A RESOLUTION AUTHORIZING KEY CI, INC. GENERAL CONTRACTOR FOR WALMART TO WORK OUTSIDE OF THE HOURS OF 7:00 A.M. TO 6:00 P.M. AS REQUIRED BY THE CITY OF LAS CRUCES MUNICIPAL CODE, SECTION 19-131.

The City Council is informed that:

WHEREAS, KEY CI, Inc. is constructing a new Walmart store at 3331 Rinconada Boulevard; and

WHEREAS, the next stage of the store's construction requires concrete to be poured; and

WHEREAS, the construction activity of pouring concrete will have an adverse impact on traffic on US 70 and Northrise Drive; and

WHEREAS, KEY CI, Inc. has requested a variance to the City of Las Cruces Municipal Code, Section 19-131 to all construction activity outside the normal work hours of 7:00 a.m. to 6:00 p.m. in order to minimize the construction impact on the community; and

WHEREAS, staff has reviewed the request and determined that this construction activity will have minimal impact on the disturbance to the comfort and repose of others and additionally minimizes potential impacts to the traffic flow on US 70 and Northrise Drive, and an urgent public necessity exists to allow construction after the hours of 7:00 a.m. to 6:00 p.m.; and

WHEREAS, staff will coordinate and monitor the conditions and any concerns raised as a result of the variance and facilitate immediate action by the contractor and their project manager to address them.

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

(I)

THAT the governing body concurs with staff in finding that urgent public necessity requires that KEY, CI, Inc. be allowed to work outside of the hours of 7:00 a.m. to 6:00 p.m. as required by the City of Las Cruces Municipal Code, Section 19-131 at 3331 Rinconada Boulevard.

(II)

THAT City staff reserves the right to reduce or modify the extended hours of operation by written notice of KEY CI, Inc. if adverse conditions are observed and cannot be remedied.

(III)

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

DONE AND APPROVED this _____ day of _____, 2013.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney

VOTE:

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

ATTACHMENT "A"

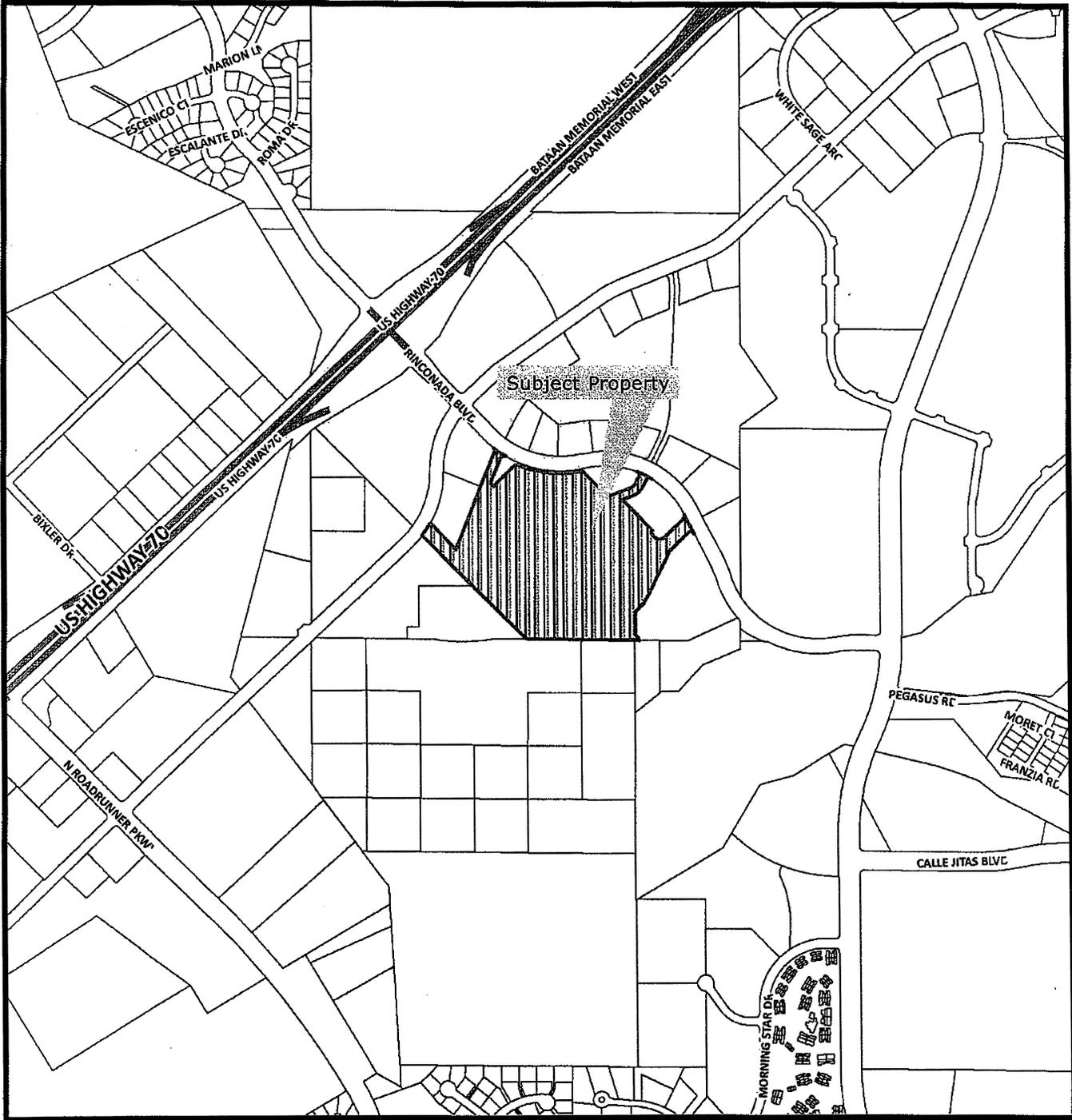
Sec. 19-131. - Construction, repair or demolition work.

Construction, repair or demolition work to commercial or residential buildings, roadways, utility facilities or infrastructure other than between the hours of 7:00 a.m. and 6:00 p.m., which work disturbs the comfort or repose of others, shall be deemed a violation of this division except in case of urgent public necessity as determined by the city council.

LOCATION VICINITY MAP

ZONING: PUD
OWNER: WAL-MART STORES EAST LP

PARCEL: 02-39600
DATE: 1/10/2013



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.