



316
City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

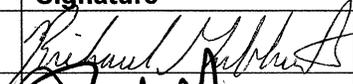
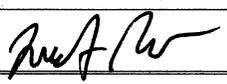
Item # 21 Ordinance/Resolution #10- 018 Council District:

For Meeting of July 6, 2009

(Adoption Date)

A RESOLUTION APPROVING THE TRANSFER OF OWNERSHIP AND LOCATION OF LIQUOR LICENSE NO. 4012 FROM SAM'S EAST, INC. D/B/A SAM'S CLUB #4961 (ROSWELL) TO WAL-MART STORES EAST, LP D/B/A WAL-MART SUPERCENTER #4601, TO BE LOCATED AT 3331 RINCONADA ROAD, LAS CRUCES, NEW MEXICO.

PURPOSE(S) OF ACTION: To approve, disapprove, or not approve or disapprove, the transfer of ownership and location of Liquor License No. 4012 to Wal-Mart Supercenter #4601, to be located at 3331 Rinconada Road, Las Cruces, New Mexico.

Name of Drafter: Monica Campbell		Department: Legal		Phone: 541-2128	
Department	Signature	Phone	Department	Signature	Phone
Originating Department			Budget		541-2107
			Assistant City Manager		541-2271
Legal		541-2128	City Manager		541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

Pursuant to state law, the application for transfer of ownership and location of a liquor license must be accompanied by a resolution of the City Council approving of and consenting to the transfer of location after a public hearing.

Wal-Mart Stores East, LP d/b/a Wal-Mart Supercenter #4601 applied to the Alcohol & Gaming Division of the Regulation and Licensing Department of the State of New Mexico ("Alcohol and Gaming") for a transfer of ownership and location of State Liquor License No. 4012 to 3331 Rinconada Road, Las Cruces, New Mexico. Alcohol and Gaming granted preliminary approval on May 22, 2009.

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 the transfer is scheduled for Monday, July 6, 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 public hearing was published in the *Las Cruces Sun-News* on June 14 and 21, 2009, and in the *Las Cruces Bulletin* on June 12 and 19, 2009.

Council may approve or disapprove the transfer. However, Council's disapproval must be based on substantial evidence that the transfer of ownership and location of the license would adversely affect the health, safety or welfare of the citizens of the City of Las Cruces.

(Continue on additional sheets as required)

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;
2. Exhibit "A": Alcohol & Gaming's preliminary approval with the application attached;
3. Attachments "1" and "2": Notices of Intent to Adopt;
4. Attachment "3": Traffic Impact Report from the Traffic Engineering Section.
5. Attachment "4": Liquor License Impact Report (zoning) from the Community Development Department;
6. Attachment "5": Liquor License Impact Report (registration and permits) from the Economic Development Department;
7. Attachment "6": Criminal Activity Report from the Las Cruces Police Department; and
8. Attachment "7": Fire and Safety Compliance Report from the Las Cruces Fire Department.

OPTIONS / ALTERNATIVES:

1. Approve the resolution and consent to the transfer of ownership and location of Liquor License No. 4012 to Wal-Mart Stores East, LP d/b/a Wal-Mart Supercenter #4601. 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 transfer of ownership and location of the liquor license would adversely affect the health, safety or welfare of the citizens of the City of Las Cruces.
3. Not approve or disapprove the Resolution. If the Council fails to either approve or disapprove the transfer of ownership and location of the liquor license, the Director of Alcohol and Gaming may give final approval to said transfer.

(Continue on additional sheets as required)

RESOLUTION NO. 10- 018

A RESOLUTION APPROVING THE TRANSFER OF OWNERSHIP AND LOCATION OF LIQUOR LICENSE NO. 4012 FROM SAM'S EAST, INC. D/B/A SAM'S CLUB #4961 (ROSWELL) TO WAL-MART STORES EAST, LP D/B/A WAL-MART SUPERCENTER #4601, TO BE LOCATED AT 3331 RINCONADA ROAD, LAS CRUCES, NEW MEXICO.

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

WHEREAS, Wal-Mart Stores East, LP d/b/a Wal-Mart Supercenter #4601, applied to the Alcohol and Gaming Division of the Regulation and Licensing Department of the State of New Mexico ("Alcohol and Gaming") for a transfer of ownership and location of Liquor License No. 4012 to 3331 Rinconada Road, Las Cruces, New Mexico; and

WHEREAS, on May 22, 2009, Alcohol and Gaming granted preliminary approval for the transfer of ownership and location, as evidenced by their letter with the application attached; and

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

WHEREAS, the City Council did on this date hold a public hearing after reasonable public notice setting forth the appropriate information concerning the public hearing. The City Council has considered the transfer of ownership and location of the liquor license and it has determined that the approval of said transfer 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 transfer of location of Liquor License No. 4012 to Wal-Mart Stores East, LP d/b/a Wal-Mart Supercenter #4601, to be located at 3331 Rinconada Road, Las Cruces, New Mexico, is hereby approved.

(II)

THAT a copy of this Resolution shall be conveyed to Wal-Mart Stores East, LP d/b/a Wal-Mart Supercenter #4601, Attention: Robin E. Forbis, Vice President, 702 SW 8th Street, Bentonville, AR 72716-0500, 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 6 day of July 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



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

May 22, 2009

Certified Mail No: 7006 3450 0001 4339 7000

Bill Richardson
GOVERNOR

Kelly O'Donnell, Ph.D.
SUPERINTENDENT

Pamelya Herndon
DEPUTY
SUPERINTENDENT

Julie Ann Meade
CHIEF LEGAL COUNSEL

Gary J. Tomada
DIRECTOR

City of Las Cruces
 Attn: Ester Martinez, Clerk
 PO Box 20000
 Las Cruces, NM 88004

Re: License / App. No. Liquor License # 4012 / Application # 595438
Applicant Name: Wal-Mart Stores East, LP
Doing Business As: Wal-Mart Supercenter #4601
Proposed Location: 3331 Rinconada Road, Las Cruces

ATTENTION: Department or person responsible for conducting or preparing the public hearing for liquor license transfers or issuance of new liquor licenses. *(Please review the revised instructions for approval or disapproval below.)

Greetings:

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 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 full weeks of publication must be satisfied before a hearing can be conducted. For example, the hearing cannot be conducted until a full week has elapsed after the second publication.** 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; (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 requesting a Transfer of Ownership & Location of Liquor License.

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

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

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 ***in writing*** as to whether the local governing body has approved or disapproved the issuance of transfer of the license ***and*** by signing the enclosed original Page 1 of the application. ***The letter of approval/disapproval and the Page 1 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,

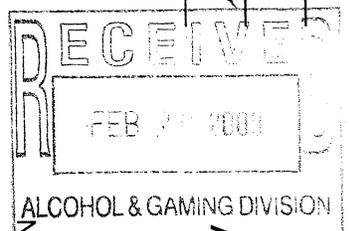

Jackie Gallegos
Hearing Officer

ENCLOSURES: Original Page 1 of Liquor License Application

State Liquor License # 4012

Application Number 595438

Local Option (AGD use) *See License*



STATE OF NEW MEXICO
REGULATION AND LICENSING
DEPARTMENT
ALCOHOL AND GAMING DIVISION
P.O. BOX 25101
Santa Fe, New Mexico 87504-5101
505-476-4570
Liquor License Application
Non Refundable Application Fee- \$200.00

Record Owner of License Sam's East, Inc.
Current D/B/A Name Sam's Club #4961

Current Premise Address 4400 North Main St.
Roswell, NM 88201

*63.4.09
judice*

Application is for: (check one) Change of Structure Transfer of Officers/Directors Transfer of Ownership of Existing License
Transfer of Ownership and Location X Transfer Location: _____ Other _____ Issue New License _____

*licant is: Individual Corporation Partnership (General or Limited) X Limited Liability Company _____
NAME OF APPLICANT (company or individual): _____ ADDRESS (INCLUDING CITY, STATE, ZIP) _____ TELEPHONE NUMBER _____

Wal-Mart Stores East, LP 702 SW 8th Street, Bentonville, AR 72716-0500 479-277-2768
Notice also to: Linda L. Alkin, Esq., 530B Harkle Road, Santa Fe, NM 87505 PH: 505-982-6224 FAX: 505-982-0352

DBA Name to be used: Wal-Mart Supercenter #4601 Phone Number for licensed premises TBD
Physical Address Where License is to be used: 3331 Rinconada Road, Las Cruces, New Mexico 88012

(Street No./Highway No./State Road/City/County)

Mailing Address: 702 SW 8th Street, Bentonville, AR 72716-0500

(Street No./P.O. Box/City/State/Zip)

Are alcoholic beverages currently being dispensed at the proposed location? No _____ Yes, give license number _____

I, Robin Forbis, as (title) Vice-President, being first duly sworn upon oath deposes and says: that he/she is the applicant or is authorized applicant to make this application; that he/she has read the same; knows the contents thereof and that all statements 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 said license or may cause such license to be revoked at any time.
Signature of Applicant(s) Robin E. Forbis Date 2-20-09

Robin Forbis-Vice President Notary Public Use Only

SUBSCRIBED AND SWORN TO before me this 20th day of February, 2009 by Robin E. Forbis (Name of Person(s) Signing Above)
NOTARY PUBLIC [Signature] My Commission Expires: 12-15-14

Local Governing Body of: _____ (CITY OR COUNTY) Hearing Held on: _____
PLEASE CHECK ONE: APPROVED DISAPPROVED CITY/COUNTY OFFICIAL (Signature and Title): _____

AGD Use Only

APPROVED _____ DISAPPROVED _____ DIRECTOR APPROVAL _____ DATE _____

PREMISES, LOCATION, OWNERSHIP & DESCRIPTION OF PREMISES

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

Owned by Applicant Leased by Applicant (attach copy of deed or lease) _____ Other (please provide details) _____

2. If the land and building are not owned by Applicant, please indicate the following:

A. Owner(s) _____

B. Date and Term of Lease _____

A. a hand drawn map, zoning map, or other map, showing the location of the proposed premises, and the main adjacent streets, roads or highways, in relation to the closest church and school properties. This map should be drawn on a sheet of paper no larger than 8 1/2 x 11 inches.

3. Premise location is zoned (example C-1) _____ PUD (C-2) — Planned Unit Development (Commercial Medium Intensity) _____

If the premise is zoned, attach zoning statement from local government giving location address, type of zone and 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 ^N ^S 1400 feet Name of Church Morning Star United Methodist Church Address-Location of Church 2941 Morning Star Drive, Las Cruces, NM

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

Miles: Feet 2900 feet Name of School Carrino Real Middle School Address-Location of School 2961 Roadrunner Road, Las Cruces, New Mexico

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

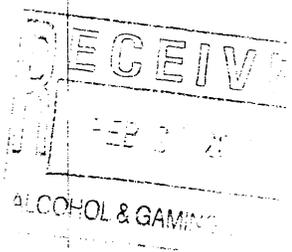
Miles 20 Miles Name of Military Installation White Sands Missile Range

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 premise. The floor plan should be no larger than 8 1/2 x 11 inches, and must include the total square footage of premises.

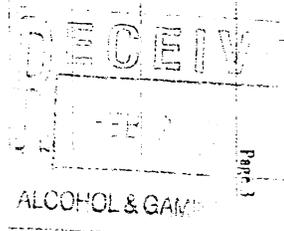
*If the distance is beyond 300 feet, but less than 400 feet, a registered engineer or licensed surveyor must complete a Survey Certificate showing the exact distance.

8. Type of Operation:

Lounge _____ Restaurant _____ Package _____ X _____ Racetrack _____ Hotel _____ Other (Please specify) _____



LIMITED PARTNERSHIP OR GENERAL PARTNERSHIP INFORMATION SHEET



1. Name of Limited Partnership or General Partnership Wal-Mart Stores East LP
2. Date Partnership formed (attach copy of Partnership Agreement) 11 / 09 / 2001
3. Date Partnership registered (attach copy of certificate) 11 / 09 / 2001
4. Mailing Address: Street 702 S W 8t ST City Bentonville State AR Zip 72716-0500 Phone # 479-204-2280
5. Names and addresses of all General and Limited Partners. If General Partner or Limited Partner is a corporation or other General or Limited Partnership, which holds an interest of 10% or more, complete the appropriate corporation information on Page 4, or appropriate Partnership Statement (Another Page 3).

General Partners

Name WSE Management, LLC Address 702 S W 8th ST, Bentonville, AR 72716-0500 % Interest 1%

Limited Partners

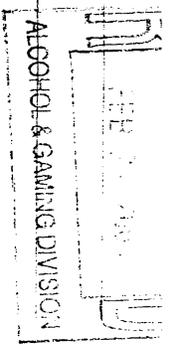
Name WSE Investment, LLC Address 702 S W 8th ST, Bentonville, AR 72716-0500 % Interest 99%

6. Has this Partnership ever had a liquor license in which it held any interest in any State suspended or revoked, or has the Partnership been denied the issuance of a liquor license? No Yes If Yes, please provide details:

See list attached to corporation form for Wal-Mart stores East, Inc.

7. List every liquor license in which this Partnership owns any interest, direct or indirect:
See attached list of licenses the company holds

NOTE: For each General or Limited Partner who is an individual, complete the Personal Data Information sheet (page 6), and attach two (2) completed sets of fingerprints on cards furnished by the Alcohol and Gaming Division. Fingerprints must be taken by City Police, State Police or Sheriff (any state).

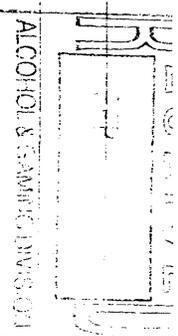


1. Name of Limited Liability Company WSE Management, LLC
2. Date Company formed (attach copy of Operating Agreement) 11 / 09 / 2001
3. Date Company registered (attach copy of certificate and Article of Organization) 11 / 09 / 2001
4. Mailing Address: Street 702 S W 8TH ST City Bentonville State AR Zip 727160500 Phone # 479-201-2280
5. Names and addresses of all Members. If a Member is a corporation, another Limited Liability Company or other General or Limited Partnership, which holds an interest of 10% or more, complete the appropriate corporation information on Page 4, or appropriate Partnership Statement (Page 3).

LIST ALL MEMBERS AND MANAGERS

Name	Address	% of Interest contribution
Wal-Mart Stores East, Inc, President & CEO Eduardo Castro-Wright	702 S W 8TH ST, Bentonville, AR 72716-0500 3 Vintage Point, Rogers, AR 72758	100%
Vice President Robin Forbis VP & Secretary Jeffrey Gearhart	5103 South 44th Street, Rogers, AR 72758 5098 Strathmore Station Dr., Rogers, AR 72758	
See list attached to corporation form for Wal-Mart Stores East, Inc.		
7. List every liquor license, which this Limited Liability Company owns any interest, direct or indirect		
See Attached List		

NOTE: For each Member who is an individual, complete the Personal Data Information sheet (page 6), and attach two (2) completed sets of fingerprints on cards furnished by the Alcohol and Gaming Division. Fingerprints must be taken by City Police, State Police or Sheriff (any state).



1. Name of Limited Liability Company WSE Investment, LLC
2. Date Company formed (attach copy of Operating Agreement) 11 / 09 / 2001
3. Date Company registered (attach copy of certificate and Article of Organization) 11 / 09 / 2001
4. Mailing Address: Street 702 S W 8TH ST City Bentonville State AR Zip 727160500 Phone # 479 201 2280
5. Names and addresses of all Members. If a Member is a corporation, another Limited Liability Company or other General or Limited Partnership, which holds an interest of 10% or more, complete the appropriate corporation information on Page 4, or appropriate Partnership Statement (Page 3)

LIST ALL MEMBERS AND MANAGERS

Name	Address	% of interest contribution
Wal-Mart Stores East, Inc.	702 S W 8TH ST, Bentonville, AR 72716-0500	100%
President & CEO Eduardo Castro-Wright	3 Vintage Point, Rogers, AR 72758	
Vice President Robin Forbis	5103 South 44th Street, Rogers, AR 72758	
VP & Secretary Jeffrey Gearhart	5098 Strathmore Station Dr., Rogers, AR 72758	

6. Has this Limited Liability Company ever had a liquor license in which it held any interest in any State suspended or revoked, or has the Limited Company been denied the issuance of a liquor license? IF Yes, please provide details.

See list attached to corporation form for Wal-Mart Stores East, Inc

7. List every liquor license which this Limited Liability Company owns any interest, direct or indirect

See Attached List

NOTE: For each Member who is an individual, complete the Personal Data Information sheet (page 6), and attach two (2) completed sets of fingerprints as cards furnished by the Alcohol and Gaming Division. Fingerprints must be taken by City Police, State Police or Sheriff (any state).

Name of Corporation: Wal-Mart Stores East, Inc
(New Mexico corporations must attach certified copy of its Certificate of Incorporation and Articles of Incorporation. Foreign corporations must also include a certified copy of its New Mexico certificate of authority.)

Date of Incorporation: _____ In what State? _____
Mailing Address of Corporate Office: 702 S W 8TH ST City Bentonville State AR Zip 72716 Phone # 479-204-2280

Complete names and addresses of all officers and directors of the Corporation, also the names and addresses of all stockholders of 10% or more of the stock in the Corporation. If a stockholder of 10% or more of the stock is Partnership or Corporation, complete Corporation Information sheet (page 4) for the stockholding corporation and/or the partnership information sheet (page 3).

Name & Title of Officers, Directors Stockholders of 10% or more	Complete Address	% Stock Held
President & CEO Eduardo Castro-Wright	3 Vintage Point, Rogers, AR 72758	100%
Vice President Robin Forbis	5103 South 44th Street, Rogers, AR 72758	25%
VP & Secretary Jeffrey Gearhart	5098 Strathmore Station Dr. Rogers, AR 72758	25%
Wal-Mart Stores, Inc	(a publicly traded company)	100%

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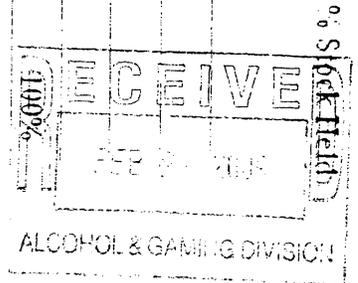
(USE ADDITIONAL SHEETS IF NECESSARY)

Has this Corporation ever had a liquor license in which it held any interest in any State suspended or revoked, or has it been denied the issuance of a liquor license?
Y No s. provide details See Attached List

L. Any liquor license in which the Corporation holds any interest, direct or indirect See Attached List

Has this Corporation ever been convicted of a felony? Yes No
If yes, provide details _____

** Note: For each individual applicant, partner, officer, director, and stockholder of more than 10% of stock in corporation, complete the Personal Data Information sheet (page 6) and attach two completed sets of fingerprint cards on cards furnished by the Alcohol and Gaming Division. Fingerprints must be taken by City Police, State Police, or Sheriff (any state).





AD FORM

LAS CRUCES SUN NEWS	
CLASSIFIED LEGAL AD	
DATE TO PUBLISH: 06/14/09 & 06/21/09	Account No. 720680
CITY CONTACT & PHONE NUMBER: MONICA CAMPBELL 541-2128 FAX: 541-2017	BILL TO: CITY CLERK P O BOX 20000 LAS CRUCES, NM 88004
PROOF OF PUBLICATION REQUIRED.	

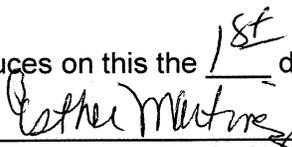
COPY TO PUBLISH:

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 **Transfer of Ownership and Location of Retailer Liquor License No. 4012 from Sam's East, Inc. d/b/a Sam's Club #4961 (Roswell) to Wal-Mart Stores East, LP d/b/a Wal-Mart Supercenter #4601, to be located at 3331 Rinconada Road, 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, July 6, 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 may approve the transfer.

Witness my hand and seal of the City of Las Cruces on this the 18th day of June 2009.



Esther Martinez, CMC, City Clerk



AD FORM

LAS CRUCES BULLETIN	
CLASSIFIED LEGAL AD	
DATE TO PUBLISH: 06/12/09 & 06/19/09	
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.	

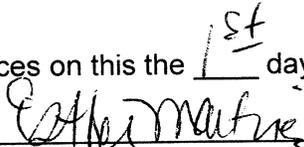
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The Public Hearing will be held in conjunction with the regular meeting of the Las Cruces City Council to be held on Monday, July 6, 2009, at 1:00 p.m. in the City Council Chambers, 200 North Church, City Hall. If passed, the State of New Mexico Regulation & Licensing Department may approve the transfer.

Witness my hand and seal of the City of Las Cruces on this the 1st day of June 2009.



 Esther Martinez, CMC, City Clerk



City of Las Cruces®
PEOPLE HELPING PEOPLE

**INTER-DEPARTMENTAL
MEMORANDUM**

=====

TO: Fermin A. Rubio, City Attorney

FROM: Dan Soriano, Traffic Engineer, Public Works

SUBJECT: Traffic Investigation Report

DATE: June 10, 2009

=====

As requested, Traffic Engineering has completed a traffic investigation for Wal-Mart Supercenter #4601, to be located at 3331 Rinconada Road, Las Cruces, New Mexico. The following information is submitted for review:

- Rinconada Road at this location is projected to carry approximately 7000 vehicles per day.
- Rinconada Road will be operated as a four lane major collector roadway with raised median serving primarily commercial use.
- Access to the property in question is off of both Rinconada Road and Northrise Drive.
- The speed limit on Northrise Drive in this area is 35 mph and will be posted at 35 mph on Rinconada Road.

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.

JUN 12 2009

City of Las Cruces
Community Development Department

LIQUOR LICENSE IMPACT REPORT

Transfer of Ownership and Location for Liquor License No. 4012

3331 Rinconada Boulevard
Wal-Mart Supercenter # 4601

June 4, 2009

**LIQUOR LICENSE IMPACT REPORT
Transfer of Ownership and Location**

**Wal-Mart Supercenter # 4601
3331 Rinconada Boulevard**

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: 3331 Rinconada Boulevard
Applicant: Wal-Mart Stores East, LP
Business Name: Wal-Mart Supercenter # 4601

LAND USE AND ZONING INFORMATION:

Subject Property Zoning: PUD (Planned Unit Development)
(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	PUD	Vacant
South	A-2/EE	Residential/Vacant
East	PUD	Vacant
West	PUD/C-3	Vacant

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: Rinconada Boulevard (With Improvements)
Classification: Collector
Number of Lanes: 4
Site Access: 4
Nearest Intersections: Rinconada Boulevard & Northrise Drive

PARKING REQUIREMENTS:

The 2001 Las Cruces Zoning Code, as amended, requires one (1) automobile space for every 250-350 sq. ft. of Gross Floor Area (GFA) and one (1) bicycle parking space for every 6,000 sq. ft. of GFA for businesses zoned in this zoning district. Parking requirements will be verified upon the submittal of a building permit.

IMPACT ANALYSIS:

The subject property is located off of Rinconada Boulevard which is designated as a collector and is designed to accommodate moderate traffic and land uses such as department stores and grocery stores. Zoning in this area is PUD (Planned Unit Development) with an underlying zoning of C-2 (Commercial Medium Intensity) which permits this use and uses related to it. The applicant is requesting a transfer of ownership and location of a liquor license. In terms of a transportation and land use perspective, this seems to be an appropriate location and request.



City of Las Cruces®

STATEMENT OF ZONING

The property located at 3331 Rinconada Blvd., and having a Map Code Number or Parcel ID Number of 02-39600, in Las Cruces, New Mexico, is zoned as follows:

PUD (Planned Unit Development)

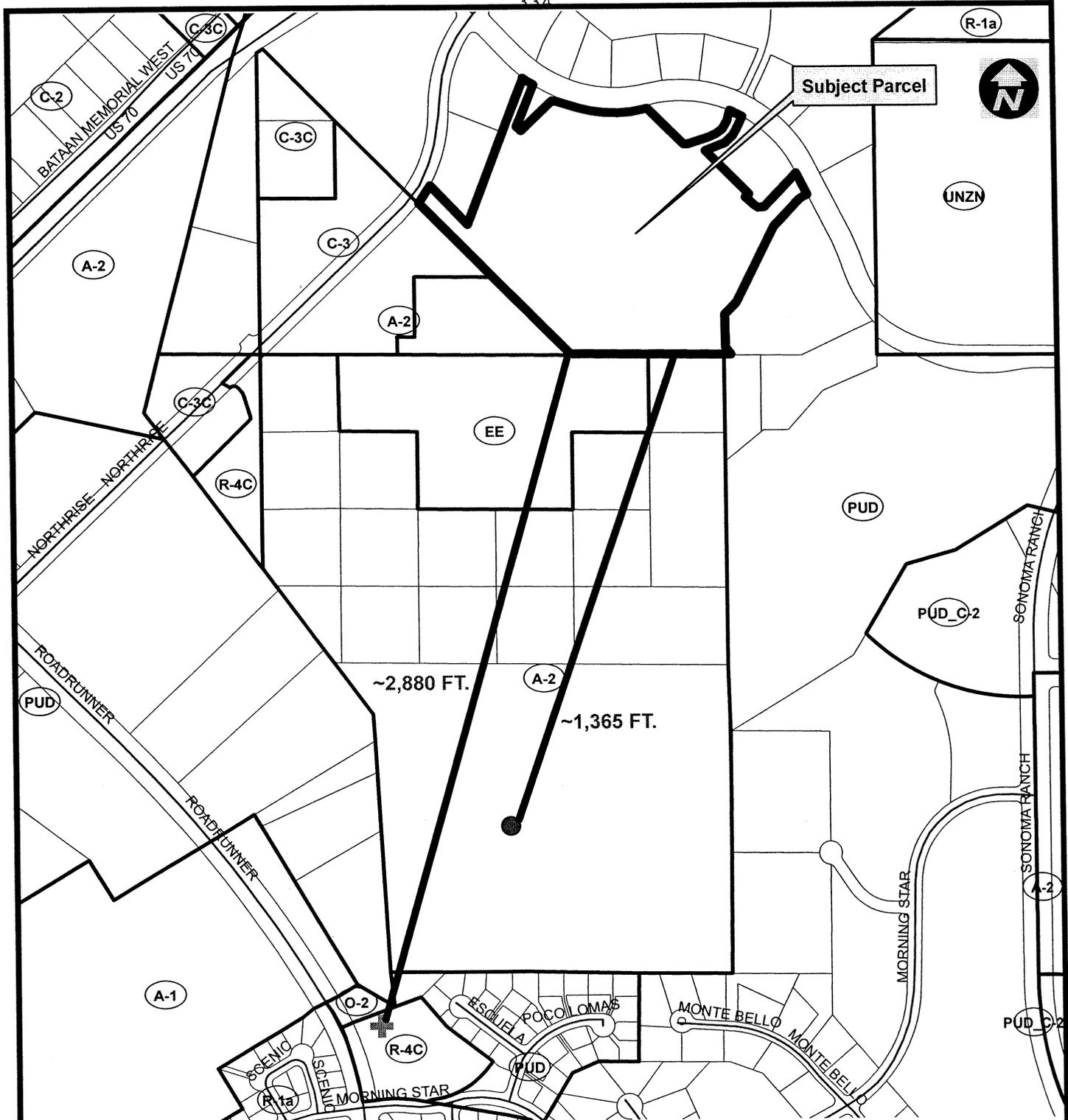
The above described property located in the City of Las Cruces, New Mexico, has been reviewed and found to be zoned as indicated above in accordance with the Las Cruces Zoning Atlas. Accordingly, I do hereby approve and issue this Statement of Zoning.

June 3, 2009
Date


Adam Ochoa
Associate Planner

Comments: The subject property is zoned PUD, with an underlying zoning of C-2 (Commercial Medium Intensity). Retail packaged liquor sales is a permitted use in C-2 districts, 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.



Subject Parcel



ZONING/VICINITY MAP

-  ZONING
-  CHURCH
-  SCHOOL

3331 RINCONADA BLVD.
 PARCEL ID#: 02-39600
 ZONING: PUD
 DISTANCE TO NEAREST SCHOOL: ~1,365 FT.
 DISTANCE TO NEAREST CHURCH: ~2,880 FT.



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 Community Development Department at (505) 528-3043.

Community Development Department
 575 S Alameda Blvd.
 Las Cruces, NM 88001
 (505) 528-3222

From: Christine Logan
Sent: Friday, May 29, 2009 5:05 PM
Subject: RE: Liquor license application

This facility has not been constructed yet so no business license is required.

The other Walmart facilities (Valley Drive and Walton Drive) are up to date on their business license and liquor licenses.

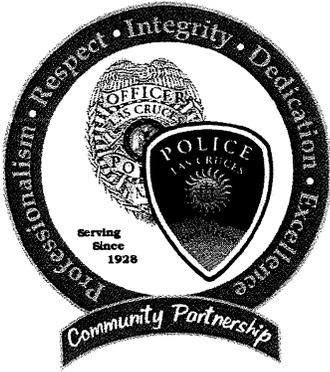
From: Monica Campbell
Sent: Friday, May 29, 2009 1:54 PM
To: Christine Logan
Cc: Vicki Montez
Subject: Liquor license application

Attached is a copy of the Alcohol and Gaming letter and application for the transfer of ownership and location of Liquor License No. 4012 to Wal-Mart Supercenter #4601, to be located at 3331 Rinconada Road, Las Cruces.

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 **June 11, 2009**.

Monica Campbell
City Attorney's Office
541-2128



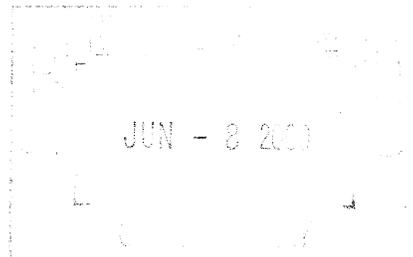
LAS CRUCES POLICE DEPARTMENT
PO BOX 20000
217 E. Picacho
Las Cruces, New Mexico 88004

DATE: June 2, 2009
TO: Fermin A. Rubio, City Attorney
From: Harry Romero, Chief of Police
Subject: WAL-MART SUPERCENTER #4601

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 Wal-Mart # 4601

No anomalies were found that would warrant denial of this license; therefore, I recommend the liquor license application for Wal-Mart #4601 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 2, 2009 **FILE #:**

Our department has reviewed the liquor license application for a transfer of ownership and location of Liquor License No. 4012 to Wal-Mart Stores East, LP d/b/a Wal-Mart Supercenter #4601, located at 3331 Rinconada Road, Las Cruces, New Mexico.

The facility in question will be a new building. The construction plans will be reviewed for compliance with the 2006 International Fire Code (IFC) for conformance with the requirements of a facility that serves/sells alcoholic beverages.

Please contact me if you have questions or desire additional information.

Attachment 7

