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**City of Las Cruces**<sup>®</sup>  
 PEOPLE HELPING PEOPLE

**Council Action and Executive Summary**

Item #   3        Ordinance/Resolution#   13-146  

For Meeting of \_\_\_\_\_  
 (Ordinance First Reading Date)

For Meeting of   May 6, 2013    
 (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 GAME SPORTS BAR & GRILL FOR ITS SPECIAL DISPENSER PERMIT APPLICATIONS WHICH REQUEST APPROVAL TO SELL BEER FOR CONSUMPTION AT THE LAS CRUCES COUNTRY MUSIC FESTIVAL TO BE HELD MAY 17, 18 AND 19, 2013, ON MAIN STREET.

**PURPOSE(S) OF ACTION:**

To approve a distance restriction waiver.

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

**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 City of Las Cruces, through its Convention and Visitors Bureau, will present the Las Cruces Country Music Festival on May 17, 18, and 19, 2013. The Game Sports Bar & Grill has applied to provide beer for sale during the festival, and beer tents will be available at two different locations on Main Street between Las Cruces Avenue and Griggs Avenue. The beer tent nearest to Griggs Avenue is approximately 208 feet from Casa de Alabanza church.

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

(Continue on additional sheets as required)

**SUPPORT INFORMATION:**

1. Resolution.
2. Exhibit "A". Zoning/Vicinity Map showing the distance between the beer tents and the nearest churches and schools.
3. Attachment "1". List of property owners within 300 feet of the beer tent nearest to Griggs Avenue.
4. Attachment "2". Form of letter sent to the property owners listed in Attachment "1".

**SOURCE OF FUNDING:**

<b>Is this action already budgeted?</b>  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.	
<b>Does this action create any revenue?</b>		
	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
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**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 Game Sports Bar & Grill to continue with the application process.
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 Applications.
3. Vote to "Amend"; any amendments must comply with state statute and/or the requirements of Alcohol & Gaming.

(Continue on additional sheets as required)

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:**

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

N/A

(Continue on additional sheets as required)

**RESOLUTION NO. 13-146**

**A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION TO THE GAME SPORTS BAR & GRILL FOR ITS SPECIAL DISPENSER PERMIT APPLICATIONS WHICH REQUEST APPROVAL TO SELL BEER FOR CONSUMPTION AT THE LAS CRUCES COUNTRY MUSIC FESTIVAL TO BE HELD MAY 17, 18 AND 19, 2013, ON MAIN STREET.**

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 City of Las Cruces through its Convention and Visitors Bureau will present the Las Cruces Country Music Festival on May 17, 18 and 19, 2013; and

**WHEREAS**, The Game Sports Bar & Grill has applied to provide beer for sale and consumption during the event from two tents at different locations on Main Street between Las Cruces Avenue and Griggs Avenue; and

**WHEREAS**, Casa de Alabanza church is approximately 208 feet from the location of the beer tent nearest to Griggs Avenue; and

**WHEREAS**, the Alcohol and Gaming Division of the New Mexico State Regulation and Licensing Department requires that a waiver of the church/school distance restriction must be obtained from the City Council prior to any approval of the Special Dispenser Permit Applications; and

**WHEREAS**, granting a waiver of the church/school distance restriction will allow The Game Sports Bar & Grill 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 allow for the sale of beer at the Las Cruces Country Music Festival to be held May 17, 18 and 19, 2013, at the locations shown on Exhibit "A" attached hereto, 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 \_\_\_\_\_, 2013.

APPROVED:

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

(SEAL)

VOTE:  
Mayor Miyagishima: \_\_\_\_\_  
Councillor Silva: \_\_\_\_\_  
Councillor Smith: \_\_\_\_\_  
Councillor Pedroza: \_\_\_\_\_  
Councillor Small: \_\_\_\_\_  
Councillor Sorg: \_\_\_\_\_  
Councillor Thomas: \_\_\_\_\_

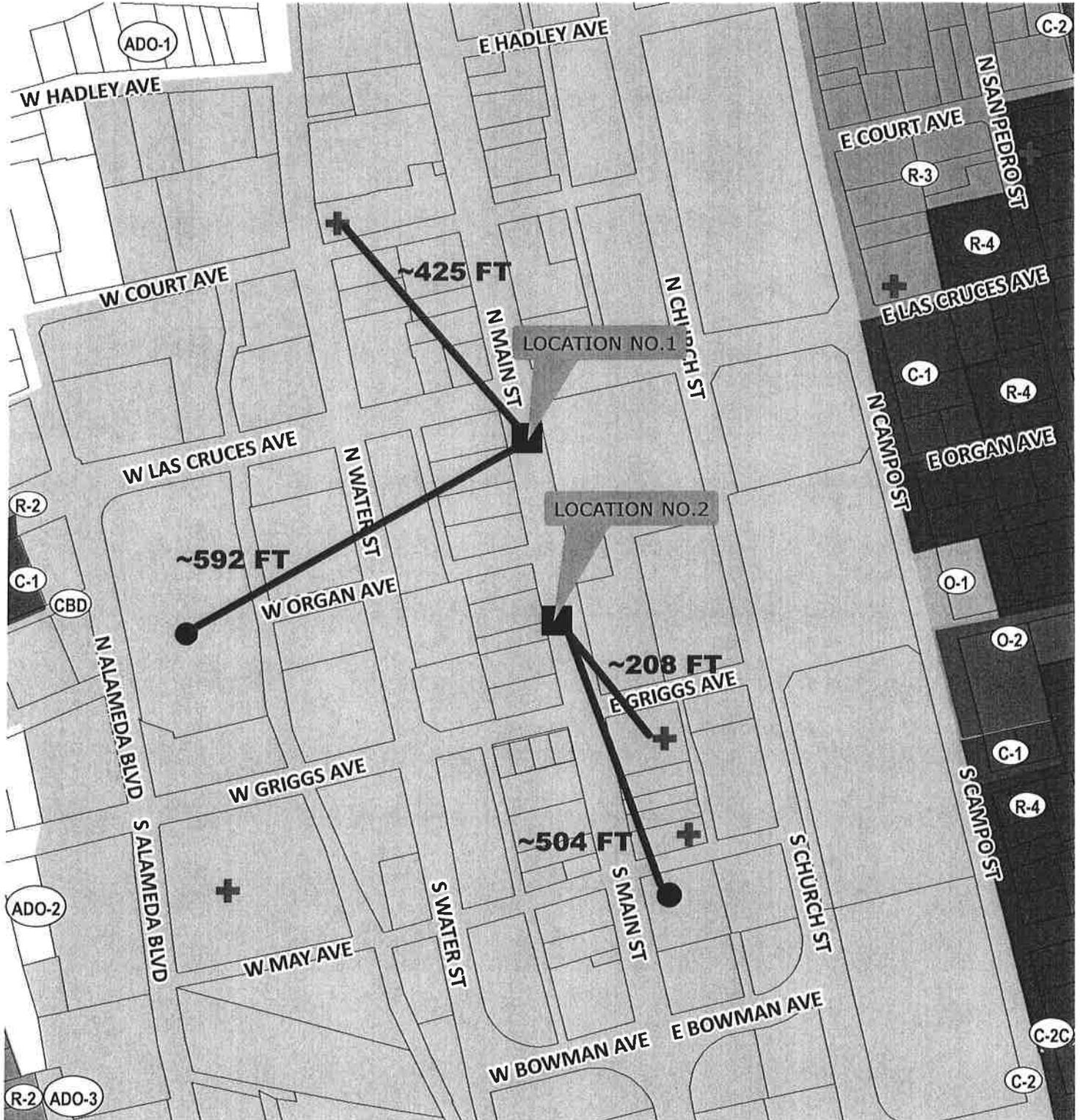
Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Deputy City Attorney

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**ZONING/VICINITY MAP**



○ ZONING   ● SCHOOL   + CHURCH   ■ BEER SALES



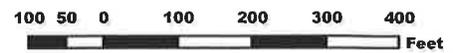
**MAIN STREET  
 ZONING: CBD**

**LOCATION NO.1 DISTANCE TO NEAREST SCHOOL: ~592 FT**

**LOCATION NO.1 DISTANCE TO NEAREST CHURCH: ~425 FT**

**LOCATION NO.1 DISTANCE TO NEAREST SCHOOL: ~504 FT**

**LOCATION NO.1 DISTANCE TO NEAREST CHURCH: ~208 FT**



**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.*

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125 W GRIGGS LLC  
125 W GRIGGS  
LAS CRUCES, NM. 88001

ALBERTO GUTIERREZ LLC  
213 W GRIGGS AVE  
LAS CRUCES, NM. 88005

BANK OF THE WEST  
PO BOX 5155  
SAN RAMON, CA. 94583-5155

BLEIWEISS MAX P & GAIL A TRUSTEES  
1215 VILLITA LP  
LAS CRUCES, NM. 88007

CLARK RUTH & BOBBY C TRUSTEES  
PO BOX 1777  
LAS CRUCES, NM. 88004

CORONADO JOSE R & RUBEN  
CORONADO  
705 N ALAMEDA  
LAS CRUCES, NM. 88004

EL PASO ELECTRIC COMPANY  
PO BOX 910  
LAS CRUCES, NM. 88001

GARCIA R LEO & SALLY P  
PO BOX 16228  
LAS CRUCES, NM. 88004

HAMILL-BUCKLEY LLC ET AL  
1230 CITYLIGHTS PL  
LAS CRUCES, NM. 88007

HOUSE OF PRAISE INC  
PO BOX 2527  
LAS CRUCES, NM. 88004-252

NEW MEXICO DEVELOPMENT  
CORPORATION  
PO BOX 2049  
LAS CRUCES, NM. 88004

RICHARD ROSEN INC  
306 E OVERLAND  
EL PASO, TX. 79901

ROSS JEANNE S REVOCABLE TRUST  
1405 DIANA MAURA  
LAS CRUCES, NM. 88001

SOUTHERN RIO GRANDE MENTAL  
HEALTH  
100 W GRIGGS  
LAS CRUCES, NM. 88001

ST GENEVIEVE PARISH INC  
1280 MED PARK DR  
LAS CRUCES, NM. 88005

VALENTINE JERALD A & J A  
PO BOX 850  
LAS CRUCES, NM. 88004-0850



April 17, 2013

Dear Property Owner:

The Las Cruces Country Music Festival ("Music Festival") will be held on Main Street on May 17, 18 and 19, 2013. The Game Sports Bar & Grill ("The Game") has applied to sell beer for consumption at the Music Festival. This letter is being sent to you because you own property near one of the proposed beer tents at the Music Festival.

The Liquor Control Act ("LCA") requires approval from the Las Cruces City Council because the Music Festival will be held on City property. The LCA also prohibits the sale and consumption of alcoholic beverages within 300 feet of a church or school unless a waiver has been granted by the City Council.

Casa de Alabanza church is within 300 feet of one of the proposed beer tents at the Music Festival. The City Council will consider a waiver of the distance restriction during its regular meeting on Monday, May 6, 2013. The meeting begins at 1:00 p.m. and will be held in the City Council Chambers located at City Hall, 700 North Main Street.

If you wish to share your views concerning the impact of the sale of beer for consumption at the Music Festival, you may attend the City Council Meeting on May 6, 2013, 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, May 5, 2013.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Harry S. (Pete) Connelly".

Harry S. (Pete) Connelly  
City Attorney