

City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 3 Ordinance/Resolution# 14-069

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of October 21, 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 NEW MEXICO BREWERS GUILD FOR THE PUBLIC CELEBRATION PERMIT APPLICATIONS SUBMITTED FOR DIA DE LAS CERVEZAS, A CRAFT BEER, FOOD AND MUSIC EVENT TO BE HELD AT 100 NORTH WATER STREET FROM 11:00 A.M. TO 5:00 P.M. ON SATURDAY, NOVEMBER 2, 2013.

PURPOSE(S) OF ACTION:

To approve 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 New Mexico Brewers Guild ("Guild") is sponsoring Dia de Las Cervezas, a craft beer, food and music event to be held in the parking lot which is generally located at the northwest corner of Griggs Avenue and Water Street, and also known as 100 North Water Street, on Saturday, November 2, 2013. St. Paul's Methodist Church is approximately 62 feet from 100 North Water Street, and Central Elementary School is approximately 28 feet from 100 North Water Street.

Nine brewers have submitted Public Celebration Permit Applications to provide beer for sale and consumption during Dia de Las Cervezas: Abbey Brewing Co., Bosque Brewing Co., High Desert Brewing, La Cumbre Brewing Co., Little Toad Creek Brewery, Marble Brewery, Santa Fe Brewing Company, Second Street Brewery and Sierra Blanca Brewing Company.

(Continue on additional sheets as required)

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 Permit Applications to be approved.

The Public Celebration Permit Applications are presented as nine separate agenda items and approval of each item is contingent upon approval of a waiver of the church/school distance restriction.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Zoning/Vicinity Map showing the location of the Dia de Las Cervezas event and the distances to the nearest church and school.
3. Attachment "1", List of property owners within 300 feet of 100 North Water Street.
4. Attachment "2", Form of letter sent to the property owners listed in Attachment "1".

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 liquor license holders to continue with the permitting 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 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:

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

N/A.

RESOLUTION NO. 14-069

A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION TO THE NEW MEXICO BREWERS GUILD FOR THE PUBLIC CELEBRATION PERMIT APPLICATIONS SUBMITTED FOR DIA DE LAS CERVEZAS, A CRAFT BEER, FOOD AND MUSIC EVENT TO BE HELD AT 100 NORTH WATER STREET FROM 11:00 A.M. TO 5:00 P.M. ON SATURDAY, NOVEMBER 2, 2013.

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 New Mexico Brewers Guild ("Guild") is sponsoring Dia de Las Cervezas, a craft beer, food and music event to be held in the parking lot which is generally located at the northwest corner of Griggs Avenue and Water Street, and also known as 100 North Water Street, on Saturday, November 2, 2013; and

WHEREAS, St. Paul's Methodist Church is approximately 62 feet from 100 North Water Street, and Central Elementary School is approximately 28 feet from 100 North Water Street; and

WHEREAS, liquor license holders have submitted Public Celebration Permit Applications to provide alcoholic beverages for sale and consumption during Dia de Las Cervezas: Abbey Brewing Co., Bosque Brewing Co., High Desert Brewing, La Cumbre Brewing Co., Little Toad Creek Brewery, Marble Brewery, Santa Fe Brewing Company, Second Street Brewery and Sierra Blanca Brewing Company; and

WHEREAS, the Alcohol and Gaming Division of the New Mexico State Regulation and Licensing Department requires a waiver of the church/school distance

restriction from the City Council for the Public Celebration Permit Applications to be approved for the event; and

WHEREAS, granting a waiver of the church/school distance restriction will allow the applicants 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, as shown on Exhibit "A" attached hereto, to Abbey Brewing Co., Bosque Brewing Co., High Desert Brewing, La Cumbre Brewing Co., Little Toad Creek Brewery, Marble Brewery, Santa Fe Brewing Company, Second Street Brewery and Sierra Blanca Brewing Company for the Dia de Las Cervezas event to be held on Saturday, November 2, 2013 from 11:00 a.m. to 5:00 p.m. at 100 North Water Street 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)

Moved by: _____

Seconded by: _____

VOTE:

Mayor Miyagishima: _____

Councillor Silva: _____

Councillor Smith: _____

Councillor Pedroza: _____

Councillor Small: _____

Councillor Sorg: _____

Councillor Thomas: _____

APPROVED AS TO FORM:

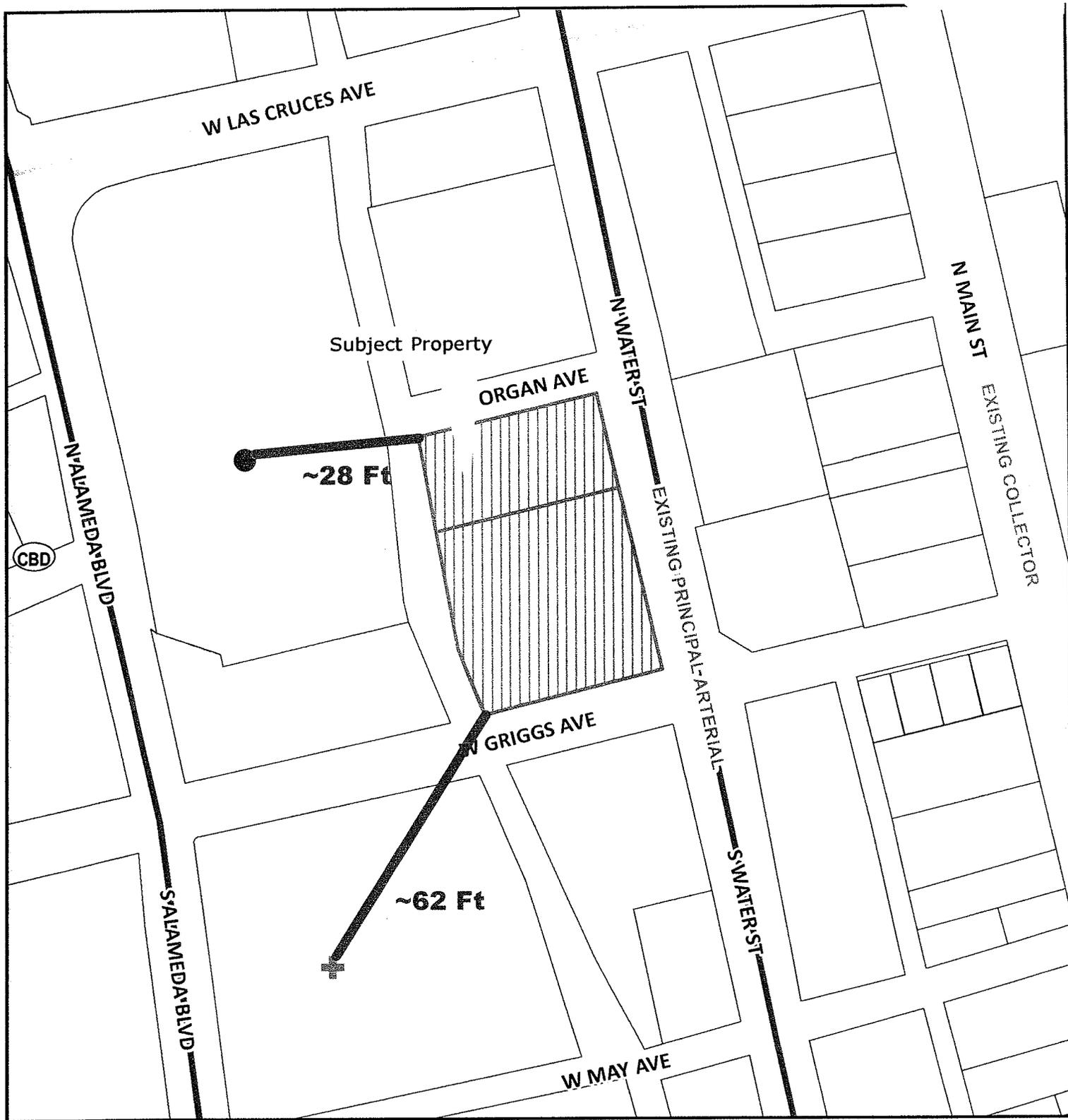


City Attorney

ZONING/VICINITY MAP

Exhibit A

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○ ZONING ● SCHOOL + CHURCH



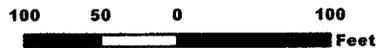
100 NORTH WATER STREET

Zoning: CBD

Parcel ID#: 02-05931

Distance to nearest school: ~28 Feet

Distance to nearest church: ~62 Feet



Community Development Department

700 N Main St

Las Cruces, NM 88001

(575) 528-3222

125 W. Griggs, LLC
125 W. Griggs
Las Cruces, NM 88001

Alberto Gutierrez LLC
213 W. Griggs Ave.
Las Cruces, NM 88005

Max P. and Gail A. Bleiweiss
Trustees
1215 Villita Loop
Las Cruces, NM 88007

CenturyLink Inc.
931 14th St., Suite 1000A
Denver, CO 80202

Jose R. and Ruben Coronado
119 N. Main St.
Las Cruces, NM 88001

El Paso Electric
PO Box 910
Las Cruces, NM 88001

R. Leo and Sally P. Garcia
PO Box 16228
Las Cruces, NM 88004

Hamill-Buckley LLC, et al.
1230 City Lights Place
Las Cruces, NM 88007

Jose R. Coronado
119 N. Main St.
Las Cruces, NM 88001

Las Cruces School District #2
505 S. Main St., Suite 249
Las Cruces, NM 88001

Edgar and Mary Lopez
125 W. Griggs Ave.
Las Cruces, NM 88001

New Mexico Development Corp.
PO Box 2049
Las Cruces, NM 88004

Richard Rosen Inc.
306 E. Overland
El Paso, TX 79901

Jeanne S. Ross Revocable Trust
4131 Camino Coyote, Suite A
Las Cruces, NM 88011

Southern Rio Grande Mental Health
100 W. Griggs
Las Cruces, NM 88001

St. Paul's Methodist Church
PO Box 696
Las Cruces, NM 88004



October 7, 2013

Dear Property Owner:

The New Mexico Brewers Guild is sponsoring Dia de Las Cervezas, a craft beer, food and music event to be held at 100 North Water Street, which is a City owned lot at the northwest corner of Griggs Avenue and Water Street. The event is scheduled for Saturday, November 2, 2013 from 11:00 a.m. to 5:00 p.m. Approximately ten liquor license holders have submitted Public Celebration Permit Applications to provide alcoholic beverages for sale and consumption at the event. As part of the approval process, the Liquor Control Act ("LCA") requires the liquor license holders to obtain approval for the use of City property from the governing body of the City of Las Cruces.

This matter will come before the City Council as part of its regular meeting on Monday, October 21, 2013 which begins at 1:00 p.m. in the City Council Chambers located at City Hall, 700 North Main Street.

Central Elementary School and St. Paul's Methodist Church are each within 300 feet of 100 North Water Street and a request for a waiver of the church/school distance restriction will be considered 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 and the Dia de Las Cervezas event, please attend the City Council Meeting on October 21, 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, October 17, 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 that reads "Harry S. (Pete) Connelly".

Harry S. (Pete) Connelly
City Attorney