City of Las Cruces®
PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 3 **Ordinance/Resolution#** 15-019

For Meeting of _____ (Ordinance First Reading Date)

For Meeting of August 18, 2014 (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 THE SPECIAL DISPENSER PERMIT APPLICATIONS SUBMITTED FOR THE SIXTH ANNUAL SALSA FEST TO BE HELD ON AUGUST 23 AND 24, 2014.

PURPOSE(S) OF ACTION:

To approve the issuance of a waiver.

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

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 Downtown Las Cruces Partnership is sponsoring the Sixth Annual Salsa Fest, to be held on Main Street between Las Cruces Avenue and Griggs Avenue on August 23 and 24, 2014. The Casa De Alabanza Church is approximately 44 feet from a designated alcoholic beverage service area to be set up on August 23, 2014 in a location near the intersection of Main Street and Griggs Avenue. The alcoholic beverage service area to be set up on August 24, 2014 is contained within La Placita which is outside the church/school distance restriction.

The Game Sports Bar & Grill has submitted Special Dispenser Permit Applications to provide alcoholic beverages for sale and consumption on August 23, 2014 from 7:00 p.m. to 11:00 p.m. and on August 24, 2014 from 12:00 p.m. to 5:00 p.m.

(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 Special Dispenser Permit Applications to be approved.

The Special Dispenser Permit Applications are presented as a separate agenda item and approval 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 Sixth Annual Salsa Fest and the distance to the nearest church.
3. Attachment "1", Map of event area on Main Street, showing the designated alcohol service areas for August 23, 2014.
4. Attachment "2", Map of event area on Main Street, showing the designated alcohol service area for August 24, 2014.
5. Attachment "3", List of property owners.
6. Attachment "4", Form of letter sent to the property owners listed in Attachment "2".

SOURCE OF FUNDING:

Is this action already budgeted?			
N/A	Yes	☐	See fund summary below
	No	☐	If No, then check one below:
	Budget Adjustment Attached	☐	Expense reallocated from: _____
		☐	Proposed funding is from a new revenue source (i.e. grant; see details below)
		☐	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue?			
	Yes	☐	Funds will be deposited into this fund: _____in the amount of $_____ for FY__.
	No	☒	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

(Continue on additional sheets as required)

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 permitting process for the Sixth Annual Salsa Fest on Main Street.
2. Vote "No"; if the Las Cruces City 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 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 City 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. 15-019

A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION TO THE GAME SPORTS BAR & GRILL FOR THE SPECIAL DISPENSER PERMIT APPLICATIONS SUBMITTED FOR THE SIXTH ANNUAL SALSA FEST TO BE HELD ON AUGUST 23 AND 24, 2014.

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 Las Cruces Downtown Partnership is sponsoring the Sixth Annual Salsa Fest event to be held on Main Street on August 23 and 24, 2014; and

WHEREAS, the Casa De Alabanza Church is approximately 44 feet from a designated alcoholic beverage service area to be set up on August 23, 2014, near the intersection of Main Street and Griggs Avenue; and

WHEREAS, the alcoholic beverage service area to be set up on August 24, 2014 is contained within La Placita which is outside the church/school distance restriction; and

WHEREAS, The Game Sports Bar & Grill has submitted Special Dispenser Permit Applications to provide alcoholic beverages for sale and consumption during the Sixth Annual Salsa Fest; 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 Special Dispenser 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 to The Game Sports Bar & Grill for the Sixth Annual Salsa Fest to be held on Main Street on August 23 and 24, 2014, as 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 _____, 20___.

APPROVED:

ATTEST:

_____
Mayor

_____
City Clerk

(SEAL)

VOTE:
Mayor Miyagishima: ____
Councillor Silva: ____
Councillor Smith: ____
Councillor Pedroza: ____
Councillor Small: ____
Councillor Sorg: ____
Councillor Levatino: ____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

City Attorney

Exhibit A

Zoning / Vicinity Map

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.

Legend

N. Main St. & Griggs Ave.
Zoning CBD
Distance to the nearest Church: 44 Feet

150 75 0 150 300 450 Fe

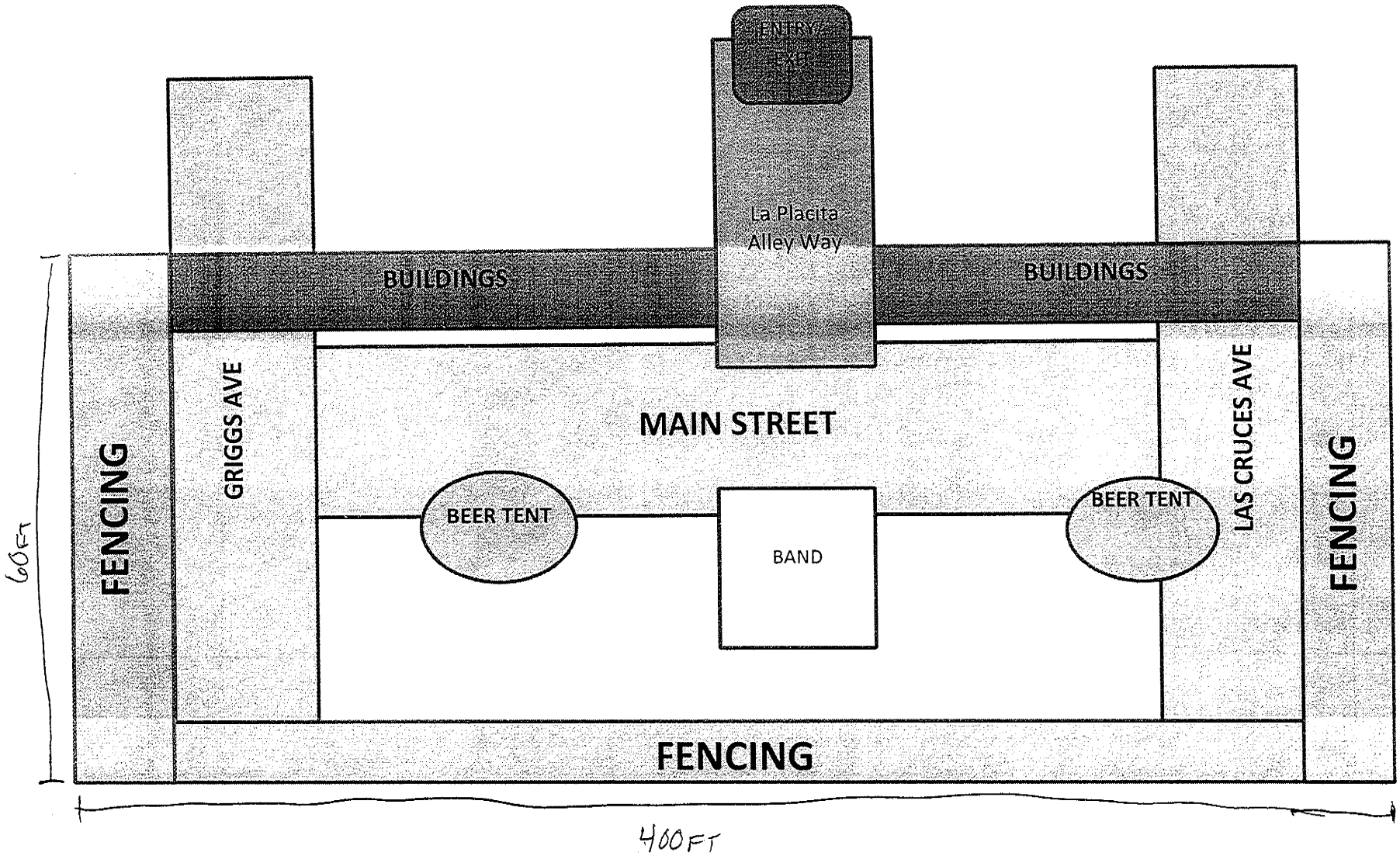
Community Development Department
700 N Main St
Las Cruces, NM 88001
(575) 528-3222

Attachment 1

SALSA FEST 2014

SATURDAY / AUGUST 23, 2014

7PM-11PM

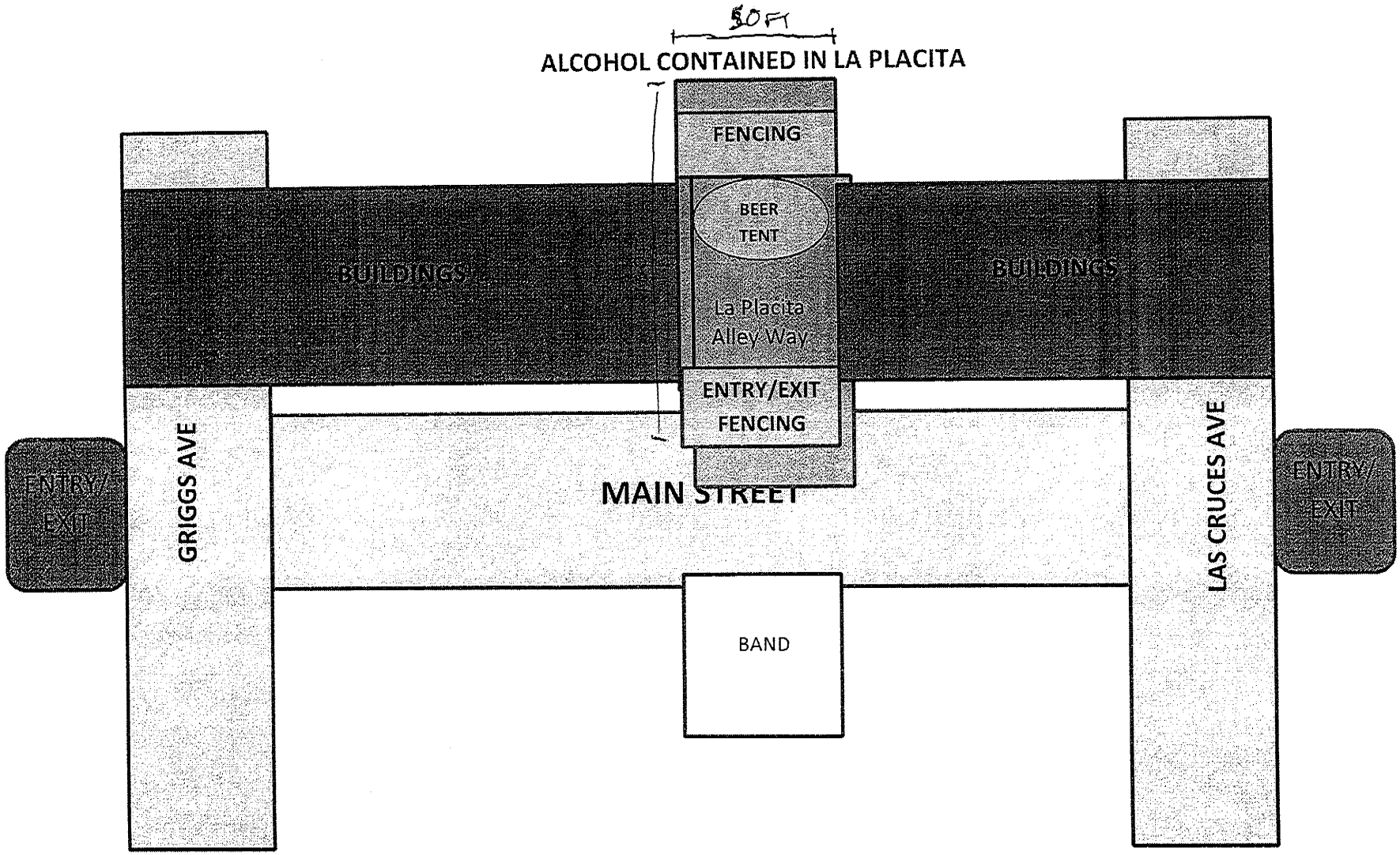


Attachment 2

SALSA FEST 2014

SUNDAY / AUGUST 24, 2014

12PM-5PM



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

CALVARY CHAPEL INC
139 S MAIN ST
LAS CRUCES, NM. 88001

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

CORONADO JOSE R & RUBEN CORONADO
119 N MAIN ST
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

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

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

SUN CITY FINANCE INC
3190 DEL REY BLVD
LAS CRUCES, NM. 88012

TREE OF LIFE FELLOWSHIP INC
PO BOX 467
ORGAN, NM. 88052

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

City of Las Cruces®

August 5, 2014

Dear Property Owner:

The Downtown Las Cruces Partnership is sponsoring the Sixth Annual Salsa Fest on Main Street, generally between Las Cruces Avenue and Griggs Avenue. The event is scheduled for Friday, August 23, 2014 from 7:00 p.m. to 10:00 p.m. and Saturday, August 24, 2014 from 12:00 p.m. to 5:00 p.m. The Game Sports Bar & Grill has submitted 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, August 18, 2014, which begins at 1:00 p.m. in the City Council Chambers located at City Hall, 700 North Main Street.

In addition, the LCA prohibits the sale and consumption of alcoholic beverages within 300 feet of a church or school unless a waiver has been granted. A waiver request will be considered by the City Council for approval or disapproval because Casa De Alabanza Church is approximately 44 feet from a designated alcohol service area near the intersection of Main Street and Griggs Avenue.

If you wish to share your views concerning the Sixth Annual Salsa Fest, the liquor license holder applications and the waiver request, please attend the City Council Meeting on August 18, 2014, 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 14, 2014.

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

Sincerely,

/s/

Harry S. (Pete) Connelly
City Attorney