

City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 13 Ordinance/Resolution# 15-047

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of September 15, 2014
(Adoption Date)

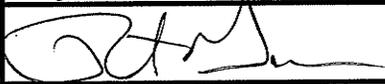
Please check box that applies to this item:

QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION TO HIGH DESERT BREWING COMPANY FOR THE PUBLIC CELEBRATION PERMIT APPLICATION SUBMITTED FOR THE 5TH ANNUAL ZOMBIE WALK TO BE HELD ON OCTOBER 25, 2014.

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.

Project Main Street is sponsoring the 5th Annual Zombie Walk to be held on Main Street, generally between Las Cruces Avenue and Griggs Avenue, on October 25, 2014. The Casa De Alabanza Church is within the 300 foot distance from a designated alcoholic beverage service area located near the intersection of Main Street and Griggs Avenue.

High Desert Brewing Company has submitted a Public Celebration Permit Application to provide beer for sale and consumption on October 25, 2014 from 5:00 p.m. to 12:00 a.m. 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 Application to be approved.

The Public Celebration Permit Application is presented as a separate agenda item and 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 Main Street and the approximate distance to the nearest church.
3. Attachment "1", Map of event area on Main Street, showing the designated alcohol service areas.
4. Attachment "2", List of property owners.
5. Attachment "3", Form of letter sent to the property owners listed in Attachment "2".

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 High Desert Brewing Company to continue with the permitting process for the 5th Annual Zombie Walk.
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 Public Celebration Permit.

(Continue on additional sheets as required)

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.

RESOLUTION NO. 15-047

A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION TO HIGH DESERT BREWING COMPANY FOR THE PUBLIC CELEBRATION PERMIT APPLICATION SUBMITTED FOR THE 5TH ANNUAL ZOMBIE WALK TO BE HELD ON OCTOBER 25, 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, Project Main Street is sponsoring the 5th Annual Zombie Walk, to be held on Main Street, generally between Las Cruces Avenue and Griggs Avenue on October 25, 2014; and

WHEREAS, the Casa De Alabanza Church is within the 300 foot distance from a designated alcoholic beverage service area near the intersection of Main Street and Griggs Avenue; and

WHEREAS, High Desert Brewery has submitted a Public Celebration Permit Application to provide beer for sale and consumption during the 5th Annual Zombie Walk; 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 Application to be approved for the event; and

WHEREAS, granting a waiver of the church/school distance restriction will allow the applicant 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 High Desert Brewery for the 5th Annual Zombie Walk to be held on Main Street on October 25, 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: _____

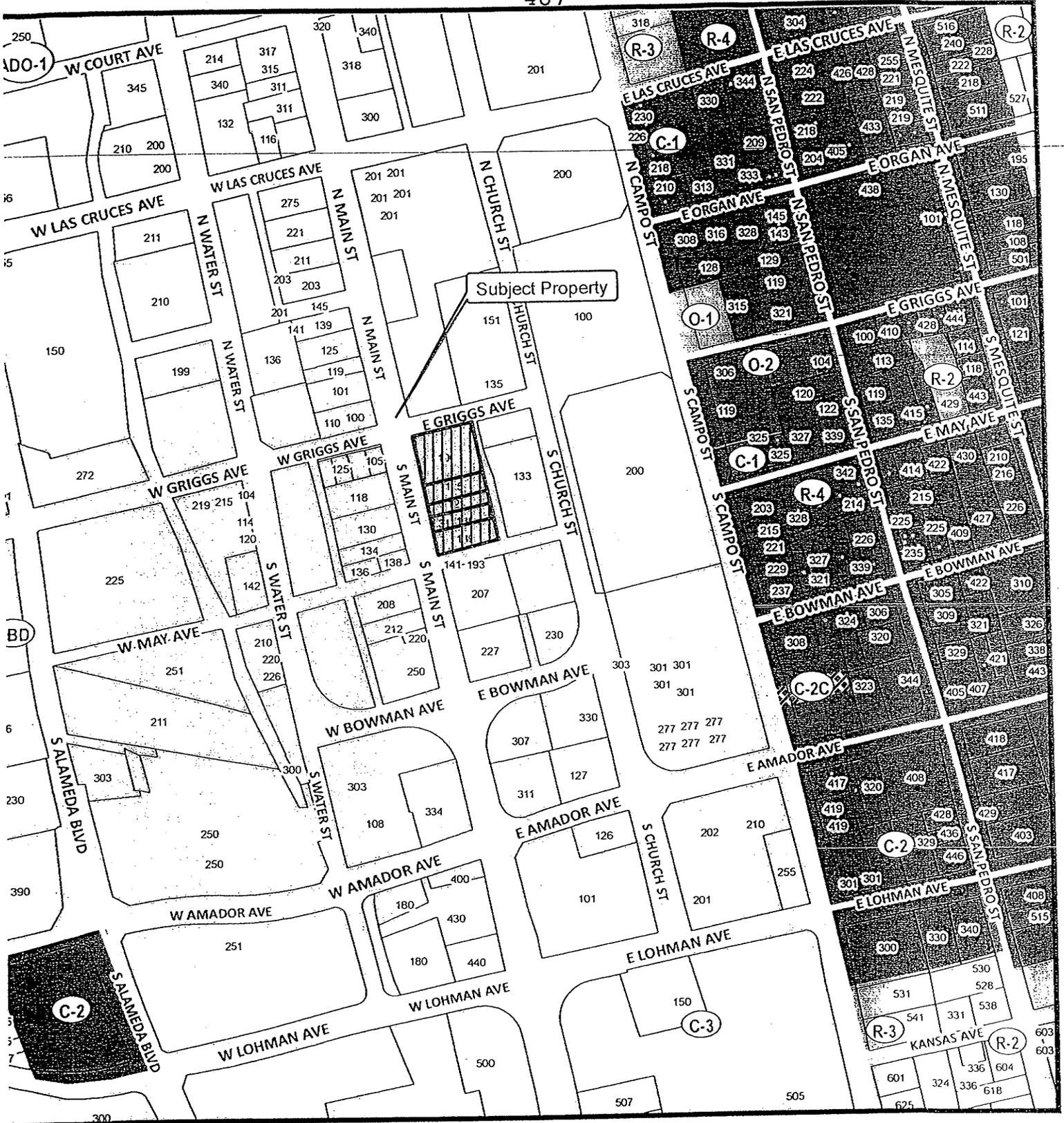
APPROVED AS TO FORM:



City Attorney

Zoning / Vicinity Map

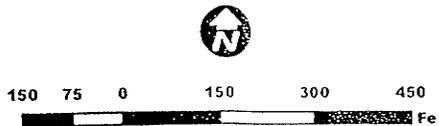
487



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.

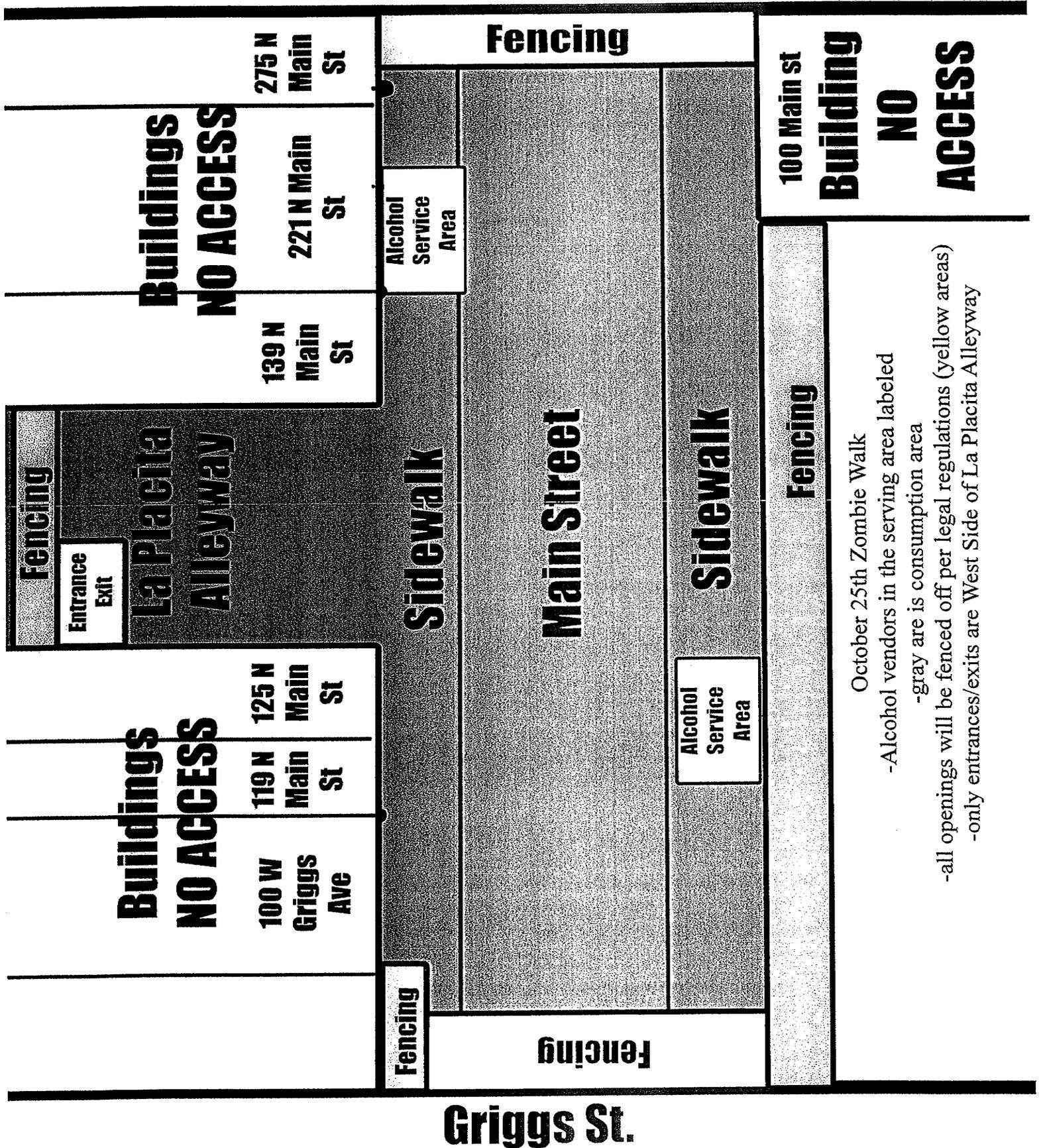
Legend

N. MAIN ST. & GRIGGS AVE.
 ZONING CBD
 DISTANCE TO THE NEAREST CHURCH: 44 FEET



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

Las Cruces Avenue



October 25th Zombie Walk

- Alcohol vendors in the serving area labeled -gray are is consumption area
- all openings will be fenced off per legal regulations (yellow areas)
- only entrances/exits are West Side of La Placita Alleyway

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 MEDPARK 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



September 2, 2014

Dear Property Owner:

Project Main Street is sponsoring the 5th Annual Zombie Walk on Main Street, generally between Las Cruces Avenue and Griggs Avenue. The event is scheduled for Saturday, October 25, 2014 from 5 p.m. to 12:00 a.m. High Desert Brewery has submitted an application to provide beer for sale and consumption at the event. As part of the approval process, the Liquor Control Act ("LCA") requires the liquor license holder 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, September 15, 2014, which begins at 1:00 p.m. in the City Council Chambers located at City Hall, 700 North Main Street.

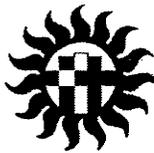
In addition, the LCA prohibits the sale and consumption of alcoholic beverages within 300 feet of a church or school unless a waiver has been granted. A waiver request will be considered by the City Council for approval or disapproval because Casa De Alabanza Church is within the 300 foot distance from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

If you wish to share your views concerning the 5th Annual Zombie Walk, the liquor license holder's application and the waiver request, please attend the City Council Meeting on September 15, 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, September 11, 2014.

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

Sincerely,

Harry S. (Pete) Connelly
City Attorney



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City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 14 Ordinance/Resolution# 15-048

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of September 15, 2014
 (Adoption Date)

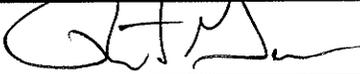
Please check box that applies to this item:

QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION AUTHORIZING HIGH DESERT BREWING COMPANY TO CONTINUE WITH THE PERMITTING PROCESS TO ALLOW FOR THE SALE AND CONSUMPTION OF BEER WITHIN A RESTRICTED AND SECURED AREA AT THE 5TH ANNUAL ZOMBIE WALK TO BE HELD ON MAIN STREET ON OCTOBER 25, 2014.

PURPOSE(S) OF ACTION:

To authorize a permitting process to continue.

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:

Project Main Street is the sponsor of the 5th Annual Zombie Walk to be held on October 25, 2014 on Main Street, generally between Las Cruces Avenue and Griggs Avenue. High Desert Brewing Company is requesting approval to sell beer for consumption within a restricted and secured area during the event.

Approval by the Las Cruces City Council is required prior to the submission of the Public Celebration Permit Application to the Alcohol and Gaming Division of the Regulation and Licensing Department of the State of New Mexico ("Alcohol and Gaming"). Final approval by Alcohol and Gaming would allow High Desert Brewing Company to sell beer within the restricted and secured area between 5:00 p.m. and 12:00 a.m. on October 25, 2014.

The authorization of the Public Celebration Permit Application will comply with the requirements of the Las Cruces Municipal Code, Section 5-1, which restricts alcohol consumption in public places to areas approved by Alcohol and Gaming only.

(Continue on additional sheets as required)

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Public Celebration Permit Application, High Desert Brewing Company.
3. Attachment "1", Map showing the restricted and secured area for beer service during the event.
4. Attachment "2", List of servers.

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 checked="" type="checkbox"/>	Funds will be deposited into this fund: <u>1000-10180010-520002</u> in the amount of <u>\$25.00</u> for FY <u>15</u> .	
	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 approve the sale of beer for consumption by High Desert Brewing Company, within a restricted and secured area on Main Street, generally between Las Cruces Avenue and Griggs Avenue during the 5th Annual Zombie Walk on Saturday, October 25, 2014. Approval will allow Alcohol and Gaming to continue with the permitting process.
2. Vote "No"; this will mean that High Desert Brewing Company may not serve beer during the event on October 25, 2014. The Alcohol and Gaming Director may issue the Public

(Continue on additional sheets as required)

Celebration Permit provided that the City Council has given written approval for the permitting process to continue.

3. Vote to "Amend"; this could include changing the time that beer is sold. Any amendments must comply with city ordinance, state statute, and/or the requirements of Alcohol and Gaming.
4. Vote to "Table"; this could result in no beer being sold by High Desert Brewing Company at the event.

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. 15-048

A RESOLUTION AUTHORIZING HIGH DESERT BREWING COMPANY TO CONTINUE WITH THE PERMITTING PROCESS TO ALLOW FOR THE SALE AND CONSUMPTION OF BEER WITHIN A RESTRICTED AND SECURED AREA AT THE 5TH ANNUAL ZOMBIE WALK TO BE HELD ON MAIN STREET ON OCTOBER 25, 2014.

The City Council is informed that:

WHEREAS, Project Main Street is the sponsor of the 5th Annual Zombie Walk to be held on Saturday, October 25, 2014; and

WHEREAS, High Desert Brewing Company has requested approval to sell beer for consumption within a restricted and secured area during the event; and

WHEREAS, approval by the Las Cruces City Council is required prior to submission of the Public Celebration Permit Application to the Alcohol and Gaming Division of the Regulation and Licensing Department of the State of New Mexico ("Alcohol and Gaming"); and

WHEREAS, final approval by Alcohol and Gaming would allow High Desert Brewing Company to sell beer for consumption within a restricted and secured area during the event; and

WHEREAS, approval of the Public Celebration Permit Application will comply with the requirements of the Las Cruces Municipal Code, Section 5-1, which restricts alcohol consumption in public to areas approved by Alcohol and Gaming only.

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

(I)

THAT High Desert Brewing Company is hereby authorized to continue with the

permitting process for the Public Celebration Permit Application, attached hereto as Exhibit "A", to allow beer to be sold for consumption within a restricted and secured area between 5:00 p.m. and 12:00 a.m. on Saturday, October 25, 2014.

(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

ALCOHOL & GAMING DIVISION
PUBLIC CELEBRATION PERMIT APPLICATION WINEGROWER & SMALL BREWER LICENSE HOLDERS
(60-6A-11 / 60-6A-26.1 NMSA)
FEES ARE \$10 PER DAY -- Fees are Non-Refundable

LICENSE HOLDER INFORMATION:

Business Name (DBA) High Desert Brewing Company Owner Name High Desert Brewing Co., Inc. License Number 6801
Street Address: 1201 W Hadley Avenue City, State & Zip Las Cruces, NM 88005 County Dona Ana
Phone Number: 575-525-6752 Fax number 575-647-8033

EVENT INFORMATION: Celebration type: State Fair County Fair Community Fiesta Cultural/Artistic Performance

Date(s) of Celebration Saturday October 25th, 2014 Begin Time 5:00 pm End Time 12:00 am

Description of Celebration: Zombie Walk 5th Annual

Number of Security to be Provided 10 Company Name Security Concepts 575.586.4151 Number of Guests Expected 1000

Contact Name & Number Quane Mosley 575.644.0268 County Dona Ana

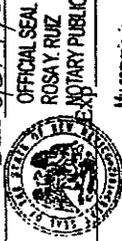
Physical Address of Event MAIN Street between Griggs & Las Cruces Ave City Las Cruces

SPONSOR OF EVENT: Name of Organization/Person Sponsoring Celebration Project Mainstreet / La Semilla

Contact Name Quane Mosley Title Coordinator Date 08/27/14 Signature [Signature] Phone 575.644.0268

LICENSE HOLDER CERTIFICATION:

I, Donna L Almaraz (Licensee) hereby certify that this event is not within 300ft. of a church or school unless alcoholic beverages were sold there prior to July 1, 1981 or a waiver is obtained from the local governing body. I further certify that all persons providing the service of alcoholic beverages are server certified and that ALL information in this application is true and correct. Licensee Signature: [Signature] Date 8/27/2014



Notary information
Subscribed and Sworn To Before Me This 27 day of August, 2014, Notary Public [Signature]
My commission expires: 8/6/2016

BUILDING OWNER APPROVAL:

Contact Name (print) Robert L. Garza, P.E. Facility Name Main Street Date Signature Phone 575-541-2076

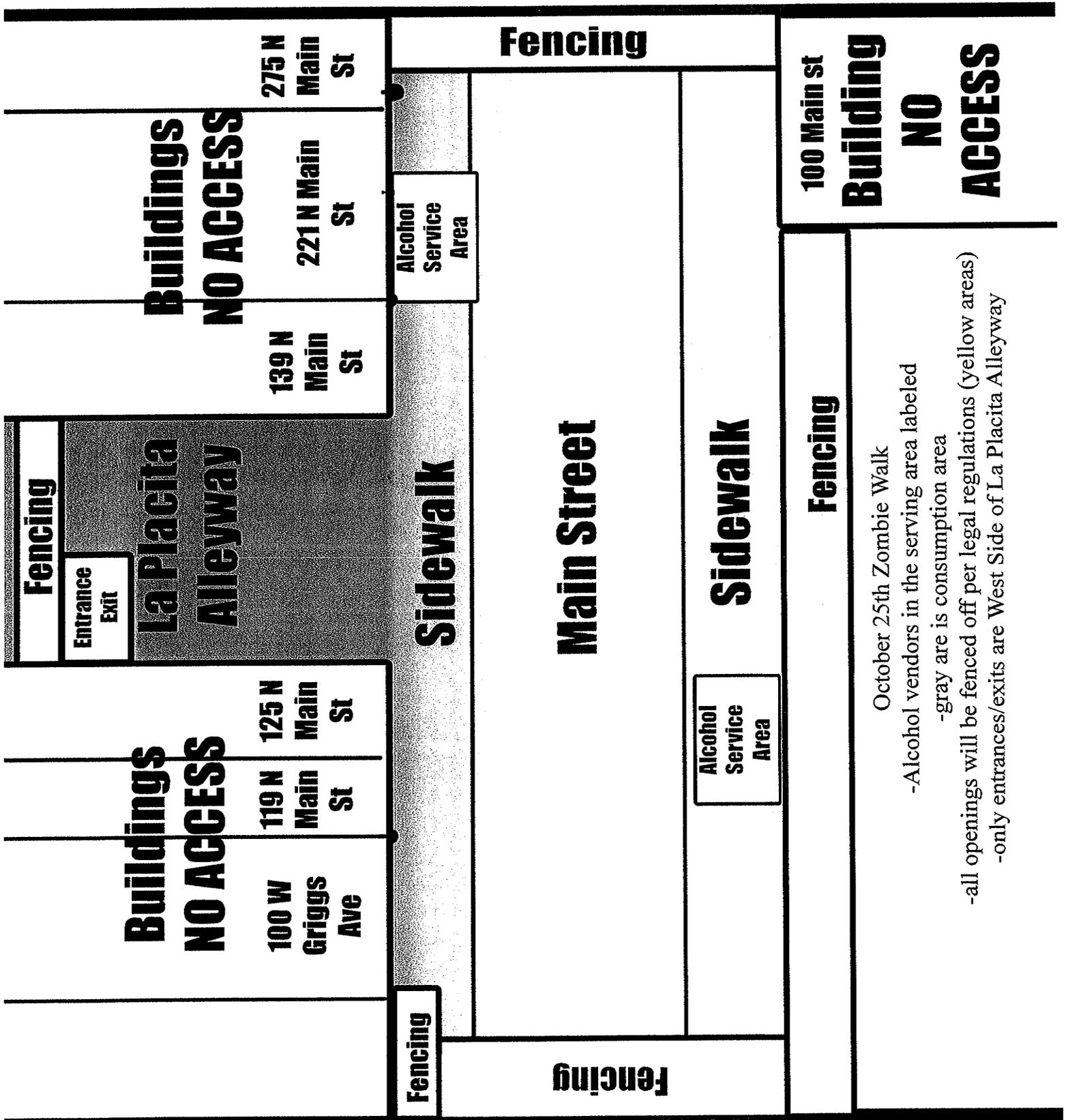
LOCAL GOVERNING BODY APPROVAL

Print Name Robert L. Garza, P.E. Title City Manager Date Signature Phone 541-2076 Fax 541-2017

Alcohol and Gaming Division Use Only

Approved By: Date: Permit Number

Las Cruces Avenue



Griggs St.

July 1, 2014-June 30, 2015

LIQUOR LICENSE NUMBER 6801		OWNER NAME High Desert Brewing Company		DBA NAME High Desert Brewing Company			
Server Permit #	Last Name	First Name	SS#	DOB	HIRE DATE	TERMINATION DATE	SERVER EXPIRATION DATE
32589	Gosselin	Robert			1/13/1994	N/A	6/8/2016
43172	Schack	Eric			7/20/2001	N/A	10/17/2017
49454	Almarez	Donna			1/1/1997	N/A	6/1/2018
91307	Romero	Rudy			1/16/2010	N/A	5/11/2016
92623	Costilow	Amber			5/3/2003	N/A	12/20/2015
15396	Hauptmann	Benjamin			10/10/2003	N/A	Retest 7/10/2014-90%
16289	Costilow	Raven			6/5/2006	N/A	2/5/2015
181875	Cepeda	Cory			4/11/2013	N/A	6/25/2016
194355	Lowther	Coy			1/10/2014	N/A	7/28/2017
201850	Tutor	Tabitha			3/28/2012	N/A	6/22/2016
211210	Lowther	Matthew			4/21/2008	N/A	7/20/2016
213777	Costilow	Lianne			8/17/2005	N/A	8/19/2016
215329	Williams	Nathaniel			7/18/2010	N/A	10/16/2016
223584	Morin	Daniel			11/7/2007	N/A	Retest 2/26/2014-93%
224282	Merle	Monett			8/2/2012	N/A	Retest 3/19/2014-95%
230468	Obregon	Andres			6/1/2001	N/A	9/4/2014
253231	Radtke	Michael			11/1/2010	N/A	1/12/2016
258148	Hite	Maria			5/29/2013	N/A	5/14/2016
258151	Knab	Abigail			9/2/2011	N/A	5/14/2016
278399	Arrieta	Jonathan			6/5/2012	N/A	9/15/2017
282292	Taylor	Morgan			5/3/2014	N/A	1/16/2018
49696	Whitman	Christopher			Special Events	Special Events	10/8/2014
93042	Kindrick	Lawrence			Special Events	Special Events	5/2/2017
158769	Frary	Susan			Special Events	Special Events	10/13/2015
236149	Kindrick	Jill			Special Events	Special Events	10/29/2014
238398	Kamat	Satish			Special Events	Special Events	1/11/2015
241940	Denton	Drew			Special Events	Special Events	5/7/2015
292023	Ambler	Darryl			Special Events	Special Events	9/6/2016
	Rios	Robert			Special Events	Special Events	Test-04/01/2014-92%