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City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 9 Ordinance/Resolution# 15-052

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of October 6, 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 BOSQUE BREWING CO. 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		
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.

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 300 feet of alcoholic beverage sales and consumption areas between Las Cruces Avenue and Griggs Avenue.

Bosque Brewing Co. 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 alcoholic beverage sales and consumption area.
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 Bosque Brewing Co. 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. 15-052

A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION TO BOSQUE BREWING CO. 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 300 feet of alcoholic beverage sales and consumption areas between Las Cruces Avenue and Griggs Avenue; and

WHEREAS, Bosque Brewing Co. 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 Bosque Brewing Co. 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: _____

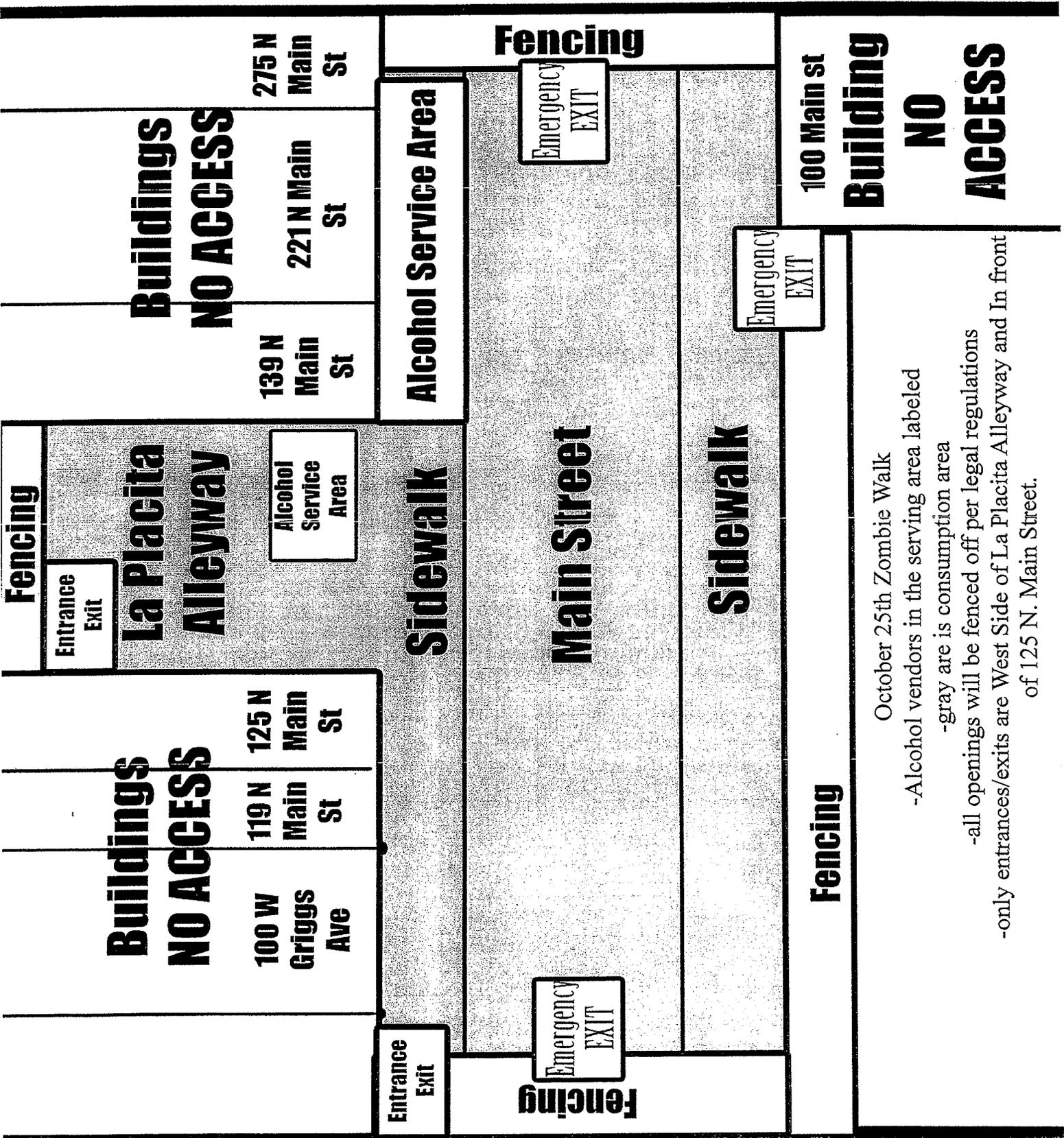
Seconded by: _____

APPROVED AS TO FORM:



City Attorney

Las Cruces Avenue



Fencing

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
- only entrances/exits are West Side of La Placita Alleyway and In front of 125 N. Main Street.

100 Main st
Building
NO
ACCESS

Buildings
NO ACCESS

275 N
Main
St

221 N Main
St

139 N
Main
St

Alcohol Service Area

Fencing

Emergency
EXIT

Emergency
EXIT

Fencing

Entrance
EXIT

La Placita
Alleyway

Alcohol
Service
Area

Sidewalk

Main Street

Sidewalk

Fencing

Entrance
EXIT

Emergency
EXIT

Fencing

Griggs St.

125 W GRIGGS LLC
125 W GRIGGS
LAS CRUCES NM 88001

ALBERTO GUTIERREZ LLC
403
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 17, 2014

Dear Property Owner:

As you know from a previous letter about High Desert Brewing Company's request to sell beer at the 5th Annual Zombie Walk, sponsored by Project Main Street, the event will be held generally between Las Cruces Avenue and Griggs Avenue, on Saturday, October 25, 2014 from 5 p.m. to 12:00 a.m. Bosque Brewing Co. has also 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 that Bosque Brewing Co. 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 6, 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 300 feet of alcoholic beverage sales and consumption areas 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 Monday, October 6, 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, October 2, 2014.

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 be "HSC" or similar initials.

Harry S. (Pete) Connelly
City Attorney