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City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 14 Ordinance/Resolution# 10-079 Council District:

For Meeting of September 8, 2009

(Adoption Date)

A RESOLUTION APPROVING THE ISSUANCE OF A WHOLESALER LIQUOR LICENSE TO PREMIER DISTRIBUTING COMPANY, TO BE LOCATED AT 380 ALLIANCE DRIVE, LAS CRUCES, NEW MEXICO.

PURPOSE(S) OF ACTION: To approve, disapprove, or not approve the issuance of a Wholesaler's Liquor License to Premier Distributing Company.

Name of Drafter: Monica Campbell <i>mc</i>		Department: Legal		Phone: 541-2128	
Department	Signature	Phone	Department	Signature	Phone
Originating Department		541-2128	Budget	<i>[Signature]</i>	541-2107
			Assistant City Manager	<i>[Signature]</i>	541-2271
Legal	<i>[Signature]</i>	541-2128	City Manager	<i>[Signature]</i>	541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

Pursuant to state law, the application for issuance of a Wholesaler Liquor License must be accompanied by a resolution of the City Council approving of and consent to the issuance after a public hearing.

Premier Distributing Company applied to the Alcohol & Gaming Division of the Regulation and Licensing Department of the State of New Mexico ("Alcohol and Gaming") for a Wholesaler Liquor License at 380 Alliance Drive, Las Cruces, New Mexico. Alcohol and Gaming granted preliminary approval on July 20, 2008.

The City Council is required to hold a public hearing within 45 days after the date of receipt of the preliminary approval from Alcohol and Gaming. A public hearing to review this issue is scheduled for Tuesday, September 8, 2009, beginning at 1:00 p.m., in the City Council Chambers, City Hall, 200 North Church Street, Las Cruces, New Mexico. Notice of this public hearing was published in the *Las Cruces Sun-News* on August 9 and 16, 2009, and in the *Las Cruces Bulletin* on August 7 and 14, 2009.

Council may approve or disapprove the issuance. However, Council's disapproval must be based on substantial evidence that the issuance of the license would adversely affect the health, safety or welfare of the citizens of the City of Las Cruces. Council may also fail to either approve or disapprove the license. If Council fails to approve or disapprove the

(Continue on additional sheets as required)

license within 30 days after the public hearing, the Director of Alcohol and Gaming may give final approval of this license.

SUPPORT INFORMATION:

Revenue: The City receives a \$600 administrative fee to cover publication and preparation costs regarding this liquor license hearing.

Fund Name / Account Number	Amount of Expenditure	Budget Amount
N/A	N/A	N/A

1. Resolution with Alcohol and Gaming's preliminary approval with the application attached as Exhibit "A".
2. Notice of Intent to Adopt, Attachments "1" and "2".
3. Traffic Impact Report from the Traffic Engineering Section, Attachment "3".
4. Liquor License Impact Report (zoning) from the Community Development Department, Attachment "4".
5. Liquor License Impact Report (registration and permits) from the Economic Development Department, Attachment "5".
6. Criminal Activity Report from the Las Cruces Police Department, Attachment "6".
7. Fire and Safety Compliance Report from the Las Cruces Fire Department, Attachment "7".

OPTIONS / ALTERNATIVES:

1. Approve the Resolution and consent to the issuance of a Wholesaler Liquor License to Premier Distributing Company. Approval will allow Alcohol and Gaming to continue with its application process.
2. Disapprove the Resolution. Council's disapproval must be based on substantial evidence that the issuance of the liquor license would adversely affect the health, safety or welfare of the citizens of the City of Las Cruces.
3. Not approve or disapprove the Resolution. If the Council fails to either approve or disapprove the issuance of the liquor license, the Director of Alcohol and Gaming may give final approval to the issuance of the license.

(Continue on additional sheets as required)

RESOLUTION NO. 10-079**A RESOLUTION APPROVING THE ISSUANCE OF A WHOLESALER LIQUOR LICENSE TO PREMIER DISTRIBUTING COMPANY, TO BE LOCATED AT 380 ALLIANCE DRIVE, LAS CRUCES, NEW MEXICO.**

The City Council of the City of Las Cruces is informed that:

WHEREAS, Premier Distributing Company applied to the Alcohol and Gaming Division of the Regulation and Licensing Department of the State of New Mexico ("Alcohol and Gaming") for the issuance of a Wholesaler Liquor License at 380 Alliance Drive, Las Cruces, New Mexico; and

WHEREAS, on July 20, 2009, Alcohol and Gaming granted preliminary approval for the issuance of the license, as evidenced by their letter with the application attached; and

WHEREAS, pursuant to law, the application for issuance of a liquor license must be accompanied by a resolution of the City Council approving of and consenting to the issuance after a public hearing upon reasonable public notice of such hearing; and

WHEREAS, the City Council did on this date hold a public hearing after reasonable public notice setting forth the appropriate information concerning the public hearing. The City Council has considered the issuance of the liquor license and it has determined that the approval of said issuance is not detrimental to the public health, safety or welfare of the City of Las Cruces.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LAS CRUCES:

(I)

THAT the issuance of a Wholesaler Liquor License to Premier Distributing Company, to be located at 380 Alliance Drive, Las Cruces, New Mexico, is hereby approved.

(II)

THAT a copy of this Resolution shall be conveyed to the Director of the Alcohol and Gaming Division of the Regulation and Licensing Department, Post Office Box 25101, Santa Fe, New Mexico 87504-5101.

(III)

THAT City staff is authorized to do all deeds necessary to accomplish the intent of this Resolution.

DONE AND APPROVED on this 8 day of September 2009.

Mayor

ATTEST:

City Clerk

{SEAL}

Moved by: _____

Seconded by: _____

Mayor Miyagishima:	_____
Councillor Silva:	_____
Councillor Connor:	_____
Councillor Archuleta:	_____
Councillor Small:	_____
Councillor Jones:	_____
Councillor Thomas:	_____

APPROVED AS TO FORM:



City Attorney



New Mexico Regulation and Licensing Department
ALCOHOL AND GAMING DIVISION

Toney Anaya Building ▪ 2550 Cerrillos Road ▪ Santa Fe, New Mexico 87505
PO Box 25101 Santa Fe, New Mexico 87504-5101
(505) 476-4875 ▪ Fax (505) 476-4595 ▪ www.rld.state.nm.us/agd

July 20, 2009

Bill Richardson
GOVERNOR

Certified Mail No.: 7006 3450 0000 3001 0692

Kelly O'Donnell, Ph.D.
SUPERINTENDENT

City of Las Cruces
Attn: Esther Martinez, Acting Clerk
P.O. Box 20000
Las Cruces, NM 88004-0000

Julie Ann Meade
DEPUTY
SUPERINTENDENT

Gary J. Tomada
DIRECTOR

Re: License / App. No.: Application #A-602840
Applicant Name: Premier Distributing Company
Doing Business As: Premier Distributing Company
Proposed Location: 380 Alliance Drive, Las Cruces, NM

ATTENTION: Department or person responsible for conducting or preparing the public hearing for liquor license transfers or issuance of new liquor licenses.

Greetings:

The Director of the Alcohol and Gaming Division has reviewed the referenced Application and is being forwarded to you in accordance with Section 60-6B-4 NMSA of the Liquor Control Act.

Within forty-five (45) days after receipt of a Notice from the Alcohol and Gaming Division, the governing body shall hold a Public Hearing in the question of whether the department should approve the proposed issuance or transfer. Notice of the Public Hearing required by the Liquor Control Act shall be given by the governing body by publishing a notice of the date, time, and place of the hearing at least once a week for two consecutive weeks in a newspaper of general circulation within the territorial limits of the governing body, which requires that two weeks of publication must be satisfied before a hearing can be conducted. The notice shall include: (A) Name and address of the Applicant/Licensee; (B) The action proposed to be taken by the Alcohol and Gaming Division; and (C) The location of the licensed premises. The governing body is required to send notice by certified mail to the Applicant of the date, time, and place of the Public Hearing. The governing body may designate a Hearing Officer to conduct the hearing. A record shall be made of the hearing.

THE APPLICANT IS SEEKING A WHOLESALE LIQUOR LICENSE.

EXHIBIT A

Alcohol and Gaming Division
(505) 476-4875

Boards and Commissions Division
(505) 476-4600

Construction Industries Division
(505) 476-4700

Financial Institutions Division
(505) 476-4885

Manufactured Housing Division
(505) 476-4770

Securities Division
(505) 476-4580

Administrative Services Division
(505) 476-4800

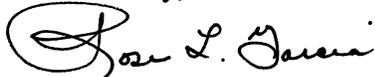
The governing body may disapprove the issuance or transfer of the license if:

- 1) The proposed location is within an area where the sale of alcoholic beverages is prohibited by the laws of New Mexico. (The governing body may disapprove if the proposed location is within 300 feet of a church or school unless the license has been located at this location prior to 1981 or unless the Applicant/Licensee has obtained a waiver from the Local Option District governing body for the proposed licensed premises).
- 2) The issuance or transfer would be in violation of a zoning or other ordinance of the governing body. The governing body may disapprove if the proposed location is not properly zoned. Because this office is in receipt of a Zoning Statement from the governing body, this is not a basis for disapproval. Attached is a copy of a Zoning Statement from the local governing body.
- 3) The issuance would be detrimental to the public health, safety, or morals of the residents of the Local Option District. Disapproval by the governing body on public health, safety, or morals must be based on and supported by substantial evidence pertaining to the specific prospective transferee or location and a copy of the record must be submitted to the Alcohol and Gaming Division.

Within thirty (30) days after the Public Hearing, the governing body **shall** notify the Alcohol and Gaming Division as to whether the local governing body has approved or disapproved the issuance or transfer of the license by signing the enclosed original Page 1 of the Application. The original Page 1 of the Application must be returned together with the notice of publication(s). If the governing body fails to either approve or disapprove the issuance or transfer of the license within thirty days after the Public Hearing, the Director may give Final Approval to the issuance or transfer of the license.

If the governing body disapproves the issuance or transfer of the license, it shall notify the Alcohol and Gaming Division within thirty (30) days setting forth the reasons for the disapproval. A copy of the Minutes of the Public Hearing shall be submitted to the Alcohol and Gaming Division with the notice of disapproval (Page 1 of the Application page noting disapproval).

Sincerely,



Rose L. Garcia
Administrative Law Judge
Alcohol & Gaming Division
505-476-4552

Enclosures:

1. Original Page 1 of the Application (must be signed and returned).
2. Copy of Page 2 of the Application.



9-6-09
Rose

LIQUOR LICENSE APPLICATION

Application fee - \$200.00 Fees are non-refundable.

State Liquor License # 608840
Application Number 2009
Local option (AGD use) _____

Application is for: Change of Stock _____ Change of Officers/Directors _____ Transfer Ownership of Existing License _____ Transfer Ownership and Location _____ Other _____

Issue New License Type of License being applied for Wholesaler

Applicant is: Individual _____ Corporation Partnership (General or Limited) _____ Limited Liability Company _____

NAME OF APPLICANT (company or individual) Premier Distributing Company ADDRESS (including city, state, zip) 4321 Yale Blvd. NE Albuquerque, NM 87107 TELEPHONE NUMBER 505-344-0287

D/B/A name to be used: Premier Distributing Company Las Cruces Phone number for licensed premises: RECEIVED

Physical location where license is to be used: 380 Alliance Drive Las Cruces, NM 88005 (Include street number / highway number / state road, city and county, state, and zip code) JUN 11 2009

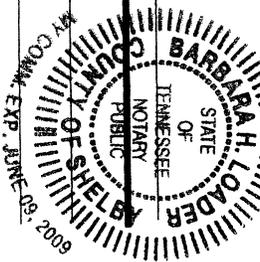
Mailing address: 4321 Yale Blvd. NE Albuquerque, NM 87107 ALCOHOL AND GAMING DIVISION

Are alcoholic beverages currently being dispensed at the proposed location? Yes _____ No If yes, give license number and type _____
I, (print name) Edward Dobbs, as (title) President, being first duly sworn upon oath deposes and says: that he/she is the applicant or is authorized by the applicant to make this application; that he/she has read the contents therein contained are true. Applicant(s) agree(s) that if any statements or representations herein are found to be false, the director may refuse to issue or renew the license or may cause the license to be revoked at any time.

You must sign and date this form in the presence of a notary public.

Signature of Applicant Edward Dobbs Date 5/29/09

SUBSCRIBED AND SWORN TO before me this 25th day of May 2009 by Edward Dobbs
Notary Public Barbara H Loader My Commission Expires June 09, 2009



Local Governing Body of: _____ (City or County). Hearing held on _____ 20____

Check one: Approved _____ Disapproved _____ City/County Official _____ (Signature & Title)

For Alcohol and Gaming Division Use Only

Approved _____ Disapproved _____ Director Approval _____ Date _____



PREMISES LOCATION, OWNERSHIP, AND DESCRIPTION
 SS-60-6B-10

RECEIVED

JUN 01 2009

ALCOHOL AND
 GAMING DIVISION

1. The land and building which is proposed to be the licensed premises is (check one):

Owned by Applicant _____ Leased by Applicant (attach copy of deed or lease) Other (provide details) _____

the land and building are not owned by Applicant, indicate the following:

A. Owner(s) DMS REALTY, LLC
 B. Date and term of lease Date of lease May 28, 2009 Term of lease - 10 years

Attach a hand drawn map, zoning map, or other map showing the location of the proposed premises and the main adjacent streets, roads or highways in relation to the closest church and school properties. This map should be drawn on a sheet of paper no larger than 8 1/2 x 11 inches.

3 ⁵ Premises location is zoned (example C-1) WMTP-F (West Mesa Industrial Park Overlay-Free Trade Zone)
 If the premises is zoned, attach zoning statement from local government giving location address and type of zone, stating whether alcoholic beverages are allowed at proposed location. If there is no zoning, attach confirmation from local government indicating there is no zoning.

4. Distance from nearest church *(Property line of church to licensed premises—shortest distance).
 Miles/feet 5.25 miles Name of church Fairacres Baptist Church Address/location of church 5100 W. Picacho Ave. Las Cruces, NM

5. Distance from nearest school *(Property line of school to licensed premises—shortest distance).
 Miles/feet 5.72 miles Name of school Fairacres Elem. School Address/location of school 4501 W. Picacho Ave. Las Cruces, NM

6. Distance from military installation *(Property line of military installation to licensed premises—shortest distance).
 Miles 35.31 miles Name of Military Installation, circle one: White Sands Missile Range (Las Cruces),
 Holloman Air Force Base (Alamogordo), Cannon Air Force Base (Clovis).

7. Attach, on a separate sheet, the detailed floor plan for each level (floor) where alcoholic beverages will be sold or consumed. Show exterior walls, doors, and interior walls. This will be the licensed premises. The floor plan should be no larger than 8 1/2 x 11 inches, and must include the total square footage of premises.

*If the distance is beyond 300 feet, but less than 400 feet, a registered engineer or licensed surveyor must complete a Survey Certificate showing the exact distance.

8. Type of Operation:
 Lounge _____ Restaurant _____ Package Grocery _____ Racetrack _____ Hotel _____ Other (specify) wholesaler



AD FORM

LAS CRUCES SUN NEWS	
CLASSIFIED LEGAL AD	
DATES TO PUBLISH: 08/09/09 & 08/16/09	Account No. 720680
CITY CONTACT & PHONE NUMBER: MONICA CAMPBELL 541-2128 FAX: 541-2017	BILL TO: <u>CITY CLERK</u> P O Box 20000 LAS CRUCES, NM 88004
PROOF OF PUBLICATION REQUIRED.	

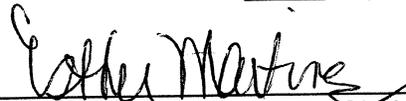
COPY TO PUBLISH:

NOTICE OF INTENT TO ADOPT

Notice is hereby given that the Las Cruces City Council will hold a Public Hearing to discuss approval or disapproval of the **Issuance of a Wholesaler's Liquor License to Premier Distributing Company Las Cruces, to be located at 380 Alliance Drive, Las Cruces, New Mexico.**

The Public Hearing will be held in conjunction with the regular meeting of the Las Cruces City Council to be held on Tuesday, September 8, 2009, at 1:00 p.m. in the City Council Chambers, 200 North Church, City Hall. If passed, the State of New Mexico Regulation & Licensing Department may approve the issuance.

Witness my hand and seal of the City of Las Cruces on this the 28th day of July 2009.



 Esther Martinez, CMC, City Clerk



AD FORM

LAS CRUCES BULLETIN	
CLASSIFIED LEGAL AD	
DATES TO PUBLISH: 08/07/09 & 08/14/09	
CITY CONTACT & PHONE NUMBER: MONICA CAMPBELL 541-2128 FAX: 541-2017	BILL TO: <u>CITY CLERK</u> P O Box 20000 LAS CRUCES, NM 88004
PROOF OF PUBLICATION REQUIRED.	

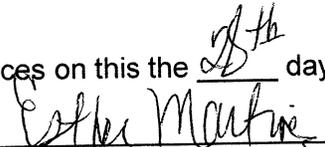
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Witness my hand and seal of the City of Las Cruces on this the 25th day of July 2009.



 Esther Martinez, CMC, City Clerk



City of Las Cruces
PEOPLE HELPING PEOPLE

**INTER-DEPARTMENTAL
MEMORANDUM**

=====

TO: Fermin A. Rubio, City Attorney
FROM: Dan Soriano, Traffic Engineer, Public Works 
SUBJECT: Traffic Investigation Report

DATE: August 7, 2009

=====

As requested, Traffic Engineering has completed a traffic investigation for Premier Distributing Company located at 380 Alliance Drive, Las Cruces., New Mexico. The following information is submitted for review:

- No current ADT for Alliance Drive. Volumes estimated at 200 vpd.
- Alliance Drive is operated as a two lane roadway and primarily serves industrial use.
- Access to the property in question is off of Alliance Drive. No potential sight distance or operational problems exist.
- The speed limit on Alliance Drive is not posted and therefore set at 30 mph by City ordinance.

The approval of a Liquor License Transfer at this location does not appear it will adversely impact traffic operations along this segment of roadway.

Should any additional information be needed, please contact me.

City of Las Cruces
Community Development Department

LIQUOR LICENSE IMPACT REPORT

Wholesale Liquor License
Application # 602840

380 Alliance Drive
Premier Distributing Company

August 13, 2009

LIQUOR LICENSE IMPACT REPORT
Wholesale Liquor License

Premier Distributing Company
380 Alliance Drive

The purpose of this report is to review, analyze and determine any possible impacts of a liquor license relating to land use and other planning related issues.

PROPERTY INFORMATION:

Location: 380 Alliance Drive
 Applicant: Premier Distributing Company
 Business Name: Premier Distributing Company

LAND USE AND ZONING INFORMATION:

Subject Property Zoning: WMIP (West Mesa Industrial Park)
 (See attached Statement of Zoning and Vicinity Map)

Subject Property Current Land Use:

<u>Adjacent Land Uses</u>	<u>Zoning</u>	<u>Land Use</u>
North	WMIP	Vacant
South	WMIP	Vacant
East	WMIP/M-1/M-2C	Industrial
West	WMIP	Vacant

DISTANCE REQUIREMENTS:

Greater than 300 feet to a school: YES
 Greater than 300 feet to a church: YES
 Greater than 300 feet to a military installation: YES

TRAFFIC COUNT AND ACCESS INFORMATION:

Roadway: Alliance Drive
 Classification: Major Local
 Number of Lanes: 4
 Site Access: 1
 Nearest Intersections: Alliance Drive & Industrial Park Avenue

PARKING REQUIREMENTS:

The 2001 Las Cruces Zoning Code, as amended, requires one (1) automobile space for every 500-1000 sq. ft. of Gross Floor Area (GFA) and one (1) bicycle parking space for every 20 employees of maximum shift for distribution centers zoned in this zoning district. Parking requirements will be met when construction is concluded.

IMPACT ANALYSIS:

The subject property is located off of Alliance Drive in the West Mesa Industrial Park which is designated to accommodate moderate traffic and land uses such as a wholesale distribution center. Zoning in this area is WMIP (West Mesa Industrial Park) which is designated to permit this use and uses related to it. The applicant is requesting a whole sale liquor license for this location. In terms of a transportation and land use perspective, this seems to be an appropriate location and request.



STATEMENT OF ZONING

The property located at 380 Alliance Drive, and having a Map Code Number or Parcel ID Number of 02-40358, in Las Cruces, New Mexico, is zoned as follows:

WMIP (West Mesa Industrial Park)

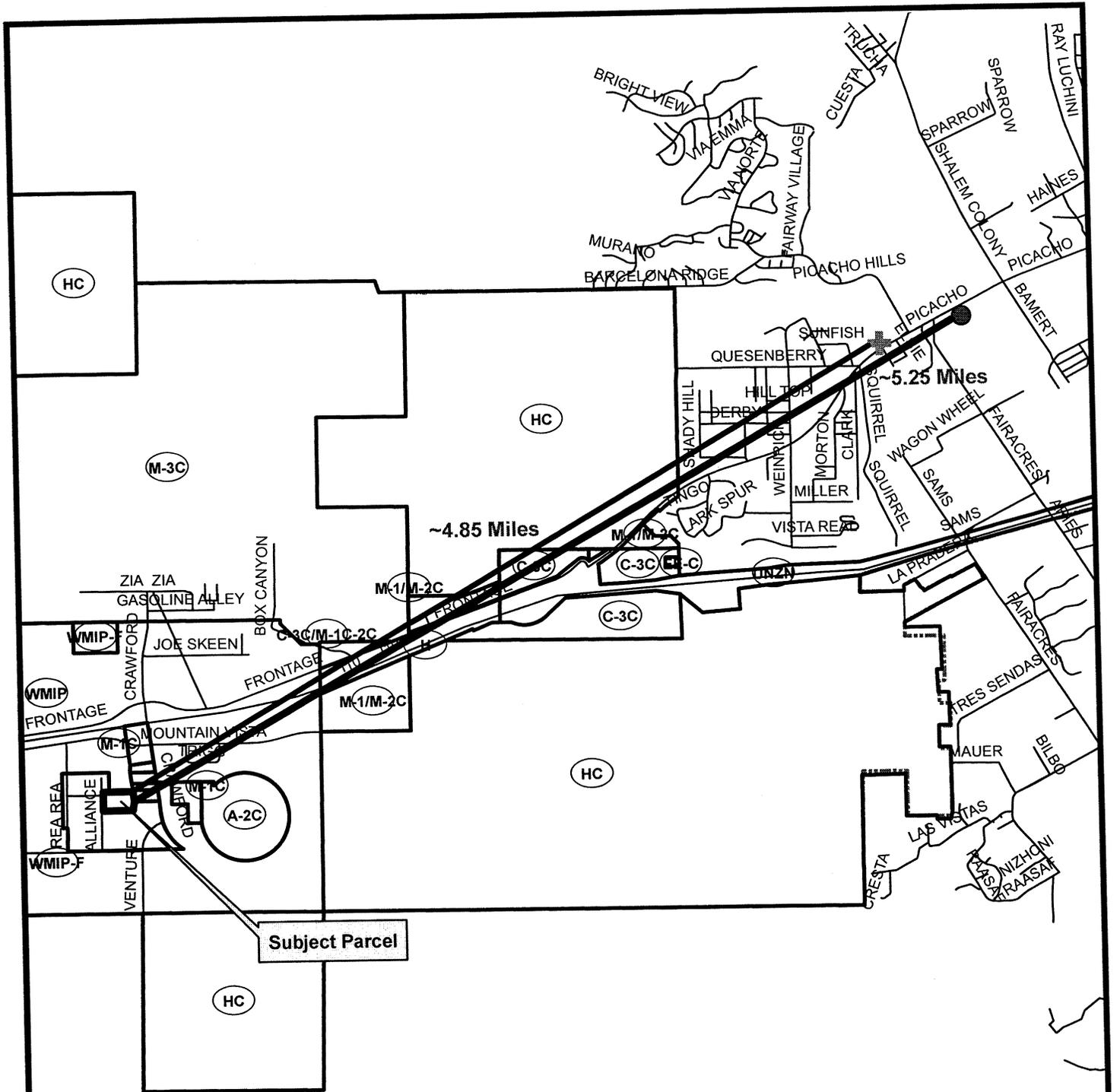
The above described property located in the City of Las Cruces, New Mexico, has been reviewed and found to be zoned as indicated above in accordance with the Las Cruces Zoning Atlas. Accordingly, I do hereby approve and issue this Statement of Zoning.

August 14, 2009
Date

Adam Ochoa
Associate Planner

Comments: The purpose of the West Mesa Industrial Park Overlay Zone District is to implement land use and urban design policies as established in the West Mesa Industrial Park Master Plan and Development Strategy. Specifically, the purpose of this Zone is to specify provisions which will guide the development of the West Mesa Industrial Park, promote and encourage a growing economy, protect the natural and existing environment within the park, provide clean industry and employment for the city of Las Cruces and its residents, and develop, maintain and enhance existing commercial and industrial uses and the aesthetic features of the Park. Wholesale liquor sales and distribution is a permitted use in the WMIP zoning district, provided all requirements as prescribed for wholesale liquor establishments by the State of New Mexico are met (as per Section 38-44.C.4a 2001 Las Cruces Zoning Code as amended).

Please be advised that the information presented on this document is taken from the City of Las Cruces Zoning Atlas. Nothing shall prevent the City of Las Cruces from amending this information if review of the Zoning Ordinance shows the Atlas to be in error.



ZONING/VICINITY MAP

- Zoning
- School
- Church

380 Alliance Drive
Parcel ID#: 02-40358
Zoning: WMIP
Distance to nearest school: ~5.25 Miles
Distance to nearest church: ~4.85 Miles



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 Community Development Department at (505) 528-3043.

Community Development Department
575 S Alameda Blvd.
Las Cruces, NM 88001
(505) 528-3222

From: Christine Logan
Subject: RE: Review of Liquor License Application

The business is still under construction and as such does not yet require a business license. Wholesale only distribution does not require a city liquor license.

Premier Distributing does not require any business license at this time.

From: Monica Campbell
Sent: Monday, July 27, 2009 4:39 PM
To: Christine Logan
Cc: Vicki Montez
Subject: Review of Liquor License Application

Attached is Alcohol & Gaming's letter and application for the issuance of a Wholesaler's Liquor License to Premier Distributing Company, to be located at 380 Alliance Drive, Las Cruces.

Please review the application and report on any business licenses and permits.

In order to meet the time limits and publication deadlines imposed by law, I would appreciate it if you would submit your report no later than **August 14, 2009**.

Monica Campbell
City Attorney's Office
541-2128

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LAS CRUCES POLICE DEPARTMENT
PO BOX 20000
217 E. Picacho
Las Cruces, New Mexico 88004

DATE: *August 4, 2009*

TO: *Fermin A. Rubio, City Attorney*

From: *Harry Romero, Chief of Police*

Subject: *Premier Distributing Company*

I have reviewed all available statistical information obtained from the Las Cruces Police Department Crime Analyst in reference to the attached liquor license application for Premier Distributing Company.

No anomalies were found that would warrant denial of this license; therefore, I recommend the liquor license application for Premier Distributing Company to be approved.



Harry Romero
Chief of Police



Interdepartmental Memorandum

TO: Fermin A. Rubio, City Attorney
FROM: Travis A. Brown, Deputy Chief *TAB*
SUBJECT: Liquor License Review
DATE: July 28, 2009 **FILE #:**

Our department has reviewed the liquor license application for Premier Distributing Company, d/b/a Premier Distributing Company, located at 380 Alliance Drive, Las Cruces, New Mexico.

This is a new building that is currently under construction. The construction plans were reviewed and found to be in compliance with the 2006 International Fire Code (IFC) for a facility that sells alcoholic beverages.

Please contact me if you have questions or desire additional information.

Attachment 7

