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City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 2 Ordinance/Resolution# 15-234

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of July 6, 2015
 (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 FOR A PUBLIC CELEBRATION PERMIT APPLICATION FROM HIGH DESERT BREWING COMPANY FOR THE "NIGHT UNDER THE STARS" EVENT TO BE HELD AT THE BRANIGAN CULTURAL CENTER, 501 NORTH MAIN STREET, ON SATURDAY, JULY 25, 2015.

PURPOSE(S) OF ACTION:

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 Foundation for Las Cruces Museums ("The Foundation") is sponsoring "Night Under the Stars", an event to be held at the Branigan Cultural Center.

The Latter Rain Harvest Fellowship Church is within 300 feet of the museum.

The Foundation has asked High Desert Brewing Company to provide beer for sale and consumption at the event. 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.

(Continue on additional sheets as required)

The resolution for approval of the Public Celebration Permit Application is presented as a separate agenda item. Approval of the Public Celebration Permit Application is contingent upon approval of a waiver of the church/school distance restriction.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Map showing the event location and church/school distance.
3. Attachment "1", Public Celebration Permit Application, High Desert Brewing Company.
4. Attachment "2", List of property owners within 300 feet of Branigan Cultural Center.
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 application process.

(Continue on additional sheets as required)

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

N/A

RESOLUTION NO. 15-234

A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION FOR A PUBLIC CELEBRATION PERMIT APPLICATION FROM HIGH DESERT BREWING COMPANY FOR THE "NIGHT UNDER THE STARS" EVENT TO BE HELD AT THE BRANIGAN CULTURAL CENTER, 501 NORTH MAIN STREET, ON SATURDAY, JULY 25, 2015.

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 Latter Rain Harvest Fellowship Church is within 300 feet of the Branigan Cultural Center; and

WHEREAS, the Foundation for Las Cruces Museums ("The Foundation") is sponsoring an event called "Night Under the Stars" on Saturday, July 25, 2015, and has asked High Desert Brewing Company to provide beer for sale and consumption at the event; and

WHEREAS, the Alcohol and Gaming Division of the New Mexico State Regulation and Licensing Department requires that High Desert Brewing Company obtain a waiver of the church/school distance restriction from the Las Cruces 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 High Desert Brewing Company 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 High Desert Brewing Company for an event called "Night Under the Stars" to be held at the Branigan Cultural Center 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

Interim City Clerk

(SEAL)

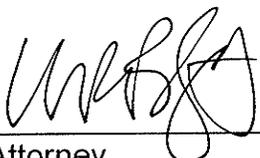
VOTE:

Mayor Miyagishima: _____
Councillor Silva: _____
Councillor Smith: _____
Councillor Pedroza: _____
Councillor Small: _____
Councillor Sorg: _____
Councillor Levatino: _____

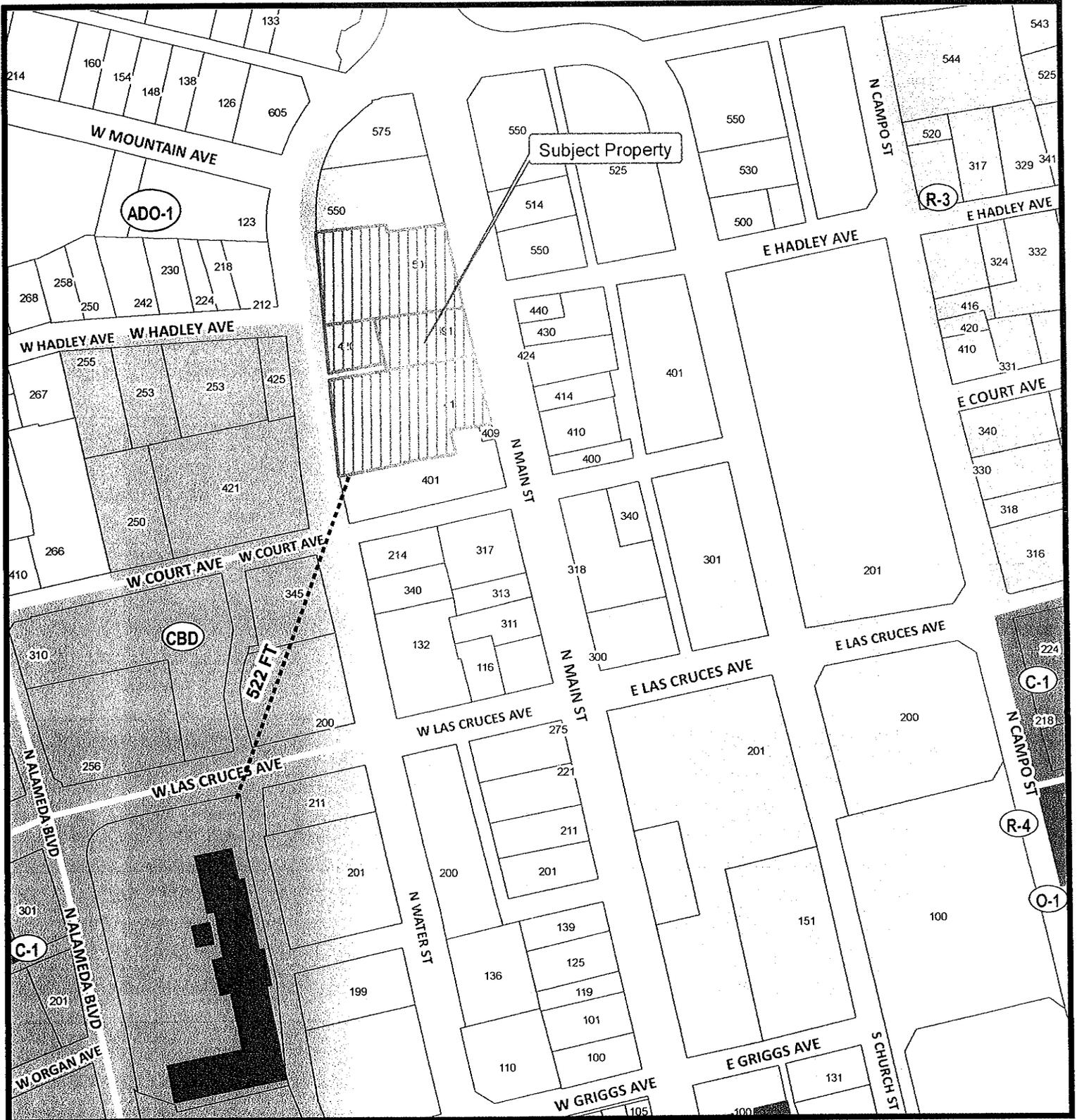
Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



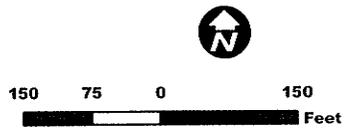
City Attorney



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
Buildings Considered

MAIN ST. MUSEUMS
ZONING CBD
DISTANCE TO THE NEAREST SCHOOL: 522 FEET
DISTANCE TO THE NEAREST CHURCH: ADJACENT



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

ALCOHOL & GAMING DIVISION
PUBLIC CELEBRATION PERMIT APPLICATION WINEGROWER, SMALL BREWER & CRAFT DISTILLER LICENSE HOLDERS

(60-64-II / 60-64-26.1 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. Liquor License # 6801
Mailing Address 1201 W Hadley Avenue City, State & Zip Las Cruces, NM 88005
Contact Telephone # 575-525-6752 Fax # 575-647-8033 Email Address hdhc.lcncm@gmail.com

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

Circle those that apply - All Age Event / Wrist Bands and/or Stamps - Bear Garden ~~Indoor / Outdoor~~ Event Begin Time 6:30 pm End Time 10:30 pm
Description and Name of Event Night Under the Stars Date(s) of Event July 25, 2015 Alcohol Service Begin Time 6:30 pm End Time 10:00pm
Physical Address of Event & Name of Building or Business 501 N Main St. Las Cruces, NM Branigan Cultural Ctr Number of Persons expected to Drink 200
Description of Security Las Cruces Security Number of Security 4 Security Contact Name Pete Hampton Contact Telephone # 575-526-1294

SPONSOR INFORMATION

Sponsor of Event Foundation for Las Cruces Museum Contact Name Michael Weiss Contact Telephone # 575-202-9971

BUILDING/PROPERTY OWNER APPROVAL

Name (print) _____ Signature _____ Telephone # _____ Date _____

LICENSE HOLDER & SERVER CERTIFICATION: I, Donna L. Almaraz (Licensee) hereby certify that this event is not within 300 Ft. 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 they are my employees and that ALL the information in this application is true and correct.

NOTE: List of servers including name, server permit # and server expiration date must be attached to permit application. Licensee agrees that if any statements or representations herein are found to be false, the director may refuse to issue additional permits.

Licensee Name (print) _____ Signature Donna Almaraz Date 17 June 2015
All profits derived from the sale of ~~permitted~~ alcoholic beverages to the licensee. Only the owner or authorized person under this license may sign the permit.

NOTARY INFORMATION

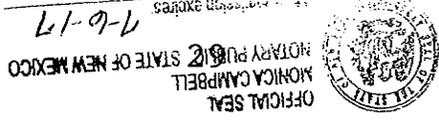
Subscribed and Sworn before me this 17 day of June, 2015 Notary Public Monica Campbell Exp. 7-6-17

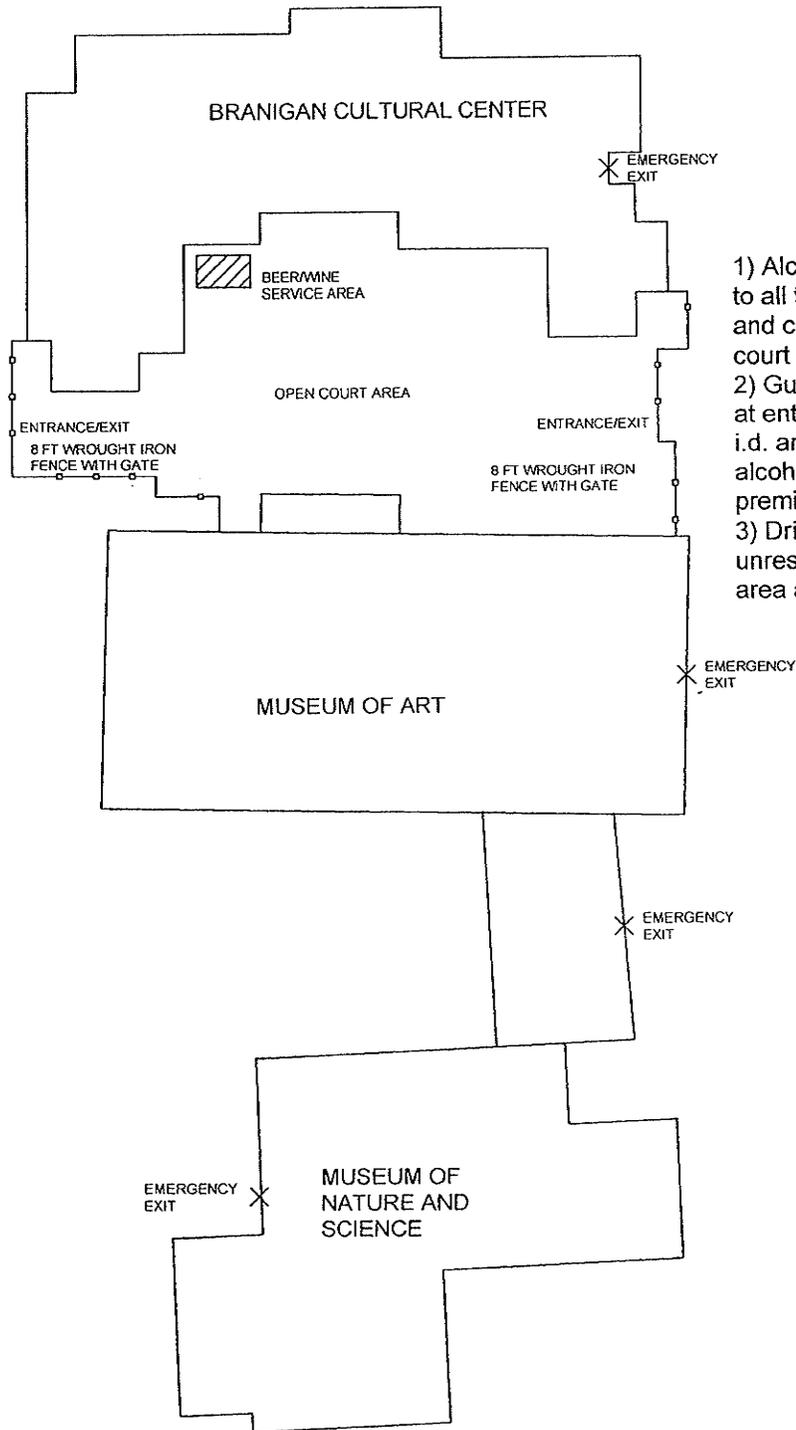
LOCAL GOVERNING BODY APPROVAL

Print Name BOB F. GIL Title _____ Date _____ Signature _____ Phone _____ Fax _____

ALCOHOL & GAMING DIVISION USE ONLY

Approved by: _____ Date _____ Permit Number _____
Attachments: 1) Floor plan - (Pictures) _____ 2) Fees per day (listed on top of page) _____ 3) Server information list _____





- 1) Alcohol will be confined to all three building interiors and completely enclosed court yard.
- 2) Guards will be present at entrance/exit to check i.d. and prevent removal of alcoholic beverages from premises.
- 3) Drinking areas are unrestricted except for hatched area around service area.

July 1, 2014-June 30, 2015

LIQUOR LICENSE NUMBER 6801	OWNER NAME High Desert Brewing Company	DBA NAME High Desert Brewing Company
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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
36476	McClellan	Jacob			12/15/2014	N/A	3/26/2017
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
153396	Hauptmann	Benjamin			10/10/2003	N/A	7/12/2017
162289	McClellan	Raven			6/5/2006	N/A	Retest
181875	Cepeda	Corey			4/11/2013	N/A	6/25/2016
196600	Penate, Jr	Antonio			6/9/2014	8/6/2014	10/24/2017
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
222454	Burns	Daniel			8/4/2014	N/A	10/30/2016
223584	Morin	Daniel			11/7/2007	N/A	2/26/2017
230468	Obregon	Andres			6/1/2001	N/A	10/17/2017
258148	Hite	Maria			5/29/2013	N/A	5/14/2016
280753	Vera	Elizabeth			9/5/2014	N/A	11/26/2017
304548	Williams	Taylor			4/18/2009	N/A	7/12/2017
	Garton	Lori			3/13/2015	N/A	Test-03/04/2015-96%
49696	Whitman	Christopher			Special Events	Special Events	Retest
93042	Kindrick	Lawrence			Special Events	Special Events	5/2/2017
236149	Kindrick	Jill			Special Events	Special Events	10/18/2017
238398	Kamat	Satish			Special Events	Special Events	Retest
241940	Denton	Drew			Special Events	Special Events	5/7/2015
299885	Rios	Robert			Special Events	Special Events	3/31/2017
301778	Miller	Joy			Special Events	Special Events	5/22/2017

116 Commercial Properties LLC 116 W Las Cruces Ave Las Cruces NM 88001	Aguirre Pete Mrs ³² PO Box 2276 Las Cruces NM 88004-2276	American Linen Supply of NM 550 N Church St Las Cruces NM 88001-3440
Avasil Properties LLC 406 N Main St Las Cruces NM 88001	Bank of the Rio Grande NA 1800 Glenarm Pl Ste 103 Denver CO 80202	CM Associates LLC 212 West Hadley Las Cruces NM 88005
COAS Properties LLC 317 N Main St Las Cruces NM 88001	Hadley Ave Investments LLC 253 W Hadley Ave Las Cruces NM 88005	Hamill-Buckley LLC et al 1230 Citylights Pl Las Cruces NM 88007
Herman Peter and Ceil 430 N Downtown Mall Las Cruces NM 88001	Las Cruces Lodge #2081 Loyal Order of Moose 514 N Main Las Cruces NM 88001-1256	Latter Rain Harvest Fellowship PO Box 1927 Las Cruces NM 88004
Loomis Neil 127 Harvard Las Cruces NM 88005-1708	Lynier LLC PO Box 2274 Las Cruces NM 88004-2274	MRMJ Properties LLC 560 N Water St Las Cruces NM 88001
Overmyer Carl R 340 N Water Las Cruces NM 88001	Pioneer Construction LLC PO Box 397 Las Cruces NM 88004	Rainbow Real Estate Co PO Box 16134 Las Cruces NM 88004
Sandoval Gabriel C & Minerva N 2000 E Lohman Ste C Las Cruces NM 88001	Schwaiger Glenn & Leann Meadows 2800 N Valley Dr Apt 4 Las Cruces NM 88007	Scientist 325 W Mountain Las Cruces NM 88001
Scott James M & Marta H Trustees 216 Princeton Las Cruces NM 88005-1728	Studio D Architects PA 6490 Vista Valley Trl Las Cruces NM 88007	Sugamoto Ronald Louis 4173 Capistrano Las Cruces NM 88011
Sunshine Building of Las Cruces LLC PO Box 578 Las Cruces NM 88004	The Lofts at Alameda LLC 141 N. Roadrunner Prkwy Ste 141 Las Cruces NM 88011	West Mountain LLC 123 W. Mountain Las Cruces NM 88001



June 18, 2015

Dear Property Owner:

The Foundation for Las Cruces Museums ("Foundation") is planning an event called "Night Under the Stars" at the Branigan Cultural Center, 501 North Main Street, on Saturday, July 25, 2015. The Foundation has asked High Desert Brewery to offer beer for sale and consumption between 6:30 p.m. and 10:00 p.m. at the event. As part of the approval process, the Liquor Control Act ("LCA") requires approval of High Desert's Public Celebration Permit Application from the Las Cruces City Council.

This matter will come before the City Council during its regular meeting on Monday, July 6, 2015 which begins at 1:00 p.m. in the City Council Chambers located at City Hall, 700 North Main Street.

Because the Latter Rain Harvest Fellowship Church is within 300 feet of the museums, a request for a waiver of the church/school distance restriction will be on the agenda 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.

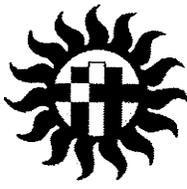
If you wish to share your views concerning the impact of the Public Celebration Permit Application at the Foundation's event, you may attend the City Council Meeting on July 6, 2015, or you may submit your views in writing to the City Attorney's Office, Post Office Box 20000, Las Cruces, New Mexico 88004. Letters must be received by 5:00 p.m. on Wednesday, July 1, 2015.

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

Sincerely,

CITY OF LAS CRUCES

William R. Babington Jr.
City Attorney



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COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of July 6, 2015
 (Adoption Date)

TITLE:

A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION FOR A PUBLIC CELEBRATION PERMIT APPLICATION FROM HIGH DESERT BREWING COMPANY FOR THE "NIGHT UNDER THE STARS" EVENT TO BE HELD AT THE BRANIGAN CULTURAL CENTER, 501 NORTH MAIN STREET, ON SATURDAY, JULY 25, 2015.

Purchasing Manager's Request to Contract (PMRC) {Required?} Yes No

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	<i>Yvonne Campbell</i>	541-2128	<i>6/18/15</i>
Department Director	<i>[Signature]</i>	541-2128	<i>18 June 2015</i>
Other			
Assistant City Manager /CAO Management & Budget Manager	<i>[Signature]</i> <i>Representative for Daniel Avila</i>	541-2100 541-2107	<i>6/19/15</i> <i>6/19/15</i>
Assistant City Manager/COO	<i>[Signature]</i>	541-2271	<i>6/23/15</i>
City Attorney	<i>[Signature]</i>	541-2128	<i>18 June 2015</i>
City Clerk -Interim	<i>[Signature]</i>	541-2115	<i>6/26/15</i>