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City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 4 Ordinance/Resolution# 15-236

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 AMARO WINERY 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		
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 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 Amaro Winery to provide wine 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, Amaro Winery.
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 Amaro Winery 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. 15-236

A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION FOR A PUBLIC CELEBRATION PERMIT APPLICATION FROM AMARO WINERY 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 Amaro Winery to provide wine 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 Amaro Winery 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 Amaro Winery 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 Amaro Winery 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: _____

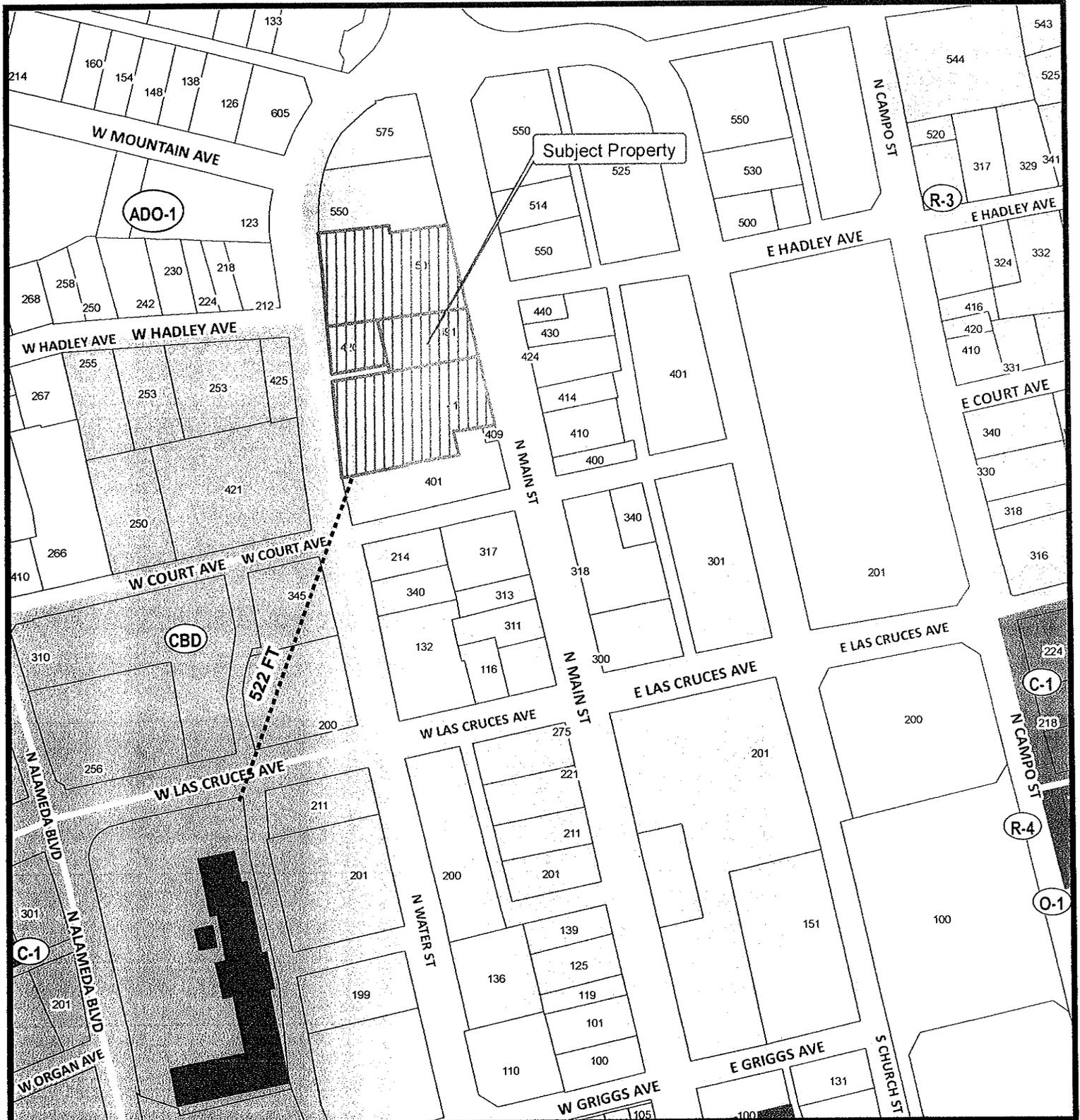
APPROVED AS TO FORM:



City Attorney

Zoning / Vicinity Map

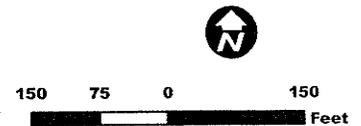
Exhibit A



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
(60-64-11 / 60-64-26.1 NMSA)

FEES ARE \$10 PER DAY - Fees are Non-Refundable

EXAMPLE FILL IN HIGHLIGHTED LINES ONLY

LICENSE HOLDER INFORMATION:

Business Name (DBA) AMARO WINERY Owner Name AMARO WINERY, LLC Liquor License # 6151
Mailing Address 402 S. MELENDRES ST. City, State & Zip LAS CRUCES, NM 88007
Contact Telephone # 575-312-3168 Fax # 575-525-9405 Email Address KELLY.ALLEN@MSN.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 - Beer Garden - Indoor / Outdoor Event Begin Time 6:30 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 5:30 PM End Time 10:00 PM
Physical Address of Event & Name of Building or Business 501 N. MAIN ST., LAS CRUCES Number of Persons expected to Drink 200
Description of Security LAS CRUCES SECURITY Number of Security 4 Security Contact Name ETE NUNY Contact Telephone # 575-526-1294

SPONSOR INFORMATION

Sponsor of Event FOUNDATION FOR LAS CRUCES MUSEUMS Contact Name MICHAEL WEISS Contact Telephone # 575-302-9971

BUILDING/PROPERTY OWNER APPROVAL

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

LICENSE HOLDER & SERVER CERTIFICATION: I, HAROLD DENTON (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) Kelly Allen Signature _____ Date 6/9/15
All profits derived from the sale of liquor will go only to the licensee. Only the owner or authorized person under this license may sign the permit.

NOTARY INFORMATION

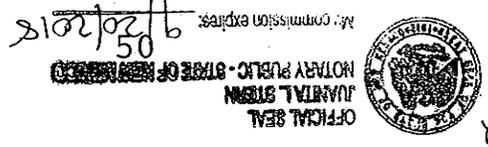
Subscribed and Sworn before me this 9TH day of JUNE, 20 15 Notary Public Juanita X Stein Exp. 7/24/2018

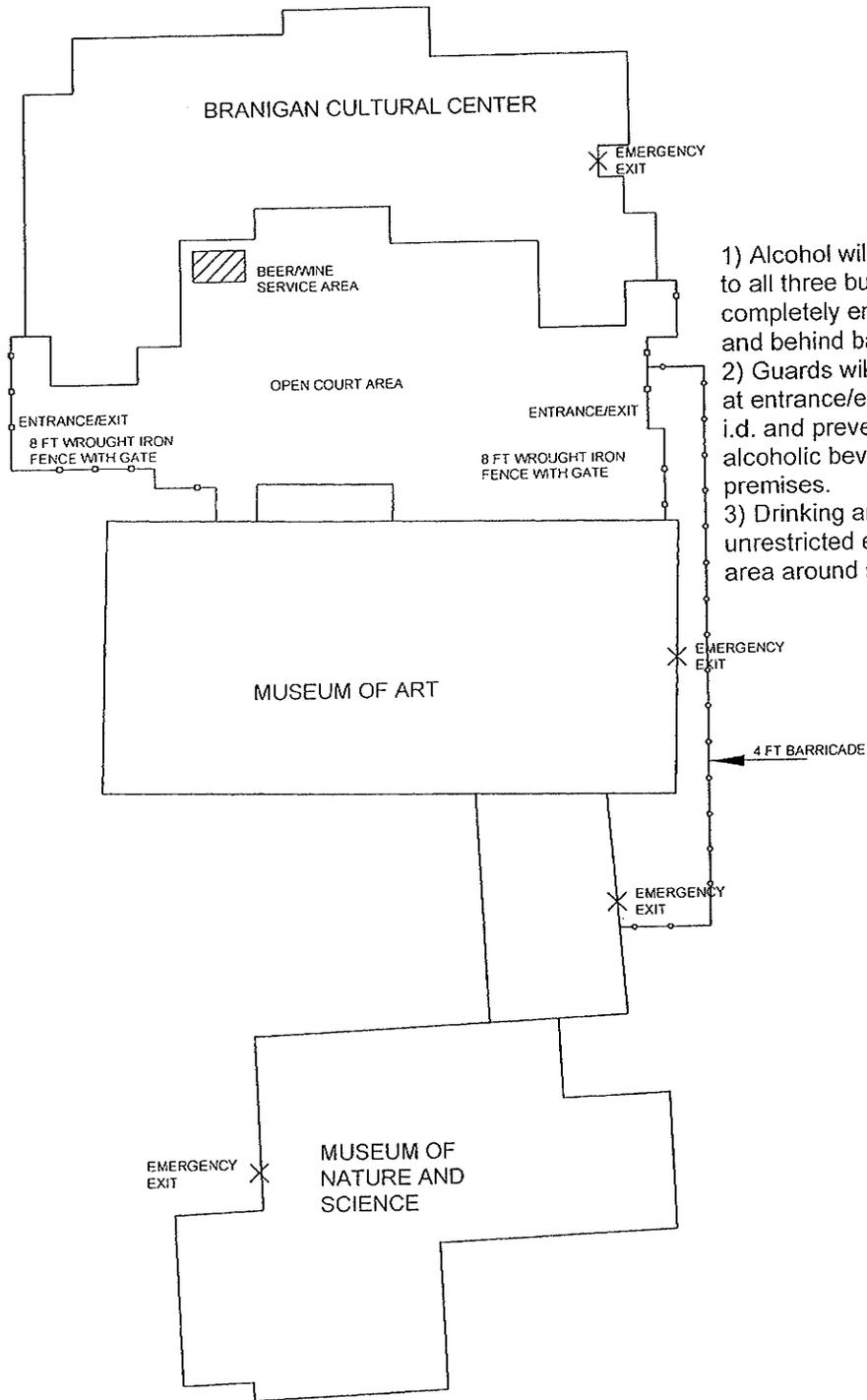
LOCAL GOVERNING BODY APPROVAL

Print Name _____ 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, completely enclosed court yard and behind barricade.
- 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.

Liquor License Number: 6151

Owner Name: Amaro Winery, LLC

DBA: Amaro Winery

Server Perit #	Last Name	First Name	DOB	Exp Date
237060	Denton	Barbara		5/8/2017
236682	Denton	Harold		5/18/2017
227706	Maier	Lisa		5/24/2017
227683	Maier	Benjamin		5/23/2017
188136	Maier	Bernd		2/15/2015
38954	Allen	Kelly		8/22/2017
252985	XU	Qiong Xiao		12/15/2015
128609	Williams	Allen		6/11/2018
289963	Mainini	Nick		7/6/2016
183833	De Villez	Kacy		5/17/2017

116 Commercial Properties LLC
116 W Las Cruces Ave
Las Cruces NM 88001

Aguirre Pete Mr53
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 17, 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 Amaro Winery to offer wine 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 Amaro Winery'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.

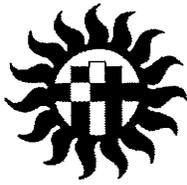
If you have any questions or need additional information, please contact Monica Campbell at 575-541-2128.

Sincerely,

CITY OF LAS CRUCES

A handwritten signature in black ink, appearing to read "WRB", written over the typed name of the City Attorney.

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 AMARO WINERY 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>Chonica Campbell</i>	541-2128	6/17/15
Department Director	<i>W. B. G.</i>	541-2128	18 JUNE 2015
Other			
Assistant City Manager /CAO	<i>[Signature]</i>	541-2100	6/18/15
Management & Budget Manager	<i>[Signature]</i>	541-2107	6/18/15
Assistant City Manager/COO	<i>[Signature] for Daniel Arillo</i>	541-2271	6/23/15
City Attorney	<i>W. B. G.</i>	541-2128	18 JUNE 2015
City Clerk - Interim	<i>[Signature]</i>	541-2115	6/26/15