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City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 6 Ordinance/Resolution# 15-238

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 "ACTING ON A DREAM" FESTIVAL, AN EVENT AT THE LAS CRUCES COMMUNITY THEATER, 313 NORTH MAIN STREET, ON FRIDAY, AUGUST 14, 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 Las Cruces Community Theater ("Theater") in collaboration with Parents, Families and Friends of Lesbians and Gays (PFLAG) is sponsoring an event at the Theater called the "Acting on a Dream" Festival on Friday, August 14, 2015.

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

The sponsors have 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 the Theater.
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. 15-238

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 “ACTING ON A DREAM” FESTIVAL, AN EVENT AT THE LAS CRUCES COMMUNITY THEATER, 313 NORTH MAIN STREET, ON FRIDAY, AUGUST 14, 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 Las Cruces Community Theater; and

WHEREAS, the Las Cruces Community Theater (“Theater”) in collaboration with Parents, Families and Friends of Lesbians and Gays (PFLAG) is sponsoring an event at the Theater called the “Acting on a Dream” Festival on Friday, August 14, 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 the "Acting on a Dream" Festival to be held at the Las Cruces Community Theater on August 14, 2015 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: _____

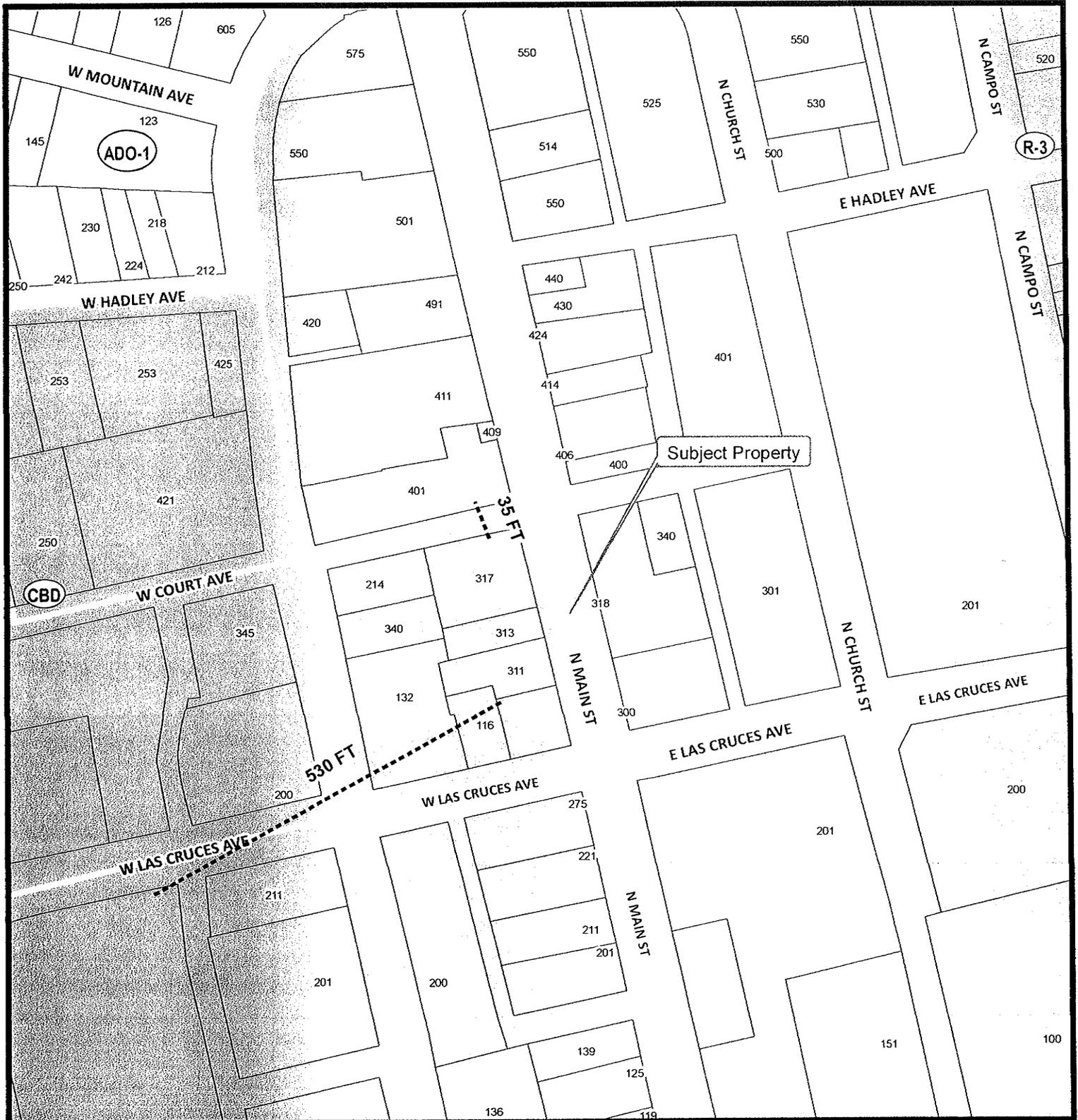
Seconded by: _____

APPROVED AS TO FORM:



City Attorney

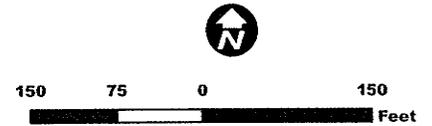
Zoning / Vicinity Map



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.
 ZONING CBD
 DISTANCE TO THE NEAREST SCHOOL: 530 FEET
 DISTANCE TO THE NEAREST CHURCH: 35 FEET



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

LICENSE HOLDER INFORMATION:

Business Name (DBA) Amuro Wineery Owner Name Amuro Wineery Liquor License # 6151
 Mailing Address 402 S Melandres St City, State & Zip Las Cruces, NM 88007
 Contact Telephone # 575 312 3168 Fax # 575 525 9405 Email Address Kelly.Allene@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 - Indoors / Outdoor
 Description and Name of Event "Acting on a Dream" Festival Date(s) of Event Aug 14-15, 2015 Alcohol Service Begin Time 5 pm End Time 8:30 pm
 Physical Address of Event & Name of Building or Business 33 N. Main St / Las Cruces Community Theatre Number of Persons expected to Drink 150
 Description of Security Security Concept Number of Security 2 Security Contact Name Michael Contact Telephone # 575-526-4181

SPONSOR INFORMATION

Sponsor of Event Las Cruces Community Theatre Contact Name Janet Beatty-Payne Pres Contact Telephone # 575-571-5399
PLAC BUILDING/PROPERTY OWNER APPROVAL

Name (print) Janet Beatty-Payne Signature Janet Beatty-Payne Telephone # 575-571-5399 Date 6/11/15
LCCT President

LICENSE HOLDER & SERVER CERTIFICATION: I, Kelly Allen (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 Kelly Allen Date 6/9/15
 All profits derived from the sale of liquor will go only to the licensee.

NOTARY INFORMATION

Subscribed and Sworn before me this 9th day of JUNE, 2015 Notary Public Juanita O. Solor Exp. 9/20/2018
2015 C NPL

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 _____

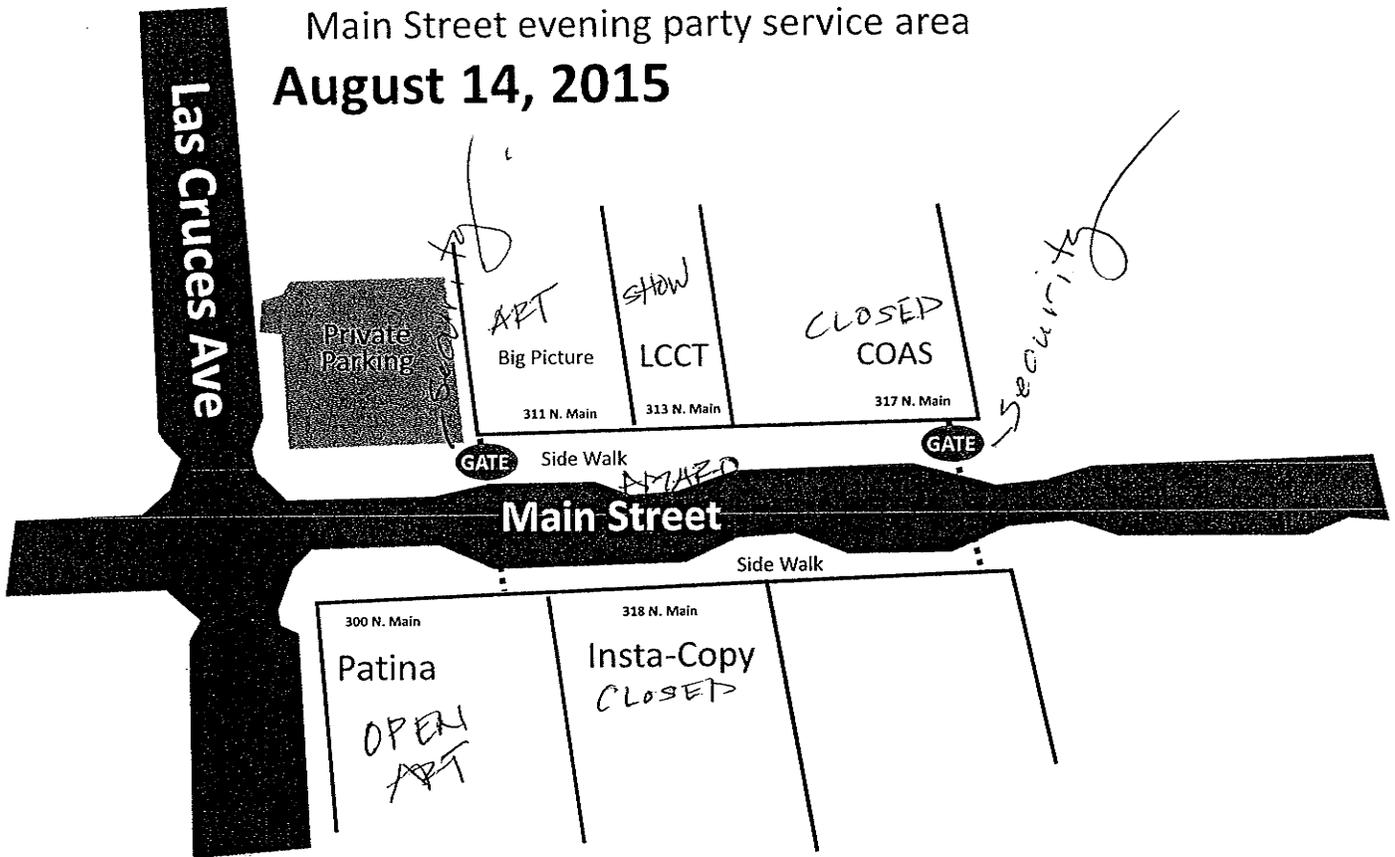
NOTARY PUBLIC - STATE OF NEW MEXICO
 OFFICIAL SEAL
 My commission expires: 9/20/2018



Beer & Wine Service Map

Main Street evening party service area

August 14, 2015



DBA: Amaro Winery
 Owner Name: Amaro Winery, LLC
 Liquor License Number: 6151

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	Qiongxiao		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	74 Aguirre Pete Mrs 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	Lyner 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 Las Cruces Community Theater ("Theater") in collaboration with Parents, Families and Friends of Lesbians and Gays (PFLAG) is planning an event called "Acting on a Dream" at the Las Cruces Community Theater, 313 North Main Street, on Friday, August 14, 2015. The Theater has asked Amaro Winery to offer wine for sale and consumption between 5:00 p.m. and 8:30 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 Theater'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.

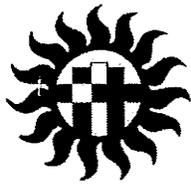
If you have any questions or need additional information, please contact Monica Campbell at 575-541-2128.

Sincerely,

CITY OF LAS CRUCES

A handwritten signature in black ink, appearing to read "W. Babington Jr.", written over the printed name.

William R. Babington Jr.
City Attorney



City of Las Cruces[®]

PEOPLE HELPING PEOPLE

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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 "ACTING ON A DREAM" FESTIVAL, AN EVENT AT THE LAS CRUCES COMMUNITY THEATER, 313 NORTH MAIN STREET, ON FRIDAY, AUGUST 14, 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	6/17/15
Department Director	<i>WBS</i>	541-2128	18 JUNE 2015
Other			
Assistant City Manager /CAO	<i>[Signature]</i>	541-2100	6/19/15
Management & Budget Manager	<i>[Signature]</i>	541-2107	6/19/15
Assistant City Manager/COO	<i>[Signature] for Daniel Ariza</i>	541-2271	6/23/15
City Attorney	<i>WBS</i>	541-2128	18 JUNE 2015
City Clerk - Interim	<i>[Signature]</i>	541-2115	6/26/15