

16
City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 2

Ordinance/Resolution# 16-001

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of July 20, 2015
 (Adoption Date)

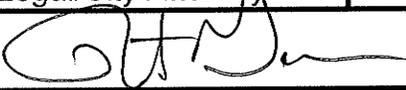
Please check box that applies to this item:

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 "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 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", Map of event on Main Street showing the designated alcohol serving areas.
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 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. 16-001

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 "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 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 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: _____

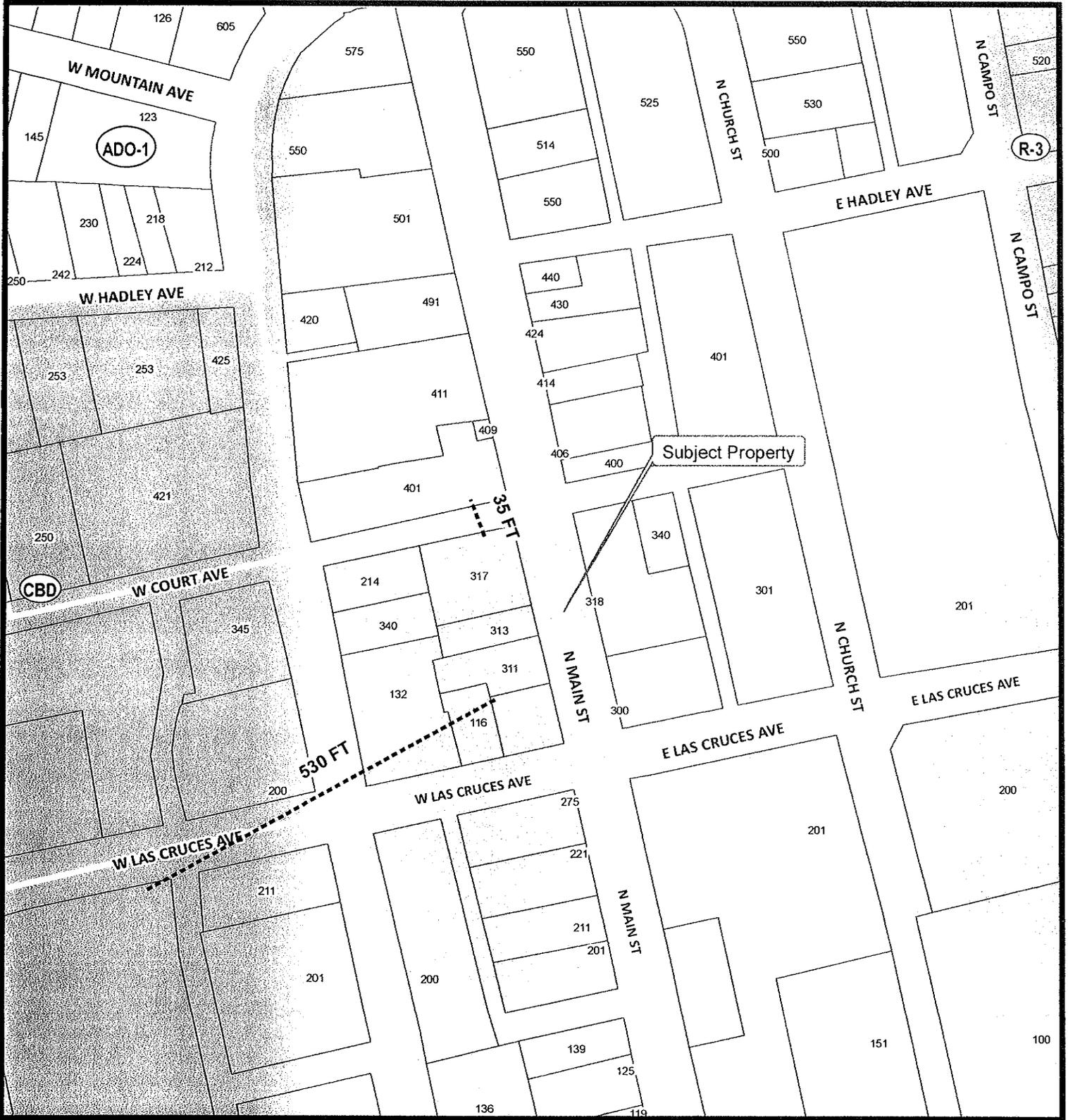
APPROVED AS TO FORM:



City Attorney

Zoning / Vicinity Map

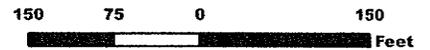
21



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

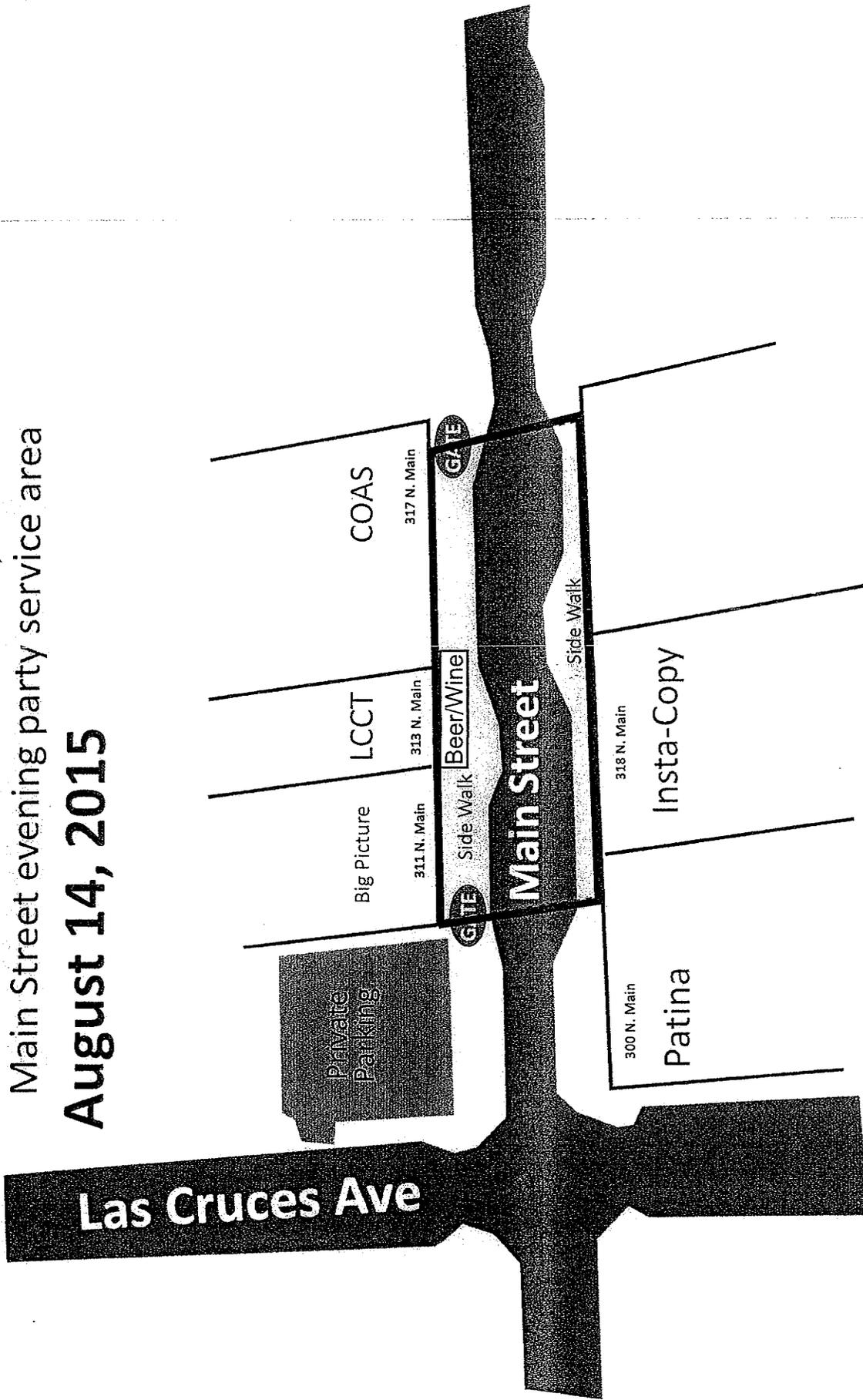


Community Development Department
 700 N Main St
 Las Cruces, NM 88001
 (575) 528-3222

Beer & Wine Service Map

Main Street evening party service area

August 14, 2015



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

Aguirre Pete Mrs²³
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

Sugamosto 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



July 6, 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 High Desert Brewing Company to offer beer for sale and consumption between 5:00 p.m. and 10:30 p.m. at the event. As part of the approval process, the Liquor Control Act ("LCA") requires approval of High Desert Brewing Company'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 20, 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.

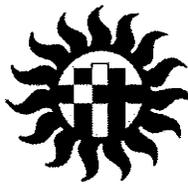
If you wish to share your views concerning the impact of the Public Celebration Permit Application at the Theater's event, you may attend the City Council Meeting on July 20, 2015, or you may submit your views in writing to the City Attorney's Office, Post Office Box 20000, Las Cruces, New Mexico 88004. Letters must be received by 5:00 p.m. on Thursday, July 16, 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



9

COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of July 20, 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 "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>Monica Campbell</i>	541-2128	7/2/15
Department Director	<i>[Signature]</i>	541-2128	2 July 2015
Other			
Assistant City Manager /CAO Management & Budget Manager	<i>[Signature]</i>	541-2100 541-2106	7/6/15 7/6/15
Assistant City Manager/COO	<i>[Signature]</i>	541-2271	7/8/15
City Attorney	<i>[Signature]</i>	541-2128	2 July 2015
City Clerk		541-2115	