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City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 9 Ordinance/Resolution# 16-034

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of August 17, 2015
 (Adoption Date)

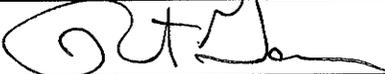
Please check box that applies to this item:

QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION TO BOSQUE BREWING CO. AND AMARO WINERY FOR THE PUBLIC CELEBRATION PERMIT APPLICATIONS SUBMITTED FOR THE SEVENTH ANNUAL SALSA FEST TO BE HELD ON AUGUST 29 AND 30, 2015.

PURPOSE(S) OF ACTION:

To 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 Downtown Las Cruces Partnership is sponsoring the Seventh Annual Salsa Fest, to be held on Main Street between Las Cruces Avenue and Griggs Avenue on August 29 and 30, 2015. The Casa De Alabanza Church is approximately 50 feet from a designated alcoholic beverage service area near the intersection of Main Street and Griggs Avenue.

Bosque Brewing Co. and Amaro Winery have submitted a Public Celebration Permit Applications to provide beer and wine for sale and consumption on August 29, 2015 from 5:00 p.m. to 11:00 p.m. and on August 30, 2015 from 12:00 p.m. to 5:00 p.m.

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

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Zoning/Vicinity Map showing the location of the Seventh Annual Salsa Fest and the distance to the nearest church.
3. Attachment "1", Map of event area on Main Street.
4. Attachment "2", List of property owners.
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 Bosque Brewing Co. and Amaro Winery to continue with the permitting process for the Seventh Annual Salsa Fest on Main Street.

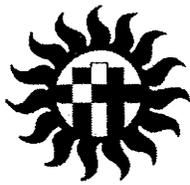
(Continue on additional sheets as required)

2. Vote "No"; if the Las Cruces City 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 Permit.
3. Vote to "Amend"; any amendments must comply with state statute and/or the requirements of Alcohol & Gaming.
4. Vote to "Table"; if the City 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) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

N/A.



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PEOPLE HELPING PEOPLE

COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of August 17, 2015
(Adoption Date)

TITLE: A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION TO BOSQUE BREWING CO. AND AMARO WINERY FOR THE PUBLIC CELEBRATION PERMIT APPLICATIONS SUBMITTED FOR THE SEVENTH ANNUAL SALSA FEST TO BE HELD ON AUGUST 29 AND 30, 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	7/30/15
Department Director	<i>WBS</i>	541-2128	30 July 2015
Other			
Assistant City Manager /CAO Management & Budget Manager	<i>[Signature]</i>	541-2100 541-2106	7/31/15 7/30/15
Assistant City Manager/COO	<i>[Signature]</i>	541-2271	8/5/15
City Attorney	<i>WBS</i>	541-2128	30 July 2015
City Clerk - Interim	<i>[Signature]</i>	541-2115	8/7/15

RESOLUTION NO. 16-034

A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION TO BOSQUE BREWING CO. AND AMARO WINERY FOR THE PUBLIC CELEBRATION PERMIT APPLICATIONS SUBMITTED FOR THE SEVENTH ANNUAL SALSA FEST TO BE HELD ON AUGUST 29 AND 30, 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 Las Cruces Downtown Partnership is sponsoring the Seventh Annual Salsa Fest to be held on Main Street on August 29 and 30, 2015; and

WHEREAS, the Casa De Alabanza Church is approximately 50 feet from a designated alcoholic beverage service area near the intersection of Main Street and Griggs Avenue; and

WHEREAS, Bosque Brewing Co. and Amaro Winery have submitted Public Celebration Permit Applications to provide beer and wine for sale and consumption during the Seventh Annual Salsa Fest; and

WHEREAS, the Alcohol and Gaming Division of the New Mexico State Regulation and Licensing Department requires a waiver of the church/school distance restriction from the Las Cruces City Council for the Bosque Brewing Co. and Amaro Winery Public Celebration Permit Applications to be approved for the event; and

WHEREAS, granting a waiver of the church/school distance restriction will allow Bosque Brewing Co. and 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 to Bosque Brewing Co. and to Amaro Winery for the Seventh Annual Salsa Fest to be held on Main Street on August 29 and 30, 2015, as shown on Exhibits "A" attached hereto, 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

City Clerk

(SEAL)

VOTE:

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

Moved by: _____

Seconded by: _____

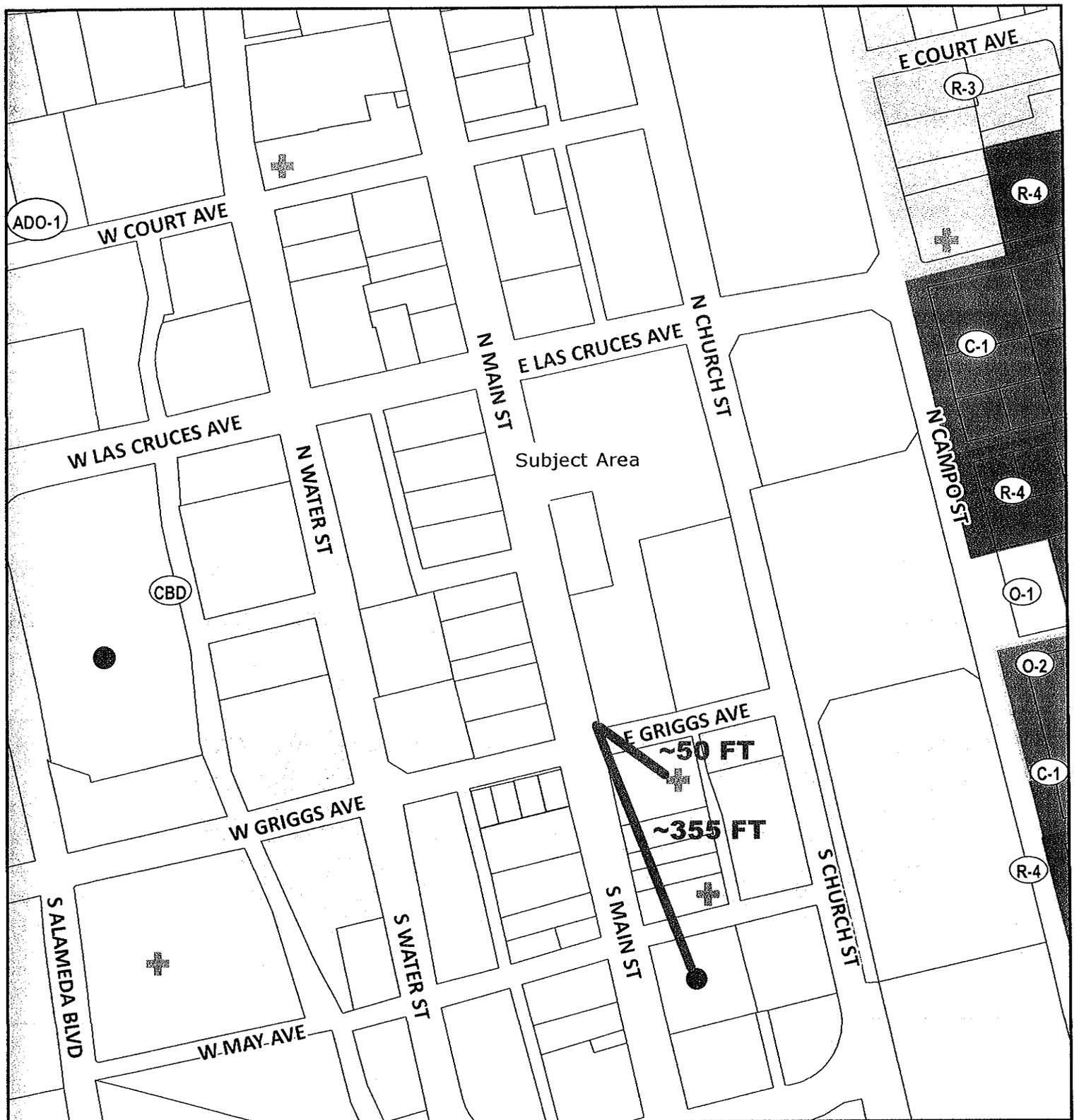
APPROVED AS TO FORM:



City Attorney

ZONING/VICINITY MAP

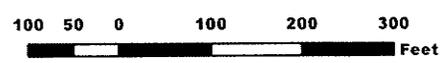
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 ZONING
 SCHOOL
 + CHURCH

Zoning: CBD

Distance to nearest school: ~355 Feet
 Distance to nearest church: ~50 Feet

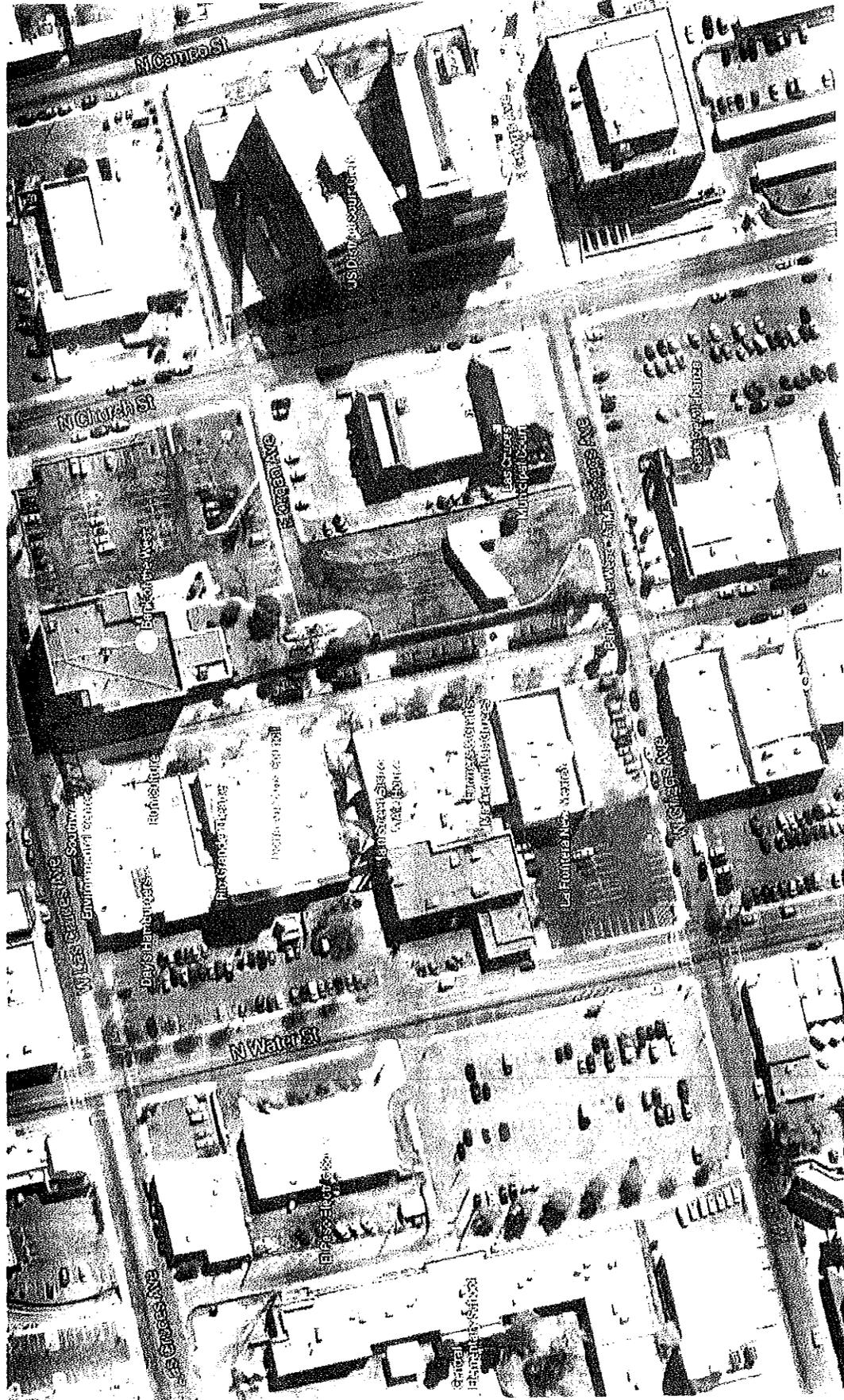


Community Development Department
 700 N Main St
 Las Cruces, NM 88001
 (575) 528-3222

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 are responsible for the information contained in this map. This information is provided for informational purposes only and is not intended to constitute a contract. © 2010 City of Las Cruces

- Fencing around entire event
- Entrances at La Placita and Las Cruces at Main
- 2 Guards at each entrance & 2 roaming

Main St



Imagery ©2015 Google, Map data ©2015 Google 100 ft

125 W GRIGGS LLC
125 W GRIGGS
LAS CRUCES NM 88001

89
ALBERTO GUTIERREZ LLC
213 W GRIGGS AVE
LAS CRUCES NM 88005

BANK OF THE WEST
PO BOX 5155
SAN RAMON, CA 94583-5155

CALVARY CHAPEL INC
139 S MAIN ST
LAS CRUCES NM 88001

CLARK RUTH & BOBBY C
TRUSTEES
PO BOX 1777
LAS CRUCES NM 88004

CORONADO JOSE R & RUBEN
CORONADO
119 N MAIN ST
LAS CRUCES NM 88001

GARCIA R LEO & SALLY P
PO BOX 16228
LAS CRUCES NM 88004

HAMILL-BUCKLEY LLC ET AL
1230 CITYLIGHTS PL
LAS CRUCES NM 88007

HOUSE OF PRAISE INC
PO BOX 2527
LAS CRUCES NM 88004-252

NEW MEXICO DEVELOPMENT
CORPORATION
PO BOX 2049
LAS CRUCES NM 88004

RICHARD ROSEN INC
306 E OVERLAND
EL PASO TX 79901

SOUTHERN RIO GRANDE
MENTAL HEALTH
100 W GRIGGS
LAS CRUCES NM 88001

ST GENEVIEVE PARISH INC
1280 MEDPARK DR
LAS CRUCES NM 88005

SUN CITY FINANCE INC
3190 DEL REY BLVD
LAS CRUCES NM 88012

TREE OF LIFE FELLOWSHIP
INC
PO BOX 467
ORGAN NM 88052

VALENTINE, JERALD A & J A
PO BOX 850
LAS CRUCES NM 88004-0850



July 29, 2015

Dear Property Owner:

The Downtown Las Cruces Partnership is sponsoring the Seventh Annual Salsa Fest on Main Street, generally between Las Cruces Avenue and Griggs Avenue. The event is scheduled for August 29, 2015 from 5:00 p.m. to 11:00 p.m. and August 30, 2015 from 12:00 p.m. to 5:00 p.m. Bosque Brewing Co. and Amaro Winery have submitted applications to provide beer and wine for sale and consumption at the event. As part of the approval process, the Liquor Control Act ("LCA") requires the liquor license holders to obtain approval for the use of City property from the governing body of the City of Las Cruces.

This matter will come before the City Council as part of its regular meeting on Monday, August 17, 2015, which begins at 1:00 p.m. in the City Council Chambers located at City Hall, 700 North Main Street.

The LCA prohibits the sale and consumption of alcoholic beverages within 300 feet of a church or school unless a waiver has been granted. A waiver request will be considered by the City Council for approval or disapproval because Casa De Alabanza Church is approximately 50 feet from a designated alcohol service area near the intersection of Main Street and Griggs Avenue.

If you wish to share your views concerning the Seventh Annual Salsa Fest, the liquor license holder applications and the waiver request, please attend the City Council Meeting on August 17, 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, August 13, 2015.

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

Sincerely,

CITY OF LAS CRUCES

/s/William R. Babington Jr.
William R. Babington Jr.
City Attorney