



City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 13Ordinance/Resolution# 16-067For Meeting of _____
(Ordinance First Reading Date)For Meeting of September 21, 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 PUBLIC CELEBRATION PERMIT APPLICATIONS FROM AMARO WINERY AND HIGH DESERT BREWING COMPANY FOR THE "ZYMURGY-THE SCIENCE OF FERMENTATION" EVENT TO BE HELD AT THE LAS CRUCES RAILROAD MUSEUM, 351 NORTH MESILLA STREET, ON OCTOBER 9, 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 "Zymurgy-The Science of Fermentation", an event to be held on October 9, 2015 at the Las Cruces Railroad Museum.

The Spanish Assembly of God is within 300 feet of the museum.

The Foundation has asked Amaro Winery High Desert Brewing Company to provide wine and 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 Las Cruces City Council for the Public Celebration Permit Applications to be approved.

The resolution for approval of the Public Celebration Permit Applications is presented as a separate agenda item. Approval of the Public Celebration Permit Applications 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 Las Cruces Railroad Museum 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 Amaro Winery and 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. 16-067

A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION FOR PUBLIC CELEBRATION PERMIT APPLICATIONS FROM AMARO WINERY AND HIGH DESERT BREWING COMPANY FOR THE “ZYMURGY-THE SCIENCE OF FERMENTATION” EVENT TO BE HELD AT THE LAS CRUCES RAILROAD MUSEUM, 351 NORTH MESILLA STREET, ON OCTOBER 9, 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 Spanish Assembly of God is within 300 feet of the Las Cruces Railroad Museum; and

WHEREAS, the Foundation for Las Cruces Museums (“The Foundation”) is sponsoring an event called “Zymurgy-The Science of Fermentation” on October 9, 2015, and has asked Amaro Winery and High Desert Brewing Company to provide wine and 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 Amaro Winery and 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 Amaro Winery and 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 Amaro Winery and High Desert Brewing Company for an event called "Zymurgy-The Science of Fermentation" to be held at the Las Cruces Railroad Museum 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: _____

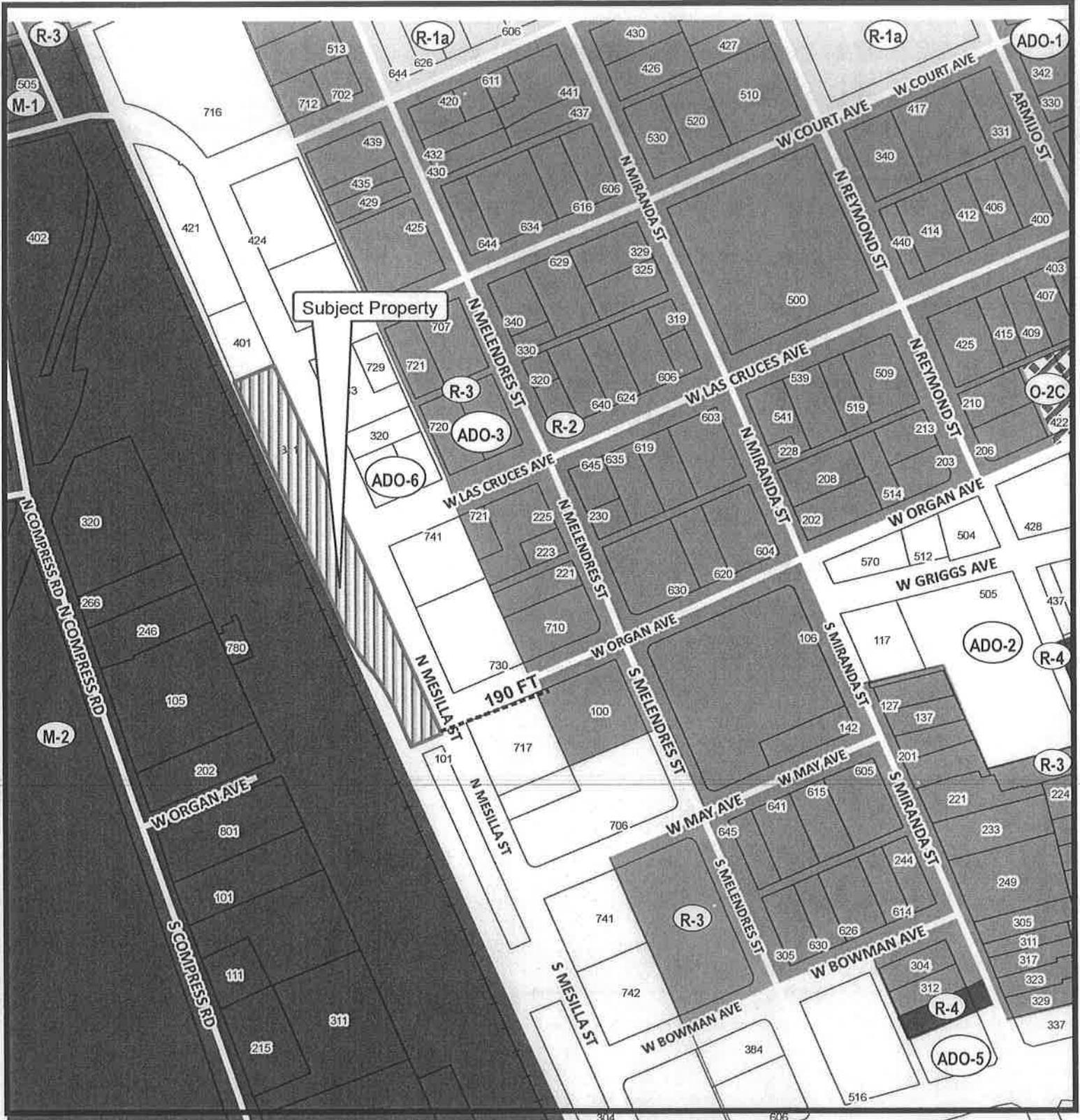
Seconded by: _____

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to be "W. P. [unclear]", written over a horizontal line.

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

351 N. MESILLA ST.
 ZONING ADO-6
 DISTANCE TO THE NEAREST CHURCH: 190 FEET
 (SPANISH ASSEMBLY OF GOD)



Community Development Department

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

B E HARVEY GIN CO
PO BOX 1057
LAS CRUCES, NM. 88004-1057

BARTOLINI ALBERT & LAURA
145 PECOS CT
ALTO, NM. 88312

BAYJET INC
720 W ORGAN AVE
LAS CRUCES, NM. 88005-2625

BAZAN JUAN & IRENE A
743 W COURT
LAS CRUCES, NM. 88005

BEATTIE BRENDA S
221 N MELENDRES
LAS CRUCES, NM. 88005

BLEA KATHLEEN DENISE
608 VERMILION CT NW
ALBUQUERQUE, NM. 87120

BREWER OIL CO
PO BOX 1347
ARTESIA, NM. 88211-1347

BREWER OIL CO INC
1404 CERRILLOS RD
SANTA FE, NM. 87501

BURLINGTON NORTHERN & SANTA FE
RR
2650 LOU MENK DR
FORT WORTH, TX. 76131-2830

CAMPO BEHAVIORAL HEALTH LLC
424 N MESILLA ST
LAS CRUCES, NM. 88005-2566

CHISHOLM'S - WAREHOUSE LLC
PO BOX 397
LAS CRUCES, NM. 88004

CORONADO INOENCIA
720 W LAS CRUCES
LAS CRUCES, NM. 88005

CSC ENTERPRISES INC
PO BOX 99
O'FALLON, IL. 62269

DEWEY & BERT LLC
PO BOX 437
MESILLA, NM. 88046

EL PASO ELECTRIC COMPANY
PO BOX 910
LAS CRUCES, NM. 88001

FIRST BAPTIST CHURCH OF LAS
CRUCES
106 S MIRANDA
LAS CRUCES, NM. 88005

FRANKEN PROPERTIES INC
1025 DOUGLAS AVE
LAS VEGAS, NM. 87701

GARCIA MICHAEL & VIRGINIA GARCIA
320 N MESILLA
LAS CRUCES, NM. 88005

HARRIS ANTHONY B
717 W ORGAN AVE
LAS CRUCES, NM. 88005

HERRICK JEFFREY EWING &
425 MELENDRES ST
LAS CRUCES, NM. 88005

HUBER HALE W
750 W LAS CRUCES AVE
LAS CRUCES, NM. 88005-2509

IKARDS CITY CENTER LLC
101 E LOHMAN
LAS CRUCES, NM. 88001

MANNING ARNDT TRUST
4625 EDWIN MECHEM
ALBUQUERQUE, NM. 87114

MARTINEZ NOAH S & DORA R
1803 W 24TH
ODESSA, TX. 79763

MENDOZA XAVIER & CYNTHIA B
6505 JUSTIN LN
LAS CRUCES, NM. 88007-7822

NUNEZ ALFONSO & MARLENE M
1010 JASMINE
LAS CRUCES, NM. 88005-1208

REYNA MICHELLE M
700 W LAS CRUCES AVE
LAS CRUCES, NM. 88005-2509

ROMERO ROBERT J
412 W LAS CRUCES AVE
LAS CRUCES, NM. 88005

SERNA LUIS & PRISCILLA P
729 W COURT
LAS CRUCES, NM. 88005

SPANISH ASSEMBLY OF GOD AKA
PO BOX 15160
LAS CRUCES, NM. 88004

129

TUFF CO LLC
101 N ALAMEDA # 20
LAS CRUCES, NM. 88005-2600

US SPRINT COMMUNICATIONS
COMPANY
PO BOX 12913
SHAWNEE, KS. 66212





September 4, 2015

Dear Property Owner:

The Foundation for Las Cruces Museums ("Foundation") is planning an event called "Zymurgy-The Science of Fermentation" at the Las Cruces Railroad Museum, 351 North Mesilla Street, on Friday, October 9, 2015. The Foundation has asked Amaro Winery and High Desert Brewing Company to offer wine and beer 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 and High Desert's Public Celebration Permit Applications from the Las Cruces City Council.

This matter will come before the City Council during its regular meeting on Monday, September 21, 2015 which begins at 1:00 p.m. in the City Council Chambers located at City Hall, 700 North Main Street.

Because the Spanish Assembly of God is within 300 feet of the Railroad Museum, a request for a waiver of the church/school distance restriction will also be considered for approval or disapproval during the City Council Meeting. 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 Applications at the Foundation's event, you may attend the City Council Meeting on September 21, 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, September 17, 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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PEOPLE HELPING PEOPLE

COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of September 21, 2015
 (Adoption Date)

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

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	<i>Monica Campbell</i>	541-2128	9/4/15
Department Director	<i>WRB</i>	541-2128	4 Sept 2015
Other			
Assistant City Manager /CAO	<i>[Signature]</i>	541-2100	9/8/15
Management & Budget Manager	<i>[Signature]</i>	541-2107	9-4-15
Assistant City Manager/COO	<i>[Signature]</i>	541-2271	9-9-15
City Attorney	<i>WRB</i>	541-2128	4 Sept 2015
City Clerk - Interim	<i>[Signature]</i>	541-2115	9-11-15