



City of Las Cruces[®]

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 1 Ordinance/Resolution# 16-082

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of October 5, 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 SPECIAL DISPENSER PERMIT APPLICATION FROM DUBLIN'S STREET PUB FOR "MUSIC ON MAIN STREET" TO BE HELD ON FRIDAY, OCTOBER 16, 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.

Dublin's Street Pub has submitted a Special Dispenser Permit Application to provide alcoholic beverages for sale and consumption at "Music on Main Street" between the roundabout and Las Cruces Avenue. The event is coordinated by Berkshire Hathaway Home Services, New Mexico Properties, Southern Division, and will be held on Friday, October 16, 2015 from 6:00 p.m. to midnight.

The Latter Rain Harvest Fellowship Church is within 300 feet of the alcoholic beverage service areas. The Alcohol and Gaming Division of the New Mexico Regulation and Licensing Department requires a waiver of the church/school distance restriction by the City Council for the Special Dispenser Permit Application to be approved.

The resolution for approval of the Special Dispenser Permit Application is presented as a separate agenda item. Approval of the Special Dispenser 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 location of Berkshire Hathaway Home Services and the church/school distance.
3. Attachment "1", List of property owners within 300 feet of 424 North Main Street.
4. Attachment "2", 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 Dublin's Street Pub to continue with the application process.

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 Special Dispenser Permit Application.
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. 16-082

A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION FOR A SPECIAL DISPENSER PERMIT APPLICATION FROM DUBLIN'S STREET PUB FOR "MUSIC ON MAIN STREET" TO BE HELD ON FRIDAY, OCTOBER 16, 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, Berkshire Hathaway Home Services, New Mexico Properties, Southern Division is coordinating "Music on Main Street" to be held on Friday, October 16, 2015 between the roundabout and Las Cruces Avenue, and has asked Dublin's Street Pub to provide alcoholic beverages for sale and consumption at the event; and

WHEREAS, the Latter Rain Harvest Fellowship Church is within 300 feet of the alcoholic beverage service area for the event; and

WHEREAS, the Alcohol and Gaming Division of the New Mexico State Regulation and Licensing Department requires that Dublin's Street Pub obtain a waiver of the church/school distance restriction from the Las Cruces City Council for the Special Dispenser Permit Application to be approved for the event; and

WHEREAS, granting a waiver of the church/school distance restriction will allow Dublin's Street Pub 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 Dublin's

Street Pub for "Music on Main Street" on Friday, October 16, 2015, from 6:30 p.m. to 11:00 p.m., on Main Street between the roundabout and Las Cruces Avenue as shown on Exhibit "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:

Mayor

ATTEST:

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

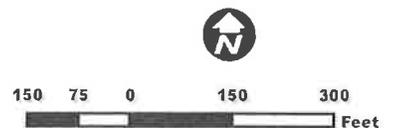
Zoning / Vicinity Map



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

424 N. MAIN ST.
 ZONING CBD
 DISTANCE TO THE NEAREST SCHOOL: 780 FEET
 DISTANCE TO THE NEAREST CHURCH: 193 FEET



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

AGUIRRE PETE MRS
PO BOX 2276
LAS CRUCES, NM. 88004-2276

AMERICAN LINEN SUPPLY OF N M
550 N CHURCH ST
LAS CRUCES, NM. 88001-3440

AVASIL PROPERTIES LLC
406 N MAIN ST
LAS CRUCES, NM. 88001

BRANIGAN LIBRARY
PO BOX CLC
LAS CRUCES, NM. 88004

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

COAS PROPERTIES LLC
317 N MAIN ST
LAS CRUCES, NM. 88001

HERMAN PETER & CEIL
430 N DOWNTOWN MALL
LAS CRUCES, NM. 88001

LAS CRUCES LODGE #2081 LOYAL
ORDER
514 N MAIN
LAS CRUCES, NM. 88001-1256

LAS CRUCES URBAN RENEWAL
PO BOX CLC
LAS CRUCES, NM. 88004

LATTER RAIN HARVEST FELLOWSHIP
PO BOX 1927
LAS CRUCES, NM. 88004

LYNER L L C
PO BOX 2274
LAS CRUCES, NM. 88004-2274

MRMJ PROPERTIES LLC
560 N WATER ST
LAS CRUCES, NM. 88001

PICKETT LAWRENCE M & MARTHA E
PO BOX 1239
LAS CRUCES, NM. 88004-1239

PIONEER CONSTRUCTION LLC
PO BOX 397
LAS CRUCES, NM. 88004

SANDOVAL GABRIEL C & MINERVA N
2000 E LOHMAN STE C
LAS CRUCES, NM. 88001

SCIENTIST
325 W MOUNTAIN
LAS CRUCES, NM. 88001

STUDIO D ARCHITECTS PA
6490 VISTA VALLEY TRL
LAS CRUCES, NM. 88007

SUGAMOSTO RONALD LOUIS
4173 CAPISTRANO
LAS CRUCES, NM. 88011

UNITED STATES POSTAL SERVICE
201 E LAS CRUCES AVE
LAS CRUCES, NM. 88001

September 17, 2015

Dear Property Owner:

Dublin's Street Pub has submitted a permit application to provide alcoholic beverages for sale and consumption at "Music on Main Street" between the roundabout and Las Cruces Avenue. The event is coordinated by Berkshire Hathaway Home Services, New Mexico Properties, Southern Division, and will be held on Friday, October 16, 2015 from 6:00 p.m. to midnight. The Liquor Control Act ("LCA") requires the Las Cruces City Council approve the Special Dispenser Permit Application from Dublin's Street Pub before it is submitted to the State of New Mexico Alcohol and Gaming Division of the New Mexico Regulation and Licensing Department for issuance.

This matter will come before the City Council during its regular meeting on Monday, October 5, 2015 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 alcoholic beverage service areas, 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 Special Dispenser Permit Application and "Music on Main Street", you may attend the City Council Meeting on October 5, 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, October 1, 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



City of Las Cruces®

PEOPLE HELPING PEOPLE

COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of October 5, 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	9/17/15
Department Director	<i>[Signature]</i>	541-2128	18 Sept 2015
Other			
Assistant City Manager /CAO	<i>[Signature]</i>	541-2100	9/21/15
Management & Budget Manager	<i>C. MacGregor for R. Lundien</i>	541-2107	9/18/15
Assistant City Manager/COO	<i>[Signature]</i>	541-2271	9/22/15
City Attorney	<i>[Signature]</i>	541-2128	18 Sept 2015
City Clerk - Interim	<i>[Signature]</i>	541-2115	9/25/15