



# City of Las Cruces<sup>®</sup>

PEOPLE HELPING PEOPLE

## Council Action and Executive Summary

Item # 8

Ordinance/Resolution# 16-109

For Meeting of \_\_\_\_\_  
(Ordinance First Reading Date)

For Meeting of November 16, 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 THE TRANSFER OF LOCATION OF LIQUOR LICENSE NO. 2647 TO HALO'S, LOCATED AT 2460 SOUTH LOCUST STREET, SUITE F, LAS CRUCES, NEW MEXICO.

**PURPOSE(S) OF ACTION:**

To approve a waiver.

<b>COUNCIL DISTRICT: 2</b>		
<b><u>Drafter/Staff Contact:</u></b> Monica Campbell	<b><u>Department/Section:</u></b> Legal/City Attorney	<b><u>Phone:</u></b> 541-2128
<b><u>City Manager Signature:</u></b>		

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

Pursuant to New Mexico statutes, no license for the sale of alcoholic beverages shall be issued to a premises that is within 300 feet of a church or school unless the governing body of the local option district grants a waiver of the distance restriction.

A waiver is required prior to the transfer of location, with on premise consumption only, of Liquor License No. 2647 to the applicant, Candace Marie Baca, Personal Representative of the Candido Baca Estate d/b/a Halo's, located at 2460 South Locust Street, Suite F, Las Cruces, New Mexico. The property line at 2460 South Locust Street, Suite F is approximately 56 feet from the property line of University Church of Christ.

The property owners within 300 feet of 2460 South Locust Street, Suite F were notified by U.S. Mail of the Las Cruces City Council meeting to approve or disapprove the waiver and issuance of the license.

The approval or disapproval of the transfer of location of Liquor License No. 2647 is presented in a separate agenda item and its approval is contingent upon approval of a waiver of the distance restriction. Granting a waiver will allow the applicant to proceed to the next step of the application process.

(Continue on additional sheets as required)

**SUPPORT INFORMATION:**

1. Resolution.
2. Exhibit "A", Map showing distance between Halo's and University Church of Christ.
3. Attachment "1", List of property owners.
4. Attachment "2", Form of letter sent to the property owners listed in Attachment "1".
5. Attachment "3", Notice of Intent to Adopt published in the *Las Cruces Bulletin*.
6. Attachment "4", Notice of Intent to Adopt published in the *Las Cruces Sun-News*.

**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"/>	<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
	<input type="checkbox"/>	<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 waiver of the church/school distance restriction. Approval will allow Candace Marie Baca, Personal Representative of the Estate of Candido Baca d/b/a Halo's to proceed with the application process.
2. Vote "No"; this means that the New Mexico Regulation and Licensing Department, Alcohol and Gaming Division ("Alcohol and Gaming") will be notified of the reason(s) the resolution was not approved and the Director of Alcohol and Gaming shall not approve the issuance of the liquor license.

(Continue on additional sheets as required)

3. Vote to "Amend"; this is not permitted by the Liquor Control Act, NMSA 1978, Section 60-6B-4.
4. Vote to "Table"; this is not permitted by the Liquor Control Act, NMSA 1978, Section 60-6B-4.

**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

RESOLUTION NO. 16-109

**A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION FOR THE TRANSFER OF LOCATION OF LIQUOR LICENSE NO. 2647 TO HALO'S, LOCATED AT 2460 SOUTH LOCUST STREET, SUITE F, LAS CRUCES, NEW MEXICO.**

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 licensed premises that is within 300 feet of a church or school; however, in 1997 Section 60-6B-10 was amended to allow for the granting of a waiver of the distance restriction by the local option district governing body for the proposed licensed premises; and

**WHEREAS**, the approximate distance from the property line of 2460 South Locust Street to the property line of the University Church of Christ is 56 feet; and

**WHEREAS**, a waiver of the distance restriction is required prior to the approval of the issuance of the liquor license; and

**WHEREAS**, approving this resolution will allow the applicant 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 to Candace Marie Baca, Personal Representative of the Candido Baca Estate d/b/a Halo's, located at 2460 South Locust Street, Suite F, Las Cruces, New Mexico, as shown on Exhibit "A" attached hereto, is hereby approved.

**(II)**

**THAT** a copy of this resolution shall be conveyed to the Director of the Alcohol and

Gaming Division of the Regulation and Licensing Department of the State of New Mexico,  
Post Office Box 25101, Santa Fe, New Mexico 87504-5101.

(III)

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 Gandara: \_\_\_\_\_  
Councillor Smith: \_\_\_\_\_  
Councillor Pedroza: \_\_\_\_\_  
Councillor Eakman: \_\_\_\_\_  
Councillor Sorg: \_\_\_\_\_  
Councillor Levatino: \_\_\_\_\_

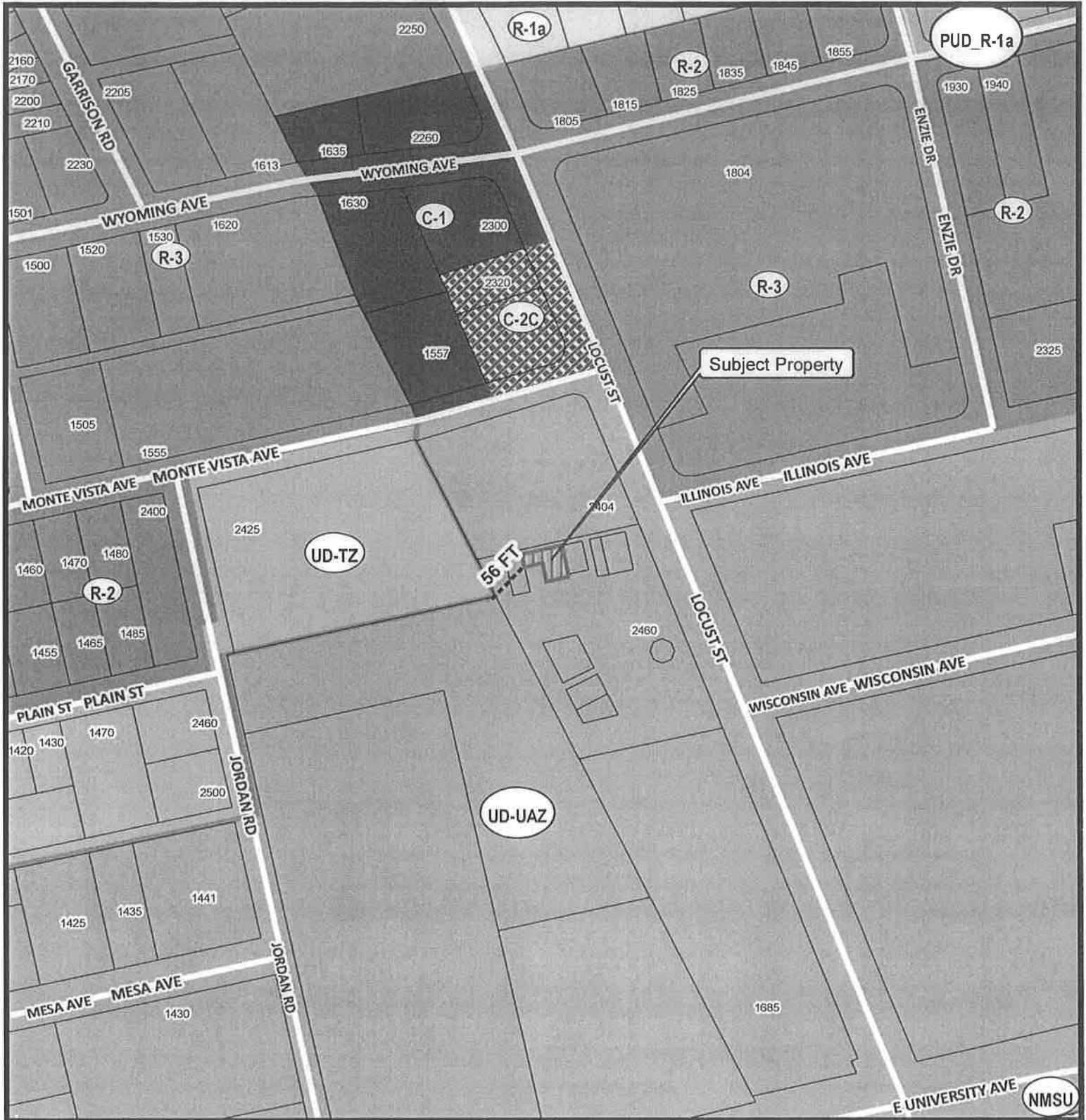
Moved by: \_\_\_\_\_

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

2460 LOCUST AVE.  
 ZONING UD-UAC  
 DISTANCE TO THE NEAREST SCHOOL: 832 FEET  
 DISTANCE TO THE NEAREST CHURCH: 56 FEET



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

139

GABALDON GENE A & PAMELA M  
2460 S LOCUST STE C  
LAS CRUCES, NM. 88001-5797

GRECO RENTALS-COMMERCIAL LLC  
PO BOX 6190  
LAS CRUCES, NM. 88006

GREGG RENTALS LLC  
1557 MONTE VISTA AVE  
LAS CRUCES, NM. 88001-5731

HARDER MARTEN J & NIKI T FAM TR  
1804 WYOMING  
LAS CRUCES, NM. 88001

JLB ENTERPRISES LLC  
1212 CALLE DE EL PASO  
LAS CRUCES, NM. 88005

MATHERS & STONER INVESTMENTS  
LLC  
2223 E MISSOURI STE 1  
LAS CRUCES, NM. 88001

NEW MEXICO STATE UNIVERSITY  
PO BOX 30001  
LAS CRUCES, NM. 880038001

SB PROPERTIES LLC  
PO BOX 2427  
LAS CRUCES, NM. 88004-2427

TERRITORIAL VILLAGE CONDO ASSOC  
2460 S LOCUST ST  
LAS CRUCES, NM. 88001-5797

UNIVERSITY CHURCH OF CHRIST  
1555 UNIVERSITY  
LAS CRUCES, NM. 88001

WESLEY FOUNDATION AT  
NMSU/DACC INC  
PO BOX 4184  
LAS CRUCES, NM. 88003





October 20, 2015

Dear Property Owner:

Halo's ("the applicant") has applied to the Alcohol and Gaming Division of the State of New Mexico Regulation and Licensing Department for the transfer of location of Liquor License No. 2647, with on premise consumption only, to 2460 South Locust Street, Suite F. Part of the approval process of the Liquor Control Act ("LCA") requires the applicant to obtain approval from the Las Cruces City Council for the transfer of the liquor license.

A public hearing to approve or disapprove the transfer of location of the liquor license will be held during the regular meeting of the City Council on Monday, November 16, 2015 at 1:00 p.m. in the City Council Chambers at City Hall, 700 North Main Street, Las Cruces, New Mexico.

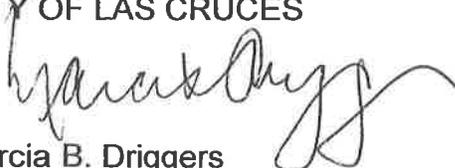
The property line of Halo's is approximately 56 feet from the property line of the University Church of Christ. The LCA prohibits the sale and consumption of alcoholic beverages within 300 feet of a church or school unless a waiver has been granted to the applicant. A waiver of the distance restriction will be considered at the November 16, 2015 City Council meeting before the public hearing about the liquor license.

If you wish to share your views concerning the impact of the transfer of location of Liquor License No. 2647 to Halo's, 2460 South Locust Street, Suite F, you may attend the City Council meeting on November 16, 2015, or you may submit your views in writing to the City Attorney's Office, PO Box 20000, Las Cruces, New Mexico 88004. Letters must be received by 5:00 p.m. on Thursday, November 12, 2015.

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

Sincerely,

CITY OF LAS CRUCES

  
Marcia B. Driggers  
Acting City Attorney

mjc



**AD FORM**  
**LAS CRUCES BULLETIN**  
**LEGAL CLASSIFIED**

City contact: Monica Campbell; 541-2014 / 541-2128

Proof of publication/bill to: City Clerk, PO Box 20000, Las Cruces, NM 88004

Account: 977669

Dates to Publish: October 16 and 23, 2015

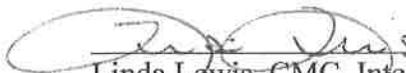
Copy to publish:

**NOTICE OF INTENT TO ADOPT**

Notice is hereby given that the Las Cruces City Council will hold a Public Hearing to discuss approval or disapproval of the waiver of the church/school distance restriction for the transfer of location of Liquor License No. 2647, with on premise consumption only, to Candace Marie Baca, Personal Representative of the Candido Baca Estate d/b/a Halo's, located at 2460 South Locust Street, Suite F, Las Cruces, New Mexico.

The Public Hearing will be held in conjunction with the regular meeting of the Las Cruces City Council scheduled for Monday, November 16, 2015, at 1:00 p.m. in the City Council Chambers, 700 North Main Street, City Hall. If passed, the State of New Mexico Regulation & Licensing Department may approve the transfer.

Witness my hand and seal of the City of Las Cruces on this the 8 day of October, 2015.

  
\_\_\_\_\_  
Linda Lewis, CMC, Interim City Clerk



**AD FORM**  
**LAS CRUCES SUN NEWS**  
**LEGAL CLASSIFIED**

City contact: Monica Campbell; 541-2014 / 541-2128

Account No. 26484 (Bill to City Clerk, PO Box 20000, Las Cruces, NM 88004)

Dates to Publish: October 18 and 25, 2015

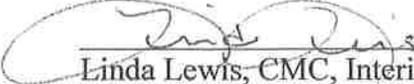
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\_\_\_\_\_  
Linda Lewis, CMC, Interim City Clerk



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## COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of \_\_\_\_\_  
 (Ordinance First Reading Date)

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

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	<i>Thonica Campbell</i>	541-2128	10/30/15
Department Director	<i>[Signature]</i>	541-2128	2 Nov 2015
Other	<i>[Signature]</i>		
Assistant City Manager /CAO Management & Budget Manager	<i>[Signature]</i>	541-2078 541-2107	11/4/15 11/4/15
Assistant City Manager/COO	<i>Daniel Ols</i>	541-2271	11/5/15
City Attorney	<i>[Signature]</i>	541-2128	2 Nov 2015
City Clerk		541-2115	