



City of Las Cruces[®]

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 5

Ordinance/Resolution# 17-045

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of September 19, 2016
(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 HIGH DESERT BREWING COMPANY FOR THE PUBLIC CELEBRATION PERMIT APPLICATION SUBMITTED FOR THE SOUTHERN NEW MEXICO PRIDE FALL FESTIVAL TO BE HELD ON OCTOBER 8, 2016.

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.

Southern New Mexico Pride is sponsoring a Fall Festival to be held on Main Street between Las Cruces Avenue and Griggs Avenue on October 8, 2016. The Casa De Alabanza Church is within 300 feet of the alcoholic beverage sales and service area.

High Desert Brewing Company ("High Desert") has submitted a Public Celebration Permit Application to provide alcoholic beverage sales and service on October 8 from 6:00 p.m. to 10:30 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.
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.

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 to continue with the permitting process for the Fall Festival.

2. Vote "No"; if the 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.



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 September 19, 2016
 (Adoption Date)

TITLE:

A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION TO HIGH DESERT BREWING COMPANY FOR THE PUBLIC CELEBRATION PERMIT APPLICATION SUBMITTED FOR THE SOUTHERN NEW MEXICO PRIDE FALL FESTIVAL TO BE HELD ON OCTOBER 8, 2016.

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

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	<i>Therica Campbell</i>	541-2128	8-22-16
Department Director	<i>[Signature]</i>	541-2128	23 Aug 2016
Other			
Assistant City Manager /CAO	<i>[Signature]</i>	541-2100	8/24/2016
Management & Budget Manager	<i>[Signature]</i>	541-2107	8/23/16
Assistant City Manager/COO	<i>[Signature]</i>	541-2271	8/26/16
City Attorney	<i>[Signature]</i>	541-2128	23 Aug 2016
City Clerk	<i>[Signature]</i>	541-2115	9-9-16

RESOLUTION NO. 17-045

A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION TO HIGH DESERT BREWING COMPANY FOR THE PUBLIC CELEBRATION PERMIT APPLICATION SUBMITTED FOR THE SOUTHERN NEW MEXICO PRIDE FALL FESTIVAL TO BE HELD ON OCTOBER 8, 2016.

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, Southern New Mexico Pride is sponsoring a Fall Festival to be held on Main Street between Las Cruces Avenue and Griggs Avenue on October 8, 2016; and

WHEREAS, the Casa De Alabanza Church is within 300 feet of the alcoholic beverage sales and service area; and

WHEREAS, High Desert Brewing Company ("High Desert") has submitted a Public Celebration Permit Application to provide alcoholic beverages for sale and consumption during the Fall Festival; 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 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 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 High Desert for the Fall Festival to be held on Main Street on October 8, 2016, 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:

ATTEST:

Mayor

City Clerk

(SEAL)

VOTE:

Mayor Miyagishima: _____
Councillor Gandara: _____
Councillor Smith: _____
Councillor Pedroza: _____
Councillor Eakman: _____
Councillor Sorg: _____
Councillor Levatino: _____

Moved by: _____

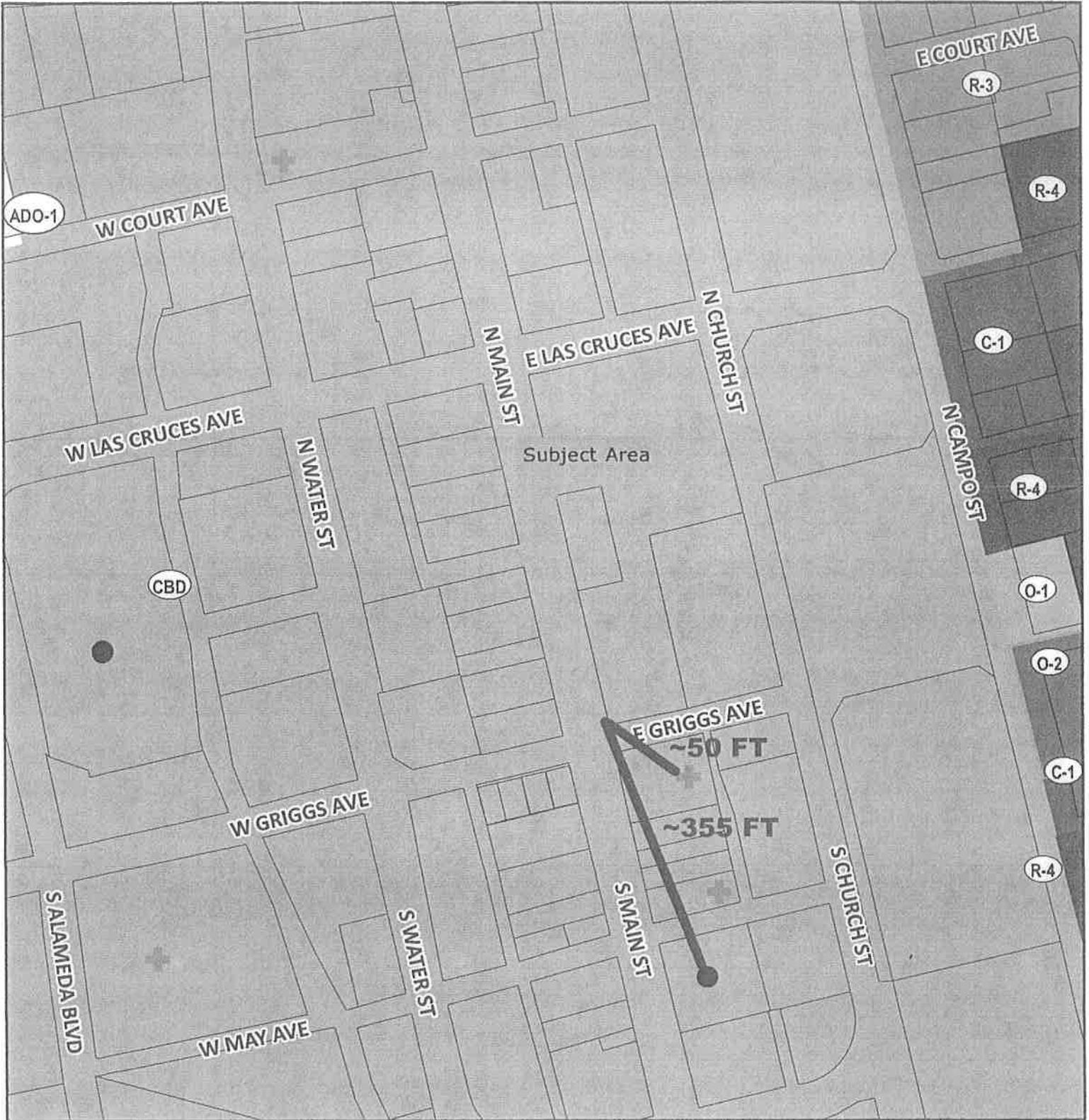
Seconded by: _____

APPROVED AS TO FORM:



City Attorney

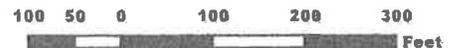
ZONING/VICINITY MAP



 ZONING
 SCHOOL
 + CHURCH



Zoning: CBD

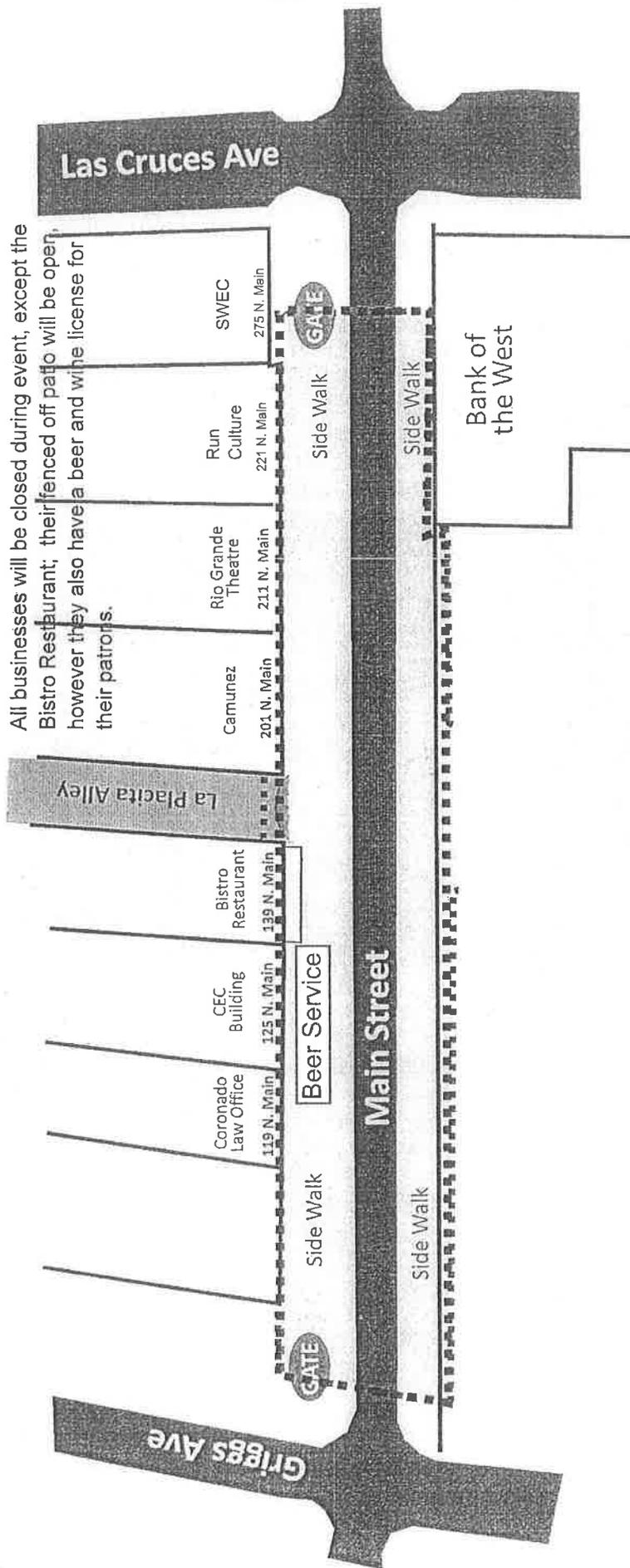


Distance to nearest school: ~355 Feet
 Distance to nearest church: ~50 Feet

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

Beer & Wine Service Map

So NM Pride Fall Festival October 8, 2016 (Saturday)



All businesses will be closed during event, except the Bistro Restaurant; their fenced off patio will be open, however they also have a beer and wine license for their patrons.

Street closed at Main St & Griggs Ave
Street closed at Main St & Las Cruces Ave
R2 Barriers at street closings
4 foot orange barrier fencing around all open areas and in front of street barriers.

Total fenced in beer serving area is approximately 13,275 sq ft
Total length=295'; Total width=45'
(Sidewalk = 12.5' on either side; Street = 20')

Authorized personnel at all gates to ensure alcohol does not leave the enclosed area.

125 W GRIGGS LLC
125 W GRIGGS
LAS CRUCES NM 88001

⁵¹
ALBERTO GUTIÉRREZ 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



August 23, 2016

Dear Property Owner:

Southern New Mexico Pride is sponsoring a Fall Festival on October 8, 2016 to be held on Main Street. High Desert Brewing Company has submitted an application to provide alcoholic beverages for sale and consumption at the event on October 8, 2016 6:00 p.m. to 10:30 p.m. As part of the approval process, state law requires the liquor license holders to obtain approval for the use of City property from the City Council.

This matter will come before the City Council as part of its regular meeting on Monday, September 19, 2016, which begins at 1:00 p.m. in the City Council Chambers located at City Hall, 700 North Main Street.

You are being sent this letter because property you own is within 300 feet of the event. State law prohibits the sale and consumption of alcoholic beverages within 300 feet of a church or school unless a waiver has been granted. Casa De Alabanza Church is within 300 feet of an area where alcoholic beverages will be sold for consumption during the Fall Festival.

If you wish to share your views concerning the Fall Festival, the waiver request and the applications to sell alcoholic beverages, you may attend the City Council Meeting on September 19, 2016, or you may submit your views in writing to the City Attorney's Office, P. O. Box 20000, Las Cruces, New Mexico 88004. Letters must be received by 5:00 p.m. on Thursday, September 15, 2016.

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