



City of Las Cruces[®]

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 23Ordinance/Resolution# 17-063For Meeting of _____
(Ordinance First Reading Date)For Meeting of October 3, 2016
(Adoption Date)

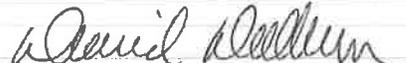
Please check box that applies to this item:

 QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION FOR THE TRANSFER OF OWNERSHIP AND LOCATION OF LIQUOR LICENSE NO. 2651 TO RM BEVERAGES, LLC D/B/A RM BEVERAGE TO BE LOCATED AT 334 SOUTH MAIN STREET, LAS CRUCES, NEW MEXICO.

PURPOSE(S) OF ACTION:

To approve 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:

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 ownership and location of Liquor License No. 2651 to RM Beverages, LLC d/b/a RM Beverage to be located at 334 South Main Street, Las Cruces, New Mexico. The property line at 334 South Main Street is approximately 262 feet from the property line of St. Paul's United Methodist Church and approximately 285 feet from the property line of New America Schools.

The property owners within 300 feet of 334 South Main Street were notified by U.S. Mail of the 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. 2651 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", Zoning/Vicinity Map.
3. Attachment "1", Notice of Intent to Issue Waiver published in the *Las Cruces Bulletin*.
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"/>	<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 waiver of the church/school distance restriction. Approval will allow RM Beverages, LLC d/b/a RM Beverage 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.

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



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COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of October 3, 2016
(Adoption Date)

TITLE:

A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION FOR THE TRANSFER OF OWNERSHIP AND LOCATION OF LIQUOR LICENSE NO. 2651 TO RM BEVERAGES, LLC D/B/A RM BEVERAGE TO BE LOCATED AT 334 SOUTH MAIN STREET, LAS CRUCES, NEW MEXICO.

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

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	<i>Monica Campbell</i>	541-2128	9-1-2016
Department Director	<i>WBS</i>	541-2128	1 Sept 2016
Other			
Assistant City Manager /CAO	<i>Armando MacGregor</i>	541-2078	9/6/16
Management & Budget Manager	<i>Armando MacGregor</i>	541-2107	9/2/16
Assistant City Manager/COO	<i>Daryl De</i>	541-2271	9/9/16
City Attorney	<i>WBS</i>	541-2128	1 Sept 2016
City Clerk	<i>Angela Davis</i>	541-2115	9-23-16

RESOLUTION NO. 17-063

A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION FOR THE TRANSFER OF OWNERSHIP AND LOCATION OF LIQUOR LICENSE NO. 2651 TO RM BEVERAGES, LLC D/B/A RM BEVERAGE TO BE LOCATED AT 334 SOUTH MAIN STREET, 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 property line at 334 South Main Street is approximately 262 feet from the property line of St. Paul's United Methodist Church and approximately 285 feet from the property line of New America Schools; 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 RM Beverages, LLC d/b/a RM Beverage, to be located at 334 South Main Street, 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: _____

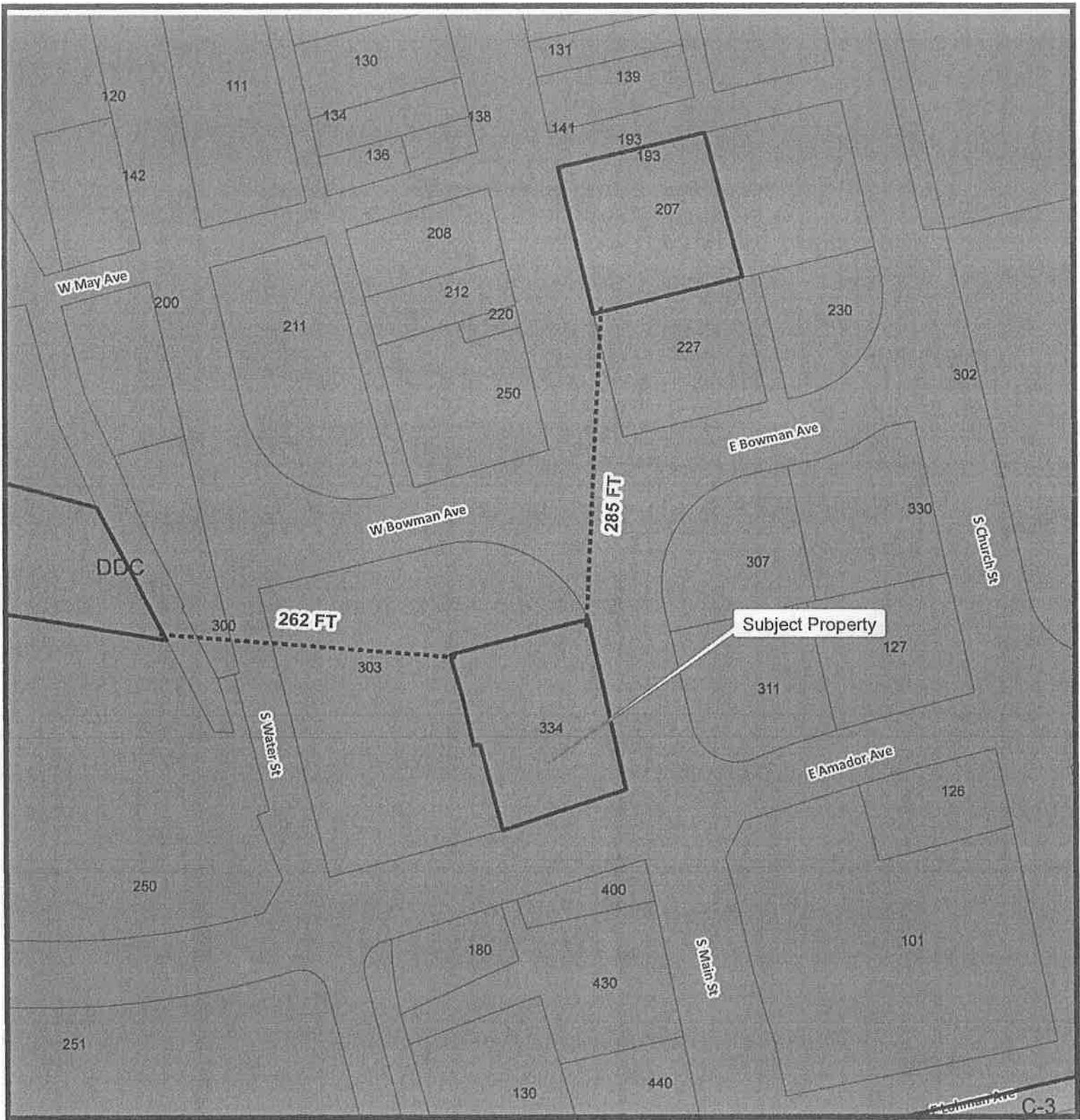
Seconded by: _____

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.

334 S. MAIN ST.
 ZONING DDC
 DISTANCE TO THE NEAREST SCHOOL: 285 FT.
 DISTANCE TO THE NEAREST CHURCH: 262 FT

Legend

- <all other values>
- C-3
- Property Address Points



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



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: September 2 and 9, 2016

Copy to publish:

NOTICE OF INTENT TO ISSUE WAIVER

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 ownership and location of Liquor License No. 2651, with on premise consumption only, to RM Beverages, LLC d/b/a RM Beverage, to be located at 334 South Main Street, 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, October 3, 2016, 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 25 day of August 2016.


Linda Lewis, CMC, City Clerk

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127 AMADOR LLC
2044 TURRENTINE DR
LAS CRUCES, NM. 88005

1732 LLC
4898 RAINTREE LANE
LAS CRUCES, NM. 88007

BFS RETAIL & COMMERCIAL
OPERATIONS
535 MARRIOTT DR
NASHVILLE, TN. 37214

BLANCHARD ENTERPRISES INC
PO BOX 16395
LAS CRUCES, NM. 88004

CAMPBELLS' PROPERTIES LLC
PO BOX 846
LAS CRUCES, NM. 88004

CITY OF LAS CRUCES
PO BOX 20000
LAS CRUCES, NM. 88004-9002

DONA ANA COUNTY
845 N MOTEL BLVD
LAS CRUCES, NM. 88007

FIRST STATES INVESTORS 5200 LLC
PO BOX 167129
IRVING, TX. 75016-7129

GUTIERREZ JOHN P TRSTEE
336 S MAIN
LAS CRUCES, NM. 88001

HOFFMAN JOHN
PO BOX 961597
EL PASO, TX. 79996-1597

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

RESOURCES FOR CHILDREN & YOUTH
INC
PO BOX 1868
LAS CRUCES, NM. 88004

ROMERO LEO D & LAURA TRUE
821 BANNA CT
LAS CRUCES, NM. 88005-4664

ST PAULS METHODIST CHURCH
PO BOX 696
LAS CRUCES, NM. 88004

TAR VENTURES
3150 BOWMAN
LAS CRUCES, NM. 88005



August 30, 2016

Dear Property Owner:

RM Beverage has applied to Alcohol and Gaming for the State of New Mexico for the transfer of ownership and location of Dispenser Liquor License No. 2651. The license will allow the sale and consumption of beer, wine and spirits on the premises of 334 South Main Street. As part of the approval process, state law requires the liquor license holders to obtain approval for the use of City property from the Las Cruces City Council.

This matter will come before the City Council as part of its regular meeting on Monday, October 3, 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 proposed location of the license. State law prohibits the sale and consumption of alcoholic beverages within 300 feet of a church or school unless a waiver has been granted. The property line at 334 South Main Street is approximately 262 feet from the property line of St. Paul's United Methodist Church and approximately 285 feet from the property line of New America Schools.

If you wish to share your views concerning the Dispenser license and the waiver request, you may attend the City Council Meeting on October 3, 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 29, 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



CITY ATTORNEY'S OFFICE

AN EQUAL OPPORTUNITY EMPLOYER