

**CITY OF SANTA FE
LIQUOR LICENSE HEARING OFFICER**

**Recommended
Findings of Fact and Conclusions of Law**

Application No.: 1176518 (NMRLD/AGD)
Name of Applicant: Café Castro Inc.
Doing Business As: Café Castro
Proposed Location: 2811 Cerrillos Road, Santa Fe, NM 87507

THIS MATTER came before the Liquor License Hearing Officer for public hearing on August 19, 2020 at 4:00 PM by video hearing, on the application of Café Castro Inc. (Applicant). The Hearing Officer recommends that the Governing Body adopt the following findings of fact and conclusions of law.

The Applicant requests local option district approval of the following:

Restaurant beer and wine liquor license with on premises consumption only, with patio service.

After reviewing the record, conducting a public hearing and having provided an opportunity to be heard from city staff, the Applicant and any interested persons, the Hearing Officer hereby FINDS:

FINDINGS OF FACT

1. Staff submitted a packet containing the following:
 - a. December 16, 2020 memo from City Clerk Yolanda Y. Vigil
 - b. October 29, 2020 letter from New Mexico Regulation and Licensing Department, Alcohol and Gaming Division (NMRLD/AGD) Hearing Officer Charmaine Martinez to the City of Santa Fe granting preliminary approval and forwarding the application to the City for local option district approval or disapproval.
 - c. NMRLD/AGD Application No. 1176518
 - d. September 16, 2020 zoning verification from Land Use Planner Senior John Neuneubel confirming that on-premises consumption of alcohol with patio service is a permitted use.
 - e. Site plan
 - f. Notices of Public Hearing (*Santa Fe New Mexican*, City of Santa Fe website)
 - g. December 21, 2020 memo from Ordinance Enforcement Specialist Jason Sena finding no anticipated substantial change in litter or noise as a result of the request
 - h. Vicinity map

- i. Santa Fe Land Development Code Table of Permitted Uses and zoning district map
 - j. City of Santa Fe Liquor License Request Supplemental Information
- 2. City Clerk Yolanda Vigil presented the application.
- 3. Applicant was offered the opportunity to present testimony or evidence.
- 4. No members of the public appeared to testify.
- 5. Notice of the Application, including the date, time and place of the hearing, the name and address of the licensee, the action proposed to be taken by the department, the location of the licensee's premises and such other information as may be required by the department was published in the Santa Fe New Mexican, which is a newspaper of general circulation within the territorial limits of the governing body, on November 20, 2020 and November 27, 2020 and on the City's website.
- 6. The Application is for an existing business in a location that currently serves liquor. The application is due to a change in ownership.
- 7. The business operates Tuesday-Sunday from 11 AM to 8 PM, and hours of operation will stay the same.
- 8. Traffic is not expected to increase, and business is expected to remain the same (110 customers driving, 10 walking).
- 9. The Traffic Engineering Division has concluded that approval will not create unacceptable traffic impacts.
- 10. There will be a fully enclosed outdoor seating area.
- 11. The proposed location will not cause a substantial change in litter or noise.
- 12. The proposed location is not within an area where sale of alcoholic beverages is prohibited by the laws of New Mexico.
- 13. Issuance or transfer will not be in violation of a zoning or other ordinance of the governing body.
- 14. Issuance or transfer will not be detrimental to the public health, safety or morals of the residents of the local option district.
- 15. The hearing was recorded and a copy of the recording is made a part of the record.

CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Hearing Officer CONCLUDES:

- 1. Notice of the Application was properly given by publication, mail and posting on the website pursuant to Section 60-6B-4(D).
- 2. The governing body may disapprove a transfer or issuance only if individuals opposing the transfer or issuance provide positive evidence showing that the transfer or issuance would be detrimental to the health, safety or morals of the community. This evidence must be based on authentic, relevant facts related to a specific prospective licensee and specific location. *The Southland Corporation v. Manzanola*, 1994-NMSC-099, 118 N.M. 423

3. The Applicant does not have the burden to prove that the transfer would not be detrimental to the health, safety or morals of the residents of the local option district. *Dick v. City of Portales*, 1994-NMSC-092, 118 N.M. 541.
4. The Application meets the requirements of §60-6B-4(F)(2).

CONDITIONS OF APPROVAL

1. Applicant is required to comply with all applicable City of Santa Fe ordinances.

WHEREFORE, the Liquor License Hearing Officer recommends to the Governing Body that the Application be APPROVED.



Christopher L. Graeser

12/28/2020

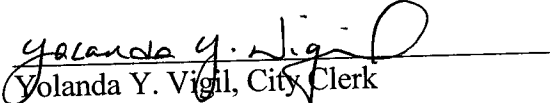
Date: _____

City of Santa Fe, New Mexico

memo

DATE: December 16, 2020

TO: Christopher L. Graeser, Liquor Hearing Officer

FROM: 
Yolanda Y. Vigil, City Clerk

ITEM & ISSUE

Request from Café Castro, Inc., for a Restaurant Liquor License (Beer and Wine), with on-premise consumption only and patio service, to be located at Café Castro.

BACKGROUND AND SUMMARY

The applicant has requested a Restaurant Liquor License (beer and wine), with on-premise consumption only, to be located at Café Castro, 2811 Cerrillos Road. Restaurant Liquor License No. 30639 is currently at this premise however, this application is necessary as ownership has transferred. This location is not within 300 feet of a church or school.

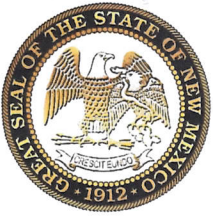
Attached is a staff report regarding litter and noise. Staff does not anticipate a substantial change in litter and noise due to the approval of this request.

As a condition of doing business in the city, staff is recommending that it be noted that the applicant is required to comply with all City ordinances.

ACTION REQUESTED

Consideration of above request.

Attachments: Alcoholic Beverage Control Division (ABC) Application
Notice of Public Hearing and Publications
Website Notice of Public Hearing
Applicant's Proof of Publication
Staff Report - Litter and Noise



**New Mexico Regulation and Licensing Department
ALCOHOLIC BEVERAGE CONTROL**

PO Box 25101 ▪ Santa Fe, New Mexico 87504-5101
Phone (505) 476-4875 ▪ Fax (505) 476-4595 ▪ www.rld.state.nm.us/abc

October 29, 2020

Certified Mail No.: 9171 9690 0935 0155 2455 99

Michelle Lujan Grisham
Governor

Marguerite Salazar
Superintendent

Andrew Vallejos
Director

City of Santa Fe

Attn: Yolanda Vigil, Clerk
PO Box 909
Santa Fe, NM 87504-0909

RCVD - CITY CLERK
20 NOV 5

RE: License No. | Application No.: Application No. 1176518
Name of Applicant: Café Castro, Inc.
Doing Business As: Café Castro
Proposed Location: 2811 Cerrillos Road, Santa Fe, NM 87507

Dear Local Governing Body,

The New Mexico Regulation and Licensing Department, Alcoholic Beverage Control Division (ABC) understands the difficulties that the current COVID-19 pandemic has created for governing bodies to hold public hearings. However, the New Mexico Liquor Control Act requires that after preliminary approval is granted, the application shall go to the Local Option District's (LOD) local governing body for approval.

With that in mind, when a local governing body receives a liquor license application from ABC, that governing body has a few options:

- 1) Hold a hearing on the license application within the statutory time frame of forty-five (45) days, as required by the Liquor Control Act, and comply with all other statutory and regulatory procedures and notify ABC of your decision within thirty (30) days of the hearing;
- 2) Request from ABC an extension of time, past the forty-five (45) days, designating how much additional time will be needed to conduct the hearing in compliance with all statutory and regulatory procedures, after the extension is granted and the hearing is held notify ABC of your decision within thirty (30) days of the hearing;
- 3) Return the application to ABC with neither an approval nor disapproval of the application. ABC will then proceed with the processing of the application pursuant to 60-6B-4(G).

ABC has no preference in the option you choose, please notify us of your decision, via email to the ABC Hearing Officer who sent the application to you, and we will continue with the application process in accordance with your decision.

Sincerely,


Charmaine Martinez, Hearing Officer

Alcoholic Beverage Control
(505) 476-4875

**THE APPLICANT IS SEEKING A RESTAURANT BEER AND WINE LIQUOR LICENSE
WITH ON PREMISES CONSUMPTION ONLY WITH PATIO SERVICE.**

ABC USE ONLY: Application Number: 1170518Local Option District: RECEIVED**RESTAURANT LIQUOR LICENSE APPLICATION**

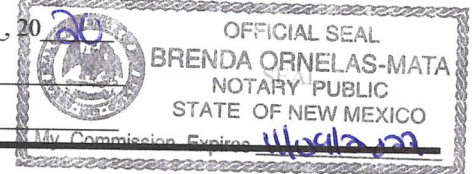
\$200.00 Application Fee, non-refundable.

Check appropriate boxes:

Application is for: ☒ New Restaurant Liquor LicenseApplicant is: ☐ Individual ☐ Limited Liability Company ☒ Corporation ☐ Partnership (General/Limited)NAME OF APPLICANT (company or individual): Cafe Castro IncADDRESS: 2811 Cerrillos Rd CITY Santa Fe STATE NM ZIP 87507APPLICANT PHONE #: 505-660-4119BUSINESS PHONE #: 505-473-5800D/B/A NAME TO BE USED: Cafe CastroEMAIL ADDRESS (required): info@cafecastrosf.comPHYSICAL LOCATION WHERE LICENSE IS TO BE USED: 2811 Cerrillos RdCITY Santa Fe STATE NM COUNTY Santa Fe ZIP 87507MAILING ADDRESS: 1521 Agua Fria St CITY Santa Fe STATE NM ZIP 87505Agent/Contact Person: Pascual D Hernandez Phone#: 5056604119 Email: info@cafecastrosf.comAre alcoholic beverages currently being dispensed at the proposed location? ☒ Yes ☐ No If Yes, License # / Type: 30639

I, (print name) PASCUAL HERNANDEZ, as (title) OWNER
 being first duly sworn upon oath deposes and says: that he/she is the applicant or is authorized by the applicant to make this application; that he/she has read the same; knows the contents therein contained are true. Applicant(s) agree(s) that if any statements or representations herein are found to be false, the Director may refuse to issue or renew the license or may cause the license to be revoked at any time.

You must sign and date this form before a Notary Public.

Signature of Applicant: [Signature] Date: 9-15-2020NOTARY PUBLIC USE ONLY: (State of New Mexico, County of Santa Fe)SUBSCRIBED AND SWORN TO before me this 15 day of September, 2020By: Pascual HernandezNotary Public: [Signature]My Commission Expires: 11/09/2022

FOR LOCAL OPTION DISTRICT USE ONLY: Local Governing Body of: _____ City, County, Village

Public Hearing held on _____, 20____. Check one: ☐ Approved ☐ Disapproved

Signature and Title of City/County Official: _____

FOR ALCOHOLIC BEVERAGE CONTROL DIVISION USE ONLY:

☐ Approved☐ Disapproved

Signed by Director: _____

Date: _____

\$200 2324680 9-22-2020



PREMISES LOCATION, OWNERSHIP, AND DESCRIPTION

NMSA §60-6B-10

1. The land and building which is proposed to be the licensed premises is: (check one)

☐ Owned by Applicant, copy of deed/document attached

☒ Leased by Applicant, copy of lease/document attached

☐ Other (provide details): _____

2. If the land and building are not owned by Applicant, indicate the following:

A. Owner(s): Julia + Carlos Castro

B. Date and Term of Lease: Feb 1 2020 > one year: option to Renew

3. Premises location is Zoned (example C-1, see Zoning Statement): _____

☐ Zoning Statement attached, which must be obtained from the Local Government, listing the proposed location by address, Type of Zone, state whether alcoholic beverages are allowed at proposed location, and if applicable, whether packaged sales, patio service and/or manufacturing is allowable. If there is no zoning in the proposed location, attach Statement from the local government, indicating there is no zoning.

4. Distance* from nearest Church: (Property line of church to closest point of licensed premises—shortest distance)

Name of Church: Santa Fe Christian Fellowship Church Miles/feet: 0.2 mi

Address/location of Church: 2860 Cerrillos Rd #5, Santa Fe NM 87507

5. Distance* from nearest School: (Property line of school to closest point of licensed premises—shortest distance)

Name of School: Salazar Elementary Miles/feet: 0.7 mi

Address/location of School: 1231 Apache Av. Santa Fe, NM 87505

6. Distance from military installation *(Property line of military installation to closest point of licensed premises—shortest distance.)

Name of Military Installation, circle one: Kirtland Air Force Base (Albuquerque), White Sands Missile Range (Las Cruces),
Hoffman Air Force Base (Alamogordo), Cannon Air Force Base (Clovis)

Miles: 58 mi

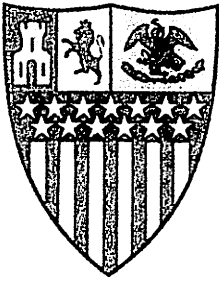
7. Attach Detailed Floor Plan, must include the Total Square Footage of premises; List nearest cross street; Show which direction is North; Show each level (floor) where alcoholic beverages will be sold or consumed, exterior walls, doors, and interior walls; Patio Area with type of barrier used; Highlight Bonded Areas. The floor plan should be no larger than 8½ x 11 inches and must be labeled with designated areas highlighted, which will reflect the proposed Licensed Premises.

8. Type of Operation: ☐ Hotel ☐ Lounge ☐ Package Grocery ☒ Restaurant ☐ Racetrack

☐ Small Brewer ☐ Craft Distiller ☐ Winery ☐ Wholesaler

☐ Other (specify): _____

*NOTE: If the distance is beyond 300 feet, but less than 400 feet, a Registered Engineer or Licensed Surveyor must complete a Survey Certificate showing the exact distance.



City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, N.M. 87504-0909
www.santafenm.gov

Alan Webber, Mayor

Councilors:

Signe I. Lindell, Mayor Pro Tem, District 1
Renee Villarreal, District 1
Michael J. Garcia, District 2
Carol Romero-Wirth, District 2
Roman "Tiger" Abeyta, District 3
Chris Rivera, District 3
Jamie Cassutt-Sanchez, District 4
JoAnne Vigil Coppler, District 4

September 16, 2020

Ms. Alma Castro
1521 Agua Fria Street
Santa Fe, NM 87505

Subject: Zoning Verification for Property Located at 2811 Cerrillos Road

Dear Ms. Castro:

As you requested, this letter provides zoning verification for the above referenced property. According to the Official Zoning Map, the property is located within the C-2 general commercial district.

14-4.3 (B) C-2 General Commercial District

Purpose and Intent: The C-2 general commercial district includes areas along streets carrying large volumes of traffic where commercial uses are appropriate. Regulations are designed to guide future additions or changes so as to discourage extension of existing and formation of future strip commercial development, to preserve the carrying capacity of the streets and to provide for off-street parking and loading.

Eating and drinking (liquor/alcohol) establishments are permitted uses within the C-2 district, as well as retail sales including but not limited to package liquor/alcohol.

For additional information, please reference City of Santa Fe Chapter 14 SFCC regarding these districts (Chapter 14-4 – Zoning Districts/14-6 Permitted Uses <http://clerkshq.com/default.ashx?clientsite=Santafe-nm>).

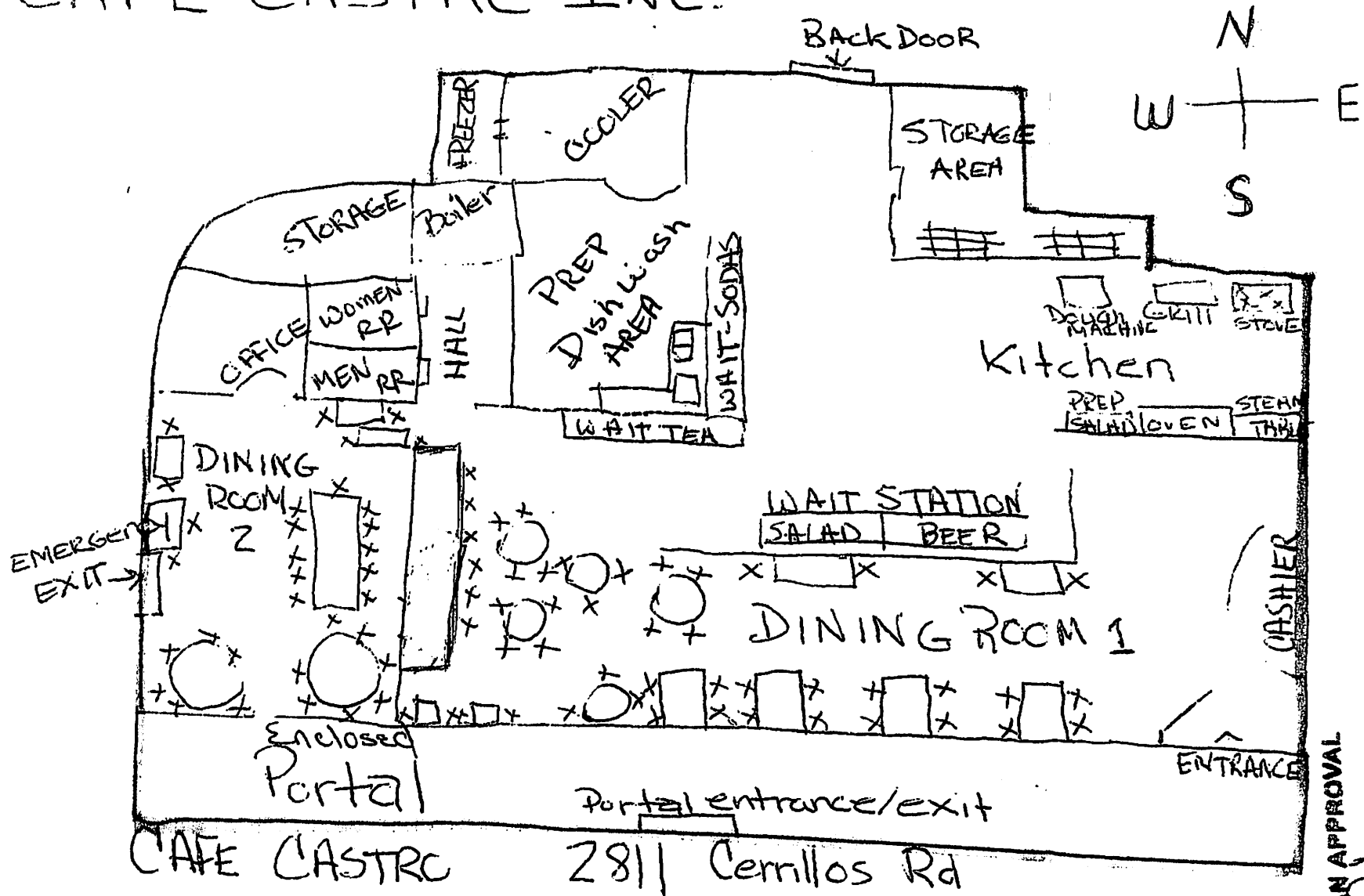
Note: The information provided in this letter is solely derived from the Official Zoning Map and the minimum requirements set forth in Chapter 14, SFCC 1987. This letter intends to provide advice regarding zoning regulations. It is not the intent to state that the subject property complies with zoning requirements. Occupancy is determined based on zoning compliance at the time of building permit or certificate of occupancy, whichever applies. Additionally, it is not the intent to interfere with or to abrogate or annul any official document including conditions or safeguards made a part of the subject property at the time of any public hearings. Applicants are advised to pursue an independent search of official documents.

If you require additional information, please contact me at jcneunuebel@santafenm.gov or 505-955-6656.

J. Neunuebel

John Neunuebel, Planner Senior
Current Planning Division

CAFE CASTRO INC.



CAFE CASTRO

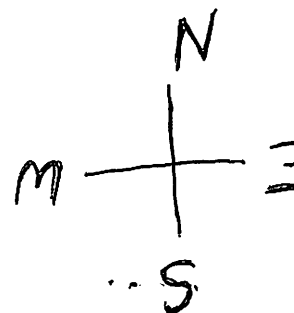
2811 Cerrillos Rd

Cerrillos Road

2975 sqft

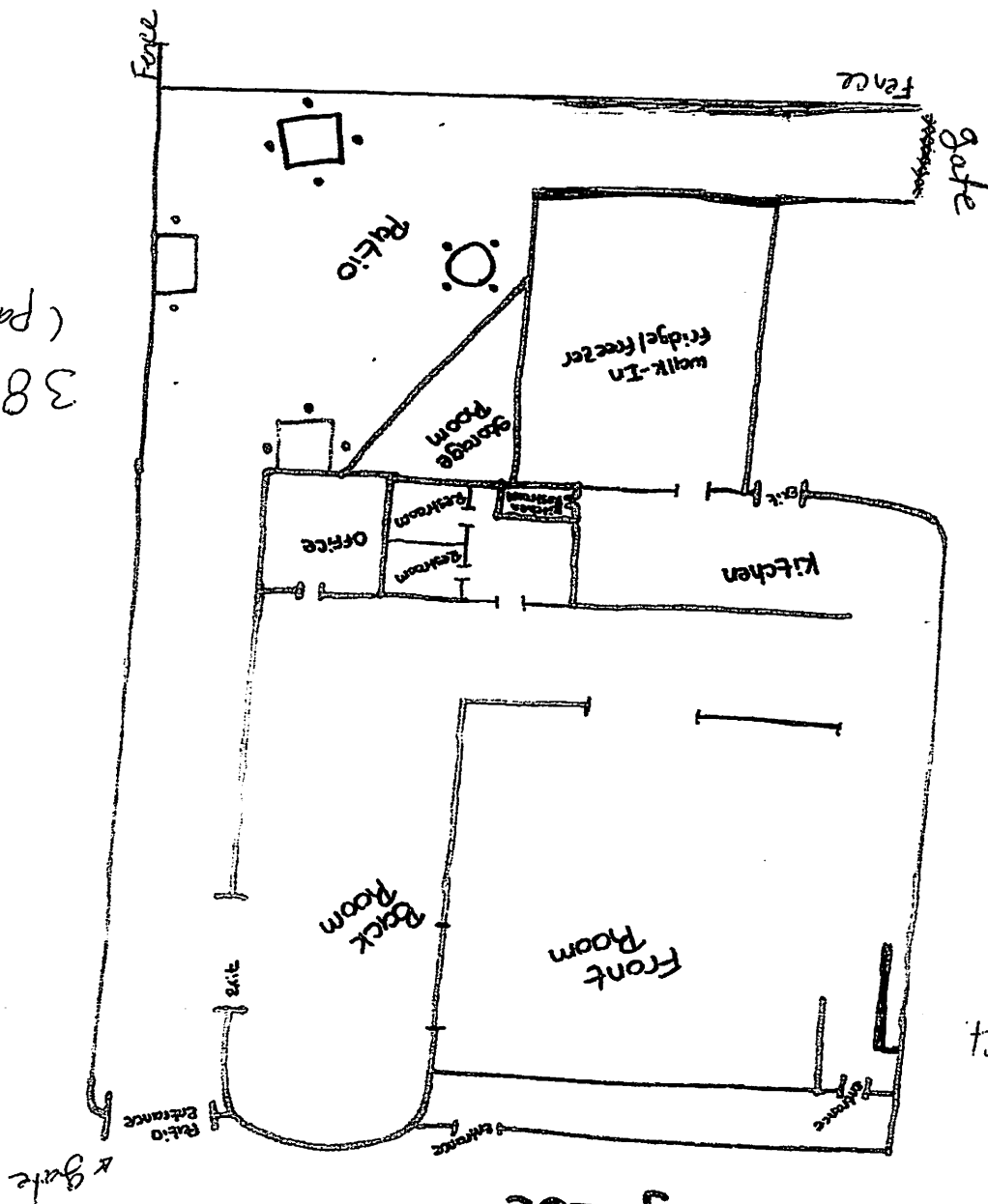
FLOOR PLAN APPROVAL

By [Signature]
Date 01-27-11



Cerrillos Rd.

Parking Lot



2,975
sq ft
(Inside)

381
sq ft
(Patio)

3,356 sq ft
(Total: inside + patio)

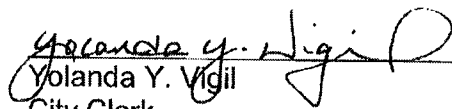
CITY OF SANTA FE

NOTICE OF PUBLIC HEARING

Notice is hereby given that the City of Santa Fe Liquor Hearing Officer will hold a public hearing at 4:00 p.m. on Monday, December 21, 2020.

The purpose of this hearing is to discuss a request from Café Castro, Inc., 1521 Agua Fria Street, Santa Fe for a Restaurant Liquor License (Beer and Wine), with on-premise consumption only and patio service, to be located at Café Castro, 2811 Cerrillos Road, Santa Fe.

Virtual meeting information will be posted on the City of Santa Fe's Weekly Meeting List at least seventy-two (72) hours before the meeting at https://www.santafenm.gov/weekly_meeting_list_agendas.


Yolanda Y. Vigil
City Clerk

Received by The Santa Fe New Mexican
Date: November 16, 2020
To Be Published: November 20, 2020 &
November 27, 2020

By 
The Santa Fe New Mexican (Signature)

LEGAL # 87751

**CITY OF SANTA FE
NOTICE OF PUBLIC
HEARING**

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Yolanda Y. Vigil
City Clerk

Pub. Nov. 20, 27, 2020

LEGAL # 87751

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NOTICE OF PUBLIC
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Yolanda Y. Vigil
City Clerk

Pub. Nov. 20, 27, 2020

December 21, 2020 at 4:00 P.M. - LIQUOR HEARING OFFICER

ATTEND VIRTUALLY

<https://www.youtube.com/user/cityofsantafe>

Request from Café Castro, Inc., 1521 Agua Fria Street, Santa Fe
for a Restaurant Liquor License (Beer and Wine), with On-Premise
Consumption Only and Patio Service, to be Located at Café Castro,
2811 Cerrillos Road, Santa Fe.

SANTA FE NEW MEXICAN

202 E. Marcy
PO Box 2048
Santa Fe, NM 87504
Phone: 505-983-3303
FAX: 505-984-1785

LEGAL # 87751

CITY OF SANTA FE NOTICE OF PUBLIC HEARING

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Yolanda Y. Vigil
City Clerk

Pub. Nov. 20, 27, 2020

Ad Proof/ Order Confirmation/ Invoice

PASCUAL DIEGO HERNANDEZ
1521 AGUA FRIA ST
SANTA FE NM, 875050909

505-660-4119

Account Number: STPDH

Ad ID: 4757

Ordered By: Alma Castro

Ad Cost: \$90.60

Tax Amount: \$7.64

Total Amount: \$98.24

Amount Due: \$98.24

PO Number:

Major Class: LEGAL NOTICES

Classification: Legals

Ad Type: Legal (wrapper)

of Words 120

Run Dates:

11/20/2020, 11/27/2020

Sales Rep: Shaundel Moya

Order Taken by: Shaundel Moya

Payment

Product:

Placement:

Ad Size: 1.00 x 4.49"

Modular Size:

Color:



City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, NM 87504-0909
www.santafenm.gov

Alan Webber, Mayor

Councilors:

Signe I. Lindell, Mayor Pro Tem, District 1

Renee Villarreal, District 1

Peter N. Ives, District 2

Carol Romero-Wirth, District 2

Roman "Tiger" Abeyta, District 3

Chris Rivera, District 3

Mike Harris, District 4

JoAnne Vigil Coppler, District 4

DATE: December 21, 2020

TO: Liquor Hearing Officer
Governing Body

VIA: Jarel LaPan Hill
Jarel LaPan Hill, City Manager
Elias Isaacson
Eli Isaacson, Director, Land Use Department

FROM: Jason Sena, Ordinance Enforcement Specialist

ITEM & ISSUE

Litter and noise impact assessment, due to a request from Café Castro, Inc., for the following:

Pursuant to §60-6B-10 NMSA 1978, request from Café Castro, Inc., 1521 Agua Fria Street, Santa Fe, for a Restaurant Liquor License (beer and wine), with on-premise consumption only, and patio service, to be located at Café Castro, 2811 Cerrillos Road, Santa Fe.

BACKGROUND AND SUMMARY

It is not anticipated that there will be a substantial change in litter and noise because of this request.



2811 Cerrillos Rd
C2

JORGENSEN LN

HARRISON RD

CERRILLOS RD

CATEGORY Specific Use	RR	R-1 R-6	R-7 R-9	R-7 I	RC-5, RC-8	R-10 R-29	MHP	RAC	AC**	C-1	C-2	C-4	HZ	BCD	I-1	I-2	BIP	SC-1	SC-2	SC-3	MU ***	Use- Specific Regs 14-6.2
Bar, cocktail lounge, nightclub, no outdoor entertainment								S ^{3,10}	S ³		P*			P	P	P		P*	P*	P*	P ²	
Bar, cocktail lounge, nightclub, with outdoor entertainment								S ^{3,10}	S ³		P*			P*	P*	P*		P*	P*	P*	P* ²	
Restaurant - full service, with or without incidental alcohol service								S ^{3,10}	S ³		P			P	P	P	S	P	P	P	P	
Restaurant with bar, cocktail lounge or nightclub comprising more than 25% of total serving area.								S ^{3,10}	S* ³		P*			P*	P	P		P*	P*	P*	P* ²	
Restaurant - Fast service/take-out, no drive-through/drive-up								S ^{3,10}		P ⁴	P	P ⁴		P	P	P	S	P	P	P	P	
Restaurant - with drive-through/drive-up											P*			P*	P*	P*	S	P*	P*	P*	P* ²	

City of Santa Fe
Liquor License Request
Supplemental Information



John Romero, Traffic Engineer

Phone: 955-6638

jjromero1@santafenm.gov

Complete this form and return to cityclerks@santafenm.gov or City Clerk's Office, Room 215, 200 Lincoln Avenue.

1. Name of Applicant: CAFE CASTRO INC
D/B/A Name to be used: CAFE CASTRO
Physical location where license is to be used: 2811 CERILLOS RD
Applicant Telephone Number: 505-660-4119 or 505-264-2162

2. Type of liquor license request:
☒ New license (indicate type: BEER & Wine)
☐ Transfer of location (indicate type: _____)
☐ Transfer of ownership (indicate type: _____)
☐ Transfer of ownership and location (indicate type: _____)

3. Is this an existing business?

☒ Yes
☐ No

4. Does the location where this license will be located currently sell liquor?

☐ Yes
☒ No

5. If the answer to questions #3 is yes, indicate the current hours of operation of the business.

Tuesday - Sunday 11 AM - 8 PM Closed - Mondays

If the hours of operation will change due to the sale of liquor, indicate the revised hours.

Will stay same

6. If this is a new business, indicate the anticipated hours of operation of the business.

N/A

7. If the answer to question #3 is yes, indicate the anticipated change in business volume due to the sale of liquor:
- ☐ Business is expected to increase (number of customers per day: _____)
- ☐ Business is expected to decrease (number of customers per day: _____)
- ☒ Business is expected to remain the same
8. If the answer to questions #3 is no, indicate the number of customers anticipated per day at the business.
- N/A
9. Estimate the number of customers per day who currently drive (or will drive) to the business versus the number who walk:
- 110 Number of customers who drive
- 10 Number of customers who walk
10. Has liquor ever been sold at this location?
- ☒ Yes
- ☐ No
11. If the answer to question #10 is yes, indicate the name of the establishment and the year(s) that the liquor sales occurred.
- CAFE CASTRO 2010-2020
12. Indicate which of the following statements best reflects your opinion regarding traffic impacts if this request is approved:
- ☐ Traffic can be expected to increase on adjacent streets.
- ☒ Traffic will not increase on adjacent streets.
13. Is an outdoor seating/patio area included in the licensed premise?
- ☒ Yes
- ☐ No
14. If the answer to question #13 is yes, is the outdoor area fully enclosed?
- ☒ Yes
- ☐ No

Name of person completing this form: PASCUAL D. HERNANDEZ


Telephone number: 505 660 9119

Date: 11-20-2020

(For City Use Only)

Based upon the information provided above, staff has the following comments:

- ☒ It does not appear that the approval of this request will create any unacceptable traffic impacts.
- ☐ It appears that the approval of this request will create unacceptable traffic impacts (see comments below).
- ☐ Other comments: _____

By: Regina Wheeler 

Title: Public Works Director

Date: 11/30/2020