

City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 10

Ordinance/Resolution# 11-147

Council District: 1

For Meeting of January 3, 2011
(Adoption Date)

TITLE: A RESOLUTION APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND NOPS ON WHEELS FOR THE EXCLUSIVE USE OF ONE PARKING STALL IN THE CITY PARKING AREA LOCATED AT CITY HALL, 700 NORTH MAIN STREET IN DOWNTOWN LAS CRUCES.

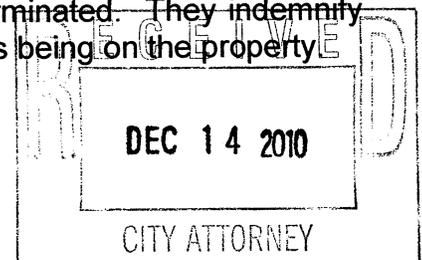
PURPOSE(S) OF ACTION: Lease portion of City Hall parking lot for business use.

Drafter and Staff Contact: Christine Logan <i>CL</i>		Department: Community Development		Phone: 541-2286	
Department	Signature	Phone	Department	Signature	Phone
Community Development	<i>DLW</i>	528-3066	Budget	<i>Richard Johnson</i>	541-2107
			Assistant City Manager	<i>[Signature]</i>	541-2271
Legal	<i>[Signature]</i>	541-2128	City Manager	<i>[Signature]</i>	541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS: As the City's Downtown Revitalization efforts continue, there is increased pedestrian and drive thru traffic in the area. Several mobile food vendors have established locations in the area to meet the demand for daytime food service.

Diane and Daniel Gallegos operate Nops on Wheels throughout the City under a mobile food vendor license. Any mobile food vendor operating within the City must have property owner permission to operate from a location other than the public right-of-way. The Gallegos have requested to occupy space in the parking lot in front of City Hall so that they can operate from this area on a regular basis. The City has entered into leases for similar use of parking areas in the past. Jesse's KCBBQ and Happy Dog operate from the parking areas around the Main Street Downtown. Desert Dog already operates in the City Hall parking area and some other businesses have requested space at City Hall. The attached lease agreement is based on the past leases.

The lease allows Nops on Wheels exclusive use of one parking space. The Gallegos must keep the property clean, abide by all zoning regulations and other City codes, and must restore the property to its current condition when the lease expires or is terminated. They indemnify the City against any liability that may occur as a result of the business being on the property.



Appraisals of City parking lots in the downtown area have estimated the value to be approximately \$5 per square foot as a sale price. The value of a food vendor lease comes in part from the land occupied (each parking space occupies roughly 200 square feet) and more significantly from the customer base that can be accessed from the lease site. The lease rate of \$100 per month is based on the value received by the business entering into the lease and has been promoted as the City Hall lease rate effective July 1, 2010.

Lease income would be deposited into the downtown fund established for land revenue earmarked for downtown improvements (fund 2715).

SUPPORT INFORMATION:

1. Resolution
2. Exhibit "A" – Lease
3. Vicinity Map

SOURCE OF FUNDING:

Is this action already budgeted?	N/A		
	Yes	<input type="checkbox"/> See fund summary below	
	N/A	<input type="checkbox"/> Not Applicable, no direct budgetary impact	
	No	<input checked="" 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	
Does this action create any revenue?			
	Yes	<input checked="" type="checkbox"/> Funds will be deposited into this fund: 2715 (Downtown Improvements-Local Fund) 27180010-591010	
	No	<input type="checkbox"/> There is no new revenue generated by this action.	

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
No expenditure					

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OPTIONS / ALTERNATIVES:

1. Vote YES on the Resolution and approve the lease of 1 parking stall in the City Hall parking lot to Nops on Wheels.
2. Vote NO on the Resolution to reject the lease. Nops on Wheels would not be allowed to operate from City Hall property.
3. Modify the terms of the agreement and then adopt the proposal.
4. Table the proposal and/or instruct staff to seek alternative direction.

REFERENCE INFORMATION

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

1. N/A

RESOLUTION NO. 11-147

A RESOLUTION APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND NOPS ON WHEELS FOR THE EXCLUSIVE USE OF ONE PARKING STALL IN THE CITY PARKING AREA LOCATED AT CITY HALL, 700 NORTH MAIN STREET IN DOWNTOWN LAS CRUCES.

The City Council of the City of Las Cruces is informed that:

WHEREAS, the City of Las Cruces is the owner of the parking lot located at 700 North Main Street in downtown Las Cruces, and

WHEREAS, Diane and Daniel Gallegos, owners of "Nops on Wheels", desire to utilize a portion of the parking lot to locate a mobile food vending business, and

WHEREAS, based on review by City staff, there is no conflict with this proposed use of the property, and

WHEREAS, the Gallegos will pay the City \$1,200 per year for the use of the property.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the Lease Agreement between the City of Las Cruces and Nops on Wheels, to provide for lease of a portion of municipal parking lot, attached as Exhibit "A", is hereby approved.

(II)

THAT the Mayor is authorized to execute the Agreement on behalf of the City.

(III)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this _____ day of January, 2011.

(SEAL)

APPROVED:

Mayor

ATTEST:

City Clerk

VOTE:

Mayor Miyagishima: _____
Councillor Silva: _____
Councillor Connor: _____
Councillor Pedroza: _____
Councillor Small: _____
Councillor Sorg: _____
Councillor Thomas: _____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

City Attorney

EXHIBIT "A"
LEASE AGREEMENT

This Lease Agreement is entered into on this _____ day of January, 2011 between the City of Las Cruces, New Mexico, hereinafter referred to as "City" and Diane and Daniel Gallegos, doing business as "Nops on Wheels", hereinafter referred to as "Gallegos".

WHEREAS, the City of Las Cruces is the owner of the parking area located at 700 North Main Street in downtown Las Cruces; and

WHEREAS, the Gallegos as the owners of Nops of Wheels has approached the City of Las Cruces with a request to use this property to operate their mobile food vending business.

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the parties hereby agree as follows:

1. The City shall allow Gallegos the exclusive use of one parking stall located at 700 North Main Street as shown on the attached Site Plan ("Property") between 5 am and 9 pm from January 1, 2011 to December 31, 2011.
2. Gallegos shall make application and obtain any permits and/or licenses required for use of the Property, to abide by any zoning conditions that may be applicable, and to maintain adequate business insurance during the term of this Agreement.
3. Gallegos shall make payment in the amount of \$100 per month for the term of the Agreement. Payment shall be made to the City of Las Cruces on or before the fifth day of each month. Payment for the initial month of the lease shall be due upon execution of this Agreement.

The use of the Property is subject to the following conditions:

1. Property shall be maintained by Gallegos in a satisfactory and workmanlike manner in accordance with all City codes, regulations and ordinances.
2. Gallegos may not make any permanent changes to the Property and shall not leave any items on the Property when the business is not present on the site.
3. The City reserves the right to relocate Gallegos to another location in the parking lot.
4. The City may sell, lease, or use other parcels in the parking lot.

Albert
Johnson
Park

Library

HATCH INDICATES
ASPHALT PAVING

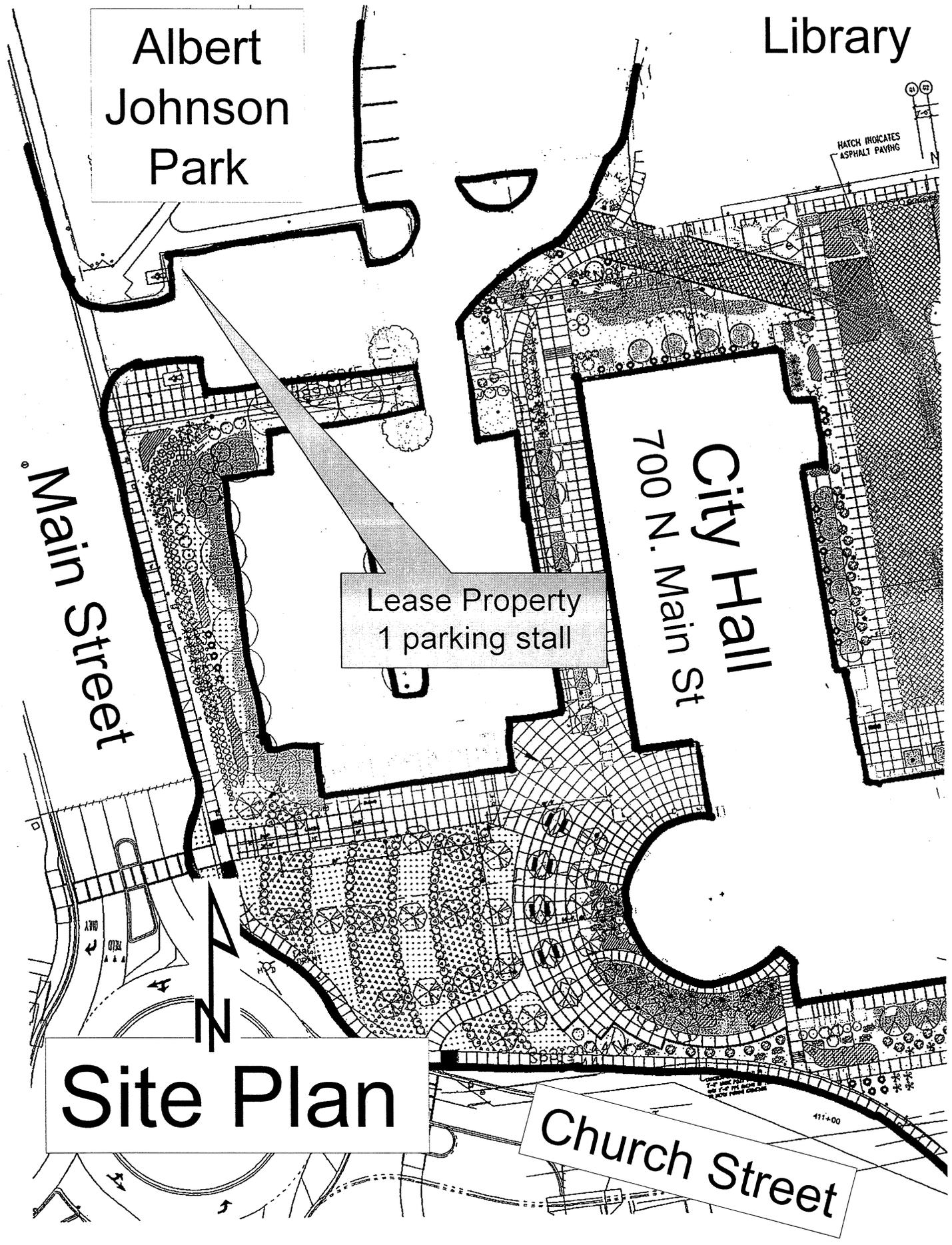
Main Street

Lease Property
1 parking stall

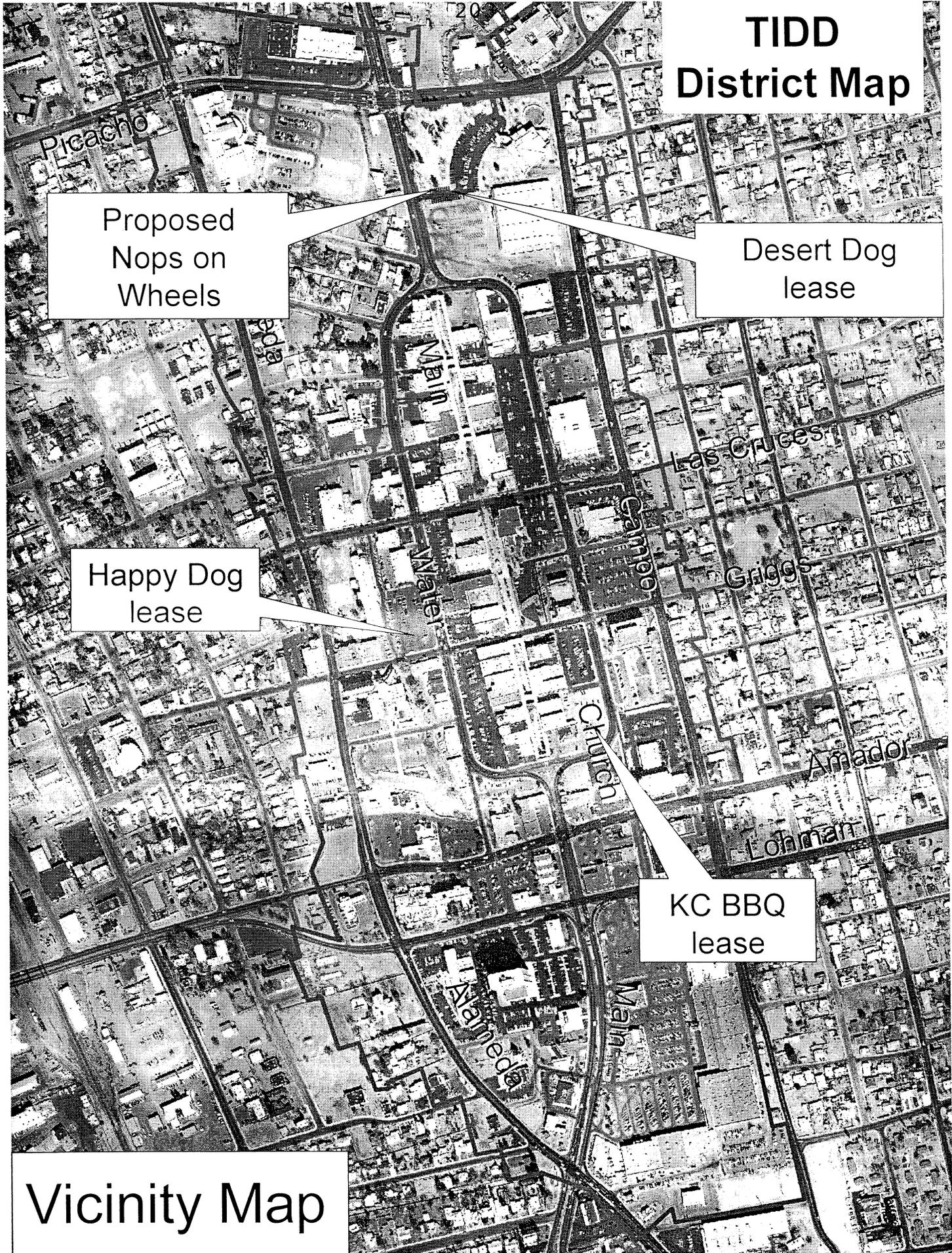
City Hall
700 N. Main St

Site Plan

Church Street



TIDD District Map



Proposed
Nops on
Wheels

Desert Dog
lease

Happy Dog
lease

KC BBQ
lease

Vicinity Map