

If you need assistance completing this application (general inquiries only) please contact Susan Walker, 974-2202; 505 Barton Springs Road, 2nd Floor (One Texas Center).

CASE # C15-2011-0071  
ROW# 10606153

TP-0212011201  
CITY OF AUSTIN

**APPLICATION TO BOARD OF ADJUSTMENT  
GENERAL VARIANCE/PARKING VARIANCE**

**WARNING: Filing of this appeal stops all affected construction activity.**

PLEASE: APPLICATION MUST BE TYPED WITH ALL REQUESTED INFORMATION COMPLETED.

STREET ADDRESS: 2130 Guadalupe, 500 W. 22<sup>nd</sup>, 505 W. 22<sup>nd</sup>, 2113 San Antonio, and 2105 Nueces

LEGAL DESCRIPTION: Subdivision - Louis Horst's Subdivision

Lot(s) 19 and 19-1/2 Block Outlot 35 Division D

Lot(s) 13, 14, 15 and 16 Block Outlot 23-1/2 Division D

Lot(s) 22, 23, 24, 25, 26, 27, 34, 35, 36 and 37 Block Outlot 22-1/2 Division D

I/We Larry Deuser on behalf of myself/ourselves as authorized agent for University Baptist Church of Austin affirm that on May 6, 2011, hereby apply for a hearing before the Board of Adjustment for consideration to:

(check appropriate items below)

     ERECT      ATTACH      COMPLETE      REMODEL      MAINTAIN

An Amendment is requested to Restrictive Covenant (Board of Adjustment Case No. C15-89-018) recorded in Vol. 11279, Page 1106, Real Property Records of Travis County, Texas (copy attached). The amendment will allow a temporary suspension of the requirement of the Restrictive Covenant to maintain a minimum of 170 off-street parking spaces. The Owner has leased the property for development as a high rise residential mixed use project. The tenant will construct a facility on the property which will contain at least 170 off-street parking spaces dedicated for Owner's exclusive use. During the period of construction, maintenance of parking spaces will not be possible. The temporary suspension will terminate upon completion of the construction of the new facility.

The property is  
in a MF-4-NP district.  
(zoning district)

**NOTE:** The Board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

**VARIANCE FINDINGS:** I contend that my entitlement to the requested variance is based on the following findings (see page 5 of application for explanation of findings):

**REASONABLE USE:**

1. The zoning regulations applicable to the property do not allow for a reasonable use because:  
HARDSHIP:

The property is in the University Neighborhood Overlay (UNO) District, and a building of up to 175 feet in height is allowed. Enforcement of the Restrictive Covenant would essentially eliminate any high-rise construction on the property.

2. (a) The hardship for which the variance is requested is unique to the property in that:  
The off-street parking is essential to the Sunday worship activities of the Owner. The Owner intends to arrange temporary alternative off-street parking in parking structures or on surface lots near the property.

- (b) The hardship is not general to the area in which the property is located because:

The new facility and the temporary suspension do not involve other property in the area.

**AREA CHARACTER:**

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

The temporary suspension of the Restrictive Covenant will not be inconvenient for the neighborhood. The Owner intends to arrange alternative off-street parking. Extra parking spaces are needed only on Sunday, and will be accommodated by the alternative off-street parking

**PARKING:** (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because:

The proposed new construction will be under a Site Plan SP-2011-0117C. The uses and traffic generated are within the limits imposed by the current zoning category.

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

The major streets near this project are Martin Luther King Jr. Blvd. West and Guadalupe Street. The Owner intends to arrange alternative off-street parking, and those streets should not be impacted during the suspension period.

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:


The Owner plans to minimize any inconvenience to the neighbors and congregants by arranging alternative off-street parking and by encouraging carpooling and maximizing use of the church vans.

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

The Owner's request is for a temporary suspension only until completion of the construction of the new facility.

<b>NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.</b>
--

**APPLICANT CERTIFICATE** -- I affirm that my statements contained III the complete application are true and correct to the best of my knowledge and belief.

Signed  Mail Address 2130 Guadalupe Street  
City, State & Zip Austin, Texas 78705  
Printed Larry Deuser Phone 512-507-8786 Date May 16, 2011

**OWNERS CERTIFICATE** – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed Beverly K. Locklin Mail Address 2130 Guadalupe St.  
City, State & Zip Austin, TX 78705  
Printed Beverly K Locklin Phone 512-343-0782 Date May 11, 2011

ATTACHMENTS TO APPLICATION TO BOARD OF ADJUSTMENT  
For the University Baptist Church of Austin 213 Guadalupe Street, Austin, TX 78705  
Filed May 16, 2011 by Larry Deuser 512-507-8786

Attachment A [2 pages]

Restrictive Covenant from Board of Adjustment Case No. C15-89-018  
Requiring 170 off-street parking spaces on certain property of UBC.

Attachment B [1 page]

An old subdivision map indicating location of lot numbers referenced in the Restrictive Covenant.

For reference: San Marcos = Guadalupe

Magnolia = Dr. Martin Luther King, Jr. Boulevard

Palmetto = 22<sup>nd</sup>                      Charles = San Antonio                      August = Nueces

Attachment C [3 pages]

Street elevation views of project to be built on Lots 13, 14, 15, 16, 20, 21, and 22.

Attachment D [2 pages]

Diagram of UBC dedicated parking in completed structure. See Parking Levels B-1, P-1, and P-2.



## BOARD OF ADJUSTMENTS

CASE#: C15-2011-0071  
 LOCATION: 2130 Guadalupe St, 500 and 505 W 22nd  
 GRID: 2113 San Antonio St and 2105 Nueces St  
 J23  
 MANAGER: Susan Walker



This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

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90082663

FILM CODE  
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Board of Adjustment Case No. C15-89-018

RESTRICTIVE COVENANT

Owner: UNIVERSITY BAPTIST CHURCH OF AUSTIN, a Texas non-profit corporation

Owner's Address: 405 West 22nd Street, Austin, Texas, 78705

Consideration: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

WHEREAS, UNIVERSITY BAPTIST CHURCH OF AUSTIN, a Texas non-profit corporation, is the owner of the certain real property located in the City of Austin, Travis County, Texas, described as follows:

Lots 19 and 19½ in Block 35; Lots 13, 14, 15, and 16 in Block 23½; and Lots 22, 23, 24, 25, 26, 27, 34, 35, 36, and 37 in Block 22½, all in the Louis Horst subdivision, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat recorded in Volume Z, Page 613, of the Deed Records of Travis County, Texas (all lots collectively referred to as the "Property"); and

WHEREAS, UNIVERSITY BAPTIST CHURCH OF AUSTIN, in connection with its application to the City of Austin Board of Adjustment for the variance described in the City's Planning Department file number C15-89-018, has represented to the Board of Adjustment and others concerned with the proposed variance that 170 off-street parking spaces are and will remain available for the use of the church, and has offered to impress the Property with certain covenants and restrictions to implement that promise;

NOW, THEREFORE, the UNIVERSITY BAPTIST CHURCH OF AUSTIN, for and in consideration of the premises and the consideration set forth in this Restrictive Covenant, declares and shall hold, sell, and convey the Property subject to the following covenants and restrictions, which are intended to and shall run with the land, and shall be binding on the Owner of the Property, its successors, and assigns:

1. Owner shall provide and maintain in accordance with applicable laws and regulations a minimum of 170 off-street parking spaces on the Property, to be available at all times for the uses established on the Property.
2. If any person or entity shall violate or attempt to violate the terms and provisions of this restrictive covenant, the City of Austin may prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
3. If any part of this restrictive covenant is declared invalid, by judgment or court order, the same shall in no way affect any of its other provisions, and such remaining portions of this restrictive covenant shall remain in full effect.

4. If at any time the City of Austin fails to enforce this restrictive covenant, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce its terms and provisions at any time.

5. This restrictive covenant may be modified, amended, or terminated only with the consent of both (a) the Board of Adjustment of the City of Austin, and (b) the owner(s) of the Property at the time of such modification, amendment or termination.

UNIVERSITY BAPTIST CHURCH OF AUSTIN,  
a Texas non-profit corporation

BY: *Doren Eskew*  
Doren Eskew,  
Chairman of the Board of Trustees  
University Baptist Church of Austin

Date: Sept. 25, 1990.

THE STATE OF TEXAS  
COUNTY OF TRAVIS

§  
§

NOTARY SEAL

This instrument was acknowledged before me on this the 25<sup>th</sup> day of Sept., 1990, by Doren Eskew, Chairman of the Board of Trustees for the UNIVERSITY BAPTIST CHURCH OF AUSTIN, a Texas non-profit corporation, on behalf of that corporation.

*Rebecca Jane Frost*  
Notary Public Signature

Rebecca Jane Frost  
Type or Print of Notary  
My Commission Expires: 11/17/90

Return:  
City of Austin  
Dept. of Law  
P.O. Box 1088  
Austin, TX 78767-8828  
Attn: Joe Gumeny

FILED

SEP 25 4 09 PM '90

DAVID L. JOHNSON  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

2

STATE OF TEXAS COUNTY OF TRAVIS  
I hereby certify that this instrument was FILED on  
the date and at the time indicated herein by me and  
was duly RECORDED, and the Page of the  
record RECORDS of Travis County, Texas, is

SEP 25 1990



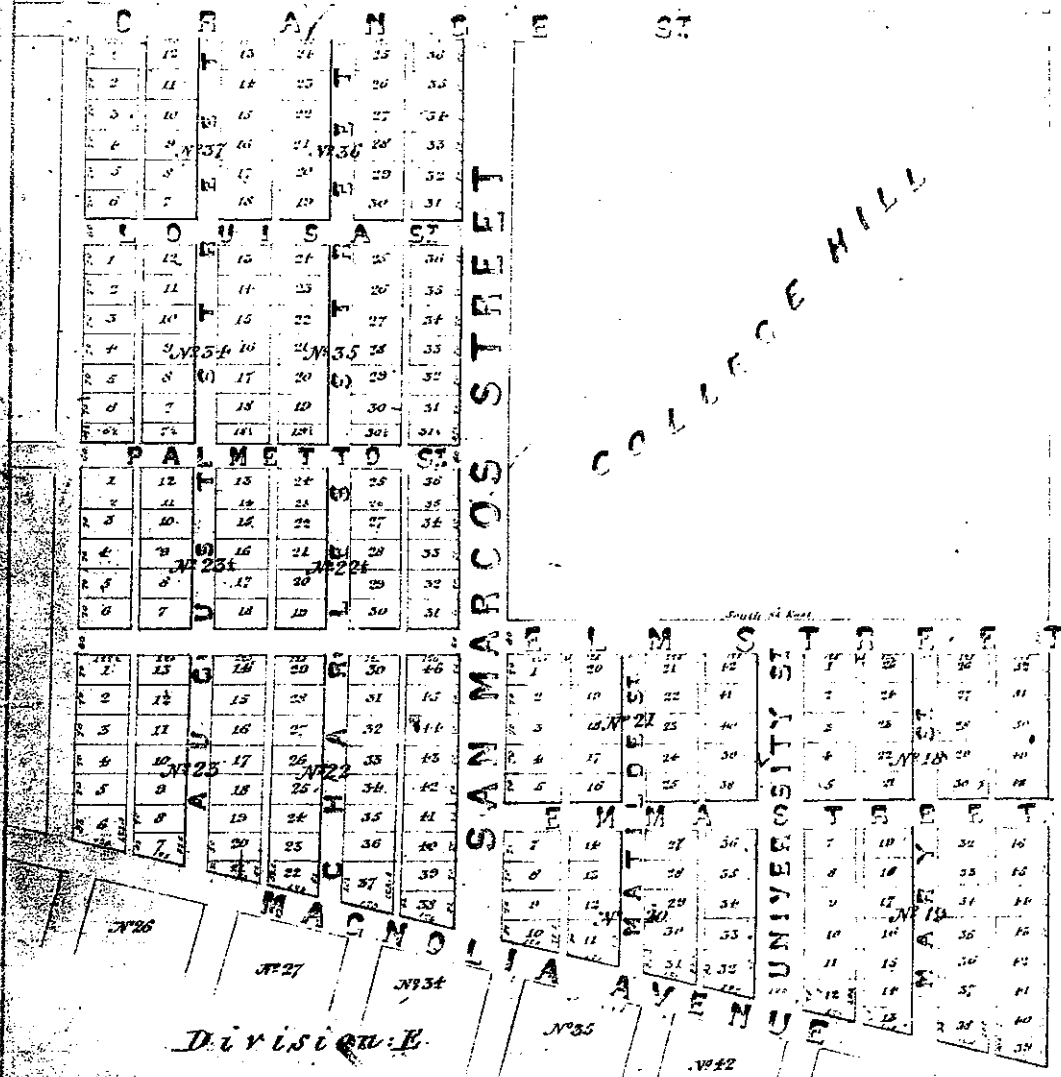
*Rebecca Jane Frost*  
Notary Public  
TRAVIS COUNTY, TEXAS

REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

11279 1107

Z/613

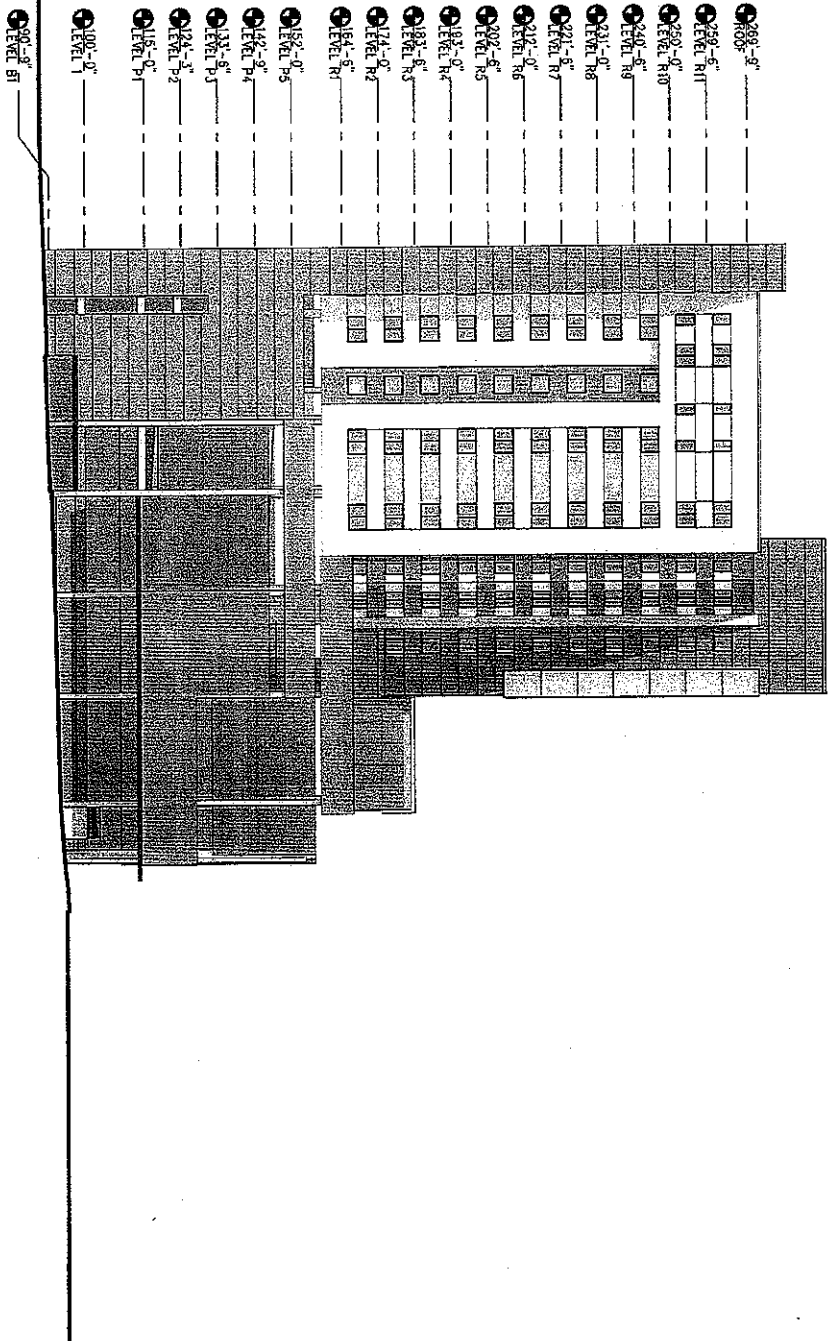
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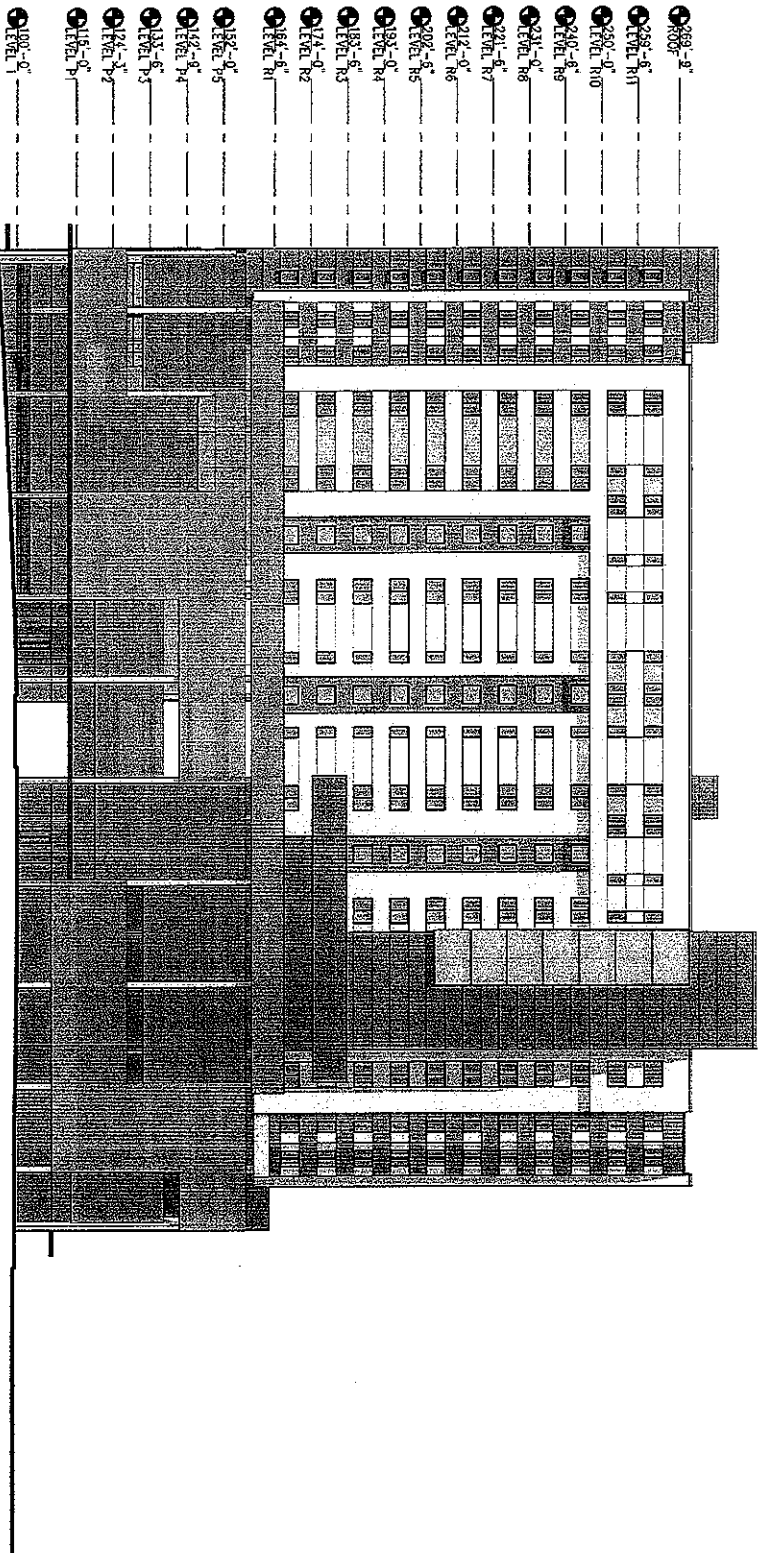
PLAN  
OF  
SUBDIVISION  
OF  
LOUIS HORST'S  
OUT LOTS  
IN  
DIVISION D and DIVISION E  
Scale.

Z/613

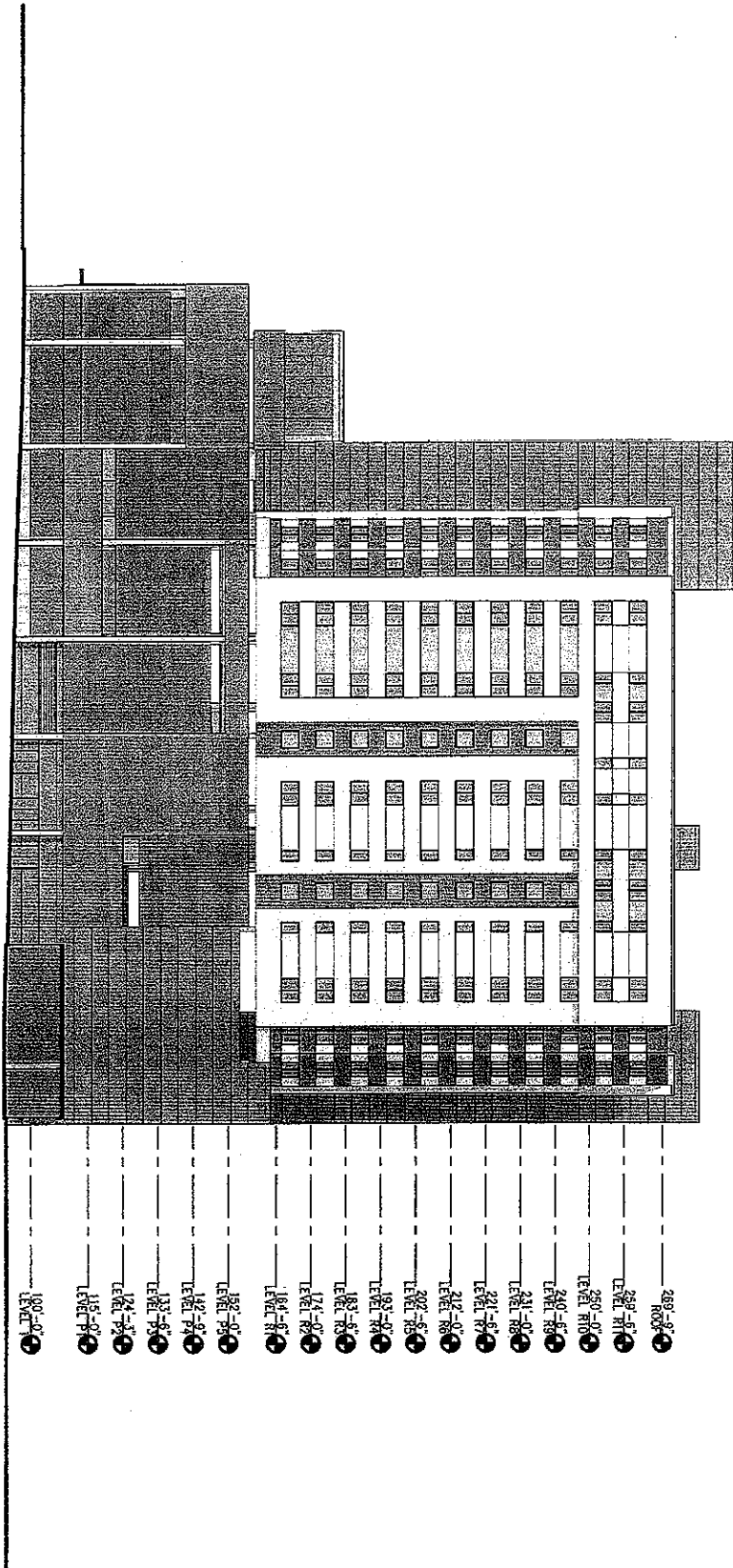
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East Elevation

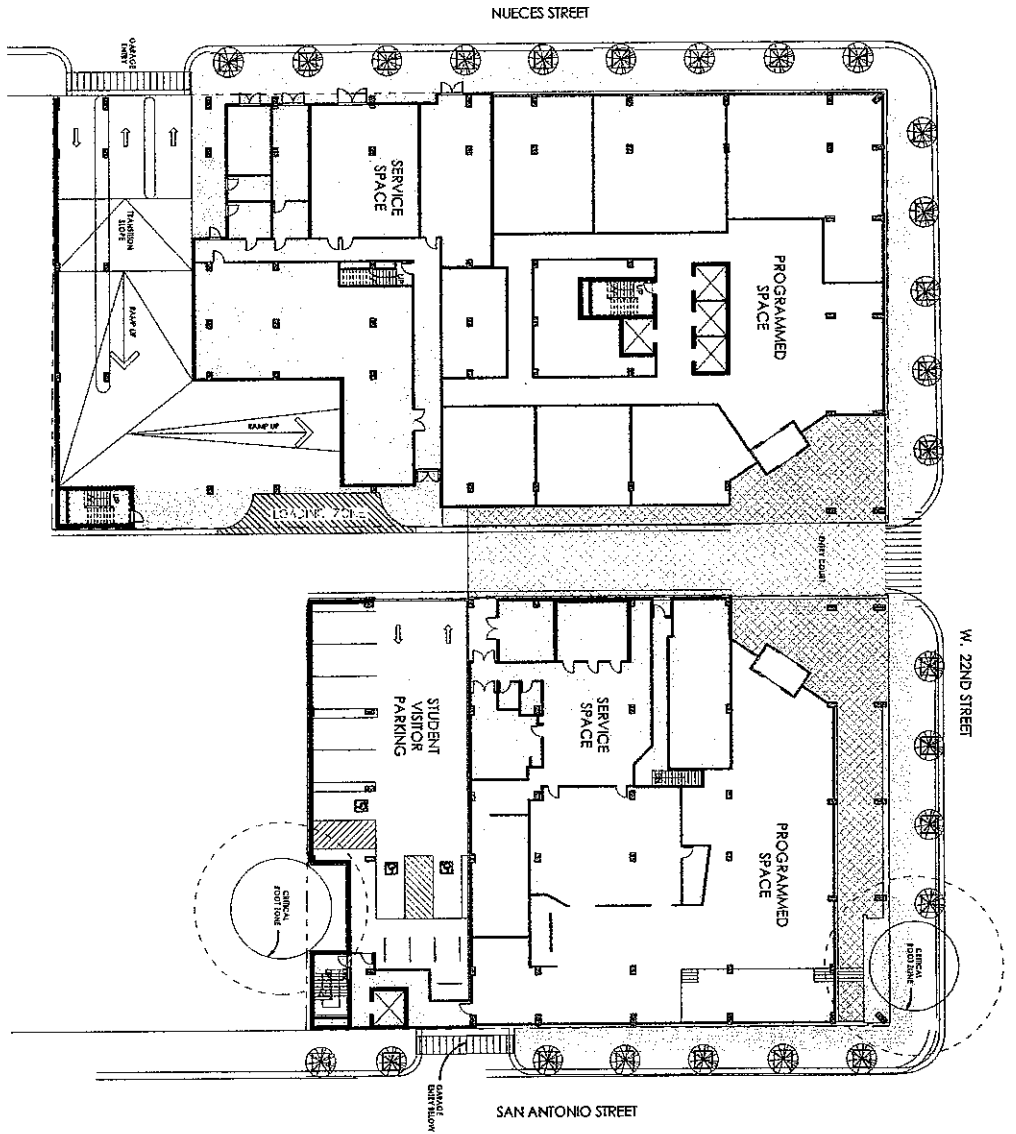


ACC OP - WEST CAMPUS  
North Elevation

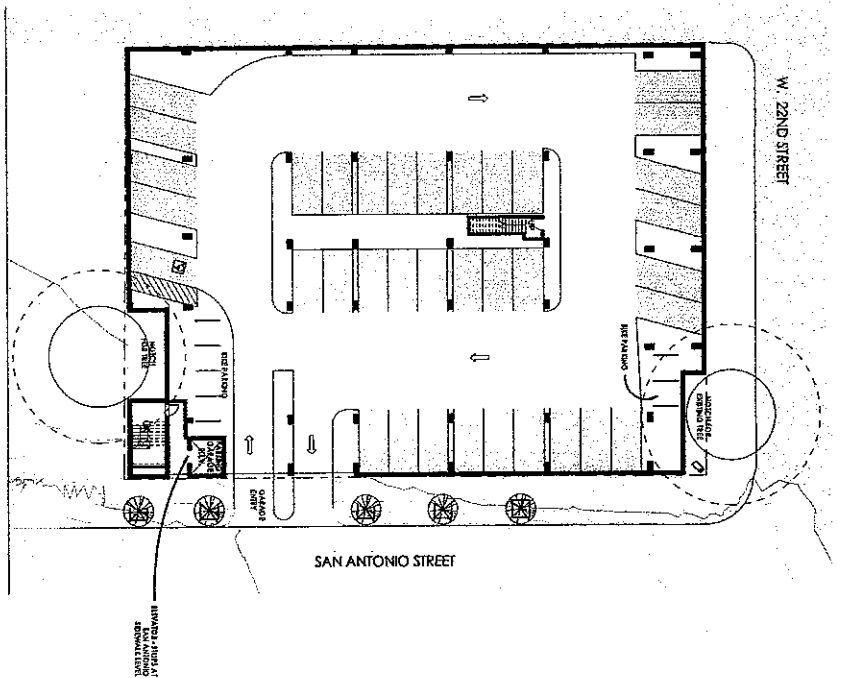


ACC OP - WEST CAMPUS  
West Elevation





2 LEVEL 1  
1/16" = 1'-0"

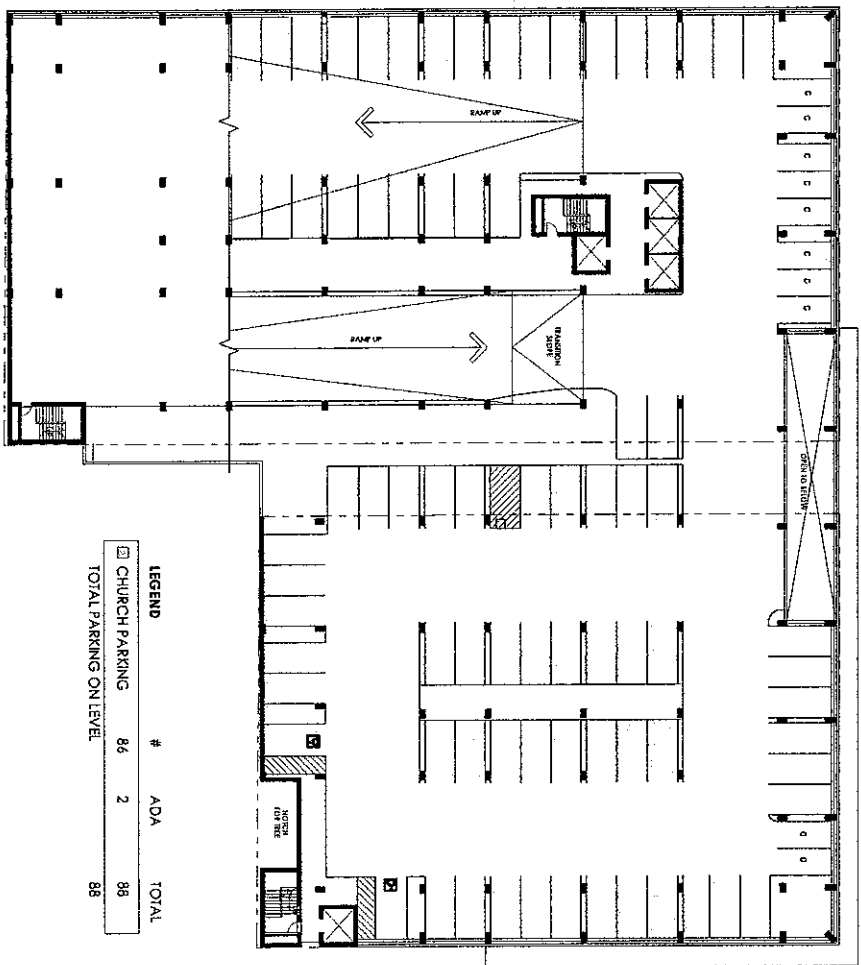


1 PARKING LEVEL-B1  
1/16" = 1'-0"

ACC

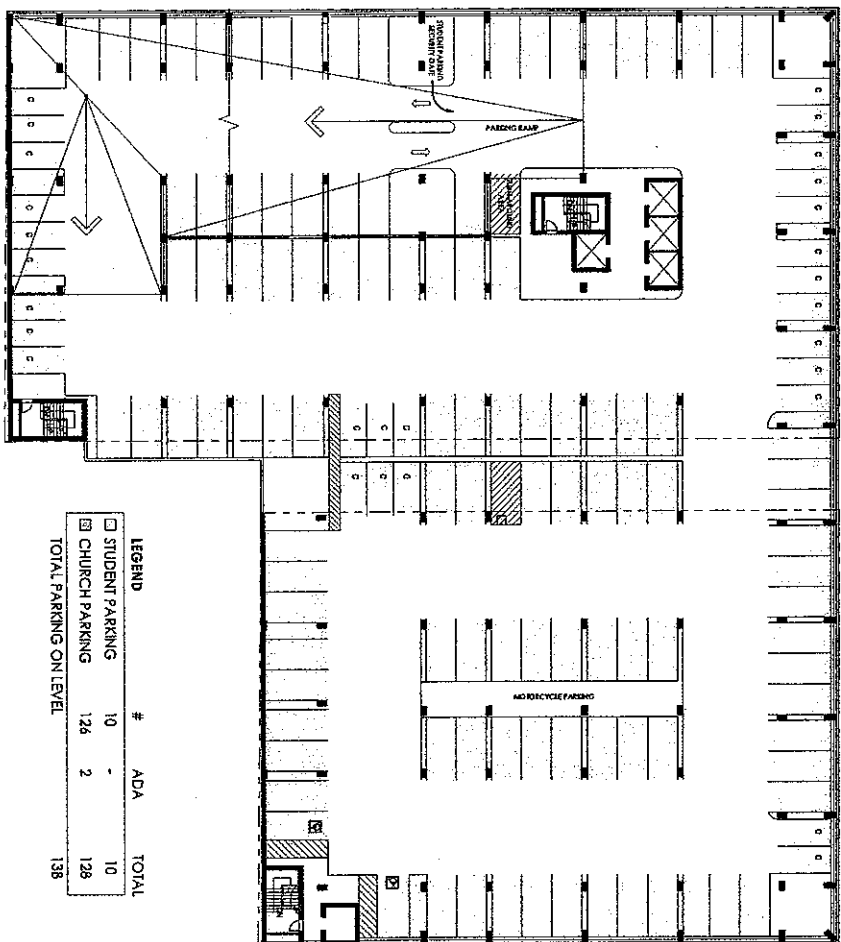
SCHEMATIC DESIGN  
ACC OF WEST CAMPUS

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**LEGEND**

<input checked="" type="checkbox"/> CHURCH PARKING	#	ADA	TOTAL
	86	2	88
<b>TOTAL PARKING ON LEVEL</b>			88



**LEGEND**

<input checked="" type="checkbox"/> STUDENT PARKING	#	ADA	TOTAL
	10	-	10
<input checked="" type="checkbox"/> CHURCH PARKING	126	2	128
<b>TOTAL PARKING ON LEVEL</b>			138

## 1 PARKING LEVEL-P1

1/16" = 1'-0"

## 2 PARKING LEVEL-P2

1/16" = 1'-0"

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## APPLICATION TO BOARD OF ADJUSTMENT

## GENERAL VARIANCES / PARKING VARIANCES

WARNING: Filing of this appeal stops all affected construction.

PLEASE USE BLACK INK

PART I: APPLICANT'S STATEMENT

STREET ADDRESS: 405 W. 22nd

LEGAL DESCRIPTION: Subdivision - Louis Horsts Subdivision

Lot(s) 25, 26, 27 Block 22-1/2 Outlot - Division -

I/~~We~~ Brad D. Pfluger on behalf of myself/ourselves as authorized agent for University Baptist Church affirm that on March 27/19 89, hereby apply for a hearing before the Board of Adjustment for consideration to:

ERECT - ATTACH - COMPLETE - REMODEL - MAINTAIN - SUBDIVIDE

REMODEL THE EXISTING EDUCATION BUILDING AND ATTACH ADDITIONS TO THIS BUILDING FOR THE PURPOSE OF CONNECTING THE SANCTUARY, DAY CARE, AND SUNDAY SCHOOL BUILDINGS TOGETHER FOR BETTER PEDESTRIAN CIRCULATION & ACCESS FOR HANDICAPPED & ELDERLY CITIZENS. PROVIDING A FAR OF 1.5:1, A BUILDING COVERAGE OF 65% AND REQUESTING A VARIANCE ON THE 132 PARKING SPACES PROVIDED BY ADDITIONS.

in a multi family 4 zone.  
(zone district)

NOTE: The Board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

VARIANCE FINDINGS: I contend that my entitlement to the requested variance is based on the following findings:

REASONABLE USE:

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:

THE EXISTING BUILDINGS LOCATED ON LOTS 25, 26, & 27 WERE CONSTRUCTED PRIOR TO ADOPTION OF CURRENT ORDINANCES. THE CURRENT ZONING (MF-4) DOES NOT ALLOW ADDITIONAL BUILDING SPACE TO BE ADDED TO THE SITE SINCE THE EXISTING BUILDINGS EXCEED ALLOWANCE FOR SITE COVERAGE AND FAR. (FLOOR AREA RATIO'S).

## HARDSHIP:

2. (a) The hardship for which the variance is requested is unique to the property in that:

THE EDUCATION & SANCTUARY BUILDINGS WERE CONSTRUCTED ON SPLIT LEVELS (SEE BLDG. SECTION ATTACHED); MAKING ACCESS FOR HANDICAP INDIVIDUALS IMPOSSIBLE AND ACCESS FOR ELDERLY UNSAFE. ADDITIONS WERE PLANNED IN 1974, TO CONNECT THESE FACILITIES AND SPLIT LEVELS THROUGH ELEVATED WALKS AND ELEVATORS. THESE ADDITIONS ARE DESIGNED TO SEPERATE VEHICULAR & PEDEST

TRAF

- (b) The hardship is not general to the area in which the property is located because:

THE EXISTING BUILDINGS ARE CONSTRUCTED ON MULTI-SPLIT LEVELS AND BUILDINGS ARE SEPERATED BY A PUBLIC ALLEYWAY. THESE CONDITIONS MAKE TRAFFIC FROM BUILDING TO BUILDING UNSAFE FOR PEDESTRIANS AND AUTOMOBILES ALIKE (SEE ATTACHED LETTER).

## AREA CHARACTER:

3. The variance will not alter the character of the area adjacent to the zoning district in which the property is located because:

THE PLANNED ADDITIONS AND RENOVATIONS WILL IMPROVE THE SITE AND APPEARANCE OF EXISTING BUILDINGS BY MAINTAINING REQUIRED SETBACKS, RENOVATING BUILDINGS, & ADDING LANDSCAPING IN PLACE OF WORN ASPHALT DRIVES. TRAFFIC CONGESTION WILL BE REDUCED THROUGH IMPROVED AUTOMOBILE & PEDESTRIAN CIRCULATION. THE AREA IS DESIGNED FOR & IS QUICKLY BECOMING A HIGH DENSITY AREA.

## PARKING: (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 6340 (a) (b) of Chapter 13-2A with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specified regulation because:

THE EXISTING BUILDINGS ON THE PROPERTY DO NOT ALLOW FOR ANY ON SITE PARKING WHICH IS A SIMILAR CONDITION TO THE MAJORITY OF THE SITES SURROUNDING THE PROPERTY. THE PARKING FOR ALL EXISTING BUILDINGS IS LOCATED OFF SITE & IS PERMITTED BY GRANDFATHER CLAUSE.

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

THE ADDITIONS PLANNED ARE DESIGNED TO IMPROVE CURRENT CIRCULATION AND LOADING PROBLEMS. THE CHURCH OWNS 228 SPACES OFF SITE DIRECTLY ACROSS THE STREET WHICH EASILY ACCOMMODATE THEIR PRESENT & FUTURE NEEDS. PLANNED ADDITIONS ARE FOR CIRCULATION & GATHERING SPACE FOR EXISTING CHURCH. WE DO NOT ANTICIPATE THAT ANY SPACE IS BEING ADDED THAT REQUIRES ADDITIONAL PARKING (UNLESS REQUIRED BY CITY DUE TO SQ. FT. ADDITION) FACILITIES ARE USED AT DIFFERENT TIMES MAKING SHARED PARKING POSSIBLE OFF SITE.

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

THE ADDITIONS PLANNED ARE DESIGNED TO CORRECT CURRENT SAFETY HAZARDS, TO EASE CIRCULATION, BRING BUILDINGS UP TO CODE, & TO FACILITATE SAFE ACCESS TO & FROM EXISTING FACILITIES. THIS VARIANCE WILL HELP TO IMPROVE THE FACILITIES MAKING THEM SAFER & MORE IN LINE WITH CURRENT CODES FOR LIFE SAFETY & HANDICAP ACCESS.

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

THIS PROPERTY HAS BEEN OWNED BY UNIVERSITY BAPTIST CHURCH AND OPERATED AS A SUNDAY SCHOOL/MINISTRY BUILDING SINCE 19 . THE CHURCH HAS NO INTENTION TO CHANGE THE USE OF THE BUILDING TO ANY OTHER THAN CHURCH RELATED FACILITIES.

NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

APPLICANT CERTIFICATE - I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed Brad D. Pfluger 213 So. Lamar, #300  
Mail Address Austin, Texas 78704  
Printed Brad D. Pfluger Phone (512) 476-4040 Date 03/27/89

OWNERS CERTIFICATE - I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed Larry Bethune 2200 San Antonio Street  
Mail Address Austin, Texas 78705  
Printed Rev. Larry Bethune Phone (512) 478-8559 Date 03/27/89

## PART II: BUILDING OFFICIALS STATEMENT

Applicant is requesting a variance to:

erect an addition to an existing Religious facility  
providing an F.A.R. of 1.5:1, a building coverage of  
65% and to provide no paved off-street parking.  
32 spaces are required.

Section 630(c) of Chapter 13-2 provides, requires, or allows:

permit a maximum F.A.R. of .75:1 and permit a  
maximum building coverage of 60%, 13-5-107 requires no  
parking space for each 10 seats

DATE 3/28/89

BUILDING OFFICIAL Jim Bennett

CITY OF AUSTIN

BOARD OF ADJUSTMENT DECISION

BOARD OF ADJUSTMENT

Date May 8, 1989

Case # C15-89-018-

APPLICANT:

University Baptist Church

ADDRESS:

405 West 22nd Street

CHANGE REQUESTED:

Erect an addition to an existing religious facility providing a floor to area ratio of 1.5:1, a building coverage of 65% and requests a variance to provide no paved off-street parking (32 spaces are required), in a "MF-4" Multiple Family Residence District.

BUILDING INSPECTORS DECISION:

Section 13-2-630 (c) permits a floor to area ratio of .75:1 and permits a maximum building coverage of 60%. Section 13-5-107 requires one parking space for each 10 seats.

BOARD OF ADJUSTMENT DECISION:

5-0 Grant FAR & Building Coverage - Surrounding properties have greater FAR. Not alter character of area as church has been existing.

5-0 Grant Parking Conditionally - upon the availability of the ~~170~~ 170 spaces required by ordinance, to be set of record by Restrictive Covenant.

Mike Heitz

for Board of Adjustment

may 8, 1989

Draft  
copy

C15-89-018

University Baptist Church:

405 West 22nd Street

Mr. Bennett reported this request is to erect an addition to an existing church facility providing a floor to area ratio of 1.5:1, a building coverage of 65%, and requests a variance to provide no paved off-street parking (32 spaces are required), in a "MF-4" Multiple Family Residence District.

The staff reported Section 13-2-630 (c) permits a floor to area ratio of .75:1, and permits a maximum building coverage of 60%. Section 13-5-107 requires one parking space for each 10 seats.

Mr. Bennett added that in relation to the parking issue the Ordinance states when an occupant load, or seating capacity is to be determined, the Building Code will determine the number of occupants that can be in the building. This is where the 32 spaces is derived from.

No written response to the notice was received.

Ms. Berezovytch stated that the request is for a floor to area ratio of 1.5:1, and the Ordinance requires .75:1. What is existing before the addition? Also, what is the total parking which is provided now, and what is the total it would be required?

Mr. Bennett stated there are no parking spaces being provided on the subject site, all parking will be off-site. There is a parking lot, owned by the church, across the street. However, that cannot be counted as off-site parking, because this Board does not deal with off-site parking.

Mr. Brad Pfluger appeared on behalf of the applicant's request. He stated the project consists of two parts. The first portion is a remodel, and they would like to address the additions to this project. The purpose of the addition is to facilitate circulation between existing buildings.

Mr. Pfluger submitted site plans showing the proposed additions. He stated there are 3 circulations problems they would like to remedy with the proposed additions.

The first problem is the access to the various levels in the sanctuary building and Sunday school building. These facilities are currently constructed on multiple split levels. The stairs are currently the primary access to each of the levels in the buildings which makes access for the elderly unsafe, and access for the handicapped impossible.

The second issue is that circulation be improved to and from the day care building. Currently, children are unloaded in the driveway off of San Antonio Street. The few parking spaces which exist are filled quickly and traffic during peak hours backs up onto San Antonio Street. The addition is planned to provide a covered drop off location and holding space where the children can be dropped off.

without the parents leaving the cars. The children will enter a safe place monitored by day care personnel. This reduces the need for on-site parking spaces and allows for continuous flow of drop off traffic. In the event an individual does need to park for the day care or education building, spaces are provided across San Antonio Street in the church owned parking lot. The first few rows, in that lot, are specifically provided for the day care and education building parking.

The third issue is the floor to area ratio. He pointed out that the majority of the area surrounding the church have high floor to area ratios in comparison to MF-4 requirements. The maximum allowed in the MF-4 is .75:1. The existing buildings on the site currently already occupy 1.13:1. They were built a long time ago, before this zoning was in effect. The proposed site, (the proposed addition plus the existing building) will be 1.5:1. The increase is approximately .37 in the overall scope of the project.

The building coverage allowed is 60%, the site is already existing at 61.5%. They are proposing a total of 65%, which is an addition of 3.5%.

The existing parking for the church, the day care building, and for the education building is located across the street. It is based upon a computation of 1-400 spaces, which was the most recent until a year ago. This requirement was for 138 spaces. The spaces required for the addition is 1-10, which is 32 spaces. The total parking spaces required is 172. They currently have 228 spaces in the lot across the street.

He stated that the zoning regulations applicable to the property do not allow for a reasonable use because existing buildings located on the property were constructed prior to the adoption of current ordinances. The buildings on site were planned for additions, however, due to the floor to area ratio prescribed by the current MF-4 zoning, no additional square footage may be added. It is their opinion that the existing site has a unique hardship not shared by properties in the general area, and that the education and sanctuary buildings were constructed on multiple split levels. In addition, the buildings owned by the church are separated by a high traffic alleyway which does not permit safe circulation from building to building.

The additions and renovations planned for the church are intended to enhance and improve the existing facilities. These improvements will have a positive impact on the areas surrounding the site. All setbacks will be maintained, buildings will be renovated, landscape will be added, and traffic problems will be reduced due to the improved automobile and pedestrian circulation.

The church has met with the Save the University Neighborhood Association, and with surrounding neighbors of which they have not received any opposition. They have received letters which support the church's efforts.

The existing buildings have parking located directly across San Antonio Street, which is owned by the church. The existing buildings do not allow any on-site parking, which is a similar condition to the majority of sites surrounding the property. The granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic because the additions planned are designed to improve current circulation and loading problems. The church owns over 228 spaces off-site directly across the street which easily accommodates our present and future needs.

Planned additions are for circulation and holding areas for the existing church. We do not anticipate any spaces being added that requires additional parking. In addition, the facilities are used at different times which makes shared parking possible.

The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of the ordinance because the additions are planned and designed to correct current safety hazards, to ease circulation, bring buildings up to code, and to facilitate safe access to and from the existing facilities. The variance will help to improve the facilities and make them safer and more in line with current codes for life, safety and handicapped access.

The facilities for which they are requesting a variance have been owned and operated by University Baptist Church for over 80 years. The church has no intention of changing the uses of these buildings.

The church has undergone an extensive process for master planning. They realize they are landlocked and do not want to cross a lot of street. They would like to utilize the land they already own.

Mr. Mike McHone, president of the Save University Baptist Church, appeared in support of the request. He stated the facts of the case demonstrate that there is a unique hardship. This is the type of case that can be handled by granting a variance from the Board of Adjustment.

No one appeared in opposition to the request.

Mrs. Richter asked if by granting this variance, would the Board, in effect, be granting a zoning change as the floor to area ratio is different in commercial zonings.

Ms. Landers stated that no, churches are allowed in most zonings; the floor to area ratio does change throughout the different zonings.

Mrs. Richter asked how the parking for this project was determined.

Mr. Bennett stated that 13-5, Transportation Ordinance, outlines the number of spaces, requiring 1 parking space for every 10 seats. In addition, where an occupant load, or seating capacity, is used to

determine the number of parking spaces, then the Building Code occupancy load is used to determine that number.

Dr. Johnson made a motion to grant the variance for the floor to area ratio. She stated the reasonable use of this property is to increase not the number of people coming to the church, but how they are able to get around it.

The hardship is unique to the property and not general to the area. The variance will not alter the character of the area.

Ms. Balch seconded the motion stating the difference in the floor to area ratio is a mere .37%. It is a minor increase in regards to safety for auto and pedestrian traffic that would be allowed, especially for elderly, handicapped and small children.

Mr. Clark asked if the parking is available for people during the week?

Mr. Pfluger stated the front rows of the parking lot are dedicated solely for that purpose. There are 170 spaces available for the church. Even if they had an overflow of cars, they would be allowed to park on the back lots, as the church has a contract on that area that allows them to use it at any time. He added that there are actually 3 separate parking lots owned by the church. One that is used for administrative parking, and two others which are separated by an alleyway.

Dr. Johnson made a motion to grant the request for the building coverage. She stated the same reasons for granting the floor to area ratio will also be the same for the building coverage as they go hand in hand.

Ms. Balch seconded the motion.

VOTE: Aye-Board Members Johnson, Berezovytch, Clark, Richter, Balch

Nay-None

It was therefore voted to to reverse the decision of the Building Official and to **GRANT** the variance from the Land Development Code building coverage requirements.

Dr. Johnson made a motion to grant the variance request for parking. She stated this motion is conditional upon the total 228 parking spaces, owned by the church, be available at all times for the church's use.

Mr. Bennett stated there is an enforcement problems with that condition. The request is not to provide any parking on site; the church does have the 228 spaces off-site. The Board does not have jurisdiction to grant off-site parking.

Ms. Landers stated the Board is not granting off-site parking; they

are making the granting of this variance conditional upon the availability of parking as represented by the applicant. The Board is simply asking for a guarantee of the available parking and they do have that authority.

Mr. Bennett stated agreement, however, he stated the motion should be to grant a variance from the parking requirements conditioned upon the enforceable condition that the Building Department can enforce.

Ms. Landers stated that perhaps a restrictive covenant could be used.

Mr. Bennett stated that would be fine, however, not in the sense of off-site parking.

Mr. Deuser, member of University Baptist Church, appeared stating that this site has never had more than 2 parking spaces located on it at any time. Those spaces were used as turn in spaces to drop off children at the day care. He stated the Board was starting to sound like the Planning Commission in "Let's Make a Deal". He stated that 228 spaces are not the issue at this point. They do have the required parking off-site. They also have the flexibility to plan weddings and funerals at the off-peak times.

Ms. Berezovytch stated that it is unreasonable to make a motion conditional upon a time frame for parking availability of the total 228 parking spaces. However, the Board can make the motion conditional upon the required 170 spaces being available at all times.

Dr. Johnson amended her motion to grant the parking conditional upon the 170 parking spaces to be available at all times. She stated that the zoning regulations do not allow for a reasonable use as this lot has never had any on-site parking; to require it now would not make any sense.

She added that the hardship is unique to the property and not general to the area. The variance will not alter the character of the area as the parking lot is already existing. She stated the variance would enable the traffic to move smoother. The variance will not result in the loading or unloading of vehicles on public streets.

The variance will not create a safety hazard, or other condition, inconsistent with the Ordinance. The variance will run with the use to which it pertains and will not run with the site.

Ms. Balch seconded the motion.

Ms. Berezovytch stated the conditions of this motion are to be placed in a restrictive covenant.

Dr. Johnson and Ms. Balch stated agreement.

**VOTE:** Aye-Board Members Johnson, Berezovytch, Clark, Richter, Balch

Nay-None

It was therefore voted to reverse the decision of the Building Official and to **GRANT** the variance from the Land Development Code parking requirements.

ADJOURNMENT: The meeting was adjourned at (TIME)

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Liz Berezovyтч, Chairperson

STATE OF TEXAS            ))

COUNTY OF TRAVIS        ))

### RESTRICTIVE COVENANT

WHEREAS, the University Baptist Church of Austin owns real property in the City of Austin, Travis County, Texas, more particularly described as Lots 19 and 19-1/2, Block 35; Lots 13-16, Block 23-1/2; Lots 25-27, Lots 34-36, and Lots 22-24 of Block 22-1/2 of the Louis Horst subdivision in the City of Austin, hereinafter called "Tract 1", which is used primarily as an actual place of regular religious worship and reasonably necessary for engaging in religious worship; and

WHEREAS, said University Baptist Church of Austin has filed its application with the City of Austin Board of Adjustment for a variance in order to make certain improvements upon Lots 25-27, Block 22-1/2 of the Horst subdivision to the City of Austin, hereinafter called "Tract 2", which application has been designated as Case No. C-15-89-018 by the Board of Adjustment; and

WHEREAS, said Board of Adjustment has heard and considered all of the evidence regarding said application and has determined that the requested permission will not alter the character of the area; will facilitate the movement of traffic; will not create a safety hazard or other condition inconsistent with the city ordinance; and that the applicant has demonstrated the existence of a hardship unique to the property and not general to the area, and has granted said variance conditioned upon said University Baptist Church guaranteeing by restrictive covenant upon said Tract 1 that there will be at all times, at least 170 parking spaces available thereon for the use of the property described as Tract 2.

NOW, THEREFORE, for \$1.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the University Baptist Church of Austin, Texas hereby covenants and agrees with the City of Austin that the property hereinabove described as Tract 1 is, and shall at all times hereafter be so restricted as to provide at least 170 parking spaces available for use of the property hereinabove described as Tract 2 so long as said Tract 2 is used for the purposes described in said Case No. C-15-89-018.

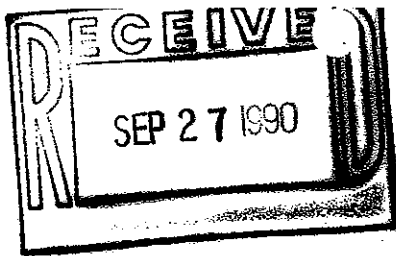
The University Baptist Church of Austin hereby covenants and agrees that this restrictive covenant shall not terminate or expire and that the chief building official of the City of Austin shall at all times be empowered to

enforce the provisions of this restrictive covenant by any administrative or legal process necessary to enforce the same.

Executed as of the 15th day of June, 1989.

UNIVERSITY BAPTIST CHURCH OF AUSTIN

By:   
Chairman, Board of Trustees



Board of Adjustment Case No. C15-89-018

RESTRICTIVE COVENANT

Owner: UNIVERSITY BAPTIST CHURCH OF AUSTIN, a Texas non-profit corporation

Owner's Address: 405 West 22nd Street, Austin, Texas, 78705

Consideration: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

WHEREAS, UNIVERSITY BAPTIST CHURCH OF AUSTIN, a Texas non-profit corporation, is the owner of the certain real property located in the City of Austin, Travis County, Texas, described as follows:

Lots 19 and 19½ in Block 35; Lots 13, 14, 15, and 16 in Block 23½; and Lots 22, 23, 24, 25, 26, 27, 34, 35, 36, and 37 in Block 22½, all in the Louis Horst subdivision, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat recorded in Volume Z, Page 613, of the Deed Records of Travis County, Texas (all lots collectively referred to as the "Property"); and

WHEREAS, UNIVERSITY BAPTIST CHURCH OF AUSTIN, in connection with its application to the City of Austin Board of Adjustment for the variance described in the City's Planning Department file number C15-89-018, has represented to the Board of Adjustment and others concerned with the proposed variance that 170 off-street parking spaces are and will remain available for the use of the church, and has offered to impress the Property with certain covenants and restrictions to implement that promise;

NOW, THEREFORE, the UNIVERSITY BAPTIST CHURCH OF AUSTIN, for and in consideration of the premises and the consideration set forth in this Restrictive Covenant, declares and shall hold, sell, and convey the Property subject to the following covenants and restrictions, which are intended to and shall run with the land, and shall be binding on the Owner of the Property, its successors, and assigns:

1. Owner shall provide and maintain in accordance with applicable laws and regulations a minimum of 170 off-street parking spaces on the Property, to be available at all times for the uses established on the Property.
2. If any person or entity shall violate or attempt to violate the terms and provisions of this restrictive covenant, the City of Austin may prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
3. If any part of this restrictive covenant is declared invalid, by judgment or court order, the same shall in no way affect any of its other provisions, and such remaining portions of this restrictive covenant shall remain in full effect.

4. If at any time the City of Austin fails to enforce this restrictive covenant, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce its terms and provisions at any time.

5. This restrictive covenant may be modified, amended, or terminated only with the consent of both (a) the Board of Adjustment of the City of Austin, and (b) the owner(s) of the Property at the time of such modification, amendment or termination.

UNIVERSITY BAPTIST CHURCH OF AUSTIN,  
a Texas non-profit corporation

BY: *Doren Eskew*  
Doren Eskew,  
Chairman of the Board of Trustees  
University Baptist Church of Austin

Date: Sept. 25, 1990.

THE STATE OF TEXAS  
COUNTY OF TRAVIS

§  
§

This instrument was acknowledged before me on this the 25<sup>th</sup> day of Sept., 1990, by Doren Eskew, Chairman of the Board of Trustees for the UNIVERSITY BAPTIST CHURCH OF AUSTIN, a Texas non-profit corporation, on behalf of that corporation.

*Rebecca Jane Frost*  
Notary Public Signature

Rebecca Jane Frost  
Type or Print of Notary  
My Commission Expires: 11/17/90

ORIGINAL  
FILED FOR RECORD

At \_\_\_\_\_ o'clock \_\_\_\_\_ M.

SEP 25 4 09 PM '90

DANA DeBEAUVORE  
County Clerk, Travis County, Texas  
This instrument has not been compared  
with the original TEXAS