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A PROFESSIONAL CORPORATION

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November 14, 2016

The Board of Adjustment
c/o Leane Heldenfels
Board of Adjustment Liaison
City of Austin
1st Floor – Development Assistance Center
505 Barton Springs Road
Austin, TX 78704

Re: Compatibility Variances for Guesthouse Hotel, 2510 South Congress Avenue (Site Plan No. SP-2015-0300C/Board of Adjustment Case No. C15-2016-0124

Dear Ms. Heldenfels,

I represent The Church in Austin (hereafter "Church") in connection with the application by Nikelle Meade, on behalf of owner David Krug, for six variances from the City of Austin's compatibility standards codified in Article 10 of the Land Development Code. The owner seeks these variances for a hotel project at 2510 South Congress Avenue it has named "The Guesthouse Hotel."

The property in question (the "Property") is located just south of Oltorf Street. The Church in Austin owns the adjoining property to the south. The eastern portion of the Church property contains the principal church building. The Church maintains residences for clergy on the western portion of the property. Single-family homes adjoin the property to the west. The Property is within the Dawson neighborhood. As discussed in more detail in staff backup, the owner seeks variances from the compatibility standards along the southern boundary of the property in order to allow the hotel to be built taller and closer to the property line than the standards allow. The application also seeks to locate a swimming pool and driveway within the compatibility setbacks, both intended to serve the hotel guests

You have received extensive objections, evidence and arguments against the requested variances from the Church administration, members of the Church, residents of the Church and residents in the area. We urge you to consider the arguments and evidence submitted by the Church and the other objectors. This letter sets forth the Church's legal position that the requested variances, as a matter of law, do not meet the requirements for a variance under state law or City Code.

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Procedural Background.

On June 28, 2016, the Planning Commission granted two compatibility waivers for the project. The Church in Austin perfected an appeal of the compatibility waivers granted by the Planning Commission. After the appeal was docketed, staff was made aware that the waivers were approved on the basis of an erroneous application of the compatibility rules for this site. The western half of the Church property is zoned SF-3-NP. Staff assumed (and the Planning Commission was told) that compatibility regulations were triggered only by the SF-3 zoning on the western portion of the Church property adjoining the site to the south. Staff subsequently conceded that the eastern portion of the property, which is used as a civic use (a church) also triggered compatibility requirements. Staff accordingly has required the applicant to request variances from the compatibility regulations from this Board.

The Requested Variances.

The Property is approximately 97-feet wide (at the street) and approximately 700-feet deep, for a total area in excess of 67,000 square feet. The Owner seeks a number of variances to build a 79-room hotel on this deep, relatively narrow lot. The Owner accordingly is presenting to this Board requests for variances for multiple design aspects, including:

a. Height compatibility.

b. Building height.

c. Building and Driveway setbacks.

d. Swimming Pool setbacks.

The owner specifically seeks to build a four-story structure along the eastern and southern portion of the property within the compatibility setbacks triggered by the use of the adjoining property by the Church in Austin. The owner also seeks to place a driveway and swimming pool within these compatibility setbacks.

Legal Authorities

Section 25-2-474 of the Land Development Code sets forth the findings the Board must make to grant a variance from development regulations. The Board can grant a variance from a requirement only if it finds as a matter of fact that:

(1) the requirement does not allow for a reasonable use of property;

(2) the hardship for which the variance is requested is unique to the property and is not generally characteristic of the area in which the property is located; and

(3) development under the variance does not:

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(a) alter the character of the area adjacent to the property;

(b) impair the use of adjacent property that is developed in compliance with the City requirements; or

(c) the impair the purposes of the regulations of the zoning district in which the property is located.

State law, similarly, allows a variance to be granted only when, due to "special conditions," "a literal enforcement of the ordinance would result in unnecessary hardship."[1]

In order to justify a variance, a hardship must not be self-imposed, nor financial only, and must relate to the very property for which variance is sought – i.e., a condition unique, oppressive, and not common to other property.[2] Likewise, the hardship must not be personal in nature.[3] "An example of a personal or self-created hardship might be a situation in which the owner of a square lot divides it into two triangles and then tries to secure a variance in order to sell the property at a high price. In such an instance, the hardship would be self-created and if the owner could not sell the triangular pieces of property without the variance, then the hardship would be personal."[4]

A financial hardship does not constitute an unnecessary hardship sufficient to support a variance request.[5] Most pertinently here, there is no hardship merely because a property cannot be developed with its "best and highest use."[6] A variance is not authorized merely to accommodate the highest and best use of the property, but only where the zoning ordinance does not permit any reasonable use of such property.[7]

Here, there is no dispute that the compatibility rules allow the Property to be developed with significant intensity. The rules allow the construction of one or more two-story buildings to a depth of almost 700 feet. The rules also allow the full development of the northern three-fourths of the Property; only the southern 25 feet lie within the compatibility setback. The Board can take judicial notice of the fact that development along South Congress Avenue between E. Riverside and Ben White Boulevard consists almost exclusively of one- and two-story buildings.

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[1] TEX. LOCAL GOV'T CODE § 211.009(a). Section 211.009(a)(3) states in full: "The board of adjustment may: (3) authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done."

[2] *City of Alamo Heights v. Boyar Eyeglasses*, 158 S.W.3d 545 (Tex. App. – San Antonio 2005, no pet.); *Town of S. Padre Island v. Cantu*, 52 S.W.3d 287, 290 (Tex. App.-Corpus Christi 2001, no pet.).

[3] *Currey v. Kimple Eyeglasses*, 577 S.W.2d 508, 513 (Tex. Civ. App. – Texarkana 1978, writ ref'd n.r.e.).

[4] *Currey*, 577 S.W.2d at 513.

[5] *Battles v. Bd. of Adjustment & Appeals of Irving*, 711 S.W.2d 297, 300 (Tex. App.-Dallas 1986, no writ) (reversing decision to grant variance to developer where only showed that hardship suffered by applicant was economic); *Bd. of Adjustment of San Antonio v. Willie*, 511 S.W.2d 591, 594 (Tex. Civ. App.-San Antonio 1974, writ ref'd n.r.e.).

[6] *See Willie*, 511 S.W.2d at 594.

[7] *Board of Adjustment v. Stovall*, 218 S.W.2d 286 (Tex. Civ. App.—Fort Worth 1949, no writ).

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There is no impediment to constructing a substantial retail or commercial use that conforms to all code requirements.

Although financial considerations are irrelevant to the hardship determination, it should be noted that there are existing (and presumably profitable) hotels along South Congress substantially smaller than the development proposed by the owner. The owner seeks the variances to develop a 79-room hotel. Comparable hotel properties on South Congress, however. Include the Austin Hotel at 1220 S. Congress Ave. has 41 rooms, 31 on the first floor and 10 on the second floor, and the Hotel San Jose at 1316 Congress Ave. has 40 rooms, 32 on the first floor and 8 on the second floor. And, of course, South Congress Ave. has historically been the home of a number of modest one- to two-story motor courts.[8] As a matter of law, a property owner is not entitled to a finding that the property lacks a reasonable use or that the owner is subject to a unique hardship merely because the rules do not allow him to squeeze a 79-room hotel onto a narrow lot.

The owner's request is similar to that made by the property owner in *Bd. of Adjustment of San Antonio v. Willie*.[9] There, the board of adjustment granted a variance because it found that the property had "unique" characteristics, including a relatively shallow depth (441 feet) in comparison with the approximately 1,500 feet of frontage, which prevented the property from being utilized as a multi-story building to its "highest and best use." The court of appeals affirmed the reversal of the variance because the property could still be used for food service centers, filling stations, discount stores or franchises. The Property here can likewise be developed with a variety of commercial uses. The mere fact that the subject Property in this case has only 97 feet of frontage is merely an inconvenience for the owner, not a "unique" characteristic that prevents a reasonable use.

It is also highly relevant that Council has specifically considered and addressed the applicability of compatibility regulations to small lots. Section 25-2-1062 provides specific setbacks for lots which have less than 100 feet of street frontage *and* which are smaller than 20,000 square feet. In the case of lots larger than 20,000 square feet, the Code provides that the ordinary setbacks shall apply. In short, the City Council has already considered and rejected the proposition that a large lot should be entitled to less restrictive compatibility regulations merely because it has "only" 100 feet of frontage. The owner essentially asks this Board for a determination that compatibility regulations should not apply to 100-foot wide lots on South Congress. This is a matter for City Council, not this Board. Council and Council alone should determine what compatibility standards should apply on South Congress.

Conclusion

For the foregoing reasons, the owner cannot demonstrate, as a matter of law, that the compatibility regulations deprive him of a reasonable use of the Property, nor that these

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[8] The recently opened South Congress Hotel at 1603 S. Congress has 82 rooms, none on ground floor, about 43 on second floor and about 39 on third floor. We understand that this project fully complied with compatibility standards.

[9] 511 S.W.2d 591, 594 (Tex. Civ. App.-San Antonio 1974, writ ref'd n.r.e.).

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regulations create a unique hardship. The requested variances should be rejected for these reasons.

Sincerely,

John M. Joseph

John M. Joseph

THE CHURCH IN AUSTIN
2530 S. Congress Ave. Phone (512) 443-0078
Austin, Texas 78704 Fax (512) 443-0188

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November 14, 2016

Supplement to Objection Letter

Dear Board of Adjustment Members,

Re: Case # C15-2016-0124

This supplement to The Church in Austin's Objection Letter dated October 31, 2016 addresses the following five points:

1. The developer's lack of due diligence caused it to miss three opportunities to design its site plan to avoid the need of variances.
2. The driveway variance is to increase space for the building.
3. Swimming pool area apparent revisions are illegible.
4. Building right-of-way setback of 0 feet is atypical of our block.
5. Potential negative impact on other neighbors if variances are granted without conditions.
6. Summary: Do variances meet legal requirements?

1. The developer's lack of due diligence caused it to miss three opportunities to design its site plan to avoid the need of variances.

Page 7 of our Objection Letter quoted the Guidebook, which states:

"A hardship cannot be self-created.

- An applicant for a permit or site plan cannot claim a hardship based on conditions that he or she is responsible for creating.

- For example, if a structure is designed in a manner that fails to comply with regulations, the structure's non-compliance isn't a hardship." (p.10)

A. Regarding the building variances, the developer failed to exercise due diligence before purchasing the property on or about January 2, 2015 by not correctly applying compatibility standards. Thus, the developer skipped three of the first four steps (steps 1, 3, and 4) of the Board of Adjustment's "Checklist of Steps for Variances" found in Appendix A of its Guidebook as reproduced below:

"Checklist of Steps for Variances:

*1. **Determine what zoning regulations apply to your property.** Consider those regulations impact development of the property—i.e., yard setbacks, limits on height and impervious cover, etc.*

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2. ***Design what you want to build.***

3. ***Determine if a variance is needed**—i.e., does your proposed design fit within what's allowed by the zoning regulations.*

4. ***If a variance is needed, consider altering the design to avoid the need for a variance."***

By skipping these steps, the developer has created its "hardship".

B. Furthermore, the developer had knowledge in April 2015 after it purchased the property that church use of our property may trigger compatibility for its entire property. **Exhibit 1** from the Planning Commission's file is email correspondence on April 16, 2015 between one of the developer's apparent engineers and the City staff about church use triggering compatibility. Scott Wuest, the developer's main engineer, was carbon copied. Based on the staff's statement that "the Code is a little vague in that area," the developer should have realized the need for an attorney to interpret the law. Therefore, it failed a second time to exercise due diligence before submitting its current site plan to the City on July 2, 2015. The developer is responsible for creating its "hardship".

C. On September 1, 2016 our attorney informed (see Exhibit 7 of the Objection Letter) the City that our church use triggered compatibility standards on the developer's entire property. The developer had a third opportunity to design its site plan to avoid the need for variances. Again, it has created its "hardship."

Redesigning its site plan will obviously increase the developer's cost. However, according to page 11 of the Guidebook,

"A property is not left with no reasonable use just because a regulation limits the size or design of a structure or increases development costs."

2. The driveway variance is to increase space for the building.

In addition to the objections already raised against the driveway variance in our Objection Letter, please note the following:

A. The Church in Austin's Objection Letter, Part 3, section 1 entitled "Reasonable Use", pages 5 and 6, quoted the Guidebook, pages 4 and 7, which state:

"A property is not left with no reasonable use just because a regulation limits the size or design of a structure or increases development costs."

"Self-created or financial hardships are not enough nor are...desire for additional space [in order to prove hardship]."

The reason the hotel is requesting a reduction in setback from 15 feet to 5 feet for the driveway is because this compatibility standard limits the size of its building on the other side of the driveway.

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The developer's lot is 97 feet wide. **Exhibit 2** shows that the driveway variance allows 62 rather than 52 horizontal feet for the building. This property is not left with no reasonable use just because the 15 feet driveway setback limits the size of the building by 10 feet. Nor does the desire for additional space prove hardship.

B. Safety is another concern regarding the sharp turn in the driveway as shown in **Exhibit 3**. The Guidebook states:

"An applicant should also be able to explain, in general terms, how the variance will not significantly impair the purpose of the regulation. For example, a residential setback restriction is intended to protect privacy, provide for open space, and avoid the aesthetic and safety concerns associated with overcrowding. An applicant requesting a setback variance, therefore, should be able to explain how decreasing the setback will not undermine those objectives."

There are frequent accidents on South Congress Avenue in front of the hotel's property and out property, the last two being August 25, 2016 and September 27, 2016. An earlier accident resulted in a car crashing onto our property and causing damage.

If the sharp turn is missed by an inebriated driver, their car could easily crash through their six-foot privacy fence, probably constructed with wood, and land in our adjacent children's play area. Denying the requested driveway variances provides 10 more feet of protection.

C. At the Planning Commission hearing the developer showed photos of the driveway of the apartment complex adjoining us on the other side (south) of our property in order to justify its requested driveway variance. This driveway and parking lot are about 2 feet from our southern property line. The apartment complex was built before we purchased our property so that civic use did not trigger compatibility standards on the front half of their property. Whether the complex obtained a variance on the back half of their property because we are SF-3 would need to be researched. Regardless if the complex's driveway is legal or not, it does not justify the developer's requested driveway variance. (Neither does the 0 feet setback of the drive through of the fast food restaurant that is currently on the front half of the developer's property justify the variance. It was built in 1993 without obtaining the required variance.)

3. Swimming pool area apparent revisions are illegible.

It appears from two of the three developer's site plan drawings attached to its Board of Adjustment application that it has redesigned the swimming pool area (see **Exhibit 4**). However, because its drawings are illegible we cannot determine the revisions. Since October 20 we have requested legible copies of these three drawings through numerous emails to the applicant, Ms. Nikelle Meade, but have yet to receive them. On October 26 we delivered a 2x3 foot copy to her demonstrating that an enlarged copy was equally illegible (see **Exhibit 5**). Since the developer cannot produce a legible copy of its revisions to the Board of Adjustment or the neighbors, the requested swimming pool variance should be denied.

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4. Building right-of-way setback of 0 feet is atypical of our block.

We did not object to the variance requesting a decrease from 25 feet right-of-way to 0 feet in the minimum front building line setback from South Congress Avenue unless the other building variances are granted.

However, please note that this variance is atypical of the setbacks of the other buildings along both sides of our block of South Congress Avenue as shown below (southbound from Oltorf Street to Cumberland Road on west side of street).

#	Building	Setback from S. Congress Ave (feet)
1	HEB	90
2	Laundromat	119
3	Restaurant on developer's property	65
4	Church	25
5	Apartments	367
6	Gardner Betts Juvenile Center	233
7	AutoZone	74
8	Funeral home	34

5. Potential negative impact on other neighbors if variances are granted without conditions.

We asked the case manager two questions about the variances if they are granted: Can the site plan be redesigned afterward to exploit the variances? And, do the variances convey? Her responses are summarized as follows:

A. If the Board of Adjustment grants the building setback from 25' to 0' and a height increase from 2 stories to 5 stories, then the developer can revise its site plan and move the building or add additional buildings according to the variances approved unless there is a condition placed on the variances that requires a certain layout or requires the site to be developed as illustrated in a site plan submitted at the hearing.

B. If the current owner does not build and sells the site, the variances convey to the next owner as long as they are used as part of a site plan or building permit application within one year of their approval date. That site plan or building permit must not expire or the variances expire with them.

Exhibit 6 illustrates the potential negative impact on the residents behind (west of) the hotel if the variances are granted without conditions and the developer redesigns its site plan to place a four-story building 0 feet from its other neighbors' adjoining properties. Therefore, if the building variances are granted, we request that strict conditions be applied.

6. Summary: Do variances meet legal requirements?

The evidence presented in our Objection Letter to the Hotel's Requested Variances and this Supplement to Objection Letter has proven that the developer has failed to meet all three of the legal requirements for granting these variances as shown in the chart below.

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Do the Variances Meet Legal Requirements?

Legal Requirement		Variance		
		Pool	Driveway	Building
1.	Reasonable Use	Failed	Failed	Failed
2.	Hardship			
	a. Unique	Failed	Failed	Failed
	b. Not general	Failed	Failed	Failed
	c. (Not self-created)	Failed	Failed	Failed
3.	Area Character			
	a. Not alter character of area	Failed		Failed
	b. Not impair use	Failed	Failed	Failed
	c. Not impair purpose of the regulations	Failed	Failed	Failed

We reiterate our request that the Board of Adjustment deny the developer's requested variances.

Thank you again for your consideration.

Sincerely,

Tym Seay
Chairman of the Board
Of The Church in Austin

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List of Exhibits

1. Correspondence between Developer and City
2. Driveway Setback to Increase Space for Building
3. Sharp Turn in Driveway
4. Developer's Site Plan Drawings Attached to Application
5. Enlargement of Exhibit 4
6. Potential Negative Impact on Other Neighbors

Exhibit 1

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Scott M. Wuest

From: Johnson, Christopher [PDRD] <ChristopherJohnson@austintexas.gov>
Sent: Thursday, April 16, 2015 10:36 AM
To: Joan Ternus Angil; Mitchell, Amber
Cc: Rhoades, Glenn; Scott M. Wuest
Subject: RE: Churches and Compatibility

Although the language in the Code is a little vague in that area, it has always been my interpretation that since a church (or other civic use) is required to comply with compatibility standards when it is adjacent to a residence, that it would not trigger compatibly upon surrounding development despite the fact that it is a development that could be constructed in SF-5 zoning.

Now if the church happens to be located on SF-5 or more restrictive zoning, then the zoning would trigger compatibility on surrounding tracts, even though the property is developed with a church, but if the church is in a multi-family or commercial district, the use would not trigger compatibility on neighboring properties, since the whole intent of compatibility is to ensure appropriate scale development near residences.

From: Joan Ternus Angil [redacted]
Sent: Thursday, April 16, 2015 10:11 AM
To: Mitchell, Amber; Johnson, Christopher [PDRD]
Cc: Rhoades, Glenn; 'Scott M. Wuest'
Subject: Churches and Compatibility

Hello.

I have been asked by a client about compatibility being triggered by a <u>church use</u>. The church is on property zoned CS. We have been told this might trigger compatibility but since it is not a "residential" use, I don't believe it would. I looked online at the COA GIS and found a case where a church on land zoned GO was adjacent to a site that did not show compatibility setback for the church. This is a recent condominium site plan (SP-2013-0119C) and is attached. They do show compatibility setback from the adjacent single family residences though.

Caitlin will come in to see whoever is available this morning, but can someone please respond in writing to this email?

Thanks,

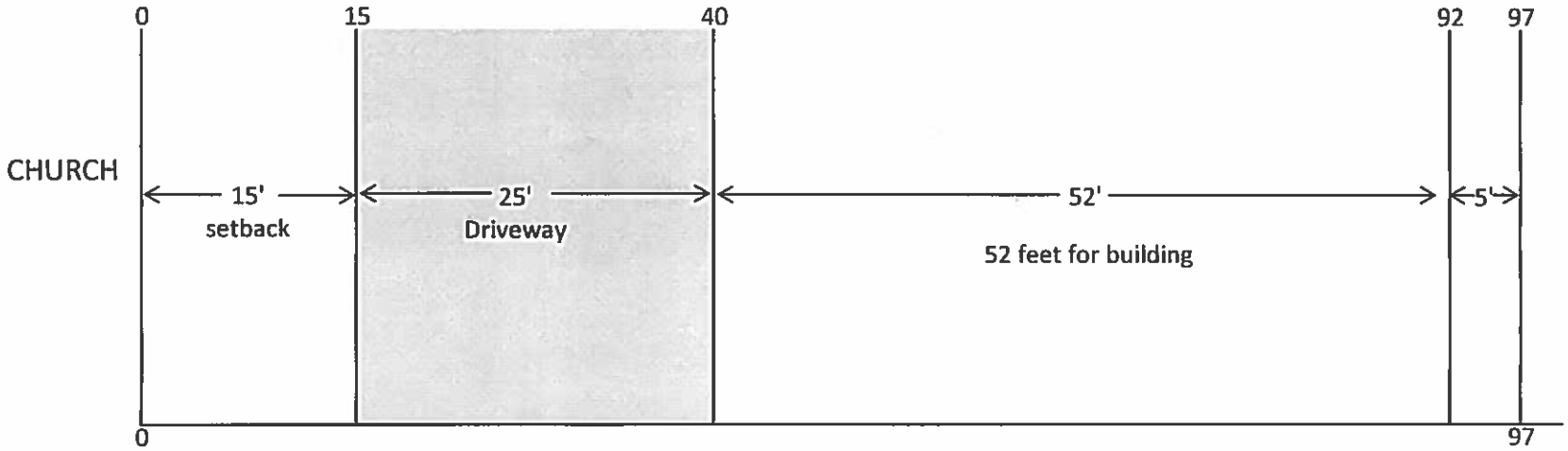
Joan Ternus Angil, P.E.

UTE Consultants, Inc.
2007 S 1st Street
Suite 103
Austin, Texas 78704
512.789.5018

Exhibit 2

Driveway Setback to Increase Space for Building

Code for Driveway (15 feet setback)



With Driveway Variance (5 feet setback)

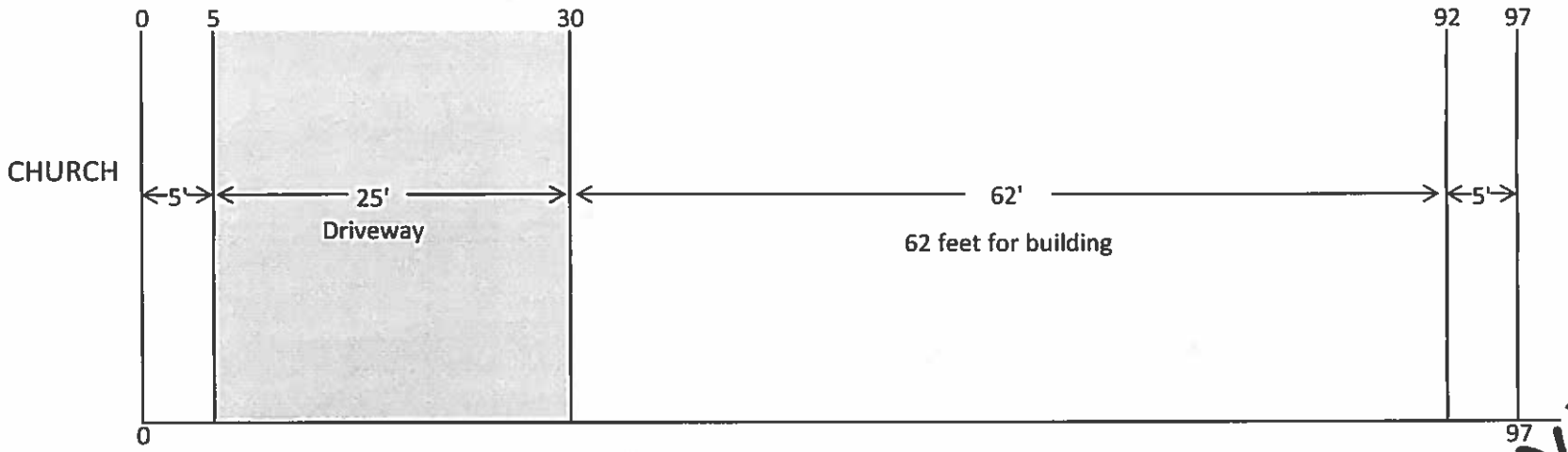


Exhibit 3

Sharp Turn in Driveway

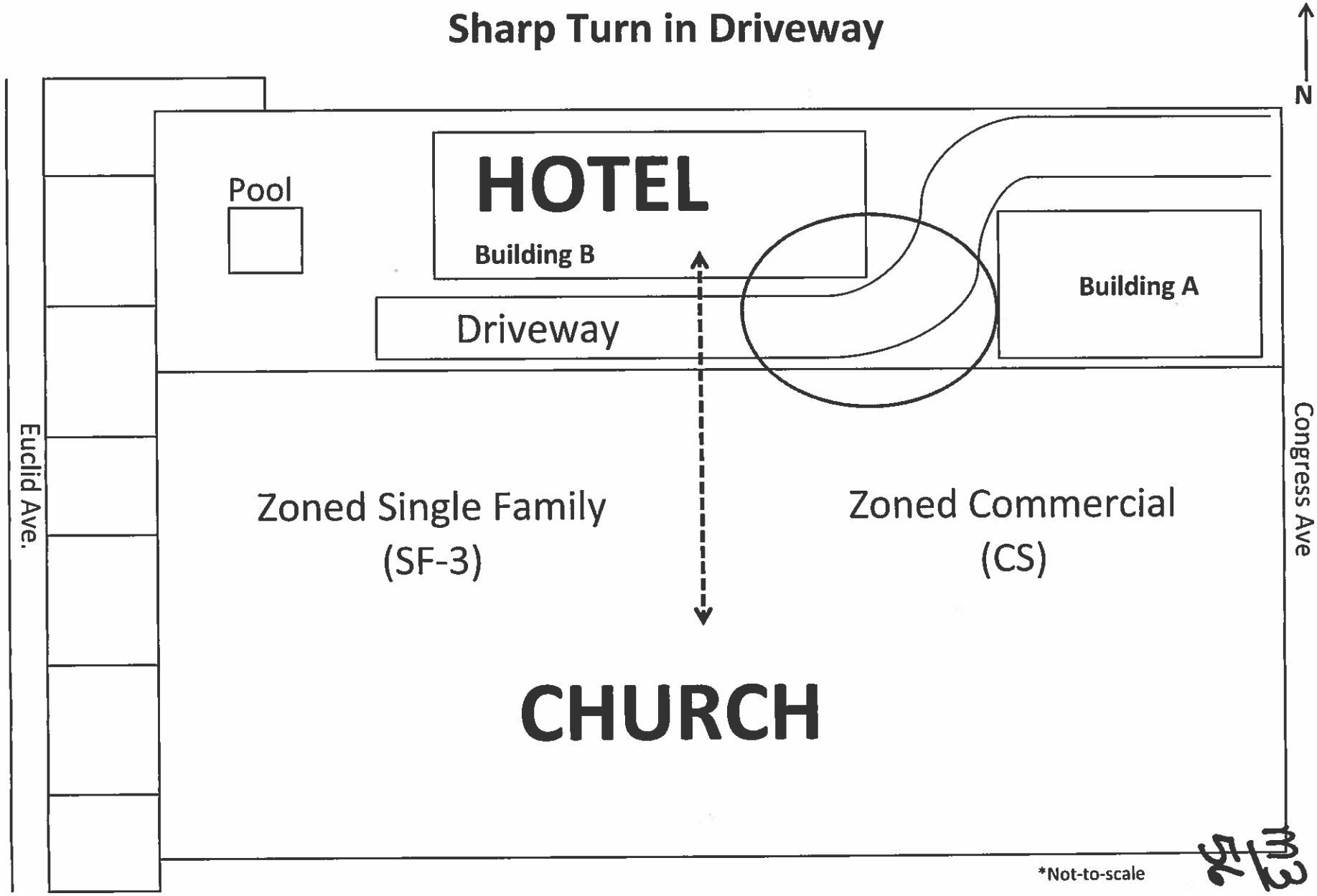


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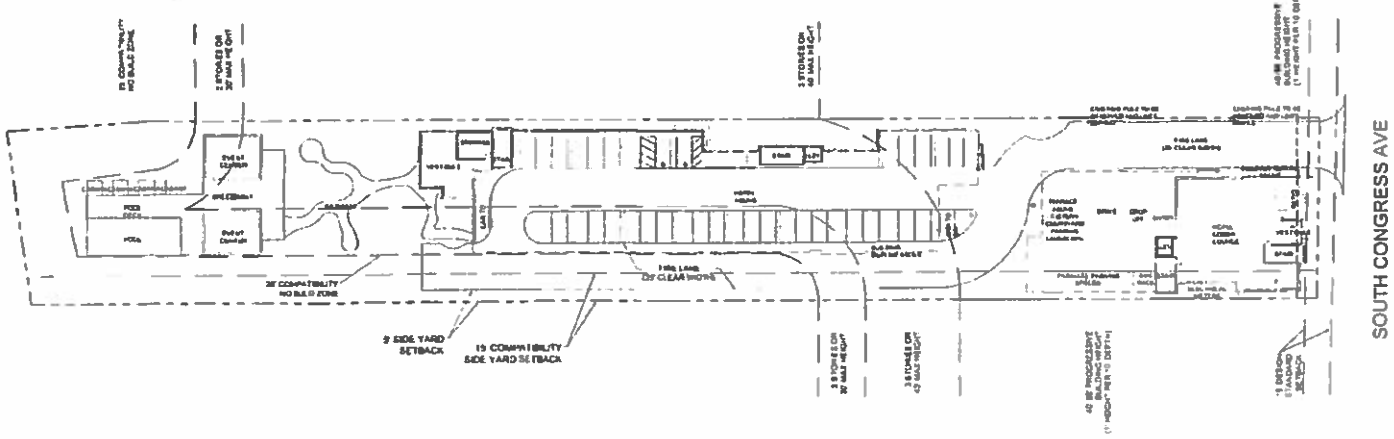
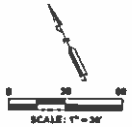
Exhibit 4

6 WEST ELEVATION - BUILDING 2
5 EAST ELEVATION - BUILDING 2
4 SOUTH ELEVATION
3 WEST ELEVATION - BUILDING 1
2 EAST ELEVATION - BUILDING 1
1 NORTH ELEVATION
LEVY
The Guesthouse Hotel
SP0.1





2510 S CONGRESS

MAY 2015

NO PROJECT NO. 0910-01

EXHIBIT A

THE GUESTHOUSE HOTEL
2510 S CONGRESS AVE

WUEST GROUP
ENGINEERING & DESIGN
FIRM # F-15324
2007 S 1ST STREET, SUITE 103
AUSTIN, TEXAS 78704
(512) 394-1900

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Exhibit 5

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(see enlarged physical copies of Exhibit 4 provided at the hearing)

Exhibit 6

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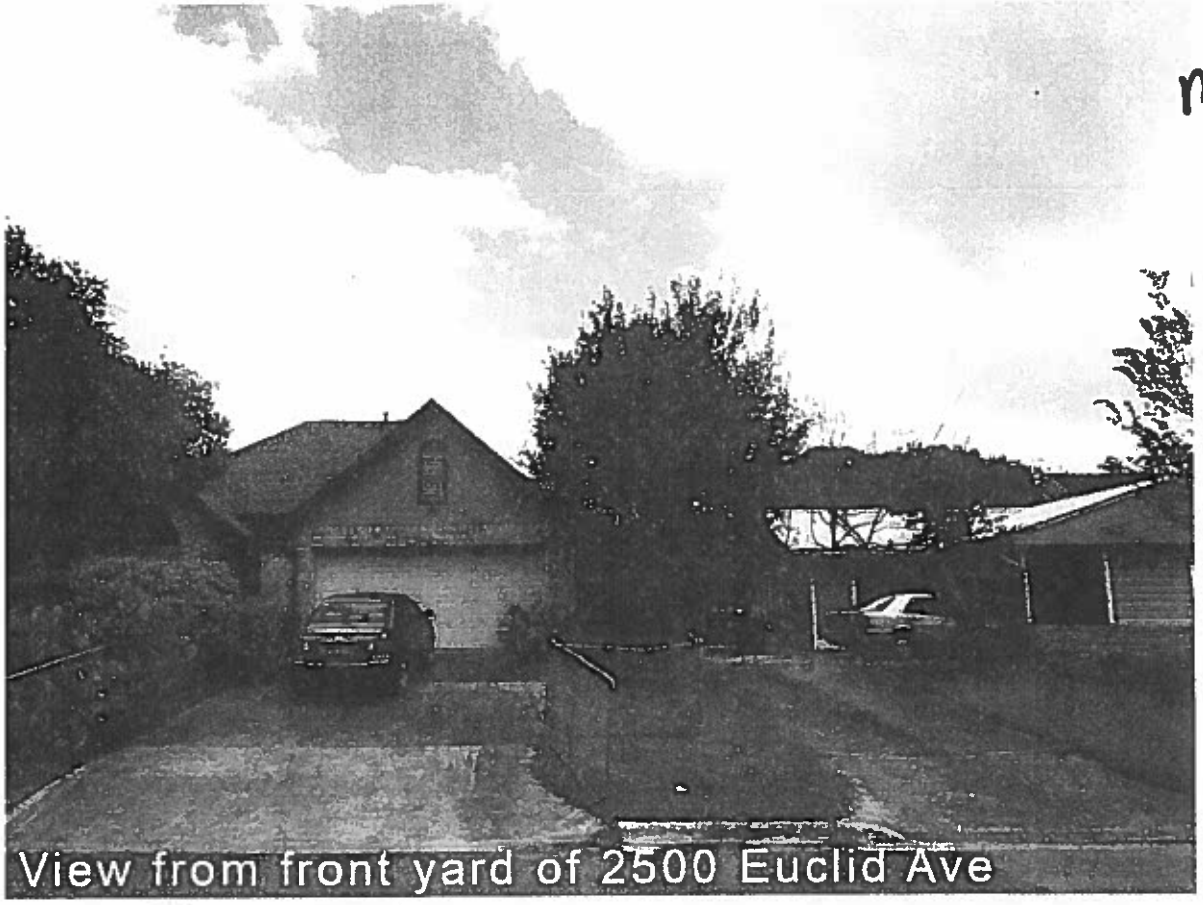
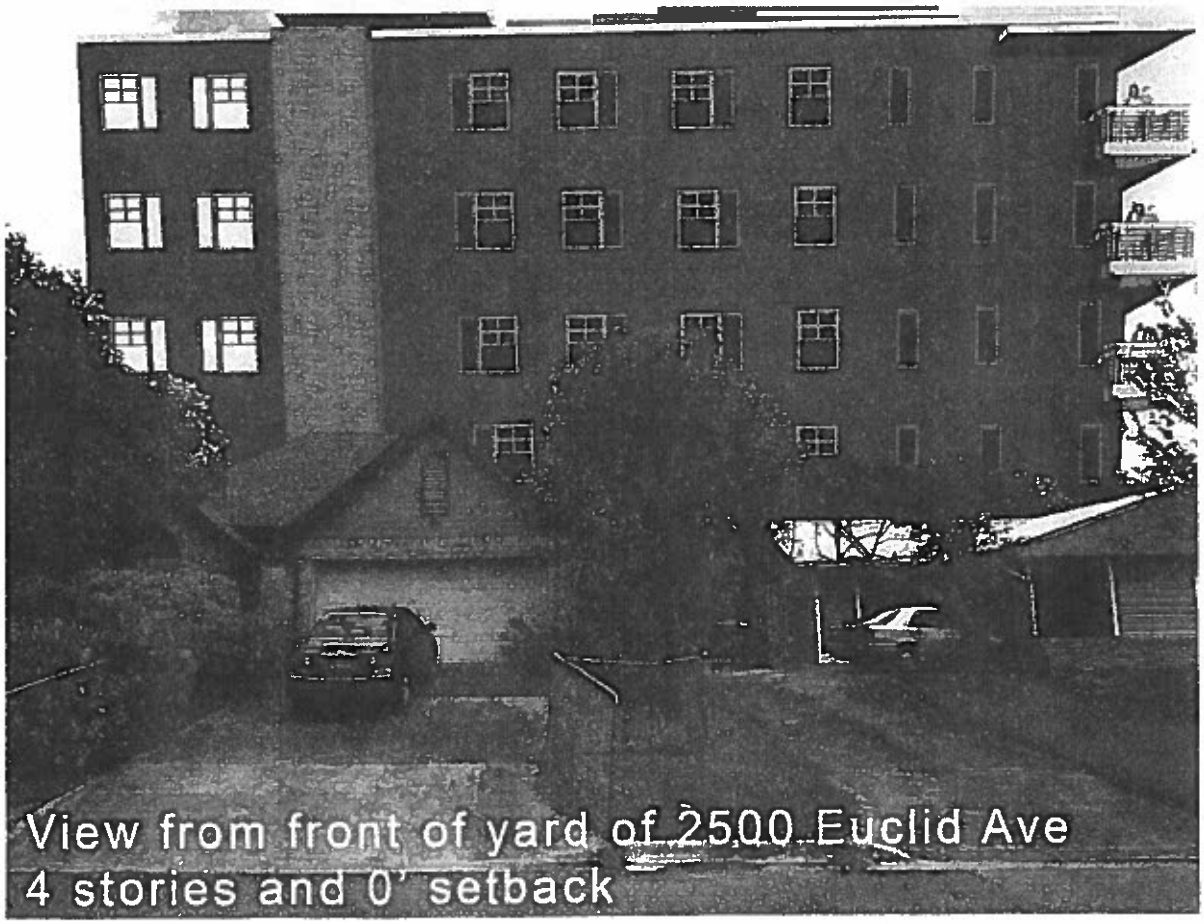
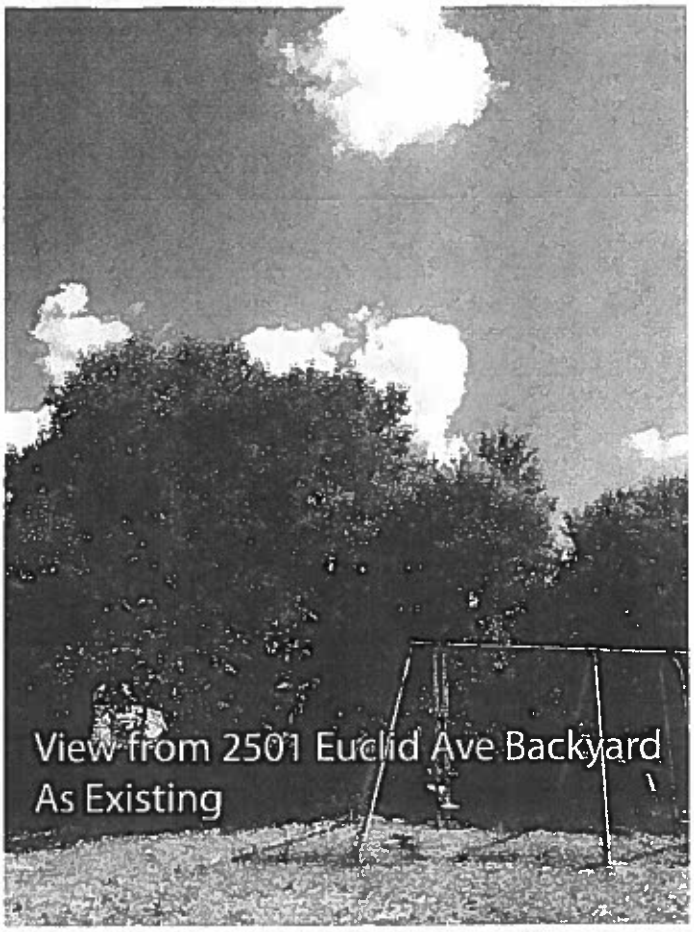
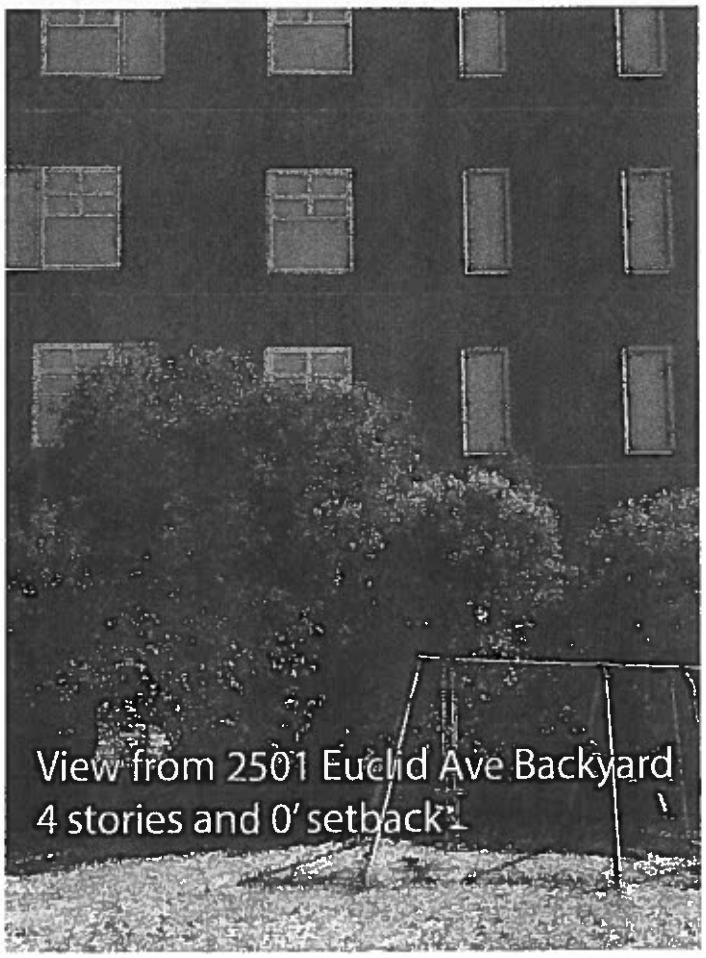


View from front yard of 2500 Euclid Ave



View from front of yard of 2500 Euclid Ave
4 stories and 0' setback


View from 2501 Euclid Ave Backyard
As Existing


View from 2501 Euclid Ave Backyard
4 stories and 0' setback

PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, **you are not required to attend**. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed application. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice will be sent.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern *(it may be delivered to the contact person listed on a notice)*; or
- appearing and speaking for the record at the public hearing;

and:

- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: **www.austintexas.gov/devservices**

Written comments must be submitted to the contact person listed on the notice before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice. **All comments received will become part of the public record of this case.**

Case Number: C15-2016-0124, 2510 S. Congress Ave.
Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov
Public Hearing: Board of Adjustment, November 14th, 2016

Jerome Garvey
Your Name (please print)

☒ **I am in favor**
☐ **I object**

2501 Wilson (PO Box 40964)
Your address(es) affected by this application

Jerome Garvey — *Signature*
11/10/16 — *Date*

Daytime Telephone: 5124482900

Comments: I support this project. Lot line variance on Congress in line with Dawson Plan, city policy, and other new construction in area. Lot line variance on southside is (1) a driveway (fire lane, with only small part rea- southern neighbor ("Church in Austin") SF-5 property. Structure has its own driveway immediately south of a detached building.
West variance is just for a swimming pool. It is not, as "Church in Austin" propaganda (attached) for 5 storey building immediately next to Enclid housing. This misinformation is purposeful, actually an outright lie by "The Church." As "The Church" continue around & do what it wants on its property.
This is a good project, probably as good as we'll get.

Comments must be returned by noon the day of the hearing to be seen by the Board at this hearing. They may be sent via:

Mail: City of Austin-Development Services Department/ 1st Floor
Leane Heldenfels
P. O. Box 1088
Austin, TX 78767-1088
(Note: mailed comments must be postmarked by the Wed prior to the hearing to be received timely)
Fax: (512) 974-6305
Email: leane.heldenfels@austintexas.gov

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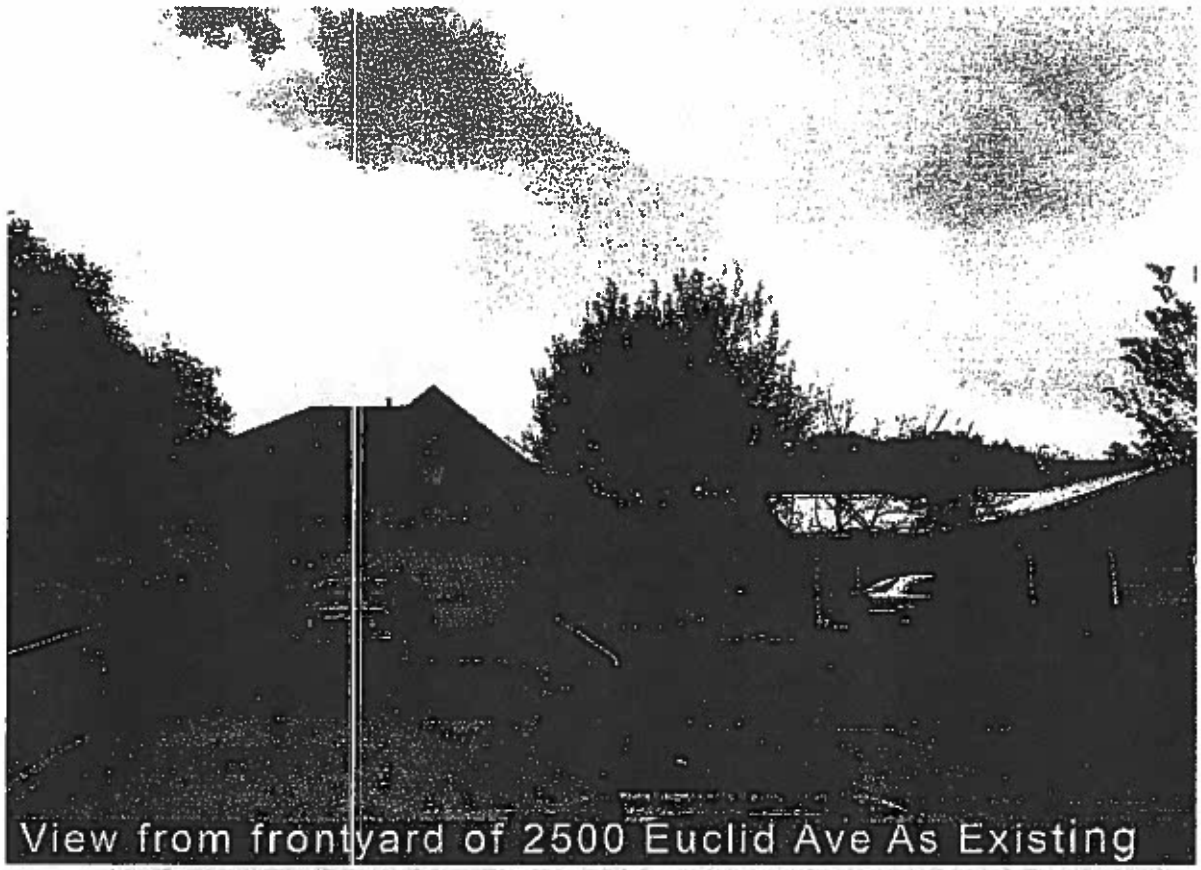
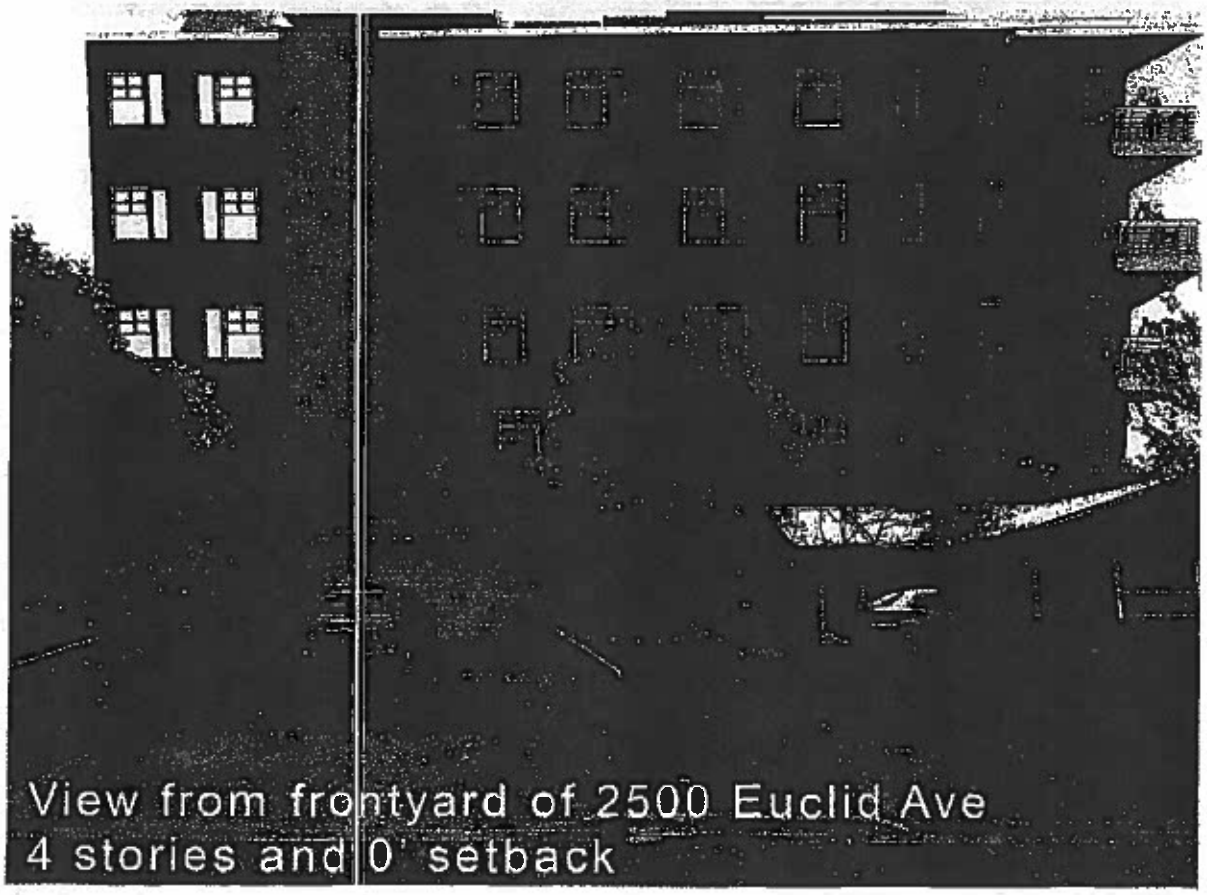
M3
64

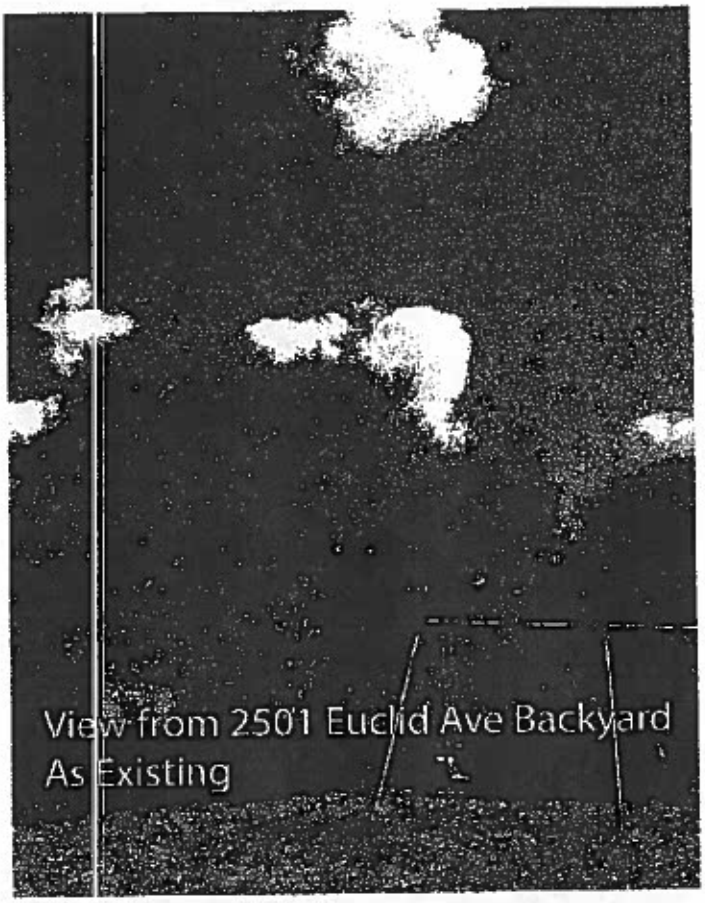


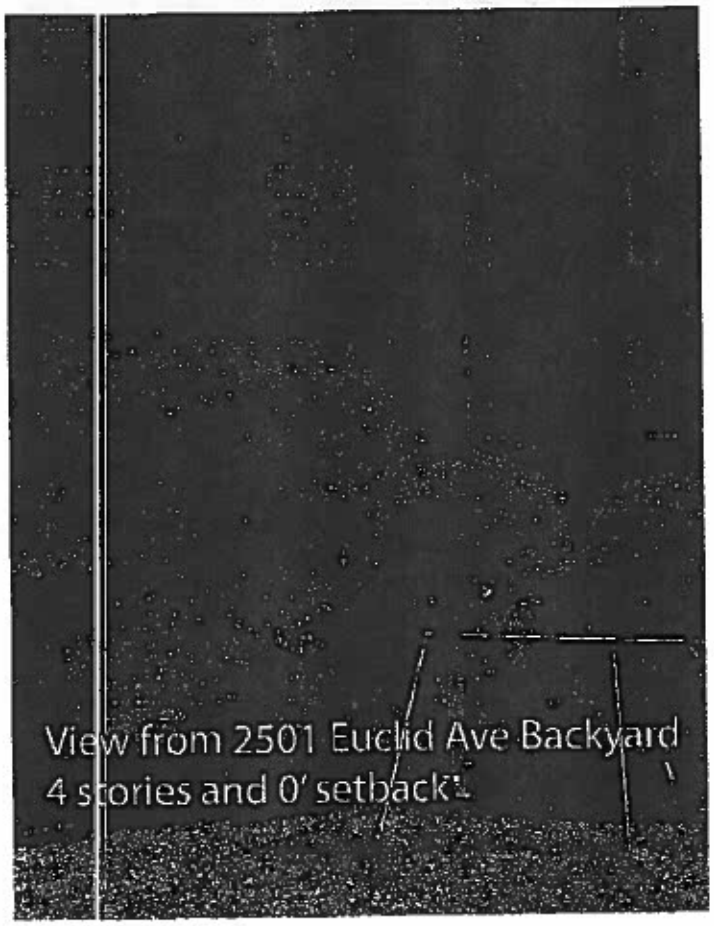
View from frontyard of 2500 Euclid Ave As Existing



View from frontyard of 2500 Euclid Ave
4 stories and 0' setback

M3/65


View from 2501 Euclid Ave Backyard
As Existing


View from 2501 Euclid Ave Backyard
4 stories and 0' setback

Heldenfels, Leane

From: Cynthia Medlin [redacted]
Sent: Tuesday, November 08, 2016 1:34 PM
To: Heldenfels, Leane
Subject: C15-2016-0124, 2501 S Congress Ave.

M3
66

Ms. Heldenfels, I am a property owner at 2501 Wilson St., a member of the Dawson Neighborhood Contact Team and Neighborhood Association and a former member of the Austin Planning Commission.

I received a packet of information on my door Monday, Nov. 6, 2016 apparently left by "The Church in Austin" located at 2530 S. Congress Ave. The packet included deceptive images of what the above referenced project would look like from their property and from the backyards of the homes backing up to it on Euclid. You may or may not be aware of this. However, I am mailing to you today the documents and my responses for the Board of Adjustment hearing on November 14, 2016.

I am personally very disappointed in the attempts at deception and misinformation perpetrated by "The Church in Austin". I will hopefully be able to attend the hearing in person as well. My printer is not functioning properly or I would have scanned the documents and emailed them to you. I am hoping you receive them in time to make them available to the Board. I am sure, however, that officers of the Contact Team will also share these documents with you. Should you wish to speak with me my phone number is 512-440-1966. -- Cynthia Medlin

PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, **you are not required to attend**. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed application. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice will be sent.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern *(it may be delivered to the contact person listed on a notice)*; or
- appearing and speaking for the record at the public hearing;

and:

- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: **www.austintexas.gov/devservices**

Written comments must be submitted to the contact person listed on the notice before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice. **All comments received will become part of the public record of this case.**

Case Number: C15-2016-0124, 2510 S. Congress Ave.
Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov
Public Hearing: Board of Adjustment, November 14th, 2016

Cynthia Medlin (Property owner)
Your Name (please print)

☒ **I am in favor**
☐ **I object**

2501 Wilson St., Austin 78704
Your address(es) affected by this application

Cynthia Medlin — *Signature*
11-08-16 — *Date*

Daytime Telephone: 512-440-1966

Comments: I believe this type of small hotel is entirely compatible with our neighborhood plan and FLUM. We encourage mixed-use pedestrian friendly uses along this busy transit corridor. The variances sought will not negatively impact the residential interior of the neighborhood.

Comments must be returned by noon the day of the hearing to be seen by the Board at this hearing. They may be sent via:

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Leane Heldenfels
P. O. Box 1088
Austin, TX 78767-1088
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