



Watershed Protection and Development Review Department

P.O. Box 1088, Austin, Texas 78767
 One Texas Center, 505 Barton Springs Road
 Telephone: (512) 974-6370 Fax: (512) 974-2423

Site Development Exemption Request

Site Address: 711 W. 32nd Street
 Project Name: Buckingham Square SPX-016-0532
 Legal Description: Lot 7-10, Block 1, Outlot 75, Division D, Smyth Addition
 Zoning: MF4(25-2-962) Watershed: Urban Flood Plain? Yes No
 Existing Land Use(s): Multi-Family
 Proposed Land Use(s): Multi-Family
 Brief /General Description of the Development being sought:
Revised elevations in accordance with attached letters.

Attach a detailed description of the proposed development in a memorandum or letter and a site plat or survey plan that graphically indicates, but is not limited to,:

- existing trees
- buildings
- parking areas
- roadways/streets
- all areas of impervious cover levels (existing & proposed)
- erosion controls (i.e.: silt fencing, tree protection)
- limits of construction
- type of construction
- location of construction
- accessible parking
- access route

I, Terry Irion (PRINT NAME) do hereby certify that I am the

owner owner's agent (to act as the owner's agent, written authorization from the owner must be provided) of this described property, and in this capacity, submit this request for exemption from the site plan submittal requirements pursuant to Chapter 25-5-2 of the Austin City Code.

Furthermore, I certify and acknowledge that:

1. Although the proposed development does not require a formal site plan approval, it may require, prior to beginning any site work, the approval of the subdivision or issuance of a building, remodel, and/or demolition permit;
2. Although the proposed development complies with all applicable zoning regulations, it does not prohibit enforcement of restrictive covenants and/or deed restrictions;
3. The approval of this exemption request does not constitute authorization to violate any provisions of the Austin City Code or other applicable requirements, which includes the use or occupancy of the improvement.
4. The approval notice with paid receipt shall be clearly posted on-site and protected from the elements at all times.

Babe Acker with permission of Teri Date: 06/15/2006
 Signature of Requester


Address: Terry Irion, 2224 Walsh Tarlton Suite 210, Austin, Tx 78746

Telephone: (512) 347-9977

Please indicate how you wish to receive a copy of the results of the review:

Mail FAX: (512) 347-7085 E-mail: _____

Buckingham Square 711 W. 32ND
 Departmental Use Only

Project Name: BUCKINGHAM SQ.		Case Number: SPK-06-0532		Applicant Name: TERRY (RION)	
<input checked="" type="checkbox"/> If Required	Reviewer	Date	Comments		
<input type="checkbox"/> Site Plan		6/20/06	<input type="checkbox"/> SPOC*		
					
<input type="checkbox"/> Transport			<input type="checkbox"/> SPOC*		
<input type="checkbox"/> Engineer			<input type="checkbox"/> SPOC*		
<input type="checkbox"/> Environ			<input type="checkbox"/> SPOC*		
<input type="checkbox"/> AFD					
<input type="checkbox"/> AWU					
<input type="checkbox"/> Plumbing					

* SPOC - Single Point of Contact

Smart Housing Project? Yes No
 Existing Certificate of Occupancy? Yes No N/A
 Exhibit attached? Yes No N/A
 Building permit required? Yes No N/A
 Proposed Land Uses? Yes No N/A
 Qualifies for exemption per Section 25-5-2(____)(____)(____)&(____)(____)(____)&(____)(____)(____)

Approved Denied Determined to be a Revision New Project

Check all that apply:

<input type="checkbox"/> Review Fee(s) Not Required	<input type="checkbox"/> Landscape Inspection: _____ acres
<input checked="" type="checkbox"/> Site Plan Correction/Exemption Review Fee	<input type="checkbox"/> Shared Parking Review
<input type="checkbox"/> Change of Use Review Fee	<input type="checkbox"/> Phasing Review: _____ phases



City of Austin

Founded by Congress, Republic of Texas, 1839
 Watershed Protection and Development Review Department
 P.O. Box 1088, Austin, Texas 78767

April 26, 2006

Terrence L. Iricu
 Iricu/Slade, PLLC
 2224 Walsh Tarlton, Suite 210
 Austin, TX 78746

VIA CERTIFIED MAIL (Cert. # 7003 2260 0003 3350 1366)

RE: Buckingham Square Apartments located at 711 W. 32nd Street, Austin, TX; Appeal of Rescission of Site Plan Exemptions SPX-04-1008 and SPX-05-1590 and Suspension of Building Permit No. BP-05-3276T

Dear Mr. Iricu:

On April 24, 2006, I heard your appeal on the above referenced matters. At the hearing you argued that the subject property is a complying structure under Section 25-2-962 (*Structures Complying on March 1, 1984*) of the City Code. Because the structure was complying, you argue that your client is entitled to restore the structure in accordance with the site development standards associated with the prior zoning that existed on the property on March 1, 1984.

After considering all of the relevant facts and reviewing the applicable regulatory provisions, I have determined that your property is a complying structure under Section 25-2-962. Because it is complying, the structure may be rebuilt to the standards associated with the current zoning for the property or to the same structure design that existed prior to the fire. For example, if you choose the latter, you would be allowed to construct 68 one bedroom units and eight two bedroom units. Although the height of your structure was 34.5 feet you could rebuild it at 35 feet in accordance with MF-3-CO zoning and remain in compliance. In addition, because the structure is complying, the 12-month limit in Section 25-2-964 (*Restoration and Use of Damaged or Destroyed Noncomplying Structures*) does not apply to the redevelopment of your property.

You may appeal this decision in accordance with Section 25-1-461 (E) of the City Code. If you have any questions please contact Tammie Williamson, Assistant Director, at 974-3056.

Sincerely,

Victoria J.L. Hsu, P.E., Director
 Watershed Protection and Development Review Department

VH: tw/dt

cc: Laura J. Huffman, Assistant City Manager
 Joseph G. Pantalion P. E., Deputy Director, Watershed Protection and Development Review Department
 Tammie H. Williamson, AICP, Assistant Director, Watershed Protection and Development Review Department
 Laurie Eiserloh, Assistant City Attorney
 Deborah Thomas, Assistant City Attorney
 Sheila Rainosek, Division Manager, Watershed Protection and Development Review Department
 Mark Perlmutter, Perlmutter & Schmelko, LLP

*The City of Austin is committed to compliance with the Americans with Disabilities Act.
 Reasonable modifications and equal access to communications will be provided upon request.*



City of Austin

Law Department

City Hall, 301 West 2nd Street, P.O. Box 1088
Austin, Texas 78767-8828
(512) 974-2268

Writer's Direct Line
(512) 974-2974

Writer's Fax Line
(512) 974-6490

June 2, 2006

Mr. Terry Irion, Attorney at Law
Irion / Slade
2224 Walsh Taxton, Suite 210
Austin, TX 78746

Mr. Mark Perlmutter, Attorney at Law
Perlmutter & Schuelke, L.L.P.
Hartland Plaza
1717 West Sixth Street, Suite 375
Austin, TX 78703

Re: Building Permits for Buckingham Apartments, 711 W. 32nd Street

Dear Terry and Mark:

The staff has reviewed its position concerning the suspension of the building permits for the Buckingham Apartments after our meetings with the Applicant and the neighborhood on Friday. The staff has reviewed a chronology of the events leading up to the issuance of the building permit for the project and the legal arguments urged by both the Applicant and the neighborhood. We have concluded that the rescinded building permit originally issued to the Applicant on September 20, 2005 should be reinstated and the suspension of the building permit of April 14, 2006 should be lifted.

Pivotal to our decision is the extensive efforts of Mr. May in attempting to determine what redevelopment should be permitted on the site beginning in April of 2004.

1. Beginning April 5, 2004 the property was inspected after the fire, which destroyed the apartments. The report clearly provided that the owner was required to obtain permits to repair the burned structure pursuant to applicable codes.
2. On April 8, 2004 demolition permits were issued.
3. In May of 2004 Applicant's agent contacted Mr. Tim Langan concerning redevelopment of the site. The meeting(s) eventually resulted in an e-mail to Mr. Langan in which the Applicant's agent confirming the applicability of the technical codes to the redevelopment of

Mr. Terry Irion
Mr. Mark Perlmutter
June 2, 2006
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the site. Ms. Whaley noted that the "project should qualify for site plan exemption and will be allowed to remain as an existing non-conforming use. While we recognize that this is not your area of authority, we note this for our mutual understanding of the project intent." Mr. Langan responded that the letter reflected City of Austin requirements. It should be noted for purposes of this letter, that the Applicant does not, at this time, contend that the redevelopment is a non-conforming use, but rather Applicant has invoked the 25-2-962 safe harbor provisions.

4. In November 2004, the applicant submitted a site plan exemption request, which was eventually approved on November 17, 2004.
5. Subsequently, the Site Plan Exemption was revised and reissued on July 28, 2005 pursuant to the revisions.
6. On September 20, 2005 a building permit was issued pursuant to the site plan exemption submitted by Applicant.
7. On March 15, 2006 the layout inspection was approved.
8. On April 6, 2006 a construction trailer was moved on site.
9. On April 7, 2006 a Temporary Restraining Order was issued by the District Court in Travis County.
10. On April 14, 2006 the building permit was rescinded.
11. The Applicant has incurred approximately \$900,000 in expenses for the redevelopment of the project.
12. The Applicant has expended considerable time and effort in his attempt to determine the standards applicable to the redevelopment of the site.

In making our decision to reissue the building permit we considered the legal arguments advanced by the Applicant and do not find them to be persuasive. No Chapter 245 rights extend either to the series of emails, unsigned letters, or the instructions provided to the Applicant concerning necessary permits. Further, invoking the provisions of 25-2-962 permits the Applicant to construct nothing other than what was permitted at the time of the original building permit issued in 1967 and governed by the applicable zoning site development regulations in effect at that time as modified by the City's technical codes.

On the other hand, we also have considered the legal arguments of the neighborhood and find those arguments unpersuasive as well. Our review of the building permit and its approval in 1967 results in a determination that the structure was a complying structure for purposes of 25-2-962 and is entitled to be treated accordingly.

Finally, we have concluded that the City is not estopped from enforcing its code requirements even though a building permit, which was substantially relied upon by the Applicant may have been issued on erroneously.

However, we have determined that the Applicant attempted to act in good faith concerning redevelopment on the site. The Applicant or his agent repeatedly attempted to determine what re-

Mr. Terry Irlon
Mr. Mark Perlmutter
June 2, 2006
Page 3

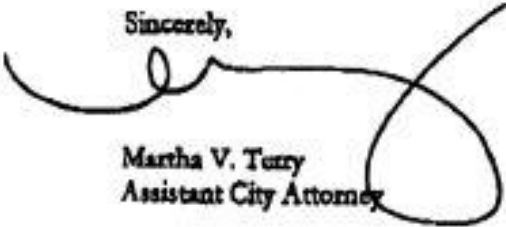
construction was permitted under the Code. The Applicant incurred considerable expense in designing the development for the site. We have concluded that this considerable expense together with the Applicant's attempts warrant the re-issuance of the building permit originally approved by the City for this site.

This accommodation is being made because of the Applicant's activities concerning reconstruction of the site and is not a recognition of, or acquiescence in, any legal arguments or theories advanced by the Applicant. Further, the City's decision in this matter is not to be construed as precedent in any future matters involving the reconstruction of a complying structure under the provisions of 25-2-962 of the Code.

It is my understanding that the Applicant has agreed to limit the height of the structure to 35 feet (as defined in Sec. 25-1-21 (46) of the City Code). The building permit that will be re-issued will reflect a re-development that will not exceed the footprint of the original structure. The building permit will not be re-issued until the building plans have been revised to show that the height does not exceed 35 feet, the maximum allowed by the zoning. In addition, a new site plan exemption showing a maximum height of 35 feet must be approved prior to re-issuance of the building permit. The mix of one and two bedroom units will deviate from the original development; the Owner is constructing more two bedroom units than previously existed. However, the redeveloped structure will be built on the same foundation and will comply with the setback requirements for the original structure. The re-development will also comply with parking and all other requirements of the current Technical Building Codes including handicapped accessibility.

Should you have any questions, do not hesitate to contact me.

Sincerely,



Martha V. Turry
Assistant City Attorney

cc: Laura Huffman
Victoria Hsu
Greg Guernsey
Sheila Rainosek
Tammie Williamson
George Zapalac



1 SOUTH ELEVATION - BLDG 1



2 ENLARGED ELEVATION - BLDG 1



3 ENLARGED ELEVATION - BLDG 1



 TSC ARCHITECTURE

 1000 WEST ANNE STREET, SUITE 100

 AUSTIN, TEXAS 78701



 REGISTERED ARCHITECT

 STATE OF TEXAS

 NO. 12345

 EXPIRES 12/31/2024

 PROJECT NO.

 SHEET NO.

BUCKINGHAM SQUARE APARTMENTS

 WEST ANNE & BURNETT

 AUSTIN, TEXAS

 SRX-06-0532

 SCALE:

 DATE:

 DRAWN BY:

 CHECKED BY:

 PROJECT NO.

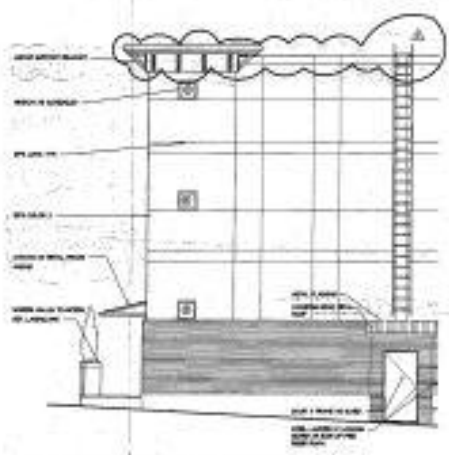
 SHEET NO.

EXTERIOR ELEVATIONS

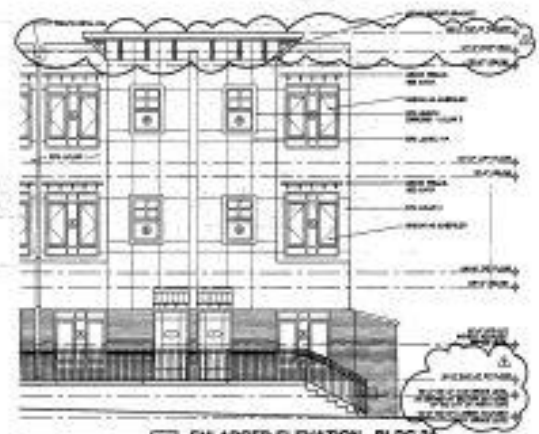
 A5.01



1 EAST ELEVATION - BLDGS 1 & 2A



2 ENLARGED ELEVATION - BLDG 1



3 ENLARGED ELEVATION - BLDG 2A



BUCKINGHAM SQUARE APARTMENTS
 WEST AUSTIN & 2ND STREET
 AUSTIN, TEXAS

EXTERIOR ELEVATIONS

A5.02

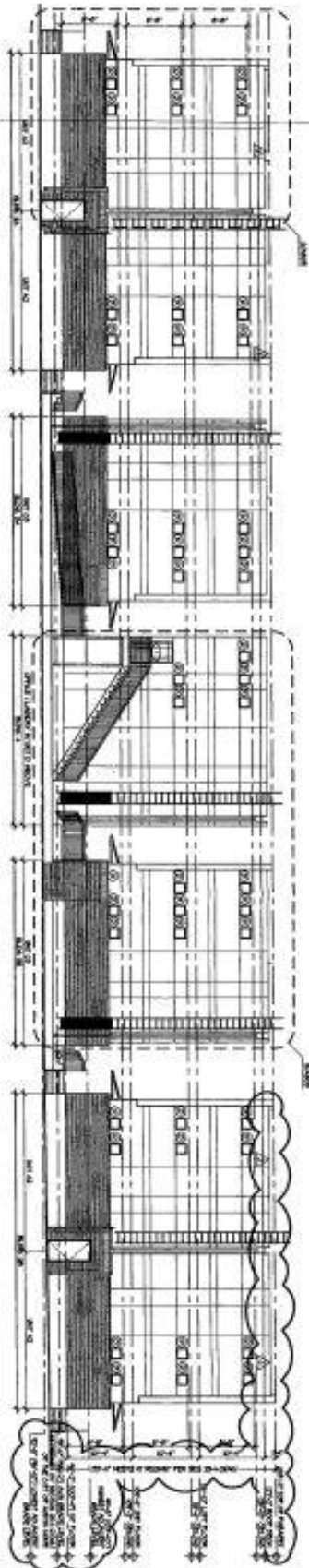


1 WEST ELEVATION - BLDGS 2B & 1

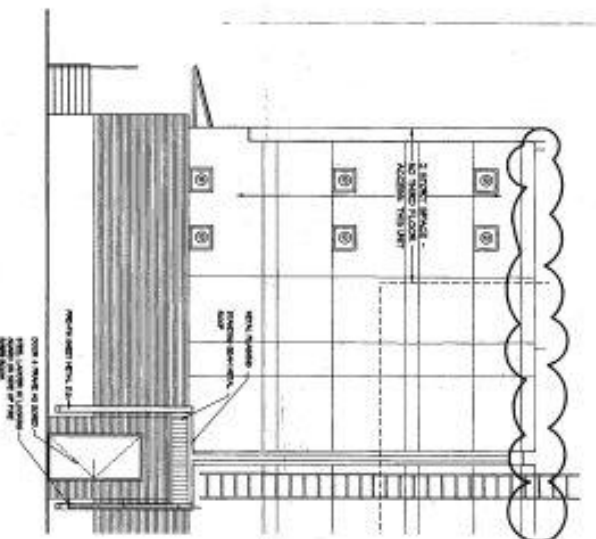


2 NORTH ELEVATION - BLDG 1

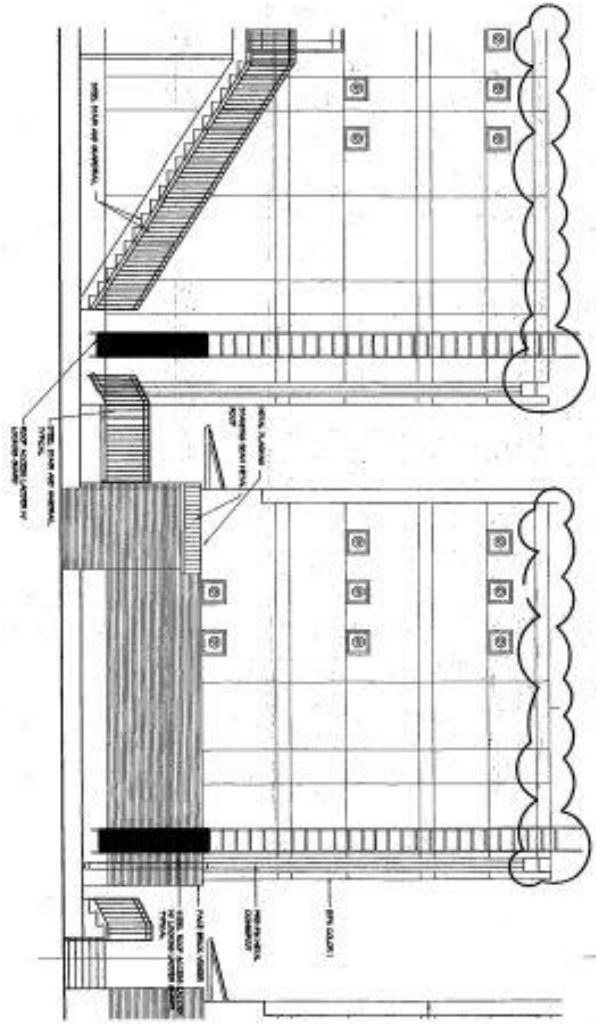
BUCKINGHAM SQUARE APARTMENTS 1000 W. 10TH STREET DALLAS, TEXAS	
ARCHITECT NAME FIRM ADDRESS CITY STATE ZIP	DATE PROJECT SHEET NO.
EXTERIOR ELEVATIONS	
A5.04	



1 NORTH ELEVATION - BLDGS 2A, 3A, 4, 3B & 2B



2 ENLARGED ELEVATION - BLDG 2A



3 ENLARGED ELEVATION - BLDGS 4 & 3B



I S G
ARCHITECTS
1000 WEST AVENUE, SUITE 1000
AUSTIN, TEXAS 78703
TEL: 512.476.1111
WWW.ISGARCHITECTS.COM



TRAVIS A. SMITH
REGISTERED PROFESSIONAL ENGINEER
STATE OF TEXAS
LICENSE NO. 10582
EXPIRES 12/31/2024
TRAVIS.A.SMITH@ISGARCHITECTS.COM

BUCKINGHAM SQUARE APARTMENTS
WEST AVENUE & 32ND STREET
AUSTIN, TEXAS

DESIGNED BY
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1000 WEST AVENUE, SUITE 1000
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TEL: 512.476.1111
WWW.ISGARCHITECTS.COM

DATE: 01-14-2024
PROJECT NO.: 17-000000-001
DATE: 01-14-2024

TITLE
EXTERIOR ELEVATIONS

SHEET NO.
A5.03