



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

Tentative Parcel Map Appeal 653-655 Fell Street

DATE: April 29, 2014
TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: John Rahaim, Planning Director – Planning Department (415) 558-6411
Christine Lamorena, Case Planner – Planning Department (415) 575-9085
RE: File No. 140355 Planning Case No. 2013.0712S – Appeal of approval of a Tentative Parcel Map for 653-655 Fell Street

HEARING DATE: May 6, 2014

ATTACHMENTS: A. Planning Department Referral Letter (dated May 25, 2014)
B. Variance Decision Letter (dated January 6, 2014)

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PROJECT SPONSOR: RWW Properties, LLC, 6114 La Salle Avenue #535, Oakland, CA 94551

APPELLANT: Jeremy D. Herzog, 653 Fell Street, San Francisco, CA 94102

INTRODUCTION:

This memorandum and the attached documents are in response to the letter of appeal (“Appeal Letter”) to the Board of Supervisors (the “Board”) regarding the Department of Public Works (“DPW”) April 7, 2014 approval of a Tentative Parcel Map for a two lot subdivision at 653-655 Fell Street. The application was filed with DPW on April 30, 2013 and referred to the Planning Department (the “Department”) for review on May 20, 2013. Related variances for lot size, rear yard, open space, and parking were heard at a public hearing before the Zoning Administrator on October 23, 2013 and granted on January 6, 2014 (Case No. 2013.0712V). Recommendation for approval by the Department was made on March 25, 2014 and issued by DPW on April 7, 2014. The Appeal Letter to the Board was filed on April 9, 2014 by Jeremy D. Herzog and referenced the proposed project in Case No. 2013.0712S. The Appellant states that he was unaware of the proposed subdivision and requests further time to research the issues. The Appeal Letter does not include any specific concerns.

The decision before the Board is whether to uphold or overturn the Tentative Parcel Map approval for the two lot subdivision.

SITE DESCRIPTION & PRESENT USE:

The subject property is a through lot located on the south side of Fell Street between Webster and Buchanan Streets. The subject lot is 25 feet wide by 120 feet deep and is developed with a three-story, two-unit building constructed circa 1900. A garage at the rear of the property fronts on Hickory Street.

Memo

SURROUNDING PROPERTIES AND NEIGHBORHOOD:

The subject property is located in the Western Addition. The building directly to the west of the subject building at 663 Fell Street is a two-story, two-unit building constructed circa 1900. An application to subdivide the lot was granted on September 12, 2008. The building directly to the east of the subject building at 647-651 Fell Street is a three-story over garage, six-unit building constructed circa 1908.

PROJECT DESCRIPTION:

The project proposes to subdivide the lot into two lots and requires the approval of the Tentative Parcel Map.

BACKGROUND:

2013 – Tentative Parcel Map Application filed, Variance Application filed & heard

On April 30, 2013, a Tentative Parcel Map application was filed with DPW to subdivide the lot into two lots and referred to the Department for review on May 20, 2013.

On July 2, 2013, a Variance application (Case No. 2013.0712V) was filed in relation to the subdivision, requesting variances from Lot Area (Planning Code Section 121), Rear Yard (Planning Code Section 134), Open Space (Planning Code Section 135), and Parking (Planning Code Section 159). The Variance application was heard at a public hearing before the Zoning Administrator on October 23, 2013. The Planning Department received no opposition to the proposed project.

2014 – Variance Application granted, Tentative Parcel Map approved.

On January 6, 2014, the Zoning Administrator granted the variances (Attachment B) and on March 25, 2014 the Department recommended approval of the Tentative Parcel Map application to DPW (Attachment A), and on April 7, 2014, DPW issued the Tentative Parcel Map approval.

CONCLUSION:

For the reasons stated above, we believe that our review and recommendation of approval of the Tentative Parcel Map application provides an accurate analysis of the proposed project. Therefore, for the reasons articulated in Attachments A and B, the Department recommends that the Board uphold DPW's approval for the Tentative Parcel Map to subdivide the lot into two lots.



**Department of Public Works
Office of the City and County Surveyor**

1155 Market Street, 3rd Floor
San Francisco, CA 94103

Bruce R. Storrs, City and County Surveyor

Edwin M. Lee, Mayor
Mohammed Nuru, Director

Fuad S. Sweiss, PE, PLS,
City Engineer & Deputy Director of Engineering

Date: May 20, 2013

Department of City Planning
1650 Mission Street, Suite 400
San Francisco, CA 94103

Project ID: 7534			
Project Type: 2 Lot Subdivision			
Address#	StreetName	Block	Lot
653 - 655	FELL ST	0829	024
Tentative Map Referral			

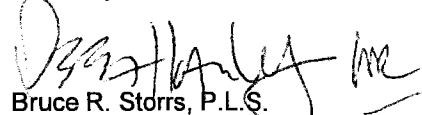
Attention: Mr. Scott F. Sanchez

Pursuant to Section 1325 of the City and County of San Francisco Subdivision Code and Section 4.105 of the 1996 City Charter, a print of the above referenced Map is submitted for your review, CEQA and General Plan conformity determination. Under the provisions of the Subdivision Map Act and the City and County of San Francisco Subdivision Code, your Department must respond to the Bureau of Street-Use and Mapping within 30 days of the receipt of the application or CEQA Determination per SMA 664521(c). Under these same state and local codes, DPW is required to approve, conditionally approve, or disapprove the above referenced map within 50 days of the receipt of the application or CEQA Determination per SMA 664521(c). Failure to do so constitutes automatic approval. Thank you for your timely review of this Map.

Enclosures:

- Print of Parcel Map
- List "B"
- Proposition "M" Findings
- Photos

Sincerely,


Bruce R. Storrs, P.L.S.
City and County Surveyor


_____ The subject Tentative Map has been reviewed by the Planning Department and does comply with applicable provisions of the Planning Code. On balance, the Tentative Map is consistent with the General Plan and the Priority Policies of Planning Code Section 101.1 based on the attached findings. The subject referral is exempt from environmental review per Class 1 California Environmental Quality Act Guidelines.

The subject Tentative Map has been reviewed by the Planning Department and does comply with applicable provisions of the Planning Code subject to the following conditions (Any requested documents should be sent in with a copy of this letter to Scott F. Sanchez at the above address): **SEE ATTACHED NSR**

_____ The subject Tentative Map has been reviewed by the Planning Department and does not comply with applicable provisions of the Planning Code. Due to the following reasons (Any requested documents should be sent in with a copy of this letter to Scott F. Sanchez at the above address):

PLANNING DEPARTMENT


DATE 03.25.14


C. LAMORENA
FOR Mr. Scott F. Sanchez, Zoning Administrator

"IMPROVING THE QUALITY OF LIFE IN SAN FRANCISCO" We are dedicated individuals committed to teamwork, customer service and continuous improvement in partnership with the community.

DOCKET COPY
DO NOT REMOVE
NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

RECORDING REQUESTED BY:)
And When Recorded Mail To:)
Name: **RWW PROPERTIES, LLC.**)
Address: **6114 La Salle Ave #535**)
City: **Oakland**)
State: **California**)


San Francisco Assessor-Recorder
Carmen Chu, Assessor-Recorder
DOC- 2014-J853350-00
Check Number 4681
Friday, MAR 21, 2014 15:14:39
Ttl Pd \$24.00 Rcpt # 0004906908
okc/KC/1-4

Space Above this Line for Recorder's Use

CERTIFIED COPY

I (We) RWW PROPERTIES, LLC. the owner(s) of that certain real property situated in the City and County of San Francisco, State of California more particularly described as follows:

(PLEASE ATTACH THE LEGAL DESCRIPTION AS ON DEED)

BEING ASSESSOR'S BLOCK: 0829 LOT: 024

COMMONLY KNOWN AS: 653-655 Fell Street

hereby give notice that there are special restrictions on the use of said property under Part II, Chapter II of the San Francisco Municipal Code (Planning Code).

Said Restrictions consist of conditions attached to a variance granted by the Zoning Administrator of the City and County of San Francisco on **January 6, 2014 (Case No. 2013.0712V, to subdivide a through lot containing a two-unit building fronting on Fell Street and a garage fronting on Hickory Street. The existing structure fronting on Fell Street will be reduced by approximately six feet in depth at the rear.**

The restrictions and conditions of which notice is hereby given are:

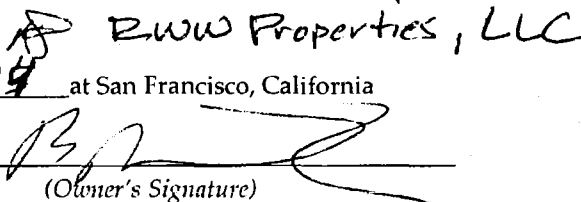
GRANTED, in general conformity with the plans on file with this application, shown as EXHIBIT A, to subdivide a through lot containing a two-unit building fronting on Fell Street and a garage is fronting on Hickory Street, subject to the following conditions:

1. Any future physical expansion, even in the buildable area, shall be reviewed by the Zoning Administrator to determine if the expansion is compatible with existing neighborhood character and scale. If the Zoning Administrator determines that there would be a significant or extraordinary impact, the Zoning Administrator shall require either notice to adjacent and/or affected property owners or a new Variance application be sought and justified.
2. The proposed project must meet these conditions and all applicable City Codes. In case of conflict, the more restrictive controls apply.

NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

3. Minor modifications as determined by the Zoning Administrator may be permitted.
4. The newly created lot fronting on Hickory Street will be limited to one dwelling unit.
5. The owner of the subject property shall record on the land records of the City and County of San Francisco the conditions attached to this Variance decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.
6. This Variance Decision and the recorded Notice of Special Restrictions shall be reproduced on the Index Sheet of the construction plans submitted with the Site or Building Permit Application for the Project. This Index Sheet of the construction plans shall reference the Variance Case Number.

The use of said property contrary to these special restrictions shall constitute a violation of the Planning Code, and no release, modification or elimination of these restrictions shall be valid unless notice thereof is recorded on the Land Records by the Zoning Administrator of the City and County of San Francisco; except that in the event that the zoning standards above are modified so as to be less restrictive and the uses therein restricted are thereby permitted and in conformity with the provisions of the Planning Code, this document would no longer be in effect and would be null and void.

Dated: MARCH 20, 2014 at San Francisco, California

(Owner's Signature)

***This signature(s) must be acknowledged by a notary public before recordation;
add Notary Public Certification and Official Notarial Seal Below.***

CL/jms/653-655 Fell Street/NSR

EXHIBIT A
LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF **SAN FRANCISCO**, STATE OF **CALIFORNIA**, AND IS DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE SOUTHERLY LINE OF FELL STREET, DISTANT THEREON 164 FEET 6 INCHES EASTERLY FROM THE EASTERLY LINE OF WEBSTER STREET; RUNNING THENCE EASTERLY ALONG SAID LINE OF FELL STREET 25 FEET; THENCE AT A RIGHT ANGLE SOUTHERLY 120 FEET TO THE NORTHERLY LINE OF HICKORY STREET; THENCE WESTERLY ALONG SAID LINE HICKORY STREET 25 FEET; THENCE AT A RIGHT ANGLE NORTHERLY 120 FEET TO THE POINT OF COMMENCEMENT.

BEING A PART OF WESTERN ADDITION BLOCK NO. 287

ACKNOWLEDGMENT

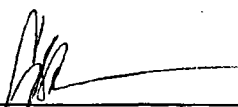
State of California
County of Alameda)

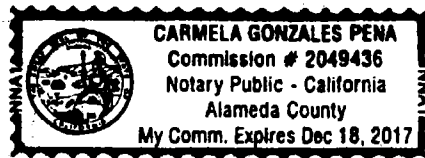
On March 20, 2014 before me, Carmela Gonzales Pena
(insert name and title of the officer)

personally appeared B Reid Setthemier
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)





SAN FRANCISCO PLANNING DEPARTMENT

Variance Decision

Date: January 6, 2014
Case No.: 2013.0712V
Project Address: 653-655 FELL STREET
Zoning: RH-3 (Residential, House, Three-Family)
40-X Height and Bulk District
Block/Lots: 0829/024
Applicant: Guillermo Loyola
RWW Properties, LLC
6114 La Salle Avenue #535
Oakland, CA 94611
Staff Contact: Christine Lamorena – (415) 575-9085
christine.lamorena@sfgov.org

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
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Fax:
415.558.6409

Planning
Information:
415.558.6377

DESCRIPTION OF VARIANCES – LOT SIZE, REAR YARD, OPEN SPACE AND PARKING VARIANCES SOUGHT:

The proposal is to subdivide a through lot containing a two-unit building fronting on Fell Street and a garage fronting on Hickory Street. The existing structure fronting on Fell Street will be reduced by approximately six feet in depth at the rear.

Section 121 of the Planning Code requires the size of the proposed lots to be a minimum of 2,500 square feet each. The proposed lot subdivision would create an approximately 1,750 square foot lot for the property fronting on Fell Street and an approximately 1,250 square foot lot for the property fronting Hickory Street.

Section 134 of the Planning Code requires a rear yard equal to 25 percent of the lot depth or 15 feet, whichever is greater for each lot. The required rear yard for the lot fronting on Fell Street would be approximately 17 feet while the proposed rear yard would be approximately three feet.

Section 135 of the Planning Code requires 100 square feet of private open space for each dwelling unit, 266 square feet of common open space, or a sufficient combination of private and common open space. The proposed lot fronting on Fell Street containing two units would provide approximately 86 square feet of private open space where 100 square feet are required and 146 square feet of common open space where 266 square feet are required.

Section 159 of the Planning Code stipulates that required parking spaces for one-family and two-family dwellings be located on the same lot as the dwellings served. The proposed subdivision would result in the required parking spaces being located on a separate lot; therefore, a variance is required.

PROCEDURAL BACKGROUND:

1. The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption.
2. The Zoning Administrator held a public hearing on **Variance Application No. 2013.0712V** on **October 23, 2013**.
3. Planning Code Section 311 notification is not required for the proposal.

DECISION:

GRANTED, in general conformity with the plans on file with this application, shown as EXHIBIT A, to subdivide a through lot containing a two-unit building fronting on Fell Street and a garage fronting on Hickory Street, subject to the following conditions:

1. Any future physical expansion, even in the buildable area, shall be reviewed by the Zoning Administrator to determine if the expansion is compatible with existing neighborhood character and scale. If the Zoning Administrator determines that there would be a significant or extraordinary impact, the Zoning Administrator shall require either notice to adjacent and/or affected property owners or a new Variance application be sought and justified.
2. The proposed project must meet these conditions and all applicable City Codes. In case of conflict, the more restrictive controls apply.
3. Minor modifications as determined by the Zoning Administrator may be permitted.
4. The newly created lot fronting on Hickory Street will be limited to one dwelling unit.
5. The owner of the subject property shall record on the land records of the City and County of San Francisco the conditions attached to this Variance decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.
6. This Variance Decision and the recorded Notice of Special Restrictions shall be reproduced on the Index Sheet of the construction plans submitted with the Site or Building Permit Application for the Project. This Index Sheet of the construction plans shall reference the Variance Case Number.

FINDINGS:

Section 305(c) of the Planning Code states that in order to grant a variance, the Zoning Administrator must determine that the facts of the case are sufficient to establish the following five findings:

FINDING 1.

That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other properties or uses in the same class of district.

Requirement Met.

- A. The subject block is bifurcated by Hickory Street with lots on its north and south sides. The subject property is located on the north side of Hickory Street. Many lots on the south side of Hickory Street, directly across from the subject property, as well as the property immediately adjacent and to the west at 663 Fell Street, were subdivided and developed with buildings fronting on the front and rear of their respective lots.
- B. The subject property has a lot depth of 120 feet, which is deeper than the typical lot depth of 100 feet.

FINDING 2.

That owing to such exceptional and extraordinary circumstances the literal enforcement of specified provisions of this Code would result in a practical difficulty or unnecessary hardship not created by or attributed to the applicant or the owner of the property.

Requirement Met.

- A. The literal enforcement of the Planning Code would preclude development on the proposed lot that is similar to approximately eight lots directly across Hickory Street and adjacent to the subject property, a practical difficulty or unnecessary hardship not created by or attributed to the applicant or to the owner of the property.

FINDING 3.

That such variance is necessary for preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.

Requirement Met.

- A. Other properties on the block have enjoyed the ability to split lots and create development on Hickory Street, a substantial property right possessed by other properties in the same class of district. Variances were granted to other similar projects on the subject block. Specifically, nearby projects include the properties at 663 Fell Street, located immediately adjacent to the subject property, which was granted lot size, rear yard, open space and off-street parking variances on March 20, 2008 (Case No. 2007.1044V) and 513 and 519 Hickory Street, located directly across Hickory Street, which were granted lot size, rear yard, open space and off-street parking variances on November 8, 1990 (Case No. 1990.094V).

FINDING 4.

That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

Requirement Met.

- A. The proposal will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity as there are no proposed physical alterations to

expand the structures and the lot subdivision would occur on a block with similar conditions. Previously approved lot size, rear yard, open space, and parking variances in the nearby area include 663 Fell Street (Case No. 2007.1044V) and 513 and 519 Hickory Street (Case No.1990.094V).

- B. The Planning Department received no opposition to the proposed project.

FINDING 5.

The granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the General Plan.

Requirement Met.

- A. This development is consistent with the generally stated intent and purpose of the Planning Code to promote orderly and beneficial development. Planning Code Section 101.1 establishes eight priority-planning policies and requires review of variance applications for consistency with said policies. The project meets all relevant policies, including conserving neighborhood character, and maintaining housing stock.
1. Existing neighborhood retail uses will not be adversely affected by the proposed project.
 2. The proposed project will be in keeping with the existing housing and neighborhood character. The proposal will preserve the existing two dwelling units on the property.
 3. The proposed project will have no effect on the City's supply of affordable housing.
 4. The proposed project does not adversely affect neighborhood parking or public transit.
 5. The project will have no effect on the City's industrial and service sectors.
 6. The proposed project will have no effect on the City's preparedness to protect against injury and loss of life in an earthquake.
 7. The project will have no effect on the City's landmarks or historic buildings.
 8. The project would not affect any existing or planned public parks or open spaces.

The effective date of this decision shall be either the date of this decision letter if not appealed or the date of the Notice of Decision and Order if appealed to the Board of Appeals.

Once any portion of the granted variance is utilized, all specifications and conditions of the variance authorization became immediately operative.

The authorization and rights vested by virtue of this decision letter shall be deemed void and cancelled if (1) a Building Permit has not been issued within three years from the effective date of this decision; or (2) a Tentative Map has not been approved within three years from the effective date of this decision for

Subdivision cases; or (3) neither a Building Permit or Tentative Map is involved but another required City action has not been approved within three years from the effective date of this decision. However, this authorization may be extended by the Zoning Administrator when the issuance of a necessary Building Permit or approval of a Tentative Map or other City action is delayed by a City agency or by appeal of the issuance of such a permit or map or other City action.

APPEAL: Any aggrieved person may appeal this variance decision to the Board of Appeals within ten (10) days after the date of the issuance of this Variance Decision. For further information, please contact the Board of Appeals in person at 1650 Mission Street, 3rd Floor (Room 304) or call 575-6880.

Very truly yours,



Corey A. Teague
Acting Zoning Administrator

THIS IS NOT A PERMIT TO COMMENCE ANY WORK OR CHANGE OCCUPANCY. PERMITS FROM APPROPRIATE DEPARTMENTS MUST BE SECURED BEFORE WORK IS STARTED OR OCCUPANCY IS CHANGED.

CL: G:\DOCUMENTS\2013\Vs\2013.0712\2013.0712V - 653-655 Fell St - Decision Letter.doc

Copy to I:\Decision Documents\Variance Decision Letters\2013\2013.0712V - 653-655 Fell St - Decision Letter