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January 8, 2002

San Francisco Planning Commission
c/o Pete Vollman
1660 Mission St
San Francisco CA 94102

Unit Merger Application
224 Filbert Steps
Building Permit Application 2001/06/01/0508
Case Number 2001.0969D
Telegraph Hill Historic District
By FAX

Dear Commissioners:

224 Filbert is at the corner of the Filbert Steps and Napier Lane, opposite the famed Grace Marchant Garden, in the heart of the Telegraph Hill Historic District. This property has long been of interest to the Telegraph Hill Dwellers because of its location and because of our goals which seek to preserve housing stock and to preserve the historic nature of buildings and enhance the Historic District.

In some instances these goals may conflict and in others they may coincide. It may in some cases be appropriate to encourage unit mergers in order to preserve buildings or their historic nature. For the reasons which we give below, we do not believe this to be true here. We oppose the application to merge 224 Filbert's two units into one, and support the Planning Department's recommendation that the application be denied by you. Almost all of the Planning Department's criteria governing unit mergers have not been met, and the purpose of the non-occupying owner is simply to increase the price and marketability of the property, which she plans to sell.

I. The Background.

The owner of 224 Filbert, Joanne Trafton (the Applicant), was until very recently one of the largest property owners in the Historic District. She owns 224 Filbert (two units; these are the units she seeks to merge); 226 Filbert (two units); 21 Napier (three units); and until a few weeks ago, 15 Napier (one unit; just sold to Mark Miller, who is representing her in this matter). This is a total of eight units, five of which are vacant; she does not live in any of them, and in fact does not live in the Historic District or on Telegraph Hill, but, so we understand, is living in San Jose.

Since the Applicant purchased these four buildings, she has undertaken non-permitted work on at least three of them, including 224 Filbert. On at least two of them, stop work orders have been issued. These actions of the applicant show, in our view, a consistent pattern of disregard of city law and policy. Her non-permitted work has also made it extremely difficult to determine whether, in the case of 224 Filbert, she has changed the building in any way so as to merge them physically before filing her application. Did she, for example, take out all or part of a kitchen in one of the two units? Did she build a connecting stairway? Since she failed to secure a building permit before undertaking substantial work on 224 Filbert, there are no plans which will definitely tell us, and we will never know for sure.

II. Applying the Planning Department Criteria.

In almost all respects, the application does not satisfy the Planning Department's criteria governing unit mergers. In many respects, the answers given are either not true or significantly misleading. Below we set forth the pertinent criteria, the Applicant's answers, and our responses or observations.

Criterion 1a. Please describe the reason for removing the unit.

Applicant's Answer. "The owner requests the second unit of the building to be removed to bring the building into closer conformity to its Historical and Landmark legacy and to facilitate renovations to the building which have caused functional deficiencies and a general degradation of the property."

THD Response. Not true. 224 Filbert as it stands today was significantly expanded in the 1970's to add the entire lower floor that is now the second unit. Merging this unit with the unit on the floor above would not bring 224 Filbert back to its pre-expansion state, and in fact would be deliberately counter to the reason for the 1970's expansion, adding a unit. Merging the units would also have no bearing on 224 Filbert's functional deficiencies (which are not specified) nor on the property's general degradation (which is also not described). These claims by the Applicant are also suspect because immediately prior to

her purchase of 224 Filbert, the prior owner invested hundreds of thousands of dollars in upgrading it.

Criterion 1b. Is/was the unit tenant or owner occupied.

Applicant's Answer. "Owner."

THD Response. Misleading. The Applicant has never, to the best of our knowledge, lived in either unit of 224 Filbert. If in fact she has, it was for the briefest of times. She doesn't live there now.

Criterion 1b (continued). Reason the unit was vacated.

Applicant's Answer. "The unit has not been occupied as the property is essentially laid out as a single-family house. Separate occupancy of the second unit would require more of an in-law or proximate relationship than pure owner/tenant."

THD Response. Not true. Each of the two units is on a separate floor. Immediately after the expansion of 224 Filbert in the 1970's and for several years thereafter, both units were separately occupied. Even before then (as early as 1934 and until the expansion, according to records retrieved by the Planning Department), there were two units in the building. The property can easily accommodate two sets of tenants, or two owners, or an owner and a tenant, and in fact was designed to do just this.

Criterion 1c. Is replacement of the unit proposed?

Applicant's Answer. [No answer was given.]

THD Response. The answer should be 'no', since there is no proposed replacement of the unit.

Criterion 2b. Has the number of units in the building been modified from the original construction? How?

Applicant's Answer. "The building was originally (1850's through 1971) a single-family cottage. Renovation and expansion in the 1970's added a unit to the lower area that was formally [sic; read "formerly"] storage and structure, and a loft and dormer to the upper floor."

THD Response. Significantly misleading and probably partly untrue. We believe the building had two units even before the 1970's expansion (as noted above, the Planning Department finds the two units to have existed from 1934). Since then there have always been two units. The Applicant's answer does not, in addition, discuss her own modifications to the building, much of which were done without building permits or applications for them.

Criterion 3a. Does the unit have any design/functional deficiencies.

Applicant's Answer. "Yes, the kitchen in the unit to be removed is substandard (Pullman style) and it is not sufficiently distinguished from the Owner's unit to function privately. Also, the 'bedroom' in the upper unit is a (historically insensitive) 'loft' with insufficient head clearance and support space."

THD Response. Not true or significantly misleading. The kitchen in the lower unit is on a separate floor from the upper

unit. Furthermore, we believe portions or all of a kitchen may have been removed from the lower unit. Whether this was done by the Applicant or not is very difficult to say, because of the non-permitted work she has done. The bedroom in the upper unit has been used as a bedroom for at least thirty years. The Applicant does not propose, as part of this application, to change it.

Criterion 3c. Condition of unit to be removed.

Applicant's Answer. "Fair."

THD Response. At least significantly misleading and probably untrue. Immediately prior to the Applicant's purchase of the building, its prior owner spent over a year and hundreds of thousands of dollars improving it. The Applicant has done extensive, non-permitted work. It is hard to believe that, after all this, any portion of 224 Filbert is only in fair condition.

Criterion 3f. Description of how units will be merged.

Applicant's Answer. "Exterior may be renovated according to its Historical precedent."

THD Response. The Applicant has provided no assurances that any exterior renovations will in fact happen. In the case of 226 Filbert, also owned by her and immediately up hill on the Filbert Steps, she failed to carry out significant portions of the work for which she had secured a Certificate of Appropriateness. Representations by the Applicant about what she 'may' do should be treated with caution.

Criterion 4b. Can preservation/rehabilitation be achieved without removal of the unit? If no, why not?

Applicant's Answer. "No. The removal of the loft in the upper level (added in 1971) removes the sleeping quarters from the main unit. The second unit is required to provide the bedroom."

THD Response. At least significantly misleading. First, it was not the upper level which was added in 1971; it was the lower unit. Second, the removal of the loft is not part of this application, and there has been no assurance by the Applicant that it will in fact be removed. Third, even if the loft were removed, the building could be configured so that the lower unit was not needed to provide a bedroom. Fourth, the Applicant is not proposing to live in 224 Filbert, and it is inadvisable to make these decisions now for a future owner living there.

Criterion 5c. Is one of the units to be merged currently owner occupied? If yes, date of occupancy.

Applicant's Answer. "No."

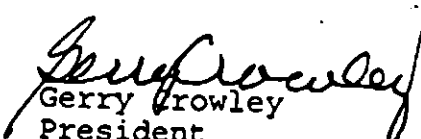
THD Response. The Applicant's answer is correct as far as it goes, but it should go further. So far as we know, she has never lived in either unit (or if so for the briefest of times only) and she has no plans to do so in the future. Her purpose in seeking the units' merger is simply to increase 224 Filbert's salability and price.

III. Conclusion.

The strongest partial argument that may be made in the Applicant's favor is that she would not be evicting a present, actual tenant if this application were granted. But other than that, there really are no reasons justifying the units' merger. The Applicant does not live at 224 Filbert, and doesn't plan to do so. She seeks the merger only to increase what she perceives to be the building's salability and price on the market. She has done non-permitted work which has made it difficult to evaluate her application.

Unless this Commission is prepared to let absentee owners merge units for their own economic self-interest and, in our view, largely disregard the Planning Department's merger criteria, the application should be denied. We concur with the Department's recommendation that the application be denied, and respectfully request this Commission's adoption of that recommendation. If a future occupying owner seeks the units' merger, it may be appropriate then to reconsider this matter, but not before then.

Sincerely yours,


Gerry Crowley
President

cc: Mark Miller