

Diana Dullaghan & John Owens
177 Frustuck Avenue
Fairfax, CA 94930
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November 27, 2013

Town of Fairfax

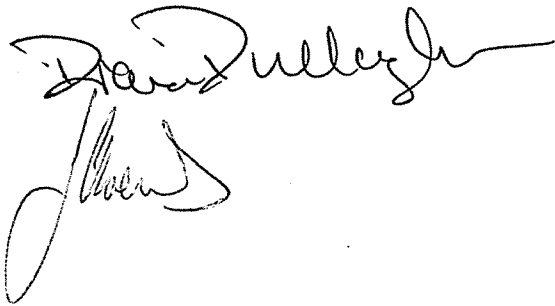
Enclosed is our appeal for the second unit application. Due to the shortened amount of time to submit this appeal due to the Thanksgiving, we will submit the mailing labels/postage and any additional documents in the near future.

Because of the upcoming holidays we do not have enough time to prepare for a council meeting in December, and request our appeal to be calendared no earlier than January, 2014.

We are incorporating all of our previous document submittals and binders of exhibits from the 11/21/13 Planning Commission meeting for this appeal. Please let us know the deadline date for submitting any additional documents before the council meeting.

If you have any hard-copy sets from our original application that are not needed for the appeal process, please return them to us.

Diana Dullaghan & John Owens

Handwritten signatures of Diana Dullaghan and John Owens. The signature for Diana Dullaghan is written in a cursive style, and the signature for John Owens is also cursive and appears to be written below the first signature.

Supplement to
AGENDA ITEM # 12

John Owens & Diana Dullaghan
177 Frustuck Avenue, Fairfax CA 94930
Tel 456-8064 Email: johnoph@aol.com

November 27th, 2013

Hand Delivery
Town of Fairfax
142 Bolinas Road
Fairfax Ca 94930

Appeal of Planning Commission Decision November 21st 2013

We are asking the Town Council to take a fresh look at our resubmitted second unit application. Four years have passed since our last application. The Town of Fairfax is still required by the Association of Bay Area Governments to develop 172 housing units by 2014. A large portion of the quota is to be affordable housing. To date the Town has approved at most three affordable second units. This unit will be a valuable second unit built within the 2009-2014 planning period.

“Policy LU-8.1.2: The Town of Fairfax shall permit construction of well-designed second units consistent with state law, zoning requirements, and building codes, parking requirements and street capacity.”

177 Frustuck is probably the most sustainable home built in Fairfax to date. If Leed Certification existed in 2006, it would have been rated Gold Standard (see letter from Leed certified Architect). The proposed energy efficient second unit would be Leed certified to Gold or Platinum Standard. The second unit will have double the required off street parking spaces

The Town has an objective of producing Accessory Dwelling Units by 2014. We are heading into 2014 and Fairfax has only produced at most three. Quotas have not been met, and currently there are no programs to create or legalize second units, and 2014 is upon us.

“Goal H-6: Create additional opportunities for the development of Accessory Dwelling Units.

Objective H-6.1: At least 27 units of well-designed, legal, second ADUs in all residential neighborhoods; applying reasonable parking and street capacity standards.

“The Town will monitor the production of housing through an annual report to the Town Council on the units constructed each year and their affordability by income level. If the number of affordable units falls short of the expected number the Town will adopt additional revisions to the Zoning Ordinance and additional incentives to increase the likelihood that the new construction objectives contained in the 2010 Housing Element can be achieved.”

Please don't ignore the written and adopted policies of the Town of Fairfax. It is almost 2014 and the Town is unattainably short of its housing quotas. Please approve this unit.

The Town of Fairfax has already set a precedent by granting multiple exceptions and variances for the three second units that I am aware of that have been approved to date:

SECOND UNITS (Town Code)

§ 17.048.010 PURPOSE.

The purpose of this chapter is to implement the housing element of the general plan in order to increase housing opportunities for all economic segments of the community. The intent is to provide for retention in the housing stock of existing units that comply with health and safety standards and to encourage construction of new accessory residential units in full compliance with such standards.

§ 17.048.090 EXCEPTIONS.

(A) Exceptions to the requirements of this chapter shall be made in the following cases: The provisions of this chapter shall not apply to legal non-conforming second units; legal non-conforming units are subject to the provisions of Chapter 17.016 of this title.
(B) Any other exceptions to the provisions of this chapter are subject to securing a variance or use permit as prescribed by Chapters 17.028 and 17.032 of this title.(Ord. 704, passed 6-8-2004).

November 20, 2003. 88 Dominga. Application approved outside of the second unit amnesty. Approval to convert an existing 324 sq. ft. garage to a second unit. The unit and the parking space were located in the side yard set back and both needed variances. (I believe only one variance was allocated to the project to expedite a much needed second unit) **Two Variances.**

April 17th 2008 17 Vista Way. Unit approved under the second unit amnesty. This project required **Three variances.** A size variance, a side yard setback variance, and a parking variance.

September 18th 2008 130 Mono Avenue approval under the second unit amnesty. This project required a side yard setback variance for an existing parking space. The second unit square footage also exceeded the 700 square foot or 30% of the main unit.
Two Variances.

Greatest Exception

In the spring of 2010, the Town Council voted to modify the State Fire Code in regards to the requirement of fire sprinklers in the legalizing of existing illegal second units. This was an effort to encouraged legalizing the three hundred to four hundred documented illegal units in Town. The code modification was over the strong objections of safety from the Ross Valley Fire Marshall. Council member Tremaine stated at the final council meeting that the Town had to do this because the Town was under the gun from ABAG.

The precedents are already set. The Town has already shown it will make great exceptions for the production of second units. The requested variances are no different. The Town has already stated in previous Housing Elements that for all intents and purposes the Town is built out, and those handful of remaining lots are largely uneconomic to develop. There will not be a flood of applications to build new second units as it would not be economically viable. It certainly would be a plus to the Town of Fairfax if more applicants legally in-filled spaces in their homes to produce legal second units with off street parking.

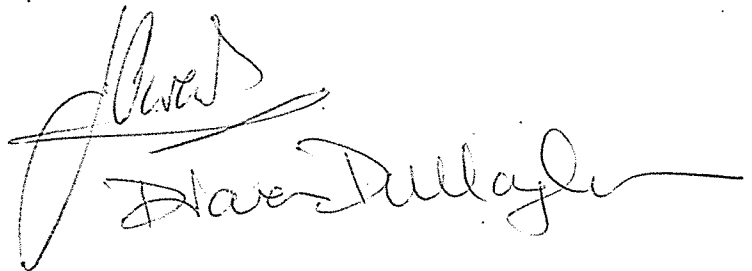
The Town is "under the gun" from ABAG and State of California HCD. This situation is clearly stated in the 2010 adopted Housing Element (adopted by the Town 2012).

"In short, many of the policies and objectives proved unattainable (2006 element). As a result, the 2010 Housing Element update must take into account the shortcomings of the 2006 Housing Element to ensure that the Town of Fairfax does not face fines and penalties from State and federal agencies, or challenges from housing advocacy groups".

We urge you to approve our Leed Certifiable Affordable Housing Second Unit.

Thank you for your consideration.

John Owens & Diana Dullaghan

Handwritten signatures of John Owens and Diana Dullaghan. The signature for John Owens is on the left, and the signature for Diana Dullaghan is on the right, written in a cursive style.