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August 22, 2023

The Honorable Judge James Chou
Marin County Superior Court
P.O. Box 4988
San Rafael, CA 94913-4988

Pat Shepherd, Foreperson
Marin County Civil Grand Jury
3501 Civic Center Drive, Room #275
San Rafael, CA 94903

Dear Judge Chou and Foreperson Shepherd,

Below is the Novato Unified School District's response to the 2022-2023 Marin County Civil Grand Jury Report dated June 15, 2023, *Build More ADUs – An Rx to Increase Marin's Housing Supply*.

FINDINGS:

F7: Impact, connection, and capacity fees vary considerably throughout the County and such fees can be a disincentive to homeowners considering ADU development.

Response: We partially disagree with the finding. – The Marin County Civil Grand Jury Report "Build more ADUs – An Rx to Increase Marin's Housing Supply" builds a compelling case relative to the variability and associated uncertainty in fees faced by homeowners considering Accessory Dwelling Unit development. Nonetheless, we partially disagree with the finding as the report does not acknowledge that the government code cited as a basis for the report does not apply to public school districts.

In 1986, the California Legislature authorized school districts to levy school impact or developer fees on residential and commercial/industrial development for the purpose of funding the construction or reconstruction of school facilities. The basis of the school facilities legislation is the relationship between new development, and the impact on school districts to provide adequate school facilities for the student population new development generates. The authority for a school district's assessment of developer fees is set forth in Education Code Section 17620, pursuant to Government Code 65995.

RECOMMENDATIONS:

R4: By December 31, 2023, begin a feasibility assessment of waiving or significantly lowering impact and connection fees for units smaller than 750 square feet.

Novato Unified School District Response to the Marin County Grand Jury Report
"Build More ADUs – An Rx to Increase Marin's Housing Supply"

Response: This recommendation will not be implemented because it is not warranted or is not reasonable. – Government Code 65852.2, which concerns ADUs, states, on page 5, "A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet" and on page 7 defines "local agency" to mean ". . . a city, county, or city and county, whether general law or chartered." As you can see, school districts are not included in the types of agencies to which the law applies.

There is a separate law, Education Code 17620, that authorizes school districts to impose developer fees on residential construction if the increase in assessable space is over 500 square feet and, if so, then the fee may be imposed on the entire square footage (i.e., there's no offset for the first 500 square feet).

The district prepares an annual accounting of the development fees it has collected that is made available to the public and reviewed by the district's governing board at a regularly scheduled board meeting. The report identifies the amount of the fee, the amount of fees collected and the beginning and ending balance in the separate fund used to account for the fees. The report also describes the public improvement projects on which fees were expended and the total cost of each such improvement.

Additionally, Government Code 66001 requires each district that collects developer fees to make further findings every five (5) years about any developer fee fund in which those fees remained unexpended at the end of the fiscal year.

Given the transparency with which the school district manages the developer fees it collects, the fact that ADU's under 500 sq. ft. are not subject to fees, and the importance of this funding stream to the district's ability to maintain adequate educational facilities, the Novato Unified School District respectfully declines to consider any reduction in the fees it assesses.

Sincerely,



Debbie Butler, President
Novato Unified School District Board



Dr. Tracy Smith, Superintendent
Novato Unified School District

RESPONSE FORM: 2022-2023 Marin Civil Grand Jury Report

Report Title: Build More ADUs - An Rx to Increase Marin's Housing Supply

Respondent/Agency Name: Novato Unified School District

Submitter Name: Tracy Smith Title: Superintendent

FINDINGS

- Agree with the findings numbered: _____
- Disagree *partially* with the findings numbered: F7
- Disagree *wholly* with the findings numbered: _____
(Attach a **statement** specifying any portions of the findings that are disputed; include an explanation of the reasons therefor.)

RECOMMENDATIONS

- Recommendations numbered _____ have been implemented.
(Attach a **summary** describing the implemented actions.)
- Recommendations numbered _____ have not yet been implemented, but will be implemented in the future.
(Attach a **timeframe** for the implementation.)
- Recommendations numbered _____ require further analysis.
(Attach an **explanation** and the scope and parameters of an analysis or study, and a **timeframe** for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This **timeframe shall not exceed six months** from the date of publication of the grand jury report.)
- Recommendations numbered R4 will not be implemented because it is not warranted or are not reasonable.
(Attach an **explanation**. Please see Novato Unified's Response letter.)

Date: 8/22/23 Signed: Tracy Smith

Number of pages attached: 1