

Jim Wickham
Mayor
Urban Carmel
Vice Mayor
Stephen Burke
Councilmember



Max Perrey
Councilmember
Caroline Joachim
Councilmember
Todd Cusimano
City Manager

September 8, 2023

The Honorable Judge James T. Chou
Marin County Superior Court
P.O. Box 4988
San Rafael, 94913-4988
departmentb@marin.courts.ca.gov

Pat Shepherd
2022-23 Foreperson, Marin County Civil Grand Jury
3501 Civic Center Drive, Room #275
San Rafael, CA 94903
grandjury@marincounty.org

Re: Mill Valley City Council Response to "Build More ADUs - An Rx for Increasing Marin's Housing Supply", Marin County Civil Grand Jury, June 15, 2023

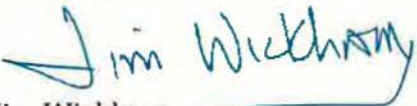
Dear Judge Chou and Foreperson Shepherd,

At its regular meeting on September 7, 2023, the Mill Valley City Council reviewed the report: "Build More ADUs - An Rx for Increasing Marin's Housing Supply", dated June 15, 2022.

The City Council understands the importance of ADUs in achieving the City's affordable housing goals. In the attached statement, the City has commented on the findings and recommendations the Grand Jury has asked the City to address (F1, F2, F3, F4, F5, F6, F7, F8, F9, F10; R1, R2, R3, R4, R5, R6).

Should the members of the Grand Jury require any additional information, please contact City Manager Todd Cusimano at 415-388-4033 or tcusimano@cityofmillvalley.org.

Sincerely,


Jim Wickham
Mayor

c: Mill Valley City Council
City Manager
City Clerk
File

RESPONSE TO GRAND JURY REPORT

Report Title: "Build More ADUs – An Rx to Increase Marin's Housing Supply"
Report Date: June 15, 2023

Response By: Mill Valley City Council
Title: Mayor and City Council

GRAND JURY FINDINGS:

- We agree with the findings numbered **F1, F4, F5, F10**
- We disagree wholly or partially with the findings numbered: **F2, F3, F6, F7, F8, F9**

GRAND JURY RECOMMENDATIONS:

- Recommendations numbered **R1, R3, R4, R6** require further analysis.
- Recommendations numbered **R2, R5** will not be implemented because they are not warranted or are not reasonable.

DATE:

9/8/23

Signed:

Jim Wickham
Jim Wickham, Mayor

ATTEST:

Hannah Politzer
Hannah Politzer, City Clerk

Number of pages attached: 4

RESPONSE TO FINDINGS

F1. More housing in Marin is needed and ADUs are one solution.

Response: The City of Mill Valley agrees with this finding.

F2. Many homeowners lack information and knowledge about ADU development, and Marin's jurisdictions are not always helpful to homeowners seeking information about ADU development.

Response: The City of Mill Valley partially disagrees with this finding. The statement that Marin's jurisdictions are not always helpful to homeowners seeking information about ADU development is not accurate, although some information is technical and may be difficult for homeowners to understand. City of Mill Valley planning staff are available to meet with homeowners to provide information and respond to questions about ADU development. The City's website (<https://www.cityofmillvalley.org/266/Forms-Fees-Resources>) offers information regarding ADU development standards, overall process, building permit check list and other helpful resources regarding ADU regulations. There is also additional support through the [ADUMarin.org website, which was launched in fall 2020 to provide online resources and educational information on financing, planning for, constructing and renting out ADUs](https://www.adumarin.org). The website also provides ADU regulations for each city and town in Marin County, providing one access point for information on ADUs.

F3. It is often difficult, if not impossible, for a Marin homeowner to determine the planning, building connection, capacity and impact fees associated with developing an ADU in a particular jurisdiction.

Response: The City of Mill Valley partially disagrees with this finding. While it can be difficult to obtain information about fees because they include multiple agencies, the word "impossible" is exaggerating the level of difficulty. The City of Mill Valley's current fee schedule is available on the City's website. Mill Valley Planning and Building department staff are available to meet with homeowners to answer questions regarding impact fees associated with developing an ADU, and often provide an example of building fees for similar scale ADU projects. City staff also respond to inquiries via email and phone. In addition, the ADUMarin.org website has a calculator available to estimate fees associated with building an ADU.

F4. Many Bay Area cities and counties, for example Napa and Sonoma, have implemented comprehensive websites and related support to help homeowners create ADUs.

Response: The City of Mill Valley agrees with this finding. The County of Marin has also implemented a comprehensive website; see response to F2 above.

F5. ADUs may be rented affordably and provide additional benefits for older adults and their caregivers.

Response: The City of Mill Valley agrees with this finding.

F6. Most Marin jurisdictions could provide better resources offering or identifying financing incentives for ADU development.

Response: The City of Mill Valley partially disagrees with this finding. The [ADUMarin.org website](https://www.adumarin.org) provides a complete guide to planning an accessory dwelling unit including information on budgeting and finance. Mill Valley's website provides a weblink ([Construction Loan Opportunities](https://www.adumarin.org/construction-loan-opportunities)) to the Marin Housing Authority's Second Unit Loan Program to create and/or legalize ADUs. The Program provides interest free loans to property owners in Marin County for the creation and/or legalization of affordable

units to be rented to low-income tenants.

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

Response: The City of Mill Valley partially disagrees with this finding. Jurisdictions and utility districts may not charge impact fees for ADUs that are less than 750 square feet per state law. Connection and capacity fees vary by utility district.

F8. Not every jurisdiction in Marin has updated its planning and building policies to conform with current ADU laws.

Response: The City of Mill Valley partially disagrees with this finding. It is possible that not every jurisdiction has updated its planning and building policies, however, state law supersedes local ordinances, so that even if the local ordinance has not been updated, the State law is in effect. It is also important to note that state laws continue to evolve and change on a regular basis, if not annually, causing local ordinances to become outdated quickly. However, City staff provides information on state law to the public in instances when the standards in the City's ordinance do not comply with state law.

F9. Granting amnesty, following safety inspection, to existing non-conforming second units could help Marin meet its housing obligations.

Response: The City of Mill Valley disagrees with this finding. The City of Mill Valley, Marin County and other cities and towns previously included Amnesty programs to encourage legalization of existing unpermitted ADUs by providing relaxed standards. However, given the permissiveness and flexibility of state law, granting amnesty is not necessary as barriers are not related to planning and building requirements (see the response to Grand Jury recommendation R2). Furthermore, amnesty for legalization of existing units could address health and safety issues with existing housing but may not directly create new housing.

F10. ADU Marin and Hello ADU are a good start. However, compared to several other Bay Area cities and counties, for example Napa and Sonoma, they could be substantially enhanced and expanded.

Response: The City of Mill Valley agrees with this finding.

RESPONSE TO RECOMMENDATIONS

R1. On or before December 31, 2023, the Marin County Board of Supervisors should direct the Community Development Agency's Development Priority Setting Committee to:

- 1) Identify available funding/financing information for residents who need help with the cost of building an ADU,**
- 2) Transmit the collected information to all the jurisdictions represented on the Committee.**
- 3) Start a continuous monitoring program to update the information sources as they become available.**

Response: This recommendation will not be implemented because it is not warranted or reasonable. The City has no authority to direct the County Board of Supervisors to take any action. We have been informed by the County that they believe that this recommendation requires further analysis because the "Development Priority Setting Committee" does not currently exist in the Community Development Agency. The County has indicated that once that committee is identified, they will need additional time to respond to this item.

R2. By December 1, 2023, begin investigation to consider an amnesty program to legalize existing unpermitted second units. Add a marketing communications plan so that citizens can be made aware of it.

Response: This recommendation will not be implemented because it is not warranted or reasonable. Amnesty programs typically waive existing violations of a zoning or development code, such as setbacks, height, size, lot coverage or location that have been identified as barriers to development. The ADU state laws allow most illegal units and violations of the code described above to be legalized and permitted. In some cases, the limiting factor to legalizing space for an ADU is the construction cost associated with bringing the unit up to current building and fire codes. Further, an amnesty program would not alleviate such a constraint.

R3. By December 1, 2023, begin the process of merging and/or collaborating with Napa/Sonoma ADU, and hiring a full-time Marin ADU Program Coordinator. The program coordinator should work with all jurisdictions on the development of ADUs and identify impact and connection fees within each jurisdiction.

Response: This recommendation requires further analysis. The Cities and Towns and Marin County have been communicating with the Napa/Sonoma ADU Center over the last several months through the Marin County Housing Collaborative Group, the Housing Working Group (HWG). The HWG is composed of Planning Directors and staff from the County and all cities and towns in Marin. The County is leading a conversation with the Marin Community Foundation to help fund this effort. It is anticipated that a recommendation for funding and strategy for the merger will be proposed by the County of Marin in January 2024, at which time the City of Mill Valley will consider the opportunity.

R4. By December 1, 2023, begin a feasibility assessment of waiving or significantly lowering impact and connection fees for units smaller than 750 square feet.

Response: This recommendation requires further analysis. Under current state law, all ADUs under 750 square feet are already exempt from impact fees. The City has no jurisdiction over any impact fees that districts charge. Changing connection fees would need to be evaluated by each of the utility districts that require them.

R5. By December 1, 2023, begin creating plans to accelerate the permit approval process for ADU applications to within 30 days, or less, of submission. Implement such plans no later than July 1, 2024.

Response: This recommendation will not be implemented because it is not warranted or reasonable. Recent state legislation has served to streamline the approval process for ADUs. For example, ADU applications must be approved within 60 days, without a hearing or discretionary review. Cities and counties must permit certain categories of ADUs without applying any local development standards if proposed on a single-family lot. ADUs eligible for this automatic approval include:

- An ADU or JADU converted from existing space in the home or another structure (e.g. a garage), so long as the ADU has exterior access and setbacks sufficient for fire safety;
- A new detached ADU under 800 sq. ft. in size, 16 feet in height, with 4-foot side/rear setbacks
- Multiple of the above options to create one internal JADU and an internal or detached ADU.

Cities/Counties must generally approve attached or detached ADUs under 1,200 sq. ft. unless they adopt local objective development standards with certain limitations (including but not limited to, no minimum lot size requirement; no requirement for replacement parking when a parking garage is converted into an ADU; no required parking for an ADU created through the conversion of existing space or located within a half-mile walking distance of a bus stop or other public transit; no height limit under 16 feet or side/rear setback requirements over 4 feet; no setback requirements for conversions/replacements of existing legal structures; design standards must be objective and are assessed by staff, not appointed or elected officials.

R6. By December 1, 2023, begin feasibility assessments of new incentives for ADU development, such as pre-approved plans, technical assistance, property tax relief, development fee waivers, and forgivable loans; implement at least one such incentive no later than July 1, 2024.

Response: This recommendation requires further analysis. A number of these incentives could be accomplished through a merger with the Napa/Sonoma ADU Center to provide technical assistance or updating the ADUMarin.org website to include pre-approved plans, and further identifying loans and other financial incentives. Property tax relief requires State legislation and implementation therefore requires state action that will likely occur after July 1, 2024.

RESOLUTION NO. 23-48

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILL VALLEY AUTHORIZING THE MAYOR TO EXECUTE THE CITY OF MILL VALLEY'S RESPONSE TO THE 2022-2023 MARIN COUNTY CIVIL GRAND JURY REPORT ENTITLED "BUILD MORE ADUs – AN Rx TO INCREASE MARIN'S HOUSING SUPPLY "

THE CITY COUNCIL OF THE CITY OF MILL VALLEY HEREBY FINDS AND RESOLVES AS FOLLOWS:

SECTION 1. Pursuant to Penal Code section 933, a public agency which receives a Grand Jury Report addressing aspects of the public agency's operations must, within ninety (90) days, provide a written response to the Presiding Judge of the Superior Court, with a copy to the Foreperson of the Grand Jury, responding to the Report's findings and recommendations.

SECTION 2. Penal Code Penal Code section 933 specifically requires that the "governing body" of the public agency provide said response and, in order to lawfully comply, the governing body must consider and adopt the response at a noticed public meeting pursuant to the Brown Act.

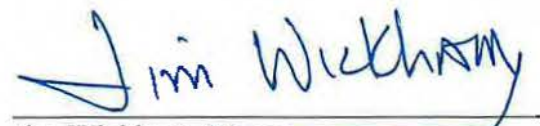
SECTION 3. The City Council of the City of Mill Valley has received and reviewed the Marin County Grand Jury Report, dated June 15, 2023, entitled "Build More ADUs – An Rx to Increase Marin's Housing Supply", and has added the discussion of this report to the September 7, 2023 City Council meeting agenda to consider the City's response.

SECTION 4. The City Council approves and authorizes the Mayor to execute the City's response to the Marin County Grand Jury's June 15, 2023 report, entitled "Build More ADUs – An Rx to Increase Marin's Housing Supply", a copy of which is attached hereto and incorporated herein by reference.

SECTION 5. The City Clerk is hereby directed to forward the City's response forthwith to the Presiding Judge of the Marin County Superior Court and to the Foreperson of the Marin County Civil Grand Jury.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Mill Valley on the 7th day of September, 2023, by the following vote:

AYES: Councilmembers: Joachim, Perrey, Burke, Carmel, Wickham
NOES: None.
ABSENT: None.
ABSTAIN: None.


Jim Wickham, Mayor

ATTEST:

Hannah Politzer, City Clerk/Management Analyst III