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September 12, 2023

Marin County Board of Supervisors
3501 Civic Center Drive
San Rafael, CA 94903



SUBJECT: Response to 2022-23 Grand Jury Report "*Build More ADUs – An Rx to Increase Marin's Housing Supply*" (June 15, 2023)

Dear Supervisors,

RECOMMENDATION: Concur in and adopt the attached proposed response to the FY 2022-23 Marin County Civil Grand Jury Report regarding Accessory Dwelling Units (ADUs) and authorize the Board President to forward the response to the Presiding Judge of the Marin County Superior Court.

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SUMMARY: The 2022-23 Civil Grand Jury Report published a report entitled "*Build More ADUs – An Rx to Increase Marin's Housing Supply*" (June 15, 2023). The report included a request for response from your Board. Attached for your consideration, in accordance with §933 of the California Penal Code, is a proposed response. A copy of the Grand Jury report is attached for your information.

FISCAL/STAFFING IMPACT: None.

ALTERNATIVE TO RECOMMENDED ACTION(S): The Board may amend any suggested response.

REVIEWED BY: (These boxes must be checked)

☐ Department of Finance	☒ N/A
☒ County Counsel	☐ N/A
☐ Human Resources	☒ N/A

SUBMITTED BY:

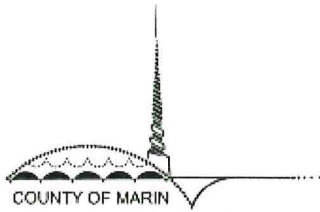
Dan Eilerman
Assistant County Administrator

REVIEWED BY:

Matthew H. Hymel
County Administrator

Attachments: June 15, 2023, Grand Jury Report; July 20, 2023

Cc: Sarah Jones, Director of CDA, Jason Weber, Marin County Fire Chief



RESPONSE TO GRAND JURY REPORT FINDINGS AND RECOMMENDATIONS

REPORT TITLE: "Build More ADUs – An Rx to Increase Marin's Housing Supply"
REPORT DATE: June 15, 2023
RESPONSE BY: County of Marin Board of Supervisors

GRAND JURY FINDINGS

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

GRAND JURY RECOMMENDATIONS

- Recommendation numbered **R3** has not yet been implemented and will be implemented in the future.
- Recommendations numbered **R4, R6** require further analysis.
- Recommendations numbered **R1-R2, and R5** will not be implemented because they are not warranted or reasonable.

Date:

9/12/2023

Signed:

Stephanie Monahan-Peters

President, Board of Supervisors



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RESPONSE TO GRAND JURY FINDINGS

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

Response: Agree.

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: Partially Disagree.

While we can only speak on behalf of the County of Marin, we agree that information pertaining to the building of ADUs and other structures can be technical and difficult for those considering ADU construction to understand without adequate support and advice.

Marin County Community Development Agency staff make every effort to provide information to property owners and developers in a clear and understandable manner through our front office staff, our website, and print materials. Additional support for ADU design, permitting, construction and leasing is available online at [ADUMarin.org](https://www.adumarin.org) and through the [Marin County Free ADU Program Services at HelloADU.org](https://www.marincounty.org/helloadu).

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: Partially Disagree.

We agree that homeowners and builders cannot find all fees for all twelve jurisdictions in one central location. We cannot comment on the level of difficulty homeowners face when interacting with other jurisdictions.

The Marin County Community Development Agency makes every effort to make the fees collected by the County for planning, building, and other associated services transparent and easy to understand via [our website](https://www.marincounty.org) and at the CDA customer service counter. CDA staff help homeowners find the fee information they need for water, sewer, fire, school, and other special districts depending on the project description.

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: Agree.



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

Response: Agree.

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

Response: Agree.

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

Response: Partially Disagree.

While fees vary by jurisdiction and by utility district, under state law, ADUs under 750 square feet do not incur impact fees. Impact fees should therefore be uniform for many ADUs across jurisdictions. Connection and capacity fees vary by utility district, as is the case with any type of new construction.

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

Response: Partially Disagree.

State Government Code supersedes all local planning and building ordinances. If local ordinance has not been updated consistent with state law, state law is effective.

The County of Marin will present Development Code Amendments for ADUs to the Planning Commission later in 2023 that are in alignment with state law.

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

Response: Agree.

Amnesty programs can address some barriers that prevent unpermitted ADUs from being added to the formal housing stock. However, where health and safety issues exist, the cost of bringing buildings or septic systems to an adequate level for habitation often remains an obstacle. Amnesty programs can be part of a larger strategy to help property owners meet health and safety standards, thereby adding to the housing stock.

F10. ADU Marin and HelloADU 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: Agree.



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RESPONSE TO GRAND JURY RECOMMENDATIONS

The Marin County Civil Grand Jury recommends the following:

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.

This recommendation will not be implemented because it is not warranted or reasonable.

The Countywide Priority Setting Committee is comprised of one Board of Supervisors member, one representative from each municipal council, and members of the community at large. Its purpose is to make initial recommendations for Countywide Housing funds as part of the allocation process for Community Development Block Grant (CDBG) funding, along with Local Area Committees and CDBG staff. The recommendation would not be consistent with the purpose of this committee, however the County may accomplish similar objectives by other means.

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.

This recommendation will not be implemented because it is not warranted or reasonable.

Amnesty programs typically waive violations of an existing zoning or development code (density, setbacks, height, size, lot coverage, location, etc.) that have been identified as barriers to development. Such waivers are already provided and required under state law, notably [AB670](#). Violations of code as described in R2 would not be a factor in permitting existing, unpermitted accessory dwelling units. Codes related to public safety or environmental health cannot be waived by an amnesty program. In most cases where health and safety are the primary concern for permitting an ADU, the limiting factor for property owners is the associated cost to comply with building, septic, water, and fire codes, which pertain to the livability of a unit.

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.

This recommendation has not been implemented and will be in the future.

Since early 2023, the County and our municipal partners have been in communication with the [Napa/Sonoma ADU Center](#) through the Housing Working Group (HWG), a collaborative of



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Planning Directors and staff from the County and each municipality in Marin. The County is currently in conversations 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 January 2024.

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.

This recommendation requires further analysis.

Under current state law, all ADUs under 750 square feet are already exempt from impact fees. Changing connection and capacity fees would need to be evaluated by each of the utility districts. Connection fees are levied by utility service providers, which are separate entities from the County of Marin. The County imposes Road Impact Fees and Transportation Impact Fees for unincorporated areas of the County. The County exempts ADUs under 750 square feet from Road or Transportation Impact fees and applies prorated fees for ADUs beyond 750 square feet.

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.

This recommendation will not be implemented because it is not warranted or reasonable.

State law requires that a local agency approve or deny an ADU permit within 60 days. Planning review typically takes 30 days from receipt of a completed application. Building permit review for an ADU can often be completed within 30 days from when an application is received but varies with the complexity of the project. Other factors can extend the review and approval beyond 30, but still within 60, days, such as septic system review, which adds complexity for ADU permits in areas without sewer service, which includes much of the unincorporated county. Other delays can include an inability of an applicant to correct items found in the first review cycle, and delays from other reviewing departments (Fire, Department of Public Works, etc.). Because the review process often includes multiple agencies and variables, a blanket reduction of the timeline to within 30 days is not feasible. Increased technical assistance for applicants, such as through a merger with Napa/Sonoma ADU, will likely facilitate more complete application submissions, which in turn will expedite review.

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.

This recommendation requires further analysis.

Incentives such as pre-approved plans, technical assistance, loans, and other financial assistance, are part of the benefit the County hopes to accomplish through a merger with the Napa/Sonoma ADU Center.



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The FY 2022-23 Budget included \$150,000 to establish a pilot program to support homeowners through the permitting process for Accessory Dwelling Units in unincorporated Marin County. A nonprofit organization, [Hello Housing](#), was selected to implement the program. The program received considerable interest at its inception in February 2023, with 123 applications for technical assistance received (significantly more than anticipated). However, of the homeowners who initially expressed interest in the program, only 15 have pursued ADUs thus far, with eight applications submitted and seven approved. As a result of this pilot effort, CDA found that the prospect of technical assistance encouraged property owners to learn more about the requirements for an ADU, particularly the costs. It has been useful for applicants to understand all of the costs and complexities of ADU construction prior to submitting applications, even if they later needed to withdraw them as they came to understand the full project requirements. Ultimately, it appears that the cost of construction remains the most significant barrier for property owners considering ADUs.

Property tax relief would require State legislation, making adherence to a July 1, 2024, timeframe infeasible.