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OFFICE OF THE SUPERINTENDENT
CARMEN DIAZ GHYSELS

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September 11, 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,

The San Rafael City Schools (SRCS) Board of Education, together with Superintendent Carmen Diaz Ghysels, acknowledge the efforts of the 2022-2023 Marin County Civil Grand Jury for highlighting the importance of increasing Marin's housing supply, outlined in its report "Build More ADUs - An Rx to Increase Marin's Housing Supply" report. Attached please find the requested response to recommendation (R4) and finding (F7) from the SRCS Board of Education.

Thank you for your continued interest in and support of our greater community.

Sincerely,


Gina Daly
Board of Education President


Carmen Diaz Ghysels
Superintendent

RECOMMENDATION

- 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 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, but not county offices of education, 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). San Rafael City Schools abides by this law.

San Rafael City Schools 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. This is typically presented for review and approval at an October Board of Education meeting; [the 2021-22 report is available here](#). 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 years about any developer fee fund in which those fees remained unexpended at the end of the fiscal year.

Given the transparency with which San Rafael City Schools manages the developer fees it collects; the fact that ADUs 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, San Rafael City Schools respectfully declines to consider any reduction in the fees it assesses.

FINDING

- 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 partially with the finding.

The Grand Jury's report 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 such as San Rafael City Schools.

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.