December 18, 2018

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

SUBJECT: Development Fee Waivers for Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs).

Dear Board Members:

RECOMMENDATIONS: Consider adoption of a resolution extending and expanding upon previous delegation of authority to the Community Development Director and extend similar delegation of authority the Public Works Director to waive and reduce fees for eligible JADUs and ADUs through December 31, 2019 as specified below:

1. Extension of the Community Development Director’s current authority to waive or reduce building permit fees for eligible JADUs in amounts not to exceed $1,500 per unit, and expansion of that Director’s authority to also waive building permit fees for eligible ADUs in amounts not to exceed $3,000 per unit; and

2. Authorizing the Director of Public Works to waive Roadway Impact Fees for eligible JADUs.

SUMMARY: The proposed resolution would extend and expand upon previous authorization delegated to the Director of the Community Development Agency and extending similar authority to the Director of Public Works to waive or reduce certain development fees and thereby stimulate development of ADUs and JADUs in the unincorporated County. Although this policy is referred to as a fee “waiver”, the maximum limits established in the fee waiver resolution may actually result in a reduction of fees for permit requests that exceed the fee waiver limits of $1,500 and $3,000 for JADUs and ADUs, respectively. Roadway Impact Fees are proposed to be waived in their entirety for JADUs.

In accordance with direction received by your Board at a public hearing on May 22, 2018, the proposed resolution supersedes the prior resolution and extends the 2018 JADU building permit fee waiver policy for an additional year, and expands the policy to allow for:

- Waiving or reducing building permit fees associated with the development of eligible JADUs in an amount not to exceed $1,500 per unit;
- Waiving or reducing building permit fees associated with the development of eligible ADUs in an amount not to exceed $3,000 per unit; and
- Waiving Roadway Impact Fees associated with the development of eligible JADUs.
BACKGROUND: In October 2017, the North Bay Wildfires destroyed thousands of homes in the neighboring counties of Sonoma and Napa, displacing residents and thereby exacerbating Marin’s preexisting affordable housing crisis, caused in large part by a shortage of available housing.

In response, your Board acted in December 2017 to authorize the Community Development Director to waive or reduce building permit fees for JADUs as a financial incentive aimed to galvanize property owners into creating supplemental rental housing within the footprint of existing developed residential properties.¹ This fee waiver policy was developed to augment a state initiative to promote creation of ADUs and JADUs by easing the regulatory requirements for creating these types of units. Additionally, to encourage use of JADUs as permanent rental housing, your Board included a provision requiring that JADUs may not be used as a short-term rental for one year following issuance of the fee waiver in order to qualify for the fee waiver program.

As the Building and Safety Division operates under a full cost recovery policy through the collection of user fees, your Board agreed to allocate $25,000 to backfill the loss of fee revenue for JADU building permit waivers. Additionally, in order to maximize the number of projects that would benefit from a fee waiver incentive program, while also retaining a fee waiver amount that would act as an effective financial incentive for the waiver, your Board also supported a proposal to cap individual building permit fee reductions to $1,500 per eligible JADU.

On May 22, 2018, your Board approved amendments to the original authorizing resolution.² Those amendments included a clarification of the period during which a participating property owner would agree to refrain from using the unit as a short-term rental, and it required any violating property owner to refund the County.

DISCUSSION: During that May 2018 hearing, your Board expressed interest in expanding the program to include ADUs and in exploring waivers for Roadway Impact Fees. It requested that staff prepare a proposal for consideration when it returned to report out on the policy at the end of the calendar year.

Since the initial authorization of the JADU fee reductions in December 2017, the Building and Safety Division has received and approved five fee waiver applications for development of those units.³ All five projects qualified for building permit fee reductions through the fee waiver program. With a median fee waiver of $547, four of the five participants received a full fee waiver and paid no building permit fees. The remaining JADU applicant received a fee reduction and paid $710 above the established fee reduction cap of $1500.

For three of the five JADU projects, the Department of Public Works assessed Roadway Impact Fees in a total amount of $950, with an average fee of $317. Two JADU projects were not charged a fee due to their modest construction valuations.

¹ Marin County Resolution No. 2017-132
² Marin County Resolution No. 2018-47
³ These figures do not include new room rentals, which the Development Code permits within a residence without a special zoning permit. The same the type of small food preparation facilities as Junior Accessory Dwelling Units are allowed for each room rental. Existing rooms may easily be converted into room rentals through submission of over-the-counter or online plumbing and electrical permits.
Impact Fees. To further encourage development of JADUs that do meet the minimum project valuation threshold for Roadway Impact Fees, your Board may authorize waiver of Roadway Impact Fees for eligible JADUs.

In 2017 and 2018 to date, the County Building and Safety Division received 22 applications and issued 11 building permits for ADUs, of which 20 required planning permits priced at a flat rate of $515. The remaining two ADUs were exempt from Planning permits in accordance with criteria established in the Development Code. Associated building permit fees for ADUs range generally from $3,400 to $15,550. While the scope of work varies between ADUs, they are generally more intensive and substantial than that of JADUs, which accounts for their higher building permit costs. Therefore, should your Board decide to reduce fees for ADUs, staff recommends a greater fee reduction of up to $3,000 to reflect the increased building permit costs. As the ADU building permits are markedly costlier than planning permit fees, staff recommends that your Board approve the application of fee reductions to building permit fees. Additionally, to encourage use of ADUs as long-term rental housing, your Board could again require that the participating unit may not be used as a short-term rental for one year following issuance of the fee waiver.

FISCAL IMPACT:
Extrapolating from ADU and JADU permit records from 2018, these actions are anticipated to reduce fee revenues by approximately $40,000 in 2019. If you Board approves of these actions, funds are available in the non-departmental budget to cover the lost revenue.

REVIEWED BY:

☐ Auditor Controller ☒ County Counsel ☐ N/A
☐ Human Resources ☐ N/A ☒ N/A

Respectfully submitted,

[Signature]
Brian C. Crawford
Director

[Signature]
Debbi LaRue
Planner

Attachments:
1. Resolution delegating authority to waive Roadway Impact Fees for Junior Accessory Dwelling Units and building permit fees for Junior Accessory Dwelling Units and Accessory Dwelling Units and superseding Resolution 2018-47.
RESOLUTION NO. 2018-135
RESOLUTION OF THE MARIN COUNTY BOARD OF SUPERVISORS
DELEGATING AUTHORITY TO WAIVE ROADWAY IMPACT FEES FOR
JUNIOR ACCESSORY DWELLING UNITS AND
BUILDING PERMIT FEES FOR JUNIOR ACCESSORY DWELLING UNITS AND
ACCESSORY DWELLING UNITS AND SUPERSEDING RESOLUTION 2018-47

SECTION I: FINDINGS

I. WHEREAS, over 67,000 people permanently reside in the unincorporated area within Marin County, which population is projected to grow by approximately 10,000 additional residents by 2040, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and

II. WHEREAS, over thirty percent of the 26,000 households that reside in unincorporated Marin rent their homes, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and

III. WHEREAS, it is estimated that over 2,000 households residing in unincorporated Marin have extremely-low incomes, which is defined as earning approximately thirty percent of the area median income, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and

IV. WHEREAS, approximately fifty-six percent of renters in 2010 were estimated to be overpaying for rental housing, which is defined as paying more than thirty percent of household income as rent, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and

V. WHEREAS, between 2001 and 2013 home values increased significantly more than area incomes, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and

VI. WHEREAS, between 2004 and 2013 rental prices increased approximately thirteen percent, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and

VII. WHEREAS, there is a shortage of rental housing, including multi-family, single-family, second units, and Single Room Occupancy (SRO) units, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and

VIII. WHEREAS, Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) may help mitigate the housing shortage by creating new rental housing opportunities in unincorporated Marin County; and

IX. WHEREAS, in conjunction with recent state legislation intended to encourage the creation of ADUs and JADUs by limiting the scope of local permitting discretion, a local fiscal incentive can be created by waiving building permit review fees for those units and by waiving Roadway Impact Fees for JADUs; and
X. **WHEREAS**, on December 5, 2017, in response to these housing needs and due in part to the loss of homes and subsequent displacement caused by the North Bay Fires of October 2017, the Board of Supervisors previously adopted Resolution 2017-132 which authorizes the Community Development Director and/or their designee to waive or reduce certain planning permit fees incurred in 2018 and associated with the development of JADUs; and

XI. **WHEREAS**, on May 22, 2018, your Board amended Resolution 2017-132 and adopted Resolution 2018-47 to clarify the period that a homeowner would refrain from using a JADU as a short-term rental to be one year from the Certification of Occupancy, to align the definition of short-term rentals with other County policies, and to require owners who violate the terms of their waiver agreement to refund the County; and

XII. **WHEREAS**, this action expands upon and extends the sunset date for Resolution No. 2018-47, by extending the authority of the Community Development Director and/or their designee to waive or reduce building permit fees associated with the development of both JADUs and of ADUs incurred in 2018 or 2019; and

XIII. **WHEREAS**, this action also authorizes Director of Public Works and/or their designee to waive Roadway Impact Fees associated with the creation of eligible JADUs; and

XIV. **WHEREAS**, this action is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to section 15061(b)(3) of the CEQA Guidelines because it would not result in any potential environmental impacts.

**SECTION II: ACTION**

**NOW, THEREFORE, BE IT RESOLVED,** that the Marin County Board of Supervisors does hereby adopt this Resolution superseding Resolution 2018-47 and makes the following findings:

1. The Board of Supervisors of the County of Marin hereby delegates authority to the Director of the Community Development Agency and/or their designee to waive building permit fees associated with the creation of eligible ADUs, in an amount not to exceed $3,500 per unit, through December 31, 2019.

2. The Board of Supervisors of the County of Marin hereby delegates authority to the Director of the Community Development Agency and/or their designee to waive building permit fees associated with the creation of eligible JADUs, in an amount not to exceed $1,500 per unit, through December 31, 2019.

3. The Board of Supervisors of the County of Marin hereby delegates authority to the Director of Public Works and/or their designee to waive Roadway Impact Fees associated with the creation of eligible JADUs through December 31, 2019.

4. To qualify for these fee waivers, the property owner shall signify in writing, according to a form provided by the Community Development Agency, their agreement to refrain from using the subject unit as a short-term rental for a period of two year following the Certification of Occupancy.
5. For the purposes of this resolution, "short-term rental" is defined as the rental of a residential unit for a period of thirty days or less.

6. Property owners who are found to be have used a subject ADU or JADU as a short-term rental in violation of this agreement must repay the principal amount of the waiver in full within 30 business days of notification from the County of the violation.

7. This agreement will not supersede any short-term rental regulations adopted by the County subsequent to the passage of this resolution.


SECTION III: VOTE

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin, State of California, on the 18th day of December 2018, by the following vote to wit:

AYES: SUPERVISORS Dennis Rodoni, Katie Rice, Judy Arnold, Kathrin Sears, Damon Connolly

NOES: NONE

ABSENT: NONE

ATTEST:

[Signature]

PRESIDENT, BOARD OF SUPERVISORS

[Signature]

CLERK
MEMORANDUM
MARIN COUNTY BOARD OF SUPERVISORS

TO: Members, BOS
Matthew Hymel, County Administrator/Clerk of the Board
FROM: Diane Patterson, Assistant Clerk of the Board
DATE: 12/17/2018
RE: 12/18/2018 AGENDA UPDATE

POLICY AGENDA ITEM #8
8. Request from the Community Development Agency to adopt a resolution extending the sunset date and scope of Resolution No. 2018-47, to waive or reduce building and planning fees for Junior Accessory Dwelling Units (JADU) fee waiver program. The proposed resolution also authorizes the Public Works Director to waive Roadway Impact Fees associated with the creation of JADUs, and expands the authority of the Community Development Director to waive building fees for Accessory Dwelling Units (ADU).

Attached is a presentation corresponding with the above-captioned item.

Also attached is a revised resolution corresponding with the above-captioned item.

Finally, attached is additional correspondence received on the above-captioned item.

POLICY AGENDA ITEM #9
9. Presentation from the Department of Public Works on the 2018 Marin County Travel Safety Plan that provides a county-wide systemic safety analysis of collision on local (non-state) arterial and collector roadways. (Corresponds with item CA-7a on the Board of Supervisors' agenda.)

Attached is a presentation corresponding with the above-captioned item.

Attached is additional correspondence received on the above-captioned item.

POLICY AGENDA ITEM #15
15. Hearing: Ordinance to require cause to terminate a residential tenancy (Just Cause for eviction.)

Attached is additional correspondence received on the above-captioned item.

POLICY AGENDA ITEM #16
16. Hearing: Consideration of the North Marin Water District ("NMWD") appeal of the Planning Commission's action partially sustaining the Young Appeal and conditionally approving the NMWD Coastal Permit, Drakes View Drive, Inverness.

Attached are presentations corresponding with the above-captioned item.

Attached is additional correspondence received on the above-captioned item.
As a homeowner living next door and sharing my driveway with another homeowner who rents their house out for short term rentals, I am against these waivers for one year only. The waiver should require that the ADU or JADU not be rented out for short term rentals EVER, or for some very much longer period than one year — say, ten years at least. Marin County needs long term rentals for the long term. We don’t need more short term rental properties of any type.

Incentivize ADUs and JADUs. But for long term rentals long term — not for short term rentals at all, or least not for a very long time after the unit is built.

Sincerely,

Leyla Hill
Los Ranchitos
Greetings Board of Supervisors,

The Community Land Trust Association of West Marin (CLAM) strongly supports the building fee reductions for JADUs and ADUs, and waiving Roadway Impact Fees for JADUs.

The County has partially funded CLAM’s successful Real Community Rentals program which in 2018 has created more than 18 affordable rental ADUs and JADUs. Through our work, we have seen first-hand that fee waivers are a big incentive for homeowners to create new housing on their property. Permit and road impact fee waivers help make this infill housing strategy financially viable.

We at CLAM encourage you to extend into 2019 the building fee waivers of $1,500 for JADUs and $3,000 for ADUs, and also consider waiving all building fees for affordably rented units created through the Real Community Rentals program to further support homeowners creating units and setting rents far below market rates.

Ruth Lopez
Real Community Rentals program director

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Ruth Lopez
Community Engagement Coordinator/ Property Manager
CLAM (Community Land Trust Association of West Marin)
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