



COMMUNITY DEVELOPMENT AGENCY
HOUSING AND FEDERAL GRANTS DIVISION

February 27, 2024

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Board of Supervisors
County of Marin
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SUBJECT: Housing Element Implementation: Development Fee Waivers for Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs)

Dear Board Members:

RECOMMENDATIONS:

1. Consider adopting a resolution extending previous delegation of authority to the Community Development Agency Director and the Public Works Director to waive and reduce fees for eligible ADUs and JADUs through December 31, 2024 as specified below:
 - a. Extension of the Community Development Agency Director's authority to waive building permit fees for eligible ADUs in amounts not to exceed \$2,500 per unit;
 - b. Approve waiving and reducing fees for eligible ADUs that are rented under affordable housing parameters for up to \$10,000¹
 - c. Extension of the Community Development Agency Director's authority to waive or reduce building permit fees for eligible JADUs in amounts not to exceed \$1,500 per unit; and
 - d. Extension of the Director of Public Works authority to waive Roadway Impact Fees for eligible JADUs.

SUMMARY:

ADUs are an important tool to address our housing production goals and increase the stock of available housing options. The County's most recent Housing Element (2023-2031) identifies a goal to produce 280 ADUs across the eight-year time period from 2023 to 2031. Program 4 of the Housing Element includes incentives and resources to support the development of ADUs and JADUs and includes a goal to assist with the creation of five ADUs for lower-income households annually. This fee waiver supports this goal by reducing permitting fees associated with building an ADU.

¹ Affordable units are defined as those that are rented up to 80% Area Median Income (AMI) referred to as low-income units, and units that are rented between 80-120% Area Median Income (AMI), referred to as moderate-income units.

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On May 25, 2021, your Board passed Resolution 2021-34 authorizing the Director of the Community Development Agency (“CDA”) and the Director of Public Works to waive or reduce certain development fees through December 31, 2023, with the goal of increasing production of Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU) in unincorporated Marin. The proposed resolution would extend the fee waiver for the January 1, 2024 through December 31, 2024 period.

The fee waivers are part of a larger suite of incentives and resources the County is offering to support the development and rental of ADUs and JADUs. On December 12, 2023, your Board approved a contract for Marin County to merge with the Napa Sonoma ADU Center to form the “ADU Center”. This three-year pilot program will provide a “one-stop shop” to assist property owners in planning and developing ADUs including one-on-one customer service, facilitation between Marin jurisdictions and contractors, along with guides and resources specific to building ADUs in Marin. Staff will be monitoring this program and consulting with the ADU Center to develop updates, if needed, to the fee waiver program for your Board’s consideration in early 2025.

BACKGROUND:

Since 2017, as a response to the North Bay Wildfires, your Board has authorized the Community Development Agency Director to waive or reduce building permit fees for JADUs to create supplemental rental housing within the footprint of existing residential properties.

In January 2020, your Board approved an expansion of ADU and JADU fee waivers through December 31, 2020, in response to the affordable housing crisis in Marin County by offering higher fee waivers for the development of ADUs that are rented to low- and moderate-income households. Your Board approved an additional extension of this program on May 25, 2021, which applied to the period January 1, 2021, through December 31, 2023. This program included a waiver of:

- up to \$2,500 for eligible ADUs;
- up to \$5,000 in fees for eligible ADUs rented to a moderate-income household (between 81-100% of Area Median Income guidelines²), which equates to an annual income between \$133,801 and \$189,000 for a household of three;
- up to \$10,000 in fees for eligible ADU rented to a low-income household (up to 80% of Area Median Income guidelines), which equates to an annual income of \$133,800 or below for a household of three; and
- up to \$1,500 for eligible JADUs.

² 2023 Income Limits. Marin Housing Authority. <https://www.marinhousing.org/eligibility-requirements>

To qualify for a waiver, the property owner must affirm that the ADU will not be used a short-term rental. Attachment 2 provides more background details on the County's ADU fee waiver program. Waived fees may include Community Development Agency fees, such as planning, building and safety, and environmental health services, and Department of Public Works fees, such as traffic mitigation.

DISCUSSION:

Since the inception of the fee waiver program in 2017, the County has seen a significant increase in interest to develop ADUs and JADUs. During this timeframe, several State laws have been passed to ease development of ADUs, including the elimination of a discretionary permit pathway and allowance of additional ADUs on some eligible lots. On December 19, 2023, your Board approved amendments to the Marin County Development Code to ensure consistency with State ADU law³.

Over the last five years, the County received the following applications for ADUs in each calendar year:

- 2019: 35
- 2020: 49
- 2021: 154
- 2022: 97
- 2023: 81

To receive a fee waiver, the property owner must submit a permit application to the Building and Safety Division⁴ and affirm that the unit will not be used as a short-term rental. To receive one of the higher tiered waivers intended for moderate and low-income households, the property owner will also need to place a deed-restriction on the property confirming the unit will be rented to a household at the income level specified. The application for these fee waivers is available on the Housing & Federal Grants website:

<https://www.marincounty.org/depts/cd/divisions/housing/accessory-dwelling-unit-resources>

In 2022, the County processed 39 ADU and 1 JADU fee waivers, totaling \$97,500 and \$1,500 respectively. In 2023, the County processed 47 ADU and 2 JADU fee waivers, totaling \$117,500 and \$4,000 respectively. All the fee waivers processed to date have been for ADUs without affordability restrictions. Staff are currently processing one application for an ADU to be rented to a low-income household, and one for an ADU to be rented to a moderate-income household and anticipate more applications as additional resource become available through the ADU Center this year. As previously noted, the County continues to expand resources and incentives to support

³ December 19, 2023. [County of Marin Board Letter: Accessory Dwelling Unit Development Code Amendments \(Marin County Code Title 22\)](#).

⁴ Applicant may need to consult with the Planning Division beforehand if the project requires planning or septic permits prior to building stage.

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property owners in the production of second units. With the incorporation of the ADU Center in 2024, staff anticipate additional support and education opportunities for homeowners to make ADU development more feasible in unincorporated Marin, especially for ADUs rented to lower-income households.

EQUITY IMPACT:

The County is committed to advancing equitable communities, where all community members have access to healthy, affordable housing. Evidence shows that access to stable, affordable housing in high-resourced communities has broad, positive impacts, leading to better health and education outcomes and higher lifetime earnings, especially for children.

Marin County presents highly segregated communities, with high concentrations of non-Hispanic white households in communities with a prevalence of single-unit zoning⁵. According to UC Berkeley's Othering and Belonging Institute, some of the most segregated communities in the Bay Area are located in Marin⁶. Accessory Dwelling Units can create more affordable housing opportunities in existing community footprints and help open access to historically exclusionary single-unit zoned communities, many of which in Marin are high-resourced⁷. ADUs available to lower-income households address one of the goals in the County's Housing Element Program 4 (Accessory Dwelling Units) and supports the County's mandate to affirmatively furthers fair housing.

FISCAL IMPACT:

ADU and JADU fee waiver records from the previous two years (2022 through 2023) show steady interest in ADU development, with an annual average of \$110,250 in non-affordability deed restricted fee waivers issued. No affordability deed restricted units have been developed to date. Staff anticipates the program will reduce fees by approximately \$115,000 in FY 2024-25 based on prior years trends.

Consistent with prior year actions, non-Departmental General Fund will reimburse CDA for fee waivers for non-affordability deed restricted units. The Affordable Housing Fund will reimburse fees waived for affordability deed restricted units. If the volume of fee waiver requests exceeds the predictions detailed above, staff will work with the OCE to develop potential program funding opportunities and will report back to the Board of Supervisors.

⁵ 2020. County of Marin Multi-Family Land Use Policy and Zoning Study. Section 7: Impediments to Fair Housing.

⁶ 2021. UC Berkeley Othering and Belonging Institute. "The Most Segregated Cities and Neighborhoods in the San Francisco Bay Area. <https://belonging.berkeley.edu/most-segregated-cities-bay-area-2020>

⁷ 2024. HCD/CTCAC Opportunity Map. <https://belonging.berkeley.edu/final-2024-ctcac-hcd-opportunity-map>

The recommended actions would have a net County cost of an estimated \$115,000.

REVIEWED BY:

- | | |
|---|---|
| <input checked="" type="checkbox"/> County Administrator's Office | <input type="checkbox"/> N/A |
| <input checked="" type="checkbox"/> County Counsel | <input type="checkbox"/> N/A |
| <input type="checkbox"/> Department of Finance | <input checked="" type="checkbox"/> N/A |
| <input type="checkbox"/> Human Resources | <input checked="" type="checkbox"/> N/A |

Respectfully submitted,



Aline Tanielian
Senior Planner

DocuSigned by:

 4FD7A3CDCAAE435...
 Sarah Jones
 Director

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
2. JADU/ADU Fee Waiver background

**MARIN COUNTY BOARD OF SUPERVISORS
RESOLUTION NO. 2024-____
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**

SECTION I: FINDINGS. The Board of Supervisors of the County of Marin hereby makes the following findings.

I. Over 66,888 people permanently reside in the unincorporated area within Marin County, which population is projected to grow by approximately 1,400 additional residents by 2040, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2023-2031.

II. 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 2023-2031.

III. It is estimated that over 3,600 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 2023-2031.

IV. Approximately fifty-two percent of renters in 2019 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 2023-2031.

V. Between 2001 and 2020 home values increased significantly more than area incomes, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2023-2031.

VI. Between 2010 and 2019 rental prices increased approximately fifteen percent, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2023-2031.

VII. 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 2023-2031.

VIII. Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) may help mitigate the housing shortage by helping incentivize creation of new rental housing opportunities in unincorporated Marin County.

IX. 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.

X. 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.

XI. On May 22, 2018, the 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. On January 14, 2020, the Board amended Resolution 2018-135 and adopted Resolution 2020-05 to further incentivize the development of ADUs that are rented to low- and moderate-income households by offering a waiver of up to \$2,500 for eligible ADUs rented at or above market rate, up to \$5,000 in fees for an ADU that is rented at moderate-income rates (between 81-120% of Area Median Income guidelines), and up to \$10,000 in fees for an ADU that is rented at low-income rates (up to 80% of Area Median Income guidelines).

XIII. On May 25, 2021, the Board amended Resolution 2020-05 and adopted Resolution 2021-34 to extend the terms of Resolution 2020-05 through December 31, 2023.

XIV. This action expands upon and extends the sunset date for Resolution No. 2021-34, by extending the authority of the Community Development Director and/or their designee to waive or reduce planning and building permit fees associated with the development of both JADUs and of ADUs incurred in 2024.

XV. This action also authorizes Director of Public Works and/or their designee to waive Roadway Impact Fees associated with the creation of eligible JADUs.

XVI. 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 hereby resolves as follows:

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 \$10,000 per unit, from January 1, 2024 through December 31, 2024.

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, from January 1, 2024 through December 31, 2024.
3. 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 the purposes of this resolution, "short-term rental" is defined as the rental of a residential unit for less than thirty days. Property owners who are found to 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. Notwithstanding the foregoing, this resolution will not supersede any short-term rental regulations adopted by the County subsequent to the passage of this resolution.
4. To qualify for ADU fee waivers over \$2,500, the property owner must signify in writing that they will rent the unit affordably, up to 120% AMI. Staff are authorized to require that property owners agree in writing to reasonable requirements related to repayment and the consequences of failing to comply with affordability restrictions.
5. County staff will present an annual progress update to determine if additional adjustments need to be made for the subsequent year.

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 27th day of February 2024, by the following vote to wit:

AYES:

NOES:

ABSENT:

DENNIS RODONI, PRESIDENT
MARIN COUNTY BOARD OF SUPERVISORS

Attest:

CLERK



Attachment 2: ADU/JADU Fee Waiver Background

2017

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, the Board of Supervisors 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, the Board of Supervisors included a provision requiring that JADUs may not be used as a short-term rental for one year following issuance of the fee waiver 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, the Board of Supervisors agreed to allocate \$25,000 to backfill the loss of fee revenue for JADU building permit waivers. Additionally, 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, the Board of Supervisors also supported a proposal to cap individual building permit fee reductions to \$1,500 per eligible JADU.

2018

On May 22, 2018, the Board of Supervisors 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.

On December 18, 2018, the Board of Supervisors approved amendments to the original authorizing resolution include changes made from 2018-2019,³ that added a fee reduction of up to \$3,500 for eligible ADUs and waived Roadway Impact Fees

¹ Marin County Resolution No. 2017-132

² Marin County Resolution No. 2018-47

³ Marin County Resolution No. 2018-135

associated with the creation of eligible JADUs in addition to the existing fee reduction cap for JADUs of \$1,500.

2019

In October 2019, the Governor signed amendments to the State Government Code Section 65852.2 (AB 881, SB 13, AB68) and related legislation that require local agencies to reduce regulatory constraints, including limits on the development fees that local agencies can charge for ADUs. The Department of Public Works Traffic Mitigation Fee will no longer be charged for ADUs that are 750 square feet or less, pursuant to AB 881. Additionally, the Governor signed amendments to State Government Code Section 65583 (AB 671 and AB 139). These bills require Housing Elements to promote ADUs for affordable housing.

2020

On January 14, 2020, the Board of Supervisors approved an expansion of ADU and JADU fee waivers that responds to the affordable housing crisis in Marin County by further incentivizing the development of ADUs that are rented to low- and moderate-income households⁴.

This program, which expired December 31, 2020, includes a waiver of up to \$2,500 for eligible ADUs⁵, up to \$5,000 in fees for an ADU that is rented at moderate-income rates (between 81-120% of Area Median Income guidelines), and up to \$10,000 in fees for an ADU that is rented at low-income rates (up to 80% of Area Median Income guidelines). These fees may include Community Development Agency fees such as planning, building and safety, and environmental health services, and Department of Public Works fees such as traffic mitigation.

2021

On May 25, 2021, the Board of Supervisors approved a three-year extension to Resolution 2020-05, applicable from January 1, 2021 through December 31, 2023⁶.

⁴ Marin County Resolution 2020-05

⁵ In 2019, eligible ADUs received a \$3,500 fee waiver under 2018-135.

⁶ Marin County Resolution 2021-34