

October 23, 2003

Foreperson  
Marin County Civil Grand Jury  
3501 Civic Center Dr., Room 303  
San Rafael, CA 94903

The Honorable Lynn O'Malley Taylor  
Marin County Superior Court  
P.O. Box 4988  
San Rafael, CA 94913-4988

Re: City of Novato Response to Financing Affordable Housing-Local In-Lieu Fees and Set  
Aside Funds, Grand Jury Report of June 30, 2003

To Whom It May Concern:

The following is a set of responses offered from the City of Novato to the findings and  
recommendations contained in the Grand Jury's June 30, 2003 report on Financing Affordable  
Housing: Local In-Lieu Fees and Set-Aside Funds:

#### FINDINGS

##### Finding 1.

*Jurisdictions with little, if any, development generate minimal in-lieu fees.*

The City of Novato agrees.

As in-lieu fees can only be collected as a result of development, jurisdictions with little  
development activity will generate minimal in-lieu fees.

##### Finding 2.

*A number of jurisdictions have not established redevelopment agencies and therefore do not  
collect set-asides.*

The City of Novato agrees.

Redevelopment Agencies can only be established if an area(s) is determined to  
be "blighted" by strict legal definition. It is likely that a majority of Marin communities do not contain areas that  
meet the criteria for "blight", or do not

have areas of appreciable size that meet the criteria for "blight". As a result many Marin communities are not able  
to qualify for a Redevelopment Agency or don't pursue Redevelopment given their limited area(s) of presumed  
blight.

##### Finding 3.

*Small amounts of in-lieu fees, held in special accounts in some jurisdictions in the county, are not large enough to  
be particularly useful in promoting that jurisdiction's affordable housing goals.*

The City of Novato agrees.

Small in-lieu fee funds may not offer the financial subsidies needed to bridge the gap between construction cost and reasonable profits, and the reduced economic returns (rent/sale) on affordable homes. However, in combination with other funding sources for affordable housing, small in-lieu funds can be effectively used to cover costs like feasibility and environmental studies, and local impact fees.

As a part of an effort to update the City's inclusionary requirements pursuant to Division 19.24 of the Zoning Ordinance, the Novato City Council recently (October 14, 2003) increased the In-Lieu Affordable Housing Fee by over 300% (from \$3,516 to \$10,880). This fee adjustment was a "first step" in the update process of Division 19.24, and will accelerate the growth of the in-lieu fund established in 1999.

Finding 4.

*Redevelopment agencies established by larger jurisdictions may generate substantial set-aside funds. These funds can be used effectively to provide affordable housing in those jurisdictions.*

The City of Novato agrees

An excellent example of how effective redevelopment agencies can be in financing affordable housing is being demonstrated currently in Novato by the Novato Redevelopment Agency and the City Council. Through the Novato Redevelopment Agency's commitment of nearly 100% of the tax increment funds generated from the Rafael Village and Capehart/Hillside Redevelopment Areas (a value in excess of 30 million dollars over the life of the Redevelopment Areas), and the City Councils approval of respective Redevelopment Area land use entitlements, 775 affordable homes are now under construction (213 very-low income, 317 low income, 245 moderate income). It should be noted that, per City negotiations with the developer, Novato Community Partners, all 775 homes are reserved as affordable for a minimum of 99 years. Further, through the initial transfer of the Rafael Village and Capehart/Hillside Redevelopment Areas from the Department of Defense, the City secured deed restrictions for the underlying properties upon which the 775 affordable units are constructed that reserves the use of said lands for affordable housing in perpetuity.

Finding 5.

*The Town of Corte Madera's nonresidential development impact fee is an innovative way to raise funds for affordable housing from commercial developers.*

The City of Novato agrees.

In 2002, Novato, in collaboration with Marin County and the City of San Rafael, conducted a Jobs/Housing Nexus Study to establish the legal basis to consider adopting affordable housing requirements for non-residential development, including an accompanying non-residential impact fee. On October 14, 2003, as a part of a regularly scheduled hearing, the Novato City Council directed staff to conduct a workshop(s) with the Planning Commission, the Housing and Services Commission and the Economic Development Commission to develop a draft nonresidential linkage ordinance, including appropriate impact fees, for the Council's final consideration.

In crafting a nonresidential development ordinance, including impact fees for affordable housing, it is important to recognizing other affordable housing "tools", including but not limited to funding sources like the 20% tax increment reserved for affordable housing within Novato's Redevelopment Areas. The advantages and potential disadvantages, including but not limited to a lack in and/or loss of commercial development to neighboring communities as the result of a new fee should be examined. The imposition of a new impact fee within a redevelopment area could stop or reduce redevelopment activity thus lessening the return of tax increment funds for affordable housing that could be realized early in the life of a Redevelopment Area/Agency.

Lastly, In an effort to get other Marin communities "on board", the County is making the Jobs/Housing Nexus Study and a model ordinance available to all the jurisdictions in Marin County in order that they may also adopt a similar ordinance.

Finding 6.

*Several jurisdictions are finding creative uses for their in-lieu fees and set-asides, thereby maximizing the effectiveness of these funds in creating affordable housing.*

The City of Novato agrees.

The City of Novato's in-lieu fund, adopted in 1999, is relatively new and thus small. While the fund is not large enough to offer significant financial assistance towards the construction of new affordable housing, the limited fund size can be used in the near term to help offset some impact fees and/or other costs that burden affordable housing projects. For example, the Novato City Council recently approved the use of in-lieu funds to cover a City parks impact fee applicable to a 40 unit affordable senior apartment project named Nova-Ro III. In exchange for the use of in-lieu affordable housing funds to cover the developer's park impact fee, the City of Novato negotiated, via recorded agreement, a deeper level of affordability for the project (from low income to very-low income for all 40 units) and a longer affordable term for all 40 units (from 30 years to 55 years).

Finding 7.

*ABAG treats each jurisdiction as a stand-alone entity for treating the affordable housing problem.*

The City of Novato agrees. Data is generated for each jurisdiction based on job creation, housing and other factors to determine each jurisdiction's fair share allocation.

Finding 8.

*There is no formal countywide mechanism for treating the affordable housing problem.*

The City of Novato agrees:

The need to establish standardized methods of collecting and sharing housing data and information was recognized in developing the countywide Housing Element Workbook. The Countywide Planning Agency that represents all the cities, towns and the County, may be an appropriate venue to develop a strategic approach to creating uniform mechanisms to address affordable housing that can then be considered for use by every jurisdiction.

Finding 9.

*The recently developed Marin Housing Workbook can be an important tool in creating affordable housing particularly since it urges the full inclusion of all housing providers: public private and nonprofit.*

The City of Novato agrees.

The City of Novato, the County and every other town and city have used or are utilizing the best practices in the Housing Element Workbook tailored to their jurisdictions needs as part of their individual Housing Element update processes.

Finding 10.

*Local affordable housing information is not easily assessable to the general public.*

The City of Novato partially disagrees:

The City of Novato continues to improve access to information about existing and proposed affordable housing in Novato. Recently, the City added a "hot-link" to [www.hamiltonhousing.org](http://www.hamiltonhousing.org) on the City's web-site which offers complete and updated information about the affordable housing developments at Hamilton. In connection with the web-site, the City has worked closely with the developer, Novato Community Partners, in developing the marketing

materials (including the distribution of brochures to housing service providers etc, television, radio and news paper ads) for all of the affordable housing (775 units) offered within the Hamilton Army Airfield reuse areas.

In 2002, the City created a map of Residential Development Sites that tracks the status of all residential development activity, including affordable housing, throughout the City. The Sites map is posted at City Hall and is made available upon request. The Sites map is updated in January of each year.

## RECOMMENDATIONS

### Recommendation 1.

*The Board of Supervisors should request that ABAG and/or the California Department of Housing and Community Development treat the County of Marin as a single housing market unit for purposes of establishing affordable housing goals.*

Recommendation #1 requires further analysis.

The Board of Supervisors for Marin County could make a request of ABAG/HCD that the County be treated as a single housing market unit for the purposes of establishing affordable housing goals. ABAG/HCD would not likely change the total number of units required to meet each communities fair share allocation. More importantly, however, without an established, equitable method to implement housing goals, including the distribution of unit needs at the local level, assigning the responsibility of implementing affordable housing goals to the County or any single jurisdiction has the potential to undermine collaboration between the jurisdictions. The City of Novato believes it is more effective to collaborate and develop ways to leverage our funds for housing and plan effectively through the Countywide Planning Agency.

If the Countywide Planning Agency determines that the County of Marin should be treated as a single housing market unit for purposes of establishing affordable housing goals, the issue should be placed on an upcoming agenda for discussion purposes. Through its discussion(s), the Countywide Planning Agency should identify the components of a comprehensive program that would effectively cover how this approach will be implemented and managed in a fair and equitable way for every jurisdiction. As a part of a fair and equitable program the long term costs in infrastructure maintenance and services (streets, utilities, public safety etc) to facilitate new affordable housing within a given jurisdiction should be factored into any unit distribution formula. Further, the program should ensure that collaboration between communities including cross-jurisdictional affordable housing development opportunities, and the leveraging of affordable housing funds (local, State and Federal funds) are not jeopardized. To meet the Grand Jury's time line, this matter should be placed on the Countywide Planning Agency's agenda before December 30, 2003.

### Recommendation 2.

*The Board of Supervisors and the cities and towns should establish an appropriate mechanism for the coordination of all affordable housing activities in the County.*

Recommendation #2 requires further analysis.

In furtherance of the recommendations in the Housing Element Workbook, which include the need to establish county-wide standard definitions, standard methods of collecting/reporting data and establishing a Housing Data Clearinghouse, the Countywide Planning Agency, could direct intra-county governmental cooperation in developing appropriate mechanisms for the coordination of affordable housing activities. One venue to work through this effort could be the standing monthly meetings of all the Planning Directors representing each jurisdiction. To meet the Grand Jury's time line, this matter should be placed on the Countywide Planning Agency's agenda before December 30, 2003.

### Recommendation 3.

*The intra-county governmental cooperation, which was basic to the development of the Marin Housing Workbook*

*(February 2002), should be used as a foundation for ongoing implementation of the recommendation contained therein.*

Recommendation #3 has been implemented.

The City of Novato was fully engaged in the preparation of the Workbook and referred to its content and recommendations in preparing an update to the Novato Housing Element, March 2003. The Novato Housing Element was subsequently certified by the State Department of Housing and Community Development on July 3, 2003. Novato remains committed to its ongoing reference/use of the Workbook, and participation in any future updates to the document through the intra-county governmental cooperation process that was utilized in its making.

Recommendation 4.

*The Board of Supervisors should support and cooperate with the various nonprofit housing agencies and developers within the County by including them in the implementation of the countywide housing programs.*

Recommendation #4 is specifically directed to the County Board of Supervisors.

The City of Novato agrees that in addition to the Board of Supervisors, the Councils for each city and town in the county should support and cooperate with the various nonprofit housing agencies and developers that are active within in their communities by including them in the implementation of their respective housing programs.

Recommendation 5.

*All local governmental agencies should assure that their housing programs are fully disclosed to the public.*

Recommendation #5 has been implemented.

The City of Novato has updated its web site to include the complete Housing Element as adopted by the City Council in March 2003. The Housing Element includes all of the City's current housing programs. The public can also purchase a copy of the current Housing Element, Chapter III of the Novato General Plan, from the Novato Community Development Department during regular business hours. The Housing Element is also available at the public libraries in Novato.

Additionally, the Novato Zoning Ordinance, which includes Division 19.24 - Affordable Housing Requirements, is also available at the locations described above. To advance the housing programs of the General Plan, Division 19.24 sets forth, in detail, the affordable housing requirements applicable to residential development in Novato.

As discussed above following Findings #3 and #5, the City is in the process of updating its inclusionary requirements, which are contained in Division 19.24, and developing a draft nonresidential linkage ordinance, including appropriate impact fees, for the Council's final consideration. These efforts are consistent with housing programs contained in the Housing Element and have and will continue to include public outreach via notice of public workshops and/or hearings to special interest groups, active residential and nonresidential developers and publication in a local news paper.

Should you have any questions concerning the City of Novato's responses to the findings and/or recommendations, please contact Hans Grunt, Senior Planner at (415) 897-4342.

Sincerely,

Roderick J. Wood  
City Manager

cc: Mayor and City Council Members  
Mary Neilan, Assistant City Manager  
Harry Graves, Community Development Director  
Dave Wallace, Planning Manager  
Hans Grunt, Senior Planner