



May 14, 2026

Mayor and Members of the City Council
City of San Rafael
1400 Fifth Avenue
San Rafael, CA 94901



Re: Comments on Proposed Parkland Dedication In-Lieu Fee and Parks and Recreation Facility Development Impact Fee Nexus Study (Draft, August 18, 2025)

Dear Mayor and Members of the City Council,

Call Marin Home is a housing coalition organization committed to supporting the production of housing of all types throughout Marin County, including affordable and workforce housing, senior housing, and multifamily development. The San Rafael Chamber of Commerce is a member-based business advocacy organization providing a strong voice in support of the economic vitality of our community. We write to share substantive concerns regarding the Draft Parkland Dedication In-Lieu Fee and Parks and Recreation Facility Development Impact Fee Nexus Study prepared by Keyser Marston Associates (the "Nexus Study"), dated August 18, 2025 and the proposed impact fees for San Rafael.

We support the City's goal of expanding its parks and recreation system to serve planned growth. However, the proposed fee structure raises significant legal and policy concerns that, if left unaddressed, could expose the City to legal challenge, undermine housing production, and place disproportionate burdens on housing types that serve seniors and smaller households.

We respectfully request that the City direct staff and its consultants to address the following concerns before the fee is adopted, and we welcome the opportunity to work constructively toward a fee structure that is legally sound, equitably designed, and supportive of the City's housing goals.

I. The Square-Footage-Only Methodology Fails to Account for Differences in Housing Type and Park Demand

The proposed fee structure charges all residential development on a flat per-square-foot-of-livable-area basis, with only a distinction between single-family detached and multi-family units. While AB 602 creates a statutory safe harbor for square-footage-based

fees, this safe harbor does not override the constitutional requirements of *Sheetz v. County of El Dorado* (2024), which requires that fees bear rough proportionality to the actual impacts of the specific development on which they are imposed.

The Nexus Study's own data — drawn from the American Community Survey (Appendix A, Table 4) — demonstrates meaningful variation in household size across multi-family unit types that is not reflected in the fee schedule.

The Study applies a single blended multi-family household size of 2.32 to all of these unit types, then converts to a per-square-foot fee. Senior housing projects, which demonstrably generate fewer residents and lower park demand than general multi-family developments, are charged at precisely the same rate as larger family-oriented apartments. This is not rough proportionality — it is a flat rate that ignores actual impact.

The Nexus Study did not explain why differentiated household size assumptions were not applied within the multi-family category, even though the underlying ACS data to support such differentiation was included in its own appendix. We request that the City direct KMA to revise the fee schedule to incorporate unit-type differentiation — at minimum distinguishing senior restricted housing — supported by the household size data already in the record.

II. The Project List Contains Items with Weak or No Growth Nexus

Under both the California Mitigation Fee Act (Government Code Section 66000 et seq.) and *Sheetz*, impact fee revenue may only fund capital improvements that are attributable to new development's fair share of costs. Fees cannot fund existing deficiencies, deferred maintenance, or legally mandated improvements that the City would need to undertake regardless of population growth.

Our review of the Parks Development Impact Fee Project List (Table 12 of the Nexus Study) identifies a significant number of projects where the nexus to new development is weak, unsupported, or absent. We summarize our concerns in the table below:

Project	Total Cost	Dev. Share %	Dev. Share \$	Nexus Risk	Key Concern
Terra Linda Park Renovation	\$5.0M	100%	\$5.0M	High risk	Deferred maintenance; serves existing residents

Terra Linda Community Center Renovation	\$21.0M	100%	\$21.0M	High risk	Aging building; driven by age not growth; largest single item
Terra Linda Community Garden Renovation	\$1.6M	100%	\$1.6M	High risk	No growth nexus; serves existing residents
Albert Park Field & Stadium Renovation	\$4.5M	50%	\$2.25M	Moderate	Shared-benefit split acknowledged but split percentage unsupported; 50% to new residents seems high. Possible Measure P overlap
Falkirk Cultural Center ADA Improvements	\$5.5M	100%	\$5.5M	High risk	Federal legal obligation; independent of growth; arguably 0% growth share
Freitas Park North Parcel	\$644K	100%	\$644K	Unclear	Nexus depends on whether this is genuinely new capacity and will serve areas expected to grow.
Bernard Hoffman Play Area & Pathway	\$500K	100%	\$500K	High risk	Pathways serve all residents; 100% overstated
Starkweather Park Boat Ramp	\$1.275M	100%	\$1.275M	High risk	No clear residential growth connection; regional amenity
Freitas Park Tennis Courts & Pathway	\$250K	75%	\$187.5K	High risk	75% split arbitrary and appears high; no methodology; existing facility

Gerstle Park Lower Play Area	\$1.6M	100%	\$1.6M	High risk	Existing facility; 100% attribution unexplained
Oleander Park Playground & Pathway	\$300K	100%	\$300K	High risk	Existing facility; contradicts senior housing equity argument
Gerstle Park Pathway Improvements	\$700K	50%	\$350K	Moderate	50% split unsupported by analysis
Santa Margarita Tennis, Basketball, Play Area & Pathway	\$1.6M	100%	\$1.6M	High risk	All existing facilities; 100% indefensible without analysis
Riviera Park Play Area & Pathway	\$400K	100%	\$400K	High risk	Existing facility; no growth nexus
Oliver Hartzell Park Play Area & Pathway	\$300K	100%	\$300K	High risk	Existing facility; no growth nexus
Gerstle Park Tennis Court Improvements	\$500K	100%	\$500K	High risk	Maintenance not mitigation; serves existing users
Boyd Park Tennis Court Improvements	\$700K	100%	\$700K	High risk	Maintenance not mitigation; serves existing users
Starkweather Park Trail Improvements	\$750K	50%	\$375K	Moderate	Trails serve all residents; 50% is too high
Bret Harte Sports Court & Pathway	\$200K	50%	\$100K	Moderate	No analysis on why new residents pay 50% - too high
Bret Harte Park Play Area	\$500K	100%	\$500K	High risk	Inconsistent with 50% sports court at same park
Victor Jones Sports Court Improvement	\$600K	100%	\$600K	High risk	Existing facility; no growth nexus

Canal Boatyard (620 Canal St)	\$4.13M	100%	\$4.13M	More analysis needed	New parkland; benefit to existing residents. Confirm no Measure A double-count
Montecito/Dominican Neighborhood	\$3.9M	100%	\$3.9M	More analysis needed	New land acquisition; document neighborhood growth
Winward Way	\$10.0M	100%	\$10.0M	More analysis needed	6.22 acres new parkland; document neighborhood growth
West End/Fairhills Neighborhood	\$7.8M	100%	\$7.8M	More analysis needed	New land; document neighborhood growth
Lincoln/San Rafael Hill Neighborhood	\$7.8M	100%	\$7.8M	More analysis needed	New land; document neighborhood growth
Contempo/Deer Park Neighborhood	\$15.6M	100%	\$15.6M	More analysis needed	New land; largest acquisition; appears far from growth
Northbridge/Marin Lagoon Neighborhood	\$15.6M	100%	\$15.6M	More analysis needed	New land; document projected growth in area

We estimate that projects with weak or absent growth nexus account for at least \$58 million of the \$110 million attributed to new development — more than half of the total project list. This is a material concern that warrants revision before the fee is adopted.

We draw particular attention to these categories of concern:

A. Legally Mandated Improvements. The Falkirk Cultural Center ADA improvements (\$5.5 million, attributed 100% to new development) represent a federal legal obligation that exists independent of population growth. The City must bring Falkirk into ADA compliance

regardless of whether any new housing is built. Charging new development for this cost has no rational nexus to the impact of that development and is likely indefensible under Sheetz.

B. Deferred Maintenance Disguised as Growth Infrastructure. The Terra Linda Community Center renovation (\$21 million, 100% attributed to new development) is the largest single item on the project list. The City's own Parks and Recreation Master Plan identifies deferred maintenance needs at this facility. An aging building serving 58,000 existing residents is not a growth-driven capital need — it is an existing deficiency that must be funded through other revenue sources, including the General Fund and Measure A.

C. Arbitrary and Unexplained Attribution Percentages. The project list applies attribution percentages ranging from 50% to 100% across similar amenity improvement projects with no supporting methodology. Albert Park Field is discounted to 50%, acknowledging shared benefit with existing users — but this same logic applies equally to tennis courts, playgrounds, trails, and community gardens listed at 100%. Further, given the benefit to existing residents, it feels unreasonable to assign 50% of the cost to the small percentage of new residents. The inconsistency and high percentage suggests the percentages were not analytically derived, which itself constitutes a Sheetz proportionality problem.

D. Question of Nexus for Proposed Projects. The Nexus study does not provide analysis of how the proposed new parks relate to the expected growth of San Rafael's population. Growth is being heavily targeted towards Downtown and the existing Northgate Mall. Some of the new parks are not convenient to these areas, yet new residents are being apportioned 100% of the costs. There is no analysis on expected use of these parks by existing residents versus by new residents. Further, the recent decision in the Patterson case states that the city's nexus study needs to demonstrate a "reasonable relationship" between each fee, the use to which it will be put and the type of development on which it is proposed. This was not done. In addition, Patterson states that cities must consider capacity of existing facilities in nexus fee calculations. Given that the city's population has declined, it's hard to argue that existing facilities are at full capacity.

E. Overall Scale of Fee vs Existing Parks Budgets. According to the Nexus study, the expected revenue from this fee is \$60M - \$67M over the next 14 years, or over \$4M per year. As best as we could tell, the current parks budget is about \$2.5M/year and the capital expenditures budget is about \$600K per year. We question that a small percentage increase in residents would drive additional park needs that is so much greater than total current expenditures.

III. Double-Counting Concerns: Measure P and Measure A

The proposed fee schedule does not account for two existing, dedicated funding streams that already commit resources to the same facilities and improvements on the project list.

Measure P. In November 2024, San Rafael voters approved Measure P — a 30-year parcel tax generating approximately \$6.37 million annually — dedicated exclusively to constructing a new library and community center at Albert Park. New development, once built, will pay this parcel tax. The Nexus Study simultaneously uses the replacement cost of the existing San Rafael Community Center (\$34 million) as a basis for calculating per-capita fees, and lists Albert Park field improvements on the project list attributed in part to new development. The City is effectively charging new development twice for Albert Park: once through Measure P (which new residents will pay for 30 years), and again through the impact fee. This is a material double-counting problem that must be reconciled before the fee is finalized.

Measure A. Marin County's Measure A parks sales tax distributes a portion of its approximately \$14 million in annual revenue to incorporated cities, including San Rafael. These funds are available for park improvements and capital investments. To the extent that Measure A revenues are or will be directed to projects on the impact fee project list, those projects should not be fully attributed to new development. We request that the City provide a clear accounting of Measure A funds received and projected, and demonstrate that no double-counting exists between those funds and the proposed impact fee project list.

IV. Impact on Housing Production

San Rafael has significant unmet housing obligations under its Regional Housing Needs Allocation (RHNA). The proposed fee rates — up to \$18.50 per square foot for non-subdivision multi-family units — represent a substantial new cost on the housing types most needed to meet the City's RHNA targets: multifamily rental housing, affordable housing, and senior housing.

San Rafael is already far behind in meeting its RHNA goals. Last year, only 33 units were permitted, and three years in, San Rafael has only permitted 209 units. This year San Rafael is doing better - having permitted 330 units, but this is still far below the pace needed to meet RHNA goals.

Currently, San Rafael has approved housing development projects that have been unable to move forward due to challenges in obtaining financing. We have heard from a number of developers that their proposed or approved projects would not be viable under this fee structure. Given the already very challenging development financing environment, we question the wisdom of assessing large additional fees. HCD specifically required an amendment to Program 44 in San Rafael's housing element requiring the city to monitor and modify previously

granted entitlements as necessary to make projects economically viable. HCD had specific concerns about fees. These fees may be in conflict with San Rafael's housing element.

San Rafael staff has justified fees as being "market rate" by comparing to other jurisdictions. It should be noted that every comparable jurisdiction is also behind in housing production. Further, the bar for fees is not how they compare to our neighbors - it is whether it is a valid expense needed to accommodate population growth. Given that San Rafael is below peak population, this level of fees is hard to justify.

We are not opposed to park impact fees as a matter of principle. However, fees that are legally vulnerable, inequitably calibrated, and inflated by projects with weak nexus findings impose real costs on housing production without producing commensurately stronger parks outcomes. A fee that survives legal challenge and is grounded in sound methodology will serve both the City's parks goals and its housing goals better than one that overclaims.

V. Requested Actions

We respectfully request that the City Council direct staff to address the following before the fee is adopted:

- Delay implementing fees until San Rafael has permitted units adequate to meet its RHNA goals. Given the challenging financing environment, and the large fees, there is significant risk that the new fee structure will backfire and result in a pause in new development. At a minimum, we believe fees should be deferred until San Rafael has approved housing sufficient to bring its population back to its peak levels (2,000 more residents).
- Create a transparent process for fee deferrals. State law now requires that fees for most projects proposed in San Rafael be deferred until a Certificate of Occupancy is issued. This fee deferral can potentially save millions in financing costs. It is not clear how a developer would be aware of this or how they request this deferral. The process for requesting a deferral should be clear, easy, and quick.
- Revise the fee schedule to differentiate between unit types within the multi-family category, at minimum distinguishing senior restricted housing, using the household size data already present in the Nexus Study.
- Review and revise the project list to remove or reclassify projects that represent legally mandated improvements (ADA compliance), deferred maintenance, or existing deficiencies not attributable to new growth. Remove or reduce projects that will not be neighborhoods serving the planned growth of San Rafael.

- Provide a clear methodology supporting each attribution percentage on the project list. Percentages that cannot be analytically justified should be revised downward.
- Reconcile the project list with Measure P to ensure that Albert Park and community center costs are not double-charged to new development.
- Provide a Measure A accounting demonstrating that no projects on the impact fee list will receive duplicative funding from county park revenues.
- Consider a tiered fee structure that reflects actual park demand by housing type, consistent with the proportionality requirements of Sheetz.

We appreciate the City's commitment to its parks system and recognize the genuine investment that has gone into this Nexus Study. Our concerns are offered in the spirit of helping the City arrive at a fee structure that is legally durable, equitably designed, and supportive of both parks and housing goals.

Thank you for your consideration.

Respectfully,



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