

Comment 1 — Opening / Big Picture / Shared Goals

Good evening Mayor and Councilmembers. I want to begin by saying clearly that we support San Rafael's parks system and we support investment in parks. Parks are essential infrastructure. They improve quality of life, public health, climate resilience, and community connection. We also recognize that as San Rafael grows, the city will need additional investment in recreational facilities and park amenities.

Our concern is not with the existence of park impact fees themselves. Our concern is with whether the proposed fee structure is legally defensible, fairly calibrated, and compatible with San Rafael's housing goals.

Right now, we do not believe this proposal meets that standard.

The draft nexus study proposes fees that could reach roughly eighteen dollars per square foot for multifamily housing. That is a very large new cost at a time when housing financing is already extraordinarily difficult. San Rafael is already struggling to meet its RHNA obligations. Last year only 33 units were permitted. This year has improved, but the city is still far below the pace needed to meet state housing goals.

We are also hearing directly from developers that some approved projects may no longer pencil financially under this fee structure. That matters because San Rafael does not just need approved projects on paper — it needs projects that can actually get built.

Our comments tonight focus on three core concerns: first, whether the fees are proportionate to actual impacts; second, whether many of the listed projects truly have a growth nexus; and third, whether these fees may unintentionally undermine housing production at exactly the wrong moment.

We believe there is still time to improve this proposal and arrive at a fee structure that supports both parks and housing rather than forcing the city to choose between them.

Comment 2 — Senior Housing / Proportionality / Sheetz

One of our biggest concerns is that the fee structure does not adequately account for differences in housing type and actual park demand.

The proposal applies essentially the same multifamily fee structure across very different kinds of housing. A senior housing development pays the same per-square-foot rate as a large family-oriented apartment project, even though they generate very different household sizes and different levels of park use.

What's especially important here is that the nexus study itself contains data showing these differences.

In Appendix A, the study includes American Community Survey data demonstrating meaningful variation in household size among different multifamily housing types. But instead of using those distinctions, the study blends all multifamily housing together into a single average household size and then converts that into a flat per-square-foot fee.

That approach may have been more acceptable in the past, but the legal environment has changed significantly following the Supreme Court's decision in *Sheetz versus County of El Dorado*. That case reinforced the constitutional requirement that development fees must bear rough proportionality to the actual impacts of a project.

A flat rate that ignores demonstrable differences in occupancy and demand creates real legal vulnerability.

And beyond the legal issue, there is also an equity issue. Senior housing projects already face major financing challenges. These are projects that often serve fixed-income residents, reduce displacement pressure, and help older adults remain in Marin. Charging them the same rate as high-occupancy multifamily projects simply does not reflect actual impact.

We are asking the city to revise the fee schedule to distinguish among multifamily housing types — at minimum creating a separate category for senior-restricted housing — using the very household size data already included in the study.

That would create a more equitable and more legally defensible fee structure.

Comment 3 — Deferred Maintenance / ADA / Existing Facilities

Another major concern is that a substantial portion of the project list appears to fund deferred maintenance, aging infrastructure, or legally mandated improvements rather than growth-related impacts.

Under California's Mitigation Fee Act, impact fees are supposed to fund the fair share of infrastructure needed because of new development. They are not supposed to fund existing deficiencies or obligations the city already has regardless of whether any new housing is built.

Yet many projects on this list raise exactly those concerns.

The clearest example is the Terra Linda Community Center renovation — a twenty-one million dollar project that is attributed 100 percent to new development. This is the single largest item on the list. But the city's own Parks and Recreation Master Plan identifies deferred maintenance issues at this facility. An aging building that serves tens of thousands of existing residents is not a growth-driven need.

Similarly, the Falkirk Cultural Center ADA improvements are assigned entirely to new development. But ADA compliance is a federal legal obligation that exists independent of population growth. The city would need to make those improvements whether or not a single new apartment is ever built.

We also see numerous renovations to existing playgrounds, tennis courts, trails, and pathways being assigned at either 100 percent or 50 percent to new residents with little explanation for how those percentages were derived.

The issue here is not whether these are worthy projects. Many of them probably are. The issue is who should pay for them.

Existing residents benefit enormously from these facilities. In many cases they are already heavily used by the existing population. Funding those improvements entirely through new housing effectively asks future residents to subsidize long-standing infrastructure obligations that should be shared more broadly.

We believe the city should go back through the project list carefully and separate true growth infrastructure from deferred maintenance, rehabilitation, and legal compliance obligations.

Comment 4 — Geographic Nexus / Arbitrary Percentages

I also want to raise concerns about the lack of analysis connecting many proposed projects to where San Rafael is actually planning for growth.

The city's housing growth is expected to be concentrated primarily in areas like Downtown and the Northgate Mall area. But many of the proposed park acquisitions and improvements are located far from those areas, and the nexus study does not explain how these facilities are expected to serve the projected new population.

For example, several large new park acquisition projects are assigned 100 percent growth attribution without any analysis showing projected use by future residents versus existing residents.

That's a serious problem because nexus law requires more than simply identifying desirable projects. The city has to demonstrate a reasonable relationship between the fee being charged and the impacts being created.

We also found the attribution percentages throughout the project list to be inconsistent and largely unexplained.

At Albert Park, the study assigns only 50 percent of costs to new development, acknowledging that existing residents substantially benefit. But then similar amenities — playgrounds, pathways, sports courts, tennis courts — are often assigned at 100 percent to new development with no clear methodology.

Why is one tennis court 75 percent growth-related while another facility is 100 percent? Why is one park split 50-50 while another similar amenity is entirely assigned to future residents?

Right now, the percentages often feel arbitrary rather than analytically derived.

And this matters because collectively these assumptions add up to tens of millions of dollars in fee obligations.

Our estimate is that more than half of the total project list may involve projects with weak or unsupported growth nexus findings.

Before adopting fees of this magnitude, the city should provide a transparent methodology explaining each attribution percentage and revise any percentages that cannot be clearly justified.

Comment 5 — Double Counting / Measure P / Measure A

We are also concerned about potential double-counting with existing funding sources.

San Rafael voters recently approved Measure P, which will generate approximately six million dollars annually for thirty years to fund a new library and community center at Albert Park.

Future residents in new housing will pay that parcel tax once their projects are built. But the nexus study also uses community center replacement costs in calculating the fee basis and includes Albert Park improvements in the impact fee project list.

In other words, new residents may effectively be paying twice for portions of the same facilities — once through Measure P taxes and again through impact fees.

That overlap needs to be clearly reconciled before the fee is finalized.

Similarly, Marin County's Measure A sales tax already distributes park funding to San Rafael for park improvements and capital investments. To the extent Measure A funds are supporting projects on this impact fee list, those costs should not also be fully assigned to new development.

We are simply asking for transparency and accounting.

If a project is already partially funded through existing tax revenues paid by all residents — including future residents — then the city should carefully account for that before determining what portion can legitimately be charged again through development impact fees.

Otherwise the city risks overallocating costs to housing projects in ways that may not survive legal scrutiny and may further discourage housing production.

A legally durable fee structure requires not only a valid nexus, but also confidence that costs are not being duplicated across multiple funding streams.

Comment 5 — Housing Element compliance

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.

Comment 6 — Closing / Requested Actions

I want to close by emphasizing again that we are not opposed to park impact fees.

We want San Rafael to have great parks. We want new residents to contribute fairly to the infrastructure they use. But we also want San Rafael to successfully build the housing the community and the state are asking for.

Right now, many approved housing projects are already struggling financially. Construction costs remain high. Interest rates remain challenging. Affordable housing financing is extremely constrained.

Adding large new fees without carefully calibrating them creates a real risk that projects simply stop moving forward.

And if that happens, the city does not get new housing and it also does not get the fee revenue it expects.

So we respectfully ask the Council to slow this process down and make several revisions before adoption.

First, revise the fee schedule to better differentiate among housing types, especially senior housing.

Second, revisit the project list and remove or reduce projects that represent deferred maintenance, ADA compliance obligations, or facilities primarily serving existing residents.

Third, provide a transparent methodology for all attribution percentages.

Fourth, reconcile the fee calculations with Measure P and Measure A funding to avoid double counting.

And finally, consider delaying implementation or phasing in fees until San Rafael is on stronger footing with housing production.

We believe San Rafael can create a parks funding strategy that is legally sound, equitable, and supportive of housing production. But getting there requires a careful balancing of priorities and a willingness to revise assumptions that may not hold up under closer scrutiny.

Thank you for your time and consideration.