

Item #12

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JAN 23 2024

Supreme Court Hears Arguments in Landmark Impact Fees Case

CITY OF GUADALUPE
City Clerk or Deputy Clerk

The U.S. Supreme Court heard arguments Tuesday in a case brought by a California home owner regarding a \$23,000 traffic impact fee required to put a manufactured home on a small parcel of land. The case directly addresses jurisdictions trying to skirt the Takings Clause when seeking impact fees.

The case, *Sheetz v. El Dorado County*, involved George Sheetz, a California resident who in 2016 applied for a permit to build an 1,800-square-foot manufactured home on a residential-zoned lot he owned. The county imposed a \$23,420 “traffic mitigation fee” on the permit. Sheetz protested the fee but ultimately paid it, and then immediately sued the county arguing the fee was improper.

At state court, Sheetz argued that the fee was not closely connected to or proportional to the actual impact his new residence would have on the roads, key tests laid out by precedent in two prior Supreme Court cases (commonly called the *Nollan/Dolan* test). The county countered that the test does not apply because the impact fee was authorized by legislation — from the county council in this case — rather than by bureaucracy.

A small number of state courts, including California’s, have carved out legal exceptions to the proportionality test if the fees in question are authorized by a legislative body. The *Sheetz* case directly addresses the constitutionality of such carve outs.

California state courts agreed with the county in this case, writing that the *Nollan/Dolan* test only applies to fees imposed on an individual basis, rather than fees — such as the traffic impact mitigation fee — authorized by legislation.

Sheetz further appealed the decision to the Supreme Court, noting there was disagreement on the question across states. NAHB and the California Building Industry Association (CBIA) supported Sheetz with an amicus brief urging the Supreme Court to take the case. After the Court agreed to hear it, NAHB and CBIA submitted a second brief supporting Sheetz on the merits of the case.

At oral arguments Tuesday, the justices — and even defendant’s council — seemed to agree with NAHB and CBIA on the pertinent question of legislative action shielding a government from the Takings Clause. NAHB and CBIA wrote that the Supreme Court has an opportunity to “make clear that there is no such ‘loophole’ in the prohibition against governmental demands for unconstitutional conditions.”

Justice Gorsuch noted that with such uniform agreement on the question, the case should simply be remanded to the lower courts so they can determine if the traffic fee falls under the Takings Clause.

An opinion is expected this spring. NAHB VP of Legal Advocacy Tom Ward also discusses the case and the Supreme Court arguments in the latest episode of NAHB’s podcast, [Housing Developments](#).

City of Guadalupe

Public Safety Facilities

Development Impact Fee Nexus Study

January 23, 2024



What is a Development Impact Fee?

One-time charge



Imposed at building permit stage



Imposed on all development projects within a defined geographic area



Funds facilities to serve new development



Mitigation Fee Act Findings (Govt. Code §66001)

- Key findings
 - **Need**: Development \approx Need for facilities
 - **Benefit**: Development \approx Use of revenue
 - **Rough proportionality**: Fee amount \approx development's share of facility costs
- Other findings
 - Purpose of fee
 - Use of fee revenue

AB 602

- Requires local jurisdictions to make certain information available on website:
 - Current impact fee schedule
 - Nexus studies
 - Annual AB1600 reports
 - Five-Year AB1600 reports
- Changes to impact fee adoption process:
 - Prior to adoption of development fees, an impact fee nexus study needs to be adopted with 30 days notice
- Technical changes:
 - Residential fees should be charged per square foot, unless findings are supported that justify another metric
 - Large jurisdictions shall adopt a capital improvement plan as a part of the nexus study
 - Nexus study should identify level of service
 - If fees are increasing, review the assumptions of the original nexus study and evaluate the amount of fees collected under the original fee

Impact Fees – Basic Methodology

1. Estimate existing development and future growth
2. Identify facility standards
3. Determine facility needs and costs
4. Allocate cost share to accommodate growth
5. Identify alternative funding needs
6. Calculate fee by allocating costs per unit of development

Demand for Public Safety Facilities

- Base year estimates from CA DOF and US Census
- Worker demand factor calculated based on City call data, by land use
- Residential projection to 2050 based on City data identifying residential lots that could be developed.
- Nonresidential projection based on SBCAG regional growth projections

Public Safety Facilities Service Population

	A	B	C	$D = A + (B \times C)$
	Residents	Workers	Worker Demand Factor ¹	Service Population
Existing (2023)	8,515	1,168	1.44	10,198
New Development (2023-2050)	<u>1,943</u>	<u>542</u>	<u>1.44</u>	<u>2,722</u>
Total Development (2050)	10,458	1,710	1.44	12,920

¹ Workers are weighted at 1.44 of residents based on an analysis of calls for service within the City. Refer to Table A.1 for further detail.

Sources: Table 2.1, Willdan Financial Services.

Existing Facility Standard

Existing Facility Standards

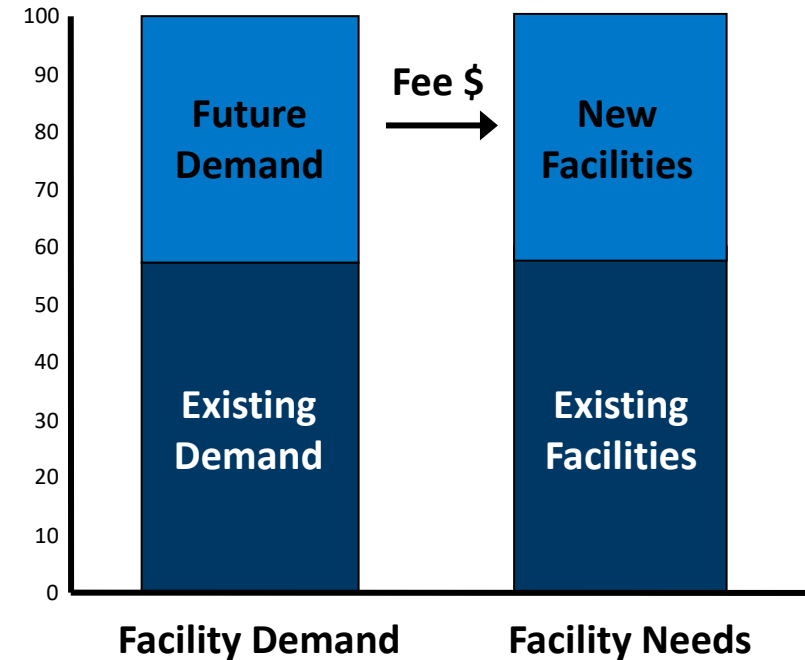
	Existing Quantity	Existing Service Population	Existing Facility Standard per 1,000 Service Population
Building Square Feet	10,493	10,198	1,028.93
Land Acres	0.72	10,198	0.07
Police Vehicles	12	10,198	1.18
Fire Apparatus	2	10,198	0.20
Fire Vehicles	5	10,198	0.49

Public Safety Facilities - Existing Cost Standard

Existing Public Safety Facilities Replacement Cost	\$ 12,414,406
Existing Service Population	<u>10,198</u>
Facility Standard per Capita	\$ 1,217
Cost per Resident	\$ 1,217
Cost per Worker ¹	1,752

¹ Worker weighting factor applied to cost per resident.

Existing Inventory Method



Preliminary Planned Facilities

Public Safety Facilities Capital Improvement Needs List

Description	Facility Standard per 1,000 Service Population	Projected Service Population Growth	Amount of Facilities Needed to Maintain Standards	Unit Cost	Total Cost
Building Square Feet	1,028.93	2,722	2,801 Sq. ft.	\$ 769	\$ 2,153,769
Land Acres	0.07	2,722	0.19 Acres	739,200	142,059
Police Vehicles	1.18	2,722	3.20 Vehicles	62,500	200,186
Fire Apparatus	0.20	2,722	0.53 Apparatus	690,000	368,343
Fire Vehicles	0.49	2,722	1.33 Vehicles	117,400	156,679
Total					\$ 3,021,036

Maximum Justified Impact Fee Schedule

Public Safety Facilities - Maximum Justified Fee Schedule

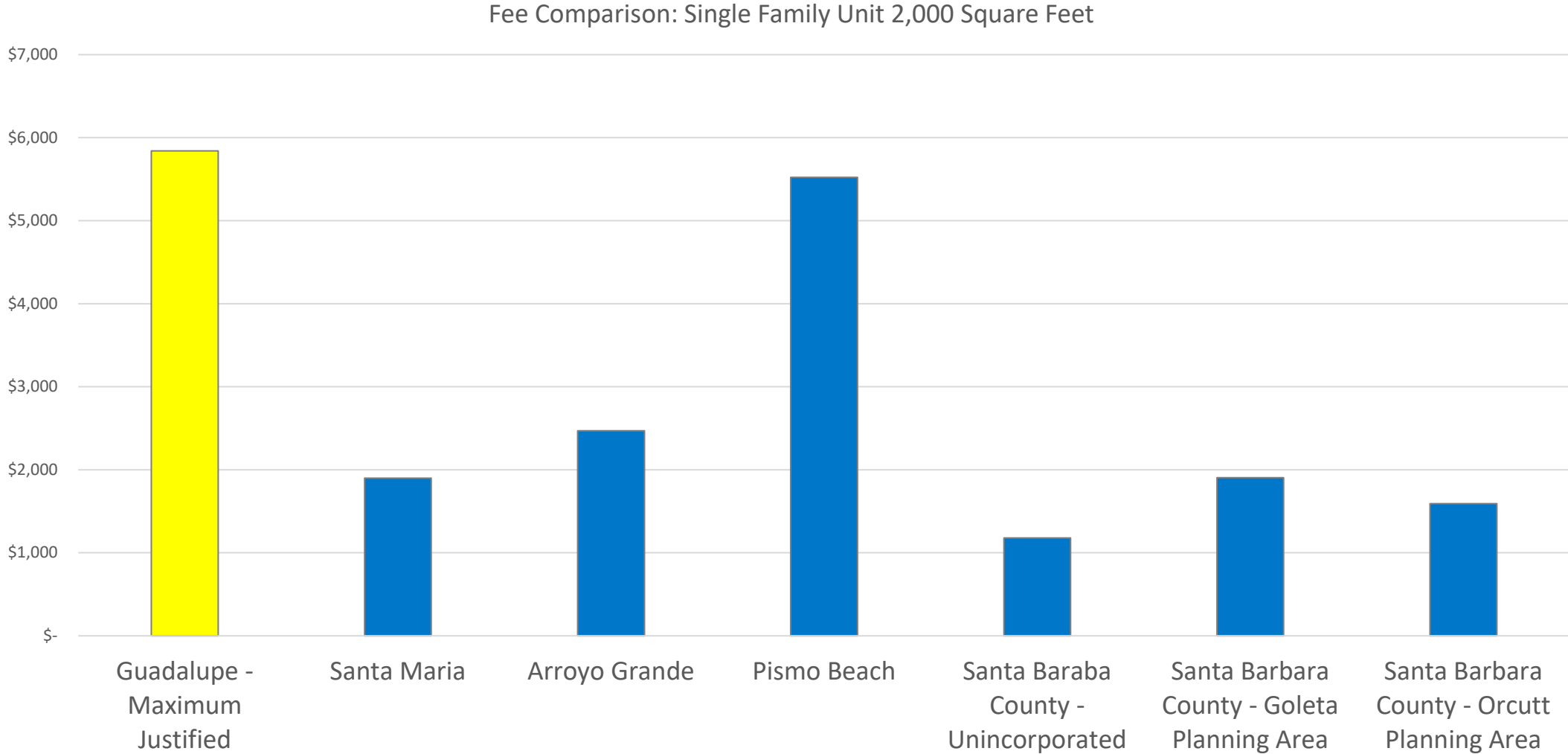
Land Use	A Cost Per Capita	B Density	C = A x B Base Fee ¹	D = C x 0.02 Admin Charge ^{1, 2}	E = C + D Total Fee ¹	E / Average Fee per Sq. Ft. ³
<i>Residential Dwelling Unit</i>	\$ 1,217	3.73	\$ 4,539	\$ 91	\$ 4,630	\$ 2.92
<i>Nonresidential - Fee per 1,000 Sq. Ft.</i>						
Commercial	\$ 1,752	2.12	\$ 3,722	\$ 74	\$ 3,797	\$ 3.80
Office	1,752	3.26	5,703	114	5,817	5.82
Industrial	1,752	1.16	2,029	41	2,070	2.07

¹ Fee per average sized dwelling unit (residential) or per 1,000 square feet (nonresidential).

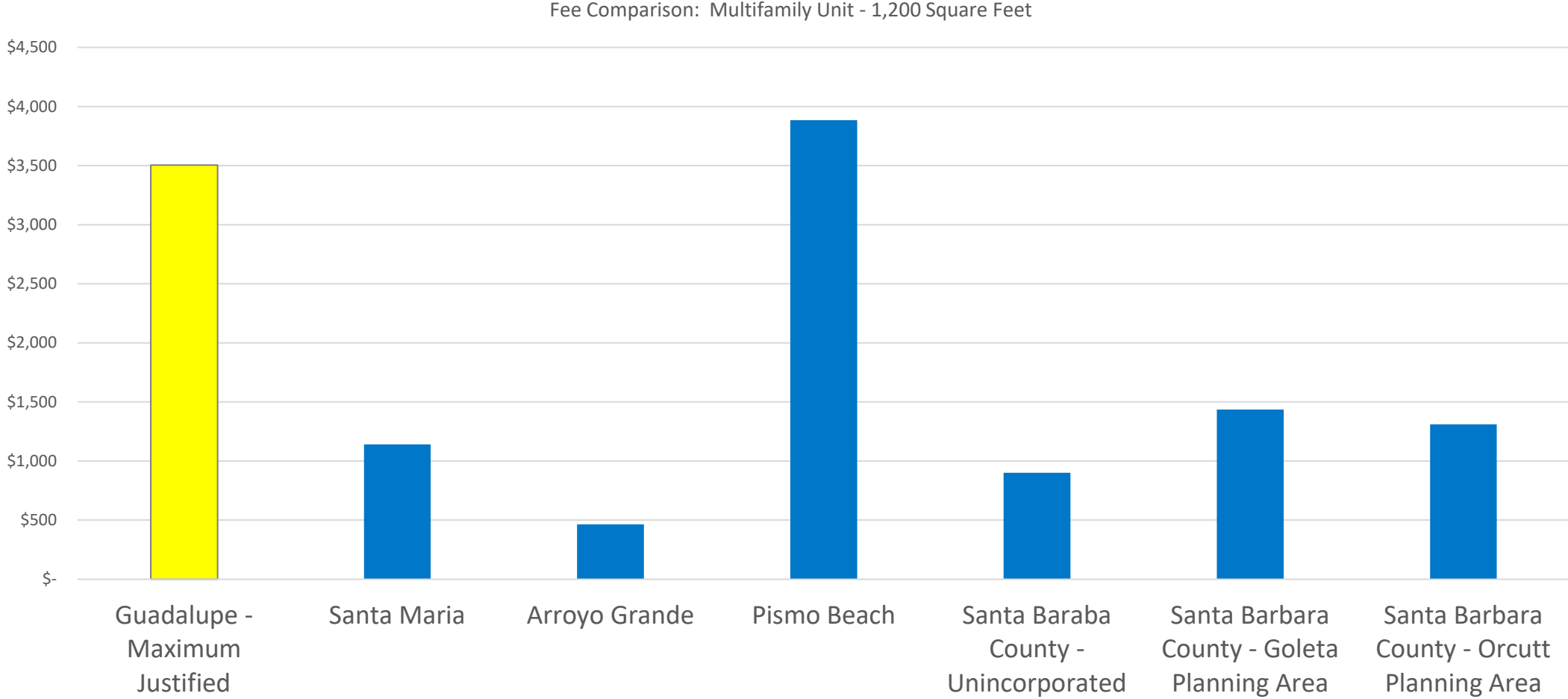
² Administrative charge of 2.0 percent for (1) legal, accounting, and other administrative support and (2) impact fee program administrative costs including revenue collection, revenue and cost accounting, mandated public reporting, and fee justification analyses.

³ Assumes an average of 1,587 square feet per dwelling unit in Guadalupe, based on an analysis of building permits from 2021 to 2023.

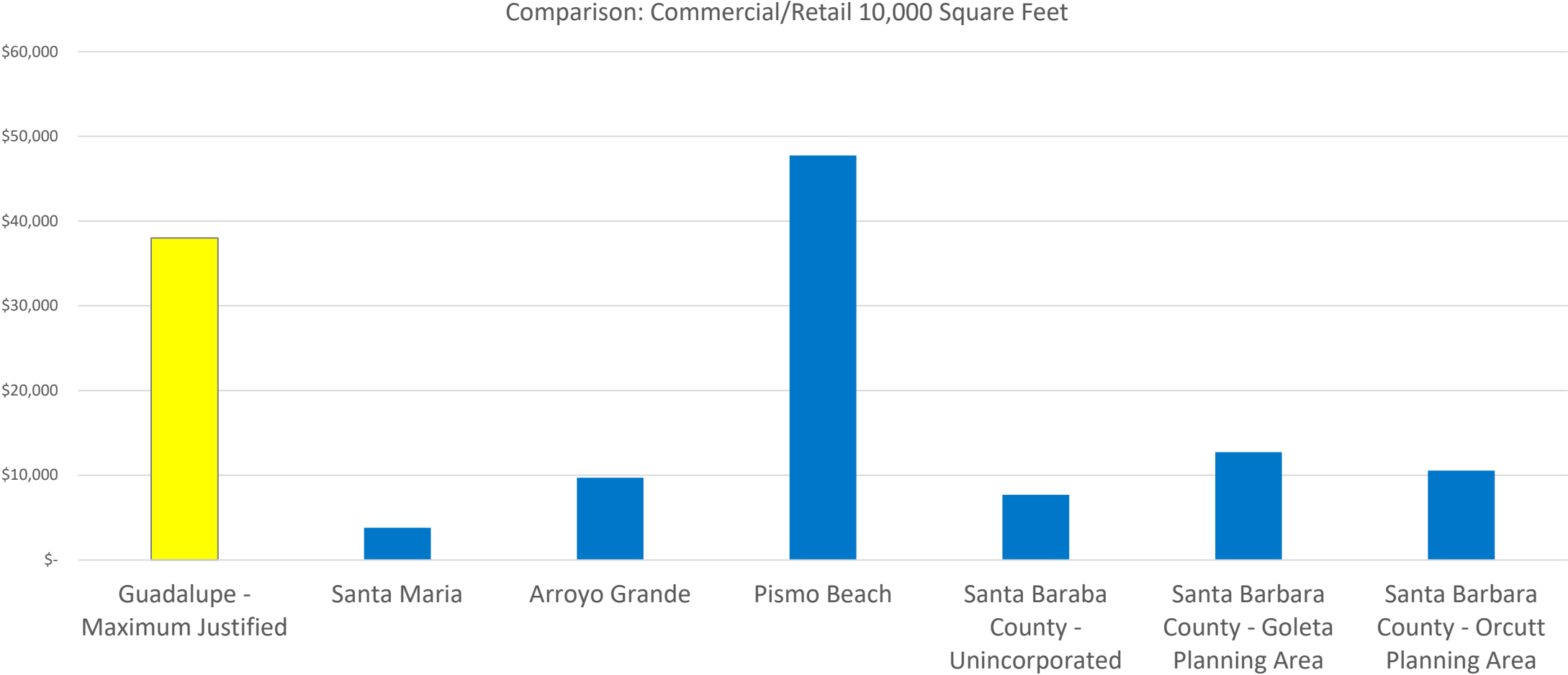
Fee Comparison: Single Family Unit, 2,000 Square Feet



Fee Comparison: Multifamily Unit, 1,200 Square Feet



Fee Comparison: Commercial/Retail Prototype - 10,000 Square Feet



Policy Options

- Implement less than maximum justified fee amounts
- Phase in fee increases over time
- Exempt or reduce fees for certain land uses, such as affordable housing

Questions

An aerial photograph of a city, likely Phoenix, Arizona, showing a dense residential area in the foreground and a downtown skyline with several skyscrapers and large stadium-like structures in the mid-ground. The background features a range of mountains under a cloudy sky. The left side of the image is partially obscured by a dark blue overlay with a white geometric pattern of overlapping squares and rectangles.