

From: Mark Allen [REDACTED]

Sent: Monday, June 1, 2026 3:00 PM

To: Distrib- City Clerk <city.clerk@cityofsanrafael.org>; Mayor Kate <kate.colin@cityofsanrafael.org>; Maika Llorens Gulati <maika@cityofsanrafael.org>; Eli Hill <Eli.Hill@cityofsanrafael.org>; Maribeth Bushey <maribeth.bushey@cityofsanrafael.org>; Rachel Kertz <rachel.kertz@cityofsanrafael.org>

Subject: Written Public Comment for City Council Meeting of June 1, 2026 — Agenda Item 4c and Related Items; CEQA and Related Objections

Dear City Clerk and Honorable Members of the City Council,

I submit this written public comment for inclusion in the administrative record of the regular meeting of June 1, 2026, in connection with Agenda Item 4c (City Council Three-Year Strategic Plan Implementation Update and Performance Metrics), Consent Calendar Items 2d, 2e, and 3a and 3b (each invoking CEQA Guidelines section 15061(b)(3) and/or section 15378(b)(5)), and Open Time for Public Expression. I appear in my individual capacity as a San Rafael resident with documented standing in pending CEQA litigation against the City. The purpose of this comment is to place on the administrative record specific objections under the California Environmental Quality Act and the Ralph M. Brown Act regarding the City's foreseeable actions in connection with the 350 Merrydale Road project, the City's homeless camping ordinance framework, and the City Council's reliance on the common-sense and administrative exemptions from CEQA review.

On Agenda Item 4c. The Strategic Plan Implementation Update formally lists the 350 Merrydale Affordable Housing Project as a Fiscal Year 2026-2027 Work Plan Project under Goal D.1.1 of Priority D: Housing and Homelessness. The interim shelter and the permanent affordable housing development are both listed under the same goal designation in the same City document; the County funding agreement contemplates the interim shelter closing in June 2029 to allow construction of permanent housing on the same site; the City's own website describes both phases as integrated projects at one address; and the City has stated publicly its intent to release a Request for Proposals for affordable housing developers in 2026, with land use entitlements required by June 30, 2028, and construction targeted for 2030. The Strategic Plan now formalizes what the public record has already documented: 350 Merrydale is a single integrated project with two phases. I respectfully object that the City has not conducted environmental review of the project as a whole, in violation of the principles set forth in *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, which prohibits the agency from artificially segmenting a single project to avoid full CEQA review. I further object that the City has committed substantial planning, financial, real estate, and contractual resources to the permanent affordable housing phase prior to conducting any environmental review of that phase, in violation of the principles set forth in *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, which prohibits agency pre-commitment to a project before completion of CEQA review.

On the foreseeable Request for Proposals for affordable housing developers. The City has announced its intent to release the Request for Proposals in 2026. I respectfully object in advance that the issuance of any Request for Proposals that commits the City to specific project parameters — including but not limited to a minimum number of housing units, a specific site plan, specific design specifications, or specific entitlement commitments — without prior CEQA review constitutes a *Save Tara* pre-commitment violation. I further object that any CEQA exemption invoked in connection with such a Request for Proposals, including reliance on Public Resources Code section 21080.27.5, Government

Code sections 65660 through 65668, CEQA Guidelines section 15061(b)(3), CEQA Guidelines section 15183, or CEQA Guidelines section 15332, would fail under the predicate-failure standards and the fair-argument standard set forth in *Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal.4th 310. The substantial evidence already on the public record establishes a fair argument that the 350 Merrydale project may have significant environmental effects, including but not limited to effects on wetlands designated by the U.S. Fish and Wildlife Service National Wetlands Inventory at and adjacent to the project site on the west side of Highway 101, on the federally endangered California Ridgway's Rail and the federally endangered Salt Marsh Harvest Mouse documented in the Gallinas Creek tidal marsh complex downstream of the project site, and on the water quality of South Fork Las Gallinas Creek, which is on the State's section 303(d) impaired list for pathogens (Water Body ID CAF04051).

On the foreseeable invocation by the City Manager of Ordinance No. 2057. Ordinance 2057 purports to grant the City Manager discretion to bypass CEQA review based on the City's declared shelter crisis. I respectfully object in advance that any invocation of that discretion by the City Manager to authorize the permanent affordable housing phase, the Request for Proposals, the affordable housing development entitlements, or any associated construction activity would be improper. The permanent affordable housing phase is a planned, designed, multi-year development of at least eighty deed-restricted units. It is not, on the City's own documented timeline, a response to a sudden, unexpected occurrence requiring emergency action. The Strategic Plan Implementation Update itself reflects that the development of a Homelessness Strategic Plan has been postponed until calendar year 2027 due to staff bandwidth, which is inconsistent with the emergency premise on which Ordinance 2057 rests.

On the foreseeable Andersen Drive camping prohibition and any associated camping ordinance amendments. The City Council is scheduled to consider, at the meeting of June 15, 2026, a recommendation to prohibit camping along Andersen Drive and within a two-thousand-foot radius of the 350 Merrydale interim shelter site, which would extend through the Rafael Meadows neighborhood. I respectfully object in advance that any such ordinance amendment, if adopted with reliance on CEQA Guidelines section 15061(b)(3) (the common-sense exemption), would fail to satisfy the certainty premise required by that exemption. The City's own administrative record, including the Staff Report supporting Resolution No. 15494 (adopted January 20, 2026, prohibiting camping at City Hall), expressly acknowledges that camping causes "discharges of untreated wastewater and other pollutants." That contemporaneous City admission, in a publicly adopted Council document, contradicts the certainty premise of section 15061(b)(3) as applied to any ordinance addressing camping conduct. I further object that the displacement effects of any new camping prohibition — including the foreseeable migration of camping activity to areas not yet prohibited — present a fair argument of significant environmental effect that requires CEQA review.

On the pattern of reliance on the common-sense and administrative exemptions. Tonight's agenda alone includes four items invoking CEQA Guidelines section 15061(b)(3) and/or section 15378 (Items 2d, 2e, 3a, and 3b), in addition to the City's continued reliance on these exemptions for its homeless ordinances and camp authorizations. I respectfully object that the systematic use of these exemptions for actions of substantive significance — including ordinances and resolutions affecting environmental conditions, public health, and protected habitat — fails the certainty premise of section 15061(b)(3) and is inconsistent with the City's own contemporaneous acknowledgments of environmental effects.

On the Brown Act dimension. I respectfully object to any future City Council action affecting 350 Merrydale, the homeless camping ordinance framework, or the homeless shelter program that is

conducted without full compliance with the agenda-notice requirements of Government Code section 54954.2 and the open-meeting requirements of the Ralph M. Brown Act. I specifically object to closed-session deliberations regarding the 350 Merrydale project or the homeless shelter program that exceed the closed-session authorizations of Government Code section 54956.8 and section 54956.9.

Reservation. I expressly reserve all rights, claims, and arguments under the California Environmental Quality Act, the Ralph M. Brown Act, the California Public Records Act, the Clean Water Act, the Endangered Species Act, and applicable California and federal constitutional, statutory, and decisional law. The objections set forth above are intended to ensure that the administrative record reflects fair notice to the City of the specific CEQA and related concerns identified, in satisfaction of the exhaustion requirement of Public Resources Code section 21177(a), and to preserve all such concerns for future administrative and judicial review. No "magic words" are required under section 21177(a). The objections above are stated with the factual specificity sufficient to provide the City with fair notice of the substance of each concern.

I request that this written comment be included in full in the agenda packet for the meeting of June 1, 2026, and that it be incorporated into the administrative record for each agenda item to which it pertains.

Thank you for your attention to these concerns.

Mark Allen

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