

From: Mark Allen [REDACTED]

Sent: Monday, June 1, 2026 3:37 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 — Agenda Item 4a (Sea Level Rise Feasibility Study); CEQA Inconsistency with 350 Merrydale Project; NOAA High Tide Flooding Federal Mapping

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 4a (Presentation on the Sea Level Rise Feasibility Study).

The Sea Level Rise Feasibility Study addresses foreseeable physical environmental changes affecting the City's tidal-creek and shoreline systems, including the Gallinas Creek tidal complex and the lowland areas adjacent to and downstream of the 350 Merrydale Road project site. The project site at 350 Merrydale Road sits at the upper end of the Gallinas Creek watershed and drains, through a continuous waterway and a single open culvert beneath Highway 101, to the South Fork Las Gallinas Creek, the Santa Venetia Marsh Preserve, the San Pablo Bay Wildlife Area, the San Francisco Bay National Estuarine Research Reserve, and ultimately San Pablo Bay. Sea-level rise in this tidal system is a foreseeable physical environmental condition that affects the long-term viability, hydrology, water quality, wetland status, and habitat suitability of the project site and its receiving waters.

Federal source evidence directly establishes that the 350 Merrydale Road creek is part of the active high-tide flooding envelope of the San Pablo Bay tidal system at present-day sea levels. The National Oceanic and Atmospheric Administration (NOAA) Sea Level Rise Viewer (coast.noaa.gov), and specifically its High Tide Flooding layer, shows that at present-day predicted high tides the inundation envelope extends continuously from San Pablo Bay, through the Santa Venetia marsh complex, beneath Highway 101 through the existing culvert, and into the creek immediately adjacent to the 350 Merrydale Road project site. This is current federal observation, not projection. The NOAA federal mapping establishes that the creek adjacent to the project site is hydrologically continuous with the San Pablo Bay tidal system, that the project site is tidally connected to that system, and that the site lies within the current high-tide flooding envelope. The federal mapping contradicts any contention that the 350 Merrydale Road site is hydrologically isolated from tidal influence, lacks wetland-adjacent characteristics, or is not subject to current tidal inundation.

The present-day federal mapping is the predicate for sea-level rise concern at this site. If current high tides already reach the project site under existing conditions, sea-level rise will, by foreseeable physical necessity, extend tidal inundation further into the site and intensify its frequency and depth during the operational lifetime of any development at the site.

I respectfully object that the City has not conducted, and has stated no intention to conduct, any environmental review under the California Environmental Quality Act of the 350 Merrydale Road project that addresses tidal inundation or sea-level rise impacts on the project site or on downstream receiving waters. The City's reliance on CEQA Guidelines section 15061(b)(3) (the common-sense exemption), CEQA Guidelines section 15269(c) (the emergency exemption), Public Resources Code section

21080.27.5 (the LBNC framework), CEQA Guidelines section 15183, or CEQA Guidelines section 15332 for the project at this site — in isolation from the sea-level rise analysis the City is concurrently undertaking under Item 4a, and in apparent disregard of the NOAA federal mapping referenced above — reflects the same segmentation of environmental review prohibited by *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376. The sea-level rise analysis the City is presenting tonight, the NOAA federal high-tide flooding mapping for the project site, and the no-CEQA-review posture the City has adopted for the Merrydale project cannot all be reconciled. Tidal inundation and sea-level rise are either foreseeable physical environmental conditions warranting analysis at this site (the premise of Item 4a and of the NOAA federal mapping) or they are not (the implicit premise of the City's section 15061(b)(3) determination on Merrydale). The inconsistency requires the City either to incorporate tidal inundation and sea-level rise analysis into the environmental review of the Merrydale project or to reconcile the positions on the record.

The inconsistency is particularly significant in light of the City's prior CEQA Exemption Review statement that there are no wetlands on or adjacent to the project site. That position is contradicted by the U.S. Fish and Wildlife Service National Wetlands Inventory, which shows wetland designations extending to or adjacent to the project site, and is further contradicted by the NOAA federal high-tide flooding mapping that shows the project site is within the present-day tidal inundation envelope. The combination of these two independent federal sources establishes substantial evidence supporting a fair argument that the project site has tidal-influenced, wetland-adjacent characteristics requiring environmental review under CEQA.

I further object that the City's foreseeable issuance in 2026 of a Request for Proposals for affordable housing developers, contemplated to result in entitlements by June 30, 2028 and construction beginning approximately 2030, will commit the City to a permanent housing development at the Merrydale site — a deed-restricted, multi-decade development — on a site whose long-term hydrology, water quality, and habitat conditions are already affected by present-day tidal inundation and will be increasingly affected by sea-level rise during the development's operational life. The NOAA federal mapping establishes that tidal-inundation and sea-level-rise impacts at the site are not speculative but are within the present-day observational envelope and the foreseeable projection envelope of authoritative federal data. Issuance of such a Request for Proposals without prior CEQA review that addresses tidal inundation and sea-level rise impacts on the site, informed by the federal mapping, would constitute both a *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116 pre-commitment violation and a Laurel Heights segmentation violation.

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 tidal-inundation and sea-level-rise CEQA 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.

I request that this written comment be included in full in the administrative record for the meeting of June 1, 2026, and incorporated by reference into the administrative records for the foreseeable future considerations of the affordable housing Request for Proposals, related entitlements, and any City Manager invocation of Ordinance No. 2057.

Attached: NOAA Sea Level Rise Viewer screenshot showing the High Tide Flooding layer at the 350 Merrydale Road project site and the adjacent creek (accessed June 1, 2026, at coast.noaa.gov).

Thank you for your attention to these concerns.

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