



January 12, 2017

Mr. Garrett Toy
Town Manager
Town of Fairfax Planning Department
142 Bolinas Avenue
Fairfax, CA 94940

Subject: Victory Village Planning Commission Response

Dear Mr. Toy,

Thank you for the opportunity to comment on the Planning Commission's inquiries posed to Resources for Community Development and the Victory Village design team at the meeting on December 15, 2016.

Term of Affordability

The 55-year affordability term restriction is a funder requirement particular to the low income housing tax credit program. To require perpetual affordability would mean potential tax credit investors would not allow there to be county or state "soft debt," which are important pieces of the financing plan. I urge you to note, however, that Resources for Community Development is a non-profit with a mission to provide affordable housing to people with the fewest options. We are not and have never been interested in converting our properties to market-rate or selling our properties to market-rate developers. Please be assured that we plan and expect Victory Village to remain affordable in perpetuity.

Marketing, tenant selection, and local preference

Victory Village will be leased according to RCD's marketing policy, attached, which includes both local outreach as well as outreach to ethnic, language, and cultural minorities in order to meet local housing needs while complying with fair housing laws. RCD will identify service providers and special needs groups for seniors, media outlets, schools and churches in the project area that will receive marketing outreach. Approximately six months prior to construction completion RCD's property management partner, the John Stewart Company (JSCo) will begin marketing the property to the outreach list. JSCo will make applications available for a designated period of time (at least several weeks), and will sort the applications by lottery at the conclusion of the application period. JSCo will then review applications by the lottery numbers assigned.

We consulted RCD's fair housing attorney earlier this year about the possibility of the local preference, who advised us that it only meets fair housing laws when the preference wouldn't have a disparate impact on protected classes of people (e.g. race,

national origin, religion, sex). A tenant-selection preference based on geography is only achievable in cases where the ethnic or racial composition of the region or state is comparable to that of the tenant pool from the “preferred” geography. Otherwise, courts could find that such a local preference could have a disparate impact and violate federal, state, and/or local fair housing laws. This is founded on the grounds that it is illegal to disproportionately exclude people based on race, ethnicity, gender, sexual preference, or religion (among other identity designations) and their fundamental right to travel.

A basic breakdown by race/ethnicity using 2014 American Community Survey data is below.

	Fairfax	Marin County	9-County Bay Area Region	California
White	89.2%	79.4%	61%	39.2%
Black	1.5%	2.7%	6%	5.7%
Asian	2.2%	5.7%	19%	13.3%
Hispanic (of any race)	7.8%	15.7%	24%	38.2%

This has obvious implications for the defensibility of a local residency preference based on the geographies of either Fairfax or Marin, considering that their demographics are not consistent with those of the San Francisco Bay Area region or the state. Additionally, according to Longitudinal Employer-Household Dynamics (LEHD) data from 2010, the following table presents a racial/ethnic breakdown of people who work in the following geographies.

	Fairfax	Marin County	San Francisco-Oakland-Hayward metro area	California
White	87.4%	79.3%	65.3%	74.3%
Black	2.6%	5.7%	7.8%	6.6%
Asian	6.2%	11.4%	22.7%	15.1%
Hispanic (of any race)	15.8%	16.7%	18.4%	30.2%

While in some cases a worker-based preference has been employed by housing developers with success, the data demonstrates that, again, such a preference for people employed in Fairfax or Marin would not be defensible.

Finally, the County of Marin Community Development Agency, the body responsible for awarding HOME and CDBG funding which is crucial for the proposed development, has expressly stated that they would not support a local preference for tenant selection at Victory Village.

Transit options

There are currently eight bus lines that serve stops within a quarter mile of the Victory Village project site, with Route 24 providing the highest frequency service (every 10-20 minutes southbound during morning peak hours and northbound during evening peak

hours). Marin Transit added weekday express service to San Rafael, Route 23X, in June 2016. Overall, Marin Transit service has increased 19% County-wide in the last year. RCD has initiated communication with Marin Transit to pursue opportunities to transit improvements.

While we are exploring the possibilities of providing Victory Village residents with transit passes and of improving the bus shelters nearby, we understand that these existing fixed-route transit lines may not meet all of the transportation needs for Victory Village residents. Consequently, we are concurrently in conversation with Whistlestop and will continue to seek car- and ride-sharing platforms as they evolve. Whistlestop already provides a bevy of transit options specifically for seniors and special needs residents of Marin for which Victory Village residents will qualify, including the Paratransit services for individuals with disabilities and CarePool, through which seniors can request rides on demand from nearby qualified drivers. RCD is exploring expanding those options to include access to a Whistlestop shuttle that will travel between the proposed development and the Whistlestop community services center in downtown San Rafael, with several stops in between, according to a pre-specified schedule. This service is contingent upon financing ability for such a service.

Updated site plan

Van Meter Williams Pollack is wrapping up site plan updates that includes a driveway connecting directly to Sir Francis Drake Boulevard and four additional parking spaces, totaling 43 total spaces for residents, visitors, and staff (a parking ratio of 0.8 spaces per unit). The updated site plans are attached.

Conditions of Approval

RCD received the draft conditions of approval yesterday and has begun to review them. I emailed you the following comments yesterday and may send additional comments once the design team has completed its review:

- Requested clarification of sections 22, 30, and 35
- Requested clarification of or revision to section 28, in light of the site's hydrology constraints and the downstream storm drain system constraints
- Requested clarification of the development fees noted in section 48, and requested that the Town waive them in light of Victory Village being a 100% affordable housing development

Traffic

We previously pointed out how the October 2016 traffic study, under the protocols approved by the Town Council, concluded that "Traffic generated by the project would not result in any service level changes at any of the study intersections during the current weekday a.m. and p.m. peak hours." (MND/IS, p. 111). It is also important to note that the Initial Study and Mitigated Negative Declaration for the Fairfax 2010-30 General Plan dated April 4, 2012 --which included the Lutheran Church site being developed for 40 housing units in addition to the continued operation of Christ Lutheran Church and Cascade Canyon School along with all the Opportunity Sites-- determined that the full build-out effects would be "less than significant" with mitigation measures at five intersections, including the Sir Francis Drake Boulevard/Mitchell Drive intersection.

The 2012 report proposed studying traffic signalization as the mitigation measure for this location. The 2016 traffic study examined that option, but upon analyzing the impact of a new traffic signal, concluded that it would actually create greater traffic delays on Sir Francis Drake Boulevard, so it did not recommend implementation of a traffic signal. Furthermore, at an existing approximation of 25 vehicles during a.m. peak hours and 12 vehicles during p.m. peak hours, Mitchell Drive is not considered a component of the Town's principal circulation system.

Victory Village is projected to generate 26 fewer peak hour car trips than the previous church and school operations and 148 fewer peak hour trips than if a 40-unit senior housing development were operating on site with the church and school, as studied in 2012. Please see the table below, which describes vehicle volumes based on the different uses at the Christ Lutheran Church site (January 2012 and October 2016 Traffic Studies by Parisi).

	Weekday AM peak trips	Weekday PM peak trips	Total peak trips
School & church in operation (2012)	45	7	52
2012 Peace Village proposal: 150-student school, church, 40-unit senior housing	147	27	174
2016 Victory Village proposal	12	14	26
<i>Net Change from church & school's 2012 operations</i>	-33	+7	-26
<i>Net Change from the 2012 Peace Village proposal together with church & school</i>	-135	-13	-148

Given that the cumulative traffic impact of building out all of the General Plan's opportunity sites has already been studied and found to have less than significant impact, and Victory Village is estimated to generate less traffic than the development concept studied in the General Plan, RCD is confident that the effect of Victory Village development will be insignificant.

Please do not hesitate to contact me if you have any questions about Victory Village. Thank you.

Sincerely,



Alicia Klein
Senior Project Manager

Enclosures:

RCD's Affirmative Fair Marketing Policy and Procedure
Site plan

RCD AGENCY POLICIES

CREATING AND PRESERVING AFFORDABLE HOUSING

Housing Development Affirmative Fair Marketing Policy and Procedure

Effective Date: 9/1/05

Ending Date (if applicable, otherwise "None"): None

Responsible for Enforcement: Director of Housing Development

Policy: RCD will provide and direct all staff, vendors and consultants to provide access to RCD housing opportunities as broadly as possible so that diverse communities, including ethnic, language and cultural minorities and other persons with special needs who income qualify may apply for housing at RCD developments.

Purpose (optional): To provide access to RCD housing opportunities to as diverse a population of low and very low income people as possible.

Procedures (if applicable):

1. Project managers will verify the demographic composition of the community surrounding the proposed development.
2. Project managers will coordinate with staff in the services department to identify service providers and special needs groups.
3. Project managers will research media outlets serving the target groups that may be relevant in the project area.
4. Project managers will identify schools and churches in the project area and their contact persons.
5. Project managers will complete HUD form 935.2 for internal use and reference.
6. Project managers will develop the marketing and rent up budgets to take into account any costs related to a broad outreach effort including translation of documents, advertising in ethnic media and mailings to service providers.
7. At the start of lease up, project managers will provide the list of service providers, media outlets, schools and churches ("outreach list") to the property management agent as part of the lease up materials.
8. The Housing Development Director will receive a copy of the outreach list for each project.

PROJECT DATA

Building Area Summary	Unit Count			
	2 Bed/one	1 Bed/one	1 Studio	Unit Count
Phase 1 (11-10-17)	1	2	4	4
Phase Main (1-14-1)		14	2	16
Phase 1 (1-20-1)		16	1	17
Phase 1 (1-20-2)		13	2	15
TOTALS	1	43	8	54

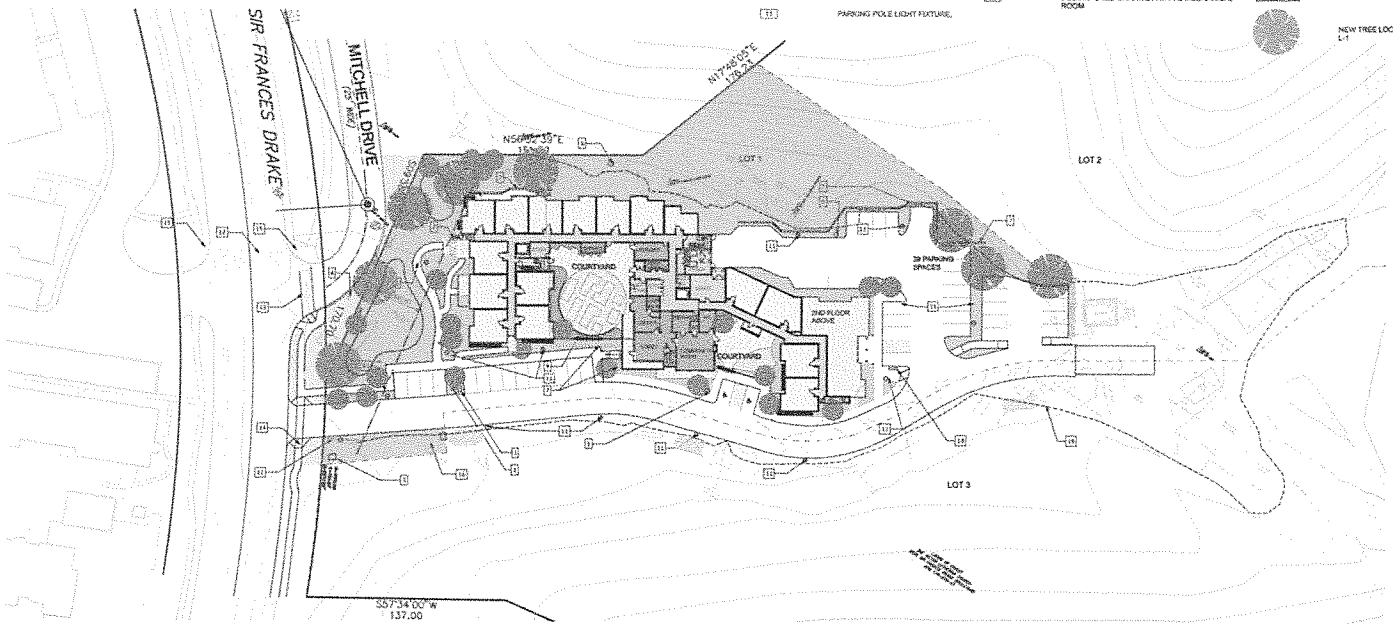
Parking Summary	Spaces
	Resident Parking
Guest Parking	3
TOTAL	43
Parking Ratio	0.79

SHEET NOTES

- 1 FIRE CONNECTION
- 2 BACK FLOW PREVENTERS
- 3 PAD MOUNTED TRANSFORMER
- 4 EXISTING HYDRANT
- 5 NEW HYDRANT
- 6 ELECTRIC UTILITY POLE
- 7 CONCRETE RETAINING WALL
- 8 LOW STEEL FENCE WITH WOOD RAIL
- 9 PAVED ACCESSIBLE PLANTERS
- 10 METAL DEER FENCE
- 11 PARKING POLE LIGHT FIXTURE
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LEGEND

- (S) CROSSWALK
- NEW CROSSWALK
- EXTEND SIDEWALK, CURB AND GUTTER TO PROPERTY LINE AS SHOWN
- POTENTIAL PEDESTRIAN CROSSING ENHANCEMENT: SIGNAL WITH FLASHING LIGHT BOTH SIDES OF SIR FRANCIS DRAKE
- STORM DRAIN
- ROUGHENED CHANNEL, SEE CIVIL DRAWINGS
- DESIGNATED SMOKING AREA WITH BENCH
- DASHED LINE REPRESENT PREVIOUSLY DEVELOPED AREA
- DECOMPOSED GRANITE PATH TO MECHANICAL ROOM
- PROPERTY LINE
- IN METAL FENCE
- BOUNDARY OF PREVIOUSLY DEVELOPED AREA
- ACCESSIBLE PARKING SPACE
- RESIDENTIAL
- CIRCULATION/MAINTENANCE
- COMMON AREAS
- NEW TREE LOCATION, SEE SHEET 1-1



SITE PLAN
SCALE: 1" = 30'



Fairfax Senior Housing | PROPOSED SITE PLAN AND PROJECT DATA

Fairfax, California | 01/12/2017 | Resources for Community Development | # 1420





January 4, 2017

Mr. Garrett Toy
Town Manager
Town of Fairfax Planning Department
142 Bolinas Avenue
Fairfax, CA 94940

Dear Mr. Toy,

Thank you for the opportunity to comment on the Mitigated Negative Declaration and Initial Study for Victory Village. The Initial Study does an excellent job of capturing this development. Prior to the December 15, 2016 Planning Commission, Resources for Community Development emailed comments on the MND/IS. RCD would like to take the opportunity now to respond to additional questions that were raised at the Planning Commission.

To recap, RCD previously sent the following comments:

p. 7 (Property Description) & p. 12 (Project Description)- The Church does not currently have a prescriptive easement, which requires a judge's ruling. However, the church has been using its driveway at this site historically, despite there not being a formal, recorded easement.

p. 29 (Aesthetics, Discussion d)- The Church facilities are regularly used in evenings for AA meetings and similar.

p. 37 (Air Quality, Discussion c)- What if we need to add a back-up generator?

p. 46 (Biological Resources)- "Seasonal drainage ditch" is more accurate than "ephemeral stream."

p. 56 (MM BIO-2)- Can a time limit be established for annual spraying of coast live oaks? Or can we add that this condition be discontinued if an arborist determines that the threat of sudden oak death is no longer present or there is a better method to prevent it?

p. 59 (Cultural Resources, Discussion b)- This response from the THPO was provided in August 2016.

p. 59-60 (MM CULT-1a & b)- These mitigations are costly and burdensome. We had discussed them with the town and agreed that protocols for evaluating and handling potential tribal resources (included in MM CULT-2) would be followed, but that the pre-construction survey was not justified due to the low likelihood of finding resources on this previously developed site and the burden of doing the survey. This is our biggest concern, as we previously agreed in conversations with Larry Kennings & Jim Moore that this would not be necessary. It's a costly study that is unlikely to find any resources, achieving the same outcome as MM CULT-2.

p. 60 (MM CULT-2)- Please remove the bullets relating to the historic period, as this is a built, developed site and the artifacts of concern are the tribal resources.

p. 89 (Land Use & Planning, Discussion b)- Does the covered parking concession need to be addressed here, too?

p. 116 (MM TRIBAL-1)- Please see comments above for CULT. Can this item be combined with CULT?

p. 126 (signature page)- City of San Rafael should be replaced with Town of Fairfax

p. 133- see comments about MM BIO-2 above

p. 134- see comments above about CULT-1a & b

p. 136- see comments above about CULT-2

In light of comments made commissioners and the public at the 12/15/16 Planning Commission, RCD offers the following additional comments:

- **Aesthetics/Scenic Vistas** (p. 27-29). Several comments noted RCD's request of a density bonus concession for height and its potential impact on scenic vistas. Sean Kennings noted at the Planning Commission that Sir Francis Drake Boulevard is not a State Scenic Highway, nor are any scenic vistas designated at this location, and the Initial Study only can consider if the project degrades its surroundings substantially. The story poles erected on site demonstrate that the views of the ridgeline are not blocked from the nearest public right of way on Sir Francis Drake. Switching the highest areas of the sloped roofs would just create an aesthetic jumble of roof lines and would actually make the building seem taller the closer one gets to it, as the building is only 30' at the eaves where it rises to 40' at the peak. The Town retains the ability to review any future development of the remaining single family parcels behind the senior housing development, and would be able to consider their proximity to the ridgeline at that time.
- **Storm water/hydrology** (p. 77-87). Currently, larger storms overload the Town's existing stormwater system capacity, creating a condition for over-surface flow from Cañon Village and Christ Lutheran Church across Sir Francis Drake toward Village West. This is detailed in the Carlile Macy hydrology report. The drainage improvements included in the development proposal will reduce this flooding in the following two ways:
 - Adding retention ponds at the front of the site to slow runoff from the 2-acre affordable housing site and allow it to percolate back into the water table. The hydrology report estimates that this will reduce flooding by 10%.
 - Replacing most of the storm water piping for the back 18 acres with higher capacity drains. These storm drain improvements include a small section of pipe that RCD can easily swap out, once downstream drainage infrastructure is upgraded adequately in the future, to accommodate flow resulting from large storm events. Flood District 9 is working on several projects that will help address the storm water capacity.
- **Parkland Dedication** (p. 106-7). RCD's efforts to identify a local land trust or open space agency to buy the back 18 acres and dedicate them all to open space have so far been unsuccessful, given the \$300,000 purchase price for those parcels. RCD's purchase option expires on 12/31/17, and buyers for the remaining land will need to be identified in the near future, to avoid financing costs that unduly burden the affordable housing. The timeline is insufficient for the Town to issue bonds, though the creativity of that suggestion is appreciated.

RCD proposes to meet the Town's parkland dedication requirements for the multifamily affordable housing parcel and the single family parcels as described below. If RCD can offer or deed restrict some land at the rear of the site where the public currently uses a trail even though it can only be accessed from private property, RCD would be open to that rather than

paying an in-lieu fee and requesting a concession, as long as it would not place a future financial burden on the affordable housing. A diagram of possible trail dedication areas by Carlile Macy engineers is attached.¹

Affordable, Multifamily Parcel. Per Town Code section 16.24.100(B)10(b), the amount of parkland to be dedicated can be calculated using two alternatives. For simplicity, RCD proposed Alternative 1, which requires 0.00561 acres per multifamily dwelling unit for the maximum possible number of dwellings. Therefore, 0.3 acres (or 13,196 square feet) would need to be dedicated for the lot being rezoned for development of 54 multifamily units. (Note that this is a separate calculation from the open space.) Given the site constraints, the development is able to incorporate 4294 s.f. (or 0.1 acre) of outdoor recreational courtyards to meet part of the required area. This calculation is shown here:

Parkland dedication required (in acres) / multifamily unit	0.00561
Max. # of multifamily units	54
Parkland dedication required (in acres)	0.3
Parkland/recreational area provided (in acres)	0.1
Net additional land required (in acres)	0.2

The parkland fee for the remainder of the required land dedication would be \$15,583, based on the \$1,525,000 purchase price for the 20-acre parcel (a value of \$76,250 per acre). However, a parkland dedication fee of that magnitude will hurt the financial feasibility of this affordable housing development, so RCD is requesting a density bonus concession for the remaining 8902 s.f. of recreational area the Town requires.

Single Family Parcel. Alternative 1 requires 0.0075 acres of parkland to be dedicated per single family dwelling unit for the maximum possible number of dwellings. Therefore, 0.015 acres would need to be dedicated for the two lots zoned for development of one home each. This calculation is shown here:

Parkland dedication required (in acres) / single family unit	0.0075
Max. # of single family units	2
Parkland dedication required (in acres)	0.015

Instead of dedicating such a small sliver of land, RCD will pay the parkland fee based on a proportionate share of the purchase price for the whole parcel. The value of 0.015 acres at \$76,250/acre is \$1,144, which is the parkland dedication fee RCD proposes.

- **Traffic** (p. 107-113). The Town commissioned the traffic study to carry out the protocol approved by the Town Council. Conducted during peak hours on Sept. 20 & 22, 2016, it concluded that “Traffic generated by the project would not result in any service level changes at any of the study intersections during the current weekday a.m. and p.m. peak hours.” (MND/IS, p. 111) No traffic impact plan is necessary because a) the impact is expected to be less than significant (the delays caused by the new senior housing are projected at only 36-37 seconds), and b) adding a signal at this location would increase delays rather than decrease them. (MND/IS, p. 112)
- **Non-CEQA questions**
 - **Parking.** While parking is not a CEQA issue, RCD and the design team have continued to examine the potential for adding more parking spaces. The alternate driveway location directly to Sir Francis Drake Boulevard presents the opportunity to

¹ Note that the trail is in an existing, 0.76 acre roadway easement, shown in red; if that area cannot be used for the open space area, the additional easement is shown in blue could be used.

add three more parking spaces at the front of the site at little additional cost. Impacts to hydrology and storm water could be eliminated by shifting the location of the detention pond and using permeable paving for those three spaces. RCD will send a revised site plan showing this scenario prior to the 1/19/17 Planning Commission. RCD has also examined adding 4 or 8 more parking spaces at the rear of the site, which is possible if the subdivision map is revised, but would be significantly more expensive, due to retaining walls needed in order to use permeable pavement and mitigate any stormwater impact.

To support residents living a car-free lifestyle, RCD is developing a transportation demand management plan, including facilitating resident participation in Whistlestop services, advocacy with transit agencies for more frequent service, exploring a van shuttle, and car-pooling and car-sharing options. RCD also hopes to apply for state Cap and Trade funding, which could finance additional investments in the transit system to improve access community-wide, such as buying an additional electrical or hybrid bus(es) to serve the routes on Sir Francis Drake, building bus shelters, extending sidewalks and bike lanes.

- **Planned Development District process** – RCD appreciates the Town Attorney's explanation that streamlining the PDD process as part of the actions proposed for this application is consistent with the Town's policy to make the approval process more streamlined for affordable housing, RCD welcomes the Town approving the PDD amendment prior to completing its approval of the rest of the Victory Village application, as long as it does not delay the Victory Village approvals past 3/1/17.
- **Marketing, lottery, local outreach.** RCD will address this cluster of questions in a separate communication prior to the 1/19/17 Planning Commission.

Please do not hesitate to contact me if you have any questions about Victory Village. Finally, could you please provide the proposed conditions of approval so RCD can review and comment on them prior to the Jan. 19, 2017 Planning Commission meeting? Thank you.

Sincerely,



Alicia Klein
Senior Project Manager

Cc: Larry Kennings, Sean Kennings, LAK Associates

Enclosures:

- Diagram of possible trail easement areas near existing trail at rear of site
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