

APPENDIX 2P.
CORDISCO MEMO RE UNIT MIX
DATED MARCH 28, 2008

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MEMORANDUM

TO: TOWN OF CORNWALL PLANNING BOARD
FROM: DOMINIC CORDISCO *DC*
CC: MARK EDSALL, P.E., LESLIE DOTSON, AICP
RE: CORNWALL COMMONS UNIT MIX
DATE: MARCH 28, 2008

ISSUE

As discussed by the Board's Planner in her prior written comments, and by the Board at the last Planning Board meeting, it is not clear that the housing mix shown on the site plan complies with the Town of Cornwall Code § 158-21-X(2). The number of multiple dwelling units that is reported (162) appears to constitute 33% of the total number (490) that is reported, exceeding the 30% limitation imposed by the zoning code.

DISCUSSION

In a Planned Adult Community (PAC), the Town of Cornwall Zoning Code requires a mix of housing types so that there is a variety available. Specifically, the Code requires:

Principal permitted uses. In the PAC no building, structure or premises shall be used or occupied, and no building or part thereof or structure shall be erected or altered unless otherwise provided in this chapter, except for the following uses which shall be mixed in order to create a variety of housing types.

- (a) Detached single-family dwellings (30% to 90% of the units).
- (b) Attached single-family dwelling units (0% to 30% of the units).
- (c) Multiple dwelling units (0% to 30% of the units).

Town of Cornwall Code § 158-21-X(2).

The Zoning Code does not require a particular mix, nor does it require that all three unit types be utilized. Up to 90% of the units can be detached single family

residences. The remaining 10% must be made up of either attached single family dwelling units or multiple dwelling units. Conversely, no more than 30% of the units could be attached single family dwelling units, nor more than 30% can be multiple dwelling units.

In a Developer's Agreement entered into with the Town Board, Cornwall Commons agreed to cap the number of units proposed on site to 490. That cap is not based on the maximum allowable density permitted under the Zoning Code.

Cornwall Commons has proposed 162 multiple dwelling units. Using the 490 cap, that equates to 33% multiple dwelling units, which would appear to exceed the Zoning Code mix by 3%. However, setting aside the 490 cap contained in the Developer's Agreement, Cornwall Commons may have been able to achieve a higher density if the density was calculated strictly using the Zoning Code, which allows "a maximum overall density of three dwelling units per usable area of the total project area." Town of Cornwall Code § 158-21(X)(4)(b).

Cornwall Commons advises that their calculation of maximum density as permitted by the Zoning Code would be 556 units. Specifically, Cornwall Commons states that the total project area is 197.716 acres. After deducting 9.530 acres for regulated wetlands and 2.730 for easements, there is a total of 185.456 acres of usable lot area. Based on the permitted density calculation of three units per usable acre, the project site could be developed with up to 556 units. Under that calculation, 162 multiple dwelling units would comprise 30% of the total, and would thus not exceed the unit mix limits contained in the Zoning Code.

The Zoning Code does not contemplate the situation where a developer has agreed to limit the density to that which would be less than the Zoning Code would allow. As a result, and in this instance, I believe that it is a reasonable interpretation of the Zoning Code to calculate the unit mix limitations against the maximum allowable density rather than the cap. This is particularly so when the difference between the interpretations is 3%, which is fairly minor given the scope and size of the project.

RECOMMENDATION

That the Planning Board consider, in this instance and based on the above considerations, that the interpretation that the unit mix limitation can be applied to the maximum allowable density is reasonable.

DRC/rt/48777