

## **Northstar: Trojan Horse on Route 9**

**By Joe Pika**

Northstar, the mixed-use development proposed on Route 9 outside Lewes, has received privileged treatment from Sussex County Planning and Zoning. That favorable treatment was unwarranted from the start and the single-family subdivision and commercial rezoning should go back and start the process again. The affordable housing project should be considered separately.

In early December 2023, Northstar applied for approval of (1) a housing subdivision, (2) a rezoning to allow a commercial component, and (3) a rezoning and conditional use approval for an affordable housing project to be called The Willows at Northstar to be built on land donated by the developer. The Willows was not to be constructed and managed by the same group responsible for the 758 single-family houses. A different developer who specializes in such projects in the mid-Atlantic region would seek funding through the Delaware State Housing Authority (DSHA) and bear all the risk and financial uncertainty. Residents of the Willows would not be part of the larger mixed-use community of Northstar. They would not have access to the swimming pools or clubhouse, nor would they have a voice in the community's eventual HOA.

Even though The Willows were not an integral part of Northstar, the project provided an important benefit to the main developer—moving up in the line of applications awaiting action by the Planning & Zoning Commission (P&Z). Rather than waiting 18 months, the expected delay in December 2023, their public hearing was scheduled for March 2024 but then delayed to July 2024, cutting the wait time in half. County ordinances allow expedited scheduling for applications to the county's own program of affordable housing, and Northstar's developers requested the same treatment be extended to their entire project, including the two applications not related to affordable housing. County officials agreed, although no written record of that approval is in the application file.

By the time of the July public hearing, the applicant knew that the state would not be funding The Willows, making the project fail an essential requirement of applicants for the state's Low-Income Housing Tax Credit program, "site control." In the case of The Willows this meant approval for the rezoning and conditional use applications. By the application deadline in late April, it was clear that The Willows could not meet that requirement. Official notification went out July 10, 2024, a week before the public hearing held by P&Z, that state funding was not approved. The expedited hearing moved forward even though the affordable housing part of this application was not viable. The Willows can apply again for funding in 2025, with decisions expected in early July 2025. There is no guarantee of success.

Although the affordable housing component remains uncertain, the Planning and Zoning Commission is headed toward a final decision on the largest part of the Northstar application, the 758 single-family homes. Because this application does not involve a zoning change or approval of conditional use, it is decided by the P&Z and does not go to the County Council. Two other parts of

the original Northstar application, the commercial rezoning and the affordable housing project, will be decided at a later date by Sussex County Council.

Five unelected persons accountable to no one will make a decision on a project located in a particularly sensitive location—an arterial highway already suffering from heavy congestion and sometimes failing intersections. Northstar will impact traffic, medical services, emergency services, a critical evacuation route, and schools. Members of P&Z serve five-year terms and are not accountable to the public. The group also functions autonomously from County Council.

A favorable decision would establish an important but undesirable precedent. Other developers will see that by including an affordable housing component as part of an application, you can get expedited treatment even if the affordable housing project fails to get funding and even if the residents will not be integrated into the larger community. Approval will mean P&Z is issuing an invitation: Jump the line just like Northstar did.

Sussex County Council, not the P&Z Commission, should be making the final decision on all four parts of this mixed-use development. The affordable housing advantage, in this case, was misapplied. There is a real possibility that by having two different entities making final decisions on the original application, the housing subdivision might get approved while the affordable housing does not or never will get the funding it needs.

The Willows could well turn out to be a Trojan Horse: Northstar appeared to be one thing—a way to add much-needed affordable housing—but turns out to be something else at the end—a strategy benefiting the developer. The developer has already reaped the advantage of expedited consideration. What remains is to handle the final decisions more responsibly and to avoid future repeats of this strategy.

The Sussex Preservation Coalition has petitioned the P&Z to refer all parts of the Northstar application to County Council. Alternatively, P&Z should place a condition on any approval of the housing subdivision: It only moves forward if Sussex County Council approves the affordable housing rezoning AND The Willows secures state funding.

The best decision would be for P&Z to learn from the mistakes made in processing the Northstar application, expedite consideration of The Willows application separately, and deal with the Northstar application just like any other mixed-use subdivision.

This saga has not been land-use planning at its best.