

Housing deadline in New Castle County creates filing rush

By Adam Taylor, The News Journal

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(Photo: The News Journal/WILLIAM BRETZGER)

After three years with no submissions by developers, five workforce housing plans that propose denser development have been filed in an effort to beat the clock on a proposed six-month moratorium on New Castle County's failed affordable housing program.

Why the sudden rush to file plans for a program that has such onerous regulations attached to it that virtually no developer wanted to deal with it? Some say it speaks to the perception that County Executive Tom Gordon does not look favorably on rezonings, generally considered the only other way developers can win approval for density they need to make a housing development profitable.

Councilwoman Janet Kilpatrick said she's concerned that there won't be any options for the county to grow its economy if the moratorium passes.

"We have to have jobs and growth," she said. "If we take away workforce housing and there are no rezonings, then we've limited people's building choices."

Land Use attorney Shawn Tucker, who is representing or consulting with the developers who filed the five new plans, agreed. He said his clients want to work with Gordon and County Councilman Penrose Hollins to improve the workforce housing ordinance, but need to hedge their bets all the same.

"In the meantime, short of a rezoning, which is a risky proposition in this political climate, the workforce housing option is the only by-right option in the code that offers property owners any true density," Tucker said.

Jim McDonald, Gordon's deputy chief administrative officer, said the county executive isn't against all new rezonings.

"He's very favorable to the community, but he's not anti-rezoning. He just wants developers to submit responsible plans," McDonald said.

The program, created in 2008, gave developers density bonuses in exchange for pricing at least 20 percent of the houses in a development below \$270,000 so people in households who made \$37,000 to \$89,000 could afford them. In some cases, the government approved projects with twice as many homes as otherwise would be permitted.

The program has generated next to no affordable housing, however. Nineteen workforce housing plans have been submitted since the program's inception. Eight of those plans expired without ever being built. Only one development, Marra Landing in Hockessin, has been completed and that one was processed under an early version of the program that allowed the sub-market-rate units to be rented instead of sold.

Others remain in the different stages of the county approvals process. Last November, the county issued a statement saying Gordon and Hollins "recognized it was important to continue to permit the processing of existing workforce housing plans." Hollins' ordinance contains similar language.

Land Use attorney Larry Tarabicos didn't have any of his clients file 11th-hour workforce housing plans. He said he hasn't gotten any messages from Gordon that rezonings won't fly.

"As county executive, Gordon was elected to support proposed development he thinks is good and oppose the ones he thinks are bad, and that's what he's done," Tarabicos said. "That's the same thing his predecessor Paul Clark did. Paul just happened to think all development was good."

It's not yet been determined what the county's stance will be on whether the five recently filed plans actually beat the clock.

"That's going to be investigated by Land Use and the Law departments," McDonald said.

Paul Morrill, executive director of The Committee of 100, a business group, said the law is clear. The five new plans should be accepted and processed by the county, he said.

"The Unified Development Code states that workforce housing plans are vested at the time of application," Morrill said. "The code is the rule book. If a potential employer that needs to come through the land use process to bring jobs here can't count on the code, then that becomes an issue."

The recently filed workforce housing plans are a United Auto Workers property on Old Baltimore Pike near Newark, Gray Farm on McCoy Road near Bear, the Otts Chapel Road subdivision near Newark, the Martine property on Shipley Road in Brandywine Hundred and the Westhampton development in Hockessin.

Westhampton owner Jay Sonecha originally filed his plan as a workforce housing project, but changed it to a rezoning plan because that's what neighboring residents preferred, according to Mark Blake, an officer with the Greater Hockessin Area Development Association, a citizens' group.

GHADA negotiated details of the proposed rezoning with Sonecha for several months, but the developer recently decided to refile a workforce plan because he feared the county might not support his rezoning proposal. If the moratorium is approved, he would lose the ability to double the density of his proposed development.

"It seems like the county is trying to stop Workforce Housing, but it also doesn't like the developers' best option to replace it," Blake said. "In this case, the developer came up with a better plan, but he got the impression that the rezoning wasn't going to go through."

Tucker, Sonecha's attorney, said, "Our client reverted back to its original workforce housing plans after the department expressed reservation about the merits of our client's rezoning concept. However, our client continues to work with the department and its neighbors in good faith to reach consensus on final development plans for the property."

County Council is scheduled to discuss the proposed moratorium at 2:30 p.m. Tuesday at its Land Use Committee meeting, then vote on whether to approve it at the council's regular meeting at 6:30 p.m. The meetings are held at the Louis L. Redding City-County Building at Eighth and French streets in downtown Wilmington.

The county Land Use Department and Planning Board have recommended that council approve the plan.

Hollins said the only thing that matters at this point in the debate is the moratorium itself.

"My goal is the same as it's been for many years: To maintain a diverse housing stock that is affordable to all people," he said. "The other issues are for another day."

McDonald agreed.

"The Gordon administration fully embraces the spirit of the workforce housing law," he said. "The purpose of the moratorium is to stop and evaluate, because it's unfair to developers to try to fix things as you go. It's like trying to fix a running motor. You have to shut it off and fix it."

Land-use attorneys say the program include onerous construction requirements and excessive paperwork and disclosure requirements.

Land Use attorney Rich Abbott said he thinks the current program will be scrapped for something entirely new.

"It's kind of a misnomer to call it a moratorium. The impression I'm getting is that workforce housing may end," Abbott said. "But since Gordon 2.0 is a newfound 'West Wing' liberal, there may be some kind of new affordable housing program that comes out of this process."

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