

# East Lyme housing developer drops Oswegatchie Hills rezoning request

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**East Lyme** - Landmark Development Group is withdrawing for now a recent pending petition to rezone 140 rural acres in the Oswegatchie Hills into an affordable housing district, after the town said it must also submit information on the proposed housing site.

The town is stating that a previous court order requires the development company to submit a site plan for the proposed development when - or before - it applies for a zone change.

The company disagreed, but said in an Oct. 3 letter from its attorney to the Zoning Commission that it would withdraw its latest application, slated for town review this month. The petition was to mark the boundaries for a proposed development with 48 acres allotted for residential development and 92 for conservation in the wooded hills near the Niantic River. The company is expected to re-apply in the future.

Over more than a decade, Landmark has submitted several applications to develop housing in part of its 236-acre parcel in the hills, as well as filed lawsuits against the town. When the Zoning Commission denied in part a 2005 housing application to build 840 units, some of them affordable, in the hills, the developer appealed.

As part of that ongoing appeals case, New Britain Superior Court Judge Stephen F. Frazzini ordered in 2011 that the town review its zoning regulations governing affordable housing. After that, the developer could submit a plan for the proposed housing development, according to the court order.

The town revised some of its zoning regulations for affordable housing last year. Landmark then appealed a provision of the regulations, but settled last spring when the commission agreed to remove a provision that would require a 150-foot buffer between affordable developments and tidal wetlands.

This past August, the developer wrote to the town seeking its approval to rezone 140 acres in a rural district in the hills into an affordable housing district. The plan, outlined on a map, called for building residences on 48 acres and setting aside the remaining 92 acres for conservation.

Landmark's remaining 236 acres would not be rezoned under the petition, according to an Aug. 23 letter from the developer's attorney, Timothy Hollister, to the commission.

The letter stated the developer wanted to identify the boundaries for its development plan, in light of the 2011 court decision. A site plan outlining details for the housing plan did not accompany the application.

After receiving a letter from the town's attorney advising the commission to defer the rezoning application until it would be filed with a site plan, Hollister said the developer strongly disagreed. He said the petition offered the town benefits "not the least of which is locking in nearly one-third of the property as open space at no cost to the Town, as the Town has sought for many years." "In addition," the letter stated, "establishing the boundaries of potential development will make the site plan process much easier."

Landmark further wrote that it is trying to establish with the town "a mutually-acceptable limit of development, density and layout and does not need at this time to become involved in a collateral procedural dispute." Landmark ended the letter by saying "don't put your file away."

A public hearing on the rezoning petition for next Thursday was canceled.

Zoning Official Bill Mulholland said the application has been withdrawn, and he is anticipating a re-submission of some kind, which will then be scheduled for a public hearing.

Meanwhile, Landmark has been appealing the Water and Sewer Commission's decision last December that the town lacked sewage capacity required by Landmark. Last year Landmark requested a sewage capacity of 118,000 gallons per day, but the commission said that would take up a large percentage of the town's sewer capacity at a time when other town areas still needed to hook up to sewers. An appeals hearing on sewage capacity is set for Dec. 6 in Hartford Superior Court.

The nonprofit organizations, Save the River - Save the Hills and the Friends of the Oswegatchie Hills Nature Preserve, which manages a 420-acre preserve in the hills with the town, are interveners in the case. Landmark has another appeal pending for another zoning application.