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**Judge Denies Appeal of El Zoning Ruling
Dismissal stops developer's 2002 Oswegatchie Hills plan**

By Ethan Rouen

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East Lyme - A Superior Court judge has dismissed the appeal of a 2002 Zoning Commission ruling that prevented Landmark LLC from developing a housing complex in the Oswegatchie Hills.

In her ruling, Judge Barbara Quinn wrote that the commission's decision, based on potential environmental damage, a lack of sewer and water resources, and traffic problems, was correct, and that the potential harm to the land outweighed the town's need for affordable housing.

"The commission properly concluded that these public interests clearly outweighed the need for affordable housing at this location," she wrote.

Landmark's owner, Glen Russo, had argued that the commission used false information about the town's water and sewer systems when denying Landmark's application to build an 894-unit housing complex with affordable housing in the hills. The commission said the town's water and sewer systems could not serve the hills.

"The Commission has adequately demonstrated that there are limited sewer and water resources for this site and that community systems are not feasible," Quinn said in her decision.

Russo proposed using a community septic system, but the commission, backed by the state Department of Environmental Protection, said the system would create runoff that would pollute the Niantic River.

Landmark also has a federal discrimination lawsuit against the town, the Zoning and the Water and Sewer commissions and four town officials, claiming that the Zoning Commission's denial of the proposed housing complex, which would have offered some affordable housing, was racially motivated. Blacks and Hispanics dominate Connecticut's affordable housing market.

Russo, who plans to appeal Quinn's ruling, said it will not affect the federal case, but First Selectman Wayne Fraser was optimistic about the ruling's influence.

"We believe that this Superior Court ruling will have a major impact on the frivolous federal case," he said.

Landmark currently has another proposal before the Zoning Commission for a scaled-down housing complex in the hills. The new plan calls for a phased development of the area, starting with a 352-unit housing complex. Affordable housing would comprise 34 percent or 120 units.

Town and state officials have criticized the plan as almost identical to the proposal now tied up in litigation.

"Exactly what is being applied for is not clear to us," Marcy Balint of the Office of Long Island Sound Programs wrote in a letter to the Commission. "The current proposal is identical, except it is being phased in."

In August, the commission heard more than 10 hours of testimony from Russo, his lawyer, residents, environmentalists, and town and state officials. A common complaint from officials is that Russo has not provided enough information about the environmental impact of the development.

Russo said he has provided enough information to prove that the development can be built with minimal environmental impact and that the Superior Court ruling will bolster the case for his current proposal.

Although he said he disagreed with the court's decision, Russo wrote in a press release: "We are encouraged by the court's decision, because the issues of concern to the court in the zone change application, namely open space preservation and sewage disposal, have been thoroughly addressed in the affordable housing plan application now pending before the Zoning Commission."