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**Judge Rejects Oswegatchie Appeal; Development opponents pleased but cautious**

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East Lyme - Two years after the East Lyme Zoning Commission rejected an application that would have quite literally paved the way for the development of Oswegatchie Hills a New Britain Superior Court Judge has dismissed the developers subsequent appeal.

In a decision handed down last week, Judge Barbara Quinn quoted David Cini, then the First Selectman, who said in 1990, "If ever there was a place that nature never intended to be developed, the east slope of the Oswegatchie Hills is that place. Nowhere else is the land less suitable for construction, the natural resources on and adjacent to the land more susceptible to damage, and the public benefits to be gained from preservation greater."

Quinn, in her summary, supported the commission's 2002 rejection, citing the public interest of open space preservation, public health, concerns with regard to "limited facilities for water and disposal of sewerage," adverse traffic conditions, potential runoff and the protection of the "fragile ecosystem".

In a statement released following the decision, Glenn Russo, manager of Landmark Development Group, LLC, indicated that his Company plans to file a petition to appeal the Connecticut Appellate Court.

In his statement, Russo said the court-supported concerns about open space and sewage disposal "have been thoroughly addressed in the affordable housing site plan application now pending before the Zoning Commission."

Those in fierce opposition to development in the hills responded last week to the court's decision.

Fred Grimsey, founder of Save the River-Save the Hills, said, "We've won a battle, but we haven't won the war. It's great news, but we can't get complacent."

"I'm not going to rest" Grimsey said. "We're going to keep fighting this guy."

Others echoed Grimsey's sentiments. Marvin Schutt, President of the Friends of the Oswegatchie Hills Nature Preserve, said, "We still have a long way to go. We're ready to take the march wherever we have to go with it to make it come out right. We're not relaxing, in other words."

Michael Dunn, the organization's vice president, said, "Knowing the way this guy (Russo) operates, he's not going to stop." And that "We're not opposed to affordable housing; we're trying to protect a natural treasure."

First Selectman Wayne Fraser said, "The land stands on its own. It needed protection and the court upheld us. We were confident we were doing the right thing."

Fraser too though, indicated that wasn't the final word on the matter.

"I consider this the first home run in a game that (Russo's) making us play," Fraser said. "There are other lands that can be developed."

Zoning Commission Chairman Mark Nickerson talked about Judge Quinn's decision, saying, "Four out of five get overturned in the appeals process," indicating the strength of the commission's defense.

Town attorney Ed O'Connell concurred with Nickerson's assessment, saying the law reverses the burden of proof, and requires the municipality to demonstrate why affordable housing is not appropriate."

Paul Geraghty, a New London Attorney representing the opponents, said "This is a big victory."

Last month, at the third-but not last- public hearing on Landmark's current application before the Zoning Commission, concerns that Russo said have been "thoroughly addressed in the affordable housing site plan application now pending before the Zoning Commission" were scrutinized.

Landmark's current application includes a plan to develop affordable housing and condominiums in four phases.

At the last public hearing, Russo said, "affordable housing, I believe, is just as much a resource to the state of Connecticut as the environment."

His lawyer, Mike Ziska, said, "I've yet to hear anybody, including the DEP, say – specifically- what we're hurting," with regard to the environment.

Ziska said, "We are not impacting any coastal resources with this plan."

A letter read into the record from DEP's Bureau of Water Management's Dennis Grici, said that the "large majority" of the plan is "outside sewer service" and that any extension would "very likely be disapproved" by the DEP.

The Office of Long Island Sound Program wrote that the application should be "denied without prejudice."

The next public hearing before the Zoning Commission will be September 29.