

An Affordable Housing Development in East Lyme Comes Down to Sewers

After three months of public hearings, the Water and Sewer Commission must now wade through mounds of conflicting data to come up with a decision if Landmark is to move forward with its plan to develop Oswegatchie Hills.

- By [Jayne Keedle](#)
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Finally, the protracted public hearing on [Landmark Development's request for confirmation of sewer capacity](#) for an affordable housing development it proposes to build in the Oswegatchie Hills area of East Lyme came to an end last night.

Now the East Lyme Water and Sewer Commission has 65 days to make a decision—and that's not going to be easy. At this point, the number of documents, studies, assessments, and memos presented as exhibits fill a hefty file folder and many of them contradict each other.

Different Data, Different Conclusions

Dan Lawrence, senior associate of Weston & Sampson, is the engineer hired to represent the town. His assessment of available sewer capacity, based on six years of data tracking maximum monthly average flow, shows that East Lyme has an available flow of 130,000 gallons per day.

Landmark's engineer has an assessment based on two years of data taken from 2010 to 2011 which measured average daily flow and, according to that, the town has 336,000 gallons per day of sewerage capacity available.

Landmark's proposal to build 840 housing units on the Caulkins Road section of the 236 acres it owns on Oswegatchie Hills would require a sewerage capacity of 118,000 gallons per day. By the town engineer's estimation, that would eat up the lion's share of the town's existing sewer capacity but by Landmark's calculations, it's a reasonable request.

Commissioner David Zoller pointed out that the past two years have not been very representative, as sewer useage usually peaks in the summer and because of the economy, many of the town's hotel rooms and summer cottages have had higher vacancy rates in recent years and sewer useage dropped as a result.

Landmark's attorney Tim Hollister countered that the town typically measures its sewer useage and capacity based on daily use not monthly maximum use, so he questions the town's decision to use monthly averages as the basis for its data in the first place.

Legal Disputes and the Facts of the Matter

Hollister notes that the town's capacity will increase once it connects to New London's waste water treatment plant. In part, that's what prompted Landmark to renew its application to develop the land [it's been trying to build on for more than a decade](#).

However, First Selectman Paul Formica, who chairs the Water and Sewer Commission, said that the commission needs to base its decision on current capacity, not anticipated future capacity.

Then there are the legal arguments. A lawyer representing the intervenor, [Save The River/Save The Hills](#), a nonprofit environmental group that opposes any high density development of Oswegatchie Hills, argues that case law gives the East Lyme Water and Sewer Commission "wide discretion in connection with the decision to supply sewerage."

Hollister takes the opposite view. He says that the commission has "no discretion" based on case law. "There is capacity and we'd like you to recognize that," Hollister said.

At this point, there's even disagreement over how much of the proposed development falls within the existing sewer shed.

The one undisputed fact is that Landmark needs a decision from East Lyme's Water and Sewer Commission as to whether the town has the capacity to provide sewer service to its proposed housing development. Landmark can't create a site plan to present to the Zoning Commission until it knows that.

And there's one thing probably everyone who sat through the public hearings can agree on: The Water and Sewer Commission members certainly have their work cut out for them over the next three months.