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City-County Council overstepped its authority with decision that allowed the destruction of Haverstick Woods, judge rules

Ruling is a victory for citizens' rights, says Indiana Forest Alliance executive director

INDIANAPOLIS (April 21, 2020)—A Johnson County judge has ruled the Indianapolis City-County Council overstepped its legal authority when it approved a rezoning that allowed the clearing of a rare tract of urban forest in the Nora area.

Some area residents, the Indiana Forest Alliance and the Driftwood Hills Neighborhood Association sued the city over that decision in 2018. They argued that then-City-County Councilor Colleen Fanning wrongly used a technicality to bring the rezoning request directly to the council after the Metropolitan Development Commission had denied a similar rezoning request by the Keystone Realty Group.

Johnson Superior Court Judge Kevin M. Barton ruled last week the council lacked the authority to make such a move and should have referred the matter back to the development commission. Failure to do so denied citizens a full public hearing on the issue, the ruling said.

“This ruling shows that when citizens stand up to protect their property values and the forests near them, and zoning officials agree with them, that the City-County Council can’t arbitrarily use a technicality to trample on those rights and allow some new development anyway,” said Jeff Stant, executive director of the Indiana Forest Alliance.

The judge’s ruling pertains to the rezoning of 5.8-acres within the wooded tract known as Haverstick Woods that had buffered the Driftwood Hills neighborhood at Keystone Avenue and 86th Street. The appropriate use of that parcel had long been a point of contention, but the Metropolitan Development Commission ruled in 2017 against a zoning change due to concerns over the removal of trees from the heavily wooded site, the progression of commercial sprawl and traffic congestion.

Judge Barton issued summary judgment last week in favor of residents John and Charlotte Watson, Elizabeth Mahoney, Jim Heaney and Lawrence and Rachel Smiley, all of whom had sought to protect the woods. The Driftwood Hills Neighborhood Association and Indiana Forest

Alliance were denied legal standing in the case because they failed to show they were financially impacted by the decision.

Mahoney, chair of the Indiana Forest Alliance Board of Directors, said she is gratified by Judge Barton's ruling because it affirms the Metropolitan Development Commission's primary role in land-use decision-making and repudiates the effort by the council to overreach.

"It's a bittersweet win for those who understood the invaluable role these trees played in our community," Mahoney said. "Though they are lost to the developer's chainsaw, we must now ensure that the current zoning and tree mitigation commitments are upheld and the trees and the ecosystem services they provide are restored, one caliper inch of cut tree by one caliper inch of new tree planted. No excuses."

The plaintiffs are represented by attorney W. Russell Sipes, also a member of the Indiana Forest Alliance board.

"This success at the trial court by the Indiana Forest Alliance, the Driftwood Hills Neighborhood Association, and the individual plaintiffs who brought this lawsuit gives people all over Indiana a stronger vote in zoning matters," Sipes said.

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About the Indiana Forest Alliance

Founded in 1996, Indiana Forest Alliance is a non-profit, statewide organization of individuals dedicated to the long-term health and well-being of Indiana's native forests. We are volunteers and full-time staff working to protect and restore Indiana's forests. Learn more at www.indianaforestalliance.org.

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