

Environmentalists ask high court to review Corson's case

Claiming it is the "most far-reaching environmental case" to be presented to the high court "in years," an environmental group has asked the state Court of Appeals to review a lower court decision permitting the construction of four group homes in an environmentally sensitive area.

The Protectors of Pine Oak Woods said the case raises issues on which the high court has never ruled in the area of "environmental destruction" caused by official action.

The Protectors want permission to appeal the unanimous decision of the Appellate Division, which two months ago overturned a preliminary injunction barring the state from proceeding with construction at Corson's Brook Woods.

The state Office of Mental Retardation and Developmental Disabilities (OMRDD) wants to construct the group homes on a nine-acre site in the 40-acre woodland tract, located on the southeast corner of the Staten Island Developmental Center property.

The group homes, to be built at a cost of \$3.8 million, will house 72 residents from the center, which is scheduled to close in 1987. In anticipation of the closing, OMRDD has been placing the center's residents in community residences. Because of widespread opposition to the placement program, the agency decided to utilize state-owned land on the center's campus as an alternative to building homes elsewhere.

The state agency said it wants to build in Corson's Brook Woods because it is the only site on the SIDC campus that adjoins a residential area and is suitable for construction.

Environmentalists claim Corson's Woods is one of the Island's most important natural areas. The City Planning Department has recommended the tract for inclusion in the Greenbelt.

In papers submitted to the Court of Appeals, the Protectors' lawyer, Terrence H. Benbow, argued that the Appellate Division erred in concluding that the envi-

ronmental group had little chance of prevailing in its action for a permanent injunction to stop the construction.

The thrust of the environmentalists' action is that the state failed to comply with the requirements of the state Environmental Quality Review Act in proceeding with its plans.

The Protectors of Pine Oak Woods said the state only this month made a belated effort "to legitimize the failure."

It referred to a public hearing held by OMRDD to obtain public comment on an environmental impact statement. OMRDD has not yet announced whether the public comment has influenced its decision on building the homes.

Protectors president Richard

Buegler told the Court of Appeals that the high court historically grants permission to appeal in cases that present "novel questions of public importance" and "in the interest of substantial justice."

The Corson's Brook Woods case satisfies both tests, Buegler said, adding that he believes the case is

the "most far-reaching environmental case" to be presented to the high court "in years."

Buegler said, "At issue is whether and under what circumstances a state agency can be preliminarily enjoined from arbitrarily and capriciously destroying a unique woodland ... even though the state agency had failed to pursue the requirements of the state Environmental Qual-

ity Review Act and other consensual procedures and even though at this very moment it belatedly seeks to legitimize its failure."

OMRDD says the law does not require the agency to submit its plans for review because the agency already controls the property. OMRDD officials said the agency voluntarily agreed to the public hearing as a response to the environmentalists' concerns.