

OPINION

Reverse judge's land grab

In a misguided decision this month, a judge set back New York University's expansion plan, the city's jurisdictional power and the development industry all at once. Park lovers could ultimately be losers as well: In trying to protect public open space, the judge may have unintentionally done just the opposite.

Manhattan Supreme Court Justice Donna Mills dismissed five of six arguments advanced by NYU expansion opponents, but she agreed that the university cannot use two strips of city-owned land as staging areas for the construction, despite the City Council's approval of this common practice. That would make it logistically difficult, if not economically unfeasible, for the university to build much of the project, which some NYU-weary locals contend is too large for Greenwich Village.

The judge's ruling hangs on her finding that because of the way the two parcels have been used, they are parkland, although they are not officially mapped as such. The problems with the decision begin there: It renders the city map meaningless and dismisses the city's repeated refusal to deem the strips parkland.

The official map of any locality is the foundation for how it is developed. For a judge to declare a nonpark to be a park is to render the entire city map subject to the whims of the judiciary, opening future projects to a new line of legal attack. It is a fundamental rule change that, if upheld on appeal, would deter the city and private sector from allowing empty or

underutilized properties to be used temporarily as parks or gardens, lest the right to develop them be lost.

That's one reason open-space advocates should oppose this decision. Another is that the NYU project, when complete, will provide much more access to better green space than the community currently has, funded and maintained forever by

The appellate court should rule for NYU and the city

the school. The short-term unavailability of the two parcels—one for about five years, the other for four, not for what the judge hyperbolically claimed would be “some or all of the approximately 20 years of the project”—is a small, worthwhile sacrifice.

In any case, the city shouldn't lose control of its land to Albany (which must approve park conversions) because it let people play and relax there. Should NYU lose its appeal, it would need the state Legislature to redesignate the parcels that Justice Mills unilaterally turned into parks, which is not likely to happen because Village Assemblywoman Deborah Glick opposes the university's expansion plans.

The appellate court should rule unanimously for NYU and the city, clearing the path for this worthy project and countless others down the road.