

**GREEN LAKE COUNTY  
LAND USE PLANNING AND ZONING COMMITTEE  
Business Meeting & Public Hearing Minutes – February 26, 2009 – 1:00 p.m.**

**CALL TO ORDER**

Committee Chair Sue McConnell called the meeting of the Land Use Planning and Zoning Committee to order at 1:00 p.m. in the Green Lake County Courthouse, County Board Room, Green Lake, Wis. The requirements of the open meeting law were certified as being met.

Present:       **Roberta Erdmann, Eugene Henke, Susan McConnell, Howard Sell, Thomas Traxler, Jr.**

Absent:

Also Present: **Al Shute**, County Surveyor/Land Development Director  
**Carole DeCramer**, Committee Secretary  
**Jeff Haase**, Assistant Corporation Counsel

Chair McConnell stated that this meeting was published in the paper as a public hearing; however, this is not a formal public hearing format. The public was invited to attend to listen to the decision that was reached between the school district, the county, and Lindenwood Development. Public comments will not be heard at this time.

**APPROVAL OF AGENDA**

**Motion by Henke/Sell, unanimously carried, to approve the agenda. Motion carried.**

**ESTATES OF LAWSONIA PRELIMINARY PLAT; LINDENWOOD DEVELOPMENT, LLC.  
RELATING TO OPEN SPACE CONDITION OF PRELIMINARY PLAT APPROVAL**

- a. **Comments and status report to the Committee from Lindenwood Development, LLC and the Green Lake School District.**
- b. **Committee review and discussion.**
- c. **Committee Action.**
  1. **Possible modification of preliminary plat approval**
  2. **Possible directive related to open space standard**

Gordy Farrell, Green Lake School Board Member – We have reached an agreement with the Conference Center 2-3 weeks ago and in that we get a lovely piece of green space. We felt compelled, after discussions, that we needed to bring this to a close as best we could. We feel like we've done that. We're very happy with what Green Lake Conference Center (GLCC) gave us, the piece on the west side. We think it's the best use for the kids. It's a piece of woods, a piece of water – two things we wanted to have for the kids. We are very pleased.

Ken Bates, Superintendent of the Green Lake School District, 612 Mill Street - Based on this agreement, which took us quite a while to actually hash out all of the legalities for the property transfer, which still needs to be completed because we will be seeking a variance from the county related to access with this parcel, the district has decided and the school board has approved to withdraw the request for open space inside of Lindenwood.

McConnell - It's my understanding that the parcel that you have settled on is outside of the actual development.

Farrell – That is correct. And there are several reasons for that. The way that Lindenwood Estates is developed is both around the golf course and around the water and it didn't present itself well for what we needed. This piece presents much better for us.

Robert Duimstra, Attorney for Lindenwood Development - To clarify a few points, after the conditional approval was made, we did engage in considerable discussion and negotiation with the school district in terms of trying to find an open space proposal that was acceptable to Lindenwood Development and the Green Lake Conference Center, which had the vested interest in the Estates of Lawsonia Development, in terms of land sales. The problem that we were faced with was coming up with an ideal open space piece or pieces that fit all of the criteria that the school district was looking for as well as meeting the requirements for the GLCC and Lindenwood. When this opportunity presented itself, that really gave them what they wanted. They, in essence, told us that they would no longer be interested in accepting any offered green space within the Estates of Lawsonia Plat. That issue had come up back in June of last year where the school district had expressed an interest in, perhaps, accepting dedication, but with their due diligence, decided to pursue this other opportunity. We have made offers to the Town, we've made offers to Green Lake County, in terms of open space. Both of those have already been rejected so we feel that we're now to the point where, in terms of the ordinance and offering open space, we have met all of the requirements. The committee should remove the conditions of approval relative to the open space issue.

McConnell – I would ask of both sides that you are both in agreement with what you've come to. Do you see any foreseeable problems that will arise in the future? Both sides are fine with this?

Bates – Yes, the only issue is, because it is a land-locked piece of property, the Conference Center has agreed to allow access through either a western entrance, which is similar to what the Conservancy has, and also through the main gate. There has to be a survey because the Tea House property would be re-surveyed and stay with the Green Lake Conference Center.

Duimstra – There are some representatives here from the Green Lake Conference Center that can speak to those issues, Mr. Giacoletto and Mr. Karol are here.

McConnell - We're mostly concerned that the school is taken care of. Do any of the committee members have comments or questions about what we're doing right now?

Henke – We've got green space for the school district. I still don't think we have anything for people that will live in the development. There will be children there and where are they going to play? Will they play in the wetlands or in the retention ponds? They're going to have 100 houses there. I know I heard the story that this will be mostly older people, but they've got grandkids. In that whole works, where are these kids going to have to play? Will they have to go all the way around the highway and come all the way over to this place? I thought that was the reason to have green space here. Am I wrong?

Assistant Corporation Counsel Jeff Haase – The ordinance says that the committee could request that they dedicate green space to the town, county, or school district. They have complied with that request because the town didn't want it, the county didn't want it, and now the school district is satisfied with something else so they no longer want it. When we're looking at the ordinance section, they've complied with it.

Henke – Down the line, this won't be here for a year or two, it's a lifetime.

Shute - I think the committee and staff both have their information that we need with respect to the developer interacting with the school district where both parties are as of today. That would lead us to another discussion about the ordinance standard and green space, but with respect to the school district, in my mind, that issue is resolved.

McConnell – I'm inclined to think that also. Not having gone through this process before, do we accept the proposal that has been offered with the agreement between the two entities and consider the school green space fulfilled? Is that the correct procedure, Jeff (Haase)?

Haase – That condition of the approval would be satisfied now with the school district not wanting something inside the estate because of what has occurred. That condition would be satisfied.

McConnell – There is no motion that needs to take place or formal action that needs to take place?

Haase – No.

Erdmann – Jeff (Haase), would we have to re-do our stipulations for preliminary plat approval because we specified Green Lake School District?

Haase – When this comes up for the final plat review, you look through the conditions and, at that time, you could adjust and say that has been satisfied because of what they have agreed to, so I don't think you need to specifically remove that now because it's been resolved.

Traxler – Have we met the true intent?

McConnell – That's our next item of discussion. We had discussion about Outlot 2 at a previous meeting where the committee felt that we had stipulated that there needs to be some green space within the development, as Gene (Henke) commented, and I think we were considering the idea of having Outlot 2 and that little bit of land around that, Al (Shute), that could be added to that to make a green space area that would have access to the lake.

Shute – There is some vacant land outside the plat that is owned by the ABA, east of Outlot 2. I don't know about the availability of that land for green space. When I look through the Lindenwood Development correspondence of December 30<sup>th</sup>, where they outline various options, in one of the paragraphs, they indicated that they offered to add the area adjacent to Outlot 3, so that must have been in a discussion somewhere with the school district that they would offer that as possible dedication. I don't know where things are today. I can only tell you what we have documentation for.

Doug Cruzan, Lindenwood Development – In one point in time during discussion, the cross-hatched land, known as Lot 1108, gives residents of Carpenter Lane access to piers, the Conference Center was willing to give the school district access to that piece of property as well. That's how that got attached to that drawing.

Duimstra – In essence, that would have been like easement rights over that particular parcel.

Erdmann – May I ask you gentlemen from Lindenwood, what are your plans for these various outlots that you have listed around the project? It's been a while since you've talked about everything and I've kind of gotten gray. I believe there are three all together or four.

Cruzan – Outlot 1 is a detention pond. Outlot 3 is a detention pond. Outlot 2 is wetlands; it's totally unbuildable. There is one small spot on high lands on it but nothing would ever qualify to have any structure on it. Our intention was to get rid of the buckthorn and leave it natural.

Erdmann – And who would have access to these pieces of property?

Cruzan – The outlots would be owned by the Homeowners' Association so the residents could use it; essentially the public.

Erdmann – In that same letter that Al (Shute) was talking about, there was an open space option 4, which shows a 6.1004 acre park. Where is that, actually?

Cruzan - Up in the northwest corner of the property along the highway.

Erdmann – Is that still an option for you, or have you decided to develop it? I think you see where we're going. We're looking for green space for the 99 families that are going to be living there.

Cruzan – We haven't talked about it.

Ken Giacoletto, Green Lake Conference Center - My understanding, seems like we're mixing apples and oranges and bananas. This was for the school, not for general public park or open space.

Erdmann – No, no.

Giacoletto – The county rejected the space.

Erdmann – Our ordinance asks us to offer it to the county, the town, or the school.

Giacoletto – And I understand all three rejected it.

Erdmann - All three rejected it, but we still have responsibility to this plot, to the people who will live there.

Giacoletto – OK, in essence, these people have access to our grounds the entire time. There are walking trails, the golf course, the tennis courts, the soccer fields, any of the homeowners who are on our property already go walking through the prairie. They have access to our property. There is no way we would put up barriers or segregate this property from the rest of the ABA property. If they decide they want to take their kids for a bike ride down Shore Drive, they don't stop where the houses stop. They're free to drive all around. They can take a walk in the prairie, they can go over to the school district property as far as that goes.

Erdmann – Would you be comfortable sending a three-year old a couple of miles to go and play?

Giacoletto – No, it's not three miles. I live in Green Lake and I don't have a park in my backyard either. There isn't a park that's backed up to my backyard or anyone's as far as that goes. I don't quite understand because I think they're probably within closer walking distance than any place else in the town or city to open space.

Traxler – Jeff (Haase), did we meet the intent of the open space?

Haase – Yes. In Outlot 2, is that going to be in your covenant for the homeowners that they'll have access to that? Is that all written in?

Duimstra – Yes, the outlots are all covered in the covenants in terms of the fact that they are owned by the homeowners, maintained by the homeowners' association. I don't know if the current draft specifically talks about Outlot 2 as being wetlands. Because it's regulated, there is nothing we can do with it, but we certainly would put something in the covenants if the committee would feel more comfortable that says that Outlot 2 will remain undeveloped so that it's clear to the Homeowners' Association, the general public, what will happen with it.

Henke – It still remains that on this 100 acres, you have given absolutely nothing to green space. The Baptist Assembly has, but Lindenwood hasn't.

Haase – But that's not what the school district wanted.

Henke – I know it.

Duimstra – Just to clarify that point, Lindenwood's name is attached to this, but the application, with respect to the plat, is the Green Lake Conference Center. The Green Lake Conference Center has a vested interest in this. They will benefit from this development. To try to separate Lindenwood from the Green Lake Conference Center isn't a fair way to posture it because they are joined in this venture together. It's for that reason why the Conference Center is, basically, opening up their additional 900 acres to the homeowners in this development to freely use that as their open space.

Farrell - That's one of the things we found out in reaching the agreement. We know it's outside the plat, but the biggest thing we found in having our discussion both with Lindenwood and with the Conference Center is that having this piece on the west side is a much better opportunity for the young people. You're talking about space for young people and, yes, it's not in the back yard of the residents where they'll be living, but the prairie, the woods, where our piece is, it's where the young people who come and spend the summers at the ABA, this piece lends itself so much better as a synergy. When you're talking about the grandchildren of the people who live out there, the same thing applies with the synergy for them, it applies much better there than it does in the land there because it just doesn't present itself well to support that need. At least that's what we found in our discussions, which is why we reached an agreement with the land that we did. There's much more opportunity for the young people where we are.

Shute – One question, the outlots that are within the subdivision, are those the same outlots that will be part of the stormwater management plan?

Cruzan – Some of them; not all of them.

Shute – There may be some restriction, by ordinance, on how those outlots are used. The other thing, the statement has been made a couple of times that the county has refused the open space land. The part of the county that approves or rejects the open space land is this committee. What we have to date is a correspondence that went to another department and then to their committee to offer information and a recommendation about the open space, not a decision about the open space. I think, when you talk about the county rejecting or not rejecting this 10%, you need to keep in mind which people have been involved in making statements and comments about the open space. When we get a plat, we send correspondence to several departments for input because ordinances they administer and enforce may impact the plat. The Highway Department, having the parks as a subcommittee, it was their comment/recommendation back to this committee that they didn't want to maintain any more parkland. That was part of a search for feedback and information. That wasn't asking for a decision about whether or not open space is appropriate for this development.

Henke – We never refused it at the Highway Committee.

Shute – Not while you've been on the Highway Committee, Gene. This was first taken up prior to you being on the committee. It was the term right before yours.

McConnell – I would like to make a suggestion that the Outlot 2 area that goes down to the lake, I seem to remember when we first looked at the plat that we had considered that for a conservancy designation because it is unbuildable, but it seems that it would be nice access to the water and a bench could be placed there and maybe have a place to launch a canoe or kayak. It's quiet where people could just go and view the water and I'm thinking that the one that is attached to that area could be combined to be included in the plat and would fulfill the green space for the residents of the plat. It sounds like your plans were to leave it in a natural state, this could also be left without maintenance and just left as a natural area.

Duimstra – The cross-hatched areas is outside of the plat. That is ABA property and not part of the plat.

Shute – I think Sue (McConnell) is suggesting that it be brought into the plat. Is that possible?

McConnell – Yes.

Duimstra – The problem is that there are property rights granted to Carpenter Lane people relative to that piece. I would be concerned that the Carpenter Lane folks would have easement rights or rights of use to that piece and would somehow be negatively impacted.

McConnell – Did you say that they have access to a boat launch?

Cruzan – There isn't a launch but there are boat slips that get put out there.

McConnell – So it's not practical is what I hear you saying.

Cruzan – To make it part of the plat, that would be correct. The usage would be practical.

Duimstra – The intention relative to Outlot 2 is really what you said, keeping it as open space, allowing people to use it to get access to Green Lake, but it would not be developed. We would put that in the covenants as part of the plat.

Erdmann – You said that the 4-5 outlots will belong to the Homeowners' Association. Is the association going to be paying a property tax on those outlots? Who will be paying that?

Duimstra & Cruzan – The association.

Erdmann – Therefore, if we turn this into a county park, we lose taxes.

Duimstra – Yes, and you can maintain them.

Henke – We did the same thing on the other side. Same difference. We'll lose property tax off of that, too.

McConnell – Would it be easier to leave that with the property association rather than designate it?

Haase – There are benefits with leaving it with the association. The number one is taxes, number two would be no maintenance. The county doesn't have to oversee it at all. It makes it simple.

McConnell – In my mind I can see this as fulfilling green space and adds a buffer zone that is, apparently, already there for the Carpenter Lane area.

Haase – That it does.

McConnell – How would we accomplish that, if that is acceptable?

Haase – Make it a requirement that they put that in the covenant when they provide a draft of the covenant.

Duimstra – I understand what Attorney Haase is saying regarding moving this process forward. What I would like the committee to do is to take action relative to the conditions that are in there relative to the open space and, perhaps, take those out and, in its place, put in the type of restriction that Attorney Haase just mentioned so that, as we present the final plat, we know that we have met all the requirements and that we're not going to need to come back to you again at a later point in time.

Traxler – That makes sense.

McConnell – That's what I'm trying to work for.

Duimstra – There are three separate conditions that deal with the open space issue: #5, 6, and 9.

McConnell asked Erdmann to read the three aforementioned conditions.

Haase – The committee could actively remove those three conditions and then put in whatever condition you want to put in.

McConnell asked the committee members if they felt it was acceptable to specify Outlot 2 as a natural area to be held within the boundaries of the plat.

Erdmann – Considering, as Gene (Henke) said, that this development is going to be around for a long time, you’re going to have multiple owners over the extent of time. What the owners today know isn’t necessarily what the third round of owners will know and it will get lost. If it is down in black and white, it won’t get lost. I would like to make sure it’s in the covenants.

The rest of the committee members agreed.

**Motion by McConnell/Traxler, unanimously carried on roll call (5-ayes, 0-nays), that conditions #5, 6, and 9, in regard to the Estates of Lawsonia Preliminary Plat, have been fulfilled. Motion carried.**

**Motion by Erdman/Traxler, unanimously carried on roll call (5-ayes, 0-nays), that the dispensation of Outlot 2 be included in the covenants, that it will be owned by the Homeowners’ Association and maintained and used by them as natural green space. Motion carried.**

Shute – Do you think, for procedural purposes, the committee should make a motion to waive the 10% standard as required by the ordinance?

McConnell – Doesn’t the ordinance say up to 10%?

Haase – Yes.

Traxler – Zero to ten.

Shute – But you’re not dedicating anything. You’re just requiring it as part of the protective covenants. So what you’ve done has nothing to do with the ordinance.

Traxler – Does it meet the intent of the provision?

Haase – Which is fine. I believe they can make that part of the conditions so it doesn’t affect that particular ordinance, that’s all.

McConnell - So, we’re covered? Every base is covered?

Traxler – I think so.

Duimstra – The ordinance says that the committee may require, it doesn’t require the committee to obtain 10%.

McConnell – Right. If our attorney says we have it covered, I’m going to go with that and consider that we’ve completed what we have started out to do here in regard to the green space.

Duimstra - Based on what has happened today, with the exception of what the covenants need to say, I don’t believe there have been any other changes to the plat since the conditional approval. How soon can we have this on the committee’s schedule for final approval?

Erdmann – Do you have all of the other requirements met?

Duimstra – The only thing we were still waiting for was the permit for the stormwater management plan that we were told, back in September or October, had been approved but we haven't received the permit from Tom Jonker.

McConnell – So the Land Conservation Department would give approval on that. You need to get that from them.

Duimstra – How do we get that?

Cruzan – I've been asking for months. We've been told verbally that it's been approved by Tom Jonker.

Traxler – What kind of answer are you receiving back?

Cruzan – We are told that he hopes to get to it in the next couple of weeks. He's just so busy.

Shute – The way the condition is worded, we don't need that approval prior to submittal. It just says that this approval is required prior to the approval of the final plat so the night you are reviewing the final plat, it can all come together at one point.

McConnell – You're working with the Sanitary District?

Duimstra – The only issue that we have with the Sanitary District is that we need a final plat to complete our paper work.

Erdmann – And we need a copy of the protective covenants.

Cruzan – We will get you a modified version.

Erdmann – The roads have been dedicated? You did that with the Town of Brooklyn, right?

McConnell – The town has taken over the responsibility from what I recall.

Attorney Jenna Walker, Sorenson Law Office – They have entertained the idea.

Duimstra – They have agreed to take them over.

Walker – You should re-visit the motion.

McConnell – It will come to the final plat.

Shute – They sent me a version of the plat that did have the roads dedicated to the public.

Erdmann – You have all of the necessary approvals?

Cruzan – Correct.

Duimstra – With the exception of the updated covenants.

McConnell – Is there anything else, Al (Shute), that you see that we need?

Shute – Just #1 and #3. And #1 we talked about that will come together the night of the final plat approval. #3 with the Sanitary District, we just want some current documentation to put in the file that the Sanitary District has received all of the plans and specifications that they need to indicate that the development will be serviced by public sewer so our department doesn't have to wonder if there will be private sewers out there. That's the reason for that documentation.

**CLOSED SESSION PER WISCONSIN STATE STATUTE 19.85 (1)(G) CONFERRING WITH LEGAL COUNSEL REGARDING LITIGATION, WHICH THE COUNTY IS INVOLVED AND/OR IS LIKELY TO BECOME INVOLVED. (DISCUSSION OF LEGAL ISSUES)**

**1:52 p.m. Motion by Erdmann/Traxler, unanimously carried on roll call (5-eyes, 0-nays), to move to closed session per Wisconsin State Statute 19.85(1)(g) Conferring with legal counsel regarding litigation, which the county is involved and/or is likely to become involved. Motion carried.**

**2:13 p.m. Motion by Traxler/Henke, unanimously carried on roll call (5-eyes, 0-nays), to resume into open session. Motion carried.**

**NEXT MEETING DATE**

March 4, 2009

- Business Meeting 4:30 p.m.
- Public Hearing 6:00 p.m.

**ADJOURN**

**Motion by McConnell/Sell, unanimously carried, to adjourn. Motion carried.**

Time: 2:15 p.m.

Recorded by Carole DeCramer  
Committee Secretary

**APPROVED ON:**

April 1, 2009