

WHO HAS THE POWER?



How much control does the Town of Wilson have over the Kohler golf course plan?

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When Kohler Co. introduced a plan to turn 247 acres of its land in the Town of Wilson into an 18-hole golf course, Black River neighbors and residents got worried.

The golf course, which would be Kohler's fifth championship course in Sheboygan County, might do grievous harm to the land and water, would require the destruction of forest and wetlands during construction and would be shoulder-to-shoulder with the Kohler-Andrae State Park, they feared.

Opponents organized, forming the Friends of the Black River Forest, and went to work trying to educate town leaders and residents about the plan's potential harm to the community.

In the meantime, Kohler Co. formally applied for a conditional use permit from the Town of Wilson, which would be its first step toward building the course.



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About 150 Town of Wilson residents turned out for a special Plan Commission meeting in July at the town hall to discuss the proposed Kohler golf course.

Kohler is also pursuing environmental certification from Audubon International, which works with the U.S. Golf Association to help golf courses protect the environment. It is not affiliated with the National Audubon Society.

In April, Town Chairman David Gartman responded to neighbors' con-

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cerns by saying at a meeting that the town's authority only goes so far and to really fight the project, opponents would have to go to state and federal officials who will also weigh in at later stages of the development.

Friends of the Black River Forest members, in contrast, insist that the town has more power than it thinks it does and that it could stop the project right now if officials wanted to.

The question is, who's right?

Conditional uses and permits

Kohler Co. applied for a conditional use permit because its land in Wilson is zoned P-1, which the town's zoning ordinance defines as a park and recreation district.

According to the ordinance, "The park district is intended to provide for areas where the recreational needs of the populace can be met without undue disturbance of natural resources and adjacent uses."

Opponents of the project say a golf course would irreparably disturb both the natural resources and the adjacent uses, and that the town should deny the conditional use permit.

"What we're hoping is that the Plan Commission, which reviews the conditional use permit, and the Town Board are aware of the fact all they have to do is say no," said Mary Faydash, spokeswoman for Friends of the Black River Forest. That's not necessarily true, according to two experts.

Brian Ohm, a land use expert for the University of Wisconsin-Extension and a professor of urban and regional planning at UW-Madison, said the fact that a golf course is specifically listed as a conditional use in the town's zoning ordinance is important.

"From a practical standpoint, the town has essentially told Kohler Co. that this type of use is something that would be OK but given the uniqueness of it, the town has reserved the ability to place conditions on it," Ohm said. "If they didn't want a golf course here, they should have zoned it something else." That's not a blank check for Kohler Co. to do whatever it wants, however.

Harvey Jacobs, a professor of urban and regional planning at the UW-Madison, said if the the Town of Wilson Planning Commission has concerns about the golf course proposal, there are ways it can address them. "The issuing authority has a great deal of discretion as to whether to say yes or no," Jacobs said. "It can't be arbitrary and capricious, so if they want to say no there has to be generally sound reasons."

Ohm said if the Planning Commission doesn't like the plan that's been proposed, it has the right to set conditions that will make the project more palatable. Then, it's up to Kohler Co. to decide whether to try to meet those guidelines. "From a practical standpoint, there could be conditions the town wants to

impose on the golf course that may get impractical,” Ohm said. “No more than five cars, for example — that’s going to make the operation of a golf course difficult.”

Environmental concerns

Opponents of the project have raised concerns about the environmental health of the Black River forest area, including the river itself, which has been labeled impaired by the Department of Natural Resources.

In a letter to the Town of Wilson Board and Plan Commission, signed by 139 members of the Friends group, opponents asked town officials to carefully consider the environmental and lifestyle impact a golf course would have on the area.

The letter lays out common misconceptions about how much authority the town has to stop the golf course project and asks for a variety of things, including reviews of the town’s zoning ordinances, a review of the town’s 20-year comprehensive plan, an environmental impact study and water quality testing, among other things.

The letter, dated, June 5, asks for a reply by July 7. To date, no member of the town’s leadership has responded to the letter, Faydash said.

“Our own Black River is already on the list of impaired waterways with the DNR,” Faydash said. “It’s a fact that what goes into the ground affects the groundwater. Particularly fertilizer will go into the Black River — there’s no other place it can go — and Lake Michigan. This land (Kohler Co. property) is right in between those two places.”

Whose side is the law on?

Kohler Co.’s proposal includes using about four acres of public land to build an access road and a maintenance building.

Using public land for a private project is a big undertaking with lots of layers of permissions and regulations, and opponents hope one of those, the Land and Water Conservation Fund, will work in their favor. Called Lawcon, the law requires that any land purchased with public money for outdoor public recreation must be used that way forever. Converting Lawcon land to other uses must be approved by the National Park Service.

Lavane Hessler, the statewide grant manager for stewardship and the Lawcon program for the DNR, said she gets more than 20 requests for conversions every year and the majority are from the Department of Transportation for highway expansion.

“Every one of these are case-by-case,” Hessler said. “There’s a huge screening process we have to go through. The paperwork takes time: Have public hearings been done? Are there alternatives? What are the impacts to archeological stuff, endangered resources?” To convert Lawcon land, the request has to meet all the requirements, and the public land is purchased for the project and replaced with land similar in acreage and value, Hessler said.

In 1984, the DNR cited Lawcon as a reason to deny a request made by Kohler Co. for a road easement on the north side of Kohler-Andrae State Park, according to DNR documents. Dan Schuller, the state liaison officer for Lawcon, said so far there’s been no proposal from Kohler Co. to convert any public land in the Town of Wilson. One of the things the state considers in Lawcon conversion requests is how much the request varies from the state park’s master plan.

In Kohler-Andrae’s case, the master plan was approved in 1989 and is essentially a 10-year plan for updating and enlarging the park.

That means it might need to be amended, which triggers an entirely separate chain of hearings and approvals.

“Certainly public comment will make a difference,” Schuller said. “It will give us an idea of the support for this, whether or not the public does feel, if this project was to go forward, the state park has been made whole. Absolutely, public comment is considered very strongly. I’m sure the company will pay attention to that as well.”

Letting the process work

The community’s opinion of the golf course proposal, while not binding, has an important role to play, according to a land use advocate.

Steve Hiniker, executive director of 1,000 Friends of Wisconsin, said his organization supports the process the Town of Wilson is undergoing now and advocates consensus.

Opponents of the golf course project have reached out to Hiniker, but so far he’s taking the long view.

“We have been asked; we don’t want to tell the community what they should have,” Hinker said. “Whether we want a golf course or not is less important than what the community wants. I suspect if people are fully informed of the process, the political process will work and it will be a locally based decision that guides the future.”

The Town of Wilson Planning Commission is reportedly waiting for Kohler Co. to provide further details and documentation before it makes a decision on the conditional use permit application.

Doug Fuller, the Plan Commission chairman, did not return phone calls seeking comment for this article, and no one from the town’s leadership has talked publicly about their thoughts about the golf course.

In the meantime, opponents are educating neighbors about the approval process, researching the environmental impacts of golf courses and studying the town’s comprehensive plan.

“It doesn’t fit at all with the environmental mission of the comprehensive plan,” Faydash said. “Our big thing is, it’s not a benefit to the town in any way, shape or form.”

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People look over informational maps before the special Plan Commission meeting held in July at the Town of Wilson Hall.

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