

## HUBBARD COUNTY

### Planning Commission/Board of Adjustment Meeting Minutes

6:00 p.m. on Monday, October 26, 2020

The Hubbard County Planning Commission/Board of Adjustment (PC/BOA) held its regular public hearing and meeting on Monday, October 26, 2020 at 6:00 p.m. remotely by electronic means with one or more PC/BOA members present in the Hubbard County Government Center – County Board Room # 324.

Chairman Veronica Andres opened the meeting with the following additional members present: Ken Grob, Tim Johnson, Mark Petersen, and Mike Kovacovich. Also present were Environmental Services Director Eric Buitenwerf and ex-officio Planning Commission member and County Board Vice-Chair David DeLaHunt.

Andres started the meeting by reading the procedure by which the meeting of the Planning Commission/Board of Adjustment will be conducted to the audience.

#### **Board of Adjustment:**

**Approval of Minutes:** September 28, 2020 meeting.

Kovacovich made a motion to approve the minutes as presented.

Grob seconded the motion that carried unanimously 5 – 0.

#### **Old Business:**

**[Tabled Variance Application 36-V-20 by Stephen and Jeanne Szczeck:](#)** Part of Government Lot 1, Section 12, Township 140, Range 34, Henrietta Township on Boulder Lake, a recreational development lake. Parcel ID 13.12.00300. Applicants are requesting a variance from Section 702 of the Shoreland Management Ordinance for a proposed residence to be located in the shore impact zone.

Andres stated this application was first considered by the Board at its September 28, 2020 meeting, and it was tabled to the October meeting to allow time for the Environmental Services Department to mark the 50' ordinary high water mark setback on the property. The applicants were asked to mark the lakeside boundary of their drainfield, mark the revised proposed house location for the Board's onsite review for October, and submit an amended house location proposal for the Board's consideration.

Jeanne Szczeck, 9297 Tewsberry Bend, Maple Grove, MN, presented the application.

Szczeck stated as you said, this is a tabled variance. The high water mark was marked by the Environmental Services. We marked the lakeside boundary of our drainfield with green flagging tape as requested. We also gave a revised proposed house location for the Board's onsite review and marked that with red flagging tape. The northwest corner of the proposed house would be at a 49' setback. I think Buitenwerf put a 48' setback on our application, so

the foundation would be at a 49' setback on the northwest corner. For northeast corner, we couldn't really mark the foundation there because it is inside the present structure. We marked the other two corners of the house that we could. At that point, we realized that we would need a variance from the 50' setback from the County Road right-of-way. We would be going about 8' into the 50' setback from the County Road right-of-way. We also updated the elevations of our proposed house. We are changing from a walk-out to a look-out. It won't be as much of a slope down into the lake. The difficulty that we had last time, we were very close to the setback. The size and the dimension of our lot and the area for the new tank and lift station is also a difficulty. Our builder and septic designer have indicated that the proposed area where our septic designer put it is as tight as they are comfortable with. This also gives us parking and a turn-around area for vehicles. We made it in such a way that we can still get in there. I think I have already said that we won't meet the required setback from County 18.

Grob asked in your house design, do you intend to put rain gutters on the front side that faces the lake?

Szceck replied we will be putting eaves on the lake side of the home.

Petersen asked Grob the question that you just asked about the gutters, do you feel that they are necessary on the house plan as shown?

Grob answered when I was out there last month, and then again for this month, the way the contour is, the front of the house is just where it starts to go down steeper to the lake. I believe that two things would help mitigate where they are putting the house. One is a gutter across the front where the downspout directs the water to the northwest, the left side, because it goes down into some vegetated area. I also think that a 12' – 15' buffer right along the edge of the lake before it drops off into the rocks, both should be done based on the contour. The property is fairly level. Just about where the front of the house will now be, you can see it starts to taper down off. If they put the gutters on and then do a little buffer zone down by the lake, I think it will more than mitigate for being this close to the lake.

Andres opened for public comment.

No public comment was given.

Andres closed public comment.

Petersen asked Grob are you thinking that buffer area would that be treated as a "no-mow zone"? Is that what you are thinking there?

Grob agreed. A "no-mow zone" would be sufficient.

Petersen clarified how wide did you want that?

Grob stated if Buitenwerf has a picture of the lakeside of the house, it would be easier to explain.

Buitenwerf added it is on the screen, Grob.

Grob explained it is hard to tell how far back, because it is hard for me to know where the actual ordinary high water mark is on the lake. If you start at that big pine tree and go 50' to the left as you face the lake, a 50' buffer 15' back from the ordinary high water mark. I think that is about 12' away from the lake, from the crest. I think it is probably 3' – 4' from where the front of the current house is now. 50' to the west of the big pine tree and back about 12' is where I would like to put a condition of a "no-mow zone".

Andres noted the lot is only 150' deep. The 100' ordinary high water mark setback and the 50' road right-of-way setbacks overlap roughly 20' on the lot. There is also that 24' access easement that runs along the south end of the lot. Some form of a variance is necessary in order for them to build. The revised plan request is at a 49' ordinary high water mark setback and an 8' encroachment into the 50' road right-of-way setback. At this time I agree with staff and I am supportive of this request. I also support Grob's two conditions, the rain gutters and the "no-mow zone". Mrs. Szczek, do you understand these two conditions that Grob has proposed?

Szczek responded yes I do understand those conditions. I may need a little more explanation exactly where that buffer zone needs to be. 12' wide, is that right?

Andres asked Grob can you give her a little more information on what you were describing for that "no-mow zone"?

Grob said starting at that large pine tree right on the crest of the shoreline before you drop into the rocks. It is on the left as I am looking at this picture. If you start at the very base of that pine tree and go 50' west, or to the left. Where it ends is just about where the property drops off into a vegetated area. The best dimension that I could get is 12' from the base of that tree towards the existing house, which I think makes it about 15' from the ordinary high water mark. Does that make sense to you?

Szczek answered yes, thank you for the explanation.

Grob added basically it is a "no-mow zone", meaning you have to let the natural vegetation do its thing. You don't have to plant anything special. It would be desirable if you did some low vegetation, but I don't think it is necessary. Just let the grass grow.

Grob made a motion to approve the variance application with the following conditions:

1. Rain gutters must be placed on the lakeside of the home with the downspout on the northwest corner directing water to the west.
2. Applicant must create and maintain a 50' wide (measured parallel to the shoreline) x 12' deep (measured perpendicular to the shoreline) vegetative buffer, starting at the base of the large pine tree and extending west, as a "no-mow zone".

3. The structure proposed in the variance application must be built per the application site plan sketch submitted.

Petersen seconded the motion that passed 5 – 0.

The Board adopted the staff report findings of fact.

## Findings of Fact

### Approve Amended OHW Setback

1. Is the variance in harmony with the general purposes and intent of the official controls?

Yes ( X ) No ( )

Why or why not? The 100' OHW and 50' road ROW setbacks overlap by roughly 20' on the lot. There is also a 24' deep access easement that runs along the south of the lot. The OHW setback being approved is the furthest setback from the OHW that is reasonable given the lot constraints and considerations of other features such as the drainfield, road right-of-way setback, and easement location.

2. Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?

Yes ( X ) No ( )

Why or why not? The proposed replacement structure is reasonably sized at just under 1850 sq. ft. and its OHW setback has been maximized in what is being approved while also maintaining a safe road ROW setback.

3. Is the need for a variance due to circumstances unique to the property and not created by the current or prior property owners?

Yes ( X ) No ( )

Why or why not? The lot is only ~150' deep and the 100' OHW and 50' road ROW setbacks overlap roughly 20' on the lot. Thus some form of variance is necessary in order to build on the lot.

4. Will the issuance of the variance maintain the essential character of the locality?

Yes ( X ) No ( )

Why or why not? The neighboring lots are similar in area and depth to this lot. The residences on the neighboring lots range from being at a similar OHW setback to what is being approved in this instance or further from the OHW in the 70-75' range. The proposed house is similar in area to the house sizes in the neighborhood.

5. Does the stated practical difficulty involve more than just economic considerations?

Yes ( X ) No ( )

Why or why not? Economics are not cited in the application as a difficulty. The difficulty is caused by the 100' OHW and 50' road ROW setbacks overlapping on the lot by roughly 20'.

**New Business:** None.

**Planning Commission:**

**Approval of Minutes:** None.

**Old Business:** None.

**New Business:**

**[Conditional Use Application 1-CU-20 by Best Properties, Inc:](#)** Part of Outlot 1, Long Lake Park, Section 20, Township 140, Range 34, Henrietta Township near Long Lake, a recreational development lake and Mud Lake, a natural environment lake. Parcel ID 13.42.03920. Applicant is requesting a conditional use permit per Section 401, Table 1 of the Shoreland Management Ordinance for a duplex use within a natural environment lake classification area.

No applicant was present for the meeting.

Andres noted in August 2020 the Board of Adjustment approved the variance application with three conditions. Number one was no expansion to the structure is allowed. Number two is only this structure can be used as a duplex. Number three the travel trailer must be removed from the property within six months. During my lot viewals, I did notice that the travel trailer was removed. The applicant is now applying for the conditional use permit that is required to operate a duplex use on a natural environment lake. A duplex use is a permitted use on a recreational development lake, but there are special provisions that apply on a natural environment lake. This property complies with two of the four. The other two are not applicable because it is a non-riparian lot.

Grob asked do the three conditions of the variance we approved prior to this stay in force? I think the conditions that are proposed cover them, except for the trailer. Do they stay in force automatically?

Buitenwerf answered yes, those variance conditions are still applicable.

Grob continued so I wouldn't have to add those as an additional condition, that those variance conditions remain in force, they just automatically do?

Buitenwerf replied they do. You can certainly make it a part of the conditional use permit conditions as well if you would like a little added redundancy.

Andres asked with the applicant not here and not able to go over the conditions with us, if she has any questions or concerns, how would we address that in the future?

Buitenwerf responded it is simply a matter of, for whatever reason, she is not present at the meeting. As you asked before you started to discuss the issue, an option would be to table this until other agenda items have been addressed in hopes that she would join later. That is about the only thing I can think of as an alternative.

Andres stated if we plan on moving forward, I will open public comment. Are all members still on board moving forward with these proposed conditions as well?

The Board members agree.

Andres opened for public comment.

No public comment was given.

Andres closed public comment.

Andres asked do any of the Board members have any additional conditions that they were thinking of?

Petersen replied no.

Grob added none here.

Kovacovich made a motion to recommend to the County Board of Commissioners the approval of Conditional Use Permit 1-CU-20 with the proposed conditions as presented by staff and that the conditions on the approval of the initial Variance 30-V-20 stay in effect.

Grob seconded the motion that passed 5 – 0.

The Planning Commission adopted the staff report proposed conditions and findings of fact.

**Proposed Conditions:**

1. This conditional use permit (CUP) is for the operation of the entire premises as one residential duplex use venture. As such, any land, that through subdivision or addition to the property to which the CUP is granted, is added or subtracted, is/are not granted or allowed the right to operate in accordance with the CUP without first applying for and obtaining the necessary CUP from the County.
2. Only the existing log construction structure (allowed to be constructed per Permit # 12767 issued on July 10, 2001 and labeled "house" on the certificate of survey dated February 11, 2010 performed by Arro of Park Rapids included in the conditional use permit application) can be used as a duplex.
3. No expansion of the existing log construction structure (allowed to be constructed per Permit # 12767 on July 10, 2001 and labeled "house" on the certificate of survey dated February 11, 2010 performed by Arro of Park Rapids included in the conditional use permit application) is allowed.
4. No other residential dwelling unit or any commercial use structure is allowed to be constructed on this property. Accessory structures incidental to the duplex use are allowed to be placed on the property on the condition they comply with all applicable Shoreland Management Ordinance requirements.
5. No other type of property use per Section 401, Permitted, Conditional, Special and Non-Permitted Uses, of the Shoreland Management Ordinance is allowed to occur while this duplex use is occurring.

6. The existing access roads to the property and their approach locations onto State Highway 34 and County Road 107 (as shown on the portion of the February 11, 2010 Arro of Park Rapids certificate of survey included in the application) are the only accesses allowed. No other access roads or approaches onto these two roads are allowed.

### Proposed Findings of Fact

1. Is the requested use consistent with public health, safety, and welfare?  
YES ( X ) NO ( )

Why or why not? The area in which the property is located is a mixture of residential and commercial uses (i.e. vehicle sales lot, church, and flea market) so a duplex use is consistent with this mixed use. The lot meets the recreational development minimum duplex lot size requirements and is oriented more toward Long Lake, a recreational development classification, and functions more as a non-riparian Long Lake lot than a non-riparian Mud Lake (natural environment classification) lot because the lot is separated from Mud lake by State Highway 34 and the duplex structure is ~730' from Mud Lake and ~600' from Long Lake. The duplex use has illegally operated in this structure for close to two decades without any complaints being filed with the County. The septic system servicing the duplex is compliant and properly sized for the structure. The duplex shares an approach onto Highway 34 with the church on the adjacent property to the west and has good sight lines and distances for safe ingress/egress. There also is an existing approach onto County Road 107 which has a much lower level of traffic and similarly safe sight lines and distances on the southeast side of the lot that provides alternate ingress/egress. A duplex use is also a permitted use on Long Lake.

2. Is the requested use consistent with the goal of preventing and controlling water pollution, including sedimentation and nutrient loading?  
YES ( X ) NO ( )

Why or why not? The duplex is 1,680 sq. ft. in footprint and has been on the lot since it was constructed in 2001. There is no evidence of stormwater erosion due to the structure which is smaller than many single family residential structures. Highway 34 and County Road 107 also act as natural berm barriers between the duplex and Mud and Long Lakes and would prevent any stormwater from reaching either lake. The property is also 2.75 ac. in size and undeveloped aside from the duplex with sandy soil so any stormwater from the duplex's roof will infiltrate into the soil on the property and not reach any point off of the property.

3. Will the requested use not adversely affect the site's existing topography, drainage features, and vegetative cover?  
YES ( X ) NO ( )

Why or why not? The response to question 2 is also used as the response to this question. Additionally, the site is largely level and fully vegetated in grass with 18-24 mature coniferous trees scattered across the property. The duplex has been in this location since it was constructed in 2001 and there is no evidence of any harm being caused by it to the property's vegetative cover or terrain.

4. Is the requested use's site location reasonable in relation to any floodplain and/or floodway of rivers or tributaries? YES ( X ) NO ( )

Why or why not? Hubbard County does not have any FEMA-designated floodplain areas. The property is roughly 40' in elevation above Long Lake and Mud Lake.

5. Has the erosion potential of the site based upon the degree and direction of slope, soil type, and existing vegetative cover been adequately addressed for the requested use? YES ( X ) NO ( )

Why or why not? As mentioned in responses to the prior questions, the structure to be used as a duplex has been on the property without issue concerning the items in this question since it was constructed in 2001. The structure is 1,680 sq. ft. in footprint which is smaller than most single family homes that could be placed on this lot by permit and without need of a conditional use permit. The lot is relatively level with sandy soils and good grass cover with roughly two dozen mature coniferous trees well distributed over the lot. Any stormwater from the structure's roof is collected into existing gutters that direct into downspouts and the discharge water is readily infiltrated into the sandy soil.

6. Is the site in harmony with existing and proposed access roads? YES ( X ) NO ( )

Why or why not? The property abuts State Highway 34 on its north side and County 107 on its southeast side. The duplex shares an approach onto Highway 34 with the church on the adjacent property to the west. This stretch of Highway 34 is straight and there are good sight lines for safe entrance/exit. County Road 107 is a much lesser traveled road and there is another existing approach onto it that would allow the duplex occupants to safely enter/exit the property if the traffic on Highway 34 is ever high.

7. Is the requested use compatible with adjacent land uses? YES ( X ) NO ( )

Why or why not? The property lies in an area that is a mixture of commercial and residential uses. Highway 34 runs along the north property line and County Road 107 runs along the southeast property line. A church is located on the adjacent ~9.5 ac. property to the west. Across Highway 34 to the north, a vehicle sales lot exists along with a seasonal, summer flea market use to the northwest of the property. Two residential lots lie to the east of the vehicles sales lot and northeast of the subject property on the north side of Highway 34. To the east across County Road 107 is the north Long Lake public access and then residential lake lots to the southeast that vary in size from nonconforming to 1-2 ac. in size and only less than a handful of which are developed. The duplex use has existed on the property illegally since 2001 without any complaints about incompatibility having been filed with the County. The duplex is smaller in size than most single family residences and is limited to this size by the conditions placed on Variance 30-V-20 that allowed it to have a smaller lot size. These conditions help ensure the duplex use will continue to be compatible going forward.



8. Does the requested use have a reasonable need to be in a shoreland location?  
YES ( X ) NO ( )

Why or why not? The lot and duplex are closer to Long Lake than Mud Lake and a duplex is a permitted use on Long Lake which is a recreational development lake. The State Shoreland Rules require a conditional use permit for a duplex to be located on or within the shoreland area of a natural environment lake like Mud. Regardless of whether a conditional use permit is required, the Shoreland Management Ordinance and State Shoreland Rules do allow duplexes to be located in shoreland. As duplexes concentrate residential dwellings in one location instead of having two separate dwellings with separate, and typically larger developed areas, duplexes facilitate the ordinance's objective of minimizing the impact of residential development on our lakes.

9. Is the amount of liquid waste to be generated reasonable and the proposed sewage disposal system adequate to accommodate such?  
YES ( X ) NO ( )

Why or why not? The septic system servicing this duplex is compliant, properly sized, and has been in place and operating without issue for several years. There are fewer bedrooms in the two duplex units combined than in most single family homes that would be allowed to be constructed on this lot by permit without limitation as to how many bedrooms there could be.

10. Will the visibility of structures and other facilities as viewed from public waters comply with Section 901 of the Ordinance?  
YES ( X ) NO ( )

Why or why not? The duplex is ~600' from Long Lake and over 700' from Mud Lake. It is ~40' in elevation above the two lakes. There is also significant tree cover between the two lakes and the duplex. All these things combined cause the duplex to not be visible from either lake.

11. Is the site adequate for water supply and on-site sewage treatment systems?  
YES ( X ) NO ( )

Why or why not? As previously mentioned, the duplex has a properly sized and compliant septic system that has been in operation without issue for several years. The duplex also has had a well supplying water to it without any issue for the same amount of time. The water use and sewage generation is no different than what would be found on a standard residential riparian or non-riparian lot.

12. Are the affected public waters suited to and able to safely accommodate the types, uses, and numbers of watercraft that the use will generate?  
YES ( X ) NO ( )

Why or why not? This is a non-riparian lot without legal access to either lake so no watercraft use is possible or proposed.

**Conditional Use Application 2-CU-20 by Green Pine Villas Owners Association, Inc:**  
Common Interest Community No. 25, Green Pine Villas, Section 20, Township 141, Range 34, Lake Emma Township on Potato Lake, a recreational development lake. Parcel ID

16.44.91200. Applicant is requesting to amend Condition 8 of Conditional Use Permit 1-CU-09.

Kay Lloyd, President of the Green Pine Villas Owners Association, 24017 Galaxy Trail, Park Rapids, MN and mailing address of 11709 Overbrook Road, Leawood, KS, presented the application.

Lloyd stated the Owners Association is asking to add storage that would match the existing building exactly. It would be the same size and would look exactly the same on the exterior. Our storage is available for all of the owners. It is currently full. We love our location on Potato Lake. We try to be good neighbors and keep things picked up, clean, and out of the way. Thus, we were hoping for more storage. Also, some of the owners would have trailers or other large items in the storage, this past couple years there have also been some golf carts and four-wheelers. We want those out of the way so that it looks nice. I had a local insurance agent out this past summer reviewing our community insurance, and he told me that our group was the nicest looking group that he has seen. We spend a lot of our budget on mowing, beach raking, and upkeep.

Grob stated I have a lot of history on this. I was involved back when a lot of negotiations were going on with the LeSages when they were proposing this. I have some background to it. I have a couple questions for you, when you say you want to build this to look like the maintenance shed, I presume it is a wooden structure that will be painted to meet the color décor of the neighborhood. I do agree, I drive by that place probably ten times a week, and you do a good job of keeping it in nice condition. I would make an observation on one of the units, I think it was Unit 7. The address is 24117. It appears to me that there is a brand new deck around the whole front of the house and to the side. Was there a permit for that, and was there a deck there before? According to the original drawings, it would not appear that there was. I am looking for compliance to the current conditions that exist on the property.

Lloyd replied I think there was a porch there. I don't know about decking. I agree it is new, but they were following what other cabins have. If you look, the other cabins have consistent decking across there.

Grob continued my observation is that most of the other ones have smaller decks that don't run the whole width and around it. The question is, was there a permit to rebuild that deck to ensure that it remained in the same footprint?

Lloyd answered I don't know. I can ask. Can they retroactively seek approval, if they didn't?

Grob stated the deck seems much more extensive and bigger than what is traditional on all of the other cabins.

Buitenwerf replied it is 16.44.90700. I don't have a good photo of that, and in looking through our records, I don't see that we have issued any permits. We wouldn't have for something that would have been an expansion of what was there when this development was approved, due to the conditions placed on the conditional use permit.

Grob asked who mows your lawn?

Lloyd answered it is Charlie Moorehouse and his brother, I believe Dan. They live in Park Rapids.

Grob asked are you aware of one of the key conditions that was debated at length? There is a 50' shore impact zone running for 320', which would be along 50% of the property, from the west where the Blue Lake creek comes in. That area is not supposed to be mowed. It is hard for me to tell with the snow, but when I scratched at it, it appeared that it was being mowed like the rest of the property. That, and the deck, appear to not comply with two of the key conditions under your current conditional use permit.

Lloyd replied I was aware that the 300' was starting at where Blue Lake comes in and around. Are you saying that 50' from Blue Lake in, is not supposed to be mowed?

Grob clarified 50' back from the ordinary high water mark, for 300'. Basically, where that retaining wall is, because you have a sand beach that isn't very deep. I would say from that retaining wall back 50'. That should be a buffer zone with a "no-mow", and structures cannot be put in it. If you read from the drawings, it says that. All I am saying is that if you are mowing that, which it appears that you are, it is something that you would have to stop doing. And there are no structures that are allowed in that. I think you well know that the whole unit is double the allowed capacity. The 11 boat slips were allowed, where typically you would only be allowed 4 or 5. But, to allow those very nice conditions, there were other restrictions put onto it. We would expect those to be followed. Your request for a storage shed is reasonable and something that would probably be okay as long as it fits into the décor. I would expect that you would ensure Unit 7 and that buffer zone are, in fact, placed into appropriate compliance with the conditions.

Andres opened for public comment.

No public comment was given.

Andres closed public comment.

Andres added when I was doing the lot viewals, I saw four smaller accessory structures located right beside or behind the cabins. I am going to assume one of them is the fish cleaning house that was moved at some time. The four accessory structures, I did not see them on the prior site plan, or this site plan. Can you tell me what those structures are?

Lloyd asked on the east side of some of the cabins? The fish cleaning house was completely removed as part of the PUD creation. Our bylaws allowed that people could vote to have a small storage area by their cabin, and those people have those. They also have things up in the other building. Those structures are for storage.

Andres clarified so those accessory structures were created after this PUD was made. Is that what you are telling me?

Lloyd agreed.

Andres added they did not have any approval then, and they did not have any permitting then, is that correct?

Lloyd repeated our group voted to allow the small building, and I thought our bylaws allowed that at the time.

Grob stated the conditions stated no additional structures. Your bylaws cannot supersede the conditions that were placed on the conditional use permit.

Lloyd said the first person who had built one was what we call Cabin 6. It would be just to the south of Cabin 7 that we were talking about. He mentioned that his own personal property taxes went up because of that structure. We thought that it had been reviewed, and it was being taxed.

Andres added according to the conditions that were placed on that previous application, there were no accessory structures allowed to be built. Those four accessory structures are a violation.

Lloyd stated I am sorry. I didn't know that.

Andres said I just wanted to bring those up, because I did not see them on this site plan. I just wanted to verify that you do have some smaller accessory structures there.

Grob asked Andres which units were those on?

Andres answered when I was out there I did not make a note. It appears that Lloyd can give you that information, she knows what units they are on.

Lloyd responded one is behind what we call Unit 1, which is the first one south of the center lodge. If you go one north of the lodge, which is then Unit 5, they have one. Unit 6 has one and Unit 8 has one.

Grob clarified Unit 1, Unit 5, Unit 6, and Unit 8.

Lloyd agreed that is correct.

Kovacovich asked when was the grading done on the proposed site for the storage structure?

Lloyd answered it was done immediately before we filed.

Kovacovich asked so it was done sometime in the last several months?

Lloyd responded yes. It was done immediately before we filed. They came and did it and then I asked if they had a permit. They guy who did the grading said he came in afterwards

and spoke with Environmental Services. He did our review that there was no impact to any septic units.

Grob asked here in September? It was done then, just recently?

Lloyd answered yes.

Kovacovich added I have some issues with that being done without a permit, disturbing the soil and a potential alternate septic site now being destroyed. Also, with the violations that I am hearing. The four structures, possibly the deck, and the mowing scheme. From the original approval that the County gave for this original PUD, now you are asking for a permit, but it looks like we have possible violations that may need to be addressed. I am not comfortable granting anything with those things happening.

Andres asked Johnson when ground is disrupted like that, how long before it is going to be applicable for a drainfield or their alternate site?

Johnson replied according to the State, since it has been destroyed like Kovacovich has explained, it would need to go back to natural for several years before it could be considered a standard site. It would have to be an experimental site now to be used at all for years. It needs to become porous again where it could have been smeared and compacted. The soil is totally disrupted from its natural state. It depends if it is really sandy, or if it is a loamy, or clay. Doing what they did, it definitely destroyed that area for a site.

Grob said I think there are three current drainfields on the lake around the property. One that serves Units 1, 2, 3, and 4. The second serves Units 5, 6, 7, and 11. Then the one that serves Units 8, 9, and 10 is way down on the northwest side. What I am getting to is that there are two large areas that are identified as potential drainfields in the future. They are right next to the drainfield. There is a drainfield and an alternate site. Then, more towards County 40, there is a large area that is also a potential drainfield. I am not sure that losing the area that got graded is a significant impact to the overall possibility of alternate drainfield site. Sitting between the maintenance shed and the playground, I am not sure it was a good candidate for a drainfield anyway.

Johnson responded I did look at that, Grob, I looked at exactly what you are talking about. That alternate site, none of that was flagged, but that upper part did look like it went into where they excavated. That was designated, like you say, for septic. Without a doubt, the septic systems that are there are going to fail.

Grob asked Johnson to repeat.

Johnson repeated without a doubt, eventually those septic systems are going to fail, and they are going to need every square foot of alternate site that they can have. Now the damage is done on that, it doesn't matter. With that many structures along the lake there, they will definitely need every square foot of alternate site. The site that has been cleared, the damage is done.

Grob asked did you look at the soil in that site at all?

Johnson answered the inspector had some soil descriptions. It is a sandy soil from what I have seen, pretty coarse sand.

Grob added it looked fairly sandy.

Petersen said I have a question for Johnson. Given where the excavation was done for that proposed structure, and with what is left, is there adequate room for alternative future septic sites? Do you think there is enough?

Johnson replied I do. I do for the foreseeable future.

Petersen clarified excluding the excavated site?

Johnson answered yes. But, I am with Kovacovich too, on a lot of these issues being straightened out. I don't have a problem with that there.

Petersen asked you don't have a problem with what?

Johnson explained with the storage structure being put there. It just seems like the organization isn't making sure that the "no-mow zone" is being taken care of and the rules are being followed. Maybe not intentionally, but it is not organized.

Lloyd stated Helen Reynolds was in charge of the Owner's Association. She was part of the investor group, and she also owned Cabin 7 and 8. I took over from Helen. I apologize that we have continued the mowing where it was already being mowed. Helen Reynolds was part of the LeSage investor group. She has since sold off Cabin 7 and 8, and the LeSage group is not involved anymore. I will say in our defense, we continued mowing where it had been. We will certainly stop mowing. I need to maybe come in and talk with someone. Maybe Grob can come and show us where we needed the 50', so that we understand. We don't want to violate anything. I do know on Unit 7, the concern is that the decking goes around the cabin. I would have to have them measure. It goes around to the back side of their cabin. Is that the concern? I do know their decking across the front was made to be consistent with the remaining cabins that are along there. The handyman, Barry, who had been doing the mowing and handyman work, had done theirs. We need to find out if it is the wrap around that is the problem.

Grob added the issue with the deck is, whatever is built there should not increase the footprint from what was there previously. My contention is that it goes across the length of the front of the cabin and comes around to the side. That is not the way the other ones were, and it is new. You can't expand the structures, they can only be rebuilt to the same footprint. That is the issue that would have to be resolved.

Lloyd replied alright.

Grob asked Andres the structures that you saw, somehow or another I missed that. What size are they, and are they enclosed structures or just little cabinets?

Andres answered they are smaller structures, approximately 4' x 6' or 6' x 8'?

Lloyd stated those were voted in with Helen Reynolds and the LeSage group. I was an owner at that time, and I was there when it was voted for. I believe she had expressed that it was something they could do. I understand now that we can't have our own bylaws change the County rules. That was voted on, and I believe they are either 3' x 6' or 4' x 8'. They are supposed to be hidden from view on the lakeside. They are supposed to be behind the cabin.

Grob asked Buitenwerf the picture you have up there of Cabin 7, am I looking at the lakeward view of Cabin 7? It seems from the scope of the land that it would be.

Buitenwerf stated I am not certain of that.

Lloyd commented I believe it is the lakeview. Helen Reynolds owned Cabin 7, and she remodeled it. As I have always seen it, it had a deck.

Grob added this shows that there was never a deck there, and it was added, which is clearly a violation of the conditional use permit requirements. There is no deck in front of Cabin 6. What cabin is that?

Buitenwerf responded that is Cabin 7.

Grob asked is that a more recent picture?

Buitenwerf replied yes.

Grob stated I thought the deck ran the whole length of the front when I looked at it.

Andres said I have mixed feelings as well. I am like Kovacovich in one aspect, as far as the violations and conditions not being met that have already been placed on it, with the four accessory structures being built and the "mow zone". They can alleviate that with proper care next summer, but that needs to be addressed as well. I do understand, as Johnson said as well, that damage is already done. I agree with Grob, that it is a very neat, clean community. I did notice that when I was there, there was nothing out of place. Everything was put away. It was a very neat and clean community. Part of me sees that there is a possibility and another part says there is not. If members could give a little more input, or if someone is ready to make a motion.

Kovacovich asked Buitenwerf in view of the fact that the grading was done without a permit, should there not be an application for an after-the-fact variance in regards to that? Or does

the application for the structure cover that they are already in violation and we are granting something after-the-fact?

Buitenwerf replied there wouldn't be a variance involved because the site would meet all of the setbacks. It is a matter of it not being in compliance with Condition 8 of the conditional use permit. Nothing in the Ordinance would say that you couldn't grade that area, because it is beyond the 100' setback. They didn't start footings or anything in terms of the structure itself, so it is not after-the-fact for permitting for a structure, depending on the outcome of this application.

Lloyd asked Johnson I am asking about the drainfields that will fail at some time, the current ones?

Johnson responded they will all fail eventually. It might be in 20 years, but eventually they will fail. That is why it is a requirement to have an alternate site. They don't do it just in case, it is there because it is going to happen eventually.

Lloyd stated I didn't know that. We might need to increase our dues to start getting ready.

Grob added I think it is fair to say that the failure is going to be very much a function of how all of the individual owners treat their septic systems. Don't run garbage disposals, don't put things down. Follow the very best practices that you can. It will prolong the life. If people are putting garbage down their sinks, it is going to fail sooner. Is that fair, Johnson?

Johnson replied that is absolutely correct, Grob.

Lloyd said I will send that out to the owners. We do have our septic system maintained every two years. They come out and pump it out and check it over.

Johnson added that does extend it. The University of Minnesota actually says that from their testing. There are biomats that grow on the drainfield area. It slowly plugs up over time from sewage. When you dig up rock and the black stuff is on there, it will eventually seal off the sand and fail someday.

Grob stated let me just propose some thoughts here. One is, I am personally supportive of them being able to build this storage shed. You have 11 buildings, there are always bicycles, trailers, and things like that. I am supportive of it. I think Johnson's assessment that there is some reasonable room for some future drainfields helps reinforce my thoughts. But before I would want to vote to do that, I think we need to make sure that Unit 7 comes back into compliance and the "no-mow" restrictions are re-enforced. I don't know what to say about the four small accessory shacks that have been currently built. Whether we should allow them or require that they be removed. I suspect they are all within the footprint that is allowed for each cabin. We would have to make the decision of whether we would allow the existing ones to be grandfathered in and not allow any more, since we are going to allow this larger accessory structure. I am looking for input from my colleagues.



Andres commented I was going to address that same question with Buitenwerf. How would they become compliant with those four accessory structures? What would be the proper route to bring those into compliance?

Buitenwerf explained that would be to remove them. That is the only thing that is able to be done to make it compliant given Condition 8 of the conditional use permit.

Lloyd asked could we amend our application, or should those owners file a separate amendment request? Each cabin owns a minimum of 10' around it. They are within their 10' of private ownership.

Buitenwerf stated in order to incorporate those four accessory structures, that would be to amend this existing application. That would be the best way to go about that, if those are four things that you want to ask to be allowed to stay.

Lloyd answered yes I would like to amend the current application to include the four accessory structures that are existing on the owners private property, all of them being east of their cabin and not visible from the lake.

Andres asked Buitenwerf can we accept that amendment if she specifies it more to Cabin 1, Cabin 5, Cabin 6, and Cabin 8? We don't really have their dimensions.

Buitenwerf replied I would prefer that we get a written amendment to the application that contained that information, along with the locations and dimensions of the structures.

Kovacovich added I have a problem with all of this. When the initial request went through and the conditions were put in place, a reasonable person would expect the conditions to be followed. I don't think anyone intentionally did things wrong, I can't speak to that, but the association is responsible to make sure that those conditions are met. When we have possible violations, I am not comfortable granting an after-the-fact request for whatever the reason. I may consider recommending that the shed should be able to be built, with those other things thrown in, that would make me an automatic no. That is my opinion.

Lloyd asked would it be possible then for those owners to submit their own application, those four, and leave this one alone?

Buitenwerf added they are not able to make their own application independent of the association. That is because the conditional use permit applies to the entire development.

Lloyd inquired can we file a second application addressing that issue, the owners association, and let this one be on its own?

Buitenwerf explained you can certainly do that. I would recommend, instead, to table this one to allow you time to amend the application in that manner. That, to me, makes more sense than to process this with the Planning Commission and County Board, having in the

back of their mind the existence of those sheds and the future plans to submit a second application.

Grob stated I am with Buitenwerf on this. We have two choices. We could approve this new storage shed with a condition that all of those small sheds are removed, or we could table this motion and have Lloyd come back with an updated application that asks for both the shed and those little storage buildings.

Kovacovich asked what about the deck? How do we deal with that?

Grob added I see the deck as an absolute major violation, and it has to be removed.

Buitenwerf stated that would be correct. That deck will need to be taken off. It is in violation of a condition on the conditional use permit.

Kovacovich added so are the four sheds.

Buitenwerf said correct.

Grob mentioned I didn't say that we would approve when she comes back. She would have the option to come back and ask for the sheds and for the storage building.

Andres explained it is obvious that we are either going to have to table this, or we are going to have to have a motion.

Grob said if I were to make a motion, I would make the motion that we would approve this new storage shed with the conditions that all four of the smaller accessory building would be removed, the deck on Unit 7 be removed, and that the association returns to the "no-mow" conditions of the conditional use permit. If I was going to make a motion, that is what I would do.

Petersen told Grob I did not observe the deck because I wasn't part of the original conditional use that was issued. Do we know for certain that there are no other improvements made since that original conditional use that might come back to bite us if we just address these right now. Do we need to look further?

Grob replied that is a good question. The only reason that it came to my attention is because it looked new. I looked down on the other cabins. Most of the decks look old and more consistent with the age of the cabins. I didn't look back by Cabins 1, 2, 3, and 4, but I looked from Cabin 11 all the way down to the end. If we were to table this, it would give us the opportunity to go back on another lot viewal and look at any other observations that we might make. The front lawn areas were pretty clean. I was surprised. There were some picnic tables up by the cabins, but I thought it was remarkably clean as far as I could see for any violations on the lake side.

Kovacovich asked do we need a motion to table?

Andres replied yes, we would need a motion to table, if that is the direction that we are heading.

Petersen stated in my opinion, if it were up to me, I would either table or deny it as it exists. I would be open to tabling it and looking into it a little further before we go ahead so that we know exactly what we are dealing with here.

Andres mentioned the only problem that I foresee with tabling it, is the winter conditions. We won't be able to see grass under that snow cover, if in the next weeks we get more snow cover.

Petersen added what about structures?

Andres responded the structures would definitely be able to clearly marked, the sizing, and you would be able to see if there were any other violations. Personally, in my opinion, I see the idea that Grob has. If we approve the one large accessory structure that they are requesting and they have to remove all of the others, along with correcting all violations. They would need to remove the deck and remove all of the other buildings. Otherwise, my recommendation would be to deny.

Petersen asked Buitenwerf in your staff report, you mentioned mitigating details. Is it clean to suggest if we were to approve the accessory structure, that the mitigations are done before that could be started? Is that a feasible way of doing an approval on this, or not?

Buitenwerf replied yes, you certainly could do that and that would hopefully be a sufficient carrot to dangle on the stick.

Kovacovich asked Buitenwerf could we make a blanket condition that the original conditional use be compliant with all conditions of that prior to any new construction on this shed? Would that be a permissible way of going about it?

Buitenwerf answered you could do that also. The Ordinance prohibits us from issuing a permit when there are outstanding violations on the property. So, that is another mechanism that we have to bring those items into compliance.

Lloyd asked would the owners of Cabin 7 be able to appeal their deck as a violation? Their decking is across the north/south boundary and is not beyond what anyone else had. I think that they were matching what others had. Are they able to come in and deal with that prior to us going on with this? We would table this while they would be dealing with that.

Grob added I suppose Buitenwerf should answer this, but if they were going to appeal it, the only way that they could would be to bring documentation, or proof, that a deck of that size existed originally. Otherwise, they are in clear violation. I think based on the pictures, that clearly did not exist before.

Kovacovich said it is my understanding, Buitenwerf, correct me if I am wrong, they can't appeal. Only the association can.

Lloyd asked can the association appeal that designation as a violation and address that first? I am not sure about the picture, I know you have a photo, but it is a really old one. It was back when it was a resort.

Buitenwerf explained the photos on the screen on the top right, that is the photo of Unit 7 when the conditional use permit application was made. Then the photo below, that shows an improvement that was made to that structure. To me, that shows that the deck was added in violation of the condition placed on the conditional use permit that prohibited any expansions of those units. So, there is no appeal that can be made. It would be to apply for that condition placed on the conditional use permit to be modified or removed. Similar to the current application being discussed this evening is seeking to do with Condition 8.

Kovacovich added in view of the fact that the owners of Cabin 7, and the owners of the four cabins with accessory structures added, aren't present and can't speak to the association on what they want to do, it would be my recommendation that we would table this.

The PC moved to table the application (motion by Kovacovich, second by Grob, passed unanimously) to allow Environmental Services Department staff time to assess the property's compliance with Conditional Use Permit 1-CU-09 and the Shoreland Management Ordinance and report its findings to the PC.

### **Shoreland Management Ordinance – short-term rental content development**

Andres stated before we delve into the draft, I would like to open this up for public comment. I will assume that we are going to have some public comment on that.

Andres opened for public comment.

Paul Swenson, 24608 200<sup>th</sup> Street, Nevis, MN, stated I appreciate that the Planning Commission is taking this under advisement. I am wondering where we can view the draft document that you are going to be discussing tonight?

Andres replied it is on the screen in front of you, sir.

Swenson questioned was it available to us prior to this?

Andres asked Buitenwerf was this draft available prior for the public?

Buitenwerf answered no. This is the first that anyone has looked at it and it is a very rough draft. It is nothing that the Planning Commission or County Board has crafted language on yet.

Swenson stated I hope that in the future the public can see the documents before they are discussed at this level, or at the County Board level. I do appreciate that you are looking into this. I am commenting because I happen to be a neighbor to a property that is affected by what you are going to discuss. While I get along with my neighbor just fine, I really ask that,

not only do you look out for the health and wellbeing of those that may rent this properties, but look out for the wellbeing of the citizens that have bought properties next to what were at one time seasonal, single family properties. Now they are commercial properties. It is a little different being a member of the “neighbor of the week club” as I call it. We have somebody new next door every time we show up. I hope that you will take that into consideration. My property has an easement granted to my neighbor’s property for access. That was done when it was a lake home for a single family. I didn’t grant that access, the previous owner did. But, I think you need to consider that you are changing the property designation, for properties that other people have given access. I do appreciate that you are looking into it. I tuned in tonight to pay attention. I will repeat, I think it is important that the public be aware of everything you have in front of your eyes tonight, and we did not have that. In the future, I hope we can improve upon that. Thank you for your hard work. It is not an easy job, but it is appreciated by this taxpayer.

Andres closed public comment.

Grob said I had assumed this was a list made by gleaning 8 or 10 other counties and what they have done, and we were going to go down these and comment about what we might want to do as input. I thought this was kind of a work session on each of these topics as to what our input might be. Buitenwerf, can you tell us what your intent was?

Buitenwerf replied what is on the screen is simply the staff recommendation as to the best of what we saw that other counties have developed for regulations. This is simply a place to start with idea generation for the Planning Commission, in addition to those drafts that were provided for review. You can start with this, or you can say no and start from scratch with your own concept. It is very open. I shared what the County Board’s direction was, that they wanted it to be something within the Shoreland Management Ordinance. They are not looking at a conditional use or interim use because of the administrative aspects. They would require a permit or possibly complying with performance standards as a way to start getting at the issue in an administratively efficient manner. Commissioner DeLaHunt I see is with us.

DeLaHunt stated I can add a little bit to that. There around 130 of these county wide now, and the vast majority of them are on the lakes. We figured to start inside the Shoreland Management Ordinance would be a good way to get a start on most of them. Exactly as Buitenwerf said, if you tried to do an interim use permit, or if you tried to run this through a CUP process, you would be occupied for years trying to get all of these done. That is just not going to get us where we have to go fast enough. One of our thought processes was some sort of self-certification with a percentage that is audited every year and stiff fines if they find that you have violated that self-certification. You could roll a whole bunch of these permits out quite rapidly. Then again, Buitenwerf has done a nice job of pointing out some of the points that were brought up by many of our constituents about what they would like to see taken care of in this ordinance. We don’t want to make it overly burdensome. We understand that VRBOs are replacing resorts that have disappeared over the years. This is still bringing tourism to our community, and we want that to continue. But, we want some way to regulate the bad actors, as you heard Mr. Swenson talk about. Sometimes some of these get a little unruly. What can we do to rein in the bad actors without putting a big burden

on people who do have these? That is kind of the scope of what we are looking to accomplish. To get a good start on it, and in the future we can adapt as we go.

Andres added I personally reviewed all of these as well from all of the other counties. I like the draft that we are looking at here. It is definitely a good starting point. I personally think we should go down each letter, and we can add or subtract if anybody has any comments. How do my members feel about that?

Grob said yes, let's go down the list.

Johnson asked DeLaHunt would it be Buitenwerf's office that would be managing these permits or licensing? And, the self-certification, are you saying the 130 people that you know of, and maybe there are more, just need to figure out how to do it themselves? Or you would do it by newspaper, or how would that go?

DeLaHunt replied the way that I have described it to people is that I use my own industry as an example. With the Federal Communication Commission, we have to self-certify a lot on compliance measures. It would be impossible for them to have field officers all over the country looking at every radio station. So, you self-certify many different things. You keep paperwork documenting that process, and you can get audited. If you do get caught falsifying a certification, the fines are hefty. That is where that thought process came from, because of the overwhelming numbers here. Again, limiting the scope just inside of the Shoreland Management Ordinance is probably going to get you onto 100, but there are many County wide. I think most of the issues that are occurring, at least in the beginning here, are on the density of the lakes. We need to address that first. The easiest way to do it, I believe, is inside the Shoreland Management Ordinance, since we already have that Ordinance and we don't have County-wide zoning. We can start there, and we can address any future needs later. That is the rationale behind the self-certification.

Grob stated I think Buitenwerf's first three items fit into a pattern of this self-compliance. One is that you do it annually. If you had a more extensive process with a conditional use permit, you might make it every 5 years. If it is going to be self-certifying, I think an annual one makes sense. Under Item B, when it talks about self-certification, there is going to have to be a very specific set of requirements as to what has to be submitted for a permit. I think if you look at the documents from all of the other counties, they are pretty clear about what you have to submit. Thirdly, under Item C, we have to specify what some of the requirements are going to be, especially with bedrooms and how many people. If you lay those out clearly, then self-certification should be a much more efficient way to do it. Just like with a variance application or a conditional use application, Buitenwerf has a very specific set of documents that have to be provided from someone in order to do the application. I assume, Buitenwerf, that is kind of what you are thinking with these.

Buitenwerf explained it depends. There are a couple options listed here. One would be to have an annual permit application that would include submittal of those materials that you mentioned. The other, going the self-certification route, would be to pursue this the way that we did with home occupations. If you meet certain performance standards, you are allowed to operate without needing to go through any approval specifically from the County. That would be another option, or you can do a hybrid of the two.

Grob asked how do you want to proceed here? I have some thoughts on some things, they fit under those different categories. Andres, do you want to go down the list? How do you want to do it?

Andres responded I think it would be easiest to go down the list at this time, unless there is something specific that you have in mind, as far as one item that you would want to address right away. My suggestion is to just go down the list.

Grob replied ok.

Andres said this question is for Buitenwerf. Are you saying that we either need to pick one or the other, or do the hybrid? So, it is either an annual operating permit, or the self-certification process. Are you saying there are two different things there?

Buitenwerf explained this list is simply throwing out some ideas. My hope for tonight was to have the Planning Commission talk at a macro level and flesh out what you want the concept to look like. Then from there we can delve into the details. If you want to go through the list and use those ideas to help you get that macro picture, that is fine, but I wouldn't want you to prematurely start to get into the weeds without framing out how you would really want this thing to operate at the large scale.

Andres asked Grob would you like to go ahead and tell us the ideas that you had in mind? You said that you had a couple comments.

Grob answered I think, first of all, we need a definite clear list of the things that have to be either submitted for a permit, or that have to be available if it is self-certification. A clear list of all the things needed, insurance policies, whatever. Second of all, the different counties try to regulate what the capacity is, or how many people can actually live there. We have to keep in mind, these are residences that are built specifically for residential areas and for private, individual families to live in. We have to be careful that we don't move into where people build, or expand what they have, with the full intent that they are going to use it as a commercial business. They are going to rent it out every week of the year. Whereas, the real intent on our shorelines is that these are individual, single owner residences that, every now and then, people may want to rent. One thing that we have to deal with the capacity. Most of the documents that I read allow for two people per bedroom and maybe a couple extra. The limit is set by what the capacity of the septic system is. I think that is a good way to go about that. I would like to see us stay away from the concept that when you have a short term rental situation, that an owner can rent it out all 16 weeks of the summer. To me, then it is a resort. I would like to see us with some limit, say 30 days maximum from May-August. It should not be rented every week. Then it becomes a commercial resort, as opposed to an owner wanting to be allowed to rent it out periodically to someone. One of the things that I was hoping to put into this would be a maximum. I would say 30 days total. Whether it would be individual days, or a week at a time, but the restriction should be during the summer months. During the winter, with snowmobiling and ice fishing, they don't put the same load on our lake or the environment. But, from May-August there is a lot of pressure that comes onto our lakes with repeated visitors. That is one thing. The other one, I think is Item E that Buitenwerf has, I think absolutely is essential. It is that you can't rent multiple units short-term on a property. In other words, no guest cabins or trailers. Someone can't

have contiguous lots where they are renting multiple short-term rentals, because that is looking like a resort. All the issues of noise, bedrooms, parking, and health, those are pretty standard. That 30 day number that I came up with, if you look at your homeowner's insurance policy, you will see in there that your homeowner's policy covers up to 30 days. If you rent it out for more than 30 days, then you have to have additional insurance and coverage. I think overall we have to be fair to make sure that we are putting these short-term rentals on the same footing as the requirements that resorts have. There should be no advantage to this which impacts resort business. Last of all, and I think it comes back to Mr. Swenson's discussion, is that we have to protect the neighbors from a lot of commotion and multiple rentals that disrupt their residential environment that they intend to experience. Those are my overall comments. I think Buitenwerf has covered a lot of the items that make sense and are reasonably generous, but restrictive enough to make sure that it protects neighbors and the intended use of the properties that exist on our lakes.

Petersen asked Buitenwerf if a property is identified as a VRBO, do you know if that changes its property tax classification?

Buitenwerf replied I am not certain of where the State Department of Revenue has landed on that issue. There were some attempts with the special sessions legislatively this summer to exempt STR properties from the commercial classification or create a new special classification for them. I have been in conversation with the Assessor's staff on tracking where the Department has landed and I have yet to hear whether they have taken a position solidly yet.

Kovacovich added a couple of things to build on what Grob said, one the things that we really need to look at closely is how this may disrupt neighbors. I don't know if 30 is the right amount of days. I will have to read my insurance policy. Certainly that is one way to minimize the impact, both on the environment and on the neighbors. I do think that capacity needs to be tied to the septic system. If the system is designed for two bedrooms, isn't it really about the number of people that are occupying the structure? You build a septic system to match the potential number of people living in the structure?

Johnson stated they go mainly by bedrooms. It is a minimum of 150 gallons a day per bedroom. We have a minimum of a two bedroom system in Hubbard County. I just want to clarify what you are talking about with this 30 day limit. You are talking about one person renting 30 days, not just the structure itself, right? What are you talking about with the 30 days?

Grob answered first of all, short-term rental means any rental less than 30 days. If one family rents it for 3 months, or for a full month, it doesn't come under these requirements at all, right? We are talking about any VRBO, short-term rental where the rentals are a day, two days, or a week. The 30 days that I was bringing up is a limit of so many days during the summer. It should be restricted to so many days in the summer so that people don't have units, or build homes, where they rent it out from May 1<sup>st</sup>- September 1<sup>st</sup>. They built it, and they are using it like a commercial resort as opposed to a single family residence that is occasionally rented out to somebody.



Johnson commented the horse is already out of the barn on that. These places are being rented right now, every day for the entire season. They start slowing down in the fall, but they still rent right through the winter. These places are relying on an income out of these rentals right now.

Grob stated those should then be actually submitted as conditional use permits, to run that structure as a commercial business. I think some of the other counties, if you look at it, treat it that way. Once you get beyond a point, there has to be a conditional use permit that looks at a lot more of the elements. Specifically, neighbors and the neighborhood. My son has a vacation home in Hilton Head, South Carolina. Some humungous homes that are built, people build them with the intent only of renting them and making money as an investment. They build them large enough that they can have three or four families at a time. That is the way they do it down there. I don't want to think we are going to be like that, but I could see people buying vacant lots and building huge homes with the intent of renting them and making money off of them. To me, that is a resort. We have to find some way to keep this within the fact that these are single, residential structures that occasionally are rented out to individuals, and the owner also spends time there too.

Johnson said I know of a person who owns five houses on Kabekona. They have been renting them like this for the entire season, into the winter, and they have been doing it for five years. They don't allow jet skis. The neighbors probably don't even realize they are rented out. They count on that right now. They are running it as a business all the time.

Grob responded then it should be a conditional use permit and be done under the requirements of a resort. That is my feeling.

DeLaHunt added along Grob's line there, I have had conversations with different people. Let's say you have five or six of these on different lakes throughout the County. How is that any different than a resort? It is just a disjointed resort.

Andres commented you are very right. It is very much like a resort, and it should be classified as commercial.

Grob said a conditional use permit.

Johnson added then the State should have regulated it. If it is commercial like a resort.

DeLaHunt stated they should, but they won't and they haven't. They are letting local take care of it.

Andres said I understand what Johnson is saying. It is going to be hard to find and pick out those. I understand this self-certification process, but it is going to be a process for sure. Getting people to come forward and do the permits.

DeLaHunt added you definitely have to, as part of that certification process, ask the right question so that you get the correct answer and know what to do.

Kovacovich stated I am in agreement with Grob. I think the aggregate days that it is rented in a year, break it down by season, needs to be addressed. At some point it is no longer

someone just renting out for a few days, but it is a commercial business. Whether the State does it or not, it behooves the County to be on top of it. Again, finding these will be difficult. You hope people come forward. If there is enough teeth in the penalties, I believe people will. They are not going to want to pay the penalties. They should have to follow the same Department of Health requirements and all the other rules that apply to a resort. It needs to be a level playing field. To me, an aggregate number of days that it is rented is one way of addressing that. After a certain point, it is beyond just me renting out a few weekends a year. That, and the capacities, are probably the number one and two issues that I see going forward. I know if my neighbors all of a sudden had 12 or 15 people there every weekend, or all summer long, I am not going to be a really happy neighbor. I think that is true in most cases. The number of people allowed to stay in any given structure needs to be reasonable. I think, a limit based on the septic or the number of bedrooms is one way of addressing that.

Johnson asked Buitenwerf if I just went and got a mortgage and bought a VRBO, that is allowed in Hubbard County right now. Say I went and got a mortgage for \$500,000 for a place on the lake, and I planned on renting it just like I have been allowed. How do you think the attorneys would hash that out if you decided to cut them down to only renting it for 30 days?

Buitenwerf replied good question. I don't know the answer. With anything we are considering, based on what other counties have done, and the conversations that I have had with our attorney, he has said that we will certainly want to come up with something that is able to be applied to existing STRs, as well as any new. Because, a savvy individual, if we say this only applies to new, will say I commenced prior to this amendment, and we will have a very difficult time proving otherwise.

Johnson commented they should have records if they did their taxes correctly, to prove that to the County. If they have been doing it correctly.

Buitenwerf replied possibly, but from an administrative consideration, we do not want to get the office bogged down in chasing down those details.

DeLaHunt added maybe the idea is not to necessarily park a certain amount of days on it, but just consider what its primary use is. If you are renting it over 50% of the year, your primary use is business related. It is not residential anymore. What that magic number is, I don't know. I know on some of the taxing, they go by primary use. How do you define that? Let's say that I have a place, and I don't live there. I only rent it 12 weeks out of the 52 week year. Is that its primary use? If I am not living there, the primary use would be rental. If I am living there all of the other weeks, its primary use is residential. There are a lot of different ways that you could go with this. The other comment I have is, I don't think the goal of the Board is to hit a level playing field. I don't know if that is possible with resorts. The objective should be to try to level the playing field some, but focus on the real meat here. The septic size, bedroom size, parking space, the things that are causing the problems right now. Then, those other things are good to have in some instances, but are they important right out of the chute?

Johnson asked is there going to be a fee? Would you charge them something for a permit to operate? Or just a registration?

Andres asked Buitenwerf I believe there are going to be some fees involved in that, and fines for penalties? Is that correct?

Buitenwerf answered it has been discussed, but no specific numbers have been thrown out yet, with one of the considerations being what the administrative load of this might be and whether that would warrant or require additional staff, and then if those fees would be needed to offset or cover the cost of that staff. That has been the general conversation, but like I said, we have not thrown out any specific numbers.

Grob asked Buitenwerf what do you need from us tonight to be able to move forward? Are there documents from other counties like Crow Wing County, or Ottertail County, that are very much like us? Can we take one of those to start with and mark it up with some of our comments? It is going to be hard to write this from scratch with all of the definitions. I saw a lot of things that were similar in those multiple documents. Obviously, I don't know who wrote it first, but people lifted it. Would the approach of picking one or two of those and saying this is about as close as we would want to be, then marking it up with our own comments as we add to it?

Buitenwerf responded the County Board's desire is to have a draft from you that it can review and consider next spring. I am not sure if next spring means March or April. Commissioner DeLaHunt might be able to comment on that. If nothing but discussing and throwing out ideas happens tonight, I do not see that as a lack of success. Our attorney has said that the Cook County Ordinance is probably well done, because he knows the administrator there, and he worked with a partner in his firm. So, I know that one probably has content that has been vetted well. You certainly could take one that you like best and tweak it.

Kovacovich added I will throw out another area that I think we would need to consider. If a property has a home and a guest cabin, would we allow both to be rented out short-term? Would each require a license, or one license per parcel? One rental per parcel? That is going to be a consideration that we have to look at. I would think if there are two rentals on a parcel, the potential for impacting both the environment and the neighbors is going to be a little greater. We will have to be looking at that. I am not sure what the answer is.

Grob stated I think several of the documents, and I think Buitenwerf addresses it, say that guest cabins cannot be part of the short-term rental. Because a guest cabin's primary use is occasional family or friends that come and stay. If you start renting it out full time, it definitely falls off the page in terms of primary use. When a short-term rental is permitted, it would be based on the capacity of the main cabin on the property. That is the way I look at it.

Andres said Item Q addresses that on there. Guest cottages, recreational vehicles, and accessory structures are prohibited. Item Q does hit that.

Grob added the other good thing that Buitenwerf had written down, in order for a property to qualify, it has to meet all of the minimum requirements for a conforming lot. That is a good way of protecting setbacks, parking, and a lot of other things. If you have a good standard 40,000 sq. ft. lot and appropriate frontage.

Kovacovich asked does that mean if a variance has been allowed, where the lot didn't meet the minimums, it could not be rented as a short-term rental?

Grob responded it has to have the 150' width and the 40,000 sq. ft., which is the minimum for a residential lot.

Kovacovich continued I was wondering if granting a variance would effect that. It is still nonconforming, based on what it is saying here?

Grob stated legal, nonconforming with a variance, right Buitenwerf?

Buitenwerf replied right. That still would not mean that someone couldn't. If this was adopted as language, they could request a variance from this language, and then those would be legal nonconformities that would be allowed to operate STRs on them.

Grob asked Buitenwerf the way that you structured this, in Section 402, there would be a category called Short-Term Rentals? You are not thinking about a whole separate ordinance for short-term rentals? It is one item in that whole section of specialties under 402. Is that where you were headed?

Buitenwerf explained that was my best place to start with, based on where I think this best fits in the Ordinance. The County Board was not interested in a separate ordinance. They asked that it be included in the Shoreland Ordinance. That is why it is presented that way. From an administrative efficiency standpoint, having it function like a home occupation where they have performance standards that they say they will meet, and then we randomly audit when we have issues arise with one of them, and make sure that they have all of those items checked off. That would be definitely the easiest way for us to go. The other thing to keep in mind with any potential content would be if it is easily and accurately enforceable. There are a lot of things that get at issues that are very difficult, when a complaint would be made, for the County to be able to document to a point that the County Attorney would feel comfortable taking it before a judge if things were to reach that degree.

DeLaHunt asked Buitenwerf in some cases where you have a nonconforming lot, you could use a variance process to approve an STR on that property? Maybe in other circumstances where they rent the place out for more days than allowed, we would have a CUP process?

Buitenwerf answered yes. There are some counties that have done that. They said if you meet these criteria, then you can go through a fast track permit. If you meet other criteria, where there are more risk of conflicts with neighboring residential use, then you go through a conditional use process to allow more intensive vetting and scrutiny and then conditions that could be used to address those specific neighborhood concerns.

DeLaHunt added my thought here is, will it be necessary to have a variance process and a CUP process? Could you envision that, or just straight to CUP?

Buitenwerf replied I think conditional use or interim use would be the route to go. That said, people can always apply for variances from any provisions, other than a use. You always run that possibility, then it would be up to the Board of Adjustment if any of those variance requests would be approved.

Andres stated it appears to me that going through this Section 402 of the special provisions is the route that they are wanting us to take. Would you like us to go through any of these specifically? What you like or dislike?

Petersen said I think we have to go through these line by line and flesh them out as to what we think is good or bad. Giving an example, on Item A, an annual operating permit is required. I am not understanding the procedure, so I guess this is a question for Buitenwerf, how do we notify owners? How are these VRBOs identified so that they know what the requirements are for them to operate? I heard earlier in the conversation a number of about 130 units that we recognize right now, what about the ones that we don't?

Buitenwerf answered good question. So, there isn't necessarily a good way to ensure that we contact everybody that is out there operating an STR. There are going to be folks that are going to take that up and then others that will drop it as time progresses. The savvy individual that sees these regulations might continue to operate outside of the realm of jumping through the zoning hoops because they understand the difficulty in identifying them, and then going after them to let them know we have regulations and they need to follow them.

Petersen asked other than building some apparatus to find them, we don't really have a way right now to know who these owners are? We are aware of some, right, but possibly not all of them.

Buitenwerf responded we are aware of a few that are brought to our attention. The Assessor's Office has a list that it has used to make contact to possible STR properties. There are also third party businesses that have various software that allows them to control the VRBO and Air BnB websites to come up with and maintain current lists and then use those lists to send out notices. They also offer administrative services, so that would be a possibility that we could consider as well.

Johnson asked would the long-term rental people have to probably register too? Anything over a certain amount of days? Anybody that rents then on the lake has to get a manual operating permit?

Andres added if we just go back to the definition, it is for the nightly, weekly, or less than a 30 day period. That is how a short-term rental is defined.

Johnson explained the reason I was asking is if somebody wanted to rent and not do an operating permit, they would just have them sign a rental agreement for a year. Then it doesn't fall under this category. When they leave after a week, they dissolve that rental agreement.

Buitenwerf stated you raise a good point. When I visited with Department of Health staff, they say that they have people that have quickly figured that out, as far as the MDH regulations. Their threshold is a week. They say anything less than a week requires an MDH license. So, people simply put their listings out there for greater than a week. MDH knows full and well that they are not always renting for greater than a week period, but they have no way to prove otherwise and go after them. It is an area with loopholes, and people figure out how to capitalize on them very quickly.

Grob said I think the one ace in the hole that you have is that there are Lake Associations, and lots of people on the lake, who will become very familiar with these rules. It won't take long for them to figure out people that are trying to get around it.

Andres commented I believe that once we get a short-term rental in place, the ESO will start getting calls and complaints, and then violation letters could be sent out. That is another way that they will be notified. Going back to my initial request, do you want to go down the list one by one?

Kovacovich stated I think we have to do it that way.

- A. An annual operating permit is required.
- B. Self-certification process w/accompanying permit and small % audited annually, escalating stiff fines for noncompliance.
- C. Regulate basics such as noise, # of bedrooms, parking, quiet hours, proof of insurance.

Andres added I understand with Items A and B if we don't want to go over that one. We have already hit some of those points. We can discuss Item B if you want to talk about fines for noncompliance.

Grob mentioned one thing on Item B is that we need to be clear. Item B says to me, Buitenwerf will have to come up with a very clear document as to what has to be done to self-certify. You will have to have that all laid out in some document. As far as fines, let the Commissioners decide on that.

Kovacovich stated I saw one County with fines that were escalating based on first offence, second offence, third offence. I like that. If someone is continually figuring they will pay the fine, you make it so that it is not worth it to them. Maybe the first time you give people a little bit of the benefit of the doubt. I like that tiered based on violations type of fines.

Grob commented that is a good point.

Petersen added I agree with that, Kovacovich.

Andres said I am going to write that down.

DeLaHunt added I think another part of the self-certification process is to have an application that you send out asking questions. How many rooms do you have? What is your septic system sized for? How much space do you have for parking? How big is your lot, is it conforming or nonconforming? At the end of that application process they are going to certify that all of this information is factual. At that point, based on the rules that are set up in this Ordinance, they will know how many guests they can have, and how many people can park there. Once you get the rules established, it will be pretty clear how to write the application.

Andres stated I agree. I think once the application is put forth we will be able to get there. The application will definitely need to be spot on and specific, as Grob mentioned. That kind of covers Item C. The application is probably going to have the number of bedrooms and parking spaces available. We will definitely want to look into quiet hours and the proof of

insurance that you mentioned. I don't know if many people are going to provide more for proof of insurance than a regular letter that says they have liability insurance, or full coverage insurance, however it is stated. I haven't looked into renting anything before, so I don't know. I haven't seen that 30 day time frame.

Grob asked how about smoke detectors? That would have to be part of what is regulated.

Petersen commented that would almost be like an occupancy rating to me. I don't know if it is listed anywhere further down or not.

Andres said under Item S, where it has law enforcement and fire department numbers. We definitely could add a fire department inspection. That could be in the application, that you have to have it inspected.

Johnson added the insurance companies actually check that out when they insure, most of them.

Kovacovich stated I am not familiar with the Department of Health or any of those rules, but I would think someone already has those kind of rules already written up on what you need. To me, if it is a rental unit, it doesn't matter if it is for a day or for a year. It needs some basic life safety issues, like fire extinguishers, smoke detectors, carbon monoxide, those types of things. I can check over the next number of days and see if something is already in place that includes all of that, but I think it is essential that it be in there somehow.

Andres added I agree.

D. Operating permit must be prominently displayed on the premises.

Andres stated I think that is a given.

E. No STR can be operated without a valid STR permit issued pursuant to this Ordinance.

Andres mentioned this again will hit those violations. If they don't have one, somebody is going to call and say you are not on this list. I think that needs to be clearly stated in here, it covers before. It does not grandfather anybody in. That kind of goes along with Item F as well.

F. These standards apply to all STRs operating prior to the effective date of these standards and must come into compliance by "x" date.

G. All new STR operations as of the enactment date of this Ordinance shall obtain a permit from the County prior to commencing operations.

Kovacovich said depending on when the County Board put this into effect, I think you could almost make it January 1<sup>st</sup> of some year. I am not sure that you would want to do it in the middle of a year. If the year is going to be January 1<sup>st</sup>- December 31<sup>st</sup>, then we should

probably put this into play on a January 1<sup>st</sup> if there is enough lead time from when the County Board approves it.

H. An STR must be located on a lot that meets all of the minimum lot size requirements listed in Article V of the Shoreland Management Ordinance.

Andres added we discussed this earlier. If it doesn't meet all of the requirements, they are going to come in and ask for a variance, as Buitenwerf had mentioned.

Buitenwerf responded if somebody had a substandard sized lot, they would have the ability to apply for a variance for relief from that language.

I. There is a limit of "one" STR per lot. – OR - A separate STR permit is required for each unit on a parcel that has STR operations conducted in it.

Andres stated we kind of touched base on that as well. If you have a large lot, and you have five units on there, are we going to have each of those singly? We could think about that or discuss that.

Grob commented I am trying to think of a situation where there is a huge lot with multiple structures on it.

DeLaHunt mentioned I have an example, Grob. I know of a lot that has a house and a camper that they VRBO. It is a large lot.

Grob responded that is covered down further concerning campers. I think that was a different one. I am trying to think, some of these resorts have never converted to a planned unit development. I have an example on Potato Lake, straight across from me, part of the old Blue Heron. There is the large original home, and then there is another one of the lots that got split off that also has another cabin on it. Back about two years ago, as part of a study that COLA was doing on several different lakes, we were trying to figure out how many VRBOs were there. I went online and found this one as a VRBO, and there were comments on it. The one comment was that there were 16 of them in the big house and the cabin next door. The point is, any of those that have multiple dwellings, even though they are legal, should we include them? If they are not a guest cabin, but multiple homes? Buitenwerf, you remember one of the lakes where there was a big home that was built, and there were a bunch of cabins. What lake was that?

Buitenwerf answered on the south side of Big Wolf.

Grob continued there were four cabins and a main house. Would you allow all five of those individually to be rented, or would we just say one per?

Johnson mentioned or the one that we did on Benedict Lake. We dissolved the resort and let the guy keep four cabins and build his main home there.

Grob stated I think some of the documents that Buitenwerf furnished us, most of them basically said one STR per parcel. I think that makes sense.



J. Current SSTS certificate of compliance on file with Environmental Services Department.

Kovacovich stated I saw at least one of the other counties had a recertification on the septic every so many years. Is that something that we would want to consider? Or do you just wait until they go to pull a permit and at that point it has to be compliant?

Grob said I think for the one that you are referring to, they actually required conditional use permits for these. And once you had a conditional use permit, you were certified for five years. It is a more formal process, if I remember.

Buitenwerf added the State says a new system when installed is considered current for compliance for a five year window from the date of installation. Thereafter, once a system is past that initial five year compliance period, subsequent compliance inspections are valid for three years from the date of inspection. So, with it saying current certificate of compliance, those are the timelines.

Kovacovich said ok, so it is covered by that.

Buitenwerf agreed.

K. SSTS properly sized to accommodate proposed maximum occupancy in the rented structure (poss 2 people/BR + 2 extra).

Andres stated we have discussed that as well. Johnson hit on this earlier when Kovacovich asked him the question. It is based on bedrooms, and not the number of people.

Grob added if you look at a lot of those other documents, they say the capacity is two people per bedroom and then a couple extra people. Johnson was talking about 150 gallons per bedroom, right?

Johnson replied yes.

Grob continued if I remember reading somewhere in the past, they assume a typical person consumes on average about 75 gallons per day.

Johnson mentioned I think when it goes to a resort, it goes to 50 gallons a day per person, doesn't it, Buitenwerf?

Buitenwerf answered it is lower, I would have to look to see.

Johnson stated I believe it is 50.

Grob said I thought it was 75.

Johnson explained that is on a residence. These may have a washing machine and water-using appliances, versus a resort where you have one washer. It probably is 75 per person.

Grob added maybe that is covered by several of the other counties that said two per bedroom plus two extra. If you have three bedrooms, you could have 6 and then add two, for a total of 8.

Andres stated that is definitely one that we should highlight and note for additional comment. Sometimes bedrooms have bunkbeds because it is the kids' room and there are four or six in there.

Buitenwerf confirmed it is 50 gallons per day.

DeLaHunt added I like Grob's thought of two per bedroom. With the two extra, that accommodates some places where they put more than one bed, or two singles in a room. Kind of a happy medium.

- L. The following documentation must be kept on file and provided to the Environmental Services Department within 48 hours upon request:
  - a. Passing water test for nitrate and coliform dated within one year of current date.
  - b. Proof of current structure and liability insurance.
  - c. Proof of currency on Hubbard County property tax payments.

Andres continued I think these items are definitely a must. We talked about that being where the fire department inspection would be required.

Kovacovich asked does Hubbard County have a lodging tax countywide?

DeLaHunt explained they have a volunteer lodging tax. It is not mandatory countywide, so I don't know if that will work unless the County would make it mandatory.

Kovacovich added so maybe we should require proof of payment, or being up-to-date on property taxes. If something were required countywide for a lodging tax, it could be added. I kind of like the idea that if you aren't current on your taxes, you can't be making money on it.

DeLaHunt stated there was discussion by several people about wanting to make sure that VRBOs were contributing to the lodging tax. That keeps coming up. It depends how Hubbard County structured it originally. I remember reading something on this when I first came into office. I believe we passed it. Some research would have to be done. We could make it mandatory, possibly by resolution. It all depends on how that original application process went. Then the questions is, do you want to? Do you want to make a mandatory lodging tax countywide or not? That is a different debate, but that is what kept coming up in the discussion of VRBO. If there is a lodging tax, they should be contributing.

Grob asked do the resorts charge a lodging tax?

DeLaHunt responded many of them voluntarily do, but they are not required to. I think only in the City of Park Rapids is it actually mandatory.

M. Sufficient vehicle parking area consisting of improved surfaces (i.e. gravel, asphalt, concrete) must be provided on the STR property. Parking areas must be set back 10' from property lines. No parking is allowed on public road rights-of-way or septic system components.

Andres stated I think that is a very sufficient statement.

Petersen stated I agree.

N. On-premises advertising signs are prohibited.

Andres said I personally agree with that too, I don't think the neighbors are going to want to see that.

Kovacovich added especially if it is flashing neon.

O. Property lines must be clearly and conspicuously marked.

Andres stated you know, I believe that is where Mr. Swenson touched base on the easements for his walking across to have lake access. I think it is important that the property lines are defined so that you don't have these people coming in and going on the neighbor's property. I think that is very important. I don't know exactly what way you would mark them, obviously we don't just want some yellow cord strung up, as far as being conspicuously marked. That is definitely something that needs to be thought of, people being mindful of the boundaries.

Petersen asked do we want the lines marked all of the way, or the corners?

Andres replied that is something that we can definitely discuss and review.

DeLaHunt asked would a map in the guest book defining the boundaries be sufficient?

Andres answered I think so, or in some situations where some properties have their whole property line on the back of the door for your exits. That would be helpful for the clientele that show up, to let them know.

Kovacovich commented if it was in the book and then at least the corners were marked, they would have a reasonable chance to know where they can be.

Grob added I suspect that if the place next door to me was going to turn into a STR, it wouldn't take me very long to put a few stakes and markers to show where the property line was.

Andres said I agree. Property lines need to be determined for the neighboring properties and for the resident themselves.

P. All outside lighting must be hooded and directed straight down toward the ground.

Kovacovich stated that might need some more definition as far as, to me it would be a height thing. I would hate to see someone put up a 50' telephone pole and put a yard light on it that

is directed down. It is going to bother me next door. We have way too much light pollution. That one might need a little more definition.

Grob added I might add to the fact that any outside lighting like that must also be at least outside of the setbacks. I have that across the lake from me. There are about three or four pieces of property that have these big light posts 10' from the lake. I say, at least a maximum height and outside of the ordinary high water mark. That doesn't mean that you can't have a light on for a little while, but to leave them on all night long like they do, they ought to be back further from the lake.

Q. Use of guest cottages, recreational vehicles, accessory structures, tents, etc. or any item other than the primary residential dwelling unit on the property to provide additional occupancy is prohibited.

Grob stated that is a key one.

Petersen asked would that be subject to a variance appeal if somebody wanted to?

Grob said they could waste their money and do it.

DeLaHunt commented I can give you an example there. There is an actual property that has it, it is quite a large property, and they are already doing it.

Petersen stated I am aware of a property or two that is doing it now, myself. That is why I was wondering what these people will do if that is incorporated.

Grob said that is why I think this is a good one.

R. Quiet hours of \_\_\_\_\_ p.m. to \_\_\_\_\_ a.m. are required to be kept by STR users during which time noise levels shall not rise above that of a normal conversation.

Andres added I do believe that there should be quiet hours. I know we have done multiple conditional use permits with quiet hours. Some of them are different than others, but we could definitely put some times on there.

Petersen said I agree.

Grob commented so my normal neighbor can make all of the noise that he wants 24 hours a day, but when someone rents, they can only make noise part of the day?

Buitenwerf stated that one is a challenging one to document and enforce.

Andres said we can definitely address that one down the road.

S. The property address, emergency contact information (e.g. law enforcement, fire department, ambulance, hospital), emergency preparedness plan, septic system maintainer contact information, and maximum occupancy of the structure must be provided to each renter for every rented time period.

Andres added I think that is valid and necessary.

- T. The STR property must be current in regard to payment of its property taxes and any assessments.

Andres stated we addressed that one earlier. I think that is necessary. Is that something, Buitenwerf, that would just be at the time of the application? We kind of talked about the self-certification. Is that something that would just be checked at the application time?

Buitenwerf replied more than likely. That one makes the most sense. If we are looking at a calendar year permit window, that would allow us to easily have enough time to see that the second half taxes of the prior year were paid at the time they are applying for a new operating permit for the following year in January.

- U. An STR permit cannot be transferred to a different party than the one permitted.

Andres commented I think that is a valid statement. The only thing that I could see that may be different, if it is a spouse, or a death in the family. I don't know how that would be taken care of, if you went into it with your spouse. Does that matter? It is still in the same name, I guess.

Buitenwerf replied that is how I would view that situation.

- V. Any violation of any of these criteria makes an STR permit immediately null and void.

Andres stated that is valid.

- W. The Environmental Services Department may impose additional conditions that will reduce impacts of the proposed use on neighboring properties.

Andres added the one thing that I would add is that they would need to have an emergency preparedness plan in place, kind of like Kovacovich mentioned before with the smoke and carbon monoxide detectors. If you have people coming in from different areas, they just kind of need to know that sort of stuff as well. If there was any type of emergency, what they should do.

Johnson asked would we be able to do something if it was a natural environment lake? Could we make the rule that there would be no jet skis?

Andres replied I don't think so. Buitenwerf can you answer that question?

Buitenwerf answered I don't think so, Johnson. Plus, there would be the challenge of trying to prove that someone on a jet ski was coming from that property.

Kovacovich added that would be tough to enforce.

Grob stated someone mentioned a natural environment lake. Is it possible that we would want to put a restriction that you can't do STR on a natural environment lakes?

Andres responded at this time, it is listed as all of them.

DeLaHunt added what if someone who really enjoys solitude and nature wants to rent on a natural environment lake?

Johnson agreed that is true.

Grob said the second one is the issue of sales tax. I don't know where the County comes out on that, but the question is how do you do it? Should these STR people be required to charge sales tax?

Kovacovich explained that is a State issue. There is a sales tax on lodging, but I think that is a State issue, unless the County has any authorized additional sales tax like Bemidji does in Beltrami County, but I could be wrong on that.

Grob continued if I go to a resort, and I rent a cabin for a week, I pay sales tax on that, don't I?

Kovacovich replied yes.

Grob asked then why should someone who is doing STRs not be required to charge sales tax?

Kovacovich answered because that is a State issue.

Grob asked why is it a State issue?

Kovacovich explained because that is who gets the sales tax. The County doesn't enforce sales tax, the State does.

Grob added what I am trying to say is, anytime I go buy something, I should pay a sales tax on it, right? Any service I get, I pay a sales tax normally.

Kovacovich said right, but what I am saying is that the County does not enforce that, or have anything to do with it, unless they have an additional sales tax that has been approved for the County or an individual municipality. The State is still who collects it and then distributes it back to the Counties, so it is not a County issue. We could certainly have a statement in there saying that you have to pay all applicable sales taxes, but it is not enforceable by the County, I don't think.

DeLaHunt stated that is where I think there is some confusion. People are confusing sales tax and lodging tax. They are two separate things.

Andres asked do we have any other questions or comments? We have gone through all of the items at this point. We can dig deeper into them in the future.

DeLaHunt added the only other question that I would have is that, at some point, I am going to have to define what deviation from this would require a conditional use.

Grob clarified what you are saying is that it has to state what would trigger a conditional use permit, if you don't meet these requirements.

Andres said we kind of touched base on that when we talked about the number of days. That was kind of hard to decide, putting a number of days on there. Johnson knows a place that has been renting all summer, or all year.

Grob added I think Kovacovich's term of accumulated days. My proposal was 30 days, between May and August. No restrictions the other 8 months of the year. During the height of the summer season, when there is a lot of traffic and load on the lake. That is when you would want to have it a little more controlled.

Johnson commented that is their best renting season.

Grob agreed, and it is one of the heaviest loads on the lake and all of the other activity.

Kovacovich said the question is, at what point do we say it is no longer short-term rental and it is a commercial use?

Grob stated I would like a little more time to read the other County ones, seeing how some of them address that.

Andres added I feel that we have established a good basis for this draft. We have received input from the public and reviewed other County ordinances. We can fine tune it in the next months. Is everybody content with that moving forward?

DeLaHunt mentioned the other thing to think about too is what kind of fee you would charge for a permit? Buitenwerf could probably give the best guidance on that after we get this narrowed down a little better. You might have a better idea of what kind of labor it will take.

Andres stated I agree, as he mentioned the possible need of additional staff as well to accommodate that.

Grob added I think from a Planning Commission standpoint, do we recommend a fee or not? The answer I think is yes. I think it is between Buitenwerf and the County Commissioners. They can decide what financially is the best thing to recommend. I have no clue as to what it should be. I don't have a clue how much time and effort it is going to take Buitenwerf's people to do it.

**Miscellaneous:**

**Communications:**

**Adjournment:**

Kovacovich made the motion to adjourn.

Grob seconded the motion.

The motion carried unanimously 5 – 0.

The meeting adjourned at 9:14 p.m.

Respectfully submitted,

Staci Lee

Recording Secretary