Hubbard County
Planning Commission Meeting
January 7, 2013

Open Public Hearing 9:30 a.m.:

Chairman Krueger opened the meeting with the following members present: Sally Shearer, John Miller, Tom Krueger, Jerry Novak, Oakley Williams, Dennis Bessler and County Commissioner Cal Johannsen. Also present were Environmental Services Officer Eric Buitenwerf and Recording Secretary Maria Shepherd. Board members Terry Clairmont and Board of Adjustment crossover Lou Schwindt were absent.

Krueger welcomed everyone to the public meeting and went through the meeting procedures.

Election of Officers:

The election of officers was postponed until a later meeting since there are new appointments still to be made.

Buitenwerf stated that the current officers and elected lot viewal committee will remain in place until the next meeting.

Approval of the November 13, 2012 Planning Commission Meeting Minutes:

Shearer moved to approve the minutes as presented. Johannsen seconded the motion that carried unanimously.

Old Business:

Planning Commission by-laws

Old business was moved to the end of the meeting so that the people in attendance for the conditional use permit application did not have to wait.

New Business:

Conditional Use Permit application # 1-CU-13 by Lakes Area Vineyard Church: Part of Outlot No. 1, Long Lake Park, Section 20, Township 140, Range 34, Henrietta Township on Long Lake. Parcel # 13.42.03900. Application seeks permission to operate a church. Long Lake is a recreational development lake.

Robb and Sara Swanson, authorized agents for the application, were in attendance and presented the application to the Planning Commission.

Robb gave a brief history and summary of what the application is requesting. The building would be an extension of the church that is located in Detroit Lakes, Minnesota; one church with two campuses. The church would have normal Sunday morning services along with small groups that meet weekly and really focusing on an outreach program.

Miller informed the applicants that written correspondence was received from a neighbor stating that he didn't have any problems with a church in his neighborhood as long as they didn't mind him shooting his guns on this property.

Both applicants stated they wouldn't have any problems with that.

Johannsen asked what the building was being used for previously.

Miller stated that it was previously the Goose Crossing Restaurant and then Pine Point Lodge after that.

Krueger asked if there was any other correspondence.

Buitenwerf stated that the office received only the one email that was already addressed.

Krueger opened the floor for public comment.

Bruce Johnson, a resident of Long Lake Park, had some questions for the applicants. He was concerned with what changes the applicants wanted to make to the property and how it was going to be used. He wanted to know about outside concerts and if there would be amplified sound. He felt there should be a time limit and noise level condition placed on this application if it were to be approved as well as no amplified music allowed.

Robb stated again that they would like to eventually see two different services on Sundays as well as the other meeting times that were previously mentioned. They have a maximum seating capacity right now of 103 people. During the week the use would be very small with small groups of maybe fifteen people meeting for an hour once a week. There would be a lot less use than what the original conditional use was approved for. There might occasionally have outdoor church picnics or have activity days for kids and family fun days. He stated that if there were concerts they would notify the neighbors and let them know of the times and dates. As far as the outside activities there might be music but it would more than likely be acoustic guitars with the occasional outdoor service which would require microphones so that people would be able to hear. He stated that he would like to see a condition not be placed on limiting them to only having acoustic guitars in case five years down the road they wanted to bring in a Christian band to play during appropriate hours.

Dan Kittilson commented that the applicants own Zorbaz, a bar and restaurant on Little Sand Lake, and are wonderful lake neighbors. They are very concerned about the lake and since this building is close to Long Lake they would be concerned about issues on the lake.

Robb stated that in the eight years that they have owned Zorbaz they have had two outdoor concerts and both times they approached the lake and asked for permission and always kept the volume levels at a reasonable decibel. I would think that the church would follow even stricter guidelines than Zorbaz.

Johannsen stated that he felt that he agreed that they would want to be good neighbors and not upset people but there have been noise complaints at different properties in the area that have outdoor activities so there maybe should be some limitation placed on the application. He wasn't sure how that could be done.

Miller commented that in his opinion the only way to monitor that would be to put in a time restriction allowing activities to occur no later than ten p.m. or some set time limit. He didn't see why a condition could be placed stating a time restriction on events so that they still could on the rare occasion have the event without coming back to the Planning Commission and spending more money to ask for permission.

Robb stated that there are decibel limits that set parameters for what noise level needs to be within. He wouldn't have an issue with that condition being written in on the conditional use permit or having set decibel limitations.

Johannsen stated that the County has an Ordinance already that deals with noise and levels that are allowed so regardless of a condition those rules would have to be followed.

Chuck Diessner asked Buitenwerf what the rules were regarding if the church did come back to the Commission and seek permission to have a band and who would get notified of it.

Buitenwerf stated that if it is a conditional use permit application then everyone within a quarter mile would be notified.

Diessner stated that he wanted to know if it weren't asking for a conditional use permit but simply wanted to have a band what the notification process is. He is concerned that they will make an application for permission to have a band and none of the property owners are notified and it becomes a real problem. He suggested to make it a condition that if the applicants were going to put in an application for such a gathering or concert that they would need to notify the neighbors within a certain distance of the property in writing.

Buitenwerf stated that he was only aware of a County Ordinance for mass assembly so if the attendance would be in excess of the minimum threshold for that they would need to get pre-approval. If the attendance would be below that number there is no County Ordinance that he is aware of.

Krueger wanted to know about time and decibel levels.

Buitenwerf stated that he wasn't aware of any Ordinance to either of those. The State has noise thresholds that it enforces but they are extremely difficult to enforce because there is specific testing equipment that is able to be there at the time that the noise is being generated.

Johannsen stated that typically if the Sheriff's office receives a complaint they go out and listen first and then they would go and talk to the parties that are putting on the event and try and resolve the problem.

Krueger and Buitenwerf felt that decibels are not a good measure to use. Time would be a more definitive measure.

Sara commented that in the Detroit Lakes campus the only outside concerts that have been held have been outside worship services where there were microphones and amplification so that everyone could hear. To her knowledge there haven't been any evening or late night concerts to date. She agreed with her husband that they wouldn't want to tie their hands since they aren't sure which direction the church might be lead in.

Miller stated that the conditions on a conditional use permit doesn't just apply to this application but allows this use for whoever possibly would purchase the property and want to continue this use so the Board has to take into account that even though this application is stating they probably wouldn't have outdoor, amplified concerts a future owner might.

Robb stated that if the Board would be more comfortable with placing a time limitation on this application he would be supportive of that but stated that amplification equipment would be necessary if they were to do outdoor services.

Krueger stated that based on the property, the best location for an outdoor service or concert would be in the back which is outside of the shoreland zoning but would need permission from the township.

Shearer asked for clarification on whether the County has any applications for events.

Buitenwerf answered that unless it falls under the guidelines for a mass assembly there is none.

Sara asked how many people can be at an event before it is a mass assembly.

Buitenwerf thought it was 200-300 people.

Shearer felt that the discussion and concerns being heard are beyond the scope of the application. The parcel in question is not big enough to house thousands of people. In the event that a large outdoor concert was to be held this property might not be the best place to hold such an event. Right now the application is a conditional use permit to operate as a church under "normal" guidelines of what functions accompany a church. It is difficult to define normal but youth activities outside, outdoor worship and church services but masses of people are not in the normal especially since there are additional steps that would need to be done in order to obtain permission for such an event. Her thought was to leave the conditional use permit as applied for because everything else is hypothetical and beyond what they are asking for.

Krueger added that it isn't very far behind the building that is outside of the shorlenad jurisdiction.

Shearer said that if the County doesn't have an application for event if there is conditions placed on the application that do the applicants even go to obtain permission.

Oakley moved to approve the conditional use permit application 1-CU-13 by the Lakes Area Vineyard Church as presented and adopt the findings of fact as presented by the ESO Planning Commission January 2013 Staff Report.

Shearer seconded the motion.

Johannsen stated for the record that the mass assembly limitation is 300 people.

The motion carried unanimously.

Old Business:

Planning Commission by laws:

Buitenwerf stated that the copy that was passed out to the planning commission has all of the changes made to date.

Johannsen stated that all of the changes that were made were simple language changes and the day the meetings are actually held.

Shearer asked for clarification as to why the day of the meeting changed from Tuesdays to Wednesdays.

Johannsen answered that the County Board meetings moved to Tuesdays which caused conflicts so the Planning Commission meetings were pushed back to Mondays.

Shearer wanted to know why the County Board changed their meeting day.

Johannsen stated that all other Counties meet on Tuesdays and by them meeting on Wednesdays it excluded Hubbard County from going to group county meetings. The original reason the Board switched from Tuesdays to Wednesdays was because the newspapers didn't like coming to meetings on Tuesdays due to their own deadlines. Department heads and others requested that the meetings be on Tuesdays now instead of Wednesdays and it made sense to change it back to Tuesdays. There is a State statute that sets the first county meeting as the first Tuesday after the first Monday so it makes sense to continue on Tuesdays.

Shearer appreciated the explanation.

Johannsen asked if there were any major changes.

Miller commented that the biggest change was that the Chairman was allowed to make motions and vote.

Novak agreed that the language regarding the Chairman was the biggest change. All of the other changes were minor language changes.

Shearer stated that there were three things that changed: the format of the agenda, allowing the chairman to vote and make motions, and finally the day the meetings are held on.

Shearer moved to accept the changes to the Planning Commission by laws as presented.

Miller seconded the motion.

The motion passed unanimously.

Adjournment:

Miller moved to adjourn. Shearer seconded the motion that carried unanimously.

Meeting was adjourned at 10:01 a.m.

Respectfully submitted by:
Maria Shepherd, Recording Secretary

Hubbard County Environmental Services

301 Court Avenue, Park Rapids, MN 56470
Phone: 218.732.3890 Fax: 218.732.7993
www.co.hubbard.mn.us/environmental.htm

Public Hearing and Public Meeting Cancellation Notice

The Hubbard County Planning Commission Public Hearing and Meeting scheduled for Monday, February 11, 2013, at 9:30AM in the Lower Level Meeting room of the Hubbard County Courthouse has been cancelled for lack of an agenda.

Please check back after February 5, 2013 for the January agenda.

Staff:

Eric Buitenwerf,
Env. Services Officer
Scott Navratil,
Env. Specialist
Steve Pachel,
GIS Technician
Maria Shepherd,
Admin. Assistant
Jeff Woodford,
Env. Specialist

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Public Hearing and Public Meeting Cancellation Notice

The Hubbard County Planning Commission Public Hearing and Meeting scheduled for Monday, March 11, 2013, at 9:30AM in the Lower Level Meeting room of the Hubbard County Courthouse has been cancelled for lack of an agenda.

Please check back after March 5, 2013 for the April agenda.

Staff:

Eric Buitenwerf,
Env. Services Officer
Scott Navratil,
Env. Specialist
Maria Shepherd,
Admin. Assistant
Kevin Trappe,
GIS Technician

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Public Hearing and Public Meeting Cancellation Notice

The Hubbard County Planning Commission Public Hearing and Meeting scheduled for Monday, April 8, 2013, at 9:30AM in the Lower Level Meeting room of the Hubbard County Courthouse has been cancelled for lack of an agenda.

Please check back after April 2, 2013 for the May agenda.

Staff:

Eric Buitenwerf,
Env. Services Officer
Scott Navratil,
Env. Specialist
Maria Shepherd,
Admin. Assistant
Kevin Trappe,
GIS Technician

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Public Hearing and Public Meeting Cancellation Notice

The Hubbard County Planning Commission Public Hearing and Meeting scheduled for Monday, May 6, 2013, at 9:30AM in the Lower Level Meeting room of the Hubbard County Courthouse has been cancelled for lack of an agenda.

Please check back after May 7, 2013 for the June agenda.

Staff:

Eric Buitenwerf,
Env. Services Officer
Scott Navratil,
Env. Specialist
Maria Shepherd,
Admin. Assistant
Kevin Trappe,
GIS Technician

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Hubbard County
Planning Commission Meeting
June 10, 2013

Open Public Hearing 9:30 a.m.:

Vice-Chairman Shearer opened the meeting with the following members present: Sally Shearer, John Miller, Mark Thomason, Ron Whiddon, Lou Schwindt, Oakley Williams, Dennis Bessler and County Commissioner Kathy Grell. Also present were Environmental Services Officer Eric Buitenwerf and Recording Secretary Maria Shepherd. Board member Tom Krueger was absent.

Shearer welcomed everyone to the public meeting and went through the meeting procedures.

Election of Officers:

Miller moved to nominate Tom Krueger as Chairman and Shearer as Vice-Chair. Thomason seconded the motion that carried unanimously.

Commission Grell moved to nominate Miller, Bessler, Thomason and Whiddon for the planning commission lot viewal. Schwindt seconded the motion that carried unanimously.

Approval of the January 7, 2013 Planning Commission Meeting Minutes:

Miller moved to approve the minutes with the two corrections discussed. Schwindt seconded the motion that carried unanimously.

Old Business:

There was no old business to discuss.

New Business:

Conditional Use Permit application # 2-CU-13 by Hubbard County Natural Resource Management. Parcel #s: 08.31.03040, 18.06.01011, 08.32.04031, 08.32.03000, 08.32.04011, and 08.32.02000. Applicant is seeking a conditional use permit for a hiking trail on County Tax Forfeit property around the LaSalle Lake State Recreation Area per Section 401 of the Shoreland Management Ordinance.

Chris Weir-Koetter, the strategic program manager for Parks and Trails wit h the DNR was in attendance and presented the application. LaSalle Lake Recreation Area was created and now the plans are being put into place for a hiking trail system at the recreation area. One of the trails, in order to go around the bottom of the lake, would have to cross county administered land. The request is asking permission to have a joint powers agreement and create a trail that goes around the lake.

Commissioner Grell questioned if the trails are restricted to foot traffic or can horses go on them.

Chris stated that because of the steep banks, the management plan is to limit this trail to snowshoe in the winter and hiking trail in the summer. The trail is a minimum width of two feet wide and a clear zone for branches so a hiker wouldn't get hit in the face from branches. The trail is meant to give a high quality wilderness experience.

Thomason asked if cross country skiing was included.

Chris stated that the trails would not be groomed so bushwhacking would be allowed. The groomer would never make it down the trail.

Chris explained that the trails will be natural materials. The trails on the state land will be started yet this summer.

Commissioner Grell asked if there are any trails that are already completed.

Chris stated that there are existing trails that are usable. There are a few trails that need to be cleaned up due to storm damage.

No written correspondence was received and no public comment was made.

Williams asked if there would be restrictions on forest management along the trails to keep it natural as possible.

Chris stated that it is written in the agreement that timber management is acceptable on the county land. This trail would not restrict that.

Buitenwerf commented that after speaking with Chip Lohmeier with the terrain out there it would be very difficult for them to get typical timber equipment out there.

Williams remembered that while on the lot viewal Chip stated that they probably would never harvest that.

Chris stated that there is one spot where a creek crossing is needed and the cost and design would be the responsibility of the DNR. A bridge engineer was already out there and took elevations to see what would be needed.

Shearer thought that the applicants would have to bring the bridge design to the Environmental Services office for approval.

Buitenwerf clarified that bridge design and approvals have to go through state approval.

Grell recommended the approval of the conditional use permit with the following conditions:

1. This CUP is for the operation of the entire premises as one total hiking trail 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. This conditional use permit is for the operation of a pedestrian hiking trail to only be used for hiking, snowshoeing, and cross-country skiing and only be located on the route shown on Exhibit A of the application.
3. The trail's traveled surface shall not exceed 30" in width.
4. No existing vegetation is to be altered or removed outside of a maximum 4' width (in which the trail surface must be located) and a maximum 8' height above the trail's traveled surface.
5. The trail must be designed to follow natural contours, go around large trees (equal to or greater than 12" diameter at breast height), and avoid erosion on steep slopes (twelve percent or greater). Where the path must cross slope, the existing surface contour can be cut minimally within the 4' wide vegetative clearing area allowed in Condition # 3 to provide a flat trail surface.
6. Water bars and other erosion control measures will be installed where necessary.
7. Design, construction, and maintenance of the trail must comply with the guidelines found in the *2007 Trail Planning, Design, and Development Guidelines* manual-especially Section 6-developed by the Minnesota Department of Natural Resources.

As well as adopt the findings of fact as presented in the June 2013 Planning Commission Staff Report.

Whiddon seconded it.

The adopted findings of fact are as follows:

1. Is the requested use consistent with public health, safety, and welfare?

A hiking trail is allowed in the shoreland zone of a recreational development classified lake such as LaSalle as a conditional use permit. This trail will be minimally intrusive to the environment in which it is to be constructed as the walking surface will be no greater than 30" wide, the area cleared of vegetation in which the trail will be placed will not exceed 4' in width and 8' in height, and the Minnesota Department of Natural Resource's (DNR) *2007 Trail Planning, Design, and Development Guidelines* manual will be and is required to be used in the trail's design, construction, and maintenance. The trail will not harm the lake in any way. It will have a stable surface and sufficient vegetation-free zone to provide for pedestrian user safety. The trail will benefit public health and welfare by providing citizens with an outlet for exercise and improving well-being by being able to get out and enjoy this beautiful natural area
The motion carried unanimously.

2. Is the requested use consistent with the goal of preventing and controlling water pollution, including sedimentation and nutrient loading?

The DNR developed the shoreland rules and thus knows the importance of protecting the lake and what it takes to ensure that the trail is designed, constructed, and maintained in ways that protect the lake. The trail will only be up to 30" wide and the area of vegetation clearing for the trail will only be 4' wide x 8' high. There will thus be ample vegetation between the trail and lake to buffer and absorb any runoff that might come from the trail area.

3. Will the requested use not adversely affect the site's existing topography, drainage features, and vegetative cover?

The trail will not harm the existing topography, drainage features, or vegetative cover because the trail surface will not be wider than 30" and the cleared area in which the trail will be located will not exceed 4' in width and 8' in height. The surrounding area is heavily vegetated in predominantly forested cover types and is capable of handling the minimal intrusion the trail will cause. The trail will work with instead of against existing topography and vegetation so that it will be very light on the landscape.

4. Is the requested use's site location reasonable in relation to any floodplain and/or floodway of rivers or tributaries?

There are no FEMA-designated floodplains in Hubbard County. The terrain in this area is very steep such that it does not allow mechanical timber harvesting and the flatter low areas are well drained by the river exiting the lake so it is doubtful that there is any potential for flooding of the trail route.

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?

The DNR has routed the proposed trail in a way that follows the land's contours wherever possible as shown on Exhibit C of the application. The trail surface and vegetative area to be cleared are minimal (as mentioned on answers to earlier findings of fact questions) such that they will have a barely discernible impact on the area. The DNR will also be following its own guidance manual in the design, construction, and maintenance of the trail to further safeguard against the trail having any negative impact on the land through which it will run.

6. Is the site in harmony with existing and proposed access roads?

The proposed trail connects up with the campground/parking access area located on the northeast side of the lake. Since this is a pedestrian trail that is accessed from this area and the trail does not cross any roads because it runs through a remote area, it is in harmony with existing access roads. There are no proposed access roads with which this trail might conflict.

7. Is the requested use compatible with adjacent land uses?

The trail is proposed to run through State and County land that is surrounded by thousands of acres of additional public land that is used recreationally and for timber production. This trail fits in with the existing recreation management objectives of these public lands.

8. Does the requested use have a reasonable need to be in a shoreland location?

The trail is being proposed to circle LaSalle Lake so SRA visitors can enjoy wonderful views of the lake that portions of the trail will provide as a result of their elevation relative to the lake. The trail will function in a way that is similar to the pedestrian trails that circle nearby Lake Itasca.

9. Is the amount of liquid waste to be generated reasonable and the proposed sewage disposal system adequate to accommodate such?

The trail will not generate any sewage and the DNR will provide an appropriate number of restroom options for hikers using the trail to prevent any sewage problems from arising due to its users.

10. Will the visibility of structures and other facilities as viewed from public waters comply with Section 901 of the Ordinance?

The trail will doubtfully be visible to anyone recreating on the lake because of its small dimensions and its being located amongst heavy existing forest cover.

11. Is the site adequate for water supply and on-site sewage treatment systems?

No water supply or sewage treatment systems are being proposed as part of this requested use.

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?

No watercraft are being proposed as part of this pedestrian hiking trail use.

The motion carried unanimously.

Conditional Use Permit application # 3-CU-13 by Peace Lutheran Church. Part of Applicant is requesting a conditional use permit to operate a church on the subject property per Section 401 of the Shoreland Management Ordinance.

Gary Nicholson, authorized agent for the application, was in attendance and presented the application. Peace Lutheran Church is hoping to build a 6,000 square foot structure that will accommodate 100 – 120 people. There will be a worship center and an activity center for youth and family ministry. There isn't anything exceptional or out of the ordinary.

Miller didn't see that having a church on this property was going to do the lake any harm since it quite a distance to Lake Belletaine.

There was no written correspondence received and no public comment made.

Thomason moved to approve the conditional use permit with the following conditions:

1. This CUP is for the operation of the entire premises as one total church 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. No more than 350 people may be located on this property or in the proposed church structure at any time.
3. This CUP applies only to that portion of the property that is located within the 1000' shoreland jurisdictional area of Lake Belletaine.
4. Only uses falling under the definition of a "church" in Section 111 of the Shoreland Management Ordinance can occur on this property while this church use is occurring.

Thomason also moved to adopt the findings of fact as presented in the Planning Commission June 2013 Staff Report.

Miller seconded it.

The proposed findings of fact are as follows:

1. Is the requested use consistent with public health, safety, and welfare?

By allowing churches in tiers 3 and 4 of a recreational development classified shoreland area in the Shoreland Management Ordinance (SMO), the County previously determined that a church use is consistent with public health, safety, and welfare when processed through a conditional use permit. The proposed church use complies with the church performance standards found in Section 402, Item 10 of the SMO. There are two existing vehicle access points to the property – both on Highway 34 – which reduces any traffic congestion/safety related concerns with large groups coming to or departing from the property. The activities associated with the church's proposed operation that are listed in the application are not items that have any negative impact to public health, safety, and welfare. The public health and welfare are benefitted by citizens having an opportunity to and location at which to gather and exercise their first amendment rights.

2. Is the requested use consistent with the goal of preventing and controlling water pollution, including sedimentation and nutrient loading?

No topographical or vegetative alterations are proposed to be made to this property as part of the proposed use. The use will predominantly occur within the proposed new church structure that will be constructed with occasional outdoor pedestrian activities that will not cause any sedimentation or nutrient loading of nearby Lake Belletaine.

3. Will the requested use not adversely affect the site's existing topography, drainage features, and vegetative cover?

As mentioned in the answer to question # 2 above, no alterations to the existing topography and vegetation on the property are proposed as part of this use. The proposed use's outdoor activities mentioned in the application involve pedestrian recreation like volleyball in the existing volleyball court that should not harm the property's topography, drainage features, or vegetative cover.

4. Is the requested use's site location reasonable in relation to any floodplain and/or floodway of rivers or tributaries?

There are no FEMA-designated floodplains in Hubbard County.

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?

As stated in answers to previous questions, the proposed use will predominantly occur in the proposed new church structure. The occasional outdoor pedestrian activities will not be of an intensity in duration or density that would cause erosion. The property's topography and vegetative cover is not proposed to be modified from its existing condition as part of the proposed use. The property is very level and sandy and separated from the lake by Highway 34 with its ditches on both sides so there is very little potential for runoff concerns from this property into the lake.

6. Is the site in harmony with existing and proposed access roads?

As mentioned in the answer to question # 1, the property has two existing access points to public roads – both on Highway 34. Past restaurant uses of the property that generated traffic levels equal to or greater than the proposed use will generate were in harmony with these two access roads so it is expected that this church use will be in harmony with the roads as well. Additionally, the former restaurant uses had traffic patterns that were highest in intensity during the late afternoon/evening hours when traffic levels are highest on Highway 34. The primary use of this property as a church would occur on Sunday mornings when traffic levels on these two roads are not as high as is observed during late afternoons/evenings.

7. Is the requested use compatible with adjacent land uses?

The properties to the immediate east and west of this property are residential uses. The property south of this property is vacant and undeveloped. The previous commercial restaurant use fit in well with the surrounding land uses without any significant problems/concerns expressed or noted so the proposed church use ought to fit in even better with the surrounding uses because it will not be as consistent or as intensive (especially in evening hours) as the previous restaurant use.

8. Does the requested use have a reasonable need to be in a shoreland location?

The ordinance – through its allowance of churches to be located in tiers 3 and 4 of recreational development lakes provided they have no legal lake access and a conditional use permit is obtained – already has determined that churches have a reasonable need to be in these back tier shoreland areas given the significant number of lakes and accompanying significant amount of shoreland area in the County. Shoreland areas are where citizens choose to live and thus it is reasonable to locate uses such as a church that accompany residential uses in proximity to the latter.

9. Is the amount of liquid waste to be generated reasonable and the proposed sewage disposal system adequate to accommodate such?

Environmental Services licensed SSTS staff reviewed the proposed use's proposed sewage generation volume and strength and determined that the existing SSTS that serviced the restaurant formerly operated on the property is more than adequately sized and designed to effectively accommodate the proposed sewage volume and strength. The amount of waste to be generated is reasonable as churches typically see volumes below those observed in single family residence settings because the building is used infrequently and when used, the primary use is that of bathroom toilet flushes and hand washing in sinks.

10. Will the visibility of structures and other facilities as viewed from public waters comply with Section 901 of the Ordinance?

The proposed structure that will be used for church services will not be visible from Lake Belletaine due to the distance, vegetation, and topography between the water body and structure. The property is at least 530 ft from the lake and the proposed new church structure will be over 600 ft from the lake.

11. Is the site adequate for water supply and on-site sewage treatment systems?

There is an existing well and SSTS on the property that were able to meet the heavier demands of the previous restaurant use of the property. The proposed church use with its needs for these two items being much lower than the restaurant's should have no problem in being serviced by the

well and SSTS. Additionally, see the answer to question # 9 above for further information on the SSTS. There is ample room on the property to meet all setback requirements should either a new well or SSTS ever be needed and the soils on the site are suitable for installation of a SSTS.

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?

The proposed use does not entail any watercraft usage of any lake. The ordinance specifically prohibits church uses from having any legal lake access or being located on a riparian lot that would have lake frontage.

The motion carried unanimously.

Ordinance 10 – proposed amendments

Doug Kingsley, MN DNR Area Fisheries Supervisor, was in attendance and presented the proposed amendments to the Board. The DNR is proposed a change in water surface use on two lakes in Hubbard County. The first is Lester Lake, which is a small 67 acre lake and is contained within a 440 acre property that was acquired by the DNR in 2010. The property is being managed as an aquatic management area and a scientific and natural area. There is a dirt or earthen access to the lake that allows smaller, car top type boats, canoes, and kayaks but restricts the larger, trailer boats. The proposal at Lester Lake is for electric motor use only or no motor use. The lake supports a large fishery and water fowl hunting opportunities. The other proposal is for LaSalle Lake which is 238 acre lake which is contained in a 1200 acre property that was recently acquired last year by the DNR. The property is being managed as a State Recreation Area. There is a small portion of the lake, in the southeast corner that is County owned land along the lakeshore. For this lake the proposal is a 10 mile an hour speed limit. The property is managed by Itasca State Park staff which is why the 10 mile an hour speed limit is being proposed since that is what the limits are on the inland lakes within the park. Thomason asked if there was a public access to the lake.

Kingsley stated that there is a public access but it isn't a very good public access. They are trying to come up with a better location for it. It is an earthen ramp and is located in the recreational facility portion of the area. He stated that the reason this is before the planning commission is because the DNR doesn't have statutory authority to regulate the surface water in an aquatic management area. Local units of government have the authority to regulate surface water use through an Ordinance.

Shearer asked if there was a good turnout on the public hearing that was held regarding the proposed changes.

Kingsley stated that they have not yet gone through the hearing process that would be required since it depends on if the County wants to proceed with the changes. They have made the public aware of these ideas and proposals.

Miller asked if Lester Lake still is a catch and release lake.

Kingsley stated that was still the case due changes in regulations. It has a lot of great fisheries there and because it is such a small lake it would be very easy to over harvest the lake.

Commissioner Grell stated that she received an email from someone and they were in agreement with the proposed changes. They wanted the lakes to be kept natural. She asked if the reason for the ten mile an hour restriction was simply because that is the speed limit in Itasca State Park.

Kingsley stated that wasn't the only reason. The main reason, and probably the most important one, is that LaSalle is a unique lake. It is a very long and narrow lake as well as deep. The shoreline is very steep and the water depths drop very quickly. There is very little shallow water habitat, only about 16 acres of the entire lake. There is very little aquatic vegetation along the shore to buffer the effects of a lot of wave action so the shoreline is very susceptible to erosion with heavy boat traffic.

Miller suggested doing a no wake rule instead of a speed limit so that it is easier to enforce. He felt that a speed limit would be difficult to regulate and enforce while on the water a speed limit rule. Also everyone knows what no wake means verses trying to monitor a certain speed limit.

Kingsley stated that the question came up at the County Board meeting and there was concern about it. The speed limit was to make it more consistent with Itasca State Park since they are going to be the ones helping with management and enforcement.

Conversation regarding which was better a no wake or a speed limit followed.

Kingsley stated that the changes in front of the Board are suggestions. The Board can change it, recommend approval of it or simply deny the changes. After the County Board has made a decision, it still needs approval from the commissioner of natural resources.

Commissioner Grell asked why only electric motors on Lester Lake and also why no speed limit there.

Kingsley stated that the electric motors were for noise. It is a water fowl resting area and they are trying not to spook them. There is no speed limit since only electric motors are allowed and there is enough buffer on the shoreline. An electric motor is rarely going to be able to go fast enough to create a wake.

Shearer asked which lake has echoing on it.

Kingsley stated that LaSalle Lake has the echoing due to the steep sides. It is called a tunnel valley and keeps the noise trapped.

Williams asked if there would be a problem with having both a speed limit and a no wake zone since there are some boats that can make a wake and be going under ten miles an hour or the opposite and be going 30 and not be leaving a wake.

Kingsley understood where the Board was coming from. The DNR has spent a lot time discussing the different options and they felt comfortable with the ten mile an hour speed limit. It was a compromise between no wake and still allowing people to go from one end of the lake to the other a little easier.

There was no written correspondence received.

Shearer opened up the floor for public comment.

Justin Isaacson stated that he felt that a no wake speed limit would be much better. It would be easier to enforce and would minimize the shoreline erosion. The speed limit regulation is irrelevant depending on the boat. Different boats create different wakes.

The public comment portion part of the meeting was closed.

Commissioner Grell asked Buitenwerf what his recommendation or opinion was regarding what he would like to see.

Miller stated that if someone is going to call a violator in it will be called into the DNR which is why he thinks it will be easier for enforcement to do it with a no wake policy.

Kingsley agreed that for the most part enforcement is going to be mostly up to the DNR and conservation officers. He didn't think that they had a preference with enforcement with either a no wake or a speed limit. He was unaware of any issues with enforcing the current ten mile and hour speed limit with the lakes inside of the park.

Buitenwerf addressed Kathy's questions, when this was first brought up to the Board, Sheriff Aukes was present and they discussed both options and the reason for the language that is proposed is so that it would allow conservation officers with the State to go out and do enforcement so it wouldn't fall solely on the Sheriff's office. He stated that he could see both sides of the coin with a no wake verses a speed limit.

Miller recommended approval of the proposed ordinance changes for Ordinance #10 with a change to the LaSalle language so that it states rather than a ten mile an hour speed limit restriction it would have a no wake restriction.

Whiddon seconded it.

The motion carried unanimously.

Section 513 of the Shoreland Management Ordinance

Shearer asked Buitenwerf for some background regarding this item on the agenda.

Buitenwerf stated that the County Board asked that the planning commission review this section involving geothermal heating and cooling systems to see if there are any changes that should be made to this section. The Board did not have a real strong position or direction that they wanted the Commission to go in initially. The only comment he had heard made by the County Board was that with open loop systems to be sure there was a way to make sure a person wasn't going to pull from a contaminated aquifer and discharge in a manner that would cause a hazard for some other water body or vegetation.

Shearer opened up the floor for public comments.

Bryan Kirby made public comment in favor of changing Section 513 of the Shoreland Management Ordinance. He thanked the commission for the opportunity to speak regarding this matter. He summarized the history regarding the reason this came before the County Board in the first place. He does not agree that the well and discharge line are considered part of the system and therefore need to meet the required setback. He also felt that was based on an interpretation of the Ordinance and felt that it didn't specify what all was part of the system. He stated that all of the appropriate people were notified and asked before installing this system and they are well under the State guidelines for flow. He felt that if the State has no regulations and is not monitoring these systems the Ordinance should be changed so that these types of systems are allowed unless a large amount of excavation is required which then would need a variance.

Shearer asked Kirby to go back and state again what he felt the changes should be.

Kirby stated that he felt the way the Ordinance is written it is extremely simple and encompasses a lot of systems, which in his opinion wasn't the intent. In his opinion the Ordinance was meant to capture large excavation for open or closed loop systems that would be placed within the ordinary high water mark and the structure setback. He suggested that instead of saying that if all the components of the system can't be located behind the structure setback a variance is needed, it should say a variance be required if the excavation needed exceeds levels currently allowed by the Section 902 of the Shoreland Management Ordinance. The other item that should be mentioned to address the concern of contaminated wells is that language should be placed that states the well needs to be tested and meet certain requirements set forth by the Minnesota Department of Health for a legal well. Our County is the only one around that monitors and regulates geothermal systems and doesn't allow a discharge pipe in the setback from the lake.

Justin Isaacson stated that the Ordinance should be changed to allow these types of systems but have some guidelines. The most important of these would be ensuring that a contaminated well is not being used. The water itself would have to pass stringent tests for both geothermal systems and for drinking water. He also agreed with what Mr. Kerby had said excavation levels can't be more than allowed in Section 902 of the Ordinance. He felt that these types of systems are environmentally sound, which is why he installs them. These aren't the cheapest systems and people who are using them are making a conscious effort to decrease their carbon footprint.

Miller stated that he spoke with Buitenwerf shortly after the variance that was aforementioned was denied as to why the County doesn't allow these types of systems. He knows of a lot of open loop geothermal systems that are existing and has yet to see any problems. He said there are a lot of unanswered questions regarding these types of systems. He asked how many gallons of water these systems discharge in a year.

Isaacson stated that 750,000 gallons annually was the norm per system.

Miller felt that the concern about if every home on the lake had one of these systems was irrelevant since not every home on a lake will do this. He thought that this type of system was the only common sense type of system to install for that particular lot and home. He thought that putting in a closed loop system would be more cause for concern than having this open loop system discharging into the lake. He agreed that the wells should have to pass State testing, just like any other well being installed. He knows people that have these systems on

the lake and there is no ice thickness problem. He asked if the pipe itself was installed under the ice layer.

Buitenwerf stated that it was not.

Isaacson agreed that it would be above and pours into the lake.

Miller didn't have a problem with that. He said it isn't like it is leaving a great big hole or erosion. He felt that the language needed to be changes. No one knows what will happen 100 years down the road to the lakes from adding those amounts of water to them but Mother Nature adds a lot of water every time it rains. As long as the water is monitored and the wells are tested, he didn't see anything wrong with open loop systems. He can't believe that putting clean water into a lake is going to hurt anything.

Whiddon stated that he has been researching and gathering information regarding geothermal systems and one thing that makes him reluctant to address this is that it appears to be a difference of opinion on pros and cons for these types of systems. He spoke that Cass County discouraged above ground discharging. Becker County stated that there aren't any additional requirements beyond what the State has. Wadena County didn't have anything that addressed this issue, nothing more constringent than Minnesota State requirements. Beltrami County didn't address a discharge pipe. So there are conflicting opinions and it leaves the matter unsettled. He is surprised that the DNR doesn't address the discharge pipe one way or the other. He questioned how they would or why they would change the ordinance when things are so unsettled on the different levels of government. He didn't know if there was enough information to make an educated decision. He felt that more studying was needed.

Kerby stated that he spoke with all of the above mentioned counties as well as the different state departments and they had done everything within those guidelines.

Bessler felt that the water going into the lake from the wells is more than likely cleaner than the water that is currently in the lake. He felt that requiring people to get multiple variances for all of the different components of the system was not fair and common sense should be applied.

Williams felt that the government is intruding into people's lives and dictating too much what they can and can't do on their own properties.

Commissioner Grell felt that if there is an ordinance or portion of the ordinance that isn't working any longer than it needs to be changed so that it will work. The DNR isn't concerned about geothermal issues, MPCA isn't worried about it then our ordinances need to not cause more problems. As long as it isn't causing erosion then she doesn't see any issues with these systems. She felt that if a variance was granted for a structure to be at less than a conforming setback then that variance should cover all components of the heat pump and should be allowed. She asked if there were any other counties that have language addressing geothermal systems that we could possibly look at and copy.

Buitenwerf stated that after checking most of the surrounding counties ordinances there isn't any language to address geothermal systems.

Commissioner Grell stated that her biggest concern was making sure the water that is being discharged into the lake isn't causing erosion.

Miller stated that the water also needed to be clean and not contaminated. Erosion is important to monitor but the water needs to be tested as well. A person can't just drill a well and start pumping water into the lake.

Shearer stated that a lot of the wells in existence right now are quickly becoming contaminated with nitrates. There isn't a fix for nitrates besides doing osmosis. She wondered if the osmosis could be run through the heat pump as well to make sure the contaminated water isn't getting into the lake.

The Board felt that after re-reading Section 513 of the Shoreland Management Ordinance that the language that states "all parts of the system must be located behind the required structure setback from the ordinary high water level and if a current dwelling permit is in place no additional permit shall be required" to state that the discharge line would be allowed to be closer than the structure setback.

Miller thought that a variance should only be required if the excavation amount needed exceeds what is allowed in Section 902.

Commissioner Grell asked if anything should be put into the ordinance that states the discharge pipe is not allowed to create erosion.

The Board agreed that should be addressed.

Discussion ensued regarding possible language changes.

Shearer stated that in regards to having a well tested she was unsure of what effects high levels of nitrates would have on the environment and lakes. She stated it is dangerous to humans but felt that swimming in it or having it in the lakes must not be a concern if it isn't being addressed at the State level. She felt that the other issues and concerns should be left for the DNR since they have the resources and money to do the research needed.

Thomason and Miller questioned if this section even needed to be in the ordinance.

Bessler felt that it could be removed and referred to the State of Minnesota.

Shearer felt that there should be some guidelines regarding the geothermal heating systems.

Again the Board questioned if it was needed to be in the ordinance.

Williams felt that if the state has already regulated this then why should the County regulate it on top of that. He felt there were too many rules.

Thomason felt that the section should be removed since it was a duplication of what the State already regulates. He asked Buitenwerf when this section was put in.

Buitenwerf stated that it was in 1994 or 1995. He stated that the county came up with this language and need for the ordinance above and beyond what the State had. He stated that if this section is removed a person would never have to come ask for a variance for a geothermal heating system. There would be no way to regulate or monitor these systems.
Commissioner Grell asked if the location of propane tanks was regulated.

The answer was no.

Commissioner Grell felt that if propane tank locations are not regulated and allowed within the 100 foot setback then the discharge pipe should be allowed to be within the 100 foot setback.

Discussion ensued where the popular opinion was to remove Section 513 from the Shoreland Management Ordinance.

Miller moved to recommend the removal of Section 513 from the Shoreland Management Ordinance.

Bessler seconded it.

The motion carried unanimously.

Adjournment:

Miller moved to adjourn. Shearer seconded the motion that carried unanimously.

Meeting was adjourned at 11:15 a.m.

Respectfully submitted by:
Maria Shepherd, Recording Secretary

Hubbard County Land Records
Environmental Services

301 Court Avenue, Park Rapids, MN 56470
Phone: 218.732.3890 Fax: 218.732.7993
www.co.hubbard.mn.us/environmental.htm

Staff:

Eric Buitenwerf,
Land Records Co-Director
Env. Services Officer
Bryan Haugen,
Env. Specialist
Scott Navratil,
Env. Specialist
Maria Shepherd,
Admin. Assistant
Kevin Trappe,
GIS Technician

Public Hearing and Public Meeting Cancellation Notice

The Hubbard County Planning Commission Public Hearing and Meeting scheduled for Monday, July 8, 2013, at 9:30AM in the Lower Level Meeting room of the Hubbard County Courthouse has been cancelled for lack of an agenda.

Please check back after July 2, 2013 for the August agenda.

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Public Hearing and Public Meeting Cancellation Notice

The Hubbard County Planning Commission Public Hearing and Meeting scheduled for Monday, September 9, 2013, at 9:30AM in the Law Enforcement Center basement meeting room (B-109) has been cancelled for lack of an agenda.

Please check back after September 3, 2013 for the October agenda.

Hubbard County is an Equal Opportunity Employer.

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Public Hearing and Public Meeting Cancellation Notice

The Hubbard County Planning Commission Public Hearing and Meeting scheduled for Monday, October 7, 2013, at 9:30AM in the Law Enforcement Center basement meeting room (B-109) has been cancelled for lack of an agenda.

Please check back after October 1, 2013 for the November agenda.

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Public Hearing and Public Meeting Cancellation Notice

The Hubbard County Planning Commission Public Hearing and Meeting scheduled for Wednesday, November 13, 2013, at 9:30AM in the Law Enforcement Center basement meeting room (B-109) has been cancelled for lack of an agenda.

Please check back after November 5, 2013 for the December agenda.

Hubbard County is an Equal Opportunity Employer.

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Environmental Services

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Public Hearing and Public Meeting Cancellation Notice

The Hubbard County Planning Commission Public Hearing and Meeting scheduled for Monday, **December 9, 2013**, at 9:30 a.m. in the law Enforcement Center basement room (B-109) has been cancelled for lack of an agenda.

Please check back after December 31, 2013 for the January agenda.

Hubbard County is an Equal Opportunity Employer.