HUBBARD COUNTY
Planning Commission Meeting
Tuesday, January 12, 2010 at 9:30 A.M.

OPEN PUBLIC HEARING 9:30 AM

ROLL CALL: The Hubbard County Planning Commission met with the following members present: Bob Ruhnke, Tom Krueger, Jerry Novak, Terry Clairmont, Arnold Christianson, Sally J. Shearer, Tim Johnson, Oakley Williams and Donald "Doc" Carlson. Also present were Environmental Services Officer Eric Buitenwerf and Recording Secretary Janet Thompson.

Approval of the Minutes from the December 8, 2009 Planning Commission Meeting:
Krueger moved to approve the December 8, 2009 Planning Commission minutes as presented. Clairmont seconded the motion. The motion carried unanimously.

Old Business: No old business was presented.

Election of Officers:
Ruhnke opened the floor for nominations for President. Carlson nominated Ruhnke. Shearer seconded the motion. The motion carried unanimously.

Ruhnke opened the floor for nominations for Vice-Chairman. Carlson nominated Shearer. Clairmont nominated Krueger. Shearer seconded the nomination for Krueger and declined her nomination. The motion carried unanimously.

Ruhnke opened the floor for nominations for Secretary. Clairmont nominated Shearer. Williams seconded the nomination. The motion carried unanimously.

Ruhnke opened the floor for nominations for the Lot Viewal Committee. Carlson nominated Clairmont, Shearer, Krueger and Ruhnke. Novak seconded the nomination. The motion carried unanimously.

New Business:

- **Conditional use permit application # 5-CU-09** and preliminary plat of **RICE BAY ASSOCIATION** by Daniel and Donna Rehkamp: Applicants are requesting a conditional use permit (CUP) per Sections 401 and 1011-1015 of the Hubbard County Shoreland Management Ordinance to convert a commercial resort to a residential PUD consisting of six existing units and five proposed new units for a total of eleven units; AND, a preliminary plat of the same property-21.84 acres in Nevis Township, 5th Crow Wing Lake. Parcel ID #s: 21.30.00400; 21.30.00600.

Daniel and Donna Rehkamp, and Tom Miller, Arro of Park Rapids, presented the conditional use permit application # 5-CU-09 and the preliminary plat of Rice Bay Association to the Commission.

Carlson questioned if the application is as presented.

Miller replied yes.

Carlson questioned if the docks as presented are in order.

Buitenwerf said that the application proposes eleven dock spaces for the development. The Ordinance allows one permanent dock space per allowed unit in the first tier and a second dock to be used for the remaining tiers, day use only.

Carlson said that the dock proposal does not meet the requirements of the Ordinance.

Buitenwerf agreed that aspect of the proposal does not. The balance of the application meets all Ordinance requirements.

Ruhnke questioned Rehkamp for a date when the Commission had viewed the property for a previous application to operate as a resort.

Rehkamp said it was in 2005. The property had previously been vacated and ceased operations due to a fire.

Ruhnke pointed out that there have been no changes to the property since it was approved by the Commission in 2005 to operate as a resort other than the construction of a new lodge building.

Rehkamp said the new lodge is referenced on the application as Unit 5.

Krueger questioned if the State of MN Department of Natural Resources (DNR) has an easement through the property for access to the lake.

Buitenwerf said concerning the lake access and the use of the landing, a question arose during the lot viewal if that access is an official State public access or not. He contacted Tony Walzer, DNR Division of Trails and Waterways in Bemidji. Walzer said there is no official State access on the Rehkamp property. The use of the property as an access by various DNR offices, principally Fisheries, is viewed by the State as a private landowner giving permission for them to use the land through a verbal agreement. If the State were to entertain such an access, it would require that it either be given or allowed to purchase fee simple ownership of the property. The State will not accept such a access as strictly an easement. The State also noted that since there is a public access on 6th Crow Wing Lake, and with other priorities in the State, Mr. Walzer could not say if the State would be interested in the offering of a new access on 5th if one were proposed.

Ruhnke questioned if this raises any issues with the application.

Buitenwerf said no.

Ruhnke questioned if the DNR also owns land on 5th Crow Wing Lake.

Buitenwerf said they own land just southeast of the Rehkamp property.

Miller clarified there is a portage easement over the land at the dam between 5th and 4th Crow Wing lakes. It is used strictly for portage from one side of the dam to the other.

Krueger questioned if a conditional use permit is required for a proposed future campsite.

Buitenwerf said the campground that Krueger is referencing is located on the remainder of land which is identified on the plat. The campsites are all currently located outside of the 1,000 foot Hubbard County Shoreland jurisdiction and at present do not require a conditional use permit. If the campground is ever expanded, then the portion of the campground that would be within the

shoreland jurisdiction would need an additional conditional use permit. There is no present intention to do so.

Rehkamp said that since 2005 they have taken a very distressed, destroyed property and over the past five years rebuilt it into its present condition. The property had sustained a fire in August of 2003 and then remained vacant for a year prior to the Rehkamps taking ownership. He described the condition of the property as an environmental nightmare. Twenty-seven truck loads of steel and debris were removed from the property along with gas cans from the lakeshore. With the present day economic downturn, it is no longer feasible to continue operating the property as a resort.

During the tier development, Rehkamp and Miller did their best to limit development and impact to the surrounding virgin forest. Plans to conjoin the septic systems-thus minimizing their impact-were designed. The septic system servicing Unit 8 is located at the top of a bluff and to the south of the unit. The basic topography does not allow the system to function properly if it is placed anywhere else.

Shared existing roadways will be used. Lots for Units 10 and 11 were separated to create a more user-friendly and desirable appeal. An additional 21.8 acres was added to the south property line providing an increase in open space and room for future septic development.

Unit 1 is Rehkamp's current home. The building next to Unit 1 is a very small one-bedroom cabin currently used by the resort. The plan is to remove the septic system and the tanks servicing this unit, thereby lessening the impact to tier one. The building will be left in place because it is part of the original retaining wall system. The structure itself is built into the wall. Removing the unit would create a detriment to the stability and diminish the lake aesthetics of the retaining wall. Once the septic is removed, the use of the structure will be converted into either a utility building or greenhouse and combined under the ownership of Unit 1.

The plan does not allow any further development lakeward. All buildings sit outside of the 150 ordinary high water mark structure setback.

Novak questioned if all the units in tier one and two and Units 4 and 5 all had their own septic.

Rehkamp said there is an overall development plan on file by Don Umthun, a licensed designer. Unit 1 is on a stand-alone system. Unit 9 will be combined with Units 2, 3, 4, 5, 6 & 7 in the commons area. Unit 8 is a stand-alone system due to the topography and Units 10 & 11 will be combined.

Krueger questioned when the upgrade to the SSTS will be completed.

Buitenwerf explained that the standard practice is to upgrade the system before the conditional use operating permit is issued.

Carlson said that the overall plan is very well laid out. He questioned if Rehkamp would reconsider the number of docks for the project.

Miller said that allowances have been made in the past where non first tiered units have been granted permission to have a dock. In this instance he felt it would be a benefit to the condition and stress of the lake to allow this leniency. He acknowledged that the Ordinance limits one dock for each unit in the first tier only, but felt there was inequity in the Ordinance between a residential property and a planned unit development. A residential lot that contains 40,000 square feet in size has no limit to

the number of docks it installs. The alternative for this property is to create three regular sized lots with boardwalk systems across the wetlands to twelve docks on the lake. Rehkamp is asking for a slip for each unit which is not a far stretch from what a residential lot would do.

Rehkamp said that there are a number of private residences along the lake which have multiple docks with three to five boats moored. A long-term proposal is to put in a single access point and not have multiple docks.

Buitenwerf agreed that there is a difference within the Ordinance. This is the only type of development in which the Ordinance language regulates docks. Any other type of lake lot is not limited to the number of docks that they can place on their property. The property could be developed in other ways which would allow them to have a greater number of docks and likely create a larger impact to the lake than what is being proposed. This matter comes up every time that a PUD is proposed. This is language that is within the State Rule.

Carlson said that PUDs are allowed an increased number of units, but are limited to the number of docks as a trade-off.

Buitenwerf said that a number of years ago Hubbard County removed the density multiplier from the calculations. There is no incentive for an individual to go from a lot and block to a PUD.

Carlson questioned what the incentive is to do a PUD.

Buitenwerf answered that each developer has his/her reasons. In this case, a PUD will create the least amount of disturbance to the environment than what individual residential lots would create. This plan keeps very well within the intent of the Ordinance.

Miller said that on the northeast side of the property line sits a boathouse and septic risers. Those features are Rehkamp's items. Upon completion of the survey, the boundary line came out south of those items. Rehkamp is in current negotiations with the adjacent landowner, Shady Lawn RV Estates LLC, to rectify the matter. If these negotiations can be worked out, the line will be adjusted to just north of the boathouse, then back to the northwest corner of the property and the plat will be altered to identify this lot line correction.

Krueger questioned if the fish cleaning house (aka boathouse) is within the shore impact zone.

Rehkamp said that it is but it is within his plans to remove the structure. It is not repairable and is not something he intends to salvage. It is in poor condition and too close to the lakeshore.

No correspondence was presented for this application.

No public comment was given.

Krueger moved to approve conditional use permit application # 5-CU-09 of Rice Bay Association by Daniel and Donna Rehkamp as presented with the following condition:

1. If the triangular piece of land along the north property line of Government Lot 5 and the Rehkamp property is acquired from Shady Lawn RV Estates LLC to adjust the north property line so it matches the historically observed north property line location and incorporated into the Rice Bay Association property, then the boathouse located on this triangular piece of property along the shoreline of Fifth Crow Wing Lake and immediately northeast of

proposed Unit # 1 (labeled "boathouse" on the preliminary plat) must be removed.

Clairmont seconded the motion.

Ruhnke read the findings of fact into the record.

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

Why or why not? Yes. It does meet the Ordinance which was set up for public health, safety, and welfare.

1. 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? Yes. They have kept the wetlands.

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

Why or why not? Yes. They took extra care in laying out plots to fit in with the topography and drainage and vegetative cover that exists.

3. 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? Yes. There are no FEMA floodplains in Hubbard County.

4. 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? Yes. There has been work done to the property in the past and those items are going to be left in place and undisturbed.

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

Why or why not? Yes. Nothing has been changed.

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

Why or why not? Yes. It is all the same.

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

Why or why not? Yes. These are the kind of lot developments that are done in shoreland areas because people like to use the lake.

8. 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? Yes. They are following our Shoreland Ordinance and the onsite septic cluster requirements.

9. 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? Yes. The setbacks are all in place.

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

Why or why not? Yes. It has had its septic design plan approved already.

11. 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? Yes. It is actually going to be less use from when it was listed as a resort.

If all answers to the Findings of Fact-Criteria are "Yes" by a majority vote, the criteria for granting the conditional use permit have been met. The conditional use permit will maintain the goals of safety, health, and general welfare of the public.

The motion carried with Carlson voting in opposition.

The Commission reviewed the preliminary plat portion of the application.

Buitenwerf said that all conditions necessary for platting are in order. It is the recommendation of the Department that Krueger's condition be included in the preliminary plat approval: If the triangular piece of land along the north property line of Government Lot 5 and the Rehkamp property is acquired from Shady Lawn RV Estates LLC to adjust the north property line so it matches the historically observed north property line location and incorporated into the Rice Bay Association property, then said triangular piece of land must be included in the final plat boundary before the final application will be accepted.

Shearer questioned if there is an issue with the septic risers if the land is not obtained.

Miller said that it would be covered through an easement agreement.

Rehkamp said that he and Miller have met with the owner and it appears that the transaction will be completed and the property obtained. It is in process, but due to the fact that the ownership is a corporation, it is taking longer to resolve.

Krueger moved to approve the preliminary plat of Rice Bay Association by Daniel and Donna Rehkamp as presented with the following condition:

1. If the triangular piece of land along the north property line of Government Lot 5 and the Rehkamp property is acquired from Shady Lawn RV Estates LLC to adjust the north property line so it matches the historically observed north property line location and incorporated into the Rice Bay Association

property, then said triangular piece of land must be included in the final plat boundary before the final application will be accepted. Shearer seconded the motion.

The motion carried unanimously.

Miscellaneous: No miscellaneous business was presented.

Communications: Buitenwerf shared with the Commission that the County will not be reviewing the Hubbard County Shoreland Management Ordinance or the Hubbard County Subdivision Ordinance this winter. Priority will be given to the revisions of the Subsurface Sewage Treatment System (SSTS) Ordinance for compliance by its February 4, 2010 enactment date.

ADJOURNMENT: With no further business, Clairmont moved to adjourn. Novak seconded the motion. The motion carried unanimously. The meeting was adjourned at 10:30 a.m.

Respectfully submitted,

Janet Thompson
Recording Secretary