PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
191 MAIN STREET
EAST MILLINOCKET, MAINE 04430

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

November 17, 2014

Douglas E. Kramer
P.O. Box 109
Lakeville, ME 04487

Subject: ADVISORY RULING AR 14-12, Lakeville, Penobscot County

Dear Mr. Kramer:

Thank you for the information provided in your request for an Advisory Ruling. You have asked our opinion on some complex issues with respect to land use rules. We will attempt to provide our view on the matters as we understand them, pursuant to 5 M.R.S.A. 9001. I want to caution however, this is an informal response and not a legal determination. Of course, in providing our views on these matters, we have relied entirely upon the facts as they have been presented to us.

Proposal/Inquiry

You have asked the Land Use Planning Commission to document that a proposed division of land can be done in accordance with the Commission's Land Use Districts and Standards, and that the parcels created as a result of the proposed land division will conform to the Commission's Land Use Districts and Standards.

You propose to divide a 61.2 acre parcel located in the Town of Lakeville into two (2) lots . Although the area and dimensions of the two proposed lots were not specified in the application, you state that the size and dimensions of the lots would meet or exceed applicable standards of Chapter 10 of the Commission's Land Use Districts and Standards.

Background Information

According to the information you provided:

The parcel proposed to be divided is identified as Lot 29 on Plan 09, Map PEP03 of the Town of Lakeville's property tax maps and is approximately 61.2 acres in area. The parcel is further described as Lot 3-03 as shown on a plan entitled "Phase Three of the Division of Land of Sysladobsis Realty Trust", dated February 1988 and recorded in the Penobscot County Registry of Deeds, Book 4131, page 143. The subject lot has approximately 750 feet of shoreline frontage on Upper Sysladobsis Lake. Upper Sysladobsis Lake is a standing body of water greater than 10 acres in size.

This parcel was conveyed to Douglas E. Kramer, Alma L. Kramer, and George B. Kramer by warranty deed on March 31, 1990, recorded in the Penobscot County Registry of Deeds, Book 4622, page 22. The conveyance is subject to a Declaration of Restrictions executed by the trustees of Sysladobsis Realty Trust and recorded in the Penobscoy County Registry of Deeds, Book 4198, page 8.

Applicable deed restrictions include:

2. No lot may be divided into lots smaller than 10 acres; and

3. The lake frontage and all land within 250 feet from Upper Sysladobsis Lake and Lower Pug Lake may be subdivided only between a total of two lots.

Review Criteria

Under Chapter 10 of the Commissions Land Use Districts and Standards it is stated that:

Under Section 10.02,197 Definitions: "subdivision" means a division of an existing parcel of land into 3 or more parcels or lots within any 5 year period, whether this division is accomplished by platting of the land for immediate or future sale, by sale of land, or by leasing. The term "subdivision" also includes the division, placement, or construction of a structure or structures on a tract or parcel of land resulting in 3 or more dwelling units within a 5 year period.

Under Section 10.26,A,1 Minimum Lot Size: "Residential Uses. The minimum lot size for residential uses is 40,000 square feet per dwelling unit except where each dwelling unit is to use a common or community sewer and not on site-subsurface waste water disposal, the minimum lot size shall be 20,000 square feet.

Under Section 10.26,B,2, Minimum Shoreline Frontage: For lots fronting on a flowing water draining 50 square miles or more or a body of standing water 10 acres or greater in size, the minimum shoreline frontage shall be 200 feet per dwelling unit for residential uses.

Under Section 10.26,C,1, Minimum Road Frontage: Except as provided in Section 10.26,C,6, the minimum road frontage shall be: (a) 100 feet per dwelling unit for residential uses.

Interpretation

Based upon the information that has been provided, the proposed conveyance of a single lot will be the first division of the subject parcel in greater than a 5 year period. The proposed land division would create 2 separate parcels.

As long as no further division (excepting exempt divisions as described in section 10.25, G of the Commission's Land Use Districts and Standards) are accomplished within 5 years of the date of conveyance, the proposed land division will not create a subdivision as defined by the Commission's Land Use Districts and Standards.

In accordance with Chapter 10 of the Commission's Land Use Districts and Standards, any proposed land division must result in lots having a minimum of 40,000 square feet in area, 100 feet of road frontage, and 200 feet of shoreline frontage if the lots are to be developed and/or used for residential purposes. However, as noted above, restrictions in the deed for this parcel require that no lot be divided such that lots of less than 10 acres are created.

Should you have any further questions on this matter, please contact Marc Russell at our East Millinocket Office at (207) 746-2244.

Sincerely,

Marcus C. Russell, Senior Regional Representative
Land Use Planning Commission

xc: Geo File