

**STAFF REPORT**

**Application:** Metes and Bounds Subdivision

**Applicant:** Thomas P. Peterson

**Agenda Item:** 6 (a)

**Background Information:** The applicant is proposing to subdivide the property located at 4093 County Road 168 into two tracts. The subject property is currently zoned Shoreline Residential.

The subject property is approximately 23.3 acres and contains two single family dwellings and three accessory structures. The property also contains two private sewer systems and water wells.



The applicant intends to subdivide the subject property into a 1.8 acre tract (“Tract A”) and a 21.5 acre tract (“Tract B”). Proposed Tract A contains a conforming dwelling and two accessory structures while proposed Tract B contains a non-conforming dwelling and an accessory structure. Both of the proposed tracts have sufficient frontage on County Road 168. Tract A conforms to the Shoreline Residential standards.

The septic system for Tract B has a current Certificate of Compliance. The septic system for Tract A failed; a new Subsurface Sewage Treatment System (SSTS) Design has been received and Septic Permit S-16-12 has been issued. Applicant states this new Design will be installed this construction season.

The minimum Design Layout Standards in Section 17-9.4(3) of the City Code states *“Each lot shall be adjacent to public sewer or shall have a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two standards soil treatment sewage systems”*. An Advanced SSTS Designer has confirmed there is room for the new septic system and a second site.

Section 17-9.4(2) also states “All non-conforming structures and uses shall be brought into conformity during the subdivision process, except as specifically waived by motion of the Planning Commission”. An accessory structure on Tract A and the dwelling on Tract B are within the OHW setback. Staff will recommend a motion later in this Staff Report.

The adjacent property located north of the subject property across County Road 168 is zoned “Rural Residential”, while the properties to the east and west are zoned “Shoreline Residential”.

### **Applicable Regulations:**

Section 17-5.8 contains the requirements for the Shoreline Residential (SR) Zone:

1. Purpose and Intent: To provide a zoning classification for riparian residential development. The zone may or may not be served by municipal sewer and water, depending on availability.
2. Compatibility: The Shoreline Residential zone can only be established next to the Water Resource zone. The shoreline residential zone should be established to extend through the first tier of parcels on developed lake shore and to a public road or 500 feet from the OHW, whichever is closer to the water body on undeveloped shoreline.
3. Lot, Use and Density Requirements.

	<u>GD Riparian Only</u>	<u>RD, Non-Riparian GD</u>	<u>NE Lake</u>
Lot width at OHW and building line - feet, minimum	100	150	200
Lot width with guest quarters or duplex	180	225	300
Buildable lot area - square feet, minimum	20,000	40,000	80,000
Buildable lot area with guest quarters or duplex - square feet, minimum	40,000	80,000	160,000
Setback, right-of-way, local streets – feet, minimum	10	10	10
Setback, right-of-way, collector and arterial streets – feet, minimum	30	30	30
Setback, OHW – feet, minimum	75	100	200
Setback, bluff – feet, minimum	30	30	30
Setback, side – feet, minimum	10	10	15
Setback, corner side – feet, minimum	30	30	30
Setback, sign - feet, minimum	1	1	1
Impervious coverage – maximum	20%	15%	10%
Building height - feet, maximum	25	25	25
Building height, accessory structure - feet, maximum	13	13	13

Accessory Structure Size – square feet, maximum, cumulative	1,280	1,280	1,280
Building above highest known groundwater or lake level – feet, minimum	3	3	3
Maximum Density	1 unit/20,000 sq. ft.	1 unit/40,000 sq. ft.	1 unit/80,000 sq. ft.
ISTS setback from OHW – feet, minimum	75	75	100

4. Performance Standards. The following performance standards apply to all development in this zone:

- A. Guest Quarters. A dwelling guest quarters must meet the following restrictions:
  - (1) Shall be located along with the principal structure on the smallest lot meeting the above requirements.
  - (2) Shall not cover more than 700 square feet of land and must not exceed 15 foot height.
  - (3) Shall be located to reduce its visibility as viewed from public waters and adjacent shorelands.
  - (4) Shall be screened from adjacent parcels and public waters by vegetation, topographical location, increased setback, color or other methods assuming summer leaf on conditions.
  
- B. Impervious Coverage. Impervious coverage may be increased by 5% through a conditional use permit if the following is provided:
  - (1) A storm water retention plan showing containment of the 5-year, 24-hour storm event on the parcel.
  - (2) Direct runoff of stormwater to adjacent water bodies, including wetlands and adjacent parcels, shall be eliminated through the use of berms or other permanent means.
  
- C. Setback from OHW. On parcels with municipal sanitary sewer service, if a structure exists on either side of a proposed structure, the waterfront setback may be altered without variance to conform to the adjoining setbacks provided that the building site is not in a bluff impact zone or the setback less than 50 feet minimum. If no structure exists on either side, a new structure may encroach up to a 50-foot setback from the OHW.
  
- D. Stairways, lifts and landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up

and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

- (1) Stairways and lifts must not exceed 4 feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments.
- (2) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area.
- (3) Canopies or roofs are not allowed on stairways, lifts or landings.
- (4) Stairways, lifts and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.
- (5) Stairways, lifts and landing must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.
- (6) Facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub-items (1) to (5) are complied with.

E. Boardwalks. Boardwalks are the required alternative for achieving access to shore areas across delineated wetlands. Boardwalks must meet the following design requirements:

- (1) Boardwalks must not exceed four (4) feet in width on residential lots. Wider boardwalks may be used for commercial properties, public open space, recreational properties, and planned unit developments if specifically authorized in a conditional use permit.
- (2) Landings for boardwalks on residential lots must not exceed thirty-six (36) square feet in area. Landings larger than 36 square feet may be allowed for commercial properties, public open space recreational properties, and planned unit developments if specifically authorized in a conditional use permit.

- (3) Canopies or roofs are not allowed on boardwalks or landings. Boardwalks shall be constructed above the ground on posts or pilings.
  - (4) Boardwalks should be located in the most visually inconspicuous portion of the lot, as viewed from the surface of the public waters assuming summer, leaf-on conditions.
  - (5) Boardwalks shall be made of nontoxic materials.
- F. Fertilizer and Pesticides. Use of fertilizer and pesticides in the shoreland management district must be done in such a way as to minimize runoff into the shore impact zone or public water by the use of earth, vegetation or both. The use of fertilizers containing phosphorus is prohibited within the shore impact zone.
- G. Duplexes. On Natural Environment lakes, subdivisions of duplexes must also meet the following standards:
- (1) Each building must meet setback at least 200 feet from the Ordinary High Water Mark.
  - (2) Each building must have common sewage treatment and water systems that serve both units in the building.
  - (3) Watercraft docking facilities for each lot must be centralized in location and serve all dwelling units in the subdivision.
  - (4) No more than 25% of lake shoreline can be in duplex development.
- H. Docks. The landward end of all docks must meet a 10-foot setback from the nearest lot line. Docks must be placed so that no portion of the dock, including “L” extensions or additions, and no accessory or ancillary structures or equipment (including mooring buoys, boat lifts, shore trackers or swimming platforms), extends across the projection of the setback from the lot line into the lake. Docks must also be placed so as not to block access from an adjacent property to open water. The storage of all docks, and all watercraft or water oriented items shall also be subject to this property setback rule.

Notwithstanding any provision of this section to the contrary, the 10-foot setback for docks shall not apply to the extent necessary to

allow ingress or egress of a pre-existing boat house.

In order to protect the environmental and aesthetic qualities of the lakes, docks shall not extend further than 75 feet from the shoreline into the water and shall not be placed in water depth greater than 10 feet. The Board of Adjustment may grant a variance, through the variance process, to these provisions where it can be demonstrated that it is environmentally beneficial to do so. The variance hearing fee would be refunded if the variance is approved.

These provisions shall apply to the use, maintenance and installation of any dock and accessory or ancillary structures or equipment at any time.

- I. Screening. Screening consisting of native trees and shrubs covering a minimum of 75 percent of the area (leaf on conditions) is required in the shore impact zone, bluff impact zone and wetland setback in order to retain the scenic beauty and rural character as viewed from lakes. To obtain a construction permit in this district, a revegetation plan shall be required for existing properties that do not meet this standard.
  
- J. Accessory Structure Size. Where a parcel contains buildable land area outside of the Required OHW Setback listed in the following table, additional accessory structure size cumulative maximum may be constructed on the parcel outside of the setbacks listed below and at a rate consistent with the following table:

Lake Classification	Required OHW Setback	Square feet of additional accessory structure per 1,000 square feet of land area beyond required setback
General Development	300 feet	64
Recreational Development	300 feet	32
Natural Environment	400 feet	16

- K. Fences. Fences not exceeding 36 inches in height may be constructed within the OHW setback area so long as the fencing is transparent. Fences not exceeding 72 inches in height may be constructed up to the OHW setback area. Under no circumstances shall a fence be constructed closer than 10 feet from the surface of a public road and in all cases not within the public right-of-way. Materials shall consist of usual fencing materials with posts and fence of metal, wood, concrete, brick or smooth wire. Barbed or electrified wire is prohibited.

#### **Section 17-9.4 DESIGN LAYOUT STANDARDS-MINIMUM**

1. The land shall be properly zoned and suitable in its natural state for the intended purpose with minimal alteration required. Land subject to flooding, land below the ordinary high water mark, wetlands, areas with high water table, bluffs, lands with slopes exceeding 25% or land containing other significant constraint(s) upon future intended usage, shall not be considered in the minimum size of a lot. The suitability analysis for each lot shall also consider soil and rock formations with severe limitations for development, severe erosion potential, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sights, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
2. All non-conforming structures and uses shall be brought into conformity during the subdivision process, except as specifically waived by motion of the Planning Commission.
3. Each lot shall be adjacent to public sewer or shall have a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two standard soil treatment sewage systems.
4. Provisions for water based recreation where near shore aquatic conditions are unsuitable for direct access.
5. Lot areas and dimensions shall conform to the requirements of the Zoning Chapter, without variance.
6. Lot layouts shall be compatible with the existing layout of adjoining properties and/or shall not constrain the future development of adjacent properties if those properties were to be developed as per the Pequot Lakes Land Use and Subdivision Ordinance.
7. Side lot lines shall be substantially at right angles to straight road lines or radial to curved road lines, radial to lake or stream shores, and shall not contain bends or jogs unless topographic conditions necessitate a different arrangement. Existing structures shall not be construed to be a topographic condition.
8. Each lot shall have a minimum of 33 feet of frontage on a designated right of way. Commonly owned property or Green Space used for access in a Planned Unit Development shall have a minimum of 33 feet of frontage on a public right of way.

9. Proposed streets shall conform to the adopted road plan of the City of Pequot Lakes, County and State highway plans and existing boundary conditions.

- A. Streets shall be related to the topography so as to produce useable lots and reasonable gradients not in excess of 10% for collector roads and 12% for minor roads.
- B. Public access shall be given to adjacent properties unless the topography clearly indicated future connection is not feasible.
- C. When parcels abutting arterial or collector roads are subdivided, no new access points shall be created unless an equal number of access points are removed, unless access points are created not less than 500 feet apart in which case there shall be no limit on the number of accesses allowed.
- D. Half streets or connections of half streets to partial streets without providing for the full required right-of-way will not be permitted.
- E. Streets will be designed as collectors or local streets in accordance with the City of Pequot Lakes Road Plan.
- F. The number of streets that terminate without a through connection shall be minimized and the street connected to a cul-de-sac (turnaround) shall not exceed 1,200 feet in length.
- G. Access shall be given to all adjacent properties when required by the Planning Commission. All streets intended to be extended to adjoining property, shall be provided with a temporary cul-de-sac with the sides on a temporary easement, which will revert to the adjoining lot owner when released by the City. Landlocked areas shall not be created.
- H. Right of Way shall be dedicated to the public:

Cul-de-sac (turnaround) .....	68' radius
Arterials.....	100' or as determined by Crow Wing Co
Collectors .....	66'
Local Streets.....	66'

Additional Right of Way may be required to promote public safety and convenience if special conditions require such as intersections, sight lines on corners or excessive cut or fill sections.

- I. Intersections

- (1) Street centerlines shall intersect at not less than 75 degrees.
  - (2) Street jogs shall be no less than 200' from centerline to centerline.
  - (3) Gradients at intersections and for 50' approaching on each side of an intersection shall not exceed 2%. The approach shall contain no grades greater than 7% for 200' on each side of the intersection.
- J. Roads, driveways and parking areas shall meet structure setbacks and shall not be placed within bluff and shore impact zones.
- K. Street names shall conform to the pattern of the City and continue an existing name on the same alignment, where determined applicable by the Planning Commission. Street names shall be coordinated with the Crow Wing County Surveyor's Office.
10. Easements shall be provided for public utilities or drainage where required by the Planning Commission and shall be following widths, minimum:

Watermain.....	20 feet
Sanitary Sewer .....	40 feet
Storm Sewer.....	20 feet
Electrical, telephone or cable television .....	10 feet
Drainageway .....	10 feet

11. Lots requiring variances to allow their use for the intended purposes or requiring holding tanks for sewage shall not be allowed.

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**Staff Findings:** Staff provides the following findings of fact for consideration:

- 1. The subject property is currently zoned Shoreline Residential.
- 2. The lot widths of the proposed parcels both meet the minimum standard of 100 feet.
- 3. Both of the proposed parcels meet the minimum area requirements of the Shoreline Residential zone.
- 4. The existing dwelling and one accessory structure on Tract A meet the setback requirements. The gazebo accessory structure does not meet the setback requirements.
- 5. The existing dwelling on Tract B does not meet setback requirements. The accessory structure meets the setback requirements.
- 6. The subject property is not adjacent to municipal water and wastewater utilities. Tract A contains a private SSTS and water well. Tract B contains a private SSTS and water well.

7. The property is suitable in its natural state for the intended purpose and this lot split would not be harmful to the health, safety, or welfare of future residents or of the community.
8. The applicant is not proposing any provisions for water-based recreation.
9. The proposed lot layout meets the requirements of the ordinance.
10. The proposed side lot lines are at right angles to the existing road line and the property line of the adjacent property.
11. Each of the proposed parcels has at least 33-feet of frontage on public right-of-way.
12. The subject property meets the requirements of the code for stormwater management.
13. There are no public streets proposed within the development.

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**Planning Commission Direction:** The Planning Commission can approve the metes and bounds subdivision, deny the metes and bounds subdivision, or table the request if additional information is needed. If the motion is for approval or denial, findings of fact should be cited.

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**Staff Recommendation:** The proposed parcels meet the requirements of the Shoreline Residential Zone. Staff recommends the application be approved with the following condition:

1. The new SSTS Design be installed on Tract A during the 2016 construction season.

Staff recommends the following motion to satisfy the requirements of Section 17-9.4(2):

Planning Commission Member \_\_\_\_\_ moved to approve the Metes and Bounds Subdivision Application 16-4432 and waive the ordinance requirement that requires all non-conforming structures on the subject property to be brought into conformance as per Section 17-9.4(2) of the Land Use and Subdivision Ordinance, based on the following Findings of Fact and the one Condition. Planning Commission Member \_\_\_\_\_ seconded the motion.