

TOWN OF MIDDLESEX PLANNING BOARD

RESOLUTION FOR DOCUMENTATION OF DETERMINATION OF SEQR SEGMENTATION FOR THE DEVELOPMENT OF LOT A OF THE FORMER HEY PARCEL IN THE TOWN OF MIDDLESEX

WHEREAS, Application #102314-SPR was submitted to the Planning Board on November 5, 2014 for the purpose of Site Plan Review for the construction of a Single Family Residence on vacant land on East Lake Road, (Tax ID # 002.03-1-22) owned by Mr. Andrew Komarek (Kairos LLC) as applicant (referred to as Lot A), and represented by Passero Associates Engineering Firm as agent, and

WHEREAS, the applicant has a pending Major Subdivision application pending for contiguous property on the west side of East Lake Road ("West Lot");

WHEREAS, the Planning Board issued a Positive Declaration for the Major Subdivision on the "West Lot";

WHEREAS, this application was referred to Environmental Attorney Wendy Marsh and Stantec of Rochester NY for the purpose of determination of whether the Site Plan Review for Lot A should be part of the NYSDEC SEQR Environmental Review for the West Lot, and

WHEREAS, the Planning Board met on November 5, 2014 with Passero Associates Engineer, Mr. David Cox and Attorney Ms. Wendy Marsh to review NYS DEC criteria for determining segmentation, and

WHEREAS, during the Planning Board meeting on November 5, 2014, the applicant's Engineer indicated the Site Plan Review project was completely independent of the Major Subdivision and the development of Lot A is intended to commence immediately, which statements were confirmed in a letter submitted by Passero Associates on November 25, 2014, which stated as follows:

- This project is a completely separate project from the Major Subdivision project
- The entities of both projects are legally not the same
- Engineering firms designing each project are not the same
- Engineering designs for each project will have no effect on the other
- The timetable for commencing construction of the projects are not the same as this project is due to commence construction as soon as all approvals are obtained and the Major Subdivision is still pending many outstanding reviews prior to the Planning Board determining Final Plat approval.
- Town approvals on each project do not have an impact on each other
- Funding for each project is independent of each other
- Each project is functionally independent of each other.

WHEREAS, after receipt of the letter, the Planning Board received the DEIS for the Major Subdivision for the West Lot and learned that various properties, including Lot A, enjoy an easement to Canandaigua Lake for vehicles and pedestrians over the gravel drive on the West Lot;

WHEREAS, the Planning Board reviewed the easements and determined that the West Lot, Lot A, Lot B and Lot C were all part of one thirty (30) +/- acre parcel that was owned by Hey's Enterprises or Douglas Hey ("Hey Parcel"), as depicted on the Survey attached hereto as Exhibit A;

WHEREAS, it appears the Hey Parcel had one house on the East side of East Lake Road with the gravel drive extending from the house onto the West Lot;

WHEREAS, it appears the Hey Parcel was subdivided into the existing four lots, with Lot C containing the house, Lot A and B being vacant, and the gravel drive being located on the West Lot, in or about July 2003;

Whereas, additionally in or about July 2003, an easement was granted to the newly created Lots A, B and C over the West Lot, authorizing access to Canandaigua Lake across the gravel path and stairs, which easement language is attached hereto as Exhibit B, along with a map showing the easement areas;

WHEREAS, the development of Lot A will cause an environmental impact to the West Lot due to the easement allowing vehicular access across the West Lot to Canandaigua Lake, as well as rights for parking, to Lots A, B and C;

WHEREAS, the "gravel drive" is a significant component of the proposed Major Subdivision of the West Lot, which allows access to each of the proposed four lots in the West Lot, as well as access across each of the proposed lots to Lake for Lots A, B and C, as well as parking rights for Lots A, B and C on one of the proposed lots;

WHEREAS, the Planning Board reviewed the definition of "segmentation" and believe that the development of Lots A, B and C, are part of the overall project associated with the proposed Major Subdivision of the West Lot into 4 additional lots for the overall Hey Parcel, each of which will have permanent rights to the "gravel drive" for travel, parking and access to the properties and Lake; and

WHEREAS, the Planning Board now seeks to make a determination as to whether the Lot A can be segmented from the environmental review of the proposed Major Subdivision of the West Lot.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board:

1. The development of Lot A is part of the overall proposed development of the West Lot, both of which were part of the original Hey's Parcel, which was a 30 +/- parcel until it was subdivided into four lots, three of which enjoy permanent access across the West Lot to Canandaigua Lake for, among other things, pedestrian, vehicles and parking.
2. The permanent easement along the "gravel drive" will impact each of the proposed lots in the Major Subdivision of the West Lot.
3. The "gravel drive" is a significant and important component of the proposed Major Subdivision of the West Lot.
4. Segmentation is allowed if the segmented review is no less protective of the environment.
5. The Planning Board will be reviewing the environmental impacts associated with the development of the "gravel drive" as part of the Major Subdivision, including, but not limited to, the impacts associated with the proposed new four lots, as well as the environmental impacts associated with Lots A, B and C's use of the "gravel drive" for access to the Lake and parking on such "gravel drive".
6. Therefore, the Planning Board has determined that, under the circumstances presented herein, segmenting the review of the construction of a single family residence on Lot A from the development of the pending application for the Major Subdivision of the West Lot is appropriate under the circumstances, and is no less protective of the environment.
7. The environmental impacts to the West Lot caused by the easement granted to Lots A, B and C will be part of the environmental review of the Major Subdivision application for the West Lot.
8. The proposed development of Lot A shall be a Type II action based upon the review by the Planning Board, as well as the representations made by the Applicant, including, but not limited to, that the construction will happen in the immediate future based upon weather conditions.
9. Should the construction of the single family residence on Lot A not occur by Fall 2015, the Planning Board shall be obligated to reassess whether the development of Lot A has been improperly segmented from the Major Subdivision.

After discussion, the following roll call vote was recorded:

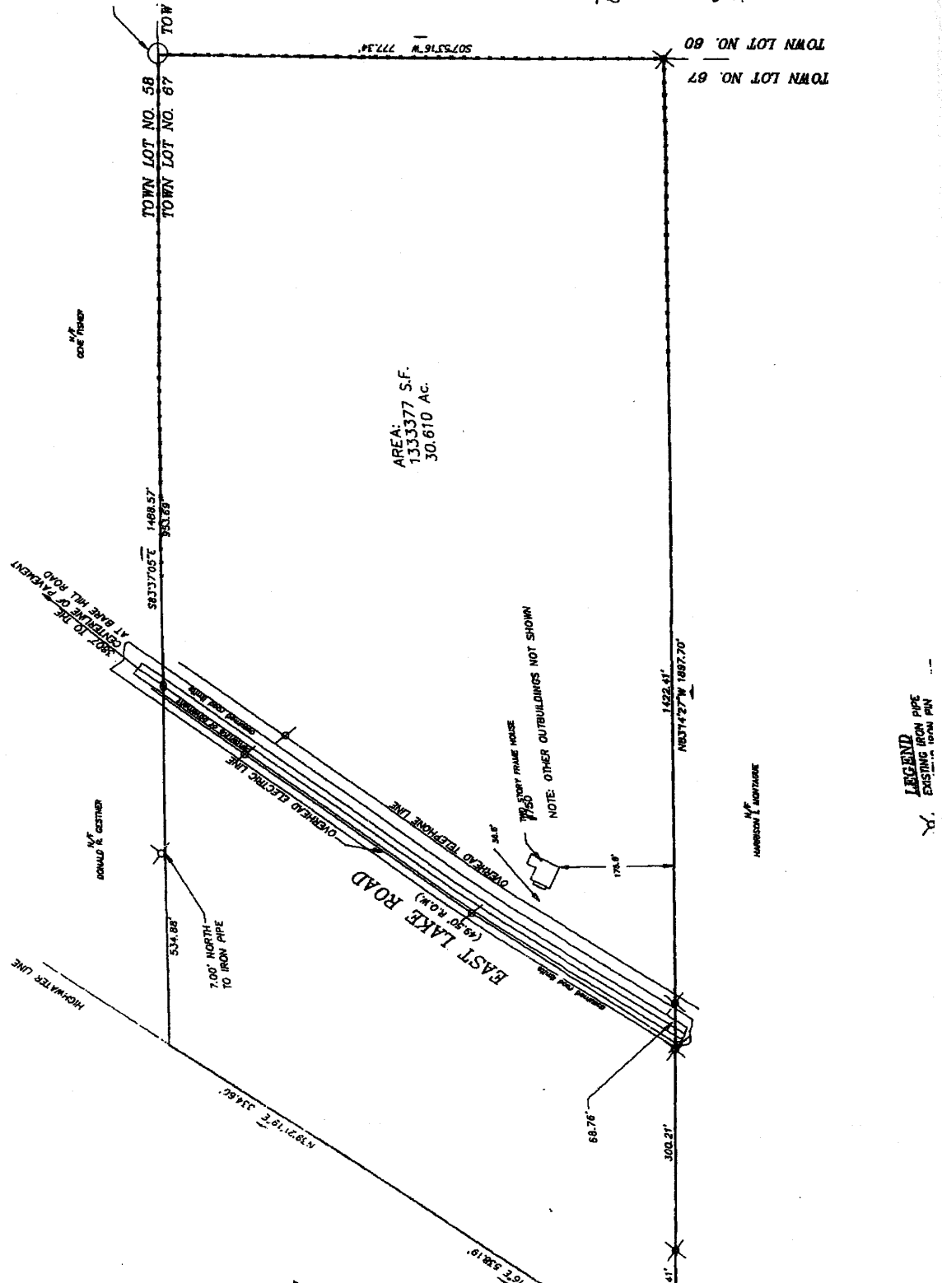
Martin DeVinney, Chair	<u>aye</u>
John Gilbert, Member	<u>aye</u>
Lynn Lersch, Member	<u>aye</u>
Robert Mincer, Member	<u>aye</u>
Bruce St. Lawrence, Member	<u>absent</u>

I, Lynn Lersch, Clerk of the Planning Board, do hereby attest to the accuracy of the above Resolution being acted upon and recorded in the minutes of the Town of Middlesex Planning Board for the January 22, 2015 meeting.

Lynn Lersch L.S. Date: January 22, 2015
Lynn B. Lersch, Clerk of the Board X Filed with the Town Clerk on 1/28/15

Exhibit A

Hey Parcel Survey Map



LEGEND
EXISTING IRON PIPE
EXISTING TOWN PIN

Exhibit B

Hey Parcel Easements
And Easement Survey Map 2003

SCHEDULE "A"

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Middlesex, County of Yates, State of New York, bounded and described as follows:

BEGINNING at a point in the centerline of East Lake Road 300 feet southerly from the intersection of said centerline with the north line of Town Lot No. 67; thence S 86° 43' 32" E - 330.00 feet and S 82° 38' 45" E - 793.94 feet along other lands now or formerly of Hey to a point; thence, S 07° 53' 16" W along lands reputedly Caulkins 138.67 feet to a point; thence, S 85° 35' 38" W - 787.85 feet, N 86° 43' 32" W - 150.00 feet and N 54° 41' 12" W - 331.15 feet to a point in the centerline of East Lake Road; thence, N 42° 17' 05" E along said centerline 160.00 feet to the point of beginning, comprising an area of 6.209 acres and designated as Lot "B" according to a survey by C. Newton Gowdy, L.S. dated July 1, 2003, and including an easement for ingress and egress to and from Canandaigua Lake, said easement being more particularly described on Schedule B attached hereto, and also including an easement over and across a gravel drive and parking area, which said easement is more particularly described on Schedule "C" attached hereto. Said easements are also shown on the same map of C. Newton Gowdy, L.S. dated July 1, 2003, which map has heretofore been filed in the Office of the Yates County Clerk as Map No. 03-163.

SCHEDULE "B" (Easement)

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Middlesex, County of Yates, state of New York, bounded and described as follows:

BEGINNING at a point in the centerline of East Lake Road 370.00 feet southerly from the intersection of said centerline with the north line of Town Lot No. 67; thence S 42° 17' 50" W along the centerline of east Lake Road 100.00 feet to a point; thence, N 37° 01' 42" W - 190.55 feet and N 70° 43' 53" W - 255.01 feet to a point to a high water mark of Canandaigua Lake; thence, N 39° 21' 19" E along the high water mark of Canandaigua Lake 101.00 feet to a point; thence, S 72° 43' 24" E - 234.54 feet and S 38° 16' 59" E - 217.52 feet to the point of beginning, comprising an area of 1.004 acres.

SCHEDULE "C" (Driveway)

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Middlesex, County of Yates, State of New York, bounded and described as follows:

BEGINNING at a point in the centerline of East Lake Road 470.00 feet southerly from the intersection of said centerline with the north line of Town Lot No. 67; thence S 42° 17' 05" W along the centerline of East Lake Road 57.13 feet to a point; thence S 59° 29' 18" W - 94.25 feet, S 45° 53' 57" W - 98.65 feet, S 56° 43' 17" W - 58.68 feet, S 61° 08' 20" W - 67.28 feet, S 68° 24' 11" W - 113.97 feet, N 89° 33' 30" W - 72.77 feet, N 08° 19' 40" E - 65.26 feet, N 33° 11' 22" E - 114.57 feet, N 44° 40' 28" E - 178.12 feet, N 49° 21' 00" E - 75.36 feet, N 44° 23' 11" E - 123.49 feet, S 70° 43' 53" E - 22.75 feet, S 37° 01' 42" E - 29.74 feet, S 44° 23' 11" W - 130.88 feet, S 49° 21' 00" W - 75.48 feet, S 44° 40' 28" W - 171.05 feet, S 33° 11' 22" W - 97.43 feet, N 68° 24' 11" E - 106.96 feet, N 59° 07' 37" E - 114.11 feet, N 45° 53' 57" E - 99.87 feet, N 59° 29' 18" E - 92.64 feet, N 42° 17' 05" E - 59.00 feet and S 37° 01' 42" E - 50.88 feet to the point of beginning, comprising an area of 1.192 acres.

EXCEPTING AND RESERVING all right or title that the Town of Middlesex and/or the County of Yates may have across lands referred to as East Lake Road.

SUBJECT to all rights of way, restrictions and easements of record.

GRANTEE is to share with the remaining lots, the cost of maintenance and repair of the gravel drive and easement area shown on said map, including the improvements thereon. The owner of each of said remaining lots and their respective Successors and Assigns, shall each be obligated for an equal share of the said costs of said maintenance and repairs.

CANANDAIGUA LAKE

