

At a meeting of the Planning Board of the Town of Middlesex, held at the Town Hall in said Town, County of Yates, State of New York on the 4<sup>th</sup> day of May, 2016, at 7:00 p.m., there were

PRESENT: Martin DeVinney, Chairperson  
Bruce St. Lawrence  
Lynn Lersch  
John Gilbert  
Robert Mincer

ABSENT:

John Gilbert presented the following "Resolution" which was seconded by  
Robert Mincer

**RESOLUTION OF THE TOWN OF MIDDLESEX PLANNING BOARD  
ISSUING ITS DECISION FOR THE KOMAREK MAJOR SUBDIVISION  
PRELIMINARY PLAT**

**WHEREAS**, the Town of Middlesex Planning Board ("Planning Board") has received an application from Andrew Komarek ("Applicant") for a 4-lot major subdivision of Tax I.D. No. 2.03-1-2.1, a property with steep slopes located within the Lake Residential ("LR") District ("Project"). The Project involves the creation of four (4) lots for single family residences, along with the construction of a private road to access each of the residences. The Project requires major subdivision approval, as well as site plan review, and a special use permit from the Zoning Board of Appeals ("ZBA") for the construction of the private road in the LR District;

**WHEREAS**, the Planning Board issued its Findings pursuant to State Environmental Quality Review Act ("SEQRA");

**WHEREAS**, the Planning Board desires to make its decision on the pending Preliminary Plat; and

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE  
PLANNING BOARD:**

1. The Planning Board has reviewed the Project details set forth in the Preliminary Plat dated September 2, 2015, along with the related design drawings dated August 1, 2012, as revised May 7, 2015;
2. The Planning Board reviewed the Project in comparison with the design requirements set forth in the Town of Middlesex Land Subdivision Regulations ("Subdivision Law");
3. The Planning Board hereby determines that the Project fails to comply with the following design details, among others, that are set forth in the Subdivision Law and the Middlesex Zoning Code:

- a. The Private Road shows a slope greater than 10%
  - b. The Private Road shows a grade greater than 3% within fifty (50) feet of the intersection with East Lake Road
  - c. The Private Road exceeds four hundred (400) feet in length
  - d. The Private Road does not provide for a code-compliant vehicle turn-around
  - e. The Private Road is less than fifteen (15) feet wide
  - f. The right of way for the Private Road is less than fifty (50) feet wide
  - g. The Project shows structures, including house envelopes and retaining walls, within easements areas and the right of way for the Private Road
4. The Planning Board hereby determines that extraordinary or unnecessary hardship will not result from strict compliance with some, if not all, of the design details set forth in the Subdivision Law.
  5. The Planning Board hereby determines that substantial justice will not be done if it allowed all variances from the Subdivision Law that would be required for the Project.
  6. The Planning Board hereby determines that the public interest would not be secured if all variances from the Subdivision Law design details were allowed for the Project.
  7. The Planning Board hereby determines that issuing all of the variances from the Subdivision Law that would be required for the Project would not only effect, but essentially nullify, the intent and purpose of the Official Map, Master Plan and Zoning Law.
  8. The Planning Board hereby determines that there are no special circumstances associated with this property that justify the issuance of all of the variances from the Subdivision Law that would be required for the Project.
  9. The Planning Board hereby determines that the requirements in the Subdivision Law, among other laws enacted in the Town of Middlesex, were specifically enacted to protect the public health, safety and general welfare from the environmental impacts associated with development on steep slopes, and the Project fails to comply with many of those requirements.
  10. For the reasons set forth in the SEQRA Findings, as well as the determinations set forth herein, the Preliminary Plat for the Project is hereby denied.
  11. Given the denial of the Preliminary Plat, it is not necessary for the Planning Board to provide a recommendation to the Zoning Board of Appeals for the Special Use Application for the Private Road. It should be noted, however, that the Planning Board hereby determines that the Private Road proposed for the Project will not result in the least negative impact on the environment when considering all development alternatives.
  12. This Resolution shall take effect immediately.

**THE FOREGOING RESOLUTION**, was put to vote as follows:

**Name**

Martin DeVinney, Chairperson

Bruce St. Lawrence

Lynn Lersch

John Gilbert

Robert Mincer

**Vote**

aye

aye

aye

aye

aye

I, the undersigned Clerk of the Town of Middlesex Planning Board **DOES HEREBY CERTIFY:**

That I have compared the foregoing copy of minutes of the meeting of the members of the Town of Middlesex Planning Board (the "Planning Board"), including the "Resolution" contained therein, held on May 4, 2016 with the original hereof on file in my office, and that the same is a true and correct copy of said original and of the whole of said original so far as the same relates to the subject matters therein referred to.

**I FURTHER CERTIFY** that (i) all members of the Planning Board had due notice of said meeting, (ii) said meeting was in all respects duly held, (iii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and public notice of the time and place of said meeting was given in accordance with said Section 104 and (iv) there was a quorum of the members of the Planning Board present throughout said meeting.


**I FURTHER CERTIFY** that as of the date hereof the attached "Resolution" is in full force and effect and has not been amended, repealed or rescinded.


**IN WITNESS WHEREOF**, I have hereunto set my hand as Planning Board Clerk of the Town of Middlesex Planning Board this 4 day of May, 2016.

**TOWN OF MIDDLESEX  
PLANNING BOARD**

  
\_\_\_\_\_  
Lynn Lersch, Planning Board Clerk

**RECEIVED**  
MAY 05 2016

BY:   
Brenda Vowles

  
Brenda Vowles  
Town of Middlesex  
Town Clerk  
May 5th, 2016  
7:09 AM