

March 12, 2014

Town of Middlesex Planning Board  
1216 Route 245  
PO Box 147  
Middlesex, NY 14507

**RE: KOMAREK SUBDIVISION  
SEQR DRAFT SCOPING DOCUMENT  
MRB GROUP PROJECT No. 3736.09001**

Dear Planning Board Members:

At your request enclosed is a draft project scope regarding the above referenced project for your review. The Planning Board's April 3, 2013 SEQR determination, was based on plans prepared by our office dated July 29, 2009, with a last revision date of August 1, 2012. The documents were reviewed by the Town Engineer, Lu Engineers, and determined preliminary complete to allow the Planning board to complete their review and make a SEQR determination.

➤ **Scoping Intent**

Scoping is the process of developing a written document that outlines the topics and analyses of potential environmental impacts for an action which will be addressed in a draft environmental impact statement (DEIS). The Lead Agency, in this case the Town of Middlesex Planning Board, will direct the scoping process and is responsible for assisting with the final scoping document. The purpose of scoping is to clarify the issues at hand to create a DEIS that will be accurate, complete, and available for public review.

➤ **SEQR Determination Meeting**

During the April 3, 2013 Planning Board meeting, Ms. Wendy Marsh, acting as the Consulting Attorney on behalf of the Town Planning Board, reviewed with the Board the SEQR Full Environmental Assessment Form Part 2 – "Project Impacts and their Magnitude" as it relates to the subject project. All 20 questions within Part 2 were discussed by Ms. Marsh and the Board with responses to those impacts, deemed relevant were incorporated into the SEQR determination.

A positive declaration was issued by the Planning Board at the April 3, 2013 meeting. The Middlesex Planning Board determined that the proposed action may have a significant impact on the environment and that a Draft Environmental Impact Statement will be required.

## Draft Scoping List

Below is a draft project scoping list which includes draft discussion points, sources of information, and possible mitigation measures that will be reviewed and expanded upon in the Draft Environmental Impact Statement (DEIS). The comments listed below reference the Planning Boards reasons supporting their positive determination for potential large impacts.

### **A. Impact on Land**

#### **1. Will the proposed action result in a physical change to the project site?**

- **The proposed action will result in construction on slopes of 15% or greater, with some slopes being greater than 40% on the property; the property also contains bedrock that is exposed or generally within three (3) feet of the existing ground surface.**

**Discussion points to be reviewed in more detail for DEIS:** The proposed site development will have an impact on the land, however, mitigation measures are proposed to minimize these impacts. Through the review process with the Town, over the last few years, the layout has been designed to limit the site impacts. Informally the applicant met with the Planning Board in 2006 to discuss a six (6) lot subdivision. Plans were prepared depicting the proposed layout with four (4) lots initially being constructed and two (2) future home locations. In response to the planning board's comments, the proposed layout was revised to four (4) lots in 2009.

Additional mitigation measures have also included using the existing site features such as the driveway. Its reuse in serving the development will minimize the grading and clearing associated with its reconstruction. Also, through the design process, the maximum size of the proposed homes has been reduced to three bedrooms, thereby reducing both the lot coverage and the area necessary for construction of the leachfields. Overall lot coverage is significantly less than the permitted maximum coverage and the project maintains a significant buffer from Canandaigua Lake limiting the impact to the existing slopes.

Erosion control measures and a construction sequence developed for the contractor are also proposed to mitigate the construction impacts.

Construction in the area on similar slopes is not uncommon or unique for this area. Additional examples to be provided as well as a general discussion on steep slopes.

- **The project is to be located on a parcel that has 47% of soil type designated as Steep Broken Land (SI), with 35 to 60% slopes. The other major soil type on the parcel is Lordstown and Manlius soils (Lv), with 25 to 45% slopes, and Lansing and Danley silt loams (Lf), with 15 to 25% slopes. There is also a very small amount of Cayuga silt loam (Crn) located on the parcel. A map showing the soil types was prepared for the Town. The USDA Soil Conservation Service has evaluated the soil type for Building Site Development purposes and determined that SI, which encompasses the majority of the parcel, including the location of the houses, to be too unsuitable to rate for building development due to the slope and very high erodibility. The other soils that comprise the parcel all received the most unsuitable rating of "severe" limitations due to steep slopes and very high erodibility.**

**Discussion points to be reviewed in more detail for DEIS:** The project site is located in the soils as described above. Additional mapping will be provided to show adjacent parcels, neighbors, and recently approved applications that the Planning Board has approved with the exact same soil types or similar soils with the same characteristics. Site development has occur in these soils and shown to be stable.

In November 2013 Foundation Design P.C., a local geotechnical soils engineering firm who is familiar with the site and has worked on similar projects in the area, visited the site again to address the Planning Board's question. A formal letter was prepared and copy to be provided.

In Foundation Design's opinion the "in-place shale and soil are reasonably stable for support of the proposed house and roadway." "Structures supported on the shale will be stable and have a reasonable bearing capacity for load support." They also indicated that the shale "would be stable in a near vertical configuration". No new near vertical slopes are proposed for the project. MRB Group agrees with Foundation Design's findings.

- **The project is proposed to be constructed in stages that could exacerbate the potential environmental concerns due to the fact that there will be multiple rounds of construction that could cause erosion, siltation into Canandaigua Lake, and the like, through the construction activities.**

As a means to protect the environment, assure site stabilization, reduce any impacts from construction, NYSDEC has requested that each lot be fully stabilized prior to additional lot construction. This process will extend the construction season and total time for the subdivision full build out. It is intended to add additional environmental protection for Canandaigua Lake not exacerbate potential environmental concerns. The site disturbance for each lot is less than 1 acre. Construction will continue for more than one year but activity will be

intermittent based on the sale of each lot and time for completion of site construction.

**2. Will there be an effect to any unique or unusual land forms found on the site? (i.e., cliffs, dunes, geological formations, etc.)**

- **The project may affect unique or unusual land forms in that the steep slopes on the property contains cliffs that will be disturbed through the construction of the Project.**

**Discussion points to be reviewed in more detail for DEIS:** In regard to the existing "cliffs" we assume the Planning Board is referring to the area adjacent to Canandaigua Lake that extends eastward approximately 70 feet horizontally and approximately 95 feet vertically.

The only construction within 40 to 60 feet of the "cliff" area are future trams which have a limited foot print for site impacts. The proposed trams are shown as future development opportunities for the proposed residents. Construction would require obtaining a separate permit from the Town of Middlesex. The Town of Middlesex currently has a Tram permit process that allows the construction of trams.

The proposed house pad locations have specifically been shown as far away from the "cliff" area as possible. These locations have been reviewed with the Planning Board, Yates County Soil & Conservation, and Canandaigua Lake Watershed Inspector on several occasions. The proposed location have been moved further back away from the "Cliff" area. The Health Department requirement for placement of the septic systems has also dictated the location of the proposed homes.

We look forward to working with the Planning Board in perhaps reducing the proposed building envelope to improve site mitigation now that plans for construction on Lot 2 have been developed.

**B. Impact on Water**

**5. Will the proposed action affect surface or groundwater quality or quantity?**

- **The Project may have potential impacts to water quantity and quality through impacts to the groundwater resources, including, but not limited to siltation or other discharges into Canandaigua Lake caused by the construction of the Project.**

**Discussion points to be reviewed in more detail for DEIS:** Siltation from the project site is proposed to be mitigated through our preparation of an erosion and sediment control plan and construction sequence which has been reviewed by

the Town of Middlesex Engineer and NYSDEC. No additional measures have been request by the Town Engineer or NYSDEC. We look forward to working with the Town and NYSDEC to add any additional measures they feel are needed to mitigate a potential impact. In accordance with NYSDEC, each house site will require construction and final stabilization prior to proceeding with additional site construction. Weekly stormwater inspections by a qualified inspector will also be performed during the project construction.

- **The project involves the construction of residential homes in an area without water and/or sewer services.**

**Discussion points to be reviewed in more detail for DEIS:** Both water and sewer services are proposed for the development similar to other developments that have been recently approved or exist along East Lake Road. Examples to be provided which include but are not limited to the Highlands project.

A septic system design has been prepared for each of the proposed lots and approved by the New York State Health Department. Locations for well water to service each lot has also been approved by the New York State Health Department.

The existing parcel does not have a well but adjacent properties with similar soil and bedrock geology have installed wells with sufficient capacity.

In June 2011 we met on-site with Richard Moravec of Moravec Water Wells. Richard's firm has been in business for over 80 years and is a certified NYSDEC well installer. Based on our discussions and review of the project, it was determined that the proposed well layout was feasible. We asked the Town of Middlesex if a test well could be constructed to verify the existing capacity and quality of the site. The Town indicated that well drilling could cause erosion and would not be permitted until final site plans had been approved.

**6. Will the proposed action alter drainage flow or patterns, or surface water runoff?**

- **The project will alter drainage flow and patterns, as well as surface water runoff, as it will increase the impervious area on property that contains steep slopes, which may cause substantial erosion, increased stormwater runoff, flooding and other drainage problems.**

**Discussion points to be reviewed in more detail for DEIS:** Mitigation of this impact is demonstrated through the drainage calculations submitted to the Town Engineer and NYSDEC. Calculations show the proposed project should not result in an increase in peak stormwater runoff. The proposed development should actually improve water quality by improving site vegetation cover and adding

additional residents to care for and maintain the property. Copy of drainage calculations to be provided.

- **The project may have potential impacts to vegetation and wildlife through the removal of existing vegetation as part of the construction activities of the Project, which will impact the erosion and water drainage on the property with the steep slopes.**

**Discussion points to be reviewed in more detail for DEIS:** A review of the quality of existing vegetation to be completed by an environmental specialist and geotechnical soils engineer. Their findings will be provided to the Town of Middlesex for review.

In regard to wildlife. The Boards indicated in the April 3, 2013 determination that the project will not cause substantial interference with the movement of any resident or migratory fish or wildlife species, impact a significant habitat area, substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species, or other significant adverse impacts to natural resources;

Discussions will also focus on mitigation measures proposed for erosion control and project scope noted previously.

## **C. Impact on Aesthetic Resources**

### **11. Will the proposed action affect aesthetic resources?**

- **The project could impact aesthetic resources.**

**Discussion points to be reviewed in more detail for DEIS:** The Planning Board has indicated that this as a small to moderate impact. This item could be removed from the scoping list if the Planning Board would like.

The project site is private property with no more significant aesthetic resource than the adjacent parcels along East Lake Road. No special provisions or aesthetic advantages can be seen from this property. The proposed development should allow for additional use and enjoyment of the property. The term aesthetic resource is subjective.

**D. Impact on Public Health****18. Will the proposed action affect public health and safety?**

- **The project may impact public health and safety, as the Project must be designed to allow access by fire apparatus and emergency vehicles to the residences, which may not be feasible in light of the steep slopes on the property.**

**Discussion points to be reviewed in more detail for DEIS:** Mitigation of this impact is demonstrated on the previously submitted plans showing that emergency vehicles can access the site with sufficient room. To date the Town Engineer has not indicated that the proposed layout is deficient in addressing emergency vehicle access. The proposed emergency access vehicle used in the design appears to be larger than vehicles owned by the Fire Department based on our review of their website data in 2009. This indicates that the proposed design is sufficient. Attempts were made to contact the fire department for a formal review and determine if additional measures could be proposed to improve the layout. A letter was issued by the fire department requesting that we work directly with the planning board in regard to these issues which we have complied to date.

On occasion the Planning Board has indicated that the maximum permitted driveway slope is 10%. In accordance with the Town Attorney, Alaine Espenschied, Section 5.1 (f) of the Town of Middlesex Code indicates the maximum permitted driveway slope is 18.4%. A copy of her correspondence is attached with this document.

Additional data to be provided on existing driveway slopes and roadway slopes in the Town of Middlesex that exceed 10%. A review of recently approved plans by the Town of Middlesex Planning Board with a shared driveway slope of 18.4% and a single family home with 15%.

It is our understanding that the Planning Board supports the shared driveway provided the applicant demonstrates that emergency access has been accommodated. We look forward to trying to address the concerns of the Town of Middlesex Planning Board or better demonstrate how they have already been mitigated.

**E. Impact Growth and Character of the Community or Neighborhood**

**19. Will the proposed action affect the character of the existing community?**

- **The project may have an impact on the growth or character of the community or neighborhood and impact, as it may create a material conflict with a community's current plans or goals as officially approved or adopted.**

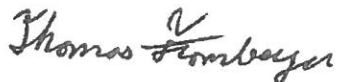
**Discussion points to be reviewed in more detail for DEIS:** The property is lake residential with residential proposed for the site. We have been working with the Planning Board and Town Engineer to develop a very detailed, complete, and thorough set of plans. The proposed development is in keeping with the surrounding properties.

We are not aware of any documented public opposition against the proposed project or controversy raised by the public since it has been presented in similar format since 2009.

Based on the current review process, significant growth in the Town is not anticipated or encouraged. We are not aware of a Town Comprehensive Plan, but look forward to the opportunity to review one if it is available.

Attached are 12 copies of the draft scoping document for your review. If you have any questions or need additional information and copies, please let me know. As indicated at the March 5, 2014 Planning Board meeting, we are requesting to be placed on the April 2, 2014 Planning Board schedule for review.

Respectfully Submitted,



Thomas J. Fromberger, P.E.  
Site Development Manager  
MRB Group