

Town of Amenia Planning Board

State Environmental Quality Review  
**NEGATIVE DECLARATION**  
Notice of Determination of Non-Significance

Date: July 24, 2019

This notice is issued pursuant to the State Environmental Quality Review Act, Article 8 of the NYS Environmental Conservation Law and its implementing regulations at Part 617 of the New York State Code of Rules and Regulations (collectively referred to as "SEQRA").

The Town of Amenia Planning Board (the "Planning Board") has determined that the proposed action described below will not have a significant adverse environmental impact and a draft Environmental Impact Statement will not be prepared.

**Name of Action:** IWF, LLC -Minor Two-Lot Subdivision

**SEQR Status:** Unlisted Action

**Description of Action:**

IWF, LLC (the "Applicant") proposes a minor subdivision of an existing 67.35-acre parcel it owns (Tax Map ID No. 7064-00-519481-00) into two lots: Lot 1 on the east side of Route 22 that will consist of 15.36 acres of land and Lot 2, consisting of 51.99 acres of the remaining land on the west side of Route 22 (the "Minor Subdivision"). The lots are naturally existing now as separate parcels because they are located on the west and east sides of NYS Route 22. The area of Lot 1 is currently vacant land. The area of Lot 2 contains a number of existing buildings used in agricultural operations. The proposed two-lot subdivision will formally separate the lots for administrative purposes so they could be sold or transferred separately, if and when desired by the Applicant. The minor subdivision does not authorize any physical changes to either lot.

This Negative Declaration applies to the minor subdivision only, except to the extent it discusses permissively segmented review of a separate application related to Lot 1. With respect to the minor subdivision, the Applicant has entered into purchase and sale contract for proposed Lot 1. Lot 1 contains vacant land. The prospective purchaser of Lot 1, Richard Savarese, intends to construct a small-scale service business on the lot (the "Savarese Project"). The Applicant will continue to own Lot 2, comprised of the residual area of the present tax lot which will continue to be used for existing agricultural operations. The Savarese Project is still in preliminary stages but is proposed as a small-scale service business for a septic business. The Savarese Project and the minor subdivision are related only to the extent that the Applicant must subdivide its existing lot to create a sellable lot to Mr. Savarese. However, it should be noted that even without the minor subdivision, the Applicant could still lease the area of Lot 1 for the Savarese Project or some other use, if desired.

**Location:** 3565 Route 22, Town of Amenia, Dutchess County, New York

## **Reasons Supporting Independent, Permissively Segmented Consideration of the Minor Subdivision:**

The Applicant has proposed a minor subdivision for two lots and desires to sell one of the lots created by the subdivision—Lot 1—to Mr. Savarese who intends to construct a small-scale service business on it. The minor subdivision does not authorize any physical changes to either lot. The Planning Board has determined that under the circumstances, the minor subdivision should be separately reviewed under SEQRA from the Savarese Project.

The SEQRA regulations provide that “considering only a part or segment of an action is contrary to the intent of SEQRA. If a lead agency believes that circumstances warrant a segmented review, it must clearly state in its determination of significance ... the supporting reasons and must demonstrate that such review is clearly no less protective of the environment. Related actions should be identified and discussed to the fullest extent possible.” 6 NYCRR 617.3(g)(1).

To help evaluate whether permissive segmentation is appropriate for this matter, the Planning Board has discussed and considered, as a guide, the eight factors involving segmentation from the NYSDEC *SEQR Handbook* at page 55 as follows:

1. *Purpose: Is there a common purpose or goal for each segment?* The goal of the minor subdivision application is to create two separate lots which could be sold or transferred separately to a third party. The purpose of the application for the Savarese Project is to obtain local permits and approvals to allow for the development of small-scale service business on Lot 1. Thus, while the immediate purpose of the minor subdivision is to enable the sale of Lot 1 to Savarese, it is not identical to the Savarese Project's ability to develop Lot 1.
2. *Time: Is there a common reason for each segment being completed at or about the same time?* The common reason for each segment being completed at or about the same time is that the Applicant desires to sell Lot 1 to Mr. Savarese to use for whatever purpose Mr. Savarese desires, now or in the future. Thus, the timeline for the minor subdivision is more immediate. However, the Savarese Project is anticipated to involve a much longer and detailed environmental and zoning review by the Planning Board under SEQRA and the Town Code. Thus, the actions are expected to be completed, if at all, at different times.
3. *Location: Is there a common geographic location involved?* The two applications involve a common geographic location because Lot 1 is part of both applications. However, the minor subdivision's primary purpose—to create Lots 1 and 2—also involves Lot 2 which is not part of the proposed Savarese Project and is wholly unrelated to it. Common location alone does not require common review of related actions.
4. *Impacts: Do any of the activities being considered for segmentation share a common impact that may, if the activities are reviewed as one project, result in a potentially significant adverse impact even if the impacts of single activities are not necessarily significant by themselves?* The minor subdivision will not generate significant common impacts which might go undetected and unreviewed if considered separately

from the Savarese Project. The minor subdivision does not authorize any physical changes to Lot 1 or Lot 2 and, therefore, no impacts will be created. The creation of Lot 2 will not change the current agricultural use or impacts at that location. Indeed, if no subdivision were involved, the Applicant could still lease his land to Mr. Savarese for his project. All potential environmental impacts are related to the Savarese Project, the plans for which are still being developed, and thus will be more appropriately analyzed in connection with an independent SEQRA review by the Planning Board when the details become know. The Savarese Project will undergo a thorough and separate environmental review by the Planning Board to ensure that potential environmental impacts do not escape proper review.

5. *Ownership: Are the different segments under the same or common ownership or control?* The Applicant presently owns the property involved in both applications, but only Lot 1 is under contract. Lot 2 will remain owned by the Applicant and continue to be used as existing agricultural operations.
6. *Common Plan: Is a given segment a component of an identified overall plan? Will the initial phase direct the development of subsequent phases or will it preclude or limit consideration of alternatives in subsequent phases?* Lot 1 of the minor subdivision is proposed for future development as part of the Savarese Project, if approved by the Planning Board. Lot 2 is not part of the Savarese Project. Even if the minor subdivision could be considered an initial phase of the Savarese Project, such that it will enable Mr. Savarese to purchase the land, it will not direct the development of that project or limit consideration of alternatives for that project. Any such alternatives would be fully evaluated by the Planning Board as part of its review of the Savarese Project.
7. *Utility: Can any of the interrelated phases of various projects be considered functionally dependent on each other?* The minor subdivision is functionally independent of the Savarese Project. Either could occur independently, subject to appropriate review by the Planning Board.
8. *Inducement: Does the approval of one phase or segment commit the agency to approve other phases?* The approval of the minor subdivision does not commit the Planning Board to approve the Savarese Project. The Savarese Project requires a special use permit and site plan approval from the Planning Board under the Town's Zoning Code. The legal standards to issue these approvals are different than the standards to approve the minor two-lot subdivision. At this time, it is unknown if the Savarese Project can meet these legal standards for issuance of the special use permit or site plan approval. If these standards are not met, the Savarase Project could be denied.

Overall, common ownership, location, and closeness in time of the applications may weigh against permissive segmentation. However, the fact that the minor subdivision does not create any environmental impacts, that the Savarese Project will undergo its own thorough environmental review under SEQRA, that the two applications have different purposes, are

functionally independent, will not induce each other and have different owners -- all indicate that permissive segmentation would be appropriate under the circumstances. Based on the foregoing, the Planning Board has determined it appropriate and warranted under the circumstances to conduct a permissive segmented review of both applications in accordance with SEQRA, discussing the related Savarese Project to the fullest extent possible, for the following reasons:

1. *Functionally Independent:* As the *SEQR Handbook* states at page 56, segmented review is permitted when future phases of a project are functionally independent of a current phase. Such is the case here, where the minor subdivision involves the separation of the existing lot into two lots, primarily so that one of those lots, Lot 1, can be sold through an existing contract to an individual owner, who will not own or operate the remaining Lot 2. Lot 2 will continue to be owned by the Applicant and maintain its existing agricultural uses. The Savarese Project may result in the construction of a small-scale service business on Lot 1, which is distinct from the minor subdivision. Review and potential approval of the minor subdivision does not commit the Planning Board to take any particular action, render any particular approval or course of review for the Savarese Project.

2. *Uncertainty:* The Savarese Project is preliminary and not certain to occur. While Mr. Savarese has submitted an application and proposed plans for development on Lot 1, additional information regarding potential environmental and other land-use impacts was requested by the Planning Board to properly evaluate it. This additional information has not been submitted yet. Moreover, a neighboring property owner has filed an appeal with the Town's Zoning Board of Appeals (ZBA) challenging the determination of the Town's Code Enforcement Officer that the Savarese Project is a permitted use on the area of Lot 1. It is unknown how the ZBA will rule on this appeal. As result, the Savarese Project should be considered uncertain at this time. By contrast, the proposal for the minor subdivision is certain, fully formed and complete and is required by the Applicant to create sellable or transferrable lots. Whether or not the Savarese Application is eventually approved by the ZBA or the Planning Board, the minor subdivision will enable the Applicant to have two separate lots and will not commit the Planning Board to future action or approval of the Savarese Project or any other project on those lots.

3. *Segmented Review No Less Protective of the Environment:* The segmented review of the applications will be no less protective of the environment than a combined review. The minor subdivision will enable creation of two separate lots. The creation of Lot 2 will not change its use or intensity of activities, and is akin to a simple lot line change, which is considered a Type II action. The creation of Lot 1 is expected to eventually result in development of that land as proposed by the Savarese Project and may cause other potential impacts on the site. Because the Savarese Project is still in the preliminary phases, full review of any potential impacts will be more appropriate during review of that proposal, which will require the Planning Board's "hard look" at all potential impacts under SEQRA. Reviewing the Savarese Project potential impacts at the time when such plans are more reasonably certain will be no less protective of the environment—and indeed, likely more protective—than attempting premature review of both applications at this point.

**Reasons Supporting This Determination of Non-Significance:**

The Planning Board has carefully considered whether the minor subdivision Project would create a potentially significant adverse impact on the environment. For the reasons set forth below, a SEQRA Negative Declaration is appropriate and an environmental impact statement will not be prepared.

1. The Planning Board has given due consideration to the subject action as defined in 6 NYCRR 617.2(b)(1) and 617.3(g).

2. The Planning Board has given due consideration to the written comments from the Town Engineer and Town's consultants provided to the Board.

3. The Planning Board has completed Parts 1 and 2 of the Short Environmental Assessment Form, and has concluded that environmental effects of the proposed action will not exceed any of the criteria for Determining Significance found in 6 NYCRR 617.7(c), as more fully described below:

- a. No substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; no substantial increase in solid waste production; and no substantial increase in potential for erosion, flooding, leaching or drainage problems will result from the Project. The creation of two lots, by itself, will not generate off-premises noise, waste, lights, glare or any other intrusive condition. The minor subdivision does not authorize any physical changes to either Lot 1 or Lot 2 and will not create any environmental impacts.

The minor subdivision entails a two-lot subdivision of an existing lot on Route 22. Lot 1 is vacant hayfields. Lot 2 is an existing agricultural facility that produces small haybales, houses livestock, and is used for storage of agricultural equipment. No change of use is proposed on Lot 2 at this time. The Project site is not located within the 100 year floodplain, as confirmed by the FEMA Flood Insurance Rate Map. No noise, waste, lights, glare or any other intrusive condition is expected from the creation of the two lots.

The minor subdivision will not result in any change to the stormwater patterns on site, and therefore no significant adverse impacts are expected. To the extent future development of Lot 1 will require alteration of stormwater patterns and other potential impacts, the plans required to evaluate such potential impacts are not yet reasonably certain, and thus will be fully and more appropriately evaluated in connection with review of specific proposed development.

- b. No removal or destruction of large quantities of vegetation or fauna; no substantial interference with the movement of any resident or migratory fish or wildlife species; no impacts on a significant habitat area; no substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; and no other significant adverse impacts to natural resources will result from the minor subdivision. There are presently no impacts proposed to wildlife habitat on the Property that will be disturbed by the minor subdivision. There is no unique ecosystem affected by the minor subdivision, and no trees or

other vegetation will be removed, except as may be required for development on Lot 1 which will be subject to separate environmental review under SEQRA. Any future potential impacts caused by anticipated development of Lot 1 in connection with the Savarese Project will be fully evaluated in connection with that application as proposed plans become reasonably certain.

- c. The Project will not create the impairment of the environmental characteristics of a Critical Environmental Area ("CEA") as designated pursuant to subdivision 6 NYCRR 617.14(g). There are no designated CEAs on or near the Project site.
- d. The minor subdivision will not create a material conflict with the community's current plans or goals as officially approved or adopted. Minor subdivisions are permitted subject to compliance with the procedure set forth in Section 105 of the Town's Subdivision Law. Any development of Lot 1 will be required to comply with the Town's Zoning Code and will be fully evaluated during the Planning Board's review of the appropriate land use applications.
- e. The minor subdivision will not create the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character.

The proposed minor subdivision does not propose any disturbances to Lots 1 or 2, and as a result, no impacts to archeological, aesthetic, historical or architectural resources are expected. The proposed development of Lot 1 in connection with the Savarese Project is expected to result in construction of a small-scale service business. However, Lot 1 is not located in an area identified as possessing significant archeological or historical resources, and thus no impacts to these resources are expected. Other impacts related to aesthetic resources and the existing community character will be evaluated in connection with that application as proposed plans become reasonably certain.

- f. The minor subdivision will not create a major change in the use of either the quantity or type of energy. Lot 2 is currently developed, and the agricultural use will remain the same. Lot 1 is currently vacant and any proposed development will be evaluated independently by the Planning Board.
- g. The minor subdivision will not create a hazard to human health. The use of structures on Lot 2 for agricultural purposes is in conformity with all setbacks and other density requirements and will continue with no additional impacts. Any potential water and septic impacts related to development of Lot 1 and the proposed Savarese Project will be fully evaluated in connection with that application as such plans become reasonably certain. As a result, the minor subdivision will not create any significant adverse impacts on public health.
- h. The minor subdivision will not create a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses. The minor subdivision proposes no change in

the use or intensity on Lots 1 or 2. Any potential increase in density from future development of Lot 1 and construction of the small-scale service business in connection with the Savarese Project will be fully evaluated in connection with that application as plans become reasonably certain.

- i. The minor subdivision will not encourage or attract a large number of people to the Town of Amenia, compared to the number of people who would come to such place absent its adoption because it entails the creation of just two lots.
- j. The minor subdivision will not create a material demand for other actions that would result in one of the above consequences.
- k. No cumulative adverse impacts on the environment will result from the minor subdivision. The minor subdivision will not induce growth in the Town or otherwise change the character of the Property. The creation of Lot 1 anticipates future development in connection with the Savarese Project; however, as set forth in more detail above, the minor subdivision has independent utility and does not practically determine review or approval of the Savarese Project, and therefore independent consideration of the minor subdivision is appropriate.

**For Further Information:**

Contact Person: Robert Boyles, Chairman  
Town of Amenia Planning Board  
Address: 4988 Route 22  
Amenia, New York 12501  
Telephone: 845-373-8860

**A Copy of this Notice Filed With:**  
Town of Amenia Planning Board

*Amenia Town Clerk*

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# TOWN OF AMENIA

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## TOWN OF AMENIA PLANNING BOARD

Resolution # 13 for 2019

### Adopting a Negative Declaration Under the State Environmental Quality Review Act ("SEQRA") for Minor Two-Lot Subdivision for IWF, LLC

July 24, 2019

**WHEREAS**, IWF, LLC is the owner of approximately 67.35 ± acres of land located at 3565 Route 22 in Amenia, New York (Tax Map ID No. 7064-00-519481-00) (the "Property"); and

**WHEREAS**, IWF, LLC (the "Applicant") desires to subdivide the Property into two lots: Lot 1 which is proposed on the east side of Route 22 and will consist of 15.36 acres of land and Lot 2, consisting of 51.99 acres of the remaining land on the west side of Route 22 (the "Project"); and

**WHEREAS**, the proposed Project is located in the Rural Agriculture (RA) and Office/Commercial/Industry Mixed Use (OC) Zoning Districts. Portions of the Project are also located in the Scenic Protection Overlay District (SPO) and the Priority/Primary Valley Bottom Aquifer district as set forth in the Town of Amenia Zoning Law (the "Zoning Law"); and

**WHEREAS**, pursuant to Chapter 105 of the Town of Amenia Town Code (the "Subdivision Law") the Applicant submitted an application to the Planning Board seeking approval of a minor subdivision plat for the Project; and

**WHEREAS**, the documents submitted by the Applicant as part of its application consisted of, among other things, (1) a Land Use Application; (2) a Short Environmental Assessment Form ("SEAF"); (3) a detailed subdivision map prepared by Bly and Houston Inc.; (4) an Agricultural Data Statement; (5) the requisite filing fee and escrow amount for the application; and (6) a variety of additional documentation (the "Application"); and

**WHEREAS**, after reviewing the Application materials and Part 1 of the SEAF, the Planning Board confirmed that the Project is an Unlisted action under SEQRA; and

**WHEREAS**, the Planning Board, with the assistance of its technical and legal consultants, engaged in a detailed review of the Application materials and completed Part 2 of the SEAF; and

**WHEREAS**, the SEQRA regulations provide that for an Unlisted action “the lead agency making a determination of significance must: (1) consider the action as defined in sections 617.2(b) and 617.3(g) of [SEQRA]; (2) review the EAF, the criteria [for determining significance contained in SEQRA] and any other supporting information to identify the relevant areas of environmental concern; (3) thoroughly analyze the identified relevant areas of environmental concern to determine if the action may have a significant adverse impact on the environment; and (4) set forth its determination of significance in a written form containing a reasoned elaboration and providing reference to any supporting documentation”; and

**WHEREAS**, the SEQRA regulations also provide that “[t]o determine whether a proposed ... Unlisted action may have a significant adverse impact on the environment, the impacts that may be reasonably expected to result from the proposed action must be compared against the criteria in [section 617.7(c)(1) of the SEQRA regulations]”; and

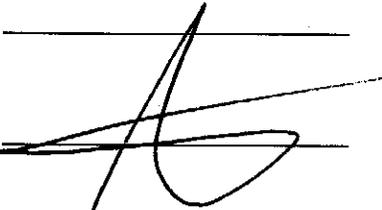
**WHEREAS**, after reviewing and completing Parts 1 and 2 of the SEAF; after reviewing all the other information submitted to the Planning Board by the Applicant; and after reviewing the criteria for determining significance set forth under Section 617.7(c)(1) of the SEQRA regulations, the Planning Board determined that no significant adverse environmental impacts will be created by the Project; and

**WHEREAS**, as required by SEQRA, the Planning Board has prepared a written elaboration as to why the Project will have no significant adverse environmental impacts, and why the issuance of a Negative Declaration is appropriate.

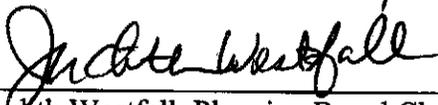
**NOW, THEREFORE, BE IT RESOLVED** as follows:

1. The Planning Board hereby designates itself as the lead agency under SEQRA for the Project.
2. The Planning Board issues a SEQRA Negative Declaration for the Project concluding that the Project will not create any significant adverse environmental impacts and a draft environmental impact statement will not be prepared; and
3. The Planning Board adopts and incorporates herein by reference, the attached written Negative Declaration for the Project; and
4. The Planning Board directs that the attached Negative Declaration be filed, distributed and published as required by the SEQRA regulations, Section 6 NYCRR 617.12.

The foregoing resolution was voted upon with all members of the Planning Board voting and signing as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>	<u>Signature</u>
Robert Boyles, Chairperson	✓				
Anthony Robustelli				✓	
Peter Clair	✓				
Matthew Deister	✓				
Erich McEnroe				✓	
Walter Brett				✓	
John Stefanopoulos	✓				

Dated: July 24, 2019  
Amenia, New York

  
Judith Westfall, Planning Board Clerk