

**RESOLUTION OF THE ZONING BOARD OF APPEALS FOR THE TOWN OF TYRE
REGARDING RECOMMENDATION TO THE TYRE TOWN BOARD
CONCERNING PROPOSED LOCAL LAW NO. 5 OF 2015
AMENDING THE TOWN ZONING LAW**

September 21, 2015

WHEREAS, on July 16, 2015, the Town Board for the Town of Tyre (the “Town Board”) received for review and approval from BME Associates, on behalf of Lago Resort & Casino, LLC (“Lago”), copies of the following documents relating to the proposed Lago Resort and Casino (formerly known as the Wilmot Casino and Resort) (the “Project”), which is a proposed development that has been under review by the Town Board since March 2014: a Planned Unit Development (“PUD”) District Application and a proposed Development Plan with minor modifications from the Development Plan initially submitted to and considered by the Town Board in 2014; a proposed Site Plan that reflects revisions to the initial Site Plan submitted to and considered by the Town Board in 2014; Part 1 of the Full Environmental Assessment Form (“FEAF”) that was originally submitted to the Town Board on March 20, 2014 together with an amended Part 1 of the FEAF dated July 15, 2015 reflecting the revisions to the Project since the initial Part 1 of the FEAF was submitted; and other Project documents identified in the July 16, 2015 transmittal letter from BME Associates (the “July 2015 Project Documents”); and

WHEREAS, the Town Board introduced and reviewed at its duly held meeting on July 16, 2015 proposed Local Law No. 5 of 2015, draft dated July 14, 2015, which local law would amend the Town of Tyre Zoning Law (“Town Zoning Law”) to: (i) add the term “Planned Unit Development” to the list of “Type of District” under Article II, Section 2.202, and add the designation “PUD” for such district; (ii) add a definition of Planned Unit Development District to Article XI, Section 11.1102; and (iii) amend the Town Zoning Map to show the Planned Unit Development District for the Lago Resort and Casino as the land within the Town of Tyre in the area east of New York State Route 414 and north of the New York State Thruway, consisting of approximately 84.95 acres of land (Tax Account No. 12.00-01-36), thereby changing the Agricultural use designation for that land to a Planned Unit Development District designation; and

WHEREAS, at its July 16, 2015 meeting, the Town Board resolved to refer for review and recommendation, as required under applicable law, proposed Local Law No. 5 of 2015, draft dated July 14, 2015, to the Town of Tyre Zoning Board of Appeals (“Town ZBA”), which recommendation the Town ZBA adopted by resolution at a duly held meeting on July 29, 2015, and which recommendation was thereafter delivered to the Town Board; and

WHEREAS, at its August 14, 2015 special meeting, the Town Board revised the text of paragraph five of proposed Local Law No. 5 of 2015 to clarify the date of the proposed Development Plan and approved a draft dated August 14, 2015; and

WHEREAS, the Town Board received a letter dated August 24, 2015, from the Town Engineer, Barton & Loguidice, D.P.C., a copy of which was provided to Lago, recommending that Lago submit a revised proposed Development Plan for the Project to replace the one that was included in Lago's July 16, 2015 PUD District Application, which recommendation was made after reviewing the public comments received about the Project and considering the best course to proceed with the Town Board's review of the PUD District Application; and

WHEREAS, the Town Board received at its August 27, 2015 special meeting a revised proposed Development Plan that represents the current conditions and design of the Project, as reflected in the Site Plans submitted with the July 16, 2015 PUD District Application, which the Town Engineer understands to represent the current Project conditions and design; and

WHEREAS, if the Town Board approves the revised proposed Development Plan, which decision has not yet been made, pursuant to section 2A.203(H) of the Town Zoning Law, within 10 days of plan approval, the Town Board must amend the Zoning Map of the Town of Tyre to establish and define the type and boundaries of the PUD district; and

WHEREAS, in light of the August 27, 2015 submission by Lago to the Town Board of the revised proposed Development Plan, the Town Board adopted a resolution on August 27, 2015 to again revise the text of paragraph five of proposed Local Law No. 5 of 2015; and

WHEREAS, to amend the Zoning Map of the Town of Tyre to establish a PUD district in the Town of Tyre ("Town") will require an amendment to the Town Zoning Law; and

WHEREAS, pursuant section 10.1013 of the Town Zoning Law, the Town Board at its August 27, 2015 special meeting adopted a resolution to refer proposed Local Law No. 5 of 2015 (draft dated August 27, 2015) (the "Proposed Local Law") to the Town ZBA for report and recommendation; and

WHEREAS, copies of the Proposed Local Law were sent to the Town ZBA members under cover of a September 11, 2015 letter from the Town Board explaining the revision to paragraph five of the Proposed Local Law and requesting review and recommendation pursuant to section 10.1013 of the Town Zoning Law; and

WHEREAS, the Town ZBA properly noticed and held a public meeting on September 21, 2015, in part to discuss the Proposed Local Law and to provide a recommendation to the Town Board pursuant to Town Zoning Law § 10.1013; and

WHEREAS, the Town Board will not act on the Proposed Local Law unless it first approves the proposed Development Plan, as such plan may be amended to address any Town Board concerns, which approval the Town Board has not yet issued; and

WHEREAS, the Town ZBA has thoroughly reviewed and discussed the provisions of the Proposed Local Law;

NOW, THEREFORE, BE IT RESOLVED, as follows:

CHECK ONE OF THE FOLLOWING:

X The Town ZBA recommends that the Town Board adopt proposed Local Law No. 5 of 2015.

OR

_____ The Town ZBA recommends that the Town Board not adopt proposed Local Law No. 5 of 2015.

IT IS HEREBY FURTHER RESOLVED that this resolution shall take effect immediately.

The adoption of the foregoing Resolution was moved by Dan Brand, seconded by Kenyon Dicken, and duly put to vote, which resulted as follows:

	Yea	Nay	Abstain	Absent
Richard Damaske	[X]	[]	[]	[]
Dagmar Nearpass	[]	[X]	[]	[]
Beverly Smith	[X]	[]	[]	[]
Kenyon Dickens	[X]	[]	[]	[]
Dan Brand	[X]	[]	[]	[]

The Resolution was thereupon duly adopted.

September 21, 2015