

Town of Tyre

State Environmental Quality Review Act Lago Resort and Casino Proposal

Review of Potential Impacts

Parts 2 and 3 of the Full Environmental Assessment Form

Introduction

The Tyre Town Board (the “Board”) must review the Full Environmental Assessment Form (“FEAF”), which includes Part 1 provided by the Applicant and Parts 2 and 3, together with all the supplemental information provided by the Applicant, the public, and the Town’s Engineer,¹ and decide whether the proposal to construct a resort and casino in the Town (the “Project”) is likely to have a “significant adverse impact upon the environment.” SEQRA requires the approving agency to identify and assess the potential impacts of a proposed action “in order to avoid or reduce significant adverse environmental impacts while meeting the social and economic needs of a community.”² Completing Part 2 of the FEAF will help the Board identify those topics that need to be discussed further in Part 3. Together, Parts 2 and 3 assist the Board in making its determination of environmental significance. If the Board finds that the Project will result in one or more impacts that are both “significant” and “adverse,” then it must issue a positive declaration identifying the significant adverse impacts and requiring the preparation of an Environmental Impact Statement (“EIS”). If the Board finds that the Project will have no significant adverse impacts on the environment, no EIS is necessary and a negative declaration must be prepared.

Part 2 Analysis

Part 2 is designed to help the Board, as lead agency, inventory all potential resources that could be affected by the Project and assess whether there are any potential adverse impacts that need further consideration. Specifically, Part 2 is designed to assist the Board in determining whether any identified impacts will have no impact or a small impact, or a moderate to large impact. This decision should be based on the magnitude of the potential impact. Magnitude is not just the physical size of the project, but also depends on the scale,³ context⁴ and severity of a project's potential impacts. Interpretation on the size or significance of an impact is at the discretion of the Board as the lead agency.

¹ The SEQRA Workbook makes it clear that the Board may consider any information submitted by the Applicant as part of the Application. The Workbook also indicates that the Board may request clarification or expansion of information submitted in Part 1 in order to complete Parts 2 and 3.

² NYSDEC, Local Official’s Guide to SEQR, <http://www.dec.ny.gov/permits/36860.html>, accessed 9/8/2015.

³ Scale refers to the overall size of the project and features that measure the intensity of the project.

⁴ Context refers to the conditions on the project site and its relation to adjacent parcels, the neighborhood, and the community as a whole.

Part 3 Analysis

For each impact in Part 2 that the Board identifies as moderate to large, the Board must undertake further analysis in Part 3 to determine whether those impacts are both significant and adverse and require further study. Specifically, in Part 3, the Board must discuss for each potential moderate to large impact the magnitude, duration of impact, likelihood of the impact and importance of the impact in the context of the site and the community. Part 3 is also the place where the Board may identify whether the Project includes aspects or design features that lessen an impact to the point where it is no longer a significant concern.

- **Magnitude** assesses factors such as severity, size or extent of an impact. Magnitude is conveyed as moderate to large. Moderate impacts tend to be more localized. Large impacts tend to be broader and of regional concern.
- **Duration** looks at how long the impact will occur. Duration is assessed as short-term, medium-term, long-term or irreversible.
- **Likelihood** measures the probability of an impact occurring. Likelihood involves determining whether the impact is unlikely to occur, will possibly occur or will probably occur.
- **Importance** relates to how people or resources will be qualitatively impacted in the context of the status quo conditions in the community and the environment. Importance is more subjective and is based on a consideration of the magnitude, duration, likelihood, environmental setting and on the scale and context of the project, the site and the community.

Example

For each potential impact, there are combinations of magnitude, duration and likelihood. However, there is no universally accepted measure of significance – the criteria must be considered on a case-by-case basis. The SEQRA Handbook published by the New York State Department of Environmental Conservation provides the following example to illustrate the process an agency must use when evaluating the above factors:

“A bridge is proposed to cross a river. Potential erosion during construction could be large in magnitude. If the stream into which the eroded soil would fall is presently a relatively "muddy" stream, already carrying large quantities of sediment, the addition of such a temporary load during construction would likely not be important. However, if the same amount of material were to wash into a clear trout stream, particularly during or immediately following spawning, or to settle downstream in a productive wetland, this impact should be viewed as more important because of the high value of the wetland and trout stream resources.”

I. Consistency with Community Plans (page 10 of Part 2 of EAF): “The proposed action is not consistent with adopted land use plans.”

Understanding whether or not a proposed activity is consistent with a municipality’s comprehensive plan or other adopted plans provides context for determining if the activity is compatible with the community’s overall plans for development. When a comprehensive plan exists, an action would be considered consistent if it is not in conflict with the stated vision, goals, recommendations or land use concept map.

A. Part 2, Section 17, Item a: “The proposed action’s land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s).”

The land use components in this question refer to the proposed uses, lot dimensions, structure dimensions, locations and size, accessory uses, and overall scale and intensity of the proposed project.

1. Relevant Project Information:

a. Project land use components:

- i. Commercial development incorporating a hotel (6-story, 33,820 sq. ft. footprint); casino with restaurants, a theater, and administrative offices (2-story, 210,640 sq. ft. footprint), a parking garage (4 parking levels, 76,450 sq. ft. footprint), central HVAC plant (single story, 9,120 sq. ft. footprint), and child care center (single story, 5,850 sq. ft.), with surface parking, signage and some outdoor lighting on an 84.95 acre Site.
- ii. Substantial landscaping and screening, providing visual and sound buffers, are incorporated into the Project. 62% of the Site will remain green space. More than 20 acres of woods on the eastern portion of the Site will remain undisturbed, including 10 acres which will be designated as forever wild. Existing stands of trees and treelines are being preserved in the northwest corner of the Site, along the northern boundary line, and along the southern boundary line, adjacent to the NYS Thruway.

b. Surrounding land use patterns:

- i. Major Transportation Corridor Use: Site’s southern boundary is adjacent to NYS Thruway (33,000 vehicles daily) and western boundary adjacent to NYS Route 414 (more than 2,500 vehicles daily North of the Thruway and more than 10,600 vehicles daily South of the Thruway)
- ii. Commercial uses
 - Site located within 0.2 miles (across the Thruway) from the Petro Stopping Station: 24-hour truck stop on 50-acre site with 30,000 sq. ft. building area and 350 truck parking spaces, 125

car parking spaces, truck repair facility, gas station, travel/convenience store, and 24-hour restaurant, with tall signs and outdoor lighting (several over 100'), and minimal landscaping or screening.

- Site located 0.6 miles from local restaurant, the Magee Country Diner
 - Site located 0.7 miles from the busy Route 414/318 intersection (approximately 8000-10,600 vehicles daily) and the Nice N' Easy Grocery Shop
 - Site located 1.5 miles from scrap metal yard (Empire Seneca, Inc.)
- iii. Residential uses, including typical single-family homes
 - iv. Agricultural uses: farms with related structures (ex. shops, machinery storage buildings, hay storage barn, grain dryer building and wet bin, livestock building, hay storage building), including active farm 0.2 miles north of Site on opposite site of Route 414
 - v. According to local property tax map, surrounding lot sizes are 12.4 acres, 38.9 acres, 50 acres, 55.4 acres, 57 acres, 59.2 acres, 62.1 acres, 94.3 acres, and 125.2 acres.

2. Relevant Public Comments:

- a. Akin Gump commented that the Project is a large development and will attract visitors, different from the agricultural uses nearby.
- b. ERM commented that components of the Project share attributes with surrounding development, such as the Petro truck stop (which has a large parking lot and receives heavy traffic) and downtown Seneca Falls having multi-story commercial and industrial buildings. ERM asserted that the type of development would be different and contrasts with residential and agricultural uses in Tyre and Seneca Falls.

3. Key Considerations:

- a. The land use components of the Project differ from some surrounding land use patterns (e.g. agricultural fields and residences) but also align with other surrounding land use patterns in their scale and use (e.g. structures and parking areas at adjacent Petro Stopping Center with retail and restaurant uses, outdoor lighting, and signage, other nearby commercial properties). The size of the Project lot is consistent with other lots in the area.
- b. Visitors to the Site will be temporary, with most being day trips and some staying a few days. Overall, visits will be short-term.

- c. Those travelling to the Site will travel use the major transportation corridors, which are largely commercial in nature. Traffic and visitors are not likely to spread through the remainder of the Town (only 4% of the traffic is expected to come from the north). The Tyre Comprehensive Plan explicitly contemplates such commercial development in the area surrounding NYS Thruway Exit 41 and along major travel corridors such as Route 414.
 - d. The Project would add 4500 daily trips of which approximately 180 would come from the north of the Site. This area experiences 2500 daily trips and after the Project would likely experience approximately 2680 trips.
 - e. Considering the cluster of commercial uses and the presence of the major transportation corridor use in the immediate vicinity of the Project Site, the character of the uses and the intensity of the uses and traffic flow in the vicinity are not dissimilar.
 - f. Considering the cluster of commercial uses in the immediate
4. Item identified as:
- No impact
 - Potential small impact
 - Potential moderate to large impact
5. Part 3 Analysis required? Yes No
- a) Magnitude
 - b) Duration
 - c) Likelihood
 - d) Importance
 - e) Key Question: Is the impact significant and adverse?

B. Part 2, Section 17, Item b: “The proposed action will cause the permanent population of the city, town or village in which the project is located to grow by more than 5%.”

1. Relevant Project Information:
- a. The Project will not cause a permanent population growth by more than 5%.
 - b. The CGR study concluded the Project can be expected to have a very small impact on the total population.
 - i. The Applicant has committed to paying wages that are at least 75% of the median for the occupation nationally, and while these wages will be attractive to local residents

seeking employment, the salaries are not high enough to spur family relocation.

- ii. The casino's location on the NYS Thruway midway between Rochester and Syracuse guarantees access to a substantial labor market, without the need for relocation.
 - iii. The Town has little land zoned for residential purposes and there is little capacity for new single family housing developments given the emphasis placed on the Town's rural character, creating further unlikelihood of any increase in the permanent population.
2. Relevant Public Comment: Some public comments asserted that the jobs created by the Project would be taken by "outsiders" not Town residents.
3. Key Considerations:
- a. CGR noted that the Project is projected to create more than 1,000 each of construction jobs and permanent jobs. Given the size of the local market, to ensure that mainly Town and County residents absorb these benefits, CGR recommended that the developer agree to give preferential treatment to local residents for employment. CGR also recommended the developer could promote indirect employment benefits by purchasing materials and services from local vendors.
 - b. In the Community Mitigation Plan (CMP), the Applicant has committed to giving preferential treatment to Town and County residents for employment purposes, during both construction and operations. The Applicant committed to holding local events publicizing the jobs available for construction and operation (at least two events each) and the hiring process. The Applicant also committed to providing the Town with an annual report of its full-time and part-time employment.
 - c. In the CMP, the Applicant has also committed to utilizing local vendors for construction and operation needs and to actively seek bids from Town and County vendors.
 - d. CGR's analysis concludes that population growth resulting from the Project would be minimal, if any, in part because any non-residents who do work for the Project will be able to commute easily along the NYS Thruway. Furthermore, given the commitments by the Applicant to hire and buy local wherever possible, the benefits of the employment will be largely absorbed by existing Town or County residents.
4. Item identified as:
- ___ No impact

- Potential small impact
- Potential moderate to large impact

5. Part 3 Analysis required? Yes No

- a) Magnitude
- b) Duration
- c) Likelihood
- d) Importance
- e) Key Question: Is the impact significant and adverse?.

C. Part 2, Section 17, Item c: “The proposed action is inconsistent with local land use plans or zoning regulations.”

1. Relevant Project Information:

a. Town of Tyre Comprehensive Plan (“Town Plan”)

i. The vision for the Town Plan was to review the existing and future needs of the community “whereby the town can adopt a general development policy for the community as a whole and amend its zoning law in accordance with that plan.” The Town Plan was intended to address “the full spectrum of issues facing the town and balances competing needs and interests in the community.” (Town Plan at pg. 1)

ii. The goals and recommendations throughout the plan exhibit this intent to achieve a balance between competing interests.

- Several goals and recommendations in the Town Plan entail preserving the environment, retaining the agricultural and rural nature of the Town, and avoiding negative impacts to property values. (Ex. Town Plan at pg. 5, 13, 17, 21)

- The Project has been designed to work with the existing surroundings and to avoid negative effects on the environment (e.g. stormwater management facilities to control the quality and quantity of stormwater runoff; use of an Integrated Pest Management Program; avoiding all wetlands on site; preserving the family burial plot on site, including creating a landscaped and fenced area and maintaining the area and allowing the family to access it freely; not impacting threatened or endangered species or their habitat; incorporating design features to protect migratory birds such as bird-friendly glass

and downward-facing full cut-off lights; extensive green energy practices including solar panel, recycling food waste into methane energy, using stormwater for irrigation, and others previously discussed).

- The Project Site previously contained 45 acres that were farmed, representing approximately 0.02% of the agricultural land in Seneca County and 0.5% of agricultural land in the Town of Tyre, leaving significant quantities of agricultural land available in the Town and County.
- In the Community Mitigation Plan, the Applicant acknowledges its neighbors' and the community's right to farm the area. Surrounding agricultural activities will continue in the Town and the County, unaffected by the Project.
- The Project will encourage awareness about the surrounding natural resources. More than 20 acres of woods will be preserved on the Site, with 62% of the Site remaining green space. Ten acres of the eastern woodlands will be preserved as forever wild. Also, the Project includes kiosk displays on the canal corridor, local bird habitat, parks and historic resources, such as the Seneca Meadows Wetlands Preserve and the Montezuma National Wildlife Refuge. The Applicant will also plant additional coniferous and deciduous trees along the northern property line.
- The Project will promote local agricultural uses and products. For example, the Project will include a "Savor New York" area where local and regional goods will be sold, such as fruits, vegetables, wines, and cheese.
- Also, the Project will implement a program for agricultural initiatives through which the Town could purchase development rights or take other actions to preserve agriculture in the Town or County (ex. Applicant has committed to paying \$600,000 to the Town for its use in promoting and preserving agriculture)
- The Project will not negatively impact property values according to CGR.
- Several goals and recommendations in the Town Plan also explicitly call for promoting commercial development

in and around major transportation routes, specifically NYS Routes 89, 318, and 414 and around the Magee Corners and NYS Thruway area. The Town Plan expressly recognizes that Tyre has a significant opportunity to expand its tax base because it contains NYS Thruway Exit 41. The survey results on which the Town Plan was based indicated that a majority of respondents felt that additional commercial or retail development was good for the Town's future but it should be confined to the major transportation routes. The Town Plan contemplates supporting smart growth that will coexist with the agricultural/rural nature of the community. The Town Plan acknowledges that commercial development near Route 414 that would increase the tax base and support town infrastructure would be a positive effect. (ex. Town Plan at pg. 5, 15, 21, 56).

- The Town Plan cites comments by survey respondents stating that commercial development near the Thruway has great prospects and development around Routes 89, 318, and 414 is acceptable.
- The Town Plan recognizes that regional planning identifies Routes 318 and 414 corridors as the area most likely to experience development, and with "the establishment of the Waterloo Premium Outlet Mall in the Town of Junius and the Petro Stopping Center at NYS Thruway Exit 41, business development has established a foothold near and in Tyre." (Town Plan at pg. 26).
- The Town Plan sets a goal of working with "County and State agencies to provide incentives and regulations leading to appropriate development of businesses along the major transportation corridors of the town." (Town Plan at pg. 25).
- The Project is commercial development whose Site is situated squarely within the major travel corridor contemplated and encouraged by the Town Comprehensive Plan. The Site is bounded on the western side by Route 414 and bounded on the southern side by the NYS Thruway. It is located within 0.3 miles from NYS Thruway Exit 41, and within 0.2 miles from the Petro Stopping Center. The Site is just north of the NYS Route 318/414 intersection. This is

precisely the type of heavily travelled area that is appropriate for commercial development as decided by the Town Plan.

- The change being sought by the Project coincides with the Town Plan recommendation to continue “to review and revise Town of Tyre Zoning Law where appropriate to address these and other land use related issues.” (Town Plan at pg. 12).
- Another goal of the Town Plan is to maintain Town roads in good condition for the safe and efficient movement of school busses, other motor vehicles, bicycles and pedestrian traffic. (Town Plan at pg. 28).
 - The Project involves completing certain off-site improvements to local roadways in order to ensure safe and efficient traffic movements. Improvements include certain lane, turn lane and/or signal additions or improvements at the Route 318/414 intersection, the Route 414/Thruway exit intersection, the Route 318/Route 5&20 intersection, Route 5&20/Route 89 intersection. Improvements also include expanding Route 414 to four lanes from the Thruway interchange to the Project entrance (including the Thruway bridge), adding turning lanes and a traffic signal at the Project entrance, and adding an additional toll plaza lane.
 - The Project also calls for creating widened shoulder (8 feet wide) for buggies, pedestrians, and cyclists on both sides of Route 414.
 - These Project features ensure that the transportation network will operate at satisfactory levels of service.

b. Town of Tyre Zoning Law:

- i. Currently the Site is zoned as an agricultural district. Business, motel/hotel, recreational/sports complex, restaurant, shopping center, signs, day camps, and utilities are permitted or specially permitted uses in an agricultural district. The maximum structure height in an agricultural district is 35'. If the Applicant were seeking a special use permit under the existing agricultural district, rather than proceeding under the PUD Article, it would potentially need an area variance for the height of the structures.
- ii. The Town has a Planned Unit Development (PUD) district within its zoning law (Article II.A of the Town Zoning Law) that allows a PUD to be placed anywhere in the Town

provided it meets certain criteria. The purpose of the PUD Article is to facilitate through flexible land use and design regulations the location of commercial and recreational uses in a manner that will achieve appropriate balance in land use variety and design, and in the layout and type of new structures, thereby enhancing the efficiency of the use of land overall.

- iii. Article II.A is intended to enhance the ability of the Town to promote business and employment opportunities and ensure that such developments contribute positively to the community, while ensuring sound land use planning consistent with the goals and intentions of the Town Comprehensive Plan. The Article has the benefit of containing a site plan review procedure to help guide the Town Board in reviewing the Project.
- iv. Permitted uses in a PUD district include commercial, retail, office, service, restaurants, food services, and hotels, as well as public and private institutional and recreational facilities including casino complexes, parking, and other complementary uses.
- v. The PUD district must measure at least 75 contiguous acres of land and structures in a PUD district cannot exceed 6 stories or 80 feet (which is lower).
- vi. The Project conforms to the requirements for a PUD district under Article II.A. The Project is on a site consisting of approximately 84.95 contiguous acres of land and the maximum height of any structure is 6 stories (79 feet). The uses planned for the Site include commercial, retail, hotel, restaurant, institutional and recreational (including casino, pool, theater), parking, and related complementary accessory use such as office/maintenance and day care.

2. Relevant Public Comments:

- a. Several comments asserted that the Project conflicts with the Town Comprehensive Plan because the Plan's goals discuss preserving the rural, agricultural heritage of the Town and protecting the environment.
- b. Several comments asserted that the NYS Thruway is the boundary for commercial development and the Town Comprehensive Plan only allows commercial development in the existing commercial district along Route 318 south of the NYS Thruway.
- c. With regard to the Tyre Zoning Law criteria for evaluating a Site Plan for a PUD district (Town Zoning Law § 2A.204(B)), ERM commented that the Project fails to balance planning goals (rural

character preservation and appropriate economic development); proposes a building out of scale with the surroundings, provides insufficient buffers to protect neighboring properties; fails to depict or evaluate exterior lighting or light spillover onto nearby properties or the night sky; fails to analyze impacts of noise, glare, unsightliness, odors, and exhaust fumes; and provides open space only to the minimum extent necessary based on wetland location.

- d. In the August 12, 2015 report by the Seneca County Department of Planning and Community Development to the Seneca County Planning Board (which adopted a resolution on August 13, 2015 recommending the Town Board approved the Project), the Department reported that the proposed zoning amendment to a PUD district for the development of the resort and casino “is consistent with the Town of Tyre Comprehensive Plan which identifies the desire of maintaining the rural character of the Town and the need to balance that with the necessity of expanding the tax base and have growth along the major highways.”

3. Key Considerations:

- a. The Town Comprehensive Plan seeks to balance different interests in the Town. It does recognize the desire to preserve the agricultural heritage of the Town, with which numerous Project features align and aim to promote. Farming will continue in the Town and County regardless of the Project and the Town will retain its predominantly rural characteristics. The Town Comprehensive Plan also specifically envisions tax base-enhancing commercial development in and around major transportation routes like Route 414 and the NYS Thruway and Exit 41, where the Project Site is located. The Town Plan explicitly states, “However, the Town of Tyre is not totally agricultural. Commercial development has occurred along its major transportation routes, with notable development at Magee Corners and New York State Thruway Exit 41. Current commercial development has utilized 30 acres of agricultural land with an additional 60 acres of potential development.” (Town Plan at pg. 5). The Plan also recognizes that commercial development occurs at the Thruway exit and its feeder routes (Routes 414 and 318). Thus, the Town Plan explicitly envisions additional agricultural land along these major travel routes being developed for commercial uses.
- b. The Town Comprehensive Plan contains a statement that commercial development will *primarily* be concentrated in the existing commercial district, which is south of the Thruway, but the Town Plan does not set any boundary line above or below which development may or may not occur. The Plan repeatedly speaks more broadly about future commercial development along Route

414, 318, 89 and in the vicinity of the NYS Thruway and Exit 41 (the major travel corridors) -- many portions of which roads are outside the existing commercial zone. Furthermore, the Town Plan contains a recommendation that the Town should continue to review and revise its Zoning Law where appropriate to address land use related issues. Thus the Town Plan clearly envisions future commercial development outside the existing commercial zone and changes to the Zoning Law being made to accommodate such development. In fact, case law is clear that there need not be slavish servitude to a plan.

- c. The extensive Project features discussed above in (1)(a)(ii) show that the Project strikes a balance between preserving the existing landscape and surrounding agricultural uses, while developing a new commercial use in a major travel corridor. The structures are also similar to the large structures existing at the adjacent Petro site, though they will be different from nearby residential and agricultural structures. The Project design does incorporate extensive open space (62% of the Site) and buffers/screening to protect neighboring properties (ex. Stand of trees in northwest preserved to provide a barrier between the Project and the residence to the immediate north; treed hedgerows along north property line preserved and additional evergreen and deciduous plantings planned to augment the existing screening; more than 20 acres of woods preserved on eastern side of site including 10 acres designated as forever wild; treeline along southern boundary adjacent to Thruway preserved). The Project will also use Dark Sky compliant, full cut-off LED lights to minimize light emittance, house side shields to minimize light spillage, and other measures to avoid or minimize any light touching adjacent properties or skyglow. Internal traffic flow and parking garage walls have been specifically designed to avoid or minimize those effects as well. The Project also analyzed odors and determined that only minimal restaurant food odors would be present, but given the HVAC, exhaust and ventilation system that will be used at the facility, the distance to receptors, and the predominant wind direction, the food odors would be unlikely to reach surrounding properties.

4. Item identified as:

- No impact
- Potential small impact
- Potential moderate to large impact

5. Part 3 Analysis required? Yes No

a) Magnitude

b) Duration

- c) Likelihood
- d) Importance
- e) Key Question: Is the impact significant and adverse?

D. Part 2, Section 17, Item d: “The proposed action is inconsistent with any County plans, or other regional land use plans.”

Relevant county and regional plans are the Seneca County Agriculture and Farmland Protection Plan, the Seneca County Housing Plan, and the Erie Canalway National Heritage Corridor 2011-2016 Strategic Plan and the Canalway Corridor’s Preservation and Management Plan.

1. Relevant Project Information:

a. Seneca County Agriculture and Farmland Protection Plan

- i. The stated purpose of the Seneca County Agriculture and Farmland Protection Plan (County FPP) is to support the continued economic prosperity of agriculture in the County by recognizing its diversity, supporting preservation, promoting awareness, and supporting local production, processing and marketing of agricultural products (County FPP at p.1, 21-26).
- ii. One goal of the County FPP is to enhance the economic climate for agriculture in Seneca County by promoting locally grown product.
 - o To further this goal, the County FPP aims to promote locally grown products. This includes fully implementing the New York “Buy Local” campaign for the County, development of printed promotion materials about agricultural products and services in the area, and encouraging agrotourism (County FPP at p.21-26).
 - o The Project will promote local agricultural uses and products. For example, the Project will include a “Savor New York” area where local and regional goods will be sold, such as fruits, vegetables, wines, and cheese. The Project will help support a local farm by sending its food waste to a dairy farm to convert it into methane energy that generates electricity, which the Project will purchase from the farm.
 - o The Project will encourage awareness about the surrounding natural resources. More than 20 acres of woods will be preserved on the Site, with 62% of the

Site remaining green space. Ten acres of the eastern woodlands will be preserved as forever wild. Also, the Project includes kiosk displays on the canal corridor, local bird habitat, parks and historic resources, such as the Seneca Meadows Wetlands Preserve and the Montezuma National Wildlife Refuge. The kiosks will also contain materials about local businesses.

- Under the Community Mitigation Plan, the Applicant recognizes the right of its neighbors and the community at large to farm. The Project will not interrupt farming operations in the Town or County.
- iii. Another goal of the County FPP is to acknowledge and enhance environmental stewardship. (County FPP at p.31). “One the most effective programs for environmental stewardship is the Integrated Pest Management Program (IPM)” (County FPP at p.6).
- Project will use an IPM Plan to maintain lawn and landscaped area, which will reduce use of pesticides and herbicides and any runoff of the substances in stormwater (potentially below levels created by agricultural use)
 - The Project will recycle its food waste into energy that generates electricity. The applicant will send its good waste to a local dairy farm with an existing methane digester, where it will be mixed with cow manure and the methane generated will be captured and used to generate electricity. This process will reduce the carbon footprint of both the Project and the farm.
 - The Project incorporates numerous green energy practices, as previously discussed, to protect the environment and minimize demand on resources (ex. Solar panels to generate electricity; high-efficiency HVAC; low-flow plumbing fixtures; using stormwater for irrigation, and more)
- iv. Another goal is to preserve prime agricultural land, which the County FPP recommends achieving in part by initiating voluntary farmland preservation programs
- The Project involves implementing a program for agricultural protection by funding initiatives that lead to preserving agricultural land in the Town and County. These initiatives could include the purchase of development rights or other actions reasonably

related to preserving farmland and promoting agriculture.

- o The Site contains 45 acres of former agricultural land, representing 0.5% of the total agricultural land in the Town and 0.02% of the agricultural land in the County. Significant tracts of agricultural land will remain throughout the County.

b. Seneca County Housing Plan

- i. This Plan addresses issues in Seneca County related to the availability, condition and affordability of housing resources. While not directly related to the Project, there are some relevant issues that could be related indirectly.
- ii. Responses to a community survey by residents of the “North County” area (encompasses Tyre) ranked the reduction of property taxes last out of six identified issues of neighborhood importance, but in a somewhat conflicting result, ranked reducing property taxes second of five issues that the government should concentrate on (Housing Plan pg. 3)
- iii. North County residents rated Economic Development as the number one need for Seneca County’s low and moderate income residents (Housing Plan pg. 19 of Appendix, Table 10).
- iv. This Project provides the type of economic development initiative, with new jobs available, that the Plan finds appropriate. Also, the influx of revenue to the Town and the County from the NYS Gaming Tax (projected to be approximately \$3.4 million annually each for the Town and the County) would reduce property taxes and concurrently increase the affordability of housing in the Town and County.

c. Erie Canal National Heritage Corridor Preservation and Management Plan (P&M Plan)

- i. The Erie Canalway National Heritage Corridor encompasses New York’s canal system and the communities along it. It stretches 524 miles across the full expanse of upstate New York.
- ii. The P&M Plan recognizes that upstate New York has undergone extensive restructuring for nearly two decades as it transitions from dependency on traditional manufacturing to a more diversified economic base featuring strong service, tourism and technology sectors. The PM Plan says that “the added value of the Erie Canalway National Heritage Corridor

is its emphasis on partnerships that cross jurisdictional boundaries and build on the mutual interests of economic and heritage development.”

- iii. The P&M Plan states that in order to position the Corridor’s economy for future expansion, it must support the agricultural sector’s ability to take advantage of new opportunities in agritourism and the commodity and specialty food markets.
 - iv. The P&M Plan states that the resources of the Corridor, by themselves, do not produce tourism visitation. Instead, the Plan concedes that “expanded, coordinated and focused tourism development and marketing can and will yield economic benefits.”
 - v. The P&M Plan states that “the Corridor is not as strong a factor in that existing marketing as it can or should be. While upstate communities express strong support for attracting tourists, it is generally believed that the Corridor itself does not have a high enough concentration of high-quality tourist destinations and that there is a lack of awareness of the canal system, its significance and its value to potential visitors. Clearly there is a need for product development and more in-depth, readily available information on the Corridor.”
 - vi. A critical element of an effective visitor information system for the Corridor under the P&M Plan is an expanded distribution or display of visitor information at high-volume sites such as attractions, hotels, Thruway rest areas and shopping centers.
 - vii. The Project is precisely the type of “high-quality tourist destination” that the P&M Plan says the Corridor needs more of, and the Project intends to include the very type of “distribution or display of visitor information” that the PM Plan desires in order to effectively disseminate information about the Corridor. Specifically, the Project will contains kiosks where materials are available about the Canalway Corridor (as well as other natural resources in the area).
- d. Erie Canalway National Heritage Corridor 2011-2016 Strategic Plan:
- i. “The Mission of the Erie Canalway National Heritage Corridor is to plan for, encourage, and assist historic preservation, conservation, recreation, interpretation, tourism and community development throughout the Corridor in a manner that promotes partnerships among the Corridor’s

many stakeholders and reflects, celebrates and enhances the Corridor's national significance for all to use and enjoy."

- ii. The Strategic Plan was intended to prioritize the work for the Corridor over the coming years, with an emphasis on funding efforts. The overall goals are to preserve the Corridor's resources, promote tourism, and inform the public about the Corridor.
- iii. The Project will not detract from the Corridor and will specifically promote the Corridor through the kiosk displays containing materials about it.

2. Relevant Public Comment:

- a. Akin Gump and ERM commented that the Project conflicts with the environmental conservation Goals of the Seneca County Comprehensive Plan, asserting that the Project will not preserve open space, natural beauty, and critical environmental area, and does not direct development toward existing communities.
- b. ERM commented that the Project conflicts with the Seneca County Comprehensive Plan. ERM cites:
 - The goal from the Agriculture and Farmland Protection Plan about effectively maintaining the Agricultural District Program
 - The goal from the Environmental Conservation Plan about preserving historic and scenic resources through strategies that encourage development following principles of smart growth and green building, retaining the rural and village character of the County and protecting investment, and minimizing the visual impact of large scale development and maximizing natural vegetation on each site.
 - The goal from the Economic Development Plan to minimize land use conflicts including strategies to ensure development does not interfere with existing uses and will be supported by infrastructure, preserve the rural or village character, and uphold property values.
- c. Akin Gump and ERM commented that the Project is not consistent with the goals of the Erie Canalway National Heritage Corridor plans to promote tourism and economic development by building on the region's historic and natural resources because the Project is located on former agricultural land in a rural area rather than urban community and it is not integrated within the historic and cultural resources of the Corridor.
- d. ERM commented that the Erie Canalway National Heritage Corridor Preservation and Development Plan calls for preservation of rural

heritage and natural resources with new development to be channeled to sites in existing communities.

3. Key Considerations:

- a. The Erie Canalway National Heritage Corridor 2011-2016 Strategic Plan is intended to encourage the use of public money and partnerships to promote the historic significance of the Erie Canal. The Heritage Corridor Plan does not require that every project in the area be canal themed or focused. The Project does not interfere with the mission of the Heritage Corridor Plan nor does it diminish that resource in any way.
- b. Seneca County's comprehensive plan is assembled in a "notebook" format, consisting of six separate plans or chapters that are reviewed and adopted separately (Seneca County Comprehensive Plan Introduction; Seneca County Comprehensive Plan Overview; Seneca County Housing Plan; Seneca County Agriculture and Farmland Protection Plan; Seneca County Environmental Conservation Plan; and the Seneca County Economic Development Plan).
- c. Four of these plans/chapters are currently still in draft form and have not been adopted. These unapproved plans are not the basis for County planning decisions.
- d. Only the Seneca County Housing Plan and the Agriculture and Farmland Protection Plan (discussed above) have been adopted to date (respectively on January 11, 2011 and December 27, 2011).
- e. SEQRA regulations only inquire about consistency with officially approved or adopted land use plans.
- f. Nevertheless, the Project is consistent with the draft plans cited by Akin Gump and ERM.

1) Draft Seneca County Economic Development Plan
(unadopted)

- i. The Focus Group Strengths, Weaknesses, Opportunities, and Threats (SWOT) analysis identified access to the Thruway as an economic development strength. The Route 318/414 Corridor and Focused Economic Development were identified as opportunities and resistance to business expansion was identified as an economic development threat. The Route 318/414 Corridor was included as a Targeted Business Corridor, and the Plan states that the "potential economic opportunities in these areas will benefit the entire County, north and south, through the creation of jobs

and a tax base to support public infrastructure and services countywide.”

- ii. The Plan also states that the NYS Thruway is an economic resource that Seneca County has not fully leveraged. One goal of the Plan is to seek and support local and non-local businesses that strengthen and diversity the economic base, expand and enhance the tax base, improve wage and salary levels, and utilize the resident workforce, without diminishing the quality of natural, historical or cultural resources in the County. Strategies to accomplish this goal include supporting efforts to provide adequate infrastructure and targeted County investment in areas best suited for future and unmet employment opportunities, specifically the Route 318/414 Corridor. Another strategy is to enhance connections with a variety of markets for Seneca County’s agricultural products.
 - The Applicant has committed to paying wages that are at least 75% of the median for the occupation nationally. The Applicant has also committed to giving preferential treatment to Town and County residents for employment purposes during construction and operation. The Applicant has also committed to using local vendors for the Project. The Project is projected to create more than 1,000 jobs during both construction and operation and anticipates reducing the unemployment rate of Seneca County from 7.6% to 6.3%. The Project will also generate revenue for the Town and the County from the NYS Gaming Tax, which will split equally 10% of the commercial gaming revenue fund pursuant to New York State Finance Law § 97-nnnn(3)(b); this amount is expected to total approximately \$3.4 million each for the Town and the County.
 - No natural, historic or cultural resources will be diminished by the Project. The family burial ground on the Site will be preserved and maintained.
 - The Project will entail certain infrastructure improvements to the sanitary sewer and water lines, and extensions of the electric and natural gas lines to the site.
 - The Project will promote local agricultural uses and products. For example, the Project will include a

“Savor New York” area where local and regional goods will be sold, such as fruits, vegetables, wines, and cheese.

- The Project will implement a program for agricultural initiatives through which the Town could purchase development rights or take other actions to preserve agriculture in the Town or County (ex. Applicant has committed to paying \$600,000 to the Town for its use in promoting and preserving agriculture)
- iii. Another goal of the Plan is to enhance tourism as a vital aspect of the County’s economy and quality of life. A strategy for achieving this goal is to support the development of tourist-supportive businesses and events (hotels, specialty retail stores, historic buildings, conferences, festivals) as a means of increasing tourism.
- This Project is the type of tourist destination contemplated by the Plan. The Project will promote surrounding natural resources and local businesses with kiosk displays containing materials about them.

2) Draft Seneca County Environmental Conservation Plan
(unadopted)

- i. This Plan begins by stating that “Seneca County’s residents express a deep desire to preserve and protect the best in their environment. At the same time, they recognize the need for change. Change is needed to create employment, keep property taxes at a reasonable level, provide better infrastructure and community facilities, increase recycling, revitalize communities, generate renewable energy, and improve public health and education.” (pg. 4)
- ii. The plan acknowledges that the protection of an irreplaceable landscape may require attracting tourists. The plan further states that the path to a sustainable future involves “creating an integrated and mutually-reinforcing approach to environmental protection, economic prosperity, and cultural well-being.” (pg. 4) The plan recognizes that the tourism industry in Seneca County employs nearly 900 workers and produces \$50 million in annual revenues. This includes hundreds of thousands of visits to public parks and trails alone. Additional visitation is generated by wineries, historic sites, lakes and other natural resources. (pg. 18)

- The Project has been designed to blend with the existing surroundings and to avoid negative effects on the environment (e.g. stormwater management facilities to control the quality and quantity of stormwater runoff; use of an Integrated Pest Management Program; avoiding all wetlands on site; preserving the family burial plot on site, including creating a landscaped and fenced area and maintaining the area and allowing the family to access it freely; preserving more than 20 acres of woods on the Site, with 62% of the Site remaining green space; not impacting threatened or endangered species or their habitat; incorporating design features to protect migratory birds such as bird-friendly glass and downward-facing full cut-off lights; extensive green energy practices including solar panel, recycling food waste into methane energy, using stormwater for irrigation, and others previously discussed).
 - The Project will generate tourism for the area and payroll revenues for the County, while also alleviating the local property tax burden through the influx of revenue from the NYS Gaming Tax.
 - The Project will integrate with the community, encouraging awareness about the surrounding natural resources (kiosk displays will contain information about on the canal corridor, local bird habitat, parks and historic resources, and local businesses) and promoting local agricultural uses and products (ex. “Savor New York” area for selling local and regional goods such as fruits, vegetables, wines, and cheese).
- iii. Seneca County is committed to supporting renewable and sustainable energy sources. (pg. 22) Renewable energy sources listed in the plan include solar, geothermal, wind and biofuels.
- The Project will involve the use of renewable energy sources including solar energy and energy produced from methane generated by recycling of food waste from the Project. The Project will implement other green design features previously discussed as well.
- iv. The plan discusses best practices for solid waste, and lists mandatory food waste recycling as a best practice

for commercial entities. For construction/demolition, a best practice is submission of waste management plans with the construction and/or demolition permit applications (pg. 27).

- The Project will implement food waste recycling by combining food waste in a digester at a local farm to generate renewable energy.
 - The Project involves a Construction Waste Management Plan to divert debris from landfill disposal. Specifications for concrete, steel and asphalt and other construction materials will be required to both contain a high amount of recycled content and to be sourced regionally.
- v. Another strategy of this plan is to strive to preserve the rural and village character, minimize the visual impact of large scale development, and maximize the amount of natural vegetation preserved on each site.
- The Project is designed to blend with the surrounding landscape and natural beauty of the area.
 - Extensive screening exists around the perimeter of the Site to minimize the visual impact of the development.
 - Dark sky compliant lights will be used exclusively in the parking lots and parking garages to eliminate any light encroachment on neighboring properties.
 - Nearly two-thirds (62%) of the Site will remain open space, and of this amount, more than 20 acres is classified as woods and wetlands. All wetlands on the Site will be left undisturbed.
- vi. Another strategy of this plan is to collaborate with towns and villages to suggest and agree upon appropriate incentives to preserve agricultural lands, open space networks, ecological corridors, historic and cultural assets, and other natural resources such as purchase of development rights, transfer of development rights, conservation easements, cluster development regulations and other best practices.
- The Project will implement a program for agricultural initiatives through which the Town could purchase development rights or take other

actions to preserve agriculture in the Town or County (ex. Applicant has committed to paying \$600,000 to the Town for its use in promoting and preserving agriculture)

- The family burial plot on the Site will be preserved and maintained.
- vii. Another strategy of this plan is to encourage development that adheres to the principles of smart growth and green building.
- The Project is designed to be eligible for LEED Silver Certification under the US Green Building Council's 2009 LEED for New Construction and Major Renovations rating system. Green energy components will include solar panels, a high efficiency HVAC system, and the diversion of stormwater for use in the irrigation of landscaping, as well as the other features previously discussed.
 - The stormwater management system incorporates green infrastructure components including six bio-retention areas along with dry vegetated swales, grass filter strips and tree plantings throughout the project site. These practices provide natural stormwater filtration and pollutant removal.
 - The Project will use an Integrated Pest Management Plan (IPM) to significantly reduce pesticide and herbicide use.

3) *Draft Seneca County Comprehensive Plan Introduction and Overview (unadopted)*

- These chapters explain that the comprehensive plan is intended to help the County to “anticipate and manage change.” (Intro at pg.3)
- “Seneca County has a history of responding to challenges and charting new paths to the future. We work with the resources we have. We have looked to balance economic and environmental considerations for decades before such symmetry became part of the sustainability trend. Change in Seneca County may be slow and incremental, but it's always thoughtful. . . . The comprehensive plan is a flexible framework to ensure that all of our residents, business officials, and other

stakeholders are moving forward together.” (Overview pg. 14)

- Key principles to guide the County’s decision making include (Intro pg. 4-5):
 - a. Support local production, processing, and marketing of agricultural products
 - The Project will promote local agricultural uses and products. For example, the Project will include a “Savor New York” area where local and regional goods will be sold, such as fruits, vegetables, wines, and cheese.
 - b. Encourage environmental stewardship
 - The Project has been designed to avoid negative effects on the environment (e.g. use of an Integrated Pest Management Program; stormwater management facilities to control the quality and quantity of stormwater runoff; avoiding all wetlands on site; preserving the family burial plot on site; incorporating design features to protect migratory birds; extensive green energy practices including solar panel, recycling food waste into methane energy, and using stormwater for irrigation).
 - c. Develop a strong, growing, diversified economy
 - The Project will generate tourism for the area and payroll revenues for the County, while also alleviating the local property tax burden through the influx of revenue from the NYS Gaming Tax.
 - d. Protect and enhance the integrity and economic viability of Seneca County’s natural resources
 - See note under item (b) above
 - e. Ensure the long-term preservation of surface and groundwater resources in Seneca County
 - Stormwater management facilities on Site will control the quantity and quality of stormwater runoff in surface water, provide natural filtration, and ensure that post-development runoff levels are the same as

those pre-development. Runoff and erosion and sedimentation are also controlled through other measures set forth in the NYSDEC-approved Stormwater Pollution Prevention Plan (SWPPP) and NYSDEC SPDES General Permit for stormwater discharges from construction activity, inspections pursuant to which (by both the Applicant and NYSDEC have shown full compliance).

- The Project will be served by public water and public sewer services. The Project will not use, discharge to, or affect groundwater.

f. Promote sustainable waste management

- The Project will implement food waste recycling by combining food waste in a digester at a local farm to generate renewable energy.
- The Project involves a Construction Waste Management Plan to divert debris from landfill disposal. Specifications for concrete, steel and asphalt and other construction materials will be required to both contain a high amount of recycled content and to be sourced regionally.

2. Item identified as:

- No impact
- Potential small impact
- Potential moderate to large impact

3. Part 3 Analysis required? Yes No

- a) Magnitude
- b) Duration
- c) Likelihood
- d) Importance
- e) Key Question: Is the impact significant and adverse?

B. Part 2, Section 17, Item e: “The proposed action may cause a change in the density of development that is not supported by existing infrastructure or is distant from existing infrastructure.”

Density refers to the number of residential dwelling units or the number of non-residential uses in an area.

1. Relevant Project Information:

- a) The Town has low density development in general but medium density in the area of the Project Site because major transportation corridors and large commercial uses exist in the vicinity of the Project (ex. the 24-hour Petro Stopping Center and the Thruway, Routes 414 and 318). The change in the overall density for the area will be limited.
- b) The Project is not distant from existing infrastructure. Some infrastructure improvements (to transmission systems) will be completed in order to connect to and support the Project, but the water and sewer lines being extended will be maintained as private lines. None of the infrastructure improvements require changes to any generation facility and all utilities have sufficient capacity to serve the Project. The applicable lines just need to be extended to connect to the Site. The Applicant will pay the costs for all infrastructure improvements and complete them before the Project becomes operational.
- c) Water: Project will utilize the existing public water system provided by the Village of Waterloo, which has sufficient capacity to serve the Project. In order to connect the Site with the public water line, the existing 12" water main will be extended to the Site.
- d) Sewer: Project will utilize the existing public sanitary sewer system, which has capacity to serve the Project. A private 6" force main sanitary sewer will be installed on site which will extend off site to the existing manhole on the south side of the NYS Thruway (adjacent to Petro) to connect with the existing 12" gravity sewer, which line has sufficient capacity to accept flows from the Project. The 6" force main will be considered and treated as a private lateral until it connects to the public sanitary sewer at this 12" line. Off-site, the existing Route 414 pump station will be upgraded, an 8" force main beginning just north of the Seneca Meadows pump station will be constructed, which will discharge into the existing 15" gravity sewer located on Balsley Road near the Kingdom Road Pump Station located on Route 5 & 20. Some pump and electrical upgrades will also be made at the Kingdom Road pump station.
- e) Energy: Project will be served by electricity and natural gas provided by NYSEG, which has capacity to serve the Project. Existing overhead electric lines on Route 414 adjacent to the Site

will extended to the Site and natural gas lines on the east side of Route 414 south of the Thruway will be extended under the Thruway to connect to the Site as well. The Project will incorporate numerous green energy features to reduce the energy use on Site, including use of renewable energy (solar and methane generated by recycled food waste captured to create energy).

- f) Roads: The Project incorporates off-site improvements within existing rights-of-way to existing roadways to accommodate the traffic the Project will generate, including widening Route 414 (to four lanes) from the NYS Thruway interchange to the Project entrance; adding turning lanes to the Project entrance, the Route 414/Thruway intersection, and the Route 318/414 intersection; installing new and improving traffic signals at these intersections; expanding the Thruway bridge overpass; and creating enlarged shoulders on both sides of Route 414 (measuring 8 feet) to accommodate slow-moving vehicles or equipment like buggies, cyclists, and farm equipment.
- g) Utility permit plans were prepared and provided to the NYS Thruway and NYS DOT for review within their respective right-of-ways, and the plans were approved by both agencies. The NYS Thruway Authority has already issued an Occupancy Permit for the sanitary sewer. The Applicant will seek a Use and Occupancy Permit from NYSDOT as well.
- h) The infrastructure improvements mainly entail the creation of private lines directed specifically to the Project site, making use of them by others difficult and unlikely. The roadway improvements benefit the community as a whole by improving safety and efficiency through additional turn lanes and traffic signals long needed at certain intersections regardless of the Project.
- i) Only 4% of traffic for the Project will come from the north (adding 180 trips to the 2500 existing daily trips).
- j) The Project only creates a single additional development at the Thruway/Route 414 interchange and the existing low density of development will continue to characterize the Town.

2. Relevant Public Comment: None.

3. Item identified as:

No impact

Potential small impact

Potential moderate to large impact

4. Part 3 Analysis required? Yes No

- a) Magnitude
- b) Duration
- c) Likelihood
- d) Importance
- e) Key Question: Is the impact significant and adverse?

C. Part 2, Section 17, Item f: “The proposed action is located in an area characterized by low density development that will require new or expanded public infrastructure.”

Density refers to the number of residential dwelling units or the number of non-residential uses in an area.

1. Relevant Project Information:

- a) The Town has low density development in general but medium density in the area of the Site because large public and commercial uses and major transportation corridors exist in the vicinity of the Project (ex. the 24-hour Petro Stopping Center and the Thruway, Routes 414 and 318).
- b) Some infrastructure improvements will be completed in order to connect to and support the Project, but the water and sewer lines being extended will be maintained as private lines. None of the infrastructure improvements require changes to any generation facility and all utilities have sufficient capacity to serve the Project. Public infrastructure improvements are limited to the sanitary sewer transmission line system and the public roadways. The Applicant will pay the costs for all infrastructure improvements and complete them before the Project becomes operational.
- c) Sewer: Off-site, the existing Route 414 pump station will be upgraded, an 8” force main beginning just north of the Seneca Meadows pump station will be constructed, which will discharge into the existing 15” gravity sewer located on Balsley Road near the Kingdom Road Pump Station located on Route 5 & 20. Some pump and electrical upgrades will also be made at the Kingdom Road pump station. These off-site improvements will ensure the system preserves its capacity for future needs that may arise.
- d) Roads: The Project incorporates off-site improvements to existing roadways in existing rights-of-way to accommodate the traffic the Project will generate, including widening Route 414 (to four lanes) from the NYS Thruway interchanges to the Project entrance; adding turning lanes to the Project entrance, the Route 414/Thruway intersection, and the Route 318/414 intersection; installing new and improving traffic signals at these intersections; expanding the Thruway bridge overpass; and creating enlarged

shoulders on both sides of Route 414 (measuring 8 feet) to accommodate slow-moving vehicles or equipment like buggies, cyclists, and farm equipment.

- e) Utility permit plans were prepared and provided to the NYS Thruway and NYS DOT for review within their respective right-of-ways, and the plans were approved by both agencies. The NYS Thruway Authority has already issued an Occupancy Permit for the sanitary sewer. The Applicant will seek a Use and Occupancy Permit from NYSDOT as well.
- f) The infrastructure improvements mainly entail the creation of private lines directed specifically to the Project site, making use of them by others difficult and unlikely. The roadway improvements benefit the community as a whole by improving safety and efficiency through additional turn lanes and traffic signals long needed at certain intersections regardless of the Project. They will ensure the transportation network operates at satisfactory levels of service, and the conservative figures used including the background growth rate ensure that the network will continue to function adequately in the future.
- g) The Project only creates a single additional development at the Thruway/Route 414 interchange and the existing low density of development will continue to characterize the Town.

2. Relevant Public Comment: None.

3. Item identified as:

- No impact
- Potential small impact
- Potential moderate to large impact

4. Part 3 Analysis required? Yes No

- a) Magnitude
- b) Duration
- c) Likelihood
- d) Importance
- e) Key Question: Is the impact significant and adverse?

D. Part 2, Section 17, Item g: “The proposed action may induce secondary development impacts (e.g., residential or commercial development not included in the proposed action)?

*Question to be discussed in connection with cumulative impacts at future Town Board meeting.

E. Part 2, Section 17, Item h: "Other"

II. Consistency with Community Character (page 10 of Part 2 of EAF): “The proposed project is inconsistent with the existing community character.”

Many people define their community’s character in very general terms: suburban, rural, urban, quiet, safe, scenic, or friendly are terms often used. Others describe community character only in terms of visual features. Community character is broader than this however.

Community character relates not only to the built and natural environments of a community, but also to how people function within, and perceive, that community. Community character is defined by all the man-made and natural features of an area. It includes the visual character of a town, village, or city, and its visual landscape; but also includes the buildings and structures and their uses, the natural environment, activities, town services, and local policies that are in place. These combine to create a sense of place or character that defines the area.

A. Part 2, Section 18, Item a: “The proposed action may replace or eliminate existing facilities, structures, or areas of historic importance to the community.”

1. Relevant Project Information:

- a) A barn was previously on the Site that has been taken down, but the structure had no historic or other importance to the community.
- b) In the section on Historic and Archeological Resources (EAF Part 2, Section 10), the Town Board discussed these types of concerns in detail and found there would be no impacts to such resources. New York State mapping resources and databases show there are no archeologically or historically sensitive areas at or near the site, and the New York State Office of Historic Preservation has twice determined that this Project will have “no impact” on historic or cultural resources.
- c) Despite the absence of any known resources of cultural, archeological, or historical significance, the Applicant retained Deuel Archeology & CRM to perform a Phase 1A Cultural Resource Investigation, which concluded the Site did not meet the threshold for requiring further study nor were any archeologically sensitive areas identified in or near the Site.
- d) The Site contains a family burial plot which will be preserved in its existing location and remain undisturbed. The Project will preserve an area measuring 75’ x 75’ around the plot, which is larger than the historically referenced size of the plot. The Applicant will provide right-of-way access for the family to the plot. This burial plot is neither of historic significance nor eligible for state or federal designation as a historic resource.

2. Relevant Public Comment:

- a) Several commenters expressed concern about the family burial plot on the Site.
- b) Some comments asserted that the Site was used by Native Americans.

3. Key Considerations:

- a) The Deuel Phase 1A study concluded that the Site does not have suitable geography for Native American precontact sites nor does it have alluvial soils which have the potential for buried cultural resources.
- b) The Applicant also retained Hartgen Archeological Associates, Inc. to advise about any potential impacts on archeological or historical resources. Hartgen concluded that the public comments “erroneously conflates” the presence of Native American sites elsewhere in Seneca County with “the assertion that ‘a significant archeological and historic resource . . . would be destroyed by construction of the Lago Casino.’ In fact, there are no reported Native American archeological deposits within or adjacent to the Project.” Hartgen concluded that further performance of archeological field survey is unwarranted.
- c) All soil removed and grading activities in the vicinity of the burial ground have been completed.
- d) The burial ground will not be disturbed by continued development of the Project

4. Item identified as:

- No impact
- Potential small impact
- Potential moderate to large impact

5. Part 3 Analysis required? Yes No

- a) Magnitude
- b) Duration
- c) Likelihood
- d) Importance
- e) Key Question: Is the impact significant and adverse?

B. Part 2, Section 18, Item b: “The proposed action may create a demand for additional community services (e.g. schools, police and fire).”

1. Relevant Project Information:

- a. CGR concluded:

- i. Regarding Fire Service: A new casino built to current fire codes and appropriate water supply has an extremely low probability of catastrophic fire, but the Project may will generate additional responses for false alarms, small fires, medical emergencies, and motor vehicle accidents. CGR recommended that Site personnel certified for these types of events work with the fire department, that the Project provide financial support to the fire department, and pay for an aerial truck and cover the cost of all maintenance and training and expanding the fire house to hold the truck.
 - Community Mitigation Plan: The Project will have establish a 24/7 EMT workforce (at least 2-4 trained staff at all times) as first responders for the Site. They will work with the local fire department and EMT when their response is needed. The Project will pay to the fire department, toward the Town's payment obligation under a contract for services from the Magee Fire Department or any other fire department that may contract with the Town to provide fire protection services, up to \$110,000 in the January following commencement of casino operations and up to \$200,000 each January after that. The Project will also the cost of new high rise fire-fighting equipment for six firefighters and related training and equipment, to provide fire protection services for the proposed 6-story hotel at the Site. The Applicant may also request that the Magee Fire Department purchase a ladder truck, which the Applicant will pay for fully, including any costs for training and maintenance and expanding the fire house to accommodate the truck.
- ii. Regarding Law Enforcement: The Seneca County Sheriff's Office is the primary law enforcement authority for the Town. The increase in call volume from the Project would increase the demand on the Sheriff's Office by just under one full-time employee. CGR recommended that the Project contribute the cost of one sheriff's deputy, paid at the rate of the mean salary and benefits across the department.
 - Community Mitigation Plan: The Project will establish a 24/7 security workforce to act as first responders for the Site. The staff with be trained appropriately and the Project will also employ an investigator. The Project will provide, at its sole cost and expense, training to the Sheriff's Office unique to gaming issues. The security workforce will coordinate with the Sheriff's Office whenever needed. The Applicant has also committed to paying the Sheriff's Office the cost of one Sheriff's Deputy in an amount equal to the average of the annual salary and benefits paid to all deputies in the Sheriff's Department.

- iii. Regarding Emergency Medical Services (EMS): Tyre receives EMS from the North Seneca Ambulance, Inc. (NSA). The Project will increase the number of calls for NSA, which would likely need additional staff on weekend evenings and overnights, but would be able to handle the rest of the calls in the course of their normal call volume. Because NSA bills for all calls with patient contact, the additional call volume would cover the costs of the additional service. However, NSA collects more for patients that are transported than patients that are not transported. The call increase would also include non-transport. Given the lower collection rate from non-transport calls, CGR recommended that the Applicant commit to paying NSA's standard fee for non-transport directly and guarantee reimbursement for transports when the insurance claim is denied. The existing 911 dispatch call center has capacity to handle the call increases.
- Community Mitigation Plan: The Project will have establish a 24/7 EMT workforce (at least 2-4 trained staff at all times) as first responders for the Site. The facility will have all the required emergency equipment. The Applicant will pay NSA its standard fee for each call to the Project Site that does not result in a patient transport, in recognition of the payment structure for NSA calls. The Applicant will also pay to NSA and any other ambulance service providing services to the Site, the portion of their fees for patient transports from the Project Site that is not paid by the patients or their insurers.
- iv. Regarding Services for Problem Gambling: Local services to treat problem gambling would be strained, so CGR recommended allocating financial resources to the Seneca County Mental Health Department which provides services to address gambling addiction, and providing financial support to other local organizations that provide such services.
- Community Mitigation Plan: The Applicant has entered Memorandum of Understanding (MOU) with the Seneca County Mental Health Department to address problem gaming. The Applicant will take all actions required of it under the MOU, specifically providing funding to the County for one full-time gambling prevention professional and one full-time gambling treatment professional while the casino operates; provide treatment services and funding materials used for prevention, outreach and education.
 - The New York State Racing, Parimutuel Wagering and Breeding Law requires the Applicant to pay an annual license fee of \$500 per slot machine and gaming table,

which funds must be used exclusively by the State for problem gaming and treatment purposes.

- v. Regarding Schools: CGR concluded that population growth from the Project will be minimal given that the wages to be paid are unlikely to spur family relocation and the location near the Thruway allows for easy access to the labor markets. Even if a slight increase in population were to occur, the schools have excess capacity and the net fiscal impact on local public schools would probably be fiscally neutral.
 - b. The Project will generate revenue for the Town and the County from the NYS Gaming Tax, which will split equally 10% of the commercial gaming revenue fund pursuant to New York State Finance Law § 97-nnnn(3)(b). This amount is expected to total approximately \$3.4 million each for the Town and the County, which will allow them to provide adequate community resources and cover the costs of any increased services. The Community Mitigation Plan also provides for additional payments to be made to the Town to ensure that its revenue stream remains at least \$2 million annually during operations.
2. Relevant Public Comment:
- a. Several comments raised concerns about an increase of gambling and social problems detracting from the Town.
 - b. Akin Gump commented that the Project will attract large numbers of people to the area for more than a few days.
3. Item identified as:
- No impact
 - Potential small impact
 - Potential moderate to large impact
4. Part 3 Analysis required? Yes No
- a) Magnitude
 - b) Duration
 - c) Likelihood
 - d) Importance
 - e) Key Question: Is the impact significant and adverse?

C. Part 2, Section 18, Item c: “The proposed action may displace affordable or low-income housing in an area where there is a shortage of such housing.”

1. Relevant Project Information:

- a. The Site of the Project contains 45 acres of former agricultural land (constituting approximately 0.02% of total farmland in Seneca County and 0.5% of total farmland in the Town of Tyre). The Site has not provided any affordable or low-incoming housing (or any type of housing) nor has it ever been planned to provide such use. No displacement of that use has or will occur because of this Project.
 - b. Any availability of residential housing in the Town and County will continue and be unaffected by the Project.
2. Item identified as:
- No impact
 - Potential small impact
 - Potential moderate to large impact
3. Part 3 Analysis required? Yes No
- a) Magnitude
 - b) Duration
 - c) Likelihood
 - d) Importance
 - e) Key Question: Is the impact significant and adverse?

D. Part 2, Section 18, Item d: “The proposed action may interfere with the use or enjoyment of officially recognized or designated public resources.”

Officially recognized or designated public resources include parks, playgrounds, public properties and buildings, ball fields, picnic areas, designated fishing access locations, public beaches, scenic pull-offs, museums, pedestrian pathways such as hike and bike trails, rail trails, or snowmobile trails, or community centers.

1. Relevant Project Information:

- a. The Site does not contain any officially recognized or designated public resource and the Project will not interfere with the use or enjoyment of any officially recognized or designated public resources.
- b. The Project is not visible from any park, playground, ball field, picnic area, designated fishing access location, public beach, scenic pull-off, museum, trails, or community centers, nor are any visible from the Site. Indeed, there are no designated community centers in the Town.
- c. The Project is approximately 3 miles from the Montezuma National Wildlife Refuge and it is not visible from the Refuge, nor is the Refuge visible from the Project. The same is true for the Women’s Rights

National Park, which is approximately 4.5 miles from the Women's Rights National Park.

- d. The Site is located in the Erie Canalway National Heritage Corridor, an area designation designed to highlight the legacy of the canal. The corridor stretches 524 miles across the full expanse of upstate New York, and the Project will not detract from or interfere with the Corridor.
 - e. The NYS Thruway is visible from the Site and vice versa, but the Thruway will continue to operate, and people will continue to use it as they currently do, unchanged by the Project.
 - f. The Project is not expected to generate any permanent population growth that would affect demand for these types of resources. The existing resources have adequate capacity to serve any temporary visitors to the Site.
2. Item identified as:
- No impact
 - Potential small impact
 - Potential moderate to large impact
3. Part 3 Analysis required? Yes No
- a) Magnitude
 - b) Duration
 - c) Likelihood
 - d) Importance
 - e) Key Question: Is the impact significant and adverse?

E. Part 2, Section 18, Item e: "The proposed action is inconsistent with the predominant architectural scale and character."

Predominant architectural scale and character are determined through understanding the size, height, dimensions, and intensity of uses as they exist in the neighborhood or community,

1. Relevant Project Information:

- a. The Project is a commercial development incorporating a hotel (6-story, 33,820 sq. ft. footprint); casino with restaurants, a theater, and administrative offices (2-story, 210,640 sq. ft. footprint), a parking garage (4 parking levels, 76,450 sq. ft. footprint), central HVAC plant (single story, 9120 sq. ft. footprint), and child care center (single story, 5,250 sq. ft.), with surface parking, signage, some outdoor lighting, and landscaping on an 84.95 acre Site.

- b. Substantial landscaping and screening, providing visual and sound buffers, are incorporated into the Project. 62% of the Site will remain green space. More than 20 acres of woods on the eastern portion of the Site will remain undisturbed, including 10 acres which will be designated as forever wild. Existing stands of trees and treelines are being preserved in the northwest corner of the Site, along the northern boundary line, and along the southern boundary line, adjacent to the NYS Thruway.
- c. Surrounding land use patterns:
 - i. The Site is located near frequently travelled roads. The Site's southern boundary is adjacent to NYS Thruway and western boundary adjacent to NYS Route 414.
 - o NYS Thruway - 2013: more than 33,000 average daily trips
 - o Route 414 - 2013: North from Thruway Exit 41 – more than 2,500 average daily trips; South from the Thruway Exit 41 – more than 10,000 average daily trips
 - o Route 318 – 2013: more than 8,000 average daily trips
 - ii. Nearby commercial uses:
 - o Site is within 0.2 miles (across the Thruway) from the Petro Stopping Station: Commercial use: 24-hour truck stop on 50-acre site with 30,000 sq. ft. building area and 350 parking spaces, gas station/service station for tractor-trailers and gas station for passenger vehicles, travel/convenience store, and 24-hour restaurant, with tall signs and outdoor lighting (several over 100'), and minimal landscaping or screening.
 - o Site located 0.6 miles from the Magee Country Diner
 - o Site located 0.7 miles from the busy Route 414//318 intersection and the Nice N' Easy Grocery Shop
 - o Site located 1.5 miles from Empire Seneca, Inc. – scrap metal yard south of the Site
 - o Site located 0.2 miles from
 - iii. Residential uses, including typical single-family homes
 - iv. Agricultural uses: farms with related structures (ex. shops, machinery storage buildings, hay storage barn, grain dryer building and wet bin, livestock building, hay storage building), including active farm 0.2 miles north of Site on opposite site of Route 414
 - v. Surrounding area – within 5 miles of Site: Seneca Meadows landfill; Waterloo Outlets; Tops Friendly Markets; Walmart; Hampton Inn; Microtel; Holiday Inn; McDonald's; Dunkin Donuts; Taco Bell; Advance Auto Parts; Car dealership.

2. Relevant Public Comment:

- a. ERM evaluated the Town of Tyre and adjacent portions of the Towns of Junius, Waterloo, and Seneca Falls, and commented that the Project would be different from the uses north the Thruway and in the eastern portion of Tyre and Seneca Falls. ERM noted that in Junius, land along Route 318 is largely commercial and industrial, including the Waterloo Premium Outlets, Riccelli concrete and asphalt plant, and several other commercial/industrial business. ERM noted that Route 414 in Tyre and Seneca Falls is also commercial/industrial, including the Petro truck stop and the Seneca Meadows regional landfill complex.
 - b. Akin Gump and others commented that the rural character of the town would be changed. ERM commented that some characteristics of “rural character” are: traditional development setting with low population density; agriculture and forestry operations accepted as consistent with rural lifestyles; large, interconnected tracts of farmland and forest; rural towns and centers provide stores and services; commercial and employment uses have a low profile with only minor visual impact to the landscape; and roadways have low traffic volumes and can be safely used to transport farm equipment.
3. Key Considerations:
- a. Certain features of the Project differ from some architecture in the area (e.g. agricultural fields and residences) but are also consistent with others (e.g. large structures and parking areas at the adjacent Petro Stopping Center, large retail structures and parking lots at the Waterloo Outlets and commercial and retail structures in Seneca Falls, smaller restaurant uses nearby, outdoor lighting, and signage, other nearby commercial properties).
 - b. The Town will continue to be characterized by an overall low population density (the existing medium density of development in the area of the Project will continue too); agriculture operations will continue in the Town and the Town will continue be characterized by large, interconnected tracts of farmland and forests; the Project incorporates substantial screening to minimize the visual impact and blend with the existing landscape; the roadways will provide satisfactory service for the expected traffic volume and widened shoulders and signage will be incorporated to ensure safe transport for buggies, bicycles and farm equipment. Thus the Town will continue to exhibit the characteristics of a rural community that ERM identified.
4. Item identified as:
- No impact
 - Potential small impact
 - Potential moderate to large impact
5. Part 3 Analysis required? Yes No

- a) Magnitude
- b) Duration
- c) Likelihood
- d) Importance
- e) Key Question: Is the impact significant and adverse?

F. Part 2, Section 18, Item f: “Proposed action is inconsistent with the character of the existing natural landscape.”

1. Relevant Project Information:

- a. The Site is located adjacent to the NYS Thruway and Route 414, across the Thruway from the Petro Stopping Center and the Exit 41 toll plaza. The intensity of the uses and traffic in the vicinity will not be dissimilar from the Project. In context of the Project Site, the Thruway with its 33,000 trips per day is the predominant feature of the landscape.
- b. Other features of the Town landscape include agricultural fields, drumlins, natural waterbodies and wetlands. The Site contains six regulated wetlands, all of which will be preserved and undisturbed. The Project will also retain more than 20 acres of woods on the Site (10 acres on the eastern side will be designated forever wild).
- c. The Project incorporates substantial screening and allow the Site works with the existing landscape to minimize the visual impact.
- d. The Site formerly contained 45 actively farmed acres, though none of the site currently functions as agricultural land. Seneca County had approximately 128,000 acres in farms in 2008 (according to County Agriculture and Farmland Protection Plan). The Town has approximately 8,270 acres of designated agricultural land. Less than 0.02% of the County’s total farmland will be lost and less than 0.5% of the Town’s farmland will be lost as a result of the Project. Significant quantities of agricultural land will remain available in the Town and County for farming.
- e. The natural landscape of the Town will not be changed by the Project except the Project Site. Of the 84.95 acres on the Site, more than 20 acres will continue to be woodlands (10 acres being specifically preserved as forever wild), 62% will be green space.

2. Relevant Public Comments:

- a. Akin Gump and others commented that the rural character of the town would be changed. ERM commented that some characteristics of “rural character” are: traditional development setting with low population density; agriculture and forestry operations accepted as consistent with rural lifestyles; large, interconnected tracts of farmland and forest; rural towns and centers provide stores and services; commercial and employment

uses have a low profile with only minor visual impact to the landscape; and roadways have low traffic volumes and can be safely used to transport farm equipment.

- b. Several comments stated farming should continue unobstructed in the town.

3. Key Considerations:

- a. The Town will continue to exhibit the characteristics of a rural community that ERM identified. The Town will continue to be characterized by an overall low population density (the existing medium density of development in the area of the Project will continue too); agriculture operations will continue in the Town and the Town will continue to be characterized by large, interconnected tracts of farmland and forests; the Project works with the existing landscape and incorporates substantial screening to minimize the visual impact; the roadways will provide satisfactory levels of service for the expected traffic volume and widened shoulders and signage will be incorporated to ensure safe transport for buggies, bicycles and farm equipment.
- b. The Town will retain more than 99% of its active agricultural land. Those uses will continue uninterrupted by the Project and the Town's existing agricultural and rural characteristics will be preserved as well.
- c. Only 4% of the traffic for the Project will come from the north on Route 414, adding 180 trips to the 2500 existing daily trips.

4. Item identified as:

- No impact
- Potential small impact
- Potential moderate to large impact

5. Part 3 Analysis required? Yes No

- a) Magnitude
- b) Duration
- c) Likelihood
- d) Importance
- e) Key Question: Is the impact significant and adverse?

G. Part 2, Section 18, Item g: "Other impacts"

1. Effects on Amish and Mennonite Community

- a. Public Comment: In submissions to the New York State Attorney General and other comments made about the Project, allegations

have been made that the effect of the Project on the lifestyle of the Amish and Mennonite communities has not been considered.

b. Key Considerations:

- i. McFarland Johnson conducted a traffic study for the Applicant and took video recordings of all traffic traveling within the Project's traffic impact study area along NYS Route 414 and NYS Route 318 on November 22, 2013 and November 23, 2014. These video recordings did not show one Amish vehicle. After concerns were raised about the possible effects on the non-motorized travel by the Amish and Mennonite, additional video recordings were taken of all traffic traveling within the Project's traffic impact study area along NYS Route 414 and NYS Route 318 from September 26, 2014 to September 30, 2014. It was determined that 3-4 Amish buggies per day travel on NYS Route 414 north of the Project site to access Chase Road. McFarland Johnson also examined buggy traffic studies completed in the Penn Yan area where there is a high Amish population and members of the Amish community were involved in the studies and its recommendations.
- ii. Less than 4% of the Project traffic is expected to traverse the area of NYS Route 414 north of the Project site.
- iii. The nearest Amish residence is located 750 feet to the north of the Project entrance. Access to this property is provided via NYS Route 414 and from Alder Road. The next closest Amish farm is 2.5 miles to the northeast on West Tyre Road. An Amish school and meeting point are located further east on Tyre Road. The Amish properties are located well north of the Project site.
- iv. McFarland Johnson inspected the pavement and shoulder areas along NYS Route 414 from the Thruway to the Project site entrance and found no evidence of buggy or horse traffic. However, buggy wheel and horse shoe marks are visible on Alder and Chase Roads north of the Project site. It appears that most, if not all, of the observed buggy traffic terminates at the Amish farm 750 feet north of the Project site.
- v. It was concluded that buggies do not regularly travel down Route 414 in front of the Site, nor are there any homes located between the Thruway and the Site.
- vi. Nevertheless, off-site roadway improvements that are part of the Project include widening of the shoulder from 3-4 feet to

8 feet (the State maximum) for buggies, pedestrians and cyclists on both sides of NYS Route 414.

- vii. Buggy traffic signage will also be utilized to notify casino patrons and area commuters to use caution around non-motorized vehicles.
 - viii. The installation of a traffic signal at the Project entrance will also calm traffic flows and result in lower speeds in comparison to driving along an open rural road.
 - ix. CGR reported that casinos are self-contained facilities and unlikely and have low capability for generating spinoff development.
 - x. Visitors to the Site will be temporary and their stays short-term. Those travelling to the Site would remain on the main thoroughfares and are unlikely to travel local back roads (only 4% of the traffic is expected to come from the north).
 - xi. Farming and agricultural uses in the Town, including those activities of the Amish and Mennonite communities, will continue on, unimpeded by the Project. The Applicant has specifically acknowledged in the Community Mitigation Plan the right to farm in the community.
- c. Item identified as:
- No impact
 - Potential small impact
 - Potential moderate to large impact
- d. Part 3 Analysis required? Yes No
- i. Magnitude
 - ii. Duration
 - iii. Likelihood
 - iv. Importance
 - v. Key Question: Is the impact significant and adverse?