

# Town of Tyre

## State Environmental Quality Review Act Lago Resort and Casino Proposal

### Review of Potential Impacts

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,<sup>1</sup> 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.”<sup>2</sup> 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.

#### I. Cumulative and Synergistic Impacts

Over the past 4 meetings, the Board has reviewed in detail each of the questions set forth in Part 2 of the EAF, with one exception (EAF Part 2, Section 17, Item g), and determined whether the potential impact identified by those questions, as well as the potential impacts associated with local issues of concern, would result in no impact, a potential small impact, or a potential moderate to large impact. For every impact identified as moderate to large, the Board undertook an additional evaluation to determine whether that impact was both significant and adverse.

Prior to making a determination of significance, the Board must also consider the criteria set forth in the SEQRA Regulations at 6 NYCRR 617.7(c)(1). The questions in the EAF assist with the assessment of the regulatory criteria. The regulatory criteria also require the Board to look at the potential impacts in combination with each other and

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<sup>1</sup> 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.

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

cumulatively in connection with other related developments. In this regard, the Regulations require the Board to consider:

- The creation of a material demand for other actions that would result in one of the identified consequences in the regulation
- Changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment
- Two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in the regulation

Along these lines, in Part 2 of the EAF, Question 17.g. asks whether “the proposed action may induce secondary development impacts (e.g., residential or commercial development not included in the proposed action).” That was the question that we deferred on at the meeting on September 24.

These types of potential impacts are referred to as synergistic impacts and cumulative impacts. Synergistic impacts involve to the interaction between the potential resource related impacts with respect to the proposed Lago Project (for example, when considered together, does any impact on stormwater and any impact on plants and animals create a significant adverse impact). Cumulative impacts consider multiple related actions that affect the same resource (for example, traffic impacts associated with two projects that are related).

Prior to reviewing cumulative and synergistic impacts, it would be useful to review the Town Board’s conclusions about the potential impacts of the Project discussed during the Board’s Part 2 and Part 3 analysis in connection with the criteria set forth in the Regulations for determining significance.

The remaining criteria set forth in Section 617.7(c) (1) include:

- A substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic, or noise levels
- A substantial increase in solid waste production
- A substantial increase in potential for erosion, flooding, leaching, or drainage problems
- The removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources

- The impairment of the environmental characteristics of a critical environmental area as designated pursuant to section 617.14(g) of this Part
- The creation of a material conflict with a community's current plans or goals as officially approved or adopted
- The impairment of the character or quality of important historical, archeological, architectural, aesthetic resources, or of existing community or neighborhood character
- A major change in the use of either the quantity or type of energy
- The creation of a hazard to human health
- A substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses
- The encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action

**A. A substantial adverse change in existing:**

1. **Air quality** (EAF Part 2, Section 6, Page 4 of 10)

- a. There will be no process emissions from the Project.
- b. The Town Board found that no or small impacts would occur as a result of emissions from combustion sources.
  - There will be emissions from seven natural gas-fired low nitrogen oxide (NO<sub>x</sub>) boilers for the Project's HVAC units; a cooling system with three R-134a (hydrofluorocarbon [HFC]) filled centrifugal chillers and three water filled cooling towers; four diesel-fired emergency generators (500 kW each) that will operate only when the usual source of power to the Project is not available; and small portable gas fired generators as needed during construction. The facility will be a natural minor source of air emissions, meaning that the emissions potential of regulated contaminants will not exceed major source thresholds.
  - Emissions from these combustion units will comply with applicable federal and state regulatory requirements. The emissions will not require any state or federal air permit.
- c. The Board also considered potential impacts from fugitive dust during construction activities. The Board found that potential impacts from fugitive dust were small because the area is predominantly agricultural, construction activities are temporary in nature, the applicant has implemented dust control measures, and

the prevailing winds are from the west and the closest receptor to the east is 3,000 feet away (through 1,700 feet of woods).

- d. The Board found that there will be no impact associated with the risk of Legionnaires' Disease because cooling towers will have water treatment systems, and the applicant will develop a routine maintenance and sampling program.
- e. The Board found that there would be no impact on air quality associated with vehicular emissions because the Project site is not located in a non-attainment area for National Ambient Air Quality Standards, there are no sensitive receptors nearby, the Project will not draw more than 7,000 vehicles per hour, and the traffic intersections as improved by the Project will not have operation levels of service of D or worse.

**2. Ground or surface water quality or quantity** (EAF Part 2, Sections 3 and 4, Pages 2 and 3)

- a. The Board concluded that there would be a moderate impact associated with the creation of two stormwater management ponds.
- b. The Board found that there would be small impacts associated with stormwater runoff (turbidity, siltation, water quality degradation) and the use of pesticides or herbicides.
- c. The Board found that surface water would not be adversely affected because the Project included an erosion and sediment control plan and permanent stormwater control measures that were designed and implemented in accordance with regulatory requirements. Implementation of the NYSDEC approved Stormwater Pollution Prevention Plan ("SWPPP"), will avoid degradation of downstream water resources that could be caused by of turbidity, siltation, or other pollutants by treating stormwater quality and controlling stormwater quantity (flow) prior to its discharge off-site.
- d. In addition, the Board considered that approximately 52.5% (2,250± acres) of the existing watershed includes active agricultural fields. Agricultural uses result in soil disturbance that can lead to erosion, sedimentation, and degradation of nearby water bodies. The Board members reported that prior to the development of the Project site, it was not uncommon for off-site waterbodies, including White Brook, to become turbid (cloudy/muddy) after rain events.
- e. The Applicant intends to implement an Integrated Pest Management ("IPM") Plan with respect to the use of pesticides. An IPM Plan is identified by Seneca County and other agencies as a best practice for reducing potential impacts associated with pesticides. In addition, the Board considered that approximately 52.5% (2,250± acres) of the watershed is active agricultural fields

that use herbicides and pesticides, in many instances without following an IPM Plan.

**3. Traffic** (EAF Part 2, Section 13, Page 8)

- a. The Board found that the Project could have a moderate to large impact on transportation based on the capacity of the existing roads, the size of the parking lot, and the changes to the pattern of movement.
  - According to the Traffic Impact Study, the weekday peak hour is expected to generate 1,208 trips, and the weekend peak hour will generate 1,115 trips.
  - Trip distribution analysis concluded that 69% of the trips will use the NYS Thruway, while 27% will arrive from the south and 4% will arrive from the north.
- b. The Board concluded that none of these impacts would be adverse because the off-site road improvements included in the Project design will avoid any degradation to roadway capacity. These improvements include:
  - Expansion of NYS Route 414 to four lanes from the NYS Thruway interchange to the Project entrance, including the NYS Thruway bridge;
  - Addition of turning lanes to the Project entrance, NYS Route 414/NYS Thruway intersection, and NYS Route 318/414 intersection;
  - New and improved signals at identified intersections;
  - Installation of an additional toll plaza lane; and
  - Widened shoulders (8 feet) for buggies, pedestrians, and cyclists on both sides of NYS Route 414.
- c. The Applicant is also including in the overall Project development appropriate control and/or safety mechanisms at the entrance of the Project site from NYS Route 414.
- d. These improvements were reviewed by the relevant state agencies, including the NYSDOT and New York State Thruway Authority (NYSTA).
- e. With these improvements, all existing overall levels of service will be maintained in comparison to the no-build conditions with one exception: the intersection of Route 414 at Exit 41, where the no-build condition has an LOS 'A' and the intersection with proposed improvements has 13 and 10 second increases in delay that result in a LOS 'B' for the build scenario for both peak periods. LOS 'B' is still an acceptable operating level.

- f. Although these improvements could be viewed as altering the pattern of movement of people, and therefore, could be considered a moderate to large impact, the Board believed that the improvements would significantly improve the overall safety and operating conditions of the roadway network.
- g. The Board also found that any impacts associated with the parking lots would not be significant and adverse given the location and context of the Project site adjacent to the Thruway and in close proximity to the Petro Station and the Thruway Toll Plaza, the existence of extensive screening around the Site, the use of Dark Sky compliant lighting, and the implementation of a NYSDEC approved SWPPP. The provision of sufficient parking is necessary.
- h. The Board also found there would be a small impact on Amish traffic. Most of the Amish buggy traffic occurs north of the Project site. Only 4% of the project generated traffic would travel on the main thoroughfare north of the Project site. The Applicant is also widening the shoulders of NYS Route 414 to the State-allowed maximum of 8 feet and plans to install signage to caution drivers about the potential presence of Amish vehicles.
- i. The Board found that there would be a small impact as a result of construction traffic. No local roads will be impacted by the construction truck traffic, as trucks from the Riccelli concrete plant will access the site via NYS Route 318 and NYS Route 414. Asphalt deliveries will not utilize any local roads. The majority of the miscellaneous construction deliveries will utilize 1-90 and NYS Route 414 to access the site. These roads have the capacity to absorb the additional construction related traffic without significantly deteriorating levels of service. Any potential impacts associated with construction traffic would be temporary.

**4. Noise levels (EAF Part 2, Section 15, Page 8)**

- a. The Board found that there would be no impact with respect to noise.
- b. There are no local noise regulations.
- c. Any noise from construction will be temporary in nature and not materially different from the operation of heavy farm equipment.
- d. Noise produced by the Project's operations is expected to be consistent with existing ambient noise levels at and around the site.
  - During operation possible sources of noise include normal site maintenance such as mowing the lawn, road traffic, snow plowing, and HVAC units.
  - According to NYSDOT and NYSDEC noise policies, given the distance to the local receptors and the existing ambient

noise from the adjacent Thruway (33,000 cars per day), the human reaction to any increase in noise from the Project would be considered "unnoticed to tolerable."

- In addition, existing vegetation has been preserved as a noise buffer on the northern and eastern portions of the site.

**B. A substantial increase in solid waste production** (EAF Part 2, Section 16, Page 9)

- a. The Project will generate some solid waste, but the Applicant plans to implement a number of reuse and recycling initiatives to reduce the amount of waste actually disposed in a solid waste landfill.
  - i. For instance, the Project will send its food waste to a local farm with an existing digester where the food waste will be combined with cow manure to produce methane, which in turn will be captured and used to generate electricity for the Project.
  - ii. The Project also involves a Construction Waste Management Plan to divert debris from landfill disposal.
  - iii. Nearby landfills have capacity to receive the solid waste from the Project.

**C. A substantial increase in potential for erosion, flooding, leaching or drainage problems** (EAF Part 2, Sections 1, 3, 5 and 16, Pages 1, 2, 3, and 9)

1. The Board found that there would be no impacts with respect to erosion, flooding, leaching or drainage.
2. To address erosion, the Applicant is implementing a NYSDEC approved SWPPP that includes erosion and sediment control features that were designed to comply with regulatory requirements.
3. The Project site is not located in a flood plain and is not modifying existing off-site drainage patterns.
4. The Project will not result in the release of contaminated leachate.

**D. The removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources.** (EAF Part 2, Section 7, Pages 4 and 5)

1. The Board concluded that the Project would not adversely impact plant and animal species.
2. According to State mapping resources and databases, together with various field studies commissioned by the Applicant or undertaken by the Town Engineer, no threatened or endangered species are known to exist at the Site, nor are there any critical habitats or refuges on the Site,.

- a. Bat Conservation and Management concluded that neither the Indiana Bat, nor the Northern Long-eared Bat were present at the Site. Removal of trees was performed between December 2014 and February 2015, which is within clearing guidelines concerned with protecting certain bat species. All clearing activity on the Project site is complete and no further clearing is proposed
- b. The Town Engineer and EcolSciences confirmed that the Site does not contain suitable Bog Turtle habitat.
- c. The nearest documented Bald Eagle nest is located at the Montezuma National Wildlife Refuge approximately 3 miles east of the site.
  - i. The onsite investigation and report submitted by Dr. Kevin McGowan concluded the Site has no features that would entice eagles to visit or linger.
  - ii. The report by EcolSciences also studied potential impacts on eagles and concluded that the Project would have a negligible or insignificant impact on eagles and their habitat.
3. Dr. McGowan concluded that wooded wetland area on the eastern portion of the site could be used for migratory bird breeding habitat, but, that portion of the site would not be disturbed by the Project.
  - a. The Project will preserve more than 20 acres of woods and all wetlands on site, including 10 acres on the eastern side of the Site that will be designated as forever wild.
  - b. Likewise, Dr. McGowan concluded that the proposed SWMFs will be too small to attract other migratory birds
4. There are no unique or unusual landforms on the Project Site and there will be no impact on geological features.

**E. The impairment of the environmental characteristics of a critical environmental area (CEAs) as designated pursuant to 6 NYCRR § 617.14(g) (EAF Part 2, Section 12, Page 7)**

1. The site does not contain any CEAs nor are there any CEAs in Seneca County. Thus, the Board concluded that the Project will not impair any CEA.

**F. The creation of a material conflict with a community's current plans or goals as officially approved or adopted. (EAF Part 2, Section 17, Page 10)**

1. The Board found a small impact with respect to the proposed Project's consistency with the local land use plans and zoning regulations, and no impact relating to consistency with the county or regional land use plans.
  - a. The Project was consistent with the overall vision of the Town's Comprehensive Plan to balance competing interests, including to preserve the agricultural nature of the Town while still encouraging

commercial development along the major transportation corridors. The Project is consistent with the goals and recommendations in the Town's Comprehensive Plan, including the goal to add commercial development along the Route 414 and Route 318 corridors, the goal to maintain and improve roadways within the Town, and the goal to preserve the environment and retain the agricultural nature of the Town.

- b. The Project was consistent with the requirements for a Planned Unit Development District set forth in the Town's Zoning Law, which is the district being sought for the Project, though there could be some potential inconsistency with the Zoning Law if the Applicant were seeking approvals under the existing agricultural zone for the Site since a variance would be needed.
  - c. The Project was consistent with the Seneca County land use plans and the planning documents for the Erie Canalway National Heritage Corridor.
2. The Board concluded that there would be a small impact with respect to the Project's consistency with surrounding land use patterns.
    - a. The Board found that the Project was consistent with the character and intensity of uses and traffic flow in the surrounding area.
    - b. The Board acknowledged that the size of the structure and the parking area was larger than nearby commercial uses, but any potential impact was minimized by design features that reduced visual impacts.
  3. The Board decided that there would be a moderate impact with respect to the density of the development in light of the infrastructure improvements required to serve the Project.
    - a. Water, sewer and electric lines would need to be extended a short distance to connect the Project to public water, sewer, natural gas and electric.
    - b. Some offsite improvements would be needed to existing sewer lines.
    - c. Several offsite highway improvements would be required to maintain existing levels of service. These include additional turn lanes, additional stop lights, improved stop lights, widening of the roadway, and an additional toll plaza lane at the NYS Thruway Exit 41 Interchange.

**G. The impairment of the character or quality of important historical, archeological, architectural, aesthetic resources, or of existing community or neighborhood character (EAF Part 2, Sections 9, 10, 11 and 18, Pages 6, 7 and 10)**

1. The Board found there would be no impact of any historical or archeological resources.

- a. According to state mappers and separate expert reports, there are no archeologically or historically sensitive areas at or in proximity to the Site.
  - b. Letters from the New York State Office of Historic Preservation (OPRHP) determined that the Project will have no impact upon cultural resources in or eligible for inclusion in the State and National Register of Historic Places.
  - c. Reports prepared by Deuel Archeology and Hartgen Archeological Associates concluded that there were no archeologically sensitive Native American sites identified in or near the Project Site.
  - d. The Board also found that the Project would not have any impact on the Weaver family burial ground.
    - i. The Applicant reconfigured the parking area for the Project to avoid and preserve the burial plot. Specifically, an area measuring 75 x 75 feet around the plot will be preserved, which is larger than the historically referenced size of the burial plot.
    - ii. The Applicant will also provide right-of-way access to the family associated with the burial plot.
    - iii. All soil removed and grading activities in the vicinity of the burial plot have been completed.
2. The Board found that there would be no impacts to aesthetic resources.
- a. The Project is not visible from any designated scenic or aesthetic resources, will not obstruct or eliminate any designated scenic views, and will not cause diminished public enjoyment of a designated resource.
    - i. The Project is approximately 3 miles from the Montezuma National Wildlife Refuge and will not be visible from the Refuge, nor is the Refuge visible from the Project.
    - ii. Likewise, the Project is approximately 4.5 miles from the Women's Rights National Park and will not be visible from the Park, nor is the Park visible from the Project.
  - b. The Project site is bounded on the south by the NYS Thruway and on the west by NYS Route 414, major existing travel corridors identified by the Town and County as appropriate for commercial development and for encouraging tourism.
    - i. Surrounding uses include Petro Waterloo (commercial 24-hour truck stop on 50-acre site with 30,000 sq. ft. building area and 350 parking spaces, gas station for tractor-trailers and passenger vehicles, travel/convenience store, and 24-hour restaurant, with tall signs, outdoor lighting, and minimal

landscaping), gas station, diner, single-family houses, and farms with related structures.

- ii. The Board also noted the presence of the Waterloo Premium Outlet Mall located nearby in the Town of Junius.
- c. Visual simulations prepared by the Applicant indicate that the overall visual impact of the Project on neighbors will be minimal in both summer and winter conditions.
- d. The Project's lighting will not be detrimental to the area because it is dark sky compliant and the area at Exit 41 is significantly affected by sky glow from the nearby Petro facility and NYS Thruway Exit 41 toll booth and interchange.

**H. A major change in the use of either the quantity or type of energy** (EAF Part 2, Section 14, Page 8)

1. The Board found that there would be a moderate to large impact on energy use considering the need to extend transmission lines to the site, the annual amount of energy used by the Project would exceed 2,500 MW/hours and the Project would involve heating and cooling a building that exceeded 100,000 square feet.
2. The Board concluded that these impacts would not be adverse.
  - a. NYSEG will provide electricity and natural gas service to the Project. NYSEG already provides these services around the Site and in the surrounding area, including providing the services to existing large commercial uses..
  - b. NYSEG has the capacity to provide the necessary service to the site without disruption to existing commercial and residential users.
  - c. The transmission lines will be extended to the Site and the Applicant will pay the cost of all extensions or improvements.
  - d. The Project incorporates numerous green energy initiatives and building design features including high efficiency lighting, a light roof, high efficiency HVAC systems, as well as 15% of the energy used coming from renewable, alternate energies (solar power and energy generated by methane created through food waste recycling) to reduce the demand on the utility.

**I. The creation of a hazard to human health** (EAF Part 2, Section 16, Page 9)

1. The Board concluded that the Project would not impact human health. There is no history of reported spills or remedial actions at the site and the Phase I Environmental Site Assessment concluded there were no on-site, off-site, or historical recognized environmental conditions.

**J. A substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses** (EAF Part 2, Sections 8 and 11, Pages 5 and 7)

1. The Board concluded that the Project would not result in a loss of recreational opportunities or open space.
  - a. The Site has not been and is not currently used for public recreation, nor is there are community plan to rely on the site for recreation.
  - b. While no evidence in support was presented, it is possible that private hunting may have occurred on site in the past. This use would be eliminated by the Project, but considering the abundance of alternative natural resources and open space in the area that could be used for hunting, any loss would have no impact.
  - c. There will be no impairment of natural functions or ecosystems; stormwater and surface water flows will not change as a result of the Project, nor will surface water bodies, wetlands or groundwater be affected.
2. The Board found that the Project could result in a potential moderate to large impact to agricultural resources, but determined that those impacts were neither significant nor adverse.
  - a. The Site previously contained approximately 45 acres of agricultural land. The Town has approximately 8,270 acres of designated agricultural land. The loss of 45 acres is 0.5% of the total agricultural land in the Town. Accordingly, there will be substantial tracts of agricultural land available in the Town for continued farming.
  - b. The site remains categorized within the Seneca County Agricultural District #6 even though the site is not functioning as agricultural land. However, the owner has petitioned and the County has recommended that the site be removed from the Agriculture District. The only remaining step in the recertification process is for Seneca County to submit the documentation of these actions to the NYS Commissioner of Agriculture and Markets who must approve the recommended recertification for it to take effect. The Ag District designation for the site does not prohibit the zone change requested by the Applicant.
  - c. The Project will promote continued agricultural activities in the area. The Project entails the implementation of a plan for agricultural programs and initiatives, including preservation of existing agricultural land within the Town and/or Seneca County. The Project also will contain a "Savor New York" area where local agricultural products will be sold.
  - d. According to the CGR Report, the growth inducing potential of the Project is small since casino complexes are self-contained facilities. CGR reported that casinos have low capability for generating

spinoff development and have minimal catalytic impact on development.

- e. The Board members also noted that despite the construction and operation of the Waterloo Premium Outlets, which brings millions of visitors to the area annually, the area around the Outlet mall has remained rural and agricultural uses continue to flourish.
- f. Thus, any potential increase of development pressure on farmland was not significant and adverse.

**K. The encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action (EAF Part 2, Sections 17 and 18, Page 10)**

- 1. The Project would increase the number of tourists traveling to the site. However, visitor stays would be short term, many limited to one day or a few days.
- 2. The Board members noted that the Waterloo Premium Outlet Mall located nearby draws more than 3 million visitors to the area annually and that this exceeds the number of annual visits estimated for the Project. Accordingly, a large number of people are already attracted to the area.
- 3. Increasing tourism is consistent with the Town's Comprehensive Plan for this area adjacent to the NYS Thruway and Route 414.
- 4. The people who travelled to the Project site would likely remain on the main thoroughfares and in existing commercial areas and would not likely spread out through the remainder of the Town. Only 4% of the traffic is expected to come from the north on Route 414 through the more rural part of the Town.
- 5. Other tourist destinations are south, west and east of the Project site (wineries, Premium Outlets, Montezuma National Wildlife Refuge) and are accessible via main thoroughfares (NYS Route 318, NYS Route 414). Accordingly, visitors travelling to multiple destinations would not likely travel through more rural areas of the Town.
- 6. Board members also noted that despite the existence of the Waterloo Premium Outlets with its large number of annual visitors, the neighboring Town of Junius has retained its rural and agricultural character.

**Growth Inducement**

**L. The creation of a material demand for other actions that would result in one of the above consequences**

1. The Project does not create a material demand for other actions that would result in one of the above consequences.
2. Other actual or proposed development projects in the vicinity of the Project are independent from the Project.
3. The Project does not require other actions or approvals that have not already been considered in the context of this environmental review.
4. According to CGR, the growth inducing potential of the Project is small since casino complexes are self-contained facilities. CGR reported that casinos have low capability for generating spinoff development and have minimal catalytic impact on development. CGR also reported that permanent population growth from the Project would be minimal, if any.

### **Synergistic Impacts**

#### **M. Changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment**

1. In completing Part 2, the Board looked at each of the potential impacts individually. But before making a determination of significance, the regulation asks the Board to look at the potential impacts collectively or in combination.
2. This question requires the Town Board to consider the interplay between environmental elements and whether, when combined, they create a different impact. In other words, do any of the potential changes to the environment, when taken together (collectively), create a significant adverse impact that you have not already considered?
3. The Town did some of this already in its completion of Parts 2 and 3. For example, similar sub-questions are asked under multiple headings, such as questions on erosion appearing under the categories of land and surface water and questions on pesticide and herbicide use appearing under the categories of land, surface water, ground water, and plants and animals.
4. In addition, the Board has already considered whether the increase in traffic would result in any significant adverse impact on air resources.
  - a. **Traffic, Air, and Noise** (EAF Part 2, Sections 6(b), 13, 15)
    - i. Part 2 of the EAF also asks a number of questions with respect to potential impacts on traffic, air, human health.
    - ii. Previous findings of Town Board:
      1. The Town Board found that there will be no impact on air from the increase of motor vehicle trips.
      2. The Town Board found that there will be no impact on human health because the Project will not create exposure to new or existing sources of contaminants.
    - iii. Prior Considerations:
      1. The Project will not result in any significant changes to post construction air quality in the area.
        - a. It is projected that approximately 4,500 vehicles will travel to the Project site each day.
        - b. By comparison, the NYS Thruway, which directly borders the Project site to the south, averages approximately 33,000 vehicles per day.

- c. Because the Project site is located adjacent to the NYS Thruway and Petro Stopping Center, the additional vehicles will not significantly compromise the existing air quality in this area.
  2. The applicant is not aware of any reports of degraded air quality associated with the NYS Thruway or Petro Stopping Center in this area.
  3. The Project site is not located in a non-attainment area for any National Ambient Air Quality Standards.
  4. NYSDOT publishes an Environmental Procedures Manual with respect to Air Quality. The NYSDOT manual establishes screening criteria to determine if air quality modeling is warranted. The Project did not meet any of the criteria that would require modelling.
    - a. The Project study area is not within a NAAQS air quality maintenance or non-attainment area.
    - b. The Project site is not in the area of sensitive receptors.
    - c. The proposed traffic intersections will have operation levels of A, B, and C after mitigation, which exceed the established trigger level of service D or worse.
    - d. The number of vehicles the Project will generate (4500 cars) does not exceed the threshold that the NYSDOT states in its Environmental Manual (7000 cars).
    - e. Given these factors, the results of any modeling would be inappropriate and unreliable due to certain assumptions made in the formulas. Moreover, the results would likely display a negligible impact value
  5. The predominant wind direction in this area and Central New York is westerly, which indicates that any receptors would more likely be located to the east of the Project site. The nearest neighbor to the east is approximately 3,000 feet away (through 1,700 feet of woods).
- b. Another potential combination with traffic is noise, which the Board also assessed when it considered noise impacts on September 17.
  - i. After construction of the Project has been completed, one of the possible sources of noise was identified as road traffic.

1. The Board noted that the Site is adjacent to the NYS Thruway, which already generates significant levels of noise associated with vehicular traffic (approximately 33,000 vehicles per day).
  2. The site is also adjacent to NYS Route 414 (north of Thruway, approximately 2,500 vehicles per day; between Thruway and NYS Route 318, approximately 10,600 vehicles per day).
  3. Only 3.8% of the proposed traffic from the Project is expected to access the Site from the north via Route 414 (average of roughly 1 car every 3 minutes or a total of approximately 180 vehicles per day that will travel north of the Project site).
  - ii. The closest home in the area is approximately 600 feet from the Project's entrance. There is also one home northwest of the Site, on the opposite side of Route 414, approximately 1100 feet from the Project entrance road. There are multiple homes on Chase Road, north of the Site, which are from 1700 to 2000 feet from the Project entrance and buildings.
  - iii. The predominant wind direction in this area and Central New York is from the west, which would likely decrease noise received from the Project received by these receptors.
  - iv. Noise produced by the Project's operations, including traffic, is expected to be consistent with existing ambient noise levels at the Site.
    1. The Board and the Town Engineer noted that the predominant ambient noise in the area of the site is the New York State Thruway.
  - v. According to NYSDOT and NYSDEC noise policies, and given the proximity to the local receptors and ambient noise from the adjacent Thruway, the human reaction to this increase is considered "unnoticed to tolerable."
  - vi. The Board found that there would be no impact on noise.
5. Below are some additional examples of possible combinations to consider.
6. **Erosion** (EAF Part 2, Sections 1(f),(g), 3(e), (h))
- a. Two sections of the EAF ask questions concerning potential impacts from erosion. Considerations of erosion may impact land, surface water (through runoff) or air (through fugitive dust).
  - b. Previous findings by the Town Board:
    - i. The Town Board found that there will be no impact on land as a result of erosion.

- ii. The Town Board found that there may be a potential small impact on surface water as a result of erosion.
  - iii. The Town Board found that there would be a potential small impact as a result of fugitive dust.
- c. Previous Considerations:
- i. During construction activities, soils are disturbed and the exposed area is susceptible to erosion. Potential impacts from erosion related to the Project could occur during construction. However, since land disturbance in connection with construction is temporary, any potential impacts from erosion would be temporary
  - ii. The Applicant prepared and implemented a Storm Water Pollution Prevention Plan ("SWPPP"), which includes an erosion and sediment control plan.
  - iii. The SWPPP was reviewed and approved by NYSDEC and the erosion and sediment control plan complies with the NYSDEC SPDES General Permit for Stormwater Discharges for Construction Activity GP-0-15-002.
    - 1. The stormwater management ponds, which have been constructed, act as settling basins during and after construction. The basins will be monitored regularly and accumulated silt will be excavated as necessary. Each stormwater management pond has been undercut to allow for additional silt accumulation during construction.
    - 2. Stone check dams and silt fences are used to slow the passage of runoff and filter silt from runoff. Sediment traps and silt fence have been installed around storm sewer inlets.
    - 3. Stabilized construction entrances have been utilized to minimize the tracking of sediment onto public streets. Street sweeping has occurred, and will occur, as necessary to clean adjacent roads during the construction process.
    - 4. Water trucks have been, and will be, used onsite to control fugitive dust. Barriers in the form of silt fence have been provided along limits of disturbance adjacent to the wetlands to prevent the transportation of silt into the wetlands and to control fugitive dust (silt fence is identified in the NYSDEC Standards and Specifications for Erosion and Sediment Control as a dust control measure).

5. In areas where soil disturbance activity has been temporarily or permanently ceased, temporary and/or permanent soil stabilization measures are installed.
  - iv. The erosion and sediment control plan satisfies regulatory requirements with respect to water quantity and quality. As a result, the quantity and quality of stormwater runoff will be no different post-development than pre-development during both the construction and post-construction phase. Therefore, there will be no degradation of storm water runoff as a result of turbidity or siltation caused by erosion.
  - v. The Board also considered that 52.5% (2,250 acres) of the watershed is comprised of active agricultural fields. Soil is disturbed during agricultural uses, which are not required to implement erosion and sediment control measures. As a result, the Board noted that the area's waterbodies and streams are already impacted by erosion from agricultural fields. Likewise, the area is also impacted by fugitive dust from agricultural activities. Moreover, impacts from erosion associated with agriculture uses are permanent. The proposed Project will reduce these impacts by removing 44-acres from agriculture use and converting it to a use where impacts from erosion are temporary and controlled.
  - d. When looked at collectively, the potential impacts on land, surface water, and air quality are all minimized by the erosion and sediment control plan that was implemented by the Applicant as part of the NYSDEC-approved SWPPP.
- 7. Impact on Animals** (EAF Part 2, Sections 7(b),(d), (g), (h), (i), 11(a))
- a. The EAF contains a number of questions concerning potential impacts on plants and animals.
  - b. In addition, several comments have been received concerning potential impacts on animals from various aspects of the Project.
  - c. For example, animals may be affected by a reduction or degradation of any habitat, in particular any habitat that is used for nesting/breeding/foraging or any habitat that is otherwise important. Animals may be affected if a project impairs the natural functions or ecosystem services of an area or results in the degradation of water bodies. In addition, animals could be affected by traffic, lighting, noise and pesticide use.
  - d. Previous findings of the Town Board:
    - i. The Town Board found that there would be no impact on plants and animals as a result of a reduction in or degradation of any habitat used by any rare, threatened or

endangered species, or species of special concern and conservation need.

- ii. The Town Board also found that the Project would not substantially interfere with nesting/breeding, foraging, or over-wintering habitat for the predominant species that occupy or use the project site.
  - iii. The Town Board concluded that there would be no impact associated with the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat.
  - iv. The Town Board found that there will be no impairment of natural functions, or “ecosystem services,” provided by an undeveloped area, including but not limited to stormwater storage, nutrient cycling, wildlife habitat.
  - v. The Town Board found that there may be a small impact on surface waters in that the Project may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies.
- e. Prior Considerations:
- i. Predevelopment conditions at the site consisted of active agricultural fields (45 acres of the 84.9 acres), hedgerows, wetlands and woods.
  - ii. Upon completion of the Project, 62% of the site will be open/green space consisting of wooded areas, wetlands and landscaped and green areas suitable for common species.
  - iii. The Project will not impact any onsite wetlands. More than 20 acres of woods will also be preserved on the Site, including 10 acres of wooded wetland and associated buffer area in the eastern portion of the Site that will be designated as forever wild.
  - iv. Off-site drainage patterns are not being altered. Likewise, quantity (in terms of the rate of flow) and quality of runoff will be no different post development than pre-development.
    - 1. Pursuant to NYS regulations, the Applicant prepared a SWPPP, which was reviewed and approved by NYSDEC.
    - 2. As part of its SWPPP, the Applicant will install and maintain stormwater runoff management facilities to control stormwater quality and quantity.

3. These controls are designed to capture, treat, and detain runoff from the developed portions of the Project site, then release the runoff to downstream areas at a controlled rate which will not be increased from peak pre-development runoff rates.
4. All site-generated runoff from the developed portion of the site is treated prior to its discharge downstream in a manner that complies with the Design Manual and all regulations and, therefore, will not adversely impact downstream water resources.
- v. The Project site accounts for only 2% of the total watershed by land area, and more than 50% of the watershed is comprised of agricultural uses which disturb large areas of land, use herbicides and pesticides, often lack control measures that control the quality of stormwater runoff and often lack an Integrated Pest Management Plan that controls the use of pesticides on site. The proposed Project will reduce these impacts by removing approximately 45 acres from agriculture use and converting it to a use where impacts from stormwater runoff are managed and where pesticide use is subject to an Integrated Pest Management Plan.
- vi. Common species at the site include song birds, raccoons, chipmunks, field mice, white tail deer, red fox and squirrel. The areas being disturbed by the Project did not contain conditions that made that area attractive for breeding and nesting of common species.
- vii. No threatened or endangered species are known to exist at the Site, nor are there any critical habitats or refuges on site, according to State mapping resources and databases and several field studies commissioned by the Applicant.
  1. Bat Conservation and Management concluded that neither the Indiana Bat, nor the Northern Long-eared Bat were present at the site.
    - a. Removal of trees was performed between December 2014 and February 2015, which is within clearing guidelines concerned with protecting certain bat species.
    - b. All clearing activity on the Project site is complete and no further clearing is proposed.
    - c. The NYSDEC further confirmed that the Project site is not known to contain any species of plant or animal that is listed by New York as

rare, or a species of special concern, including these bat species.

2. The Town Engineer and EcolSciences confirmed that the Site does not contain suitable Bog Turtle habitat.
3. The nearest documented Bald Eagle nest is located at the Montezuma National Wildlife Refuge approximately 3 miles east of the site.
  - a. The onsite investigation and report submitted by Dr. Kevin McGowan concluded the Site has no features that would entice eagles to visit or linger.
  - b. The report by EcolSciences also studied potential impacts on eagles and concluded that the Project would have a negligible or insignificant impact on eagles and their habitat.
  - c. Specifically, EcolSciences concluded that the installation of onsite stormwater management facilities (SWMFs) represents a negligible change to the region when compared with the large quantity of far superior habitat for eagles.
  - d. Likewise, Dr. McGowan concluded that the proposed SWMFs will be too small to attract other migratory birds.
  - e. The site contains no feeding sites or nesting sites attractive to eagles.
  - f. Dr. McGowan concluded that conversion of the Site from agriculture will have no impact on the eagles' likelihood to visit the site.
  - g. Dr. McGowan concluded that the increase in traffic will not increase the likelihood of an eagle being killed by an automobile considering the already high traffic volumes present on the NYS Thruway.
4. Dr. McGowan concluded that wooded wetland area on the eastern portion of the site could be used for migratory bird breeding habitat, but, that portion of the site would not be disturbed by the Project.
  - a. The Project will preserve more than 20 acres of woods and all wetlands on site, including 10 acres on the eastern side of the Site that will be designated as forever wild.

- b. Likewise, Dr. McGowan concluded that the proposed SWMFs will be too small to attract other migratory birds.
- 5. Dr. McGowan also opined that any pollutants that might be present in stormwater will not have a significant impact on eagles or other birds, there is little to link the Project site and the Montezuma National Wildlife Refuge.
- viii. The proposed structures will not be detrimental to the migratory bird population given the Project site's proximity to the NYS Thruway. In addition, the Project will use "bird friendly" low glare window glass above the first floor.
- ix. The Project will not significantly affect migratory bird species from direct disturbance or effects from lighting/noise due to the fact that the Project site is situated along the NYS Thruway and in the vicinity of other large developments (Petro/Exit 41 toll plaza) located even closer to migratory waystations and flight paths. In addition, the Project will use Dark Sky compliant, downward facing full cut-off light fixtures.
- x. The Town Board found that there would be a small impact on animals as a result of pesticide use. (EAF Part 2, Sections 3(j), 4(g), 7(i))
  - 1. The Project will have approximately 23.7 acres of lawn areas that will be maintained sometimes using pesticides and herbicides
  - 2. However, this would be a reduction from prior site conditions, which included approximately 45 acres of agricultural fields that used pesticides and herbicides without any management or control measures.
  - 3. The Project Applicant has committed to using an IPM Plan in connection with its use of pesticides and herbicides to maintain the lawn and landscaped areas. Implementation of the IPM Plan will minimize herbicide and pesticide contaminants in post-construction stormwater discharges. As a result, there is not likely to be degradation of downstream water bodies and/or habitat that is important to animals.
  - 4. Dr. McGowan and EcoSciences concurred that the Integrated Pest Management Plan will have the net effect of reducing the exposure of birds to herbicides

and pesticides when compared with previous conditions under ordinary agricultural use.

- xi. EcoSciences concluded that the Project will not threaten the continued survival of any local or regional population of any species, and no threatened or endangered species will be adversely affected.
  - f. The information presented to the Board by the experts does not suggest any impact on animals even when collective changes to habitat, surface water, tree removal, lighting, noise, traffic or pesticide use are considered.
8. **Rural/Agricultural Community** (EAF Part 2, Sections 8(f), 9(b),(e), 11(b), (c), 17, 18)
- a. Comments were received regarding the potential impact on the rural/agricultural character of the community given the size and scale of the proposed Project alone.
  - b. The nature and scale of the Project are relevant to considerations about aesthetic resources, agricultural resources, open space and recreation, and community plans, and community character.
  - c. Previous findings of the Town Board findings:
    - i. The Town Board found that there would be no impact on aesthetic resources.
    - ii. The Town Board found that there would be no impact on open space or recreational uses.
    - iii. The Town Board found that the Project will not result in the obstruction, elimination or significant screening of one or more officially designated scenic views.
    - iv. The Town Board found that the Project will not cause a diminishment of the public enjoyment and appreciation of aesthetic resources.
    - v. The Town Board found that there are no unique or unusual land forms or geological features on the Site and, therefore, there will be no impact to such geological features.
    - vi. The Town Board found that there would be a small impact on the conversion of former agricultural land that is within a county-designated Ag District to non-agricultural use and moderate impact on development pressures on farmland.
    - vii. The Town Board concluded that there would be a small impact with respect consistency with surrounding land use patterns and with the Town's Comprehensive Plan and Zoning Law.

- viii. The Town Board concluded that there would be a moderate to large impact as a result of infrastructure improvements required to support the Project, including extension of utility lines and highway improvements.
  - ix. The Town Board determined that there would be a moderate to large impact on the demand for additional community services.
  - x. The Town Board found that there would be a moderate to large impact on consistency with the predominant architectural scale and character of the area and a small impact on consistency with the existing natural landscape.
- d. Prior Considerations:
- i. The Project consists of a casino, restaurant, recreational space, commercial space and retail. 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.
  - ii. The Project is similar to, though larger than, several existing commercial uses nearby in the Route 414/ 318 corridor:
    - 1. 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;
    - 2. Site located 0.6 miles from the Magee Country Diner;
    - 3. Site located 0.7 miles from the busy Route 414//318 intersection and the Nice N' Easy Grocery Shop;
    - 4. Site located 1.5 miles from Empire Seneca, Inc. - scrap metal yard south of the site;
    - 5. Site located 0.2 miles from active farm to the north across Route 414;
    - 6. Town Board members also noted the proximity of the Waterloo Premium Outlet mall and a large car auction facility;
    - 7. Other commercial uses located within 5 miles of the site include Seneca Meadows Landfill, Tops Friendly Markets, Wal-Mart, Hampton Inn, Microtel, Holiday

Inn, McDonald's Dunkin Donuts, Taco Bell, Advance Auto Parts and a car dealership (Cram's).

- iii. The surrounding land use patterns are characterized by their inconsistency. Driving in the area, one would see an agricultural field, then a restaurant, then a large commercial development, then a residential home, etc. Mixed uses and mixed structure sizes define the area.
- iv. Considering this cluster of commercial uses in the vicinity of the Project site, the character of the land uses in the area is not dissimilar.
- v. The site is located near a major transportation corridor. The Site's southern boundary is adjacent to NYS Thruway and western boundary adjacent to NYS Route 414.
  1. NYS Thruway - 2013: more than 33,000 average daily trips pass by the southern boundary of the Project site;
  2. Route 414 - 2013: North from Thruway Exit 41 - more than 2,500 average daily trips – the Project would add 4,320 average daily trips from the Thruway to the site entrance. The Project would only add 180 average daily trips to that portion of NYS Route 414 north of the Project site through the more rural portion of the Town;
  3. South from the Thruway Exit 41: more than 10,000 average daily trips;
  4. Route 318 - 2013: more than 8,000 average daily trips.
- vi. Considering both the cluster of commercial uses together with the intensity of the uses and traffic flow in the vicinity of the Project, the character and intensity of the Project is not dissimilar from existing patterns.
  1. The Town Board specifically discussed the nearby Waterloo Premium Outlet Mall which generates millions of visitors per year to the area.
  2. This number of annual visitors to the Outlet Mall exceeds the number of annual visitors projected to visit the Project.
- vii. With the off-site road improvements included as part of the Project, the regional roadways will continue to operate at acceptable levels of service.

1. Only 4% of the traffic is expected to come from the north on NYS Route 414 (adding 180 daily trips to an already existing 2,500 daily trips). Traffic that travels through the Town will use the main thoroughfares and very little traffic will be added to that portion of 414 that travels through the less dense portion of the Town.
  2. In light of the traffic distribution information, the additional traffic will not increase noise levels or impact the rural and agricultural character of the majority of the Town.
- viii. Visual simulations prepared by the Applicant indicate that the visual impact of the Project on neighbors will be minimal.
- ix. The Project has been designed to take advantage of the natural landscape to minimize visual impacts.
1. For example, the site layout was modified to move the hotel to an area of the Site that is at a naturally lower elevation, thereby minimizing its visibility. The height of the parking garage was also reduced two stories.
  2. The site layout also retains existing vegetation on the site boundaries which acts as a natural buffer providing additional visual screening to residential receptors.
    - a. 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.
    - b. Existing stands of trees are being preserved in the northwest corner of the site and along the northern boundary line.
    - c. The current treeline along the southern boundary of the site, adjacent to the NYS Thruway, will remain as well.
    - d. Substantial additional landscaping and screening is also included in the Project.
  3. The Project's lighting will not be detrimental to the area compared to the presence of the nearby Petro facility and NYS Thruway Exit 41 toll booth and interchange. In addition, the site drives and parking garage have been designed in a way to lessen any potential impacts associated with vehicle headlights.

4. As a result, the overall visual character of the area will not be changed. Any impacts would be limited to that already traveled commercial corridor and would not alter the visual character of the Town as a whole.
- x. The Town is 33.1 square miles or 21,184 acres in size. Approximately 39% of the Town (8,270 acres) is comprised of designated agricultural land.
1. The Project site is 85.95 acres, of which approximately 45 acres was previously used for agricultural purposes, which constitutes only 0.5% of the Town's agricultural land. Thus, significant quantities of agricultural land remain available in the Town.
  2. The CGR report indicated that growth inducing potential of the Project is small since casino complexes are self-contained facilities. According to the CGR report, casinos have low capability for generating spinoff development and have minimal catalytic impact on development. While the Project may help existing commercial properties south of the Site to become more viable, the property values of agricultural properties near the site would not be impacted. As a result, the Board found no adverse impact with respect to any potential increase of development pressure on farmland.
  3. Some farms are located in the vicinity of the site, but their land management systems will continue independent from the Project and the features of the Project will not disrupt or prevent them.
  4. Likewise, construction will not interrupt land management systems. Instead, construction activities align with farm land management systems because the work is similar to the types of land movement activities experienced by farms across the area. Moreover, the construction is temporary in nature.
  5. The Project is an insular development that does not require access to or use of neighboring farms.
  6. Permanent population growth from the Project will be minimal.
  7. The Project entails the implementation of a plan for agricultural programs and initiatives including preservation of existing agricultural land within the Town and/or Seneca County (e.g. through which the

Town could purchase development rights or take other actions to preserve and promote agricultural land in the Town).

8. Project features include “Savor New York” area, which promotes local and regional goods and products, including agricultural products like fruits and vegetables.
  9. Town Board members indicated that the neighboring Town of Junius retained its predominantly agricultural character 20 years after the opening of the Waterloo Premium Outlets.
  10. The Project will not alter the Town’s predominantly agricultural community.
- xi. The Project will not impact any open space or recreational uses that contribute to the overall character of the Town.
1. The site is not currently used by members of the community for recreation. The site may have previously been suitable for hunting, however, that activity will not occur on the site in the future. The Town Board concluded there would be no impact from that potential loss given the numerous recreational opportunities available in the area.
  2. The site does not contain any officially recognized or designated public resource.
  3. Significant natural resources and recreational opportunities exist in the Town and the surrounding area (i.e. Montezuma National Wildlife Refuge, Vince’s Park with swimming, picnicking and athletic fields, the Cayuga-Seneca Canal, the Finger Lakes, wineries and vineyards, camping, fishing, hunting, and other activities on public land).
  4. The Town does not have a recreation plan or an open space plan. According to the Comprehensive Plan, “Space set aside for recreational areas is not a necessity as there is plenty of access to lakes, rivers and public lands now.” (Town Comp. Plan at pg. 59).
  5. The CGR Report concluded that the growth inducing potential of the Project is small since casino complexes are self-contained facilities with a low capability for generating spinoff development and, therefore, they have a minimal catalytic impact on development.

6. CGR expects that permanent population growth from the Project will be minimal.
  7. The Project is an insular development that does not require access to or use of open areas.
- xii. Noise produced by the Project's operations is expected to be consistent with existing ambient noise levels at the Site.
1. The Board noted that the Site is adjacent to the NYS Thruway, which already generates significant levels of noise associated with vehicular traffic (approximately 33,000 vehicles per day).
  2. The site is also adjacent to NYS Route 414 (north of Thruway, approximately 2,500 vehicles per day; between Thruway and NYS Route 318, approximately 10,600 vehicles per day).
  3. Only 3.8% of the proposed traffic from the Project is expected to access the Site from the north via Route 414 (average of roughly 1 car every 3 minutes or a total of approximately 180 vehicles per day that will travel north of the Project site).
  4. The closest home in the area is approximately 600 feet from the Project's entrance. There is also one home northwest of the Site, on the opposite side of Route 414, approximately 1100 feet from the Project entrance road. There are multiple homes on Chase Road, north of the Site, which are from 1700 to 2000 feet from the Project entrance and buildings.
  5. The predominant wind direction in this area and Central New York is from the west, which would likely decrease noise received from the Project received by these receptors.
  6. According to NYSDOT and NYSDEC noise policies, and given the proximity to the local receptors and ambient noise from the adjacent Thruway, the human reaction to this increase is considered "unnoticed to tolerable."
- e. Given the context and location of the Project Site, the information presented to the Board does not suggest any impact on the Town even when all the potential impacts of the Project are considered collectively.

## **9. Montezuma National Wildlife Refuge**

- a. Montezuma National Wildlife Refuge is a designated National Natural Landmark located within the Town approximately 3 miles from the Project site as the crow flies.
  1. The Project will not be visible from the Refuge, nor is the Refuge visible from the Project.
  2. Stormwater runoff from the site will continue to flow into White Brook, which ultimately discharges into the Tschache Pool, which is part of the Montezuma Refuge.
    - a. The refuge is located approximately 5.5 miles downstream from the Project Site via White Brook.
    - b. Considering the distance in miles from the Project Site to the Refuge, flow rates and settling factors, it is unlikely that any potential pollutants from the Site would reach the Refuge.
  3. Use of pesticides and herbicides at the Project site will not impact the Refuge.
    - a. The Applicant will implement an Integrated Pest Management Plan that will minimize any downstream impacts associated with Pesticide and Herbicide use.
    - b. The Project is also reducing the amount of acres that would be treated with herbicides and pesticides compared to the number of acres treated under the prior agricultural use of the property.
  4. Two independent bird experts concluded that the Site is not an area of attraction to eagles nesting at the Montezuma Refuge because the Project Site has no features that would entice an eagle to visit or linger.
    - a. Specifically, the site contains no feeding sites or nesting sites attractive to eagles.
    - b. The installation of onsite retention ponds represents a negligible change to the region when compared with the large quantity of far superior habitats for eagles.
    - c. Conversion of 45 acres the site from agricultural will have no impact on the eagles' likelihood to visit the site.

5. Traffic from the Project will not impact eagles or migratory birds that use the Montezuma Refuge. In fact, the NYS Thruway (33,000 trips per day) runs directly through the middle of the Montezuma Refuge.
6. The Project will not affect migratory birds that use the Montezuma Refuge.
  - a. Although the wooded wetland area on the eastern portion of the site could be used for migratory bird breeding habitat, but that portion of the site would not be disturbed by the Project.
  - b. The proposed SWMFs will be too small to attract migratory birds.
  - c. Lighting from the Project will not impact migratory birds due to the Project's proximity to the NYS Thruway and other large developments. Lights used on the Site will be Dark Sky compliant and full cut-off fixtures.
- b. The information presented to the Board does not suggest any impact on the Montezuma Refuge even when all the potential impacts of the Project are considered collectively.

#### **10. The Area's Amish and Mennonite Population**

- a. Comments have been made about the effect of the Project on the Amish and Mennonite communities.
- b. The Board considered the impact of traffic on the Amish lifestyle.
  - 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 and again 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.
  - 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.
- c. The Project will not change the rural/agricultural character of the Town.
  - i. The Amish Properties in the Town are located in areas north of the Project site.
  - ii. 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
  - iii. Only 4% of the traffic is expected to come from the north. This amounts to an addition 180 vehicles per day on an area of NYS Route 414 that already experiences 2,500 vehicles per day.
  - iv. Other tourist destinations are located off major thoroughfares to the south, west and east of the Project Site, which further decreases the likelihood of additional people travelling into those areas of the Town where the Amish properties are located.
- d. CGR reported that casinos are self-contained facilities and unlikely and have low capability for generating spinoff development.
- e. 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.

- f. The Board Members have also discussed concerns about the Project in connection with the Amish and Mennonite religious beliefs and noted that there are several existing uses in the area, including liquor sales at convenience stores and an adult book store, that would also be contrary to those religious beliefs, but that the two have found a way to co-exist.
- g. The information presented to the Board does not suggest any impact on the Amish or Mennonite population even when all the potential impacts of the Project are considered collectively.

## Cumulative Impacts

### N. Two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in this subdivision (EAF Part 2, Section 17, Page 10)

#### 1. Background Information

- a. The SEQRA regulations provide that “the lead agency must consider reasonably related long-term, short-term, direct, indirect and cumulative impacts, including other simultaneous or subsequent actions which are: (i) included in any long-range plan of which the action under consideration is a part; (ii) likely to be undertaken as a result thereof; or (iii) dependent thereon.” 6 NYCRR 617.7(c)(2) (emphasis added).
- b. The critical inquiry regarding cumulative impacts is whether the activities are “reasonably related” to the proposal.
- c. “The decisive factor is the existence of a ‘larger plan’ for development.” *North Fork Envtl. Council v. Janoski*, 196 A.D.2d 590, 591 (2d Dept. 1993). The proposed development must be more than “tentative” and must have more than an “attenuated” connection to the project at issue. *Stewart Park & Reserve Coalition v. New York State DOT*, 157 A.D.2d 1, 10-11 (3d Dep’t 1990); *In re Halperin v. City of New Rochelle*, 24 A.D.3d 768, 775 (2d Dep’t 2005).
- d. In general, the consideration of cumulative impacts should be limited to “reasonably foreseeable impacts, not speculative ones.” SEQRA Handbook § 4(17).

#### 2. Public Comments:

- a. Akin Gump commented that a mixed use 3S Gateway project, a concrete plant at the Riccelli Enterprises Junius, NY facility, and an affordable housing project by Better Housing for Tompkins County of Ithaca, are projects proposed as a result of or dependent on the Project.

#### 3. Descriptions of the Projects identified by Akin Gump.

- a. **3S Gateway Project**
  - i. 3S Gateway Project is a potential project on seventy-six acres of land along NYS Route 318. The proposed site is less than a mile from the Lago Project Site.
    - 1) The Gateway Project could include an auto dealership, four restaurants, three hotels, a plaza, a gas station, office space, and retail and recreational space.
  - ii. History of the 3S Gateway Proposal

- 1) The 3S Gateway Project was first proposed long ago independent from the Lago Project, but was tabled by its developer.
- 2) Following the initial approvals granted to the Lago Project, the developer of the 3S Gateway Project submitted an application for a PUD and reopened discussions with the Town concerning the 3S Gateway Project.
  - a) It was at this time that the 3S Gateway developers stated that “their project would move forward only if the Lago project became a reality.”
  - b) Newspaper accounts also report that part of the reason for reviving the 3S Gateway Project was the an influx of state review for installation of sanitary sewer lines along Route 318 from Route 414 west to the Waterloo Premium Outlets in Junius.
- 3) As of July 2015 when the Town Board began its reconsideration of the Lago Project, the application for the 3S Gateway Project has been suspended indefinitely with no indication of if or when it will move forward.

iii. At this time, the extent and nature of the potential 3S Gateway Project is speculative at best.

- 1) In the absence of a pending application and with only a concept plan available, it is difficult to project future traffic numbers, water and sewage usage, and energy usage.
- 2) The 3S Gateway Project is not included in any long range plans for the Lago Resort and Casino.
- 3) The 3S Gateway Project is proposed by a completely separate and independent developer.
- 4) Likewise, despite the developer’s comments that the 3S Gateway Project would not proceed if the Lago Project did not move forward, there is nothing that makes the 3S Gateway Project dependent on the Lago Project. In fact, the 3S Gateway Project was proposed prior to the Lago Project and it could be advanced without the Lago Project.
- 5) Although the developer claims that the 3S Gateway Project is more likely to occur if the Lago Project is

approved, that does not automatically mean that the 3S Gateway Project will be undertaken. In fact, the 3S Gateway Project would require a separate review and approval by the Town Board.

- 6) Moreover, approval of the Lago Project would not obligate the Town Board to approve the 3S Gateway Project. In fact, the Town Board would not be under any obligation to make a SEQRA determination if it chose not to consider the zone change application for the 3S Gateway Project. The two projects are completely independent.
- iv. Since the 3S Gateway Project is not (i) included in any long range plan of the Lago Project, (ii) could be undertaken without the Lago Project and (iii) is not logistically dependent on the Lago Project (the 3S Gateway developer's statement is only its personal preference), the regulatory criteria requiring the consideration of cumulative impacts is not met.
- v. In addition, considering the speculative nature of the 3S Gateway Project, it is difficult to make any assessment of the cumulative impacts and, under such circumstances, the law does not warrant such an assessment.
- vi. A separate environmental review process for the 3S Gateway Project will be completed if that project is progressed and that review will be no less protective of the environment and surrounding community.

**b. Riccelli Enterprises**

- i. Riccelli Enterprises has received approvals and is now operating two movable plants, one for ready-mix concrete and one for bituminous asphalt, at a site on NYS Route 318 in the Town of Junius.
  - 1) The Riccelli site is in a different municipality several miles from the Lago Project site.
  - 2) Riccelli Enterprises has a contract to provide cement for the proposed Lago Project and has stated that it is working on obtaining contracts for other development projects in the area.
  - 3) For example, the Riccelli plant has a contract to provide materials in connection with work being undertaken on the NYS Thruway in the area of Exit 41. Construction vehicles hauling asphalt products were seen entering and exiting the Thruway directly from the plant.

- ii. During the County Planning Board's consideration of the Riccelli plant, there was discussion about the plant being in a position to not only serve the Lago Project site, but also about the location placing Riccelli in a competitive position to continue to serve other redevelopment.
  - 1) In evaluating the Riccelli project, the Seneca County Planning Board explicitly discussed the viability of the Riccelli Plant apart from the Lago Project to ensure its sustainability.
  - 2) It was clear from the discussion that the Riccelli plant was not dependent upon the Lago Project.
- iii. Further, since the Riccelli plant is already approved and operating, it is unlikely to have been undertaken as a result of the Lago Project.
- iv. In fact, the Riccelli plant has continued to operate throughout the period of time that Lago construction has been halted.
- v. In addition, the facility is owned and operated by a completely unrelated developer and is not "included in any long-range plan" for the Lago Project. See 6 N.Y.C.R.R. 617.7(c)(2).
- vi. Accordingly, since the Riccelli Project (i) is not included in any long range plan of the Lago Project, (ii) is not likely to be undertaken as a result of the Lago Project and (iii) is not dependent on the Lago Project, then the regulatory criteria requiring the consideration of cumulative impacts is not met.
- vii. Since the plant is already operating, an environmental review for the Riccelli plant would have been completed by the Town of Junius, or some other municipality or agency, in connection with any approvals required by Riccelli.

**c. The Pine View Housing Project**

- i. Better Housing for Tompkins County of Ithaca has proposed a 48-unit apartment housing complex on the west side of NYS Route 414.
  - 1) Specifically, the housing project would be constructed on a 10-acre nearly land-locked parcel well off Route 414 with access to Route 318 by a driveway.
  - 2) The housing project would include eleven one and two-story buildings containing non-subsidized 1, 2, and 3 bedroom apartment units, a community center, a small playground, a pond, and parking for 96 cars, with considerable green space.

- ii. Better Housing for Tompkins County of Ithaca stated during several board meetings that the Housing Project is unrelated to the Lago Project and will proceed regardless of the Lago Project.
    - 1) The market study undertaken for the Housing Project did not take into account the Lago Project and demonstrated that there is a demand for the proposed housing in this area of Seneca, Cayuga and Wayne counties whether the Lago Project moves forward.
    - 2) The developer indicated that they would be connecting to the public sewer and water lines on Route 414, both of which have capacity to serve the housing project.
    - 3) In addition, since only 48 units are being proposed, the developer anticipates minimal traffic.
  - iii. The Lago Project Sponsor and the Better Housing For Tompkins County expressed mutual support for each other's applications in connection with Lago's application before the state gaming commission and Better Housing's applications for grants and tax credits.
    - 1) Regardless of the mutual support, Better Housing Representatives represented to the Town that its Market Study demonstrated a need for affordable housing irrespective of the casino.
    - 2) Furthermore, based on the Occupational Employment and Wage Values for typical employees in the casino industry, contained in the CGR Report, more than 50% of the Occupational Titles will receive wages that exceed the AMI thresholds for this particular affordable housing development and will not be eligible to rent within this development.
  - iv. Accordingly, since the Housing Project (i) is not included in any long range plan of the Lago Project, (ii) is not likely to be undertaken as a result of the Lago Project and (iii) is not dependent on the Lago Project, then the regulatory criteria requiring the consideration of cumulative impacts is not met.
  - v. An environmental review for the Housing Project will be undertaken by the Town Planning Board, which has already declared itself lead agency for that SEQRA review, and will be no less protective of the environment.
- d. It is possible that other development not referenced here may occur if the Lago Project is approved. However, according to the CGR Report, growth inducing potential of the Project is small. In general, casino

complexes are self-contained facilities that have minimal catalytic impact on development. This has been observed with several of the Native American-run casinos, specifically Seneca Niagara in Niagara Falls, NY and Turning Stone Casino in Verona, NY.

- e. Moreover, at this point, any potential developments are completely unrelated and largely speculative, making the assessment of any potential impacts difficult at best.
  - f. Finally, an environmental review for any future projects would be completed at the time any project was proposed and that review would be equally protective of the environment.
4. Even though the 3 projects referenced in the Akin Gump letter are unrelated to the Lago Resort and/or highly speculative, it is possible to make some generic assessments with respect to a few key areas of importance.

a. **Traffic accumulation**

- i. The potential for additional traffic impacts could be one area of concern in connection with potential future developments.

- 1) Based on the traffic study submitted by the Applicant in connection with the Lago Project, with the implementation of the suggested off-site highway improvements, the transportation network that serves the Project site will continue to do so at satisfactory levels of service.
- 2) The Town Board found that based on the positive impacts associated with these improvements that the potential impact associated with increased traffic would not be adverse.
- 3) Since the Applicant's traffic study accounted for future growth, these off-site impacts would benefit other unrelated developments, including the proposed Housing Project, the hypothetical 3S Gateway Project and the existing Riccelli facility.

- ii. Potential 3S Gateway Project

- 1) Development of this site has been discussed over the last decade (long before the Lago Project was proposed). However, consideration of the application has been suspended by the 3S Gateway developer and the extent and timing of the 3S Gateway Project is unknown and speculative at this time.
- 2) According to the EAF dated December 2014, the 3S Gateway Project was proposed to be constructed in five phases over a five-year period.

- 3) Although NYSDOT will not consider speculative development when performing a traffic impact study, McFarland Johnson undertook a conceptual review of the traffic that could be generated by the 3S Gateway Project in accordance with the ITE Trip Generation Manual.
- 4) McFarland Johnson concluded that the existing adjacent roadway network can accommodate the proposed traffic from the 3S Gateway Project without any adverse impacts after appropriate roadway improvement mitigation is implemented.
  - a) It would be inappropriate to implement these mitigation measures at this time because it would be unneeded infrastructure for a development that may never be constructed.
  - b) Moreover, if built, the actual 3S Gateway project may be different from the current concept design, so the design of specific mitigation measures would be premature at this time.
  - c) This is why NYSDOT will not consider speculative development when performing a traffic impact study as basing highway mitigation on speculative projects could result in unneeded infrastructure that would require perpetual maintenance NYSDOT.
  - d) McFarland Johnson also indicated that because the 3S Gateway Project would be constructed in several phases, it is inappropriate to propose mitigation when the project details, magnitude, phasing and duration of time to fully build-out the site is unknown.
- 5) NYSDOT will require the 3S Gateway developer to prepare its own traffic study and mitigate any traffic impacts created as a result of its project.
- 6) In addition to McFarland Johnson's conclusions, the 3S developer's comments about not moving forward in the absence of the Lago Project would suggest that the developer plans to rely on pass-by trips associated with existing traffic in the area, as opposed to new trips dedicated to 3S Gateway.

- a) It is also possible that the 3S Gateway Project would draw pass-by trips from those travelling to the Waterloo Premium Outlet Mall.
- b) Reliance on pass-by trips would minimize the amount of new traffic drawn to the area.

iii. Existing Riccelli Facility

- 1) McFarland Johnson completed an analysis of the traffic impacts associated with the number of cement trucks from the Riccelli Facility to the Lago Project Site.
- 2) According to the report, during a 6-month construction season, concrete trucks were estimated to visit the Lago Project site on average 10-15 trips per day, or one truck every 45 minutes (100-150 CY/day).
- 3) The Lago Project Site entrance capacity was analyzed using the proposed background traffic along with the worst case scenario projected construction traffic to determine intersection operation levels.
- 4) The result from the model showed that the truck and worker traffic utilizing the construction entrance would operate at a 'B' Level of Service experiencing minimal delay with adequate opportunity to turn onto NYS Route 414.
- 5) The report also concluded that no local roads would be impacted by the construction truck traffic as trucks from the concrete plant will use NYS Route 318 to NYS Route 414 to access the site. According to McFarland Johnson, these roads have the capacity to absorb the additional construction related traffic without significantly deteriorating levels of service.
- 6) Any potential impacts associated with construction traffic are temporary.
- 7) Relying on the McFarland Johnson report, the Town Board found that there would be a small impact on traffic as a result of construction traffic.

iv. Pine View Housing Project

- 1) Representatives for the proposed Pine View Housing Project stated that new trips generated by the Project would be minimal based on 48-units/96-parking spaces.

- 2) According to representatives, the target market for the Pine View Housing Project is people who already live or work in the vicinity of the proposed apartments.
  - 3) In addition, peak hours for the Pine View Housing Project would not coincide with the Lago Project peak hours.
  - 4) In a letter submitted by McFarland Johnson on behalf of the Lago Project Applicant, the Pine View Housing Project would result in a trivial increase in peak hour traffic.
  - 5) McFarland Johnson also concluded that any traffic associated with the Pine View Housing Project was accounted for within the 2% annual background growth rate contained in the Traffic Impact Study for the Lago Resort and Casino.
- v. The information presented to the Board does not suggest any cumulative impacts associated with traffic.
- b. **Increased pressure on the sewage system**
- i. The Lago Project will be served by the existing wastewater treatment facility in the Town of Seneca Falls, which has adequate capacity to serve the Lago Project.
    - 1) Minor off-site upgrades to the transport system are proposed.
    - 2) The Town Board found that there would be no impact with respect to pressure on the wastewater treatment system from the Lago Project.
  - ii. The 3S Gateway Project would need wastewater treatment either onsite or through one of the existing municipal treatment systems.
    - 1) According to the December 2014 EAF for the 3S Gateway Project, if built that project's anticipated sewage usage would be about 0.133 MGD.
    - 2) Improvements to the conveyance system, such as those being completed in connection with the Lago Resort and Casino project, would direct flows toward the Seneca Falls Waste Water Treatment Plant.
    - 3) The Seneca Falls Waste Water Treatment Plant currently has approximately 1.82 million gallons per day (MGD) capacity.
    - 4) The Lago Resort and Casino will use approximately 0.145 MGD.

- 5) The combined usage of the Lago Project and the hypothetical 3S Gateway Project would be 0.278 MGD.
  - 6) In addition, the Town's Engineer estimated that existing flows and potential future flows that would be directed to the Seneca Falls Wastewater Treatment Plant would be approximately 0.055 MGD.
  - 7) After accounting for both the Lago Project, the 3S Gateway Project and a factor for existing and future users associated with the 318 Development Corridor, the Seneca Falls Waste Water Treatment Plant would have approximately 1.487 MGD capacity remaining.
  - 8) According to the Town's Engineer this is ample capacity to serve future potential development in respective service areas.
- iii. Existing Riccelli Facility
    - 1) The Riccelli Facility is an existing use.
  - iv. Pine View Housing Project
    - 1) Representatives of the Pine View Housing Project indicated that they will be connecting to the Seneca Falls Waste Water Treatment Plant and that sufficient capacity exists.
    - 2) Specifically, according to the EAF for the Pine View Housing Project, the sewage usage would be about 13,650 gallons/day (0.014 MGD).
    - 3) The Town's Engineer indicated that even after accounting for the Lago Project, the potential usage by a hypothetical 3S Gateway Project, the Pine View project and existing and future users associated with the 318 Corridor Developments, the Seneca Falls Waste Water Treatment Plant would have 1.473 MGD (million gallons per day) capacity available for future users.
    - 4) This is adequate to provide capacity
  - v. The information presented to the Board does not suggest any cumulative impacts associated with wastewater.
- c. **Increased consumption of water**
- i. The Lago Project will be served by existing public water, which has adequate capacity to serve the Lago Project. Minor upgrades to the transport system are proposed to connect to the Lago Project Site.

- ii. 3S Gateway Project
  - 1) Will require a water supply either onsite (wells) or with one of the existing municipal systems.
  - 2) The December 2014 EAF submitted for the potential 3S Gateway Project estimated total anticipated water usage at 133,000 gallons per day.
  - 3) The Lago Resort and Casino is estimated to use 145,000 gallons per day.
  - 4) Additional future demand for all potential users totaled 59,500 gallons per day.
  - 5) The Village of Waterloo treatment plant has a capacity of up to 4 million gallons per day (MGD) and currently operates at 1.2 to 1.3 MGD.
  - 6) Even after accounting for the Lago Project and the potential 3S Gateway Project, together with additional development, there would still be 2.36 MGD of capacity available.
  - 7) The Town Engineer opined that that this was sufficient capacity.
- iii. Riccelli Facility
  - 1) The Riccelli Facility is an existing use.
- iv. Pine View Housing Project
  - 1) Representatives of the Pine View Housing Project indicated that they will be connecting to the public water supply system and that sufficient capacity exists.
  - 2) According to the EAF for the Pine View Housing Project, the water usage would be about 13,650 gallons/day.
  - 3) The Town's Engineer indicated that even after accounting for the Lago Project, the potential usage by a hypothetical 3S Gateway Project, the Pine View project users and potential future users the Waterloo Water Treatment Plant would have 2.346 million gallons per day capacity available for future users.
  - 4) This is more than adequate to provide capacity.
- v. The information presented to the Board does not suggest any cumulative impacts associated with water consumption.

d. **Increased energy use**

- i. The Lago Project will be served by existing utilities (gas and electric) from NYSEG, which has adequate capacity to serve the Lago Project. Minor upgrades to the transport system are proposed. The Town Board found that there would be moderate to large impacts with respect to energy use by the Lago Project, but then concluded that these impacts would not be significant and adverse.
- ii. The 3S Gateway Project would have need for public utilities from NYSEG.
  - 1) Usage would depend on the size and types of uses proposed for that project.
  - 2) The EAF notes that electricity demand would be consistent with standard uses.
  - 3) Upgrades would be possible to allow for connections and if necessary to deal with any capacity issues.
- iii. The Riccelli Facility is an existing, operational plant
- iv. The Pine View Housing Project would have need for public utilities from NYSEG.
  - 1) According to the Pine View Housing Project's EAF, the estimated annual electricity demand would be 400,000 Kw/Hour.
  - 2) The EAF indicated that the project would be connecting to the grid via local utilities.
  - 3) Representative for the Housing Project indicated that sufficient capacity exists.
  - 4) Upgrades would be possible to allow for connections.
- v. The information presented to the Board does not suggest any cumulative impacts associated with energy.
- e. **Pressure on Agricultural Resources**
  - i. Seneca County had approximately 128,000 acres of agricultural land in 2008 (according to County Agriculture and Farmland Protection Plan).
  - ii. The Town has approximately 8,270 acres of designated agricultural land.
  - iii. The Lago Resort and Casino will remove 45 acres of former agricultural land from active production.
    - 1) This is less than 0.02% of the County's total farmland and less than 0.5% of the Town's farmland.

- 2) Significant quantities of agricultural land will remain available in the Town and County for farming.
- 3) The Town Board found that the Lago Project would have a moderate to large impact on agricultural resources, but ultimately found that these impacts were not significant and adverse because of the significant amount of agricultural land remaining.

iv. 3S Gateway Project

- 1) Location off NYS Route 318, west of Route 414 and South of NYS Thruway
- 2) Property splits two Towns (Tyre and Junius).
- 3) Property is zoned for commercial and agricultural use in the Town of Tyre.
- 4) The proposed site is located in an area of the Town that is envisioned in the Comprehensive Plan as being used for commercial development.
- 5) According to the EAF the location is not used for agricultural purposes, although a portion of the property has been planted since the submission of the EAF in December of 2014.
- 6) Using the worst case scenario, if developed, the 3S Gateway Project would remove 75 acres of agricultural land from active production.
  - a) This is less than 1.0% of the Town's farmland.
  - b) If combined with the 45 acres lost in connection with the Lago Project, this amounts to a loss of 1.45% of the Town's agricultural land.
  - c) Significant quantities of agricultural land would remain available in the Town (approximately 8,150 acres) and County for farming.
- 7) The information presented to the Board does not suggest any cumulative impacts associated with agricultural lands.

v. Existing Riccelli Facility

- 1) This is an existing industrial use of land in the Town of Junius.

- 2) It does not impact agricultural lands in the Town of Tyre..

vi. Pine View Housing Project

- 1) Site is located on the east side of Route 414 and south of Route 318.
- 2) Site is approximately 10 acres.
- 3) Property is zoned for the use.
- 4) According to the EAF the property consists of vacant land and overgrown scrub brush and is not currently used for agricultural purposes.
- 5) As a result, the information presented does not suggest any cumulative impacts associated with agricultural lands.

**f. Decreased use & enjoyment of resources**

- i. The Town Board found that the Lago Project would have no impact on the use and enjoyment of aesthetic or open space resources because there are no designated aesthetic or open space areas in the Town.

ii. 3S Gateway Project

- 1) Location off NYS Route 318, west of Route 414 and South of NYS Thruway
- 2) Property splits two Towns (Tyre and Junius).
- 3) Property is zoned for commercial and agricultural use in the Town of Tyre.
- 4) The proposed site is located in an area of the Town that is envisioned in the Comprehensive Plan as being used for commercial development
- 5) The proposed site is not currently used for recreational or aesthetic purposes and is not visible from any designated resources.
- 6) The proposed site is located in a moderate density area (Magee Corners), which includes the Petro Facility, the Magee Diner, a gas station/convenience store, and the Fire Hall.
- 7) The information presented does not suggest any cumulative impacts associated with aesthetics, open space or recreational uses.

iii. Existing Riccelli Facility

- 1) This is an existing industrial use in the Town of Junius.
- 2) It does not impact aesthetics, open space or recreational uses in the Town of Tyre.

iv. Housing Project

- 1) Site is located on the east side of Route 414 and south of Route 318.
- 2) Site is approximately 10 acres.
- 3) Property is zoned for the use.
- 4) According to the EAF the property consists of vacant land and overgrown scrub brush and is not currently used for open space, recreational or aesthetic purposes. The property is not visible from any designated resources.
- 5) The information presented does not suggest any cumulative impacts associated with aesthetics, open space or recreational uses.

g. **Increased noise levels**

- i. An increase in noise levels could be an area of concern in connection with future developments.
- ii. The Town Board found that the Lago Project would not have any impact on noise.
- iii. 3S Gateway Project
  - 1) Based on the proposed location of the 3S Gateway Project, there would likely be no cumulative impact with respect to noise.
  - 2) The proposed site is located in an area of the Town zoned for commercial uses and that is envisioned in the Comprehensive Plan as being used for commercial development.
  - 3) The proposed site is adjacent to the NYS Thruway which contributes to a higher ambient noise level associated with the 33,000 vehicles per day using the Thruway.
  - 4) The proposed site is also located almost a mile from the Lago Project Site on the opposite side of both Route 414 and the Thruway. As such it does not share any common noise receptors and, therefore, would not generate any cumulative noise impacts.

iv. Existing Riccelli Facility

- 1) Although the Riccelli Project could result in increased noise levels, it is located more than five miles from the Lago Project site and would have an entirely different set of noise receptors. As a result, there would be no cumulative noise impacts.
- v. Pine View Housing Project
- 1) Residential uses are not usually significant generators of noise.
  - 2) In addition, the proposed site is more than a mile south from the Lago Project site on the other side of the NYS Thruway (and even NYS Route 318). As a result, the Pine View Housing Project would have an entirely different set of noise receptors.
  - 3) Based on both the proposed location and the proposed residential use of the Pine View Housing Project site, there would be no cumulative impact on noise.
- h. **Impacts on Public Services**
- i. An increase in the demand for public services could be an area of concern in connection with future developments.
  - ii. The Town Board found that the Lago Project would have a moderate to large impact on the demand for community services including fire, police, and EMS. However, the Lago Project will add capacity, equipment and funds for fire/police/EMS services. As a result of this commitment by the Applicant, the Town Board concluded that the demand for services would not be adverse.
  - iii. 3S Gateway Project
    - 1) The extent and timing of the 3S Gateway Project is unknown and speculative at this time. As a result, it is difficult to assess the demand for community services as a result of the 3S Gateway Project.
    - 2) The proposed site for the 3S Gateway Project is in close proximity to fire house.
    - 3) The additional capacity and equipment for fire/police/emt services provided by the Lago Project would be a benefit to any future development project.
    - 4) Any additional services required for the 3S Gateway Project could be addressed by the lead agency during the SEQRA process for that project, if advanced and

when the plans for that project become less speculative.

- 5) The information presented does not suggest any cumulative impacts associated with demand for public services.

iv. Existing Riccelli Facility

- 1) Although the Riccelli facility could require EMS and fire services, it is located more than five miles from the Lago Project site and is served by a different fire company. As a result, there would be no cumulative impacts.

v. Pine View Housing Project.

- 1) The Pine View Housing Project could result in an increased demand for police/fire/EMT services.
- 2) According to representatives for the project, the target market for the Pine View Housing Project is people who already live or work in the vicinity of the proposed apartments.
- 3) In addition, the Pine View Housing Project is limited to 48 units.
- 4) The proposed site is in close proximity to the fire house.
- 5) The additional capacity and equipment for fire/police/emt services provided by the Lago Project would be a benefit to any future development project.
- 6) Any additional services required for the Pine View Housing Project can be addressed by the lead agency during the SEQRA process for that project.
- 7) The information presented does not suggest any cumulative impacts associated with demand for public services.

**Completion of EAF Part 2 and 3 Analysis**

- **EAF 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).”
  1. Relevant Project Information and Public Comments discussed above
  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?
- **Part 2, Section 17, Item h:** “Other”