

**RESOLUTION OF THE PLANNING BOARD  
FOR THE TOWN OF TYRE  
CONCERNING ITS RECOMMENDATION TO THE TOWN BOARD FOR THE TOWN  
OF TYRE  
REGARDING THE APPLICATION AND THE DEVELOPMENT PLAN RELATING TO  
THE CREATION OF A PLANNED UNIT DEVELOPMENT DISTRICT IN THE TOWN  
FOR THE PROPOSED LAGO RESORT AND CASINO**

**July 21, 2015**

**WHEREAS**, in 2014, the Town Board for the Town of Tyre (the “Town Board”) received an application for the creation of a Planned Unit Development (“PUD”) district (the “PUD District Application”) in the Town of Tyre (the “Town”), together with a proposed Development Plan, for the proposed Lago Resort and Casino (formerly the Wilmot Casino and Resort) (the “Project”); and

**WHEREAS**, the Town Board previously referred to the Planning Board for the Town of Tyre (the “Planning Board”) for review and recommendation the PUD District Application, the Development Plan, and then-proposed Local Law No. 3 of 2014 to amend the Town Zoning Map to create a PUD District for the Project if the Development Plan were approved, as required by Town of Tyre Zoning Law (“Town Zoning Law”) § 2A.203(H);

**WHEREAS**, the Planning Board adopted a resolution dated April 15, 2014 recommending that the Town Board approve the PUD District Application and Development Plan upon certain conditions; and

**WHEREAS**, the Town Board reviewed the materials related to the Project and its potential environmental impacts, ultimately concluding that the Project would not cause any significant adverse environmental impacts and accordingly issued a negative declaration under the State Environmental Quality Review Act (“SEQRA”) by resolution dated June 12, 2014, and adopting at the same meeting by separate resolutions other approvals for the Project, including a resolution approving the Development Plan and adopting a local law to create the PUD District for the Project (the “June 12, 2014 Approvals”); and

**WHEREAS**, in an Article 78 proceeding under New York Civil Practice Law and Rules to challenge the June 12, 2014 Approvals, an appellate court annulled the Town Board’s negative declaration and vacated the June 12, 2014 Approvals on the ground that its SEQRA review was incomplete because the Town Board did not formally adopt by resolution the “Reasons Supporting the Determination of Significance in Part 3 of the Full Environmental Assessment Form” as part of its negative declaration; and

**WHEREAS**, on July 16, 2015, the Town Board received for review and approval copies of the following documents relating to the Project: Part 1 of the Full Environmental Assessment Form (“FEAF”) that was originally submitted to the Town Board on March 20, 2014 together with an amended Part 1 of the FEAF dated July 15,

2015, which reflects the revisions proposed for the Project since the initial Part 1 of the FEAF was submitted; a PUD District Application and a proposed Development Plan with minor modifications to the initial Development Plan considered by the Town Board on June 12, 2014; a proposed Site Plan that reflects revisions to the initial Site Plan considered by the Town Board on June 12, 2014; and any other Project documents identified in the July 16, 2015 transmittal letter from the Project developer's engineer, BME Associates (the "July 2015 Project Documents"); and

**WHEREAS**, pursuant section 2A.203(D) of the Town Zoning Law, the Town Board referred by resolution dated July 16, 2015 the PUD District Application and proposed Development Plan for the Project to the Town of Tyre Planning Board ("Planning Board") for review and recommendation, such review and recommendation to be complete within thirty (30) days of referral by the Town Board; and

**WHEREAS**, copies of the PUD District Application and proposed Development Plan were collected by Planning Board Chairman Robert C. Seem following the Town Board meeting on July 16, 2015, and were distributed to each Planning Board member thereafter, as referenced under cover of a July 17, 2015 letter from the Town Board to the Planning Board members; and

**WHEREAS**, at its July 21, 2015 meeting, the Planning Board reviewed and discussed the PUD District Application and proposed Development Plan with the Town Engineer; and

**WHEREAS**, the Planning Board considered the factors set forth in Section 2A.203(D)(1)(a-d) of the Town Zoning Law;

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

*CHECK ONE OF THE FOLLOWING:*

  X   The Planning Board recommends that the Town Board approve the PUD District Application and proposed Development Plan.

**OR**

       The Planning Board recommends that the Town Board conditionally approve the PUD District Application and proposed Development Plan subject to the following modifications being made to the Development Plan:

**OR**

       The Planning Board recommends that the Town Board disapprove the PUD District Application and proposed Development Plan.

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

The adoption of the foregoing Resolution was moved by Larry Kessel, seconded by Alan Smith, and duly put to vote, which resulted as follows:

	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>Absent</b>
Robert C. Seem	[ X ]	[ ]	[ ]	[ ]
Alan Smith	[ X ]	[ ]	[ ]	[ ]
Larry Kesel	[ X ]	[ ]	[ ]	[ ]
Deborah J. Geary	[ X ]	[ ]	[ ]	[ ]
Kenneth L. Hauenstein	[ ]	[ ]	[ ]	[ X ]
Karen Thomson	[ X ]	[ ]	[ ]	[ ]
Henry Bickel	[ X ]	[ ]	[ ]	[ ]

The Resolution was thereupon duly adopted.

July 21, 2015