

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

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 22, 2014 relating to then-proposed Local Law No. 3 of 2014 making certain requests to the Town Board for action; 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, if the Town Board approves the proposed Development Plan, which decision has not yet been made, pursuant to section 2A.203(H) of the Town Zoning Law, within 10 days of plan approval, the Town Board must amend the Zoning Map of the Town of Tyre to establish and define the type and boundaries of the PUD district; and

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

WHEREAS, the Town Board considered and discussed proposed Local Law No. 5 of 2015, draft dated July 14, 2015 (the "Proposed Local Law"), which local law would amend the Town's Zoning Law to: (i) add the term "Planned Unit Development" to the list of "Type of District" under Article II, Section 2.202, and add the designation "PUD" for such district; (ii) add a definition of Planned Unit Development District to Article XI, Section 11.1102; and (iii) show on the Town's Zoning Map the Planned Unit Development District for the Lago Resort and Casino as all the land within the Town of Tyre in the area east of New York State Route 414 and north of the New York State Thruway, consisting of approximately 84.9 acres of land (Tax Account No. 12.00-01-36), thereby changing the Agricultural use designation for that land to a Planned Unit Development District designation; and

WHEREAS, pursuant section 10.1013 of the Town Zoning Law, the Town Board referred the Proposed Local Law to the Planning Board for report and recommendation; and

WHEREAS, copies of the Proposed Local Law 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, the Planning Board properly noticed and held a public meeting on July 21, 2015, in part to discuss proposed Local Law No. 5 of 2015 and to provide a recommendation to the Town Board pursuant to Town Zoning Law § 10.1013; and

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

WHEREAS, the Planning Board has thoroughly reviewed and discussed the provisions of the Proposed Local Law;

NOW, THEREFORE, BE IT RESOLVED, as follows:

CHECK ONE OF THE FOLLOWING:

___ The Planning Board recommends that the Town Board approve the adoption of Local Law No. 5 of 2015.

OR

___ The Planning Board recommends that the Town Board disapprove proposed Local Law No. 5 of 2015.

OR

X The Planning Board recommends: that the Town Board approve the adoption of Local Law No. 5 of 2015 provided that paragraph five of said Local Law No. 5 of 2015 be revised to reflect that the Development Plan is identified as “Wilmot Casino Development Plan, dated March 2014, revised July 16, 2015.”

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

The adoption of the foregoing Resolution was moved by Karen Thomson, seconded by Deborah Geary, and duly put to vote, which resulted as follows:

	Yea	Nay	Abstain	Absent
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