

**RESOLUTION OF THE TOWN BOARD FOR THE TOWN OF TYRE MAKING A DETERMINATION OF SIGNIFICANCE UNDER THE STATE ENVIRONMENTAL QUALITY REVIEW ACT RELATING TO (A) THE APPLICATION OF WHITETAILE 414, LLC FOR AN AMENDMENT TO THE ZONING LAW AND MAP TO ADD A PLANNED UNIT DEVELOPMENT DISTRICT AND FOR DEVELOPMENT PLAN AND SITE PLAN APPROVAL IN CONNECTION WITH THE CONSTRUCTION AND OPERATION OF THE WILMOT CASINO AND RESORT, AND (B) A HOST COMMUNITY AGREEMENT WITH WHITETAILE 414, LLC AND WILMORITE, INC.**

**June 12, 2014**

WHEREAS, pursuant to section 2A.203 of Local Law No. 1 of 2014, on March 20, 2014, the Town Board for the Town of Tyre (the "Town Board") received an application (the "PUD District Application") from Whitetail 414, LLC (the "Applicant") for the creation of a Planned Unit Development ("PUD") District in the Town of Tyre (the "Town"), together with a proposed Development Plan, and Part 1 of a Full Environmental Assessment Form ("EAF") under the State Environmental Quality Review Act ("SEQRA") and on or about April 16, 2014, the Town Board received a proposed Site Plan; and

WHEREAS, the Applicant is seeking the creation of a PUD District to construct and operate the Wilmot Casino and Resort on approximately 84.9 acres of land (Tax Account No. 12.00-01-36) within the Town in the area east of New York State Route 414 and north of the New York State Thruway (the "Property"); and

WHEREAS, the PUD District Application, the proposed Development Plan and the EAF are contained in a two-volume submission entitled "SEQRA Documentation and Engineer's Report" and "Appendices to Engineer's Report," each dated March, 2014, and accompanying drawings, and the proposed Site Plan is contained in a ten-drawing set entitled "Site Plans" dated April 2014, last revised June 3, 2014, and a two-volume set entitled "Engineer's Report Including Appendix A" and "Appendices B-K to Engineer's Report," each dated March 2014, Updated April 2014; and

WHEREAS, the creation of a PUD District in the Town requires an amendment to the Town of Tyre Zoning Law ("Zoning Law"), which has been proposed in Local Law No. 3 of 2014 to, among other things, change the Agricultural use designation for the Property to a Planned Unit Development District for the Wilmot Casino and Resort on the Town Zoning Map; and

WHEREAS, under Section 1316.5 of the 2013 Gaming Act, an applicant for a license must "demonstrate to the commission how the applicant proposes to address problem gambling concerns, workforce development, and community development and host and nearby municipality impact and mitigation issues" and, to address this requirement the Town has negotiated and is considering entering into a Host Community Agreement with the Applicant and Wilmorite, Inc.; and

WHEREAS, the Town desires to comply with Article 8 of the Environmental Conservation Law, as amended (öSEQRAö) and the implementing regulations at 6 NYCRR Part 617 (the öRegulationsö); and

WHEREAS, the Town Board has considered the PUD District Application, the proposed Development Plan, proposed Local Law No. 3 of 2014, the proposed Site Plan for the Wilmot Casino and Resort, and the proposed Host Community Agreement (collectively, the öActionö), as a single action for purposes of its SEQRA review, and

WHEREAS, the Town Board acknowledged receipt of the PUD District Application, the proposed Development Plan and the EAF at its duly noticed regular business meeting on March 20, 2014, preliminarily classified the Action as a Type I action and declared its intent to act as the Lead Agency to undertake a coordinated environmental review as required by SEQRA; and

WHEREAS, in addition to the Town Board, the other öinvolved agenciesö (as this quoted term is defined in the Regulations) in regard to this Action include the Town of Seneca Falls, the Village of Waterloo, the Seneca County Industrial Development Agency, the New York State Department of Environmental Conservation, the New York State Department of Transportation, the Seneca County Department of Health, and the New York State Thruway Authority; and

WHEREAS, on or about March 24, 2014, the Town caused a letter, a copy of the PUD District Application, proposed Development Plan and the EAF to be sent to these other involved agencies, indicating the Town Board's desire to serve as ölead agencyö (as this quoted term is defined in the Regulations) for a coordinated review under SEQRA and requesting any comments the agencies may have on the project; and

WHEREAS, all of the aforementioned involved agencies consented to this Town Board acting as lead agency in reviewing this Action pursuant to SEQRA; and

WHEREAS, the Town Board duly noticed and held a public hearing on the PUD District Application and the proposed Development Plan on April 17, 2014, and duly noticed and held a public hearing on Local Law No. 3 of 2014 on May 1, 2014; and

WHEREAS, by a letter dated May 9, 2014 with enclosures, the Town informed the New York State Office of Parks, Recreation and Historic Preservation, the U.S. Army Corps of Engineers, the New York State Department of Agriculture and Markets and the U.S. Fish and Wildlife Service that it considered these agencies to be öinterested agenciesö (as this quoted term is defined in the Regulations) under SEQRA and requested any comments they may have on the project; and

WHEREAS, at its duly noticed regular business meeting on May 15, 2014, the Town Board confirmed that the PUD District Application, proposed Development Plan, proposed Local Law No. 3 of 2014, and proposed Site Plan were properly classified as a Type I action and established itself as the lead agency for purposes of a coordinated review under SEQRA for the Action; and

WHEREAS, a SEQRA Question & Answer Revisions notice dated May 19, 2014, issued by the New York Gaming Facility Location Board, indicated that for local authorities that have initiated the SEQRA process for the siting of a casino, the New York State Gaming Commission (the "Commission") should be added as an involved agency for purposes of a coordinated SEQRA review, and by a letter dated May 22, 2014, the Town informed the Commission that it will add the Commission as an involved agency for purposes of this review and provided the Commission a copy of the proposed Development Plan, EAF and Engineer's Report for review and comment; and

WHEREAS, in addition to documents comprising the PUD District Application, the proposed Development Plan, the EAF, and the proposed Site Plan, other reports and analyses of potential impacts were submitted by the Applicant or by the Town's Engineer and correspondence was received from interested and involved agencies in regard to the Action, a list of which documents is attached to this Resolution as Attachment A, all of which are on file in the Town Clerk's office for public review and many of which have been posted to the Town's web site; and

WHEREAS, at the May 1, 2014 public hearing regarding proposed Local Law No. 3 of 2014, the Town Board received public comments regarding the project, and on June 9, 2014, the Town Board was provided copies of a Response to Public Comments document prepared by its consultants that addressed many of the concerns raised by the public concerning the project, and on or about June 9, 2014, the Town made a copy of this document available for public review on the Town's web site; and

WHEREAS, the Town Board considered the Action during its duly noticed regular business meetings on March 20, 2014, April 17, 2014, and May 15, 2014; and

WHEREAS, the Town Board conducted duly noticed special meetings on May 1, 2014 and June 12, 2014 where it considered the Action; and

WHEREAS, the Town Board has thoroughly reviewed all information provided in the EAF, as well as the reports, analyses and correspondence prepared by the Applicant, the Applicant's consultants and the Town's consultants, and the comments received from the involved and interested agencies that were submitted to the Town Board regarding the potential adverse environmental impacts of the Action; and

WHEREAS, the Town Board considered all of the comments that were received during the public hearings and at the various other meetings at which this Action was considered and the Response to Public Comments document; and

WHEREAS, the Town Board is mindful of the criteria set forth in Section 617.7 of the Regulations for determining the environmental significance of an action; and

WHEREAS, pursuant to the Regulations, the Town Board has considered the significance of the potential environmental impacts of the Action by (a) using the criteria specified in Section 617.7 of the Regulations, and (b) examining the EAF for the Action,

including the facts and conclusions in Part 1 of the EAF, and completing Parts 2 and 3 of the EAF, together with examining other available supporting information, to identify the relevant areas of environmental concern, and (c) thoroughly analyzing the identified areas of relevant environmental concern.

NOW THEREFORE IT IS HEREBY RESOLVED that the Town Board confirms and adopts the following findings with respect to SEQRA:

A. The Action is subject to SEQRA;

B. The other involved agencies with respect to this Action include the Town of Seneca Falls, the Village of Waterloo, the Seneca County Industrial Development Agency, the New York State Department of Environmental Conservation, the New York State Department of Transportation, the Seneca County Department of Health, the New York State Thruway Authority and the New York State Gaming Commission;

C. The Action is a Type I action; and

D. The Town Board of the Town of Tyre has duly acted as lead agency for purposes of undertaking a coordinated review with respect to the Action.

IT IS HEREBY FURTHER RESOLVED that

***CHECK ONE OF THE FOLLOWING:***

X The Action will not result in any significant adverse environmental impacts and a "negative declaration" (as this quoted term is defined in the Regulations) shall be prepared, filed and published pursuant to SEQRA.

***OR***

The Action has the potential to create at least one significant adverse environmental impact and, therefore, a "positive declaration" (as this quoted term is defined in the Regulations) shall be prepared, filed and published pursuant to SEQRA, and the Applicant shall be required to prepare an Environmental Impact Statement with respect to such impacts of the Action.

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

The adoption of the foregoing Resolution was moved by Mr. Delpapa, seconded by Mr. Rogers, and duly put to vote, which resulted as follows:

	Yea	Nay	Abstain	Absent
Supervisor Ronald F. McGreevy	[X ]	[ ]	[ ]	[ ]
Councilman Joseph Delpapa	[X ]	[ ]	[ ]	[ ]
Councilman James Rogers	[X ]	[ ]	[ ]	[ ]
Councilman Reginald Aceto	[X ]	[ ]	[ ]	[ ]
Councilman Thomas Thomson	[X ]	[ ]	[ ]	[ ]

The Resolution was thereupon duly adopted.

Dated: June 12, 2014

## ATTACHMENT A

1. Responses of the SEQRA Involved Agencies to the Town's March 24, 2014 request for consent to act as lead agency on the Wilmot Casino and Resort project:
  - a. Consent form from Seneca County Department of Health with no comments, signed March 28, 2014
  - b. Consent form from Seneca County Industrial Development Agency with no comments, signed March 25, 2014
  - c. Consent form from Village of Waterloo with no comments, signed April 14, 2014
  - d. Consent form from Town of Seneca Falls with no comments, signed April 1, 2014
  - e. Letter from New York State Department of Environmental Conservation dated April 8, 2014 with comments
  - f. Letter from New York State Department of Transportation dated April 23, 2014 with comments
  - g. Letters from New York State Thruway Authority dated April 2, April 22, and April 24, 2014 with comments
2. Responses of the SEQRA Interested Agencies to the Town's May 9, 2014 request for comments on the Wilmot Casino and Resort project:
  - a. Letter from the New York State Office of Parks, Recreation, and Historic Preservation dated May 16, 2014 finding no impact
  - b. Letter from the U.S. Fish & Wildlife Service dated May 16, 2014
  - c. Email from the U.S. Army Corps of Engineers dated May 29, 2014
3. Recommendations of the Seneca County Planning Board regarding the Development Plan, the Site Plan, and proposed Local Law No. 3 of 2014
4. Resolutions of the Town Planning Board and Zoning Board of Appeals, dated April 22, 2014, in response to request of Town Board for review and recommendations on proposed Local Law No. 3 of 2014
5. Memorandum from McFarland Johnson dated April 4, 2014 regarding additional highway safety analysis
6. Comments of Barton & Loguidice, dated April 9, 2014, on the Development Plan Phase Documents for the Wilmot Casino and Resort
7. Comments of Barton & Loguidice, dated April 9, 2014, on the Preliminary Site Plan for the Wilmot Casino and Resort
8. Responses of BME Associates, dated April 15, 2014, on the Wilmot Casino and Resort Site Plan
9. Responses of BME Associates, dated April 23, 2014, to the New York State Department of Environmental Conservation's April 8, 2014 letter on SEQRA and Lead Agency coordination
10. Responses of BME Associates, dated April 25, 2014, to comments received on the Wilmot Casino and Resort Development Plan

11. Draft comments of Barton & Loguidice, dated May 7, 2014, on SEQRA, the Development Plan, and Site Plan documents for the Wilmot Casino and Resort
12. Revised response of BME Associates, dated May 8, 2014, to the April 23, 2014 letter from the New York State Department of Transportation on SEQRA and Lead Agency coordination
13. Review of Site Plan Phase Documents for Wilmot Casino and Resort by Barton & Loguidice dated May 16, 2014
14. Email response from BME Associates, dated June 5, 2014, to the U.S. Army Corps of EngineersøMay 29, 2014 comments on the Wilmot Casino and Resort
15. Responses of BME Associates, dated June 6, 2014, to Barton & Loguidiceøs May 16, 2014 memorandum on the Wilmot Casino and Resort Site Plan