

**RESOLUTION OF THE TOWN BOARD FOR THE TOWN OF TYRE REGARDING
PROPOSED LOCAL LAW NO. 5 OF 2015 TO AMEND THE TOWN OF TYRE
ZONING LAW AND MAP TO ADD A PLANNED UNIT DEVELOPMENT DISTRICT IN
CONNECTION WITH THE APPLICATION OF LAGO RESORT & CASINO, LLC
FOR THE LAGO RESORT AND CASINO**

October 15, 2015

WHEREAS, on July 16, 2015, the Town Board for the Town of Tyre (the “Town Board”) received for review and approval from BME Associates, on behalf of Lago Resort & Casino, LLC (“Lago”), copies of the following documents relating to the proposed Lago Resort and Casino (formerly known as the Wilmot Casino and Resort) (the “Project”), which is a proposed development that has been under review by the Town Board since March 2014: a Planned Unit Development (“PUD”) District Application and a proposed Development Plan with minor modifications from the Development Plan initially submitted to and considered by the Town Board in 2014; a proposed Site Plan that reflects revisions to the initial Site Plan submitted to and considered by the Town Board in 2014; 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 reflecting the revisions to the Project since the initial Part 1 of the FEAF was submitted; and other Project documents identified in the July 16, 2015 transmittal letter from BME Associates (the “July 2015 Project Documents”); and

WHEREAS, if the Town Board approves a proposed Development Plan for a PUD district, pursuant to section 2A.203(H) of the Town of Tyre Zoning Law (“Town Zoning Law”), within 10 days of plan approval, the Town Board must amend the Zoning Map of the Town of Tyre (“Town Zoning Map”) to establish and define the type and boundaries of the PUD district; and

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

WHEREAS, the Town Board introduced and reviewed at its duly held meeting on July 16, 2015 proposed Local Law No. 5 of 2015, draft dated July 14, 2015, which local law would amend the Town 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) amend the Town Zoning Map to show the Planned Unit Development District for the Lago Resort and Casino as 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 84.95 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, at its July 16, 2015 meeting, the Town Board resolved to refer for review and recommendation, as required under applicable law, proposed Local Law No. 5 of 2015, draft dated July 14, 2015, to the Town of Tyre Planning Board (“Town Planning Board”), the Town of Tyre Zoning Board of Appeals (“Town ZBA”), and the Seneca County Planning Board; and

WHEREAS, at its duly held July 21, 2015 meeting, the Town Planning Board adopted by a resolution a recommendation that the Town Board approve the adoption of Local Law No. 5 of 2015 provided paragraph five of it be revised to clarify the name and date of the Development Plan, which recommendation was delivered to the Town Board; and

WHEREAS, at its duly held July 29, 2015 meeting, the Town ZBA adopted by a resolution a recommendation that the Town Board approve the adoption of Local Law No. 5 of 2015 provided paragraph five of it be revised to clarify the name and date of the Development Plan, which recommendation was delivered to the Town Board; and

WHEREAS, at its August 13, 2015 meeting, the Seneca County Planning Board adopted by resolution a recommendation, which was delivered to the Town Board, that the Town Board adopt Local Law No. 5 of 2015, with the change recommended by the Town Planning Board at its July 21, 2015 meeting; and

WHEREAS, at its August 14, 2015 special meeting, the Town Board revised the text of paragraph five of proposed Local Law No. 5 of 2015 consistent with the recommendations of the Town Planning Board, the Town ZBA and the Seneca County Planning Board to clarify the name and date of the Development Plan and approved a draft dated August 14, 2015; and

WHEREAS, the Town Board received a letter dated August 24, 2015, from the Town Engineer, Barton & Loguidice, D.P.C., a copy of which was provided to Lago, recommending that Lago submit a revised Development Plan for the Project to replace the one that was included in Lago’s July 16, 2015 PUD District Application, which recommendation was made after reviewing the public comments received about the Project; and

WHEREAS, the Town Board received at its August 27, 2015 special meeting, together with other documents identified in the August 27, 2015 transmittal letter from BME Associates on behalf of Lago, a revised Development Plan dated August 2015 that represents the current conditions and design of the Project, as reflected in the Site Plan submitted with the July 16, 2015 PUD District Application; and

WHEREAS, in light of the August 27, 2015 submission by Lago to the Town Board of the revised Development Plan, the Town Board adopted a resolution on August 27, 2015 to again revise the text of paragraph five of proposed Local Law No. 5 of 2015 and approved a draft dated August 27, 2015; and

WHEREAS, at its August 27, 2015 special meeting, the Town Board adopted a resolution to refer proposed Local Law No. 5 of 2015 (draft dated August 27, 2015) (the “Proposed Local Law”) to the Town Planning Board, the Town ZBA and the Seneca County Planning Board pursuant to applicable law for review and recommendation; and

WHEREAS, the Town Board did send a copy of the Proposed Local Law to the Seneca County Planning Board under cover of a letter dated September 1, 2015 and also sent copies of the Proposed Local Law to the Town Planning Board and the Town ZBA under cover of letters dated September 11, 2015, which letters explained the revision to paragraph five of the Proposed Local Law and requested review and recommendation pursuant to applicable law; and

WHEREAS, at its September 10, 2015 meeting, the Seneca County Planning Board adopted a resolution in which it recommended that the Town Board approve the Proposed Local Law; and

WHEREAS, at its September 21, 2015 meeting, the Town ZBA considered the Proposed Local Law and adopted a resolution recommending that the Town Board adopt the Proposed Local Law; and

WHEREAS, at the September 22, 2015 meeting of the Town Planning Board, after review and discussion of the revised Development Plan and consideration of the Proposed Local Law, the Town Planning Board adopted a resolution recommending that the Town Board adopt the Proposed Local Law because (i) the Planning Board’s concern expressed to the Town Board in its July 21, 2015 resolution about identifying the date of the Development Plan was satisfied, (ii) obtaining the revised Development Plan in August was logical and provided new information, and (iii) revising the Proposed Local Law to reflect the title of that revised Development Plan was also logical; and

WHEREAS, after the Seneca County Planning Board’s September 10, 2015 recommendation, BME Associates submitted to the Town Board, on behalf of Lago in connection with Lago’s PUD District Application, additional materials for the Town Board’s consideration in making its determination of significance under the State Environmental Quality Review Act (“SEQRA”) and its implementing regulations at 6 NYCRR Part 617, and at the Town Board’s September 24, 2015 special meeting, the Town Board resolved to refer the Proposed Local Law again to the Seneca County Planning Board for review and recommendation together with all SEQRA materials that the Town Board was considering for the Project and all other materials required to be submitted to the Seneca County Planning Board in connection with its review and recommendation pursuant to applicable law; and

WHEREAS, at its October 8, 2015 meeting, the Seneca County Planning Board adopted a resolution reaffirming its prior recommendation to the Town Board that the Town Board adopt the Proposed Local Law; and

WHEREAS, on October 8, 2015, the Town Board held a properly noticed public hearing with respect to the Proposed Local Law and heard public comments thereon; and

WHEREAS, the Proposed Local Law was posted on the Town's website in advance of the October 8, 2015 public hearing, and a copy was available at the Seneca Falls Public Library and at the Office of the Tyre Town Clerk in advance of the October 8, 2015 public hearing; and

WHEREAS, the Town Board has considered the Proposed Local Law and the comments about the Proposed Local Law that were received during the public hearing and at other duly held meetings of the Town Board; and

WHEREAS, the Town Board has considered the recommendations of the Seneca County Planning Board, the Town Planning Board and the Town ZBA regarding the Proposed Local Law; and

WHEREAS, the Proposed Local Law in its final form was received by the members of the Town Board on August 27, 2015, that is, more than 10 calendar days, exclusive of Sunday, before the Town Board's October 15, 2015 regular meeting; and

WHEREAS, during its October 1, 2015 special meeting, the Town Board satisfied the requirements of SEQRA with respect to the Project by adopting by resolution a negative declaration;

CHECK ONE OF THE FOLLOWING:

 X NOW THEREFORE IT IS HEREBY RESOLVED, that the Town Board finds that the adoption of Local Law No. 5 of 2015 is consistent with the goals of the Town Comprehensive Plan because it will allow the Town to maintain its rural character and promote the conservation of productive agricultural land while strengthening the Town's tax base through economic development in the areas of the NYS Thruway Exit 41 and the NYS Routes 318 and 414 corridors.

IT IS HEREBY FURTHER RESOLVED, that the Town Board finds that Local Law No. 5 of 2015 further promotes the intent and purpose of the Town Zoning Law to promote the health, safety, comfort, convenience, prosperity and planned development of the Town.

IT IS HEREBY FURTHER RESOLVED, because the Town Board adopted a resolution during its October 15, 2015 meeting, which approved the PUD District Application and the revised Development Plan for the Project dated August 2015 prepared by BME Associates, that the Town Board adopts Local Law No. 5 of 2015 by roll call vote, which reads as follows:

LOCAL LAW NO. 5 OF 2015

A local law to amend the Town of Tyre Zoning Law in relation to amending Article II, Section 2.202 and Article XI, Section 11.1102, and enacting a new Article II, Section 2.202.2, Planned Unit Development District.

BE IT ENACTED by the Town Board of the Town of Tyre as follows:

- 1. Article II, Section 2.202 of the Town of Tyre Zoning Law shall be amended by adding to this section the term “Planned Unit Development” to the list of Type of District, and by adding the designation “PUD” for such district.*
- 2. Article XI, Section 11.1102 of the Town of Tyre Zoning Law shall be amended by adding the following definition to this section:*

Planned Unit Development District: a district created for development in accordance with a single development plan and associated site plan for the permitted uses authorized in Article II.A, Section 2A.202.B of this law and the placement of buildings which may not correspond to the bulk, yard, height and other regulations of this law.

- 3. Zoning Map Amendment for Planned Unit Development For Lago Resort and Casino (formerly known as the Wilmot Casino and Resort).*

The Town Zoning Map shall be amended to show the Planned Unit Development for the Lago Resort and Casino as all 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, and being more particularly described in the legal description below, thereby changing the Agricultural use designation for such land as shown on the Town Zoning Map to Planned Unit Development District.

ALL THAT TRACT OR PARCEL OF LAND containing 84.957 acres more or less, situate in the Military Tract, Junius Township, Lot 45, Town of Tyre, County of Seneca, and State of New York, as shown on the drawing entitled “Lands of James R. & Jeanne C. Leonard,” prepared by BME Associates, having drawing number 2392-07, dated March, 2014, and revised March 27, 2014, being more particularly bounded and described as follows:

Beginning at the intersection of the easterly right-of-way line of State Route 414 (Right-of-Way width varies) with the northerly right-of-way line of The Governor Thomas E. Dewey Thruway (Right-of-Way width varies), said point having a Thruway baseline station 343+04.65 and offset 148.20 feet, said point also having a Route 414 baseline station 26+86.00 and offset 70.00 feet; thence

- 1. N 07°37'42" W, along said easterly right-of-way line, a distance of 265.99 feet to a point having Route 414 baseline station 29+50.00*

and offset 70.00 feet; thence

2. *N 13°51'23" W, continuing along said easterly right-of-way line, a distance of 402.30 feet to a point having Route 414 baseline station 33+50.00 and offset 27.00 feet; thence*
3. *N 07°58'55" W, continuing along said easterly right-of-way line, a distance of 657.17 feet to a point having Route 414 baseline station 40+07.16 and offset 24.00 feet; thence*
4. *N 85°42'49" E, along the southerly boundary line of lands now or formerly of John D. and Jane A. Morelli (T.A. No. 12.00-01-4.2), a distance of 304.66 feet to the southeast corner thereof, marked by a 2 foot tall 1" pipe; thence*

The following five (5) courses are along the southerly boundary line of lands now or formerly of Lorraine H. Newcomb (T.A. No. 12.00-01-4.11)

5. *N 87°56'08" E, a distance of 1268.14 feet to a point; thence*
6. *S 02°21'39" E, a distance of 639.75 feet to a point; thence*
7. *N 87°34'10" E, a distance of 895.00 feet to a point; thence*
8. *N 00°10'52" E, a distance of 492.27 feet to a point; thence*
9. *N 84°16'48" E, a distance of 409.87 feet to the southwest corner of lands now or formerly of Desiree Dawley (T.A. No. 12.00-01-4.12), marked by a 1" pipe; thence*
10. *N 87°24'40" E, along the southerly boundary line of said lands of Desiree Dawley (T.A. No. 12.00-01-4.12), a distance of 550.00 feet to a point on the westerly boundary line of lands now or formerly of James Nearpass (T.A. No. 12.00-01-5.11); thence*
11. *S 03°41'17" E, along said westerly boundary line and lands now or formerly of James Nearpass (T.A. No. 12.00-01-38.1), a distance of 1031.96 feet to a point on the aforementioned northerly right-of-way line of The Governor Thomas E. Dewey Thruway having baseline station 376+65.00 and offset 140.00 feet; thence*
12. *S 75°26'35" W, along said northerly right-of-way line, a distance of 464.83 feet to a concrete monument having Thruway baseline station 372+00.17 and offset 139.67 feet; thence*
13. *S 82°14'28" W, continuing along said northerly right-of-way line, a*

distance of 856.05 feet to a concrete monument having Thruway baseline station 363+01.46 and offset 175.23 feet; thence

14. S 87°30'37" W, continuing along said northerly right-of-way line, a distance of 597.35 feet to a concrete monument having Thruway baseline station 357+04.26 and offset 161.52 feet; thence

15. S 88°16'47" W, continuing along said northerly right-of-way line, a distance of 1399.68 feet to the Point of Beginning

- 4. The permitted uses within the Planned Unit Development District for the Lago Resort and Casino shall be casino complex and accessory uses, which accessory uses shall be limited to the accessory uses described in Article II.A, Section 2A.202.B(2) of the Town Zoning Law.*
- 5. All building locations and layout, bulk and area specifications, height restrictions, off-street parking layout, property ingress or egress, on-site roads and pedestrian ways, fire lanes, service drives, lighting, signage, open space, storm water management infrastructure, water and sewer infrastructure, and gas and electric utilities for this Planned Unit Development District shall be consistent with the Development Plan submitted to the Town Board pursuant to Article II.A, Section 2A.203 of the Town Zoning Law, which is identified as the Lago Resort and Casino Development Plan, prepared by BME Associates, which Development Plan was approved by the Town Board for the Town of Tyre on October 15, 2015, and a copy of which is maintained in the records of the Tyre Town Clerk.*
- 6. The applicant or its successors, assigns or grantees shall obtain all official reviews, approvals, licenses and permits required under applicable law, including site plan approval in accordance with Article II.A, Section 2A.204 of the Town Zoning Law.*
- 7. This local law will take effect immediately on filing in the office of the Secretary of State.*

IT IS HEREBY FURTHER RESOLVED, that the Town Board directs the Town Clerk to publish a summary of and to file Local Law No. 5 of 2015 with the New York State Secretary of State and to maintain copies of Local Law No. 5 of 2015 in the Office of the Town Clerk in files that are readily accessible to the public and made available upon request, subject only to the limitations established by the Freedom of Information Law.

IT IS HEREBY FURTHER RESOLVED, that the Town Board directs the Town Clerk to maintain a copy of this resolution in the Office of the Town Clerk in files that are readily accessible to the public and made available upon request, subject only to the limitations established by the Freedom of Information Law.

OR

_____ NOW THEREFORE IT IS HEREBY RESOLVED that, based on the documents it has reviewed and the comments received and all other information considered in connection with proposed Local Law No. 5 of 2015, the Town Board does not approve and shall not adopt Local Law No. 5 of 2015.

IT IS HEREBY FURTHER RESOLVED, that the Town Board directs the Town Clerk to maintain a copy of this resolution in the Office of the Town Clerk in files that are readily accessible to the public and made available upon request, subject only to the limitations established by the Freedom of Information Law.

The adoption of the foregoing Resolution was moved by Councilman Thomson, seconded by Councilman Delpapa, 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: October 15, 2015