

**RESOLUTION OF THE TOWN BOARD FOR THE TOWN OF TYRE REGARDING
THE APPLICATION FOR SITE PLAN APPROVAL IN CONNECTION WITH THE
APPLICATION OF LAGO RESORT & CASINO, LLC FOR THE CREATION OF A
PLANNED UNIT DEVELOPMENT DISTRICT FOR THE PROPOSED LAGO RESORT
AND CASINO**

October 22, 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 project (formerly known as the Wilmot Casino and Resort) (the “Project”) on approximately 84.95 acres of land (Tax Account No. 12.00-01-36) within the Town of Tyre (“Town”) in the area east of NYS Route 414 and north of the NYS Thruway (the “Site”), which is a proposed development that has been under review by the Town Board since March 2014: an application for the creation of a Planned Unit Development (“PUD”) District (“PUD District Application”) for the Project 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, as well as an exterior signage package last revised June 2, 2015 (the “Signage Package”); 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 (collectively, the “July 2015 Project Documents”); and

WHEREAS, at its July 16, 2015 meeting, the Town Board resolved to refer for review and recommendation, as required under applicable law, the proposed Site Plan, draft dated March 2014, revised July 16, 2015 (the “July 2015 Site Plan”), to the Seneca County Planning Board, and under cover of a letter dated July 17, 2015, the Town Board did send copies of the July 2015 Project Documents to the Seneca County Planning Board; and

WHEREAS, at its duly held meeting on August 13, 2015, the Seneca County Planning Board adopted a resolution recommending that the Town Board approve the July 2015 Site Plan, which recommendation was thereafter delivered to the Town Board; 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 that represents the current conditions and design of the Project, as reflected in the existing Site Plans submitted with the July 16, 2015 PUD District Application which remained unchanged; 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 refer the PUD District Application and the revised Development Plan to the Seneca County Planning Board pursuant to applicable law for review and recommendation; and

WHEREAS, afterward, the Town Board did send copies of the PUD District Application and the revised Development Plan to the Seneca County Planning Board under cover of a letter dated September 1, 2015, explaining the revisions made to the Development Plan and requesting 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 PUD District Application and the revised Development Plan, and reaffirmed its approval of the July 2015 Site Plan made during its August 13, 2015 meeting; and

WHEREAS, during the course of the Town Board's review of the Project, Lago submitted to the Town Board numerous studies and other documentation supporting its PUD District Application and the July 2015 Site Plan; 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 again the PUD District Application, the revised Development Plan, the proposed local law relating to the Project, and the July 2015 Site Plan 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 any 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 accept and approve the PUD District Application, the revised Development Plan, and the July 2015 Site Plan; and

WHEREAS, in accordance with Section 2A.205(B)(1) of the Town of Tyre Zoning Law (“Town Zoning Law”), the Town Board has conferred with the Town Code Enforcement Officer regarding any aspects of the Project signage related to applicable building codes and permits and with the New York State Department of Transportation (“NYSDOT”) regarding any traffic safety hazard impacts, each of which reviewed the Signage Package and had no comments or problems with the signs proposed; and

WHEREAS, the Town Board considered the recommendations of the Seneca County Planning Board regarding the PUD District Application, the revised Development Plan, and the July 2015 Site Plan; 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; and

WHEREAS, during its October 15, 2015 regular meeting, the Town Board approved the PUD District Application and revised Development Plan for the Project; and

WHEREAS, during its October 15, 2015 regular meeting, the Town Board adopted Local Law No. 5 of 2015, which amended the Town Zoning Map to show the PUD District for the Project on the Site, and which Local Law was filed with the Office of the New York State Secretary of State on October 19, 2015 and took effect on that date; and

WHEREAS, the Town Board is mindful of the criteria set forth in Section 2A.204 of the Town Zoning Law for the issuance of site plan approval.

CHECK ONE OF THE FOLLOWING:

 X NOW THEREFORE IT IS HEREBY RESOLVED, that the July 2015 Site Plan satisfies the requirements set forth in Section 2A.204 of Town Zoning Law, and, therefore, the July 2015 Site Plan for the Project prepared by BME Associates is hereby approved. The reasons supporting this approval include:

- (1) The July 2015 Site Plan is consistent with the Development Plan approved for the Project on October 15, 2015.
 - In response to written public comments, the Town Engineer, Barton & Loguidice, D.P.C., recommended 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. On August 27, 2015, BME Associates, on behalf of Lago, submitted a revised Development Plan that represents the current conditions and design of the Project, as reflected in the July 16, 2015 Site Plan.

(2) The July 2015 Site Plan is consistent with appropriate development of the neighborhood and surrounding area and the development proposed under the July 2015 Site Plan will not have an adverse relationship with the existing character of the neighborhood.

- The Project Site is located near major travel corridors. The Site's southern boundary is adjacent to the NYS Thruway and the western boundary is adjacent to NYS Route 414. According to NYSDOT data from 2013, the NYS Thruway has more than 33,000 average daily trips; Route 414, north from Thruway Exit 41, has more than 2,500 average daily trips, and south from the Thruway Exit 41 has more than 10,000 average daily trips; Route 318 has more than 8,000 average daily trips. The Town of Tyre Comprehensive Plan contemplates and includes goals to promote commercial development in and around major transportation routes (NYS Routes 89, 318, 414, and around NYS Thruway Exit 41). Thus, the Site is an area identified as appropriate for commercial development under the Tyre Comprehensive Plan.
- Nearby commercial uses and architectural structures include: the Petro Stopping Station, located 0.2 miles from the Site, being a commercial 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; the Magee Country Diner located 0.6 miles from the Site; the busy Route 414/318 intersection and the Nice N' Easy Grocery Shop located 0.7 miles from the Site.
- The Town and nearby areas are characterized by diversity in land uses and architectural scales—some are very large buildings, like the Petro Stopping Center or the Waterloo Premium Outlets, and some are small like single-family homes. The consistent facet of the architectural scale and uses in the community is the fact that they vary. The size of the structures and parking lot for the Project are larger than other structures, but the uses are similar to commercial uses nearby. Furthermore, the structures have been placed on the Site in a way that most minimizes their visual effects, with extensive screening on site and extensive stormwater management controls in place for runoff from the structures or parking lots. The Site is bounded on two sides by major travel corridors with high traffic volumes, and large nearby commercial uses including the Waterloo Premium Outlets and the neighboring Petro Stopping Center.
- Based on prior experiences and evaluation of this Project, the Town Board concluded that the Town will continue to exhibit the characteristics of a rural community regardless of the Project.

(3) The July 2015 Site Plan provides for an appropriate and suitable development of the Site as an integrated and harmonious unit, and the location of principal and accessory buildings on the Site in relation to one another and to other structures and uses in the vicinity, including bulk and height, is adequate, safe, orderly, and will accommodate the planned uses in an efficient manner.

- The relationship and scale of the various uses to one another is appropriate.
 - The Project incorporates a main building where the uses of the parking garage, casino, and hotel are connected. The July 2015 Site Plan is laid out to show each of these uses. Patrons mainly enter from the front of the building (western side). The accessory uses of the central plant and day care center are separated from the main facility and will be housed in small structures located on the back (eastern) side of the Site.
- The location, arrangement, size and design of buildings, light and signs is appropriate.
 - The buildings are designed and placed on the Project Site in a way that works with the surrounding landscape and preexisting elevation of the Site to minimize their visual effects. The buildings will be screened by existing vegetation and will incorporate substantial additional screening to further minimize the visual impact. Signs guide patrons through the Site.
 - The size of the structures and parking lot for the Project are larger than other structures in the immediate area, but the uses are similar to commercial uses nearby. The Site is bounded on two sides by major travel corridors with high traffic volumes, and large nearby commercial uses including the Waterloo Premium Outlets and the neighboring Petro Stopping Center

(4) The July 2015 Site Plan adequately provides for pedestrian circulation and open space in the PUD.

- The July 2015 Site Plan provides adequate pedestrian access and circulation including separation of pedestrians from vehicular traffic, walkway structures, control of intersections with vehicular traffic, and pedestrian convenience.
- Sidewalks and pedestrian access paths throughout the Project Site provide designated areas for pedestrians and allow them to move safely through the parking lots and along the perimeter of the main structure to access the facilities.
- The pathways are conducive to the flow of pedestrian and vehicular traffic.
- The July 2015 Site Plan provides for sufficient open space. The Project Site will be 62% open space, which includes all the wetlands that will be preserved on the Site, the stands of trees, and the woods on the eastern portion of the Site.

(5) The July 2015 Site Plan provides adequate traffic circulation features within the Site, including automobile parking and the terminal loading area in satisfactory amounts and in convenient locations on the Site ensuring efficient access.

- Improvements to NYS Route 414 will ensure adequate access to the Site. The roadway improvements will also ensure continued safe and efficient travel for traffic moving past and not entering the Site.
- The parking lots are distributed throughout the Project Site, including a parking garage connected to the casino and hotel structure, providing safe and convenient access.

- Internal circulation patterns ensure a smooth flow of traffic around and through the Site, including into and out of the parking garage and parking lots.
- The road widths for the Project provide adequate turn radii for larger vehicles, including emergency vehicles.
- There are a total of 3,191 parking spaces provided (2,384 surface parking, 19 spaces for large vehicles like buses, and 788 parking garage spaces) including 50 handicap spaces, which is an adequate number of spaces for this development.

(6) The July 2015 Site Plan adequately provides for handling the amount of traffic generated at peak hours, in particular addressing the points of ingress and egress, potential hazards (such as inadequate sight distances and intersection design), and the nature and suitability of the connecting street or highway system to absorb the anticipated changes.

- Internal circulation patterns ensure a smooth flow of traffic around and through the Site, including into and out of the parking garage. The entrance drive contains internal queueing capacity for left turns.
- Improvements to NYS Route 414 will ensure safe and adequate access to the Site, and continued safe and efficient travel for traffic moving past and not entering the Site.

(7) The July 2015 Site Plan provides for adequate and appropriate storm, sanitary and solid waste disposal, and other utilities for the Site that will meet regulatory requirements.

- The Project has a Stormwater Pollution Prevention Plan ("SWPPP") to control stormwater runoff and erosion. The SWPPP was reviewed and approved by the New York State Department of Environmental Conservation ("NYSDEC"), and reviewed by the Town Engineer who concurred with the plan. As part of the SWPPP, the Project contains adequately sized, designed, and placed stormwater management facilities which will collect stormwater on-site to ensure that post-construction flow rates remain the same as they were pre-construction. Once construction is complete, the Site will be stabilized and erosion will be controlled with vegetation and landscaping.
- The Project will utilize the existing public sanitary sewer system which has capacity to serve the Project. There will be no on-site treatment of sanitary waste. The Project will be internally served by a private gravity sewer line which will connect on site to a private pump station, which will pump waste through a force main sanitary sewer line to the existing manhole off site on the south side of the NYS Thruway, where it will connect with the existing gravity sewer to be pumped to the Seneca Falls Wastewater Treatment Facility.
- The Project will be served by the Village of Waterloo's existing public water supply system, which has adequate capacity to serve the Project. Minor upgrades to the water transport system are proposed by Lago to connect to the Site.

- The Project will be served by existing utilities (gas and electric) from New York State Electric and Gas (“NYSEG”), which has adequate capacity to serve the Project and stated that no upgrades to existing facilities will be necessary to serve this development.
- The Project will result in an increase in solid waste production, but Lago will implement as part of the Project numerous reuse and recycling initiatives to reduce the amount of waste actually disposed (ex. food waste recycling, Construction Waste Management Plan). Recyclable materials will be separated to be properly recycled, and non-recyclable materials will be properly disposed of at a permitted solid waste management facility. Nearby landfills have capacity to receive solid waste from the Project.

(8) The landscaping and signage in the July 2015 Site Plan and Signage Package are adequate.

- The July 2015 Site Plan includes landscaping. The July 2015 Site Plan shows existing stands of trees on the northern and easterly boundaries that will be preserved. 62% of the Site will remain open space, including more than 20 acres of woods on the eastern portion of the Site that will remain undisturbed, including 10 acres which will be designated as forever wild.
- Additional landscape screening elements are proposed as presented in the PUD District Application. Landscaping is adequate to provide both a visual and a noise deterring buffer between adjacent uses and adjoining lands.
- The Project is designed to incorporate natural coloring to harmonize with the existing landscape. The buildings have been placed on the Site in a way that takes advantage of pre-existing elevations to minimize visibility from residential uses.
- Signs will guide patrons through the Project Site. The Signage Package was reviewed by the NYSDOT and the Town Code Enforcement Officer who found no problems with it.

(9) The physical design of the Project as set forth in the July 2015 Site Plan adequately provides for service demands (water, sewer, fire, etc.) and adequately provides traffic control.

- The July 2015 Site Plan reflects adequate traffic controls, including signage and turning lanes, to allow safe and efficient traffic flow around and through the Site, as well as safe and efficient traffic flow on NYS Route 414 for those travelling past the Project Site.
- Improvements to NYS Route 414 will ensure adequate access to the Site and internal circulation patterns ensure a smooth flow of traffic around and through the Site, including into and out of the parking garage. The roadway improvements will also ensure continued safe and efficient travel for traffic moving past and not entering the Site.

- The internal road widths for the Project provide adequate turn radii for larger vehicles, including emergency vehicles, including fire trucks.
- There is adequate capacity at existing facilities to satisfy the Project's service demands (water, sewer, etc.) and the design features of the Project to connect to the existing public lines and facilities are appropriate.
- The Project will utilize the existing public sanitary sewer system which has capacity to serve the Project. There will be no on-site treatment of sanitary waste. The Project will be internally served by a private gravity sewer line which will connect on site to a private pump station, which will pump waste through a force main sanitary sewer line to the existing manhole off site on the south side of the NYS Thruway, where it will connect with the existing gravity sewer to be pumped to the Seneca Falls Wastewater Treatment Facility, which has adequate capacity to serve the Project.
- The Project will be served by the Village of Waterloo's existing public water supply system, which has adequate capacity to serve the Project. Minor upgrades to the water transport system are proposed by Lago to connect to the Site.
- The Project will be served by existing utilities (gas and electric) from NYSEG, which has adequate capacity to serve the Project.

IT IS HEREBY FURTHER RESOLVED that the approval of the July 2015 Site Plan for the Lago Resort and Casino is subject to the following conditions:

(1) Lago shall landscape and maintain the family burial ground shown on the July 2015 Site Plan.

(2) The exterior design of all structures shall be shown on the design plans and shall bear the seal of a New York State licensed and registered architect who created the designs, or had sufficient, direct knowledge of the requirements of this Project and directed the design.

(3) All plans shall bear the seal of a New York State licensed professional engineer or architect, as applicable.

(4) Lago shall obtain all applicable local, state and federal permits, approvals, and authorizations required for the construction and operation of the Project, including, but not limited to, all applicable permits and approvals from:

- (a) NYSDEC for coverage under the SPDES General Permit for Stormwater Discharges from Construction Activity and follow the submitted and approved SWPPP;
- (b) NYSEG for electricity and natural gas supply;
- (c) the NYSDOT and the NYS Thruway Authority for construction within their respective right-of-way boundaries;

(d) the Village of Waterloo and the Seneca County Department of Health for the water supply system, and the latter for the decommissioning of the existing wells on the Site; and

(e) the Town of Seneca Falls for sewage treatment.

(5) Building design and finished construction must meet the requirements stated in the applicable version of the Uniform Fire Prevention and Building Code (Uniform Code) and State Energy Conservation Construction Code (Energy Code) and receive building permit approval and inspection from the Seneca County Department of Building and Fire Code Enforcement.

(6) At no time shall the activities, such as construction or operation, related to this Project, hinder or disrupt the agricultural practices, including, but not limited to farm equipment roadway access, field farming operations, manure spreading, or pesticide application, conducted on adjacent or surrounding agricultural properties.

(7) Lago shall comply with all applicable federal, state, and local laws and regulations.

(8) Lago shall inform the Town Engineer of any proposed changes to the site plan and if, in the opinion of the Town Engineer, the proposed changes constitute substantial modifications to the existing project footprint, site design features, or site development improvements, for example, modifications to the stormwater ponds or parking areas, Lago shall submit an application to the Town Board for an amended site plan.

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 the July 2015 Site Plan does not satisfy the requirements set forth in Section 2A.204 of Town Zoning Law, and therefore, the July 2015 Site Plan for the Lago Resort and Casino prepared by BME Associates is not approved.

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 Delpapa, seconded by Councilman Thomson, 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 22, 2015