

RESOLUTION OF THE TOWN BOARD FOR THE TOWN OF TYRE (1) REFERRING PROPOSED LOCAL LAW NO. 5 OF 2015 TO THE TOWN OF TYRE PLANNING BOARD, TOWN OF TYRE ZONING BOARD OF APPEALS AND THE SENECA COUNTY PLANNING BOARD, (2) REFERRING THE PROPOSED PUD DISTRICT APPLICATION AND THE DEVELOPMENT PLAN TO THE TYRE PLANNING BOARD AND THE SENECA COUNTY PLANNING BOARD, (3) REFERRING THE PROPOSED SITE PLAN TO THE SENECA COUNTY PLANNING BOARD, (4) SCHEDULING PUBLIC HEARINGS REGARDING THE PUD DISTRICT APPLICATION, THE DEVELOPMENT PLAN, AND PROPOSED LOCAL LAW NO. 5 OF 2015 FOR AUGUST 27, 2015, (5) SCHEDULING A PUBLIC COMMENT PERIOD FOR ENVIRONMENTAL IMPACT REVIEW PURPOSES, AND (6) SCHEDULING SPECIAL MEETINGS OF THE TOWN BOARD ON AUGUST 24 AND 27, 2015.

July 16, 2015

WHEREAS, pursuant to section 2A.203 of the Town of Tyre Zoning Law (the "Zoning Law"), Whitetail 414, LLC ("Whitetail") submitted to the Town Board for the Town of Tyre (the "Town Board") 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 (the "Project"); and

WHEREAS, pursuant to section 2A.204 of the Zoning Law, Whitetail subsequently submitted a Site Plan Application (the "Site Plan") to the Town Board for the Project, which the Town Board referred to the Seneca County Planning Board for review and recommendation; and

WHEREAS, the Town Board reviewed the PUD District Application, the proposed Development Plan, the proposed Site Plan, and the potential environmental impacts associated with the Project pursuant to the State Environmental Quality Review Act ("SEQRA"), concluding on June 12, 2014 that the Project would not cause any significant adverse environmental impacts and accordingly issuing a negative declaration by resolution dated June 12, 2014; and

WHEREAS, thereafter, by separate resolutions each dated June 12, 2014, the Town Board approved the Development Plan, adopted Local Law No. 3 of 2014 to amend the Town Zoning Map to create a PUD district for the Project, approved the Site Plan and approved the Host Community Agreement (the "June 12 Approvals"); and

WHEREAS, a proceeding pursuant to Article 78 of the New York Civil Practice Law and Rules was commenced to challenge the June 12 Approvals, and on appeal of the September 18, 2014 Memorandum-Decision and Order by Acting Supreme Court Justice W. Patrick Falvey which dismissed the petition challenging the June 12 Approvals on the merits in its entirety, the Fourth Judicial Department of the Appellate Division of the New York State Supreme Court, by Memorandum and Order dated July

10, 2015 (“Memorandum and Order”), annulled the negative declaration and vacated the Site Plan approval and all related resolutions on the ground that the Town Board did not by resolution formally adopt the “Reasons Supporting the Determination of Significance in Part 3 of the Full Environmental Assessment Form” as part of its negative declaration; and

WHEREAS, as a result of the Memorandum and Order, the Town Board must complete its SEQRA review of the Project, and must review the PUD District Application, Development Plan, and Site Plan proposals pending before it; and

WHEREAS, on July 16, 2015, the Town Board received for review and approval from Lago Resort & Casino, LLC, the successor by assignment to Whitetail (“Lago”), copies of the following documents: 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, 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 Lago engineer, BME Associates (the “July 2015 Project Documents”); and

WHEREAS, the Town Engineer, Barton & Loguidice, D.P.C., has determined that the following are complete for review by the Town Board: the PUD District Application, the proposed Development Plan, the FEAF as initially proposed and amended, and the proposed Site Plan; 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 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 Zoning Law, since Local Law No. 3 of 2014, which amended the Zoning Map to create a PUD district for the Project, has been annulled by the Memorandum and Order; and

WHEREAS, the Town Board has considered and discussed a proposed Local Law No. 5 of 2015, draft dated July 14, 2015, which local law would amend the Zoning Law to add a definition of “Planned Unit Development District,” to add “Planned Unit Development” to the list of types of districts in the Town, and to create a PUD district for the Lago Resort and Casino; and

WHEREAS, pursuant section 10.1013 of the Zoning Law, the Town Board must refer proposed Local Law No. 5 of 2015 to the Town Planning Board and the Town Zoning Board of Appeals (“Town ZBA”) for report and recommendation; and

WHEREAS, pursuant to section 2A.203 of the Zoning Law, the Town Board must refer the PUD District Application and the Development Plan to the Town Planning Board for review and recommendation; and

WHEREAS, pursuant to section 239-m of the New York State General Municipal Law and pursuant to section 2A.203 of the Zoning Law, the Town Board must refer proposed Local Law No. 5 of 2015, the PUD District Application and Development Plan, and the proposed Site Plan to the Seneca County Planning Board for review and recommendation; and

WHEREAS, pursuant to section 264(4) of the New York State Town Law and the Municipal Home Rule Law, the Town Board is required to conduct a public hearing on proposed Local Law No. 5 of 2015, following the provision of proper notice; and

WHEREAS, pursuant to section 2A.203(E) of the Zoning Law, the Town Board is required to conduct a public hearing on the PUD District Application and Development Plan following the provision of proper notice; and

WHEREAS, one additional document to be reviewed and acted on by the Town Board is the proposed Host Community Agreement; and

WHEREAS, the Town Board desires to comply with the requirements of SEQRA and its implementing regulations set forth at 6 NYCRR Part 617 (the "Regulations") in assessing the potential environmental impacts of the Project;

NOW, THEREFORE, BE IT RESOLVED, as follows:

1. The Town Board hereby directs the Town Clerk to communicate with the other SEQRA involved agencies and also with interested agencies to provide an update on the status of the Project and the Town Board's intention, as SEQRA lead agency, to complete the environmental impact review process for the Project in accordance with the procedures under SEQRA and in the Regulations and to provide relevant documentation and to solicit comments during the public comment period; and
2. The Town Board hereby directs the Town Clerk (a) to refer proposed Local Law No. 5 of 2015 to the Town Planning Board, the Town ZBA and the Seneca County Planning Board, and (b) to refer the PUD District Application and the Development Plan to the Town Planning Board and to the Seneca County Planning Board, and (c) to refer the proposed Site Plan to the Seneca County Planning Board, each for review and a written recommendation; and
3. The Town Board hereby resolves to hold a public hearing on August 27, 2015 at 7:30 p.m. in the Town of Tyre at the Magee Volunteer Fire Department Building having an address at 1807 NYS Route 318, Seneca Falls, NY 13148,

for the purpose of hearing public comments on the PUD District Application and the proposed Development Plan; and

4. The Town Board hereby resolves to hold a public hearing on August 27, 2015 at 8:00 p.m., or at such time as the public hearing on the PUD District Application and the proposed Development Plan has ended, in the Town of Tyre at the Magee Volunteer Fire Department Building having an address at 1807 NYS Route 318, Seneca Falls, NY 13148, for the purpose of hearing public comments on proposed Local Law No. 5 of 2015; and
5. The Town Board hereby resolves (a) to request submittal by the public for receipt by the Town Engineer, Adam Cummings, at Barton & Loguidice, D.P.C., 11 Centre Park, Suite 203, Rochester NY 14614, or at the electronic address tyre.public.comments@bartonandloguidice.com, no later than August 10, 2015 of written comments on proposed Local Law No. 5 of 2015, on the July 2015 Project Documents, on the proposed Host Community Agreement, and on any potential adverse environmental impacts associated with the Project, (b) to publish notice of the public comment period, and (c) to make available for public review a paper copy of proposed Local Law No. 5 of 2015, the July 2015 Project Documents and the proposed Host Community Agreement in the Seneca Falls Public Library and at the Town Clerk's Office, and, to the extent practicable, to post an electronic copy of such documents on the Town of Tyre's website; and
6. The Town Board hereby resolves to hold a special meeting of the Town Board in the Town of Tyre at the Magee Volunteer Fire Department Building having an address at 1807 NYS Route 318, Seneca Falls, NY 13148, on August 24, 2015 at 7:30 p.m. for the purpose of reviewing matters relating to the Project and any other matter that is properly brought before it; and
7. The Town Board hereby resolves to hold a special meeting of the Town Board in the Town of Tyre at the Magee Volunteer Fire Department Building having an address at 1807 NYS Route 318, Seneca Falls, NY 13148, on August 27, 2015 at or about 8:30 p.m., or at such time as the public hearings to be held on that date have ended, for the purpose of reviewing matters relating to the Project and any other matter that is properly brought before it; and
8. The Town Board hereby directs the Town Clerk to publish notice of the public hearings, the public comment period, and the special meetings in accordance with the requirements of applicable law.

The adoption of the foregoing Resolution was moved by Councilman Aceto and 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.

July 16, 2015