

**RESOLUTION OF THE TOWN BOARD FOR THE TOWN OF TYRE REGARDING  
THE APPLICATION OF LAGO RESORT & CASINO, LLC FOR AN AMENDMENT TO  
THE TOWN OF TYRE ZONING LAW AND MAP TO ADD A PLANNED UNIT  
DEVELOPMENT DISTRICT FOR THE PROPOSED LAGO RESORT AND CASINO  
("PROJECT") AND THE DEVELOPMENT PLAN FOR THE PROJECT**

**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 project (formerly known as the Wilmot Casino and Resort) (the "Project") on approximately 84.95 acres 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: 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**, at its July 16, 2015 meeting, the Town Board resolved to refer for review and recommendation, as required under applicable law, the proposed Development Plan, draft dated March 2014, revised July 16, 2015 (the "July 2015 Development Plan"), to the Town of Tyre Planning Board ("Town Planning Board") and the Seneca County Planning Board, which recommendations the Town Planning Board and the Seneca County Planning Board adopted by resolutions at their duly held meetings on July 21, 2015 and August 13, 2015, respectively, and which recommendations were 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 Site Plans 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 refer the PUD District Application and the revised Development Plan (hereinafter, the PUD District Application and the revised Development Plan shall be referred to collectively as the “August 2015 Development Plan”), to the Town Planning Board and the Seneca County Planning Board pursuant to applicable law for review and recommendation; and

**WHEREAS**, afterward, the Town Board did send copies of the August 2015 Development Plan to the Town Planning Board under cover of a letter dated September 11, 2015 and a copy was also sent to the Seneca County Planning Board under cover of a letter dated September 1, 2015, explaining the revisions made to the August 2015 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 August 2015 Development Plan; and

**WHEREAS**, at its duly noticed meeting on September 22, 2015, after review and discussion of the August 2015 Development Plan and the factors set forth in Town of Tyre Zoning Law (“Town Zoning Law”) § 2A.203(D)(1)(a)-(d), the Town Planning Board adopted a resolution recommending that the Town Board approve the August 2015 Development Plan because there were no substantial changes from the previous versions that were reviewed and there was updated information explained to the Town Planning Board that allowed it to more fully understand the August 2015 Development Plan and based upon that information, (a) it does meet Town planning and zoning goals, (b) it does meet the intent and objectives of the PUD law (Article II.A), (c) it was thoroughly vetted by the Town Engineer so it is conceptually sound and conforms to accepted design principles, and (d) it provides adequate services and utilities; 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 August 2015 Development Plan 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 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 August 2015 Development Plan; and

**WHEREAS**, on October 8, 2015, the Town Board held a properly noticed public hearing with respect to the August 2015 Development Plan and heard public comments thereon; and

**WHEREAS**, the August 2015 Development Plan was posted on the Town's website 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**, after the close of the public hearing, the Town Board conducted a properly noticed and duly held special meeting on October 8, 2015 at which, among other things, it considered the August 2015 Development Plan; and

**WHEREAS**, the Town Board considered all of the comments that were received during the public hearing and at other duly held meetings of the Town Board at which the August 2015 Development Plan was considered; and

**WHEREAS**, the Town Board considered the recommendations of the Seneca County Planning Board and the Town Planning Board regarding the August 2015 Development 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**, the Town Board is mindful of the criteria set forth in Section 2A.203(F) of the Town Zoning Law for the approval of a PUD Development Plan.

CHECK ONE OF THE FOLLOWING:

NOW THEREFORE IT IS HEREBY RESOLVED, that the August 2015 Development Plan satisfies the requirements set forth in Section 2A.203 of Town Zoning Law, and, therefore, the August 2015 Development Plan for the Project prepared by BME Associates is hereby approved. The reasons supporting this approval include:

(1) The August 2015 Development Plan provides adequate traffic access and circulation including intersections, road widths, channelization structures and traffic controls.

- 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 road widths for the Project provide adequate turn radii for larger vehicles, including emergency vehicles.

(2) The August 2015 Development Plan provides adequate pedestrian access and circulation including separation of pedestrian 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.

(3) The August 2015 Development Plan provides for adequate parking arrangements, including location, appearance and number of spaces.

- 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.
- 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.

(4) The location, arrangement, size and design of buildings, lighting 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. The buildings will be screened by existing vegetation. Signs guide patrons through the Site.
- All lights will be Dark Sky compliant and the design controls light spillage. Light from the Site will not spill over the property line onto neighboring properties. Travel patterns at the perimeter of the Site are designed so that the majority of vehicular traffic will travel parallel to the north property line, and additional landscape screening elements are proposed, which minimize the potential for headlight glare onto adjoining properties. The height of the parking garage walls will prevent headlight glare from the parking garage from reaching adjoining properties.

(5) 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 August 2015 Development 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.

(6) The August 2015 Development Plan provides for adequate landscaping to provide both a visual and a noise deterring buffer between adjacent uses and adjoining lands.

- Existing stands of trees in the northwest corner and eastern side of the Site, as well as treelines along the northern and southern boundary lines will be preserved. Additional plantings are also proposed for the northern boundary. These provide visual and noise buffering.

(7) The August 2015 Development 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.

(8) The August 2015 Development Plan provides for adequate storm water and sanitary waste disposal facilities.

- 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.
- The Project will utilize the existing public sanitary 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.

(9) The August 2015 Development Plan has appropriately addressed roadways and landscaping in areas with moderate to high susceptibility to flooding and ponding and/or erosion.

- The Project Site is not in a floodplain or a floodway.
- The grading plan sheets of the August 2015 Development Plan identifies the locations of catch basins, which will collect stormwater runoff and direct it to the stormwater management facilities implemented in connection with the NYSDEC-approved SWPPP.
- Once construction is complete, the Site will be stabilized and erosion will be controlled with vegetation and landscaping.

(10) The August 2015 Development Plan adequately provides for the protection of adjacent properties against noise, glare, unsightliness, or other objectionable features.

- Existing stands of trees on the northern and easterly boundaries will be preserved. Additional landscape screening elements are proposed, which minimizes the potential for headlight glare and noise to adjoining properties.
- The Project is designed to incorporate natural coloring to work with the existing landscape. The buildings have been placed on the site in a way that works with pre-existing elevations to minimize visibility from residential uses
- The orientation of the buildings is conducive to minimizing noise and glare.
- Travel patterns at the perimeter of the Site are designed so that the majority of vehicular traffic will travel parallel to the north property line. The height of the parking garage walls will prevent headlight glare from the parking garage from reaching adjoining properties.

(11) The Town Board has previously complied with SEQRA.

- The Town Board reviewed thousands of pages of documents relating to its review of the potential environmental impacts of the Project, received public comments about the potential impacts, discussed the potential impacts for nearly twenty-two hours over the course of five Town Board meetings, completed Parts 2 and 3 of the FEA and issued a negative declaration by resolution for the Project on October 1, 2015 with a 133-page written elaboration of its reasoning.

(12) The August 2015 Development Plan conforms to other goals of the Town which have been stated in the Town Zoning Law or the Comprehensive Plan for the Town of Tyre ("Tyre Comprehensive Plan" or "Plan").

- The Tyre Comprehensive Plan was intended to address the full spectrum of issues facing the Town and balances competing needs and interests in the community. The goals and recommendations of the Plan exhibit this intent to achieve balance. For example, Plan goals include preserving the environment and retaining the agricultural and rural nature of the Town. The Plan also explicitly recognizes that the Town is not totally agricultural and that commercial development has occurred along major transportation routes, in particular at Magee Corners and NYS Thruway Exit 41. Goals of the Plan also relate to promoting commercial development in and around major transportation routes (NYS Routes 89, 318, 414 and around NYS Thruway Exit 41). The Project includes numerous features consistent with the Plan's goals for protecting the environment and retaining the rural, agricultural nature of the Town. For example, the Project preserves the burial ground, more than 20 acres of woods, and all wetlands on the Site; uses an Integrated Pest Management Plan; uses bird-friendly glass and downward-facing lighting; implements extensive green energy practices; will promote local agricultural products; incorporates a program for agricultural initiatives; the Site is only 0.5% of the agricultural land in the Town and does not impede farming in the area; farming will continue in the Town and

Seneca County regardless of the Project and the Town will retain its predominantly rural characteristics. The Project is also consistent with the Plan's goals about commercial development as it is bounded on two sides by major travel corridors (NYS Thruway and Route 414), is within 0.3 miles from NYS Thruway Exit 41, and is just north of the Route 318/Route 414 intersection, which is the area identified as appropriate for commercial development under the Tyre Comprehensive Plan.

- There is a PUD district provision within the Town Zoning Law (Article II.A) that allows the Town Board to approve a PUD in the Town provided it meets certain criteria. The purpose of Article II.A is to facilitate, through flexible land use and design regulations, the location of commercial and recreational uses in a manner that will achieve appropriate balance in land use variety and design, and in the layout and type of new structures, thereby enhancing the efficiency of the use of land overall. Article II.A is intended to enhance the ability of the Town to promote business and employment opportunities and ensure that such developments contribute positively to the community, while ensuring sound land use planning consistent with the Tyre Comprehensive Plan. Uses permitted in a PUD district include commercial, retail, office, service, restaurants, food services, hotels, casino complexes, parking and other complementary uses. A PUD district must measure at least 75 contiguous acres of land and structures cannot exceed 6 stories or 80 feet (whichever is lower). The Project meets these criteria: the Site consists of approximately 84.95 contiguous acres of land; the maximum height of any structure is 6 stories (79 feet); and the proposed uses include commercial, retail, hotel, restaurant, casino, parking, and related complementary accessory use (office/maintenance and day care).

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

- (1) Lago shall ensure that the exterior design of all structures be made by, or under the direction of, a registered architect whose seal shall be affixed to the plans; and
- (2) Lago shall obtain all other necessary local, state and federal permits and approvals required for the proposed development.

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 August 2015 Development Plan does not satisfy the requirements set forth in Section 2A.203 of

Town Zoning Law, and therefore, the August 2015 Development 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 Rogers, 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