

**RESOLUTION OF THE PLANNING BOARD OF THE TOWN OF THOMPSON GRANTING A MINOR AMENDMENT TO THE FINAL SITE PLAN APPROVAL FOR THE CASINO AND HOTEL AT ADELAAR**

**WHEREAS**, throughout 2012, the Town of Thompson Town Board (“Town Board”), acting in its capacity as Lead Agency of a coordinated review, pursuant to the State Environmental Quality Review Act (“SEQRA”) and its implementing regulations, in consultation with the participation of the Town of Thompson Planning Board (“Planning Board”) as an involved agency, conducted an extensive coordinated environmental review of Adelaar (formerly known as the EPT Concord Resort); and

**WHEREAS**, on January 15, 2013, the Town Board, acting in its capacity as Lead Agency of a coordinated review, pursuant to SEQRA, duly adopted a Findings Statement in connection with Adelaar, and duly filed said Findings Statement with the Town Clerk; and

**WHEREAS**, on January 15, 2013, the Town Board approved a PRD Comprehensive Development Plan for Adelaar, a planned resort development on approximately 1,583 acres of land located at and around the former Concord Resort in the Town of Thompson as shown on the Comprehensive Development Plan; and

**WHEREAS**, on February 13, 2013, EPT Concord II, LLC (“EPT”), acting on behalf of the relevant Master Association, and Monticello Raceway Management, Inc. (“MRMI”), a wholly-owned subsidiary of Empire Resorts, Inc. (collectively, the “Applicant”), jointly submitted an application to the Planning Board pursuant to Section 250-50 of the Town Code for site development plan approval in connection with development of Adelaar, and to enable the development of the Casino and Hotel at Adelaar (formerly known as Phase 1 of the EPT Concord Resort); and

**WHEREAS**, the potential environmental impacts of the site plan application for the Casino and Hotel at Adelaar were considered and analyzed in detail in the Draft Environmental Impact Statement (“DEIS”), dated July 24, 2012, which was subject to a public hearing (held August 28, 2012), and was the subject of a Final Environmental Impact Statement (“FEIS”), dated January 2, 2013 and Statement of Findings, dated January 15, 2013; and

**WHEREAS**, on July 10, 2013, the Planning Board approved the Final Site Plan for the Casino and Hotel at Adelaar (the “Final Site Plan”). The Final Site Plan, as approved, includes a casino, hotel, harness horse racetrack and supporting facilities and infrastructure on approximately 117 acres of what was formerly known as the Phase 1 parcel (“Project Site”); and

**WHEREAS**, subsequent to the approval of the Final Site Plan, New York State voters approved a referendum to amend the State constitution to allow the State to permit casino gaming pursuant to the Upstate New York Gaming Economic Development Act of 2013 (the "Act"). Pursuant to the Act, the State Gaming Commission will award up to four Gaming Facility licenses within three regions of the State including areas such as Sullivan County and the Town of Thompson, that would benefit from a Gaming Facility through the creation of jobs, the enhancement of tourism, and the generation of significant revenues for public education and taxpayer relief; and

**WHEREAS**, MRMI is applying for one of the Gaming Facility licenses to operate a gaming facility at Adelaar; and

**WHEREAS**, on April 17, 2014, EPT and MRMI applied to the Planning Board, pursuant to Section 250-50D(5) of the Town Code, for a minor amendment to the Final Site Plan for the Casino and Hotel at Adelaar (the "Proposed Amendment" or "Minor Amendment"); and

**WHEREAS**, on April 23, 2014, the Planning Board accepted EPT and MRMI's application and supporting documentation for the Proposed Amendment, constituting a 'full statement' pursuant to Section 239-m of the General Municipal Law, and referred said application and supporting materials to the Sullivan County Division of Planning and Environmental Management ("DPEM") pursuant to Section 239-m of the General Municipal Law; and

**WHEREAS**, the Proposed Amendment would increase the number of hotel rooms from the approved 248 to 395 and increase parking by approximately 330 spaces – both within the approved footprint of the Casino and Hotel – by adding eight (8) stories onto the approved tower and an additional level of parking below the approved subsurface parking garage. Direct valet access to the parking garage will be provided. The Proposed Amendment would also enlarge the building footprint by roughly 8,000 square feet (sf), and reconfigure certain interior aspects of the casino gaming floor to better accommodate casino table gaming. The central utility plant is proposed to increase in size by 700 sf (from 4,000 sf to 4,700 sf). All other aspects of the Casino and Hotel approved as part of the Final Site Plan remain the same; and

**WHEREAS**, the application for the Proposed Amendment was accompanied by a full Environmental Assessment Form, Part 1, Technical Memorandum, with Exhibits, dated May 21, 2014, and revised Site Plan Drawings;

**WHEREAS**, the approved Site Plan Drawings referenced in the Final Site Plan approval, dated July 10, 2013, and the revised Site Plan Drawings submitted with the Proposed Amendment are as follows:

Drawing No.	TITLE	Prepared By	Last Revised
	Cover Sheet and Index of Drawings	JCJ	06/26/13
	Topographic Boundary and Utility Survey (submitted previously under separate cover)	Contractors' Line & Grade South	09/25/12
C-100	Key Plan	AKRF	06/26/13
C-101 to C-102	Notes	AKRF	06/26/13
C-200	Overall Existing Conditions Plan	AKRF	06/26/13
C-201 to C-209	Existing Conditions Plan (Tiles 1 to 9)	AKRF	06/26/13
C-300	Overall Demolition Plan	AKRF	06/26/13
C-301 to C-309	Demolition Plan (Tiles 1 to 9)	AKRF	06/26/13
C-400	Overall Site Geometry Plan	AKRF	04/15/14
C-401 to C-409	Site Geometry Plan (Tiles 1 to 9)	AKRF	06/26/13
C-500	Overall Grading, Paving and Drainage Plan	AKRF	04/15/14
C-501 to C-504	Grading, Paving and Drainage Plan (Tiles 1 to 4)	AKRF	06/26/13
C-505	Grading, Paving and Drainage Plan (Tile 5)	AKRF	04/15/14
C-506 to C-509	Grading, Paving and Drainage Plan (Tiles 6 to 9)	AKRF	06/26/13
C-505A	Enlargements	AKRF	06/26/13
C-600	Overall Composite Utility Plan	AKRF	06/26/13
C-601 to C-609	Composite Utility Plan (Tiles 1 to 9)	AKRF	06/26/13
C-700	Overall Erosion and Sediment Control Plan	AKRF	06/26/13
C-700 to C-709	Erosion and Sediment Control Plan (Tiles 1 to 9)	AKRF	06/26/13
C-801 to C-803	Storm Drainage Schedule I Thru III	AKRF	06/26/13
C-804 to C-810	Sections I Thru VII	AKRF	06/26/13
C-811	Porous Pavement Section Location Plan	AKRF	06/26/13
C-812	Porous Pavement Sections	AKRF	06/26/13
C-813 to C-822	Storm Drainage Profiles I Thru X	AKRF	06/26/13
C-823 to C-824	Sanitary Profiles I and II	AKRF	06/26/13
C-900 to C-909	Details I Thru X	AKRF	06/26/13
C-1000	Overall Striping and Signage Plan	AKRF	06/26/13
C-1001 to C-1009	Striping and Signage Plan (Tiles 1 to 9)	AKRF	06/26/13
L-101	Site Planting Plan	CR3	05/29/13
L-102 to L-109	Site Planting Plan	CR3	05/29/13
L-110	Site Fencing Plan	CR3	03/27/13
L-111	Site Planting Plan	CR3	05/29/13
WL-101 to WL-103	Landscaping Plan - Wetland 45A and 45B - Sheets 1 Thru 3	AKRF	03/27/13
AS-1000	Architectural Site Plan	JCJ	06/26/13
AS-1001	Enlarged Track	JCJ	06/26/13
AS-1002	Enlarged Site Elements	JCJ	06/26/13
AS-1003	Site Details	JCJ	06/26/13
AS-1004	Site Details	JCJ	06/26/13

AS-1005	Zoning Analysis	JCJ	06/26/13
PK-101	Lower Level 3 - Striping/Signage Plan	JCJ	04/05/13
PK-102	Lower Level 2 - Striping/Signage Plan	JCJ	04/05/13
PK-103	Lower Level 1 - Striping/Signage Plan	JCJ	04/05/13
PK-900	Parking Garage Signage Details	JCJ	04/05/13

Drawing No.	TITLE	Prepared By	Last Revised
	Cover Sheet and Index of Drawings	AKRF	06/26/13
	Topographic Boundary and Utility Survey (submitted previously under separate cover)	Contractors' Line & Grade South	09/25/12
C-100	Overall Site Plan	AKRF	06/26/13
C-101	Notes	AKRF	06/26/13
C-102	Legends	AKRF	06/26/13
C-103 to C-104	Roadway Right of Way Metes and Bounds	AKRF	06/26/13
C-201 to C-224	Existing Conditions Plan	AKRF	06/26/13
C-301 to C-317	Demolition Plan	AKRF	06/26/13
C-401 to C-416	Roadway Geometry Plan	AKRF	06/26/13
C-501 to C-516	Grading, Paving and Drainage Plan	AKRF	06/26/13
C-601 to C-618	Composite Utility Plan	AKRF	03/31/14
C-619 to C-624	Composite Utility Plan	AKRF	06/26/13
C-604A	Water Main Crossing NYS Route 17	AKRF	03/31/14
C-614A, C-616A	Composite Utility Plan	AKRF	03/31/14
C-701 to C-717	Erosion and Sediment Control Plan	AKRF	06/26/13
C-801 to C-807	Schedules, Sections and Profiles	AKRF	06/26/13
C-808 to C-809	Schedules, Sections and Profiles	AKRF	03/31/14
C-810 to C-845	Schedules, Sections and Profiles	AKRF	06/26/13
C-846 to C-849	Schedules, Sections and Profiles	AKRF	03/31/14
C-850 to C-866	12" Water Main Plan and Profile	AKRF	03/31/14
C-900 to C-904	Details	AKRF	06/26/13
C-905	Details	AKRF	03/31/14
C-906	Details	AKRF	06/26/13
C-907	Details	AKRF	03/31/14
C-908	Details	AKRF	06/26/13
C-909	Details	AKRF	03/31/14
C-910 to C-914	Details	AKRF	06/26/13
C-1001 to C-1016	Striping and Signage Plan	AKRF	06/26/13
C-1101 to C-1104	Traffic Signal Plan	AKRF	06/26/13
C-1202 to C-1216	Roadway Electrical Plan	AKRF	06/26/13
C-1302 to C-1316	Lighting and Photometrics Plan	AKRF	06/26/13
C-1401 to C-1405	Retaining Wall Plan, Profile, Details and Notes (@ Roundabout)	AKRF	06/26/13
L0.00	General Notes	HH	06/26/13

L1.00	Layout Plan Index Sheet	HH	06/26/13
L1.02B to L1.07A	Hardscape Plan	HH	06/26/13
L3.00 to L3.16B	Planting Plan	HH	06/26/13
L3.20	Landscape Sections	HH	06/26/13
L4.01	Materials Legend	HH	06/26/13
L5.01 to L5.03	Planting Schedule	HH	06/26/13
L5.04 to L5.05	Planting Details	HH	06/26/13
GR.1	Sign Inventory and Location Plan	HH	03/13/13
GR.2	Sign Type 1.1	HH	03/13/13
GR.3	Sign Type 1.2/1.4	HH	03/13/13
GR.4	Sign Type 2.2/3.1	HH	03/13/13
STR-01	Foundation Plan	KSI	06/26/13
STR-02	Wall 1 Elevations	KSI	06/26/13
STR-03	Wall 2 & 3 Elevations	KSI	06/26/13
STR-04	Wall 4 & 5 Elevations	KSI	06/26/13
STR-05 to STR-06	Wall 6 Elevations	KSI	06/26/13
STR-07	Wall Details	KSI	06/26/13

**WHEREAS**, at its regularly scheduled meeting held on May 28, 2014, the Planning Board unanimously voted to recommend that the Town Board determine that no further environmental review is required or warranted under SEQRA for the Proposed Amendment and that the Town Board should issue a Negative Declaration of Environmental Significance for the Proposed Amendment; and

**WHEREAS**, the Planning Board's detailed and thorough review, analysis and recommendation to the Town Board is contained in its letter to the Town Board, dated June 3, 2014, which is incorporated into this Resolution by reference; and

**WHEREAS**, on May 28, 2014, more than thirty (30) days after the Planning Board referred the "full statement" to DPEM, a written response was received from DPEM containing its comments on the Proposed Amendment; and

**WHEREAS**, on June 3, 2014, the Town Board, as Lead Agency, found that there are no new potential significant adverse environmental impacts associated with the Proposed Amendment that have not previously been identified, analyzed and mitigated to the maximum extent

practicable under SEQRA in the DEIS and FEIS and that no supplemental environmental review is warranted or required and issued a Negative Declaration of Environmental Significance for the Proposed Amendment, which is incorporated into this Resolution by reference; and

**WHEREAS**, the Planning Board, by separate resolution dated June 11, 2014, in its role as an Involved Agency, ratified the Negative Declaration of Environmental Significance issued by the Town Board for the Proposed Amendment, and independently found that there are no new potential significant adverse environmental impacts associated with the Proposed Amendment that have not previously been identified, analyzed and mitigated to the maximum extent practicable under SEQRA in the DEIS and FEIS and that no supplemental environmental review is warranted or required; and

**WHEREAS**, with respect to the proposed additional eight (8) stories of the Casino and Hotel, the Planning Board finds:

- The prior SEQRA review for Adelaar comprehensively analyzed and, the Town Board approved, a maximum building height of up to 350 feet in the PRD, including a maximum building height of 220 feet in the CDP for the Casino and Hotel at Adelaar; and
- The increased height of the Casino and Hotel at Adelaar at the highest occupied floor would be 206.5 feet which is below the maximum height requirement fully reviewed and approved during the prior SEQRA review (the 44 foot roof spire is exempt from the maximum building height requirement); and
- The potential visual impacts associated with the increased Casino and Hotel height (including the spire) was the subject of an updated Visual Assessment which the Town Board and Planning Board, and their consultants, find demonstrates that there will be no new potentially significant adverse visual impacts as a result of the Proposed Amendment; and
- As such, the Proposed Amendment is consistent with the PRD and CDP

**WHEREAS**, by Memorandum to the Planning Board, dated June 10, 2014, MH&E, P.C., stated that they take no exception to the Proposed Amendment assuming the Applicant addresses all outstanding Technical Review Comments to the satisfaction of the Town; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Planning Board of the Town of Thompson and its professional consultants have duly reviewed the Proposed Amendment pursuant to the criteria set forth in Section 250-50D(5) of the Town Code; and

**BE IT FURTHER RESOLVED**, that the Planning Board finds that the Proposed Amendment satisfies the criteria set forth in Section 250-50D(5) because it is “minor in nature” and because no structures have been constructed and, therefore, can be processed as a minor amendment; and

**BE IT FURTHER RESOLVED**, that the Planning Board finds on the basis of its own review and the review and comments received from its consultants that the Proposed Amendment is in substantial compliance with the approved PRD Comprehensive Development Plan for Adelaar; and

**BE IT FURTHER RESOLVED**, that the Planning Board has reviewed and considered the comments of the DPEM, which did not recommend modifications to, or disapproval of, the Proposed Amendment. Nonetheless, with regard to the comments of the DPEM, the Planning Board notes that:

- The noted discrepancy between the EAF and Technical Memorandum was satisfactorily addressed and clarified by the Applicant (*see*, Negative Declaration, p. 1, footnote 1);
- That based on the recommendation of DPEM, the Applicant, as requested by the Planning Board, analyzed the visibility of the Casino and Hotel building from three additional regional vantage points along NYS Route 17 and found that there would be no visibility of the additional hotel floors from those locations at all times of year. The Town and its consultants, concurred with this conclusion (*see*, Negative Declaration, pp. 4-5);
- The hotel spire, although exempt from the Town’s maximum building height requirements, is included on the Casino Hotel renderings and was included for purposes of performing the updated Visual Assessment for the Proposed Amendment (*see*, Negative Declaration, pp. 4-5);
- With respect to potential impacts from nighttime lighting of the hotel tower, the Applicant will continue to comply with the lighting standards contained in the CDP, as well as the Lighting Report and Lighting Package prepared by the Applicant’s consultants which was reviewed and approved by the Planning Board as part of the Final Site Plan approval for the Original Project. In addition, the Applicant submitted several renderings of the nighttime lighting of the new hotel tower, which demonstrate that the hotel tower does not add any more light trespass than the previously analyzed lighting design. Therefore, there will not be any new significant adverse impacts from nighttime lighting (*see*, Negative Declaration, pp. 4-5).

**BE IT FURTHER RESOLVED**, that the Planning Board will provide a report of its final action to DPEM within thirty days of this Resolution pursuant to Section 239-m of the General Municipal Law; and

**BE IT FURTHER RESOLVED**, that the Planning Board acknowledges that concurrent with this Minor Amendment to the Final Site Plan Approval with Conditions, the Applicant is continuing to diligently pursue all necessary permits, and that to the extent as may be applicable

under Section 250-59 of the Town Code, the Planning Board finds that it is appropriate for the Planning Board to waive the requirements of Section 250-51(D); and

**BE IT FURTHER RESOLVED**, that pursuant to Section 250-51(c), approval of the Minor Amendment to the Final Site Plan Approval shall be valid for a period of twelve (12) months from the date of this Resolution unless extended by the Planning Board in accordance with the Town Code; and

**BE IT FURTHER RESOLVED**, that pursuant to Section 250-50(D)(3)(b)(10)(c) of the Town Code, the conditions set forth below shall be satisfied within six months from the date of this Resolution unless extended by the Planning Board in accordance with the Town Code; and

**BE IT FURTHER RESOLVED**, that pursuant to the authority vested in the Planning Board by Section 250-50D(5), the Planning Board hereby approves the Minor Amendment to the Final Site Plan Approval for the Casino and Hotel at Adelaar, subject to any other Technical Review Comments of the Town's consultants, and to the conditions previously set forth by the Planning Board in the Final Site Plan Approval, dated July 10, 2013, which are as follows:

**General Conditions**

1. The Applicant must conform to all applicable rules, regulations, and ordinances of the Town of Thompson, County of Sullivan and State of New York.
2. This Resolution shall supplement the approved Minor Amendment and the Applicant shall comply with all conditions included in the approved Minor Amendment and this Resolution.
3. All outstanding technical review comments from Town Consultants, shall be addressed and resolved between the respective Consultant and the Applicant prior to the commencement of the relevant construction activity, as applicable, except for site clearing or grading, whereby site clearing and grading shall be permitted to proceed to the extent permitted by law and the applicable regulations.

**Financial and Legal Considerations**

1. Prior to any site clearing, grading or construction activity, the Applicant shall: (a) enter into a Site Plan Infrastructure Security Agreement, which allows the installation and construction of certain improvements upon the posting by Applicant of a performance guaranty, provided, that the Applicant posts the necessary performance or security bonds as required, such Agreement shall be acceptable to the Town Board and Town Attorney; (b) re-establish an engineering escrow which shall be periodically re-established at the request of the Town; and (c) receive the necessary approvals from any other agency with jurisdiction over such activity.



2. Prior to the issuance of a Building Permit, the Applicant shall file a performance bond with the Town in accordance with Section 250-52.1(B)(2) of the Town of Thompson Zoning Code; such bond amount to have been previously approved by the Town Engineer; an escrow account for Engineering shall continue to be posted as well, in an amount acceptable to the Town Board and Town Attorney.
3. Any outstanding inspection, engineering, or planning consulting fees shall be paid by the Applicant within thirty (30) days of receiving any such invoice from the Town, with any outstanding fees to be paid prior to the issuance of a Final Certificate of Occupancy.
4. Prior to the issuance of a Temporary or Final Certificate of Occupancy for the Casino Resort, the Applicant shall obtain Town Board consent for the creation of Special Improvement Districts to assume responsibility for one or more of the following: water supply, sewage disposal and treatment, roadway maintenance, lighting, and stormwater collection and treatment and enter into agreements, as necessary, to facilitate same.
5. All conditions associated with this approval shall apply to the Applicant, and all successors in interest to the Master Development Site.
6. All Performance Guarantees and Escrows shall be posted prior to the start of construction of the relevant activity.
7. Prior to the issuance of a Temporary or Final Certificate of Occupancy, all requisite maintenance agreements shall be submitted to the Planning Board in a form acceptable to the Planning Board and Town Attorney.

#### **Local Roadway Conditions**

1. During construction of the Casino and Hotel at Adelaar, the Applicant shall make a good faith commitment to maintain Joyland Road, and the portion of Thompsonville Road from Heiden Road to the Tannery Brook Crossing in their existing condition.
2. In order to ensure that Joyland Road, and the portion of Thompsonville Road from Heiden Road to the Tannery Brook Crossing are maintained in their existing condition during construction, the Applicant shall document the condition of such roads by means of video recording and/or photography within one week prior to of the commencement of construction of the Casino and Hotel at Adelaar, and a copy of such documentation shall be provided to the Planning Board.
3. Prior to commencement of construction of the Casino and Hotel at Adelaar, the Applicant shall post a bond or other security acceptable to the Planning Board, in the amount of One Hundred Thousand Dollars (\$100,000.00) to ensure its obligation to

maintain, in their existing condition during construction, Joyland Road, and the portion of Thompsonville Road from Heiden Road to the Tannery Brook Crossing.

4. Prior to the issuance of a Temporary or Final Certificate of Occupancy for the Casino and Hotel at Adelaar, or such earlier date as may be agreed to by the parties, the Applicant shall fund the cost of local roadway resurfacing to be implemented by the Town, which shall consist of milling, binding and placement of a new topcoat within the existing roadbed up to the amount of One Million One Hundred Thousand Dollars (\$1,100,000.00), for the following portions of roads, which are outside of the boundaries of the Master Development Site:
  - (a) Thompsonville Road from Heiden Road to Rock Ridge Road;
  - (b) Chalet Road from Thompsonville Road to Kiamesha Lake Road; and
  - (c) Joyland Road from Resort Entry Road to the Crossover Road intersection.
5. Prior to the issuance of a Building Permit for the Casino and Hotel at Adelaar, jersey barriers shall be placed on Thompsonville Road to enhance public safety for motorists travelling in the vicinity of the Tannery Brook crossing.

#### **Regulatory Permits**

##### **U. S. Army Corps of Engineers (ACOE)**

1. Prior to the start of construction for the Casino and Hotel at Adelaar, except for site clearing or grading, unless and to the extent required by law, the Applicant shall obtain and adhere to all requirements of the Individual Permit for the disturbance of federally regulated surface waters.

##### **New York State Department of Environmental Conservation (NYSDEC)**

1. Prior to the start of construction for the Casino and Hotel at Adelaar, except for site clearing or grading, unless and to the extent required by law, the Applicant shall obtain a five-acre disturbance waiver and approval of water treatment chemical use procedures pursuant to the approved SWPPP.
2. Prior to the start of construction for the Casino and Hotel at Adelaar, except for site clearing or grading, unless and to the extent required by law, all sediment and erosion control measures or Best Management Practices indicated on the Final Site Plan and/or required for compliance with GP-0-10-001, shall be installed in accordance with the approved SWPPP and shall be inspected on a bi-weekly basis to ensure proper function.
3. Prior to the start of construction for the Casino and Hotel at Adelaar, except for site clearing or grading, unless and to the extent required by law, the Applicant shall obtain and adhere to all requirements of the State Pollutant Discharge Elimination System

("SPDES") General Permit GP-0-10-001. A copy of the SPDES permit shall be maintained at the site construction office on-site, and provided to the Town of Thompson Planning Board upon receipt.

4. Prior to the start of construction for the Casino and Hotel at Adelaar, except for site clearing or grading, unless and to the extent required by law, the Applicant shall obtain and adhere to all requirements of the SPDES General Permit, GP-0-09-001 for Concentrated Animal Feeding Operations (CAFOs).
5. Prior to the start of construction for the Casino and Hotel at Adelaar, except for site clearing or grading, unless and to the extent required by law, the Applicant shall obtain and adhere to all requirements of the Article 24 Freshwater Wetland Permit, Article 15 Protection of Waters Permit, and Section 104 Water Quality Certification.

New York State Department of Transportation (NYSDOT)

1. Prior to the issuance of either a Temporary or Final Certificate of Occupancy, the Applicant shall obtain and adhere to all requirements of all permits and/or approvals required for the Casino and Hotel at Adelaar proposed improvements to the NYS Route 17, Exit 106 ramps and signal plans at the intersection of the ramps with County and/or Town roads, as well as those permits and approvals required to install water mains, project signage and landscaping walls within the Rights of Ways for NYS Route 17 and NYS Route 42.

Sullivan County Department of Public Works

1. Prior to the issuance of a Temporary or Final Certificate of Occupancy the Applicant shall obtain and adhere to all requirements of permits and/or approvals of Sullivan County Department of Public Works or any other governmental agency required for the proposed improvements and/or abandonment of portions of CR 173A and CR 173, as shown on C-402 and C-403 Roadway Geometry Plans and C-303 Site Demolition Plan.

New York State Department of Health (NYSDOH)

1. Prior to the issuance of a Temporary or Final Certificate of Occupancy, the Applicant shall obtain and adhere to all requirements of all permits and/or approvals required for the provision of water and wastewater services to the proposed Project.

Gaming

1. Prior to the issuance of a Temporary or Final Certificate of Occupancy, the Applicant shall obtain and adhere to all requirements under other permits and/or approvals required in connection with the operation of a Gaming Facility licensed under the Upstate New

York Gaming Economic Development Act of 2013, as amended by Chapter 175 of the Laws of 2013, and/or a relocated casino and raceway pursuant to applicable sections of the NYS Tax Law and Racing, Pari-Mutuel Wagering and Breeding Law.

### **Construction Activity**

1. Prior to any site clearing, grading or construction activity, the Applicant shall have the boundary of the Casino and Hotel at Adelaar property staked out by a licensed surveyor.
2. All construction activities shall adhere to the provisions for sediment and erosion control contained in the New York State Department of Environmental Conservation's "New York Standards and Specifications for Erosion and Sediment Control."
3. The design and construction of all proposed water quality and water quantity best management practices shall adhere to the "New York State Stormwater Management Design Manual."
4. Prior to any site clearing, grading or construction activity, the Applicant shall submit a Work Zone Traffic Control Plan (WZTCP) for review and approval by the Town Engineer.
5. The construction routing of vehicles shall be as follows:
  - a. Construction traffic will access the site by way of Exit 106 from NYS Route 17
  - b. To the extent necessary, construction traffic will also access the site by way of Exit 107 from NYS Route 17.

### **Roadway/Access Drive/Parking**

1. The Applicant shall be responsible for the maintenance of Resort Entry Road until such time as such road is dedicated to the Town.

### **Utilities**

1. In October, 2013, the Applicant has entered into a Water Supply Agreement with the Village of Monticello pursuant to which the Casino and Hotel at Adelaar will be served by up to 375,000 gallons per day which is more than sufficient to service the needs of the Casino and Hotel at Adelaar. The Applicant shall ensure that the Water Supply Agreement is maintained and continued in full force and effect.
2. Prior to issuance of a Temporary or Final Certificate of Occupancy for the Casino and Hotel at Adelaar, the Applicant shall obtain the necessary approvals for connection and discharge to the Kiamesha Lake Wastewater Treatment Plant.

**Landscaping**

1. The Applicant shall submit landscaping plans for biofilters as shown on C-500 to C-509, and C-501 to C-516 for review and approval by the Town Engineer.

Adopted June 11, 2014 by the Planning Board of the Town of Thompson

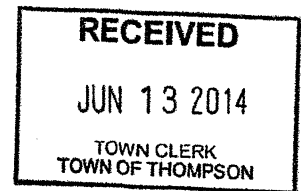
Moved by: Planning Board Member Lou Kiefer

Seconded by: Planning Board Member Matthew Sush

The members of the Planning Board voted as follows:

Chairwoman Patrice Chester	AYE
Planning Board Member Lou Kiefer	AYE
Planning Board Member Matthew Sush	AYE
Planning Board Member Melinda Meddaugh	AYE
Planning Board Member Michael Croissant	AYE

Filed in the Office of the Town Clerk of the Town of Thompson on June 13, 2014



STATE OF NEW YORK}  
COUNTY OF SULLIVAN} §:  
Office of the Clerk of the}  
Town of Thompson}

This is to certify that I, Marilee J. Calhoun, Town Clerk of the Town of Thompson in the said County of Sullivan, have compared the foregoing copy of **“RESOLUTION OF THE PLANNING BOARD OF THE TOWN OF THOMPSON GRANTING A MINOR AMENDMENT TO THE FINAL SITE PLAN APPROVAL FOR THE CASINO AND HOTEL AT ADELAAR”** adopted on **June 11<sup>TH</sup>, 2014** with the original now on file in this office, and that the same is a correct and true transcript of such original and the whole thereof.

*In Witness Whereof*, I have hereunto set my hand and affixed the seal of said Town this 13<sup>th</sup> day of June, 2014.

(SEAL)



*Marilee J. Calhoun*

Town Clerk of the Town of Thompson,  
Sullivan County, New York

RECEIVED  
JUN 13 2014  
TOWN CLERK  
TOWN OF THOMPSON

**RESOLUTION OF THE PLANNING BOARD OF THE TOWN OF THOMPSON MAKING A DETERMINATION IN COMPLIANCE WITH THE NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT FOR THE MINOR SITE PLAN AMENDMENT TO THE FINAL SITE PLAN APPROVAL FOR THE CASINO AND HOTEL AT ADELAAR**

**WHEREAS**, throughout 2012, the Town of Thompson Town Board (“Town Board”), acting in its capacity as Lead Agency of a coordinated review, pursuant to the State Environmental Quality Review Act (“SEQRA”) and its implementing regulations, in consultation with the participation of the Town of Thompson Planning Board (“Planning Board”) as an involved agency, conducted an extensive coordinated environmental review of Adelaar (formerly known as the EPT Concord Resort); and

**WHEREAS**, on January 15, 2013, the Town Board, acting in its capacity as Lead Agency of a coordinated review, pursuant to SEQRA, duly adopted a Findings Statement in connection with Adelaar, and duly filed said Findings Statement with the Town Clerk; and

**WHEREAS**, on January 15, 2013, the Town Board approved a PRD Comprehensive Development Plan for Adelaar, a planned resort development on approximately 1,583 acres of land located at and around the former Concord Resort in the Town of Thompson as shown on the Comprehensive Development Plan; and

**WHEREAS**, on February 13, 2013, EPT Concord II, LLC (“EPT”), acting on behalf of the relevant Master Association, and Monticello Raceway Management, Inc. (“MRMI”), a wholly-owned subsidiary of Empire Resorts, Inc. (collectively, the “Applicant”), jointly submitted an application to the Planning Board pursuant to Section 250-50 of the Town Code for site development plan approval in connection with development of Adelaar, and to enable the development of the Casino and Hotel at Adelaar (formerly known as Phase 1 of the EPT Concord Resort); and

**WHEREAS**, the potential environmental impacts of the site plan application for the Casino and Hotel at Adelaar were considered and analyzed in detail in the Draft Environmental Impact Statement (“DEIS”), dated July 24, 2012, which was subject to a public hearing (held August 28, 2012), and was the subject of a Final Environmental Impact Statement (“FEIS”), dated January 2, 2013 and Statement of Findings, dated January 15, 2013; and

**WHEREAS**, on July 10, 2013, the Planning Board approved the Final Site Plan for the Casino and Hotel at Adelaar. The Final Site Plan, as approved, includes a casino, hotel, harness horse racetrack and supporting facilities and infrastructure on approximately 117 acres of what was formerly known as the Phase 1 parcel (“Project Site”); and

**WHEREAS**, subsequent to the approval of the Final Site Plan, New York State voters approved a referendum to amend the State constitution to allow the State to permit casino gaming pursuant

to the Upstate New York Gaming Economic Development Act of 2013 (the "Act"). Pursuant to the Act, the State Gaming Commission will award up to four Gaming Facility licenses within three regions of the State including areas such as Sullivan County and the Town of Thompson, that would benefit from a Gaming Facility through the creation of jobs, the enhancement of tourism, and the generation of significant revenues for public education and taxpayer relief; and

**WHEREAS**, MRMI is applying for one of the Gaming Facility licenses to operate a gaming facility at Adelaar; and

**WHEREAS**, on April 17, 2014, EPT and MRMI applied to the Planning Board, pursuant to Section 250-50D(5) of the Town Code, for a minor amendment to the Final Site Plan for the Casino and Hotel at Adelaar (the "Proposed Amendment"); and

**WHEREAS**, on April 23, 2014, the Planning Board accepted EPT and MRMI's application and supporting documentation for the Proposed Amendment, constituting a 'full statement' pursuant to Section 239-m of the General Municipal Law, and referred said application and supporting materials to the Sullivan County Division of Planning and Environmental Management ("DPEM") pursuant to Section 239-m of the General Municipal Law; and

**WHEREAS**, the Proposed Amendment would increase the number of hotel rooms from the approved 248 to 395 and increase parking by approximately 330 spaces – both within the approved footprint of the Casino and Hotel – by adding eight (8) stories onto the approved tower and an additional level of parking below the approved subsurface parking garage. Direct valet access to the parking garage will be provided. The Proposed Amendment would also enlarge the building footprint by roughly 8,000 square feet (sf), and reconfigure certain interior aspects of the casino gaming floor to better accommodate casino table gaming. The central utility plant is proposed to increase in size by 700 sf (from 4,000 sf to 4,700 sf). All other aspects of the Casino and Hotel approved as part of the Final Site Plan remain the same; and

**WHEREAS**, the application for the Proposed Amendment was accompanied by a full Environmental Assessment Form, Part 1, revised Site Plan Drawings, and Technical Memorandum, with Exhibits, dated May 21, 2014; and

**WHEREAS**, the Planning Board, as an involved agency, with input from its technical consultants, has conducted a detailed and thorough review of the Proposed Amendment, the Technical Memorandum, Site Plan Drawings, the prior DEIS, FEIS and Findings Statement for Adelaar, and has concluded that the Proposed Amendment does not have the potential for any new potentially significant adverse environmental impacts that were not already identified, analyzed and/or mitigated to the maximum extent practicable under SEQRA during the previous environmental review for the Casino and Hotel at Adelaar, and that, as a result, no additional SEQRA review is warranted or should be required by the Town Board; and



**WHEREAS**, at its regularly scheduled meeting held on May 28, 2014, the Planning Board unanimously voted to recommend that the Town Board determine that no further environmental review is required or warranted under SEQRA for the Proposed Amendment and that the Town Board should issue a Negative Declaration of Environmental Significance for the Proposed Amendment; and

**WHEREAS**, the Planning Board's detailed and thorough review, analysis and recommendation to the Town Board is contained in its letter to the Town Board, dated June 3, 2014, which is incorporated into this Resolution by reference; and

**WHEREAS**, on May 28, 2014, more than thirty (30) days after the Planning Board referred the "full statement" to DPEM, a written response was received from DPEM containing its comments on the Proposed Amendment; and

**WHEREAS**, on June 3, 2014, the Town Board, as Lead Agency, found that there are no new potential significant adverse environmental impacts associated with the Proposed Amendment that have not previously been identified, analyzed and mitigated to the maximum extent practicable under SEQRA in the DEIS and FEIS and that no supplemental environmental review is warranted or required and issued a Negative Declaration of Environmental Significance for the Proposed Amendment, which is incorporated into this Resolution by reference; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Planning Board of the Town of Thompson, as an Involved Agency, has independently reviewed, considered and deliberated upon the entire record of the Proposed Amendment, including all materials submitted by and on behalf of EPT and MRMI in support of the Proposed Amendment, including the full Environmental Assessment Form, Part 1, dated April 17, 2014, Site Plan Drawings (Sheets C-400, C-500 and C-505), dated April 15, 2014, and Technical Memorandum, with Exhibits, dated May 21, 2014, Environmental Assessment Form, Part 2, the DPEM letter, dated May 28, 2014, the recommendation of the Planning Board, dated June 3, 2014, and the CHA Peer Review of the Traffic Impact Study for the Casino and Hotel at Adelaar, dated June 3, 2014 and the Town Board's Negative Declaration of Environmental Significance, dated June 3, 2014; and

**BE IT FURTHER RESOLVED**, that the Planning Board has reviewed and considered the comments of the DPEM, which did not recommend modifications to, or disapproval of, the Proposed Amendment. Nonetheless, with regard to the comments of the DPEM, the Planning Board notes that:

- The noted discrepancy between the EAF and Technical Memorandum was satisfactorily addressed and clarified by the Applicant (*see*, Negative Declaration, p. 1, footnote 1);
- That based on the recommendation of DPEM, the Applicant, as requested by the Planning Board, analyzed the visibility of the Casino and Hotel building from three additional regional vantage points along NYS Route 17 and found that there would be no visibility of the additional hotel floors from those locations at all

times of year. The Town and its consultants, concurred with this conclusion (*see*, Negative Declaration, pp. 4-5);

- The hotel spire, although exempt from the Town's maximum building height requirements, is included on the Casino Hotel renderings and was included for purposes of performing the updated Visual Assessment for the Proposed Amendment (*see*, Negative Declaration, pp. 4-5);
- With respect to potential impacts from nighttime lighting of the hotel tower, the Applicant will continue to comply with the lighting standards contained in the CDP, as well as the Lighting Report and Lighting Package prepared by the Applicant's consultants which was reviewed and approved by the Planning Board as part of the Final Site Plan approval for the Original Project. In addition, the Applicant submitted several renderings of the nighttime lighting of the new hotel tower, which demonstrate that the hotel tower does not add any more light trespass than the previously analyzed lighting design. Therefore, there will not be any new significant adverse impacts from nighttime lighting (*see*, Negative Declaration, pp. 4-5).

**BE IT FURTHER RESOLVED**, with respect to the proposed additional eight (8) stories of the Casino and Hotel, the Planning Board finds:

- The prior SEQRA review for Adelaar comprehensively analyzed and, the Town Board approved, a maximum building height of up to 350 feet in the PRD, including a maximum building height of 220 feet in the CDP for the Casino and Hotel at Adelaar; and
- The increased height of the Casino and Hotel at Adelaar at the highest occupied floor would be 206.5 feet which is below the maximum height requirement fully reviewed and approved during the prior SEQRA review (the 44 foot roof spire is exempt from the maximum building height requirement); and
- The potential visual impacts associated with the increased Casino and Hotel height (including the spire) was the subject of an updated Visual Assessment which the Town Board and Planning Board, and their consultants, find demonstrates that there will be no new potentially significant adverse visual impacts as a result of the Proposed Amendment; and
- As such, the Proposed Amendment is consistent with the PRD and CDP

**BE IT FURTHER RESOLVED**, that the Planning Board, as an Involved Agency, hereby ratifies the Negative Declaration of Environmental Significance issued by the Town Board for the Proposed Amendment, and independently finds that there are no new potential significant adverse environmental impacts associated with the Proposed Amendment that have not previously been identified, analyzed and mitigated to the maximum extent practicable under

SEQRA in the DEIS and FEIS and that no supplemental environmental review is warranted or required; and

**BE IT FURTHER RESOLVED**, that the Planning Board finds that all of the provisions of SEQRA that are required to be complied with as a condition precedent to its consideration and determination of the application for the Proposed Amendment have been satisfied; and

**BE IT FURTHER RESOLVED**, that a copy of this Resolution shall, together with the attachments hereto, be placed on file with the Town Clerk where same shall be available for public inspection during normal business hours, and notices of this SEQRA determination shall be filed in such offices, posted in such places, circulated to all interested and involved agencies, and published in such publications as may be necessary pursuant to the requirements of SEQRA.

Adopted June 11, 2014 by the Planning Board of the Town of Thompson

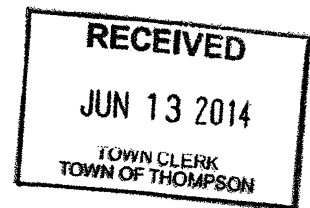
Moved by: Planning Board Member Lou Kiefer

Seconded by: Planning Board Member Matthew Sush

The members of the Planning Board voted as follows:

Chairwoman Patrice Chester	AYE
Planning Board Member Lou Kiefer	AYE
Planning Board Member Matthew Sush	AYE
Planning Board Member Melinda Meddaugh	AYE
Planning Board Member Michael Croissant	AYE

Filed in the Office of the Town Clerk of the Town of Thompson on June 13, 2014



STATE OF NEW YORK}  
COUNTY OF SULLIVAN} §:  
Office of the Clerk of the}  
Town of Thompson}

This is to certify that I, Marilee J. Calhoun, Town Clerk of the Town of Thompson in the said County of Sullivan, have compared the foregoing copy of "RESOLUTION OF THE PLANNING BOARD OF THE TOWN OF THOMPSON MAKING A DETERMINATION IN COMPLIANCE WITH THE NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT FOR THE MINOR SITE PLAN AMENDMENT TO THE FINAL SITE PLAN APPROVAL FOR THE CASINO AND HOTEL AT ADELAAR" adopted on June 11<sup>TH</sup>, 2014 with the original now on file in this office, and that the same is a correct and true transcript of such original and the whole thereof.

*In Witness Whereof*, I have hereunto set my hand and affixed the seal of said Town this 13<sup>th</sup> day of June, 2014.

(SEAL)



*Marilee J. Calhoun*

Town Clerk of the Town of Thompson,  
Sullivan County, New York