



Town of Douglas
Community Development Department
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Mr. Rod Jané, President
New England Expansion Strategies
17 Piccadilly Way
Westborough, MA 01581

June 28, 2010

**RE: Proposed Webster Road Wind Farm
Site Plan Review Application**

Dear Mr. Jané:

The Town of Douglas received your Application for Site Plan Review on June 15, 2010 which was comprised of the following documents and is hereafter referred to as “the Application”:

- 1) Project Application Fees as follows:
 - a. Site Plan Application Fee - \$750.00
 - b. Fee for Independent Consultant - \$2,000.00
 - c. Advertising Fee (Worcester Telegram & Gazette) - \$142.03

- 2) Application Binder which includes the following information:
 - a. Application Form;
 - b. ZBA Decision for Case No. 2009-04;
 - c. ZBA Decision for Case No. 2010-01;
 - d. Figures showing Alternate 1 (11 Turbines) and Alternate 2 (10 Turbines) layouts; and
 - e. Douglas Woods Wind Farm – Site Plan Review Narrative with attachments.

The Town of Douglas Zoning Bylaws dated October 25, 2004 and amended through May 4, 2009 has been used to review The Application along with ZBA Decisions for Case Nos. 2009-04 and 2010-01. All references below will pertain to those documents unless otherwise indicated.

Administrative Review

1. Because a Fee Schedule has not been developed for Site Plan Review under the Planning Board, the Applicant agreed to utilize the ZBA Fee Schedule for the purposes of filing this Application. Accordingly, the fee should be allocated as follows:

Administrative Fees:

Section 3.3.1 - Base Fee: \$250.00
Applicant provided: \$250.00

Review & Inspection Fees:

- Staff Review (MGL Ch. 44 §53E½)

Section 4.4.1 - (\$500/acre impervious) * (acres of impervious surface)

1) Turbine Foundations: (11 turbines x (π x30 ²)) =	31,102 sf
2) Controls Building:	say: 5,000 sf
3) <u>Parking and other Paved Areas:</u>	say: 5,000 sf
Total Impervious Area:	41,102 sf

Staff R&I Fee: (\$500/acre impervious)*(41,102 sf/43,560sf) = \$471.79
Applicant provided: \$500.00

- Outside Consultant Review (MGL Ch. 44 §53G)

Applicant provided: \$2000.00

Please be advised that these fees were based upon, and contemplated, the filing of a site plan application for a commercial project that would create an impervious parking area associated with a building (say a pharmacy or a restaurant). Clearly it did not anticipate the filing of a wind farm application. Accordingly, it is recommended that to ensure timely review of the application and not have an issue of waiting for checks to be submitted and mailed that two things happen – the Staff Review Account (MGL Ch 44 Sec. 53E½) be increased and maintained at \$1,500.00 and the Outside Consultant Review Fee (MGL Ch 44 Sec. 53G) be maintained at whatever the selected proposal is estimated at. Outside Consultants will have submittals for the meeting on June 29, 2010.

2. A complete application has not been submitted thusfar. The Applicant submitted some information at this time to begin and expedite the process of Application review. However, items such as engineering drawings containing actual topography, wetlands, property boundaries and proposed turbine locations, road network and stormwater management systems; updated Shadow and Flicker Analysis; updated Photo Simulation Report; and updated acoustic analysis are still required to be submitted, to name a few. Review timeline will be directly linked to when these materials are submitted and if any significant

deficiencies are identified.

3. Taxes totaling **\$33,155.31** are jointly owed between a majority of the parcels associated with this project. Accordingly, the Planning Board should be made aware that permit applications may be denied and permits may be revoked until such time as taxes have been paid.

Parcel	Name	FY09	FY10	Total
205-2	James M. Sullivan	\$0.00	\$319.90	\$319.90
205-3	<i>James M. Sullivan</i>	<i>\$1,187.62</i>	<i>\$988.21</i>	<i>\$2,175.83</i>
206-1	James M. Sullivan	\$0.00	\$5,519.34	\$5,519.34
207-1	<i>James M. Sullivan</i>	<i>\$7,743.22</i>	<i>\$7,090.04</i>	<i>\$14,833.26</i>
207-2	<i>James M. Sullivan</i>	<i>\$2,167.52</i>	<i>\$1,842.50</i>	<i>\$4,010.02</i>
207-5	James F. Malloy & Mary A. Castegnato	\$0.00	\$0.00	\$0.00
230-2	<i>James M. Sullivan</i>	<i>\$3,021.58</i>	<i>\$2,648.76</i>	<i>\$5,670.34</i>
230-4	David M. Rudick & Patricia Trudeau	\$0.00	\$626.62	\$626.62
Totals:		\$14,119.94	\$19,035.37	\$33,155.31

Note: Italics indicates an 09 Tax Lien will be placed on the parcel on 6-30-10 at 10:00 AM

ZBA Decision Review (Cases 2009-04 & 2010-01)

This section pertains specifically to the ZBA variance decisions pertaining to this project.

4. The following conditions under the “APPROVAL AND CONDITIONS” section of the ZBA decision states the following (please note that staffs comments are interspersed throughout the conditions):

“ 5. As part of the site plan review process, the Applicant has suggested, and the ZBA agrees, that the Applicant shall submit for the ZBA’s approval detailed information and/or plans concerning the following:

- a. *Final placement of the thirteen (13) wind turbines, provided the same shall be in substantial conformance with the terms and conditions hereof and the siting as set forth in the Application. But in any event the setbacks of the wind turbines shall not be less than the following:”*

3a) Staff Comment: The ZBA Decision is very explicit that there will be thirteen (13) turbines and not ten or eleven as proposed. The Applicant should obtain a written interpretation from the ZBA/Building Commissioner regarding the validity of fewer turbines being proposed.

- i. *“No turbine shall be located closer than 150 feet to any property line. Except that the one turbine located on parcel 205-3 as shown on a plan dated January 30, 2009, “Meteorological Tower”, by Atlantic Design Engineers LLC and consisting of one*

sheet, shall be permitted to have no less than a fifty (50) foot set back from the easterly property line.”

3b) Staff Comment: This cannot be confirmed yet as no final stamped engineering drawings have yet been provided.

- ii. *“All wind turbines shall be set back one thousand (1,000) feet, or more at the Applicant’s discretion, from any residential structure existing as of May 6, 2009.”*

3c) Staff Comment: This cannot be confirmed yet as no final stamped engineering drawings have yet been provided.

- iii. *“No structures shall be permitted to be built or permitted to exist within the area around the base of the tower which shall be equal to the circumference around the tower, where the radius is equal to the length of the rotor blade measured from the center of the hub. This prohibition shall not apply to transformers or other electrical equipment and infrastructure that are necessary for the operation of the turbines.”*

3d) Staff Comment: This cannot be confirmed yet as no final stamped engineering drawings have yet been provided.

- iv. *“All wind turbines shall be set back a distance equal to the height of the tower plus the length of the rotor blade measured from the center of the hub from any Habitable Structures (this term shall mean those structures intended for uses which include overnight accommodations of persons) whether existing or to be built. This prohibition shall not apply to any Habitable Structure which is not located within the property boundaries of the Locus.”*

3e) Staff Comment: This cannot be confirmed yet as no final stamped engineering drawings have yet been provided.

- v. *“Although the Site Plan Review decision may dictate more extensive setbacks, in no event shall such decision decrease the number of turbines below 13 or decrease the aggregate wind efficiency of the project as presented by the Applicant and analyzed by the Board during the Site Plan Review process.”*

3f) Staff Comment: This condition appears to pose a direct conflict with the plans that have been provided. The condition specifically mandates 13 turbines (or equivalent efficiency). The submittal only shows 10 or 11 turbines and provides no information on efficiency equivalence. Input from the ZBA and building Commissioner should be sought.

- b. *“Design plans prepared and signed by a Registered Professional Structural Engineer for all structures, including support towers, and schedules for the construction and operation of the Facility.”*

3g) Staff Comment: This condition has not yet been met.

- c. *“Color and finish of the wind turbines, which shall be neutral, low-contrasting and nonreflective so as to minimize any adverse visual impact on the surrounding area. Color and finish shall comply with all safety requirements of the Federal Aviation Administration (FAA) and the Massachusetts Aeronautics Commission (MAC).”*

3h) Staff Comment: No information pertaining to this condition has been submitted yet.

- d. *“Lighting and signage. Wind turbines shall be lighted only if required by the Federal Aviation Administration (FAA) and/or the Massachusetts Aeronautics Commission (MAC). Lighting of all other structures and equipment shall be limited to that required for safety and operational purposes and shall be shielded to the extent feasible. Signage shall be determined by site plan review and shall be in conformance with the Town’s General By-laws.”*

3i) Staff Comment: No information pertaining to this condition has been submitted yet.

- e. *“Location of utility connections. All utility connections shall be shown on the site plan.”*

3j) Staff Comment: No information pertaining to this condition has been submitted yet.

- f. *“Location and control of access roads. The Applicant shall be responsible for the cost of maintaining all access roads internal to the locus, unless accepted as public ways, including the cost of repairing any damage thereto resulting from operation of the Facility. The turbines and electrical apparatus shall be designed and located so as to prevent unauthorized access, provided, however, that site access shall be maintained at a level acceptable to the Police Chief and Fire Chief.”*

3k) Staff Comment: No information pertaining to this condition has been submitted yet.

- g. *“Any site plan review submission shall include the location of the control building, the substations, any and all other structures, roads and improvements.”*

3l) Staff Comment: No information pertaining to this condition has been submitted yet.

6. *“During the site plan review process, the Applicant has suggested, and the ZBA agrees, that the ZBA may retain the services of the Town staff and/or outside consultants if it*

determines that any issues before it require such expertise, at the expense of the Applicant. The use and payment for such consultants shall be governed by G.L. c. 44, §53G, the rules and regulations of the Town.”

3m) Staff Comment: Please refer to Staff Comment #1 above.

7. *“During the site plan review process, the Applicant shall present mitigation of shadowing or flicker impacts as follows: As to any residential location existing as of May 6, 2009, where estimated shadowing/flicker exceeds thirty (30) Experienced Hours per year, the Applicant shall provide to the Board with copies to the affected property owners, a Flicker Mitigation Plan for the Board’s review and approval, prior to the submission of the building permit application. Said Mitigation Plan shall either: (i) provide for mitigation where shadowing/flicker is reduced to thirty (30) Experienced Hours or below per year; or (ii) set forth such other acceptable resolution that may be approved as part of the Mitigation Plan. “Experienced hours” are defined as hours a residence is in use and the occupants are awake.)”*

3n) Staff Comment: No information pertaining to this condition has been submitted yet.

20. *“The Applicant shall submit with its application for a Building Permit, a recorded plan pursuant to G.L. c. 41, §§81X or 81P, as may be determined by the Applicant, whereby the several parcels referenced in herein are combined to create a single parcel with one (1) street address having its frontage on Webster Road.”*

3o) Staff Comment: Although not specifically required by Site Plan review, the issue is that a building permit cannot be issued for landlocked land as it has no frontage. This item should be discussed by the Planning Board.

Regulatory Review

This section pertains specifically to the Zoning Bylaws – Section 9.4 and the requirements contained therein for Site Plan Review.

5. **Section 9.4.3** states: *“9.4.3 Preparation of Plans
... Site Plans shall be submitted on 24-inch by 36-inch sheets. Plans shall be prepared by a Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect, as appropriate. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1"=40'.”*

Staff Comment: No Plans have been filed to date.

6. **Section 9.4.4** states: *“Contents of Plan
The contents of the site plan are as follows:*

1. *Five (5) separate plans prepared at a scale of one (1) inch equals twenty (20) feet or such other scale as may be approved by the Planning Board. The plans are as follows:*

A. Site layout, which shall contain the boundaries of the lot(s) in the proposed development, proposed structures, drives, parking, fences, walls, walks, outdoor lighting, loading facilities, and areas for snow storage after plowing. The first sheet in this plan shall be a locus plan, at a scale of one (1) inch equals one hundred (100) feet, showing the entire project and its relation to existing areas, buildings and roads for a distance of one thousand (1,000) feet from the project boundaries or such other distance as may be approved or required by the Board.”

6a) **Staff Comment:** No Plans have been filed to date.

“B. Topography and drainage plan, which shall contain the existing and proposed final topography at two-foot intervals and plans for handling stormwater drainage.”

6b) **Staff Comment:** No Plans have been filed to date.

“C. Utility and landscaping plan, which shall include all facilities for refuse and sewerage disposal or storage of all wastes, the location of all hydrants, fire alarm and firefighting facilities on and adjacent to the site, all proposed recreational facilities and open space areas, and all wetlands including floodplain areas.”

6c) **Staff Comment:** No Plans have been filed to date.

“D. Architectural plan, which shall include the ground floor plan and architectural elevations of all proposed buildings and a color rendering.”

6d) **Staff Comment:** No Plans have been filed to date.

“E. Landscaping plan, showing the limits of work, existing tree lines, and all proposed landscape features and improvements including screening, planting areas with size and type of stock for each shrub or tree, and including proposed erosion control measures. The planting and maintenance of trees and shrubs shall be performed in accordance with the Rules, Guidelines and Regulations of the Zoning Planning Board.”

6e) **Staff Comment:** No Plans have been filed to date.

7. **Section 9.4.4 #2** states: *“The site plan shall be accompanied by a written statement indicating the estimated time required to complete the proposed project and any and all phases thereof. There shall be submitted a written estimate, showing in detail the costs of all site improvements planned.”*

Staff Comment: Please provide a cost breakdown of each item for site improvements, as indicated.

8. **Section 9.4.4 #3** states: “*A written summary of the contemplated projects shall be submitted with the site plan indicating, where appropriate, ... the evidence of compliance with parking and off-street loading requirements, the forms of ownership contemplated for the property and a summary of the provisions of any ownership or maintenance thereof, identification of all land that will become common or public land, and any other evidence necessary to indicate compliance with this by-law.*”

Staff Comment: The above referenced information has not been submitted.

9. **Section 9.4.4 #4** states: “*The site plan shall be accompanied by drainage calculations by a registered professional engineer. Storm drainage design must conform to Town of Douglas subdivision regulations.*”

Staff Comment: The above referenced information has not been submitted.

10. **Section 9.4.4 #5** states: “*The Planning Board may require narrative assessments of the on-site and off-site impacts of the proposed project, including traffic, drainage, noise, and other environmental factors. The Board may require that such narrative assessments be prepared by qualified experts.*”

Staff Comment: First, the reports provided are outdated and do not adequately reflect the turbine locations or elevations. At a minimum, the reports need to be revised to properly reflect the actual proposed turbine locations. Secondly, the actual engineering site plan drawing needs to be submitted before any of these assessments are made so that the assessments properly reflect the actual proposed field locations of the turbines. Assessments required at this point include: traffic, Photo Simulation, Shadow and Flicker, and Acoustic Analysis. All reports should be stamped by registered professionals as appropriate and should be reviewed after submission of the detailed engineering drawings. The Planning Board reserves the right to request any additional studies that they may deem appropriate.

11. **Section 9.4.4 #6** states: “*Certification of compliance with the Americans with Disabilities Act and the Massachusetts Architectural Barriers Board, if applicable.*”

Staff Comment: Please indicate compliance is met and if not, please explain how it is exempt from ADA requirements.

This review is based upon the information provided to date and additional comments may be made based upon the new information provided. Nonetheless, responses to these comments should be made in writing and provided to the Planning Board through The Town Engineer. Responses should be provided in a manner that shows the complete chain of comments for each item number. Your review and attention to these responses is appreciated and we look forward to hearing from you shortly.

Very Truly Yours,
Community Development Department

William J. Cundiff, P.E.
Town Engineer

cc: Board of Selectmen
Planning Board
Zoning Board
Building Commissioner