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September 28, 2012

Town of Allegany Planning Board
Town Hall
52 West Main Street
Allegany, New York 14706

Re: Request for Extension of Special Use Permit and Site Plan approvals for Allegany Wind Farm pursuant to Section 8.05(E) and Section 9.05(E) of the Town of Allegany Zoning Ordinance II

Dear Board Members:

Allegany Wind, LLC, hereby requests an extension of the Special Use Permit and Site Plan approvals for the Allegany Wind Farm pursuant to Section 8.05(E) and Section 9.05(E) of the Town of Allegany Zoning Ordinance II. The Planning Board previously granted Allegany Wind, LLC an extension on June 11, 2012. The Planning Board agreed to extend the date for commencement of construction "90 days following the conclusion of the [CCCC] litigation". It is our understanding that the Planning Board is likely to calculate this date as on or about December 10, 2012.

As the Planning Board is aware, Allegany Wind, LLC has requested confirmation from the Planning Board that the potential selection of an alternate turbine for the Project does not require any further modification or amendment to the existing approvals. Allegany Wind, LLC submitted this request to the Planning Board on August 3, 2012. On August 13, 2012, the Planning Board issued a resolution requesting additional information from Allegany Wind, LLC. Allegany Wind, LLC provided this information to the Planning Board on September 10, 2012. We understand that the Planning Board's consultants' are continuing their review of these materials.

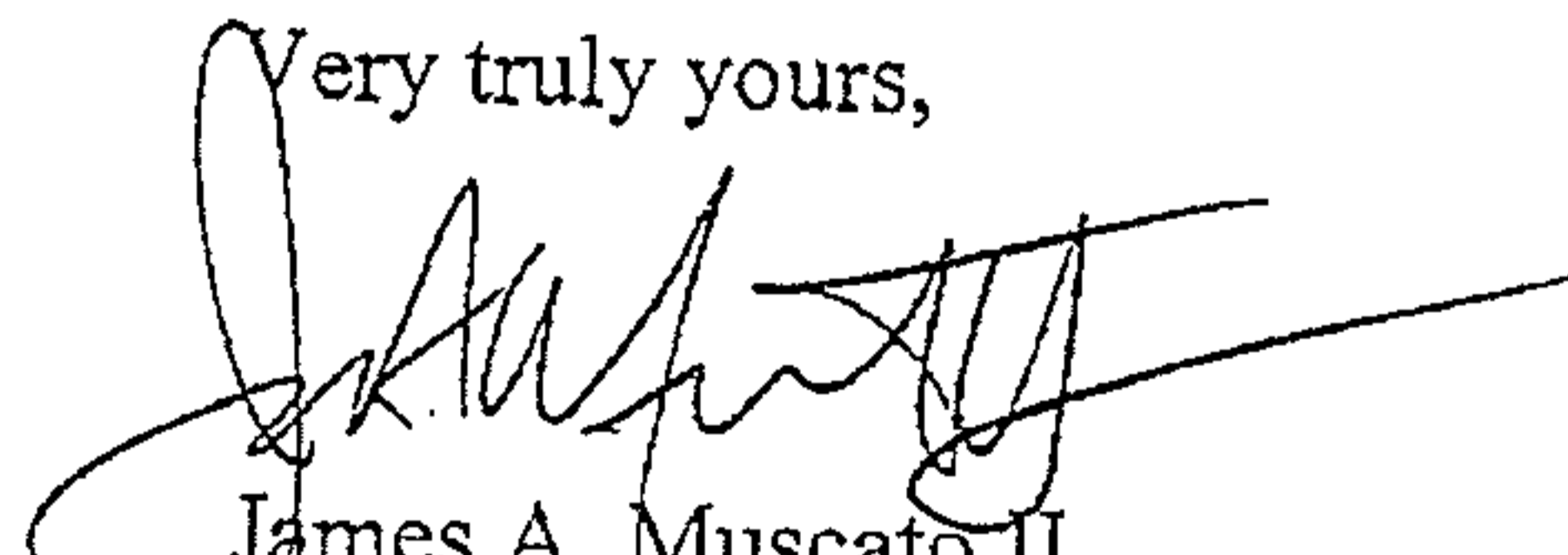
Allegany Wind, LLC has previously submitted that the turbine change was necessitated by a number of factors, including changes in turbine technology and the current economic conditions. Assuming the Planning Board confirms that the proposed alternate turbines are similar to the turbine approved in the permits and that no additional approvals are needed to move forward, it is unlikely that this will occur with enough time to allow Allegany Wind, LLC to commence construction prior to the December timeframe. As such, Allegany Wind, LLC respectfully requests a one year extension of time.

This application is consistent with the Zoning Ordinance, (See Section 8.05(E) and Section 9.05(E)), which authorizes the Planning Board to grant extensions of time for special use permits and site plan approvals. Under these general provisions we respectfully submit that the extension is warranted in this case in light of the Planning Board's pending review of the alternate turbine selection. (See Salkin, New York Law of Zoning Practice, §29:34, pg 29-63)(citations omitted). The Planning Board's consideration of this request does not necessitate a "re-review" of potential impacts associated with the Project (In the Matter of Stewart Park and Reserve Coalition v. New York State Department of Transportation, 77 N.Y.2d 970 [1991]). For all of the reasons previously submitted by Allegany Wind, LLC, the application should be granted. Moreover, even if the Planning Board were to determine the need for Allegany Wind, LLC to seek a modification or amendment of its permits to accommodate the new turbine selection, the permits should be extended to provide the Company the time to make the necessary submissions to amend the permits.

Lastly, as we've noted previously, the requirements for issuing extensions are minimal. The grant of an extension is considered a ministerial act which does not trigger SEQRA or other notice or hearing requirements. (420 Tenants Corp v EBM Long Beach, LLC 41 AD3d 641, 643 [2nd Dept. 2007] *citing* Matter of New York Life ins. Co v Galvin 35 NY2d 52, 60 [1974]). In this case, nothing has changed which would necessitate further review by the Planning Board.

Accordingly the Applicant respectfully requests that pursuant to the Zoning Ordinance, the Planning Board agree to extend the Special Use Permit and Site Plan approval for one year.

Very truly yours,



James A. Muscato II
Douglas H. Ward

cc: Jerry Dzuoff, Town of Allegany Code Enforcement Officer
Daniel Spitzer, Esq., Special Counsel to Planning Board
Carol Horowitz, AICP, Town Planner