

Dear Ms. Robinson & Town of Upton Board of
Selectman,

I just wanted to drop a quick thank
you in the mail to you for another successful
running of our 15K Road Race on April
2nd in Upton. Your town's continued support
has led to successful event after successful
event. Without our partners like you, our
race and our race benefactors, the Jimmy
Fund and Dana Farber, would not be able
to be supported. Thank you again!

Sincerely, Michael Nixon Tri-Valley Front
Runners

Nipmuc Regional High School Gymnasium

A ticket is required for admission.
RSVP by May 13, 2016 to Deb Linchan
508-529-2130 or dlinchan@nrsd.org.

The Senior Class
of
Nipmuc Regional High School
announces its
Fifty-Sixth Annual
Commencement Exercises
Friday, June third
Two thousand sixteen
Six o'clock in the evening



KOPELMAN AND PAIGE, P.C.
The Leader in Public Sector Law

101 Arch Street
Boston, MA 02110
T: 617.556.0007
F: 617.654.1735
www.k-plaw.com

April 22, 2016

Town of Upton
APR 26 2016
Selectmen's Office

George X. Pucci
gpucci@k-plaw.com
(617) 654-1718

BY HAND

Clerk
Land Court
Three Pemberton Square, 5th Floor
Boston, MA 02108

Re: Grove Upton Development, LLC v. Upton Planning Board
Land Court No. 14 MISC 485421 (GHP)

Dear Sir/Madam:

Pursuant to Judge Piper's order, enclosed for filing is a jointly proposed Remand Order in the above matter.

Kindly file and docket the same.

Very truly yours,

George X. Pucci

GXP/man

Enc.

cc: Board of Selectmen
Planning Board
Jeffery L. Roelofs, Esq.

553463/UPTO/0057

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, SS.

LAND COURT DEPARTMENT
MISC. NO. 14 MISC 485421 (GHP)

GROVE UPTON DEVELOPMENT, LLC,

Plaintiff

v.

UPTON PLANNING BOARD,

Defendant

REMAND ORDER

Through this action plaintiff (1) appealed, under G.L. c. 41, § 81BB, a decision of the Upton Planning Board (the “Board”) denying a definitive subdivision plan for plaintiff’s proposed 8-lot, single-family residential subdivision off of Grove Street in Upton and (2) sought declaratory relief related to the scope, applicability and validity of certain portions of the Board’s subdivision rules and regulations, including Section IV.K related to open space. On January 15, 2016 plaintiff filed a summary judgment motion addressing the open space issues, which the Board opposed. On March 24, 2016, after discussing with the parties’ counsel their respective positions, the Court allowed in part plaintiff’s motion and determined that the matter should be remanded to the Board for further proceedings, as discussed in the Notice of Docket Entry issued on March 24, 2016. This Remand Order is issued pursuant to that decision.

This case is hereby REMANDED to the Upton Planning Board for purposes of reopening the public hearing on the project, allowing the developer to present possible reconfigurations of the project if the developer so chooses, and further evaluation and determinations by the Board in accordance with the following guidelines:

1. “Proper Case” Evaluation:

- a. Both the relevant section of the Subdivision Control Law and the Upton Planning Board Rule require that any open space be mandated only in “proper cases.” Whether this subdivision presents a “proper case” for requiring open space is a threshold question which the Board must decide and address explicitly, providing its reasons at length in its final decision on remand.
- b. Accordingly, on remand, the Board shall first consider whether the proposed plan (either the configuration previously presented by plaintiff or a modified plan if the developer chooses to present a modified plan) presents a “proper case” under the statute and Rule IV.K of the Town’s Subdivision Rules and Regulations justifying the requirement that there be a dedication of open space. If the Board so finds, it shall in its revised decision articulate the reasons for this determination and address the matters articulated by the court in its March 24 summary judgment ruling.

2. Open Space Size, Configuration and Control: If the Board determines that this subdivision does present a proper case for an open space requirement, the Board must then decide, and provide reasons for, the following:

- a. Size and configuration of the open space: The Board shall address its computation of the size of the open space requirement in its determination, considering whether the open space it requires may be less than one acre, and/or less than ten percent of the gross area of the subdivision, and shall further address whether one or both of those requirements could be further waived in the same manner as other waivers the Board is empowered to issue

under the statute and its Rules. The Board shall articulate the dimensions and location of the open space, discuss the impact this size and location may have on the ultimate layout of the subdivision, and how this impact balances against the goals of the statute and the Rules for providing light and air during the three-year period in which the condition or restriction is allowed to remain in force.

- b. The specific manner in which the open space rights will be documented and placed of record: The Board shall take into account other statutory controls on its ability to exact an open space dedication, such as the three-year limit on the Board's authority to require, by condition or other conveyancing mechanism, that an open space area stay unimproved. The Board must also consider the fee title of the property subject to the open space condition or restriction, and articulate, after a hearing and deliberation, whether the proper way to exact the open space dedication is by a condition imposed on the developer or subsequent grantee who holds title, or whether the open space requirement can be memorialized as a property law right in the form of a restriction or covenant conferred upon an individual owner or owners or a homeowners' association.

In remanding this matter, the court is not requiring a different result from that which the Board reached previously. The remand is instead an opportunity for a new public hearing with new presentations to the Board by the developer and other interested parties, and will provide the Board with the opportunity to elaborate the reasons for the decision it reaches on remand.

The Board shall commence the remand hearing within sixty (60) days of the date of this order. The Board shall file its written decision on remand with the Upton Town Clerk within thirty (30) days of closing the hearing. Said final decision shall be filed on or before July 29, 2016, except that the parties may extend that decision deadline by mutual written agreement, filed with the Town Clerk, to October 31, 2016. Any further extension shall require approval of the Court.

Within 14 days after the Board files its remand decisions with the Town Clerk, the parties shall file with the Court a joint written status report, giving details of the Board's actions on remand, accompanied by a true copy of the Board's remand decision. The Court retains and assumes jurisdiction over this case, including but not limited to any objection which plaintiff may have with respect to the Board's remand decision. Plaintiff need not file in this court a new complaint appealing the remand decision. Instead, Plaintiff shall, within twenty days of the filing of the remand decision with the town clerk, (a) file with this court (and serve on all parties) a motion for leave to amend the pleadings to assert a right to judicial review of the remand decision, with the form of the proposed amendment attached to the motion to amend, and (b) file with the town clerk, with copy to counsel of record, written notice of having filed the motion to amend, accompanied by a true copy of the motion to amend.

Nothing in this remand order shall prevent the parties from meeting to discuss settlement of this matter and/or settling this matter.

So ordered.

By the court. (Piper, J.)

Attest:

Deborah J. Patterson
Recorder

Algonquin Gas Transmission, LLC
249 Vanderbilt Avenue Suite 100
Norwood, MA 02062
Toll Free: 888-331-6553



April 22, 2016

Town of Upton
APR 26 2016
Selectmen's Office

Blythe C. Robinson, Town Manager
Town of Upton
1 Main Street
Upton, MA 01567

Re: Algonquin Gas Transmission, LLC - Access Northeast Project
Tract #: EE-102, EE-123, EE-146

Dear Blythe C. Robinson:

The Massachusetts Energy Facilities Siting Board ("MA Siting Board") has scheduled an opportunity for the public to receive information concerning the Access Northeast Project ("Access Northeast"), which is under consideration by Algonquin Gas Transmission, LLC ("Algonquin"), to ask questions and to provide input to the MA Siting Board. As you may recall, the Federal Energy Regulatory Commission ("FERC") is the primary permitting authority with regard to Access Northeast. The MA Siting Board participates in FERC proceedings involving natural gas pipelines in order to represent the interests of the Commonwealth and its residents. The details concerning the public hearing in your area is included within the attached Notice that the MA Siting Board has asked Algonquin to forward to you.

In addition, FERC is expected to schedule Scoping Meetings in Massachusetts in mid to late May. Details concerning FERC's Scoping Meetings will be mailed to you as soon as the information becomes available.

Sincerely,

Franklin S. Gessner
Right-of-Way Project Manager

Town of Upton
APR 26 2016
Selectmen's Office

LEGAL NOTICE
COMMONWEALTH OF MASSACHUSETTS
ENERGY FACILITIES SITING BOARD

NOTICE OF PUBLIC HEARINGS TO BE HELD BY MASSACHUSETTS
ENERGY FACILITIES SITING BOARD STAFF REGARDING PROPOSED
CONSTRUCTION OF NATURAL GAS PIPELINES, COMPRESSOR STATIONS, AND AN
LNG STORAGE FACILITY IN WORCESTER, NORFOLK, AND BRISTOL COUNTIES,
MASSACHUSETTS

Algonquin Gas Transmission, LLC
Federal Energy Regulatory Commission Docket No.: PF16-1-000

Algonquin Natural Gas Transmission, LLC (“Algonquin”) has proposed to construct new natural gas pipelines and related facilities in New Jersey, New York, Connecticut, Rhode Island, and Massachusetts. The facilities would comprise the Access Northeast Project (“Project”). In Massachusetts, the Project would include approximately 55.51 miles of new pipeline, plus additional facilities, both of which are described in more detail in the tables below.

Proposed New Pipeline Facilities in Massachusetts

Facility Name	Diameter	Location(s)	Length (in miles)
Q-1 Loop	30-inch	Medway, Bellingham, Franklin, Millis, Norfolk, Walpole, Sharon, Canton, Stoughton	21.68
I-8 Loop	30-inch	Braintree, Weymouth	4.19
West Boylston Lateral	16-inch	Medway, Milford, Upton, Grafton, Sutton, Millbury, Shrewsbury, Boylston, West Boylston	26.78
Acushnet	24-inch	Freetown, Acushnet	2.86

Additional Proposed Facilities in Massachusetts

Facility Type	Location(s)
Add 10,320 horsepower (“hp”) to a compressor station that has been proposed to be constructed as part of the Atlantic Bridge Project, FERC CP16-9, which is under review.	Weymouth
Build a new 10,320 hp compressor station	Rehoboth
LNG liquefaction, storage, and vaporization installation, including two LNG storage tanks with a total combined capacity of 6.8 billion cubic feet	Acushnet

New metering and regulation station	Acushnet
New metering and regulation station	West Boylston

The Project is currently being reviewed by the Federal Energy Regulatory Commission (“FERC”) in what is called the Pre-Filing Process. FERC will prepare an Environmental Impact Statement (“EIS”) to satisfy the requirements of the National Environmental Policy Act. The EIS will be used by FERC to consider the environmental impacts that could result if it approves the Project. FERC is required to review and recommend measures to avoid, minimize or mitigate such impacts.

The Massachusetts Energy Facilities Siting Board (“Siting Board”) participates in FERC proceedings involving natural gas pipelines in order to represent the interests of the Commonwealth and its residents. The Siting Board will hold four public hearings to hear directly from residents, officials, and other interested persons about their concerns relating to the Project. The Siting Board hearings, set forth below, are separate and distinct from the public hearings being held by FERC.

Monday, May 2, 2016, 7:00 pm Grafton High School Auditorium 24 Providence Road Grafton, MA 01519	Thursday, May 12, 2016, 7:00 pm Ford Middle School Auditorium 708 Middle Road Acushnet, MA 02743
Monday, May 9, 2016, 7:00 pm Walpole High School Auditorium 275 Common Street Walpole, MA 02081	Wednesday, May 11, 2016, 7:00 pm Abigail Adams Middle School Auditorium 89 Middle Street East Weymouth, MA 02189

The Siting Board also seeks written comments concerning the proposed Project. Comments should be sent by email to BOTH robert.j.shea@state.ma.us and dpu.efiling@state.ma.us or by U.S. mail to: Energy Facilities Siting Board, One South Station, Boston, Massachusetts 02110, Attention: Robert Shea, Presiding Officer. The comments should be sent to the Siting Board by May 20, 2016. The Siting Board will use the comments it receives, whether oral or written, in drafting a comment letter on the Project to FERC. If you have any questions, please contact Robert Shea at the e-mail or physical address above.

Additional information about the Project is available on the FERC website (<http://www.ferc.gov>). Click on the eLibrary link, click on “General Search” and enter the FERC docket number “PF16-1.” For assistance, please contact FERC Online Support at ferconlinesupport@ferc.gov or call FERC at 1-866-208-3676.



The Commonwealth of Massachusetts
MASSACHUSETTS SENATE

SENATOR MICHAEL O. MOORE
Second Worcester District

STATE HOUSE, ROOM 109B
BOSTON, MA 02133-1053
TEL. (617) 722-1485
FAX (617) 722-1066

MICHAEL.MOORE@MASENATE.GOV
WWW.MASENATE.GOV

May 4, 2016

Lieutenant Governor Karyn Polito, Chair
Community Compact Cabinet
State House, Room 280
Boston, MA 02133

Dear Lt. Governor Polito:

I am writing in support of the recent grant application submitted by the Town of Upton for a Community Compact IT Grant. The Town is seeking \$72,030 for much-needed upgrades to their electronic permitting system.

As technology leaps forward, communities are continuously faced with the need to reevaluate and upgrade their technological systems in order to provide consistent and accessible services to local residents. The Community Compact IT Grant would enable the Town of Upton to upgrade their electronic permitting to make the user experience more straightforward, as well as to improve internal communication networks that would make work of government officials more efficient.

The internet is utilized by individuals for a variety of purposes ranging from the purchase of goods to reading the news, and Government activities and service platforms should be equally as easy to access and navigate online. An upgraded electronic permitting system would not only make transactions less challenging for users, but also aid the town administration in providing timely responses to user requests and inquiries.

This grant would enable the Town of Upton to build upon existing efforts to implement innovative technology that was initially made possible through a regionalization grant previously awarded to the Town. As a member of Community Compact, the Town of Upton seeks this grant in order to provide a more reliable and navigable online platform to its residents, including the implementation of a more efficient permit purchase and inspection process.

Thank you in advance for your time and thoughtful consideration of this important grant application submitted by the Town of Upton. While nominal, this funding request would have a considerable impact on the delivery of government services to the residents of Upton. If you should have any questions, or if I may provide any further information in support of the grant application submitted by the Town of Upton, please do not hesitate to contact my office.

Sincerely,

Senator Michael O. Moore
Second Worcester District

Chairman
HIGHER EDUCATION
Vic. Chairman
PUBLIC SAFETY AND
HOMELAND SECURITY

SENATE WAYS AND MEANS
POST AUDIT AND OVERSIGHT
BONDING, CAPITAL EXPENDITURES
AND STATE ASSETS
LABOR AND WORKFORCE DEVELOPMENT
INTERGOVERNMENTAL AFFAIRS