NELSON POPE VOORHIS
environmental • land use • planning

MEMORANDUM

TO: Howard Post, Planning Board Chair
Members, Saugerties Planning Board

FROM: Adriana Beltrani, AICP
Dylan Tuttle

RE: KCE NY 34 LLC
7 Tomsons Road, #150
SBL 18.1-4-5.100

DATE: September 11, 2026

CC: Becky Bertorelli, Planning Board Clerk
Paul Larios, Town Engineer
George Redder, Esq., Planning Board Attorney

We are in receipt of the following items:

- Comment Response Letter to NPV Memo, dated August 21, 2026;
- Comment Response Letter to Brinner and Larios SWPPP Memo, dated August 21, 2026;
- EAF Part 1, prepared by Paul Williamson, dated August 13, 2026;
- Alternate Stormwater Management Documentation:
    - DEC Letter Discussing Alternate SWM, dated January 20, 2017;
    - EDR Memo Discussing Alternate SWM, dated February 20, 2016;
    - EDR Alternate SWM Details, dated February 25, 2016;
    - National Grid Alternate SWM Letter, dated February 25, 2016;
- Geotechnical Report, prepared by Atlantic Testing Laboratories, dated July 30, 2026;
- Plume Analysis, prepared by Fire and Risk Alliance, dated July 21, 2026;
- SWPPP, prepared by EDR, dated August 2026;
- Adjacent Property Value Impact Report: Site Specific Analysis, prepared by CohnReznick, dated July 21, 2026;
- Adjacent Property Value Impact Report: Academic and Peer Authored Property Value Impact Studies, prepared by CohnReznick, dated July 21, 2026;
- Site Plan (22 Sheets), prepared by EDR, dated April 3, 2026, last revised August 12, 2026.

Previously reviewed items are enumerated in prior memoranda.

The proposed project includes the construction of a 100MW/400MWh battery energy storage system (BESS) with associated transformer, breakers, and fencing on a 59-acre parcel that gains access from Tomsons Road. The project is located within the Industrial district and the Aquifer Protection Overlay district, and the use is permitted with site plan and special use permit as Electric, Gas and Sanitary Services.

New comments are in **bold**. Prior comments that remain relevant are underlined. Previously addressed comments where no further action is required have been removed for clarity and can be found on prior memos.

Submission Status 9/15:

1. Application Status. Our understanding is that at this point, the applicant has submitted drafts of all of their application materials. Our comments on the newly-submitted materials can be found below.

   The Town has hired Code Red Consulting to conduct an independent safety analysis of the project. Code Red is in the process of reviewing materials, including the Draft ERP and Plume Study. Our understanding is that they will issue a memo in the coming weeks and intend to present to the Planning Board at the October meeting.

2. The Town Engineer provided comments on the SWPPP in a memo dated July 17th, 2026. A meeting to discuss the comments was held with the applicant on August 11th, and a revised SWPPP is included with this submission. We continue to defer to the engineer on these issues.

3. Several legal instruments will need to be evaluated by the Planning Board attorney, including the decommissioning plan and land agreement/site control documentation. The applicant previously stated that an updated title report was being prepared, and we do not believe this has been submitted. Available materials should be forwarded to the attorney at this time.

4. An updated ecology memo is attached herein. All outstanding comments on ecology issues are minor, including the seed mix and incorporation of the vernal pool analysis into the Wetland and Stream Delineation Report.

5. The Board should discuss the timeline for scheduling a public hearing on this matter given the completeness of the application to date.

6. We recommend that the application be referred to Ulster County once the memo from Code Red has been received by the Board.

Zoning

1. The project requires a Special Use Permit and is thus subject to §245-34. Of particular importance to this review is D(2)(b), Fire and explosion hazards; (2) (g) and (i) Smoke and other forms of air pollution; (j) discharge of water. We note that concerns related to these topics relate exclusively to emergency hazard scenarios. The applicant provided a response to Special Permit considerations in their initial cover letter, and exploration of these topics will continue through the State Environmental Quality Review of the project. Specific Special Permit comments are as follows:

   a. *Noise:* **9/15 – The applicant has provided a revised sound study. Comments on the first sound study can be found in previous memos. We find the revised sound study to be thorough and largely acceptable. The project meets the statutory requirement of 70 dBA at the property line as required by §245-34. We offer the following summary and comments:**

      i. **The study captured existing ambient sound through two long-term monitors on the applicant's property and three short-term (20 minute) monitors at nearby sensitive receptor sites (Abbots Court, Country Meadows Apartments, and Old Route 32 in front of the Holiday Inn Express). Ambient sound was recorded in the high 40s-low 50s dB range during the day except for the Country Meadows and Old Route 32 locations, where it was about 60. Overnight readings were in the mid 40s except for**

Old Route 32, where it was in the mid 50s. When modeled sound from the BESS is added, these values only increase by 0-2 dB, except for the North Street location which registered an increase of 8dB (discussed below). As the report states, sound changes begin to be perceptible around 3 dB and become clearly noticeable around 5dB.

ii. The study uses a worst case scenario approach in which the HVAC is operating at full power as though it were a very hot day, while also assuming ideal sound travel conditions like one would find on a cool night.

iii. The study recorded an existing ambient nighttime level of 44 dBA for the short-term (20 minute) sensor near North Street. This low ambient level means that the modeled sound from the BESS has the potential to raise the ambient noise by as much as 8 dB, to 52, which is a noticeable change. The measurement at the closest long-term station was quite low during this period compared to its average, therefore, ambient sound at the short-term station may be closer to 50, and the dB difference when the BESS is added likely closer to 3 or 4 on average. The Board could request more information about the frequency with which existing ambient sound falls to a level that would render the project audible, or could request additional sound barriers on the eastern fence line. We suggest, however, that a sound level of 52 dB is unlikely to be intrusive even if it were perceptible, especially given the worst case scenario of the modeling, and is well below the Town's statutory requirement.

iv. Does the study take trees/foliage into account? Based on the modeling results it appears that buildings are taken into account, but it is not clear whether trees are.

v. **In a few places the study refers to "ML1" and "ML2" locations instead of LT1/2.**

b. *In their cover letter, the applicant states that the project would have no impact on Smoke/Odors/Other Forms of Air Pollution or Discharge of Water, but the response should consider emergency hazard scenarios and should note where in the Safety, Fire, and Explosion Prevention documents these issues are addressed. This should be included in a SEQR Part 3 response once the Part 2 EAF is adopted.*
4/21 – The applicant has provided a response to this comment in their April 7, 2026 response letter. As noted above, this issue will also be addressed in a SEQR Part 3.

c. *Established best practices for BESS should be considered by the Board during their Special Use Permit evaluation. We note that the Planning Board may "impose additional conditions and safeguards upon the special use permit as may be reasonably necessary."*

d. 9/15 new comment – The applicant has provided an "Adjacent Property Value Impact Report" with their submission. Impact on property values is a component of the "compatibility with the surrounding neighborhood" component of Special Permit requirements [§245-34 A (2)]. We offer the following comments on the report for the Board's consideration:

i. The report does not find any decrease in property values for homes located near a BESS facility.

ii. However, there appears to be limited research on the impact of BESS on property values, which is unsurprising given the recency of rollout at scale. The report relies on one undergraduate thesis that examined 178 BESS sites; examination of sales near

five specific BESS installations by the report authors; and interviews with assessors with BESS in their districts. The authors also cite findings of no impact near solar energy facilities as further evidence that a decrease in values near BESS is unlikely.

iii. **Nearly all of the reviewed BESS installations are smaller than the KCE proposal, with many in the 1-20MW range. Only one (the 200MW Diablo Energy BESS in California) is larger than the proposed facility.**

iv. **Many of the reviewed facilities are significantly more visible than the KCE proposal and are closer to residences. We suggest that the natural screening of the Saugerties project is likely to reduce potential impacts on property values.**

2. §245-25, Aquifer Protection Overlay District. The applicant should provide a narrative regarding project compliance with this section, including any hazards to the aquifer associated with an emergency event- see subsection D.(3), particularly subsection (e), (f), (h). The Board should be aware that D.(4) of this section outlines criteria for site plan review.
4/21 –The applicant has provided an Aquifer Protection District compliance narrative that addresses §245-25 and includes a list of system chemicals. We will evaluate compliance with this section as SEQR progresses.

9/15 - We request that the applicant update the compliance narrative for clarity and completeness:

a. **Correct the numbering of section D (3) to match the code section, with "NA" for any subsections that do not apply.**
b. **Distinguish the responses to each subsection rather than grouping them at the end of the narrative**

The project is not prohibited in the Aquifer Overlay district and regular operation of the facility does not appear to conflict with any provisions of §245-25. Concerns are specific to potential runoff from an emergency event. Code Red intends to discuss this topic in their memo, and we will work with them to determine whether any additional information or expert input is needed.

Planning/Site Plan

1. The applicant has provided two options for the connection to the Central Hudson substation. Option one includes a portion of underground utilities to connect to overhead lines crossing through a small portion of the federal wetlands, with a note that tree removal in this area would be non-mechanical, with stumps to remain. Option two is a fully underground connection that avoids the wetlands. The applicant should provide documentation to the Board outlining the rationale for each option. Wetland and tree disturbance should be minimized to the maximum extent practical per §245-35, special use permit criteria.
3/17- The applicant has clarified that their preference is Option Two, but because of the proximity of that connection to the substation they had to provide Central Hudson with an alternative that gave a wider berth. Will the easement area be adjusted if Option Two is selected?
4/21 – Comment addressed, applicant is still awaiting a decision from Central Hudson.

2. Applicant states that they have secured access to the site through parcel number 17.16-2-25.110. Documentation should be provided.
3/17- Comment remains, copies of agreements and deed records should be provided.
4/21 – Comment addressed, we defer to the attorney on the details of the easements and agreements.

3. A decommissioning plan has been provided. We will work with the Planning Board Attorney to review and comment regarding the conditions of same, bonds, agreements or other sureties to be submitted.

4. Utilities are proposed to cross a Central Hudson right-of-way- does this require an easement? *3/17: Comment remains, applicant states that a crossing agreement application has been submitted to Central Hudson.*

5. Sheet C-001, C-002- the area of tree disturbance should be quantified on the plan set. [Prior comments removed for brevity] *7/21 – As noted above, the tree survey has been included in the plan set with this submission and is being reviewed by our ecologist.* **9/15 – The ecologist's review memo is attached and finds that the provided tree survey resolves this comment.**

6. The applicant has provided a desktop viewshed analysis. The legend includes points that are not shown on the map. It is unclear what this analysis is showing and what methods were utilized in its determination- this document should be updated.
3/17: Comment remains.
4/21 – The applicant has provided an updated visual assessment. The submission is a desktop analysis using a Digital Surface Model, which uses LIDAR to make a 3D rendering of site conditions and allows for a desktop visual assessment that considers trees, buildings, etc., and not just topography. This is likely a more accurate approach, but a less conservative one than the simpler digital elevation model. The result indicates limited project visibility, with some view lines in the Route 32/Kings Highway area and a few points near Augusta Savage Rd (Winston Farms project). Note that in many of these locations only the tallest project components (such as transmission poles) would be visible. 7/21 – The visual analysis report was included again with this submission, but it is not clear that anything was updated besides the date. The applicant should note if there was a substantive reason for the resubmission. **9/15 – The applicant states that the only change is the inclusion of the sound wall, which does not have an effect on the visual analysis**

7. The applicant is proposing light poles that are no higher than 30 feet. Best practice is a maximum height of 18 feet for non-pedestrian areas. We do understand that these lights will only be used during maintenance. Regardless, a lighting plan should be provided.
3/17: Comment remains.
4/21 – The applicant has provided a lighting plan. Fixtures are dark-sky compliant, but the 3,000K option should be selected. Lights are still proposed at 30 feet. Given that these fixtures are only for use during maintenance, we do not have a strong opinion on the height.
5/19 – The applicant has indicated that they will use the 3,000K option. This should be updated on the lighting plan. 6/16 – Comment remains, a new plan set has not yet been submitted. 7/21 – Comment addressed. **9/15 new comment – Our understanding is that security cameras at BESS facilities are regulated by NYS Fire Code section 1207.4.9.1 and NFPA 731 Section 7.3. The applicant should confirm that the project will meet these standards without constant lighting and explain how it will do so. We also recommend that a note be added to the plan that security cameras will be provided in accordance with applicable regulations.**

8. Survey comments:

    a. General note 7 states that the parcels have "access to a dedicated public right-of-way known as Tomsons Road." The access easement shown on the survey only extends part of the way down Tomsons Road, though the entirety is on private property. The applicant should clarify the status of the road from the end of the access easement to the road's intersection with Route 32 and provide any appropriate documentation. We note that the proposed Esopus Ridge solar project includes an easement that runs the length of Tomsons Road. *4/21 – Comment*

addressed. We recommend the easement be provided to the Planning Board Attorney for review.

b. The survey includes a set of green lines labeled "Access Easement Lines" in the legend. Given that easements are proposed for this project, it would be helpful if the survey specified any easements that are associated with other developments and listed to whom they were granted. *4/21 – Applicant states that they have requested an updated title report and will add any newly-recorded easements to the survey.*

9. The lease area, the easement area between the lease area and the substation, and the access easement that runs along part of Tomsons Road are all described on Page 2 of the survey. As noted above, we are awaiting clarification on the status of the remainder of Tomsons Road between the access easement area and Route 32. Copies of agreements and deed records should be provided. *4/21 – Comment addressed. We recommend the easement be provided to the Planning Board Attorney for review.*

10. The applicant should provide a photometric plan and light fixture spec sheets. As noted in the Planning best practice comments below, fixtures should be full cut-off and light trespass onto neighboring properties should be strictly limited. *4/21 – Comment addressed. Fixtures selection should be adjusted to the 3,000K option. As noted above, we do not have a strong opinion on the height given that the lights are turned on for maintenance only. 5/19 – As noted above, the lighting plan should be updated to reflect 3,000K fixtures. 6/16 – Comment remains, a new plan set has not yet been submitted. 7/21 – Comment addressed.* **9/15 – On further review of the plans, the displayed photometric values are limited to certain parts of the site. Some areas, including directly beneath some of the light fixtures, have no displayed values. The plan should be updated to show values for all illuminated areas.**

11. Sheet C-101/201/301: The applicant should clarify the "battery containers and MV transformers for future augmentation" shown at the north end of the site. Is this an area for future expansion? If so, how much capacity could be added, what would trigger the expansion, and how will that be built into the emergency response documents? If expansion is built into the project, the special use permit review and SEQR should consider future phases of the project if they can be reasonably anticipated. The threshold for any site plan/SUP amendments needs to be clearly understood. *4/21 – Applicant states that this area is to accommodate additional batteries to account for the lower efficiency of batteries on the site over time. As batteries become less efficient, the applicant could supplement them in order to remain at the 100MW capacity. Will the augmentation containers and transformers be constructed at the same time as the rest of the project?*
5/19 – Applicant clarifies that containers and other equipment would be constructed later. They are seeking plan approval for that now to avoid needing to come in for a site plan amendment. The Board should determine whether they are comfortable approving a multi-phase plan. If the Board retains a BESS consultant, it may wish to get input on whether this approach is advisable, and what future review would be required pursuant to the Fire Code at the time of future installation. 6/16 – Comment remains and should be discussed by the Board, potentially with a hired BESS safety specialist.

12. **9/15 New comment – The applicant has included a geotechnical report with the submission. We offer the following comments on the report:**

    a. **The report mentions several support techniques, including helical piles, spread footings, drilled piers, etc., noting that helical piles (which the report says are the standard treatment for BESS facilities) may not be appropriate for the site given the variable depth to bedrock. What is the applicant proposing? A detail should be included in the plans.**

b. Given the site's mapped Onondaga Formation limestone, historical mining in the vicinity, and the highly variable bedrock elevations and locally very poor rock quality identified in the geotechnical report, the applicant should provide a supplemental evaluation addressing the potential for subsurface voids, karst features, mine workings, and associated subsidence or collapse. The evaluation should identify whether the existing investigation is sufficient to address these concerns and, if not, recommend and undertake appropriate additional investigation.

SEQR/Coordination 9/15

1. The applicant submitted an updated EAF with the new questions pertaining to disadvantaged communities and climate change. We have similarly prepared an updated EAF Part 2. We made the following changes to the draft EAF Part 2 first provided to the Board in May:

a. Section 10, "Impact of Historic and Archaeological Resources," is now marked "Yes," as the site is in an area designated as sensitive for archaeological sites. The subcategories under this topic are all marked "No, or small impact may occur," as the State Historic Preservation Office has issued a letter of no impact for the project.

b. Section 18, "Community Character," is now marked "Yes," and subcategory b, concerning increased demand for services, is marked as "Moderate to large impact may occur" to better ensure that potential concerns about emergency services needs are considered.

c. Section 19, "Disadvantaged Communities," is marked "Yes," as the site is within half a mile of the DAC covering most of the Village. Subcategories a and f.ii are marked "Moderate to large impact may occur."

d. Section 20, "Future Physical Climate Risks," is marked "No," as the FEAF Part 1 indicates no potential impacts in this category.

The Board could consider adoption of the Part 2 at this time.

2. As noted above, we suggest that Ulster County referral be made once the review memo from Code Red Consulting is received.