NELSON POPE VOORHIS
environmental • land use • planning

MEMORANDUM

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

FROM: Adriana Beltrani, AICP
Dylan Tuttle, AICP

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

DATE: October 16, 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, prepared by Key Capture Energy, dated October 6, 2026;
- Comment response Letter to NPV Ecological Memorandum, prepared by Key Capture Energy, dated October 6, 2026;
- Title Report, signed by Craig Goldenberg of Stewart Title Insurance Company
- Compliance with Aquifer Protection District report, prepared by Key Capture Energy, undated
- Erosion Control Report Specification Sheet, prepared by North American Green, undated;
- Wetland and Stream Delineation Report, prepared by EDR, updated September 2026;
- Site Plan Sheet G-002 (General Notes and Abbreviations), prepared by EDR, dated April 3, 2026, last revised October 5, 2026.
- Site Plan Sheet C-104 (Photometric Plan), prepared by EDR, dated April 3, 2026, last revised October 5, 2026.
- Fire and Life Safety Peer Review, prepared and signed by Jay Ierardi of Code Red Consultants, dated October 7, 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** or appropriately dated. Prior comments that remain relevant are <u>underlined</u>. Previously addressed comments where no further action is required have been removed for clarity and can be found on prior memos.

A second memo, reviewing the EAF Part 2 that we have provided to the Board, is attached.

Submission Status 10/20:

1. Application Status. At this time, the applicant has submitted the materials required for site plan and special permit review, in addition to supplemental materials requested by the Planning Board and its consultants. This information has been reviewed by Board and Town Consultants, including in a safety analysis from Code Red Consulting. **The Board should consider scheduling the public hearing and referring the project to Ulster County Planning at this time.**
2. As further described below, we recommend an independent expert review the materials related to geology and hydrogeology.
3. We participated in a call with the applicant and the Town Engineer on October 1st to discuss the status of the SWPPP. Our understanding is that updates to the SWPPP in response to comments are forthcoming.
4. An updated Title Report is provided in this submission. We recommend that the Report, all easement language, the decommissioning plan, and any other legal instruments be referred to the Board's attorney at this time.
5. A response to our most recent ecology memo was provided. All of our ecology comments have been satisfied, although we continue to defer to the engineer on the appropriateness of the slope along the edge of the wetland.
6. As noted, Code Red Consulting submitted their initial review memo. Their review did not identify any major fire and life safety concerns. They do note several ways in which plans could be adjusted to better accommodate emergency response. These include:
    a. Emergency responder access and staging: In a meeting with CRC, emergency responders expressed concerns about their ability to reach every part of the project site while remaining outside the secured area and the recommended 100-foot standoff distance. The memo recommends coordination with the fire department to ensure an adequate staging area and access for cooling of adjacent structures. The memo also notes that the swept path analysis (fire truck turning plans) may need to be updated to reflect local apparatus, and that a Knox Padlock may be preferrable to a Knox Box. We suggest that these suggestions be incorporated into the site plans.
    b. Water supply: The nearest fire hydrants are private. Their ownership, operation, inspection, testing, maintenance responsibilities, and available flow capacity should be provided to the Planning Board and the necessity of easements or other agreements for their use evaluated.
    c. Emergency communications: The memo recommends that the applicant provide additional information about emergency technical support, including response time, specific role, and responsibility during an extended-duration incident. We believe this should be provided to the Fire Department as a condition of approval.
    d. Training: The memo recommends initial, pre-operational and annual refresher trainings, and that these trainings include mutual aid departments. This may be included as a requirement for the Special Use Permit.
    e. Air monitoring: The memo recommends that the applicant provide air monitoring and thermal equipment and training to first responders. The Board should work with the applicant and Fire Department to prepare documentation regarding any agreements to this effect, which can be conditions of final approval.

f. Wildfire exposure: The memo notes the importance of continued vegetation maintenance around the facility. We recommend that a note be added to the plans stating that buffer areas will be maintained free of trees, brush, or other flammable materials. This should also be a condition of the special use permit. We also recommend that the minimum clearance distance (as determined in consultation with the fire department) should be shown on the site plan.

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:* **10/20 – Our comments on the noise study can be found in our September memo. We note that in their response, the applicant states that neither trees nor buildings were taken into account in the study. Both would limit noise impacts.**

   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."

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

   10/20 – Comment a is addressed. Comment b remains. Responses to the SWPPP and groundwater threat subsections are still grouped. Title references subsections b and e rather than c and g.

   Aquifer compliance is beyond the scope of the Code Red review. As noted, we recommend an independent expert review of the applicant's analysis.

Planning/Site Plan

1. 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.
   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.

   10/20 – Comment addressed. The applicant has provided a memo detailing security and lighting, noting that the project will make use of infrared cameras that do not require visible spectrum site lighting to operate. The requested note has been added to site plan sheet G-002.

2. 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. *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.* **10/20 – Comment addressed.**

3. Battery Augmentation Area. **10/20 – In their review memo, Code Red notes that "future battery augmentation areas should be subject to future fire and life safety review and ERP updates prior to installation." We recommend that this be addressed through a Special Permit condition that any future augmentation shall be subject to such a review and ERP update. The condition should also apply to other project changes, including to battery technology. Any non-de minimis physical site changes would require amended site plan and special permit review.**

4. *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.*

   10/20 – The applicant indicates that foundations using either spread footings or drilled piers will be used, and that this decision will be made during the detailed design and construction phase. Applicant further states that, based on the boring tests and observed geomorphic indicators, the concerns in the comments above have been adequately addressed. As noted, we recommend an independent expert review of this report.

SEQR/Coordination 10/20

1. Please see the attached memo describing the EAF Part 2 provided for the Board's review.

2. We note that in the updated EAF submitted in September, the answer to question E.2 a was changed, from 2.9 feet to bedrock to 6.1 feet. The applicant should explain the adjustment.
3. As noted above, we suggest that Ulster County referral be made at this time.
4. Now that Code Red has met with emergency responders and provided their review memo, we recommend that the Board refer the project to Cedar Grove Fire Department for comment.