

MEMORANDUM

To: Bea Ogunti, Planning Board Secretary

Date: April 14, 2022

Subject: **Central Hudson 69 kV KM Electric Transmission Line Replacement – Resolution of Site Development Plan and Wetland Permit**

As requested, we have prepared the attached draft **Resolution of Site Development and Wetland Permit** for your review and consideration.

If you have any questions with respect to the above, please let us know.

Malcolm Simpson
Planner

**RESOLUTION
TOWN OF WAPPINGER PLANNING BOARD**

**RE: CENTRAL HUDSON 69 KV KM ELECTRIC TRANSMISSION LINE REPLACEMENT –
RESOLUTION OF SITE DEVELOPMENT PLAN AND WETLAND PERMIT**

At a regular meeting of the Planning Board of the Town of Wappinger, Dutchess County, New York, held at Town Hall, 20 Middlebush Road, Wappingers Falls, New York on the ____ day of ____, 2022 at 7:00 P.M.

The meeting was called to order by the Chairman Bruce M. Flower and the Planning Board member attendance was as follows:

Bruce Flower	_____
Ralph Marinaccio	_____
Robert Ceru	_____
Markos Peratikos	_____
Paul Freno	_____
Nicholas Maselli	_____
Lynne Versaci	_____

The following Resolution was moved by _____ seconded by _____.

WHEREAS, the Zoning Administrator and the Planning Board received the Applications of Central Hudson Gas & Electric Corp. (the “Applicant”) for Site Development Plan (Site Plan) and Wetlands Permit Approvals to reconstruct an existing 69kV electric transmission line, known as the “KM Line”, including the replacement of damaged and deteriorated poles and equipment within the existing public utility KM transmission right-of-way (ROW) (collectively, “Project”) ¹;

WHEREAS, the purpose of the Project is to reconstruct deteriorated electric transmission infrastructure which has reached the end of its useful life, to address long term degradation of the conductors along the KM Line and many of the existing wood poles, and to provide enhanced storm hardening and reliability; and

WHEREAS, the existing KM Line traverses a northwest direction from the border of the Myers Corners Substation on Myers Corner Road (Town of Wappinger) to the area just west of Victor Lane (Town of Poughkeepsie) (the “Project Site” or “Site”) and the total length of the proposed replacement Project is approximately 2.8 miles, with 1.7 miles within Wappinger and 1.1 miles within Poughkeepsie; and

¹ Central Hudson also included with its December 2021 submission to the Planning Board an application to the Zoning Administrator for a Floodplain Construction Permit pursuant to Town Code Chapter 133.

WHEREAS, the Project is thoroughly described in the Applicant's Application materials and submissions to the Planning Board, as well as in the SEQRA Negative Declaration (Notice of Determination of Non-Significance) adopted on April 4, 2022, which is attached hereto; and

WHEREAS, the Zoning Administrator for the Town of Wappinger, who participated in the Planning Board review process, issued a zoning decision, confirming that the portion of the Project within the Town of Wappinger is permitted subject to obtaining site plan approval from the Wappinger Planning Board; and

WHEREAS, the Wappinger Town Staff and Planning Board Consultants conducted a pre-application conference regarding the Project on November 30, 2022; and

WHEREAS, the Applicant submitted Application forms for Site Plan Approval and a Wetland Permit dated December 20, 2021; a Full Environmental Assessment Form (FEAF) with Attachments A - J dated December 20, 2021; a Wetland Delineation Report prepared by Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C. (EDR) dated December 2021; a Stormwater Pollution Prevention Plan prepared by EDR dated December 2021; Site Plan Set ("Project Drawings" generally titled KM Line Replacement Project Planimetric and Prolife Drawings) with a Cover Sheet and Sheets 1-9 dated December 22, 2021; Correspondence from Cuddy & Feder, LLP dated February 10, 2022 with Attachments A-D (including EDR responses to comments and memorandum from the Town of Poughkeepsie); Copies of the Applicant's presentation materials during the March 7, 2022 public hearing; and Correspondence from Cuddy & Feder, LLP dated March 22, 2022 with Attachments A-B (including EDR responses addressing NYS Agriculture and Markets Department comments and the review completed by the Federal Aviation Administration), among other things; and

WHEREAS, the Project Site containing the existing KM Line is a public utility ROW that has been appropriated for such utility use for almost one hundred years; and

WHEREAS, in accordance with Sections 239-l and m of the New York State General Municipal Law, the Planning Board referred the Project Application to the Dutchess County Department of Planning and Development (DCDPD); and

WHEREAS, the DCDPD responded to the above mentioned referral in its letter of January 4, 2022 which concludes that the Project is a local matter for the Planning Board's review; and

WHEREAS, the Planning Board determined that the Proposed Action is a Type I action with respect to the New York State Environmental Quality Review Act (SEQRA) because it involves a nonagricultural use occurring partially within an Agricultural District and will exceed 2.5 acres of land disturbance [6 NYCRR Part 617.4(b)(6)(i) and 617.4(b)(8)]; and

WHEREAS, the Planning Board, after declaring its intent on January 19, 2022, to serve as the Lead Agency for the SEQRA process, received consent from the Town of Poughkeepsie and no objection to its declaration from others, and thereafter became the Lead Agency; and

WHEREAS, the Poughkeepsie Planning Board reviewed the lead agency notice and consented at its January 20, 2022, meeting to the Wappinger Planning Board serving as the Lead Agency for the Project, and issued a letter, dated January 24, 2022, and provided SEQRA comments, which the Lead Agency considered as part of its SEQRA review; and

WHEREAS, the Planning Board reviewed the Project at public meetings in January, February, March, and April, prior to rendering a SEQRA Negative Declaration on April 4, 2022; and

WHEREAS, a duly advertised public hearing on the Project was held on March 7, 2022, at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, the Planning Board reviewed and discussed this Resolution in consideration of the record before it for the Project at a public meeting held on April 18, 2022, and

WHEREAS, the Planning Board is familiar with the Site and all aspects of the Project and is satisfied that the Project will comply with applicable sections of the Town Code including the Zoning Law (Ch. 240) and relevant provisions of Site Development Plan review and approval in Article IX, the Freshwater Wetland Protection Law (Ch. 137), as well as other applicable laws and regulations such as the Flood Prevention Law (Ch. 133) subject to the conditions below.

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

1. The Planning Board hereby adopts and incorporates as findings the recitations and statements set forth above as if fully set forth and resolved herein.
2. The Planning Board hereby incorporates as findings the recitations and statements set forth in the SEQRA Negative Declaration (Notice of Determination of Non-Significance) adopted April 4, 2022, as if fully set forth and resolved herein, including but not limited to findings on applicable standards in Town Code Article IX involving traffic, access, vegetation, lighting, visibility, natural and cultural resources, construction details, stormwater, public benefits, and harmonious Project design.
3. The Planning Board hereby adopts this Resolution of Site Plan and Wetland Permit Approvals to reconstruct an existing 69kV electric transmission line, known as the "KM Line", within the existing public utility right-of-way, as described above and as shown on the noted Project Drawings, in accordance with the provisions of Article IX of the Zoning Law and applicable provisions of the Wetland Permit Law (Ch. 137) subject to the following being fulfilled prior to the Planning Board Chairman endorsing the applicable sheets of the KM Line Replacement Project Plan Set (Project Drawings):
 - a. The Planning Board Chairman shall endorse a copy of this Resolution certifying its correctness. After it has been initially endorsed by the Chairman, the Applicant shall also sign a copy of this Resolution acknowledging receipt of the Resolution and shall

submit the signed copy to the Zoning Administrator for filing.

- b. The Applicant shall comply with the outstanding comments of the CPL Letter, dated January 13, 2022, identified as CPL Comments 6, 12, 15 and 16 dealing primarily with the SWPPP and NOI filing, to the satisfaction of CPL, serving as the Planning Board/Town Engineer (CPL).
- c. The Project SWPPP and Project Drawings (Site Plan Set) shall include the Applicant's NYS Licensed Engineer's stamp and signature.
- d. The Applicant shall obtain all necessary "outside" agency approvals for the Project.
- e. The Applicant shall provide all documentation from the NYSDEC in regard to the applicable wetlands in the Project Site (ROW) in the Town of Wappinger.

When all of the items set forth in Condition 3 above have been satisfied, nine (9) copies of the above referenced plans, revised as necessary, shall be submitted for endorsement by the Planning Board Chairman, certifying that the plans comply with the terms of this resolution, at which time, the Chairman shall also endorse this resolution in the space provided below, certifying that the Applicant has complied with said conditions of approval. A PDF and a paper copy of the final signed plans shall be submitted to the Planning Board as part of the record. This submission shall include all supporting documentation verifying the sub-conditions set forth in Condition 3 have been met and this submission should include a narrative detailing what elements are included in this submission and in what way these elements address the sub-conditions set forth in Condition 3. This submission, including the narrative and all supporting documentation shall be submitted together at once.

- 4. The Applicant shall participate in a pre-construction meeting with Town Staff, including the Zoning Administrator, Planning Board Engineer and Planning Board Attorney to review construction staging, the proposed locations of employee vehicle and construction vehicle parking, and scheduling.
- 5. The Applicant shall notify the Zoning Administrator of the date on which the Project construction will begin at least 5 days in advance of said date.
- 6. The Applicant shall send pre-construction notifications to owners of property which adjoin the KM Line ROW in compliance with Central Hudson's notification and communication process for transmission line replacement projects. The letters shall notify the property owners of the upcoming work and shall provide the telephone number of a contact person at Central

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Hudson.

7. The Applicant shall obtain all necessary highway work permits from the Town of Wappinger and/or County of Dutchess, to the extent required by said jurisdictions.
8. The Applicant shall obtain a Floodplain Development Permit from the Town Zoning Administrator for the Project pursuant to Chapter 133.
9. In accordance with the Town's Schedule of Fees, the Applicant shall be responsible for the payment of all application review fees incurred by the Planning Board in the review of this Project which are in excess of the application review fees paid by the Applicant to-date. Such fees shall be paid within thirty (30) days of the notification to the Applicant that such fees are due. If such fees are not paid within this thirty (30) day period and an extension therefore has not been granted by the Planning Board, this Resolution shall be rendered null and void. Refunds of any remaining funds within the escrow account for the applications will only made in accordance with the provisions of Chapter 240 Attachment 6:1, Planning and Zoning Departments Fees and Escrow Funds.
10. The Site Plan Approval is not subject to expiration or renewal pursuant to Town Code Sections 240-88 and 240-90 due to the uniqueness of the Project and the potential hardship that such limitations would impose. The Project involves essential public utility infrastructure that does not include any buildings or occupiable space. The Project does not require any building permits or certificates of occupancy.
11. This Wetlands Permit Approval shall expire upon completion of the acts approved herein and shall be valid for a period of two (2) years from the signing of the Wetlands Permit by the Chairman of the Planning Board.
12. Except as specifically modified herein, any prior Resolutions of approval and any amendments thereto for the Project Site previously adopted by the Planning Board shall remain valid and in full force and effect.
13. The Applicant shall fund a post-approval escrow account in accordance with Section 122-16 of the Town Code.

The question of adoption of this Resolution was duly put to a vote on roll call, which resulted as follows:

Bruce Flower	Vote: _____
Ralph Marinaccio	Vote: _____
Robert Ceru	Vote: _____

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Markos Peratikos	Vote: _____
Paul Freno	Vote: _____
Nicholas Maselli	Vote: _____
Lynne Versaci	Vote: _____

The resolution is hereby duly declared adopted.

Dated: _____, 2022
Wappingers Falls, New York

Bruce M. Flower, Chairman
Town of Wappinger Planning Board

Date

Anthony Morando
Applicant

Date

The following endorsement hereby confirms that the Applicant has fulfilled all of the items in Condition 3 of this resolution and that the above mentioned drawings may be endorsed by the Planning Board Chairman.

Bruce M. Flower, Chairman
Town of Wappinger Planning Board

Date