

Town of Wawayanda PLANNING BOARD

Barbara Parsons, Chairperson
Planning Board
80 Ridgebury Hill Road
Slate Hill, New York 10973

Telephone: 845-355-5700 Ext. 8
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May 9, 2013

Mr. Steven Remillard
Vice President, Development
CPV Valley Energy Center
50 Braintree Hill Office Park
Suite 300
Braintree, MA 02184

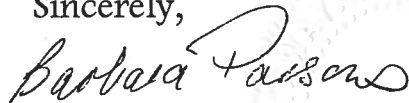
At the Planning Board meeting on May 8, 2013 regarding your application for approval of a Site Plan, Special Use Permit, and Lot Line Consolidation for the construction and operation of a 650 megawatt natural gas combined-cycle generating facility with an interconnection substation, consisting of a gas insulated switch gear (GIS) building adjacent to the NYPA Marcy South line that will be constructed along the Middletown/Wawayanda boundary. Parcel(s) Section 4, Block 1, Lot(s) 38.32, 38.33, 40.22 and Section 5, Block 5, Lot 18.1 located on U. S. Route 6 in the Town of Wawayanda was **GRANTED Conditional Final Approval**.

Conditions being:

1. Payment of any outstanding review fees to be paid in full.
2. Per attached Planning Board Resolution and MHE Comments dated 8 May 2013.

Once conditions have been met, maps may be submitted for signature.

Sincerely,



Barbara Parsons
Planning Board Chairperson

Cc: Town Clerk
Building Department
Assessor
Certified Return Receipt # 7012 1010 0000 5981 3086

TOWN OF WAWAYANDA PLANNING BOARD

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Planning Board
80 Ridgebury Hill Road
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May 9, 2013

Mr. Steven Remillard
Vice President, Development
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Set forth below is the decision rendered by the Planning Board of the Town of Wawayanda at their May 8, 2013 meeting regarding your application for approval of a Site Plan, Special Use Permit and Lot Line Consolidation for the construction and operation of a 650 megawatt natural gas combined-cycle generating facility with an interconnection substation, consisting of a gas insulated switch gear (GIS) building adjacent to the NYPA Marcy South line that will be constructed along the Middletown/Wawayanda boundary. Parcel(s) Section 4, Block 1 Lot(s) 38.32, 38.33 40.22 and Section 5 Block 5. Lot 18.1 located on U.S. Route 6 in the Town of Wawayanda, Orange County, New York.

Motion by Mary Markiewicz Seconded by John Neiger
For Conditional Final Approval

Very Truly Yours



Barbara Parsons
Planning Board Chairperson

cc: Town Clerk
Building Department
Assessors

CRR# 70121010 0000 5981 3086

RESOLUTION OF THE PLANNING BOARD
GRANTING SITE PLAN, SPECIAL USE PERMIT AND LOT LINE
CONSOLIDATION APPROVAL FOR THE CPV VALLEY ENERGY CENTER

TOWN OF WAWAYANDA
COUNTY OF ORANGE
STATE OF NEW YORK

WHEREAS, the Planning Board of the Town of Wawayanda, County of Orange, State of New York, met on the 8th day of May, 2013 at 7:30 p.m. to review the site plan, special use permit and lot line consolidation application (collectively, the "Application"), submitted by CPV Valley, LLC (the "Applicant"); and

WHEREAS, the CPV Valley Energy Center will be located on an approximate 21.25 acre portion of a 122 acre site within TC (Town Commercial) and MC-1 (Mixed Commercial) zoning districts bounded by Interstate 84; Route 17M and U.S. Route 6; and

WHEREAS, the CPV Valley Energy Center site is made up of the following tax map parcels: Section 4, Block 1, Lots 38.32, 38.33, 40.22 and Section 5, Block 5, Lot 18.1 within the Town of Wawayanda; and

WHEREAS, the Applicant has proposed the construction and operation of a 650 megawatt natural gas combined-cycle generating facility with an interconnection substation, consisting of a gas insulated switch gear (GIS) building adjacent to the NYPA Marcy South line that will be constructed along the Middletown/Wawayanda boundary; and

WHEREAS, the Application included a detailed Project narrative, plans for the Project, proof of compliance with both the relaxed zoning standard for public utilities under New York law and the Town's special use permit and site plan approval

standards, as well as other exhibits and enclosures; and

WHEREAS, the Town Planning Board served as lead agency for the Project under SEQRA, and, in that capacity, on May 23, 2012, completed the SEQRA review process by adopting its Finding Statement for the Project (the "Findings Statement"); and

WHEREAS, in the Findings Statement, the Town Planning Board determined that, consistent with social, economic, and other essential considerations from among reasonable alternatives available, the Project avoids or minimizes adverse environmental impacts to the maximum extent practicable (these findings constitute a portion of the Planning Board's findings of fact in support of the actions taken herein); and

WHEREAS, on March 27, 2013, at the Wawayanda Town Hall, the Planning Board held a public hearing (the "Planning Board Hearing") to consider the Application, at which time documentary, testimonial, and other evidence regarding the Application and the Project was presented for the Planning Board's consideration and all persons and organizations in interest were heard; and

WHEREAS, following completion of the Planning Board Hearing, the Planning Board permitted submission of written comment regarding the Application and Project up and through April 8, 2013 (the "Written Comment Period"); and

WHEREAS, on April 24, 2013 the Applicant submitted a written response to the documentary, testimonial, and other evidence submitted during both the Planning Board Hearing and the Written Comment Period; and

WHEREAS, the site plan and related materials were submitted to the Orange County Department of Planning ("OCDP") for its review pursuant to the requirements of the General Municipal Law

§ 239-1, m & n, and OCDP responded in writing by recommending approval of the Project subject to certain "binding comments" (the "OCPD Comments"); and

WHEREAS, the Planning Board has duly considered all of the documents and information generated as part of its review of the Application, including the following:

1. Written submissions, documentary evidence, and oral testimony of the Applicant, public, consultants, and all reviewing agencies;
2. The Draft EIS;
3. The Final EIS; and
4. The Findings Statement.
5. The oral and written submissions made during the Planning Board Hearing and Written Comment Period, as well as the Applicant's response thereto.
6. The OCDP Comments;

WHEREAS, the Planning Board has carefully considered all of the comments raised by the public, the Applicant, the Board's consultants, OCDP, other involved agencies, and interested organizations and officials, including those presented at numerous meetings of the Board as well as those submitted separately in writing.

NOW THEREFORE, THE PLANNING BOARD HEREBY MAKES THE FOLLOWING FINDINGS:

1. The Project, as proposed, avoids or minimizes adverse environmental impacts to the maximum extent practicable, including effects disclosed in the Draft EIS and Final EIS as more fully set forth in the Findings Statement.
2. The Project, as proposed, is consistent with the evaluation and mitigation measures set forth in the Findings Statement.
3. The Applicant is a public utility, as defined under both federal and New York law.
4. Under New York Law, since public utilities such as the Applicant (i) provide essential services, and (ii) must be located in a particular area in order to provide such services, are afforded a relaxed standard of review by the Planning Board, rather than the standards generally required for the necessary approvals.
5. The Applicant has established the need for electric generation capacity to the public.
6. The Applicant has established, to the satisfaction of the Planning Board, that approval of the Application is necessary to allow the Applicant to adequately operate the Project to provide necessary electric generation capacity.
7. The Applicant has met its burden for the requested special use permit and site plan approval set forth in New York Town Law §§ 274-a and 274-b, under the

applicable case law applicable to public utilities, as well as the requirements set forth in the Town of Wawayanda zoning law.

8. The Applicant has satisfied the conditions required by the Board, its engineer, counsel and multiple consultants.
9. The Applicant has obtained all outside agency approvals required to date.
10. The OCPD Comments are essentially identical to comments raised by the OCPD and responded to by the Applicant during the SEQRA process and as such, no further review and/or response to the OCPD Comments is necessary.

NOW THEREFORE, THE PLANNING BOARD HEREBY RESOLVES THAT the Application for the CPV Valley Energy Center is hereby GRANTED, and the Board's Chairperson is hereby authorized to affix her signature of approval to the site plan, special use permit and lot line consolidation upon the Applicant's satisfaction of the following conditions:

1. The Applicant shall pay all outstanding fees and escrow due the Town in connection with the Application;
2. The Applicant shall satisfy any remaining conditions set forth in any review letter and any additional technical comments from the Board's consultants in any subsequent letters;
3. The Applicant shall reimburse the Town for any outstanding escrow charges due to the Town in connection with the Board's consultants' review of this Application;
4. The Applicant shall secure all remaining necessary

permits, approvals and authorizations required from New York State and any other board or agency as required.

BE IT FURTHER RESOLVED THAT the Applicant shall submit proof of satisfaction of the foregoing conditions and submit a plat for signature following the date of this resolution. The Planning Board is authorized pursuant to Town Law §274-a and 274-b and the Town's Zoning Law to consider and grant further extensions on good cause shown.

Moved: Mary Markiewicz

Seconded: John Neiger

Vote: 7 Ayes

0 Nos

0 Abstentions



**McGOEY, HAUSER and EDSALL
CONSULTING ENGINEERS P.C.**

RICHARD D. McGOEY, P.E. (NY & PA)
WILLIAM J. HAUSER, P.E. (NY & NJ)
MARK J. EDSALL, P.E. (NY, NJ & PA)
JAMES M. FARR, P.E. (NY & PA)

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**TOWN OF WAWAYANDA
PLANNING BOARD
TECHNICAL REVIEW COMMENTS**

PROJECT NAME: CPV VALLEY ENERGY CENTER
PROJECT NUMBER: 08-01
TAX LOT: SECTION 4, BLOCK 1, LOT 38.32, 38.33, 40.22
SECTION 5, BLOCK 5, LOT 18.1
SEQRA STATUS: FINDINGS ISSUED
COMMENTS PREPARED: 8 MAY 2013
MEETING DATE: 8 MAY 2013
ENGINEER: ALPINE ENVIRONMENTAL

MAY 08 2013

1. The applicant shall be required to obtain a municipal authorization for stormwater related discharges.
2. The applicant shall comply with all previously issued technical comments regarding the site plan.
3. The following outside agency approvals are required. It is requested the applicants update the board periodically regarding status of outside agency approvals including but not limited to the following:
 - a) US Army Corps of Engineers Federal Jurisdictional Wetlands approvals.
 - b) NYSDEC permits including air discharge, stream disturbance, wetland disturbance, petroleum bulk storage, chemical bulk storage and stormwater construction and post-construction permits.
 - c) NYSDOT Highway access permits and utility permits for work associated with the site and utilities into and out of the site.
 - d) Orange County Health Department Backflow Preventer Review approval.
 - e) Town of Wawayanda Water and Sewer Departments approval for water and sewer connections.
 - f) Jurisdictional Fire Department review of site plans and emergency response plans.
 - g) Final detail plans for sanitary sewer disposal alternative.
 - h) Sign off on site plan, subdivision, and of special use permit from McGoey, Hauser and Edsall Consulting Engineers, the Town Engineers.
 - i) Sign off on site plan subdivision special use permit from the town's landscape architectural consultant.
 - j) Sign off from Town's air and noise consultant.

- k) City of Middletown approval for grey water, sewer, and GIS Building.
 - l) The applicant is requested to periodically advise the Board of the routing of the pipeline providing natural gas to the facility. It is noted that this is a separate approval not under jurisdiction of the Planning Board and information is to be provided or details of this are to be provided for informational purposes only.
4. Prior to construction of the process water lines and/or off-site sanitary sewer alternative the applicant shall complete a supplemental field investigation for potential historic resources along uncataloged portions of the route. The investigation shall consist of a walk over of the route, collection of street view photographs to document existing human disturbance along the route, and where disturbance is not apparent, manual shovel tests to document existing soil profiles. A summary report shall be provided to the NYS Office of Parks, Recreation & Historic Preservation for approval and to the Town of Wawayanda for information purposes.
 5. Stack lighting shall be limited to the minimum required to meet FAA requirements. Stack light color shall be in compliance with FAA requirements. Documentation of FAA compliance must be submitted to the Town of Wawayanda Building Department.
 6. Pursuant to the visual assessments provided during the State Environmental Quality Review Act process all facility structures shall be finished in neutral colors. Buildings shall be beige and stacks shall be grey in color. Color samples shall be submitted to the Planning Board for review prior to issuance of building permits.
 7. Project lighting and landscaping shall be in conformance with approved site plans, as amended.
 8. Site security measures identified in the findings statement shall be in place prior to commercial operation of the facility.
 9. The facility's Emergency Response Plan shall be submitted to the jurisdictional emergency services for review and approval prior to commercial operation of the facility.
 10. The applicant shall conduct site orientation and training with the jurisdictional emergency services and their respective mutual aid partners, for both the power plant and the GIS building at the following intervals:
 - a) Prior to commencement of construction
 - b) Prior to testing
 - c) Prior to the importation of hazardous substances or materials (i.e., bulk storage facilities)
 - d) Prior to commercial operation of the facility.
 11. NYSDOT approval for access and -utilities shall be required.
 12. If required by the NYSDOT, uniformed police traffic control for the intersection of Route 6 and Kirbytown Road and Route 6 and the facility access drive will be funded by the

applicant during the construction.

13. Fuel oil usage shall be restricted to a maximum of 720 hours per combustion turbine per year. An annual summary of the fuel usage and emissions data shall be submitted to the Town of Wawayanda Building Department documenting compliance with this requirement. A copy of the information shall be simultaneously transmitted to the Town of Wawayanda Planning Board for their use.
14. Noise compliance monitoring will be performed during construction and during commercial operation in compliance with a noise compliance testing protocol approved by the Planning Board.
15. A third party Environmental Inspector will be present during construction when site grading activities are being undertaken. The Environmental Inspector shall be qualified to screen fill material being imported to the site for evidence of contamination. If contaminated soil is identified, it shall not be permitted to remain on site. Any rejected materials shall be disposed of in compliance with existing state and federal regulations. The third party Environmental Inspector shall be funded by the applicant.
16. All erosion and sediment control measures shall be installed in accordance with the approved SWPPP. Erosion and sediment control will be maintained throughout construction and during post construction activities. Vehicle access and egress shall be maintained such that no material is tracked from the site. Adequate equipment shall be maintained on the site to remove any material tracked onto public roadways.
17. Prior to issuance of a building permit, the construction spill prevention and contingency plan shall be submitted to jurisdictional emergency services and the Town of Wawayanda Building Department.
18. Leak detection systems for the storage tanks and containment systems shall be tested prior to initial filling of all tanks on the site. Copies of all tests reports shall be provided to the Town of Wawayanda Building Department prior to initial tank filling. Prior to issuance of a certificate of occupancy and operations, spill prevention, control and counter measures plan (SPCC) must be prepared for the facilities. The SPCC plan will be subject to review and approval by the NYS Department of Environmental Conservation. A copy of the SPCC plan will be filed with the Town of Wawayanda Building Department and jurisdictional emergency services prior to commercial operation of the facility.
19. Wetland impacts and required mitigation shall conform to the permits issued by the Army Corps of Engineers and the NYS Department of Environmental Conservation. Any post construction reports required by those agencies permits shall be simultaneously filed with the Town of Wawayanda Building Department.
20. Maintenance clearing of the transmission corridor within regulated wetland areas shall be limited to a 20 foot width.

Town of Wawayanda
CPV Valley Energy Center

8 May 2013

21. Potential Indiana Bat Roosting Trees within the proposed wetland mitigation areas are to be preserved as shown on the approved Army Corps of Engineers plans and the Town of Wawayanda's approved site plans.
22. All tree clearing required on the site shall be conducted between 15 November and 31 March of the year in which clearing is performed.
23. All required fees, bonding, escrow deposits including but not limited to site development inspection fees in accordance with section 195-82, sewer and water connection fees, sewer and water inspection fees, stormwater management review escrow, building permit and inspection fees, site development inspection fees (195-82) shall be posted.

Respectfully submitted,

McGoey, Hauser & Edsall
Consulting Engineers, P.C.



Patrick J. Hines
Associate