



FLUVANNA COUNTY PLANNING DEPARTMENT

G. Cabell Lawton, IV
Director of Planning and Development
E-mail: clawton@co.fluvanna.va.us

P. O. BOX 299
PALMYRA, VIRGINIA 22963
(804) 589-3138 • (804) 286-2890
FAX (804) 589-4976

Cristi M. Shields
Senior Planner

E-mail: cshields@co.fluvanna.va.us

November 20, 2000

Tenaska, Inc.
C/o Mr. William W. Braudt, Jr.
1044 N. 115th St.
Suite 400
Omaha, Nebraska 68154

RE: SUP 00:09 – Special Use Permit - Power Production Plants

Dear Mr. Braudt:

This purpose of this letter is to notify you that the proposed special use permit referenced above was approved by the Board of Supervisors after a public hearing held on Thursday, November 16, 2000. The special use permit was requested in order to permit the operation of a power production plant at tax map parcels 27(A)44, 27(A)45, 27(A)46, 27(A)47, 27(A)48, 28(A)3, and 28(A)1. The property is zoned A-1 Agricultural General and located within the Cunningham Election District.

The Board of Supervisors **approved** the request referenced above and attached the following conditions:

The following uses shall be permitted by special use permit only:

- 1) The Board of Supervisors, or their designated representatives, reserves the right to inspect the site at any reasonable time without prior notice to insure the operation of the facility meets the requirements of this ordinance and any applicable permits.
- 2) The production of electrical power will occur through a combined cycle dual fuel gas turbine and steam turbine generating system that does not involve the use of burning coal or nuclear reaction. Back up fuel use shall not be more than 720 hours per year for the plant.
- 3) The applicant shall access both the overhead electric line and the gas pipeline on the subject property.
- 4) As a "wholesale power generator" as defined by the Federal Energy Regulatory Commission (FERC), the applicant shall not construct any off-site electrical transmission lines.

- 5) The only use of the property shall be electrical power production plant and accessory facilities with a nominal summer capacity of electrical generation of 900 megawatts. There shall be no other industrial uses on the subject property.
- 6) There shall be no abatement of local property taxes in association of this request.
- 7) The applicant is responsible for providing the first response to any emergency in relation to the operation of the power production plant.

Noise Attenuation

- 8) Noise attenuation measures will be implemented to ensure that noise levels attributable to plant operations will be kept to an L90 reading of 60 dBA (decibels) or less at the property lines and 50 dBA or less at any adjacent existing dwelling.
- 9) Construction activities that produce noise between the hours of 9:00 p.m. and 7:00 a.m. shall not exceed a noise level of 60 dBA (decibels) at the property line

Light

- 10) Exterior lighting will be directed downward and inward to the extent feasible in order to prevent any glare on adjacent properties. In addition, the facility will be designed to enable exterior lighting for distinct areas of the plant to be switched off while not in use.
- 11) Light trespass shall be limited to and should not exceed 0.5 foot-candles at the property line. All exterior luminaries shall be of a "shoebox" design and utilize cut-off optics. All luminaries shall be equipped with I.E.S. (Illuminating Engineering Society) Type V lenses that give circular light distribution for a maximum coefficient of utilization.
- 12) Site lighting shall not exceed 5 foot-candles except where there are special requirements that are approved by the Zoning Administrator.

Landscape and Buffer Provisions

- 13) Driveways and parking areas will have asphalt surface or better and shall be maintained in a manner that will keep dust to a minimum so as not to adversely impact adjacent properties. Any access road or utility easement will be designed with curvature to effectively screen the development from ground level view at the property line.
- 14) The power production plant shall be centrally located on the property to greatest extent feasible and shall conform generally to the layout show on the photograph attached hereto as Exhibit 1.
- 15) A chain link fence or similar security device shall be placed around the power production plant at least six (6) feet in height and will feature prominent "No Trespassing" signs.

16) A minimum of a 300 foot tree buffer will be maintained between the facility and adjoining property lines except for necessary access to existing electrical and gas utilities and access to the site. Security fencing may be placed inside the 300-foot buffer. To minimize impact to the surrounding area, the buffer area will be established, consisting of a natural terrain, and natural ground cover composed of existing trees, wetlands and streams in order to provide a permanent noise, light and sight abatement. Where no existing trees are present within this buffer area, evergreen trees of 2.5 inches in caliper will be planted 40 feet on center in a minimum of six staggered rows. The buffer area will surround the core property and will be kept in its natural state or maintained using good forestry practices to maximize its effect.

17) The construction footprint including the access and parking, buildings, utilities, and other impervious cover shall not exceed 13% of the gross acreage for the site. The balance of the property shall be restricted from future development and placed in an appropriate permanent conservation program as approved by the Zoning Administrator by January 1, 2004.

18) The following landscape requirements shall apply:

- a) A three or four-board fence or low stone wall, typical of the area should align the property's frontage with Route 761.
- b) An area of sufficient width to accommodate the foregoing fencing should be reserved parallel to Route 761 and exclusive of road right of way and utility easements.
- c) Where absent, trees shall be planted along all interior roads and shall not be smaller than 2.5 inches caliper. These trees shall be of a plant species common to the area and shall be located at a minimum of 40 feet on center. Trees shall align the perimeter of all parking areas and be located at a minimum of 40 feet on center.
- d) Trees shall be located within the parking area at a density of one tree per eight parking spaces and shall be distributed evenly throughout the interior of the parking area. These trees shall be a minimum of 2.5 inches caliper and planted in planters or medians sufficiently large to maintain the health of the tree and shall be protected by curbing.
- e) Trees shall be planted between the front of any buildings and Route 761 if visible from Route 761. The length, height, and design of such walls shall determine the spacing, size, and type of these trees.
- f) Shrubs shall be planted along the frontage of any other structures, dumpsters, or accessory building, service area, and signs. All planted shrubs on site shall be at least 24 inches in height.

19) There shall only be one (1) permanent detached sign for project identification purposes (exclusive of directional signs) which will be a ground-mounted monument type sign with landscaping. Any lighting of the sign shall be from above and shielded away from adjacent properties.

- 20) The applicant will provide a copy of the areas of the site that will be preserved and provide a forestry management plan for approval by the County in order to insure a healthy and growing stand of trees on the site.
- 21) There shall be a three hundred (300) foot setback from any state right of way for any structures except for any buildings or structures under 12 feet in height.
- 22) Structures above the tree height shall be a neutral earth tone color and shall be approved by the Zoning Administrator.

Traffic Management

- 23) The Virginia Department of Transportation shall approve access to the proposed facility and the applicant will provide all required improvements.
- 24) A construction traffic management plan shall be submitted as part of the overall site development plan. Review and approval by VDOT of the construction traffic management plan will ensure that temporary construction entrances and access roads are provided appropriately that “wide load” deliveries are scheduled during off-peak times, and that access routes to and from the site are planned to minimize conflicts.

Environmental

- 25) All necessary permits shall be acquired from all applicable regulatory bodies of the state and federal government and copies of such permits and the applicant shall maintain periodic reports on site. These permits and reports shall be provided to the County upon request and within a reasonable time period. The facility may not operate until it has received all approvals from all applicable regulatory bodies of the state, federal, and local government. In addition to complying with all other permits required by law, water withdrawal for power production shall be metered and the data therefrom provided to the zoning administrator from time to time, at such reasonable intervals as he may require, to ensure that maximum withdrawal shall not exceed an annual average of seven million gallons per day.
- 26) This facility shall utilize Best Available Control Technology (BACT) as determined by DEQ for this facility to minimize impacts on air quality.
- 27) Prior to site plan approval, the applicant must demonstrate that all wetland requirements, if any, have been achieved to the satisfaction of the U.S. Army Corps of Engineers.
- 28) No on site water wells shall be used for the power generation process. The applicant shall submit to the Zoning Administrator at least annually the results of testing requirements for any well on site.

- 29) At such time as the plant shall not be used for electrical power production, the site shall be restored substantially to its prior condition, or such other condition as may be approved by the Board of Supervisors, within a reasonable time.
- 30) There shall be no water withdrawal from the Rivanna River for the power generation process.

Compliance

- 31) If violations of the any state or federal permit are reported to the local government by the applicable regulatory agency, the Board of Supervisors, and/or the County Administrator, may request the applicant to provide, at the applicant's sole expense, the services of an appropriate firm to review the nature of the violation and any remedy, if any. This firm shall be selected by and report solely to the county.
- 32) A report will be prepared and provided to the County showing operational factors associated with the power plant that includes the name(s) and contact information for on site supervisors, and verification of current, valid state and federal licenses and permits. The County will be promptly notified of any changes, normally within five business days.
- 33) Any complaints or inquiries by the Board of Supervisors, County Administrator, or Zoning Administrator will be responded to promptly. In the event the applicant is notified of any violation of applicable federal, state, or local laws, regulations, or permit conditions, the applicant shall notify the Zoning Administrator in writing within two business days of receiving such notice and fully inform the Zoning Administrator of the steps being taken to correct and/or remediate the violation. Authorized county personnel or their authorized agents will be permitted to inspect the facility without prior notice to ensure that all physical structures and plant operations comply with local regulations.
- 34) Nothing in this approval shall be deemed to obligate the County to acquire any interest in property, to construct, maintain or operate any facility or to grant any permits or approvals except as may be directly related hereto.

If you have any questions , please feel free to contact me at 804-589-3138.

Sincerely,



G. Cabell Lawton, IV
Director of Planning and Development

Cc: Mr. Fred Payne, County Attorney
Mr. Kent Loving, Commissioner of Revenue
Mr. Macon C. Sammons, Jr., County Administrator
Mr. Darius Lester, Building Official
File

**FLUVANNA COUNTY
Post Office Box 299
Palmyra, Virginia 22963
804-589-3138 (Phone) 804-589-4976 (Fax)**

TO: Cabell Lawton, Director of Planning & Development
COPY:
DATE: November 28th 2000

E X T R A C T
(from the Draft Minutes)

At a regular meeting of the Fluvanna County Board of Supervisors held November 15th & 16th 2000 in the Central Elementary School Auditorium, Palmyra, Virginia and the Carysbrook Auditorium, Carysbrook, Virginia.

Present: Stafford M. Pace, Chairman; Andrew M. Sheridan, Jr., Vice Chairman; Cecil L. Cobb; Leonard F. Gardner and Donald W. Weaver.

Absent: None

SUP 00:09/Request by Tenaska, Inc., c/o Mr. William W. Braudt, Jr. (for a special use permit in order to permit the construction of a power production plant)

The applicant has requested approval of a special use permit in order to permit the construction of a power production plant on the east and west side of Rt. 761 located just south of its intersection with Rt. 619 consisting of 569 acres.

G. Cabell Lawton, IV, Director of Planning & Development, introduced this topic.

G. Caben Lawton, IV, Director of Planning for the Board, and Jack Wilson, Attorney with Hunton & Williams representing Tenaska, addressed the Board. Bill Braudt and Greg Kunkel, Tenaska representatives, were available to answer questions.

Chairman Pace opened the public hearing.

The following citizens spoke in opposition to the Special Use Permit:

- Marlene Thompson; Larry Hutner; Norma Hutner; Pat Kershaw; Richard Kulp; John Rueckert; Joe Mannino; Bill Jones; Collins Beagle; Malcolm Warfield; Jay Neelley; Jennifer Chambers; Brenda Beazley; Mary Johnson; Patricia Mitchell; Jerry Eck; Bill Weston; William Herbert; Margaret Wachenfeld; Ken Vickers; Wood Ramsey; Maggie Cagnina; Suzy Morris; Nora Smith; Liz Hooper; Wayne Campagna; Floyd Earl; William Burgess; Cathy Neelley; Jessica Woodcock; Sallie Adams; Eve Barnett spoke for Chris Long; Donna Adam; Wendell Pollard; Elizabeth Wilson; Joyce Chippindale; Steven Besecker; Karen Grandage; Carolyn Kardan; Donald Morris; Robert Bill; Joyce Harvey; Sandy Besecker; Cevat Kardan; Mathew Cox; Dan Duffy; Christopher Long; Ann Dickenberry; Vicky Mannino; Nancy Eder; Al Lecheck and Elizabeth Tokarz

The following citizens spoke in favor of the Special Use Permit:

➤ Jane Pendergrass; Minor Eager; Mike Seay; Don Cahill; Bob Hamm; Dave Gilliam; Jimmy Perkins; and Cliff Krammes

With no one else wishing to speak, Chairman Pace closed the public hearing.

After discussion among the Board, Chairman Pace turned the gavel over to Vice Chairman Sheridan and offered the following motion:

MOTION:

Mr. Pace moved that SUP 00-09 for a power production plant at tax map parcels 27(A)44, 27(A)45, 27(A)46, 27(A)47, 27(A)48, 28(A)3, and 28(A)1 be approved subject to the following conditions:

- 1) The Board of Supervisors, or their designated representatives, reserves the right to inspect the site at any reasonable time without prior notice to insure the operation of the facility meets the requirements of this ordinance and any applicable permits.
- 2) The production of electrical power will occur through a combined cycle dual fuel gas turbine and steam turbine generating system that does not involve the use of burning coal or nuclear reaction. Back up fuel use shall not be more than 720 hours per year for the plant.
- 3) The applicant shall access both the overhead electric line and the gas pipeline on the subject property.
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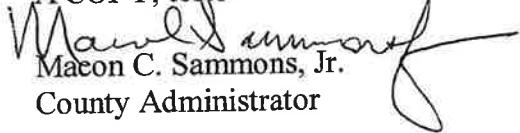
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- 34) Nothing in this approval shall be deemed to obligate the County to acquire any interest in property, to construct, maintain or operate any facility or to grant any permits or approvals except as may be directly related hereto.

Mr. Gardner seconded. The motion carried with a vote of 3-2. AYES:
Gardner, Sheridan and Pace. NAYS: Cobb and Weaver.

* * * * *

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Maeon C. Sammons, Jr.
County Administrator