

ORDINANCE NUMBER 2000- 28

GRANTING SPECIAL USE

KENDALL NEW CENTURY, LLC

Public and Private Utilities and Services; Power Generating Plant

WHEREAS, Kendall New Century Development, LLC and Robert C. Konicek did jointly file a petition for a Special Use within the A-1 District, for property located on Corneils Road approximately 1/4 mile east of Eldamain Road; and

WHEREAS, said petition was for a power generating plant as provided for in Section 7.00 B.19 - Public and Private Utilities and Services, at the time of application; and

WHEREAS, said property is 70 acres (more or less), and is legally described as:

The east 1,790.70 feet of that part of the Southwest Quarter of Section 7, Township 37 North, Range 7 East of the Third Principal Meridian, described as beginning at the Southwest Corner of said Quarter; thence east along the South Line of said Quarter to the Southeast Corner of said Quarter; thence north along the east line of the said Quarter 25.80 chains; thence west on a line parallel to the South Line of said Quarter to the West Line of said Quarter; thence south along the West Line of said Quarter 25.80 chains to the Southwest Corner of said Quarter and the place of beginning, in the Township of Bristol, Kendall County, Illinois; and

WHEREAS, said petition included property for the purposes of installing power transmission lines and towers pursuant to an easement to be held by the petitioner for the distribution of electricity. This property is bounded by Corneils Road to the north, Beecher Road to the east, Burlington Northern Railroad and Faxon Road to the south and Eldamain Road to the west. This does not include property not owned by Commonwealth Edison, specifically the 2.3 acre parcel at the Southwest corner of Beecher and Corneils Roads and the 1.0 acre parcel on the east side of Eldamain Road north of Faxon Road; and

WHEREAS, said properties are currently zoned A-1 Agricultural District; and

WHEREAS, all procedures required by the Kendall County Zoning Ordinance were followed including notice for public hearing, findings of fact, and recommendation by the Zoning Board of Appeals; and

WHEREAS, the Kendall County Board finds that said petition, along with the conditions specified in this ordinance, is in conformance with the provisions of the Kendall County Zoning Ordinance;

NOW, THEREFORE, BE IT ORDAINED, that the Kendall County Board hereby grants approval of a special use zoning permit for a power generating plant and transmission lines on the said properties in conformance with the Kendall County Zoning Ordinance, Building Codes, and the following conditions:

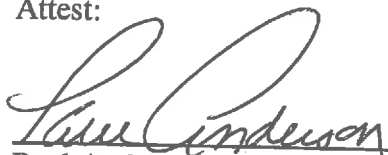
1. The petitioner has provided a site and landscaping plan prepared by Ruettinger & Tonelli dated July 14, 2000 (the "Preliminary Plan") as attached Exhibit "A" to the special use ordinance, identifying the landscape materials to be installed and maintained during the duration of the operation of the facility as a power plant. A final detailed site and landscape plan (the "Final Plan"), substantially similar to the Preliminary Plan, shall be submitted at the time final engineering plans are submitted to the County and shall be approved by the County staff so long as the Final Plan is substantially in conformance with the Preliminary Plan. Said Preliminary Plan shows additional trees required by the City of Yorkville, relocation of fences outside of the berms, and shall be in compliance with the City of Yorkville's landscape ordinance.
2. Construction traffic shall only utilize US Route 34 to Eldamain Road to Corneils Road as a construction route.
3. The petitioner shall advise Bristol Township as to when construction traffic will need to use Eldamain Road and Corneils Road during posted weight control time periods. Prior to issuance of either a building or site development permit, the petitioner shall provide a written agreement with and financial guarantee to Bristol Township for road repairs to be made during the construction and post-construction phases.
4. The maximum number of combustion-turbine, power generating units shall be limited to ten (10).
5. The petitioner shall dedicate forty (40) feet of right-of-way along Corneils Road as measured from the centerline, within sixty (60) days of granting of a site development permit.
6. The petitioner agrees to execute an assessment agreement so long as it is substantially and materially similar to the form assessment agreement attached hereto as Exhibit "B."
7. The wet bottom pond identified in the Preliminary Plan shall be approved by Kendall County's stormwater consulting engineer before a building permit is issued. Prior to initiating mass grading activities, Petitioner will prepare and submit a Mass Grading Plan and a Soil Erosion and Sedimentation Control Plan and will provide appropriate financial assurances to the County Engineer for review.
8. The petitioner will provide the appropriate tools and training to the Bristol-Kendall Fire Protection District for fire and rescue purposes and will install a dry hydrant connected to the on-site stormwater detention area for fire suppression purposes.
9. Any on-site, heavy-use wells shall primarily use the Ironton-Galesville aquifer. The maximum water usage from the heavy use wells on the property shall not exceed nine hundred fifty (950) gallons per minute on an average daily basis, unless additional water is required to satisfy emission control requirements. The well casing for the heavy use well shall extend a minimum of two hundred (200) feet below the top of the Middle Confining Unit located above the Ironton-Galesville aquifer.
10. The facility shall utilize only natural gas for power generation.
11. Mass grading activities shall be prohibited between 10:00 p.m. and 7:00 a.m. every day of the week.

12. The operation shall conform to all Illinois Environmental Protection Agency [IEPA] requirements including air, water, and noise pollution standards.
13. The operation shall conform to the Kendall County Performance Standards for Manufacturing Districts as of the date of the adoption of this ordinance.
14. The exhaust stacks shall not exceed one hundred fifty (150) feet in height.
15. Lighting generated by the facility shall not exceed one-half (½) foot-candle at the property line oriented to reduce off-site glare, except at the entrance gates for security purposes.
16. Sound generated by the facility shall not exceed seventy-five (75) dbA when measured at the facility's property line. The facility will still be required to satisfy the IEPA noise pollution standards as they relate to residential, commercial, industrial and other users.
17. Within twenty-four (24) months of permanent cessation of the use of the property as a natural gas - electrical generation facility, the owner shall remove all above ground site improvements.
18. Operation of each combustion turbine, power generating unit shall not exceed three thousand, three hundred (3,300) hours per year as averaged over any consecutive three (3) year period. The facility shall not generate power for sale for more than fifty (50) percent of the available hours in any consecutive three (3) year period. The petitioner shall submit to the Kendall County Zoning Administrator a copy of any operational reports regarding the facility's hours of operation which are required to be submitted on a monthly, quarterly or annual basis to the IEPA.

Failure to comply with the terms of this ordinance may be cited as a basis for amending or revoking this special use permit.

IN WITNESS OF, this ordinance has been enacted on July 18, 2000.

Attest:


Paul Anderson
Kendall County Clerk


John A. Church
Kendall County Board Chairman

AGREEMENT

This Agreement is entered into this _____ day of June____, by and between the **KENDALL COUNTY BOARD** ("Board"), **DAVID E. THOMPSON**, the Kendall County Supervisor of Assessments (the "Supervisor") and **RAYMOND J. WACLAW** the Bristol Township Assessor (the "Assessor") (the Board, the Supervisor and the Assessor are collectively referred to in this Agreement as the "Authorities"), and **KENDALL NEW CENTURY DEVELOPMENT, L.L.C.**, a Delaware limited liability company, and its successors and assigns ("Owner"), with respect to a parcel in Bristol Township, Kendall county, Illinois (the "Parcel").

WHEREAS representatives of Owner have provided the Authorities with its proposed plans for a power generation facility to be constructed on the Parcel (the "Project"), including the description of the major components that will comprise the Project attached hereto as Exhibit A (the "Component Description") and the estimated construction cost of the Project.

WHEREAS the Supervisor and representatives of the Board accompanied a representative of Owner to a similar facility in Manhattan, Illinois developed by an affiliate of Owner;

WHEREAS the review by the Supervisor and the Board's representatives of the Manhattan facility and the Component Description, as well as independent investigation by the Supervisor and the Board's representatives, have resulted in a determination that approximately 85% of the Project as described in the Component Description would be classified as personal property as opposed to real property.

NOW, THEREFORE, the Authorities and Owner agree as follows:

1. **Allocation of Real and Personal Property.** It is stipulated and agreed by and between the Authorities and Owner that the Authorities have agreed to assess the Parcel as improved by the Project, during the term of this Agreement, based upon the direct construction costs of the Project and based upon an allocation between 10% and 20% of the direct construction costs of the Project as real property. This allocation is conditioned upon Owner constructing its Project on the Parcel substantially as currently proposed, and with no material physical changes or alternations in the Project from those described in the Component Description ("Material Changes"). A "Material Change" shall include any material alteration of the Project to allow its use primarily for a purpose other than natural gas electric power generation with a maximum of ten (10) combustion turbine power generating units. The Authorities further agree not to reassess the Parcel based on a different allocation unless there are Material Changes in the improvements constructed as part of the Project.

2. **No Appeal.** Provided the Parcel is assessed in accordance with the allocation set forth in Section 1, Owner agrees not to appeal such assessment on the Parcel seeking an allocation of less than 10% of the direct construction costs of the Project as real property during the term of this Agreement. A copy of this Agreement shall be retained in the Board's records.

3. Cost Data. Owner shall maintain complete and accurate records on the direct construction costs of the Project, future phases and any Material Changes thereto, it being understood that the Project, future phases and any Material Changes may be constructed under a turnkey, lump sum construction contract. Owner shall make such records available to the Supervisor in connection with any assessment or review of assessment and shall allow the Supervisor to verify the information provided by Owner either through a request for reasonable additional documentation or by being allowed reasonable access to examine the direct construction cost records maintained by Owner or by onsite inspection. The term "construction costs" as utilized in this Agreement shall include constructions costs subject to depreciation based on generally accepted assessment techniques.

4. Effective of Agreement. The covenants and conditions set forth herein shall run with the land and shall be binding upon successive owners of the Parcel so long as the Parcel is used for the Project. This Agreement will be recorded.

5. Term. The term of this Agreement shall be effective upon the date of the last signature of the Authorities and Owner set forth below and shall continue through the quadrennial assessment period ending in _____.

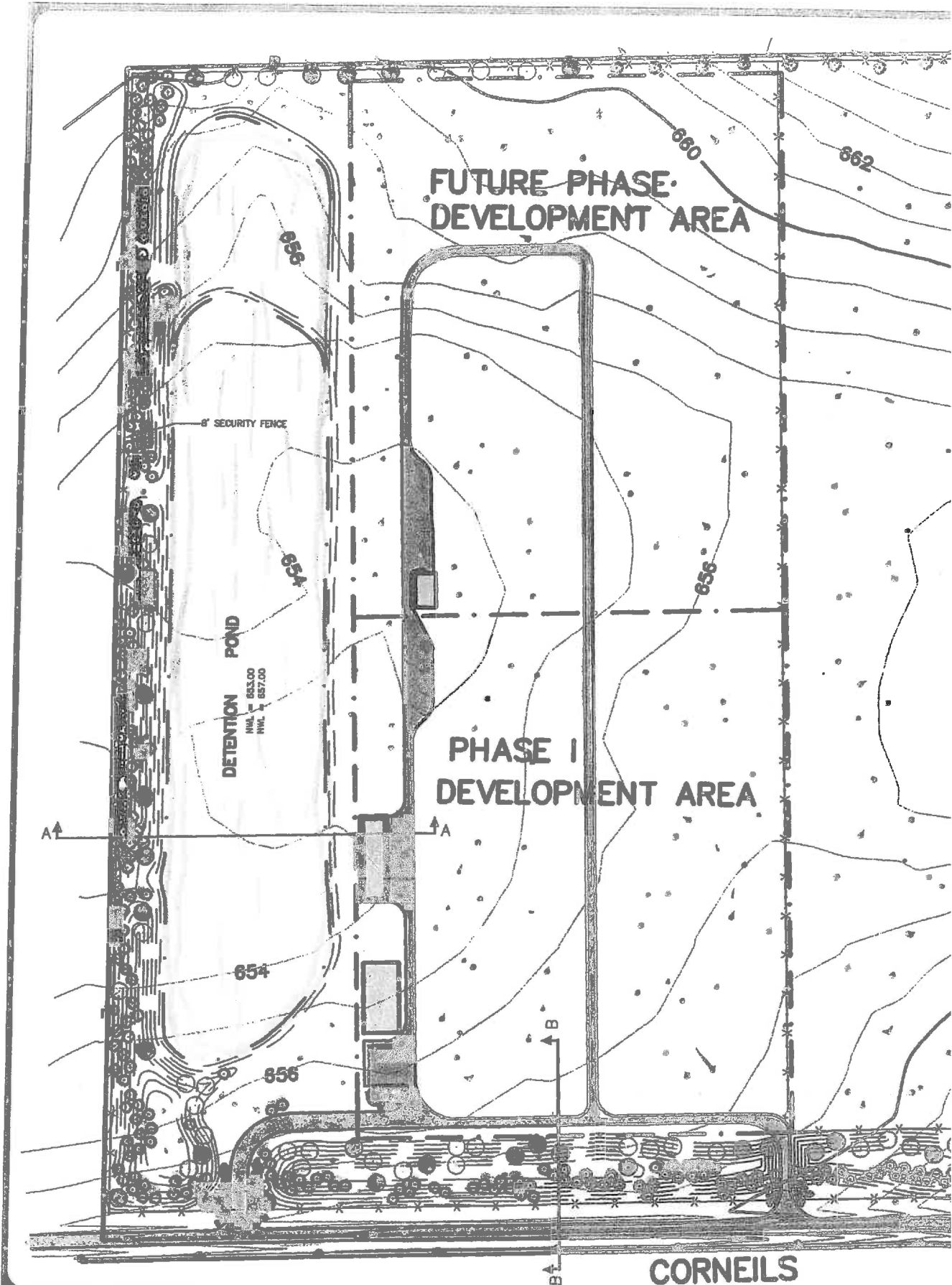
**KENDALL NEW CENTURY
DEVELOPMENT, L.L.C.,**
a Delaware limited liability company

By: _____
Name: _____
Title: Senior Vice President
Date: _____

By: _____
Name: John Church
Title: President
Date: _____

Name: David E. Thompson
Title: Kendall County Supervisor
of Assessments
Date: _____

Name: Raymond J. Wacław
Title: Bristol Township Assessor
Date: _____



ENCORE
 Kencall New Century Development, L.L.C.
 P.O. Box 1188
 Houston, Texas 77251

GREAT PLAINS ENERGY CENTER

CONCEPTUAL SITE A