



STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

Phone: (860) 827-2935 Fax: (860) 827-2950

E-Mail: siting.council@ct.gov

www.ct.gov/csc

October 6, 2015

Prasad Srinivasan
State Representative, 31st District
Legislative Office Building, Room 4200
Hartford, CT 16106

Mark Tweedie
State Representative, 13th District
Legislative Office Building, Room 4200
Hartford, CT 16106

Steve Cassano
State Senator, 4th District
Legislative Office Building, Room 2200
Hartford, CT 06106

RE: PETITION NO. 922 –UIL Distributed Resources, LLC declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the installation of a Fuel Cell generating facility located at 1835 Hebron Avenue, Glastonbury, Connecticut.

Dear Representative Srinivasan, Representative Tweedie and Senator Cassano:

The Connecticut Siting Council (Council) is in receipt of your correspondence dated September 29, 2015 regarding the above-referenced fuel cell facility in the Town of Glastonbury (Town). Thank you for taking the time to provide the Council with your comments.

The record in this matter is extensive—so extensive, indeed, that a detailed time-line is attached for the convenience of any of you who may not have had a chance to follow all the details. From this time-line, three major themes emerge.

The first theme is that community notification and outreach has been consistent and thorough at every stage. Nothing has happened without the community being given opportunities to comment. When comments have been made, efforts have been made to accommodate them, with good success.

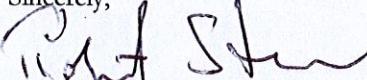
The second theme is that the Council's first set of conditions attached to its approval of 2009 have anticipated, in general, the concerns current in 2015. From the beginning, the Council's main concerns about the project, similar to those of the Town and the residents, have been noise and visibility. The Council has required successive noise studies to assure that the facility complies with the state's noise control regulations. As to visibility—after carefully considering a series of staff field reports, Town and residents' input, along with analyses of existing topography and vegetation, the Council has consistently set conditions to minimize visibility, where necessary, by means of landscaping plans for further screening. Also, the Council has encouraged the petitioners and the Town to agree on colors camouflaging as much as possible the facades of structures with visibility.

The final theme is that, through the lengthy dialogue supported by the Council's petition process, most of the revisions requested by Fuel Cell Energy, Inc. (FCE) and UIL Distributed Resources, LLC (UI) and the

recommendations made by the Town and the residents have now been incorporated into the site plan. The two requests not incorporated are either redundant or outside the Council's jurisdiction and authority.

The Council appreciates the legislators' invitation to meet at the site property for further discussion. Please be advised, however, that the Council has no jurisdiction or authority to order plantings outside of the site property lines and strongly encourages, instead, that a meeting be held with FCE and UI (copied on this correspondence) to discuss possible third-party agreements for such plantings. Please also be advised that the Council cannot order or enforce any third-party agreements. If the legislators feel that a meeting with FCE and UI would be more productive with a member of the Council staff in attendance, that can certainly be arranged. Please feel free to contact the Council office at 860-827-2935 or by e-mail at siting.council@ct.gov.

Sincerely,



Robert Stein

Chairman, Connecticut Siting Council

Enclosures

cc: Richard Johnson, Town Manager, Town of Glastonbury
Kenith Leslie, Community Development Director, Town of Glastonbury
Chip Beckett, Glastonbury Town Council Chairman
Diana Neff, 235 Stanley Drive, Glastonbury
Jennifer A. Arasimowicz, Esq., Vice President and Managing Counsel, Fuel Cell Energy, Inc.
James Morrissey, Esq., Counsel, UIL Distributed Resources, LLC



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PETITION 922: 2009-2015

2009

In November, 2009, DFC-ERG CT, LLC (DFC), a subsidiary of Fuel Cell Energy, Inc. (FCE), based in Danbury, submitted its petition for a declaratory ruling (petition) to the Council for the installation of a 3.4 MW fuel cell energy system at the existing Connecticut Natural Gas (CNG) gate station at the corner of Hebron Avenue and Chalker Hill Road in Glastonbury. This project met the aims of Connecticut's Renewable Portfolio Standard via Project 150, a Connecticut Clean Energy Fund program established to increase renewable energy supply in the state; also important, it supported Connecticut's emergent fuel cell energy industry.

Note that at this time UI was not involved in the project—in fact, by the terms of Connecticut's existing law regarding electricity deregulation, UI was prohibited from participating.

Months before the November submission, DFC met with the Town Manager and Town Engineer to discuss the project, and in October DFC sent formal notice to the Town and abutting property owners of its intent to file the petition. The Council did not receive any comments from the Town, abutting property owners or other interested persons.

The petition included preliminary site plans, a detailed project description, a Noise Assessment Study demonstrating compliance with Connecticut's Noise Control Regulations, a Visual Aesthetics Assessment Study depicting the visual impacts of the proposed project, a letter from the State Historic Preservation Office indicating the project would have no effect on historic, architectural or archaeological resources, and a letter from the Department of Environmental Protection indicating that no known populations of endangered, threatened or special concern species occur on the project site. On November 30, 2009, a publicly noticed field review of the project site was conducted by the Council and was attended by representatives of DFC and CNG. No town officials, abutting property owners or other interested persons attended the field review.

During a meeting held on December 3, 2009, the Council approved the petition with certain conditions regarding:

- a) erosion and sedimentation controls consistent with the [Connecticut Guidelines for Soil Erosion and Sediment Control \(May 2002\)](#);
- b) minimal clearing along Chalker Hill Road and Hebron Avenue;
- c) landscaping with evergreens on the embankment between Chalker Hill Road and the proposed access drive and along the west side of the existing gate station; and
- d) the submission of final construction plans to the Council.

2014

For whatever reason, DFC did not proceed with construction immediately upon Council approval. Then, in November, 2014, Connecticut's law regarding electricity deregulation having changed, the Council received correspondence from DFC that it had assigned all of its right, title and interest in the fuel cell project to UIL Distributed Resources, LLC (UI); in addition, UI took over responsibility for annual assessments and invoices attributable to the project.



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On December 9, 2015, FCE requested approval from the Council for a revised site-plan that would relocate the proposed fuel cell turbo-expander unit from the existing gas meter station to the proposed fuel cell compound. This request was necessitated by CNG's decision to expand its existing gate station buildings into the area where FCE's turbo-expander was planned to be located. FCE also sent a copy of its request to the Town Manager; however, the Council received no comments from the Town. During a meeting on January 8, 2015, the Council determined that the relocation of the turbo-expander would be screened by existing vegetation and would have no effect on projected noise levels: therefore, it approved FCE's revised plan.

So as not to encroach on an easement granted to Algonquin by CNG within the footprint of the project, FCE needed to make a second change in the site plan, one that relocated the facility 55 feet to the north. In this instance, however, rather than going to the Council, FCE submitted their revisions to the Town Wetlands Commission. Upon completion of this review and issuance of Town building permits, construction of the fuel cell project commenced on February 26, 2015; not until about two months later, on May 6, 2015, did FCE submit to the Council a request to approve the relocation consistent with the approval from the Town Wetlands Commission. Upon learning of this request through the Council's routine notification process, the Town Manager submitted comments to the Council on May 15, 2015 asserting that the Town Wetlands Commission did not formally approve the revised site plan, but only indicated the revised plan did not encroach on any wetlands. Further comments from the Town on May 20, 2015 requested the Council to incorporate requirements that:

1. the site restoration and landscaping plan be subject to formal review and approval by the Town, including fencing, landscaping plan and materials;
2. any final color scheme for the installation be subject to review and approval by the Town;
3. noise levels from the fuel cell be fully evaluated by the Council and all reasonable sound mitigation be incorporated into the project.;
4. UI be required to make a meaningful contribution to the Town's Land Acquisition Fund to support future open space preservation.

During a meeting held on May 28, 2015, the Council reviewed and approved the request to revise the project site layout per conditions consistent with the Town's requirements. In particular, the conditions were that:

- a) a site restoration and landscaping plan be submitted to the Town for comment and to the Council for approval, including the installation of evergreens on the embankment between Chalker Hill Road and the access drive and along the west side of the existing gate station;
- b) a revised noise study accounting for the relocation of the turbo-expander and the facility site be submitted to the Town and Council for review and approval, respectively; and
- c) a final color scheme be chosen and submitted to the Town and Council for review and approval, respectively, with the aim of reducing the visibility of the fuel cell equipment from the surrounding area.

The Council did not include the Town's request that UI contribute to the Town's Land Acquisition Fund because the Council does not have any jurisdiction or authority to order UI to do so.

On June 10, 2015, in compliance with the Council's May decision on the request to revise, FCE and UI submitted to the Town for comment a site restoration and landscaping plan, a noise study, and a final color scheme. In addition, on June 11, 2015, FCE and UI hosted a public information meeting at the project site that was attended by the Town Manager and approximately 13 residents. FCE and UI invited further comments on the proposals, but the Town opted to develop its own landscaping plan.

On July 16, 2015, again in compliance with the Council's May decision, FCE and UI submitted to the Council for its approval the site restoration and landscaping plan, the revised noise study, and the final color scheme. In this submittal, FCE and UI included a copy of the Town's landscaping plan with notations identifying numerous plantings recommended by the Town that are beyond the site property line on land not owned or controlled by

FCE and UI, as well as plantings in known “keep out areas” onsite, in particular, the water meter pit, utility poles, fire hydrant, utility metering cabinet and high pressure gas piping easement areas, that would interfere with existing utility infrastructure. See attached Conceptual Planting Design recommended by the Town with FCE and UI notations.

On July 17, 2015, the Town submitted to the Council two comment letters. The first letter included the Town’s landscape plan already mentioned, along with a preference for a black vinyl chain-link fence surrounding the entire project, a request for an 18-month post-construction resident comment period for noise, and a requirement that a Fern Green color scheme be incorporated for the turbo-expander and other structures, where possible. The second letter offered comments in direct response to FCE and UI’s July 16, 2015 submission objecting that the noise study provides a projected sound profile rather than an actual sound profile, noting that no deadline for comments was established by the Siting Council, stating that the Metropolitan District, an abutting property owner, is prepared to develop an agreement to allow for landscape plantings in the buffer area between the fuel cell and Hebron Avenue, and explaining that the Town’s landscape plan was developed by the Town Beautification Committee.

During a meeting of the Council held on August 6, 2015, the Council discussed FCE and UI’s July’s submissions as well as the comments and requests from the Town. **The Council clearly conveyed its lack of jurisdiction and authority to order plantings on property outside of the site property line boundaries and its aversion to ordering plantings in the known “keep out areas” that would interfere with existing related utility infrastructure.** The matter was tabled pending receipt of additional information from FCE and UI responsive to the Council’s discussion.

On August 14, 2015, FCE and UI submitted a revised landscaping plan that included the use of native vegetation rather than ornamentals and accounted for existing topographic features and vegetation that already serve to screen the facility from the south and east. On August 18, 2015, the Town restated its comments regarding landscaping, noise and color.

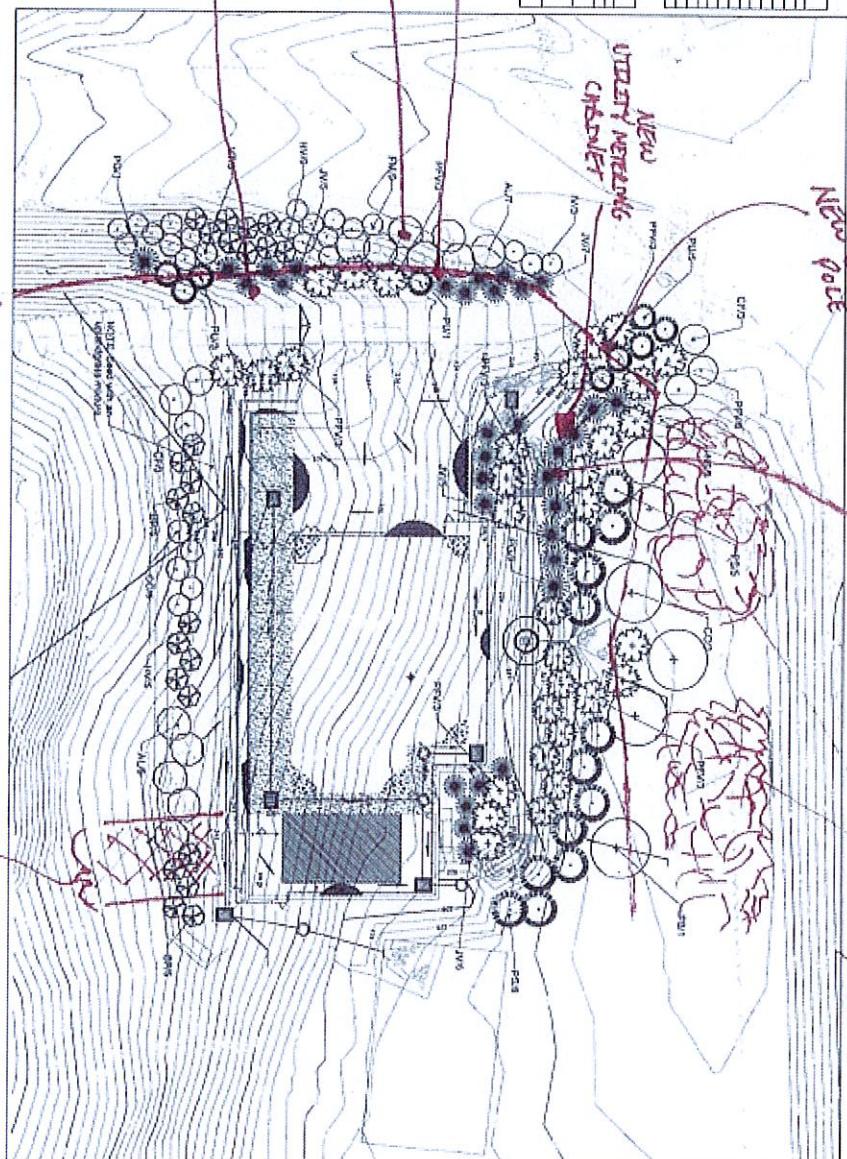
During a meeting of the Council held on September 3, 2015, the Council considered and approved the revised landscaping plan submitted by FCE and UI on August 14, 2015, as well as the Fern Green color scheme and black vinyl chain-link fence preferred by the Town. The Council reiterated its lack of jurisdiction and authority to order plantings outside of the site property lines and its aversion to ordering plantings in the known “keep out areas” that would interfere with existing related utility infrastructure. The Council declined to order an 18-month post-construction comment period for noise, since the revised noise study submitted in compliance with the Council’s May 28, 2015 decision on FCE and UI’s request to revise the site layout demonstrated the reconfiguration of the facility would result in project noise levels below the state noise level criteria. See attached Council decision letter and staff report.

ON THE UNDERPINNING PLAN

NEW YORK

NEW UTILITY
ROLE

**EXISTING MDC
BASIS / GROWTH**



- No Planting -
High Pressure
Gas
Piping

ANTIGS -
PRESSURE
PRONG

WORTH



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FOR REVIEW ONLY, NOT FOR CONSTRUCTION

CONCEPTUAL PLANTING DESIGN
-LOCATED AT-
TOWN OF GLASTONBURY, CT
-PREPARED FOR-
GLASTONBURY BEAUTIFICATION
COMMITTEE



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September 8, 2015

Jennifer D. Arasimowicz, Esq.
Vice President, Commercial Counsel
FuelCell Energy, Inc.
3 Great Pasture Road
Danbury, CT 06810

RE: **PETITION NO. 922** – UIL Distributed Resources, LLC declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the installation of a Fuel Cell generating facility located at 1835 Hebron Avenue, Glastonbury, Connecticut.

Dear Attorney Arasimowicz:

At a public meeting of the Connecticut Siting Council (Council) held on September 3, 2015, the Council considered and approved the site restoration plan, landscaping plan and final color scheme submitted for this project on July 17, 2015, and a landscape and berm revision submitted on August 14, 2015.

This decision is under the exclusive jurisdiction of the Council and is not applicable to any other modification or construction. All work is to be implemented as specified in the site restoration plan, landscaping plan and final color scheme submitted on July 17, 2015 and revisions submitted on August 14, 2015.

Enclosed is a copy of the staff report regarding the site restoration plan, landscaping plan and final color scheme, dated September 3, 2015.

Thank you for your attention and cooperation.

Sincerely,

Robert Stein
Chairman

RS/RDM/lm

Enclosure: Staff Report dated September 3, 2015

c: The Honorable Stewart Beckett III, Chairman, Town of Glastonbury
Richard J. Johnson, Town Manager, Town of Glastonbury
Khara Dodds, Director of Planning and Land Use Services, Town of Glastonbury
Bruce McDermott, Esq., Managing Counsel-Operations, UIL Holdings Corporation

Petition No. 922

Fuel Cell Generating Facility
1835 Hebron Avenue, Glastonbury
UIL Holdings Corporation
Staff Report

September 3, 2015

On December 3, 2009, the Connecticut Siting Council (Council) approved a petition filed by DFC-ERG CT, LLC (FCE) for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed installation of a combined Fuel Cell/Turbo-Expander energy system at an existing Algonquin gas metering station at 1835 Hebron Avenue in Glastonbury, at the corner with Chalker Hill Road. The project consists of two fuel cell units and a turbo expander that collectively produce 3.4 megawatts of energy. In November 2014, prior to construction, UIL Holdings Corporation (UIL) was assigned all of FCE's right, title and interest in and to the project.

Construction commenced in Spring 2015. During construction, it was determined that the project footprint was moved in a northwest direction, closer to Hebron Avenue and Chalker Hill Road, without prior Council approval. As a result of this relocation, a tree buffer that was to remain between the project site and Hebron Avenue was removed to facilitate construction, causing the project to be visible from Hebron Avenue and the corner of Chalker Hill Road.

On May 6, 2015, FCE, on behalf of UIL, submitted correspondence to the Council describing in-field project conditions that caused a shift in the project location. After considering comments from the Town of Glastonbury (Town), the Council approved the relocation at a public meeting on May 28, 2015 with the following conditions:

- Submission of a site restoration and landscaping plan to the Town for comment and for approval by the Council. The plan shall also include the installation of evergreens on the embankment between Chalker Hill Road and the access drive and along the west side of the existing gate station;
- Submission of a revised noise study to the Town and Council that accounts for the relocation of the turbo-expander and facility site; and
- Incorporation of a final color scheme for fuel cell equipment to reduce visibility from the surrounding area to be reviewed by the Town and approved by the Council.

The project site is set on a hillside that slopes downgradient to the north. Abutting property includes undeveloped watershed property to the east, an existing natural gas gate station to the south, an access drive and Chalker Hill Road to the west (a residence is set back from Chalker Hill Road across from the access drive), and Hebron Avenue and additional watershed land to the north. Given this setting, existing pre-landscaping views of the facility would occur from Hebron Avenue north of the site and from Chalker Hill Road west of the facility. No views from roads or residential properties occur from the south or east due to the existing hillside that effectively blocks views from the north and the presence of undeveloped protected watershed land that creates a buffer to the east.

Site Restoration/Landscape Plan

On June 11, 2015, UIL met with area residents and the Town Manager at the project site to discuss the Council's conditions of approval. On July 17, 2015, UIL submitted a site restoration and landscape plan, a revised noise study, and a final color scheme to the Council. The Town submitted comments regarding UIL's submission to the Council on July 20, 2015.

The Town's landscape plan that features 123 trees and 46 shrubs representing 19 different native and ornamental species. The Town's plan includes plantings beyond the property lines to the north and west and includes plantings directly on or immediately adjacent to existing related facility infrastructure. The Town's plan features dense rows of evergreens and deciduous species around the facility, with the exception of the east side. The Town also requested a two-year warranty of all plant material, a drip irrigation system, and an invasive species management plan.

UIL's July 17, 2015 landscape plan specified eight native trees, 54 native shrubs and 19 arborvitae planted around the entire project site. After reviewing UIL's proposed landscape plan at the Council's August 6, 2015 energy/telecommunications meeting, the Council requested that UIL submit a revised landscape plan that uses only native vegetation, as native plants are tolerant of local growing conditions and provide food and cover to native wildlife. The Council requested a staggered tree/shrub arrangement along the north side of the project site to provide screening from Hebron Avenue, and grass along a portion of the south side and on the east side of the project site, as these areas are not visible from any off-site locations and landscaping would serve little purpose.

On August 14, 2015, UIL submitted a revised landscape plan that specifies five tree plantings on the north side of the project site, consisting of grey birch, eastern red cedar and hackberry. Additionally, 48 shrubs consisting of American holly and mountain laurel would be planted on the embankment between the existing gate station access road and Chalker Hill Road, in the southwest corner of the site, and along the north side of the site, interspersed with the five trees that would be planted.

UIL plans to re-grade a portion of the northeast side of the site after Eversource indicated that the existing grade along the north slope of the project is too steep for their trucks to access a utility pole. No existing trees or shrubs would be removed as part of the additional grading.

Noise Study

The revised noise study indicates operation of the site would not exceed State noise control regulations. The revised study accounts for the reconfiguration of the turbo-expander and relocation of the facility. Results indicate project operational noise would range from 40-43 dBA at the nearest residential receptors, below the State noise control criteria of 51 dBA.

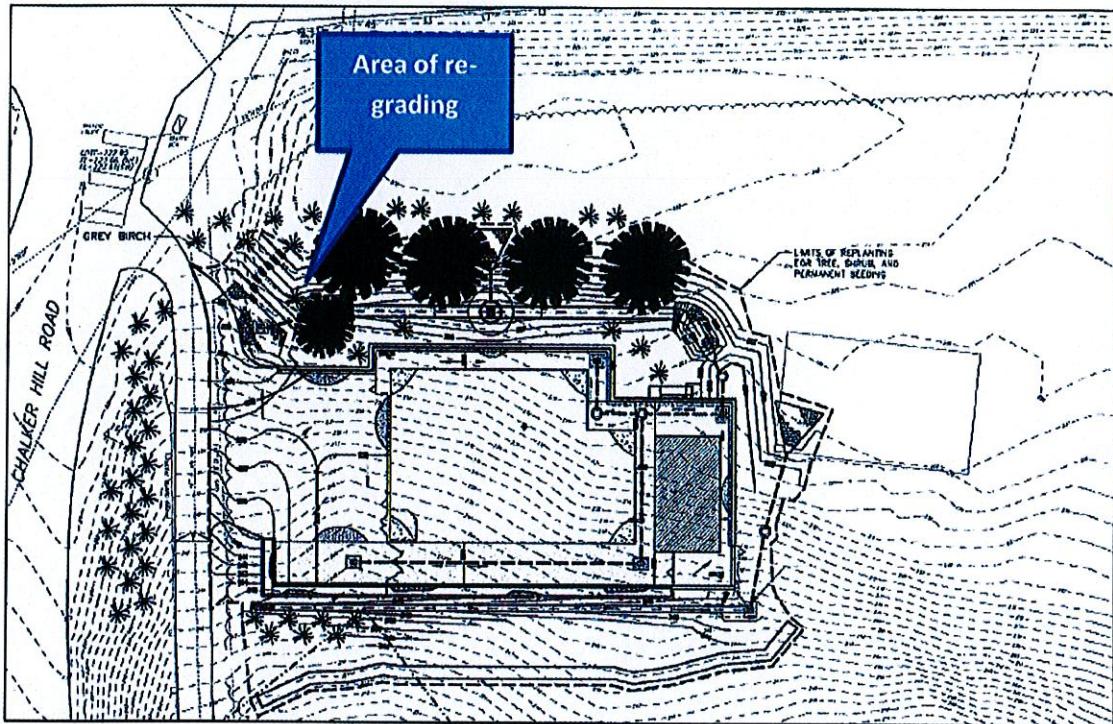
The Town requests an 18 month post-construction resident comment period for noise, followed by noise abatement measures, if necessary, based on resident comment.

Structure Colors

At the request of the Town, the turbo-expander building will be painted "Fern Green". The fuel cell component itself cannot be painted due to necessary thermal qualities of existing component finishes.

At the request of the Town, UIL will install a chain link fence with black vinyl treatment and fence posts with a black finish.

UIL's Proposed Landscape Plan, revised August 14, 2015

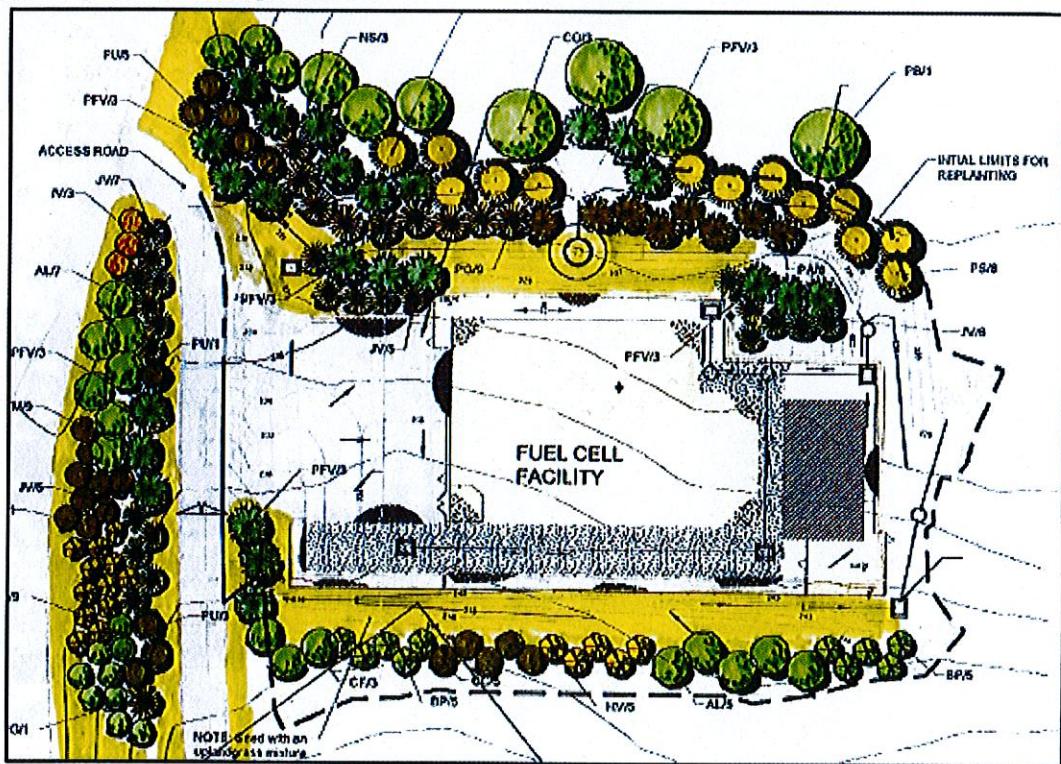


* native shrubs (Am. holly, mtn. laurel)

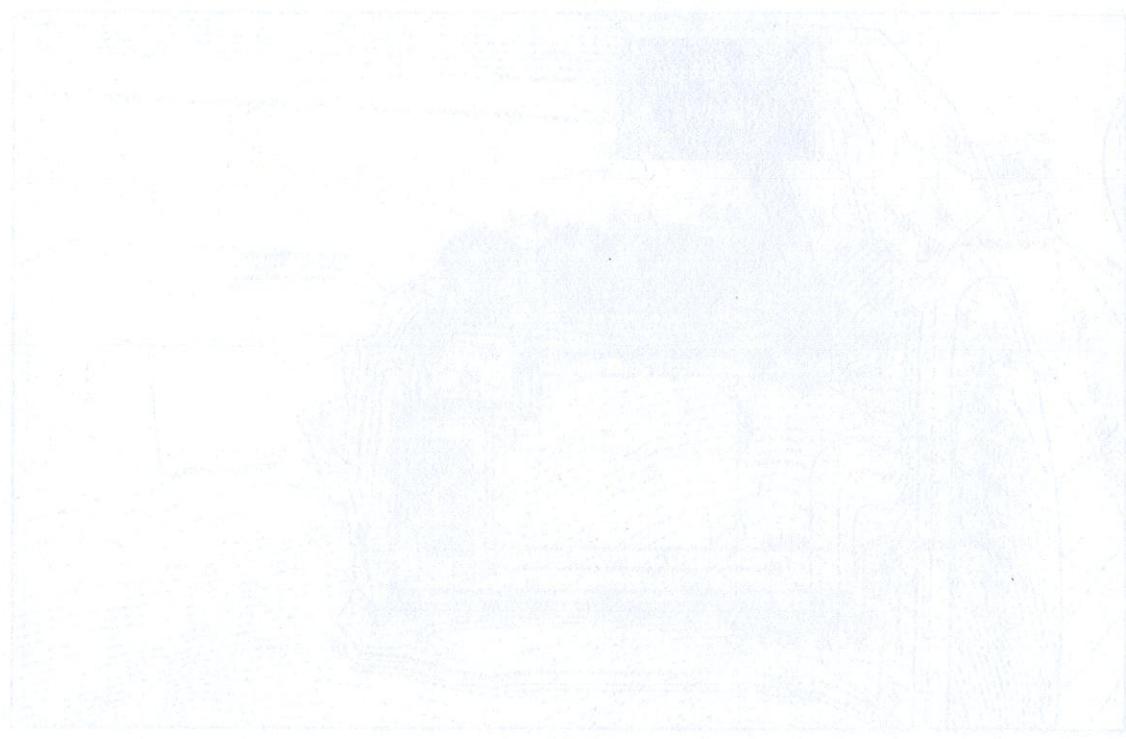


tree species (gray birch, hackberry, red cedar)

Town's Proposed Landscape Plan



2000 ft. long. A large, well-constructed bridge is 2000



with the following words are inscribed:

"This bridge was built by the

and completed in the year

