

**Henderson County  
Technical Review Committee Minutes  
November 3, 2009**

The Henderson County Technical Review Committee met on November 3, 2009 at 2:00 pm in the King Street Board Room at 100 N. King Street, Hendersonville, NC. Members present were Anthony Starr, Chair: Seth Swift, Rocky Hyder, Toby Linville, Natalie Berry, Marcus Jones, and Tom Stauffer. Others present were Parker Sloan, Planner and Kathleen Scanlan, Secretary.

Mr. Starr called the meeting to order and mentioned that there are two items added to the agenda. The first item, Item 5, *Combined Master Plan and Development Plan for McKay Trust* and the second item, Item 6, *Wind Mill/Turbine Request by Mountain Roots/George Barnwell and Little Bearwallow Mountain LLC*. He then asked for the approval of the October 6, 2009 meeting minutes. Toby Linville made a motion to approve the minutes and all members voted in favor.

Minor Site Plan Review/Recommendation for a 15' Variance – Erection of a Metal Building – Located at 93 Tierra Trail – Robert Benton, Owner. Presentation by Code Enforcement Officer. Mr. Starr mentioned that since this is a minor site plan, this Committee will only be giving a recommendation to the Board of Adjustment for this project. Mr. Linville said that the applicant is requesting a 15 foot variance to erect a metal building to protect an existing water supply in the side setbacks. Mr. Benton explained that he had bought this house because the well had gone dry and the house was going into foreclosure. He said the former property owners put the storage tank by the old well. In order to get financing on the home, I need to maintain storage of the water tank. The reason why it was put so close to the property line was the former property owners were afraid if they had shifted it toward the slope, it might cause the entire bank to shift because of the weight of the tank. He said they eventually moved it back several years ago and when I bought the place, it was in that location. Mr. Benton said that the water tank needs a pre-engineered, self-supporting metal building (a size of 18X21) and it would be compatible with the surroundings. Mr. Benton stated that the need for the enclosed metal building is to protect the pipes from freezing and to keep sunlight from penetrating the polypropylene tank, causing algae from growing. He added that because of the size of the building, he would need a building permit and because of the location, he would need the variance to build the building. He also mentioned that to build another well would be a hardship and that there is no public water nearby.

Mr. Linville made a motion to recommend approval of a variance to the Board of Adjustment based on the hardship related to the location of this well and tank and as per Mr. Benton because this enclosed building is required so that the pipes will not freeze and to keep sunlight from penetrating the polypropylene tank, causing algae from growing. All members voted in favor of the recommendation.

Minor Site Plan Review/Recommendation for a 2'4" Variance – Proposed Subdivision of Property – Located at 209 Shepherd Street – Mark Corn, Associated Land Surveyors, Agent for Gerald and Fonda Haskins, Owners. Presentation by Code Enforcement Officer. Mr. Linville stated that this is a variance and the applicant has two existing dwelling units on the property and wishes to subdivide the lot. He that the County's Subdivision Ordinance requires a 30-foot right-of-way and that right-of-way line would be within the 10-foot side yard setback of the front home. He said in order to accommodate that subdivision of property, and the requirement of a 30-foot right-of-way, it would require a 2'4" variance.

After some brief discussion, Mr. Linville made a recommendation to the Board of Adjustment to approve the 2'4" variance based on the fact that these are existing homes and will not change the character of the neighborhood and that there is no reasonable use of the property without the variance. All members voted in favor.

Minor Site Plan Review/Recommendation for a 30' Variance - Construction of Building without Permits – Located on Evans Road – Brian Wyatt, Agent for Phyllis Perry, Owner. Presentation by Code Enforcement Officer. Mr. Linville stated that this case has been withdrawn.

Combined Master Plan and Development Plan – for McKay Trust (File # 2009-M05) – Presentation by Parker Sloan, Planning Department. Mr. Sloan stated that James Diaz, agent for William McKay, owner submitted this combined Master and Development and major subdivision application for the project, which is located on approximately 67 acres of land off McMurray Road. He said the applicant is proposing to divide off an 8.26 acre tract for the purposes of constructing a new building for Coastal Agrobusiness, Inc. The site is located in the Industrial Zoning District, but currently contains an apple orchard. There is existing public water and sewer lines about the property along McMurray Road. Mr. Sloan stated that Staff found that it met the technical standards of the subdivision regulations, contingent on the following comments:

1. Future water and sewer hook up requirements – In the future, if the remaining tract of land that is currently zoned Industrial (approximately 23 acres) is ever developed further, the developer and/or property owner would need to connect the property to public water and public sewer.
2. Soil Erosion and Sedimentation Control Plan - The applicant shall submit written notice from the appropriate local agencies verifying that an Erosion and Sedimentation Control Plan has been received or a written notice from a professional land surveyor, engineer, landscape architect, architect, or professional planner certifying that no plan is required.
3. Public Utilities – City of Hendersonville water and sewer currently border near the project site on the south west corner along McMurray Road. The applicant is proposing new development and according to the LDC (Land Development Code), the applicant must provide evidence that water supply and sewer capacity has been approved by the appropriate agency. Any subdivision served by a public water system shall meet the respective county or municipality's minimum requirements for the fire hydrant installation.
4. Final Plat Requirement – Final Plat must meet the requirements provided by the Planning Department whenever a subdivision of land occurs.

There was discussion regarding the connection of water and sewer service should the remaining tract of land become a non-residential use. Mr. Hyder mentioned that during the time of obtaining a building permit, it will be required to have two fire hydrants on each end of the property. After some further discussion, Mr. Starr made a motion that the Technical Review Committee find and conclude that the Combined Master and Development Plan appears to comply with the subdivision provisions of the Land Development Code and further moves that the Combined Master and Development Plan be approved subject to the conditions mentioned above in Staff's report. All members voted in favor.

### **Old Business.**

Minor Site Plan Review – Mountain Roots/George Barnwell and Little Bearwallow Mountain LLC – Proposing Wind Mill/Turbines for the Properties – Presentation by Code Enforcement. Mr. Linville stated that this is a follow-up to last month's meeting. Mr. John Myers updated the members on what has been done since last month. Mr. Myers mentioned that the NC Forest Service is open to the idea of using a credit from some of the power we create from the wind turbines but they have not given any official approval as of yet. He also mentioned that he is willing to build a small, primary residence on his parcel that would have well and septic connected to it and that the well is already in. He said that he would like to put one turbine on the property

and if the Bearwallow site does not work out with the State, possibly another turbine. In the discussion, Mr. Myer asked whether the Committee would grant him a conditional recommendation, subject to the forest service approval and putting up the primary dwelling.

After discussion and clarification, Mr. Starr made a motion to recommend to the Board of Adjustment approval of this Minor Site Plan for both sites with the conditions that on the first site, besides the supplemental requirements for the site, that the height of the wind mill/turbine be no higher than sixty feet (60') and that the fall zone of this wind turbine not include any guide wires or towers that are existing on the site within its 110 percent fall zone, and also contingent upon receiving a written agreement or document by the Forest Service regarding the arrangements between the two parties being a prerequisite to the authorization to proceed with the construction. In addition, that if at any point it is determined by Henderson County Emergency Services Department that there is any interference suspected or proven by the wind turbine, that they will suspend operation until that can be determined or future documentation be provided to clarify what the problem is. Mr. Linville mentioned that these conditions need to be made before December 2, 2009 Board of Adjustment meeting. All members voted in favor of the motion.

Mr. Starr adjourned the meeting at 3:00 p.m.

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Anthony Starr, Planning Director

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Kathleen Scanlan, Secretary