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Initial ordinance about windmills gets approval

Draft is headed for Watauga commissioners

May 17, 2006 by Monte Mitchell in Journal Now

BOONE

The Watauga County Planning Board yesterday unanimously approved a draft ordinance to regulate windmills.

The ordinance has basic guidelines for someone to put in a windmill to supply power for a home or several homes, but creates stringent requirements for commercial-scale windmill farms.

"Encourage the little ones, make it difficult to get the bigger systems is the goal or the strategy," Joe Furman, Watauga County's planning director, told board members.

First though, the board had to weigh whether windmills are even legal on the mountain ridges where they would catch the best winds.

In 1983, the General Assembly enacted a provision that's commonly called the "Ridge Law." The law

limits building heights to 40 feet on ridges at or above 3,000-foot elevation or that are more than 500 feet above a valley floor. The Ridge Law was adopted after the public outcry about the Sugar Top resort in Avery County.

Windmills are mentioned in the Ridge Law. But people disagree - even within the county government - as to whether the language of the law allows windmills or not, or whether it was the intent of the law to allow them or not.

The law applies to tall buildings, but makes exceptions for "structures of a relatively slender nature and minor vertical projections of a parent building, including chimneys, flagpoles, flues, spires, steeples, belfries, cupolas, antennas, poles, wires or windmills."

After informal discussions with staff in the state Attorney General's office, planners said they were told that the interpretation or regulation would be left to the county.

Andrea Capua, one of Watauga County government's attorneys, told board members yesterday that windmills are exempt from the Ridge Law.

For one thing, she said, there's the well-known Howard's Knob windmill that stood from 1979 from 1983. Capua said that lends some support to the interpretation that windmills were specifically excluded "to avoid de-legitimizing the Howard's Knob project."

Second, she said, is the simple definition that makes it hard to argue that a windmill is not a "structure(s) of a relatively slender nature."

The draft ordinance defines a small wind-energy system as one with a single wind turbine, tower and electronics with a capacity of not more than 20 kW. A windmill system that size is capable of supplying electricity to about six homes.

The height - which is the height at the top of the blade - is limited to 135 feet.

A setback requirement protects adjoining properties in case a windmill falls. A distance requirement of 1.5 times its height is meant to keep it from falling on any structure - home, business, school, church - that has people inside.

The proposed ordinance had a provision that would have included the National Park Service's opinion for any proposed windmill site that was within a mile of the Blue Ridge Parkway and in the Parkway viewshed.

After board member Tom Foxx objected, his fellow board members agreed to remove the Blue Ridge Parkway provision from consideration for the siting of small wind energy systems.

"I look at a windmill as aesthetically pleasing," Foxx said.

The board did agree on a modified version of the Blue Ridge Parkway provision as a factor in the placement of large wind-energy systems. They took out the language about the one-mile distance, but kept the language asking for National Park Service recommendations if the large wind-energy system would be in the parkway's viewshed.

The large wind-energy systems would require an extensive review that considers an environmental analysis, among other things. Wind-power systems that generate electricity for use by people off site would also be subject to the county's high-impact land-use ordinance.

The planning board voted 7-0 to send the draft ordinance to county commissioners, who will have a public hearing before voting on the issue.

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