REQUEST FOR BOARD ACTION

HENDERSON COUNTY

ZONING BOARD OF ADJUSTMENT

MEETING: ZBA 5-29-24

SUBJECT: Special Use Permit SUP-24-01 and Variance V-24-01 – Duke Energy Laydown Yard

PRESENTER: Matt Champion

APPLICANT: Duke Energy Carolinas, Inc.

ATTACHMENTS:
1. Staff Report & Oblique Photos
2. Variance Application
3. Special Use Permit Application
4. Major Site Plan Application
5. Major Site Plan

SUMMARY OF REQUEST:

The Applicant requests both a special use permit and a variance involving the same parcel. These requests can be dealt with in a single hearing, if the Board so chooses. However, the Board should note that different evidence is required for each request, and that the North Carolina General Statutes require a higher majority of the Board to vote for a variance for it to be allowed. That said, staff does not at this point recommend separating the hearings of the two requests.

1. Special Use Permit for SR: 2.10 Outdoor Storage >5,000SQFT
2. Variance to allow outdoor storage in the front yard.

Applicable requirements:

42-62 Supplemental Requirements, 2. Accessory Uses, SR 2.10 Outdoor Storage of the Henderson County Land Development Code states:

(1) Locational Requirements. Storage areas shall not be placed in a front yard.

SUGGESTED MOTION ONE – ONE OF THE FOLLOWING TWO:

1. I move to approve SUP-24-02 because the use will:
   a. Not materially endanger the public health, safety or welfare;
   b. Not substantially injure the value of property or improvements in the area; and
   c. Be in harmony with the surrounding area.

OR

2. I move to deny SUP-24-02 because the use will:
   a. Materially endanger the public health, safety or welfare;
b. Substantially injure the value of property or improvements in the area; and
c. Not be in harmony with the surrounding area.

SUGGESTED MOTION TWO – ONE OF THE FOLLOWING TWO

1. I move that the Board of Adjustment approve variance application V-24-01 because it meets the requirements of the Land Development Code to grant a variance, and

   a. There are practical difficulties or unnecessary hardships in carrying out the strict letter of this Chapter, as demonstrated by:
      1. The fact that, if the applicant complies with the literal terms of this Chapter, he/she cannot secure a reasonable return from, or make a reasonable use of, the property.
      2. The hardship of which the applicant complains results from unique circumstances related to the applicant’s land.
      3. The hardship is not the result of the applicant’s own action.
   b. The Variance is in harmony with the general purpose and intent of this Chapter and will preserve its spirit.
   c. The Variance will secure the public safety and welfare and will do substantial justice.
   d. The Variance shall not be based on the existence of a nonconforming use of neighboring land or structures in the same district, or permitted nonconforming uses in other districts.
   e. The Variance does not allow for an increase in density for the purposes of subdividing the land that would otherwise not be permitted by the applicable zoning district or subdivision regulations.

OR

2. I move that the Board of Adjustment deny variance application V-24-01 because it does not meet the requirements of the Land Development Code to grant a variance.
1. **Board Request**

1.1. **Applicant:** Duke Energy Carolinas, LLC  
1.2. **Request:** Special Use Permit & Variance  
1.3. **PIN:** 9690-86-8883  
1.4. **Size:** 16.92 Acres  
1.5. **Location:** 107 Laycock Rd, Hendersonville, NC 28792  
1.6. **Supplemental Requirements:** SR 2.10  
1.7. **Variance Requirements:** G. Quasi-Judicial Proceeding

**SR 2.10. Outdoor Storage greater than 5,000 square feet**

(1) Locational Requirements. Storage areas shall not be placed in a *front yard.*

(2) Screening. Screen Class Three (3) or Four (4) shall be provided consistent with the requirements of §42-181 (Screen Classification).

**G. Quasi-Judicial Proceeding.** The concurring vote of four-fifths (4/5) of the ZBA shall be necessary to grant a *Variance.* Any approval or denial of the request must be in writing and permanently filed with the office of the ZBA and with the Administrator as public record.

(1) Standards of Review. The ZBA shall not grant a *Variance* the effect of which would be to: (1) allow the establishment of a *use* not otherwise permitted in a general *use district,* (2) extend physically a *nonconforming use* of land or (3) change the district boundaries shown on the Official Zoning Map. No *Variance* shall be granted or considered where the fact that the property could be used more profitably is the reason for the request for the *Variance.* The following written findings must be made in order for the ZBA to grant a *Variance:*

a. There are practical difficulties or unnecessary hardships in carrying out the strict letter of this Chapter, as demonstrated by:

1. The fact that, if the *applicant* complies with the literal terms of this Chapter, he/she cannot secure a reasonable return from, or make a reasonable *use* of, the property.

2. The hardship of which the *applicant* complains results from unique circumstances related to the *applicant’s* land.

3. The hardship is not the result of the *applicant’s* own action.

b. The *Variance* is in harmony with the general purpose and intent of this Chapter and will preserve its spirit.

c. The *Variance* will secure the *public safety* and welfare and will do substantial justice.

d. The *Variance* shall not be based on the existence of a *nonconforming use* of neighboring land or *structures* in the same district, or permitted *nonconforming uses* in other districts, and shall in no way constitute a reason for the requested *Variance.*

e. The *Variance* shall not allow for an increase in density for the purposes of subdividing the land that would otherwise not be permitted by the applicable zoning district or *subdivision* regulations.
(2) Conditions. The ZBA may, in granting a Variance, prescribe: (1) additional conditions; (2) additional safeguards; (3) a time limit within which the action for which a Variance is sought shall be begun; (4) a time limit within which the action for a Variance is sought shall be completed; and (5) a time duration within which construction, operation or installation shall commence on the project for which the Variance was obtained.

H. Variance Validity. Upon issuance of a Variance, the applicant shall have 12 months within which (unless otherwise specified by the ZBA) to commence construction, operation or installation. If construction, operation or installation is commenced within the specified time period the Variance shall continue in force as long as the structure, operations or installation remains.

   (1) Variance Revocation. If construction or operation is not commenced within 12 months (or other specified time period), the Variance shall no longer be valid.

Variance. A grant of relief from the requirements of this Chapter (excluding variances from watershed and floodplain development requirements).

Yard, Front. An open, unoccupied space on the same lot with a principal structure, extending the full width of the lot and situated between the road or property line and the front line of the structure, projected to the sidelines of the lot.

Map A: County Context Map
2. **History & Characteristics:**
   2.1. **Current Property Owners:** Duke Energy Carolinas, LLC originally acquired the subject area through a General Warranty Deed on September 19, 2018.
   2.2. **Natural Resources:**
      2.2.1. **Streams:** The subject area does contain some surface water sources.
      2.2.2. **Slopes:** The subject area only contains slopes between 0% to 16%.

   **Map B: Aerial Map**

3. **Current Conditions**
   3.1. **Current Use:** The subject area currently contains an existing utility substation that was approved by the Technical Review Committee on October 2, 2018. The utility station was constructed between 2020 and 2022 according to aerial photos. The rest of the subject area is vacant with minor improvements.
   3.2. **Adjacent Area Uses:** The surrounding properties contain residential structures, agricultural land, vacant land, and a solar generation facility across Clark Rd.
3. **Zoning** The subject area is located within the Residential Two Rural (R2R) zoning district.

3.1 **Residential Two Rural (R2R):** The purpose of Residential District Two Rural (R2R) is to foster orderly growth where the principal use of land is residential. The intent of this district is to allow for low to medium density residential development and rural commercial and light industrial development consistent with the recommendations of the Comprehensive Plan. This general use district is typically meant to be utilized outside areas designated as Utility Service Area (USA) in the Comprehensive Plan. (LDC §42-29)

3.2 **Adjacent Zoning:** Residential Two Rural (R2R) is found in all directions of the subject area.
4. **Floodplain/Watershed Protection** The subject area is not encumbered by a Special Flood Hazard Area. The property is not in a Water Supply Watershed district. There is one known surface water found on the subject area according to the USGS.

5. **Water and Sewer** This property will not be served by public or private water or sewer.
   - **Public Water**: N/A
   - **Public Sewer**: N/A
6. **2045 Comprehensive Plan Compatibility** The 2045 Comprehensive Plan Future Land Use Map identifies the subject area as being in a Transitional Area character area (See Map E).

   a. **Transitional Area:** From Part 2 page 44, “Transitional Area encompasses residential areas of limited density. Conservation subdivisions should be encouraged in these areas to provide and protect open space.

   i. **Where:** Outside the core of the Utility Service Area and working agricultural lands

   ii. **Density:** The maximum allowable density range is two to four units per acre (gross density)

   iii. **Uses:** Single family residential, potentially some appropriately sized multi-family as part of planned developments, agricultural uses

7. **Proposal** The applicant is proposing to develop two portions of the subject area as a laydown yard/graveled parking area for ongoing utility work throughout Henderson County. The proposed outdoor storage areas will total approximately 3.7 acres that will be enclosed with an 8’ tall security fence with landscaping. The outdoor storage areas will be covered by gravel and accessed through the existing utility substation driveway. The major site plan does show an additional driveway access off Clark Rd to the 2.2 acres outdoor storage area. Both access points leading to
the proposed outdoor storage area will be gated. The existing utility substation will remain unchanged.

8. **Landscaping** The applicant will be required to install a Screen Class Three (3) or Screen Class Four (4) around the proposed outdoor storage area.

8.1. A Screen Class Three (3) consists of a fence or wall constructed with a minimum height of six (6) feet, that is at least 75 percent *opaque*, where all spaces are evenly distributed, and with the finished side of the fence facing the adjacent property or *road*. Fences longer than 20 linear feet shall be landscaped with: a row of *shrubs* spaced a maximum of ten (10) feet apart, or a row of *evergreen trees* planted no more than 15 feet apart.

8.2. A Screen Class Four (4) consists of a fence or wall constructed with a minimum height of eight (8) feet designed to facilitate the movement of maintenance and emergency response equipment to and from the proposed site. Gates should be secured at all times (unless for maintenance, inspection, or other unforeseen instances) following the completion of construction. Fencing may be in common with other *existing uses* on site. Fences longer than 20 linear feet shall be landscaped (excluding the gate area) with: a continuous hedge of *evergreen shrubs* planted in a five (5) foot strip spaced a maximum of eight (8) feet apart. The *Zoning Administrator* may require additional *screening* to minimize adverse impacts of ground level lighting (where installed).

9. **Technical Review Committee** The TRC reviewed the special use permit and variance application during their May 7, 2024, meeting. The TRC voted to forward the application to the ZBA with the following conditions: NCDOT driveway permit, NCDOT utility encroachment agreement, soil erosions sedimentation control permit, and a stormwater control permit.

10. **Oblique Aerial Photos**

    View from East
View from North

View from South
View from West

01/05/2024
HENDERSON COUNTY
VARIANCE APPLICATION FORM

GENERAL INFORMATION
Date of Application: 4/16/24
Previously Submitted (Circle One): Yes ☐ No ☐
Date of Pre-Application Conference: 3/11/24
Site Plan Attached (Circle One): Yes ☐ No ☐

PARCEL INFORMATION
Property Address: 107 Laycock Road
PIN: 9890888883 Deed Book/Page: 3252/294 Acreage: 16.92
Driving Directions: From Hendersonville, travel east on US-64 for 7.3 miles. Turn right onto Laycock Road. The site will be on the right side after 0.8 miles.

REASON FOR VARIANCE: Outdoor storage cannot be entirely located outside the "front yard"

FRONT SETBACK (feet/foot) 20 ft
SIDE SETBACK (feet/foot) 15 ft
REAR SETBACK (feet/foot) 10 ft

PROPERTY OWNER CONTACT INFORMATION:
Name: Duke Energy Carolinas, LLC Phone: (864) 209-9518
Address: 555 Breverd Rd City, State, and Zip: Asheville, NC 28806

Applicant:
Name: Darin Hill Phone: (828) 243-0645
Address: 557 Spartanburg Highway City, State, and Zip: Hendersonville, NC 28792

Agent:
Name: Phone:
Address: City, State, and Zip:
Agent Form (Circle One): Yes ☐ No ☐

Plan Preparer:
Name: S&ME - Brian Blake, PE Phone: (828) 687-9080
Address: 44 Buck Shoals Road, Suite C-3 City, State, and Zip: Arden, NC 28704

SITE PLAN REQUIREMENTS
Site plan of property showing existing structures, natural features (i.e. streams, ponds, etc.) proposed building or addition and indicating distance from such to the edge of right-of-way (centerline for variance request in the R-40, WR, or SW districts) and to the side and rear lot lines, as applicable. It is required that the site be staked or flagged. The Zoning Administrator will take photos of the site and the staked or flagged area. Show placement of well & septic system and drain field if applicable and distances from structures.

NOTE: Site plan not to exceed 11 X 17 size. Anything submitted larger than 11 X 17, the applicant must provide 12 copies with the application form.

STANDARDS FOR REVIEW
The Zoning Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the state enabling act, the Board is required to reach the following conclusions as a prerequisite to the issuance of a variance. State facts and argument in support of each of the following:
SECTIONS A & D MUST BE ANSWERED BY APPLICANT OR AGENT

A. There are practical difficulties or unnecessary hardships in carrying out the strict letter of this Chapter, as demonstrated by:

1. The fact that, if the applicant complies with the literal terms of this Chapter, he/she cannot secure a reasonable return from, or make a reasonable use of, the property. (It is not sufficient that failure to grant the variance simply make the property less valuable.)

   Duke Energy wishes to store and stage materials to aid projects in the area at a property where there is an existing substation. The ordinance states that outdoor storage may not be placed in the front yard. Given the constraints of the site, the storage area must be located at least partly in the front of the property. The substation occupies approximately 3 of the 16 acres of the property but it cannot be used for non-utility uses given the existing substation.

2. The hardship of which the applicant complains results from unique circumstances related to the applicant’s land. (Note: Hardships suffered by the applicant common with his neighbors do not justify a variance. Unique personal or family hardships are irrelevant since a variance, if granted, runs with the land.)

   The subject property is fronted on three sides by road right-of-way and contains an existing electrical substation with multiple overhead electric wires. The rear portion of the property contains the stormwater and erosion control basin, steep grades, overhead power lines and established woods which make locating the storage entirely behind the substation unrealistic.

3. The hardship is not the result of the applicant's own action.

   The hardship is based primarily due to the fact that it has road frontage on three sides meaning a majority of the site could be considered "front yard" with the fourth side containing steeper grades, overhead electric lines, and wooded areas.


B. The variance is in harmony with the general purpose and intent of the Land Development Code and will preserve its spirit. (State facts and arguments to show that the variance requested represents the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land and that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood.)

   Outdoor storage is permitted with special use approval and the construction will comply with all other regulations, utilizing class four evergreen landscape screening surrounding the entire storage area. Adjacent land use varies but includes low density residential, undeveloped property, agriculture, and a solar farm.

C. The variance will secure the public safety and welfare and will do substantial justice. (State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the applicant.)

   The storage area will aid in the construction and maintenance of utility projects in the surrounding areas. Operating the storage area at the subject property is the most efficient use of utility resources to improve and maintain existing and new electrical utilities in Henderson County.
**SECTIONS A & D MUST BE ANSWERED BY APPLICANT OR AGENT**

D. The variance shall not be based on the existence of a nonconforming use of neighboring land or structures in the same district, or permitted nonconforming uses in other districts, and shall in no way constitute a reason for the requested variance.

The need for a variance is not based on any nonconforming adjacent properties, it is based solely on the conditions of the subject property.

I certify that the information shown above is true and accurate and is in conformance with the Land Development regulations of Henderson County.

[Signature]

Print Applicant (Owner or Agent) [Date]

Signature Applicant (Owner or Agent)

Fee: $__________ Paid: __________ Method: __________ Received by: ________ Permit#: ________

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**HENDERSON COUNTY**

**CODE ENFORCEMENT SERVICES APPOINTMENT OF AGENT FORM (OPTIONAL)**

I, ________, owner of property located on ________, (Street Address), recorded in ________, (Deed Book/Page) and having a parcel identification number of ________, (PIN), located in Henderson County, North Carolina, do hereby appoint ________, (Agent’s Name), to represent me in an application to the Code Enforcement Services Department and authorize him/her to act as my agent in all matters, formal and informal except as stated herein, and authorize him/her to receive all official correspondence.

I however understand that as the listed property owner, I must sign all affidavits and statements required by any applicable ordinance.

[Property Owner] [Date]
HENDERSON COUNTY
SPECIAL USE PERMIT APPLICATION FORM

GENERAL INFORMATION
Date of Application: 4/16/24
Previously Submitted (Circle One): Yes  No
Date of Pre-Application Conference: 3/11/24
Site Plan Attached (Circle One): Yes  No
Traffic Impact Study Required (Circle One): Yes  No

SPECIAL USE PERMIT INFORMATION
Type of use to be permitted: Outdoor storage
SR #: _________
Existing Structures or Uses on property: Existing electric utility substation
Road System (Circle): Public
Water System (Circle): Individual
Sewer System (Circle): Individual

SITE PLAN REQUIREMENTS
If a minor or major site plan is not specifically required, the applicant shall submit a site plan with the following items:
• Dimensions of property.
• Location of existing and proposed structures (including accessory structures), and general use thereof.
• Setbacks of existing and proposed structures from property lines and edge of right-of-way for roads (from centerline of roads for uses located in the R-40, WR, or SW districts).
• Separation of existing and proposed structures from one another.
• Parking and off/on loading areas
• Location of signs (including sign dimensions, height, type of material, lighting).
• Location and dimensions of existing and proposed roads / driveways and their entrance/exits.
• Location of dumpsters.
• Location and general description of any fences, landscaping or other buffering (proposed or existing).
Site plan not to exceed 11 X 17 size. Anything submitted larger than 11 X 17, the applicant must provide 12 copies with the application form.

PARCEL INFORMATION
Location of property to be developed: The property is located immediately northwest of the intersection of Laycock Road and Clark Road at 107 Laycock. The location of existing and proposed features on the property are shown on the site plan.

CONTACT INFORMATION
Property Owner:
Name: Duke Energy Carolinas, LLC  Phone: (864) 209-9518
Address: 555 Brevard Rd  City, State, and Zip: Asheville, NC 28806

Applicant:
Name: Darin Hill  Phone: (828) 243-0645
The gravel storage area is proposed on a property which already has a Duke Energy substation. The storage areas will be protected by 8’ high security fencing with a locked gate when not in use and screened by landscaping on all sides. The storage area will hold non-hazardous materials and equipment needed for utility projects and maintenance for nearby areas.

Surrounding property uses include single family residential (lots greater than 0.5 acres), agriculture, undeveloped woods, and a solar farm. The substation and storage areas will occupy less than 50% of the property and will preserve wooded areas that currently exist.

The property is designated as Transitional Area on the comprehensive plan future land use map and is outside of the urban growth boundary but within the utility service area. Expansion of electric utilities will be necessary to realize planned development in the area.

In addition to Henderson County zoning, the following permits will be obtained prior to construction and operation: Henderson County stormwater, NCDOT Driveway encroachment, NC DEQ Erosion/Sediment Control. Duke Energy will maintain compliance during operation.

Be in accordance with the Comprehensive Plan, Long Range Transportation Plans and Comprehensive Transportation Plans of the county and/or Long Range Transportation Plans and comprehensive Transportation Plans of any municipality of the County.

The proposed use shall be located and developed in such a manner as to:

a. Comply with all applicable local, state and federal statutes, ordinance and regulations.

b. Be in accordance with the Comprehensive Plan, Long Range Transportation Plans and Comprehensive Transportation Plans of the county and/or Long Range Transportation Plans and comprehensive Transportation Plans of any municipality of the County.

The property is designated as Transitional Area on the comprehensive plan future land use map and is outside of the urban growth boundary but within the utility service area. Expansion of electric utilities will be necessary to realize planned development in the area.
c. Minimize the effects of noise, glare, dust, solar access and odor on those persons residing or working in the neighborhood of the proposed use.

The surface of the storage area will be gravel which will minimize dust. Noise from operations will not be expected every day and will be limited to regular business hours. Landscaping will obscure the sight of stored items and no odor or other impacts are expected.

d. Minimize the environmental impacts on the neighborhood including the following groundwater, surface water, wetlands, endangered/threatened species, archeological sites, historic preservation sites and unique natural areas.

The uncompacted gravel will allow infiltration of stormwater and avoid any increase in runoff condition offsite. No waters of the state or sensitive resources will be impacted by the project.

Show that satisfactory provision/arrangement has been made (where applicable or required) concerning:

a. Ingress and egress to property and proposed structures thereon (with particular reference to automotive/pedestrian safety/convenience and traffic flow/control).

The existing property entrance from Laycock Road will be maintained and a second access will be built from Clark Road. NC DOT approval is pending. The location of the ingress and egress are shown on the site plan.

b. Off-street parking and loading areas.

There will be no loading areas nor specifically designated parking. Workers will park either in the existing gravel area or within the proposed storage area while working on site. Items to be stored on site may include vehicles from time to time.

c. Utilities (with particular reference to locations, availability and compatibility).

The current use of the property is electrical distribution. The proposed storage area will operate without the need for additional utilities.

d. Buffering and landscaping (with particular reference to type, location and dimensions).

The storage area will be fenced in with an 8' security fence. The fencing will be screened by a class 4 landscape buffer which will have evergreens planted at 8' spacing around the entire storage area. Portions of the west side have an existing tree line to provide screening.

e. Structures (with particular reference to location, size and use).

No structures are proposed in this application. There is an existing energy substation on the property.

I certify that the information shown above is true and accurate and is in conformance with the Land Development regulations of Henderson County.

Darin Hill
Print Applicant (Owner or Agent)

[Signature]
Signature Applicant (Owner or Agent)

04/16/2024
Date

County Use Only

Fee: $_______  Paid: _______  Method: _______  Received by: _______

Authority to grant the requested permit is contained in the Land Development Code, Sections: _______

Community Planning Area: _______
Contact Information

Property Owner:
Name: Duke Energy Carolinas, LLC
Phone: (864) 209-9518
Complete Address: 957 Spartanburg Hwy Hendersonville, NC 28792

Applicant:
Name: Darin Hill
Phone: (828) 243-0645
Complete Address: 557 Spartanburg Highway Hendersonville, NC 28792

Agent:
Name: 
Phone: 
Complete Address: 
Agent Form (Circle One): Yes No

Plan Preparer:
Name: S&ME - Brian Blake, PE
Phone: (828) 687-9080
Complete Address: 44 Buck Shoals Road, Suite C-3 Arden, NC 28704

General Information

Date of Application: 4/16/24

Site Plan Attached (Circle One): Yes No

Parcel Information

PIN: 9690868883 Tract Size (Acres): 16.92
Zoning District: R2R Fire District: Edneyville
Supplemental Requirement#: Watershed: French Broad
Permitted by Right Floodplain: X
Special Use Permit 

Location / Property to be developed:
The property is located immediately northwest of the intersection of Laycock Road and Clark Road at 107 Laycock Rd. The location of existing and proposed features are shown on the site plan.

County Use Only

Fee: $___________ Paid: ____________ Method:_________ Received by: ______________
APPLICATION IDENTIFICATION

Driveway Permit No. 00010
Date of Application 03/20/2024
County: Henderson
Development Name: Duke Energy Storage Area

N.C. DEPARTMENT OF TRANSPORTATION
STREET AND DRIVEWAY ACCESS PERMIT APPLICATION

LOCATION OF PROPERTY:

Route/Road: SR 1724 Laycock Road and SR 1725 Clark Rd

Exact Distance 690 Miles N S E W
Feet

From the Intersection of Route No. 1724 and Route No. 1725 Toward West of intersection

Property Will Be Used For: Residential /Subdivision Commercial Educational Facilities TND Emergency Services Other
Property: ☒ is ☐ is not within R2R County City Zoning Area.

AGREEMENT

- I, the undersigned property owner, request access and permission to construct driveway(s) or street(s) on public right-of-way at the above location.
- I agree to construct and maintain driveway(s) or street entrance(s) in absolute conformance with the current “Policy on Street and Driveway Access to North Carolina Highways” as adopted by the North Carolina Department of Transportation.
- I agree that no signs or objects will be placed on or over the public right-of-way other than those approved by NCDOT.
- I agree that the driveway(s) or street(s) will be constructed as shown on the attached plans.
- I agree that that driveway(s) or street(s) as used in this agreement include any approach tapers, storage lanes or speed change lanes as deemed necessary.
- I agree that if any future improvements to the roadway become necessary, the portion of driveway(s) or street(s) located on public right-of-way will be considered the property of the North Carolina Department of Transportation, and I will not be entitled to reimbursement or have any claim for present expenditures for driveway or street construction.
- I agree that this permit becomes void if construction of driveway(s) or street(s) is not completed within the time specified by the “Policy on Street and Driveway Access to North Carolina Highways”.
- I agree to pay a $50 construction inspection fee. Make checks payable to NCDOT. This fee will be reimbursed if application is denied.
- I agree to construct and maintain the driveway(s) or street(s) in a safe manner so as not to interfere with or endanger the public travel.
- I agree to provide during and following construction proper signs, signal lights, flaggers and other warning devices for the protection of traffic in conformance with the current “Manual on Uniform Traffic Control Devices for Streets and Highways” and Amendments or Supplements thereto. Information as to the above rules and regulations may be obtained from the District Engineer.
- I agree to indemnify and save harmless the North Carolina Department of Transportation from all damages and claims for damage that may arise by reason of this construction.
- I agree that the North Carolina Department of Transportation will assume no responsibility for any damages that may be caused to such facilities, within the highway right-of-way limits, in carrying out its construction.
- I agree to provide a Performance and Indemnity Bond in the amount specified by the Division of Highways for any construction proposed on the State Highway system.
- The granting of this permit is subject to the regulatory powers of the NC Department of Transportation as provided by law and as set forth in the N.C. Policy on Driveways and shall not be construed as a contract access point.
- I agree that the entire cost of constructing and maintaining an approved private street or driveway access connection and conditions of this permit will be borne by the property owner, the applicant, and their grantees, successors, and assignees.
- I AGREE TO NOTIFY THE DISTRICT ENGINEER WHEN THE PROPOSED WORK BEGINS AND WHEN IT IS COMPLETED.

2004-07
NOTE: Submit Four Copies of Application to Local District Engineer, N.C. Department of Transportation TEB 65-04rev. 61-03419
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<td>Phone No.</td>
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COMMENTS:
EROSION & SEDIMENT CONTROL PLAN
LAYCOCK ROAD PARKING/LAYDOWN AREA
HENDERSONVILLE, HENDERSON COUNTY, NORTH CAROLINA

PROJECT NUMBER 23600232

DRAWING LIST

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<td>ZONING SITE PLAN</td>
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PREPARED FOR
DUKE ENERGY CAROLINAS, LLC
957 SPARTANBURG HIGHWAY
HENDERSONVILLE, NORTH CAROLINA 28792

44 BUCK SHOALS ROAD,
UNIT C-3
ARDEN, NC 28704
828-687-9080

1 OF 10
DIVISION STAFF MAY WAIVE THE REQUIREMENT FOR A WRITTEN DOCUMENTATION REQUIREMENTS WITHIN 7 CALENDAR DAYS, IF THE STREAM IS NAMED ON THE REPORTING TIME FRAMES (AFTER DISCOVERY).

GROUND STABILIZATION SHALL BE CONVERTED TO PERMANENT GROUND STABILIZATION AS SOON AS A REQUIRED GROUND STABILIZATION TIMEFRAMES.

AFTER THE PERMANENT CESSATION OF CONSTRUCTION ACTIVITIES, ANY AREAS WITH TEMPORARY STABILIZATION SITE AREA REQUIRED GROUND STABILIZATION TIMEFRAMES MANY CALENDAR DAYS STABILIZE WITHIN THIS TIMEFRAME VARIATIONS.

ENVIRONMENTAL CONSIDERATIONS WHEN PERMANENT GROUND STABILIZATION AREAS ARE NOT CONVERTED TO PERMANENT GROUND STABILIZATION:

- DOWNSTREAM EROSION
- DECREASED BASEFLOW
- INCREASED STREAM BANK EROSION
- EROSION OF BANKS AND BANK TERRACES
- TRUMPET TRAP OBSERVED
- SEDIMENT LOSS TO WATERS OF THE UNITED STATES.

DIVISION STAFF MAY WAIVE THE REQUIREMENT FOR A WRITTEN REPORT ON A CASE-BY-CASE BASIS.

NOTIFICATION OF BYPASS DOES NOT INCLUDE THE FOLLOWING OCCURRENCES:

- INVISIBLE SEDIMENT DEPOSITION IN A GROUNDWATER OUFLUX
- VISIBLE SEDIMENT DEPOSITION IN A STREAM OR WETLAND
- THE QUALITY AND EFFECT OF THE BYPASS.

A REPORT AT LEAST TEN DAYS BEFORE THE DATE OF THE BYPASS, IF PLANNED TO REDUCE, ELIMINATE, AND PREVENT REOCCURRENCE OF THE NONCOMPLIANCE IS EXPECTED TO CONTINUE; AND STEPS TAKEN OR PROPOSED TO REMEDIATE THE NONCOMPLIANCE HAS NOT BEEN CORRECTED, THE ANTICIPATED TIME.

THE REPORT SHALL INCLUDE AN EVALUATION OF THE POSSIBLE IMPACT ON WATERS OF THE UNITED STATES.

ANTICIPATED QUALITY AND EFFECT OF THE BYPASS.

NOTIFICATION SHALL INCLUDE INFORMATION ABOUT THE DATE, TIME, LOCATION, EFFECTS, AND TIME PERIODS OR CONDITIONS IN WHICH IT WILL OCCUR. THE REPORT MAY BE IN THE FORM OF A WRITTEN REPORT OR ORAL OR ELECTRONIC NOTIFICATION.

REFERENCES:

GC01-ENVIRONMENTAL CONTROL NOTES
PAMS/FLOCCULANTS
NC DWR LIST OF APPROVED PAMS/FLOCCULANTS
NC 303(D) LIST AS IMPAIRED FOR WATER QUALITY AND OTHER REQUIREMENTS
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TEMPORARY MOUNTAINS UPLAND SEEDING & STABILIZATION SPECIFICATIONS

SEEDING DATES
SEEDING MIXTURE - AMENDMENTS - MULCH
 APPLICATION RATE (LBS/ACRE)
COMMON NAME (SCIENTIFIC NAME)

SEEDING DATES - MAY 15 TO AUGUST 15
SEEDING MIXTURE - AMENDMENTS - MULCH
 APPLICATION RATE (LBS/ACRE)
COMMON NAME (SCIENTIFIC NAME)

SEEDING DATES - AUGUST 15 TO DECEMBER 15
SEEDING MIXTURE - AMENDMENTS - MULCH
 APPLICATION RATE (LBS/ACRE)
COMMON NAME (SCIENTIFIC NAME)

SEEDING DATES - AUGUST 1 TO JUNE 1*
SEEDING MIXTURE - AMENDMENTS - MULCH
 APPLICATION RATE (LBS/ACRE)
COMMON NAME (SCIENTIFIC NAME)

SEEDING DATES - MAY 1 TO SEPTEMBER 1*
SEEDING MIXTURE - AMENDMENTS - MULCH
 APPLICATION RATE (LBS/ACRE)
COMMON NAME (SCIENTIFIC NAME)

DEFINITION
PURPOSE
SEEDBED REQUIREMENTS
SEEDBED PREPARATION
SEEDING
HYDRO SEEDING
MAINTENANCE

PERMANENT MOUNTAINS UPLAND SEEDING & STABILIZATION SPECIFICATIONS

SEDIMENT BASIN BAFFLES
N.T.S.

SKIMMER OUTLET
N.T.S.
1. All fence component materials shall be hot-dipped galvanized steel. Pipe frame shall be aluminum coated.