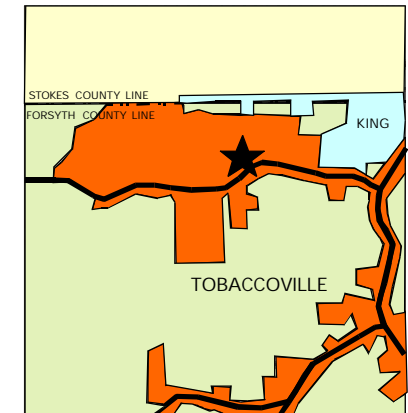


**DOCKET #:** F1314  
Continued from June 8, 2000  
CCPB meeting

**PROPOSED ZONING:**  
RS20

**EXISTING ZONING:**  
RS20 and AG

**PETITIONER:**  
William C. McGee,  
Kathryn McGee,  
and W.C. McGee, Jr.



Location Map

**SCALE:** 1" represents 400'

**STAFF:** G. Simmons

**GMA:** 5

**ACRE(S):** 37.87

**MAP(S):** 588910, 588914

July 19, 2000

Kathryn H. McGee, William C. McGee, Jr. and Diane R. McGee  
3655 Spainhour Mill Road  
Tobaccoville, NC 27050

RE: ZONING MAP AMENDMENT F-1314

Dear Ms. McGee, and Mr. and Mrs. McGee:

The attached report of the Planning Board to the Forsyth County Board of Commissioners is sent to you at the request of the Commissioners.

When the rezoning is scheduled for public hearing, you will be notified by Jane Cole, Clerk to the County Commissioners, of the date on which the Commissioners will hear this petition.

Sincerely,

A. Paul Norby, AICP  
Director of Planning

Attachment

pc: Jane Cole, County Manager's Office  
John A. Meadows, Esquire, 2596 Reynolda Road, Suite C, Winston-Salem, NC 27106  
Boyce Shore, 3650 Rolling Hill Drive, Tobaccoville, NC 27050  
Myron Marion, P. O. Box 2361, King, NC 27021

**FORSYTH COUNTY**  
**BOARD OF COMMISSIONERS**

**MEETING DATE:** \_\_\_\_\_ **AGENDA ITEM NUMBER:**

**SUBJECT:-**

Zoning map amendment of Kathryn McGee, William C. McGee, Jr., and Diane R. McGee

**COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:-**

**SUMMARY OF INFORMATION:-**

Zoning petition of Kathryn McGee, William C. McGee, Jr., and Diane R. McGee from AG and RS-20 to RS-20: property is located on the north side of Spainhour Mill Road across from Snyder Farm Road (Tobaccoville) (Zoning Docket F-1314).

After consideration, the Planning Board recommended approval of the zoning map amendment.

**ATTACHMENTS:-**     YES         NO

**SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

\_\_\_\_\_

COUNTY ORDINANCE - GENERAL USE

Zoning Petition of Kathryn McGee, William C. McGee, Jr., and Diane R. McGee, Docket F-1314

AN ORDINANCE AMENDING  
THE FORSYTH COUNTY  
ZONING ORDINANCE AND THE  
OFFICIAL ZONING MAP OF THE  
COUNTY OF FORSYTH,  
NORTH CAROLINA

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BE IT ORDAINED by the Board of County Commissioners of the County of

Forsyth as follows:

Section 1. The Zoning Ordinance of the *Unified Development Ordinances* of the County of Forsyth, North Carolina, and the Official Zoning Map of the County of Forsyth, North Carolina, are hereby amended by changing from RS-20 and AG to RS-20 the zoning classification of the following described property:

Beginning at a 1/2" iron placed on the northern right-of-way of Spainhour Mill Road on the line between Lot 2-A of Tax Block 4728 and Lot 340 of Tax Block 4728; thence with the line of Lot 340, north 2° 10' west 800.87 feet to an existing stone and south 87° 48' west 905.52 feet to a 1" iron placed in the line of Lot 1-H of Tax Block 4728; thence with Lot 1-H, north 10° 00' west 685.56 feet to a 3/4" iron placed, north 68° 40' 50" east 799.77 feet to a 3/4" iron placed, south 52° 30' east 307.99 feet to a 3/4" iron placed, and north 69° 40' 50" east 528.00 feet to a 1/2" iron placed in the line of Lot 301 of Tax Block 4728; thence with the lines of Lots 301 and 302, south 24° 50' 40" east 292.91 feet to an existing 3/4" iron, the northwest corner of Lot 310 of Tax Block 4728; thence with Lot 310, south 27° 56' 50" east 68.76 feet to an existing flat iron, the northern corner of Lot 26-B of Tax Block 4728; thence with Lot 26-B, south 15° 04' west 612.74 feet to an existing flat iron, the northern corner of Lot 4-K of Tax Block 4728; thence with Lot 4-K, south 2° 48' 30" east 108.61 feet to an existing 1/8" rebar, the northern corner of Lot 4-A of Tax Block 4728; thence with Lot 4-A, south 3° 06' 20" east 250.88 feet to an existing iron, and south 39° 00" east 126.28 feet to a 1/2" iron placed on the northern right-of-way of Spainhour Mill Road; thence with the northern right-of-way of Spainhour Mill Road the following chords: south 45° 14' 30" west 94.40 feet, south 46° 31' 10" west 55.79 feet, south

48° 18' 20" west 53.42 feet, south 50° 53' 20" west 59.84, south 53° 04' west 49.535 feet, south 55° 38' 50" west 55.02 feet, south 57° 30' 40" west 52.48 feet, south 60° 17' 30" west 56.04 feet, south 63° 00' 10" west 51.41 feet, south 65° 26' west 49.70 feet and south 69° 44' west 62.56 feet to the place of beginning and containing 36.03 acres more or less.

The above described property lying in Old Richmond Township, Forsyth County, North Carolina is Lots 2-A, 2-B, 23, 333, and 334 of Tax Block 4728. The description is taken from a survey entitled "William C. McGee, Sr. and wife Kathryn H. McGee and William C. McGee, Jr. and wife Diane B. McGee" by Michael E. Gizinski, Professional Land Surveyor L-1540 dated January 6, 2000. See Deed Book 592, Page 376; Deed Book 1012, Page 398; Deed Book 1121, Page 789; Deed Book 1201, Page 290.

Section 2. This ordinance shall become effective upon adoption.

## **ZONING STAFF REPORT**

**DOCKET #** F-1314

**STAFF:** Glenn Simmons

Petitioner(s): Kathryn McGee, William C. McGee, Jr., and Diane R. McGee

Ownership: William C. McGee, Kathryn McGee, W. C. McGee, Jr.

### **CONTINUANCE HISTORY**

The petitioner agreed to continue this zoning request from the June 8, 2000, Planning Board meeting to the July 13, 2000, meeting to obtain additional information or comments from Tobaccoville's Land Use Committee regarding the suitability of the current RS-20 zoning proposal.

### **REQUEST**

From: RS-20 Residential Single Family District; minimum lot size 20,000 sf and AG Agricultural District

To: RS-20 Residential Single Family District; minimum lot size 20,000 sf

Both general and special use district zoning were discussed with the applicant(s) who decided to pursue the zoning as requested.

NOTE: This is a general use zoning petition; therefore, ALL uses permitted in the above requested district should be considered.

Acreage: 37.87 acres

### **LOCATION**

Street: North side of Spainhour Mill Road across from Snyder Farm Road.

Jurisdiction: Forsyth County; part of the site lies within the Village of Tobaccoville.

### **PROPERTY SITE/IMMEDIATE AREA**

Existing Structures on Site: Two residential structures and two outbuildings.

Adjacent Uses:

North - Vacant and sparsely developed rural residential development; zoned AG.

East - Vacant and sparsely developed rural residential development with newer residential homes located on the north side of Spainhour Mill Road; zoned AG and RS-20.

- South - Vacant and sparsely developed rural residential development with newer residential homes located on the south side of Spainhour Mill Road and smaller lot homes located on east and west sides of Snyder Farm Road; zoned AG and RS-20.
- West - Vacant and sparsely developed rural residential development with a newer residential subdivision located on Greenmeadow drive, south of Spainhour Mill Road; zoned AG.

### **GENERAL AREA**

Character/Maintenance: Well-maintained rural residential homes located along Spainhour Mill Road and conventional subdivision homes located off Greenmeadow Drive south of Spainhour Mill Road.

Development Pace: Slow to moderate.

### **PHYSICAL FEATURES**

Topography: Site is generally level to moderately rolling.

Vegetation/habitat: Mixed hardwoods and evergreen trees.

Impact on Existing Features: N/A.

### **TRANSPORTATION**

Direct Access to Site: Spainhour Mill Road (SR 1604).

Street Classification: Not classified.

Average Daily Traffic Count/Estimated Capacity at Level of Service D (Vehicles per Day):  
2,158/12,000.

Trip Generation/Proposed Zoning: AG, Maximum 41 units or 391 trips per day; RS- 20, Maximum 82 units or 779 trips per day. Potential 388 additional trips per day generated from proposed zoning request.

Planned Road Improvements: None proposed.

Sight Distance: Adequate but somewhat limited due to vehicular access located on inside of curve on Spainhour Mill Road.

### **HISTORY**

F-1293; RS-20 and AG to AG; withdrawn at April 13, 2000, meeting of the City-County Planning Board; current project site; Planning staff recommended approval. Case was withdrawn to encourage dialogue and resolution of issues between applicant and neighbors and Town of Tobacoville officials.

Note: The present AG and RS-20 zoning classifications became effective in January 1995 with the adoption of the *Unified Development Ordinances* (UDO) and the associated countywide zoning reclassification. Prior to adoption of the UDO, the former R-6

residential zoning classification permitted 20,000 square foot lots (comparable to the proposed RS-20 zoning).

### **CONFORMITY TO PLANS**

GMP Area (*Vision 2005*): Area 5: Rural.

Relevant Comprehensive Plan Recommendation(s): Retention of farming activities and preservation of the natural environment with limited residential and commercial development.

Area Plan/Development Guide: This site is not within the boundary of a development guide or area plan. The Village of Tobaccoville is currently working with the State's Division of Community Assistance to develop an area plan/development guide for areas within the Village corporate limits and for location within Tobaccoville's area of annexation consideration. According to Village officials, this plan will likely be completed in October 2000.

### **INCORPORATED AREA COMMENTS**

Incorporated Jurisdiction: Village of Tobaccoville.

Expressed Concern: The Village Manager was contacted by planning staff to receive a zoning opinion from the Village Council regarding the current zoning request. Manager Kerry McDuffie provided a copy of the Village of Tobaccoville resolution recommending denial of the RS-20 zoning request. Subsequently the Village Council passed another resolution as an addendum calling for all properties in or near Tobaccoville not be considered for zoning until after adoption of the area plan.

### **ANALYSIS**

The current request is a proposal to rezone 37.87 acres of existing AG zoned property to RS-20. The property is located along Spainhour Mill Road at the northwestern edge of the Village of Tobaccoville. This is identical to an earlier request (F-1293) by the petitioner. That earlier request was withdrawn at the April 13, 2000, Planning Board meeting to encourage discussions of issues by the applicant, neighbors, and Town of Kernersville officials.

Most of the current property lies just outside the village limits and was reclassified from the former R-6 zoning designation to AG in January of 1995 with adoption of the *Unified Development Ordinances*. Generally, properties which were mapped to AG were agriculturally viable properties which either participated in the tax deferred program for bona fide farms or were in an area near such properties. Some AG properties also include, or are near, farms which are part of Forsyth County's farmland preservation program. Under this program the County purchases the development rights from qualifying farms to restrict future non-farm development. Although AG properties are intended to support and encourage agricultural activities, the zoning district also permits single family residential development with a minimum lot size of 40,000 square feet.



Properties located adjacent to the current site are within the Tobacoville Village limits although most of the property lies within an unincorporated area of Forsyth County. These properties along Spainhour Mill Road, including a portion of the current site, were reclassified from the former R-6 zoning to RS-20 in accordance with UDO policies which supported the RS-20 within incorporated boundaries of rural communities. This policy was based partially on the premise that higher density residential development was consistent with incorporated community objectives to provide cost-effective delivery of various municipal services.

Although staff continues to support the AG district, we also acknowledge the current site's location adjacent to the Village of Tobacoville and the existing character of other RS-20 zoned properties in the vicinity. The property also has direct access to Spainhour Mill Road which is one of the principal transportation corridors in Tobacoville. To this extent, staff considers the proposed rezoning to be consistent with UDO and *Vision 2005* policies to support moderately higher residential zoning along primary transportation corridors where the cost-effective delivery of municipal services makes future annexation viable. Staff also considers the current proposal to be consistent with Tobacoville's history of supporting residential subdivision growth along primary transportation corridors by virtue of subdivision annexations.

Since the adoption of the UDO, however, the Village has taken a more active role in defining its image as a rural community and asserting its desire to conserve open space and promote larger lot subdivision development. First with the adoption of the Tobacoville Strategic Plan in 1996, and more recently with the initiation of the Village's land use plan, Tobacoville has proclaimed its very low density development intentions. Most recently the Village asked the City-County Planning Board to delay action on all zoning requests within the Village's area of annexation consideration, until the land use plan, currently under development with the assistance of the North Carolina Division of Community Assistance, is completed.

While staff endeavors to accommodate Tobacoville's wishes, staff must also consider additional factors in our deliberation and recommendations on matters pertinent to various zoning requests. In this context, the current site is only one of many rural, undeveloped properties which lie outside of Tobacoville's incorporated limits which may wish a similar zoning classification. Specifically, staff must consider the existing character of development adjacent to, or near the current property; the history of relevant zoning requests; and the actual status of relevant area plans and development guidelines. In this context, the largest portion of the property lies just outside the Tobacoville Village limits and is adjacent to other land in the Village zoned RS-20. This is especially true, unless and until the City-County Planning Board and the Forsyth County Board of Commissioners choose to adopt the Tobacoville plan as an official policy guide. Until the new plan has been completed and adopted by all relevant governmental units, Planning staff believes it has an obligation and a duty to make a zoning recommendation based on the character of the land, its immediate surroundings, and its ability to be accessed and serviced.

## **FINDINGS**

1. The property is located contiguous to other RS-20 zoned properties and has good access to Spainhour Mill Road, one of the principal transportation corridors in Tobaccoville.
2. The UDO reclassified properties within the incorporated boundaries of Tobaccoville to RS-20 in 1995 on the basis that more rural zoning is consistent with the purpose of municipalities to provide efficient, cost-effective delivery of municipal services to a concentration of people.
3. The property is located on Spainhour Mill Road near other RS-20 zoned and annexed residential subdivisions and would be a suitable candidate for annexation if the property were subdivided.
4. RS-20 zoning is consistent with previous actions of the Village of Tobaccoville to extend corporate limits to include developed residential properties contiguous to primary transportation corridors.
5. Planning staff is supportive of the Village of Tobaccoville's area plan/development guide initiative, but believes that the plan is too far from completion to recommend that a decision on the current zoning case be withheld.

## **STAFF RECOMMENDATION**

Zoning: **APPROVAL**.

## **PUBLIC HEARING** - June 8, 2000

Glenn Simmons presented the staff report.

FOR:

William C. McGee, 6102 Arden Drive, Clemmons, NC 27012

My mother lives on the property in question.

I went back and looked at the UDO after our last meeting.

We've owned this land 23 years and have never farmed it.

US Department of Agriculture has deleted this land from their records because they don't believe it's suitable for agricultural use.

Public water is available in King.

King has assured me that water would be supplied.

We would have no problem being in Tobaccoville's corporate limits.

I thought it prudent to have the land rezoned to make it more marketable in preparation for when we will need to sell it. This land is the sum of my mother's assets.

We're getting between a rock and a hard place. Tobaccoville doesn't want us to rezone it.

You all are asking us to work with Tobaccoville.

House size doesn't guarantee good citizenship or character.  
Many of the other homes in the area are priced in the \$40,000 and \$50,000 range.

**AGAINST:**

Myron Marion, 3500 Richardson Avenue, Tobaccoville, NC 27050

Submitted petitions.

I represent my neighbors.

We aren't opposed to the development as such, but feel the land should stay AG.

Spainhour Mill Road serves as a good separation between smaller and larger lots.

If this is rezoned and later sold to a developer, he cannot be required to put in turn lanes or meet other DOT requirements as he could if he was rezoning the land at that time.

The residents here want their community to remain rural.

King still has to put a tie line in to expand capacity. Until that's done, they won't be able to support any growth in this area.

Traffic is a concern.

We'd like to see more larger lot size developments in this area, like the 10-acre per lot development nearby.

Boyce Shore, 3650 Rolling Hill Drive, Tobaccoville, NC 27050

Thanks to the Planning Board for sticking around to handle these tough decisions.

This land is totally surrounded by land in Tobaccoville. It is not in Tobaccoville limits simply by error.

We, the Village Council, do not have an argument against the RS-20 change. We simply want to make our decisions for our area.

Developers can go in and totally strip the land. We're really concerned about maintaining as much natural area as possible.

We already have areas in our community that could meet the petitioners needs.

The McGees will sell this property and not be members of Tobaccoville. We will be left with the responsibility for all these people.

**WORK SESSION**

During discussion by the Planning Board, the following points were made:

1. Mr. McGee indicated he could wait 60 days to try to work with Tobaccoville, but didn't want to pay another fee.
2. Mr. Shore indicated he anticipates having all zoning categories when Tobaccoville's plan is completed.
3. Mr. McGee indicated he wants to know Tobaccoville will agree with RS-20 or will not have RS-20 zoning under their plan.

MOTION: James Rousseau moved continuance of the zoning map amendment to July 13 , 2000.

SECOND: Arnold King

VOTE:

FOR: King, Powell, Rousseau, Snelgrove, Williams

AGAINST: None

EXCUSED: None

**PUBLIC HEARING** - July 13, 2000

NOTE: The public hearing was held and closed at the June 8 meeting. However, the Planning Board agreed to reopen the hearing.

William C. McGee, 6102 Arden Drive, P. O. Box 5, Clemmons, NC 27012

Most of the area surrounding this site is wooded, as is a majority of our site.

Homes in this area vary greatly in size and value. Most are stick-built although there are a few modular or manufactured homes.

I am not against small houses. Good and responsible citizens live in all sizes and values of houses.

This site has not been farmed in over twenty years.

Reviewed suggested uses for AG land.

This is an urbanized area.

We think our request is proper and fits the UDO. I appreciate your time.

If you insist on having large tract development, you will have more sprawl than with smaller tract development.

We have good roads.

We must develop a willingness to accept higher densities at the suburban fringe.

The plan which is presented to you today by the Village, encourages uses like this around the fringes, so I think we fit the criteria.

AGAINST:

Boyce Shore, 3650 Rolling Hill Drive, Tobaccoville, NC 27050

I am the mayor of Tobaccoville.

Most of this area was AG before Tobaccoville annexed it.

Commissioners suggested we have a comprehensive land plan into which the community has input.

Submitted rough draft of Village of Tobaccoville Land Development Plan and reviewed summary of proposed plan.

The surrounding land was labeled RS-20 during the UDO process.

Mistakes need to be realized, not repeated.

This document speaks highly of the people in our community.

The Village's rural atmosphere makes it attractive to its residents.

RS-30 would be acceptable to Tobaccoville.

We want to have more input into what Tobaccoville looks like because we are Tobaccoville. Mr. McGee is moving out of the neighborhood and is trying to maximize his profit. I don't blame him for that.

Residents have made it clear that they want to preserve the rural character of the area and the rural quality of life.

We are almost to the point of having a comprehensive plan for our area.

Myron Marion, P. O. Box 3261, King, NC 27021

Verified that the petition and letter submitted at the previous meeting are on file.

Surrounding land owners are opposing this.

## **WORK SESSION**

During discussion by the Planning Board, the following points were made:

1. Considerations which can support conversion from AG to higher density residential development include:
  - a. Infrastructure. Infrastructure in this area can support high density zoning.
  - b. Transportation. This site is near a major road (Spainhour).
  - c. Character of the area. This site is unlikely to be used for agricultural purposes due to surrounding uses.
2. Mr. Shore indicated the likelihood that this area will be annexed into Tobaccoville at the property owners request. The tax rate is very low, so annexation is attractive.
3. Arnold King indicated he does not think 20,000 sf lots are harmful to any town.

MOTION: Arnold King moved approval of the zoning map amendment.

SECOND: James Rousseau

VOTE:

FOR: Bost, King, Rousseau, Snelgrove, Williams

AGAINST: Powell, Schroeder

EXCUSED: None

According to information furnished by the Office of the Tax Assessor, the subject property was in the name of William C. McGee and Kathryn McGee and W. C. McGee, Jr. as of December 13, 1999. William C. McGee is now deceased and documentation that W. C. McGee, Jr. is Trustee of his estate is on file.

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A. Paul Norby, AICP  
Director of Planning