



**DOCKET #:** F1323

**PROPOSED ZONING:**  
Special Use Permit  
for Access

**EXISTING ZONING:**  
RS20 and RS40

**PETITIONER:**  
Edgar L. Lockhart  
and Faye D. Lockhart

**SCALE:** 1" represents 200'

**STAFF:** Simmons

**GMA:** 5

**ACRE(S):** 0.36

**MAP(S):** 588902

September 20, 2000

Edgar L. & Faye D. Lockhart  
4901 Tobaccoville Road  
Tobaccoville, NC 27050

RE: ZONING MAP AMENDMENT F-1323

Dear Mr. & Mrs. Lockhart:

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  
Greg Arrington, 411 Sunpath Circle, Winston-Salem, NC 27103

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

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

**SUBJECT:-**

Special Use Permit petition of Edgar L. Lockhart and Faye D. Lockhart

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

**SUMMARY OF INFORMATION:-**

Special Use Permit petition of Edgar L. Lockhart and Faye D. Lockhart for access through RS-20 and RS-40 Zoning Districts to a LI-S Zoning District: property is located on the south side of Ridge Road west of Tobacoville Road (Zoning Docket F-1323).

After consideration, the Planning Board recommended denial of the special use permit. If approved, staff recommendations should apply.

**ATTACHMENTS:-**     YES         NO

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

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COUNTY ORDINANCE - SPECIAL USE  
PERMIT

Special Use Permit of Edgar L. and Faye D.  
Lockhart, Docket F-1323

AN ORDINANCE ISSUING  
A SPECIAL USE PERMIT  
FOR ACCESS THROUGH RS-20 AND RS-40  
ZONING DISTRICTS TO A LI-S ZONING  
DISTRICT

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BE IT ORDAINED by the Board of Commissioners of Forsyth County, North Carolina,  
as follows:

Section 1. The Board of Commissioners hereby makes an affirmative finding as follows,  
based upon the material and competent evidence presented at the public hearing:

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved;
2. That the use meets all required conditions and specifications;
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and,
4. That the location and character of the use, if developed according to the application and plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with *Vision 2005*.

Section 2. The Forsyth County Board of Commissioners hereby issues a special use permit for Edgar L. and Faye D. Lockhart in accordance with Section 6-1.5 of the Zoning Ordinance of the *Unified Development Ordinances* for access through RS-20 and RS-40 Zoning Districts to a LI-S Zoning District to be established on the following described property:

Lying and being in Old Richmond Township, Forsyth County, North Carolina and being a portion of the Edgar L. Lockhart property (DB 2035, PG 711, Tax Block 4740, Lot 303) and being a proposed 25' access easement through said property and being more particularly described as follows:

BEGINNING at an iron stake, the NW corner of Hoyal B. Kye (tax block 4740, lot 38E) in the southern right of way of SR 1614 Ridge Road; thence along the West line of Kye S 01° 22'48" W a distance of 299.97' to an iron stake; thence with a curve to the left with a radius of 50.00' and an arc distance of 36.06' a chord bearing of S 19° 16'59" E a distance of 35.29' to a point; thence with a curve to the right with a radius of 250.00' and an arc distance of 180.32' a chord bearing of S 19° 16'59" E a distance of 176.44' to a point; thence S 01° 22'48" W a distance of 105.65' to a point in a new line for Edgar L. Lockhart; thence with the new line for Lockhart N 88° 50'38" W a distance of 25.00' to a point; thence N 01° 22'48" E a distance of 105.75' to a point; thence with a curve to the left with a radius of 225.00' and an arc distance of 162.29' a chord bearing of N 19° 16'59" W a distance of 158.79' to a point; thence with a curve to the right with a radius of 75.00' an arc distance of 54.10' a chord bearing of N 19° 16'59" W a distance of 52.93' to a point; with said right of way N 73°12'36" E a distance of 26.31' to the point of Beginning. Containing 15,449 square feet or 0.355 acres more or less.

Being Tax Block 4740, Lot 303.

Section 3. This Ordinance is adopted after approval of the site plan entitled Plumbing & Mechanical Services, Inc. and identified as Attachment "A" of the Special Use Permit issued by the Board of Commissioners the \_\_\_\_\_ day of \_\_\_\_\_, to Edgar L. and Faye D. Lockhart.

Section 4. The Board of Commissioners hereby directs the issuance of a Special Use Permit pursuant to Section 6-1.5 of the Zoning Ordinance of the *Unified Development Ordinances* for a development to be known as Plumbing & Mechanical Services, Inc. Said Special Use Permit and site plan with associated documents are attached hereto and incorporated herein.

Section 5. This Ordinance shall be effective from and after its adoption.

CITY - SPECIAL USE PERMIT

SPECIAL USE PERMIT

Issued by the Board of Commissioners  
of Forsyth County

The Board of Commissioners of Forsyth County issues a Special Use Permit for the site shown on the site plan map included in this zoning petition of Edgar L. and Faye D. Lockhart, (Zoning Docket F-1323). The site shall be developed in accordance with the plan approved by the Board and bearing the inscription: "Attachment A, Special Use Permit for access through RS-20 and RS-40 Zoning Districts to a LI-S Zoning District, approved by the Forsyth County Board of Commissioners the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_" and signed, provided the property is developed in accordance with requirements of Section 6-1.5 of the Zoning Ordinance of the *Unified Development Ordinances*, and other applicable laws, and the following additional condition be met:

**OTHER REQUIREMENTS**

- a. No signs are permitted.

## **ZONING STAFF REPORT**

**DOCKET #** F-1323

**STAFF:** Glenn Simmons

Petitioner(s): Edgar L Lockhart and Faye D. Lockhart

Ownership: Same

### **REQUEST**

For: Special Use Permit to cross RS-20 and RS-40 zoning to access LI-S zoning [Reference companion zoning request (Docket F-1322)]

Acreage: 0.36 acre

### **LOCATION**

Street: Off the south side of Ridge Road west of Tobacoville Road.

Jurisdiction: Forsyth County (located within the Village of Tobacoville limits).

### **SITE PLAN**

Proposed Use: Access to LI-S zoned land.

Square Footage: N/A

Building Height: N/A

Density: N/A

Parking: N/A

Bufferyard Requirements: N/A

Vehicular Use Landscaping Standards Requirements: N/A

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

Existing Structures on Site: Site is vacant and cleared.

Adjacent Uses:

- North - Site located just north and adjacent to Tobacoville Village Limits. Further north is a partially cleared/partially wooded area zoned RS-20 and a single family home, also zoned RS-20.
- East - Single family homes zoned RS-20 located along Ridge and Tobacoville Roads. A moderately sized single family subdivision, also zoned RS-20 is located opposite the current site.
- South - Rural residential single family homes, zoned RS-20 located along Tobacoville Road.
- West - Single family homes zoned RS-40.

## **GENERAL AREA**

Character/Maintenance: Generally well maintained rural residential single family homes with a newer conventional residential subdivision nearby.

Development Pace: Slow to moderate.

## **INCORPORATED AREA COMMENTS**

Incorporated Jurisdiction: Site is located just within the Village of Tobaccoville limits.

Expressed Concern: The Village Council voted to recommend denial of both the LI-S and RS-20 portions of the companion zoning request (F-1322). The denial is based on the inconsistency of the proposal with the existing residential character of the area, recommendations of *Vision 2005*, and the recommendations of the draft Village Development Guidelines currently under review by the Tobaccoville Village Council.

## **ANALYSIS**

The request is for a Special Use Permit to access proposed LI-S zoned property through existing residentially zoned property. This petition is a companion to zoning Docket F-1322, which is a request to rezone 1.84 acres of land from RS-40 to LI-S to permit "Building Contractors, General". A Special Use Permit for such access is required under the UDO whenever a specific use being accessed is not permitted within the zoning district through which access is being granted.

Specifically this a request to extend a twenty-five foot wide easement with a gravel drive southward from Ridge Road, approximately six hundred feet, to the northern edge of the proposed LI-S zoning lot. The existing private drive, as currently constructed, could also serve as access to several single family residential lots on either side of it.

Staff does not believe that the current Special Use Permit is warranted on the basis that the proposed access to LI-S property for commercial vehicles would present a substantial nuisance to surrounding residential properties. The anticipated noise and lights from the traffic as well as other environmental impacts from the proposed contractor operation would be inconsistent with the residential character of the area.

The Village of Tobaccoville officials have also communicated to Planning staff that the Village does not support the proposed LI-S zoning request for which the Special Use Permit is required. The proposed LI-S zoning is also inconsistent with the draft of the "Village Development Guidelines" currently under review by the Village of Tobaccoville Council.

Additionally, staff notes that Special Use Permits are considered under quasi-judicial proceedings. Accordingly, the *Unified Development Ordinance* (UDO) specifies that for the Special Use Permit to be recommended for approval by the Planning Board, seven findings must be favorably addressed by the Planning Board as follows [Section 6-5.1 (D) of the UDO]:



## **FINDINGS OF FACT**

1. The development is in conformity with *Vision 2005* as it relates to the specific area; No. *Vision 2005* identifies the current site as being located within Growth Management Area 5 (Rural). As such the area is proposed to remain rural and residential. The plan also notes the importance of protecting stable neighborhoods. A building contractor at the current location is not supported by *Vision 2005*.
2. Water and sewer are available in adequate capacity; Yes. Public water is available. Public sewer is not available. Developer proposes to use a private septic system for sewage treatment.
3. Where buildings greater than thirty-five feet (35) are proposed within the City of Winston-Salem limits, there is adequate access for the aerial fire-fighting equipment: N/A
4. Streets and highways both within and in the vicinity of the development, are of such design and traffic-carrying capacity that the development will not create a traffic hazard; No. While the private access drive will adequately accommodate public safety equipment and service vehicles, staff is concerned that for the safety of residential inhabitants who may share the commercial access drive to the proposed building contractor site.
5. General layout and design of this development meet all requirements of this ordinance; Yes.
6. Adequate, safe, and convenient provision is made for vehicular and pedestrian movement on the site with particular attention paid to the needs of public safety equipment and personnel (fire, police, etc.) and service vehicles and personnel (sanitation, postal delivery, etc.); No. While the private access drive is adequate to accommodate public safety equipment and service vehicles, staff is concerned for the safety of residential inhabitants who may share the proposed commercial access to the building contractor site.
7. The Planning Board may recommend to the Elected Body conditions as identified in section 6-1.3 (A)(1) for the issuance of the Special Use Permit to reduce impacts associated with the project; please note site plan conditions.

In addition to these seven findings by the Planning Board, the elected body (Forsyth County Board of Commissioners) must make affirmative findings as follows to issue a special use permit [Section 6-1.5(F) of the UDO]:

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to application and plans as submitted and approved; No. Planning staff believes that the proposed private vehicular access to serve commercial vehicles may present a significant safety concern to potential residential property owners who may also share access off the easement to their properties.

2. That the use meets all required conditions and specifications; Yes.
3. That the use will not substantially injure the value of adjoining or abutting property, or that use is a public necessity; No. Planning staff believes that the proposed private access drive to serve commercial vehicles will be a nuisance to adjacent property owners and may be injurious to property values in the vicinity.
4. That the location and character of the use, if developed according to the application and plan submitted and approved, will be in harmony with the area in which it is located and in general conformity with *Vision 2005*; No. The proposed business use is out of character with the rural residential development in the area. *Vision 2005* identifies the current site as being located within Growth Management Area 5 (Rural). As such the area is proposed to remain rural and residential. A building contractor at the current location is not supported by *Vision 2005*.

### **STAFF RECOMMENDATION**

Zoning: **DENIAL**.

Site Plan: Staff certifies that **the site plan meets all code requirements**, and recommends the following condition:

### **OTHER REQUIREMENTS**

- a. No signs are permitted.

Glenn Simmons presented the staff reports for F-1322 and F-1323 together.

### **PUBLIC HEARING**

FOR:

Greg Arrington, 411 Sunpath Circle, Winston-Salem, NC 27103

I work for the petitioner.

I have worked extensively with the staff, trying to figure out how to make this work.

The road shown in the slides was put in because the logging work had torn the site up enough that we needed to do something to get the rest of the wood out.

Mr. Lockhart owns most of the surrounding land and has promises that he can buy the portion he does not own when the owners are ready to sell.

He lives here.

I saw the Tobaccoville proposed plan. Their plan for mixed commercial and business uses misses this property by 0.2 mile. Three-tenths of a mile the other way is a commercial business.

Mr. Lockhart is wanting to build a business that he can someday pass on to his family. He owns this land and wants to do something with it. The RS-20 is for the hope of future nice rent homes.

As far as we know, there was no opposition to this request.

AGAINST: None

**WORK SESSION**

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

1. The County Attorney has determined that the LI-S is an illegal spot zone.
2. John Bost noted that the gentleman petitioning for this request owns most of the surrounding land. No one is opposed to it.

MOTION: Steve Johnson moved denial of the special use permit with staff recommendations.

SECOND: Terry Powell

VOTE:

FOR: Bost, Johnson, King, Powell, Rousseau, Schroeder, Snelgrove, Williams

AGAINST: Avant

EXCUSED: None

John Bost asked if Tract 2 (LI-S) request could theoretically be approved by itself (if the RS-40 for Tract 1 and the Special Use Permit for access were denied). Paul Norby stated that Tract 1 (RS-20) request could be individually approved without the special use permit for access, but Tract 2 would need to have approval of the special use permit to be able to get the access back to the road.

According to information furnished by the Office of the Tax Assessor, the subject property was in the name of Edgar L. and Faye D. Lockhart as of June 22, 2000.

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A. Paul Norby, AICP  
Director of Planning