

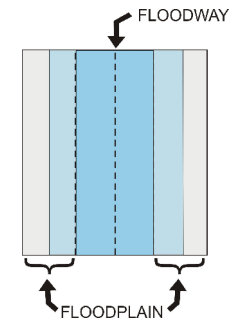
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**DOCKET #:** F1519

**PROPOSED ZONING:**  
RS20

**EXISTING ZONING:**  
RS40

**PETITIONER:**  
Nancy Boles  
for property owned  
by Donald and Ida K. Looper



**SCALE:** 1" represents 800'

**STAFF:** Roberts

**GMA:** 5

**ACRES:** 1.22

**NEAREST BLDG:** 275' north

**MAP(S):** 576890



April 14, 2010

Nancy Peck Boles  
5320 River Bluff Farms Road  
Tobaccoville, NC 27050

RE: ZONING MAP AMENDMENT F-1519

Dear Ms Boles:

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 Carla Holt Clerk to the County Commissioners, of the date on which the Commissioners will hear this petition.

Sincerely,

A. Paul Norby, FAICP  
Director of Planning

Attachment

pc: Carla Holt, County Manager's Office  
Donald Gray & Ida Keaton Looper, 5330 River Bluff Farms Road, Tobaccoville, NC  
27050  
Cecil Barber, 5295 River Bluff Farm Road, Tobaccoville, NC 27050

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

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

**SUBJECT:-**

- A. Public Hearing on Zoning Map Amendment of Nancy Boles for property owned by Donald and Ida Looper from RS-40 to RS-20: property is located on the west side of River Bluff Farms Road, south of Tutelo Forrest Trail (Zoning Docket F-1519).
  
- B. Ordinance amending the Forsyth County Zoning Ordinance and Official Zoning Map of the County of Forsyth, North Carolina.

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

**SUMMARY OF INFORMATION:-**

See attached staff report.

After consideration, the Planning Board recommended approval of the rezoning petition.

**ATTACHMENTS:-**     YES             NO

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

County Manager

COUNTY ORDINANCE - GENERAL USE

Zoning Petition of Nancy Boles for property owned by Donald and Ida Looper, Docket F-1519

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-40 to RS-20 the zoning classification of the following described property:

PIN # 5879-72-9922

Section 2. This ordinance shall become effective upon adoption.

**CITY-COUNTY PLANNING BOARD  
STAFF REPORT**

<b>PETITION INFORMATION</b>			
<b>Docket #</b>	F-1519		
<b>Staff</b>	<a href="#">Gary Roberts, Jr. AICP</a>		
<b>Petitioner(s)</b>	Donald and Ida Looper		
<b>Owner(s)</b>	Same		
<b>Subject Property</b>	PIN # 5879-72-9922		
<b>Address</b>	5330 and 5320 River Bluff Farms Road		
<b>Type of Request</b>	General use rezoning from RS-40 to RS-20		
<b>Proposal</b>	<p>The petitioner is requesting to amend the Official Zoning Maps for the subject property <b>from</b> RS-40 (Residential, Single Family District; 40,000 sf minimum lot size) <b>to</b> RS-20 (Residential, Single Family District; 20,000 sf minimum lot size)</p> <p><b>NOTE:</b> Both general, special use limited, and special use district zoning were discussed with the petitioner(s) who decided to pursue the rezoning as presented. With a General use, all uses in the District must be considered.</p>		
<b>Zoning District Purpose Statement</b>	The RS-20 District is primarily intended to accommodate single family detached dwellings in suburban areas and may also be applicable to older, large lot development constructed prior to the effective date of this Ordinance. This district is intended for application in Growth Management Areas 2, 3, and 4.		
<b>Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(R)</b>	<b>(R)(1) - Is the proposal consistent with the purpose statement(s) of the requested zoning district(s)?</b>		
	No, the subject property is located in the Rural, Growth Management Area 5.		
<b>GENERAL SITE INFORMATION</b>			
<b>Location</b>	West side of River Bluff Farms Road, south of Tutelo Forrest Trail		
<b>Jurisdiction</b>	Forsyth County		
<b>Site Acreage</b>	± 1.22 acres		
<b>Current Land Use</b>	Two single family homes are currently located on the site.		
<b>Surrounding Property Zoning and Use</b>	<b>Direction</b>	<b>Zoning District</b>	<b>Use</b>
	North	RS-40	Single family home
	East		Undeveloped property
	South		
West			

<b>Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(R)</b>	<b>(R)(2) - Is/are the use(s) permitted under the proposed classification/request compatible with uses permitted on other properties in the vicinity?</b>			
	Yes, the uses within the existing RS-40 and the proposed RS-20 districts are essentially the same.			
<b>Physical Characteristics</b>	The site has a moderate slope downward to the south.			
<b>Proximity to Water and Sewer</b>	No public water and sewer service is available to the site. The two single family homes on the site have separate well and septic systems.			
<b>Watershed and Overlay Districts</b>	The site is located in the Yadkin River Direct Drainage Area, a WS-IV protected water supply watershed.			
<b>Analysis of General Site Information</b>	The property is located within both the Yadkin River Watershed the Rural Growth Management Area 5. Public water and sewer service is not available to the site.			
<b>SITE ACCESS AND TRANSPORTATION INFORMATION</b>				
<b>Street Name</b>	<b>Classification</b>	<b>Frontage</b>	<b>ADT Count</b>	<b>Capacity/LOS D</b>
River Bluff Farms Road	Local Street	333'	NA	NA
<b>Proposed Access Point(s)</b>	Because this is a general use request, the exact location of access points is unknown; however, the site does have public road frontage on River Bluff Farms Road.			
<b>Trip Generation - Existing/Proposed</b>	<p><u>Existing Zoning: RS-40</u>  <math>1.22 \times 43,560 \text{ sf} / 40,000 = 1 \text{ unit} \times 9.57 \text{ (SFR Trip Rate)} = 10 \text{ Trips per Day}</math></p> <p><u>Proposed Zoning: RS-20</u>  <math>1.22 \times 43,560 \text{ sf} / 20,000 = 2 \text{ units} \times 9.57 \text{ (SFR Trip Rate)} = 20 \text{ Trips per Day}</math></p>			
<b>Analysis of Site Access and Transportation Information</b>	Staff does not anticipate any negative transportation impacts from this request.			
<b>CONFORMITY TO PLANS AND PLANNING ISSUES</b>				
<b>Legacy GMA</b>	Growth Management Area 5, Rural Area			
<b>Relevant Legacy Recommendations</b>	<ul style="list-style-type: none"> <li>• Without public sewer in Rural Areas, land can only be developed at low densities for residential use. The maximum density allowed for residential development on septic systems in Forsyth County is approximately two units per acre. (p. 45)</li> <li>• Discourage rezonings to more intense districts in the Rural Area. (p. 46)</li> <li>• Pressure is increasing to rezone land in the Rural Area for more intensive development as the County becomes more urban. Existing large lot zoning should be retained as a tool for protecting farmland and open space. (p. 46)</li> </ul>			

<b>Relevant Area Plan(s)</b>	The site is not within the boundaries of an area plan or development guide.
<b>Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(R)</b>	<b>(R)(3) - Have changing conditions substantially affected the area in the petition?</b>
	No
	<b>(R)(4) - Is the requested action in conformance with <i>Legacy</i>?</b>
	No
<b>Analysis of Conformity to Plans and Planning Issues</b>	<p>The request is to rezone a 1.22 acre lot from RS-40 to RS-20. If approved, the property which currently has two homes located on it could be subdivided into two lots. The site is located within the Rural Growth Management Area where rezonings to more intense districts are discouraged. The site is also located within the Yadkin River water supply watershed and has no public water or sewer service.</p> <p>The following is a brief summary of events leading to the current request. In 1997 the property owners obtained a Special Use Permit from the Forsyth County Zoning Board of Adjustment to place an accessory, Class A double-wide manufactured home on the lot for a blood relative, which was valid for a period of five years. This permit, which was renewed in 2002 and 2007, was restricted to use only by a blood relative as allowed in Chapter B, Article II, Section 2-6.4 (C). In 2008, the property was purchased by the current owners. Later that year the accessory manufactured home was sold and the new manufactured home owner has been living on the site since that time. Earlier this year, a purchase agreement was signed between the land owner and the accessory home owner to buy approximately 1 acre of land to go with the manufactured home. However, once a surveyor was contacted, the parties realized they did not have enough land to subdivide the property into two RS-40 lots. This prompted the current rezoning request. Should this petition be denied, the accessory home would either have to be moved or vacated by the current resident/owner who is not a blood relative of the petitioners.</p> <p>While staff acknowledges the unique situation surrounding the request, rezoning the property could lead to other RS-40 to RS-20 petitions in the Rural GMA 5 watershed area where no public water or sewer is available. Also, rezoning could signal that a Board of Adjustment permit to allow a “blood relative” accessory home may be preliminary to a rezoning. The closest RS-20 zoning is located approximately 6,200’ east at the intersection of Vienna-Dozier Road and Seven Hills Road.</p>
<b>RELEVANT ZONING HISTORIES</b>	
There are no recent rezoning cases in the area.	

CONCLUSIONS TO ASSIST WITH RECOMMENDATION	
Positive Aspects of Proposal	Negative Aspects of Proposal
Request would allow the petitioner to remain in their manufactured home at the existing location.	The request is inconsistent with <i>Legacy's</i> recommendations for the Rural GMA.
	Request is not consistent with the purpose statement of the proposed RS-20 district.
	Request would establish a precedent for other RS-40 to RS-20 requests in the general area.

**STAFF RECOMMENDATION: Denial**

**NOTE:** These are **staff comments** only; final recommendations on projects are made by the City-County Planning Board, with final decisions being made by the appropriate Elected Body, who may approve, deny, table or request modification for any project. **THE APPLICANT OR REPRESENTATIVE IS STRONGLY ENCOURAGED TO ATTEND THE PUBLIC HEARINGS WHERE THE CASE WILL BE CONSIDERED BY THE PLANNING BOARD AND THE ELECTED BODY.**

Gary Roberts presented the staff report.

**PUBLIC HEARING**

FOR:

Cecil Barber, 5295 River Bluff Farm Road, Tobaccoville, NC 27050

- I've been out here 35 years. We've had some rough people live on this property.
- These two owners are going to retire and move out to the country.
- They weren't aware of the situation.
- They've been friends since they were kids.
- I don't have a problem with this request.
- I've talked with some of the neighbors. None of them have a problem with it.

Nancy Peck Boles, 5320 River Bluff Farms Road, Tobaccoville, NC 27050

- Ida and I aren't blood relatives, but we're cousins.
- When she and her husband purchased this land, she approached me about this secondary dwelling unit.
- The choice at that time was to either have it repossessed and hauled off or to have someone live there.
- When she asked me if I'd be interested in it, I went to look at it. I fell in love with the house and the land and where it was. In turn I fell in love with the neighbors.
- I love the deer that run across the back yard. I love everything about it and decided then and there that this was my retirement home.
- We were very unaware that this couldn't be divided. We assumed it could be.



- I said that the only way I would purchase this home was to purchase the land with it. We signed a purchase agreement.
- When we got into the purchasing mode and contacted a surveyor, we found out that we couldn't divide it without having the zoning changed.
- We contacted some of the neighbors about it and about us living there and everyone seems to be okay with it.
- This is my home now and I would like to continue to live there. Please approve this.

Ida Looper, 5340 River Bluff Farms Road, Tobaccoville, NC 27050

- We are the actual owners of the property.
- We had no idea that this couldn't be split up.
- Our plan was that down the road she would buy the parcel this dwelling unit sits on.
- She's been there two years. There have been no problems. None of the neighbors have had any objections to it.
- I realize this isn't just a neighbor situation but has something to do with where it is located, being in a watershed.
- If this is a water issue, please take into consideration that there are only three of us living on this property, two in my home and one in hers. Many of the houses in this area have more than that number living in one than we have in two.
- We'd like very much if you would approve this. We understand if you don't but we'd like very much if you did.

AGAINST: None

### **WORK SESSION**

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

1. In response to a question from Clarence Lambe, Paul Norby explained that the special use permit runs with the land and is not impacted if the property changes ownership. The limitations are that only a blood relative of the primary dwelling owners is allowed to dwell in this secondary dwelling unit and that the permit is applicable for five years with renewal options.
2. There is a separate well, electric meter, septic tank and driveway for each building.
3. This issue came up because at this time Ms. Boles owns the actual unit, but not the land associated with it. Ms. Boles and Mr. & Ms. Looper have a signed contract for Ms. Boles to purchase the actual land associated with the secondary dwelling unit.
4. Arnold King: Does one of the lots still meet the 40,000 square foot minimum? David Reed responded that because of the shape of the property, the petitioners cannot even get two 30,000 square foot lots.

5. Lynne Mitchell: When this secondary dwelling unit was purchased in 2008, was it just the dwelling unit itself which was purchased and not the ground under and around it? Gary Roberts responded in the affirmative.
6. Clarence Lambe: I understand staff's concerns, but I will support approval of the petitioner's request. I don't think we'll have any trouble distinguishing this in the future. At least with me, no one is going to be able to use this case as reason to rezone 100 acres as RS-20 in this area.
7. Lynne Mitchell: I guess the intent was to purchase the modular home and then purchase the land later which is why this issue didn't come up until later. This is an unusual situation. Is there a reason why this sort of thing isn't disclosed when a person purchases a piece of property?
8. Clarence Lambe: Yes, there's no title search for personal purchase of land. There should be a Bill of Sale which they could search, but they aren't buying any real estate so there's no record notice for them to have to go do anything about.
9. Paul Norby: Unfortunately without a special use permit actually being recorded on the property, we have the potential of these issues coming up. What we probably need to do to minimize future problems is to do a clean-up text amendment regarding these blood relative permits and require something to be recorded. The other thing I noticed when we went out on sign check is that the subordinate unit has it's own independent driveway to the main road which again doesn't clue anyone in who might be purchasing the property that this was intended to be an accessory dwelling.
10. Arnold King: What they are requesting doesn't do anything to change the character of the neighborhood. I don't see it having any detrimental effect. I don't see any neighbors opposed to it. I'll support it.
11. Arthur King: I support it also. The issue of precedent here doesn't bother me nearly as much here as it would in other instances.
12. Paul Mullican: This is the kind of case where the decision would be easy to make with your heart. I understand what staff has said, but with everything else that's been said I think the plusses outweigh the minuses. I'll be supporting this also.
13. Wesley Curtis: It is certainly unfortunate that the owner got caught in the middle of providing a transaction which goes against what we have already set as our rules and guidelines as for how areas and land are to be divided up. I think that's very important because our goal for this area is to keep as much as possible RS-40. I would say that I agree with Paul (Norby) that there are other things we can do in the future so these kinds of misunderstandings are less. I think that would be great. However, I think when we start making exceptions my heart goes out

too. I mean we all make mistakes. A lot of times we have to live with those and go on. I think in this case I would agree with Planning staff that there's a reason we set this up like this and a blood-relative is the exception and that's the way it's laid out. I think we ought to stick with that and provide safe-guards in the future to help people know or to give them heads up if there are limitations on those guidelines.

14. Barry Lyons: The precedent that this sets bothers me when I look at what could happen. Other people will come forward and say, "You did it for them. You need to do it for me." It's uncomfortable for me and I would hate to see that beautiful area with huge housing tracts on it.
15. Arnold King: Paul (Norby) if you're going to look at a text amendment maybe the tract of land should be big enough to support two lots that fit within the underlying district (in this case, two 40,000 square foot lots).
16. Wesley Curtis: Typically you just would not allow it at all. But there's some accommodation for blood relative which I think everybody can understand the need in those cases.

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

SECOND: Lynne Mitchell

VOTE:

FOR: Arnold King, Arthur King, Clarence Lambe, Darryl Little, Lynne Mitchell, Paul Mullican

AGAINST: Wesley Curtis, Barry Lyons

EXCUSED: None

According to information furnished by the Tax Assessor on April 21, 2010, the subject property was in the name of Donald and Ida Looper.

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A. Paul Norby, FAICP  
Director of Planning