

## **Attachment 2, Applicant's Justification Statement**

### **A0900004, Jordan Lake Critical Area**

Statement provided by Durham City-County Planning Department

The proposed plan amendment would adjust the Urban Growth Area and Rural/Suburban Tier boundary to mirror the proposed new location of the Jordan Lake Critical Area. The proposed change would also apply a future land use designation of Very Low Density Residential (2 DU/Ac. or Less) to the area that would move inside the Urban Growth Area and apply a future land use designation of Rural Density Residential (0.5 DU/Ac. or Less) to the area that would move outside the UGA.

In 2005, the owners of several parcels of land in southwest Durham provided the former Planning Director with a privately funded survey of the boundary of a small segment of the northeast part of Jordan Lake. The survey depicted a smaller Lake boundary in Durham County, and therefore, smaller one-mile Critical and five-mile Protected Area boundaries. The property owners requested an interpretation about the normal pool location of the Lake and the associated one-mile Critical Area boundary. Both the normal pool location and the watershed boundaries were improperly adjusted by the former Planning Director without adequate public process.

The Durham County Board of Commissioners on November 10, 2008 voted 3-2, to direct the Planning Director to submit a request to DWQ to revise the location of the Jordan Lake boundary, as well as the associated Critical and Protected Area boundaries. In November 2008, the Planning Director requested that DWQ and/or EMC approve this watershed boundary revision.

In February 2009, DWQ advised Durham that they had accepted the survey as better information about the location of the Lake. DWQ also accepted the proposed revisions to the Critical and Protected Area boundaries around Jordan Lake, if Durham chooses to adopt them. As John Hennessy points out in his letter from February 4, 2009, the North Carolina Administrative Code 15A NCAC 2B.0104 (o) states that "local governments shall correctly delineate the approximate normal pool elevation for backwaters of water supply reservoirs for purposes of determining the critical and protected area boundaries as appropriate." Mr. Hennessy advised Durham that DWQ accepted and approved of the proposed revisions to the Critical and Protected Area boundaries around Jordan Lake. On April 13, 2009, the Durham County Board of Commissioners voted 3-2, to direct Planning staff to initiate the proposed plan amendment.

Durham's Watershed Protection rules are based on applying the most stringent regulations to the area within one mile of the lake boundary. UDO Sec. 4.11.2A. identifies the location of the Jordan Lake Critical Area as one mile from the 216 foot MSL normal pool. UDO Sec. 4.1.2B. identifies the Rural Tier as the area that lies outside the UGA and largely within watershed critical areas. Likewise, *Durham Comprehensive Plan* Land Use Policy 2.3.1e., Urban Growth Area, identifies the UGA as the boundary between the Suburban and Rural Tier.

Now that the new survey information has been accepted by DWQ, this plan amendment, and the associated rezoning, are necessary to bring Durham's regulations into compliance with the intent of the UDO and *Durham Comprehensive Plan*.

NC DWQ's approval of the survey of the normal pool of Jordan Lake submitted by Durham County represents a compelling reason to change the Future Land Use Map. The proposed plan amendment is therefore justified because of changed conditions in the area surrounding Jordan Lake since the adoption of the *Durham Comprehensive Plan*.