

**Written Comments Planning Commission
August 11, 2009**

Jordan Lake Critical Area (Z0900009)

Mr. Brine. I voted to recommend denial of these requests for the following reasons:

1) Even though Durham County has shore line on four water supply reservoirs (Lake Michie, Little River, Falls Lake, Jordan Lake), Durham (County and City) does NOT have any policy or any guidelines on how to "delineate the approximate normal pool elevation for backwaters of water supply reservoirs". It is apparent that there are multiple approaches. It is also apparent that DWQ wants Durham to find a solution. Without any policy or guidelines, property owners, surveyors, planning staff, planning commissioners, and elected officials are working in a vacuum without knowing what is acceptable and what is not acceptable. Without any policy or guidelines, any decision that the elected officials make is open to challenge. This is not an environment that is conducive to making progress.

2) The Ellerbe Creek boundary determination some years back differs significantly from the more recent New Hope Creek determination in several respects. In the Ellerbe Creek case, a party (the Army Corps of Engineers) was willing to stipulate when "normal flow in the creek" took place, so that the condition stipulated in the agreed-to normal pool definition was fulfilled. That did not happen with the New Hope Creek determination. In the Ellerbe Creek case, the survey measurements were witnessed by representatives of the community and by planning staff. That also did not happen with the New Hope Creek determination.

3) I concurred with the observation of Commissioner Jacobs that the proposed plan amendment does not really meet all the criteria for a plan amendment. Furthermore, in view of session law 2009-216 (Restore Water Quality in Jordan Reservoir), the associated costs of the clean-up could have a substantially adverse impact on both County and City budgets in the future.

Mr. Davis. My comments are the same for plan amendment case A0900004.

Mr. Edens. I voted against this proposal because I do not agree with Durham County's approach to the issue. I want to be clear that I agree with the normal pool method utilized for the 14 properties associated with the 751 development, and if the request before us was for these parcels only, then my vote would have been for approval. What I don't agree with is the decision by Durham County to include numerous other properties in the request, with each property's new watershed line being based on different methods (normal pool, latest GIS information, etc). I do not understand the logic behind this. Why is it ok to change watershed lines based on field survey in one instance, and then use other methods to change that same watershed line in other parts of the county?

If Durham County truly intends to correct a watershed line that most everyone can agree is incorrect, then why not use the same method for every property affected? If there isn't sufficient funding to perform this survey, then the appropriate approach would have been to include

only the original 14 parcels in the request, which were field surveyed and at no cost to the County.

Mr. Martin. No, see prior page.

Ms. Mitchell-Allen. Please see previous page.

Mr. Monds. I voted to deny. Same reasons as A0900004.