

## ***IREDELL COUNTY PLANNING BOARD***

The Iredell County Planning Board met on Wednesday, September 7, 2005 at 7:00 p.m. in the Commissioners Meeting Room of the Iredell County Government Center (Old Courthouse) at 200 S. Center Street in Statesville, NC.

### **MEMBERS PRESENT**

Eric Fields, Chairman  
Dr. Jackie Grigg, Vice-Chairman  
Anita Johnson  
Jeff McNeely  
Kristi Pfeufer  
Jerry Santoni  
Thomas E. Stephens  
Harry Tsumas, Jr.  
Alan Williams

### **STAFF PRESENT**

Katrina Hewitt  
Alison Huffman  
Richard McHargue  
Steve Warren

### **MEMBERS ABSENT**

Chris Becker  
Franklin Rash

At this time, Chairman Fields called the meeting to order.

**MINUTES:** Dr. Grigg made a motion to approve the 8/3/05 meeting minutes. Ms. Johnson seconded said motion and all agreed. **VOTES: 8-0.** *NOTE: Mr. Santoni was not present at this time.*

### **REZONING REQUEST; DONALD M. DIMPERIO (NM OF IREDELL, LLC, DBA STUTTS MARINA), CASE NO. 0509-1:** Mr. McHargue presented the staff report:

**OWNERS:** Donald M. Dimperio (NM of Iredell, LLC, DBA Stutts Marina)  
123 Sailview Road  
Mooresville, NC 28117

**LOCATION:** Portion of Lake Norman water surface adjacent to 571 Stutts Road (more specifically identified as PIN# 4635-68-4338 and 4635-68-4084) in Mooresville. **Directions:** West on Brawley School Road from Williamson Road; left onto Stutts Road, marina approximately 2 miles on left.

**REQUESTED ACTION AND CONDITIONS:** Rezone the subject portion of Lake Norman adjacent to Stutts Marina from R-20, Single-Family Residential Zoning District, to RR, Resort-Residential District.

**PROPOSED USE:** Expansion of marina operations to include additional boat slips and docking facilities. If rezoned, this will require a Special Use Permit by the Zoning Board of Adjustment.

**SIZE:** 6.58 acres w/1760 linear feet of shoreline.

**EXISTING LAND USE:** The water surface of Lake Norman is zoned R-20. The land-base operation of Stutts Marina is zoned RR; there is a small store on the premises, and the marina currently has 2 docks and 2 covered boathouses.

**SURROUNDING LAND USE:** Commercial (marina) and residential.

**WATERSHED REGULATIONS:** The properties are located in the Catawba/Lake Norman WSIV-CA watershed. However, since the portion subject to this rezoning request is actually the lake surface, the watershed regulations will not apply, as no impervious surfaces will be constructed.

**TRAFFIC:** No specific data exists on the traffic-carrying capacity of Stutts Road; however, in 2003 the estimated daily traffic count was 4,700 vehicles per day.

ZONING HISTORY: The waters of Lake Norman have been zoned R-20 since countywide zoning went into effect in 1990. The marina property, along with the surrounding residential area, was also zoned R-20 at that time. However, on January 2, 2001, the marina property was rezoned RR by a unanimous vote of the Board of Commissioners. This brought a nonconforming use of the property into compliance with both the zoning ordinance and the Land-Use Plan's goal of continuing the pattern of residential districts in the area.

STAFF COMMENTS: The rezoning of the water adjacent to the marina will allow the owner to apply for a Special-Use Permit from the Board of Adjustment to expand the marina operations, which are a legal and proper use of property within the RR district. The Future Land Use Plan for the Brawley School Road Area designated this property to remain in residential classification; this objective was maintained through the 2001 rezoning of the marina from R-20 to RR. Because the requested rezoning would bring the adjacent waters into conformity with the current use of the land-based zoning, staff recommends in favor of the request.

Mr. McNeely asked if the Board had ever rezoned the water surface before and Mr. McHargue stated that there had been a couple cases with the latest being at Skipper's Marina. Chairman Fields questioned how the applicant could request to rezone the water surface when they don't own the property; that Duke Power is the owner. Mr. McHargue stated that the County zoned the entire water surface and there also have been a couple rezonings of the water surface. Mr. McNeely asked how they came up with the acreage for the rezoning and Mr. McHargue stated that the zoning ordinance states that you can only go out 120' from the 760 contour to construct a pier, therefore, the area requested runs along the shoreline and out 120'.

Dr. Grigg asked what role Duke Power Lake Management had in this and Mr. McHargue stated that he talked with Ann Duncan from Duke Power and she informed him that they don't take a position in rezonings but they do get involved with regulating structures on the water surface.

Mr. Tsumas stated that he was not aware of any times that this Board had rezoned the water surface. Mr. Warren stated one case that he knew of was at Skippers Marina. Several Board Members stated they were not aware of this situation. Mr. Tsumas stated that he felt this should be a non-owner petition because the applicants don't own the property under the water surface. Mr. Tsumas further asked if all the property owners, that touch this water surface, were notified.

Chairman Fields asked if it was possible for the applicants to proceed to the Board of Adjustment without this property being rezoned first and Mr. McHargue stated they had to get the zoning approved first.

Dick Brolin, Piedmont Design Associates, stated that he represented the owner, and that they have been working for the past four years on this project. Mr. Brolin stated when discussing the marina with Duke Lake Management, it was noted the public demand for more space and the existing facilities (covered boat houses that were built back in the 1960's) need to be upgraded. Duke also addressed the issue of updating the gas docks and Mr. Brolin addressed adding some on docking for larger boats.

Mr. Brolin stated the staff informed them that any improvements on the lake would require multiple hurdles: 1) Go to Planning Board and Board of Commissioners to rezone the water surface; and 2) Go to Zoning Board of Adjustment for variance on the replacement of the boat slips and special use permit to look at the entire plan. Mr. Brolin stated that he felt it was difficult to grant the rezoning without having the site plan, but the staff informed him the procedure was to submit the site plan to the Zoning Board of Adjustment.

Mr. Brolin stated they were here tonight asking for just the RR rezoning of the water surface. Chairman Fields stated that he understood that the Board didn't have the benefit of a site plan at this point, but asked how many boat slips they proposed and Mr. Brolin stated there would be a total of 67 wet boat slips when competed (this number includes the 31 slips that are currently covered).

Mark Lancaster stated that they needed the rezoning of the water surface so when they went to FERC to get boat slips it was required by the new Duke Power guidelines. The existing covered boathouse was grandfathered since it was built back in the 1960's. The addition of the boat slips will be designed for public use. Mr. Lancaster stated the gas docks would be replaced and more pump out stations added. Mr. Lancaster stated the marina would have a boardwalk effect. Chairman Fields asked Mr. Lancaster if he said Duke Power was recommending 120' and Mr. Lancaster stated yes and that the new proposed guidelines to take effect in August 2006 would change from a 200' radius to 400'.

Mr. Brolin stated that he had a copy of the site plan and stated the Board was more than welcome to look at it as long as they realized they are not voting on the plan but just using it as information. Chairman Fields stated that he rather not see it since it's at the last moment. Mr. Stephens asked what the distance was from the northern tip of the area being proposed to RR to the other side of the cove. Mr. Brolin stated approximately 400' from the 120' line across the cove. Mr. Lancaster stated that the water depth in the cove where the covered boathouse is located is 28'.

Mr. McNeely stated that he would like to see the site plan and Mr. Tsumas stated that this Board cannot approve a specific site plan and it would have no bearing on the rezoning. Chairman Fields stated that the applicant and the staff chose for the board not to see the site plan.

#### *THOSE SPEAKING IN OPPOSITION:*

John Holley, adjoining property owner, stated that he wasn't notified of the meeting. Mr. Holley stated he didn't see how the Board could approve this rezoning without reviewing the site plan. Mr. Holley stated that he saw this as a battle of the wealthy; not for the welfare of the neighborhood. Mr. Holley submitted a petition with 32 signatures of those opposed (*see petition in the file*). Mr. Holley also submitted photographs of the marina.

Mr. Holley brought up the question whether the grandfathered covered boat slips should be allowed to be rebuilt. Mr. Holley also felt that Mr. Lancaster had a conflict of interest since he served on the Lake Norman Marine Commission.

Jeff Chuby stated he was speaking on behalf of his parents, William & Frances Chuby – 287 Commodore Loop that is located across the cove from the existing covered boat slips. Mr. Chuby stated that it was stated that the distance in this cove was 400' and he believed there was only 100'. Mr. Chuby stated that he felt someone needs to address the traffic issues on Brawley School Road before more commercial development occurs. Mr. Chuby stated this proposal would devalue all the residential homes in the area.

John Kerhoulas, 294 Shoreline Loop, stated that he heard the changes at the marina were being proposed to serve the public and to have boats that are 50' – 60' in length. Mr. Kerhoules was concerned about the increase in traffic in a residential neighborhood. Frank Washam, 300 Shoreline Loop, stated that he didn't live at this property all the time but had family who stayed there. Mr. Washam stated that the property value of the residential homes would be downgraded if the marina were expanded. Mr. Washam stated that he didn't feel the applicant was giving enough information up front. Mr. Washam also stated his concerns about boat traffic in a small area and shallow water. Mr. Washam asked the Board to table this request to allow the Board to further research some of the questions raised tonight. Bob Warren stated that he was the brother-in-law of Mr. Washam and that he was opposed to any further commercial use in a residential area.

Andy Barringer, 342 Shoreline Loop, stated the water was very shallow and would need tremendous dredging and the silt, sand, and dirt would be in their cove. Mr. Barringer stated that families swim in this cove.

Bob Gourley, Jr. of 348 Shoreline Loop, stated that he is a lawyer, but was there to speak as a homeowner. Mr. Gourley stated that he felt enough notice was not given. Mr. Gourley stated he would like to see this request continued to give legal counsel time to prepare. Mr. Gourley stated that the existing marina has been there for a long time and is very neat, but at the same time, the residential neighborhood has also been there a long time. Mr. Gourley stated that he didn't have a problem with repairing the existing docks but did take issue with the proposed new boat slips. Mr. Gourley stated that it would increase the value to the marina but devalue the residential properties. Mr. Gourley also complained about the location of the zoning sign.

Doris Neal, 354 Shoreline Loop, stated she had the same concerns as those who spoke before her. Ms. Neal stated that she talked with Ann Duncan with Duke Power water management and that Ms. Duncan told her the 120' length could only be changed by a variance. Ms. Neal stated that she is worried about the devaluation of her property and her realtor advised her that the value could drop 30%. Barbara Johnson, 353 Shoreline Loop, also spoke in opposition.

At this time, Chairman Fields declared a five-minute recess.

Chairman Fields explained to the audience that the Planning Board was a volunteer board that's appointed by the Board of Commissioners. Also, that the Planning Board makes recommendations only; that the Board of Commissioners make the final decision. At this time, the Board had open discussion.

Mr. McNeely stated that he understands that the owner purchased the marina as an investment but doubling the size of what's already there is a huge step because it will change the cove, shoreline, and lake. Mr. McNeely made a motion to deny the request. Mr. Williams seconded said motion.

Mr. Tsumas stated that he had the same concerns as Mr. McNeely and in addition it was his opinion that this should be a nonowner petition and it wasn't clear whether proper notification was given. Mr. Tsumas stated he wasn't clear about prior zoning of the water surface at Skippers Marina which may or may not have bearing on this request and questions about the grandfathered clause involved in this property. Mr. Tsumas stated he would like to see this request be tabled to answer some of these questions instead of sending it on to the Board of Commissioners with an unfavorable recommendation. Ms. Johnson and Ms. Pfeufer agreed.

Mr. Tsumas made a substitute motion to table this request and refer back to the County Attorney for clarification on the above stated points and to the legality of rezoning the water surface. At this time, Mr. Williams withdrew his second to the original motion. Chairman Fields stated that Mr. McNeely's motion dies for lack of a second to the motion.

Ms. Johnson seconded Mr. Tsumas' substitute motion; and

AYES: Tsumas, Johnson, Fields, Grigg, Pfeufer, Stephens, Williams

NOES: McNeely

The motion passed by a vote of 7-1. *NOTE: Mr. Santoni was not present for this request.*

**REZONING REQUEST; MIKE & KERRY DAVIS PROPERTY, CASE NO. 0509-2:** Mr. McHargue presented the staff report:

OWNERS: Mike and Kerry Davis  
129 Laura Road  
 Mooresville, NC 28117

LOCATION: Vacant lot on Laura Road off Hwy 21 in Mooresville, more specifically identified as PIN # 4658-53-4591. Directions: South on Highway 21 past Cornelius Road intersection, turn left onto Laura Road, property on right behind video store at corner of 21 and Laura Rd.

REQUESTED ACTION AND CONDITIONS: Rezone the subject parcel from RA, Residential Agricultural to NB, Neighborhood Business District.

PROPOSED USE: Beauty salon

SIZE: 1.51 acres

EXISTING LAND USE: The subject parcel is presently vacant and located within the RA Zoning District.

SURROUNDING LAND USE: Commercial, residential, and one church.

WATERSHED REGULATIONS: The property is located in the Catawba/Lake Norman WSIV-PA watershed.

TRAFFIC: According to 2003 estimated daily traffic counts, this stretch of the Charlotte Highway has 9,700 vehicles per day. In addition, the approximate daily vehicle carrying capacity is 10,500.

ZONING HISTORY: The subject property has been zoned RA since countywide zoning took effect in 1990. However, in 1991 the parcel included the portion where the video store later began operation at the corner of Laura Road and Highway 21. On May 7, 1991 the County Commission, upon recommendation by the Planning Board, rezoned this portion of the parcel to NB (currently PIN # 4658-53-3676).

STAFF COMMENTS: It should be noted that, if the property is rezoned, any commercial development thereon would have to submit a site plan that complies with all applicable regulations including parking, setbacks, watershed (if applicable), and screening to create a visual sense of separation between the property and the adjacent RA district. The property is also located adjacent to NB property along Highway 21. Additionally, it is within a commercial node identified in the County Land Use Plan. The requested rezoning would be in harmony with the current land-use pattern of a growing Neighborhood Business district within this commercial node; therefore, staff recommends approval of the rezoning request.

*(NOTE: Mr. Santoni is present for this request.)*

Mr. Davis stated that his daughter wanted to open her own beauty salon. There was no one present to speak in regard to this request.

Mr. Williams made a motion to recommend approval and Mr. McNeely seconded said motion. All agreed. VOTES: 9-0.

**MONTHLY COMMITTEE ASSIGNMENTS:** Ms. Pfeufer & Mr. Stephens volunteered to attend the September 21<sup>st</sup> Subdivision Review Committee meeting at 10:00am in the Old City Hall.

Dr. Grigg & Mr. McNeely volunteered to go on the site visit for next month's requests on September 20<sup>th</sup>.

**ADJOURNMENT:** There being no further business, Chairman Fields declared the meeting adjourned at 9:30 p.m.

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*Katrina Hewitt*  
*Planning Support Specialist*

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*Date Read and/or Approved*