

State bill would eliminate town planning authority outside limits

BY ERIC DINKINS

The N.C. House recently filed a bill that would strip the authority of cities and towns to take on planning and zoning responsibilities for land outside their limits, and instead hand that authority over to counties.

The state's extraterritorial jurisdiction (ETJ) law that went into effect in 2002 allows cities and towns to handle planning and zoning for properties adjacent to their boundaries. The purpose of giving zoning and planning authority for those areas was to ensure that any development in those areas conformed to the vision and ordinances of the adjacent municipalities, which may eventually annex such property.

Under that law, any city can exercise ETJ authority up to one mile outside its corporate limits. Cities with populations between 10,000 and 25,000 can exercise the authority up to two miles beyond its limits; and those with more than 25,000 people can extend their authority up to three miles outside the city lines.

The Justice for Rural Citizens Act aims to take that ability away from municipalities because residents who live in ETJ areas cannot vote in municipal elections and don't have a say in who will make planning decisions about the areas in which they live, according to the bill.

Rep. Larry Pittman of Cabarrus County, one of the bill's primary sponsors, said ETJ authority should never have been given to municipalities in the first place.

"People who live in rural areas have the right to be left alone by city officials for whom they don't get to vote. City officials have no right to interfere with the property rights of those outside their corporate limits, and it should never have been legal for them to do so," he said in an email.

But some towns, such as Davidson and Huntersville, have ETJ representatives on their planning boards, which Dawn Blobaum, assistant town manager of Davidson, said should be required of all municipalities.

"I get that they don't vote for the town commissioners, but they absolutely should have representation on the planning board," she said.

Brian Francis, assistant to the Mecklenburg County manager, said it's too early to tell how the county would take on planning and zoning responsibilities for the 113 square miles of existing ETJ area in Mecklenburg County.

"It is very early in the bill's process. It may go through multiple changes before it would be voted on or passed. It is too early to speculate on how we would implement the legislation," he said in an email.

The county currently has zoning and planning jurisdiction for only one square mile in the entire county.

Jonathan Wells, planning manager for the Charlotte-Mecklenburg Planning Department, said he wouldn't be surprised if the county looks to the city for help if the bill passes.

"I do know from a zoning ordinance standpoint, since historically and traditionally this department has processed

and administered the old county zoning ordinance, it would probably fall back on us to do that," he said about Charlotte's ETJ area.

Wells also said that because the county rarely has to exercise its planning and zoning authority, its zoning ordinance isn't up-to-date.

"The city ordinance has continued to be updated and revised to keep it continuous and relevant, but not so much the county ordinance. So I would suspect there would need to be some sort of overhaul of the county ordinance," he said.

Blobaum said Davidson has benefited from having an ETJ, and that Davidson's zoning code left the rural character of the town's ETJ area intact.

"It would look a lot different if development in the ETJ didn't follow the rules and regulations that we've set up," she said.

Blobaum said – for example – Davidson requires developments in rural areas to have at least 50 percent open

space, which could change if the county takes over the town's ETJ.

Davidson has more land in its ETJ than it does within its town limits, 8.1 square miles compared with 5.8 miles, respectively.

Mathews is the only town in the county that has annexed its entire ETJ area, and therefore would not be affected by the bill.

The Justice for Rural Citizens Act passed a first reading in the House on Feb. 5 and was referred to the House Local Government Committee. If approved there, it will move on to the House Finance Committee, according to the Legislature's website. Rep. Carl Ford, who also sponsored the bill, and who represents a district split between Cabarrus and Rowan Counties, is a chairman of the House Local Government Committee.

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| Jurisdiction | Total Square Miles | ETJ Square Miles |
|--------------------|--------------------|------------------|
| Charlotte | 306.8 | 69.2 |
| Cornelius | 12.0 | 3.2 |
| Davidson | 5.8 | 8.1 |
| Huntersville | 40.3 | 20.0 |
| Mathews | 17.2 | 0 |
| Mint Hill | 23.9 | 11.9 |
| Pineville | 6.7 | 1.0 |
| Stallings | 0.2 | 0 |
| Mecklenburg County | 412.9 | 113.4 |