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Towns Oppose Bill That Would Weaken Zoning Control

BY ANA RISANO || Staff Writer

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Photograph by Jaymie Baxley/The Pilot

A resolution supporting an evolving Senate bill got pulled from the Moore County Board of Commissioners' meeting on Tuesday following multiple public comments opposing it.

Senate bill 675, which has changed since Tuesday morning, includes a section on extraterritorial jurisdiction, commonly referred to as an ETJ. An ETJ is an area within a certain distance from a municipality's incorporated limits within which that municipality can exercise its zoning authority.

These jurisdictions, up to three miles extended from corporate limits depending on a town's population size, surround municipalities and help create a smooth transition in zoning from high to low-density development.

The bill, as written on Tuesday, would require all towns to relinquish control over the ETJs and pass it to the county. But a revision adopted by the Finance Committee on June 6 restricted the bill to only impact counties with a population of 50,000 or less. If that change remains, the legislation would not affect Moore County, which has slightly more than 100,000 residents.

Nevertheless, town representatives did not support the county signing a resolution supporting the bill.

"ETJs are urban service boundaries and urban growth areas for towns," Cameron Town Clerk Wendy Butner said at the meeting. "If this legislation moves forward, it is extremely bad for towns from an aesthetic and consistency standpoint with existing development."

ETJs are considered to be important planning tools for municipalities because they prevent abrupt changes in allowable zoning. Without them for instance, an area could see commercial zoning for an incorporated municipality on one side of a street and, on the other side, an agricultural zoning for the unincorporated land.

Foxfire Mayor Don Boito and Aberdeen Mayor Robbie Farrell also spoke against the bill, both calling it an "assault" on the towns.

"I'm here this morning representing the village Council of Foxfire. And we want to state clearly that we oppose any resolution regarding Senate bill 675, including the elimination of extraterritorial jurisdiction," Boito said.

He called the bill "the latest example of a continued assault on local governments by the state legislature."

In an interview with The Pilot, Boito and Foxfire Mayor Pro Tem Janice Gregorich discussed what they deemed an erosion of local control by the General Assembly. Boito recalled state attempts to "remove local prerogative" over the last few years and referenced a joint resolution in 2019 by the county and its 11 municipalities that called for the state to "butt out" of town business.

“Local government leaders know and understand the needs of their communities best,” the resolution stated. “They are more accessible to their residents. They hold public hearings, and they prioritize their communities first. All of these factors enable counties and towns to make the best decisions for their distinctive communities in which they serve.”

Gregorich also explained that controlling a town’s zoning and development shapes “the fabric of a community” because of individual rules, regulations and aesthetics. Without an ETJ and land-use regulations, anyone could apply to build something out of the norm.

“We couldn’t have zoning control over anything up to our city limits,” Boito said if the bill passed. “So if someone got approval — if they could get approval, which I don’t think they could, but if they could — they could put a pig farm out there. They could put in a gigantic development.”

During the commissioners' meeting, Boito also said ETJs are essential for ensuring “residential and commercial developments are compatible with their surroundings.”

Farrell referenced the history of ETJs in his commentary. The planning tool, he said, dates back more than 100 years so towns could control development close to their borders to protect the health and safety of residents.

“I’m here representing the town of Aberdeen, and we are not in support of Senate bill 675. This is, to me, an assault on the towns, and this should not be on the consent agenda. We didn’t even know it was on the consent agenda ‘til I got here,” Farrell said.

“The ETJs in North Carolina have been around since 1917 in some form. And there's an old colloquialism that I know all of you have heard before; ‘if it ain’t broke, don’t fix it.’”

One issue or concern from people who live within ETJs is that, while subject to some municipal regulations, they don’t have access to town services and can’t vote for town leaders.

But ETJ residents have spots reserved on volunteer boards in most towns, like the planning board and board of adjustment. Farrell said that Aberdeen has had no issues with its ETJ.

Boito told the Commissioners that Foxfire is working with its ETJ residents to develop a program to protect property from unwanted developments and ensure it’s respected.

Another section of the bill, which was also removed with the last revision, would have reduced developable minimum lot sizes to 8,700 square feet, a change that would have allowed up to five houses on one acre, a density more suitable for urban communities. Boito called this a significant problem at the meeting, stating, “Such density cannot be supported in rural areas.”

“And people live here for a reason. Some have enjoyed this rural lifestyle their entire life. Other people have moved here to get away from the overdevelopment in their old residences. And they have a right to continue this style of life,” Boito said.

Commissioners Chairman Nick Picerno, who seemed surprised to have speakers on the topic, initiated removing the item from the consent agenda, a portion of the commissioners’ meeting where multiple items normally deemed “noncontroversial” are approved with a single voice vote.

“We are going to call for a task force meeting next Thursday of our land use plan UDO and at that time, we’ll get our planning director to give us the full pros and cons of Senate bill 675,” Picerno said.

A special meeting will be held on June 15 at 9 a.m. at the Historic Courthouse in Carthage, 1 Courthouse Square, to discuss the proposed bill.

Contact Ana Risano at (910) 585-6396 or ana@thepilot.com.

Ana M. Risano