

BOARD OF ALDERMEN

ITEM NO. E(4)

AGENDA ITEM ABSTRACT

MEETING DATE: April 20, 2010

SUBJECT: Response to Orange County Regarding the Town's Interest in a Petition Calling for the Town to Cede Planning Jurisdiction Over Farm Properties in the ETJ

DEPARTMENT: PLANNING	PUBLIC HEARING: YES _ NO _X_
ATTACHMENTS: <ul style="list-style-type: none">A. ResolutionB. 2/22/2010 Request from John L. Roberts, Orange County AttorneyC. 10/27/09 Farm & Landowners' PetitionD. Petitioners' Address Location MapE. ETJ Map	FOR INFORMATION CONTACT: Roy Williford, AICP 918-7325 Mike Brough

PURPOSE

The purpose of this item is to provide the Board of Aldermen with a request from Orange County's Attorney, John L. Roberts (Attachment B) for information regarding the Mayor and Board of Aldermen's position on relinquishing control and land use regulatory authority of farms within Carrboro's ETJ to Orange County. As the letter states, this is not a request that Carrboro relinquish any of its authority, just a request for information on the Town's position.

INFORMATION

The Carrboro Board of Aldermen and the Orange County Board of commissioners received a petition dated October 27, 2009 from "The undersigned farm and land owners of Carrboro's Extraterritorial Jurisdiction" (Attachment C) requesting the Town of Carrboro relinquish control over ETJ land and return development jurisdiction for it to Orange County government as soon as is possible. Attachment D provides a map showing the location by address for the 36 people listed on the petition representing 27 properties. Less than a third of the people who signed the petition actually live in Carrboro's ETJ, and only 5 live on the 3 farm (use value) properties. In summary, the petitioners' address map reveals the following information:

In the Carrboro ETJ*: 11 petitioners, 8 properties
In the Carrboro Transition Area: 8 petitioners, 7 properties
In Orange County jurisdiction: 15 petitioners, 10 properties
In Chapel Hill jurisdiction: 2 petitioners (one deceased), 2 properties

Carrboro's Land Use Ordinance defines the **PLANNING JURISDICTION**. as the area within the town limits as well as the area beyond the town limits within which the town is authorized to plan for and regulate development pursuant to the authority granted in Article 19 of Chapter 160A of the N.C. General Statutes and

Chapter 122 of the Session Laws of 1963. (**AMENDED 6/22/82**) and the **EXTRATERRITORIAL PLANNING AREA** is defined as that portion of the town's planning jurisdiction that lies outside the town's corporate boundaries. (**AMENDED 4/27/82**). According to the Town Attorney Carrboro's ETJ was created, not by any resolution approved by Orange County, but by special legislation (Chapters 122 and 636 of the Session Laws of 1963). Therefore, while Carrboro and Orange County could mutually agree to change the ETJ boundary, the County could not act unilaterally as requested by the petitioners under 160A-360(g)) that provides:

“When a local government is granted powers by this section subject to the request, approval, or agreement of another local government, the request, approval, or agreement shall be evidenced by a formally adopted resolution of that government’s legislative body. And such request, approval, or agreement can be rescinded upon two years’ written notice to the other legislative bodies concerned by repealing the resolution. The resolution may be modified at any time by mutual agreement of the legislative bodies concerned.”

Again since Carrboro’s ETJ was not created under 160A-360(g) it could not be modified under this provision.

The County Attorney in his 2/22/2010 letter and in conversation with the Town Attorney iterated that that what the Commissioners’ wish to know is whether the Board would be interested in relinquishing control over just those properties in the ETJ that are used for farming, rather than the entire ETJ. Both attorneys agree that there might be some practical problems with doing this unless the farm properties in question were somehow located in such proximity to each other that deleting them from the ETJ would not create a quilt pattern of jurisdictions. The County Attorney clarified, as he did in his letter, that the Commissioners have not decided that they want Carrboro to cede jurisdiction over these properties – they are merely asking the Board whether it is interested in such a proposal.

FISCAL IMPACT:

None

STAFF RECOMMENDATION

The staff recommends that the Board of Aldermen consider the request submitted by the Orange County Attorney and provide a response by resolution (Attachment A) as to their interest in the proposal to cede planning jurisdiction over the farm properties as illustrated by the attached ETJ farm use value map “Attachment E”.