

Segregation in the Modern South: A Case Study of Southern Moore County

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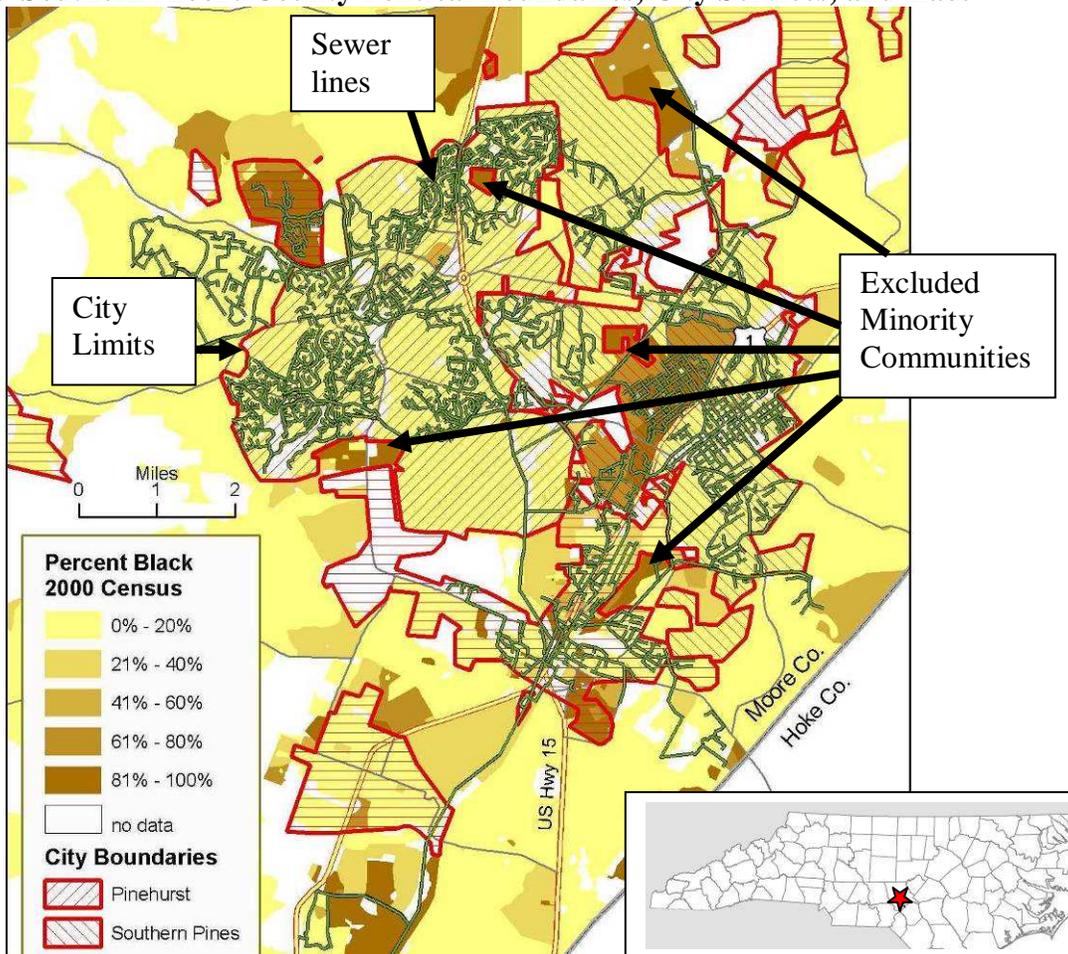
Introduction

Southern Moore County, N.C., home of golf's 2005 U.S. Open, is a society of extremes. Rich and poor communities of different races exist side-by-side, with the differences exacerbated by local government land policies and practices. While the region is famous for its golf, retirement villages and large horse farms, Moore County is also home to long-standing minority communities that have been excluded from the benefits of participation in local government, and are thus denied an opportunity to protect their property and their rights as citizens.

The Cedar Grove Institute for Sustainable Communities has conducted extensive GIS mapping and land-use analysis of the disparities in southern Moore County. This document reports these findings.

Map 1 below shows the Pinehurst/Southern Pines area of Moore County, with political boundaries, census data, and sewer lines. It demonstrates how city boundaries have excluded minority communities.

Map 1. Southern Moore County Political Boundaries, City Services, and Race



Cedar Grove’s GIS analysis has been made available to community-based organizations through a partnership with the Civil Rights Center at the UNC Law School, and it has been used to organize residents, to educate them about their rights under the law, and to supplement a documentary recording residents’ perceptions of the issues. The maps, such as the one above, proved illuminating to Alfred Dixon, local businessman and community leader, who commented in November 2003, “Oh, so *that’s* what they’re doing.”

Why is southern Moore County important to North Carolina and the nation? It is one of the premiere golf and retirement destinations in the world. The value North Carolina places on this area and the focus afforded by the 2005 U.S. Open is indicated by the state’s commitment of \$47 million to widen and re-route a 12.4-mile stretch of highway leading into the area – and the \$1 million bonus awarded to the contractor to finish before the tournament.¹

This report begins with background information for context and then summarizes the issues, history, and prospects for change in Moore County.

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¹ Siceloff, Bruce. 2005. “State puts Pinehurst, US 1 work on the map.” *News and Observer* February 1, 2005. The new road was not, however, used as the major route for visitors to the Open. See *News and Observer*, June 20, 2005.

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I. Background: History, Demography, and Economics of Moore County

A. History of Southern Moore County²

The **Moore County** area was settled by Europeans as early as the 1730s, initially in the fertile northern part of the County along the Deep River. The southern part of the County was settled by Scottish settlers, coming up from Fayetteville. In addition to agriculture, its industries were tar, turpentine, and timber. More recently, a fourth “t,” for tourism, has eclipsed these.

Moore County prospered initially because of its central location, between Fayetteville on the Cape Fear, and the Piedmont communities to the Northwest. It also benefited from extensive railroad construction between the 1870s and the 1890s. By the late 1800s, however, prosperity in southern Moore was beginning to turn on its scenic beauty and mild climate.

² Moore County Chamber of Commerce website: <http://www.sandhillschamber.com/> From the World Wide Web February 14, 2005.

Moore County has eleven municipalities. Carthage, in central Moore County, was founded in 1803 to become the county seat. Other municipalities of interest for this report are: Aberdeen, Southern Pines, Pinehurst, and Taylortown; also integral are the historic but unincorporated minority communities – Jackson Hamlet, Waynor Road, Monroe Town, Midway, and Lost City – which are as old as the incorporated towns.

The two largest towns in the County, both located in southern Moore, are Southern Pines and Pinehurst. **Southern Pines** was created after the Civil War. North Carolina Governor Zebulon Vance selected James T. Patrick to be the first Commissioner of Immigration to recruit new residents for North Carolina. Patrick toured the state, seeking locations that would convince people to relocate, and was impressed by the Sandhills. In 1884, he bought 675 acres of cut-over pine land – previously stripped for timber, turpentine, and tar – for \$2/acre, a high price for the time. Locals were skeptical, dubbing the project “Patrick’s Folly.” Nevertheless, the new town was laid out along the railroad tracks and the streets were named after northern states. Patrick marketed the beauty and healthfulness of the region to northern newspaper editors (trading property for stories) and to doctors who would send their patients for the health benefits of the mild winter climate. The new town – named Southern Pines – was home to 50 families by 1887 and incorporated that year. Today it is the largest city in Moore County with a world-wide reputation as a resort, retirement location, and a center for golf, horse sports, and other activities.

Pinehurst, located just west of Southern Pines, also begun as a planned town, though it evolved differently. In 1895, James Walker Tufts (who had made a fortune in soda fountain equipment) bought about 6,000 acres of pine barrens for \$1/acre. His goal was to build a winter resort town for northern working people. Construction began immediately, designed by internationally-famed Frederick Law Olmstead. In the next few months, streets were graded, electricity and phones installed, trees and shrubs planted, and Pinehurst's first hotel opened for visitors, who brought their golf clubs with them.

Moore County’s first golf course – Pinehurst #1 – opened in 1898. The resort got a big boost from British golf champion Harry Vardon, who played at Pinehurst in 1900, and from Donald Ross, who became its first golf professional. The town prospered along with the golf industry, and today, Pinehurst is the third most popular golf destination in the world. Tufts’ Pinehurst was a privately-held as a sole-proprietorship until 1920, when it became Pinehurst, Inc. In 1960, the corporation invested in air conditioning and swimming pools as a way to become a year-round resort. Other improvements were needed as well, and in January 1971, the Tufts heirs sold Pinehurst Inc. (the resort plus 7,500 acres of land) to the Diamondhead Corporation for \$9.2 million. Under Diamondhead’s control, lots were created and sold, with membership rights to the Pinehurst resort facilities. The resort grew, with expanded infrastructure and marketing.

The Village of Pinehurst tells the story this way: “Since Pinehurst was not a full municipality, there were no building inspectors, no planning or zoning regulations, and no real means for the concerns of the residents to be acted upon. After several years of debate among residents over whether to seek incorporation as a full municipality or to continue to allow Diamondhead to coordinate affairs, it was decided by a majority in 1980 that Pinehurst would function most effectively independently of the Diamondhead Corporation. ... In 1980, with a population of 1,746 residents, the village of Pinehurst was granted full incorporation as a municipality and was, for the first time, more than just a privately-run resort.”³

In 1982, Pinehurst Inc. became the property of Diamondhead's major lenders; in 1984, it was purchased by Club Corporation of America. The purchase included the Pinehurst Hotel, Country

³ <http://www.villageofpinehurst.org/> February 14, 2005.

Club, and golf courses. ClubCorp, based in Dallas, has an estimated \$1.5 billion in assets and owns or operates more than 220 golf courses, country clubs, private business clubs, and resorts around the world. The subsidiary formerly called ClubCorp Resorts is now named The Pinehurst Company, reflecting the significance of Pinehurst's acquisition and reputation.⁴ Pinehurst and two other resorts generated \$209.9 in revenue for ClubCorp in 2004, almost 22% of the company's total revenue last year.⁵

While African Americans worked in Pinehurst since its inception, their roles were carefully prescribed and proscribed. Jackson Hamlet resident Ida Mae Murchison worked for Pinehurst resort from 1945-1995 and recalls the day she became the first "chambermaid" allowed to clean guest rooms. "The guests knew me, since I'd been cleaning the lobby and hallways, so management thought they'd start with me. They asked all the guests if I could clean their rooms, and only one lady from New York objected."⁶

The history of **Taylortown** is well documented. About 1900, Demus Taylor, born in 1823 and the grandson of one of the first slaves brought to America from Africa, bought land from the Tufts family of Pinehurst and laid out a community for Tufts' golf course workers. Named Taylortown, it is the only predominantly Black town in the County.⁷ The town's modern development was shaped decades later by Geneva McRae, a graduate of the town's Academy Heights School who had gone on to serve in World War II and work as a teacher and for the New York State Employment Service, supervising the city's first Job Corps Center. When McRae retired, she moved back to Taylortown and found that the town lacked water, streetlights and other public services. She became a leader of the Taylortown Ministerial Alliance, which sought to improve conditions in the town. The Taylortown Sanitary District was organized, official boundaries of the town were drawn, and Taylortown was incorporated in 1987.

(Taylortown's strategy of incorporation in order to obtain water, sewer, and other services for residents is parallel to efforts by many other "parallel towns" in North Carolina. They become, in effect, paired with larger, majority white towns. This phenomenon occurs across North Carolina and is the subject of a research project by the Cedar Grove Institute. For more information, see www.mcmoss.org/CedarGrove/Docs/anns_10_24.pdf.)

Jackson Hamlet was traditionally the residence of the resorts' cooks, maids, caddies and groundsmen. The land between the Resort and Jackson Hamlet was just as tightly controlled as the residents' career choices at the resort. "You could grow a garden on it, but you couldn't sell the produce. The land had restrictions on it," Murchison recalled. "It couldn't be sold to a Negro or a Jew, and you couldn't sell anything made or grown on it."⁸

Monroe Town's origins are not clear, but it is likely that the town began when John Martin Monroe bought land from the Tufts family between 1895 and 1907. An alternative theory dates the town back even earlier to a Scottish immigrant named John W. Monroe who married into a family of freed slaves and then settled on family land.⁹ Throughout the 1900s, the Monroe family community remained agricultural. Today it is surrounded by intensively developed property in Pinehurst, including Pinehurst Number Six, an upscale golfing development. Monroe Town encompasses 54 acres with 30 homes and approximately 70 people.

⁴ <http://www.clubcorp.com/thecompany/> February 14, 2005.

⁵ Perez, Lorenzo. "Pinehurst owner focuses on resorts." *News and Observer*. June 14, 2005.

⁶ Personal communication to Ann Moss Joyner of Cedar Grove Institute, May 13, 2005.

⁷ Moore County Chamber of Commerce website: <http://www.sandhillschamber.com/> February 14, 2005

⁸ *Ibid.*

⁹ Oliver, Julia. "Rift Separates Pinehurst and Monroe Town." *Fayetteville Observer*. May 2, 2004.

While pipes were run to the houses surrounding Monroe Town in the 1970s, the community did not get water and sewer service until 2003. It receives protection not from the nearby Pinehurst Police Department, but from the Moore County Sheriff's Office, which must go through the town of Pinehurst to get there. In addition, residents of Monroe Town are governed by Pinehurst's zoning regulations, even though they may not vote in Pinehurst elections.¹⁰

B. Demography of Southern Moore County

This report relies on data obtained from the U.S. Census 2000 to describe the populations in southern Moore and the municipalities. Table 1 compares statistics on three Moore County towns with the adjacent excluded minority communities. (For more information, see the Census site for Moore County: <http://quickfacts.census.gov/qfd/states/37/37125lk.html>.) Map 2, below, shows the towns listed in the preceding table and the historically-minority communities (now 75-to-96% Black) that lie adjacent to and are surrounded by predominantly-white (73-to-96%) towns.

Note that the excluded communities are small (with populations of approximately 70-to-200 residents) and poor (with median family incomes of about half of the adjacent towns). However, the neighborhoods enjoy a high degree of homeownership. And, while Moore County African American owner-occupancy is below the state average, the owner-occupancy rate for the residents of the excluded neighborhoods is higher than the town adjacent to each, in three-out-of-four cases. The ability of the owners to maintain their properties and to maintain ownership is notable, yet their future equity is jeopardized by the exclusion from basic public services.

Table 1: Demographics of Southern Moore Towns and Excluded Minority Communities

Town and Adjacent Excluded Areas	Population	% African-American	Median Family Income	% Living in Poverty	Number of Households	% Owner Occupied
Aberdeen	3,185	21%	\$42,383	14%	1,632	57%
Midway	116	91%	\$21,985 ¹¹	31% ¹²	51	63%
Pinehurst	9,924	4%	\$67,353	3%	5,738	89%
Monroe Town	67	96%	n/a	12% ¹³	29	78%
Jackson Hamlet	192	95%	\$25,625	43%	79	92%
Southern Pines	11,207	27%	\$50,128	15%	5,694	64%
Waynor Road	88	75%	n/a	n/a	38	74%
Moore County	74,769	16%	\$48,492	11%	30,713	79%

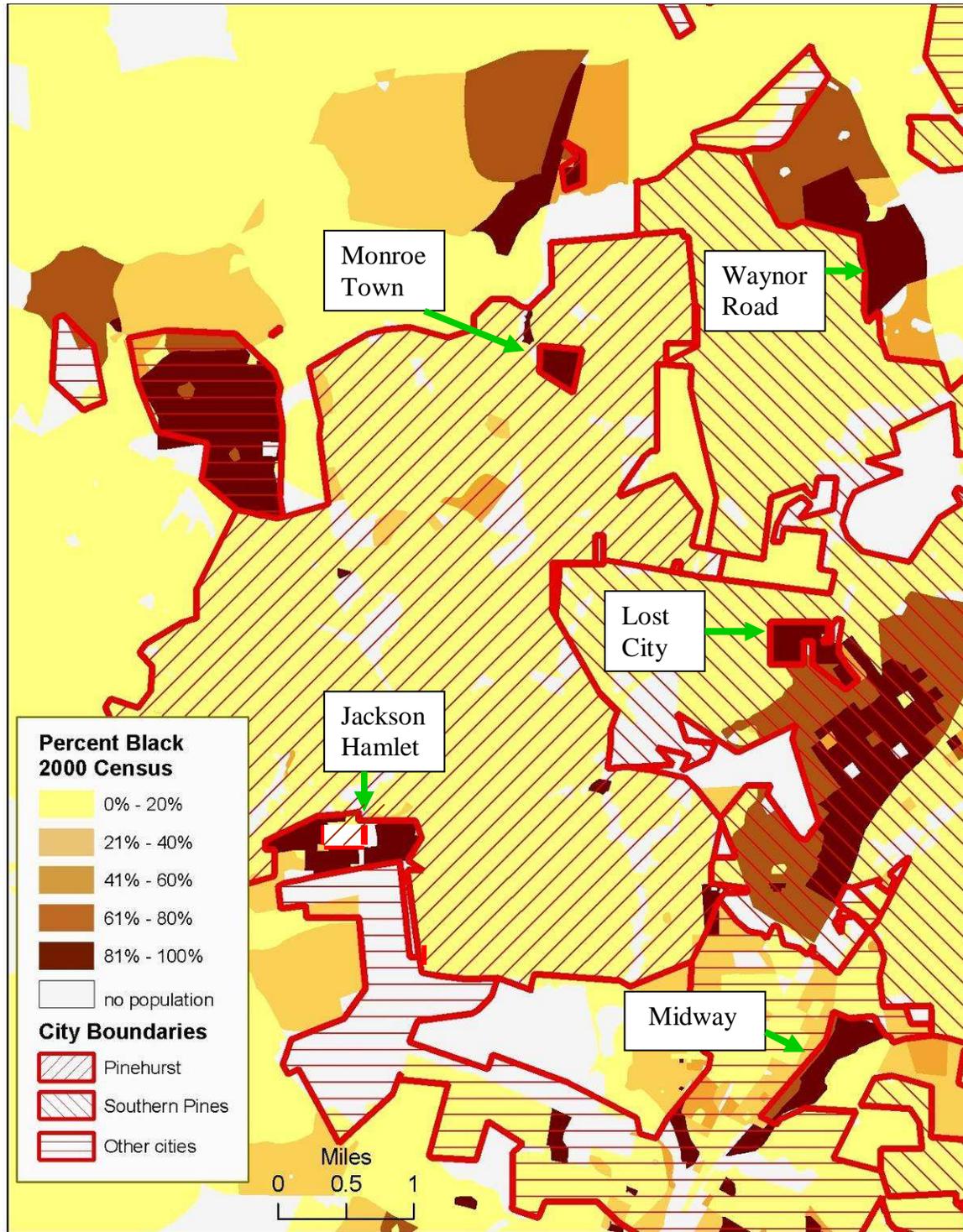
¹⁰ Ibid.

¹¹ For the Black population of the Census Block Group in which Midway is located.

¹² For the Black population of the Census Block Group in which Midway is located.

¹³ For the Black population of the Census Block Group in which Monroe Town is located.

Map 2. Excluded Communities in Southern Moore County



C. Economics of Moore County

Moore County is prospering. Moore County is a Tier 5 county (Tier Five being the least economically-distressed¹⁴), comparable economically with larger counties in the Piedmont such as Wake, Orange, and Mecklenburg Counties. According to the County's Comprehensive Annual Financial Report and Management's Discussion and Analysis, the County held \$33 million in net assets at the end of the 2003-2004 fiscal year. The County has doubled its property tax revenue over the past ten years, showing an increase in \$20 million. For the fiscal year, it held an unreserved fund balance of almost \$9 million or 14% of the total general fund expenditures, or about \$4 million more than the threshold recommended by the Local Government Commission, a nonprofit which advises local governments on economic development.

While the County appears to be financially healthy, the economic prosperity is not felt by many of those who helped create the resorts and retirement villages. Minority-owned firms represented only 8.3% of the County's total businesses — almost a third less than the average for the state.¹⁵ This may be due in part to the lack of infrastructure in predominantly-minority communities.

Moore County is unusual in North Carolina insofar as it is one of the few counties that owns a public sewer system. Since the minority neighborhoods in this case study are not in municipalities, a county-owned system would appear to benefit them. However, Moore's sewer system provides services primarily to municipalities and their residents rather than serving County residents directly. Steve Wyatt, Moore County Manager, speaking in a radio interview, stated that 40,000 County residents do not have such services. Yet he made no distinction between the needs of rural residents and those who live in densely-developed communities adjacent to the urban areas.¹⁶ As discussed below, lots in Jackson Hamlet are as small as 1/8th acre, and the County's sewer lines abut the neighborhood, already serving the predominantly-white condominium development Abingdon Square (See below, pageX for more discussion).

II. Land Use, Public Services, and Voting Rights

The racial disparity in the application of land-use policies and practices results in exclusion of minority communities by local governments, accompanied by disenfranchisement of the minority citizens, and threats to public health, safety and economic welfare. Problematic issues include:

- A. Annexation Patterns and Minority Communities
 - Gaps Between Towns: No Man's Lands
 - Voluntary versus Involuntary Annexation
 - Density and Annexation
 - Racial Disparity in Annexation Practices
- B. ETJ: Disenfranchisement in Perpetuity?
- C. Denial of Public Services and the Results
 - Density and Services
 - Use of Federal Funds

¹⁴ The Regional Economic Development Organization For Southeastern North Carolina <http://www.ncse.org/oview.php>, taken off the World Wide Web 6/27/05.

¹⁵ Census Factfinder Data, www.factfinder.census.gov, taken off the World Wide Web 6/14/05.

¹⁶ "The Connection." 6/10/05. WBUR Radio.

- D. Environmental Hazards Exacerbated by Lack of Water and Sewer
- E. Lack of Vote
- F. Fair and Affordable Housing

A. Annexation Patterns and Minority Communities

1. Annexation Powers

Cities and towns have the legal right to determine their boundaries through annexation of neighboring or nearby properties. Areas inside town boundaries benefit by receiving municipal services, and pay city taxes for these services. Services include infrastructure, such as paved roads, street lights, and water and sewer service (see Table 4. below); and public safety and health programs, including police protection and trash pickup. City services provide an essential foundation for protecting property values, economic development and public health. Preliminary research by the Cedar Grove Institute for Sustainable Communities, comparing home values in unincorporated communities without water and sewer with areas with services, shows that home values suffer when no services are present – even when comparing predominantly-minority communities. In addition, many of these houses with failing septic fields are on lots that are too small to qualify for replacement systems, so the homes are at risk of condemnation.

Lack of the public infrastructure that accompanies annexation also serves as a form of redlining by affecting mortgage availability (regarding the size of the loan) and insurance. Mortgages are affected by assessment of value, which is affected by infrastructure

People who live inside city boundaries also have the right to vote for town government officials and thus hold those in power accountable for government activities. They have a say in how their property is zoned; they can thus participate in decisions that could improve or harm their property values, property use, and the quality of life for their neighborhoods.

Neighborhoods that are excluded from town lack both the foundation of public services and the right to vote. While these residents do not pay city taxes, they have to pay user fees to cover the services that they are not receiving, such as charges for private trash collection, bottled water, and septic system maintenance. These are de facto taxes for *not* living within the city limits, and a recent analysis by the UNC Center for Civil Rights shows that such expenses may exceed the cost of town taxes. (See Section C, page 27 below.)

Local governments are precise when it comes to annexation decisions. Today, decisions are driven primarily by government officials' desire to increase the municipal tax base and revenues. Thus, land that is seen as producing revenue is annexed into the town, while land that is perceived to be tax-neutral or tax-poor is left outside the boundaries. Bill Zell, Aberdeen's Town Manager, stated in a May 2004 interview that Aberdeen has to weigh the costs of providing services against the tax base. "If it's going to cost us twice as much to supply the services as we're going to get back in taxes, is it to our benefit?" he said. "There's a fine line you need to walk."¹⁷ "I don't think it will have to equal out, but we have to make a business decision," Zell said.

Jonathan Wells, Annexation Coordinator for the city of Charlotte, says city leaders in Charlotte avoid such a bottom-line approach. "That's just not good public policy. Extending city services to those who can most afford them -- I think you understand the kind of message you'd be sending." Wells also said, one must ask "What would the city's boundary map look like?"¹⁸

¹⁷ Oliver, Julia. 2004. "Water Needs United Moore County Groups." *Fayetteville Observer*. May 7, 2004.

¹⁸ Gordon, Michael. "U.S. Open used in drive for inclusion," *The Charlotte Observer*, 6/5/05.

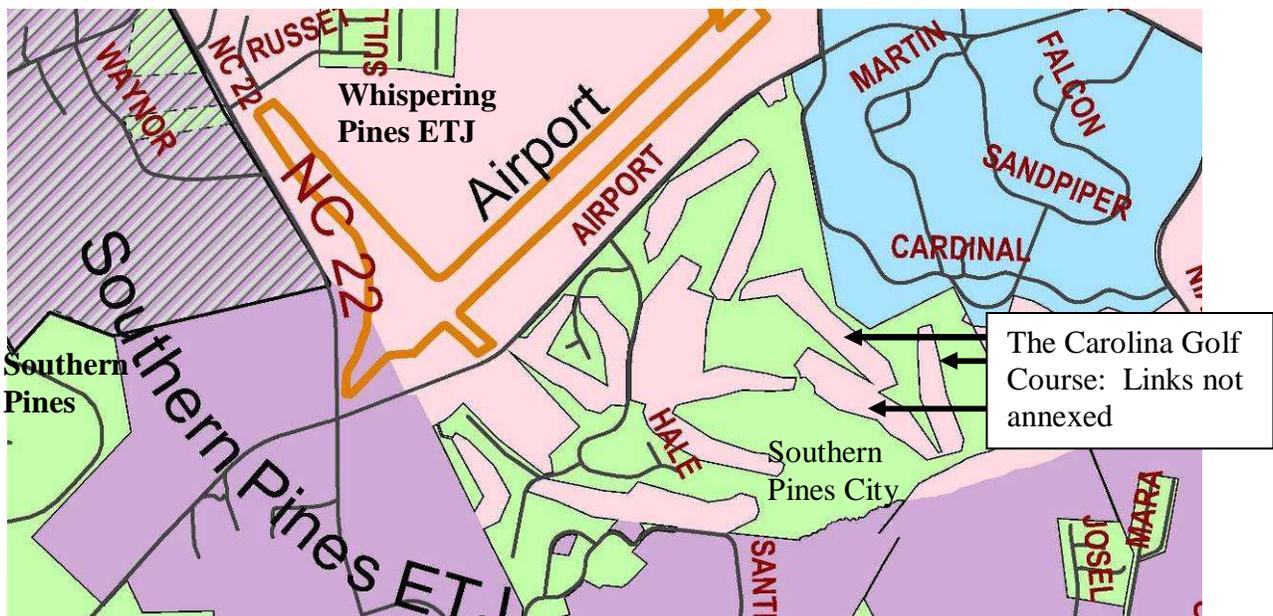
League of Municipalities lobbyist Ellis Hankins, a strong proponent of the state’s current annexation laws, acknowledged this concern, stating that it is “not sound practice to leave donut holes.”¹⁹

In the bottom-line approach to annexation, the most attractive annexation targets are new commercial or industrial properties and higher-end residential developments. In most cases, the developer and/or property owner applies for annexation and agrees to pay for infrastructure extension in exchange for the city assuming its maintenance after the systems are built. Town governments may also subsidize these projects, using public funds to construct pump stations and over-size water and/or sewer lines. In theory, this arrangement makes the development more valuable and gives the town the promise of added tax revenues in the future. The towns’ ability to use satellite (non-continuous) annexation makes it possible for them to jump over less-desirable properties and take in only the properties desired.

This approach is actually codified in North Carolina law²⁰, which requires the annexing municipality to produce a statement showing how the proposed annexation will affect the city’s finances and services, including estimates of city revenue changes. Cities can choose how this information is used in annexation decisions, but by the current policies of town planners and governments to maximize revenue, the cost of annexing poorer, minority neighborhoods is in direct opposition to their goals, since most minority communities consist of lower-value housing.²¹

The precision of annexation decisions – and to whom their benefits accrue – is clear in Southern Pines. In Map 3, consider the resort properties: The homes on the golf course are included in the city, gaining services and generating tax revenues for the town, while the golf links themselves are excluded from town and thus not costing the Golf Club any taxes.

Map 3: Southern Pines Annexation: Carolina Golf Course Links Not Included



¹⁹ “The State of Things,” WUNC Radio, June 14, 2005.

²⁰ North Carolina statute 160A-35.(5).

²¹ 2000 U.S. Census: median value owner-occupied housing, white alone: \$122,800; African American alone: \$80,600.

2. Effect on Voting Rights of Minority Citizens

Annexations can potentially affect change the electorate who can participate in elections (*City of Pleasant Grove v. United States*, 479 U.S. 46, (1987); *City of Port Arthur v. United States*, 459 U.S. 15, (1982)).²² Municipalities in areas covered by Section 5 of the federal Voting Rights Act are required to prove that an annexation does not have the purpose or effect of making minority voters worse off than they were before the annexation. A study entitled “Assessing the Effectiveness of Section 5 Pre-clearance of Annexations in North Carolina,”²³ demonstrate that all ten “Section 5” North Carolina municipalities in a preliminary sample used annexation in such a way as to decrease the percentage of the population that was African-American during the 1990s; of this sample, three would have been majority-African-American without annexation, but all remained majority white. While Moore County is not a Section 5 county, an analysis of annexation and its effects on municipalities’ Black citizens is enlightening.

Regarding Aberdeen, Southern Pines and Pinehurst, the study showed

“little pattern across all three towns. Because the towns are overwhelmingly white, annexation had little effect on the 2000 racial balance. Alone of all of the towns under considerations in this paper, Aberdeen increased its African American percentage through annexation — but only from 14% to 22%. As the town with the lowest income levels, Aberdeen did include a significant proportion of African Americans in its annexations during the 1990s even as the white population within the 1990 borders declined slightly. Pinehurst had almost no African Americans, and they clearly made no significant effort to bring African Americans into the town through annexation. Whites are disproportionately represented in annexations by Southern Pines (89.5%) compared to African Americans (10.5%) even as the African American population within the 1990 borders declined. ...The decisions not to annex African American neighborhoods combined with control of these areas through extraterritorial jurisdiction serves to further the political interests of the white majorities.”

As demonstrated by the table below, only the towns of Aberdeen and Carthage annexed Black citizens in greater proportions than existed in the town prior to the annexations.

Table 2: Annexations of African American Residents, 1990-2000, Moore County, NC.

Towns in Moore County	% Black Population 1990	% Black Population Annexed 1990-2000
Pinehurst	3%	3%
Southern Pines	29%	11%
Aberdeen	14%	43%

²² From 1965 until 2004, the Justice Department reviewed a total of 82,171 submissions involving annexations, out of a total of 413,278 submissions overall. See http://www.usdoj.gov/crt/voting/sec_5/changes.htm.

²³ Parnell and Marsh, University of California Law School’s Earl Warren Institute for Race, Ethnicity and Diversity, Voting Rights Act Research Round Table, , Washington, D.C. to be presented February, 2006.

Carthage	25%	39%
Vass	17%	0%
Foxfire	1%	0%
Pinebluff	7%	4%
Robbins	2%	4%
Cameron	35%	0%
Whispering Pines	1%	1%

3. *Is It Race or Economics?*

In discussions of annexation and the exclusion of minority communities, the rationale of “it’s just economics” is often cited. According to an interview in *The Charlotte Observer*, Aberdeen Manager Bill Zell says race “has nothing to do with it,” and is critical of the use of the media and the timing of the current drive to obtain services. “They’re not afraid to use that [race] card, and it has nothing to do with it. That part irks me.”²⁴

According to Ron Thorsen of Stop NC Annexation, an organization lobbying to change annexation laws in the state, “You will see that involuntary annexation [initiated by the municipality] occurs greatly in places of more affluence and very much less than in places of little affluence. And so this becomes an issue of class...”²⁵ However, a study of the demographics of race in North Carolina makes clear that municipalities cannot exclude poor people without simultaneously perpetuating racial discrimination. As Table 2 illustrates, the poor in North Carolina — like the poor in southern Moore’s excluded communities — are predominantly African American.

Table 3: Income in 1999 Below Poverty Level By 2000 US Census Block Group

	North Carolina	Moore County	Monroe Town & Waynor Rd	Jackson Hamlet	Midway
African American Alone	23%	29%	12%	43%	31%
White Alone	8%	7%	3%	7%	11%

The state of North Carolina gives its towns complete discretion in annexation decisions and encourages the municipalities’ ability to act for their own benefit – even at the expense of the surrounding citizens: As posed by “State of Things” radio program host Melinda Penkava, “It does sound that ...the law’s very much in favor of the municipalities to pick and chose who’s going to come within their town limits and who will not, if there might be 50% of the people in Jackson Hamlet who say they’d like to be annexed into Pinehurst, they can’t be, because you need a 100% unanimity to be annexed in, However, towns can look at more affluent areas than Jackson Hamlet and say, ‘a couple of million dollars in tax base might be nice to have in our coffers’ and annex that.”²⁶

²⁴ Gordon, Michael. “U.S. Open used in drive for inclusion,” *The Charlotte Observer*, 6/5/05.

²⁵ “The State of Things,” WUNC Radio, June 14, 2005.

²⁶ “The State of Things,” WUNC Radio, June 14, 2005.

In addition, a town may annex an area leaving out any bits it pleases, leaving gaps in service provision and affecting the balance of those who have a vote. As Map 3, above, demonstrates, this can involve striking “deals” to please developers, even at the expense of the town’s tax base.

Towns also have great political clout that can be brought to bear when they want to bring in an area that might not otherwise fit current annexation law. A recent letter to the editor by Pinehurst Village Manager Andy Wilkinson thanked state Representative Richard Morgan, recent co-speaker of the N.C. House of Representatives, for introducing “legislation on separate occasions that allowed for the annexation of significant areas of population into the village of Pinehurst, such as Clarendon Gardens and the No. 6 golf course neighborhoods, when a vast majority of the citizens in those areas and village officials were in favor of the annexations. But because of provisions in the North Carolina General Statutes, the annexations could not occur [without the special legislation that Morgan successfully sponsored]” The residents of the subdivisions of Pinehurst No. 6 and Clarendon Gardens are overwhelmingly white.

During its 2005-2006 session, the North Carolina legislature considered such special legislation for 14 different communities.²⁷ To date, no such legislative bypass has been submitted on behalf of Jackson Hamlet or other excluded African American communities, although most recently, according to Anita Earls²⁸, Aberdeen has introduced the possibility.

In too many cases, poor and minority communities are held to the letter of the law, a higher standard than often applied to wealthy, white neighborhoods. As long as the annexation and ETJ laws are applied in racially disparate manners, the consequences can hardly be considered “sound and progressive.”²⁹

4. *Gaps Between Towns: “No Man’s Lands”*

The maps provided by the Moore County Chamber of Commerce show that there are gaps between the towns of southern Moore County. As discussed above, in those gaps are minority communities. This pattern of excluding minorities results in a map full of discontinuous borders and a fragmented community. However, this pattern is relatively recent and appears to a phenomenon that the general public has not yet noticed, as illustrated by one commentator who said, “I thought if you were in town, you were *in town*.”³⁰

The gaps between and within the towns are sometimes referred to as “no man’s lands.” For example, when he was a Deputy, current Moore County Sheriff Lane Carter once described Lost City: “There’s something you’ve got to understand about Lost City: Nobody wants it, it’s bad land. No man’s land.”³¹

The term “No Man’s Land” is important, because it is used in many other places to denote excluded communities for whom no one takes responsibility. For example, in Orange County, NC, County Commissioner Barry Jacobs referred to the Buckhorn/Perry Hill community, which also lives near the Mebane City limits as “a no man’s land, not really in our service area” – though it is

²⁷ North Carolina General Assembly website, <http://www.ncleg.net/gascritps/BillSearch/BillSearch> 6/27/05.

²⁸ Advocacy Director of the Center for Civil Rights, School of Law, University of North Carolina, personal communication, 6/30/05.

²⁹ “In the Rough,” News and Observer editorial, June 25, 2005.

³⁰ Employee of Staples Office Supplies store, who was copying maps for the first draft of this report, 8, 2004.

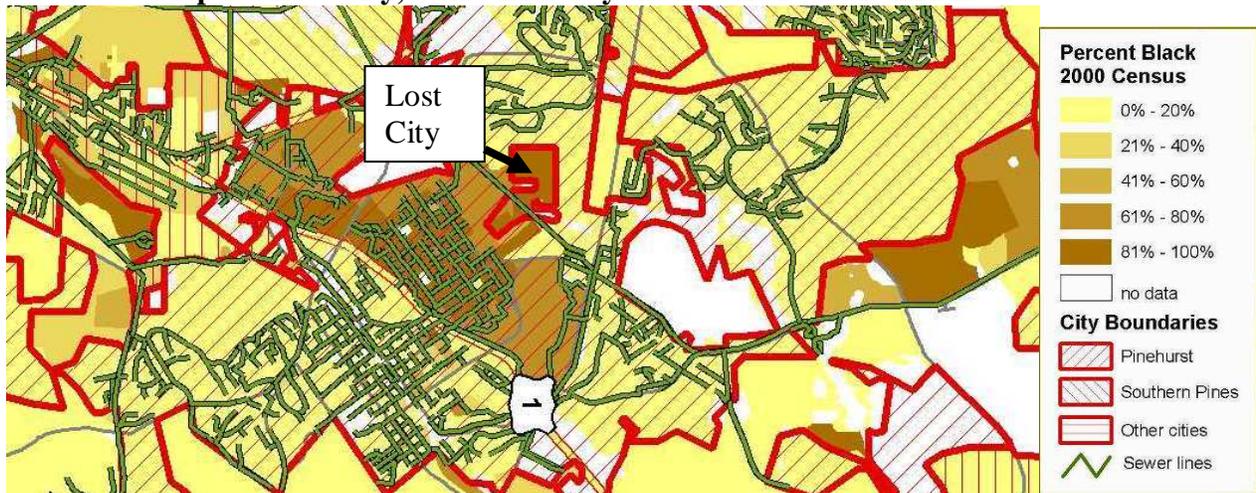
³¹ From a one page document, apparently from a journal article, found in NC DOT files relating to the Mebane, NC, 119 bypass in September 2003 but pertaining to Moore County:

obviously within the County. Like Moore County's Lost City this is not a "no-man's land"; it's just a poor-man's land.

Lost City is now a dumping ground, especially for construction debris. Absentee owners own the land in many small lots; there are only a handful of occupied homes. On one side is the Plantation Golf Club, but that road is blocked. Another boundary is the town's road into a water tower. Lost City does have fire service and building inspection from Southern Pines, but Moore County is expected to provide sheriff patrols. Those patrols must pass through the Town of Southern Pines, so they are less frequent than they might otherwise be, according to the Sheriff's Department.

Former Southern Pines Mayor and community leader Voit Gilmore described the recent history of Lost City this way:³² "About 3 years ago, as a private citizen, I became troubled about 'Lost City,' a mile-square pocket of land sitting unclaimed just south of Midland Road (SR 2) between the corporate boundaries of Pinehurst and Southern Pines, a stretch of mostly undeveloped lots with pine trees and scrub oaks, linked by one partially-paved, partially-dirt county road along which strangers (largely building contractor crews) were dumping tons of waste

Map 4. Lost City, Surrounded by the Town of Southern Pines



materials and trash. We raised a cry, stirred public attention (I was then chairman of Governor Hunt's Clean NC Campaign), got the area cleaned up and hoped for some building development that never came. Land is owned by black citizens, both local and absentee, none with investment capital for homes that extended area zoning would require. No acquisition by either Pinehurst or Southern Pines is planned, with only two or three black families reside[ing] in marginal housing." In 2000, Gilmore donated nine acres of land at the edge of Lost City to the city of Southern Pines for construction of a Head Start building and a park. The Head Start building was sponsored by the Kiwanis Club and completed; plans for the park have been delayed but are now once again underway, as of June of 2005, Gilmore said.

According to Gilmore, "The town of Southern Pines supplies 4 or 5 fire hydrants [to Lost City], but no sewage, only one or two street lights." The issue of street lights is important. Antoinette Williams, resident of Lost City, is quoted as saying that if the area were well lighted, it would reduce crime and illegal dumping. Without the lights, the area is too dangerous and has too

³² Email to Carolyn Christman, Cedar Grove Institute for Sustainable Communities, September 13, 2003

much trash for her children to play outside. She speculated that eventually she will leave and everyone will leave or die.³³

As that happens, Lost City will experience more of the tribulations that accompany properties with “heirs land.” A traditional way of passing on property between generations without wills and without access to attorneys and the justice system, land is commonly passed down generational lines, to be equally shared among family members, thus becoming “heirs land.” According to the Heirs’ Preservation Project of South Carolina, “What sounds good in theory, however, does not always work in practice.... For example, determining who is responsible for property taxes and how to divide revenue from the land can create family strife and instability.”³⁴ Even the seemingly simple task of contacting all the property owners can become impossible. When land is in a prime location (such as near Pinehurst and Southern Pines), it becomes attractive to use the legal process to force a sale (which forces partition of the land and ownership), where judges see the land merely in terms of dollars and cents, and what results is a bargain sale and land that passes from the African-American community.

Given its location, even a “no man’s lands” like Lost City could, in the near future, become valuable given its location. Will this happen before the residents leave or after they are long gone?

5. *Voluntary versus Involuntary Annexation*

While Lost City is sparsely populated, three of the other excluded minority communities “in the gaps” are densely-settled, long-standing neighborhoods. Such communities should be well-positioned to argue for annexation, but annexation law is stacked against them.

There are two types of annexation. *Voluntary annexation* is requested by a landowner or developer; it requires that 100% of the property owners agree with the request. *Involuntary annexation* is initiated by the municipality, regardless of the wishes of property owners. An appreciation of this nuance is essential to understanding how state law allows local governments a great deal of discretion in annexation while limiting the options of the property owners.

The difference between voluntary and involuntary annexation also has a critical impact on residents because a distinction is made in the timing of provision of services. As one writer put it: “There’s the rub: According to the North Carolina League of Municipalities, the city of Southern Pines would be obligated to provide standard services – street lights and the like – within two years if it annexed Lost City *without* a request from the residents there [involuntary annexation]. If the property owners make such a request [for voluntary annexation], [in practice] they forfeit such timely service and still have to pay the city’s taxes.”³⁵

That is, if a town annexes residents involuntarily, without their request and perhaps against their wishes, it must pay for extension of services within a specified time frame. But if it annexes residents voluntarily, that is, at their request, it is the *residents* (or, more frequently, the developer) who must pay for the construction of infrastructure and tap-on fees, which can be a significant cost. [Note that North Carolina law does not require this discrepancy; it is simply the common practice and enforced as if it were law.] This difference places a considerable financial burden on residents of older neighborhoods facing annexation. In addition, these homeowners are less likely to be able

³³ From a one page document, apparently from a journal article, found in NC DOT files relating to the Mebane, NC, 119 bypass in September 2003 but pertaining to Moore County.

³⁴ “Preserving Their Roots,” Legal Services Corporation Equal Justice Magazine, taken off the World Wide Web 6/14/05: <http://www.ejm.lsc.gov/EJMIssue6/briefs01.htm>.

³⁵ From a one page document, apparently from un-named journal article, found in DOT files relating to the Mebane, NC, 119 bypass in September 2003.

to fund the cost of these expenses through a mortgage or equity line, as is done by those who buy homes in new communities.

Ron Thoreson, Chairman of Stop NC Annexation, echoed this observation about “the economic divide” on the radio program “The State of Things”³⁶: “The inequity here... is that a community can come and they don’t need one person’s approval for the community to come and involuntarily annex them – but yet if one person in that area wants to be part of that [town], then they need 100%... We believe that the people should have right and a choice in the process.” For those who want to be in the town but the town does not seek, “it’s all or nothing at all,” Penkava noted. “If one neighbor in that community doesn’t want to be annexed ...”³⁷

This “threshold of unanimity” acts as a severe disincentive to voluntary annexation by historic communities. And in fact, officials from Aberdeen, Southern Pines, Pinehurst, Moore County and the League of Municipalities have repeatedly used this steep requirement as a justification for the town’s exclusion of these communities.³⁸ However, it should be noted that even a formal application by all of an area’s residents does not require consideration of the petition by the municipality, much less its approval.

In addition, under current practice, voluntary annexation does not require provision of services under any certain time frame. The residents of southern Moore’s minority neighborhoods are facing severe problems with failed septic tank and lack of water. They need to negotiate with the municipality for delivery of services as part of the annexation process before they can initiate a request annexation, or the problems won’t be solved. Lawyers from the Center for Civil Rights are down there working with members of the community to help them negotiate with the municipalities and the County.

Newer developments face no such obstacles, as the developers pay up front for the necessary infrastructure extensions prior to residents taking occupancy of the new homes, passing the costs on to the buyers. In this way, the expense acquiring city services can then be amortized into a mortgage and be taken as a tax deduction, as well. Residents of older towns lack these advantages in paying for extension of water and sewer services, and they must come up with the cash or rely on the governments to obtain grants from an extremely limited pool of funds. Unfortunately, all of the various state and federal funds designated for this purpose were out of money by February of 2005, according to Jeff Hughes of the UNC Environmental Finance Center.³⁹

Kyle Sonnenberg, then City Manager of Southern Pines, stated that “we don’t get requests for annexation from undeveloped property.” He went on to explain the town’s approach as “waiting on property owners” and looking for a level of development that would justify annexation. He also noted that there had been no involuntary annexation by Southern Pines for ten to twelve years.⁴⁰

Thus the question becomes: are there any plans to annex already-developed properties in the towns’ Extra Territorial Jurisdictions (such as Pinehurst’s annexation of Clarendon Gardens and Pinehurst No. 6, as discussed on Page 11, above)? The practice of allowing annexation to wait on a certain type of development (especially brand new projects) echoes a statement by Ellis Hankins of the North Carolina League of Municipalities, who explained that the law was designed for ‘cost effective delivery of services in areas that are *becoming* urban’⁴¹ Yet it appears that the law was

³⁶ WUNC Radio, June 14, 2005

³⁷ “The State of Things,” WUNC Radio, June 14, 2005

³⁸ For example, Steve Wyatt, Moore County Manager, “The Connection.” WBUR Radio, 6/10/05.

³⁹ Email to Ann Moss Joyner, Cedar Grove Institute, 2/2/2005.

⁴⁰ Interview with Cedar Grove Institute staff, November 2003.

⁴¹ “The State of Things, WUNC Radio, June 14, 2005.

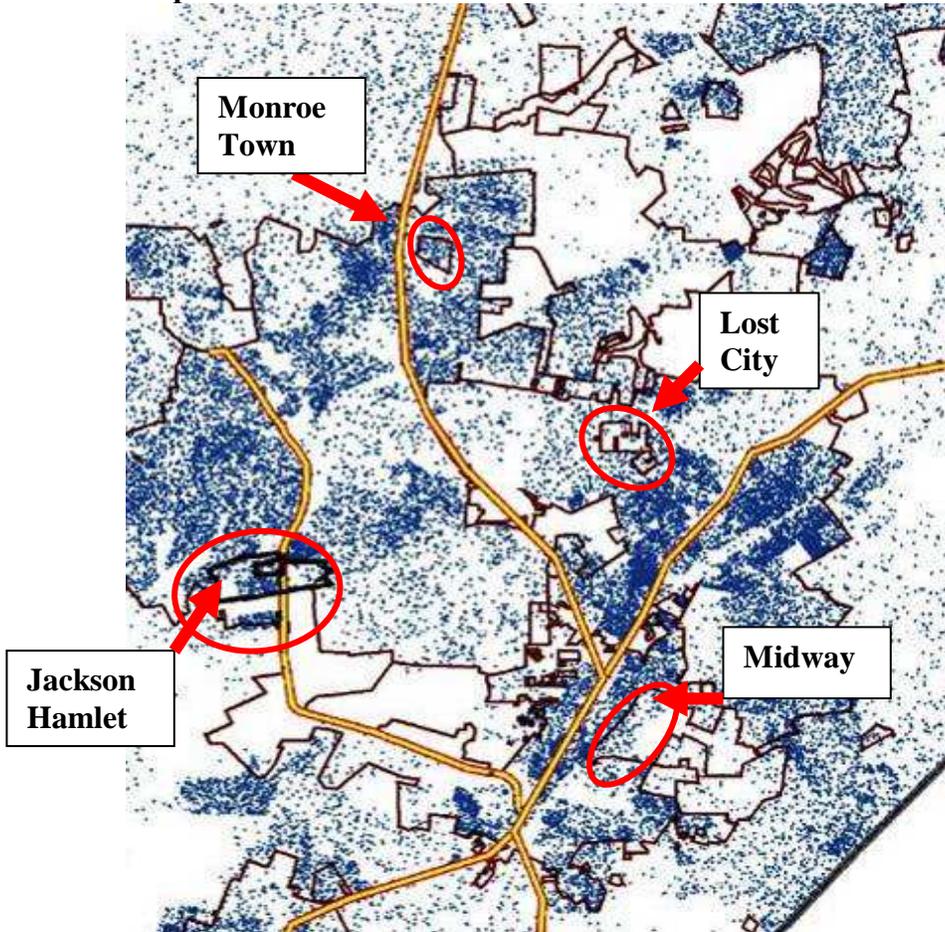
not designed to support annexation or delivery of services to areas that are already urban – already developed but outside the town.

While municipalities have been generally held responsible for providing services to urban communities, the County government could play an important role in southern Moore. Moore County owns and maintains the public water and sewer systems that serve several of the municipalities. Jackson Hamlet residents have gone to the County to request services denied by Pinehurst; the County is studying the matter.

6. Density, Annexation and Public Services

Historically, density and contiguity have been important criteria for annexation and for extension of public services. Properties near town boundaries and already densely developed were prime candidates for annexation according to the most basic planning principles and traditions. Former City Manager Sonnenberg noted this in saying that, in considering annexation, “...some property is densely residential and some is not; density is also important.” In Map 5, below, note the dense residential patterns of Jackson Hamlet, Midway and Monroe Town, all excluded minority communities.

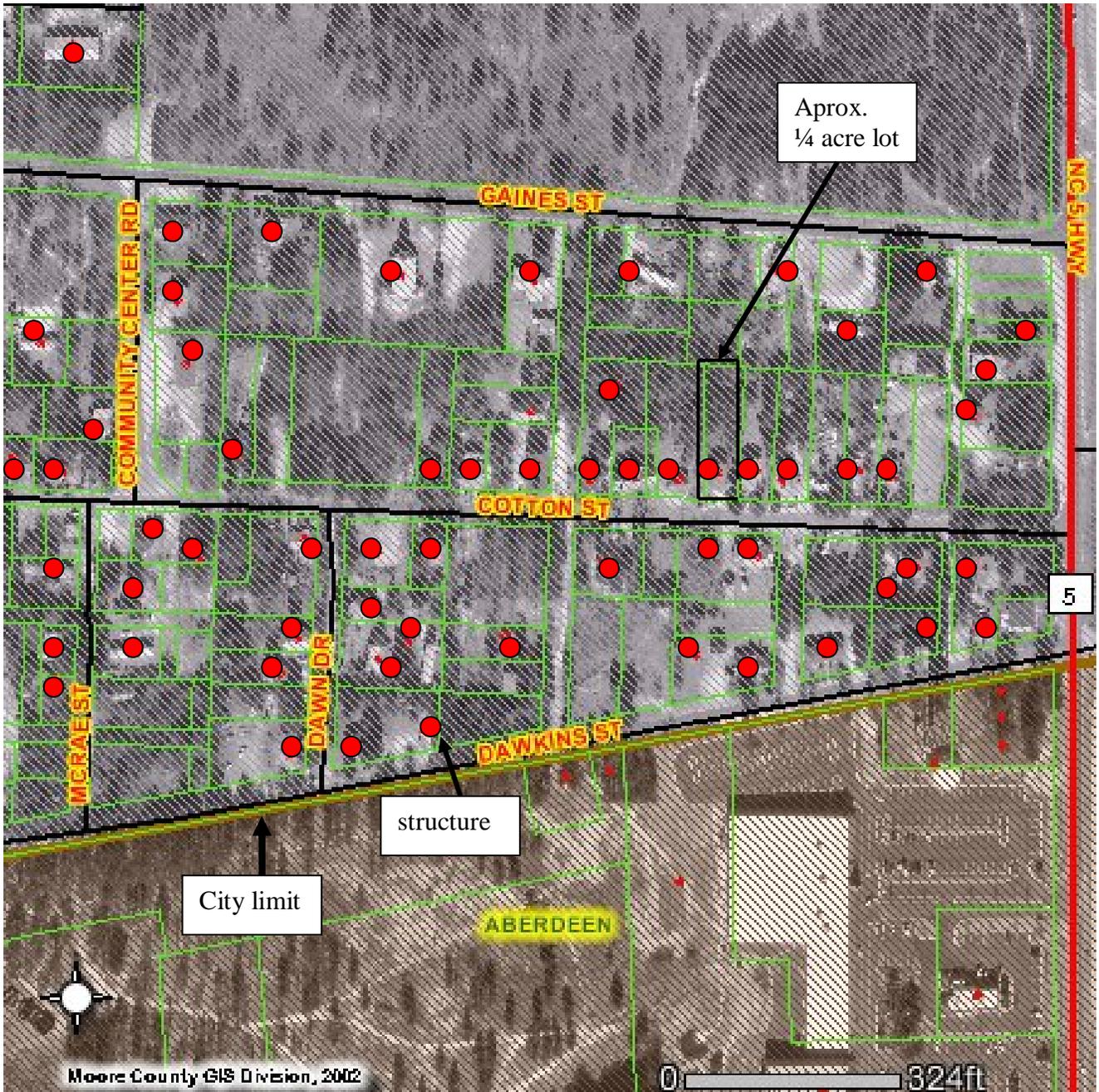
Map 5. Dense Residential Patterns of Excluded Communities



Jackson Hamlet, in the gap between Aberdeen and Pinehurst, is illustrated in Map 6, below. Lot sizes range from 1/8 to 1 acre with the red dots indicating dwellings. These lots are 1/8 to 1/2 acre

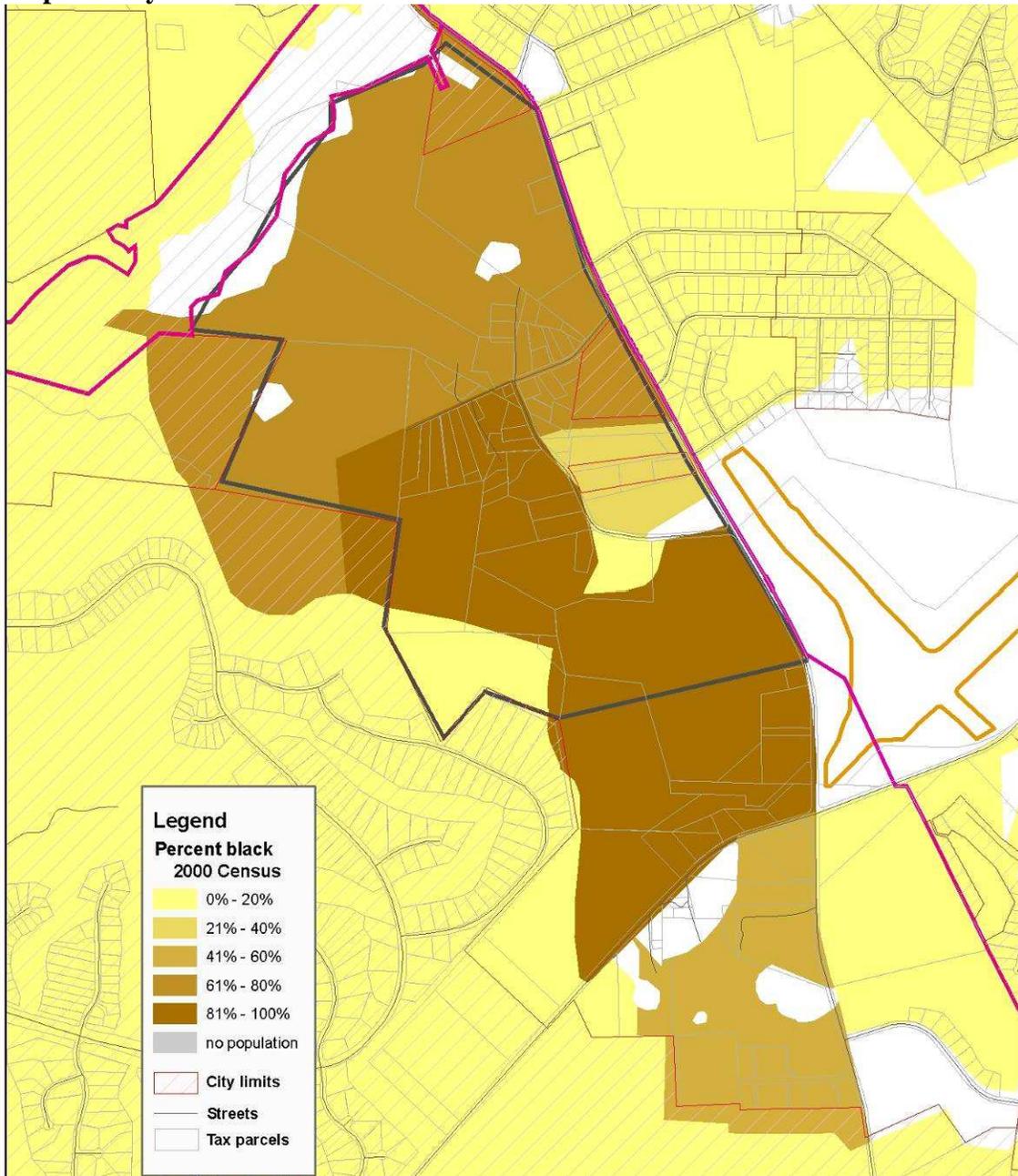
and the houses are extremely proximate.

Map 6. Residential Density in Jackson Hamlet Community



While the neighborhood of Waynor Road does contain some larger lots on its edges, the lots in the center of the neighborhood are urban in nature, as illustrated by the map below.

Map 7. Waynor Road



7. Ambivalence About Annexation: The Threat of Redevelopment

Annexation – as a way to get services, improve property values, and participate in governance of the town – is a compelling goal. Midway community is one of the communities that has requested annexation from Aberdeen and remains excluded. Yet there is not a clear, pro-annexation consensus among all of the residents of southern Moore County’s other excluded minority communities. For example, Monroe Town, fearing redevelopment, preferred not to be annexed when Pinehurst annexed the adjacent land of Pinehurst Number Six (an “exclusive” golf course community).

Currently, Jackson Hamlet residents are debating the issues. One of the most compelling

arguments for annexation is to gain the right to vote for the governments which already control residents' land use. "And that political mute button grates on [Maurice] Holland, president of the Midway community association, who believes it leaves homeowners vulnerable to developers. 'Give the community a voice,' he says. 'Until we can say, 'hear us or we will vote you out of office,' we have nothing.'"⁴²

At the same time, annexation is not without risk. As described by the UNC Center for Civil Rights, "Other communities, such as Monroe Town and Jackson Hamlet, are more ambivalent on the prospects of annexation, fearing such action might be the precursor to the buy-out and destruction of their communities. [They are] between the rock of exclusion from municipal services and the hard place of potentially watching their storied community overrun by outside developers..."⁴³

One illustration brings all of these issues together: the condominium development Abington Square, which sits on a tract of land inside the excluded community of Jackson Hamlet like the "enclave" within the "exclave." When the property was purchased for upscale homes, it was annexed by the city of Pinehurst, and the new homes have water, sewer, and other services. The map below shows this "cut-out" which is inside Jackson Hamlet but also inside Pinehurst. As Bobby Person said: "You see some [Black] land bought up, next thing you know there's brand new condominiums in there, and they'll stretch the water and sewer line right to them – they'll dodge around the Black community..."⁴⁴

Resident Ida Mae Murchison agreed: "If they [Pinehurst] were to get it [Jackson Hamlet], all they'd do is tear down all these houses and make golf courses out of it."⁴⁵

In June of 2005, Aberdeen Town Manager Bill Zell stated that the town is studying the cost of taking in Midway, but "The town must weigh the benefits for "some really good people" in Midway vs. what Zell calls 'an awful lot of blight.'⁴⁶ The use of the term "blight" is significant, because blight is a legal term, not an aesthetic descriptor. Town managers know that the description it implies it is often a requirement for redevelopment funds. Such statements can be heard as threats by minority residents considering annexation. Should this theoretical threat be realized, the residents of Jackson Hamlet have little wherewithal to fight such an effort. The census block group that includes the western half of Jackson Hamlet (unincorporated, 80-100% Black) and the condominium development Abington Square (incorporated, 80-100% white) has a white per capita income of \$37,834 and a black per capita income of \$7,573.

The fear of redevelopment underlies the ambivalence toward annexation often-cited by County and City officials. While residing in the twilight zone of ETJ (extraterritorial jurisdiction) in apparent perpetuity means that residents have no vote in the towns which control their zoning, those towns have less incentive to "redevelop" the neighborhoods as long as they remain outside the towns. Aberdeen is a prime example of how towns see poor minority neighborhoods as opportunities to transform the land for new users and uses - rather than for the current residents; As town manager Bill Zell explained about the town of Aberdeen's annexation of Berkley, a Black community on Aberdeen's southeast, "We created a redevelopment zone in there that will enable us

⁴² Gordon, Michael. "U.S. Open used in drive for inclusion," The Charlotte Observer, 6/5/05.

⁴³ UNC Center for Civil Rights. Press Packet: Racial Exclusion in Moore County, North Carolina. May 2005.

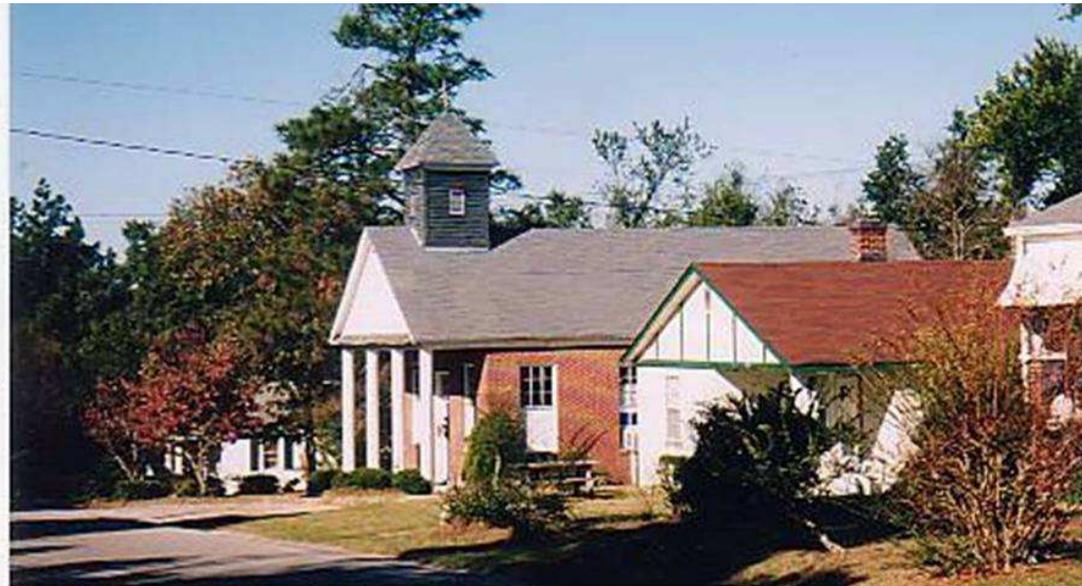
⁴⁴ Interview with Trisha McWilliams. *Invisible Fences*. Dir. Trisha McWilliams and Matt Helfant. 2004.)

⁴⁵ Interview with Trisha McWilliams. *Invisible Fences*. Dir. Trisha McWilliams and Matt Helfant. 2004.

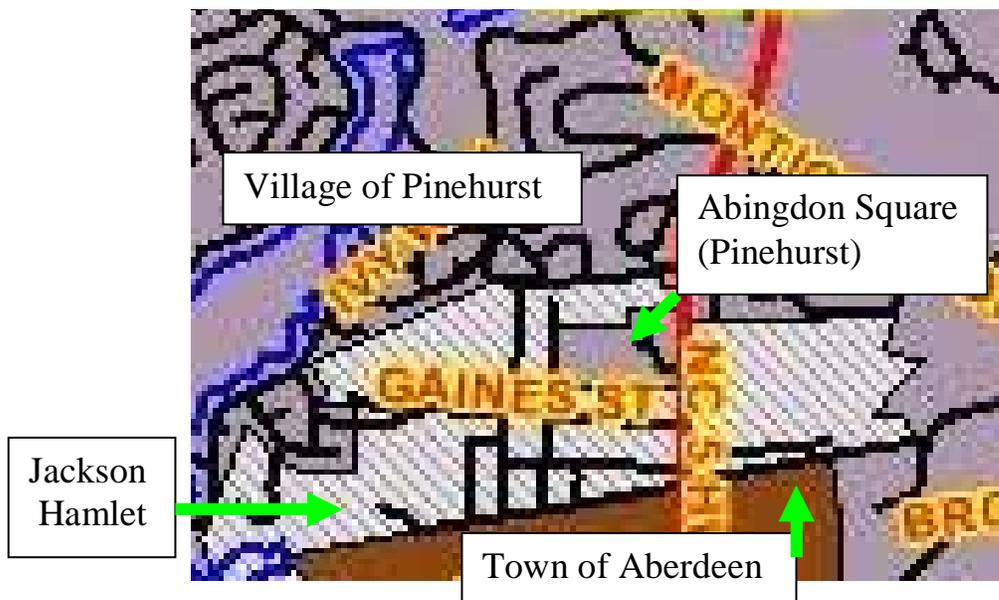
⁴⁶ Gordon, Michael. "U.S. Open used in drive for inclusion," The Charlotte Observer, 6/5/05.

to acquire property.... We feel like rather than rehab, we can put some nice homes in there.”⁴⁷ While the City is working with Habitat for Humanity to create affordable housing, for the homeowners of these excluded communities (and most of the houses are owner-occupied), such statements are troubling. Current residents want to maintain the homes they have, not provide land for affordable housing for others.

Figure 1: Jackson Hamlet – Cotton Street



Map 8: Abingdon Square (Pinehurst) in Jackson Hamlet



⁴⁷ Chappell, John. “Sharing the Prosperity: Communities Hope to Benefit From Open Spotlight,” *The Pilot*, May 22, 2005

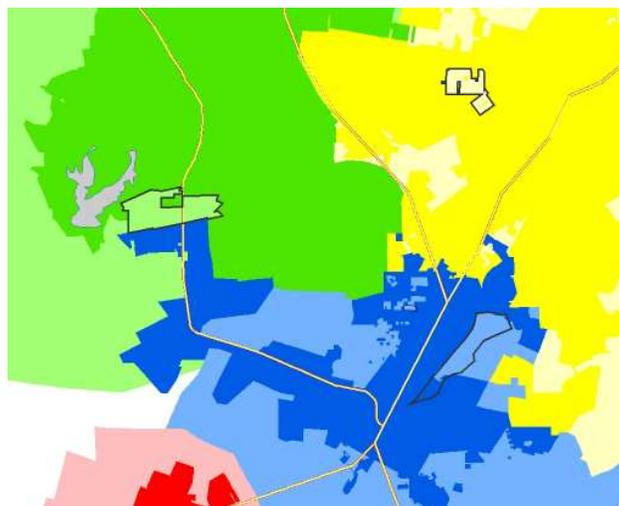
Figure 2: Abingdon Square (2004)



B. ETJ: Power in Perpetuity

In North Carolina, cities and towns have the legal right to create an Extra Territorial Jurisdiction (ETJ), a district beyond their boundaries that is governed and zoned by the municipality. The concept of ETJ was envisioned as a tool of enlightened planning by which local governments would develop a long-range plan for land use, including annexation. Placing land in ETJ was seen as an *intermediate* step towards full annexation and community participation. In many towns in the state, however, this right has been used to keep communities in legal limbo – excluded from town but ruled by town – with no progress towards annexation and the services it would bring.⁴⁸

Map 9. ETJs of Southern Pines, Pinehurst, Whispering Pines, and Carthage



Darker colors = Towns

Lighter colors = ETJs

⁴⁸ "The Persistence of Political Segregation: Racial Underbunding in North Carolina," The Cedar Grove Institute for Sustainable Communities, <http://home.mindspring.com/~mcmoss/cedargrove/id19.html>. October 2004.

In the community of Midway, for example, all of the zoning ordinances, in terms of lot size, zoning ordinances, what kind of buildings, what application – in other words, whatever you can do with your property – is controlled by the town of Aberdeen. Yet Aberdeen does not have offer anything in return: no sewer, lights, roads, or police protection. (Services are discussed in more detail in the section below.) Nor does Aberdeen offer political participation: ETJ residents cannot vote or otherwise participate in the planning process that controls their land use.

Thus, most areas that have been excluded from annexation are still under the jurisdiction of the town or towns that have excluded them from membership. And once an area of land is in one town's ETJ, it is forever controlled by that town government and may not join another town in order to receive services denied by the controlling town. The residents have no voice to either push for annexation (without 100% agreement by all landowners) or gain release from ETJ. Those communities in the gaps – such as Waynor Road, which is between Southern Pines and Carthage – may not even choose which town they are governed by.

Several members of the Jackson Hamlet community commented on this in the documentary film "Invisible Fences." Hilton Dunlap of the southern Moore County minority activist group Voices for Justice, said: "They wouldn't accept Jackson Hamlet being part of their community, because the homes are not of top value. But the property is. The dirt that home is on is worth more to them than the people who live in the homes."⁴⁹

Residents from the various communities are articulate about their status, and several have been interviewed about the frustrations of living in the ETJ. For example, Steve Utley said: "A lot of people are just not aware; you can have a lot more by being in a town's city limits, if you have a voice. But now we don't have a voice. They just push whatever they want on us.... They come by and tell you what you can do in your community but you're not part of the town." Robert Whitaker comments: "They make decision for us, but we don't have – we don't know what the decisions are... They've just been made – like we're a silent partner out there – left out." Joyce Ray agrees: "If we can't get out of Southern Pines ETJ, we're going to make the best of it – we're going to fight for our grandchildren ... We're going to die on out and they're going to be there and we're going to want everything to be ok so they will not sell the property that we worked so hard for – that's why we're going to fight."⁵⁰

C. Public Services and the Consequences of Denial

Public services – for example, water, sewer, police protection, trash pickup, streetlights, sidewalks, and many more – are the legal and financial responsibility of local governments. In general, it is town governments that provide infrastructure, such as parks, public safety, sewer service, sidewalks, streetlights, trash pickup, and water service. Fire protection may be provided by towns, counties, and volunteer fire departments, or a combination thereof; smaller communities often contract with larger communities for this service. Ambulance and EMS service are also funded by a variety of options; Moore County owns and operates the franchise for ambulance service so that this service should be the same regardless of city boundaries, according to David Cotton, Assistant County Manager.

Water is more complicated, since towns, counties, and private utilities may all provide water services to towns, counties, and individuals. There are several differentials in water service, including the size of the lines (important in the ability to fight fires), the rate of flow, and the quality

⁴⁹ Interview with Trisha McWilliams. Invisible Fences. Dir. Trisha McWilliams and Matt Helfant. 2004.

⁵⁰ Interview with Trisha McWilliams. Invisible Fences. Dir. Trisha McWilliams and Matt Helfant. 2004.

of the water. Outside of town boundaries, county governments are responsible for testing wells and reporting to the state Department of the Environment and Natural Resources (DENR).

Below are two charts of services. The top chart looks at four key services found or not available to the excluded communities. The second chart lists all of the services provided by the towns of Pinehurst, Southern Pines, and Aberdeen.

Table 4. Selected City Services Available to Communities Outside City Limits⁵¹

Community	Water	Sewer	Rescue	Fire
Jackson Hamlet	yes, Pinehurst	No	Moore County	Moore County
Monroe Town	yes, Carthage	yes, Carthage (2003)	Moore County	Moore County
Waynor Road	No	No	Moore County	Moore County
Midway	Some?		Moore County	Moore County
Lost City	No	No	Moore County	Moore County

Table 5. Services Available Within City Limits

	Pinehurst	Southern Pines	Aberdeen
Curb cut ramping program	?	x	?
Dial-a-ride			
Garbage and recycling program	x	x	x
Graffiti abatement			
Handicapped parking installation	x	x	x
Bus service			
Bulky item collection	x	x	x
Immediate concerns	x	x	x
MAX connections (rail)		x	
Pothole, maintenance request	x	x	x
Recycling	x	x	x
Sanitary sewers		x	x
Sidewalk, curb and gutter repair	x	x	x
Storm drains	x	x	x
Street lights	x	x	x
Street sweeping		x	x
Street trees	x ?	x	x
Traffic signals	x		x
Trees	x ?	x	x
Water repairs		x	x
Flooding	x	x	x
Sandbags		x	x
Abandoned autos	x	x	
Illegal dumping	x	x	x
Garden refuse	x		x
Tire pickup			x
Neighborhood preservation and blight programs	x		x
Weed complaints/vacant lots	x		?
Used oil recycling			?
Tax rate		39 cents/100	43 cents/100

⁵¹ Telephone interviews of City employees by Amy Wheeler of Elon University for the Cedar Grove Institute.

With any service, the key element is the funding mechanism: which governmental body is able to levy taxes, pass bond issues, or leverage other funds to pay for the establishment and maintenance of the infrastructure or the service?

While town governments complain about their budgets, and seek to come out ahead financially on their annexations, there is an alternative in the form of federal funding. Local governments (municipalities and counties) are able to apply for and receive federal funds such as Community Development Block Grants (CDBGs) to be used for water and sewer infrastructure and other projects. In fact, these governments are the only ones with standing to apply; communities that need services are not able to apply directly for funding, even though the programs are available to benefit them. The local governments can decide not to apply for funds if they don't want the projects, so they are in effect the "gatekeepers" for federal funding.

This gives the local governments great power as well as great responsibility. The question posed is: do their actions reflect proper use of their power? Are their sufficient checks on this power to make sure that it is being used fairly?

1. The Cost of Replacing Public Services

Residents of excluded neighborhoods do not pay city taxes, but they have to pay for the services that would be covered by taxes if they were incorporated. These expenses – such as charges for private trash collection, bottled water, and septic system maintenance – are among the de facto taxes for *not* living within the city limits. Most of the debate about annexation centers on the new taxes to be paid, yet including the existing costs is essential to get an accurate picture of the burdens on the excluded communities.

Carole Henry, president of the Jackson Hamlet Community Association, acknowledges that many of her neighbors oppose annexation for fear of higher taxes and fees. An analysis by the UNC Center for Civil Rights shows that the monthly expenses for the Jackson Hamlet community would be lower after annexation by either Aberdeen or Pinehurst. (See Appendix III. for detailed analysis.)

Table 6. Comparison of Costs of Services With and Without Incorporation

<u>Expenses</u>	<u>Amount</u>	<u>Annual Savings⁵²</u>
Current Total Monthly Expenses	\$53.62	
Total Monthly Expenses if Annexed by Pinehurst	\$43.37	\$123
Total Monthly Expenses if Annexed by Aberdeen	\$38.95	\$176

Another case study, on Midway community, demonstrates that utility costs may be much lower after annexation. This could offset the new expense of city property taxes, particularly since the property values are currently so low.

Another consideration that seldom comes up during town officials' discussions of annexation of minority communities is the increase that can accrue to their property values. As stated above, a preliminary study by the Cedar Grove Institute shows that properties with full municipal services are worth more than those without, even for those in predominantly-minority communities. This is especially important for minorities, as the majority of their wealth is held in the home, and — while the lag in minority wages has been closing in recent decades — the lag in

⁵² UNC Center for Civil Rights 2005.

minority asset accumulation has not. Thus, annexation and the concomitant services could lead to significant increases in property values and thus to neighborhood revitalization – without redevelopment.

In addition, homes with failed septic systems are difficult if not impossible to sell. This is recognized by some towns by a provision of property tax deductions for such homes.⁵³ Septic systems have limited life spans, estimated to average 15-to-30 years.⁵⁴ Some of the systems in these neighborhoods have already failed, and many of the lots in these excluded communities are on lots that are too small to allow a replacement septic field. Thus, extension of sewer service can make the difference between a home with full value and a home with no value, in terms of the real estate market

2. Density and the Impact on Public Health

Density makes a neighborhood more in need of services because small lots limit the space for wells and / or septic systems. In addition, as pointed out by Ron Thorsen of Stop NC Annexation, “as [municipal] development encircled these areas, they affected the ecology, ...the groundwater, ... the run-off, they effected this area in negative ways that possibly contributed to the failing wells and septic systems of these properties....”⁵⁵ Most of the excluded minority communities in the gaps between towns are densely-settled, long-standing neighborhoods. In Jackson Hamlet, for example, lots average about ¼ acre and some are as small as 1/8-acre. Residents and churches must rely on septic systems, which in turn require sufficient space and soil quality for proper functioning.

Some studies estimate that as many as 40% of on-site septic systems may be failing.⁵⁶ Failing septic systems are linked with *E.coli*, which can contaminate surface water and eventually ground water, where it can contaminate wells. While the likelihood for septic failure in southern Moore County was downplayed by Kyle Sonnenberg as uncommon because of the region’s sandy soil, this assumption was refuted by residents. Midway resident Steve Utley stated in the documentary film *Invisible Fences*: “It would be very good for this community to have sewer, where when it rains a lot, your septic line backing up, your yard flooded with raw sewage, if you could be hooked in like everybody else”⁵⁷

Bobby Person, a resident of Waynor Road community (in Southern Pines’ ETJ), comments: “Some sewer lines, where there’s construction building, I guess the sewer line’s about 50-to-100 feet from some houses in the [Black] community and they won’t even run it to them. Lines running all the way around the place and they won’t give them water or sewer. ... They’re sad because they can look right across the road, and people have water and sewage connections and they don’t have

⁵³ “...assessors said at a recent tax classification meeting that if you are being held hostage in your home with a failed septic system and you cannot sell because the city has not determined if you will be getting a sewer, you can apply for a tax abatement at the assessors office.” Gloucester, Massachusetts. http://www.ward5.com/tax_classification.htm Taken off the World Wide Web June 15, 2005.

⁵⁴ Evans, Sally et al., “Recommendations for Effective Septic System Management,” University of Georgia Institute of Ecology, Athens, Georgia. Spring, 1999.

⁵⁵ “The State of Things,” WUNC Radio, June 14, 2005.

⁵⁶ Canter, Larry W. and Robert C. Knox. “Septic Tank Systems Effects on Groundwater Quality.” 1985. Lewis Publishers, Chelsea, MI. 1985.

⁵⁷ Interview with Trisha McWilliams. *Invisible Fences*. Dir. Trisha McWilliams and Matt Helfant. 2004.

it.”⁵⁸ Robert Whitaker agrees: “We’re not saying we want more – we just want what everybody else has.”⁵⁹

Map 9: Waynor Road and Sewer Line



Trash collection is another service that has public health impact. Steve Utley says: “That’s the main thing that bothers me – is filth, trash – beside the road – there’s no one to pick it p. Then you got these little companies charging people all that money to pick up their trash, when the town could be handling all that.”⁶⁰ The disparity is also noted by Bobby Person: “They have to haul their trash to the trash dump, when the Aberdeen trash truck comes right by their house... They can’t say the trash trucks don’t cover that route, because they do – going to that expensive golf course across from them.”⁶¹

Public health is an obvious concern for those communities without reliable water, sewer, and trash service. Public health also has a dramatic impact on property values.

3. *Role of the County*

While the residents do not have the power to determine whether they are ever annexed by an adjacent town, they should have the right as citizens of Moore County, North Carolina, and the

⁵⁸ Interview with Trisha McWilliams. *Invisible Fences*. Dir. Trisha McWilliams and Matt Helfant. 2004.

⁵⁹ Interview with Trisha McWilliams. *Invisible Fences*. Dir. Trisha McWilliams and Matt Helfant. 2004.

⁶⁰ Interview with Trisha McWilliams. *Invisible Fences*. Dir. Trisha McWilliams and Matt Helfant. 2004.

⁶¹ Interview with Trisha McWilliams. *Invisible Fences*. Dir. Trisha McWilliams and Matt Helfant. 2004

United States, to have “*safe, decent and sanitary housing*,” as HUD maintains in all of its funding requirement language, with clean water and a working wastewater treatment system. Currently, many of the houses have failing septic systems and dirty, smelly water. These are things that the County government could address, especially since Moore County owns and maintains the public water and sewer systems that serve several of the municipalities. The residents of Jackson Hamlet have requested sewer from the County, which has responded that (a) it must study the issue on a county-wide level, b) perhaps it would be more cost-effective to replace the failing septic systems with new septic systems; and c) that “It is worth noting... that Jackson Hamlet residents do enjoy County water service, which puts them ahead of most Moore County citizens living in other unincorporated areas.”

These responses are theoretically logical, but additional study is unnecessary to see that areas as dense as Jackson Hamlet, with small lots (some 1/8 acre) including both well and septic, are not appropriate and create public health threat to both the residents of the neighborhood and to the larger community, which uses the same aquifer as the source of its drinking water. While the county’s public water is treated to remove bacteria, county residents on private wells are affected when septic systems do not work properly, allowing e.coli to enter groundwater and the aquifer. Denial of basic public infrastructure can result in significant exposure to water-borne pathogens, with concomitant health effects on the local population. The state Division of Water Quality, U.S. Centers for Disease Control and the U.S. EPA have recognized this and provide funds (albeit limited) for water testing and extension of infrastructure.

The potential for positive County action is demonstrated by the fact that Moore County did obtain federal funding to extend water and sewer lines into Monroe Town in 2003. Lines were extended from the city of Carthage, even though the community lies within the ETJ of Pinehurst. Tony Patnode, Moore County Community Development Director, commented that Monroe Town residents received the grant because they were living in the worst conditions and had the lowest average income of all applicants.⁶²

While funds available to counties from state and federal sources are extremely limited and have been cut back in recent years, some counties have started innovative county-specific funding programs, according to Jeff Hughes of the UNC Environmental Finance Center. “I’d like to see more of this happen,” Hughes said.⁶³

4. *Use of Federal Funds*

Ellis Hankins, Executive Director of the N.C. League of Municipalities, spoke of the use of federal funds to help the communities. “Clearly there are neighborhoods close to some of the towns in Moore County that need a higher level of public services than they are now receiving. There’s a long history of why and how that is the case, ...no one can wave a magic wand, and certainly not easily and inexpensively.

“I talked this morning with the Moore County Manger, Steve Wyatt, and with the Pinehurst Village Manager, Andy Wilkinson,” Hankins said, “... Successful efforts have been made in the past. Public water lines were extended to the Jackson Hamlet community in the late 90’s because the county obtained a Community Development Block Grant... and the village of Pinehurst and the town of Aberdeen contributed toward the local match.

Moore County has applied for and received federal funding to provide water service to some of its rural residents. In February 2005, the County received \$7.7 million, in a combination of

⁶² Oliver, Julia. “Rift Separates Pinehurst and Monroe Town.” Fayetteville Observer. May 2, 2004.

⁶³ Email to Ann Moss Joyner, Cedar Grove Institute, 2/2/2005.

grants and low-interest loans, for water services in the East Moore County District from the U.S. Department of Agriculture's Rural Development Service. The federal funds will be used in areas of Carthage, Greenwood, Little River and McNeil townships. This project follows on a two-year old program to extend water service in the Vass and Lobelia area. A third phase, to create and serve a North West Moore Water District, will be sought in the future. This grant will be used to extend water lines to areas where wells have been contaminated due to agriculture and will also support projects in the Carthage area.

In the press release announcing the grant, U.S. Representative Howard Coble (NC-6th District) wrote, "There are few things in this world as fundamental as safe, clean and reliable drinking water, so it is personally satisfying to us to have played a role in obtaining these funds for East Moore.

As this report is being drafted, town and county officials in southern Moore have started discussing applying for similar funds for the communities in this study which lack services.

D. Lack of Vote

One of the pivotal issues of ETJ is that residents whose land is managed by a neighboring town have no voice in the decisions made because they cannot vote in town elections. Thus, they have absolutely no power to affect decisions made about their property. While they can vote in county elections, like all citizens of the county, county government has little or no jurisdiction on annexation and ETJ decisions made by its towns.

Steve Utley says: "That's why we want to be annexed into the city limits – so we can have a voice. We can do something about our community. We can't do nothing standing on the outside... hollering, nobody hearing our voice. Everybody outside [the neighborhood] has a voice, but inside the little circle, no voice. Just making noise and saying nothing."⁶⁴

The link between ETJ and the lack of voting rights attracted the interest of the North Carolina General Assembly during the 2005-2006 Session, with three bills having been introduced to require more participation for those affected by a town's ETJ and annexation decisions. Cary Allred from Alamance County has introduced H 363 ("ETJ Residents Vote for Council"); H 460 ("Annexation/ETJ Residents Vote") (co-sponsored by Bill Faison of Orange County); and H 362 ("Voter Approval for Extension of ETJ").

The impetus for changes in ETJ and annexation law is coming not from excluded communities such as those in southern Moore County, but from communities that are resisting actions by nearby cities or towns. Mr. Allred may have been motivated by a case underway in his own county, where the majority-black town of Green Level is seeking an ETJ which includes white residents who do not want to be ruled by the town. His co-sponsor, Mr. Faison, may be thinking of protecting high-income white neighborhoods in Orange County from annexation by Carrboro. Yet such changes could cut both ways. For example, changes would require the majority-white town of Mebane to allow minority resident in its ETJ in Alamance and Orange counties to be able to vote for the town council that controls their destiny. And of course the bill would affect the ETJ residents of Moore County who lack a vote in elections in Southern Pines, Pinehurst, and other municipalities. As of June 2005, however, all three bills were essentially dead for this session.

III. Prospects for Change

⁶⁴ Interview with Trisha McWilliams. *Invisible Fences*. Dir. Trisha McWilliams and Matt Helfant. 2004

In April 2003, the Cedar Grove Institute was invited to present its work on patterns of racial disparity in land use to the Civil Rights Center of the UNC Law School. Soon afterwards, the Center became involved with the communities in southern Moore County, including Voices for Justice, a community-based, nonprofit organization that represents all of the excluded neighborhoods in southern Moore. Anita Earls, the Center's Director of Advocacy, has led the UNC effort with support from several UNC law students and Center Fellows. Voices for Justice has effectively focused debate on the issues that the neighborhoods share and is taking the lead in negotiating with municipalities and the County.

The presence of the 2005 U.S. Open in Pinehurst presented the residents of the excluded minority communities in southern Moore County with an excellent opportunity to garner media attention for their efforts to obtain services and a voice in local affairs. Together with the efforts by the Center for Civil Rights, it has given them a voice they have long sought.

Maurice Holland described the situation this way: "There's a subconscious mentality, or conditioning... that you still have people in power, who grew up in the separate but equal era, who are just conditioned to think a certain way and they don't see anything wrong with it, because this the way they were taught to think, this is the way they did things. You tend to be a creature of habit. We're saying, we're not waiting for you to decide we need this – we're telling you, we need this, and we feel that we have every right to have this."⁶⁵

The combined efforts of the Jackson Hamlet Community Association, Voices for Justice, Midway Community Association, the Civil Rights Center at the UNCCH School of Law, and this Institute (the latter two funded by the Racial Justice Collaborative), have lead to news and discussion pieces in newspapers, on radio and on the World Wide Web, including local, regional and national coverage. These included Moore County's *The Pilot* and the nearby *Fayetteville Observer*⁶⁶, an *Associated Press* wire story, the *Charlotte Observer*,⁶⁷ *The Independent Weekly*,⁶⁸ the *News and Observer*,⁶⁹ WUNC Radio's "The State of Things" program⁷⁰, *The New York Times*⁷¹, National Public Radio's "The Connection,"⁷² and articles on the Web. All focused on the story documented in more detail here.

Golf columnist and author (*The Future of Golf*) Geoff Shackelford commented on the New York Times story in his BLOG, "Yes, this is your classic NY Times PC/guilty conscience piece, but when you open the graphic detailing which neighborhoods have basic services and which ones don't have things like sewers, police, garbage or water, well, it's pretty sad, actually."⁷³

According to the *Charlotte Observer*, "The Pinehurst Resort, which will host the Open June 16-19, says it supports efforts by the residents and governments 'to solve the complicated

⁶⁵ Interview with Trisha McWilliams. *Invisible Fences*. Dir. Trisha McWilliams and Matt Helfant. 2004.

⁶⁶ For example: Oliver, Julia. "Rift separates Pinehurst and Monroe Town." *Fayetteville Observer*. 5/2/05.

⁶⁷ Gordon, Michael. "U.S. Open used in drive for inclusion," *The Charlotte Observer*, 6/5/05.

⁶⁸ Strom, Jennifer. "In the Shadow of the U.S. Open." *Independent Weekly*, 5/4/05.

⁶⁹ Quillen, Martha. "Pinehurst in black and White." *News and Observer*, 5/25/05; Martha Quillen, "UNC center pushes annexation." *News and Observer*, 5/25/05; "Luxury's Shadow" (unsigned editorial), *News and Observer*, 6/11/05

⁷⁰ "The State of Things" 6/14/05 WUNC Radio.

⁷¹ Dewan, Shaila. "In County Made Rich by Golf, Some Enclaves are Left Behind." *New York Times*, 6/7/05.

⁷² "The Connection." 6/10/05. WBUR Radio.

⁷³ <http://geoffshackelford.com/> June 8, 2005

infrastructure needs.’ Janeen Driscoll, the resort’s communications manager, said Friday in a prepared statement that ‘we are confident of their ultimate success.’”⁷⁴

At least partially in response to this media focus and the accompanying graphic illustrations of the problem, Aberdeen Town Manager Zell recently said “Midway is next in line. We are currently working on numbers to annex them,” he says. “You have to gather all the information, you know. Do they meet the statute as far as percentage of built-upon properties, and so on?” In addition, according to Ellis Hankins, executive Director of the N.C. League of Municipalities,

“There are discussions going on: The Pinehurst Village Manager recently met with a group of folks from Jackson Hamlet about the possibility of annexation by Pinehurst. so the other services you mentioned like garbage collection can be provided by the village. it was his impression that there is not unanimity of opinion, there is not going to be 100% petition filed.... but he reported back to the Village Council, the Village Council said in a public meeting that they are certainly willing to consider annexation and the Village of Pinehurst is studying whether the Jackson Hamlet neighborhood qualifies under the [city-initiated] statutes for [involuntary] annexation.”

However, the language of the County Managers’ Budget Statement was less encouraging:

“Many areas of the County remain under served....Despite our progress of the past few years, some areas within Moore County remain dramatically behind other areas with respect to availability of public services. ...gaps will remain, which is a concern. One area for consideration is Jackson Hamlet, whose residents have made a request for County sewer service. This community’s request anticipates County staff working with the residents to find a solution to this specific need. One word of caution, however; public sewer will not solve the problems of Jackson Hamlet and her sister communities. These areas, surrounded by municipalities, have comprehensive needs for municipal level services that County government is neither designed nor legally authorized to provide. The issue of annexation by the surrounding municipalities is between the residents and those adjoining municipalities.”⁷⁵

Wyatt begs the question by not considering the density of the neighborhoods in question, the proximity to the County’s current sewer system, and the danger posed to the other residents of the County who rely on private wells and may be endangered by a critical mass of failing septic fields.

While many communities are truly unable to find the funds to help out the poorer neighborhoods, Moore County finds itself blessed by with healthy financial status. Now, with the focus and the funds supplied by the 2005 U.S. Open, the County and the towns of southern Moore County have the opportunity to build a true community as well as a tax base.

⁷⁴ Gordon, Michael. “U.S. Open used in drive for inclusion,” The Charlotte Observer, 6/5/05.

⁷⁵ Via Email 6/16/05.

IV. Conclusion

Annexation is a complex process its repercussions present many complex issues, but one thing is clear: As practiced, economics and race cannot be separated.

Southern Moore County serves as an example of racial disparities in land policies, yet it also illustrates many widely-accepted local government practices, such as the use of ETJ, that are practiced by other governments across the state and around the country. The state of North Carolina gives its municipalities tremendous power over public services, public health, and private land, yet there is little oversight of how this power is being used. Perhaps modern *applications* of previously assumed “best practices” (such as ETJ) should be reconsidered within the context of balancing the power and the responsibility held by city and town governments. Governments should build community as well as a tax base; for providing services in a fair manner; in order to improve public health and build citizen participation in governance.

Against this backdrop of government responsibility should also be considered the link between sprawl-like growth and racial fragmentation and separation. As John A. Powell⁷⁶ writes, “Race plays a significant role in creating and maintaining fragmented metropolitan regions through urban sprawl and racialized concentrated poverty. While this idea is gaining attention from urban activists of color, [outside of the city], race and social justice issues are seldom, if ever, mentioned.”

“Racial subordination has taken on a different form: through the mechanisms of metropolitan fragmentation and sprawl, Blacks have again been subordinated socially, politically and economically. By racializing space through the spatial isolation of Blacks and other minorities, we have achieved many of the negative racial conditions formally held in place with Jim Crow laws, thus frustrating the civil rights goals of the 50s and 60s.”

The authors of this case study hope that it will contribute to the current dialog on the role played by annexation in a pattern of municipal exclusion of poor and minority neighborhoods.

V. Executive Summary

Racial disparity in the application of land-use policies and practices in southern Moore County results in exclusion of minority communities by local governments, accompanied by disenfranchisement of the minority citizens, and threats to public health, safety and economic welfare.

⁷⁶ John A. Powell. “Achieving Racial Justice: What’s Sprawl Got to Do With It?” PRRACC September/October 1999.

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Appendix I. Jackson Hamlet: A Comparison of Monthly Expenses, Relative to Annexation⁷⁷

I. Current Estimated Monthly Expenses

<u>Property Taxes:</u>	<u>Rates(per \$100)</u>	<u>Monthly Expense</u> (per \$25,000 property value)
County Tax:	\$0.475	\$9.90
Advanced Life Service:	\$0.04	\$0.83
Fire District	\$0.11	\$2.29
Total Property		\$13.02
<u>Utilities Fees</u>		<u>Monthly Expense</u> (for 6,000 gallons)
Water		
Base Charge	\$4.00	\$4.00
(for ¾" meter)		
Use Charge	\$3.10/1000 gallons	\$18.60
Septic*		
Maintenance		\$18.00
Total Utilities		\$40.60
Current Total Monthly Expenses		\$53.62

*Septic tank expenses are estimates based on monthly upkeep costs, charges for emptying once every 2 years, and replacing water pump once every 4 years. Actual costs will vary depending on the number of problems encountered.

II. Estimated Expenses if Annexed by Aberdeen

<u>Property Taxes:</u>	<u>Rates (per \$100)</u>	<u>Monthly Expense</u> (for \$25,000 property value ⁷⁸)
County Tax	\$0.475	\$9.90
Advanced Life Service	\$0.04	\$0.83
City Tax Rate	\$0.43	\$8.96
Total Property		\$19.69
<u>Utility Fees</u>		<u>Monthly Expense</u> (for 6,000 gallons)
Water and Sewer		
Base Charge	\$7.50	\$7.50
Use Charge	\$1.96/1000 gallons	\$11.76
Total Utilities		\$19.26
Total Monthly Expenses if Annexed by Aberdeen		\$38.95

III. Estimated Expenses if Annexed by Pinehurst

<u>Property Taxes</u>	<u>Rates (per \$100)</u>	<u>Monthly Expense</u> (For \$25,000 property value)
County Tax	\$0.475	\$9.90
Advanced Life Service	\$0.04	\$0.83
City Tax Rate	\$0.29	\$6.04
Total Property Taxes		\$16.77

<u>Utility Fees</u>	<u>Monthly Expense</u> (For 6,000 gallons)
Water and Sewer	

⁷⁷ Center for Civil Rights, School of Law, University of North Carolina at Chapel Hill. Compiled June 2004

⁷⁸ Compiled data from tax records the current tax value of every property in each area (Jackson Hamlet, Midway and Waynor Road), produced rough median value of \$25,000 in all areas.

Base Charge (For ¾" meter)	\$8.00	
Use Charge \$3.10/1000 gallons	\$18.60	
Total Utilities	\$26.60	
Total Monthly Expenses if Annexed by Pinehurst		\$43.37

Appendix II: GIS Mapping and Demographic Analysis

The authors would like to thank Allan M. Parnell, Ph.D., Cedar Grove Institute, and Ben Marsh, Ph.D. Bucknell University, for their invaluable work with the demographic analysis and GIS mapping for this project.

Geographic Information Systems (GIS) is a computer-based mapping system for identifying latent spatial relationships in various kinds of information. That is, a GIS map is the combination of data on different subjects that illustrates they relate to one another. The resulting “big picture” can be enlightening. For this report, we mapped patterns of government services and political boundaries in relation to the race of residents. Other types of things that can be mapped include: highway routing, location of public facilities (libraries, post offices, etc), zoning of properties, health care facilities, crime incidents, etc.

Data for GIS maps and analysis come from several public sources. Demographic data are from Census 2000, as are the boundaries for the underlying census geographic units used to map the data. For this report, Moore County GIS provided special data on water, sewer, tax parcels, zoning, and ETJ. In other cases, cities, counties, state agencies and regional Councils of Government provide spatial data on town boundaries, ETJ boundaries, critical watershed areas, zoning designations, and location of sewer and water lines. Property tax files show lot lines and locations of houses. State departments of transportation provide existing and proposed highway route information.

GIS maps are valuable for several reasons. They are specific. They are drawn from official public data. They can illustrate situations that are otherwise not readily apparent. By including the otherwise “invisible boundaries” of city limits, land-use, infrastructure, and zoning, they give a more complete view of a community. Getting down to these community foundations is essential to understanding community problems, including declining property values, public health, and lack of voter participation.

Appendix III. Racial Disparity in Moore County SAT Counseling and Expenditures

Though this is not directly related to land use, it reflects the atmosphere in the County and provides useful context.

In October 2003, Julia Oliver of the *Fayetteville Observer* broke the story of an SAT scandal in two high schools in Moore County: “Students told not to take SAT, teachers say.”⁷⁹

The paper reported that two faculty members at Pinecrest High School were told to dissuade low-performing students from taking the test as a way to protect the school’s average SAT score. The two said that the school went so far as to lock SAT registration forms in an assistant principal’s office and throw away fliers explaining how to sign up for the test online.

“Libby Carter and Robyn Lam, who are still English teachers at Pinecrest, said that when they were on the [SAT strategy] team between 2000 and 2002, the administration placed an abnormal emphasis on increasing the school’s average SAT score. . . . Lam said pressure from the central office led the school’s principal at the time, Tony Cates, to suggest paying certain students not to take the test. ‘The overall motives were directed to improve the SAT average,’ Carter said. ‘The benefits to the kids were secondary’.”⁸⁰

The paper also investigated charges that state money meant for at-risk children was inappropriately used by the school system at North Moore High School near Carthage. It was found that Principal Keith Kremer used state remediation money to pay for SAT preparation classes, teacher workshops, and other activities to benefit students who had already done well on the SAT. At the same time, other students were discouraged from taking the test and some state money was used to reimburse them for their registration fee.

“Superintendent Patrick Russo has been accused of ordering that documents linking the SAT incentives to state money be altered and destroyed. In defense of the monetary rewards to students, Kremer has said that he was acting under pressure from the central office to meet the district’s SAT goals.”⁸¹

“Pinecrest’s average SAT score rose from 1003 to 1043 between 2000 and 2002. In contrast with North Moore, where the percentage of students taking the SAT decreased sharply during Kremer’s tenure, the number of Pinecrest students taking the test increased from 54 to 60 percent. Carter attributes that increase, in part, to a parent population in Southern Pines who are highly aware of the test and able to show students how to sign up for it online. ‘We convinced some kids not to take the test, but we couldn’t convince their mommas,’ she said.”⁸²

⁷⁹ Oliver, Julia. “Students told not to take the SAT, teachers say.” *Fayetteville Observer*. October 8, 2003.

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² Ibid.