

**Incorporation, Annexation  
and  
Extra-Territorial Jurisdiction:  
A Double Standard?**

**Predominantly-Minority Towns  
Struggle**

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## **Introduction**

When African American communities are excluded from the municipal boundaries of small Southern towns, residents of these excluded neighborhoods typically do not receive city water, sewer, paved roads, streetlights, and other municipal services (Joyner and Parnell, 2003). One response of Black<sup>1</sup> communities has been incorporation and the subsequent creation of predominantly-minority towns side-by-side with predominantly-white towns. Black communities may also incorporate as separate towns in order to retain a sense of identity, to try to protect and increase the value of their properties, or to procure municipal services and rights denied to them by adjacent larger towns. Minority neighborhoods that are not incorporated (either by annexation or by self-incorporation) can suffer damaging effects (Johnson et al., 2003); yet successfully incorporated Black communities may face special challenges from surrounding communities as well.<sup>2</sup> This paper surveys a sample of incorporated minority towns in North Carolina and takes an in-depth look at one such town's efforts to grow in spite of the initial reactions of its neighbors.

## **Black and White Towns, Side-by-Side**

There are numerous examples of Black towns existing side-by-side with predominantly-white towns in North Carolina, and a quick look at a few of these will inform the discussion: (minority towns are listed first): Dobbins Heights and Hamlet; Sedalia and Whitsett; Taylortown and Pinehurst; Princeville and Tarrboro; East Spencer and Spencer; Green Level and Haw River. The segregation occurring in these paired towns is clear: According to the 2000 Census<sup>3</sup>, the population of the predominantly-minority towns in the sample is from 73% to 98% minority, and averages 86% minority. The white population of the predominantly-white towns ranges from 56% to 95% white, with an average of 77% white. While not all of the Black towns are smaller than their predominantly-white neighbors, the average population of the predominantly Black towns in this sample is 1,189, while the white towns average 5,469. Home ownership rates are comparable (71% for Black towns; 72% for white towns), as are rates for length of residency. Total per capita revenues (from taxes, bonds, etc.) for the Black towns in the sample averages 53%<sup>4</sup> of total per capita revenues for the predominantly-

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<sup>1</sup> I refer to these towns as "Black" rather than "predominantly minority" because although the towns average 80% minority, Hispanics represent less than 8% of the total population in all but Green Level, and no other minority group is larger than 1%.

<sup>2</sup> Although one might expect small towns to encounter problems growing in the shadow of larger towns, many smaller towns ride the coat-tails of growing larger towns: Cary and Raleigh, Carrboro and Chapel Hill, and Monroe and Charlotte are notable examples.

<sup>3</sup> See Appendices 1 and 2.

<sup>4</sup> This is calculated excluding the \$1.6 million in federal grants to Princeville, which were directly attributable to Hurricane Floyd flooding (according to Princeville Town Manager Sam Knight, via personal communication)

white towns. The table below shows that the Black communities are as stable as their white neighbors, despite their lower income and asset levels.

**Table 1. Characteristics of Selected Black/White Paired Towns in North Carolina**

<b>Indicators</b>	<b>Predominantly-Black Towns</b>	<b>Predominantly-White Towns</b>
Percent Minority	86%	23%
Housing Units	562	2,673
Population	1,189	5,469
Median Household Income	\$29,567	\$39,027
Households Receiving Public Assistance - 1999	4.7%	3%
Below Poverty Level - 1999	21%	12%
Median Value All Owner-Occupied Homes	\$62,250	\$98,067
Median Value Owner-Occupied Mobile Homes	\$36,367	\$14,600
Owner-Occupied Housing Units	71%	72%
Length of Residency: Same town in 1995	62%	67%
Per Capita Total Revenue 2003 (excluding flood-related grants)	\$640	\$1,211

White towns are more than twice as likely as Black towns to have polling places or post offices within their borders – even in the case of white towns that are smaller than the neighboring Black town – stability and length of residency notwithstanding.

The map below shows the locations of the paired towns in this sample.



A description of one pair of these towns provides a more in-depth comparison: The town of Dobbins Heights lies just north of and contiguous to the town of Hamlet. Hamlet was incorporated in 1897; Dobbins Heights became a town in 1984. The population of Dobbins Heights is 843 (89% minority), while Hamlet’s is 6,018 (62% white). Dobbins Heights is one-fifth the size of Hamlet in land area. Although the median household income of Dobbins Heights is just 73% of Hamlet’s, a larger percentage of Dobbins Heights residents own their homes (70% compared with 63%).<sup>5</sup> Hamlet’s homes have more rooms (49% have 6 or more, versus 34% in Dobbins Heights), more bedrooms (57% have three or more, versus 4%), and a higher median rent (\$275 / \$247) than those in

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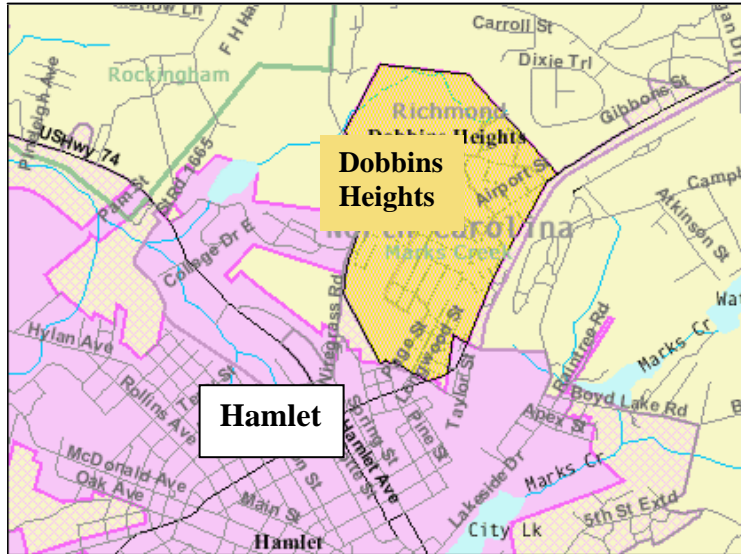
and thus a one-time source of income. With those monies included, the per capita average increases to 76% of the per capita revenue for the predominantly-white towns.

<sup>5</sup> 2000 U.S. Census

Dobbins Heights. Nevertheless, the \$35,500 value of mobile homes in Dobbins Heights indicates that its share of such homes is newer and larger than Hamlet’s, which have a median value of \$18,800.

Dobbins Heights has no polling place or post office (both are located in Hamlet) – in spite of repeated attempts to obtain both. Hamlet is a designated federal Enterprise Zone (with a budget of \$2.4 million).<sup>6</sup> The entire 2004 operating budget for Dobbins Height is \$284,584.<sup>7</sup> Finally, Hamlet has an Extraterritorial Jurisdiction (ETJ) of 1.06 square miles, while Dobbins Heights has none.

**Figure 1: Map of Paired Black/White Towns: Dobbins Heights and Hamlet**



**Percent Minority:**

**Hamlet:** 40%

**Dobbins Heights:** 89%

**What is an ETJ?**

Extraterritorial Jurisdiction (ETJ) is a zoning “overlay” that allows a town to zone areas outside its limits in order to plan for future growth. In North Carolina, the state gives municipalities broad powers to control planning and growth for up to three miles beyond their borders (up to one mile for smaller towns). NC General Statute 160A-360(b) provides that the area chosen must be based on “existing or projected urban development and areas of critical concern to the city, as evidenced by officially-adopted plans for its development.” Smaller towns are less likely to have ETJs than larger cities, but most North Carolina towns have taken advantage of the statutory authority to exercise extraterritorial zoning, according to the Institute of Government at UNC-CH.<sup>8</sup> A 1995 North Carolina League of Municipalities survey indicated that 89% of larger towns had ETJs, as did 68% of smaller municipalities (of 1,000 to 2,500 residents).

<sup>6</sup> City of Hamlet website, <http://www.micropublishing.com/coh/facts.htm>

<sup>7</sup> Mary Magee, Dobbins Heights Administration

<sup>8</sup> “Extraterritorial Zoning Authority,” David W. Owens, Institute of Government, The University of North Carolina at Chapel Hill. May 1998.

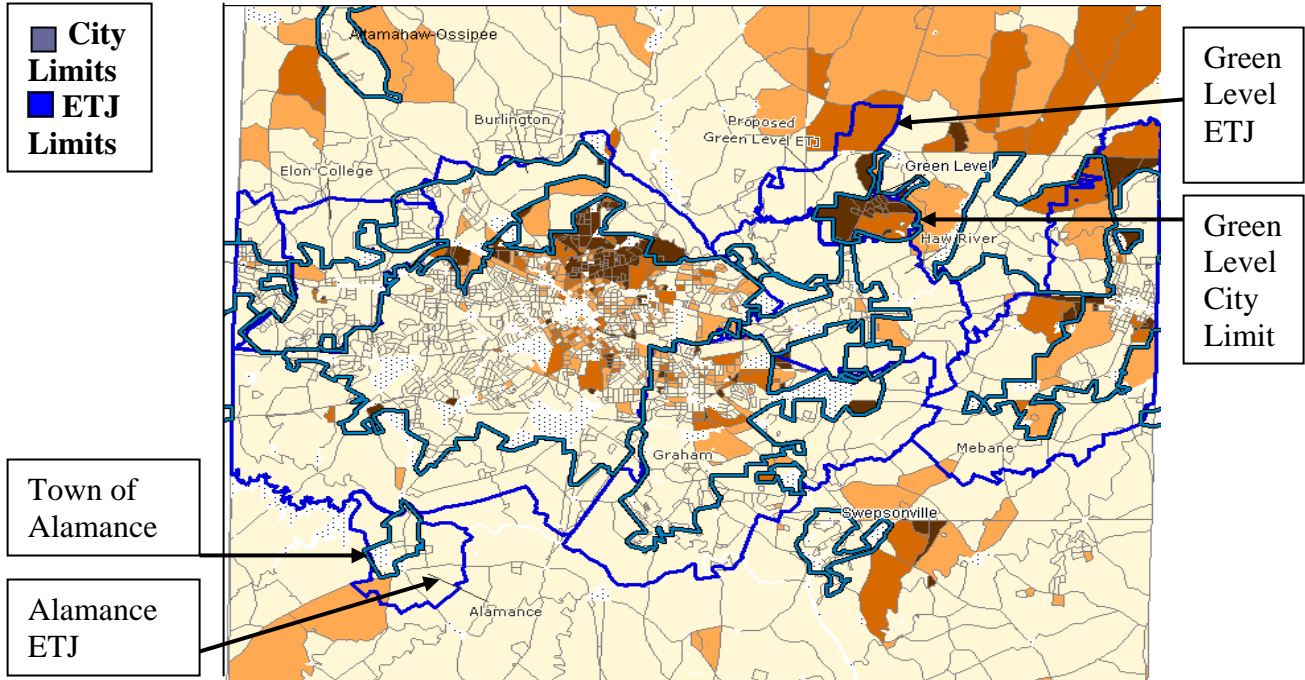
ETJs can be used to control the land-use of minority neighborhoods in towns large and small (See Johnson et al. 2003), but whereas an ETJ is usually allowed as a matter of right for predominantly-white towns, it may be resisted or precluded for Black towns. As shown by the statistics cited above, detailing length of tenancy, percentage of home ownership, etc., Black towns in North Carolina often have a long-term, stable residential base. What they often lack is a healthy tax base and a way to grow. When residents of a larger community (county or city) move to stop a small town's growth, it serves not only to "contain" the small town, but also limits the smaller town's ability to serve its residents.

ETJ is widely used in North Carolina as a rational planning tool by towns that are growing or attempting to grow. In the case described below, however, when Green Level, (which incorporated in 1990 in the midst of growth pressures from surrounding towns) sought to create an ETJ, it encountered vigorous opposition<sup>9</sup> from its neighbors, who prevailed upon the county to stop the town.

### Green Level: A Case Study

There are ten municipalities in Alamance County, and all but three (including Green Level) have ETJs.<sup>10</sup> (See Figure 2.) In a county that is 75% white, Green Level is 85% minority and has

**Figure 2: Alamance County Towns and ETJs**



almost no non-residential tax base. To reserve room for growth and to diversify, Green Level has extended an ETJ that establishes the right to zone and eventually annex neighboring rural parcels.

<sup>9</sup> See Figure 4, Photograph of sign in yard Northeast of Green Level.

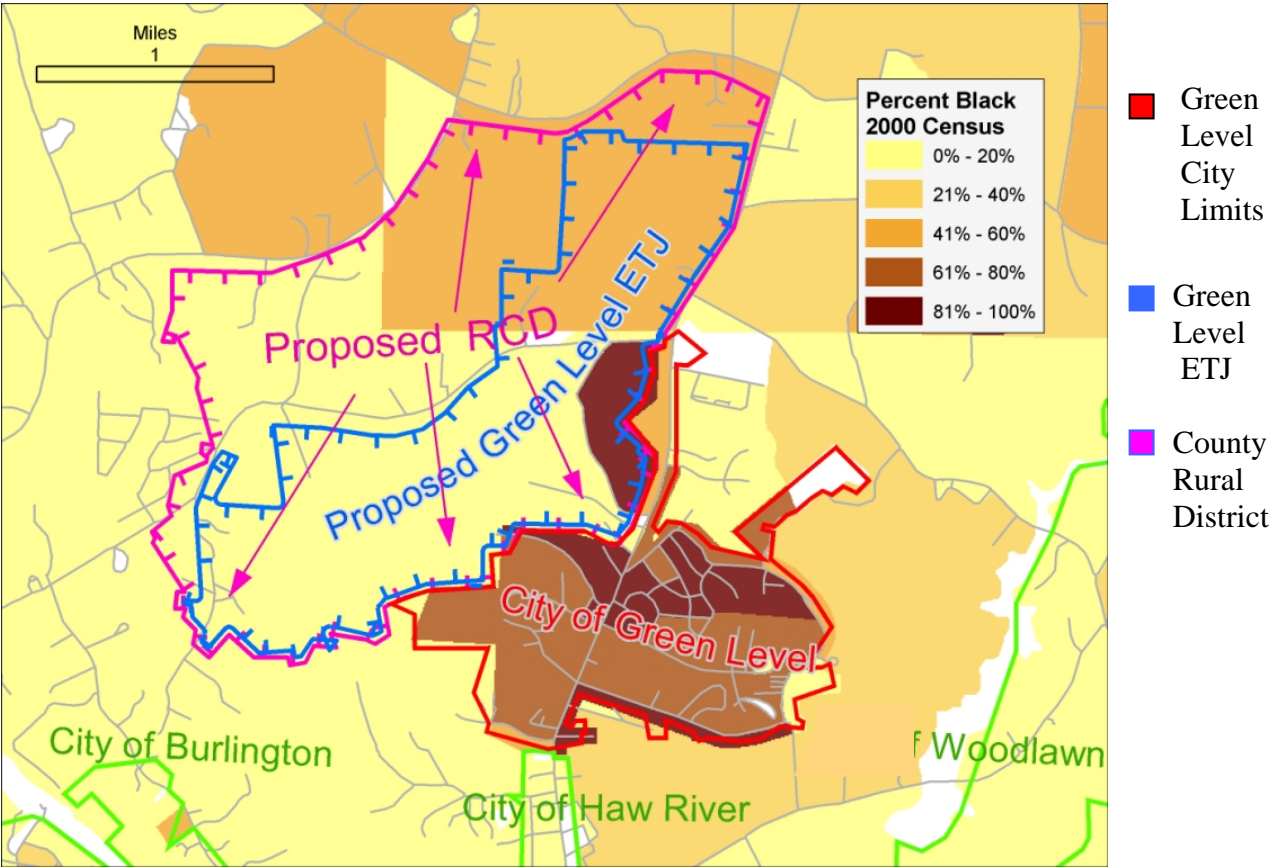
<sup>10</sup> According to Alamance County Planning Director Craig Harmon

Yet the all-white county commissioners<sup>11</sup> are attempting to block Green Level from exercising a right that other towns in the county use routinely. As show above, most of Alamance County towns (and their ETJs) share common borders. Towns may exclude areas if they are separated from the city by barriers to growth, such as the water quality critical area surrounding Graham-Mebane Lake (formerly Quaker Lake), which Green Level elected to exclude from its ETJ.

**Why Might Green Level Need an ETJ?**

The population of Alamance County grew by more than 20% from 1990 to 2000, according to the U.S. Census, and is projected to increase by 8.6% between 2000 and 2005 (to 142,008). Meanwhile, Green Level’s population increased more than 30% over the past ten years. Indeed, Green Level was among the top 100 fastest growing municipalities in North Carolina between 2000 and 2002. This growth, and the close proximity of the towns in Alamance County (as shown in Figure 2), together with the expansion of these other towns (especially Haw River) and their ETJs, dictate that if the town wants to grow in the future, it must stake out the right to grow now.

**Figure 3: Green Level and Contested Area**



<sup>11</sup> <http://www.alamance-nc.com/commissioners/index.html>

## **Green Level ETJ, Haw River ETJ, and Alamance County's New Rural Communities District**

Green Level Town Administrator Quentin McPhatter says that Green Level wants to grow, but also wants to build economic and racial diversity into its future. Diversity is recognized by experts and government officials as an asset to towns that wish to grow, attract new investment, and improve their quality of life.<sup>12</sup> Green Level has also sought to improve its services to residents. It has applied for a U.S. Post Office and a polling place for elections, although in both cases, the requests were turned down. The Alamance Board of Elections explained that proximity to other locations made an additional location in Green Level “not economically feasible.”<sup>13</sup> As to the request for a post office, Senator Elizabeth Dole’s office responded that the Burlington Post Office (eight miles away) and the Haw River Post Office (two miles away) provide “convenient access.”<sup>14</sup>

The town’s efforts to provide more services for its populace also seem to have been stymied to some extent by its current size and tax rate. Growth and diversification would help solve both these problems, but Green Level is bounded to the east by the Water Quality Critical Area and to the south by the town of Haw River and its ETJ.

### **The Controversy**

Green Level first took up the subject of ETJ extension in 1991, soon after incorporation. At that time, the Council voted to direct the planning board to “proceed immediately with a study of ... ETJ.”<sup>15</sup> That study was interrupted by a death on the Planning Board. In time, and with growth, the town was able to hire a town manager, and conduct more planning. On August 14, 2003, the town council voted to extend an ETJ. On November 26, 2003 the town sent out courtesy letters to potentially affected property owners, informing them that surveyors would be working in the area. Many of the neighbors immediately objected. Vocal objection to annexation is common, but objection to extension of ETJ is rare, perhaps because it seldom has immediate consequences, or perhaps

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<sup>12</sup> According to James Johnson Jr., Kenan Professor of Management at the Kenan-Flagler Business School at the University of North Carolina at Chapel Hill, “the ability of cities to thrive and compete...depends on the willingness of communities to respond positively to growing diversity in demographics and lifestyles.” (University of Southern California Lusk Center for Real Estate,

<http://www.usc.edu/schools/sppd/lusk/press/item>). The North Carolina Human Relations Commission, part of the N.C. Department of Administration, has a slide show about diversity, which states that “when a community develops positive inter-group relations, it has an advantage in attracting investment.”

<sup>13</sup> “The expenses [for a polling place] would include the cost of advertising and the cost of notifying the voter. The positions at the polling places on Election Day are paid positions, however, the amount paid is minimal....” Email communication of Kathy Holland of Alamance County Board of Elections to Green Level Town Administrator Quentin McPhatter, 10 March 2004.

<sup>14</sup> Letter from David Fields Sr., of Senator Dole’s office, to Quentin McPhatter, 27 May 2004.

<sup>15</sup> Minutes of Town Meetings, January 31 and February 14, 1991.

because people often don't understand what it is. On the Green Level controversy, Alamance County Commissioner W.B. Teague has said, "I have never received a phone call, in my 17 years sitting in this seat, over any ETJ issue."<sup>16</sup>

Green Level had originally intended to extend its ETJ to the East, North, and West (Haw River already has jurisdiction to the South), but it later decided not to extend into land in the watershed. Residents in the watershed had been notified by the town's courtesy letters, however, and became alarmed, placing signs in their yards and signing petitions to ask the county to zone them under their current use.

**Figure 4: Photograph of Sign in Yard Northeast of Green Level**



On December 13, the Town received a letter from the County Attorney advising that the controlling statute "implies directly that any municipality wishing to extend its ETJ must first get the approval of the county." On January 6, 2004 Green Level's Town Administrator and Town Attorney met with the County Attorney and informed the county that they "read the statutes differently" and that it seemed clear that a town does not need to ask the county's permission to extend ETJ in [unzoned] areas "where the [county's designated] watershed does not exist."<sup>17</sup> The next day, according to Town Administrator McPhatter, the town contacted Elon, Mebane, and Village of Alamance and "learned

<sup>16</sup> *The Alamance News*, April 22, 2004. Graham, NC.

<sup>17</sup> Personal interview, May 4, 2004, Quentin McPhatter to CGISC.



that they did not ask for the county commissioners for permission prior to obtaining ETJ.” Green Level then proceeded with the creation of its ETJ.

The statute that authorizes towns to exercise extraterritorial jurisdiction stipulates that a town need ask permission of the county only if the county has *already zoned* the identified area or is enforcing building codes there. At the time that Green Level began its surveying and sent out courtesy letters to residents, the county was not enforcing any zoning in the area. The county nevertheless informed Green Level that its Watershed Protection Ordinance, at that time adjacent to parts of Green Level’s proposed ETJ, constituted a zoning ordinance and that, therefore, the town required the county’s permission.

Of the seven (of ten total) municipalities in Alamance County that have ETJ, “Some asked [the County [for permission], some didn’t,” according to County Planning Director Craig Harmon. The County has never moved to stop or preclude a town from establishing or extending an ETJ before, Harmon explained, but in this case, many citizens contacted the commissioners to complain about Green Level’s plans.<sup>18</sup>

Two Commissioners have publicly commented on the unprecedented flurry of objections that spurred them to act on this issue. Commissioner Larry Sharpe (who was up for re-election) said, “This is the first time we’ve had many people oppose an ETJ....”<sup>19</sup> The Commissioner then continued, “I understand that the only way to expand [the ETJ] is if the community asks for it.” According to state statute, however, this is incorrect.<sup>20</sup> Residents have no say in whether or not they become part of an ETJ.

In response to the complaints, however, the commissioners took action that broke with both custom and precedent. At their regular meeting of April 5, 2004, the county commissioners set three public hearings for April 19, including one to amend the Watershed Protection Ordinance. According to Quentin McPhatter, “there was no public mention of [Green Level or a Rural Communities Zoning District] at the meeting. I was in attendance at this meeting and the public hearing date was approved under the consent agenda.”<sup>21</sup> At a special meeting held later the same morning, the Board heard a report from Planning Director Craig Harmon that outlined concerns for the coming year and the need for a comprehensive land-use plan, but this report did not mention Green Level or the need for an RCD

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<sup>18</sup> Personal interview, May 2004.

<sup>19</sup> *The Alamance News*, 22 April 2004.

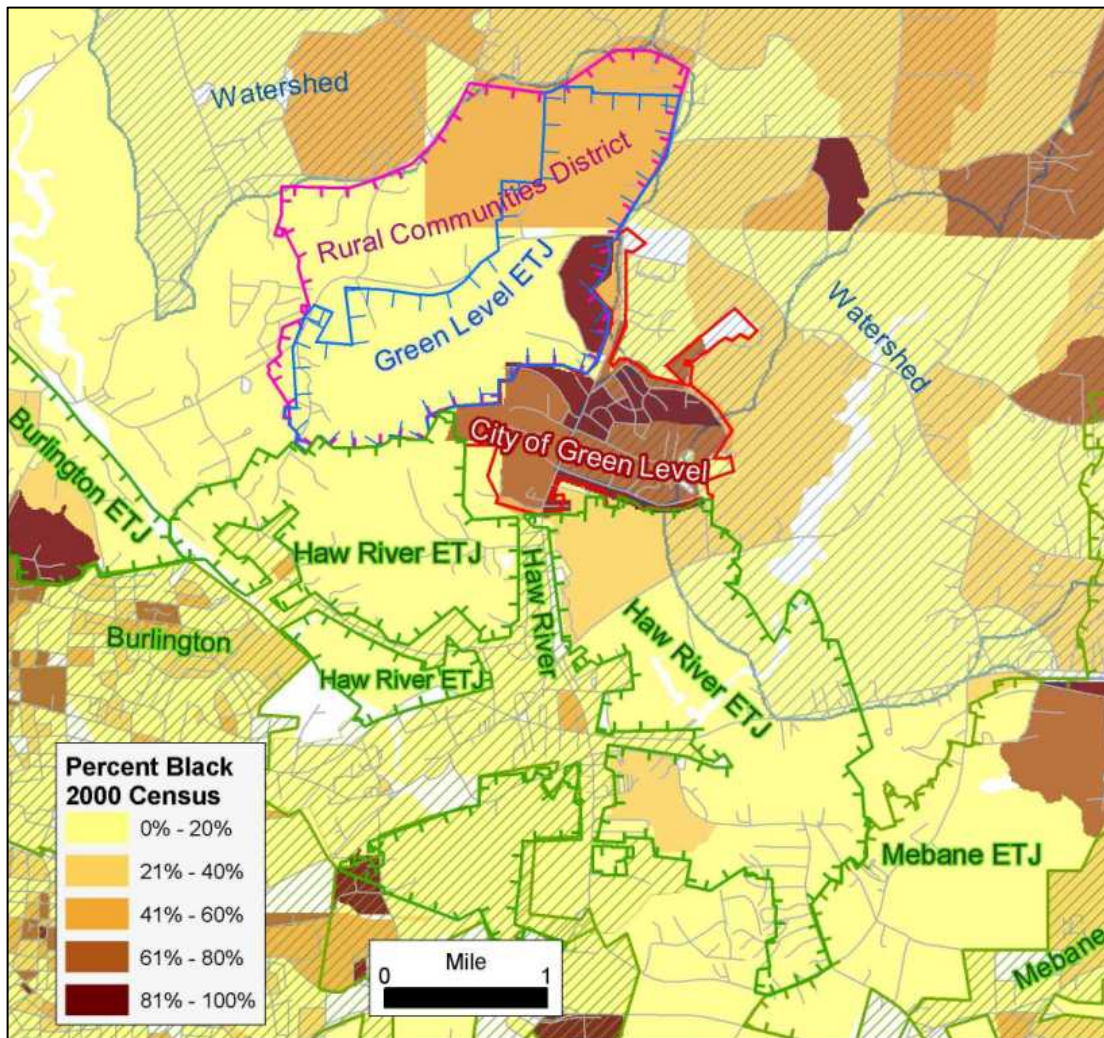
<sup>20</sup> NC General Statute 160A-360.

<sup>21</sup> Email, May 4, 2004, Quentin McPhatter to CGISC.

designation.<sup>22</sup>

Also on April 5, Green Level’s neighbor Haw River (87% white) voted unanimously to extend its ETJ out to the one-mile limit to all surrounding areas not already zoned or in another town’s ETJ. The town notified Green Level on April 16, 2004, that it intended to expand its ETJ and requested that Green Level “reschedule the community meeting and public hearing regarding ETJ until we can further discuss this matter.”<sup>23</sup> Green Level declined. According to *The Alamance News*, “Mayor Buddy E. Boggs said that some citizens had asked to be zoned by Haw River since the town of Green Level had begun the process of extending its ETJ.... But Boggs acknowledged that Green Level might have gotten the ‘jump’ on Haw River.”<sup>24</sup>

**Figure 5: Green Level and Surrounding Limits to Growth**



<sup>22</sup> Harmon has explained that this meeting concerned only fiscal year 2004/2005, and that the Green Level matter was current business. Personal interview, May 2004.

<sup>23</sup> Letter from David Beal, Haw River Town Manager to Quentin McPhatter, Green Level Town Manager.

<sup>24</sup> April 8, 2004 *The Alamance News*.

In order to move quickly to create zoning in the contested area, the county commissioners held a public hearing at the regular April 19, 2004 meeting, labeled “Public Hearing—Watershed Protection Ordinance Amendment.” The county planned to revise its watershed protection ordinance, claiming that it was actually already a zoning ordinance. According to the minutes, County Planner Craig Harmon said that “a group of citizens presented a petition to the Planning Board asking the County to help in their effort to keep Green Level from extending an Extraterritorial Jurisdiction (ETJ) into their area of the county.” According to the County Agenda Profile, County resident Jerry Rudd, then a candidate for the N.C. House of Representatives,

presented petitions with 554 signatures of residents and church members in the affected area. He stated that 146 letters were mailed, and 90.2% signed in favor of the RCD. He stated the citizens asked the County for zoning because they like the rural setting and do not think the Town of Green Level has anything to offer that would enhance their property or their lives. Several members of the audience spoke in favor of the ordinance amendment, noting that the Watershed Protection Ordinance was set up to protect the water and to prevent towns from encroaching on the lakes. Some of the comments were that people want to live in a rural setting, not a town; that Green Level cannot control what it has; and that Green Level has nothing to offer except taxes.<sup>25</sup>

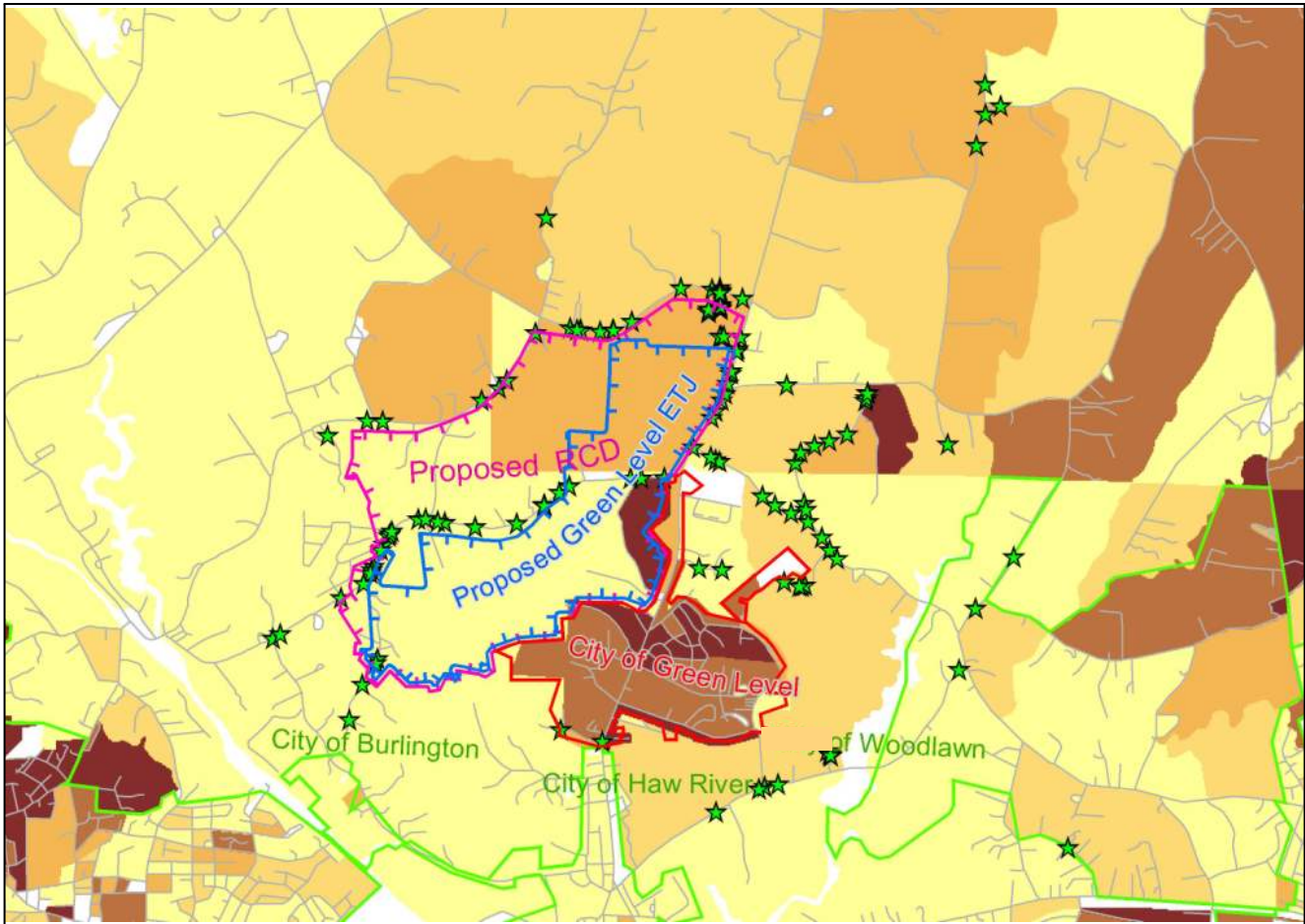
The opponents’ petition stated, “We the citizens of Alamance County, listed below, do hereby petition the Alamance County Commissioners to zone our property in the manner in which it is being used – agricultural, residential and heavy industry. This request is a voluntary zoning request.” The request is unusual, as rural residents often oppose zoning, which restricts use of their land, and the Watershed overlay would set minimum lot sizes and place other restrictions on development.

The document prepared by the County Planning Department and presented to the Commissioners at the hearing stated, “*This action follows a petition signed by a vast majority of the owners in this area.*” Geocoding the addresses of the petition’s signers, however, reveals that **most of the signers do not live in the area that Green Level designated for its ETJ**, and about 20% live in other jurisdictions (the towns of Burlington and Haw River, other ETJs, and even out of state). Opposition leader Jerry Rudd does live on land that is in Green Level’s ETJ: it is zoned Agricultural/Residential by Green Level – exactly the zoning that his petition requests.

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<sup>25</sup> Alamance County Board of County Commissioners’ “Agenda Item Profile,” for April 19, 2004 Public Hearing.

**Figure 6: Location of Petition-Signers Requesting County Zoning**



Although Rudd claimed “554 signatures of residents and church members in the affected area,” the petition actually consisted of 206 signatures, of which two individuals signed for two churches: Deep Creek Baptist Church, claiming 150 members, and Longs UCC Chapel, claiming 145 members. Deep Creek Church, at 1923 Deep Creek Church Rd., is not in the proposed ETJ and has an unlisted phone number. A Long’s Chapel Church member, who asked not to be identified, said that he thought that most people sign a petition to do a favor for those who ask, and that many don’t understand all of the issues surrounding the situation. He also cited the issues of taxation and building approval that accompany annexation, which usually eventually follows extension of an ETJ, as reasons that some would have signed.

Of the 206 signatures on the petition, 20 are off of the map (Figure 6), and 11 of those are out of the county entirely. As the map illustrates, “signed by the vast majority of owners in this area” may apply to the greater county area, but many of the signers do not live in the area affected, and *most* do not live in the area that Green Level selected for its ETJ. In addition, the petitioners requested that the county “zone their property,” but about half of the petitioners live on land the county claims to have

already “zoned” under the current Watershed Ordinance, shown below as it was amended 19 April 2004.

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**From the Alamance County April 19, 2004 Agenda Item Profile: Selected Changes**

(replacements next to strikeouts)

“Subject: Amendments to the Alamance County Watershed Protection Ordinance and Map  
“...to make sure that that everyone who reads it realizes that it is a zoning ordinance, as it was meant to be....

“Article 200: Development Regulations

“Section 202 - ~~Watershed Zones Areas~~ Described

“Section 209 - Rules Governing the Interpretation of ~~Watershed Area~~ Zoning Boundaries

“Section 212 – Zoning Permit ~~Watershed Protection Permit~~

“Section 214 – ~~Watershed Protection~~ Zoning Occupancy Permit

“Section 101. Jurisdiction. The provisions of this Ordinance shall apply within the areas designated, as ~~a Public Water Supply Watershed by the N.C. Environmental Management Commission (EMC) and shall be defined and established on the maps entitled, “Watershed Protection Zoning Map of the Alamance County, North Carolina” (“the Zoning Watershed Map”)~~, which is adopted simultaneously herewith.”

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The increase in zoning activity is another unusual aspect of the controversy. The county commissioners have often voiced doubts about any and all zoning – as recently as June 19, 2004 – and historically have been strenuously opposed to it. In a meeting of the residents of Southern Alamance to consider zoning (held prior to their actions establishing the Rural Communities District, which they maintain is a Zoning), Commissioner Teague expressed worry “about a ‘bureaucrat’ from Graham [the county seat] telling the county’s farmers what to do”; and “I don’t think you’re going to find many full-fledged farmers.... That are going to be for zoning.”<sup>26</sup> The *Times-News* continued, “As the board of commissioners stands now, there are probably not enough votes on the five-person board to pass zoning. Commissioners John Patterson, W.B. ‘Junior’ Teague and Bill Lashley have all come out against it in the past.”<sup>27</sup>

### **The Objections**

So why did the farmers and commissioners suddenly take to zoning for the area around Green Level? Opponents to Green Level’s ETJ described the fight as Countryside Versus Town (in spite of overtures to and interference by the Town of Haw River’s), which is common in ETJ extensions. But *The Alamance News* also reported that

People on both sides of the conflict have seen the cultural and racial divisions that, they

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<sup>26</sup> Burlington Times-News, January 20, 2004.

<sup>27</sup> Ibid.

say, exist in this county emerging in this debate, pitting the ‘farm people’ in the Alamance countryside against a small town with an overwhelmingly black population.... About 85 residents were crammed into the commissioner’s meeting chamber, while dozens more stood in the hall and spilled into the adjacent county manager’s suite.... Confronted with the anger of this capacity crowd, the five-member board voted unanimously to approve the new [zoning] ordinance, scuttling Green Level’s hopes of expanding its jurisdiction beyond the town limits.<sup>28</sup>

And on July 3, Green Level’s Town Manager received the following email:

To: [gmcphatter@greenlevelnc.com](mailto:gmcphatter@greenlevelnc.com).

Sent: Saturday, July 03, 2004 7:42 AM

Town has never been much except for an infrequent stop for side road chicken and Mcbroom trash [early garbage pick-up business, based in Green Level community]. No fire dept. ahs ever been spotted there. Keep pushing for that ETJ and maybe you can get the Pleasant Grove Fire dept. under your jurisdiction. Major obstacle to that will be the locals who know all too well what the Green Level intentions really are. You really need to be able to provide some kind of service for them. Maybe put up one stoplight to lend credibility to city. At least one!!! Tear down those old buildings along 49 and try to keep those drunk residents from bumbling along 49 after midnight. Rumor has it that the recent grant money from the government financed a whale of a nice party for village fathers.. The Hispanic population most closely hold [sic] the same values as present day Green Level residents and would assimilate into your culture more easily than those good old boys down the road who bristle at your ETJ proposal. In fact, if the plan for the ETJ had been fully explained as a tax and control method for Green Level village to eventually control the Pleasant Grove fire dept. it would be an easier pill to swallow. So, get a stoplight, provide some kind of service, be upfront, clean up that 49 highway trash, and realize that oil and vinegar can never mix and life will be more peaceful in Green Level. Which by the way is a much nicer name than Rubeedoo...”

As there is no one in the Alamance phone book by the name that was included with the email, and we have had no response to our email inquiry, we cannot explain these comments further. It should be

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<sup>28</sup> *The Alamance News*, 22 April 2004.

immediately noted, however, that fire departments are semi-public bodies and pay no taxes to local governments.

### **Checking the Facts**

Information on some of the allegations made against Green Level and examination of other public data seem to provide little rational support for the uproar over Green Level's plans.

#### Services:

When an area becomes part of a town's ETJ (prior to annexation), the town may begin to offer services to property owners. Usually, however, extension of services follows annexation, and the services offered vary significantly across the state. Opponents have ridiculed Green Level's services and its service arrangements.

Jerry Rudd, presenting the petition from opponents, complained to the commissioners that "Green Level has nothing to offer except taxes." County resident Ray Cobb, candidate for county commissioner, spoke at the commission meeting to dismiss the Town's services, saying "What in my lifetime can they possibly do to benefit me in the county? Maybe they'll put speed bumps on [NC Hwy.] 49. Maybe, if I'm lucky, some day, I can get sewage out of my faucet."<sup>29</sup> According to *The Alamance News*, Cobb said that the biggest difference between Green Level and other area towns is the level of service that other communities provide residents of their ETJs, and that Green Level relies on a "rent-a-cop" for its policing.

Are these complaints valid? While larger towns and cities usually provide their own safety officers, many contract out such services as solid waste collection and treatment, recycling, etc. Green Level does have purchase agreements for many of its basic services, but this is not unusual for small towns. Municipalities both large and small "outsource" and "privatize" their public services, while others negotiate with other governments to realize economies of scale. It is common for smaller towns to have the county do building inspections for them, and even zoning enforcement and planning, according to David Owens of the UNC-CH Institute of Government. Some small towns have the regional Council of Governments (COGs) do permit administration. And trucks labeled "Waste Management, Inc.," a private solid waste and recycling company, are a common sight in Piedmont North Carolina.

A brief internet search of government web sites and phone calls to municipal governments in the Alamance County revealed the following: Mebane and Graham jointly own a reservoir and water

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<sup>29</sup> *Alamance News*, April 22, 2004.

treatment facility. Mebane has a contract with the Efland Fire Department to cover part of its area in Orange County. The City of Burlington GIS Division serves as the "GIS Department" for the City of Burlington, the City of Graham, and the Town of Elon, according to the recently approved Regional GIS Agreement. Burlington and Alamance County share an animal shelter. Burlington and Graham outsource their MPO [Metropolitan Planning Organization] contract to Mobility Solutions. Burlington provides water for the Town of Gibsonville and fire and police protection to the Town of Alamance. Graham sells water not only to Green Level, but also to Swepsonville, which also receives fire and police protection from Graham. The Town of Ossippee has a contract with the County Sheriff's Department for police protection. These are but a few of the inter-governmental agreements and private purchasing contracts in this area. It would seem, therefore, that the question is not *how* services are provided, but *what* services are provided.

According to the Green Level Town Administrator, the town currently offers the following services:

- a) water, through a purchase agreement with the City of Graham;
- b) sewer (treated in Burlington), through a wastewater agreement with Town of Haw River;
- c) solid waste and recycling service through contracts with private companies. (Green Level is one of the few municipalities to provide free weekly curbside service or monthly bulk pick-up. The total amount the town paid for both services at the end of June 30, 2003 was \$81,765.);
- d) law enforcement by an agreement with Alamance County signed in December 2003 (Officers operate from donated office space in the Green Level Town Hall.);
- e) street lighting: 118 street lights, financed by the town;
- f) street maintenance within city limits and improvement of current streets (paving and adding curb and gutter) and construction of new streets each year (Current projects are paving of Florence Road and Otter Creek Trail with curb and gutter.);
- g) fire protection provided by Haw River; and
- h) city park: town obtained matching funds from N. C. Parks and Recreation Trust Fund and appropriated \$250,000 to create a ten-acre city park next to Town Hall, including a baseball/softball field, rectangular multi-use field, volleyball court, paved walking track, two horseshoe pits, three playground areas, and a covered picnic area.

According to Town Manager Quentin McPhatter, Green Level was originally incorporated to provide better service to the recipients of the water and sewer systems in place in 1989, which were then administered by the county. At that time, 550 of the area's residents were tied in to water and sewer lines in nearby Graham, Haw River and Burlington, with no elected board to manage



maintenance, hookups, cutoffs, billing and collections. “Community leaders decided to back incorporation because they could get state sales tax revenue (which is still our largest revenue source...), have more leverage... [and] provide... a higher level of service than they were receiving at the time. Incorporation meant street lighting, street maintenance, and weekly trash service, which Green Level still provides with no monthly user fee to our citizens.”

### Water Quality

According to *The Alamance News*, County Commission Candidate Ray Cobb “alleged a history of contamination with Green Level’s water system, which he said is reason enough to impose county zoning on outlying areas. ‘They got a letter from the North Carolina Department of Environment and Natural Resources concerning their water,’ he explained. ‘It’s not safe to drink the water down there.’”<sup>30</sup> Cobb expressed the concern others have had that Green Level has “dingy water.”

When asked about “sewage” coming from Green Level taps, Lee Spencer of the North Carolina Department of the Environment and Natural Resources Public Water Supply Section said “I don’t think that’s true.” Spencer explained, “Last fall, there were several complaints about the water. . . [and] at least one – maybe two – water line breaks. That’s not uncommon for any system. Green Level had to turn off their whole system because there were not enough valves to turn off a small section. That’s being fixed now.”<sup>31</sup> The water was dingy, Spencer explained, because when a system’s water is turned off, the pressure increases all at once when it’s turned back on, and it scours the distribution water lines.” This can cause residual rust and mud to make the water murky. According to Green Level Town Manager McPhatter, the critical improvements should have been completed by the end of June, 2004, with additional valves being added over time. However, the Town had trouble getting contractors to bid on the job (including no response from two contractors who have performed such work for the Town in the past, both of whom signed the petition against the Town’s ETJ).<sup>32</sup> In addition, the Town has budgeted \$28,000 in the 2004-05 budget to add additional water valves to the system.

Green Level’s water comes from the City of Graham, and Green Level is at the end of the line. Spencer explained that this can cause higher levels of “disinfection by-products.” While no bacteria have been found in Green Level’s water, Graham has had an exclusion from the EPA’s limit

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<sup>30</sup> *Alamance News*, April 22, 2004.

<sup>31</sup> Personal communication, July 13, 2004 by Lee Spencer, North Carolina Department of the Environment and Natural Resources Public Water Supply Section, to CGISC.

<sup>32</sup> Email Oct. 18, 2004 from Quentin McPhatter, Town of Green Level, to CGISC.

on disinfection by-products. When the city expanded its water plant in 2003, it put in a chloramination system, so “from now on, this should no longer be an issue. Green Level has good chlorine residuals.”<sup>33</sup>

As to the remark about actual sewage coming from a tap, Spencer says that this has never happened in North Carolina to his knowledge. “You might get a smell of sewage out of a tap, that [the smell] is actually coming through the v-trap under the sink, from an improperly-plumbed or missing v-trap, or the presence of a vacuum in the trap.”<sup>34</sup>

Without water from a public system, county residents must rely on well water for their homes. According to the 2000 Healthy Alamance Survey, about half of the residences in Alamance County depend on groundwater for their drinking water, with about 500 new wells are constructed each year in the county. Since 1990 newly constructed wells in Alamance County have been sited and inspected, but about 20% are found to have polluted water after the first water samples are tested.”<sup>35</sup>

In the 2001 calendar year, the State Laboratory conducted microbiological analyses on 888 water samples from wells in Alamance County. Of these, 240, or 27%, showed the presence of bacteria according to analysis for “total coliforms” or *E. coli*. In 2002, analyses were performed on 1,013 samples from private wells, with 283 or 28% testing positive for “total coliforms” or *E. coli*. The geographic distribution of the samples positive for total coliforms or *E. coli* is shown below.

City and ZIP Code	2002		
	No. Samples	No. Positive	% Positive
Burlington <sup>37</sup> 27215	47	12	25.5
<b>Green Level and Burlington 27217</b>	70	13	<b>18.6</b>
No ZIP specified	719	239	33.2
Elon 27244	29	8	27.6

<sup>33</sup> According to the Wisconsin Department of Natural Resources’ Glossary: The amount of chlorine used up in a water purification system; used as a monitoring measurement by system operators. <http://dnr.wi.gov/org/water/dwg/OpCert/HTML/glossary.htm>

<sup>34</sup> Personal communication July 12, 2004, Lee Spencer, North Carolina Department of the Environment and Natural Resources Public Water Supply Section, to CGISC.

<sup>35</sup> Final Report, Alamance County Health Assessment, November, 2003, Alamance County Health Dept., <http://www.alamance-nc.com/healthed/assess.htm>

<sup>36</sup> Source: North Carolina State Laboratory for Public Health data available at: <http://204.211.171.13/EnvironmentalSciences/Microbiology/TestResult.asp>

<sup>37</sup> Several ZIP codes included Burlington addresses as well as addresses for Green Level and Glen Raven.

Graham	27253	60	10	16.7
Haw River	27258	10	3	33.3 <sup>38</sup>
Liberty	27298	18	4	22.2
Mebane	27302	24	6	25
Snow Camp	27349	36	11	30.6
Burlington	27216	0	0	0
Grover	28073	0	0	0
Saxapahaw	27340	0	0	0
Swepsonville	27359	0	0	0
<b>TOTAL</b>		1013	283	<b>28</b>

According to these data, Alamance County areas (as designated by ZIP code) with 25% or more of tested wells with positive analyses for total coliforms or *E. coli* in 2002 were Elon, Mebane, Haw River, and Snow Camp. The highest percentage of positives pertains to a large number of samples for which no specific ZIP code was given in the analysis report. Green Level and Graham had the lowest proportion of contaminated wells in 2002. Green Level had a county average of 18.6%, comparing very favorably with the countywide average of 28% – in spite of the fact that Burlington and Green Level, which were grouped together, had the highest level of testing for all areas with specified zip codes in the county.

Additional data from the NC Division of Water Quality Incident Management show 47 incidents of ground water contamination in Alamance County in the three years from 2000-2002. None of these occurred in Green Level.<sup>39</sup>

### Sewer

One accusation made against Green Level was that the town experiences significant sewage spills, which damage the watershed. Particular attention was given to a spill this past spring at the Otter Creek pump station. A March 8, 2004, email from Jenny Freeman, NC Department of Natural and Environmental Resources (DENR), to Green Level town manager McPhatter stated:

As we discussed in our earlier phone conversation, our office received two complaints from concerned citizens regarding your last sewer overflow at the Otter Creek pump

<sup>38</sup> The Final Report lists percent positive as “0.3,” but this is clearly a mistakenly-placed decimal.

<sup>39</sup> Alamance County Community Health Assessment Final Report November 2003: Table 62. Data from the NC Division of Water Quality Incident Management Data, Wilmington Regional Office. Available at: <http://gw.enhr.state.nc.us/database/gwdata2.htm>

station. I assured them that it had been reported and was only 7500 gallons, not reaching surface waters.<sup>40</sup>

Abner Braddy, Environmental Specialist II with the NC Division of Water Quality, characterized the spill: “As they go, that would be a relatively small spill – quantitatively, from a pump station.” He said that “most spills range from 10,000 gallons to hundreds of thousands of gallons.”<sup>41</sup>

### Taxes

Opponents to Green Level’s ETJ claimed that “Green Level has nothing to offer except taxes.” Neither taxes nor services accompany ETJ extension, but if an area is involuntarily annexed, the town that is annexing the area must provide services and the area becomes subject to the town’s tax rate. A look at Green Level’s tax rate seems warranted, therefore. The table below shows the tax rates and populations of the governments in Alamance County (both municipal and county).

**Table 3: Tax Rates of Alamance County’s Ten Municipalities**

<b>Government</b>	<b>Tax Rates (per \$100 valuation)</b>	<b>Population</b>
Ossipee	\$ 0.05	996
Sweptsonville	\$ 0.09	922
Alamance	\$ 0.24	310
<b>Green Level</b>	<b>\$ 0.25</b>	<b>2,042</b>
Elon	\$ 0.37	6,738
Haw River	\$ 0.45	1,908
Mebane	\$ 0.47	7,284
Graham	\$ 0.48	12,833
Gibsonville	\$ 0.52	4,372
Burlington	\$ 0.50 + .16 (Downtown)	44,917
Alamance County	\$ 0.52	130,800

<sup>40</sup> Email from Jenny Freeman, NC Department of Natural and Environmental Resources (DENR), Winston-Salem Regional Office, Division of Water Quality, Water Quality Section to Quentin McPhatter, Green Level Town Administrator, March 8, 2004.

<sup>41</sup> Personal communication, October 20, 2004.

Table 3 shows that Green Level has the lowest tax rate in the county for a town of its size. Its utility rates are also low—so low in fact, that it is a problem in some respects: the town’s May 2004 application to the Clean Water Management Trust Fund for a \$513,000 grant to improve its wastewater infrastructure was rejected because the agency felt that the town had not maximized the monies it could get from its own fees for services. According to McPhatter, “This grant did not require a match, and it was hoped that this funding would help the Town repair sewer lines that are between 30-40 years old. Repair of aging lines is imperative for the Town since inflow and infiltration from rain and other sources increase the sewer flow, thereby increasing the amount of money the Town must pay Haw River for wastewater.”<sup>42</sup> The Town was “encouraged to reapply when the water and sewer rates are complementary with HUC’s [high unit costs].”<sup>43</sup> The Town has spent \$20,000 within the last three years to obtain grant funding for water/sewer projects and has committed \$10,000 for the coming fiscal year for grant applications.<sup>44</sup>

#### Characteristics of the Residents of Green Level and Alamance County

The population of Green Level is 1.6% (2,040) of Alamance County’s population (130,800). Perhaps surprisingly, in light of recent events, the characteristics shared by the citizens of Green Level and the citizens of the county as a whole, including the area surrounding Green Level, are more notable than their differences.

The economic status of the groups is not markedly different. While there are more higher-income residents in the county as a whole, the majority in both areas (62% for the county, 61.4% of Green Level) is solidly middle class, earning between \$35,000 and \$99,999 yearly. The median household income for both groups is between thirty and forty thousand dollars (approximately \$39,000 for the county and \$32,000 for Green Level). Most households make this money by working for others for a living, with 79% of county households and 85% of Green Level households receiving wages or salaries. Only 2-to-3% of either group receives public assistance.

The median year houses were built shows little difference in the age of the housing stock, although homes in Green Level are somewhat newer (year-built average of 1981 versus 1974). In both cases, more than half the houses have been built since 1970 (56% for the county and 69% for Green Level). The county has more two-bedroom homes, and Green Level has more three-bedroom homes (56% compared with 47%), but the county has more four-bedroom homes (9% compared with 7). Less

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<sup>42</sup> Email, Quentin McPhatter, Town Administrator, May 2004.

<sup>43</sup> Letter from Bill Holman, Executive Director, Clean Water Management Trust Fund to Quentin McPhatter, Town of Green Level, 11 May 2003.

<sup>44</sup> Email, Quentin McPhatter, Town Administrator, May 2004

than 2% of either group has five or more bedrooms. Almost all houses have complete plumbing facilities (over 99%).

There is a difference in family composition, with more married couples in the county (76%) than Green Level (57%). More of Green Level’s households are headed by single females (33%, compared with the county’s 18); and these residents are more likely to be employed than in similar county households (74% versus 66%). Of the households headed by single men, there is no significant difference in employment status: such residents in Green Level are just as likely to be employed (71%) as those in the county (7%). The great majority of both group’s households are comprised of one to four people (92.4% of the county’s and 86% of Green Level’s).

The median age of county and town residents is similar: 36.3 years for the county and 34.6 years for Green Level. The median age for the state is between the two: 35.3 years. The age distribution of Alamance County differs slightly from Green Level’s. Alamance County has a larger proportion of adults of retirement age than the town but a smaller proportion of children. Both areas have similar proportions of adults of working age (around 62%). Residents under age five are 6.4% of the county and 6.7% of Green Level; those under 18 are 23.8% of the county and 27.9% of Green Level; those over age 64 are 14.1% of the county and 10.4% of Green Level.

Educational attainment is also similar. More county residents have bachelor’s degrees, but the percentages of those holding other degrees is very similar:

**Table 4: Educational Attainment in Alamance County and Green Level**

	<b>Alamance County</b>	<b>Green Level</b>
High school graduate male (includes equivalency):	29.6%	39.4%
High school graduate female (includes equivalency):	32.6%	38.7%
Associate degree: female	7.7%	5.9%
Doctorate degree: female	0.4%	0.3%

Commuting patterns are almost identical:

**Table 5: Average Commuting Times in Alamance County and Green Level**

	<b>Alamance County</b>	<b>Green Level</b>
Less than 30 minutes:	74%	75%
30 to 44 minutes:	16%	17%
45 to 59 minutes:	6%	5%
60 or more minutes:	4%	3%

Housing characteristics are also similar. Most houses are owner-occupied (70% for the county and 78 % for Green Level). Vacancy rates<sup>45</sup> in Green Level are somewhat higher (93 % compared with 89%), while the town has a lower rate of abandoned vacant houses (11% compared with 15% of the county's). The county has more small houses (one to four rooms), but the majority of both communities' houses have five or more rooms (70% in the county and 74% in Green Level). The median number of rooms for both groups is almost identical (5.2 / 5.1).

The type of housing shows some major differences, with 15% of county households (including those in towns in the county) living in duplexes or apartments, while only 2.2% of Green Level's households do. But the greatest difference in housing composition is the percentage of mobile homes, which comprises 15% (8,493) of the county's housing stock and 46% (382) of Green Level's. This is not, however, something the town has especially encouraged or allowed: Green Level's census tracts contained 727 mobile homes in 1989 – before the town incorporated, when the county held complete jurisdiction.<sup>46</sup> In fact, an April 22, 2004 headline in *The Alamance News* declared Alamance County “A former haven for mobile home parks,”<sup>47</sup> citing more restrictive regulations instituted in 1996 (six years after Green Level's incorporation).

The average lot size in Green Level is of course smaller than the average county lot, as is the average lot size of other towns in the county relative to the size of lots outside of towns. The reduced size of lots in towns is one of the main reasons that the state instituted ETJ as in implement to effect rational planning.

Extraterritorial jurisdiction was instituted by the state to help towns plan for growth at increased densities. So what is the cause of the concern over Green Level's exercise of ETJ, and why did the same county commissioners who acted as if in an emergency candidly state that such protest was unprecedented? What's different? We believe that part of the answer is race. “Among all of the locations in Alamance County for which census data is collected, Green Level is the only place that has a majority black or African American population.”<sup>48</sup>

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<sup>45</sup> 2000 Census, H8. VACANCY STATUS [7] - Universe: Vacant housing units

<sup>46</sup> The census areas are larger than the town of Green Level, and contained 646<sup>46</sup> mobile homes in 2000, according to the Census, again pointing out the similarity of Green Level to its neighbors.

<sup>47</sup> April 22, 2004.

<sup>48</sup> Alamance County Community Health Assessment, Final Report. November 2003

**Table 6: Percentages of Various Population Groups in Alamance County Municipalities**

	White	Black or African American	American Indian or Alaska Native	Asian	Hispanic/Latino
<b>Burlington</b>	66.3	25.1	0.3	1.7	10.1
<b>Graham</b>	72.9	21.6	0.4	0.7	10.1
<b>Mebane</b>	77.4	17.5	0.2	0.6	5.2
<b>Green Level</b>	<b>14.7</b>	<b>73.4</b>	<b>0.8</b>	<b>0.6</b>	<b>13.5</b>
<b>Haw River</b>	89.0	6.2	0.2	0.4	6.8
<b>Gibsonville</b>	80.2	15.5	0.4	0.8	2.7
<b>Elon</b>	87.6	10.2	*	1.0	1.6
<b>Swepsonville</b>	94.0	3.8	0	0.4	1.8
<b>Alamance</b>	97.1	1.3	0.6	0.3	0.3
<b>Saxapahaw</b>	81.2	13.4	0.1	0.4	6.2
<b>Ossipee</b>	Not	incorporated	when census	was taken.	

\*Value is greater than zero but less than 0.1 percent.

### **Jurisdiction, Timing, and Authority**

As the preceding comparison of the characteristics of the residents of Green Level and other residents of Alamance County shows, the two groups are very similar. The county’s zoning efforts seem therefore over hasty and reactive. Moreover, the county’s zoning seems to have failed to comply with state law: the “zoning amendments” are in an area for which the county lacked a long-term plan or study, and the county seems to have failed to give the “reasonable consideration to expansion and development” for towns in the county, to “provide for their orderly growth and development” required under state law.<sup>49</sup>

ETJs exist to allow for logical extension of growth and planning for towns into the countryside. Although Green Level is a relatively new town, incorporated in 1990, its strategic plan calls for growth. That growth was already limited to the South by the town of Haw River, and to the East and Northeast by the Mebane-Graham Lake’s Water Quality Critical Area (WQCA) and Balance of the Watershed (BAL). Now, in 2004, the commissioners voted unanimously to amend their Watershed Protection Ordinance as a method of zoning the land northwest of Green Level. If the courts determine that this was a valid zoning, Green Level will need permission from a seemingly reluctant county to extend its ETJ.

The timing of the County’s action “appears to be motivated by the fact that [the applicable state statute] says that towns don’t have to seek permission from the county to extend an ETJ if there’s no zoning ordinance,” according to Eric Braun, an attorney representing Green Level in this matter. Braun faults the County’s action for being “written without having a study of whether or not this should be

<sup>49</sup> *The Alamance News*, April 22, 2004.



done,” according to *The Alamance News*.<sup>50</sup>

Indeed, the minutes of the Alamance County Commissioners’ January, February, and March meetings do not mention Watershed amendment, zoning the area around Green Level, or Green Level’s ETJ; nor do the minutes of the County’s Special Meeting held April 5 (characterized by County Planning Director Harmon as concerning only the coming 2004/2005 budget year). The county planning board did consider the amendment to the Watershed Ordinance in April and recommended approval.

In spite of the county’s action, the Green Level Town Council held a public hearing April 22, 2004 to consider establishing an ETJ.<sup>51</sup> “The Town Council voted 4-1 to adopt the ETJ Boundary Ordinance and application of Green Level zoning classifications to the affected properties.” In early June, the Concerned Citizens Against ETJ Expansion Committee called an “emergency meeting” for June 15, 2004 to “discuss our options and generate some funds to help in our legal battle with the Town of Green Level on this issue.”<sup>52</sup> On June 18, the town filed a motion for a declaratory judgment in order to determine who currently has jurisdiction over the area in its ETJ – the town or the county.

Jerry Rudd and another resident of Green Level’s new ETJ then filed for an injunction to stop Green Level from exercising ETJ, alleging that the action was necessary to prevent “immediate and irreparable harm” upon their “rights in and use of their property”<sup>53</sup>—property that the town of Green Level had zoned in a way completely consistent with Rudd’s request to the county. The Alamance County Superior Court dismissed the motion, and the plaintiffs have appealed. Rudd’s motion relied upon the validity of the county’s changes to its Watershed Protection Ordinance and creation of the RCD, both of which are challenged by Green Level.<sup>54</sup>

## **Conclusion**

The legal questions will take some time to sort out in court, but in regard to the right to exercise extraterritorial jurisdiction, we must conclude that the laws and regulations governing municipalities are not being applied equally in Alamance County. Green Level’s attempt to extend an ETJ does not differ from similar actions by other towns in the county. There are only three major differences between the citizens of the town and those who oppose a Green Level ETJ:

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<sup>50</sup> Ibid.

<sup>51</sup> Green Level Online [<http://www.greenlevelnc.com/jobs.html>]

<sup>52</sup> Handbill posted on door of store in Pleasant Grove/Green Level.

<sup>53</sup> Plaintiff’s Motion for Temporary Restraining Order, *Jerry W. Rudd and W. Jerry Fonville v. Town of Green Level*, Alamance County Superior Court (04-CVS-1358), 21 June 2004.

<sup>54</sup> See Complaint for Declaratory Judgment and Mandatory Injunction, *Town of Green Level v. Alamance County*, Alamance County Superior Court (04-CVS- ), June 2004.

- 1) Green Level's housing pattern has higher density than exists in the surrounding area. This is true in almost all ETJ extensions;
- 2) The town contains a higher percentage of mobile homes than does the surrounding area, though these were present before the town's incorporation, when the county controlled land-use; and
- 3) Green Level is predominantly African American and Latino (74% and 13.5%, respectively), while the county is predominantly white (75%).

The last difference seems to us to be the distinguishing characteristic in this controversy. As a point of comparison with Green Level's struggles, it might be noted that the Town of Alamance, with only 310 citizens, has a higher percentage of land in its ETJ than does Green Level (with over 2000 residents). Yet the Town of Alamance (97.1% white) encountered no county opposition to its extension of ETJ.

Differences in the county's actions that correlate with race are not the only signs that race is driving this controversy. According to *The Alamance News*,

racial undertones ... were also easy to detect in the events at [the April 19] meeting.

The case against Green Level's plans was made mostly by white residents who were clustered along the chamber's back wall or sat on the left side of the room. Whenever one of Green Level's detractors made a punchy rejoinder, this whole side of the chamber broke into applause. Meanwhile, a few rows, filled with black faces, watched the whole hearing in silence from the right side of the room....In the end, the County's all-white board of commissioners voted against Green Level's request.<sup>55</sup>

County officials stated they had never had a single phone call objecting to an ETJ until Green Level began to implement one. Since ETJs were instituted by the state to accomplish exactly what Green Level is trying to accomplish, we conclude that the extreme opposition of county citizens (many of whom do not live in the proposed ETJ) and the reaction of the county commissioners to preempt the ETJ constitute an effort to limit the growth of Green Level—an effort that appears to be motivated by racial discrimination.

The population of Green Level is only 1.6% of Alamance County's population, but the town is taking on the county to fight for its right to plan for its future. This struggle is important both as a civil rights issue and for the precedent it could set – for Alamance County and for the state of North Carolina. As illustrated by the examples of both Dobbins Heights and Green Level, smaller

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<sup>55</sup> *The Alamance News*, April 22, 2004.

predominantly-Black towns are often operating at a disadvantage to nearby but similar white towns, experiencing more difficulty in obtaining post offices, polling places, and grants for improvements.

When laws governing growth are not implemented without regard to race, these Black towns experience the same exclusion from the full rights and benefits created by North Carolina's zoning and annexation laws experienced by underbanded Black communities. The State appears to be reducing civic engagement in these matters, as evidenced by legislation taken which "shortened the statute of limitations for contesting the validity of a zoning ordinance from nine months to two months."<sup>56</sup>

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<sup>56</sup> *Copyright 1998 - N.C. Administrative Office of the Courts, Reunion Land Company, D. Paulette Kerr, And Samuel W. Craver And Wife, Sarah Rhodes Craver, Plaintiffs-Appellants, V. Village Of Marvin, a North Carolina Municipal Corporation, Defendant- Appellee., Case No. COA97-749.*

## Appendix 1: Predominantly-Black Towns from Sample of Paired Towns

### North Carolina (2000 Census)

	Dobbins Heights	East Spencer	Green Level	Prince- ville	Sedalia	Taylor- town		Average
<b>P1. Total Population</b>	936	1,755	2,042	940	618	845	7,136	<b>1,189</b>
<b>P3. Race [Percent Minority]</b>	86%	88%	85%	98%	86%	73%	5	<b>86%</b>
<b>P53. Median Household Income in 1999</b>	21,193	18,947	31,793	31,667	43,021	30,781	177,402	<b>\$29,567</b>
<b>P64. Public Assistance Income in 1999 for Households</b>								
Total:	353	702	718	332	229	307	2,641	
W/ public assistance	22	50	20	14	7	11	124	<b>4.7%</b>
<b>P87. Poverty Status in 1999</b>								
Total:	812	1,737	2,044	976	623	811	7,003	
Income below poverty	265	622	244	172	67	120	1,490	<b>21.3%</b>
<b>H1. Housing Units</b>								
Total	466	797	824	721	232	333	3,373	<b>562</b>
<b>H7. Tenure: Occupied Housing Units</b>								
Total:	373	696	735	352	232	306	2,694	
Owner occupied	261	339	571	287	209	240	1,907	<b>71%</b>
<b>H82. Median Value for Owner-occupied Mobile Homes</b>								
Median value	35,500	61,000	26,500	53,100	15,800	26,300	218,200	<b>\$36,367</b>
<b>H85. Median Value for All Owner-Occupied Housing Units</b>								
Median value	35,700	66,400	65,800	53,900	85,800	65,900	373,500	<b>\$62,250</b>
<b>PCT21. Residence</b>								
Total:	787	1,597	1,951	927	600	747	6,609	
Same house in 1995	411	933	1,075	589	395	456	3,859	<b>58%</b>
Same city or town:	15	122	30	72	7	6	252	<b>4%</b>
						<b>Same house or town</b>		<b>62%</b>

## Appendix 2: Predominantly-White Towns from Sample of Paired Towns

### North Carolina (2000 Census)

	Hamlet	Haw River	Pinehurst	Spencer	Tarboro	Whitsett		Average
<b>P1. Population</b>	6,018	1,908	9,706	3,355	11,138	686	32811	<b>5,469</b>
<b>P3. Race [Percent Minority]</b>	38%	11%	5%	30%	44%	7%	1.35	<b>23%</b>
<b>P53. Median Household Income in 1999</b>	29,013	30,859	58,950	36,687	34,400	44,250	234,159	<b>\$39,027</b>
<b>P64. Public Assistance Income in 1999 for Households</b>								
Total:	2,473	721	4,563	1,286	4,351	297	13,691	
W/ public assistance income	142	36	14	33	186	2	413	<b>3.0%</b>
<b>P87. Poverty Status in 1999</b>								
Total:	6,021	1,668	9,678	3,313	10,932	689	32,301	
Below poverty	1,338	195	269	315	1,677	52	3,846	<b>12%</b>
<b>H1. Housing units</b>								
Total	2,786	789	5,738	1,433	4,977	314	16,037	<b>2,673</b>
<b>H7. Tenure: Occupied housing units</b>								
Total:	2,485	722	4,604	1,310	4,370	277	13,768	
Owner occupied	1,588	567	4,079	847	2,550	238	9,869	<b>72%</b>
<b>H82. Median Value for Owner-occupied mobile homes</b>								
Median value	18,800	10,000	0	10,000	11,300	47,500	87,600	<b>\$14,600</b>
<b>H85. Median Value for All Owner-Occupied Housing Units</b>								
Median value	52,300	86,700	182,800	80,100	76,300	110,200	588,400	<b>\$98,067</b>
<b>PCT21. Residence</b>								
Total:	5,565	1,538	9,587	3,188	10,623	661	31,162	
Same house 1995	3,261	937	4,871	1,750	5,972	441	17,232	<b>55%</b>
Same town:	776	56	676	182	1,994	20	3,704	<b>12%</b>
								<b>Same house or town 67%</b>

