

**Zebulon
Joint Public Hearing
Minutes
December 12, 2016**

Present: Robert S. Matheny, Dale Beck, Curtis Strickland, Don Bumgarner, Beverly Clark, Glenn York, Joe Moore-Town Manager, Lisa Markland-Town Clerk, Mark Hetrick-Planning, Julie Wilkins-Planning, Toby Hampson-Attorney
Planning Board Present: Darrell Jones, Gene Blount, Sam Hayes, Kenny Waldroup, Larry Ray, Laura Johnson, David Covington

Mayor Matheny called the meeting to order at 7:00pm.

Mayor Matheny reviewed the process of a quasi-judicial hearing and declared the public hearing open and asked for staff report.

Mayor Matheny asked if any of the Board members had an ethical conflict and none did.

Mayor Matheny asked if any of the Board members had any ex parte communication or a conflict of interest with the case before the Board that needed to be disclosed. Joe Moore stated that during the individual monthly meetings with Board members he briefed each member on the Barrington special use permit as it related to date of the hearing, status of the application progress as it related to applicant and staff, and reviewed the table of contents. Board members confirmed that was the extent of communication on the case before them.

Mayor Matheny asked if the communication would prevent any member of the Board from making an impartial decision based on the evidence presented and the requirements of the ordinance. All Board members stated it would not affect their decision.

SU 2017-01—Barrington (264 Investments, LLC—Old Bunn Road)

Lisa Markland swore in Julie Spriggs with the Zebulon Planning Department.

Julie Spriggs gave the staff report that included a PowerPoint presentation. All evidence presented with the staff report would be entered into the record.

It was stated that the request was from 264 Investments, LLC to locate a residential subdivision for single and multi-family dwellings on approximately 210 acres, located on Old Bunn Road and Parks Village Road. There was a requirement to submit a traffic impact analysis (TIA) since the development would generate over 100 trips per day which was listed as attachment 14 in the packet submitted. There was R-20 zoning on three sides of the proposed development and a Wake County zoning designation of R-30 which was comparable to the Town of Zebulon R-20 zoning. A map and the concept design of the proposed development were shown so that all could have a visual of the location.

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Julie Spriggs stated that there were only a few conditions that staff and the developer could not agree upon and those would be the ones presented for discussion. However, if there were any conditions that anyone wanted additional information on they could be discussed as well.

The background for the case was presented which included that the request was for a mixed residential development that would not exceed 837 dwelling units. One of the conditions placed a percentage for each type of dwelling. There were 84 conditions proposed and five were not agreed to by the developer.

The findings of fact in the application as well as the answers provided by the developer were reviewed.

The staff report reviewed the zoning, land use, transportation, greenways, conditions and several other topics. The zoning was currently R-20 but if the special use permit were to be approved the zoning would change to R-13-SUD for the density. Most of the surrounding properties were zoned residential, heavy business special use or heavy industrial. The HB-SUD and HI were located across 264 in the industrial park and the Walmart shopping center. The zoning map was reviewed which showed the properties in question as well as the surrounding properties.

The Comprehensive Plan was adopted prior to the expansion of the ETJ and therefore some of the property was not included in that report. The Plan did suggest that the parcels in that area, that were included in the report, should utilize a mix of uses that included medium density residential and mixed uses. Julie reviewed what was meant by medium density residential and mixed uses. The proposed special use district did conform with the intent of the Comprehensive Plan as it related to the portion of the property included in that plan. Julie reviewed the properties that were included as part of the Comprehensive Plan and those that were not.

Julie Spriggs stated that when considering conditions for a special use permit, the conditions had to be reasonable, substantiated by evidence in the record and must be related and proportionate to the impact of the development. All 84 conditions being proposed met the standards and requirements discussed. There were three topics that staff and the developer could not agree on as it related to the conditions and those topics were the greenway culvert crossing, public roadways throughout the development, and the number of garages for each unit.

Julie explained that she would be reviewing the conditions proposed by staff that the developer was disputing. She also said that the agenda packet and all supporting documentation had been available in the Planning Department for review since December 2, 2016.

The Transportation Plan did not anticipate the level of development along Old Bunn Road and therefore, it would need to be updated to reflect the influx of development. A TIA was required since there would be in excess of 100 trips per day, which was directly related to the development being proposed. The plan did show from Shepard School Road to Karial Court there would be a two lane curb and gutter road with sidewalks on both sides. From Karial Court to the planning jurisdiction at Hwy 97 it would be a two lane road with wide paved shoulders. The plan would not meet the needs for an additional 1700 vehicles and therefore the roadway

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was reviewed for current service and what would be provided at buildout. The TIA was reviewed by Will Letchworth with Parsons Brinkerhoff who provided a letter showing his findings (attachment 10). Mr. Letchworth stated that the TIA was performed accurately and correctly and made several recommendations which were incorporated into the conditions and accepted by the developer. Roadway widths were reviewed using DOT and Town standards which prompted the request for additional right of way widths along Old Bunn and Parks Village.

Sidewalks were also discussed and because of the varying right of way widths it would create odd sidewalk patterns. The proposal that all roadways within the development be public was presented and the rationale behind that was that it created confusion for property owners and staff when trying to figure out if the road was public or private where town services were concerned. The developer would like to see public roads for all dwellings except for townhomes.

Julie showed where the Greenway Master Plan, corridor two, would run through the proposed development. It was explained that Corridor Two ran under Hwy 264, across Old Bunn Road, along Parks Village Road on the east side and then under Hwy 64 through a 12x12 culvert with lighting. The developer did not want to install the culvert for the greenways that crossed Hwy 64 due to the excessive cost of approximately \$1 million. The developer would like to pay an assessment for the development of the culvert crossing which would be approximately \$225 per 837 dwellings. A fee in lieu was also being proposed for the portion of Corridor Two that ran along the southern side of Old Bunn Road along with dedicated easements, which the developer has agreed to.

Water and sewer allocation was based on 250gpd per home which equaled approximately 209,250gpd. Staff was recommending that the water and sewer allocation be handled at the time of final plat instead of allocating the entire 209,250gpd at one time. It was also proposed that they not exceed a limit of 50,000gpd or 200 dwelling units per final plat to help control the allocation tracking versus actual usage.

Recreation amenities being proposed would be a community building with a bath house, junior Olympic swimming pool, parking lot, bike racks and a playing field. Staff had recommendations on the amenities to which the developer was in agreement.

All conditions dealing with building design elements were agreed to by the developer, except for the requirement that all dwellings had to have a garage.

The development would be subject to the TRC review and final plat had to be approved by the Board of Commissioners. There would have to be an HOA with covenants that would be recorded prior to final plat approval.

Staff did not make recommendations on a special use permit.

Julie reviewed the requirements for approval or denial of a special use permit.

Mayor Matheny asked if there were any questions from either board.

Darrell Jones asked about widening Old Bunn Road and if that was just at the subdivisions or the entire road from Shepard School to Hwy 97. Julie explained that what was being proposed was additional right of way along the development only.

Darrell asked about the installation of sidewalks and where they would be located. Julie stated that was also only being proposed along the development. The Town could not require sidewalks along property that the developer did not own.

Darrell asked about the location of the waterlines. Julie explained that it would be in the right of way and under the prevue of the City of Raleigh.

Kenny Waldroup asked about the culvert crossing across US 64 Hwy and wanted to know if any community had ever asked that a developer adhere to such a condition. Julie said that she had to refer to Mike Surasky, the consultant for the greenway masterplan and the expert witness on that topic.

Lisa Markland swore in Mike Surasky of 3309 Neuse Crossing Drive Raleigh, NC 27616

Mike Surasky explained that it was a common occurrence and gave the example of a development being built in Raleigh, they would require the developer to install the greenway if the greenway, was proposed where the development was going. Mike continued by stating that on the lower Neuse Greenway there was a very large section that was constructed by the Heddingham neighborhood. Kenny asked if a developer had ever been required to install a culvert across a four lane highway, at their expense. Mike said that he could not recall that ever being required. Kenny asked if a bridge crossing was required who paid for that, such as along 440 by the art museum. Mike stated that was paid for the City of Raleigh.

Larry Ray asked about the total number of trips generated and said that there were three sets of numbers within the material supplied by Ramey Kemp and wanted to know which one was correct. He continued by saying that it said there would be 3280 but in the summary it said 5890. Julie Spriggs said that Andy Archer with Ramey Kemp, who prepared the document, would be able to answer questions in the traffic impact analysis (TIA).

Lisa Markland swore in Thomas Andy Archer with Ramey Kemp of 5808 Faringdon Place, Suite 100 Raleigh NC 27609. Andy gave his credentials that would make him an expert witness.

Andy Archer said that on table one, page 14, there was a breakdown of the trip generation summary. The assumption was there would be 274 single family detached homes producing approximately 2600 trips per day and then broken down into peak hours. The 563 townhome units would produce approximately 3300 trips per day. Larry Ray said that on page 33 it said 3280 trips per 24 hour period and wanted to know where that number came from. Andy explained that the 3280 trips were attributed to the townhomes units and that was in error and it should have been a total of 5900 total trips per day.

Larry Ray asked about the letter generated by Will Letchworth that referenced 5890. Julie Spriggs explained that there were two different engineers and Mr. Letchworth was reviewing the TIA as a third party consultant. It was basically a cross check of the TIA document that made sure the numbers matched. Andy Archer stated that the 5890 number was consistent with the numbers shown on table one, on page 14. Larry asked if that was a correct number for the trips generated per day and Andy stated it was.

Kenny Waldroup asked if there was a multi-modal plan that addressed the garage percentage requested from the applicant. Julie Spriggs said that was not under transportation, it was a design element. She continued by stating that it was common practice to request a garage for other subdivisions which set the precedence to make the same request of Barrington. Kenny asked what the staff thinking was for making that request. Julie stated it helped with junk cars and kept cars from parking on the street.

Mayor Matheny asked if there were any questions from interested parties.

Lisa Markland swore in Kim Bunn of 504 Parks Village Road Zebulon.

Ms. Bunn expressed her concern with only expanding the road at the subdivision and not the entire length, because she did not understand where the vehicles would go once past the subdivision which was a two lane road. Julie Spriggs said that they were requesting the additional right of way and that the road would not be widened at the present time but at a later time. Kim Bunn asked if the road would be widened prior to the first house being sold. Julie explained that with each phase the right of way was acquired as the homes were being built, which would allow for the Town to do a Thoroughfare Plan for the corridor and design the project. When final plats were approved the right of way would be acquired as part of the plat approval. Kim Bunn asked if Old Bunn Road could handle 1500 cars four times per day in its current condition. Julie explained that there would not be 1500 cars all at once since the subdivision was being built in phases and when buildout was complete the road should be built.

Mayor Matheny asked if there was anyone who wished to present evidence on behalf of the petitioner.

Lisa Markland swore in Charles Walker of 275 N. Pearidge Road Pittsboro NC, representing 264 Investments. Charles Walker introduced Mike Jordan the managing member of 264 Investments and Thurston Debnam their attorney and several others on their team.

Charles Walker stated that there were 84 conditions recommended by staff and only five were not in agreement between staff and 264 Investments. He continued by discussing the five conditions in question.

The first was the internal road designation. There was a desire that the road and parking lot at the townhomes be private. Since there was a wide diversification of housing and there would be a parking lot for the townhomes it did not make sense to have a public road at those units. It

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would be the responsibility of the developer, as they sold those units, to make sure that they understand that it was not a public street. Mayor Matheny asked how they would handle trash collection and debris. Charles Walker stated that anything not handled by the Town would be taken care of by a private contractor, which would be in place prior to the residents being there. The HOA would have to be in place prior to units being built, and that included all the support structure for the HOA.

Larry Ray asked if the cost for those things would be shared by everyone in the development or just the townhome owners. Mr. Walker explained there would be a master HOA and then sub associations based on the product that was purchased, which would mean that the townhome development would pay a higher premium for those services.

Second, was the greenway trail at Parks Village Road. Charles Walker said that in all his 30 years in the area he could not recall a time when a developer was required to install a culvert over a highway. Most instances the state or municipality would pay to install such things. 264 Investments did not think that it should be their sole responsibility to pay for the installation of the culvert since it would be something open to public use. Their suggestion was to use the same calculation used for the sewer assessment of Beaverdam Creek Outfall which would come to \$225 per building permit for the project. After discussions with Chris Ray, the Public Works Director, there was a request for a time limit on when those fees would be paid and it was recommended that it would be no later than 36 months after the final plat approval that all fees for the culvert would be paid by the developer.

Third, they discussed how they calculated the costs for the culvert and if all other developments that were coming on line in the area it would pay for the culvert.

Fourth, was the timeline for the payment of the assessment fee for the culvert at 36 months after the approval of the final plat.

Fifth, was the requirement that there should be a garage for all units. The developer was proposing was that there be a requirement of a one car garage for 80 percent of all single family homes and duplexes and 50 percent for all townhomes.

Mayor Matheny asked if there was anyone in their group who wanted to come forward and attest the evidence presented. There was not anyone who wanted to come forward at that time.

Toby Hampson said that they should come forward and state their name for the record.

Lisa Markland swore in Tommy Craven with Creech Craven and Associates who gave his credentials and qualifications.

Mayor Matheny asked if he was attesting the information presented. Tommy Craven said it was accurate to the best of his knowledge.

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Lisa Markland swore in Mike Jordan of 264 Investments located at 933 Old Knight Road Knightdale NC. Mike Jordan stated that information presented was accurate to the best of his knowledge.

Lisa Markland swore in Thurston Debnam of 4601 Six Forks Road Raleigh NC and stated that he was the attorney for 264 Investments. Mr. Debnam stated his credential and qualifications and that all information presented was true and accurate to the best of his knowledge.

Lisa Markland swore in Jim Spangler of Spangler Environmental residing at 5 Gray Avenue Zebulon NC. Mr. Spangler stated his credentials and qualifications and attested to the information presented, dealing strictly with the environment, was true and accurate to the best of his knowledge.

Lisa Markland swore in Andy Gay of 10501 Debnam Road Zebulon NC. Andy Gay stated that he was an interested party and asked about the pond located behind the residence located at 504 Parks Village Road and wanted to know if the pond would be removed. Charles Walker stated it would be removed.

Mayor Matheny asked if there was anyone who wished to present any other supporting evidence.

Andy Archer said that to the best of his ability the TIA report was true and accurate to the best of his knowledge, except for the typo referenced earlier in the hearing.

Mayor Matheny asked if there was anyone else who wished to speak in favor. There were none.

Mayor Matheny asked if there was anyone who wished to present evidence in opposition.

Kim Bunn (sworn in earlier) stated that the property, of which she was a 1/3 property owner, was sold without her knowledge. Ms. Bunn stated she tried to do a plan for the sale of the property, which allowed her to keep the pond that was located directly behind her home. That pond was the one in which the applicant said they were going to get rid of. Ms. Bunn said that she tried to work with Mike Jordan, who stated that he did not want to take any of the land she did not want to be sold, but that did not work out. Kim gave some history of the home and property on which she had lived for the last 45 years.

Kim Bunn discussed that she thought the building of 800 homes around her home would devalue her property. Mayor Matheny asked if Ms. Bunn had brought anyone who could provide evidence to that fact. Andy Gay stated that he was Ms. Bunn's attorney and that a property owner in the state of NC, based on case law, could attest to the value of their property.

Kim Bunn said that she thought her property provided a great deal to the Town of Zebulon and was an historic structure that was once a boarding home. Ms. Bunn said that she was willing to purchase the property for exactly what Mike Jordan paid for it, so that building was not occurring in her front and back yard and would not fill in the pond.

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Andy Gay asked about the public hearing for the annexation and thought that granting a special use permit needed to be looked into further. Mr. Gay thought that since the statements at the annexation hearing were that there would be no further condemnation was needed to do the project and he thought that was incorrect. Andy stated that he was of the opinion that it would require further condemnation of Kim Bunn's property to access existing pump station. The widening of Parks Village Road and/or Old Bunn Road, if it was outside of the right of way, would require eminent domain of the property. The 837 dwellings of Barrington subdivision surround her home and the elimination of the natural features of the land would cause a devaluation of Kim Bunn's property. Mr. Gay stated that Kim Bunn was asking for consideration of her property by a buffer, preservation of the natural features that made Bunn Farms attractive, especially the pond behind her home. The transaction took place against her will even though she was a minority owner in the corporation that chose to sell.

Sam Hayes asked if there was documentation about the historical nature of the farm. Kim Bunn stated that the home was not on the historical registry because it had been relocated.

Kenny Waldroup stated that he worked for the City of Raleigh Public Utilities Department and wanted to make sure that it was clear that he was not a part of the development review group or capital improvement group, which was responsible for review of the project.

Charles Walker explained that during the annexation hearing there was no condemnations to be done by the Town of Zebulon, however if there was condemnation required for the sewer system it would be done by the City of Raleigh. There would be a 15' type A buffer around Kim Bunn's property that did not already have existing vegetation. The right of ways, sidewalks and greenways that existed within their project would be the only ones requested.

Andy Gay asked Mr. Walker if they would support additional condemnation of Kim Bunn's land to gain access to the sewer. Charles Walker said that there are sections by the lower pump station that might need a sewer easement to serve the southern part of the property, however the project did not hinge on that development. The gravity line that fed the pump station was partially located on the Barrington property and the part from the manhole at Parks Village Road and Bunn Road was a gravity line that went toward 264 and they could obtain sewer access at that point.

Andy Gay asked if the area that Barrington had sewer access to represented only 15 percent of the entire project. Charles Walker said that they did not agree with that at all. There was discussion on the manholes and the service they would provide. Andy Gay asked what the percentage was. Tommy Craven stated that they did not know the percentage since no analysis had been done at that time. The COR had a process for easements that cross other property and if the City of Raleigh deemed the infrastructure was important to the public utility system then they would assist in the acquisition of the right of way or easement. The condemnation policy was well defined and was used quite sparingly but was an action the COR could take if the sewer easement was necessary for the expansion of an important part of infrastructure for the system. Kim Bunn asked if Mr. Craven knew when it would be known if they would condemn the property for the sewer line. Mr. Craven stated it would be part of the site plan review and

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construction drawings. Kim Bunn asked if they could begin building without knowing if that would happen. Mr. Craven explained that there were sections that could be built that did not drain toward her property so they could begin with those.

Lisa Markland swore in Will Letchworth of 18 Letchworth Drive Zebulon NC who attested that the information provided by him was true and accurate to the best of his knowledge.

Lisa Markland swore in Tom Hendrickson of 1915 & 1917 Old Bunn Road Zebulon NC. Tom stated that he also owned property across from that property.

Tom Hendrickson stated that there were several properties located in the county that surrounded the property in question. Mr. Hendrickson said that he owned 165 acres of property and was the only farm in Wake County that was designated as an historic site. It was also on the national historic register, the cabin was built in the 1780's, the house was built in 1833 and was a key landmark. Several additional structures had been built like a lodge, pond and the desire to place an old 1900's church on the property was also in the plans. Hosting weddings and other events was a way that funds were raised to care for the historic property. The farm was zoned as R-30 by the County. Tom stated he had been on the COR Planning Committee for five years, and was a developer in Apex.

Tom Hendrickson stated that none of the Town planning staff had visited his property during the process to evaluate the impact of the proposed develop and how it would affect Zebulon's only major national historic registry property. There had been discussions about doing some historic registry things in the downtown area but it appeared that the Town was willing to turn its back on his property on Old Bunn Road.

The culvert concept was a very expensive endeavor and it was not cost effective to install something along those lines. Tom Hendrickson thought that the money proposed for that project should be used to put in buffers to protect the historic nature of his property and Kim Bunn's property. The condemnation procedures for the COR were in place and the paper had reported that there would not be any need for condemnation. He continued by stating that he had contacted Mike Jordan about the possibility of purchasing or trading the property that jutted into the middle of his develop so as to protect his property and that of Ms. Bunn's but he was unwilling to do that, Tom explained. Mike Jordan stated that there was no need to do anything since the COR would just do the condemnation if the Town would approve the special use permit.

Tom Hendrickson said that the only thing that would be seen from the only major historic property in Zebulon when looking north would be the back side of townhomes. When it would be possible to install a buffer to protect the property and he asked that the Town show that they cared about his property. He stated that there was a need for a Comprehensive Plan update and a Thoroughfare Plan update so that there would be stakeholder input. He continued by stating that he was not aware that there would be a road widening since he had not seen all the documents on the project and he was pretty sure that the neighbors across the street were not aware either.

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Tom gave his credentials including that he had been in the real estate business since 1985, graduated Wake Forest with a law degree in 1984, had developed real estate, been on planning boards and was the previous owner of the historic Capital Club building located in downtown Raleigh. The current site plan presented by 264 Investments would damage the value of the adjacent historic property known as the Bennett Bunn Plantation. No appraiser was present to address the impacts of their project on the adjacent property owners. No setbacks were shown on the plans for townhomes that back up to R-30 property.

Due to hurricane Matthew the buffer of 40 trees that were damaged and needed to be removed showed that a 15' buffer was not adequate to protect and buffer the two properties from one another. Again, Tom stated that he proposed to trade property so that there would be additional property to buffer between the two uses.

Tom Hendrickson asked how staff could prepare conditions and a competent staff report without ever touring the property in question as well as the adjacent properties to view the impact that the development might have. Mr. Hendrickson invited staff and the Board members to come and tour the site for themselves.

There was discussion about locating sewer lines at a 30' depth but it would be unlikely that the COR would approve that depth. There was additional presentation on where to locate sewer lines and again stated that the location of townhomes next to the Bennett Bunn Plantation would damage the value of that property and the open space nature of that property. Tom stated that homes were the lands last crop it would be difficult to preserve the property. There was a need for sensitivity of the property owners and it was relevant in the decision making process. He did not feel that standard had been met.

Tom Hendrickson said that he would suggest that if approved that all connectivity should be via public streets and no private drives. Finally, the drainage of the pond was a great open space for the project and asked that the requirement for the culvert be reconsidered and change the plan for the greenway so that it would go up across the bridge and then back down. The money proposed for the culvert should be used for protecting the current properties. The culvert would never be built and the money proposed would not be adequate to build said structure.

Kim Bunn asked if the Board would table the hearing so that the Board could come to visit the site, her home and the Bennett Bunn Plantation to see the impact that would occur. Toby Hampson said that was a possibility if the public hearing were left open until the Board could go visit the site but the decision made by the Board must be based on evidence that was addressed at a public hearing. Exparte information that came from a site visit that was not raised during the public hearing would be a problem. Mayor Matheny said that there could be no exparte communication.

Charles Walker said they would not stub streets pointed at Mr. Hendrickson's property and they would be public. The venue that was next to the pond was approximately 500' from the common property line and the home was approximately 1200' from the property line. A buffer of 15' would be sufficient. The Greenway Master Plan had input from NCDOT about putting a culvert

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under and one million dollars was the number provided by the Town. Barrington subdivision was accepting more of the greenway on their property than the master plan called for. There were several ways to sewer the entire project and the use of a gravity line feed would be possible. A force main would be available immediately and the future needs had not been addressed at the current time. If a sewer easement was needed to go across that property it could be addressed at that time. However, he did state that there were other ways to serve that property.

Mayor Matheny asked about the setbacks. Charles Walker said that there would be a setback around the perimeter of the property and then the buildings built off of that. Mayor Matheny asked if there was a 30' buffer around the entire perimeter. Charles Walker said that on Old Bunn and Parks Village it was 30' and on the perimeter on 64 and 264 it was 50' and everywhere else it was 15'. Mayor Matheny asked if he understood that the buildings and parking lots and driveways would be no less than 30'. Charles Walker stated that was a combination of building setback and buffers not just a buffer measurement.

Mayor Matheny stated that the documents provided by the applicant were confusing due to the fact one section stated 30' from the boundary and under townhomes it says that it is another 30', and asked did that mean a total of 60'. Charles Walker stated no that was not correct it was a total of 30'.

Tom Hendrickson stated that what he was hearing was along the adjoining property line it would be 30' and if he had trees on his property they would not be planting any additional trees for a buffer. He explained that they were trying to protect the view shed and again stated that there were proposals to trade or purchase property from the developer to do just that. Mr. Hendrickson stated that there was a gazebo that was 200' from the property line and a space had been cleared for placement of the Calvary Methodist Church which was approximately 15' from the property line. A sound buffer between the Bennett Bunn Plantation and the residents was also part of the reason for trying to acquire the additional buffer. The goal and preference was to work it out with the developer. Finally, Tom asked why would there need to be a buffer on Old Bunn Road but not at the adjoining property line.

Sam Hayes asked what the Planning Boards purview was for what was being presented and how to review and make decisions since some of the properties were in the county and some were in the Town. Toby Hampson stated that broad answer was to review the evidence as it relates to the special use permit and the Zebulon town limits, but it would have impact on neighboring properties. The decision had to be based on the evidence and expert testimony only. Tom Hendrickson said that one of the standards for review was the impact to adjoining properties whether in the county or in the Town and thought there would be a comprehensive planning process to occur prior to annexation and that did not occur.

Sam Hayes asked if the annexation was voluntary. Staff stated that was correct.

Charles Walker stated it was a voluntary annexation and become a part of the Town corporate limits at that time. The area that was part of the project and part of the comprehensive plan that

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was in the corporate limits was medium density. When the property was annexed it adopted the same designation as the comprehensive plan had for the other property which was R-20. Charles Walker explained that the property that Tom Hendrickson wanted to swap with the developer was partially in the flood plain and had a riparian buffer when made the available land for development was 14-15 acres and not the entire 27 acres. The buffer needed for the church was not their concern and had no problem locating it in that location.

Kim Bunn wanted to know why as long standing residents her property and that of Tom Hendrickson's was not being considered during the process and the developer was getting everything that they wanted.

Mayor Matheny asked if there was any new information to be considered. There were none.

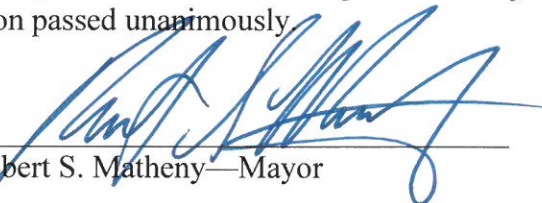
Mayor Matheny gave his final statements explaining that only evidentiary information could be considered. Mayor Matheny asked the attorney if personal investigation, by a Board member, could be considered when making their decision, or based solely on substantiated evidence presented at the public hearing. Toby Hampson stated that once the public hearing was closed that would be an impermissible basis to make a decision due to the fact it would be considered exparte communication.

Mayor Matheny asked if there were any Board comments. There were none.

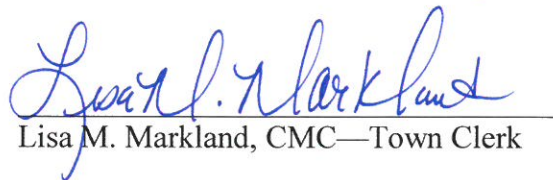
The public hearing was closed and the matter was referred to the Planning Board for their recommendation.

Commissioner Beck made a motion, second by Commissioner Bumgarner to adjourn the meeting. There was no discussion but the motion passed unanimously.

2/16/17
Date


Robert S. Matheny—Mayor




Lisa M. Markland, CMC—Town Clerk