

Here is the story....

Sale and Annexation by Yemassee

In 2005, two speculators purchased Binden Plantation from the Hollingsworth Fund, a foundation established to benefit Furman University, for \$22.5 million. Typical of the highly-leveraged real estate market of the time, they put \$500,000 down and the Fund extended a loan for \$22 million.

In April 2006, in order to escape the more restrictive zoning in Beaufort County, the new owners annexed Binden into the Town of Yemassee, which was two miles away from the property. They deployed a ten-foot wide, two-mile long “notional corridor” across an adjoining plantation to comply with the state law requiring that the annexed property be adjacent to the boundary of the annexing municipality.



Upon annexation, Yemassee approved 1,300 houses and 450,000 square feet of commercial space. CCL immediately challenged the legality of the annexation, the zoning of the property and the wisdom of high density residential development in this sensitive area.



CCL filed notice of a challenge to the development plans and the annexation, bringing suit in circuit court against both the Town and the developer. CCL was joined by two neighboring property owners and a town resident, alleging that the annexation and development violated state law. The Town responded by filing a motion for summary judgment, asserting that CCL lacked standing.

The judge who presided over the circuit court hearing conducted a lengthy hearing on the motion, ultimately taking it under advisement. Attorney General Henry McMaster then intervened, at the request of CCL, and while he was deemed to have standing, his appeal was determined to have been filed too late, and was dismissed. The judge held a second hearing, following McMaster’s intervention, and granted the Town’s motions, dismissing the case.

All of the plaintiffs in the suit filed briefs in the Court of Appeals. The State Supreme Court then reviewed the case, and decided to take it on directly.

The Supreme Court then held oral arguments on the appeals of CCL and Attorney General McMaster. The Court upheld the lower court ruling, but agreed with CCL’s claim that all property owners must approve of the annexation in order for it to move forward.

One of the Justices called the annexation void on its face, but the merits of the annexation case were never heard because of the standing ruling. Though the merits were never heard, the lengthy court proceedings created an opportunity for CCL, and highlighted the need to reform state annexation laws.

Zoning Lawsuit

In 2006, CCL filed a legal challenge to the zoning of Binden Plantation, with the owners of the adjoining Oak Grove Plantation as plaintiffs. The suit argued that the town had failed to follow the necessary procedures for rezoning and that the development agreement was flawed. The town challenged our standing to sue but their appeal was dismissed. The suit was put on hold pending decisions on the annexation case.



Public Sewer and Water Lines

As is often the case with coastal properties, intensive development of Binden would not have been possible on septic tanks. Public sewer and water lines were a necessity. The developer approached the Beaufort/Jasper Water and Sewer Authority to provide service. In spite of the fact that the property was beyond Beaufort County's "urban service boundary," and therefore ineligible for sewer service, the Authority signed a contract with the developer.

CCL prepared to challenge the sewer and water line extension. Approval required an amendment to the regional water and sewer plan, which was referred to as "208" (pursuant to section 208 of the Clean Water Act). We argued that because the 208 plan must be consistent with the county's comprehensive plan, the amendment should not be allowed. Over the next few years we worked to insure that the County Council did not attempt to change Binden's rural designation.

Fortunately, a legal challenge to the 208 amendment was unnecessary. The developers, increasingly financially strapped after potential sales to national developers evaporated, failed to make the required payments to the water authority.

Infrastructure 401/ Drystack Marina Challenge

In 2007, the developers applied for a 401 Water Quality Certification from the SC Department of Health and Environmental Control (SCDHEC). They sought approval to fill wetlands for road construction and development, facilitating construction of houses, docks and a large dry stack marina on the Pocotaligo. Regulations governing section 401 permits require SCDHEC to consider the impacts of the entire project. In spite of that, and ignoring abundant evidence of the deleterious effects of marinas on oyster beds and salt marsh, SCDHEC granted the permit. CCL immediately appealed and the dry stack marina plans were put on hold pending the resolution of our challenge.

Heirs' Property

At the heart of Binden lie 31 acres of heirs' property, owned by 28 family members. CCL staff members initiated discussions with the family to see if they were interested in keeping their land. While a number of members hoped to hold on to the property, others preferred to sell.

We explored the possibility of purchasing an interest in the land, or buying the entire 31 acres. While we subsequently abandoned this approach, the discussion provided an important insight into the history of the property and the challenges the developer faced consolidating the ownership.

Historically Significant Properties

In June of 2008, CCL was approached by an archeologist and historian with new and compelling evidence that a major historical site exists on a portion of Binden. Equipped with this new information, we worked with the archeologist and the State Historic Preservation Office to re-evaluate the property's historical significance.

Yemassee Planning

Yemassee's motive for annexing Binden was to increase their tax base. While that proved illusory, we acknowledged the legitimate interest the town had in improving its status. We endeavored to convince them that they would be more successful by enhancing their existing assets, like their town hall and historic railroad depot.

Working with the ACE Basin Task Force, CCL funded and crafted a Master Plan for Yemassee that focuses on the town's location near the ACE Basin and its proximity to I-95 and Point South. This plan was recently adopted by the Yemassee Town Council. It sets growth boundaries, identifies viable commercial annexation opportunities and provides a revitalization plan for downtown Yemassee.

When the annexation is reversed, the Town of Yemassee and all of Northern Beaufort County will be equipped to grow in an environmentally and fiscally responsible manner. One outcome of this effort has been the formation of the Yemassee Revitalization Corporation (YRC). The YRC is made up of citizens of the area committed to restoring and beautifying downtown Yemassee in cooperation with the town. Among their projects has been the renovation of the CSX train station which is nearing completion.