

REQUEST FOR CITY COUNCIL CONSIDERATION

Meeting Date: January 4, 2021

Agenda Item: 5F	Prepared by: L. Suzanne Pritchard, PLA, AICP
Agenda Section: Consent: Ordinance. Second Reading	Date: December 2, 2020
Subject: Petition for annexation and zoning designation for 0.36 Acres on Cenith Drive	Division: Planning & Development

Background:

The subject parcel was pre-annexed by resolution at the April 4, 2020, City Council meeting. As a condition for connecting to the City’s water and sewer system, the applicant agreed to pursue annexation once contiguous to the City’s corporate boundary. This condition was satisfied with the recently approved annexation of the Chestnut Greens PDD, and city staff began the process to annex lands on Cenith Drive totaling approximately 0.36 acres and identified by PIN 357-02-04-0056. The petition also reflects the requested City of North Myrtle Beach zoning district of Single-Family Residential Low-Density (R-1). The subject area is identified as Residential Suburban on the Future Land Use Map; the proposed zoning designation, R-1, is a recommended zoning district for the subject area.

Existing Conditions:

The subject property area is contiguous to the corporate boundary of the City of North Myrtle Beach and is zoned Single-Family Residential 14.5 (SF 14.5) under Horry County jurisdiction. Located on Cenith Drive, the parcel is currently a single-family residence. Surrounding parcels within City limits are zoned under the recently annexed Chestnut Greens Planned Development District (PDD); adjacent unincorporated county parcels are zoned CFA and Single-Family Residential 14.5 (SF 14.5). Upon annexation, the parcel would be designated R-1 as per Exhibit A: Zoning Map (Z-20-18), prepared by the City of North Myrtle Beach Planning & Development Department depicting the annexation boundary. A proposed ordinance has been attached for Council’s review.

Planning Commission Action:

The Planning Commission conducted a public hearing on November 17th and voted unanimously to recommend approval of the annexation and zoning designation, citing a, where necessary to implement the comprehensive plan. There was no public comment.

Recommended Action:

Approve the proposed ordinance on second reading

Reviewed by Division Head	Reviewed by City Manager	Reviewed by City Attorney
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Council Action:
Motion By _____ 2nd By _____ To _____

ORDINANCE

**AN ORDINANCE OF THE CITY OF NORTH MYRTLE BEACH
ANNEXING 0.36 ACRES IDENTIFIED AS PIN 357-02-04-0056.**

WHEREAS, the property owner has entered into a pre-annexation agreement with the City of North Myrtle Beach through restrictive deed covenant until such time as it becomes contiguous, the 0.36 acres consisting of the following parcel PIN 357-02-04-0056 as referenced on Exhibit A: Zoning Map (Z-20-18), prepared by the City of North Myrtle Beach Planning & Development Department depicting the annexation boundary, which is attached hereto and incorporated herein by reference; and

WHEREAS, the referenced property is now contiguous; and

WHEREAS, the North Myrtle Beach Planning Commission has provided the required public notice of this request and has held all necessary public hearings in accordance with applicable State Statutes and City Ordinances; and

WHEREAS, the City Council has received a report from the Planning Commission recommending the subject property be zoned Single-Family Residential Low-Density (R-1) upon annexation; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of North Myrtle Beach, South Carolina, in Council duly assembled:

Section 1. Annexation. That parcel identified by PIN 357-02-04-0056 (the “Annexed Parcel”), consisting of approximately 0.36 acres and depicted on Exhibit A, and all contiguous portions of all public rights-of-way, streets, and highways are hereby annexed pursuant to Sections 5-3-150 and 5-3-240 of the Code of Laws of South Carolina, 1976, as amended.

Section 2. Zoning Designation. The Annexed Parcels are hereby designated and zoned as Single-Family Residential Low-Density (R-1).

DONE, RATIFIED AND PASSED, THIS _____ DAY OF _____, 2021.

ATTEST:

Mayor Marilyn Hatley

City Clerk

APPROVED AS TO FORM:

City Attorney

REVIEWED:

City Manager

FIRST READING: 12-7-2020
SECOND READING: 1-4-2021

ORDINANCE: 20-40

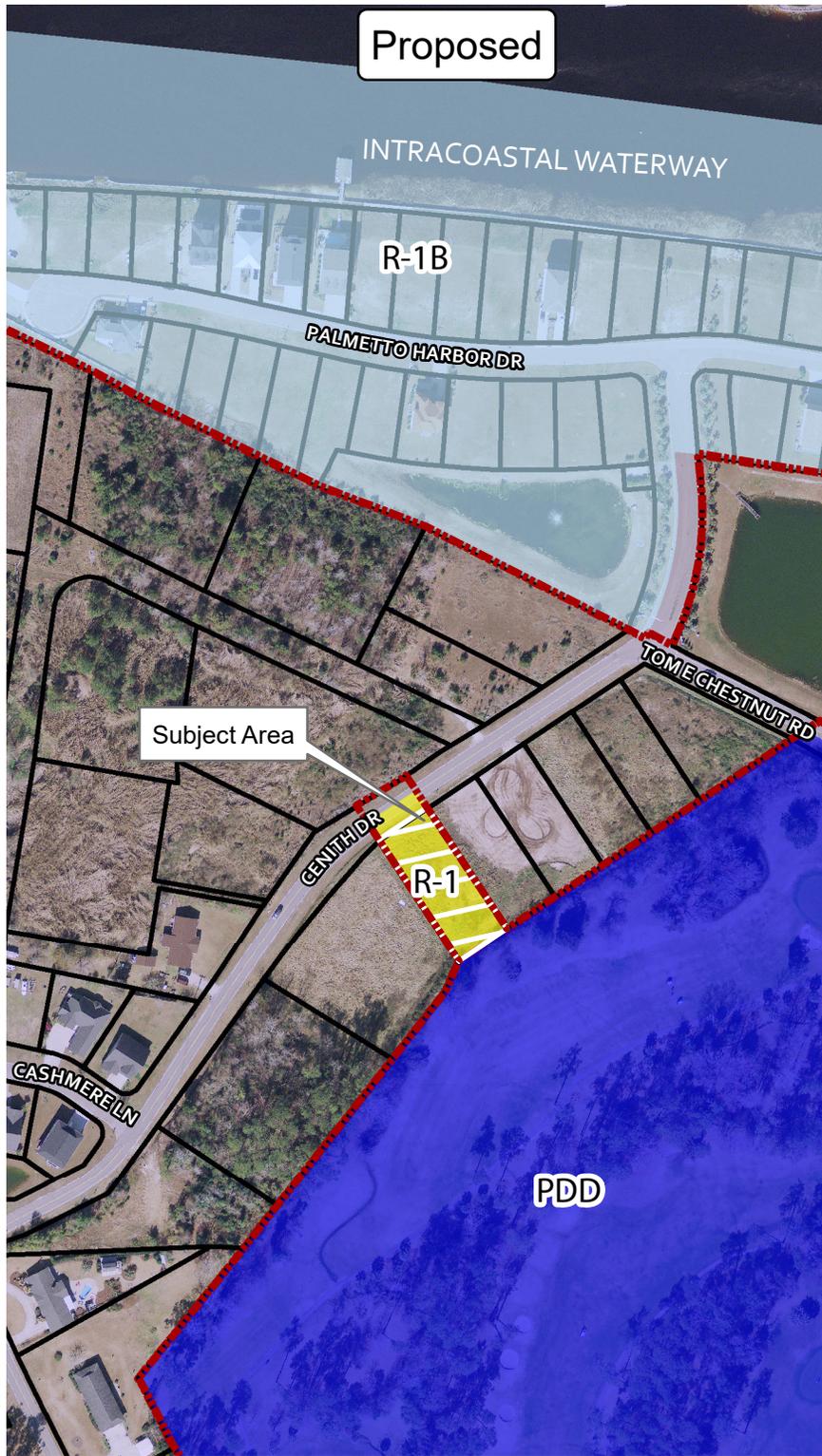
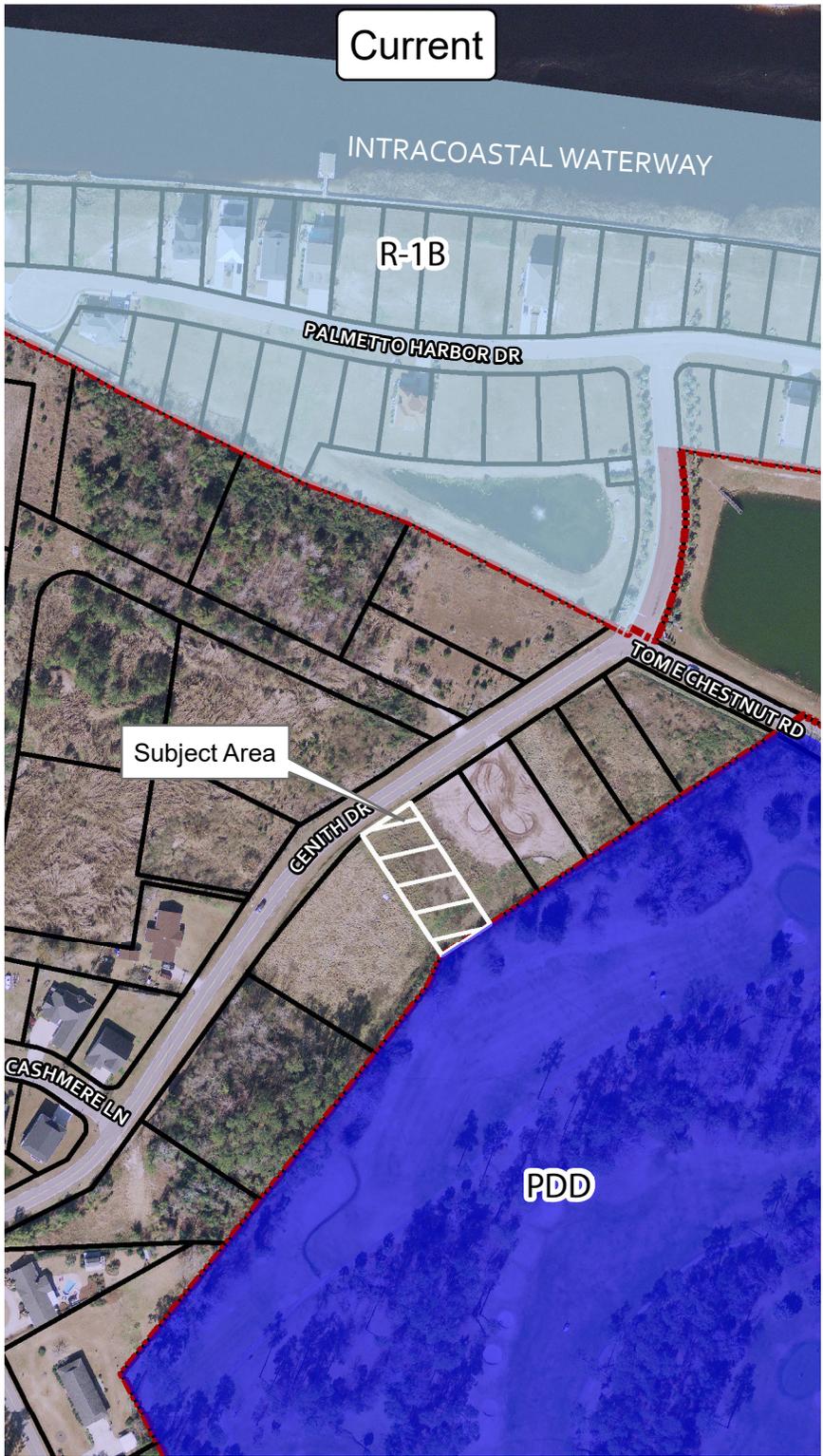


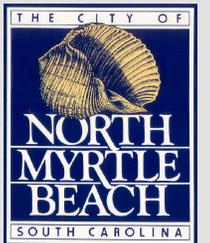
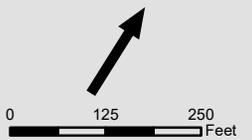
Exhibit A: Zoning Map Z-20-18

Legend

-  NMB City Limits
-  Subject Area

ZONING

-  PDD
-  R-1
-  R-1B



7E. ANNEXATION & ZONING DESIGNATION Z-20-18: Pursuant to a recorded pre-annexation agreement, City staff has begun the process to annex lands on Cenith Drive totaling approximately 0.36 acres and identified by PIN 357-02-04-0056. The lot is currently unincorporated and zoned Single-Family Residential 14.5 (SF14.5) by Horry County. The petition also reflects the requested City of North Myrtle Beach zoning district of Single-Family Residential Low-Density (R-1) and will be heard concurrently.

Background:

The subject parcel was pre-annexed by resolution at the April 4, 2020, City Council meeting. As a condition for connecting to the City's water and sewer system, the applicant agreed to pursue annexation once contiguous to the City's corporate boundary; this condition was satisfied with the recently approved annexation of the Chestnut Greens PDD.

Existing Conditions and Surrounding Land Uses:

The subject property area is contiguous to the corporate boundary of the City of North Myrtle Beach and is zoned Single-Family Residential 14.5 (SF 14.5) under Horry County jurisdiction. Located on Cenith Drive, the parcel is currently a single-family residence. Surrounding parcels within City limits are zoned under the recently annexed Chestnut Greens Planned Development District (PDD); adjacent unincorporated county parcels are zoned CFA and Single-Family Residential 14.5 (SF 14.5).

Planning Commission Action:

As per the Zoning Ordinance Section 23-4, *Amendments*, the Planning Commission shall prepare a report and make recommendations on any proposed amendment to the North Myrtle Beach Zoning Ordinance, including the Zoning Map, stating its findings and its evaluation of the request. In making its report, the Commission shall consider the following factors:

- a) The relationship of the request to the Comprehensive Plan:

The Future Land Use map contained in the 2018 Comprehensive Plan recommends Residential Suburban as a land use class for the subject area. The principal permitted uses noted in the compliance index include primarily single-family lots, small farms and farm related uses such as produce stands, and mobile homes on individual lots. The recommended primary zoning district is R-1; R-1A and R-1B are the secondary zoning district alternatives.

The proposed zoning designation, R-1, is the primary recommended zoning district within the Compliance Index for the subject property.

- b) Whether the request violates or supports the Plan:

Chapter 5, "The Way We Grow," of the 2018 Comprehensive Plan identifies the Residential Suburban future land use classification as follows: The purpose of this classification is to define, protect, and provide low density, single-family detached housing areas where designated, and to prohibit any development that would compromise existing residential characteristics. In addition, these areas are intended to provide for in-fill and expansion of existing neighborhoods and subdivisions. Standards and densities for these areas are designated to reflect existing conditions. This area is also intended to allow incorporation of property west of the waterway at densities typical of inland development. Primarily single-family lots, small farms and farm related uses such as produce stands, and mobile homes on individual lots, excluding large mobile home parks, are compatible uses here. This category allows up to five dwelling units per acre (du/acre).

The proposed R-1 zoning district is consistent with the Residential Suburban land use classification found in the *2018 Comprehensive Plan*.

- c) Whether the uses permitted by the proposed change would be appropriate in the area concerned:

The purpose of the R-1 zoning district is, "To preserve and protect the character of existing neighborhoods and subdivisions, and to prohibit any uses which would compromise or alter existing conditions and uses. Also, these districts are intended to encourage residential infilling and expansion of existing neighborhoods and subdivisions. Development land uses permitted in each are designed to reflect existing conditions and enhance the prospects of 'lie development.'"

The uses permitted in the R-1 district would be appropriate in the area.

- d) Whether adequate public-school facilities, roads and other public services exist or can be provided to serve the needs of the development likely to take place as a result of such change, and the consequence of such change:

Current public rights-of-way serve this area via Cenith Drive.

- e) Whether the proposed change is in accord with any existing or proposed plans for providing public water supply and sanitary sewer to the area:

The property is currently served by City water and sewer.

As a matter of policy, no request to change the text of the ordinance or the map shall be acted upon favorably, except:

- (a) Where necessary to implement the comprehensive plan, or
- (b) To correct an original mistake or manifest error in the regulations or map, or
- (c) To recognize substantial change or changing conditions or circumstances in a particular locality, or
- (d) To recognize changes in technology, the style of living, or manner of doing business.

This petition for annexation and zoning designation is presented to the Planning Commission for a recommendation that will be forwarded to City Council at their next meeting scheduled for December 7, 2020. Should the Planning Commission desire to forward a positive recommendation to City Council, one of the aforementioned reasons should be included in the report.

Staff Review:

Planning and Development, Planning Division

The Planning Division has no issue with the proposed petition for annexation and zoning.

Planning and Development, Zoning Division

The Zoning Administrator has no issue with the proposed petition for annexation and zoning.

Public Works

The City Engineer has no issue with the proposed petition for annexation and zoning.

Public Safety

The Fire Marshall has no issue with the proposed petition for annexation and zoning.

Legal

The City Attorney has no issue with the proposed petition for annexation and zoning.

Planning Commission Action

The Planning Commission may recommend approval, recommend approval with modifications and/or conditions; or recommend denial of the proposal, as submitted.

Alternative Motions

- 1) I move that the Planning Commission recommend approval of the annexation and zoning petition [Z-20-18] as submitted.

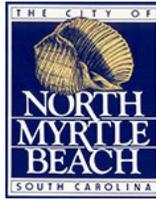
OR

- 2) I move that the Planning Commission recommend denial of the annexation and zoning petition [Z-20-18] as submitted.

OR

- 3) I move (an alternate motion).

FILE NUMBER:	Z-20-18
Complete Submittal Date:	October 23, 2020



Notice Published:	October 29, 2020
Planning Commission:	November 17, 2020
First Reading:	December 7, 2020
Second Reading:	January 4, 2021

City of North Myrtle Beach, SC

Petition for Annexation & Zoning

GENERAL INFORMATION

Date of Request: October 23, 2020	Property PIN(S): 35702040056
Property Owner(s): WATERFALL INVESTMENT & CONSTRUCTION	Type of Zoning Map Amendment: Petition for Annexation and Zoning
Address or Location: 1763 Cenith Dr	Project Contact: Suzanne Pritchard
Contact Phone Number: 8434571424	Contact Email Address: dbrown1264@yahoo.com
Current County Zoning: SF14.5	Proposed Zoning: R-1
Total Area of Property: .36 Acres	Approximate Population of Area to be Annexed: 0

RECORDED COVENANT INFORMATION

I hereby certify that the tract(s) or parcel(s) of land to which this approval request pertains is not restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the activity for which approval is sought, as provided in South Carolina Code of Laws (§ 6-29-1145).

Applicant's E-signature: Suzanne Pritchard

This form complies with a state law that took effect on July 1, 2007 (S.C. Code § 6-29-1145) that requires all planning agencies to inquire in an application for a permit if the parcel of land is restricted by a recorded covenant that is contrary to, conflicts with, or prohibits the permitted activity. If such a covenant exists, the agency shall not issue the permit until written confirmation of its release is received. The release must be through the action of an appropriate legal authority.

Tax Map #: 143-12-01-011/PIN 35702040002
Grantee Address: 288 Waterfall Circle
Little River, SC 29566

TOGETHER WITH all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said **WATERFALL INVESTMENT & CONSTRUCTION GROUP, LLC**, its successors and assigns, forever, in fee simple, together with every contingent remainder and right of reversion.

AND Grantor does hereby bind her heirs and assigns, to warrant and forever defend all and singular the said premises unto the said **WATERFALL INVESTMENT & CONSTRUCTION GROUP, LLC**, its successors and assigns, forever, in fee simple, together with every contingent remainder and right of reversion against my heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

STATE OF SOUTH CAROLINA)
) AFFIDAVIT
COUNTY OF HORRY)

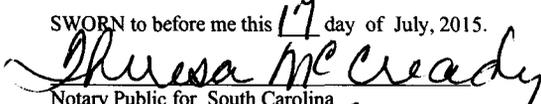
PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.
2. The property being transferred is located in Horry County and known as Lot K Cenith Drive, North Myrtle Beach, , bearing tax map number 143-12-01-011 was transferred by Gwenlo Ferrell Gore to Waterfall Investment & Construction Group, LLC by deed dated July 17, 2015.
3. Check one of the following: The deed is
 - (a) subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
 - (b) subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
 - (c) exempt from the deed recording fee because (See Information section of affidavit):

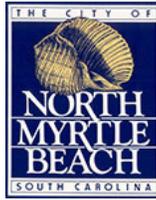
(If exempt, please skip items 4-7, and go to item 8 of this affidavit)
4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit):
 - (a) The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of **\$100,000.00**
 - (b) The fee is computed on the fair market value of the realty which is _____.
 - (c) The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.
5. Check Yes or No to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is: \$ _____.
6. The deed recording fee is computed as follows:
 - (a) Place the amount listed in item 4 above here: **\$ 100,000.00**
 - (b) Place the amount listed in item 5 above here: **0**
 - (c) Subtract Line 6(b) from Line 6(a) and place result here: **\$ 100,000.00**
7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: **\$370.00**
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Seller.
9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.


GWENLO FERRELL GORE

SWORN to before me this 17 day of July, 2015.


Notary Public for South Carolina
My Commission Expires: 5-19-2015

FILE NUMBER:	Z-20-7
Complete Submittal Date:	TBD when Contiguous



Notice Published:	TBD when Contiguous
Planning Commission:	TBD when Contiguous
First Reading:	TBD when Contiguous
Second Reading:	TBD when Contiguous

City of North Myrtle Beach, SC

Petition for Annexation & Zoning (Pre-Annexation)

GENERAL INFORMATION

Date of Request: 03/16/2020	Property PIN(S): 35702040055 and 35702040056
Property Owner(s): David A. Brown	Type of Zoning Map Amendment: Pre-Annexation Request
Address or Location: 305 39th Avenue North	Project Contact: David Brown
Contact Phone Number: 8434571424	Contact Email Address: dbrown1264@yahoo.com
Current County Zoning: sf 14.5	Proposed Zoning: R-1
Total Area of Property: .74 Acres	Approximate Population of Area to be Annexed: 0

RECORDED COVENANT INFORMATION

I hereby certify that the tract(s) or parcel(s) of land to which this approval request pertains is not restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the activity for which approval is sought, as provided in South Carolina Code of Laws (§ 6-29-1145).

Applicant's E-signature: David A. Brown

This form complies with a state law that took effect on July 1, 2007 (S.C. Code § 6-29-1145) that requires all planning agencies to inquire in an application for a permit if the parcel of land is restricted by a recorded covenant that is contrary to, conflicts with, or prohibits the permitted activity. If such a covenant exists, the agency shall not issue the permit until written confirmation of its release is received. The release must be through the action of an appropriate legal authority.

STATE OF SOUTH CAROLINA

RESTRICTIVE COVENANTS

COUNTY OF HORRY

KNOW ALL MEN BY THESE PRESENTS, that **WATERFALL INVESTMENT & CONSTRUCTION GROUP, LLC**, seeks permission to connect to the water and/or sewer system of the City of North Myrtle Beach. The Grantor owns that certain piece, parcel, or tract of land situate, lying and being Lot # K-3 within the Belle Edge Property subdivision, containing 0.73 acres outside of the City of North Myrtle Beach corporate limits, which property being conveyed to the Grantor by Deed of Record in Plat Book 275 at Page 304. Said property being conveyed to the Grantor by Deed of Record in Deed Book 3837 at Page 709, in the office of the Register of Deeds for Horry County.

PIN 357-02-04-0056

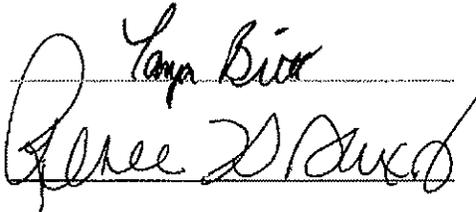
It is understood and agreed that as a condition for connecting to the water and/or sewer system, the Grantor, by executing this Restrictive Covenant, is permitting for annexation of the above described property into the City of North Myrtle Beach. If and when the above described property becomes contiguous to the corporate limits of the City, then the above described property shall be considered for annexation by the City Council of the City of North Myrtle Beach. Final annexation of the above described property rests upon an affirmative vote of a majority of the governing body of the City of North Myrtle Beach.

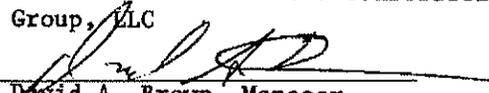
It is further understood and agreed that should the Grantor, its successors and assigns, withdraw this Restrictive Covenant, the City of North Myrtle Beach may immediately stop providing water and/or sewer services to the above described property, as well as institute legal action for non-performance.

This covenant shall run the land. All rights, powers and privileges hereby granted to the City of North Myrtle Beach shall pass to its successors and assigns, and shall be binding upon Grantor its successors and assigns. It is hereby agreed that the conditions of this agreement, and this agreement itself, is a restrictive and covenant on the title to the within named property and binding upon the Grantor, its successors and assigns.

WITNESS the execution hereof, this 27th day of March, 2020.

Signed, Sealed and Delivered
In the presence of:


Renee H. Baxley

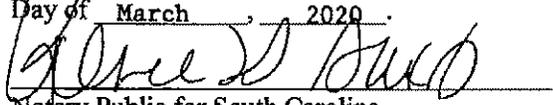
Waterfall Investment & Construction
Group, LLC

David A. Brown, Manager

STATE OF SOUTH CAROLINA

PROBATE

COUNTY OF HORRY

PERSONALLY appeared before me the undersigned witness, and made oath
David A. Brown, Manager of Waterfall Investment & Construction
that he or she saw the within named Group, LLC sign, seal and as his
or her act and deed in the case of private person, or as the corporate act and deed, in the event of
a corporation, and by its proper officers, deliver the within Restrictive Covenants, and the he or
she, with the other witness whose name is subscribed above witnessed the execution thereof.

Sworn to and subscribed before me this 27th
Day of March, 2020.

Notary Public for South Carolina
My Commission Expires: 12/18/27
Renee H. Baxley


Tanya Burt

**HORRY COUNTY REGISTER OF DEEDS
TRANSMITTAL SHEET**

**TO BE FILED WITH EACH INSTRUMENT PRESENTED ELECTRONICALLY FOR RECORDING.
HORRY COUNTY REGISTER OF DEEDS, 1301 SECOND AVENUE POST OFFICE BOX 470 , CONWAY ,
SOUTH CAROLINA 29526**

DOCUMENT TYPE OF INSTRUMENT BEING FILED: Restrictions

DATE OF INSTRUMENT: .

DOCUMENT SHALL BE RETURNED TO:

NAME: Wright, Worley, Pope, Ekster & Moss, PLLC

ADDRESS:

628A Sea Mountain Highway
North Myrtle Beach, SC 29582

TELEPHONE: (843) 281-9901

FAX: (843) 281-9901

E-MAIL ADDRESS: reneeboxley@wwpemlaw.com

Related Document

(s):

PURCHASE PRICE / MORTGAGE AMOUNT: \$.

BRIEF PROPERTY DESCRIPTION: Mortgage Satisfaction

TAX MAP NUMBER (TMS #), / PIN NUMBER: ,

GRANTOR / MORTGAGOR / OBLIGOR / MARKER (FROM WHO):

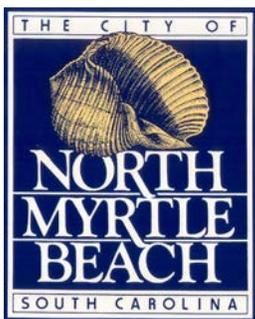
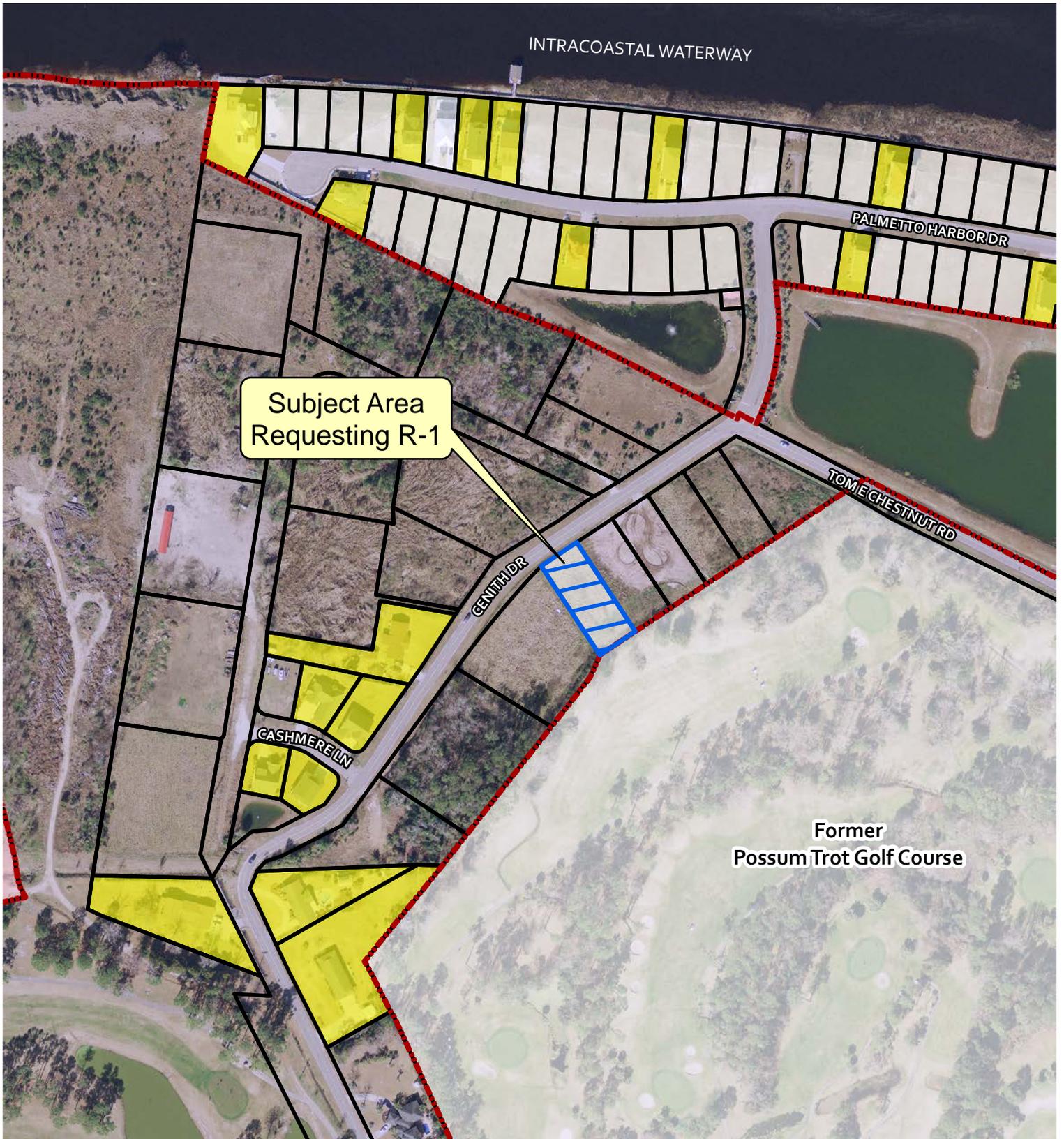
FULL BUSINESS NAME

1. WATERFALL INVESTMENT & CONSTRUCTION GROUP, LLC

GRANTEE / MORTGAGEE / OBLIGEE (TO WHO):

FULL BUSINESS NAME

1. CITY OF NORTH MYRTLE BEACH

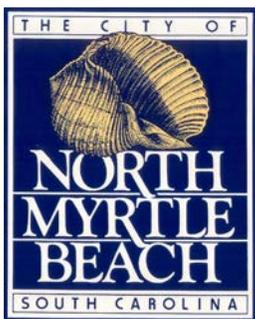
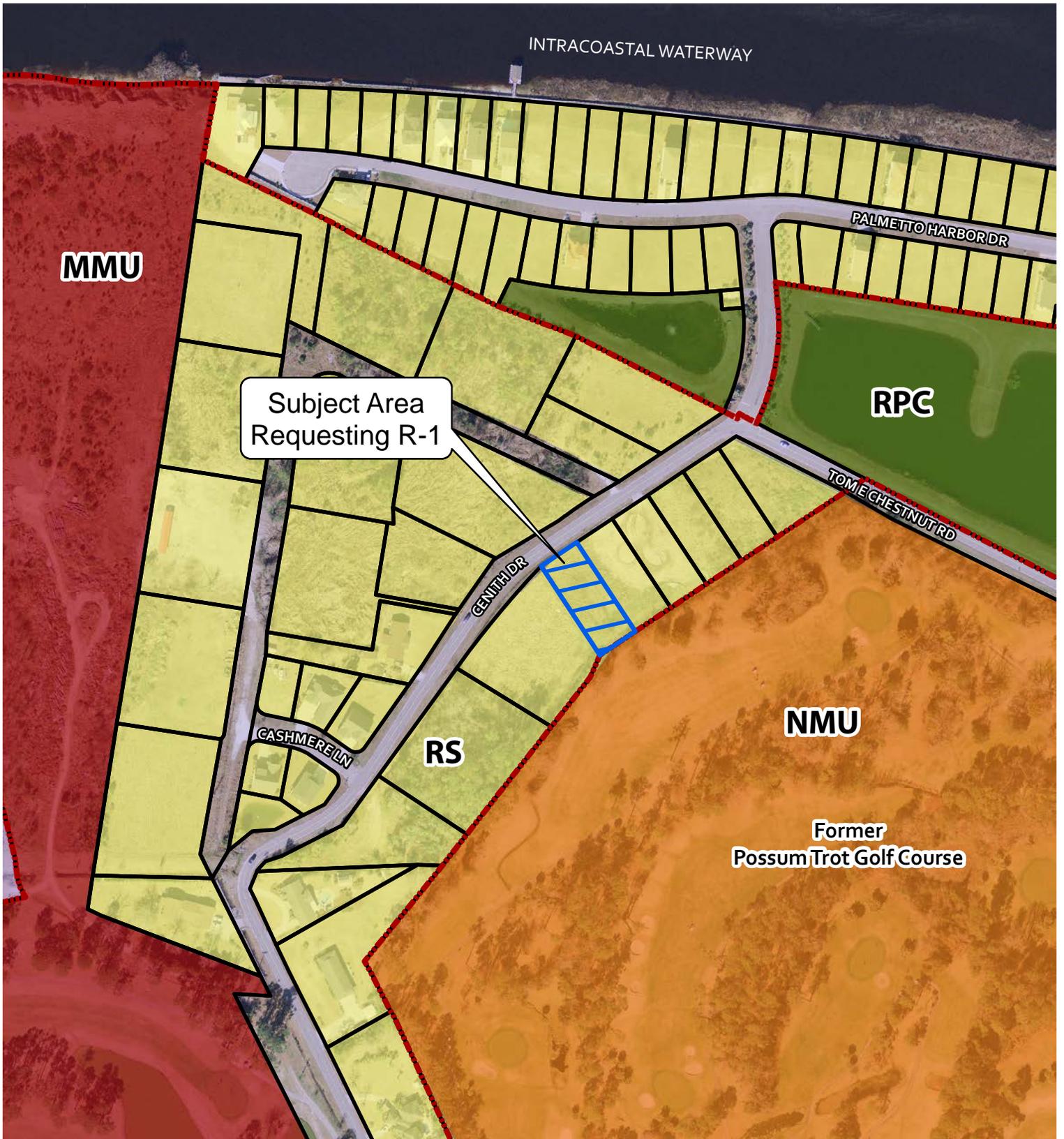


Legend

- Subject Area
- North Myrtle City Limits
- Public, Social, Cultural
- Single-Family
- Vacant



Existing Land Use (Z-20-18)



Legend

- Subject Area
- North Myrtle City Limits
- Recommended Future Land Use Categories**
- RPC - Resource, Protection, Conservation
- RS - Residential Suburban
- SP - Service / Production
- MU - Mixed Use
- NMU - Neighborhood Mixed Use



Future Land Use (Z-20-18)