

## **REQUEST FOR CITY COUNCIL CONSIDERATION**

Meeting Date: February 1, 2021

|                                                                                                        |                                                 |
|--------------------------------------------------------------------------------------------------------|-------------------------------------------------|
| Agenda Item: 7B                                                                                        | Prepared by:<br>L. Suzanne Pritchard, PLA, AICP |
| Agenda Section:<br>New Business: Ordinance. First Reading                                              | Date: January 27, 2021                          |
| Subject: Petition for annexation and zoning designation for 0.28 Acres on 1 <sup>st</sup> Avenue South | Division: Planning & Development                |

### **Background:**

Anton Cherney, property owner, has petitioned the City of North Myrtle Beach to annex approximately 0.28 acres of property located on 1<sup>st</sup> Avenue South identified by PIN 356-01-01-0016. 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 Neighborhood on the Future Land Use Map; the proposed zoning designation, R-1, best serves the goals of the plan given the transitional nature of this neighborhood.

### **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 10 (MSF10) under Horry County jurisdiction. Located on 1<sup>st</sup> Avenue South, the parcel is currently occupied by a garage. Surrounding parcels within City limits are zoned Mobile/Manufactured Home Residential (R-3); adjacent unincorporated county parcels are zoned Highway Commercial (HC) and MSF10. Upon annexation, the parcel would be designated R-1 as per Exhibit A: Zoning Map (Z-20-19), 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 January 5, 2021 and voted unanimously to recommend approval of the annexation and zoning designation, citing "c," to recognize substantial change or changing conditions or circumstances in a particular locality. There was no public comment.

### **Recommended Action:**

Approve the proposed ordinance on first reading

Reviewed by Division Head

Reviewed by City Manager

Reviewed by City Attorney

Council Action:

Motion By \_\_\_\_\_ 2<sup>nd</sup> By \_\_\_\_\_ To \_\_\_\_\_

## ORDINANCE

### AN ORDINANCE OF THE CITY OF NORTH MYRTLE BEACH ANNEXING 0.28 ACRES IDENTIFIED AS PIN 356-01-01-0016.

**WHEREAS**, Alton Cherney, property owner, has petitioned the City of North Myrtle Beach for annexation of 0.28 acres consisting of the following parcel PIN 356-01-01-0016 as referenced on Exhibit A: Zoning Map (Z-20-19), 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 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.

**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 356-01-01-0016 (the “Annexed Parcel”), consisting of approximately 0.28 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

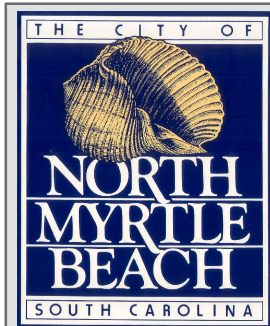
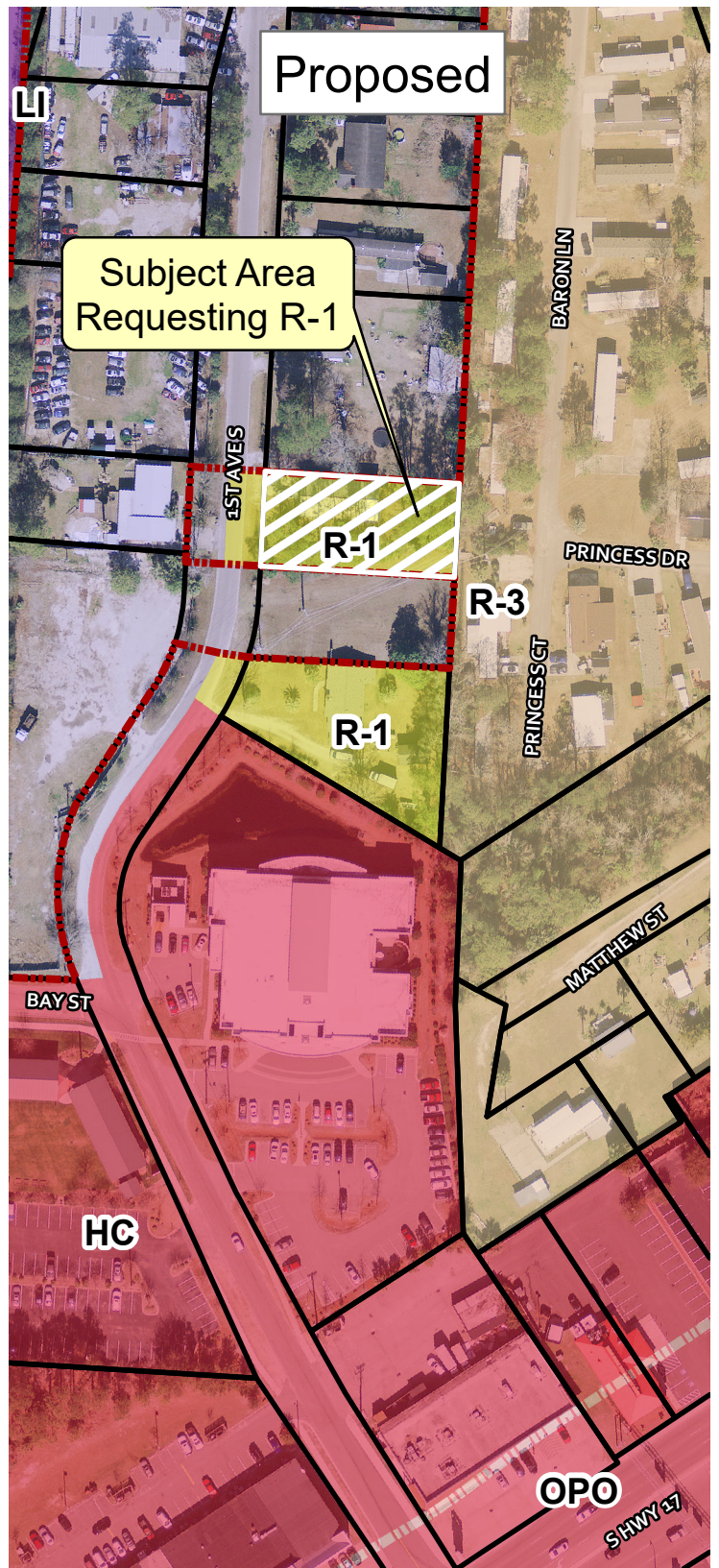
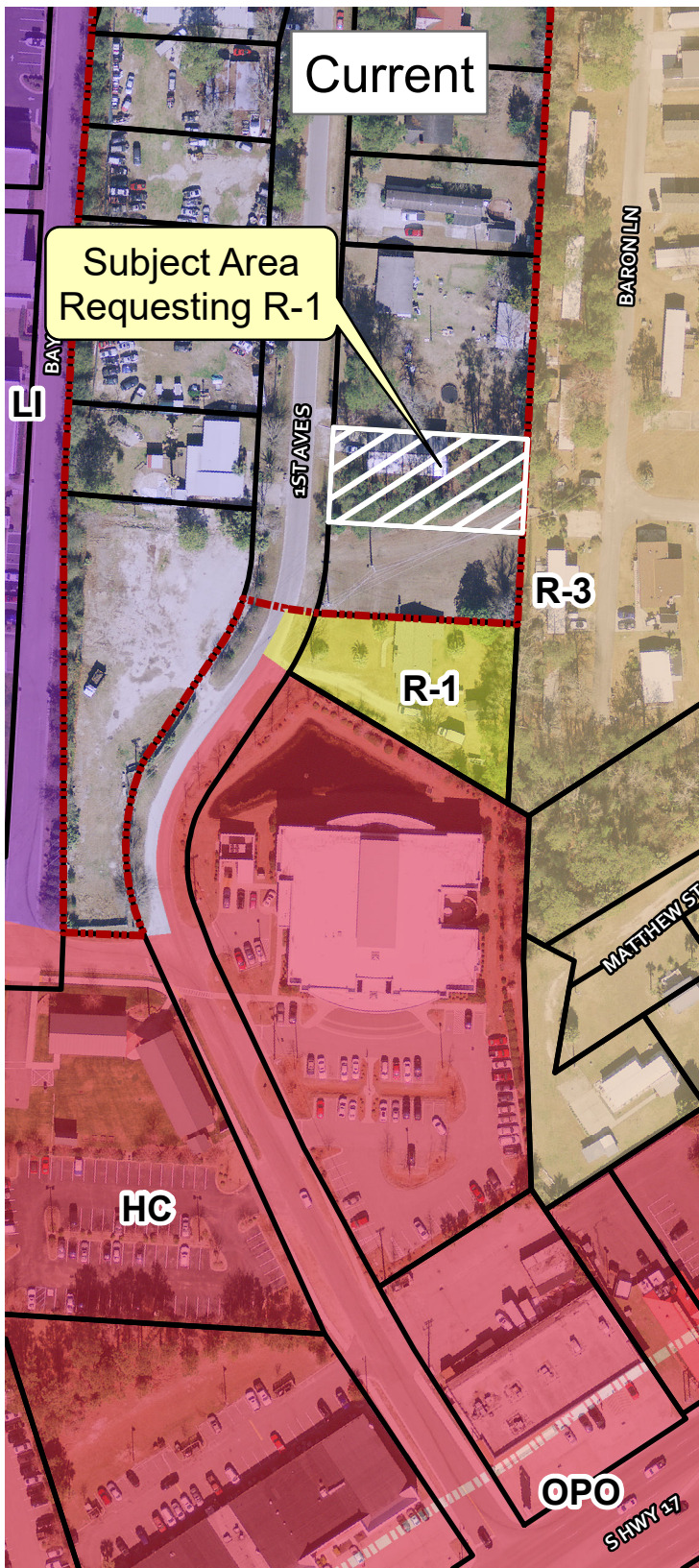
REVIEWED:

\_\_\_\_\_  
City Manager

FIRST READING: \_\_\_\_\_  
SECOND READING: \_\_\_\_\_

ORDINANCE: \_\_\_\_\_ 21-03





### Legend

-  Subject Area
-  North Myrtle City Limits

-  Zoning District LI
-  R-1
-  R-3
-  HC
-  OPO - Off-Premise Sign Overlay

-  LI
-  R-1
-  R-3

0 75 150 Feet



## Exhibit A: Zoning Map (Z-20-19)



**7A. ANNEXATION & ZONING DESIGNATION Z-20-19:** City staff has received a petition to annex lands on 1st Avenue South totaling approximately 0.28 acres and identified by PIN 356-01-01-0016. The lot is currently unincorporated and zoned Single-Family Residential 10 (MSF10) 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.

**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 10 (MSF10) under Horry County jurisdiction. Located on 1<sup>st</sup> Avenue South, the parcel is currently occupied by a garage. Surrounding parcels within City limits are zoned Mobile/Manufactured Home Residential (R-3); adjacent unincorporated county parcels are zoned Highway Commercial (HC) and MSF10.

**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 Neighborhood as the land use class for the subject area. The principal permitted uses noted in the compliance index include a mix of residential uses at medium densities (duplexes, townhomes, and patio homes), multi-family housing up to six stories, infill mixed-use development and neighborhood commercial uses. The recommended primary zoning districts are R-2, R-2A and R-3; R-2B and NC are the secondary zoning district alternatives.*

The proposed zoning designation, R-1, is not a primary or secondary 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 Neighborhood future land use classification as follows: This classification supports a mix of residential uses at medium densities, which includes mostly duplexes, townhouses, and patio homes, as well as, multi-family housing up to 6 stories. This designation could also allow infill mixed-use development and neighborhood commercial uses.*

The proposed R-1 zoning is inconsistent with the Residential Neighborhood land use classification found in the *2018 Comprehensive Plan* as its density is lower than the density shown in the plan. However, prior to adoption of the *2018 Comprehensive Plan*, a nearby lot on the same street was annexed into the City with R-1 zoning. This area is a transitional neighborhood.

- 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, especially regarding residential infill.

- 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 1<sup>st</sup> Avenue South.*

- 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:

*Water and sewer services are available to the parcel.*

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 February 1, 2021. 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-20-19] as submitted.  
OR
- 2) I move that the Planning Commission recommend denial of the annexation and zoning petition [Z-20-19] as submitted.  
OR
- 3) I move (an alternate motion).

|                          |                   |
|--------------------------|-------------------|
| FILE NUMBER:             | Z-20-19           |
| Complete Submittal Date: | November 30, 2020 |



|                      |                   |
|----------------------|-------------------|
| Notice Published:    | December 11, 2020 |
| Planning Commission: | January 5, 2021   |
| First Reading:       | February 1, 2021  |
| Second Reading:      | March 1, 2021     |

## City of North Myrtle Beach, SC

### Petition for Annexation & Zoning

| GENERAL INFORMATION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|
| Date of Request: November 30, 2020                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Property PIN(S): 144-06-03-017                                   |
| Property Owner(s): 46th Ave. LLC                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Type of Zoning Map Amendment: Petition for Annexation and Zoning |
| Address or Location: 1008 1st Ave. South, NMB, SC 29582                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Project Contact: alton cherney                                   |
| Contact Phone Number: 843 446 9605                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Contact Email Address: cherneymb@aol.com                         |
| Current County Zoning: R1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Proposed Zoning: R-1                                             |
| Total Area of Property: .27 Acres                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Approximate Population of Area to be Annexed: 0                  |
| RECORDED COVENANT INFORMATION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                  |
| <p>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).</p> <p><i>Applicant's E-signature: Alton G. Cherney</i></p>                                                                                                                                                         |                                                                  |
| <p>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.</p> |                                                                  |

46TH AVE NMB LLC LLC

Corporate Information

Entity Type: Limited Liability Company

Status: Good Standing

Domestic/Foreign: Domestic

Incorporated State: South Carolina

Important Dates

Effective Date: 01/17/2012

Expiration Date: N/A

Term End Date: N/A

Dissolved Date: N/A

Registered Agent

Agent: ALTON G. CHERNEY

Address: 609 11 TH AVE N  
N MYRTLE BEACH, South Carolina 29582

Official Documents On File

| Filing Type  | Filing Date |
|--------------|-------------|
| Organization | 01/17/2012  |

*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 HOLD all and singular the premises before mentioned unto the said Grantees, his or her heirs, successors and/or assigns, forever, in fee simple, together with every contingent remainder and right of reversion.

AND Grantors does hereby bind himself and his Heirs, Successors and/or Assigns, to warrant and forever defend all and singular the said premises unto the said Grantees, his or her heirs, successors and assigns forever, in fee simple, against themselves and their Heirs, Successors and/or Assigns, and all persons whomsoever lawfully claiming, or to claim the same or any part thereof.

WITNESS the execution hereof by Grantors this 3rd day of February in the year of our Lord two thousand and fourteen and in the two hundred thirty seventh year of the Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered

  
1<sup>st</sup> Witness

Willie L. Dixon Management Trust  
dated November 15, 2012

  
Donna L. Dixon, Trustee

  
2<sup>nd</sup> Witness (Notary)

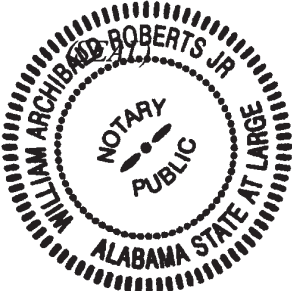
STATE OF ALABAMA )

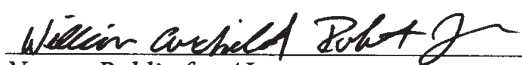
COUNTY OF Jefferson )

ACKNOWLEDGEMENT

I, William A. Roberts Jr., a Notary Public for Alabama, do hereby certify that the Grantors herein personally appeared before me, and acknowledged the execution of the foregoing instrument.

Witness my hand and official seal this 3rd day of February, 2014.



  
Notary Public for AL  
My Commission Expires: 12/06/17

STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY )

AFFIDAVIT

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 at , Lot 45 1st Ave. South, N Myrtle Beach, SC, bearing Horry County Tax Map Number 144-06-03-017 was transferred by Donna L. Dixon, Trustee of the Willie L. Dixon management Trust dated November 15, 2012 to 46th Ave NMB, LLC on 02/03/14.
3. Check one of the following: The deed is
  - (a)   X   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.

If exempt under exemption #14 as described in the information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes \_\_\_\_\_ or No \_\_\_\_\_

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)   X   The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$65,000.00.
- (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   X   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: \$65,000.00
- (b) Place the amount listed in item 5 above here: \$0  
(If no amount is listed, place zero here.)
- (c) Subtract line 6(b) from Line 6(a) and place result here: \$65,000.00

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$210.50

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as:  
~~GRANTED~~ Attorney

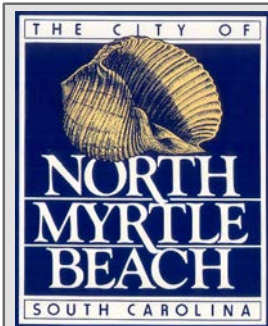
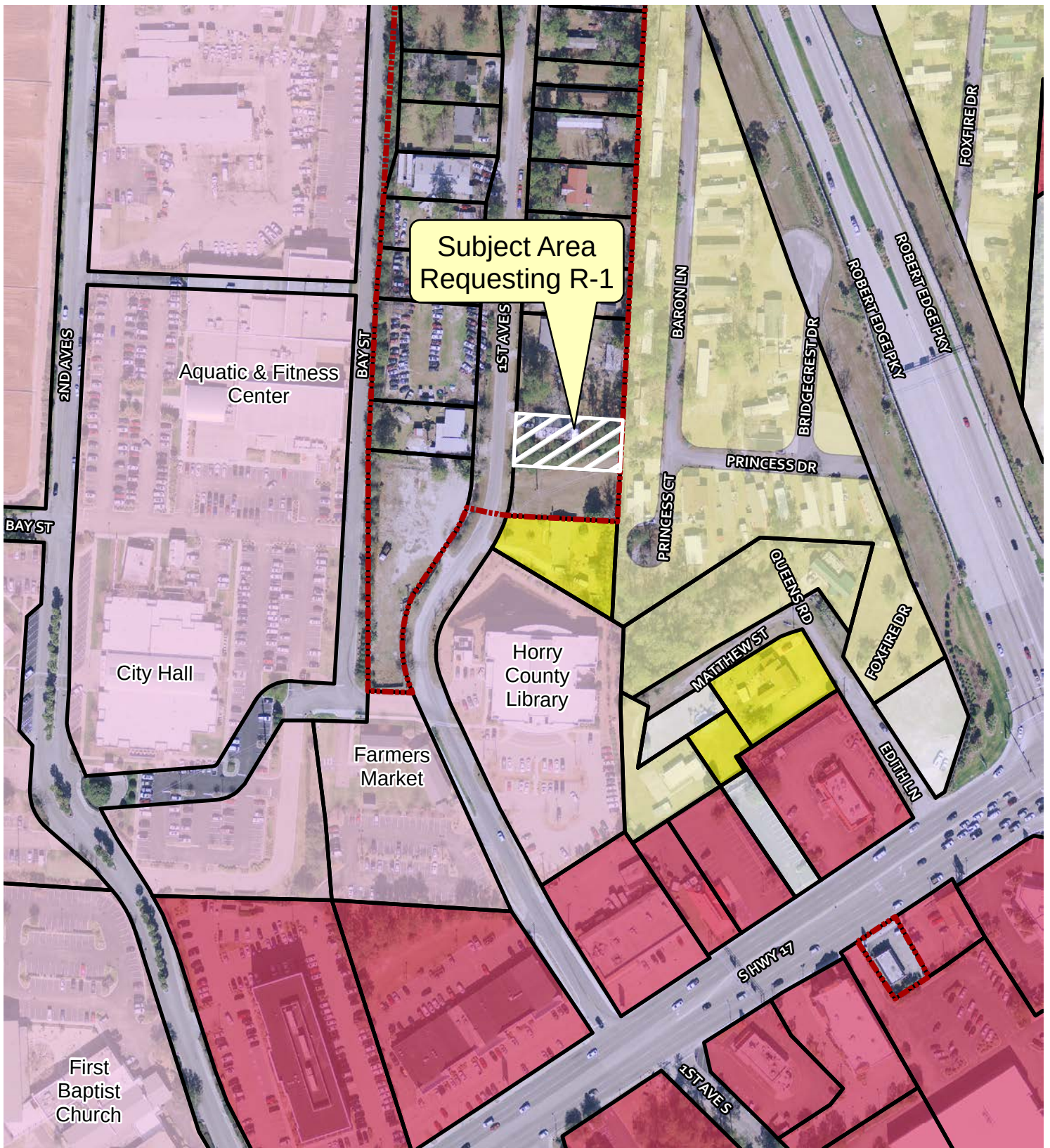
9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

SWORN to before me this  
3rd day of February, 2014

[Signature]  
Notary Public for SC  
My Commission Expires: 8/21/22

[Signature]  
Roger P. Roy, Jr., Attorney





### Legend

Subject Area

North Myrtle City Limits

#### Existing Land Use

Commercial

Mobile Home

Public, Social, Cultural

Single-Family

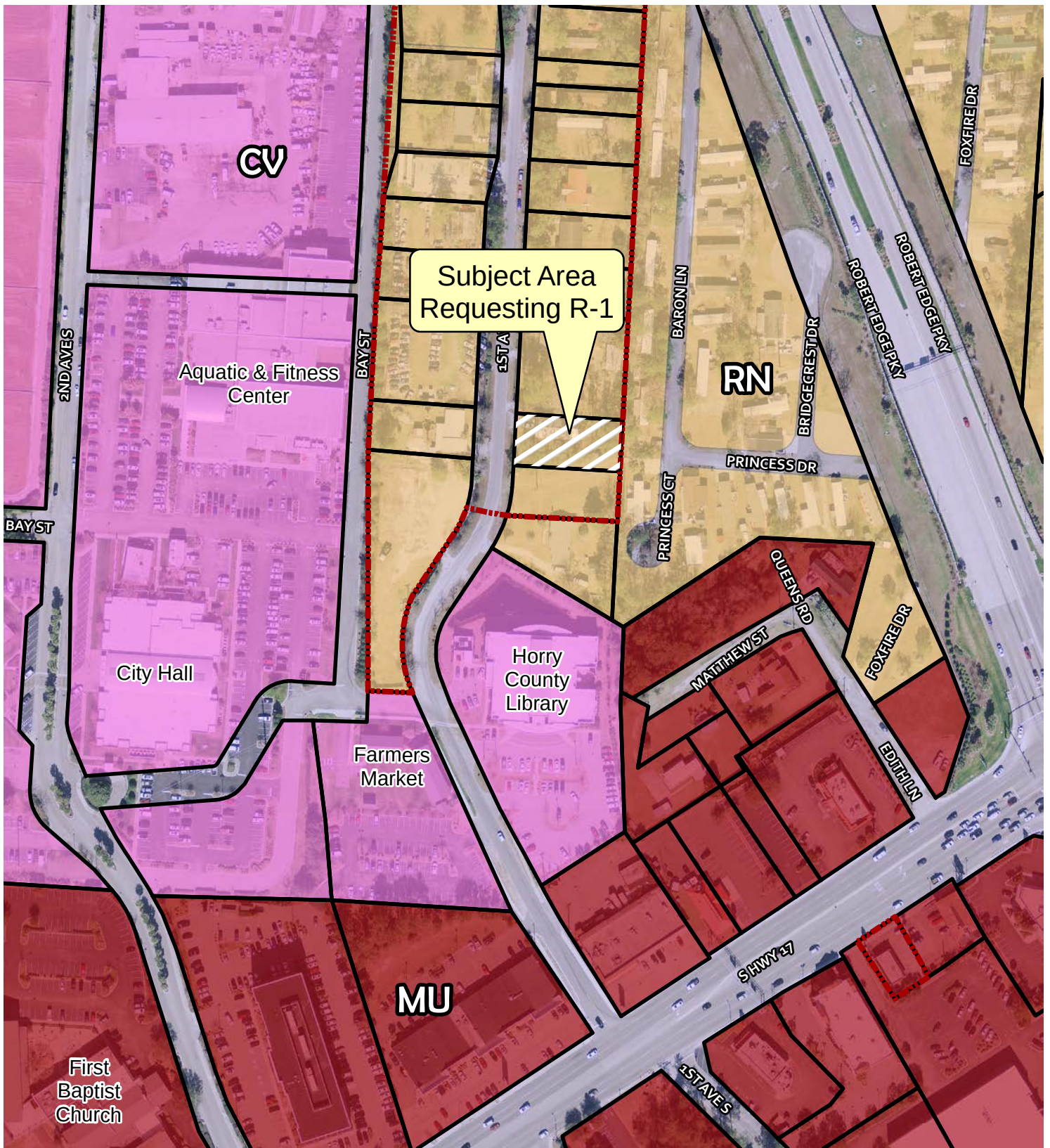
Vacant

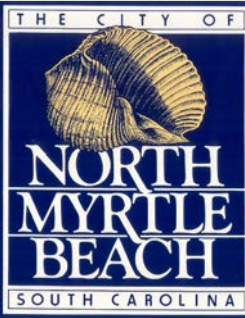
0 100 200 Feet



## Existing Land Use (Z-20-19)







THE CITY OF  
**NORTH MYRTLE BEACH**  
SOUTH CAROLINA

### Legend

North Myrtle City Limits

Subject Area

**Recommended Future Land Use Categories**

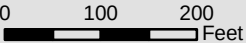
CV - Civic / Education

MU - Mixed Use

RN - Residential Neighborhood



0 100 200 Feet



## Future Land Use (Z-20-19)

Path: M:\2020\2020-55 Z-20-19\2020-55 Z-20-19 FLU.mxd

Date: 12/21/2020  
Author: Dawn E. Snider