

REQUEST FOR CITY COUNCIL CONSIDERATION

Meeting Date: May 17, 2021

Agenda Item: 5E	Prepared by: L. Suzanne Pritchard, PLA, AICP
Agenda Section: Consent: Ordinance. Second Reading	Date: April 28, 2021
Subject: Petition for annexation and zoning designation for 10.0 Acres on Water Tower Road [Z-21-4]	Division: Planning and Development

Background:

Roger Roy, agent for the owner, has petitioned the City of North Myrtle Beach to annex approximately 10.0 acres of property located on Water Tower Road identified by PINs 359-08-03-0002 and 359-08-03-0003. The petition also reflects the requested City of North Myrtle Beach zoning district of Medium Density Residential (R-2). The subject area is identified as Residential Suburban on the Future Land Use Map. Though not supported by the City’s comprehensive plan, the proposed zoning designation, R-2, was recommended by Planning Commission to recognize, “substantial change or changing conditions or circumstances in a particular locality.”

Existing Conditions:

The subject property area is contiguous to the corporate boundary of the City of North Myrtle Beach and is zoned Commercial Forest Agriculture (CFA) under Horry County jurisdiction. Located on Water Tower Road near the intersection of Highways 22 and 31, the parcel is currently unoccupied and vacant. Surrounding parcels within City limits are zoned under the Barefoot Resort Planned Development District (PDD); adjacent unincorporated county parcels are zoned CFA. Upon annexation, the parcel would be designated R-2 as per Exhibit A: Zoning Map (Z-21-4), prepared by the City of North Myrtle Beach Planning and 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 April 20, 2021 and voted 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 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 10.0 ACRES IDENTIFIED AS PINs 359-08-03-0002
and 359-08-03-0003.**

WHEREAS, NRD Realty Management, property owner, has petitioned the City of North Myrtle Beach for annexation of 10.0 acres consisting of the following parcel PINs 359-08-03-0002 and 359-08-03-0003 as referenced on Exhibit A: Zoning Map (Z-21-4), prepared by the City of North Myrtle Beach Planning and 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 Medium Density Residential (R-2) 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 the parcel identified by PINs 359-08-03-0002 and 359-08-03-0003 (the “Annexed Parcel”), consisting of approximately 10.0 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 Medium Density Residential (R-2).

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

ATTEST:

Mayor Marilyn Hatley

City Clerk

APPROVED AS TO FORM:

FIRST READING: 5-3-2021
SECOND READING: 5-17-2021

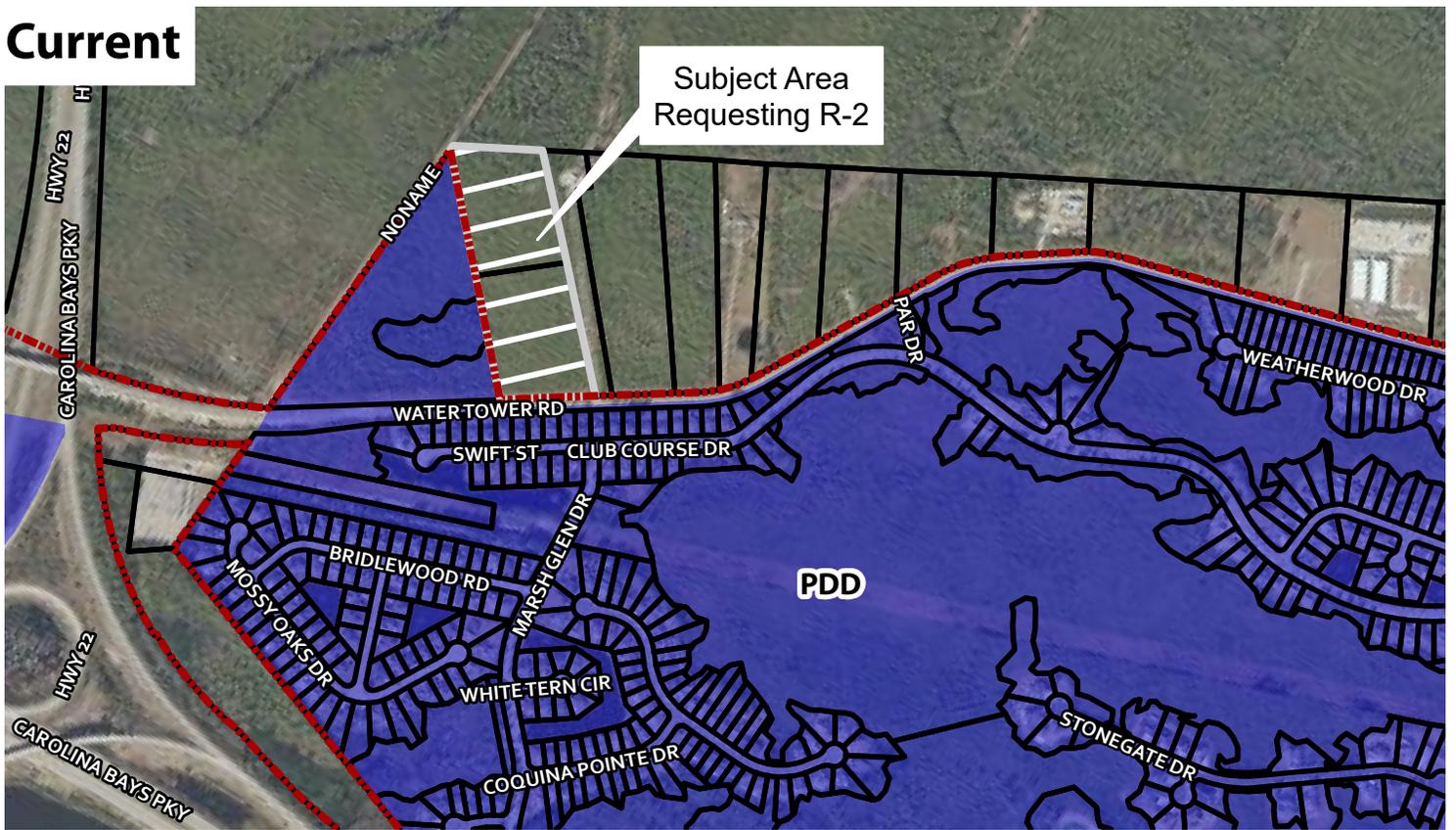
City Attorney

REVIEWED:

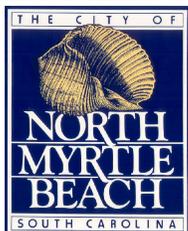
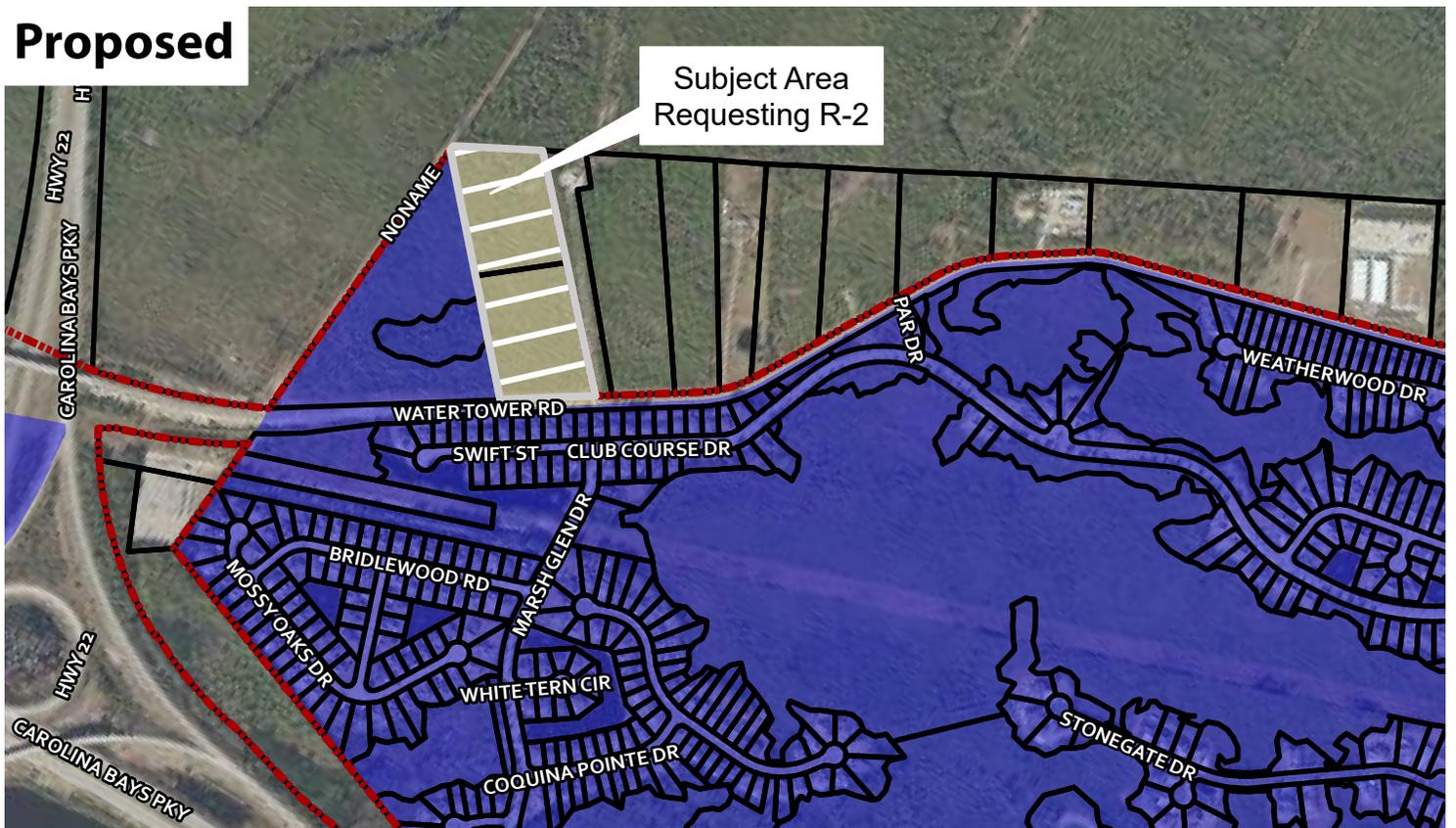
ORDINANCE: 21-19

City Manager

Current



Proposed



Legend

- NMB City Limits
- Subject Area
- PDD
- R-2

Exhibit A: Zoning Map (Z-21-4)



Date: 4/16/2023
Author: Dawn E. Snider

7A. ANNEXATION & ZONING DESIGNATION Z-21-4: City staff received a petition to annex lands on Water Tower Road totaling approximately 10 acres and identified by PINs 359-08-03-0002 and 359-08-03-0003. The lots are currently unincorporated and zoned Commercial Forest Agriculture (CFA) by Horry County. The petition also reflects the requested City of North Myrtle Beach zoning district of Medium-Density Residential (R-2) and will be heard concurrently.

Background:

The Planning Commission last reviewed this property for annexation at their October 6, 2020, meeting. The applicant was requesting Mid-Rise Multifamily Residential District (R-2A) as their zoning, but Planning Commission was uncomfortable with the heights and uses allowed in the R-2A district. It was suggested to the applicant that they withdraw their request and reapply for R-2 zoning where multi-family buildings are not an allowed use, and height is restricted to 35’.

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 Commercial Forest Agriculture (CFA) under Horry County jurisdiction. Located on Water Tower Road adjacent to the Barefoot Resort “Shark Fin,” the parcel is currently unoccupied and vacant. Surrounding parcels within City limits are zoned under the Barefoot Resort Planned Development District (PDD); adjacent unincorporated county parcels are zoned CFA.

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-2, 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 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-2 zoning is somewhat consistent with the Residential Suburban land use classification found in the *2018 Comprehensive Plan*. However, the densities allowed in R-2 would be higher than the prescribed primary and secondary zoning districts.

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

The purpose of the R-2 zoning district is, "To provide for limited alternatives to single-family housing, smaller lot development and correspondingly higher densities, but not permit the crowding of development on individual lots or parcels."

The uses permitted in the R-2 district would be somewhat appropriate in the area, and the Water Tower Road area is in transition with a variety of uses and densities being developed in the City and county.

- 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 Water Tower Road. Future development of the two parcels would have to occur in a way that creates access to the parcel without road frontage. The City will review all driveway connections, and a county encroachment permit is required for driveway(s) on Water Tower Road.

- 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:

Property is located in the GSWSA service area. Public water appears to be available to the parcel, but sewer service does not appear to be available.

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 May 3, 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.

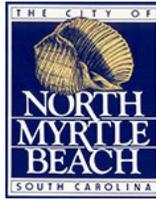
Planning Commission Action:

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-21-4] as submitted.
OR
- 2) I move that the Planning Commission recommend denial of the annexation and zoning petition [Z-21-4] as submitted.
OR
- 3) I move (an alternate motion).

FILE NUMBER:	Z-21-4
Complete Submittal Date:	March 16, 2021



Notice Published:	April 1, 2021
Planning Commission:	April 20, 2021
First Reading:	May 3, 2021
Second Reading:	May 17, 2021

City of North Myrtle Beach, SC

Petition for Annexation & Zoning

GENERAL INFORMATION

Date of Request: March 16, 2021	Property PIN(S): 35908030002 & 35908030003
Property Owner(s): NRD Realty Management	Type of Zoning Map Amendment: Petition for Annexation and Zoning
Address or Location: Two 5 acre tracts, Tract 1-D & Tract 2-D Dogwood Neck Township on Water Tower Road	Project Contact: Roger Roy
Contact Phone Number: 8436631200	Contact Email Address: rroy@rclawonline.com
Current County Zoning: CFA	Proposed Zoning: R-2
Total Area of Property: 10 Acres	Approximate Population of Area to be Annexed: 300

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:

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.

March 10, 2021

City of North Myrtle Beach
Planning Department
1015 Second Avenue South
North Myrtle Beach, SC 29582

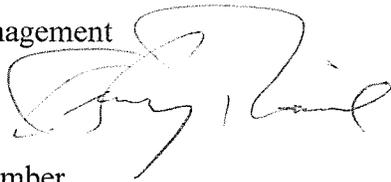
Re: Annexation and Zoning Application
PINS 359-08-03-0002 & 0003

To Whom It May Concern:

I am authorizing, Roger P. Roy, Jr., of Roy & Casper, LLC to act on our behalf for the Annexation and Zoning Application for the above listed Parcels.

Sincerely,

NRD Realty Management

A handwritten signature in black ink, appearing to read "Henry Tawil", written over the typed name below.

Henry Tawil, Member

35908030003, 35908030002,

Prepared By:
Clemmons Law Firm, LLC
1800 N. Oak Street
Myrtle Beach, SC 29577

File No.: 2020-R444

*No Title Examination Performed by Preparing Attorney

(Please do not write above this line - Reserved for Register of Deeds Office)

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that Arlene A. Jerdon, individually and Arlene A. Jerdon as Successor Trustee of the Jerdon Family Trust UTD 7/16/1993, in the State aforesaid, for and in consideration of the sum of Two Hundred Sixty Thousand and 00/100 Dollars (\$260,000.00), unto it paid by NRD REALTY MANAGEMENT, in the State aforesaid, the receipt whereof is hereby acknowledged, has granted, bargained, sold and released and by these presents does grant, bargain, sell, and release unto the said NRD Realty Management, its successors and assigns, forever, in fee simple, together with every contingent remainder and right of reversion, the following described property, to wit:

PARCEL I:

ALL AND SINGULAR all that certain piece, parcel or tract of land situate in Dogwood Neck Township, Horry County, South Carolina, containing 5.0 Acres and being shown as Tract 1-D on a map of two tracts of land in Dogwood Neck Township, near Wampee surveyed for George Jerdon and Arlene A, Dorris dated November 20, 1975, by Wendell C. Powers, R.L.S. A copy of said map is recorded in Deed Book 545 at Page 072.

This being the identical property conveyed to Arlene A. Jerdon, individually and Arlene A. Jerdon, as Surviving Trustee of the Jerdon Family Trust UDT 7/16/93, dated 23rd November 2020 and recorded November 30 2020 in Deed Book 4366 at Page 1853 in the Office of the Register of Deeds for Horry County, South Carolina.

TMS#: 142-00-01-086/ PIN#: 359-08-03-0003

PARCEL II:

ALL AND SINGULAR all that certain piece, parcel or tract of land situate in Dogwood Neck Township, Horry County, South Carolina, containing 5.0 Acres and being shown as Tract 2-D on a map of two tracts of land in Dogwood Neck Township, near Wampee surveyed for George Jerdon and Arlene A, Dorris dated November 20, 1975, by Wendell C. Powers, R.L.S. A copy of said map is recorded in Deed Book 545 at Page 072.

This being the identical property conveyed to George A. Jerdon and Arlene A. Jerdon, as Trustees of the Jerdon Family Trust UDT 7/16/93, dated July 16, 1993 and recorded

March 25, 1994 in Deed Book 1712 at Page 192 in the Office of the Register of Deeds
for Horry County, South Carolina.

The Grantor herein also conveying her life estate interest in and to the above referenced
properties reserved in Deed Book 1712 at Page 194 and in Deed Book 1712 at Page 192.

TMS#: 142-00-01-062/ PIN#: 359-08-03-0002

Tax Map #: 142-00-01-062 & 142-00-01-121

Property Address: North Myrtle Beach, SC 29582

Grantee(s) Address: 1705 N. Oak St., Suite 8, Myrtle Beach, SC 29577

THIS CONVEYANCE IS MADE SUBJECT TO easements and restrictions of record and
otherwise affecting the property.

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 NRD
Realty Management, its successors and assigns, forever, in fee simple, together with every contingent
remainder and right of reversion.

AND Grantor does hereby bind itself and its successors and assigns, to warrant and forever
defend all and singular the said premises unto the said NRD Realty Management, its successors and
assigns, forever, in fee simple, together with every contingent remainder and right of reversion against the
Grantor's successors and against every person whomsoever lawfully claiming, or to claim, the same or
any part thereof.

IN WITNESS WHEREOF the undersigned Hand and Seal this 30 day of November, 2020.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Jerdon Family Trust

[Signature]
1st Witness

Mary H. Stalvey
2nd Witness

By: [Signature] {L.S.}
Arlene A. Jerdon, as Successor
Trustee of the Jerdon Family Trust
UTD 7/16/1993

[Signature]
Arlene A. Jerdon, individually

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

ACKNOWLEDGEMENT

I, MARY H. STALVEY, the undersigned Notary Public, do hereby certify the above Grantor(s), personally appeared before me this 30 day of November, 2020, and acknowledged the due execution of the foregoing instrument, and that the subscribing witness is not a party to, or beneficiary of this transaction.

WITNESS my hand and official seal this 30 day of November, 2020.

[Signature]
Notary Public for South Carolina
Notary Name: Mary H. Stalvey
My Commission Expires: 1/27/2030



STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY) ACKNOWLEDGEMENT

I, MARY H. STALVEY, the undersigned Notary Public, do hereby certify the above Grantor(s), personally appeared before me this 30 day of November, 2020, and acknowledged the due execution of the foregoing instrument, and that the subscribing witness is not a party to, or beneficiary of this transaction.

WITNESS my hand and official seal this 30 day of November, 2020.

Mary H. Stalvey
Notary Public for South Carolina
Notary Name: Mary H. Stalvey
My Commission Expires: 1/27/2030



STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

AFFIDAVIT
S.C. Code Ann. §12-24-20 et. seq.

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

- I have read the information on this affidavit and I understand such information.
- The property being transferred is located at North Myrtle Beach, SC 29582 (TMS No. 142-00-01-062 & 142-00-01-121) was transferred by **Arlene A. Jerdon, individually and Arlene A. Jerdon as Successor Trustee of the Jerdon Family Trust UTD 7/16/1993** to **NRD REALTY MANAGEMENT** on 11/ 30 /20.

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.)

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 \$260,000.00.
- (b) _____ The fee is computed on the fair market value of the realty, which is _____ Dollars (\$ _____).
- (c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes, which is _____ Dollars (\$ _____).

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: \$ 260,000.00
- (b) Place the amount listed in Item 5 above here: _____
(If no amount is listed, place zero here.) - 0.00
- (c) Subtract Line 6(b) from Line 6(a): \$ 260,000.00

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$ 962.00

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.

JERDON FAMILY TRUST

By: Arlene A. Jerdon (L.S.)
Arlene D. Jerdon as Successor Trustee of
the Jerdon Family Trust UTD 7/16/1993

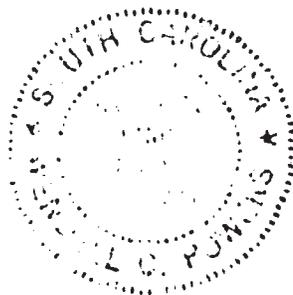
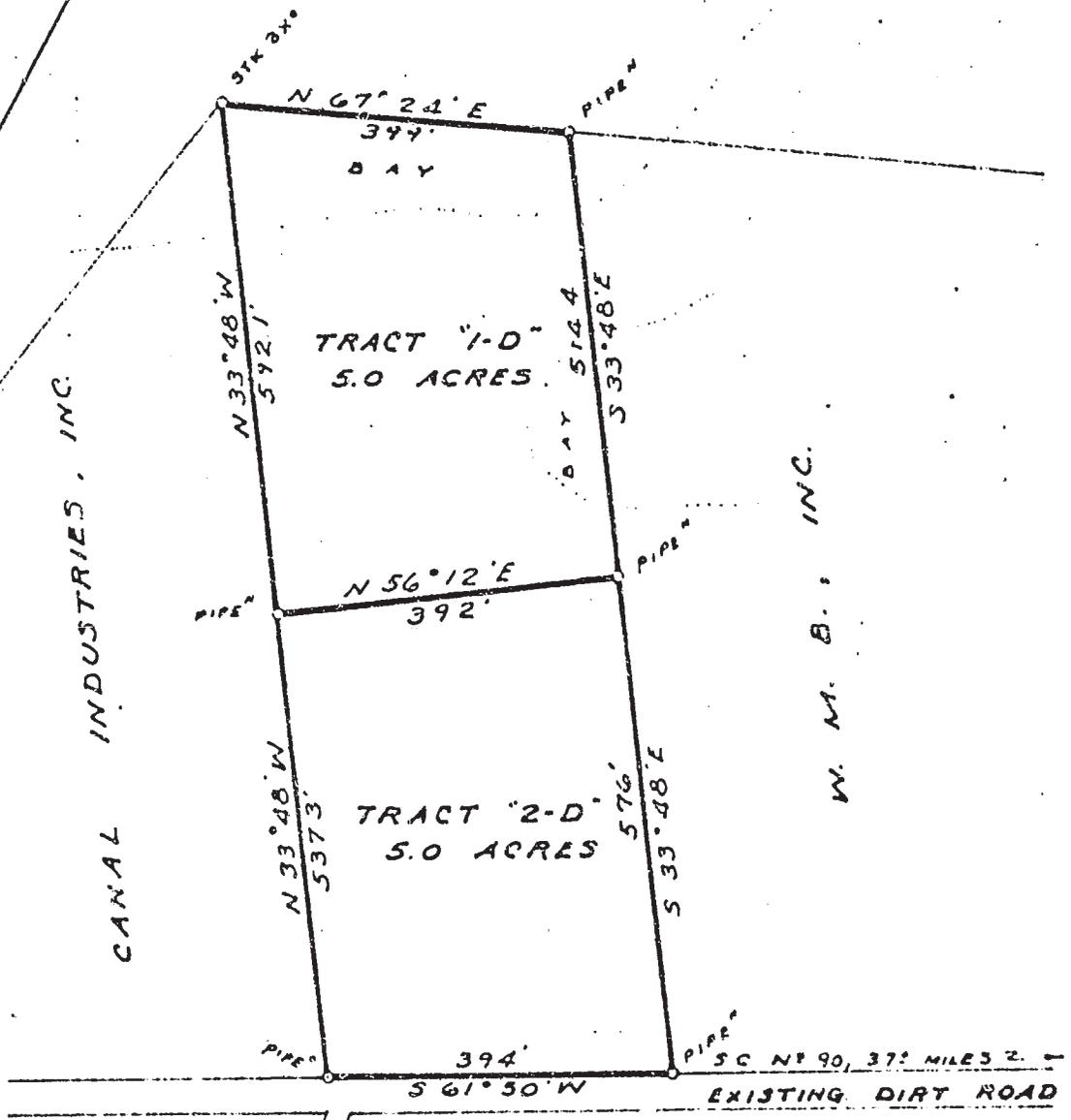
SWORN to before me this 30th
day of November, 2020

Mary H. Stalvey (L.S.)
Notary Name: Mary H. Stalvey
Notary Public for South Carolina
My commission expires: 1/27/2030



BOOK 545 PAGE 072

INTERNATIONAL PAPER CO.



PLAT

OF TWO TRACTS OF LAND IN DOGWOOD NECK TOWNSHIP, NEAR WAMPEE, SURVEYED FOR

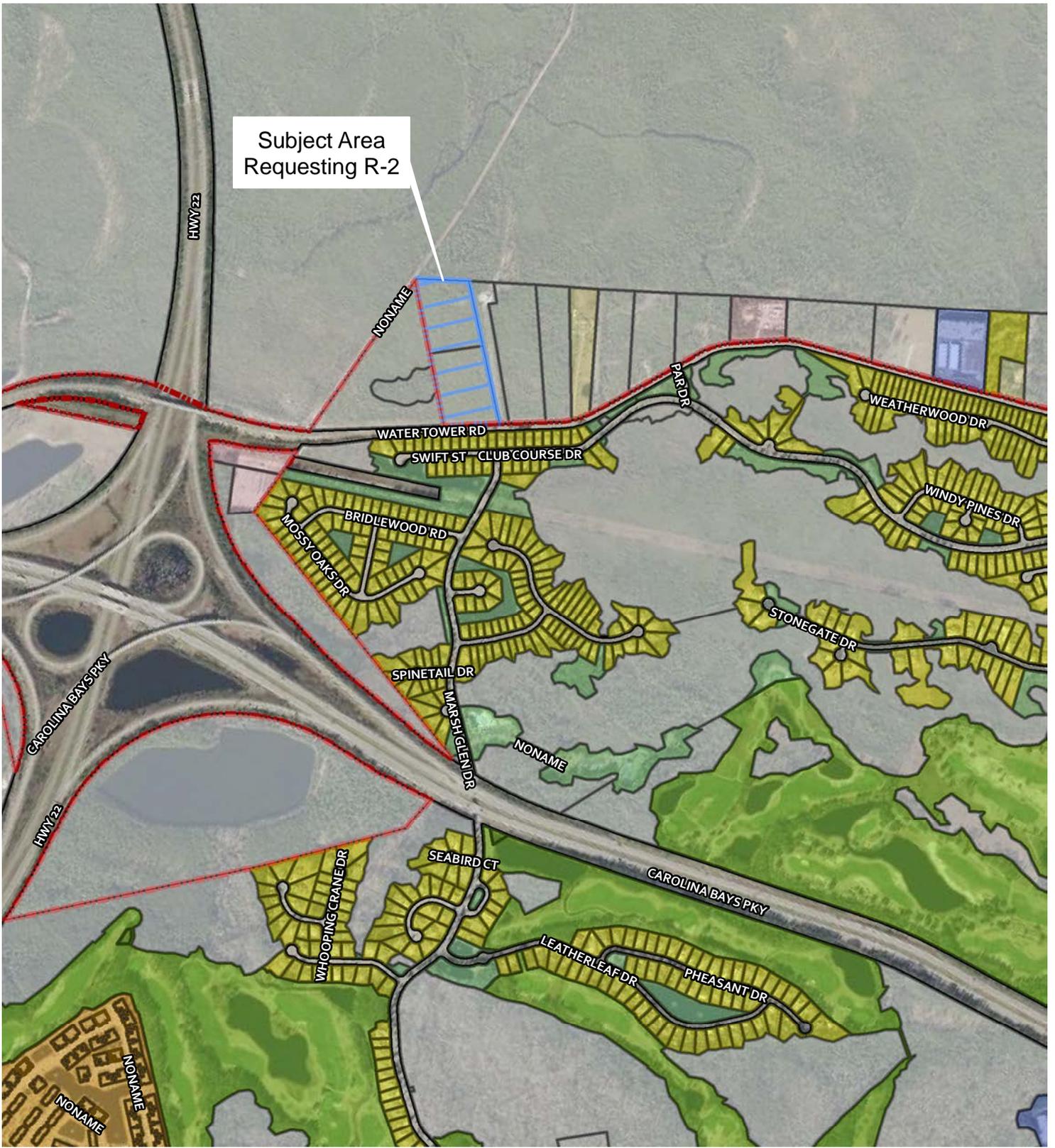
GEORGE JERDON & ARLENE A. DORRIS

HORRY CO., S. C.

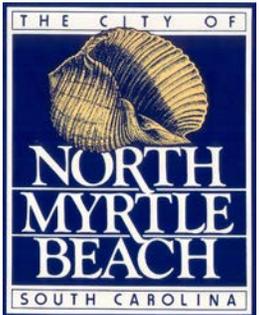
NOVEMBER 20, 1975

SCALE : 1" = 200'

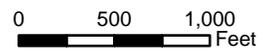
Wendell T. Powell, R.L.S.



Subject Area
Requesting R-2



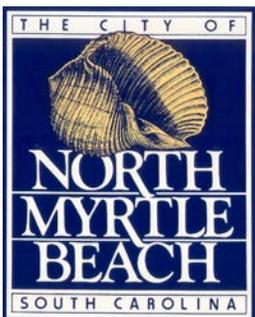
- Legend**
-  Subject Area
 -  Golf Course
 -  Single-Family
 -  NMB City Limits
 -  Industrial / Warehouse
 -  Town House
 - Existing Land Use**
 -  Common Open Space
 -  Mobile Home
 -  Vacant
 -  Public, Social, Cultural



Existing Land Use (Z-21-4)



Subject Area
Requesting R-2



Legend

- | | | |
|---|--|--|
|  NMB City Limits | Future Land Use |  MU - Mixed Use |
|  Subject Area |  RPC - Resource, Protection, Conservation |  RS - Residential Suburban |
| |  SP - Service / Production |  RN - Residential Neighborhood |



Future Land Use (Z-21-4)