

REQUEST FOR CITY COUNCIL CONSIDERATION

Meeting Date: October 3, 2022

| | |
|---|--|
| Agenda Item: 7A | Prepared by: L. Suzanne Pritchard, PLA, AICP, CFM |
| Agenda Section: New Business: Ordinance. First Reading | Date: September 28, 2022 |
| Subject: Petition for annexation and zoning designation for 13.75 acres on Water Tower Road [Z-22-17] | Division: Planning and Development |

Background:

Roger Roy, agent for the owner, has petitioned the City of North Myrtle Beach to annex approximately 13.75 acres of property located on Water Tower Road identified by PINs 359-07-04-0011 and 359-07-04-0012. 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. This zoning is not supported by the City’s Comprehensive Plan, and the Planning Commission failed to recommend approval of the annexation and zoning petition in a 3-3 vote.

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 across the street from Barefoot Resort, the parcel is currently unoccupied and vacant. Surrounding parcels within City limits are zoned R-2 and Planned Development District (PDD) under the Barefoot Resort PDD; adjacent unincorporated county parcels are zoned CFA.

Upon annexation, the parcel would be designated R-2 as per Exhibit A: Zoning Map (Z-21-17), prepared by the City of North Myrtle Beach Planning and Development Department depicting the annexation boundary. The R-2 district allows the following uses: Single-family detached dwellings, semidetached dwellings and duplexes, townhouse developments, family day care homes, multiplex (triplex and quadraplex) dwellings, and single-family in common projects. Within the R-2 district, heights are restricted to 35 feet for residential uses and the minimum single-family lot size is 5,000 square feet. A proposed ordinance has been attached for Council’s review.

Planning Commission Action:

The Planning Commission conducted a public hearing on August 16, 2022 and failed to recommend approval of the annexation and zoning designation in a 3-3 vote. There was no public comment.

Recommended Action:

Approve or deny the proposed ordinance on first reading

| | | |
|---------------------------|--------------------------|---------------------------|
| Reviewed by Division Head | Reviewed by City Manager | Reviewed by City Attorney |
| | | |

Council Action:

Motion By _____ 2nd By _____ To _____

ORDINANCE

**AN ORDINANCE OF THE CITY OF NORTH MYRTLE BEACH
ANNEXING 13.75 ACRES IDENTIFIED AS PINs 359-07-04-0011
and 359-07-04-0012.**

WHEREAS, Roger Roy, agent for the owner, has petitioned the City of North Myrtle Beach for annexation of 13.75 acres consisting of the following parcel PINs 359-07-04-0011 and 359-07-04-0012 as referenced on Exhibit A: Zoning Map (Z-22-17), 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.

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 PINs 359-07-04-0011 and 359-07-04-0012 (the “Annexed Parcel”), consisting of approximately 13.75 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 _____, 2022.

ATTEST: _____
Mayor Marilyn Hatley

City Clerk

APPROVED AS TO FORM:

City Attorney

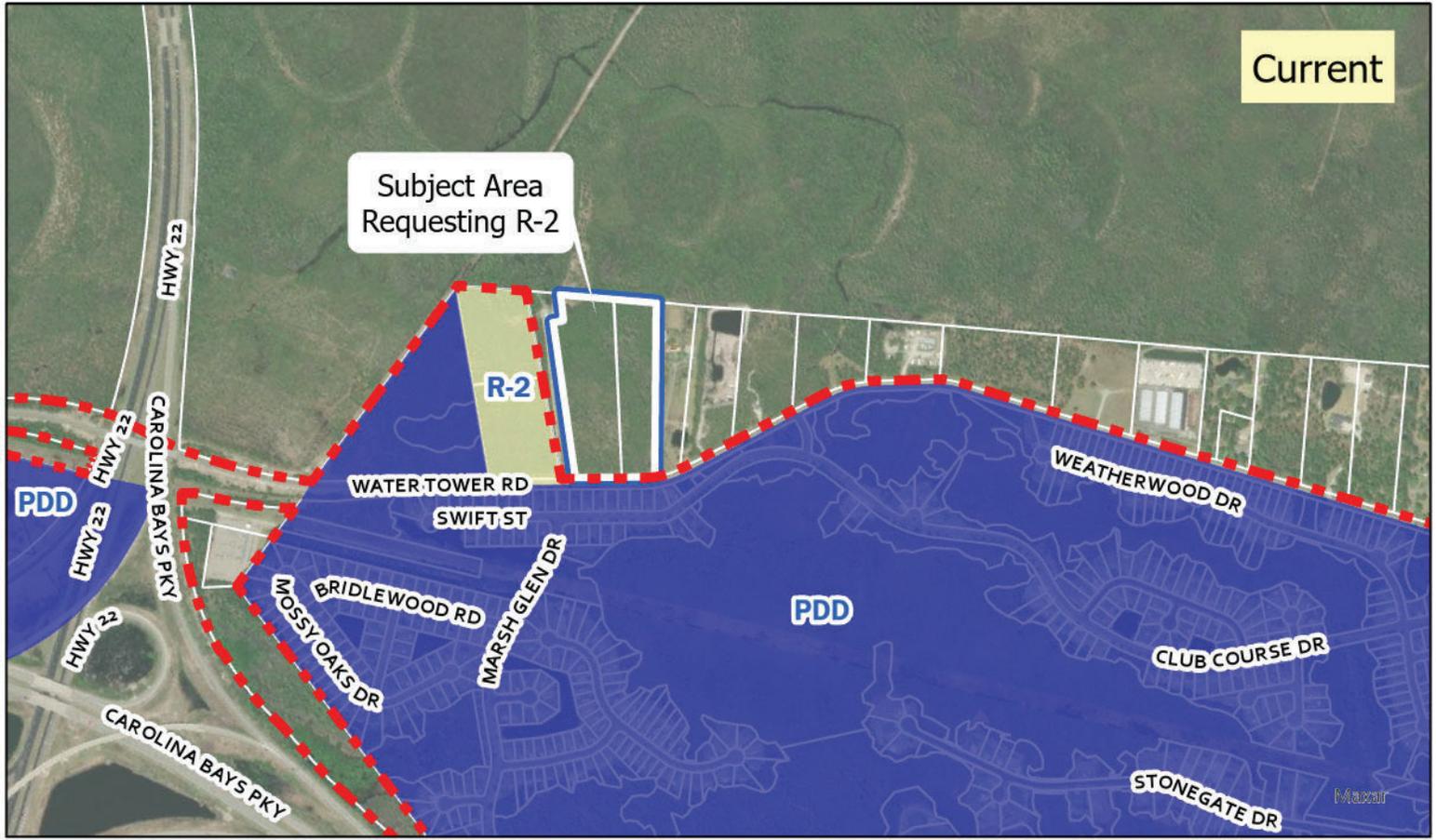
REVIEWED:

City Manager

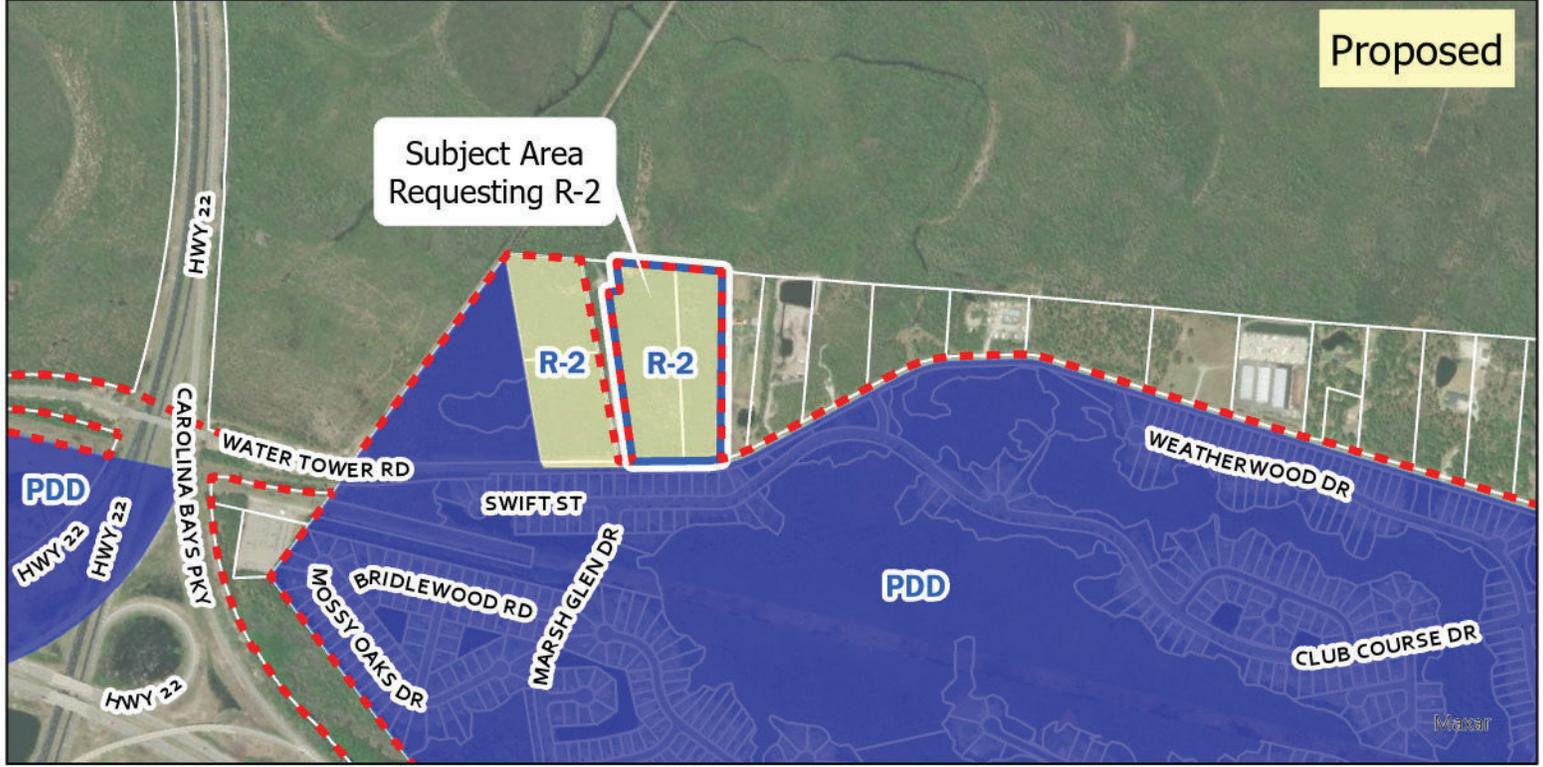
FIRST READING: 10.3.2022
SECOND READING: _____

ORDINANCE: _____

Current



Proposed



Legend

- Subject Area
- North Myrtle Beach City Limit
- ZONING**
- PDD
- R-2

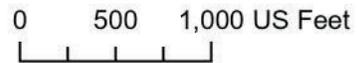


Exhibit A: Zoning Map Z-22-17

6G. ANNEXATION & ZONING DESIGNATION Z-22-17: City staff received a petition to annex ±13.75 acres on Water Tower Rd identified by PINs 359-07-04-0011 and 359-07-04-0012. 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.

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 across the street from Barefoot Resort, the parcel is currently unoccupied and vacant. Surrounding parcels within City limits are zoned R-2 and Planned Development District (PDD) under the Barefoot Resort PDD; adjacent unincorporated county parcels are zoned CFA.

Proposed R-2 Zoning:

| | | Single-family Dwelling | Semi-detached Dwelling | Duplex | Townhouse | Multiplex | Other Permitted Uses |
|--|-------|------------------------|------------------------|---------|----------------------|----------------------|----------------------|
| Floor Area Ratio | | | | .5 | | | |
| Minimum Site Area (SF) | | 5,000 | 7,000 | 7,000 | 16,000 | 16,000 | 5,000 |
| Minimum Lot Area per Dwelling Unit (SF) | | 5,000 | 3,500 | 3,500 | 3,000 | 2,000 | 5,000 |
| Minimum Lot Width | | 50 feet | 35 feet | 55 feet | 14 feet ⁶ | 75 feet | NA |
| Minimum Yards: | Front | 25 feet | 25 feet | 25 feet | 25 feet | 25 feet | 25 feet |
| | Side | 5 feet | 7.5 feet ¹ | 10 feet | ² | 20 feet | 20 feet |
| | Rear | 20 feet | 20 feet | 20 feet | ³ | 20 feet | 25 feet |
| Maximum Impervious Surface Ratio | | 50% | 60% | 60% | 60% | 60% | 60% |
| Common Open Sapce | | NA | NA | NA | 25% | 25% ⁵ | NA |
| Minimum Distance Between Principal Buildings on Same Lot | | NA | NA | NA | NA | 20 feet | NA |
| Minimum Distance to Single-Family Structure | | NA | NA | NA | NA | 75 feet ⁴ | NA |

- a) Maximum height: 35 feet for residential uses, 15 feet for accessory uses, and 45 feet for all other permitted uses.
- b) A dwelling unit shall not contain more than five bedrooms or sleeping areas of not more than 300 square feet each.

Notes: ¹ A seven-and-one-half-foot setback shall be applied to the ends of the structure and the exterior property line and zero-foot setback shall be allowed for the interior common property line.

² Zero feet between units; 10 feet between end structures and side property line; no more than six units shall be attached in one building; for projects with multiple townhouse buildings on land owned "in common" the site side yard setback shall be 20 feet.

³ Rear yard setback shall be 10 feet except where contiguous to the project site property line, then a twenty-foot setback shall be required, and shall remain unoccupied by any accessory building or structure.

⁴ Measured from the closest exterior wall of a single-family dwelling unit on the adjacent property to the closest exterior wall of the multiplex dwelling.

⁵ Reference common open space requirements pursuant to section 23-119(4).

⁶ Minimum lot width and/or unit width.

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 because of such change, and the consequence of such change:

Current public rights-of-way serve this area via Water Tower Road. Access subject to Horry County encroachment review and approval.

- 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. Any development will have to provide confirmation of public water and sewer availability.

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 September 19, 2022. Should the Planning Commission desire to forward a positive recommendation to City Council, one of the 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 but notes the inconsistencies with the comprehensive plan. Furthermore, being under 25 acres in size, there can be no development agreement, and thus, no additional negotiations concerning off-site roadway improvements, other than what would be required through the site plan review process, enhancement fees for park land, beach parking, or public safety, or further public benefits assessed to larger developments meeting the minimum acreage criteria.

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.

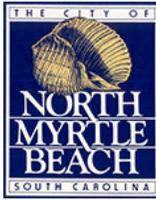
Planning Commission Action:

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-22-17] as submitted.
OR
- 2) I move that the Planning Commission recommend denial of the annexation and zoning petition [Z-22-17] as submitted.
OR
- 3) I move (an alternate motion).

| | |
|--------------------------|---------------|
| FILE NUMBER: | Z-22-17 |
| Complete Submittal Date: | July 11, 2022 |



| | |
|----------------------|--------------------|
| Notice Published: | July 28, 2022 |
| Planning Commission: | August 16, 2022 |
| First Reading: | September 19, 2022 |
| Second Reading: | October 3, 2022 |

City of North Myrtle Beach, SC

Petition for Annexation & Zoning

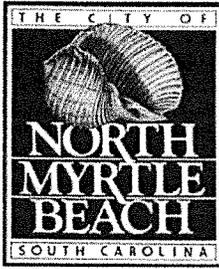
GENERAL INFORMATION

| | |
|---|---|
| Date of Request: July 11, 2022 | Property PIN(S): 35907040011 & 35907040012 |
| Property Owner(s): KTAD Holdings LLC | Type of Zoning Map Amendment: Petition for Annexation and Zoning |
| Address or Location: 2 parcels on Water Tower Road, Tract 2A and Lot 3 | 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: 12.35 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: Roger Roy.

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.



CITY OF NORTH MYRTLE BEACH
LETTER OF AGENCY

Revision Date 05.24.19

Today's Date: 07/11/22

Nature of Approval Requested: ANNEXATED & ZONING

Property PIN(s): 359-07-04-0011 & 359-07-04-0012

Property Address/Location: Water Tower Road

I, Timothy Dunkin of KTAD Holdings, LLC, hereby authorize Roger P. Roy, Jr

to act as my agent for for the purposes of the above referenced approval.

[Signature]
Signature

Owner
Title

Signature

Title

Please have all property owners sign application; disregard additional spaces if not needed. If additional signature lines are required, please duplicate this sheet and bind all sheets together into one document.

PIN 35907040011

Prepared By and Return to:
Murray Law Offices, P. A.
3775 Sea Mountain Highway
Little River, SC 29566
Telephone: (843)399-9000 Fax:(843)399-9003
File No.: 16-4012LM

(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 CHURCH PROPERTY INVESTORS, LLC, in the State aforesaid, for and in consideration of the sum of One Hundred Fourteen Thousand and 00/100 Dollars (\$114,000.00), unto it paid by KTAD HOLDINGS, LLC, 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 KTAD Holdings, LLC, its successors and assigns, forever, in fee simple, together with every contingent remainder and right of reversion, the following described property, to wit:

ALL AND SINGULAR, all that certain piece, parcel or tract of land containing 8.75 acres shown as Tract 2A on a map prepared for Church Property Investors, LLC by Robert L. Bellamy & Associates, Inc. dated April 1, 2004 and more specifically described as follows:

Beginning at a 1" Iron Pipe located 4.2 miles Southwest of S.C. Highway 90 on Water tower Road, then going South 60 degrees 58' 00" West 294.76' to a 1/2" Iron Pipe; then going North 34 degrees 55' 26" West 891.50' to a 1/2" Iron Pipe; then going North 56 degrees 24' 15" East 71.55' to a 1/2" Iron Pipe; then going North 36 degrees 04' 30" West 188.36' to a 1/2" Iron Pipe; then going North 67 degrees 24' 00" East 384.18' to a 1/2" Iron Pipe; then going South 26 degrees 37' 00" East 1037.30' to the beginning 1" Iron Pipe.

THIS BEING the identical property conveyed to Church Property Investors, LLC from Rich Mar, LLC, by Deed dated April 2, 2004, and recorded on April 5, 2004, in Book 2717, Page 0834, Office of the Register of Deeds of Horry County, South Carolina.

Tax Map #: 142-00-01-334

Property Address: Water Tower Road, Tract 2A, Longs, SC 29568

Grantee(s) Address: 1229 38th Avenue #214, 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 KTAD Holdings, LLC, 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 KTAD Holdings, LLC, 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.

AFFIDAVIT FOR TAXABLE OR EXEMPT TRANSFERS

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

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

1. The Corporation have read the information on the back of this affidavit and the corporation understand such information.
2. The property being transferred is located at **Water Tower Road, Tract 2A, Longs, SC 29568**, bearing Horry County Tax Map Number **142-00-01-334**, and was transferred by **Church Property Investors, LLC** to **KTAD Holdings, LLC** on **February 16, 2016**.
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 \$114,000.00.
 - (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: \$ 0.00.
6. The deed recording fee is computed as follows:
 - (a) Place the amount listed in item 4 above here: \$114,000.00
 - (b) Place the amount listed in item 5 above here: \$0.00
(If no amount is listed, place zero here.)
 - (c) Subtract Line 6(b) from Line 6(a) and place result here: \$114,000.00
7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$421.80.
8. As required by Code Section 12-24-70, the corporation state that the corporation am a responsible person who was connected with the transaction as: Seller.
9. The Corporation 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 no more than one year, or both.

CHURCH PROPERTY INVESTORS/LLC

By: [Signature]
Ross M. Lindsay III, Manager

SUBSCRIBED and sworn to before me this 16th day of February, 2016.

[Signature] (SEAL)
Notary Public for South Carolina
My Commission Expires: 9.27.23

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 KTAD Holdings, LLC, 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 KTAD Holdings, LLC, 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.

AFFIDAVIT FOR TAXABLE OR EXEMPT TRANSFERS

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

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

1. The Corporation have read the information on the back of this affidavit and the corporation understand such information.
2. The property being transferred is located at **TBD Water Tower Road, Lot 3, North Myrtle Beach, SC 29582**, bearing Horry County Tax Map Number **142-00-01-063**, and was transferred by **Church Property Investors, LLC** to **KTAD Holdings, LLC** on **February 16, 2016**.
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):

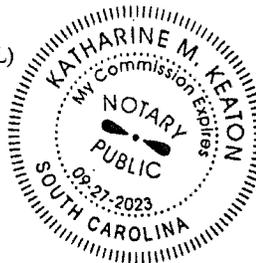
(If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)
4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit.):
 - (a) The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of **\$1,000.00**.
 - (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: \$ _____ 0.00.
6. The deed recording fee is computed as follows:
 - (a) Place the amount listed in item 4 above here: **\$1,000.00**
 - (b) Place the amount listed in item 5 above here: **\$0.00**
(If no amount is listed, place zero here.)
 - (c) Subtract Line 6(b) from Line 6(a) and place result here: **\$1,000.00**
7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: **\$3.70**.
8. As required by Code Section 12-24-70, the corporation state that the corporation am a responsible person who was connected with the transaction as: **Seller**.
9. The Corporation 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 no more than one year, or both.

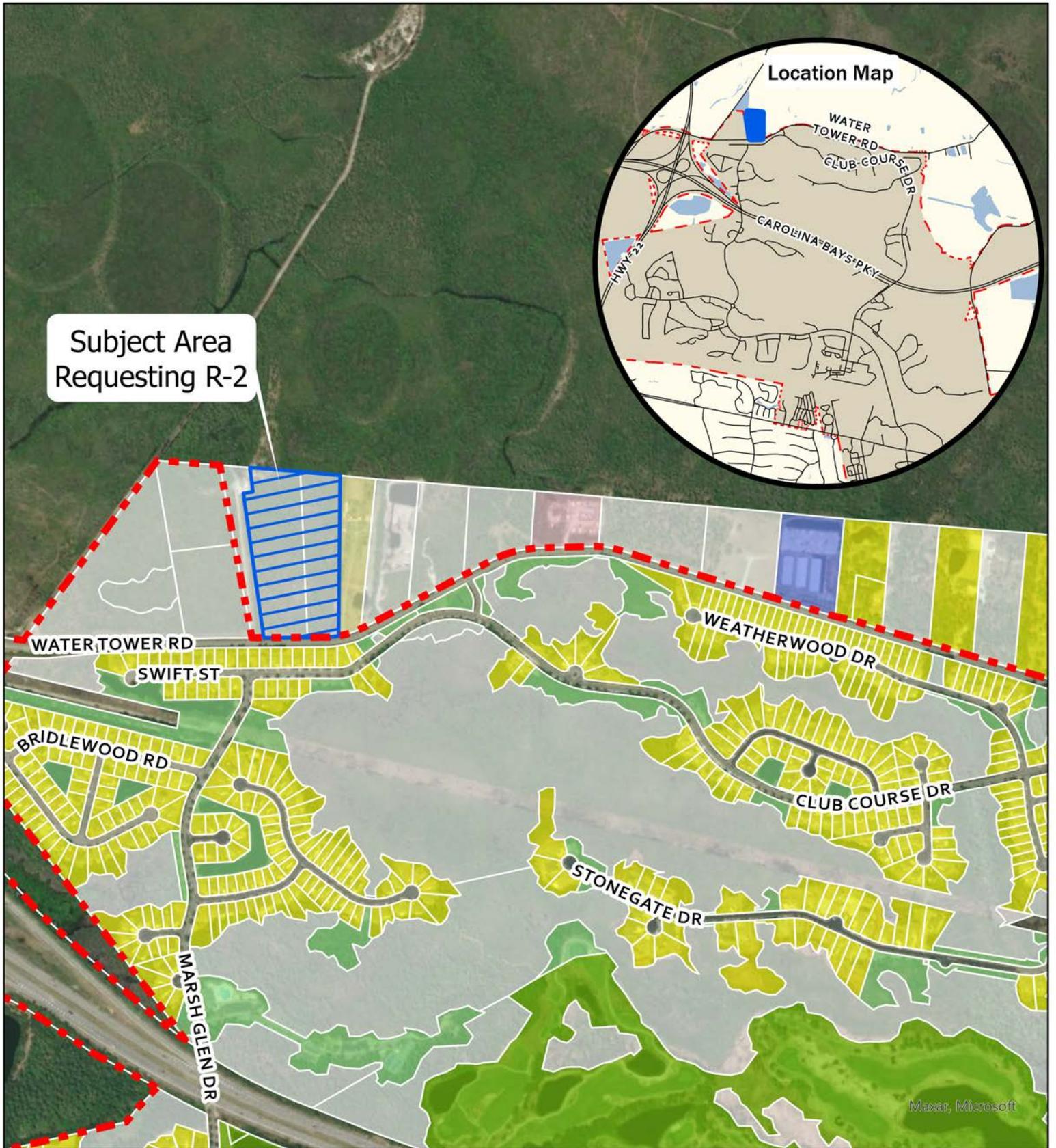
CHURCH PROPERTY INVESTORS, LLC

By: [Signature]
Ross M. Lindsay III, Manager

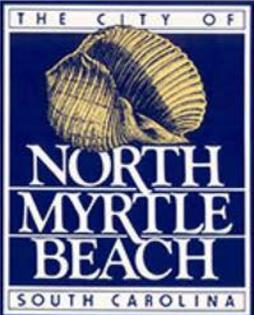
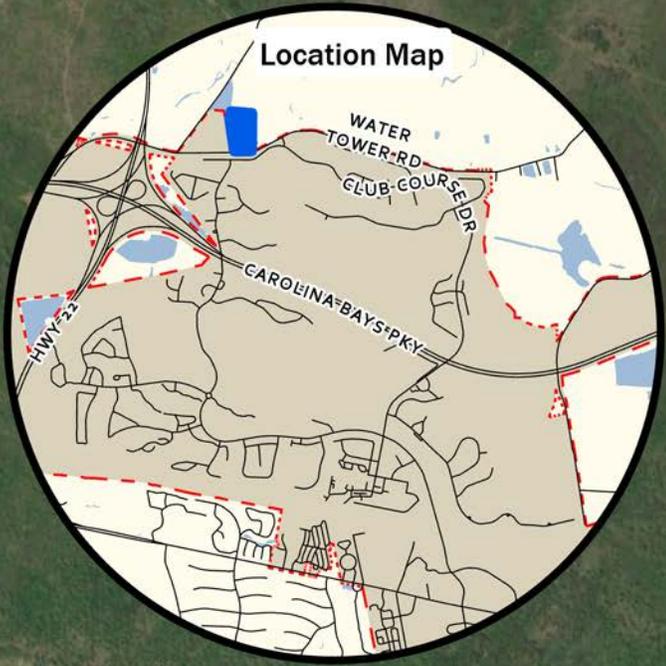
SUBSCRIBED and sworn to before me this **16th** day of **February, 2016**.

[Signature] (SEAL)
Notary Public for South Carolina
My Commission Expires: 2-27-2023





Subject Area Requesting R-2



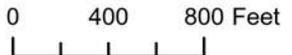
-  Subject Area
-  North Myrtle Beach City Limit

Legend

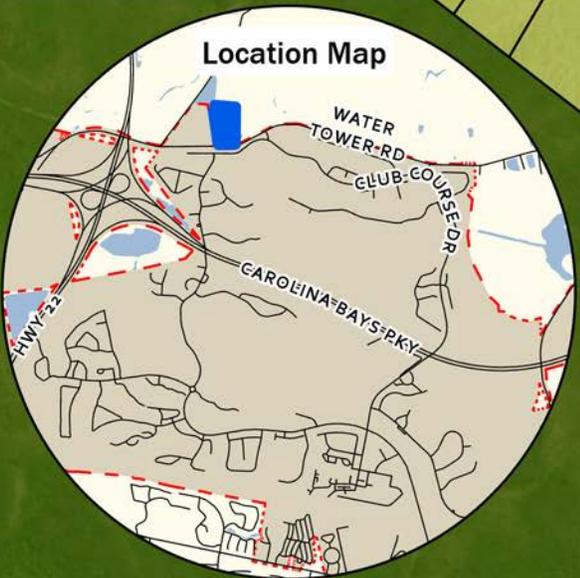
Existing Land Use

-  Common Open Space
-  Golf Course
-  Industrial / Warehouse

-  Mobile Home
-  Public, Social, Cultural
-  Single-Family
-  Vacant



Existing Land Use



Subject Area Requesting R-2

RPC

RS

RPC

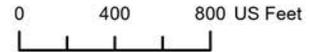
MU



- Subject Area
- North Myrtle Beach City Limit

- Legend**
- Recommend Future Land Use**
- RPC - Resource, Protection, Conservation

- MU - Mixed Use
- RS - Residential Suburban



Future Land Use