

REQUEST FOR CITY COUNCIL CONSIDERATION

Meeting Date: February 20, 2023

Agenda Item: 5D	Prepared by: L. Suzanne Pritchard, PLA, AICP, CFM
Agenda Section: Consent: Ordinance. Second Reading	Date: February 6, 2023
Subject: Petition for annexation and zoning designation for 1.15 acres on Cenith Drive [Z-22-33]	Division: Planning and Development

Background:

On June 7, 2004, the City of North Myrtle Beach City Council approved a pre-annexation agreement with Ms. Kimberly Ann Green regarding this parcel. This pre-annexation agreement allowed Ms. Green to connect to the water and/or sewer system of the City of North Myrtle Beach even though the property was not contiguous to the City’s corporate boundary and was not eligible for annexation at that time. In exchange for allowing connection to the City’s utilities, restrictive covenants were executed and recorded for this property allowing the property to be considered for annexation into the City of North Myrtle Beach once it was contiguous. On October 19, 2020, City Council approved the annexation and zoning of the property previously known as the Possum Trot Golf Course into the Chestnut Greens Planned Development District (PDD). At this time, the subject parcel became contiguous to the City’s corporate boundary and eligible for annexation.

Existing Conditions:

The subject property area is contiguous to the corporate boundary of the City of North Myrtle Beach and is zoned GR under Horry County jurisdiction. Located on Cenith Drive, the parcel contains a single-family home. Surrounding parcels within City limits are zoned Planned Development District (PDD) within the Chestnut Greens PDD; adjacent unincorporated county parcels are zoned GR and Single-Family 6 (SF 6). Upon annexation, the parcel would be designated R-1 as per Exhibit A: Zoning Map Z-22-33, 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.

Proposed R-1 Zoning:

		Single-family Dwelling	Churches	Other Permitted Uses
Minimum Site Area		10,000 SF	1 Acres	10,000 SF
Minimum Lot Width		80 feet	NA	NA
Minimum Yards:	Front	25 feet	25 feet	25 feet
	Side	10 feet ¹	25 feet	10 feet
	Rear	20 feet	25 feet	25 feet
Maximum Impervious Surface Ratio		40%	60%	40%
Maximum Height of Structures		35 feet (15 feet for Accessory Buildings)	45 feet	45 feet

Notes: ¹ A five-foot side yard setback shall be required for substandard lots of record.

Planning Commission Action:

The Planning Commission conducted a public hearing on December 6, 2022 and voted 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 or deny the proposed ordinance on second 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 1.15 ACRES IDENTIFIED AS PIN 357-07-01-0001.**

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 1.15 acres consisting of the following parcel PIN 357-07-01-0001, as referenced on Exhibit A: Zoning Map Z-22-33, 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 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.

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 357-07-01-0001 (the “Annexed Parcel”), consisting of approximately 1.15 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 _____, 2023.

ATTEST:

Mayor Marilyn Hatley

City Clerk

APPROVED AS TO FORM:

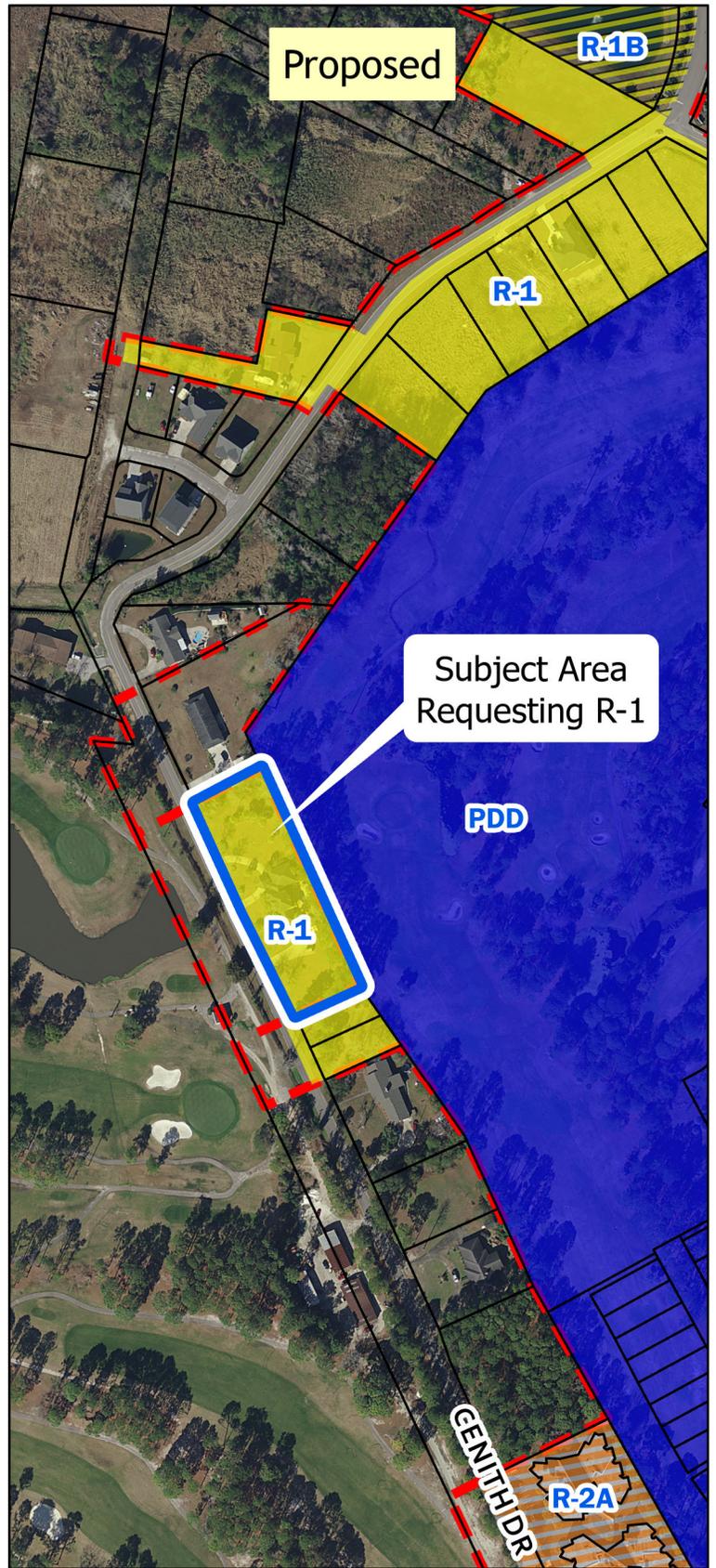
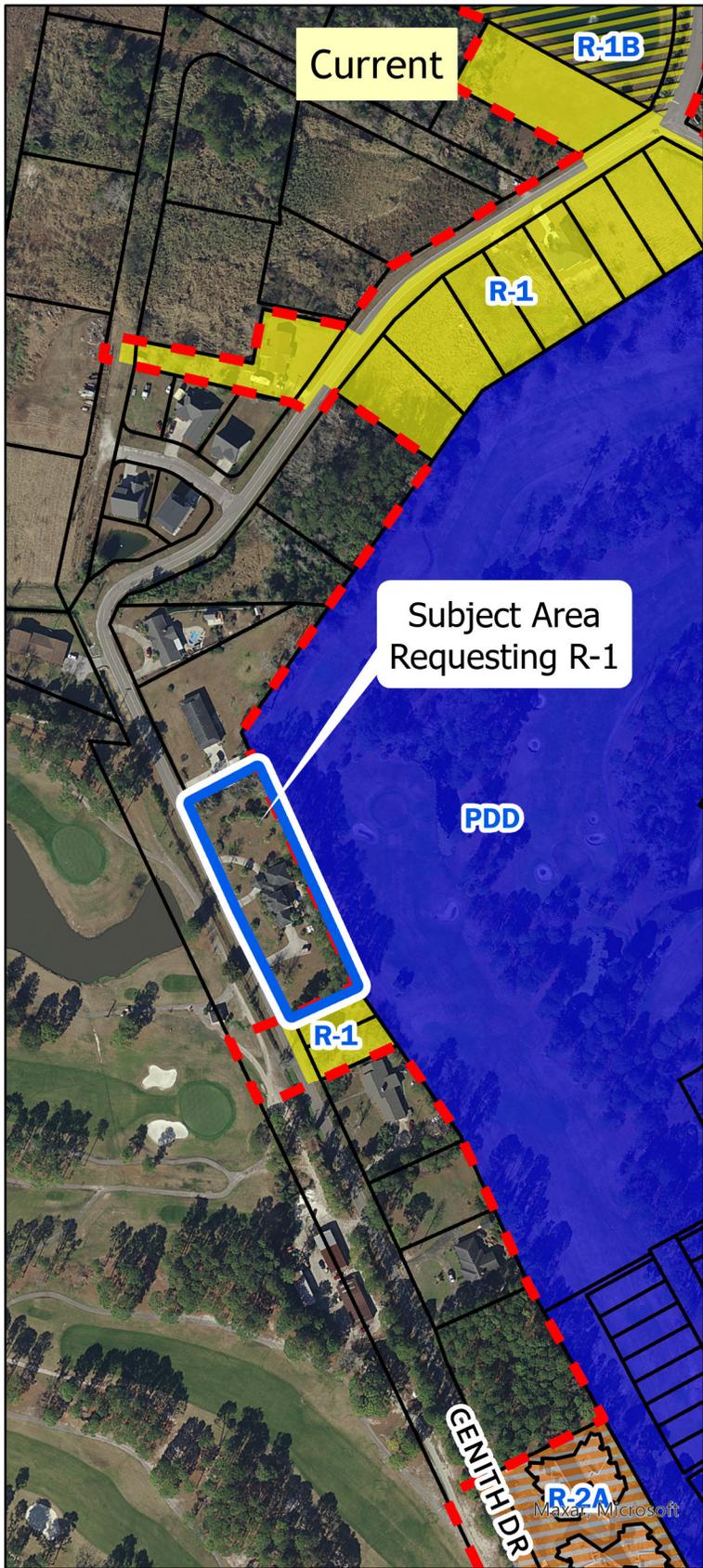
City Attorney

REVIEWED:

City Manager

FIRST READING: 1.9.2023
SECOND READING: 2.20.2023

ORDINANCE: 23-18



-  Subject Property
-  North Myrtle Beach City Limit

- Legend**
- Zoning District**
-  PDD
 -  R-1

-  R-1B
-  R-2A

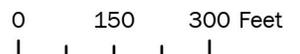


Exhibit A: Zoning Map Z-22-33

6C. ANNEXATION & ZONING DESIGNATION Z-22-33: Pursuant to a recorded pre-annexation agreement, City staff has begun the process to annex lands on Cenith Drive totaling approximately 1.15 acres and identified by PIN 357-07-01-0001. The lot is currently unincorporated and zoned General Residential (GR) 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.

History and Background:

On June 7, 2004, the City of North Myrtle Beach City Council approved a pre-annexation agreement with Ms. Kimberly Ann Green regarding this parcel. This pre-annexation agreement allowed Ms. Green to connect to the water and/or sewer system of the City of North Myrtle Beach even though the property was not contiguous to the City’s corporate boundary and was not eligible for annexation at that time. In exchange for allowing connection to the City’s utilities, restrictive covenants were executed and recorded for this property allowing the property to be considered for annexation into the City of North Myrtle Beach once it was contiguous. On October 19, 2020, City Council approved the annexation and zoning of the property previously known as the Possum Trot Golf Course into the Chestnut Greens Planned Development District (PDD). At this time, the subject parcel became contiguous to the City’s corporate boundary and eligible for annexation.

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 GR under Horry County jurisdiction. Located on Cenith Drive, the parcel contains a single-family home. Surrounding parcels within City limits are zoned R-1 and PDD within the Chestnut Greens PDD; adjacent unincorporated county parcels are zoned GR and Single-Family 6 (SF6).

Proposed R-1 Zoning:

		Single-family Dwelling	Churches	Other Permitted Uses
Minimum Site Area		10,000 SF	1 Acres	10,000 SF
Minimum Lot Width		80 feet	NA	NA
Minimum Yards:	Front	25 feet	25 feet	25 feet
	Side	10 feet ¹	25 feet	10 feet
	Rear	20 feet	25 feet	25 feet
Maximum Impervious Surface Ratio		40%	60%	40%
Maximum Height of Structures		35 feet (15 feet for Accessory Buildings)	45 feet	45 feet

Notes: ¹ A five-foot side yard setback shall be required for substandard lots of record.

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 (Single-Family Residential Low-Density), is a 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 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 because of such change, and the consequence of such change:

Current public rights-of-way serve this area; access is subject to Horry County encroachment permit approval with City concurrence.

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 January 9, 2023. 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.

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.

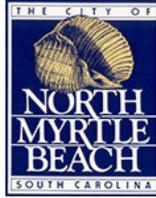
Alternative Motions

- 1) I move that the Planning Commission recommend approval of the annexation and zoning petition [Z-22-33] as submitted.

OR
- 2) I move that the Planning Commission recommend denial of the annexation and zoning petition [Z-22-33] as submitted.

OR
- 3) I move (an alternate motion).

FILE NUMBER:	Z-22-33
Complete Submittal Date:	November 7, 2022



Notice Published:	November 17, 2022
Planning Commission:	December 6, 2022
First Reading:	January 2, 2023
Second Reading:	February 6, 2023

City of North Myrtle Beach, SC

Petition for Annexation & Zoning

GENERAL INFORMATION

Date of Request: November 7, 2022	Property PIN(S): 35707010001
Property Owner(s): KIMBERLY ANN GREEN	Type of Zoning Map Amendment: Petition for Annexation and Zoning
Address or Location: 1690 Cenith Dr	Project Contact: Suzanne Pritchard
Contact Phone Number: 8432805572	Contact Email Address: lspritchard@nmb.us
Current County Zoning: GR	Proposed Zoning: R-1
Total Area of Property: 1.15 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.

1018 2nd Avenue South · North Myrtle Beach, SC 29582 · Telephone: (843) 280-5566 · Facsimile: (843) 280-5581

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

RESTRICTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS, that Kimberly A. Green seek 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 # 16 of Block # _____ within the Belle Edge Property subdivision, containing 1.2 acres outside the City of North Myrtle Beach corporate limits, which property is shown on map or plat recorded in Plat Book _____ at Page _____. Said property being conveyed to the Grantor by Deed of Record in Deed Book _____ at Page _____, in the office of the Register of Mesne Conveyance for Horry County.

Tax Map # : 143-12-01-023

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.

965024

FILED
HORRY, S.C.
2004 APR 30 PM 4:17
REGISTRAR OF DEEDS

REL39853KPREL

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, that **Amanda C. Rafool and Estate of Isaac E. Case by Louis E. Case, Personal Representative/Trustee and Louis E. Case, Individually,** hereinafter called Grantor(s), in the State aforesaid for and in consideration of the sum of **ONE HUNDRED SIXTY ONE THOUSAND DOLLARS and 00/100 (\$161,000.00)**, to us paid by **Kimberly Ann Green**, hereinafter called Grantee(s), (Receipt whereof is hereby acknowledged), has/have granted, bargained, sold and released; and by these presents, do/does grant, bargain, sell and release unto the said **Kimberly Ann Green**, her heirs and assigns forever, in fee simple, the following described property to wit:

Lot 16, Belle Edge Property and for a more complete description see Exhibit A attached

GRANTEE(S)' ADDRESS: **2403 Causey Drive
North Myrtle Beach, SC 29582**

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 **Kimberly Ann Green**, her heirs and assigns forever.

AND we do hereby bind ourselves and our Heirs and Assigns, to warrant and forever defend all and singular the said premises unto the said **Kimberly Ann Green**, her heirs and assigns forever, in fee simple, against us and our Heirs and Assigns, and all persons whomsoever lawfully claiming, or to claim the same or any part thereof.

DEED
2728 1254

STATE 418⁶⁰ COUNTY 177¹⁰
EXEMPT YES NO
ASSESSOR _____

1254

WITNESS the execution hereof by Grantor(s) this 29th day of April, in the year of our Lord Two Thousand Four and in the Two Hundred Twenty-eighth year of the Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered in the Presence of:

[Signature]
1st Witness

[Signature]
Notary as 2nd Witness

[Signature]
Amanda C. Rafool

Estate of Isaac E. Case

BY: (signature on page 3)
Louis E. Case, Personal Rep/Trustee

(signature on page 3)
Louis E. Case, Individually

STATE OF District of Columbia
COUNTY OF _____)

ACKNOWLEDGEMENT
(under S.C. Code Sect. 30-5-30(C))

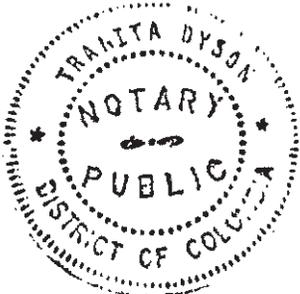
I, Tranita Dyson, a notary public for the State of District of Columbia, do hereby certify that **Amanda C. Rafool** personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this April 29, 2004.

[Signature]
Notary Public for _____
My commission expires: 9/14/08

PREPARED BY:
Richard E. Lester
Van Osdell Law Firm
1303 Azalea Court
Myrtle Beach, SC 29577
843-449-4491

TRANITA DYSON
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires September 14, 2008



STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

AFFIDAVIT

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

1. Property located at Lot 16, Cenith Road, North Myrtle Beach, SC 29582, being Horry County Tax Map Number 143-12-01-023, was transferred by Amanda C. Rafool and Estate of Isaac E. Case by Louis E. Case, Personal Representative/Trustee and Louis E. Case, Individually to Kimberly Ann Green on April 29, 2004.

The transaction was (Check One)

X an arm's length real property transaction and the sales price paid or to be paid in money or money's worth was \$161,000.00.

not an arm's length real property transaction and the fair market value of the property is \$ _____.*

The above transaction is exempt, or partially exempt, from the recording fee as set forth in S.C. Code Ann. Section 12-24-10, et. seq. because the deed is _____.

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

I further 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.



Amanda C. Rafool
Amanda C. Rafool

Estate of Isaac E. Case

BY: _____
Louis E. Case, Personal Representative/Trustee

Louis E. Case, Individually

Sworn to before me this
April 29, 2004.

[Signature]
Notary Public for SC
My commission expires: 9/08

*The fee is based on the real property's value. Value means the realty's fair market value. In arm's length real property transactions, this value is the sales price to be paid in money or money's worth (e.g. stocks, personal property, other realty, forgiveness of debt, mortgages assumed or places on the realty as a result of the transaction). However, a deduction is allowed from this value for the amount of any lien or encumbrance existing on land, tenement, or realty before the transfer and remaining on it after the transfer.

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

AFFIDAVIT

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

1. Property located at Lot 16, Cenith Road, North Myrtle Beach, SC 29582, being Horry County Tax Map Number 143-12-01-023, was transferred by Amanda C. Rafool and Estate of Isaac E. Case by Louis E. Case, Personal Representative/Trustee and Louis E. Case, Individually to Kimberly Ann Green on April 29, 2004.

The transaction was (Check One)

X an arm's length real property transaction and the sales price paid or to be paid in money or money's worth was \$161,000.00.

not an arm's length real property transaction and the fair market value of the property is \$ _____.*

The above transaction is exempt, or partially exempt, from the recording fee as set forth in S.C. Code Ann. Section 12-24-10, et. seq. because the deed is _____.

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

I further 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.

Amanda C. Rafool

Estate of Isaac E. Case

BY: Louis E. Case
Louis E. Case, Personal Representative/Trustee

Louis E. Case
Louis E. Case, Individually

Sworn to before me this
April 29, 2004.

[Signature]
Notary Public for SC

My commission expires: 7/24/07

*The fee is based on the real property's value. Value means the realty's fair market value. In arm's length real property transactions, this value is the sales price to be paid in money or money's worth (e.g. stocks, personal property, other realty, forgiveness of debt, mortgages assumed or places on the realty as a result of the transaction). However, a deduction is allowed from this value for the amount of any lien or encumbrance existing on land, tenement, or realty before the transfer and remaining on it after the transfer.

A

EXHIBIT A

ALL AND SINGULAR, all those certain pieces, parcels or lots of land situate, lying and being near Crescent Beach Section, in or near the Town of North Myrtle Beach, Little River Township, Horry County, South Carolina, and more particularly described as follows:

BEGINS on the North side of a thirty (30) foot street at the corner of Lot Fifteen (15); runs thence with said street, North fifty-five (55) degrees West three hundred seventy-eight (378) feet to Lot Seventeen (17); thence with Lot Seventeen (17), North thirty-five (35) degrees East one hundred forty (140) feet to the golf course line; thence with said line, South fifty-five (55) degrees East three hundred seventy-eight (378) feet to Lot Fifteen (15); thence with Lot Fifteen (15), South thirty-five (35) degrees West one hundred forty (140) feet to the beginning. Said property is shown as Lot Sixteen (16) on a map of lots mapped in the Belle Edge Lands dated March 6, 1968, by C.B. Berry, R.L.S., reference to which is made a part hereof.

This being the identical property conveyed to Amanda C. Rafool (total of 50% interest) by Deed conveying one-fourth percent interest from I.E. Case recorded January 14, 1981 in Deed Book 698 at Page 344, and by Deed conveying one-fourth percent interest from I.E. Case recorded March 19, 1980 in Deed Book 670 at Page 441 in the Office of the ROD for Horry County, South Carolina. The remaining 50% interest from I.E. Case is being conveyed under Estate Case Number 2003-ES-26-628 as filed on April 30, 2003 in the Probate Court of Horry County, South Carolina.

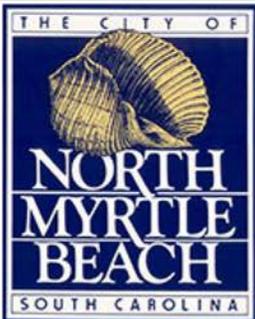
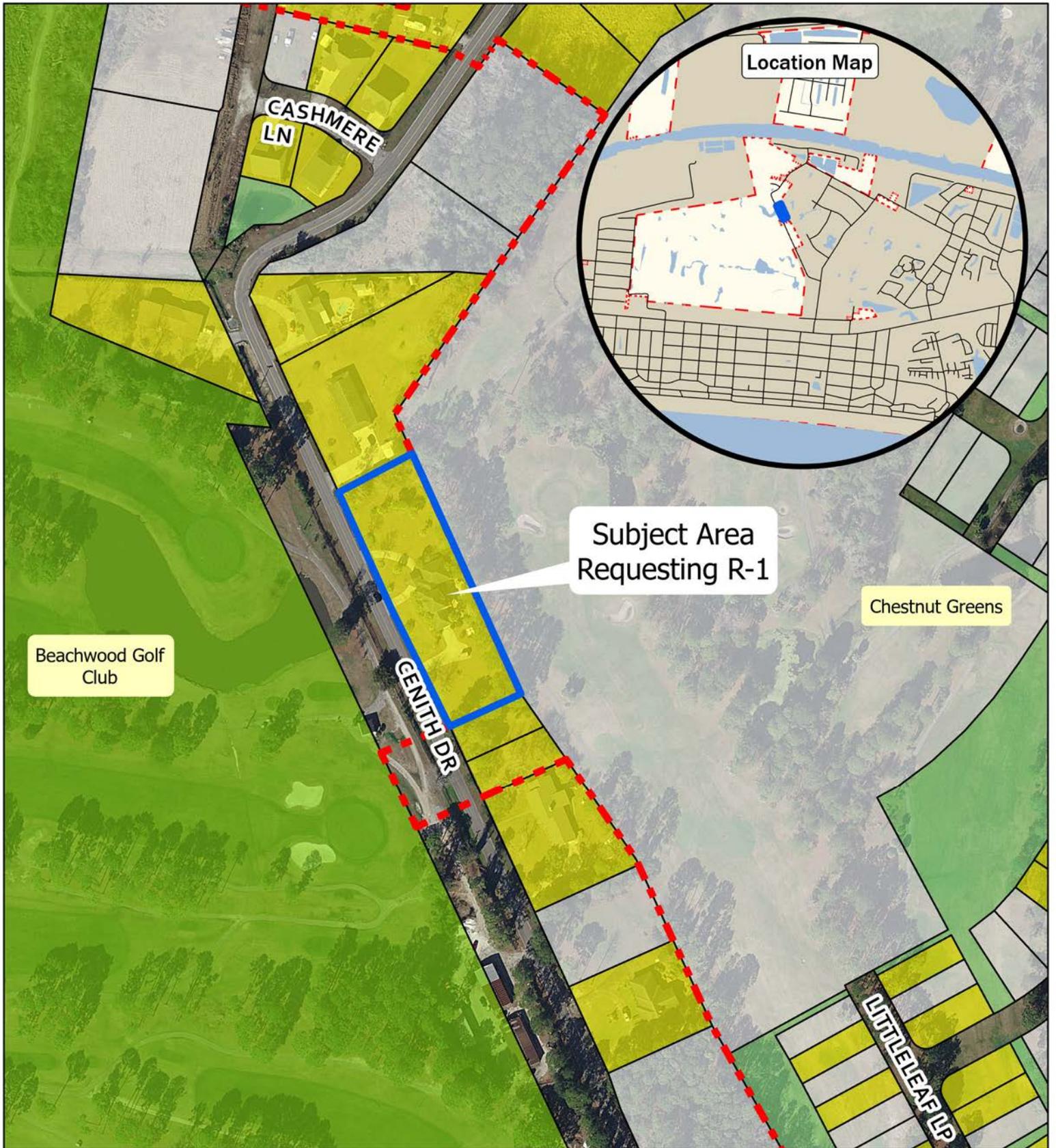
HORRY COUNTY ASSESSOR

143-12-01-023

Map Blk Parcel

5-3-45

1258



Legend

Subject Property

North Myrtle Beach City Limit

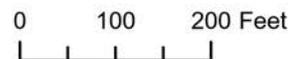
Existing Land Use

Common Open Space

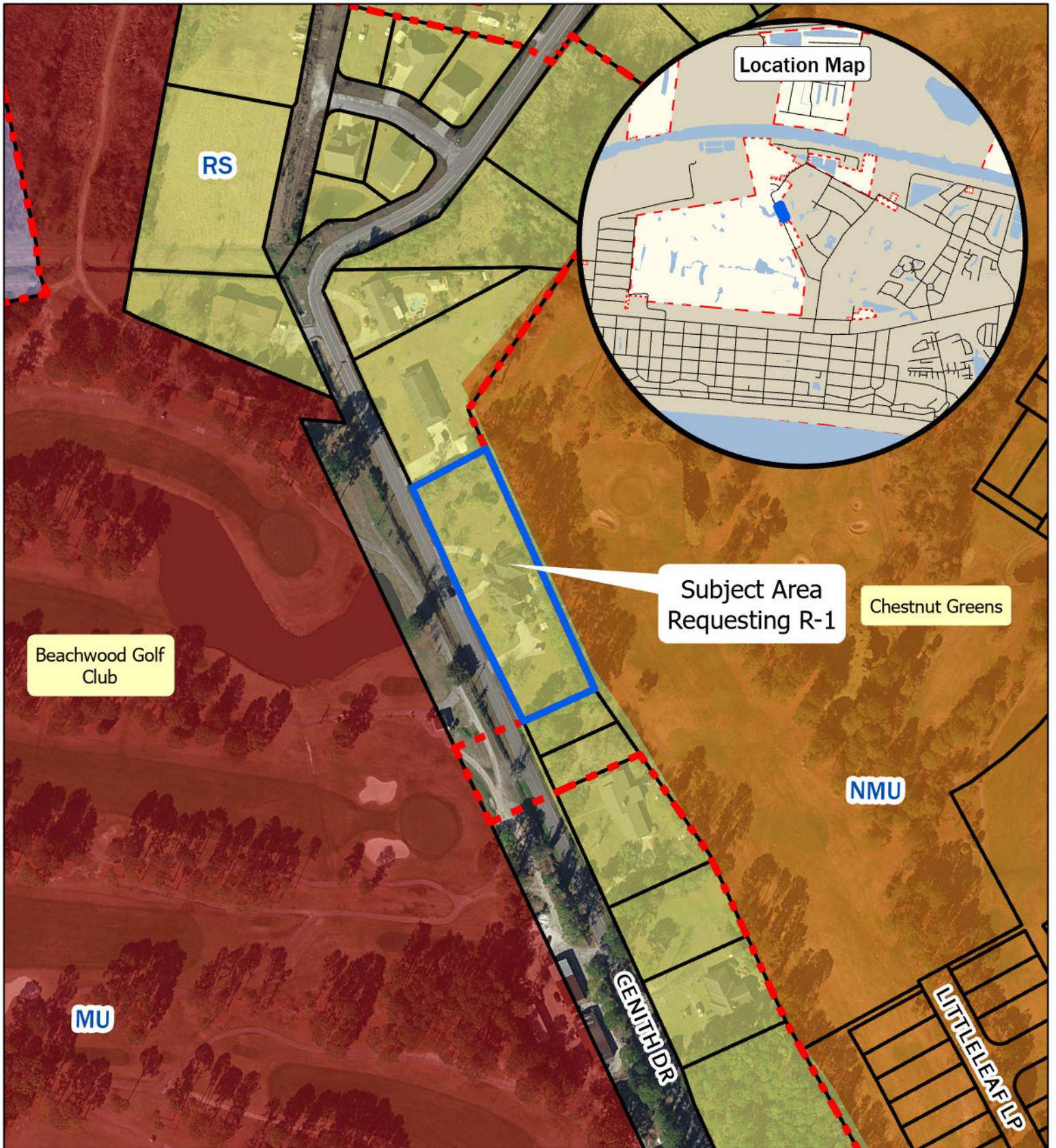
Golf Course

Public, Social, Cultural

Vacant



Existing Land Use



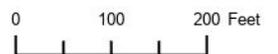
Legend

- Subject Property
- North Myrtle Beach City Limit

Recommended Future Land Use Categories

- SP - Service / Production
- MU - Mixed Use

- NMU - Neighborhood Mixed Use
- RS - Residential Suburban



Future Land Use