

REQUEST FOR CITY COUNCIL CONSIDERATION

Meeting Date: May 1, 2023

Agenda Item: 5F	Prepared by: L. Suzanne Pritchard, PLA, AICP, CFM
Agenda Section: Consent: Ordinance. Second Reading	Date: April 24, 2023
Subject: Petition for annexation and zoning designation for 0.18 acres on Cashmere Lane [Z-23-6]	Division: Planning and Development

Background:

In 2006, the City of North Myrtle Beach City Council approved a resolution allowing the City Manager to enter into a pre-annexation agreement with LC Barnaba Construction, Inc. regarding Lot O of the Belle Edge Subdivision. This pre-annexation agreement allowed the residents of this property 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. Lot O was subdivided into five lots in a plat recorded on October 5, 2006, but the restrictive covenants run with all parcels that were included in the original Lot O. On October 4, 2021, City Council approved the annexation and zoning of the property immediately adjacent to Lot O on the north. 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 Single-Family 6 (SF6) under Horry County jurisdiction. Located on Cashmere Lane off Cenith Drive, the parcel is vacant and undeveloped. Surrounding parcels within City limits are zoned Single-Family Residential Low-Density (R-1); adjacent unincorporated county parcels are zoned SF6 and CFA (Commercial Forest Agriculture). Upon annexation, the parcel would be designated R-1 as per Exhibit A: Zoning Map Z-23-6, 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 March 21, 2023 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 Department 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 0.18 ACRES IDENTIFIED AS PIN 357-07-01-0014.

WHEREAS, the property owner has entered into a pre-annexation agreement with the City of North Myrtle Beach through restrictive deed covenant until such time as it becomes contiguous, the 0.18 acres consisting of the following parcel PIN 357-07-01-0014 as referenced on Exhibit A: Zoning Map Z-23-6, 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 357-07-01-0014 (the “Annexed Parcel”), consisting of approximately 0.18 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:

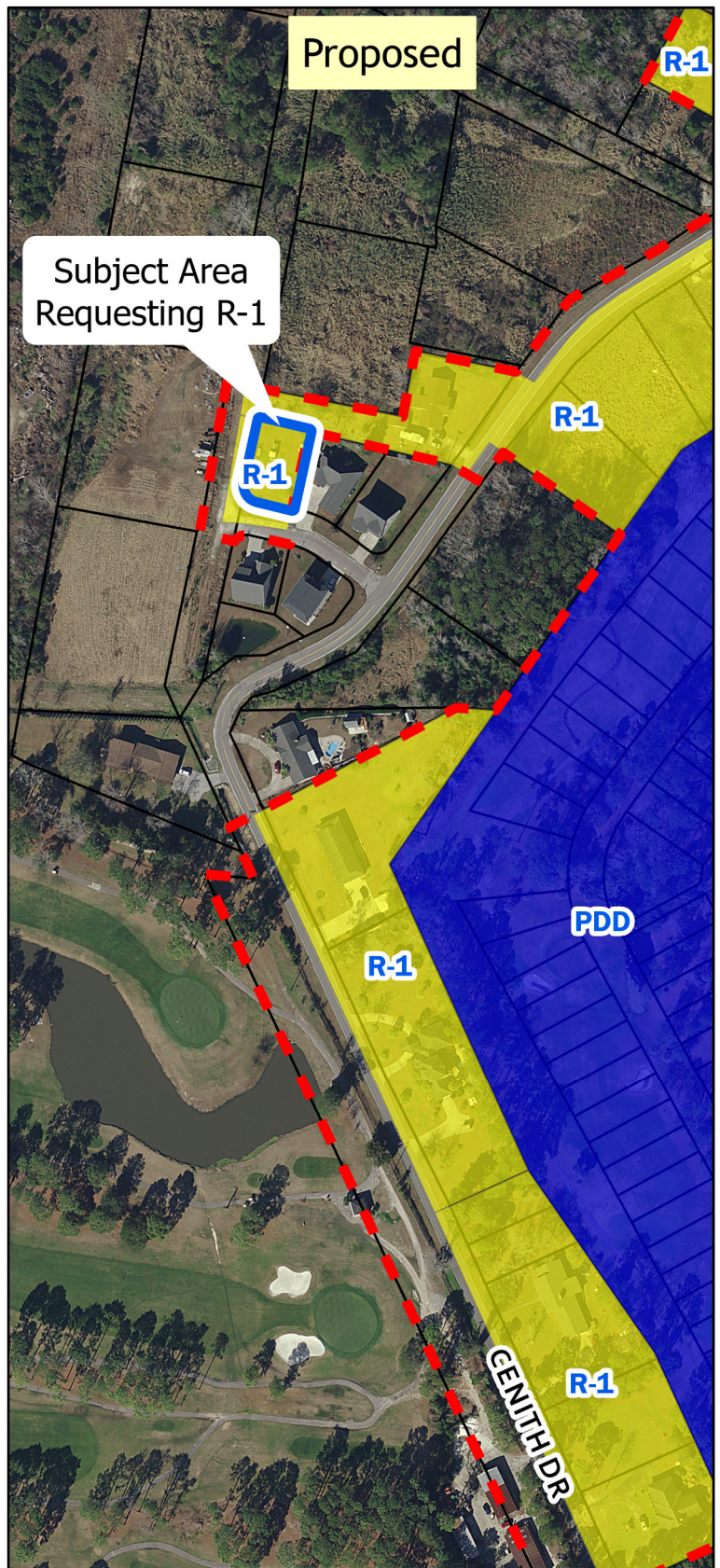
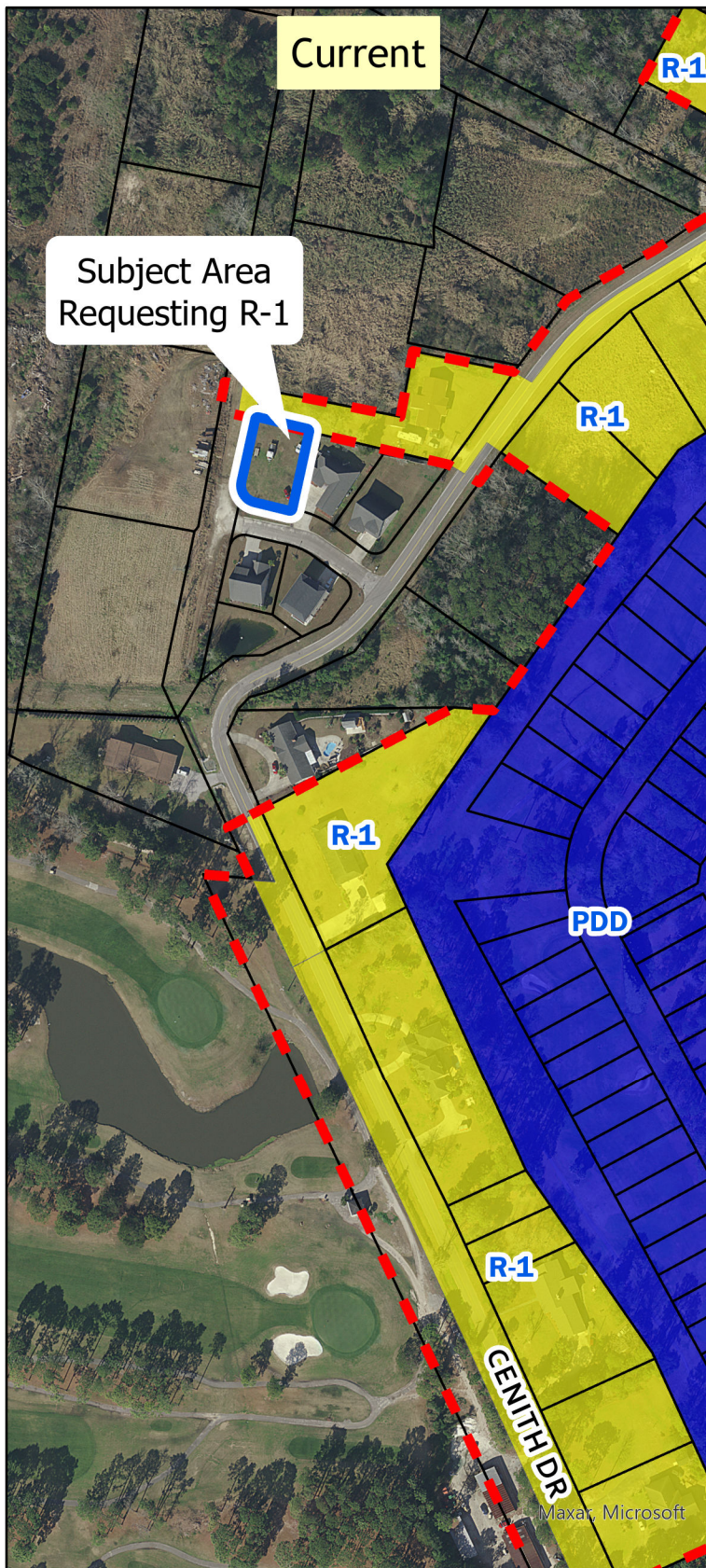
City Attorney

REVIEWED:

City Manager

FIRST READING: 4.3.2023
SECOND READING: 5.1.2023

ORDINANCE: 23-36



-  Subject Area
-  North Myrtle Beach City Limit

Legend

Zoning District

-  PDD
-  R-1

-  R-1B



0 125 250 Feet

Exhibit A: Zoning Map Z-23-6

7A. ANNEXATION & ZONING DESIGNATION Z-23-6: Pursuant to a recorded pre-annexation agreement, City staff has begun the process to annex lands on Cashmere Lane totaling approximately 0.18 acres and identified by PIN 357-07-01-0014. The lot is currently unincorporated and zoned Single-Family Residential 6 (SF6) 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:

In 2006, the City of North Myrtle Beach City Council approved a resolution allowing the City Manager to enter into a pre-annexation agreement with LC Barnaba Construction, Inc. regarding Lot O of the Belle Edge Subdivision (TMS 143-12-01-019). This pre-annexation agreement allowed the residents of this property 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. Lot O was subdivided into five lots in a plat recorded on October 5, 2006, but the restrictive covenants run with all parcels that were included in the original lot O. On October 4, 2021, City Council approved the annexation and zoning of the property immediately adjacent to the subject property on the north. 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 SF6 under Horry County jurisdiction. Located on Cashmere Lane, the parcel contains a single-family home. Surrounding parcels within City limits are zoned R-1; adjacent unincorporated county parcels are zoned 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 City encroachment permit 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:

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 April 3, 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-23-6] as submitted.

OR
- 2) I move that the Planning Commission recommend denial of the annexation and zoning petition [Z-23-4] as submitted.

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

FILE NUMBER:	Z-23-6
Complete Submittal Date:	



Notice Published:	March 2, 2023
Planning Commission:	March 21, 2023
First Reading:	April 3, 2023
Second Reading:	May 1, 2023

City of North Myrtle Beach, SC

Petition for Annexation & Zoning

GENERAL INFORMATION	
Date of Request: February 24, 2023	Property PIN(S): 35707010014
Property Owner(s): Danny L Wallen	Type of Zoning Map Amendment: Petition for Annexation and Zoning
Address or Location: 108 Cashmere Lane	Project Contact: Suzanne Pritchard
Contact Phone Number: 8432805572	Contact Email Address: lspritchard@nmb.us
Current County Zoning: SF6	Proposed Zoning: R-1
Total Area of Property: 0.176 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). <i>Applicant's E-signature: <u>Suzanne Pritchard</u></i>	
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

903801

FILED
HORRY COUNTY, S.C.
2006 JUN 26 PM 1:51

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

RESTRICTIVE COVENANTS

BALLERY V. SKIPPER
REGISTRAR OF DEEDS

KNOW ALL MEN BY THESE PRESENTS, that L.C. Barnaba Construction, Inc. seeks permission to connect to the water and/or sewer system of the City of North Myrtle Beach. The Grantor owns that certain piece, parcel, or tract of land situate, lying and being Lot "O" in the Belle Edge Subdivision, containing 1.49 acres outside the corporate limits of the City of North Myrtle Beach. The property is also known as Horry County TMS # 143-12-01-019.

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 petitioning for annexation of the above described property into the City of North Myrtle Beach. If and when the above described property becomes contiguous to the corporate limits of the City, then the above described property shall be considered for annexation by the City Council of the City of North Myrtle Beach. Final annexation of the above described property rests upon an affirmative vote of a majority of the governing body of the City of North Myrtle Beach.

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

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

DEED
3119 1310

8
1310

WITNESS the execution hereof, this 19th day of May, 2006.

Signed, Sealed and Delivered
in the presence of :

Louis C. Barnaba
Louis C. Barnaba
Kimberly Herd
Kimberly Herd

William A. Dew
William A. DEW
Mark R. Amos
Mark R. AMOS

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

PROBATE

PERSONALLY appeared before me William A. Dew, and made
oath that he or she saw the within named Louis Barnaba sign, seal and as his or her act and deed
in the case of private persons, or as the corporate act and deed, in the event of a corporation, and
by its proper officers, deliver the within Restrictive Covenants, and the he or she, with
MARK R. AMOS witnessed the execution thereof.

Sworn to and subscribed before me this 19th
day of MAY, 2006.

Brenda E. Eckis
Notary Public for South Carolina Brenda E. Eckis
My Commission Expires August 24, 2010
My Commission Expires: _____

1311

Grantees' Address: 506 37th Ave. S., N Myrtle Beach, SC 29582

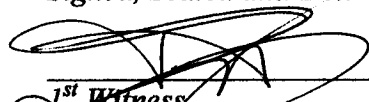
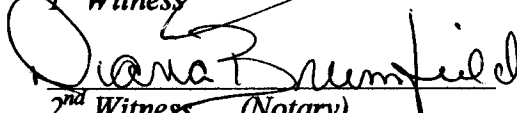
*TOGETHER WITH all and singular, the Rights, Members, Hereditaments
and Appurtenances to the said premises belonging, or in anywise incident or
appertaining.*

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

*AND Grantor 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
Grantee, 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.*

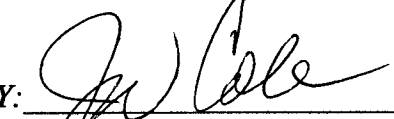
*WITNESS the execution hereof by Grantor this 20th day of December in
the year of our Lord two thousand and seven and in the two hundred thirty second year
of the Sovereignty and Independence of the United States of America.*

Signed, Sealed and Delivered


1st Witness

2nd Witness (Notary)

Blind Mice Three, LLC

BY: 
Louis C. Barnaba, Member

BY: 
J. Wayne Cole, Member

Diana Z. Brumfield
Notary Public for South Carolina
My Commission Expires: 6/19/11

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

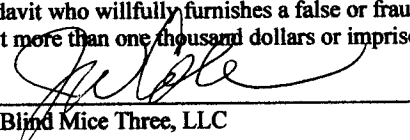
AFFIDAVIT

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 1 Stone Ridge, N. Myrtle Beach, SC, bearing Horry County Tax Map Number 143-12-01-100 was transferred by Blind Mice Three, LLC to L. C. Barnaba Construction, Inc. on 12/20/07.
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).

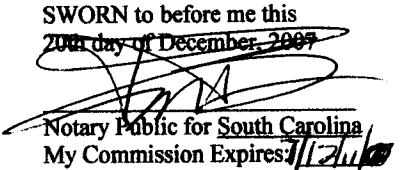
If exempt under exemption #14 as described in the information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes _____ or No _____

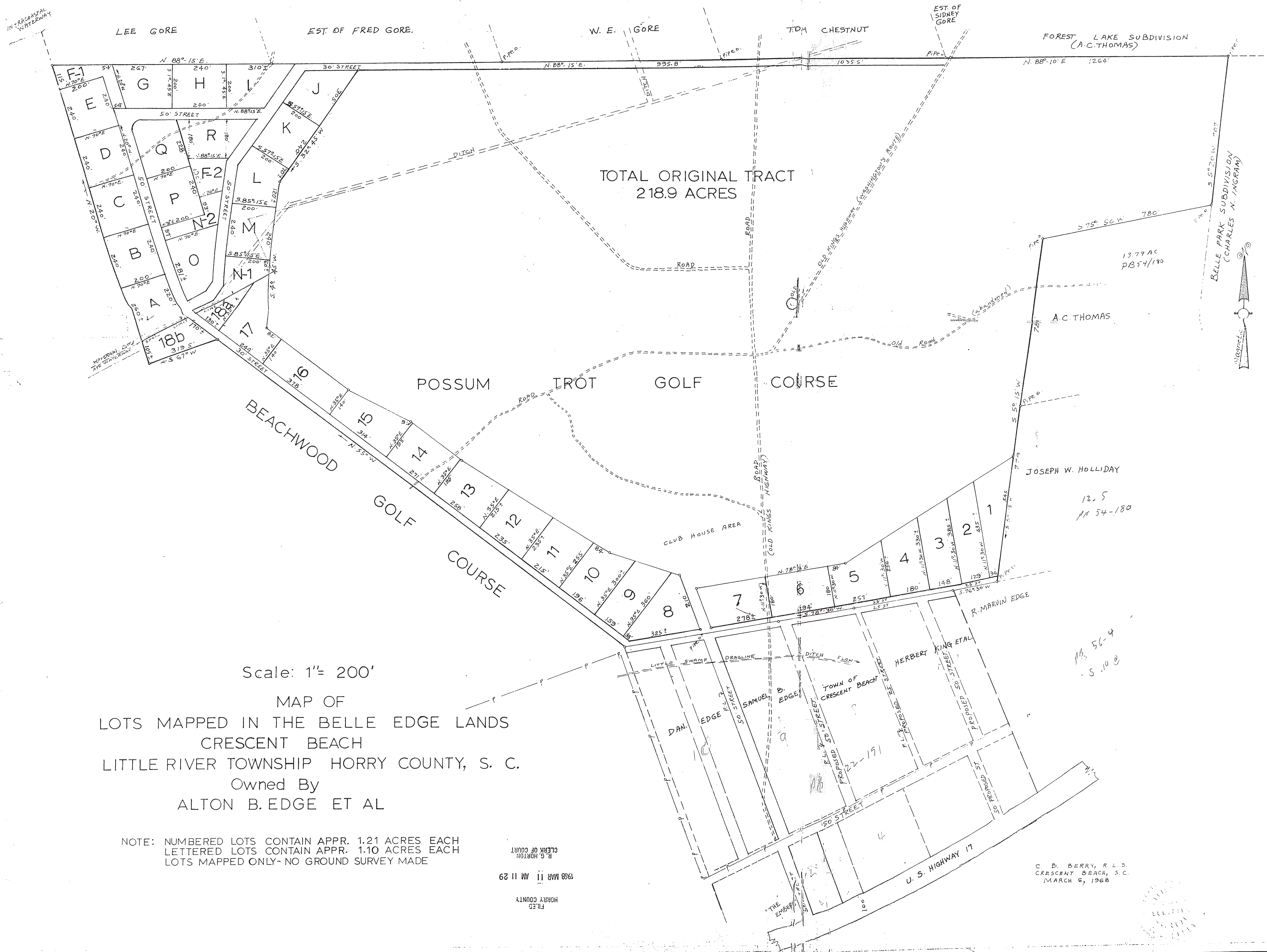
4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit):
 - (a) X The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$91,500.00.
 - (b) _____ The fee is computed on the fair 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: \$91,500.00
 - (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: \$91,500.00
7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$339.85.
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: GRANTOR.
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.

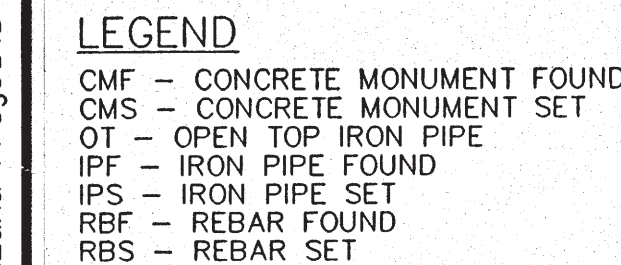

Blind Mice Three, LLC

SWORN to before me this

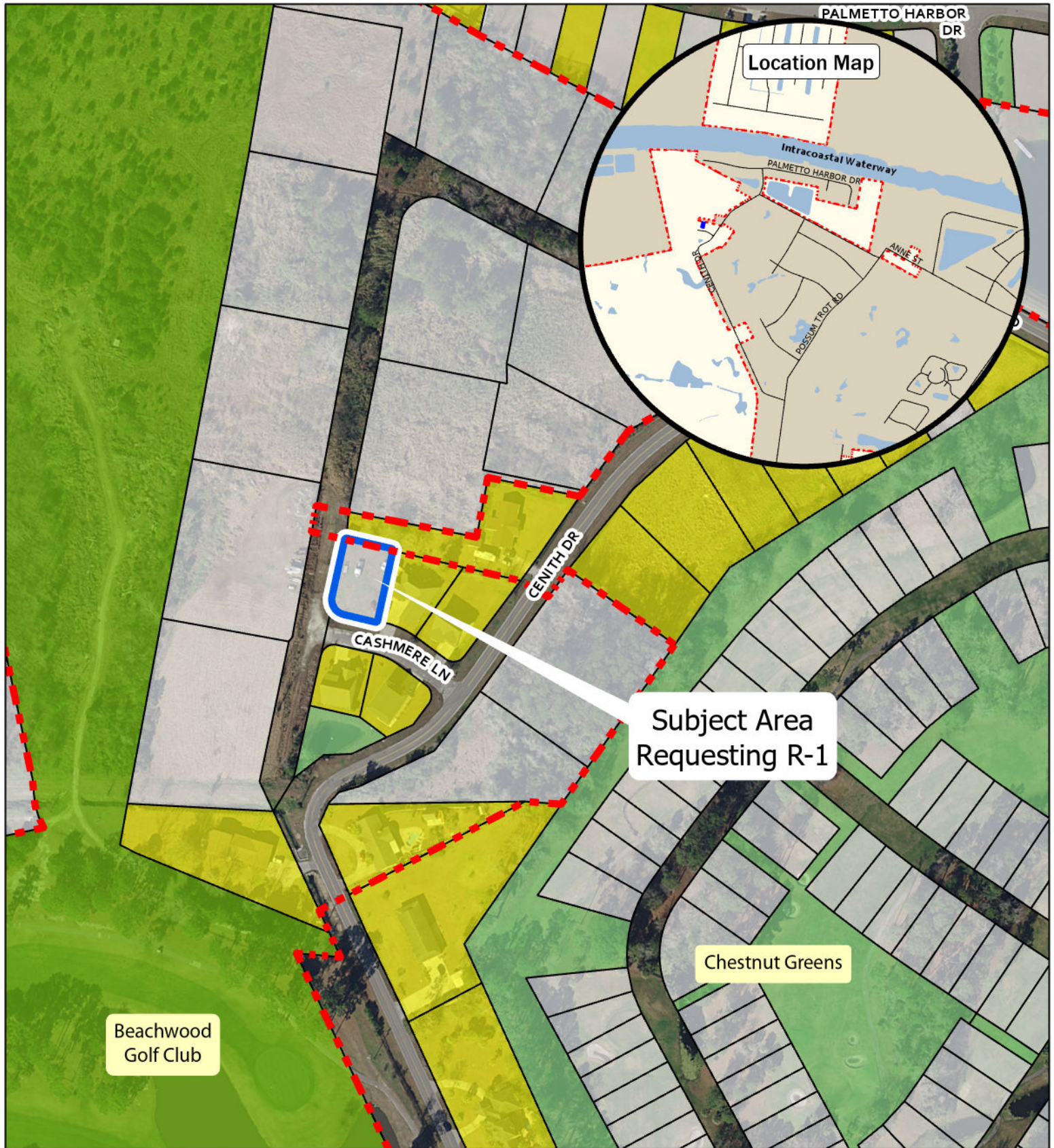
~~20th~~ day of ~~December~~, 2007


Notary Public for South Carolina
My Commission Expires 1/12/10





REF. PB.:	N/A
REF. DB.:	2935 Pg. 692
REF. TMS:	143-12-01-019
DRAWN BY:	TAS
CHECKED BY:	RAW
REF. PLAT:	
JOB NO.:	060594FF
PROJ. NO.:	060594
SHEET NO.	1
OF:	1

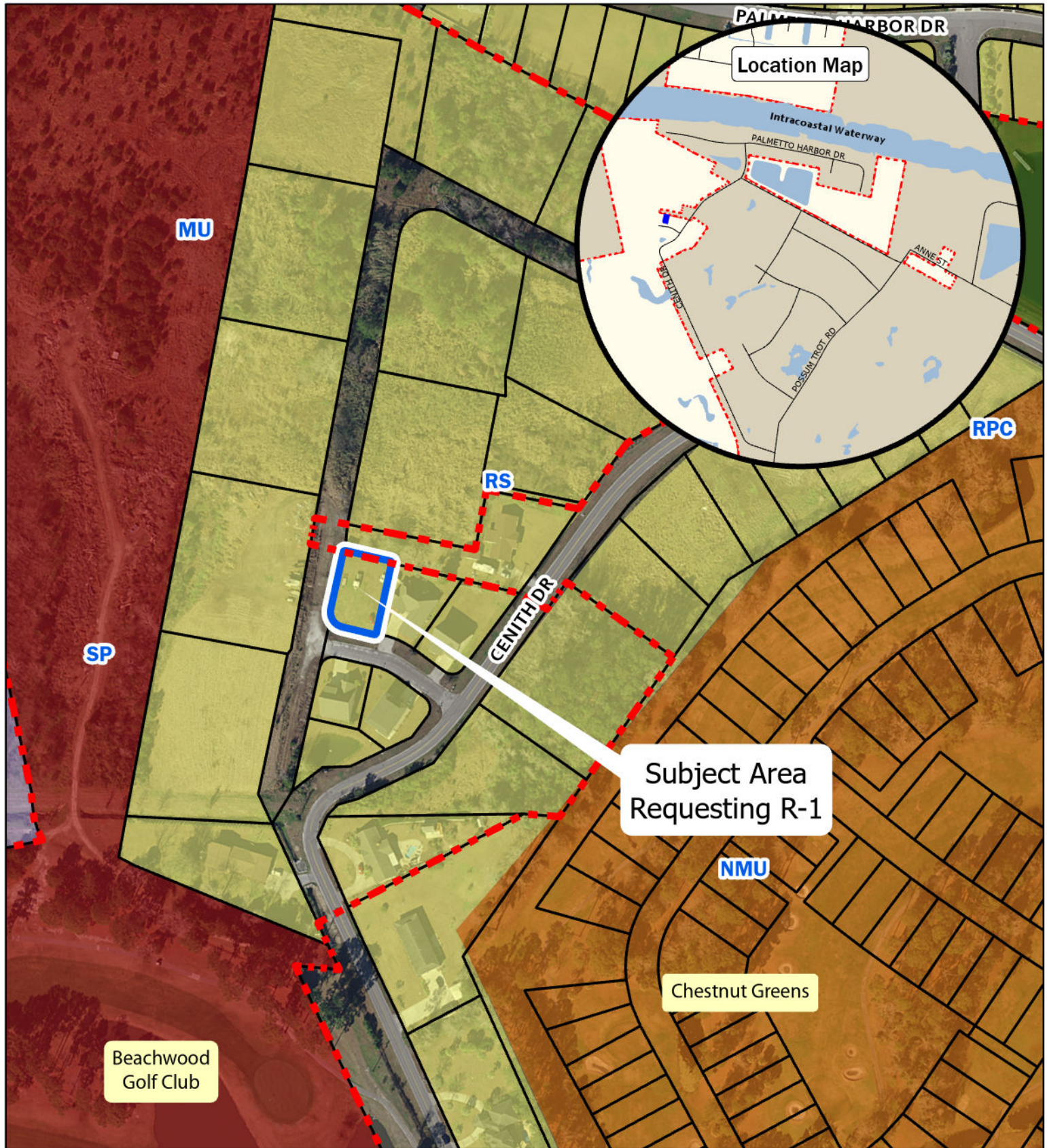


- | Legend | |
|--------|--------------------------------------|
| | North Myrtle Beach City Limit |
| | Subject Area |
| | Existing Land Use: Common Open Space |
| | Existing Land Use: Golf Course |
| | Private Common Open Space |
| | Pubic, Social, Cultural |
| | Vacant |



0 100 200 Feet

Existing Land Use



North Myrtle Beach City Limit

Recommended Future Land Use Categories

Undesignated

CC - Conservation Community
 RPC - Resource, Protection, Conservation
 CV - Civic / Education
 SP - Service / Production

Legend

HC - Highway Commercial
 MU - Mixed Use
 MMU - Marina Mixed Use
 NMU - Neighborhood Mixed Use

RS - Residential Suburban
 RN - Residential Neighborhood
 RU - Residential Urban
 Subject Area



0 100 200 US Feet

Future Land Use