



NEW HANOVER COUNTY PLANNING & LAND USE

230 Government Center Drive Suite 110
Wilmington, NC 28403
910-798-7165 phone
910-798-7053 fax
www.nhcgov.com

Application for ZONING MAP AMENDMENT

Petitioner Information	Property Owner(s) <i>If different than Petitioner</i>	Subject Property
Name Caroland Development, LLC, as Receiver for 216 Porters Neck Rd.	Owner Name James A. Lanier, Jr.	Address 216 Porters Neck Rd.
Company	Owner Name 2	Parcel ID(s) R03600-005-002-000
Address P.O. Box 481936	Address P.O. Box 2552	Area ±2.75 acres
City, State, Zip Charlotte, NC 28269-3731	City, State, Zip Clarksburg, WV 26302	Existing Zoning and Use R-15 Residential
Phone (910) 508-7476 (c/o Petitioners attorney Matthew A. Nichols)	Phone	Proposed Zoning and Use O&I - Office and Institutional
Email matt@mattnicholslaw.com (c/o Petitioners attorney Matthew A. Nichols)	Email	Land Classification Urban Mixed Use
Application Tracking Information (Staff Only)		
Case Number ZZO-01	Date/Time received: 1/8/2020	Received by: BS

APPLICATION OVERVIEW

In order to assist petitioners through the rezoning process, petitioners are highly encouraged to attend a pre-application conference prior to application submittal. Petitioners are requested to review the sections of the Zoning Ordinance specific to zoning amendments prior to submission, and advised to contact Planning Staff with any questions. The following sections of the Zoning Ordinance pertain specifically to zoning amendments:

- Section 110: Amending the Ordinance
- Section 111: Petitions
- Section 112: Approval Process

Applications for zoning amendments must first be considered by the New Hanover County Planning Board at a public hearing. The Planning Board will make a recommendation to the County Commissioners which will take final action on the permit application in a quasi-judicial public hearing. Attendance at all public hearings is required. The public hearings will allow staff, the applicant, proponents and opponents to testify in regards to the request. Unless otherwise published or announced, Planning Board meetings are held on the first Thursday of each month at 6:00PM in the Commissioner's Assembly Room at the Historic County Courthouse located at Third and Princess Streets, Wilmington, North Carolina. All meeting dates and application deadlines are published on the New Hanover County Planning website.

APPLICATION REQUIREMENTS

In order to assist petitioners through the rezoning process, petitioners are highly encouraged to attend a pre-application conference prior to application submittal. Applications must be reviewed by Planning Staff for completeness prior to being officially accepted. Applications must be submitted to Planning Staff at least twenty (20) working days before the Planning Board meeting at which the application is to be considered. In order to allow time to process, fees and review for completeness, applications will not be accepted after 5:00 PM on the deadline day. Once accepted, the Planning Board will consider the application at the assigned meeting unless the applicant requests a continuance.

For all proposals, in addition to this application, the following supplemental information and materials are required:

Required Information	Applicant Initial	Staff Initial
Copy of the New Hanover County Tax Map, which delineates the property requested for rezoning.	MN	BS
Legal description (by metes and bounds) of property requested for rezoning.	MN	BS
Copy of the subdivision map or recorded plat which delineates the property.	N/A	N/A
Any special requirements of the Ordinance (for example, Section 54.2 for Planned Development District, Section 54.1 for Exceptional Design Zoning District, or Section 54.3 for Riverfront Mixed Use District)	N/A	N/A
A report of the required public information meeting outlined in Section 111-2.1 (if applicable)	N/A	N/A
Authority for Appointment of Agent Form (if applicable)	MN	BS
Fee - For petitions involving 5 acres or less, \$500. For petitions involving greater than 5 acres, \$600	MN	BS

CRITERIA REQUIRED FOR APPROVAL OF A CHANGE OF ZONING

Requests for general rezonings do not consider a particular land use but rather all of the uses permitted in the zoning district which is being requested for the subject property. Rezoning requests must be consistent with the New Hanover County Land Use Plan and the Zoning Ordinance, and the applicant has the burden of proving that the request is not consistent with the county's adopted land use plan, zoning ordinance, reasonable, and in the public's interest. The applicant should explain, with reference to attached plans (where applicable), how the proposed zoning district satisfies these requirements. The applicant has the burden of proof and must provide sufficient evidence in order for the required findings to be met.

You must explain in the space below how your request satisfies each of the following requirements (attach additional sheets if necessary):

1. How would the requested change be consistent with the County's Policies for Growth and Development?

Please see attached Exhibit "A".

2. How would the requested zone change be consistent with the property's classification on the Land Classification Map?

Please see attached Exhibit "A".

3. What significant neighborhood changes have occurred to make the original zoning inappropriate, or how is the land involved unsuitable for the uses permitted under the existing zoning?

Please see attached Exhibit "A".

4. How will this change of zoning serve the public interest?

Please see attached Exhibit "A".

If an applicant requests delay of consideration from the Planning Board or Board of County Commissioners before notice has been sent to the newspaper, the item will be calendared for the next meeting and no fee will be required. If delay is requested after notice has been sent to the newspaper, the Board will act on the request at the scheduled meeting and are under no obligation to grant the continuance. If the continuance is granted, a fee in accordance with the adopted fee schedule as published on the New Hanover County Planning website will be required.

By my signature below, I understand and accept all of the conditions, limitations and obligations of the zoning district for which I am applying. I understand that the existing official zoning map is presumed to be correct. I understand that I have the burden of proving why this requested change is in the public interest. I certify that this application is complete and that all information presented in this application is accurate to the best of my knowledge, information, and belief.



Signature of Petitioner and/or Property Owner

BRIAN GRIZZLE

ARLAND DEVELOPMENT, LLC As Receiver
for 216 Porters

Print Name Neck Rd.



NEW HANOVER COUNTY
PLANNING & LAND USE
*AUTHORITY FOR
APPOINTMENT OF AGENT*

230 Government Center Drive
Suite 110
Wilmington, NC 28403
910-798-7165 phone
910-798-7053 fax
www.nhcgov.com

Please note that for quasi-judicial proceedings, either the land owner or an attorney must be present for the case at the public hearing.

The undersigned applicant does hereby appoint an authorized the agent described herein as their exclusive agent for the purpose of petitioning New Hanover County for a variance, special use permit, rezoning request, and/or an appeal of Staff decisions applicable to the property described in the attached petition. The Agent is hereby authorized to, on behalf of the applicant:

1. Submit a proper petition and the required supplemental information and materials
2. Appeal at public meetings to give representation and commitments on behalf of the applicant
3. Act on the applicant's behalf without limitations with regard to any and all things directly or indirectly connected with or arising out of any petition applicable to the New Hanover County Zoning Ordinance.

Agent Information	Applicant(s)	Subject Property
Name Matthew A. Nichols	Owner Name Caroland Development, LLC as Receiver for 216 Porters Neck Rd.	Address 216 Porters Neck Rd.
Company Law Office of Matthew A. Nichols	Owner Name 2	City, State, Zip Wilmington, NC
Address 3205 Randall Pkwy, Suite 104	Address P.O. Box 481936	Parcel ID R03600-005-002-000
City, State, Zip Wilmington, NC 28403	City, State, Zip Charlotte, NC 28269-3731	
Phone (910) 508-7476	Phone	
Email matt@mattnicholslaw.com	Email	
Application Tracking Information (Staff Only)		
Case Number Reference:	Date/Time received:	Received by:

This document was willfully executed on the 17 day of January, 2020.

[Signature]
Applicant 1 Signature
* CAROLAND Development LLC
As Receiver for 216 Porters Neck Rd.

Applicant 2 Signature

FILED
CLERK OF SUPERIOR COURT
NEW HANOVER COUNTY

STATE OF NORTH CAROLINA

JAN - 6 2020

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

COUNTY OF NEW HANOVER

10-CVS-5001

at 10:55 am/pm
By [Signature] Dep/Asst CSC

BRANCH BANKING AND TRUST
COMPANY,

Plaintiff,

v.

JAMES ALLEN LANIER, JR.,

Defendant.

**ORDER GRANTING RECEIVER'S
MOTION FOR ORDER AUTHORIZING
PRIVATE SALE OF
REAL PROPERTY**

THIS MATTER comes before the Court upon the Motion for Order Authorizing Private Sale of Real Property (the "Motion") by Caroland Development, LLC, the court-appointed Receiver (the "Receiver"), pursuant to the provisions of N.C. Gen. Stat. §§ 1-505 and 1-339.1 *et seq.* and the equitable power of the court. Based upon the Motion, the evidence presented and arguments of counsel, the Court shall authorize the sale of the receivership property and to pursue or delegate the authority to pursue the rezoning of the receivership property; now therefore,

IT IS ORDERED, ADJUDGED AND DECREED that the Receiver shall be, and hereby is, authorized to sell the real property identified as a 2.70± acre parcel located at 216 Porters Neck Road, Wilmington, New Hanover County, North Carolina 28411 (the "Porters Neck Property") acquired by Defendant pursuant to North Carolina General Warranty Deed recorded in Book 4369, Page 929 of the New Hanover County Registry to Short Acre, LLC (the "Buyer") for \$450,000.00 pursuant to the Offer to Purchase and Contract attached hereto and incorporated as if set forth fully herein (the "Offer");

A TRUE COPY
CLERK OF SUPERIOR COURT
NEW HANOVER COUNTY
BY: *Leni M. Knowles*
Deputy Clerk

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Offer and the Receiver's authority to sell the Porters Neck Property shall be, and hereby is, subject to an upset bid upon the same terms and conditions and in the same manner as provided by N.C. Gen. Stat. §§ 1-339.36 and 1-339.25;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Receiver is authorized to pursue or file to amend the zoning of the Porters Neck Property from its current zoning to O & I and to delegate, in its discretion, such authority to the Buyer, its delegate or to any authorized buyer, and that the entirety of the costs and expenses of this rezoning petition to the Receivership, including any and all attorney's fees and expenses of the Receiver, shall be borne exclusively by the Buyer or person or entity to whom such authority is delegated.

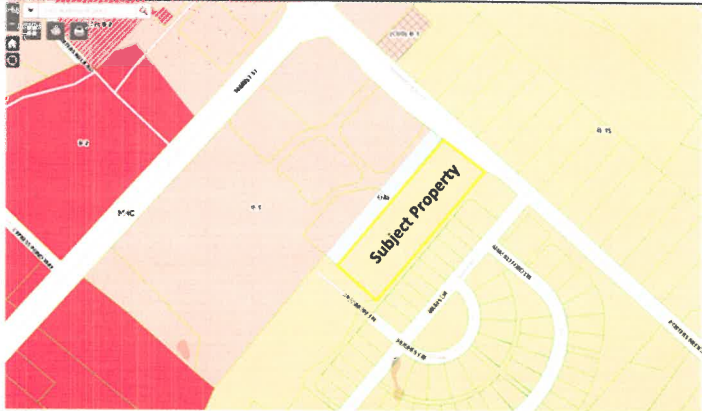
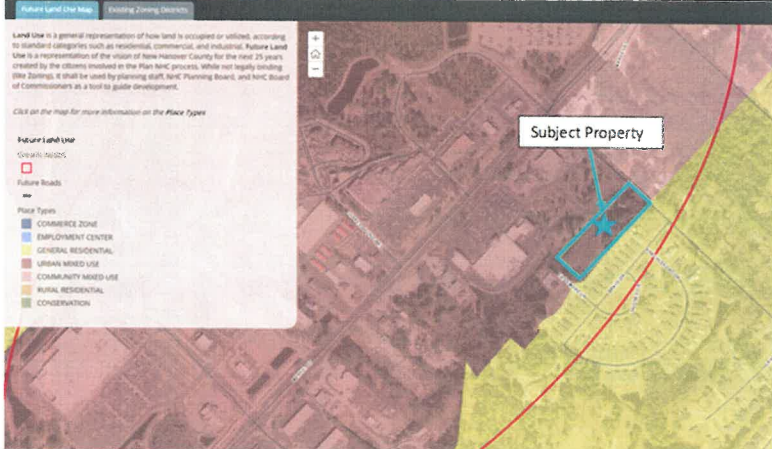
6 January 2020
G. F. Jones
George F. Jones

Exhibit A
to
Zoning Map Amendment Application

216 Porters Neck Rd.

Overview

The Applicant is requesting to rezone the subject property located at 216 Porters Neck Road, which consists of approximately 2.75 acres, from R-15 Residential to O&I Office and Institutional District in order to incorporate the property into the adjacent Oak Landing Shopping Center (“Oak Landing”). Oak Landing is a well-established and well-maintained commercial center developed with high-quality architecture and landscaping, offering area residents convenient access to a wide variety of goods, services and shopping options, including a grocery store and associated fuel station, a bank, pharmacy, dental office and several restaurant/retail units.

<p style="text-align: center;">Current Zoning:</p> <p style="text-align: center;">R-15 Residential adjacent to O&I Office & Institutional</p>	
<p style="text-align: center;">Future Land Use Plan:</p> <p style="text-align: center;">Urban Mixed Use located with Porters Neck Growth Node</p>	

While most of Oak Landing is zoned B-1, the portion of the shopping center located adjacent to the subject property is zoned O&I. This rezoning request will allow a

continuation of that transition between B-1 zoning and uses and the Porters Pointe performance residential development to the east. As the subject property is located within and on the boundary of the Urban Mixed Use Placetype and within the Porters Neck Growth Node, the request O&I zoning district is more consistent with the Urban Mixed Use Placetype than the current R-15 zoning designation, and the requested rezoning will provide a transition consistent with the Placetypes and Growth Node in the vicinity.

1. How would the requested change be consistent with the County's Policies for Growth and Development?

In addition to the foregoing, the requested rezoning will allow the development of the subject property in accordance with the Comprehensive Plan Future Land Use Map. The proposal, moreover, is consistent with many Comprehensive Plan Guidelines, including but not limited to the following:

III.C.1 Encourage a mixture of uses that create opportunities for shared parking and setback requirements to serve the overall community.

III.F.1 Encourage increased density in Urban Mixed Use areas within close proximity of City of Wilmington jurisdiction and Growth Nodes as identified on the Future Land Use Map (Porter's Neck/Kirkland, Monkey Junction, and I-40/I-140 Interchange) in an effort to create densities that can support future infrastructure.

VIII.D.2 Encourage/permit shared parking between compatible land uses to reduce development costs, impervious surfaces, and reduce/minimize access locations on roadways.

VIII.E.2 Concentrate development in nodes and high growth areas depicted on the Future Land Use Map to ultimately produce densities that can support multi modal transportation and Transit Oriented Development.

IX.D.2 Encourage infill development to maximize use of previously developed sites for highest and best use.

XXI.A.1 Promote compact development and infill with a mix of integrated community uses (e.g. housing, shops, workplaces, schools, parks, and civic facilities) within walking or bicycling distance that minimizes vehicle trips and vehicle miles traveled.

2. How would the requested zone change be consistent with the property's classification on the Land Classification Map?

As noted above, the subject property is designated by the Comprehensive Plan Future Land Use Placetype Map as Urban Mixed Use and is located within the Porters Neck Growth Node.

The Urban Mixed Use Placetype is designed to promote a mixture of uses, including office and institutional. Incorporating the subject parcel into the existing high-quality commercial center is consistent with this designation. Low density residential R-15 is not the preferred zoning district designation or development framework in this placetype. While single-family residential is not prohibited, residential uses within the Urban Mixed Use Placetype are preferred to be moderate to high density. Furthermore, the subject property is located within the Porters Neck Growth Node, which weighs in favor of this rezoning request. The Comprehensive Plan states that “[g]rowth nodes are intended to be focus areas of development, encouraging high-density developments that promote pedestrian activity and alternative transportation options.” (Chapter 4: Visualizing the Future, p. 10.) The requested O&I zoning district is a more appropriate zoning district in this location given the Comprehensive Plan placetype designation and the property’s location with the Porter’s Neck Growth Node. The subject rezoning request is entirely consistent with the subject property’s location and classification under the County’s Comprehensive Plan.0

3. What significant neighborhood changes have occurred to make the original zoning inappropriate, or how is the land involved unsuitable for the uses permitted under the existing zoning?

Many changes have occurred within the Porters Neck area since the original zoning, including significant population growth and development throughout the area. Additionally, the adoption of the New Hanover County Comprehensive Plan and the designation of this area as Urban Mixed Use and a Growth Node is a major change. Based on the land use designation, the presence of the growth node and the configuration of the surrounding properties, the O&I District is a more appropriate zoning district than the R-15 District for this particular parcel, and the O&I District will provide a better transition along this section of Porters Neck Road than an R-15 development on this property. This rezoning will allow a better transition from the existing B-1 and O&I in the vicinity to the performance residential neighborhood to the east. Additionally, improvements to Porters Neck Road have already been installed to accommodate the existing commercial center, and the proposed rezoning will provide efficient access to the parcel as part of Oak Landing.

4. How will this change of zoning serve the public interest?

The proposed rezoning meets many of the County’s goals of the Comprehensive Plan and the Future Land Use Map. This rezoning request will provide an orderly transition between B-1, O&I and the performance residential development to the east, and this rezoning will help avoid a piecemeal development of this particular property and this section of Porters Neck Road. An expansion of the Oak Landing center will benefit this area and improve the function and aesthetic appeal of the shopping center.

Additionally, this rezoning will provide the opportunity for an additional mix of uses at the shopping center, which provides shopping convenience and alternatives as well as employment opportunities for area residents in a cohesive development, which also promotes the reduction of single purpose automobile trips.

3
20
400 R/S



FOR REGISTRATION REGISTER OF DEEDS
REBECCA T. CHRISTIAN
NEW HANOVER COUNTY, NC
2004 JUN 16 11:24:37 AM
BK: 4369 PG: 929-932 FEE: \$20.00
NC REV STAMP: \$400.00
INSTRUMENT # 2004031749

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax \$400.00

Parcel Identifier No. R03600-005-002-000 Verified by _____ County on the _____ day of _____, 20____
By: _____

Mail/Box to: Calder & Calder

This instrument was prepared by: Fuss & Fairley, Attorneys - without title examination

Brief description for the Index: LT 2.70 ACRES +/-, JORDAN

THIS DEED made this 15th day of June, 2004, by and between

GRANTOR	GRANTEE
William R. Tayloe and wife, Patsy S. Tayloe	James A. Lanier, Jr. 110 Buff Circle Wilmington, NC 28411

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Wilmington, _____ Township, New Hanover County, North Carolina and more particularly described as follows:

SEE EXHIBIT "A" attached for Legal Description

The property hereinabove described was acquired by Grantor by instrument recorded in Book 988 page 269.

A map showing the above described property is recorded in Plat Book _____ page _____.

NC Bar Association Form No. L-3 © 1976, Revised © 1977, 2002

Printed by Agreement with the NC Bar Association - 1981 SoftPro Corporation, 333 E. Six Forks Rd., Raleigh, NC 27609

RETURN TO: CALDER & CALDER, ATTORNEYS

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions: easements of record; 2004 ad valorem taxes

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

(Entity Name)

William R. Tayloe (SEAL)
William R. Tayloe

By: _____
Title: _____

Patsy S. Tayloe (SEAL)
Patsy S. Tayloe

By: _____
Title: _____

(SEAL)

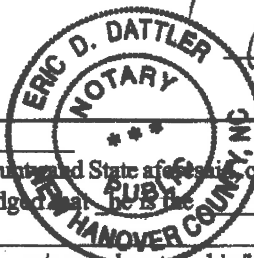
By: _____
Title: _____

(SEAL)

State of North Carolina - County of New Hanover

I, the undersigned Notary Public of the County and State aforesaid, certify that William R. Tayloe and wife, Patsy S. Tayloe personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 15 day of June, 2004

My Commission Expires: 8-27-06



Eric D. Dattler
Notary Public

State of North Carolina - County of _____

I, the undersigned Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged that he is the _____ of _____, a North Carolina or _____ corporation/limited liability company/general partnership/limited partnership (strike through the inapplicable), and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this _____ day of _____, 20____.

My Commission Expires: _____

Notary Public

State of North Carolina - County of _____

I, the undersigned Notary Public of the County and State aforesaid, certify that _____

Witness my hand and Notarial stamp or seal, this _____ day of _____, 20____.

My Commission Expires: _____

Notary Public

The foregoing Certificate(s) of _____ is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

By: _____ Register of Deeds for _____ County
Deputy/Assistant - Register of Deeds

NC Bar Association Form No. L-3 © 1976, Revised © 1977, 2002

Printed by Agreement with the NC Bar Association - 1981 SoftPro Corporation, 333 E. Six Forks Rd., Raleigh, NC 27609

EXHIBIT A

BEGINNING at a point in the Southern line of the Porter's Neck Road (N. C. Highway No. 1402), said point being South 42 degrees 58 minutes East 669.1 feet, from center of U. S. Highway No. 17; thence South 42 degrees 58 minutes East 195.3 feet to a point; thence South 44 degrees 59 minutes West 635.6 feet, more or less, to a iron pipe, the North-eastern most corner of Jordan Nixon's undivided 3 acre tract; thence North 43 degrees 04 minutes West 195.3 feet to an iron pipe; thence North 44 degrees 59 minutes East 635.6 feet to an iron pipe, the point of beginning. The same being 3 acres, more or less, and a portion of Lot No. 4 of the division of the lands of Jordan Nixon.

LESS AND EXCEPTING:

Beginning at a point located 49.21 feet southwesterly of and normal to Survey Station 17+80.000, Survey Line Y-10; thence northwesterly in a straight line to the point of intersection with the Grantors northwestern property line, common with the southeastern property line of Fred H. Garner, now or formerly, said line, if extended would intersect a point located 72.18 feet southwesterly of and normal to Survey Station 16+80.000, Survey Line Y-10; thence northeasterly along and with the Grantors northwestern property line, if extended, common with Fred H. Garner, now or formerly, to the point of intersection with Survey Line Y-10; thence southeasterly along and with Survey Line Y-10 to the point of intersection with the Grantors southeastern property line, if extended, common with Herbert E. Parham, now or formerly; thence southwesterly along and with the Grantors southeastern property line if extended, common with Herbert E. Parham, now or formerly to the point of intersection with the proposed right of way boundary of the project, said point being located between the following two points; the first point being located 30.00 feet southwesterly of and normal to Survey Station 18+05.000 Survey Line Y-10 and the second point being located 49.21 feet southwesterly of and normal to Survey Station 17+80.000, Survey Line Y-10; thence northwesterly in a straight line to the point of beginning.



REBECCA T. CHRISTIAN
REGISTER OF DEEDS, NEW HANOVER
216 NORTH SECOND STREET

WILMINGTON, NC 28401

Filed For Registration: 06/16/2004 11:24:37 AM

Book: RE 4369 Page: 929-932

Document No.: 2004031749

DEED 4 PGS \$20.00

NC REAL ESTATE EXCISE TAX: \$400.00

Recorder: LIESEL WARD

State of North Carolina, County of New Hanover

The foregoing certificate of ERIC D DATTLER Notary is certified to be correct. This 16TH of June 2004

REBECCA T. CHRISTIAN , REGISTER OF DEEDS

By: Liesel Ward
Deputy/Assistant Register of Deeds

YELLOW PROBATE SHEET IS A VITAL PART OF YOUR RECORDED DOCUMENT.
PLEASE RETAIN WITH ORIGINAL DOCUMENT AND SUBMIT FOR RE-RECORDING.

2004031749

2004031749

Profile

Sales

Residential

Commercial

Misc. Improvements

Permits

Land

Values

Agricultural

Sketch

Full Legal

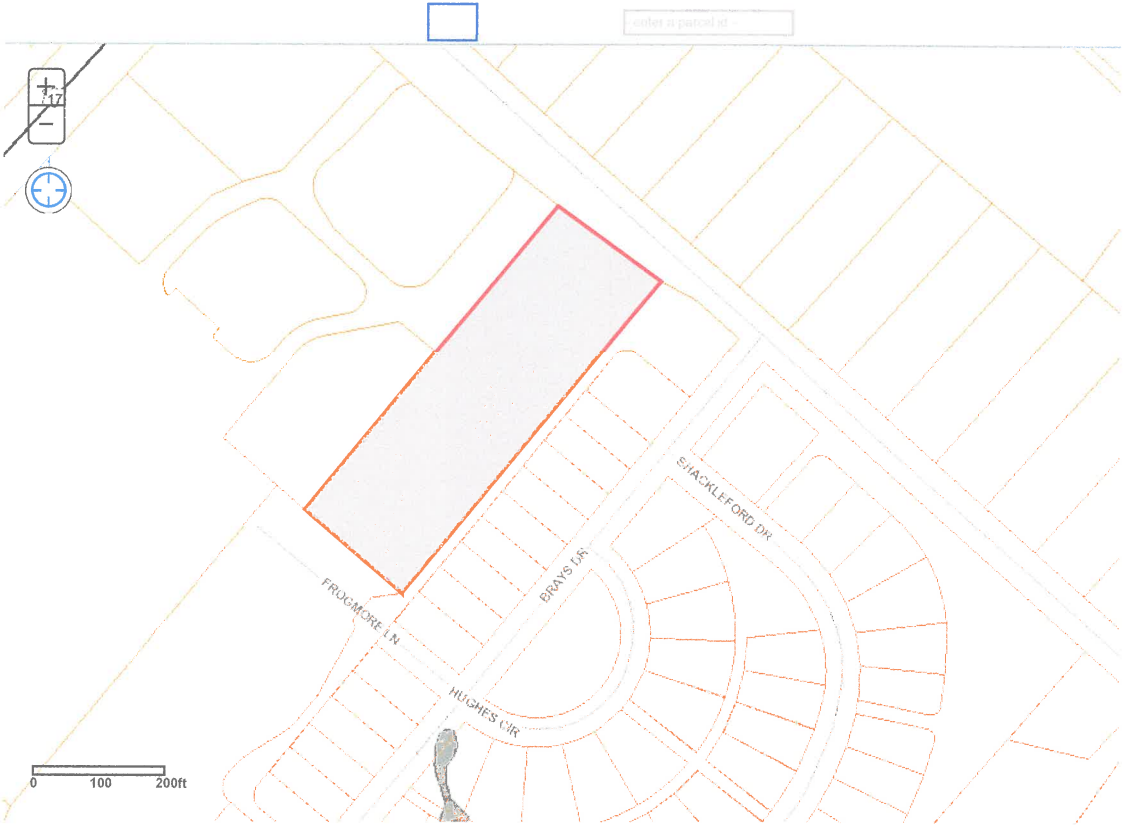
Exemptions

Sub-parcel(s) Info

Original Parcel Info

Parcel Map

PARID: R03600-005-002-000
LANIER JAMES A JR



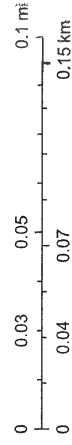
Basic Map



1/6/2020, 10:08:13 AM

- Roads
- City Limits
- Parks
- Schools
- Parcels
- Cemeteries
- Landmarks
- Addresses

1:2,000



New Hanover County, NC