



# NEW HANOVER COUNTY PLANNING & LAND USE

## *Application for* **ZONING MAP AMENDMENT**

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

<b>Petitioner Information</b>	<b>Property Owner(s) <i>If different than Petitioner</i></b>	<b>Subject Property</b>
<b>Name</b> TDR-HL, LLC	<b>Owner Name</b> Same as Petitioner	<b>Address</b> A portion of 1308 Crooked Pine Rd.
<b>Company</b>	<b>Owner Name 2</b>	<b>Parcel ID(s)</b> A portion of R02800-004-104-000
<b>Address</b> P.O. Box 381	<b>Address</b>	<b>Area</b> ± 5.28 acres
<b>City, State, Zip</b> Wrightsville Beach NC 28480	<b>City, State, Zip</b>	<b>Existing Zoning and Use</b> R-15, vacant land
<b>Phone</b> (910) 256-4780	<b>Phone</b>	<b>Proposed Zoning and Use</b> R-5, residential
<b>Email</b> w.j.bland@gmail.com	<b>Email</b>	<b>Land Classification</b> Community Mixed Use
<b>Application Tracking Information (Staff Only)</b>		
<b>Case Number</b> Z19-10	<b>Date/Time received:</b> Before 9/5/2019	<b>Received by:</b> 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.**

TDR-HL, LLC



John A. Elmick II for TDR-HL, LLC

Signature of Petitioner and/or Property Owner

Print Name



**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 owner 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 property owner:

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 property owner
3. Act on the property owner'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	Property Owner(s)	Subject Property
<b>Name</b> Matthew A. Nichols	<b>Owner Name</b> TDR-HL, LLC	<b>Address</b> 1308 Crooked Pine Rd.
<b>Company</b> Law Office of Matthew A. Nichols	<b>Owner Name 2</b>	<b>City, State, Zip</b> Wilmington, NC 28411
<b>Address</b> 3205 Randall Pkwy, Suite 104	<b>Address</b> P.O. Box 381	<b>Parcel ID</b> R02800-004-104-000
<b>City, State, Zip</b> Wilmington, NC 28403	<b>City, State, Zip</b> Wrightsville Beach, NC 28480	
<b>Phone</b> (910) 508-7476	<b>Phone</b> (910) 256-4780	
<b>Email</b> matt@mattnicholslaw.com	<b>Email</b> w.j.bland@gmail.com	
<b>Application Tracking Information</b> (Staff Only)		
<b>Case Number Reference:</b>	<b>Date/Time received:</b>	<b>Received by:</b>

This document was willfully executed on the 6<sup>th</sup> day of August, 2019.

TDR-HL, LLC

Owner 1 Signature

Owner 2 Signature

**Exhibit A**  
**to General Rezoning Application**  
**Property Address: 1308 Crooked Pine Rd.**  
**A portion of New Hanover County Parcel ID No. R02800-004-104-000**

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

The requested rezoning would be consistent with the County's Policies for Growth and Development, as most recently reflected by the New Hanover County Board of Commissioner's unanimous approval of several new Zoning Districts in July 2019. The subject property is currently zoned R-15; however, the Comprehensive Plan placetype for this location is Community Mixed Use, which favors moderate density residential. The R-5 district allows a moderately more dense development than traditional R-15 single-family, and the R-5 District offers alternate housing types and a generally more affordable housing option in a more efficient manner by utilizing less land area per housing unit.

According to New Hanover County Zoning Ordinance Section 51.9 (R-5 Moderate-High Residential District) the intent of the R-5 District "is to provide moderate to high density residential development on smaller lots with a compact and walkable development pattern. R-5 zoning allows a range of housing types and can be developed in conjunction with a non-residential district to create a mixed-use development pattern as well as serve as a transition between mixed-use or commercial development and low to moderate density residential development, such as R-7 and R-10 zoning." This type of compact walkable development better serves the purposes of the Community Mixed Use placetype, particularly as a buffer between the new major corridor being constructed to the east and the adjacent R-15 single-family subdivisions.

Additionally, it is significant to note that the uses allowed in the R-5 District are generally more restrictive than the R-15 District. Several uses that are allowed in the R-15 District by right or by special use permit are simply not allowed in R-5 District. For example, kennels, convenience food stores, hospitals, colleges and mobile home parks are all allowed in R-15 District by special use permit but are not allowed in the R-5 District. Wholesale nurseries, stables and demolitions-landscape landfills are uses permitted by right in the R-15 District but not permitted at all in the R-5 District. While the R-5 District does allow government offices and buildings and senior living (active adult retirement community or independent living) by right, these same uses are also allowed by special use permit under the existing R-15 zoning. The only use allowed in the R-5 District which is not allowed in the R-15 District is an accessory dwelling unit, which is a use that is very compatible with any surrounding R-15 residential development.

As the property is located in the Community Mixed Use placetype and Military Cutoff Extension is currently being constructed through the area, the limited uses and density of the R-5 zoning district offer a transition to a more dense housing type preferred



in the Community Mixed Use placetype, thereby respecting the current character of the area while planning for the future changes that will occur with the completion of the roadway project and the development of the community mixed use area.

Additionally, the requested rezoning is consistent with many goals and policies of the Comprehensive Plan including the following:

**Goal IX.D.1 Encourage incremental inclusion of mixed uses into areas that are single use dominated where the uses are compatible with the surrounding neighborhoods.** Allowing this property to be rezoned to a slightly higher residential density keeps the area compatible with adjacent single-family housing while offering a transition between the existing subdivisions and the soon to be completed Military Cutoff Extension and commercial development that may occur in the future in this Community Mixed Use area adjacent to the completed extension.

**XV.A.2 Encourage a mixture of uses in an effort to provide diversity of housing choice.** While the surrounding area is largely dominated by R-15 style single family subdivisions, this particular property is located in the recently established Community Mixed Use area and the larger parcel is adjacent to the soon to be completed Military Cutoff Extension. The proposed zoning district offers an alternative housing choice in an area currently dominated by R-15 zoning and offers a transition to the Community Mixed Use area, the Military Cutoff Extension and future commercial development that is likely to take place adjacent to the new major corridor.

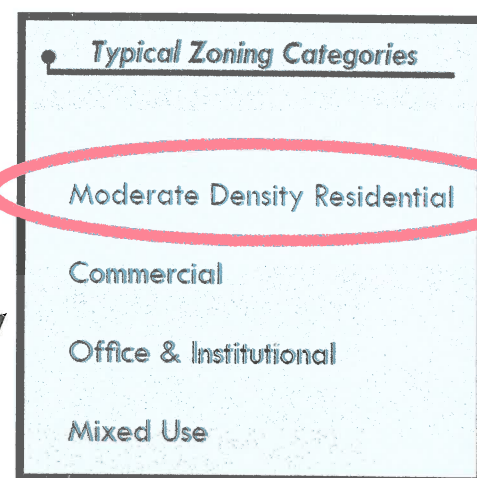
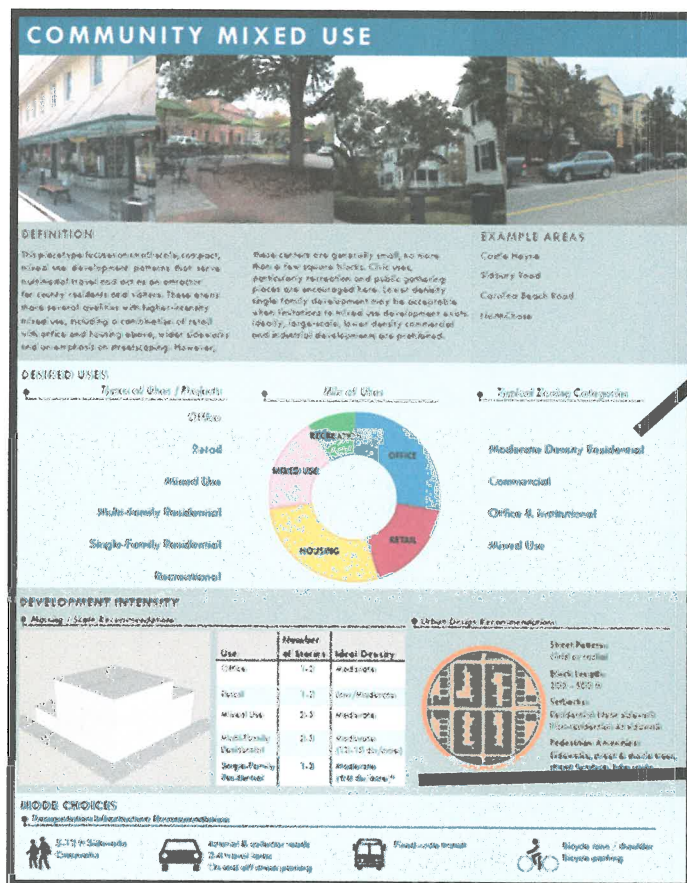
**XV.A.4 Incentivize, through the development process, the inclusion of diverse housing choices and opportunities in urban and community mixed use areas so that safe and conveniently located communities are available regardless of age or income.** This property is located within the Community Mixed Use area and near a future major corridor that is currently under construction. As such, it is likely that in the future, commercial development will take place adjacent to the completed Military Cutoff Extension. R-5 will allow a higher density housing choice that is appropriate in Community Mixed Use to act as a transition for future development toward the corridor. Eventually, this will facilitate an appropriately scaled, mixed use area to develop in the area as preferred by the Comprehensive Plan allowing convenience and walkability to goods and services for residents of the area.

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

The property is designated by the Comprehensive Plan as a Community Mixed Use Placetype as illustrated below.



The Community Mixed Use Placetype favors moderate-density rather than low-density residential, as well as small scale, compact mixed use patterns that serve multimodal travel that attracts residents and visitors. With the development of the Military Cutoff Extension adjacent to the larger parcel, this property is very favorable for more compact, higher-density residential to support future community mixed uses in this location as favored by the Comprehensive Plan.



Use	Number of Stories	Ideal Density
Office	1-2	Moderate
Retail	1-2	Low/Moderate
Mixed Use	2-3	Moderate
Multi-Family Residential	2-3	Moderate (12-15 du/acre)
Single-Family Residential	1-3	Moderate (± 8 du/acre)*

As illustrated above, the preferred residential density in the Community Mixed Use placetype is 12-15 units per acre for multi-family and  $\pm 8$  units per acre for single family. The maximum density for the R-5 district is 8 units per acre, exactly what the Community Mixed Use placetype calls for as an ideal density.

**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?**

At least four significant changes have occurred within recent years which make the requested R-5 District a more suitable zoning district for this property than the R-15 District, which was assigned to this property approximately 40 years ago. The first is the unprecedented growth in New Hanover County. According to the Comprehensive Plan, it is possible at the current rate for New Hanover County to grow by more than 100,000 additional residents by 2040 resulting in a possible population of 337,000 by that time. This growth trend has resulted in a need for the development of more compact, efficient housing in order to accommodate the current and projected population growth.

The second significant change occurred in 2016 when the New Hanover County Board of County Commissioners adopted the Comprehensive Plan and current Future Land Use Map, which designated this property as Community Mixed Use as the preferred development pattern rather than General Residential. As illustrated in response to Question 2 above, low density residential uses are not preferred in the Community Mixed Use placetypes. Instead, moderate residential densities, including both multi-family and single family, are preferred.

The third significant change that has occurred very recently is the adoption of new Zoning Districts by the New Hanover County Board of Commissioners in July 2019, including the R-5 District.

The fourth significant change is currently under way, with the construction of Military Cutoff Extension, which will provide a substantial change to the overall transportation patterns and planning in northern New Hanover County.

Given the need for additional and alternative housing choices in the County, the Community Mixed Use placetype designation of the area and the major corridor currently under construction adjacent to the larger parcel, the new R-5 District is an ideal fit. The R-5 District offers more efficient housing alternatives that respect the character of the adjacent to R-15 single-family residential development and allows for a very good transition area toward the major corridor and future development of the community mixed use area adjacent to the subject property.



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

The zoning change will allow for the development of additional housing options to help accommodate New Hanover County's growth and the changing preferences for more compact, efficient housing developments. The R-5 District provides a more efficient use of land and generally provides a more affordable housing type and product in comparison to an R-15 development. If large portions of New Hanover County's available residential land remain zoned R-15 District, which generally results in a low-density single-family development instead of adding more efficient and denser housing options, housing costs will continue to surge, with fewer available housing options. With a possible additional 100,000 additional residents anticipated to be moving into the area in the next 20 years, building out the County with traditional R-15 single family subdivisions will not provide the housing needed and could result in many people being priced out of the ability to live in our community. The proposed R-5 District rezoning can offer more housing than available under the current R-15 District while maintaining the character of the area. Additionally, the R-5 District offers a transition in the Community Mixed Use area near a major corridor under construction.



Rezoning  
Case Z19-10  
6.58 Acres



Revised Legal Description for  
Rezoning Case: Z19-10

Beginning at a point in the northwestern boundary of Springwater Drive, a fifty-foot (50') private right-of-way; said right-of-way recorded on a map entitled "The Sanctuary at Hanover Reserve, Phase 3, Section 2 as recorded among the land records of the New Hanover County Registry in Map Book 64, at Page 382; and running thence:

South 33°49'45" West, 45.68' to a point; thence,  
North 56°10'15" West, 120.00' to a point; thence  
North 33°49'45" East, 97.00' to a point; thence  
North 56°10'15" West, 25.00' to a point; thence  
North 33°49'45" East, 601.06' to a point; thence  
North 54°52'46" West, 85.10 feet to a point in the southeastern line of Murrayville Road, a sixty-foot (60') public right-of-way; thence along that right-of-way,  
North 65°39'45" East, 76.10 feet to a point; thence  
North 54°52'46" West, 17.13 feet to a point; thence  
North 14°32'37" East, 10.88 feet to a point; thence  
North 69°47'51" East, 258.66 feet to a point; thence  
South 20°12'09" East, 255.31 feet to a point; thence  
South 69°47'51" West, 122.35 feet to a point; thence  
Along a Curve to the left, having a Radius of 75.00 feet and Length of 15.38 feet, a Chord of South 63°55'23" West, 15.35 feet to a point; thence  
South 20°02'50" East, 140.39 feet to a point; thence,  
South 33°49'45" West, 38.04' to a point; thence,  
South 26°42'36" East, 226.34' to a point; thence  
North 84°33'39" West, 224.01' to a point; thence  
South 33°49'45" West, 274.28 feet to a point; thence  
South 32°52'23" West, 47.60 feet to a point; thence  
North 56°10'15" West, 170.79 feet to the Point of Beginning containing 6.58 acres, more or less, and being a portion of the 123.81-acre / Hanover Land, LLC Tract as shown on Map Book 59, at Page 360 of the New Hanover County Registry.

This description is derived from information compiled in the New Hanover County Register of Deeds and is not the result of a certified survey.