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DEC -7 2018

LAW OFFICE OF
MATTHEW A. NICHOLS

NEW HANOVER COUNTY
PLANNING & ZONING

3205 Randall Parkway, Suite 104
Wilmington, NC 28403

Ph: (910) 508-7476
Email: matt@mattnicholslaw.com

December 7, 2018

VIA HAND DELIVERY

The Honorable Kym Crowell
Clerk to the New Hanover County Board of Commissioners
230 Government Center Drive, Suite 175
Wilmington, NC 28403

Mr. Ken Vafier
Planning Manager
New Hanover County Land Use Department
230 Government Center Drive, Suite 110
Wilmington, NC 28403

Re: NOTICE OF APPEAL TO THE NEW HANOVER COUNTY ZONING BOARD
OF ADJUSTMENT of an Interpretation/Determination dated November 13, 2018
for property located at 4245 Buck Dr., New Hanover County (PARID: R01900-
001-010-023)

Dear Madam Clerk and Mr. Vafier:

I represent Myron Smith, Jr. and Thomas Oliver, the owners of the above-referenced property located at 4245 Buck Dr. Please accept this letter and the enclosed appeal by my clients of an Interpretation/Determination by Planning and Zoning Supervisor Ben Andrea dated November 13, 2018 with respect to my clients' property.

Please find enclosed the following:

1. Appeal Application with attached Exhibits;
2. Authority for Appointment of Agent Form; and,
3. A check made payable to New Hanover County in the amount of \$400.00 for the Appeal Application Fee.

The Honorable Kym Crowell
Mr. Ken Vafier
December 7, 2018
Page 2

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DEC - 7 2018

NEW HANOVER COUNTY
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If it is necessary for me to direct this appeal or provide a copy of this appeal to another County official, please let me know, and I will promptly do so. Also, please let me know if you require any additional information at this time.

We respectfully request that this item be scheduled for hearing at the regularly scheduled January 2019 meeting of the New Hanover County Zoning Board of Adjustment, or as soon thereafter as this matter can be heard by the Board.

Thank you for your time and attention to this matter.

Sincerely yours,



Matthew A. Nichols

MN/nc

Cc: Deputy County Attorney Sharon Huffman (via e-mail: shuffman@nhcgov.com)



**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

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DEC - 7 2018
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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
Name Matthew A. Nichols	Owner Name Myron Smith, Jr.	Address 4245 Buck Dr.
Company Law Office of Matthew A. Nichols	Owner Name 2 Thomas Oliver	City, State, Zip Wilmington, NC 28429
Address 3205 Randall Pkwy, Suite 104	Address 30 Stagg St.	Parcel ID R01900-001-010-023
City, State, Zip Wilmington, NC 28403	City, State, Zip Stratford, CT 06815	
Phone (910) 508-7476	Phone	
Email matt@mattnicholslaw.com	Email	
Application Filing Information (staff only)		
Case Number Reference:	Date/Time received:	Received by:

This document was willfully executed on the 5th day of December, 2018.

Owner 1 Signature
Myron, Smith, Jr.

Owner 2 Signature
Thomas Oliver

NEW HANOVER COUNTY

DEPARTMENT OF PLANNING & LAND USE
 230 Government Center Drive, Suite 110
 Wilmington, North Carolina
 Telephone (910) 798-7165
 FAX (910) 798-7053
 planningdevelopment.nhcgov.com



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NEW HANOVER COUNTY
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APPEAL Application

Applicant/Agent Information		Property Owner(s) If different than Applicant/Agent
Name	Owner Name	
Myron Smith, Jr. and Thomas Oliver	Same as Applicant	
Company	Owner Name 2	
Mailing Address	Mailing Address	
30 Stagg St.		
City, State, Zip	City, State, Zip	
Stratford, CT 06615		
Phone (910) 508-7476 (c/o Applicants'/Owners' Attorney, Matt Nichols)	Phone	
Email matt@mattnicholslaw.com (c/o Applicants'/Owners' Attorney, Matt Nichols)	Email	
Subject Property Information		
Address/Location		
4245 Buck Dr.		
Parcel Identification Number(s)		
R01900-001-010-023		
Total Parcel(s) Acreage		
±7.33 acres		
Existing Zoning and Use(s)		
R-15 Residential, vacant		
Application Tracking Information (Staff Only)		
Case Number	Date/Time received:	Received by:
2BA 933	12/7/2018	

APPEAL NARRATIVE

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Action being appealed: Decision or Interpretation Notice of Violation

DEC - 7 2018

Date of decision/violation being appealed: November 13, 2018

In the below space, please provide a narrative of the application including any evidence that proves the decision should be reversed or modified by the Zoning Board of Adjustment. (Additional pages may be attached to the application if necessary)

NEW HANOVER COUNTY
PLANNING & ZONING

Applicants appeal from the written Interpretation/Determination dated November 13, 2018 by Planning and Zoning Supervisor Ben Andrea ("Interpretation/Determination") that the Subject Property does not meet the requirements of the New Hanover County Code of Ordinances for the issuance of a building permit for a single-family residential structure. The subject Interpretation/Determination is attached hereto as Exhibit "A". The Applicants disagree with and dispute the November 13, 2018 Interpretation/Determination. Please see attached Exhibit "B" for additional narrative and grounds for appeal.

APPLICATION REQUIREMENTS

Staff will use the following checklist to determine the completeness of your application. Please verify all of the listed items are included and confirm by initialing under "Applicant Initial". Staff will not process an application for further review until it is determined to be complete.

Required Information		Applicant Initial	Staff Initial
1	Complete Appeal application	<i>MW</i>	
2	Application fee – \$400	<i>MW</i>	
3	Any Supporting Documentation	<i>MW</i>	
4	1 hard copy of ALL documents. Additional hard copies may be required by staff depending on the size of the document/site plan.	<i>MW</i>	
5	1 PDF digital copy of ALL documents AND plans on a Compact Disk (CD).	<i>MW</i>	

DEC - 7 2018

ACKNOWLEDGEMENT AND SIGNATURES

NEW HAMPSHIRE COUNTY
PLANNING & ZONING

By my signature below, I understand and accept all of the conditions, limitations and obligations of the appeal application for which I am applying. I understand that I have the burden of proving why the decision which is being appealed should be reversed or modified. 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.

I also appoint the applicant/agent as listed on this application to represent me and make decisions on my behalf regarding this application during the review process. The applicant/agent is hereby authorized on my behalf to:

1. Submit an application including all required supplemental information and materials;
2. Appear at public hearings to give representation and commitments; and
3. Act on my behalf without limitations with regard to any and all things directly or indirectly connected with or arising out of this application.



 Signature of Property Owner(s)

Myron Smith, Jr./Thomas Oliver

 Print Name(s)



 Signature of Applicant/Agent

Matthew A. Nichols

 Print Name(s)

NOTE: Form must be signed by the owner(s) of record. If there are multiple property owners a signature is required for each owner of record.

***The land owner or their attorney must be present for the case at the public hearing.**

For Staff Only

Application Comments



Exhibit "B"
to
New Hanover County Board of Adjustment Appeal Application
(4245 Buck Dr.)

APPELLANT/APPLICANT: Myron Smith, Jr. and Thomas Oliver
AGENT: Matthew A. Nichols
Law Office of Matthew A. Nichols
DATE: December 7, 2018
PROPERTY: 4245 Buck Dr., Wilmington, New Hanover County
(PARID: R01900-001-010-023)

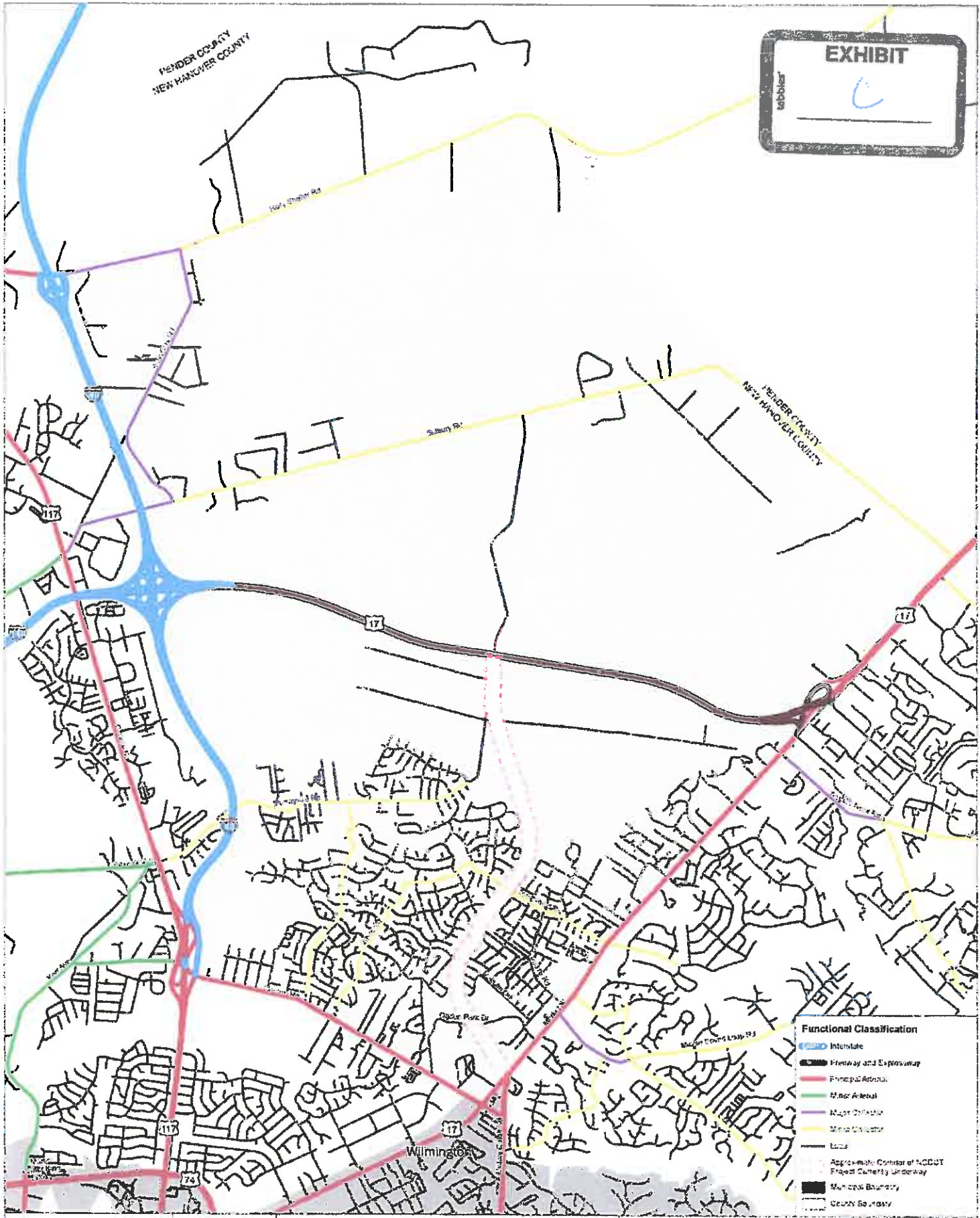
Statement by Appellants/Applicants/Petitioners

NOW COME the Appellants/Applicants/Petitioners Myron Smith, Jr. and Thomas Oliver (the "Applicants" or "Appellants") and hereby appeal from and respond as follows to the Interpretation/Determination dated November 13, 2018, attached to this Appeal as Exhibit "A" (the "Interpretation/Determination"):

1. On October 19, 2018, Applicants' attorney Matthew A. Nichols submitted an e-mail to Mr. Sam Burgess, New Hanover County Senior Planner, inquiring as to whether there are any issues that would prevent the Applicants' from obtaining a building permit for the construction of a single-family residential structure at 4245 Buck Dr. The October 19, 2018 e-mail from Applicants' attorney ("10/19/18 Request") is included in the chain of e-mails between Applicants' attorney and New Hanover County Staff culminating in the November 13, 2018 Interpretation/Determination. This e-mail chain is attached to this Appeal as Exhibit "A" as part of the Interpretation/Determination.
2. On November 13, 2018, at the end of the aforementioned chain of e-mails between Applicants' attorney and New Hanover County Staff, Mr. Ben Andrea, New Hanover County Planning and Zoning Supervisor, issued the subject Interpretation/Determination, which is appealed herein.
3. The Applicants assert that the Interpretation/Determination incorrectly and erroneously interprets and applies the Zoning Ordinance and should be reversed. The Applicants dispute and appeal the determinations and conclusions stated in Interpretation/Determination.

4. The Applicants assert that they are eligible and entitled to have a building permit issued for a single-family residential structure on the subject property located at 4245 Buck Dr. The Applicants respectfully contend that their property meets all of the access and other requirements in the New Hanover County Zoning Ordinance for the construction of a residence on the subject property and/or the subject property is exempt from any such applicable provisions in the Ordinances.
5. The Applicants' position and arguments include, but are not limited to, the following:
 - The subject property is immediately adjacent to and has vehicular access via Buck Drive.
 - Buck Drive is an established and recognized road, and Buck Drive is in fact designated as a "Local" street on the Northeast New Hanover County Future Street Plan, Wilmington Urban Area Metropolitan Planning Organization (WMPO) Functional Classification, April 2017 (copy attached hereto as Exhibit "C").
 - The NCDOT has designated Buck Drive as a "Local" street on the NCDOT Functional Class map (copy of map excerpt attached hereto as Exhibit "D").
 - Buck Drive is also recognized as a named street on the New Hanover County Tax Map records (copy of map excerpt attached hereto as Exhibit "E").
 - The subject property is recognized as a separate parcel of record with a distinct Tax Parcel ID number assigned by the New Hanover County Tax Department.
6. Additionally, the Applicants contend that the County's Interpretation/Determination is incorrect and should be reversed based upon the NCDOT and WMPO roadway classifications for Buck Drive.
7. **Reservation of Rights.** The Applicants reserve their right to assert additional arguments as the facts become discovered and further known in this matter. The Applicants reserve their right to present witnesses and other evidence at the Hearing in this matter, including all rights to inspect the County's evidence (if any) and the right to cross-examine witnesses at the Hearing.

PENDER COUNTY
NEW HANOVER COUNTY



- Functional Classification**
- Interstate
 - Freeway and Expressway
 - Principal Arterial
 - Minor Arterial
 - Major Collector
 - Minor Collector
 - Local
 - Unimproved/Underway
 - Approximate Center of HCDUT
 - Freight Corridor Underway
 - Municipal Boundary
 - County Boundary



Northeast New Hanover County
Future Street Plan
WMPO Functional Classification
April 2017



NCDOT Functional Class

NCDOT Functional Class

- Functional Class
- Interstate
- Other Freeway
- Other Principal Arterial
- Minor Arterial
- Major Collector
- Minor Collector
- Local



NCDOT Functional Class

0.3mi

Esri, NASA, NGA, USGS, FEMA | New Hanover County, State of North Carolina DOT, Esri, HERE, Garmin, INCREMENT P, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA | NCDOT GIS Unit



[Home](#) [Property Records](#) [APAC Tax Home](#) [Registers of Deeds](#)

- [Profile](#)
- [Sales](#)
- [Residential](#)
- [Commercial](#)
- [Misc. Improvements](#)
- [Permits](#)
- [Land](#)
- [Values](#)
- [Agricultural](#)
- [Sketch](#)
- [Full Legal](#)
- [Exemptions](#)
- [Sub-parcel\(s\) Info](#)
- [Original Parcel Info](#)
- [Parcel Map](#)**

PARID: R01600-001-010-023
OLIVER THOMAS ETAL

