



APPEAL FROM A
DECISION OR INTERPRETATION

This application must be filed within thirty (30) days of a Notice of Violation or the written Interpretation of the Zoning Administrator. The Appeal Application must be filed in person, and can not be accepted by mail.

FY2005

Case #: ZBA 06-001

Date Filed: 11-16-05

Meeting Date: 1-31-06

Received By: ASB
lfc @ zc.
Office Use Only

TO THE CHARLOTTE ZONING BOARD OF ADJUSTMENT:

I, DANIEL FISHER, hereby appeal to the Zoning Board of Adjustment,
(name)

requesting to reverse the decision of the Zoning Administrator or Zoning Enforcement Officer or as stated in the Notice of Violation or the Zoning Code Interpretation dated _____, for the property located

at: 10016
10012 LAWING SCHOOL ROAD, CHARLOTTE, NC
(Address)

Tax Parcel Number 031-132-07 (R-3)

Violation Number (if applicable): _____

SECTIONS OF CODE IN QUESTION: CODE SECTION 2.201 (Definitions) (Lot)

Attach copy of Notice of Violation or Interpretation

STATE WHAT FACTS OR EVIDENCE YOU ARE PREPARED TO PROVE TO THE ZONING BOARD OF ADJUSTMENT THAT SHOULD LEAD THE BOARD TO CONCLUDE THAT THE DECISION OF THE ZONING OFFICER OR ADMINISTRATOR IS ERRONEOUS:

(SEE ATTACHED)

I certify that all of the information presented by me in this application is accurate to the best of my knowledge,

DANIEL FISHER
Printed Name of Appellant

10801 BACK RIDGE ROAD
Mailing Address

Charlotte, NC 28277
City, State, Zip

(704) 617-3544
Telephone Number Fax Number

DANIELF2BELLATERRA.US
E-Mail Address

[Signature]
Signature of Appellant

Robert L. Brandon
Printed Name of Representative (if any)

P.O. Box 471593
Mailing Address

Charlotte, NC 28247
City, State, Zip

(704) 759-0969
Telephone Number Fax Number

RBRANDON57@AOL.Com
E-Mail Address

[Signature]
Represented By (Signature)

IF THE APPELLANT IS NOT THE OWNER OF THE PROPERTY FOR WHICH THE APPEAL IS BEING REQUESTED, indicate the owner's name and address:

Property Owner (If different from Appellant)

Address

City, State & Zip

TYPE OR PRINT below the COMPLETE names, tax parcel numbers, mailing addresses and zip codes for the owners of the adjacent properties, including the properties directly across the street from the property, for which an appeal is being requested. (Property ownership information is available at <http://meckcama.co.mecklenburg.nc.us/relookup/> or <http://mcmf.co.mecklenburg.nc.us:3007/cics/txre/txre00i>)

ADJACENT PROPERTY OWNERS:

1. Mt Pleasant AME Zion Church Tax Parcel # 031-121-01
10009 LAWING School Road
Charlotte, NC 28214
+ Dorothy Hart
2. James C. Hart Tax Parcel # 031-132-06
10102 Lawing School Road
Charlotte, NC 28214
3. CLT Rozzelle LLC Tax Parcel # 031-132-03
10039 Bellhaven BV
Charlotte, NC 28214

Mailing:
100 34th Ave Ste
Char, 28212

Mailing address:
6100 Fairview Rd
Ste 350
Char, 28210

ADJACENT PROPERTY OWNERS (Continued)

- | | | |
|-----|---|--------------------------------|
| 4. | <u>LARRY CODY</u>
<u>2929 Bellwood Cir</u>
<u>Charlotte, NC 28214</u> | Tax Parcel # <u>031-132-02</u> |
| 5. | <u>Russell S. Davidson</u>
<u>2921 Bellwood Cir</u>
<u>Charlotte, NC 28214</u> | Tax Parcel # <u>031-132-01</u> |
| 6. | <u>TARA PROPERTIES INC</u>
<u>Lawrence School Rd</u>
<u>Charlotte, NC 28214</u> | Tax Parcel # <u>031-132-45</u> |
| 7. | _____ | Tax Parcel # _____ |
| 8. | _____ | Tax Parcel # _____ |
| 9. | _____ | Tax Parcel # _____ |
| 10. | _____ | Tax Parcel # _____ |
| 11. | _____ | Tax Parcel # _____ |
| 12. | _____ | Tax Parcel # _____ |
| 13. | _____ | Tax Parcel # _____ |
| 14. | _____ | Tax Parcel # _____ |

Mailing:
PO Box 630064
Char, 28216

Mailing:
4400 Morris Park
Apt #2
Char, 28227

These persons, including the Appellant and the representative, will be notified in writing of the time and place of the hearing. (Attach additional sheet if necessary).

Case #:

Address: 10012 Lawing School Road

Lot definition per Code Section 2.201, City of Charlotte Zoning Ordinance

Code Section 2.201 (definitions) (lot) states:

A parcel of land or any combination of several parcels of land occupied or intended to be occupied by a principal use or structure, together with any accessory structure or uses and such access ways, parking areas, yards and open spaces required in these regulations.

It is my position and interpretation of the zoning ordinance that the Zoning Administrator has misconstrued the proposed tree save area as “a lot” under the definition of the zoning ordinance. Her interpretation changes an exemption to a tract in single ownership whose entire area is no greater than two acres into not more than (two) rather than (three) lots.

The Zoning Administrator is construing the tree save area as a buildable lot which will permit a principal use.

Code Section 2.201 (definition) (lot types) does not provide an example of the proposed tree save area. (see exhibit #1)

Code Section 12.101 (states that every lot must abut a street) -- no building, structure or “use of land” for any purpose may be placed on a lot, which does not abut a street, except for agricultural purposes and as, provided for in section 11.208 (Innovative Development Standards) and other exceptions.

This code section requires that all lots, with the exception of nonconforming lots of record, abut a public street. The proposed tree save area will not abut any public or private street. The proposed tree save area is not a lot under the definition provisions of the zoning ordinance.

CHARLOTTE CODE

PART 1: SUPPLEMENTAL DEVELOPMENT STANDARDS

CHAPTER 12:

DEVELOPMENT STANDARDS OF GENERAL APPLICABILITY

PART 1: SUPPLEMENTAL DEVELOPMENT STANDARDS

Section 12.101. Every lot must abut a street.

No building, structure or use of land for any purpose may be placed on a lot, which does not abut a street, except for agricultural purposes, and as, provided for in Section 11.208 and the following exceptions:

- (1) A single family detached dwelling may be constructed on a lot that does not abut a street, provided that the lot is at least 2 acres in size, is provided with access to a public street by an easement at least 15 feet in width for the exclusive use of the detached dwelling, and the easement is maintained in a condition passable for emergency and service vehicles. All lots must be created in accordance with the subdivision ordinance, if they were not recorded prior to May 1, 1989.
- (2) Attached and multi-family dwellings need not abut a street, provided that all portions of every dwelling unit are within 400 feet of a public or private street that furnishes direct access to the property and that access to each dwelling unit will be made available via either a public right-of-way or a private street or vehicular or pedestrian way owned by the individual unit owner in fee or in common ownership.
- (3) Driveways in a research, institutional, office, business or industrial district may be used to provide access to uses in any of these districts which are located on lots which do not abut a street. Any such lot, which existed prior to May 20, 1985, may be used as if it abutted a street, provided that it is served with a driveway built to appropriate standards located on a permanent, recorded easement.
- (4) Nothing in this Section exempts any property from the provisions of the subdivision ordinance, which regulate the division of land. In any case, when there appears to be contradicting or overlapping standards or requirements, the more restrictive standard or requirement will control.

Exh. A # 1

CHARLOTTE CODE

PART 2: DEFINITIONS

Lot line.

A line dividing one lot from another lot or from a street or alley.

Lot of record.

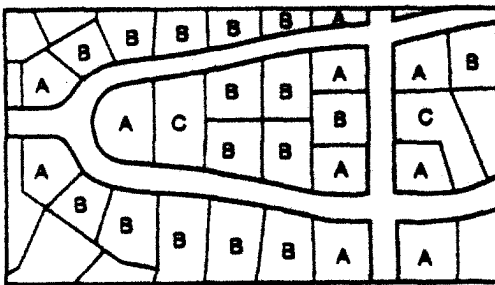
A lot described by plat or by metes and bounds which has been recorded in the office of the Register of Deeds.



Lot, types.

The diagram below illustrates terminology used in these regulations with reference to corner lots, interior lots and through lots. In the diagram a corner lot (A) is defined as a lot located at the intersection of two (2) or more streets. A lot shall also be considered a corner lot, if it occupies the interior angle at the intersection of two streets, and such angle is less than 135 degrees. See lot marked A in the diagram. An interior lot (B) is defined as a lot other than a corner lot with only one frontage on a street. A through lot (C) is defined as a lot other than a corner lot with a frontage on more than one street. Through lots may be referred to as double frontage lots.

LOT TYPES



- A - CORNER LOT
- B - INTERIOR LOT
- C - THROUGH (OR DOUBLE FRONTAGE) LOT



February 16, 2005

Mr. W. Leon Davis
W. Leon Davis, PC
5442 Kerry Glen Lane
Charlotte, NC 28226

Re: February 1, 2005 letter w/ attachments

Dear Mr. Davis:

I have reviewed your letter and the attachments. An important factor in Mr. Fisher's letter appears to be the interpretation of the Charlotte Zoning Ordinance Section 2.201 Lot definition. It defines a lot as "a parcel of land or any combination of several parcels of land occupied or intended to be occupied by a principal use or structure, together with any accessory structures or uses and such access ways, parking areas, yards, and open spaces required in these regulations".

The separate parcels of land that Mr. Fisher proposes creating as Tree Save Area in Common Open Space do meet the definition of a "lot" as they are for the purpose of being occupied by a principal use. The reasons are as follows:

- The principal use is a Tree Save area in Common Open Space.
- Any other uses allowed in that area would have to be accessory to the principal use of Tree Save Area in Common Open Space and meet both the requirements of the Charlotte Tree Ordinance and the Charlotte Zoning Ordinance.
- A principal use does not have to be a structure nor have any structures associated with it.
- Tree Save Area in Common Open Space would be considered a private neighborhood park which is for the use and enjoyment of the residents of that neighborhood and not for the general public. Charlotte Zoning Ordinance Section 9.202 (6) allows parks as a use by right in residential zoning districts. It does not have to be improved for active recreation, but can remain in a natural state.
- The Tree Save Area required by the Charlotte Tree Ordinance requires that the area be placed in a separate Common Open Space lot to be eligible for the density bonus provision. If the owner/developer does not propose to use the density bonus provision the required Tree Save can be designated on the building lots and does not have to be on a separate lot designated as Common Open Space.

CHARLOTTE-MECKLENBURG PLANNING COMMISSION

www.charlotteplanning.org

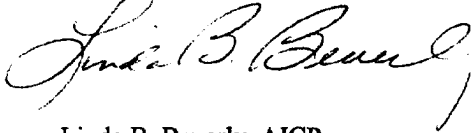
600 East Fourth Street
Charlotte, NC 28202-2853
PH: (704)-336-2205
FAX: (704)-336-5123

Therefore, as those parcels are intended to be occupied by the principal use of Tree Save Area in Common Open Space, they meet the definition of a lot.

The authority to render interpretations of the provisions of the zoning regulations is given to the Zoning Administrator's office. The Interim Zoning Administrator is Ms. Katrina Young. You or Mr. Fisher can contact her at 704-336-3571. I am forwarding a copy of yours and Mr. Fisher's letter to her with this reply.

I am willing to meet with Mr. Fisher at his convenience to discuss his questions.

Sincerely,



Linda B. Beverly, AICP
Subdivision Administrator

Cc: Mr. Daniel Fisher
Ms. Katrina Young


Real Estate Lookup
[Print](#)
[Close](#)

Parcel Information

Parcel ID	Account	Parent	Previous
03113207	NC CORP		03113207

Owner(s)

Owner Name	Mailing Address	City/State
BELLATERRA LLC	10801 BACK RIDGE RD	CHARLOTTE NC 28277

Legal Information

Legal	Municipality	Annexed	Special District	Fire District	Acreage
NA	CHARLOTTE			CITY OF CHARLOTTE	0.85

Total Parcel Assessment & Exemptions

Building	Land	Features	Total	Exemption	Year Approved	Review Date	Amount
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Sales Information

Sale	Price	Stamps	Qualify	V/I	DeedBook	Type	Legal Ref.	Grantor
Jun 3 2005	27500	55.0000	UNDER REVIEW	IMP	18837 - 914	WARRANTY D	18837-914	GIVENS,MADGE
Jun 3 2005			MULTIPARCEL	IMP	18837 - 910	WARRANTY D	18837-910	NICHOLS,ROSA
Jun 12 1996	0		PROBATE	IMP		PROBATE	96-1846	MC GEE BEATRICE & JAN

Land Use

Use	Units	Type	Neighborhood	Assessment
R120	2	AC	D101	

Building Information

Bldg	Description	Type	Year Built	Property Location
1	Single-Fam	RES	1945	10008 LAWING SCHOOL RD CHARLOTTE
2	Single-Fam	RES	1951	10016 LAWING SCHOOL RD CHARLOTTE

Bldg	Story	Units	Total SqFt	Heated	Foundation	Ext. Wall	Grade	Value
1	1 STORY	1	1470	1400	CRAWL SPACE	WOOD ON SHTG -	BELOW AVG 03	
2	1 STORY	1	984	864	CRAWL SPACE	ALUM,VINYL -	BELOW AVG 03	

Bldg	Heat	Fuel	FirePlace	AC	Fixtures	Bedrooms	Full Baths	3/4 Baths	1/2 Baths
1	AIR-NO-DUCT	OIL/WD/COAL		AC-NONE		3	1		0
2	AIR-NO-DUCT	OIL/WD/COAL		AC-NONE		2	1		0

Sub Areas

Bldg	Description	Size
1	BASE (FIRST FLOOR)	1400
1	PORCH - SCREENED - FINISHED	70
2	BASE (FIRST FLOOR)	768
2	PORCH - ENCLOSED - FINISHED (HEAT)	96
2	PORCH - SCREENED - FINISHED	120

Depreciation

Bldg	Physical	Functional	Economic	Special	Override
1	AV - 63%				
2	AV - 61%				

Special Features & Yard Items

Bldg	Built	Type	Quantity	Units	Value
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Value Changes

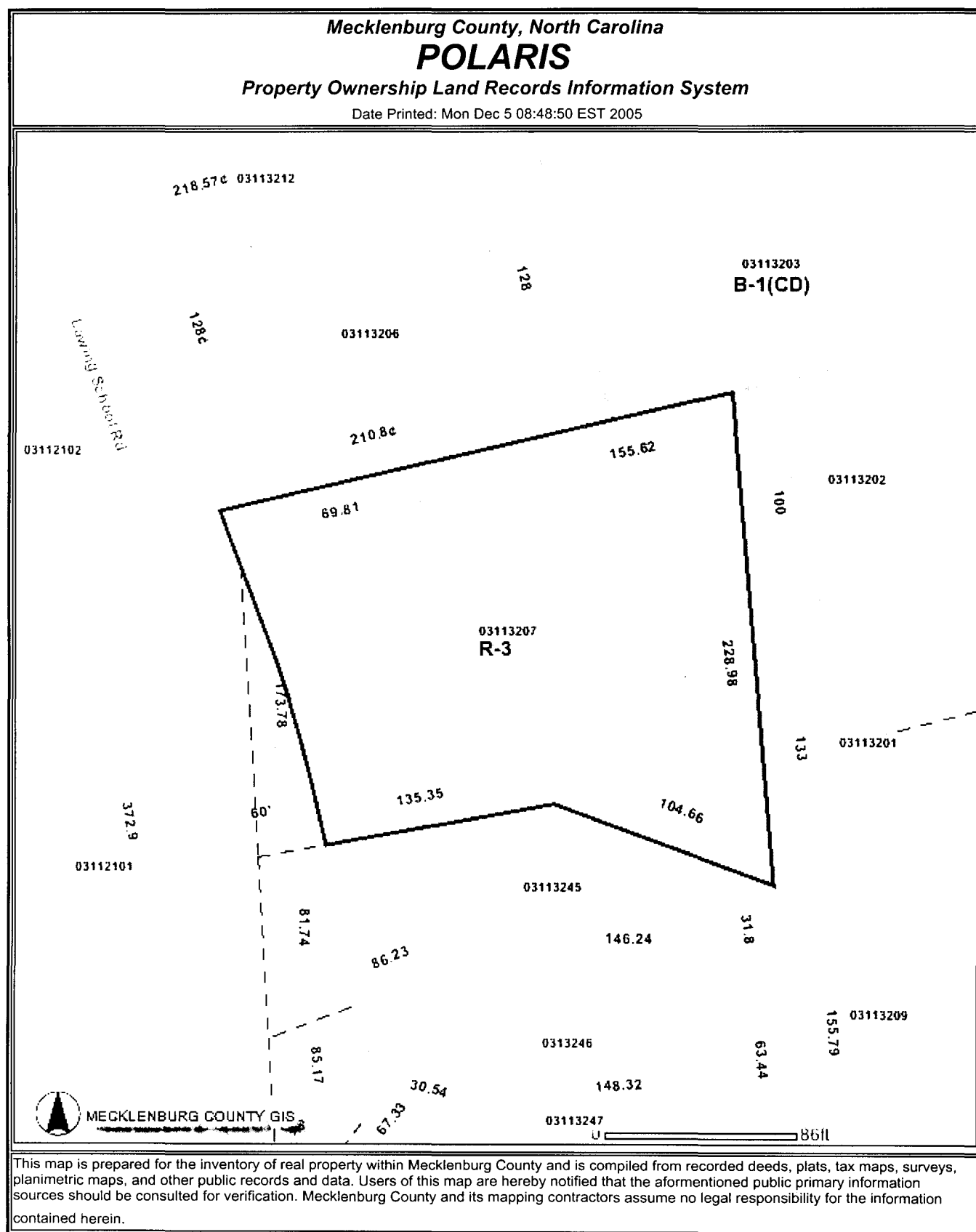
Notice Date	Tax Year	Reason	Changed To	Deferred
Jan 17 2003	2003	Countywide Revaluation	91700	0
Feb 20 1998	1998	Countywide Revaluation	75820	

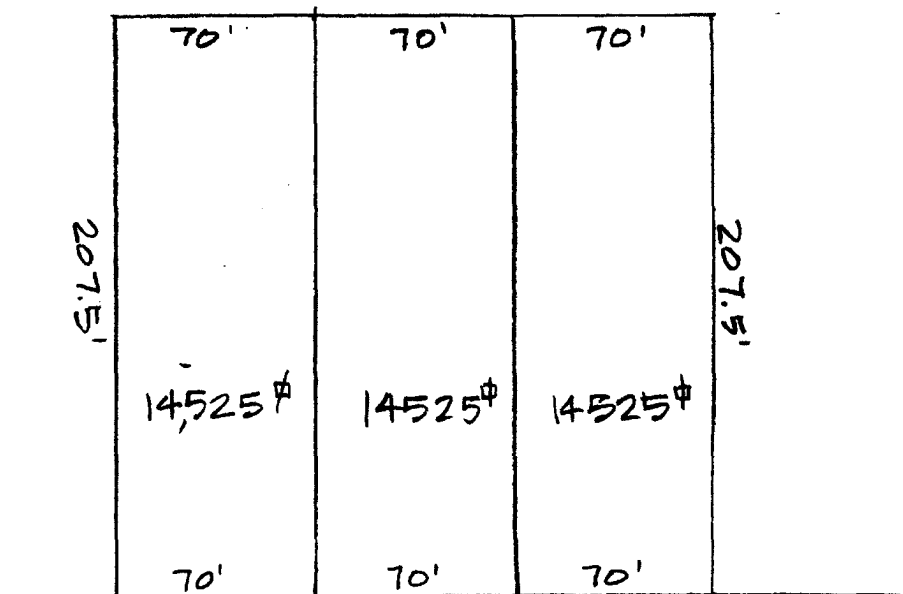
Jan 2 1991

1991

Countywide Revaluation

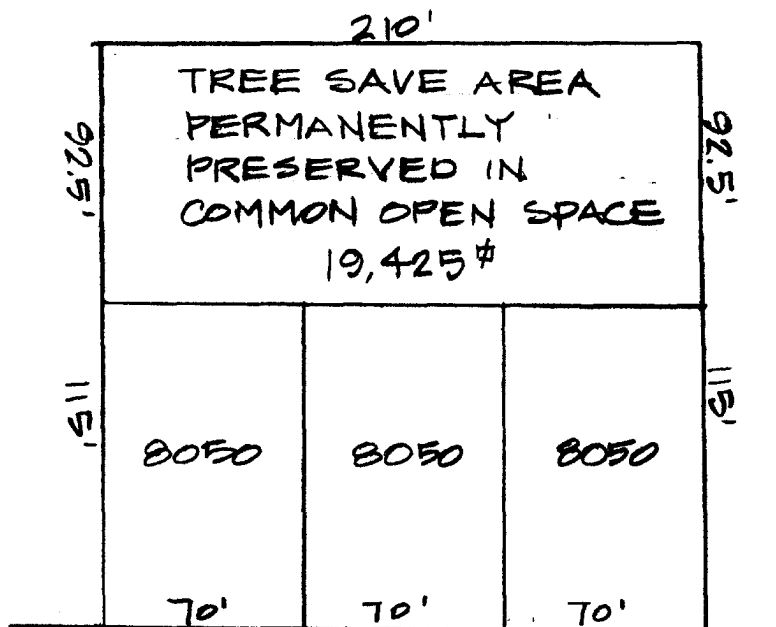
66280





EXISTING 50' PUBLIC R/W

A. 3 LOT SUBDIVISION IN R-3 DISTRICT
 1" = 60'-0"



EXISTING 50' PUBLIC R/W

B. 3 LOT SUBDIVISION IN R-3 DISTRICT
 1" = 60'-0"