



CERTIFIED MAIL

Daniel Fisher
10801 Back Ridge Road
Charlotte, NC 28277

**RE: APPEAL FROM A DECISION
10016 LAWING SCHOOL ROAD
CASE NUMBER 06-001**

Dear Mr. Fisher:

At its meeting on January 31, 2006, the City of Charlotte Zoning Board of Adjustment ("Board") **upheld** the Zoning Administrator's decision that a proposed tree save area on a separate parcel of land is a lot.

The Board based its decision on the following findings of fact:

1. Daniel Fisher, owns tax parcel code ("parcel") 031-132-07, which is located at 10016 Lawing School Road. The parcel is zoned R-3.
2. Code Section 2.201 defines 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 accessways, parking areas, yards, and open spaces required in these regulations.
3. Code Table 9.101 lists open space recreation as a use permitted in the R-3 zoned district.
4. Code Table 9.101 lists outdoor recreation as a use permitted in the R-3 zoned district.
5. Code Table 9.101 lists parks, greenways and arboretums as uses permitted in the R-3 zoned district.
6. The lot is intended to serve/*function* with a principal use of a tree save area.
7. Applicant is proposing to place the tree save area on a separate parcel of land.
8. The parcel of land would be identified by a separate tax parcel number.
9. The tree ordinance does not require a separate parcel of land for a tree save area.

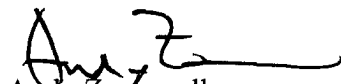
10. Tree save areas are construed as being associated with the sale of individual lots.
11. Tree save areas are construed as being associated with building lots; and therefore, carry additional value for the purpose of sale.
12. In Section 2.201, the definition of principal use does not restrict the use to building(s) or structure(s).
13. Development Standards cited in Code Section 9.205(1) are related to intended uses.
14. There are other uses that may be permitted which are not subject to the development standards in Code Section 9.205(1).

Based upon the above findings of fact, the Board concludes that the applicant has failed to meet the requirements of §5.109(1) of the Ordinance, and more specifically makes the following conclusions of law:

1. The tree save is on a separate parcel of land which constitutes a lot.
2. Subdivisions of more than three lots are subject to the City of Charlotte Subdivision Ordinance.

Pursuant to N.C.G.S. Section 160A-388(e), the Board's decision in Case no. 06-001 may be appealed by a petition for review in the nature of *certiorari* to Superior Court within thirty (30) days from the date stated below, which is the date when the decision of the Board was filed in the Planning Department/Zoning Administration, or within thirty (30) days after receipt of the decision by an aggrieved party who filed a written request for such copy with the Clerk to the Board at the time of the hearing of the case, whichever is later.

Sincerely,




Andy Zoutewelle
Vice-Chairperson

cc: John H. Hasty, Esquire
Robert L. Brandon, Consultant
Debra Campbell, Planning Commission Director
Rodger Lentz, Zoning Administrator
Jeff Huss, Code Enforcement Inspector
Keith MacVean, Planning Commission

DECISION FILED IN THE LAND USE & ENVIRONMENTAL SERVICES AGENCY:

3/29/2006
Date


Rodger Lentz, Zoning Administrator