



CERTIFIED MAIL

Fred Frazier
6111 Austin Grove Church Rd
Marshville, NC 28103

Donald O'Shields
PO Box 667477
Charlotte, NC 28266-7477

**RE: APPEAL
3217 THE PLAZA
CASE NUMBER 10-021 (Consolidated with Case # 10-018)**

Gentlemen:

On July 13, 2010, the City of Charlotte Zoning Board of Adjustment ("Board") **overturned** the Zoning Administrator's interpretation that the establishment operating at 3217 The Plaza is a nightclub illegally operating within 400 feet of a residential use or residential zoning district.


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

1. Fred Frazier and Donald O'Shields appealed Zoning Violation letter #2010500770 citing them for operating a nightclub within 400 feet of a residential district.
2. The property is located at 3217 The Plaza, further identified as tax parcel 083-163-11.
3. The site is zoned B-1 (commercial) and nightclubs are permitted uses under prescribed conditions.
4. A nightclub is defined by the Zoning Ordinance as a commercial establishment serving alcoholic beverages and providing entertainment for patrons including, bars, lounges, and cabarets.
5. Section 9.803(19) of the Zoning Ordinance requires a minimum 400 foot separation between a residential use or district and a nightclub use.
6. The nightclub use has been operating at this location since 1954.
7. Evidence was presented that Chasers, located at 3217 The Plaza, has always been a commercial establishment, serving alcohol, and providing entertainment for patrons.
8. Over the past five years, the applicant has consistently obtained a Sexually Oriented Business License to operate an Adult Live Entertainment Business from this location.
9. The adoption of the Zoning Ordinance Code Section 12.518 (Adult Establishments) did not change the principal use of this location.

Based upon the above findings of fact, the Board concludes that the applicant has met the standard stated in §5.109(1) of the Ordinance, and more specifically:

1. The Zoning Board of Adjustment overturns the Zoning Administrator's decision that the nightclub use is not permitted at this address because it does not meet the 400 foot separation requirement from a residential district.
2. The establishment may not operate as an adult establishment, but may continue its legal nonconforming use as a nightclub.

Sincerely,

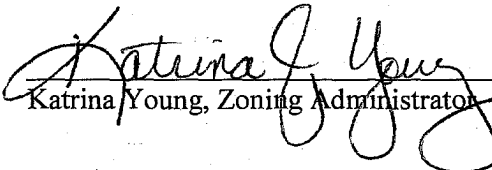


Jeffrey Davis
Chairperson

Cc: Joseph Ledford
Robert Brandon
Katrina Trotter

DECISION FILED IN THE PLANNING DEPARTMENT:

Date July 20, 2010



Katrina Young, Zoning Administrator