

I. INTRODUCTION

In October 1996, the Denver City Council passed Council Bill No. 823 providing for a temporary moratorium on the issuance of zoning permits for adult use businesses. The moratorium was imposed to allow city departments and agencies to conduct a study to (1) assess any adverse secondary impacts caused by adult use businesses on nearby properties and neighborhoods and (2) determine the availability of sites for adult businesses.

A working group, the Adult Use Study Team, was established to conduct the study. The study team, which met on 14 occasions beginning in December 1996, consisted of representatives from a number of city agencies and departments:

- Kent Strapko, Charles Meredith (Zoning Administration)
- Ken Brewer (Office of Planning and Development)
- Sandie Norman (Department of Public Safety)
- Beth McCann (Department of Excise and Licenses)
- Jim Lindsey (Department of Revenue/ Assessment Division)
- Bob Conrad (Department of Environmental Health)

Study team members were asked to analyze the impact of adult businesses from their separate fields of expertise using data and information maintained by their departments and drawing on professional resources outside the city.

This report begins with a summary of the team's review of adult business impact studies conducted in 21 other cities and counties across the the nation over the past several years, and an overview of the major legal issues involved in regulating adult businesses.

Sections IV and V of the report provide a detailed look at the regulation of adult businesses in Denver, including an examination of the zoning and licensing laws that govern such businesses; an analysis of the amount of land and number of sites currently available for adult businesses; and a review of license violations, suspensions and revocations.

The remaining three sections of the report focus on the negative secondary impacts of adult businesses in Denver.

Section VI examines how such businesses affect the daily lives of people who live and work in surrounding neighborhoods, drawing on a variety of sources including site inspections, a survey of residents and business owners, interviews

with representatives of registered neighborhood organizations and a review of police department vice/drug investigations.

Section VII focuses on the incidence of crime linked to adult businesses, based on a detailed analysis of calls for police service, reported offenses and arrests during 1995 and 1996 in 15 study areas surrounding such businesses.

The report concludes with a look at the impact of adult businesses on the assessed value of adjacent residential and commercial property, using 1994-97 assessment data.

II. REVIEW OF ADULT BUSINESS IMPACT STUDIES FROM OTHER CITIES

Other jurisdictions that have studied the effects of adult use businesses have found such businesses to have negative secondary impacts, despite wide variations in land use patterns and other local conditions.

The Adult Use Study Team reviewed impact studies, or summaries of studies, conducted in 21 jurisdictions: Amarillo (TX), Austin (TX), Beaumont (TX), Cleveland (OH), Colorado Springs (CO), Dallas (TX), Garden Grove (CA) Harris County (TX), Houston (TX), Indianapolis (IN), Kent (WA), Los Angeles (CA), Minneapolis (MN), New York City (NY), Newport News (VA), Oklahoma City (OK), Phoenix (AZ), St. Paul (MN), Seattle (WA), Tucson (AZ) and Whittier (CA).

Among the major findings of our review:

- Criminal activity – primarily drug dealing, prostitution, public indecency and sexual assault – was the impact most frequently cited in the studies reviewed.
- Litter, noise and traffic problems were among the other major impacts cited in most of the studies reviewed.
- Adult uses were found to have a significant impact on property values, particularly single-family homes. The primary factor cited for the depreciation in property values was increased crime activity associated with adult businesses.
- Adult business signs are generally larger, more often illuminated and graphic (sexually oriented) than signs of nearby commercial uses. Community residents frequently object to this signage as being out of keeping with neighborhood character, and express concern about the exposure of minors to sexual images.

Following is a brief description of some of the impact studies reviewed by the Adult Use Study Team:

Study of the Effects of the Concentration of Adult Entertainment Establishments in the City of Los Angeles (1977)

The Los Angeles planning department studied the effects of the concentration of sexually oriented businesses on surrounding properties between 1969 and 1975. More than 90% of realtors, real estate appraisers and lenders surveyed said that a

grouping of such businesses within 500 to 1,000 feet of residential property decreases the market value of homes. The study also found a disproportionately higher incidence of crime -- including assault, murder, pandering, drug-related violations and robbery -- in areas where adult businesses were concentrated.

A Report on Zoning and Other Major Methods of Regulating Adult Entertainment in Amarillo (1977)

The Amarillo police department provided an analysis demonstrating that areas of concentrated adult businesses was 2-1/2 times higher than the street crime in the city average. The city planning department concluded that concentrations of such businesses have detrimental effects on neighboring residential and commercial areas because of (1) noise, lighting and traffic during evening hours, (2) increased opportunity for street crime and (3) the tendency of citizens to avoid such business areas.

Adult Business Study: Phoenix, Arizona (1979)

The study concluded that there was a significantly greater incidence of crime in the study areas than in the control areas. The study found that there were 40% more property crimes and violent crimes per 1,000 persons in the study areas than in the control areas, and that the sex-crime rate was six times higher in the study areas than in the control areas.

Adult Entertainment Businesses in Indianapolis: An Analysis (1984)

The city of Indianapolis collaborated with Indiana University researchers to evaluate the impact of adult businesses on property values and crime in six study areas. The study found a significantly higher increase in criminal activity, particularly sex-related crimes, in the study areas than in the city as a whole. The study also concluded, based on a survey of local and national real estate appraisers, that "adult entertainment businesses, even relatively passive uses, such as an adult bookstore, have a serious negative effect on their immediate environs."

Report on Adult-Oriented Businesses in Austin (1986)

This report was used to develop an amendment to existing ordinances governing adult businesses. The study examined crime rates, property values and trade-area characteristics. Sex-related crime ranged from 177%-482% higher in the four study areas than the city average. In the two study areas containing more than one adult business, the crime rate was 66% higher than in the study areas with only one such business. The study recommended that (1) adult businesses be

limited to highway or regionally oriented zone districts, (2) adult businesses be dispersed to avoid concentration and (3) conditional use permits be required for such businesses.

The Relationship Between Crime and Adult Business Operations on Garden Grove Boulevard (1991)

The study concluded that crime increased significantly with the opening of an adult business, or with the expansion of an existing business or the addition of a bar nearby. The increase was greatest in serious offenses such as homicide, rape, robbery, assault, burglary, theft and auto theft. On Garden Grove Boulevard, seven adult businesses accounted for 36% of all crime in the area. Real estate professionals surveyed as part of the study overwhelmingly agreed that adult businesses within 200 to 500 feet of residential and commercial property significantly depreciate property values.

Report on Sexually Oriented Businesses: Colorado Springs (1992)

This report was a study of adult businesses in Colorado Springs to determine if revisions should be made to the ordinances regulating such businesses. The study concluded (1) there was a proportionately higher incidence of crime in areas where adult businesses were located, (2) the 1,000-foot spacing requirement be modified to provide better buffering of adult uses from churches, schools, parks or other adult uses, (3) the proposed ordinance changes would leave 1,806 acres in which adult businesses could locate and (4) a total of 55 new sites would be available for adult uses under the new spacing requirements.

Analysis of the Effects of Sexually Oriented Businesses Which Advertise Live, Semi-Nude Entertainment to the Public on Surrounding Properties and On Neighborhoods (1994)

This study, conducted in Dallas, concluded that adult businesses and dance halls operating as adult cabarets have both a real and perceived negative effect on surrounding properties and neighborhoods. The primary ways in which such businesses affect surrounding areas were (1) by their physical presence, including signage and advertising, and (2) by the hours they operate and the kind of people they attract.

Adult Entertainment Study: City of New York (1994)

The New York City planning department evaluated the nature and extent of adverse impacts associated with adult businesses in Times Square, Chelsea and along major vehicular routes in Manhattan and other boroughs. The study identified a number of significant negative impacts in areas where such businesses are concentrated, including a substantially higher incidence of crime and a slower rate of increase in assessed property values. The study concluded that it was appropriate to regulate adult businesses differently from other businesses, and that there was merit in considering restrictions on the location of adult uses in proximity to residential areas, churches, schools and each another.

Report on the Concentration of Adult Use Establishments in the Times Square Area (1994)

The Times Square Business Improvement District in New York City commissioned a study to determine the effect of adult businesses on the Times Square commercial area. The study found a proportionately higher incidence of criminal complaints on the study blocks than on the control blocks, and a proportionately lower rate of increase in total assessed values.

III. REVIEW OF COURT DECISIONS ON THE REGULATION OF ADULT USES

Ever since the United States Supreme Court decision in *Young v. American Mini Theatres*, 427 U.S. 50 (1976), state and local governments have been turning to zoning laws to regulate adult use businesses. Regulations imposed on adult businesses have serious constitutional implications because of the First Amendment's guarantees of freedom of expression and speech. However, not all forms of expression enjoy the same degree of constitutional protection.

Generally, the government does not have the power to restrict expression or speech because of its message, ideas, subject matter or content. However, the courts recognize that while the commercial operation of adult businesses involve some degree of constitutional protection, the expressive component of such activity is secondary to the conduct itself and the scope of permissible government regulation increases. Thus, the government may regulate adult businesses even though the regulation results in an incidental limitation on protected expression.

Appellate courts around the country have upheld ordinances limiting the location of adult businesses within specified distances of residential zone districts, churches, schools and other adult businesses, similar to Denver's current regulatory scheme. In the *American Mini Theatres* case, the Court approved Detroit's dispersion-type ordinance prohibiting adult theaters from locating within 1000 feet of any two other such uses or within 500 feet of any residential zone as a valid exercise of the city's police power. The Court concluded that municipalities must be allowed a reasonable opportunity to experiment with solutions to serious problems and that attempts to preserve the quality of life are entitled to deference by the judiciary.

Municipalities may regulate constitutionally protected activities provided the ordinance is necessary to prevent adverse secondary effects, such as neighborhood deterioration caused by crime and blight, related to the operation of adult businesses. Detroit relied on studies and testimony of experts to document such negative effects and demonstrate that the dispersion provisions were intended to prevent such effects by merely limiting the locations where adult businesses could operate and not restrict constitutionally protected expression.

Ten years after *American Mini Theatres*, the Supreme Court approved a zoning ordinance concentrating adult businesses in a limited geographical area of the city. *City of Renton v. Playtime Theaters Inc.*, 475 U.S. 41 (1986). Renton did not conduct its own study but relied on a study conducted by nearby Seattle,

Washington documenting the adverse secondary effects caused by adult businesses operating in Seattle. The Court held the First Amendment does not require municipalities to conduct their own studies before adopting an ordinance. Municipalities can rely on studies conducted by other cities provided they reasonably believe the negative secondary effects found to exist in the other city are relevant to the problems the municipality seeks to address.

Ordinances imposing locational and other restrictions on adult businesses are limited to imposing content neutral time, place and manner restrictions. Ordinances are viewed as content neutral when they are not directly or indirectly aimed at the content of the protected activity occurring at adult businesses but rather at the undesirable secondary effects attributable to these businesses. The courts have held that the question of content neutrality focuses on the government's purposes in enacting the ordinance.

In order to pass constitutional muster, restrictions on adult businesses should be no greater than necessary, to further a substantial governmental interest. As previously noted, governments do have a substantial interest in preserving the quality and character of neighborhoods by preventing such negative effects as neighborhood blight, crime, increased traffic and lower property values.

Ordinances restricting adult business operations must allow a reasonable opportunity for such businesses to operate in the municipality. In other words, locational requirements imposed by zoning ordinances must insure available sites for adult businesses to operate. In making this determination, reviewing courts look at the amount of acreage available for adult businesses as well as the actual number of potential sites available. Recent decisions from around the country indicate that courts reviewing ordinances enacted by urban municipalities prefer to look at the actual number of existing and potential sites available in the municipality while the amount of available acreage may be more relevant to rural areas.

The courts have not defined a constitutional minimum number of sites that must be available for adult businesses for an ordinance to pass constitutional muster. Instead, courts determine, on a case-by-case basis, whether an unreasonably low number of sites exist in a given area. The test applied by courts is one of reasonableness and whether a municipality has provided a reasonable opportunity for adult businesses to operate.

A major reason courts invalidate adult business ordinances is because they are unconstitutionally vague. Under this principle, a law which does not fairly inform a person of what is required or prohibited is an unconstitutional violation of due process. An ordinance will also be invalidated for vagueness when it is so

devoid of standards that it invites arbitrary and discriminatory enforcement. Adequate standards level the playing field so that all concerned parties, including the municipal officials responsible for enforcement, the public and the courts, are aware of the law's meaning.

The importance of these issues is reflected in the hundreds of appellate court cases nationwide challenging the constitutionality of state or local regulation of adult businesses. Efforts to regulate adult businesses in Denver are aided by the experiences of other municipalities in defending their ordinances against constitutional challenges. The experiences of other municipalities assist us in understanding how the courts judge adult use ordinances and the nature of the objections adult business operators have to regulation. The legal guidelines outlined in this section should be helpful when considering amendments to Denver's current adult use business ordinance.

**ADULT USE BUSINESSES
OPERATING IN DENVER**
(As shown on the following page)

Adult Cabarets

- #1 Dandy Dan's, 214 S. Federal Boulevard
- #2 Diamond Cabaret, 1222 Glenarm Street
- #3 Paper Tiger, 1196 S. Santa Fe Drive
- #4 PT's, 1601 W. Evans Avenue

Pop Shops

- #5 Centerfold Show Club, 3480 S. Galena Street
- #6 Red Garter, 1447 Stout Street
- #7 Saturdays, 8315 E. Colfax Avenue

Adult Bookstores (with Video Booths)

- #8 Adult Trading Post, 7 S. Federal Boulevard
- #9 Book Mart East, 3309 E. Colfax Avenue
- #10 Colfax News, 8216 E. Colfax Avenue
- #11 Pleasures Books/ Alameda, 3250 W. Alameda Avenue
- #12 Pleasures Books/South Broadway, 127 S. Broadway

Adult Bookstores (without Video Booths)

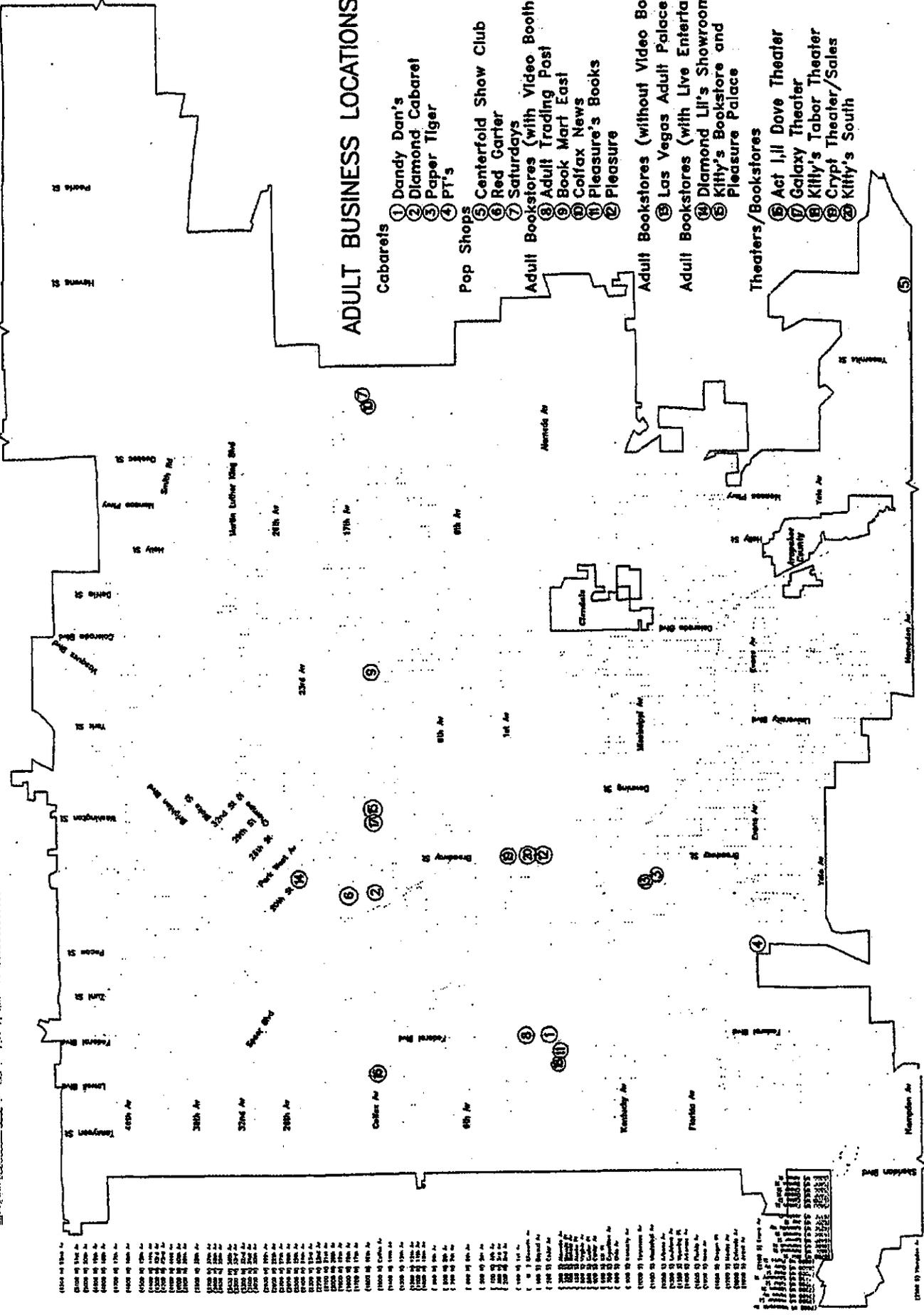
- #13 Las Vegas Adult Palace, 550 W. Mississippi Avenue

Adult Bookstores (with Live Entertainment)

- #14 Diamond Lil's Showroom, 1215 20th Street
- #15 Kitty's Bookstore Pleasure Palace, 735 E. Colfax Avenue

Adult Theaters/Bookstores

- #16 Act I,II/Dove Theater/Pleasures Bookstore, 3480 W. Colfax Avenue
- #17 Galaxy Theater, 633 E. Colfax Avenue
- #18 Kitty's Tabor Theater, 3333 W. Alameda Avenue
- #19 The Crypt, 139 Broadway
- #20 Kitty's South, 119 S. Broadway



ADULT BUSINESS LOCATIONS

Cabarets

- ① Dandy Dan's
- ② Diamond Cabaret
- ③ Paper Tiger
- ④ PT's

Pop Shops

- ⑤ Centerfold Show Club
- ⑥ Red Garter
- ⑦ Saturdays

Adult Bookstores (with Video Booths)

- ⑧ Adult Trading Post
- ⑨ Book Mart East
- ⑩ Colfax News
- ⑪ Pleasure's Books
- ⑫ Pleasure

Adult Bookstores (without Video Booths)

- ⑬ Las Vegas Adult Palace

Adult Bookstores (with Live Entertainment)

- ⑭ Diamond Lil's Showroom
- ⑮ Kitty's Bookstore and Pleasure Palace

Theaters/Bookstores

- ⑯ Act, I, I! Dove Theater
- ⑰ Galaxy Theater
- ⑱ Kitty's Taboo Theater
- ⑲ Crypt Theater/Sales
- ⑳ Kitty's South

IV. ADULT BUSINESS ZONING IN DENVER

The Denver Zoning Ordinance, Chapter 59 of the Denver Revised Municipal Code (DRMC), currently regulates adult businesses throughout the city.

In 1976, by Ordinances 691, 692 and 693, the Denver City Council required certain uses, including adult businesses, to be located more than 500 feet from any residential district, any dwelling unit (single or multiple) and any church and/or school, and no more than any two such uses to be located within 1,000 feet of each other. Adult businesses operating at that time were grandfathered in under Section 59-631, DRMC, which regulates all nonconforming uses.

Adult uses-by-right are currently permitted in the B-2, B-3, B-A-3, B-4, B-5, B-7, B-8 and CCN (Cherry Creek North) zone districts. The DRMC authorized the following types of adult businesses to operate in the following zone districts:

Type	B-2	B-3	B-A-3	B-4	B-5	B-7	B-8	CCN
1				X	X	X	X	
2	X	X	X	X	X	X	X	X
3	X	X	X	X	X	X	X	X
4	X	X	X	X	X	X	X	X
5				X				
6	X	X	X	X	X	X	X	X

(Type 1= adult amusement or entertainment; Type 2=eating place with adult entertainment; Type 3=bookstore, adult; Type 4=photo studio, adult; Type 5=sexually oriented commercial enterprise; Type 6=theater, adult)

Business zone districts that do not permit adult uses include: B-1, B-A-1, B-A-2, B-A-4, B-8-A and B-8-G.

In the industrial zone districts, specified adult businesses may be authorized as use exceptions in the I-1 and I-2 zones by the Board of Adjustment for Zoning Appeals pursuant to DRMC section 59-54(3)n. In such cases, the applicant must demonstrate compliance with the criteria established by the ordinance, including the same separations required in the business zone districts.

Because the nature of the adult use industry is constantly changing, new adult businesses do not always fit into the DRMC's adult business definitions. However, the DRMC definition of "sexually oriented commercial enterprise" fills this gap in circumstances where the service offered is intended to provide sexual stimulation or gratification to the customer. Thus, the zoning department is able to enforce the City's separation requirements when concerned with new

adult business concepts such as certain massage parlors and lingerie modeling businesses.

It is noted that there are "health clubs" and "bath houses" currently operating in the city which allow customers to engage in sexual activities on the premises. These businesses are not currently regulated by the adult business zoning provisions of the DRMC, but are subject to the health department regulations. Other adult oriented uses such as "escort services" are not regulated by the zoning provisions because they do not involve activities at a specific property. Escort services are subject to criminal investigation by the police department.

The nonconforming use provisions of DRMC section 59-631, *et seq.*, are applicable to adult businesses. Nonconforming uses are authorized to continue operating in compliance with the limitations set forth in the ordinance. Additionally, nonconforming uses automatically terminate upon the occurrence of any of the events specified in the ordinance including abandonment, violation of the nonconforming use limitations, damage or destruction. Since 1976, several nonconforming adult businesses have been closed for reasons associated with the nonconforming use provisions including: The Bluebird Theater, 3317 E. Colfax Ave.; Kitty's South Theater, 1912 S. Broadway; Matty's Theater, 111 S. Broadway; and Sid King's, 1205 E. Colfax Ave.

Types of Adult Use Businesses in Denver

As of the date of this study, 20 adult businesses are operating under approved use permits throughout the city. Seventeen of these businesses do not meet the city's separation requirements but, because they were established prior to 1976, are allowed to continue operating as legal nonconforming uses. Three new adult use businesses, meeting Denver's separation requirements, have been established since 1992.

The 20 existing adult businesses are split among these zone districts: one in B-3; sixteen in B-4; two in B-5; and one in the B-8-A (formerly B-8).

Of the permitted adult uses by right, only the following three general categories are operating in Denver: bookstore, adult; eating place with adult amusement; and theater, adult.

Every adult bookstore in Denver except one also contains video booths wherein customers can view rented videos. Several establishments operate as a combination of these uses; that is, an adult theater with a bookstore selling and/or renting videos and other adult materials, as well as providing video booths.

Eating Places with Adult Entertainment

In Denver, there are two types of eating places with adult entertainment: cabarets, which serve alcohol, and pop shops, which do not. The cabarets feature topless dancers; the pop shops usually feature dancers who are totally nude. Such establishments generally open in the afternoon and close by 2 a.m. Currently, there are four adult cabarets and three pop shops operating in Denver.

Adult Cabarets

- Dandy Dan's, 214 S. Federal Blvd.
- Diamond Cabaret, 1222 Glenarm St.
- Paper Tiger, 1196 S. Santa Fe Drive.
- PT's, 1601 W. Evans Ave.

Pop Shops

- Centerfold Show Club, 3480 S. Galena St.
- Red Garter, 1447 Stout St.
- Saturdays, 8315 E. Colfax Ave.

Adult Bookstores

Adult bookstores sell pornographic or sexually explicit material in the form of books, magazines or videos. All of these businesses except one (Las Vegas Adult Palace) also feature coin-operated video booths in which sexually explicit movies can be privately viewed. Two of these businesses also offer live entertainment in the form of a "peep show" featuring a nude dancer behind a glass window in a booth. Adult bookstores generally operate 24 hours a day, seven days a week.

Adult Bookstores With Video Booths

- Adult Trading Post, 7 S. Federal Blvd.
- Book Mart East, 3309 E. Colfax Ave.
- Colfax News, 8216 E. Colfax Ave.
- Pleasures Books/Alameda, 3250 W. Alameda Ave.
- Pleasures Books/South Broadway, 127 S. Broadway.

Adult Bookstores Without Video Booths

- Las Vegas Adult Palace, 550 W. Mississippi Ave.

Adult Bookstores With Live Entertainment

- Diamond Lil's Showroom, 1215 20th St.
- Kitty's Bookstore Pleasure Palace, 735 E. Colfax Ave.

Theaters/Bookstores

Adult theaters present motion pictures showing sexually explicit material. These businesses also generally carry sexually explicit books, magazines and videos. Most theaters/bookstores are open 24 hours a day, seven days a week. Currently, there are five adult theaters/bookstores operating in Denver.

- Act I, II/Dove Theater/Pleasures Bookstore, 3480 W. Colfax Ave.
- Galaxy Theater, 633 E. Colfax Ave.
- Kitty's Tabor Theater, 3333 W. Alameda Ave.
- The Crypt, 139 Broadway.
- Kitty's South, 119 S. Broadway

In 1995, Ordinance 874 modified the definitions of "bookstore" and "bookstore, adult," and added specific limitations to "bookstore" in the use-by-right provisions of each code section allowing bookstores as a permitted use. In short, these changes allowed non-adult bookstores to sell or rent a limited amount of adult materials, but required that all such materials be segregated into a separate section of the bookstore and screened from public view, except to persons 18 years of age or over.

Land Area Available for Adult Uses

Official Denver zoning maps scaled at 1"/1000' and 1"/200' have been marked and used to demonstrate zone districts that permit adult uses. These maps graphically indicate areas within and outside of 500 feet from residential zones, districts that would allow adult businesses if the required separation from churches, schools and individual dwellings could be met. In mixed-use and dense areas, such as the B-5 and B-7 central business districts, the 1"/200' maps were used to indicate known dwellings, churches and schools with the 500-foot separation drawn in.

Adult uses-by-right are permitted only in the zone districts specified above and in a very limited number of PUD districts. The area available for adult uses in these districts has been calculated as accurately as possible from the scaled zone maps and PUD files.

The total land area in Denver zoned B-2, B-3, B-A-3, B-4, B-5, B-7, B-8 and CCN is 4,347 acres, as calculated from figures provided by the Denver Planning Office.

**Land Area of Business Zone Districts
Permitting Adult Uses**

Zone District	Total Area Sq. Ft.	Sq. Ft./Acre	Total Acres
B-2	27353675	43560	627.95
B-3	47200209	43560	1083.57
B-4	72420000	43560	1662.53
B-5	11373536	43560	261.10
B-7	2938551	43560	67.46
B-8	24176140	43560	555.01
B-A-3	1900125	43560	43.62
CCN	1999790	43560	45.91
Total			4347.15

Applying the separation requirements, the land area of business zone districts permitting adult uses is 564.79 acres. Adding in the land area of PUDs permitting adult uses (31.95 acres), *the total land area in Denver available for adult uses, rounded off, is 597 acres.*

Number of Sites Available for Adult Businesses

The referenced maps also were used to determine the approximate number of actual sites still available for new adult businesses. The existing code allows no more than two such uses to be located within 1,000 feet of each other. This diameter was applied to available districts on the maps, and a minimum of two sites was assigned to available district areas. For larger available areas, the 1,000-foot limitation was used to calculate approximately how many sites could be permitted in the given area. Areas also were checked for existing schools, churches or dwelling units.

It was determined that at least 67 business-zoned sites are available in addition to the 20 existing adult use businesses, and that two of the existing businesses are so located that an additional business could be established near each of those locations. *Therefore, a minimum of 89 sites in business districts are available for adult uses.*

Properties in industrial districts are eligible for an exception as an adult use when located in a structure erected before November 1956. Industrial districts

meeting this condition and separation requirements were also studied. At least 25 industrial sites are thus available subject to Board of Adjustment approval.

Adult Use Definitions

The following definitions are contained in Section 59-2 of the Revised Municipal Code:

Adult amusement or entertainment: Amusement or entertainment which is distinguished or characterized by an emphasis on material depicting, describing or related to "specific sexual activities" or "specified anatomical areas" or which features strippers or dancers, or similar entertainment by people who expose any specified anatomical area; provided, however, that live entertainment involving any specified sexual activity is prohibited.

Bookstore: A retail establishment which, as its primary business, engages in the sale, rental or other charge-for-use of books, magazines, newspapers, greeting cards, postcards, videotapes, computer software, and/or any other printed or electronically conveyed information or media, excluding any "adult bookstore," "adult theater," "theater" or "studio theater."

Bookstore, adult: An establishment having as a substantial or significant portion of its stock in trade books, magazines and other periodicals and goods and items, including videotapes and computer software, held for sale or rental which are distinguished or characterized by their emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" ("adult materials"). An establishment which utilizes in excess of ten (10) percent of its gross floor area or its occupied shelf space for the display of adult materials or which has more than ten (10) percent of its total monthly receipts derived from the sale or rental of adult materials shall be regarded as an "adult bookstore."

Photo studio, adult: An establishment which, upon payment of a fee, provides photographic equipment and/or models for the purpose of photographing "specified anatomical areas."

Sexually oriented commercial enterprise: A massage parlor, nude studio, love parlor, encounter parlor or any other similar commercial enterprise whose major business is the offering of a service which is intended to provide sexual stimulation or sexual gratification to the customer, but not including: (a) a business licensed to sell alcoholic beverages, any bookstore or theater; (b) a business operated by or employing licensed psychologists, licensed physical therapists, licensed cosmetologists or licensed barbers performing functions

authorized under the license held; (c) a business operated by or employing licensed physicians or chiropractors engaged in the healing arts.

Specified anatomical area shall include:

- Less than completely and opaquely covered: (1) human genitals and/or pubic region; (2) the area of the buttock which is located around the lower backbone between straight lines drawn from the outermost point of the pelvis on the side of the body to the ischial tuberosity; (3) the area of the female breast described as follows: the areola and the lower quadrant of each breast as defined by two lines which crisscross the breast and intersect at right angles at the areola. Such lines also intersect at a forty-five-degree angle the vertical axis of the body as represented by the backbone when viewed from the front of the body.
- Human male genitals in a discernibly turgid state, even if completely or opaquely covered.

Specified sexual activities shall include:

- Human genitals in a state of sexual stimulation or arousal
- Acts of human masturbation, sexual intercourse, oral or anal sex, or sodomy
- Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

Theater, adult: A theater used for the presentation of material distinguished or characterized by an emphasis on material depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

Business Name	Address	Street	Zone	NOI	Type	Notes
Act I, II, Dove, Pleasures Bks	3480	W Colfax Ave	B-4	Yes	Adult Theater/Bookstore	3 Theaters/bkstore/vidbooths
Adult Trading Post	7	S Federal Bv	B-4	Yes	Adult Bookstore	with video booths
Book Mart East	3309	E Colfax Ave	B-4	Yes	Adult Bookstore	with video booths
Centerfold Show Club	3480	S Galena St	B-3	No	Eating Place/Adult Amusement	Established 1996
Colfax News	8216	E Colfax Ave	B-4	Yes	Adult Bookstore	with video booths
Crypt Theater/bookstore	139	Broadway	B-4	Yes	Adult Theater/Bookstore	with video booths
Dandy Dan's	214	S Federal Bv	B-4	Yes	Eating Place/Adult Amusement	Established 1992
Diamond Cabaret	1222	Glenarm Pl	B-5	No	Eating Place/Adult Amusement	with video & rap booths
Diamond Lil's Showroom	1215	20th St	B-8-A	Yes	Adult Bookstore/Amusement	with video booths
Galaxy Theater	633	E Colfax Ave	B-4	Yes	Adult Theater/Bookstore	with video booths
Kitty's Bkstr/Pleasure Palace	735	E Colfax Ave	B-4	Yes	Adult Bookstore/Amusement	with video booths
Kitty's South	119	S Broadway	B-4	Yes	Adult Theater/Bookstore	with video booths
Kitty's Tabor Theater	3333	W Alameda Ave	B-4	Yes	Adult Theater/Bookstore	with video booths
Las Vegas Adult Palace	550	W Mississippi Ave	B-4	No	Adult Bookstore	Established 1996
Paper Tiger	1196	S Santa Fe Dr	B-4	Yes	Eating Place/Adult Amusement	
Pleasures Books	127	S Broadway	B-4	Yes	Adult Books/Video Booths	
Pleasures Books	3250	W Alameda Ave	B-4	Yes	Adult Books/Video Booths	
PT's	1601	W Evans Ave	B-4	Yes	Eating Place/Adult Amusement	
Red Garter	1447	Stout St	B-5	Yes	Eating Place/Adult Amusement	
Saturdays	8315	E Colfax Ave	B-4	Yes	Eating Place/Adult Amusement	

V. LICENSING OF ADULT USES

The Department of Excise and Licenses is responsible for licensing adult entertainment businesses either as amusements or as cabarets.

Amusement licenses are governed by DRMCODE Sections 7-1 through 7-320, which establishes 16 classes of amusements. There is not a specific provision relating to adult entertainment, but over the years, the department has generally issued Amusement Class 16 licenses to businesses and individuals providing live entertainment, Amusement Class 15 licenses to businesses that have picture show devices, and Amusement Class 6 licenses to locations that show movies.

If the adult entertainment business intends to sell alcohol, the owner must obtain an adult cabaret license, in addition to a liquor license. Cabaret licenses are governed by the provisions of Denver Revised Municipal Code Sections 6-1 through 6-96.

Both amusement and cabaret licenses can be suspended, revoked or not renewed by the excise and licenses department after notice to the applicant of the allegations forming the basis of any complaint, followed by a hearing. The cabaret provisions are more detailed and inclusive regarding the grounds for suspension, revocation or non-renewal. The department director has the authority to put conditions on a cabaret license, but not on an amusement license. A cabaret license may be denied based on the applicant's criminal record, but an amusement license may not be denied for this reason.

Most adult use businesses in Denver have had their licenses suspended on one or more occasions for criminal violations by patrons or employees (or, in some cases, for licensing violations short of criminal behavior). The overwhelming majority of such violations involved public indecency, including masturbation, fondling and deviate sexual intercourse.

In addition, many adult businesses have had warnings or order-ins issued by the police or by the department of excise and licenses for similar offenses.

Among the four groups of licensed adult use businesses, Amusement Class 15 licensees, which offer adult books and material and adult picture show devices, do not seem to generate the same amount of violations as those businesses with live entertainment or movies.

Current Licenses

- Four licensed adult cabarets: Dandy Dan's, Diamond Cabaret, Paper Tiger and P.T.'s.
- Eight Amusement Class 16 licenses for adult uses: Pleasures Books/Alameda, Centerfold Show Club, Dandy Dan's, Kitty's Pleasure Palace, Kitty's South, Pleasures Books/South Broadway, Red Garter and Saturday's.
- Six Amusement Class 15 licenses for adult uses: Adult Trading Post, Book Mart East, Colfax News, The Crypt Cinema, Diamond Lil's Showroom and Galaxy Theater.
- Four Amusement Class 6 licenses for adult uses: Act I and II, The Crypt Cinema, Galaxy Theater and Kitty's Tabor Theater.

The Las Vegas Palace sells lingerie, magazines and paraphernalia, and sells and rents movies. These activities do not require licensing.

Licensing Violations

The following data is based on a review of department records and does not reflect all police contacts, arrests or citations at the various locations.

Adult Cabaret Licenses

- *Dandy Dan's*: From 1971 to 1990, four suspensions for employees soliciting drinks, one for underage employees, one for serving minors, one for employees mingling with patrons, one for assault, one for not displaying a liquor license and one for food violations. There also were police warnings or order-ins for no valid tax license, assault, service to an intoxicated person, underage dancer and minor in bar, inappropriate behavior by a dancer and entertainment before noon.
- *Diamond Cabaret*: No violations in excise and licenses files.
- *Paper Tiger*: From 1974 to 1996, one suspension for each of the following: sale to an intoxicated person, indecent conduct, underage dancer, fondling and soliciting for prostitution. There also were two suspensions for solicitation of alcohol by employees. Police order-ins were issued for two instances of indecent exposure, two of minors in the bar, two of drinking after hours, one

for underage dancers, two for unknown reasons and one for failure to notify the city of changes in ownership.

- *P.T.'s*: From 1975 to 1997, there were five suspensions of license for inappropriate behavior by dancers (lewd displays, touching patrons in suggestive ways, simulating sexual activity); one of these suspensions was also for assault. Police reports include two instances of underage drinkers, one of drinking after hours, four instances of inappropriate costumes or behavior by dancers and one food violation. (These incidents generally were handled by issuing citations to those involved and by order-ins for the owners.) There also were records of questions being raised in the past about the bar's ownership.

Amusement Class 16 Licenses

- *Pleasures Bookstore/Alameda*: Several individuals cited for public indecency in 1988 and 1989. Disposition not noted.
- *Centerfold Show Club*: No violations in excise and licenses files.
- *Kitty's Pleasure Palace*: Two individuals cited in 1982 for public indecency.
- *Kitty's South*: Two individuals cited in 1991 and 1992 for public indecency
- *Pleasures/South Broadway*: License suspended for 60 days in July 1989 for 35 incidents of public indecency in 1988-89.
- *Red Garter*: A 1988 order-in for employing persons wanted on warrants.
- *Saturdays*: One suspension in 1997 for solicitation of prostitution.
- *Las Vegas Palace*: During the period when Las Vegas Palace was licensed, there were no violations noted in the files.

Amusement Class 15 Licenses

- *Adult Trading Post, Book Mart East, Colfax News, Diamond Lil's Showroom*: No violations noted in excise and license files.

Amusement Class 6 Licenses

- *Act I, II*: License suspended for 30 days in 1989 because of 58 incidents of public indecency in 1988 and 1989.

- *The Crypt Cinema (formerly the Empress Theater)*: No violations since 1992, when this business changed owners and was renamed the Crypt. While it was the Empress, the license was suspended in 1989 for 32 incidents of public indecency in 1988 and 1989. The license was revoked in 1985 for 127 incidents involving citations for public indecency, deviate sexual intercourse, resisting arrest and drug possession.
- *Galaxy Theater*: License suspended in 1986 for 22 incidents of public indecency. The file also notes 24 incidents of public indecency in 1988 and a 1992 order-in for public indecency.
- *Kitty's Tabor Theater*: File notes a 1989 incident involving the theater manager's interference with police.
- *Matty's Theater*: Amusement license was revoked in 1985 as a result of 65 cases of public indecency.

VI. SECONDARY IMPACTS ON NEIGHBORHOODS

The portion of this study conducted by the Denver Office of Planning and Development included the following: (1) a survey of neighborhood residents and business owners, (2) focus group meetings and interviews with representatives of registered neighborhood organizations, (3) site inspections of adult use businesses and (4) interviews with Denver Police Department vice/drug control officers and (5) a review of reports by the Denver Police Department's vice/drug control unit.

Survey of Neighborhood Residents and Business Owners

Methodology

Face-to-face interviews were conducted between July, 1997 and September, 1997 with a total of 82 people -- 39 residents and 43 business owners -- living or working within a one-block radius of adult businesses in seven areas:

- East Colfax Avenue between Washington and Emerson (Kitty's, Galaxy)
- East Colfax Avenue between Ulster and Verbena (Saturdays, Colfax News)
- West Colfax Avenue between Julian and King (Acts I,II/Dove)
- East Alameda Avenue between Hooker and King (Kitty's Tabor, Pleasures)
- South Broadway between Ellsworth and Alameda (Dandy Dan's, Adult Trading Post)
- East Hampden Avenue between Galena and Havana (Centerfold)

Fifty-six percent of the residents surveyed, and 79% of the business owners, had lived or worked in the neighborhood for at least three years. Of the residents surveyed, 56% were renters and 44% were homeowners. The business owners represented a broad cross-section of commercial businesses, the largest category being restaurants.

The survey questions focused on the following issues:

- Whether adult businesses have had a negative impact on the adjacent neighborhood, and the extent to which such impacts affect the everyday life of those who live and work in the neighborhood

- The kind of activity and behavior neighborhood residents and business owners have observed in the vicinity of adult businesses
- The kind of steps people who live or work in the neighborhood have taken to cope with the negative impacts of adult businesses
- The extent to which the presence of adult businesses have caused residents and business owners to consider moving out of the neighborhood
- How the negative secondary impacts caused by adult businesses differ by type of business -- cabaret, pop shop, bookstore, theater.

The analysis of the data consisted of (1) frequency distributions (how many people responded to what question and in what manner), (2) a comparison of raw numbers with anecdotal testimony and (3) the identification of significant patterns in the information collected.

Findings

The study found that people who live or own businesses near adult businesses -- particularly pop shops, adult cabarets and theaters -- feel their presence in the neighborhood lowers property values, generates crime and contributes to an overall decrease in quality of life.

While all of the adult businesses in the study areas have had a negative impact on adjacent residential areas, those having the greatest impact are adult theaters/bookstores, which generally operate 24 hours a day, seven days a week. The intense level of activity generated by adult cabarets and pop shops has also had a negative impact on adjacent neighborhoods.

In general, a greater percentage of residents than business owners have experienced negative secondary impacts from adult businesses. This is probably due to the fact that most of the neighborhood businesses are open only during the day, while residents are in the neighborhood day and night. Enough of the local businesses, however, are experiencing impacts to warrant concern.

Among the specific findings:

Overall Impact on Neighborhood

Of the residents surveyed, 69% felt that adult businesses have a negative overall effect on their neighborhood. The most frequently mentioned impacts were

neighborhood appearance (72%), litter (64%), traffic (61%) and decreased property values (61%).

A negative perception of the overall impact caused by adult businesses was less prevalent among neighborhood business owners, 56% of whom said the presence of adult businesses in the neighborhood had no effect on their daily activities. The most frequently mentioned impacts were neighborhood appearance (42%), decreased property values (46%) and litter (37%).

Specific Activities and Impacts Observed by Neighbors

Activities observed by those living near adult businesses included littering (cited by 54% of residents surveyed), trespassing (46%) and drinking alcohol in public (44%). Litter generated by customers of such businesses includes printed material containing pornography, used condoms, sex paraphernalia and used syringes. Residents also mentioned having seen people urinating, masturbating and soliciting for prostitution in areas adjacent to adult use businesses.

Of the activities observed by neighborhood business owners, the most frequently mentioned were littering, harassment of pedestrians and fighting.

Actions Taken by Neighborhood Residents and Business Owners in Response to Negative Impacts Caused by Adult Businesses

Some survey respondents said the negative impact of adult businesses on their neighborhood has forced them to take action or seek municipal assistance, including restricting parking in front of their homes (mentioned by 31% of residents surveyed), calling the police (28%) and installing new lighting (23%).

Business owners mentioned calling the police (21% of respondents), restructuring business hours (12%) and installing better locks or hiring security guards (9%).

Effect on Plans to Move or Expand

The effect of adult businesses on the attrition of neighborhood residents and businesses appears to be minimal. Of the residents surveyed, 23% said they have considered moving out of the area because of the impact of adult businesses. Many people said they have decided against moving because they have lived in the neighborhood for a long period of time.

As for neighborhood business owners, just 14% said they have considered moving out of the area because of the impact of adult businesses. Sixty-seven

percent said, however, they would not consider expanding in their current location.

Impact of Adult Uses, by Type of Business

- Adult bookstores with live amusement. Among people who live or work near adult bookstores featuring live amusement, 75% of residents and 67% of business owners felt that such establishments had a negative overall impact on the neighborhood. The most frequently cited complaints were drug dealing, trash, and prostitution and other illicit sexual activity in parking lots and nearby alleys.
- Adult theaters. Among people who live or work near adult theaters, 80% of residents and 41% of businesses owners felt that such establishments had a negative overall impact on the neighborhood. Complaints included prostitution, drug dealing, litter and the parking of patrons' cars on neighborhood streets.
- Adult cabarets and pop shops. Among people who live or work near adult cabarets or pop shops, 78% of residents and 47% of business owners felt that such establishments had a negative overall impact on the neighborhood. The most frequently cited complaints were litter and trash containing pornographic material.

Focus Group Meetings/Interviews With Representatives of Registered Neighborhood Organizations

Two focus group meetings were held in May, 1997 to allow representatives of registered neighborhood organizations to discuss the impact of adult use businesses on their neighborhoods.

Organizations represented at these meetings included the Barnum Improvement Council, Colfax on the Hill Association, Capitol Hill United Neighborhoods, East Montclair Neighborhood Association, Westwood Community Association, Athmar Park Neighborhood Association and Godsman Neighborhood Association. A separate set of phone interviews were conducted with representatives of organizations and other interested parties who were unable to attend the focus group meeting.

Following is a sampling of comments made during these focus group meetings and interviews:

- *Ray Krupa, Barnum Improvement Council:* Late-night activity at Kitty's Tabor creates parking and loitering problems, particularly on weekends. The alleys behind Kitty's Tabor are filled with weeds, graffiti and trash, which are slow to be cleaned up. When we approach Kitty's about problems, they respond by saying, "We are only tenants; talk to the landlord." Other businesses are more responsive about cleaning graffiti and maintaining their properties.
- *Dave Walstrom, Colfax on the Hill Association:* We should have three times the amount of retail sales on Colfax Avenue as we have now. Adult businesses contribute to a perception of Colfax as that of a trashy and dangerous place. The cast of characters that hang out and drink in front of Kitty's affects neighbors; it's not a healthy environment. Businesses thinking about moving into the neighborhood witness the behavior and go elsewhere. During Community Cleanup Day, we found needles and condoms in the alley.
- *Buzz Geller, Capitol Hill United Neighborhoods:* Adult businesses have taken over the neighborhood. Marquee signs carry explicit messages on them. Prostitution regularly occurs along the street. Home values and rental rates have decreased in the area. People don't go shopping around here or move businesses into the area. Structures remain vacant for five to ten years before someone moves in. Businesses refuse to locate here. Boston Market considered Colfax and Pearl as a location until they saw the area. The Brick Oven Beanery closed because the owner got worn out fighting the environment. Since the Bluebird Theater closed as an adult business and reopened as a legitimate theater, adjacent home values have doubled.
- *Tom Knorr, Capitol Hill United Neighborhoods:* I have been propositioned several times by women coming from the direction of businesses. People go back and forth between businesses and bars. Adult businesses attract supporting businesses such as leather shops and body piercing and tattoo studios.
- *Bob Braun, Godsgate Neighborhood Association:* The Las Vegas Adult Palace generates traffic safety problems at the intersection of Mississippi and Platte River Drive. Pornographic materials have been found in the parking lot. One day, two women were advertising that there were live naked women inside.
- *Members of the East Montclair Neighborhood Association:* Adult businesses make the neighborhood feel unsafe. Patrons of Saturdays loiter in the alleys and have sex in the alleys. Overflow parking causes problems. Trash and litter (from Saturdays and Colfax News) blows into neighborhood yards. People don't want to live near the adult businesses. Buildings near Saturdays have become vacant.

- *Margie Grimsley, Sloan's Lake Citizens Group:* Act I, II is located one block from Cheltenham Elementary School. Adult business customers were following children's mothers to their houses when they were walking their children to and from school. Although the owner of Act I, II has worked with our group and the West Colfax Partnership on this issue, there are still concerns about the location of this adult business next to an elementary school.
- *Nancy Russell, Denver Herald-Dispatch:* The newspaper, which covers local issues in southwest Denver, is located near Dandy Dan's. Newspaper staff have observed the activities at Dandy Dan's and the Adult Trading Post, including public intoxication, vehicle break-ins in the parking lot, and neighborhood girls being harassed by the patrons of Dandy Dan's. Both Dandy Dan's and Pleasures on Alameda have had very crude messages on their marquee signs to attract business, but have recently toned down the messages.
- *Lisa Dobson, College View Neighborhood Association:* Neighbors have complained about trash and debris that blows into their yards from PT's. People also complain about screeching tires, noise, fighting and overflow parking in the neighborhood. PT's used to have a private security guard to keep things in line; now that they no longer do, fights and illegal activity have gone way up.
- *Frank Gonzales, 260 S. Julian St.:* Has lived there for 37 years. His house is across the alley from Kitty's Tabor. Has to be constantly on guard to protect his grandchildren and other family members from coming into contact with debris generated by Kitty's customers such as used condoms, used syringes and pornographic material in the alley and in his backyard. Customers use Kitty's parking lot to drink and urinate. Feels his property values have been hurt because nobody wants to live next to Kitty's.
- *Jan Marie Belle, Southwest Improvement Council:* Advertisements for movies at Kitty's Tabor are lewd and offensive. Graffiti is a problem and owners of Kitty's Tabor do not make an effort to clean it up. The parking lot and exterior of the building are in need of repair and landscaping. Adult businesses shouldn't be located in a residential area where children might be exposed to pornography.

Site Inspection of Adult Businesses

The criteria established by reviewing impact studies from other municipalities (along with other potential impacts identified by the Adult Businesses Study Team) were used to develop a field survey form. The Department of Planning

and Community Development used this form to evaluate the physical appearance of adult businesses and their impact on adjacent properties. Several visits were made to each of the sites.

In some cases, there were few, if any, discernible impacts caused by the adult business on adjacent properties. In other cases, the impacts were more noticeable. For example:

- *Dandy Dan's*: There are many vacant and/or deteriorating buildings around Dandy Dan's. Various types of litter such as beer bottles, food wrappers and newspapers were found in the alley, although litter in front of the building was minimal. Dandy Dan's generates significant parking spillover problems. Although the parking lot is large, patrons still park in the adjacent neighborhood east of Federal Boulevard. This causes other impacts, such as increased traffic, litter and noise in the neighborhood at closing time.
- *Diamond Lil's Showroom*: Negative impacts include deteriorating and vacant structures surrounding this business; deteriorating sidewalks and parking lots; and litter, including beer bottles, food wrappers, newspapers and adult material.
- *Paper Tiger*: The parking lot is in poor condition. Trash, including adult material, was found in the alley behind the building. Surrounding buildings are in poor condition.
- *PT's*: Negative impacts include deteriorating sidewalks and parking lots and vacant structures near the business. A vacant lot adjacent to PT's collects trash, including papers containing adult material.
- *Saturdays*: Parking that spills over into the neighborhood is a major impact. Noise is also an issue, particularly late at night when patrons are leaving the business. There are also a number of vacant and/or deteriorating structures in the area surrounding Saturdays.
- *Kitty's Tabor Theater and Pleasures Books/Alameda*: The major impacts observed in the area surrounding these adult businesses included deterioration of the exterior of Kitty's Tabor and deterioration of sidewalks and parking lots. Trash, including adult material, was found in the parking lots, alleys and adjacent yards.
- *Act I, II/Dove Theater*: The exterior of the building and the sidewalks show minor deterioration. In the adjacent neighborhood, there was trash containing adult material found in the yard of one of the houses. Other trash,

such as food wrappers, beer bottles and newspapers, was also found scattered throughout the neighborhood.

- *Kitty's Bookstore/Pleasure Palace and Galaxy Theater*: Some of the negative impacts in this area include deteriorating structures, sidewalks and parking lots; vacant structures; and trash in nearby yards, including beer bottles, food wrappers, newspapers and paper containing adult material.
- *The Crypt and Kitty's South*: Kitty's South shows signs of deterioration on the north side of the building, with rotting mortar and loosened bricks. A significant amount of trash, including adult material, was found in the immediate vicinity, including streets, alleys and parking lots.

Review of Police Department Vice Reports

The vice detail of the Denver Police Department is responsible for investigations of liquor code violations, prostitution and acts of public indecency, including those occurring in adult businesses.

Over the past several years, the vice detail has made arrests, primarily for public indecency, at all of the adult bookstores and theater/bookstores in Denver.

Following is a brief summary of several major investigations conducted by the vice detail at adult use businesses.

- *Act I, II/Dove Theater*. In 1994, the vice detail began investigating activities at this establishment, and made numerous arrests for public indecency. The acts observed by police detectives included patrons masturbating openly in their seats and while standing in the aisles, fondling each other and giving and receiving fellatio.
- *Pleasures Bookstore (South Broadway)*. In August, 1994 it was discovered that this establishment was operating with an expired license. The owner later met with a detective from the vice detail to discuss options for reducing the number of sexual encounters occurring inside the bookstore. The owner agreed to cover up the "glory holes" and install surveillance cameras outside the building in the parking lot. Shortly after, it was discovered that the patches on the glory holes had been removed. The business was also investigated for possibly interfering with police when inspections were made, including warning patrons that police were coming onto the premises.

- *Paper Tiger*. In 1995, the Paper Tiger was the subject of a narcotics investigation. A dancer and another employee were selling methamphetamine to customers. These individuals sold methamphetamine to undercover detectives on nine different occasions, including once in front of the establishment's owners. Four people, including dancers employed at the Paper Tiger, were later arrested.

Public Health Impacts

Hypodermic needles and syringes have the potential to transmit infectious diseases. After needles and syringes are used, there is often residual blood or serum left on them. Even a small amount of blood or serum, whether moist or dry, can cause an infection in another person. There is the potential for the transmission of infectious agents such as Hepatitis B, Hepatitis C, or HIV if someone was to stick themselves with an infected needle.

VII. INCIDENCE OF CRIME

Methodology

To assess the impact of adult businesses on neighboring properties, three categories of data from 1995 and 1996 -- calls for service, reported offenses and arrests -- were collected for 15 areas surrounding such businesses.

The data was mapped using three-dimensional histograms, with the height of the bars representing the cumulative frequency of criminal activity by location. The mapping process clearly identified locations with the most crime within a one-block radius surrounding each adult business. The locations were rank-ordered from high to low according to the incidence of crime. Study areas were established by aggregating the statistics from the most active locations within the one-block areas with the data for each existing adult business.

The number of calls for service, reported offenses and arrests in the study areas -- both collectively and by type of business (theater, cabaret, bookstore, pop shop) - were then compared with citywide figures.

Findings/Adult Use Study Areas

Calls for Service

Calls for service are demands for police response initiated by citizen complaints, generally regarding allegations of unlawful acts. They also can be initiated by police officers during routine patrol when they encounter a crime in progress.

The study showed that the percentage of calls for police service linked to disturbance, prowler and sex-related crimes was roughly the same in the areas surrounding adult businesses as for the city as a whole. However, the incidence of such calls at the individual adult businesses, exclusive of surrounding areas, was proportionately higher than citywide averages. For example:

- Disturbance complaints accounted for 4.4% of the study areas' demand for police service, compared with 5% citywide. However, the percentage of disturbance complaints at the individual adult businesses was considerably higher -- 9.3%.
- The proportion of prowler complaints to the total demand for service in the study areas and citywide were almost identical -- 4.2% and 4%, respectively.

However, the percentage of prowler calls at the individual adult businesses was significantly higher (14.2%).

- Fights accounted for 2.9% of the calls for service in the study areas, compared with 2.1% citywide, but made up 6.3% of the calls for service at the individual adult businesses.
- Complaints for sex-related crimes (rape, indecent exposure, molestation) accounted for 0.3% of the calls for service in the study areas, compared with 0.5% citywide. However, the figure was higher -- 0.9% -- at the individual adult businesses, exclusive of the surrounding areas.
- Vice and narcotics complaints made up 1.2% of the calls for service in the study areas, vs. 0.8% citywide.

Reported Offenses

Uniform crime reporting (UCR) standards were used to group reported offenses into three categories: (1) Part I Crimes Against Persons: criminal homicide, rape, robbery and aggravated assault; (2) Part I Property Crimes: burglary, larceny, theft from motor vehicle, auto theft and arson; and (3) Part II Selected Crimes: other assaults, criminal mischief, weapon violations, other sex offenses (excluding rape), drug-related offenses and disorderly conduct.

The study showed a proportionately higher incidence of robbery, larceny, theft from motor vehicle and drug-related crimes in the areas surrounding adult businesses than in the city as a whole.

Among the specific findings:

- Part I Crimes Against Persons accounted for 12.1% of all reported offenses in the study areas, compared with 7.8% citywide. The greatest difference was in robberies, which accounted for 6.2% of the crimes reported in the study areas, compared with 2.7% citywide.
- Part I Property Crimes constituted 57.1% of reported offenses in the study areas, vs. 62.8% citywide. However, the percentage of both larceny and theft from motor vehicle was higher in the study areas (44%) than in the city as a whole (36%).
- The proportion of Part II Selected Crimes to the total number of reported offenses was roughly the same for the study areas (26.3%) as for the city as a

whole (26.7%). However, there was a significant difference in the percentage of drug-related crimes – 10.7% in the study areas, vs. 4.5% citywide.

Arrests

Although the exact location of where a crime was committed is available on offense reports, this is not the case for arrests. Where an arrest was made, and not where the crime was committed, is captured in the arrest database. Nevertheless, there are certain types of arrests that are typically made at the same place where the crime occurred. This analysis therefore focused on those types of arrests: disturbing the peace, drinking in public/vehicle, drug-related violations, indecent exposure, loitering, prostitution, public indecency and urinating in public.

The study showed a proportionately higher incidence of arrests for drinking in public/vehicle, public indecency, urinating in public, drug-related violations and loitering than in the city as a whole. Specifically:

- The number of arrests for the above-listed violations accounted for 45.6% of all arrests made in the study areas, compared to 28.2% of arrests citywide. The most significant difference was in arrests for drinking in public/vehicle, which made up 11.3% of arrests in the study areas, vs. 5.3% citywide.
- Public indecency made up 4.8% of arrests in the study areas, as opposed to 0.4% citywide. The data also showed that public indecency violations accounted for 42.3% of arrests made at the individual adult use businesses, excluding the surrounding areas.
- Urinating in public accounted for 3.7% of arrests in the study areas, compared with 0.8% citywide.
- Drug-related violations constituted 11.6% of arrests in the study areas, compared to 9.7% citywide. Drug-related arrests include felony and misdemeanor arrests for the sale or possession of drugs and drug paraphernalia, including injection devices.
- Loitering accounted for 5% of all arrests made in the study areas, vs. 2% citywide.

Findings/Types of Adult Uses

To assess the relative impact of various kinds of adult businesses, the number of calls for service, reported offenses and arrests in the study areas, *by type of adult business*, were compared with citywide averages.

The businesses were categorized into four study area groups:

(1) Eating Place/ Adult Amusement /with Liquor [Adult Cabarets]:

Dandy Dan's
Diamond Caberet
Paper Tiger
PT's;

(2) Eating Place/ Adult Amusement/without Liquor [Pop Shops]:

Centerfold
Saturday's
Red Garter;

(3) Adult Theaters/ with Video or Rap Booths:

ActI, II, Dove Theaters
Kitty's Tabor Theater
Galaxy Theater
Kitty's South
Kitty's Bookstore/Pleasure Palace;

(4) Adult Bookstores:

Adult Trading Post
Bookmart East
Colfax News
Diamond Lil's
Las Vegas Adult Palace
Pleasures (Broadway)
Pleasures (Alameda)
Pleasures (W. Colfax @ Act I).

Calls for Service

The study showed that the percentage of police calls for service linked to assaults, disturbance, fighting, prowler complaints and public drunkenness was significantly higher for the adult theater study area group than for the other three groups. Among the findings:

- Fights accounted for 3.1% of the calls for service in the theater study areas, 2.7% in the cabaret study areas and 2.6% in the pop shop study areas, compared with 2.1% for the city as a whole.
- Prowler complaints accounted for 4.8% of calls for service in the theater study areas, compared with 4% citywide.
- Vice and narcotics complaints accounted for a greater proportion of calls for service in the pop shop, theater and bookstore study areas – 1.6%, 1.2% and 1.2%, respectively -- than in the city as a whole (0.8%).

Reported Offenses

The most significant difference in the proportion of offenses in the study area groups vs. the city as a whole was in drug-related crimes. Among the findings:

- Drug violations accounted for 19.6% of crimes reported in the bookstore study areas, 15.7% in the pop shop study areas and 13.2% in the theater study areas, vs. 4.5% of crimes reported citywide.
- Robberies accounted for a greater percentage of crime in the four study area groups than in the city as a whole. Theaters had the highest percentage, 9.1%, followed by bookstores, 8.4%. This compared to 2.7% citywide.
- Larcenies accounted for 31.6% of crimes in the cabaret study areas and 22.2% of crimes reported in the pop shop study areas, compared with 18.6% for the city as a whole.

Arrests

The study showed a proportionately higher percentage of arrests for drinking in public/vehicle, public indecency and urinating in public in the theaters study area groups than in both the city as a whole and in the other study area groups. Among the findings:

- Disturbing the peace accounted for 15.2% of the arrests made in the cabaret study areas, vs. 6.9% of arrests citywide.
- Drinking in public/vehicle constituted 17.6% of the arrests made in the theater study areas, compared to 5.3% of arrests citywide.
- Loitering accounted for 6.8% of the arrests made in the pop shop study areas, 6.2% in the bookstore study areas and 5.1% in the theater study areas, vs. 2% of arrests citywide.
- Prostitution accounted for 4% of the arrests made in the pop shop study areas, 3.8% in the bookstore study areas and 2.1% in the theater study areas. This compared to 1.2% of arrests citywide.
- Public indecency accounted for 7.1% of arrests made in the theater study area groups, compared with 0.4% of arrests citywide. It should be noted that public indecency accounted for more than 60% of arrests made at individual theaters and bookstores, excluding surrounding areas.
- The percentage of arrests for urinating in public was 5.5% in the theater study areas, vs. 1.2% of arrests citywide.

Conclusion

The incidence of certain kinds of crimes was proportionately higher in the adult businesses study areas – and even higher at many of the individual adult business locations – than in the city as a whole. These crimes include disturbing the peace, public indecency, prostitution, drug-related violations, loitering, robbery, larceny, theft from motor vehicle, drinking in public/vehicle and urinating in public

In addition, the percentage of certain kinds of criminal activity – prowler and disturbance complaints, public drunkenness, drug-related crimes and public indecency – was higher in the areas surrounding adult theaters and bookstores than in areas surrounding other types of adult use businesses.

**Number of Dispatched Calls for Service,
in Selected Categories,
in Areas Surrounding Adult Use Businesses
1995 and 1996**

TYPE OF CALL	BOOKSTORES	CABARETS	POP SHOPS	THEATERS
Assault	82	22	97	238
Crim Mischief	31	28	34	62
Disturbance	199	44	228	405
Drunk/DUI	74	97	87	360
Fight	109	41	117	298
Harass/Threat	26	9	44	129
Prowler	169	44	164	400
Noise	43	12	141	44
Vice/Narcotics	71	4	80	112
Robbery	12	3	14	52
Shooting	30	17	30	44
Stabbing	7	2	3	15
Theft/Larceny	72	56	66	183
Sex Asslt/Expsr	9	6	12	31

**Number of Reported Offenses,
in Selected Categories,
in Areas Surrounding Adult Use Businesses
1995 and 1996**

TYPE OF OFFENSE	BOOKSTORES	CABARETS	POP SHOPS	THEATERS
Homicide	-	-	-	2
Sexual Assault	2	-	1	1
Robbery	27	7	15	49
Agg. Assault	19	14	20	31
Burglary	9	7	24	11
Larceny	56	94	83	110
Theft/Mo Veh	42	47	84	107
Auto Theft	35	12	32	57
Other Assaults	13	6	23	33
Crim Mischief	26	28	22	45
Other Sex Offns	4	1	-	6
Drug-Related	65	2	63	79
Disorderly Cond.	2	3	2	5
All Other Offns	3	2	2	10

**Number of Arrests,
in Selected Categories,
in Areas Surrounding Adult Use Businesses
1995 and 1996**

TYPE OF ARREST	BOOKSTORES	CABARETS	POP SHOPS	THEATERS
Disturbing the Peace	60	43	53	114
Drinking in Public/Vehicle	22	2	74	479
Drug Paraphernalia	120	2	117	98
Possession of Marijuana	47	10	49	71
Possession of Opium/Coke	71	4	70	52
Prostitution	60	-	56	42
Public Indecency	6	-	4	68
Urinating/Public	17	7	22	148
Loitering	111	-	109	138

VIII. IMPACTS ON PROPERTY VALUES

The primary emphasis of this analysis is on adult businesses located on major commercial strip streets or commercial/industrial strip streets. In all but one location, residential usage abuts the adult businesses. Each strip street is composed of a diverse mix of commercial usages, constructed within the same time frame, and having similar physical characteristics.

The neighborhood or locational analysis provides a bridge between the analysis of general influences on all property values and the analysis of a specific location. The goal of the locational analysis is to determine how social, economic, government and environmental forces influence property values in certain locations.

It is critical to recognize that many factors impact property value, and that paramount among these are those forces external to the property boundaries. The social climate within or around a location form the fabric upon which property value is created, modified or destroyed.

Methodology

Existing adult businesses in Denver were categorized into seven study groups in order to measure any impacts of such businesses on assessed property values. Assessment data from 1994-97 was used. This covered the prior five years because of the base-year valuation concept, which links 1993-94, 1995-96 and 1997-98 together for valuation purposes. The five-year time period included several real estate cycles.

The seven study groups were:

- Group I -- Dandy Dan's, Adult Trading Post
- Group II -- Pleasures/Alameda, Kitty's Tabor Theater
- Group III -- Crypt Theater, Kitty's South
- Group IV -- Paper Tiger, Las Vegas Adult Palace, PT's
- Group V -- Galaxy Theater, Kitty's Bookstore/Pleasure Palace
- Group VI -- Book Mart East, Colfax News, Saturday's
- Group VII -- Act I, II/Dove Theater/Pleasures

No historical assessed value analysis was undertaken for adult businesses located in the central business district because (1) the establishments in two cases are located in buildings with declining improvements and those improvements provide insignificant, if any, residual value above land value and (2) any diminution in value is linked to factors other than use. Additionally, a historical value analysis was not undertaken for the "Centerfold" adult business located along the East Hampden Avenue corridor because of the newness of this business.

Analysis of Impact on Property Values

GROUP IA - DANDY DAN'S 214 S. FEDERAL BV.

The residential and commercial properties are located in the Valverde neighborhood. The Valverde neighborhood has 665 residential properties and 44 commercial properties. The neighborhood is bounded on the west by Federal Blvd., on the south by Alameda Ave., on the east by Zuni St., Alcott Way and Decatur St., and on the north by W. 1st Ave. and W. 2nd Ave.

The rate of increase in total value for commercial properties in the adult business block increased by 22.71% between 1994-1997 compared to 17.07% for Group IA during the same period.

The rate of increase in total value for commercial blocks north of the adult business block increased by 19.38% between 1994-1997 compared to 17.07% for Group IA during the same period.

The rate of increase in total value for residential properties abutting the adult business block increased by 41.81% between 1994-1997. The rate of increase for the neighborhood during the same period was 58.26%.

The rate of increase in total value for residential properties abutting other commercial blocks north of the adult business block increased by 52.76% between 1994-1997. The rate of increase for the neighborhood during the same period was 58.26%.

The rate of increase in total value for residential blocks within the interior of the neighborhood increased by 59.01% between 1994-1997. The rate of increase for the neighborhood during the same period was 58.26%.

Based on values data from 1994-1997, residential properties showed a loss in value for the ones that abut the adult business block. A value loss is also indicated for residential properties that abut typical commercial usage, although the loss in percentage is not as great. The interior blocks bracket the neighborhood average for residential properties. The residential data indicates a loss in value due to adult business location.

Based on values data from 1994-1997, commercial properties within the adult business block and north of the adult business block are impacted to a lesser degree than the residential properties.

**GROUP IB - ADULT TRADING POST
7 S. FEDERAL BV.**

The residential and commercial properties are located in the Barnum neighborhood. The Barnum neighborhood has 2,093 residential properties and 74 commercial properties. The neighborhood is bounded on the west by Tennyson St., on the east by Federal Blvd., on the south by Alameda Ave., and on the north by 6th Avenue.

The rate of increase in total value for commercial properties in the adult business block increased by 9.36% between 1994-1997 compared to 15.49% for Group IB during the same period.

The rate of increase in total value for the commercial block north of the adult business block decreased by -1.0% between 1994-1997 compared to 15.49% for Group IB during the same period.

The rate of increase in total value for commercial blocks south of the adult business block increased by 26.80% between 1994-1997 compared to 15.49% for Group IB during the same period.

The rate of increase in total value for residential properties abutting the adult business block increased by 71.43% between 1994-1997. The rate of increase for the neighborhood during the same period was 64.48%.

The rate of increase in total value for residential properties abutting the commercial block north of the adult business block increased by 63.46% between 1994-1997. The rate of increase for the neighborhood during the same period was 64.48%.

The rate of increase in total value for residential properties abutting other commercial blocks south of the adult business block increased by 59.58% between 1994-1997. The rate of increase for the neighborhood during the same period was 64.48%.

The rate of increase in total value for residential blocks within the interior of the neighborhood increased by 54.24% between 1994-1997. The rate of increase for the neighborhood during the same period was 64.48%.

Based on values data from 1994-1997, the adult business impacted the commercial values. The analysis of residential values relative to the adult business indicates no impact on value.

**GROUP IIA - PLEASURES BOOKS
3250 W. ALAMEDA AV.**

The residential and commercial properties are located in the Westwood neighborhood. The Westwood neighborhood has 2,240 residential properties and 136 commercial properties. The neighborhood is bounded on the north by W. Alameda Ave., on the south by W. Mississippi Ave. and W. Exposition Ave., on the west by S. Raleigh St. and S. Stuart St., and on the east by S. Federal Blvd.

The rate of increase in total value for commercial properties in the adult business block increased by 11.78% between 1994-1997 compared to 13.67% for Group IIA during the same period.

The rate of increase in total value for commercial blocks east of the adult business block increased by 18.23% between 1994-1997 compared to 13.67% for Group IIA during the same period.

The rate of increase in total value for commercial blocks west of the adult business block increased by 18.61% between 1994-1997 compared to 13.67% for Group IIA during the same period.

The rate of increase in total value for residential properties abutting the adult business block increased by 22.35% between 1994-1997. The rate of increase for the neighborhood during the same period was 52.97%.

The rate of increase in total value for residential properties abutting the commercial block west of the adult business block increased by 26.90% between 1994-1997. The rate of increase for the neighborhood during the same period was 52.97%.

The rate of increase in total value for residential properties abutting the commercial block east of the adult business block increased by 43.72% between 1994-1997. The rate of increase for the neighborhood during the same period was 52.97%.

The rate of increase in total value for residential blocks within the interior of the neighborhood increased by 51.89% between 1994-1997. The rate of increase for the neighborhood during the same period was 52.97%.

Based on both commercial and residential values data from 1994-1997, properties abutting or adjoining the adult business establishment indicate a loss in value.

**GROUP IIB - KITTY'S TABOR THEATER
3333 W. ALAMEDA AV.**

The residential and commercial properties are located in the Barnum neighborhood. The Barnum neighborhood has 2,093 residential properties and 74 commercial properties. The neighborhood is bounded on the west by S. Tennyson St., on the east by S. Federal Blvd., on the south by W. Alameda Ave., and on the north by W. 6th Ave.

The rate of increase in total value for commercial properties in the adult business block increased by 16.57% between 1994-1997 compared to 8.67% for Group IIB during the same period.

The rate of increase in total value for commercial blocks east of the adult business block increased by 7.86% between 1994-1997 compared to 8.67% for Group IIB during the same period.

The rate of increase in total value for commercial blocks west of the adult business block increased by 8.01% between 1994-1997 compared to 8.67% for Group IIB during the same period.

The rate of increase in total value for residential properties abutting the adult business block increased by 60.66% between 1994-1997. The rate of increase for the neighborhood during the same period was 64.48%.

The rate of increase in total value for residential properties abutting the commercial block west of the adult business block increased by 64.24% between 1994-1997. The rate of increase for the neighborhood during the same period was 64.48%.

The rate of increase in total value for residential properties abutting other commercial blocks east of the adult business block increased by 54.97% between 1994-1997. The rate of increase for the neighborhood during the same period was 64.48%.

The rate of increase in total value for residential blocks within the interior of the neighborhood increased by 66.21% between 1994-1997. The rate of increase for the neighborhood during the same period was 64.48%.

The commercial blocks east and west of the adult business block produced a negative value change between 1994-1997. The residential analysis of the same two blocks produced opposite results - one equaled the neighborhood average and the other one was 4.0% under the neighborhood average. The residential analysis tends to indicate a loss in value due to the adult business.

**GROUP IIIA - CRYPT THEATER/SALES
139 BROADWAY ST.**

The residential and commercial properties are located in the Baker neighborhood. The Baker neighborhood has 655 residential properties and 87 commercial properties. The neighborhood is bounded on the east by Broadway St., on the west by Cherokee St., on the south by Alameda Ave. and on the north by 6th Ave.

The rate of increase in total value for commercial properties in the adult business block increased by 30.96% between 1994-1997 compared to 14.02% for Group IIIA during the same period.

The rate of increase in total value for commercial blocks north of the adult business block increased by 9.79% between 1994-1997 compared to 14.02% for Group IIIA during the same period.

The rate of increase in total value for residential properties abutting the adult business block increased by 101.47% between 1994-1997. The rate of increase for the neighborhood during the same period was 64.68%.

The rate of increase in total value for residential properties abutting the commercial block north of the adult business block increased by 91.22% between 1994-1997. The rate of increase for the neighborhood during the same period was 64.68%.

The rate of increase in total value for residential blocks within the interior of the neighborhood increased by 56.69% between 1994-1997. The rate of increase for the neighborhood during the same period was 64.68%.

The analysis of residential and commercial values relative to the adult business indicates no impact on values.

**GROUP IIIB - PLEASURES/KITTY'S SOUTH
119 S. BROADWAY ST.**

The residential and commercial properties are located in the Baker neighborhood. The Baker neighborhood has 655 residential properties and 87 commercial properties. The neighborhood is bounded on the east by Broadway St., on the west by Cherokee St., on the south by Alameda Ave. and on the north by 6th Ave.

The rate of increase in total value for commercial properties in the adult business block increased by 13.45% between 1994-1997 compared to 13.66% for Group IIIB during the same period.

The rate of increase in total value for commercial blocks south of the adult business block increased by 33.38% between 1994-1997 compared to 13.66% for Group IIIB during the same period.

The rate of increase in total value for commercial blocks north of the adult business block increased by 4.70% between 1994-1997 compared to 13.66% for Group IIIB during the same period.

The rate of increase in total value for residential properties abutting the adult business block increased by 46.66% between 1994-1997. The rate of increase for the neighborhood during the same period was 64.68%.

The rate of increase in total value for residential properties abutting other commercial blocks south of the adult business block increased by 64.83% between 1994-1997. The rate of increase for the neighborhood during the same period was 64.68%.

The rate of increase in total value for residential properties abutting the commercial block north of the adult business block increased by 87.07% between 1994-1997. The rate of increase for the neighborhood during the same period was 64.68%.

The rate of increase in total value for residential blocks within the interior of the neighborhood increased by 49.54% between 1994-1997. The rate of increase for the neighborhood during the same period was 64.68%.

The analysis of commercial values relative to the adult business is inconclusive. The residential analysis indicates a loss in value for properties that abut adult businesses.

GROUP IVA - PAPER TIGER 1196 S. SANTA FE DR.

The residential and commercial properties are located in the Overland-South Platte neighborhood. The Overland-South Platte neighborhood has 229 residential properties and 87 commercial properties. The neighborhood is bounded on the west by Platte River Drive, on the east by the Denver-Rio Grande Railroad, on the south by the intersection of S. Platte River Dr. and S. Santa Fe Dr., and on the north by the Valley Highway.

The rate of increase in total value for commercial properties in the adult business block increased by 15.07% between 1994-1997 compared to 32.99% for Group IVA during the same period.

The rate of increase in total value for commercial blocks east of the adult business block increased by 42.52% between 1994-1997 compared to 32.99% for Group IVA during the same period.

The rate of increase in total value for commercial blocks south of the adult business block increased by 28.05% between 1994-1997 compared to 32.99% for Group IVA during the same period.

The rate of increase in total value for residential properties abutting the adult business block increased by 89.29% between 1994-1997. The rate of increase for the neighborhood during the same period was 96.59%.

The rate of increase in total value for residential properties abutting the commercial block south of the adult business block increased by 3.97% between 1994-1997. The rate of increase for the neighborhood during the same period was 96.59%.

The rate of increase in total value for residential blocks within the interior of the neighborhood increased by 83.65% between 1994-1997. The rate of increase for the neighborhood during the same period was 96.59%.

Both the commercial and residential data are below their benchmark averages and there are two residential blocks with substantial problems which may not relate to adult business. The residential neighborhood is atypical for the city.

**GROUP IVB - LAS VEGAS ADULT PALACE
550 W. MISSISSIPPI AV.**

This is an industrial location. No residential properties are located in proximity to the adult business.

**GROUP IVC - PT'S
1601 W. EVANS AV.**

The residential and commercial properties are located in the College View neighborhood. The College View neighborhood has 316 residential properties and 70 commercial properties. The neighborhood is bounded on the west by S. Federal Blvd., on the east by S. Pecos St., S. Quivas St. and S. Zuni St., on the north by W. Jewell Ave., and on the south by W. Iliff Ave. and W. Evans Ave.

The rate of increase in total value for commercial properties in the adult business block decreased by -4.99% between 1994-1997 compared to 17.35% for Group IVC during the same period.

The rate of increase in total value for commercial blocks east of the adult business block increased by 22.81% between 1994-1997 compared to 17.35% for Group IVC during the same period.

The rate of increase in total value for commercial blocks west of the adult business block increased by 6.34% between 1994-1997 compared to 17.35% for Group IVC during the same period.

No residential properties abut the adult business block. However, new residential properties are under construction north of the adult business block.

The rate of increase in total value for residential properties abutting other commercial blocks west of the adult business block increased by 25.4% between 1994-1997. The rate of increase for the neighborhood during the same period was 39.96%.

The rate of increase in total value for residential blocks within the interior of the neighborhood increased by 58.03% between 1994-1997. The rate of increase for the neighborhood during the same period was 39.96%.

The commercial/industrial properties located in this area have other problems such as declining rental rates and soil contamination. However, the residential properties abutting other commercial properties indicate a loss in value.

GROUP V

633 E. COLFAX AV. - GALAXY THEATER

735 E. COLFAX AV. - KITTY'S BOOKSTORE/PLEASURE PALACE

The residential and commercial properties are located in two neighborhoods -- North Capital Hill and West City Park.

The North Capital Hill neighborhood has 51 residential properties and 182 commercial properties. The neighborhood is bounded on the south by E. Colfax Ave., on the north by 20th Ave., on the west by Broadway St. and on the east by Clarkson St.

The West City park neighborhood has 427 residential properties and 309 commercial properties. The neighborhood is bounded on the south by E. Colfax Ave., on the north by 20th Ave., on the west by Clarkson St. and on the east by York St.

The rate of increase in total value for commercial properties in the adult business blocks increased by 19.65% between 1994-1997 compared to 27.06% for Group V during the same period.

The rate of increase in total value for residential properties abutting the adult business blocks increased by 35.90% between 1994-1997. The rate of increase for the neighborhood during the same period was 66.08%.

Based on both commercial and residential values data from 1994-1997, properties abutting or adjoining the adult-use establishments indicate a loss in value.

Also, commercial properties located in this area have other problems unrelated to the adult business issue -- declining rental rates, disinvestments in properties and an increase in crime and homelessness.

**GROUP VIA: BOOKMART EAST
3309 E. COLFAX AVE.**

The residential and commercial properties are located in the South City Park neighborhood. The South City Park neighborhood has 489 residential properties and 64 commercial properties. The neighborhood is bounded on the west by York St., on the east by Colorado Blvd., on the south by E. Colfax Ave., and on the north by 17th Ave.

The rate of increase in total value for commercial properties in the adult business block increased by 67.64% between 1994-1997 compared to 20.67% for Group VIA during the same period.

The rate of increase in total value for commercial blocks east of the adult business block increased by 5.66% between 1994-1997 compared to 20.67 for Group VIA during the same period.

The rate of increase in total value for commercial blocks west of the adult business block increased by 20.84% between 1994-1997 compared to 20.67% for Group IVA during the same period.

The rate of increase in total value for residential properties abutting the adult business block increased by 57.36% between 1994-1997. The rate of increase for the neighborhood during the same period was 51.95%.

The rate of increase in total value for residential properties abutting other commercial blocks west of the adult business block increased by 49.38% between 1994-1997. The rate of increase for the neighborhood during the same period was 51.95%.

The rate of increase in total value for residential properties abutting other commercial blocks east of the adult business block increased by 51.62% between 1994-1997. The rate of increase for the neighborhood during the same period was 51.95%.

The rate of increase in total value for residential blocks within the interior of the neighborhood increased by 50.76% between 1994-1997. The rate of increase for the neighborhood during the same period was 51.95%.

The analysis of residential and commercial values relative to adult businesses indicates no impact on value.

GROUP VIB - COLFAX NEWS
8216 E. COLFAX AV.

The residential and commercial properties are located in the East Colfax neighborhood. The East Colfax neighborhood has 825 residential properties and 44 commercial properties. The neighborhood is bounded on the north by E. Colfax Ave., on the south by 11th Ave. and 12th Ave., on the east by Yosemite St. and on the west by Syracuse St. and Quebec St.

The rate of increase in total value for commercial properties in the adult business block decreased by -0.47% between 1994-1997 compared to 12.18% for Group VIB during the same period.

The rate of increase in total value for commercial blocks east of the adult business block increased by 20.23% between 1994-1997 compared to 12.18% for Group VIB during the same period.

The rate of increase in total value for commercial blocks west of the adult business block increased by 7.26% between 1994-1997 compared to 12.18% for Group VIB during the same period.

The rate of increase in total value for residential properties abutting the adult business block increased by 37.37% between 1994-1997. The rate of increase for the neighborhood during the same period was 43.96% .

The rate of increase in total value for residential properties abutting the commercial block west of the adult business block increased by 39.02% between 1994-1997. The rate of increase for the neighborhood during the same period was 43.96% .

The rate of increase in total value for residential blocks within the interior of the neighborhood increased by 45.37% between 1994-1997. The rate of increase for the neighborhood during the same period was 43.96% .

Based on both commercial and residential values data from 1994-1997, properties abutting or adjoining the adult business indicate a loss in value.

Also, commercial properties located in this area have other problems unrelated to the adult business issue -- declining rental rates, disinvestments in properties, non-diversified tenancy and an increase in crime and homelessness.

GROUP VIC - SATURDAY'S
8315 E. COLFAX AV.

The residential and commercial properties are located in the East Colfax neighborhood. The East Colfax neighborhood has 433 residential properties and 28 commercial properties. The neighborhood is bounded on the east by Yosemite St., on the west by Syracuse St., on the south by Colfax Ave. and on the north by 17th Ave.

The rate of increase in total value for commercial properties in the adult business block increased by 29.03% between 1994-1997 compared to 18.63% for Group VIC during the same period.

The rate of increase in total value for commercial blocks east of the adult business block increased by 15.16% between 1994-1997 compared to 18.63% for Group VIC during the same period.

The rate of increase in total value for commercial blocks west of the adult business block increased by 21.26% between 1994-1997 compared to 18.63% for Group VIC during the same period.

The rate of increase in total value for residential properties abutting the adult business block increased by 40.82% between 1994-1997. The rate of increase for the neighborhood during the same period was 55.98%.

The rate of increase in total value for residential properties abutting the commercial block west of the adult business block increased by 48.87% between 1994-1997. The rate of increase for the neighborhood during the same period was 55.98%.

The rate of increase in total value for residential properties abutting other commercial blocks east of the adult business block increased by 35.65% between 1994-1997. The rate of increase for the neighborhood during the same period was 55.98%.

The rate of increase in total value for residential blocks within the interior of the neighborhood increased by 54.50% between 1994-1997. The rate of increase for the neighborhood during the same period was 55.98%.

Based on residential values data from 1994-1997, properties abutting or adjoining the adult businesses indicate a loss in value.

Also, commercial properties located in this area have other problems unrelated to the adult business issue -- declining rental rates, disinvestments in properties, non-diversified tenancy, and an increase in crime and homelessness.

GROUP VII - DOVE THEATER ACT I & II 3480 W. COLFAX AV.

The residential properties are located in the Avondale neighborhood. The Avondale neighborhood has 495 residential properties and 40 commercial properties. The neighborhood is bounded on the east by Federal Blvd., on the west by Tennyson St., on the north by Colfax Ave., and on the south by 12th Ave.

The rate of increase in total value for commercial properties in the adult business block increased by 4.84% between 1994-1997 compared to 16.26% for Group VII during the same period.

The rate of increase in total value for commercial blocks west of the adult business block decreased by -0.23% between 1994-1997 compared to 16.26% for Group VII during the same period.

The rate of increase in total value for residential properties abutting the adult business block increased by 53.64% between 1994-1997. The rate of increase for the neighborhood during the same period was 65.12%.

The rate of increase in total value for residential properties abutting other commercial blocks west of the adult business block increased by 63.11% between 1994-1997. The rate of increase for the neighborhood during the same period was 65.12%.

The rate of increase in total value for residential properties abutting the commercial block east of the adult block increased by 31.81% between 1994-1997. The rate of increase for the neighborhood during the same period was 65.12%.

The rate of increase in total value for residential blocks within the interior of the neighborhood increased by 60.54% between 1994-1997. The rate of increase for the neighborhood during the same period was 65.12%.

Based on both commercial and residential values data from 1994-1997, properties abutting or adjoining the adult business indicate a loss in value.

Analysis of Commercial Property Values

Based on the analysis of commercial value data from 1994-97, the value for adult business blocks were less than the groups' average changes in values in 9 out of 14 cases, or 78.5% of the time. The average rate of decrease in value below the groups' average values was 13.6%.

The values for adult business blocks were greater than the group's average values in 3 out of 14 cases, or 21.4% of the time. The average rate of increase in value above the groups' average values was 21%.

Analysis of values for commercial blocks in close proximity to the adult business blocks was inconclusive -- 29 blocks greater than the groups' average values, and 38 blocks less than the groups' average values.

Analysis of Residential Property Values

Based on the analysis, values for residential properties abutting the adult business blocks were less than the neighborhood average values in 10 out of 13 cases, or 76.9% of the time. The rate of decrease below the neighborhood average was 16.9%.

The values for residential properties abutting the adult business blocks were greater than the neighborhood average values in 3 out of 13 cases, or 23% of the time. The rate of increase above the neighborhood average was 16.3%.

Based on the analysis, values for residential properties abutting typical commercial-use blocks were less than the neighborhood average values in 24 out of 29 cases, or 82.7% of the time. The rate of decrease below the neighborhood average was 11.8%.

The values for residential properties abutting typical commercial-use blocks were greater than the neighborhood average values in 5 out of 29 cases, or 17.2% of the time. The rate of increase above the neighborhood average was 11.4%.

Analysis of residential interior blocks was inconclusive -- 15 blocks were greater than the residential neighborhood average values, and 18 blocks were less than the residential neighborhood average values.

GDD final

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HOUSTON CITY COUNCIL

**SEXUALLY ORIENTED BUSINESS
ORDINANCE REVISION COMMITTEE
LEGISLATIVE REPORT**

COMMITTEE MEMBERS:

**Jew Don Boney, Jr.
Helen Huey
John Castillo
Ray Driscoll
Joe Roach
Judson Robinson, Jr.
Gracie Guzman Saenz
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January 7, 1997

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INTRODUCTION

This report has been prepared by the Sexually Oriented Business Revision Committee for the purpose of summarizing the Committee's work in drafting a proposed amendment to Articles II and III of Chapter 28 of the Code of Ordinances, Houston, Texas. In addition, a new Article VIII has been proposed to be added to Chapter 28. These summaries include prior efforts of regulating sexually oriented businesses (hereinafter "SOBs"), testimony by the Vice Division of the Houston Police Department, reports and requests, citizen correspondence, industry memos, legal department research, and summaries of the principal themes heard in the public testimony taken by the Committee.

The Committee's intention is to supplement prior reports issued in 1983, 1986, and 1991. The original Ordinance was adopted in 1983. The 1986 Supplemental Report included premises that serve alcoholic beverages. The 1991 Supplemental Report addressed the addition of adult bookstores and movie theaters as regulated enterprises within the Ordinance's land use controls. The primary purpose of the current committee was twofold. First, the Committee desired to review the existing Ordinance and the City's ability to enforce the existing Ordinance. Secondly, there existed a need to assess and analyze the Ordinance with regard to its strengths and weaknesses and review them with regard to how effectively this Ordinance protects the interests of the public as well as the rights of the businesses subject to regulation. These amendments and additions relate principally to the licensing of SOB employees, lighting configurations, distancing requirements between land uses, prohibition of "glory holes," elimination of closed-off areas, public notification of sexually oriented business applications, clear lines of vision, and dancer "no-touch" policies.

SOBs enjoy Constitutional protection and must be allowed to exist and operate regardless of feelings about them. If the regulations were to be so onerous or so burdensome that they preclude or inhibit them being able to even exist, they would likely be declared unconstitutional. The Committee made it clear, both during the hearings and afterwards, that it was not the intention of the Committee to propose any ordinance that would be subject to a successful court challenge because it either directly or indirectly (or for that matter inadvertently) eliminated the opportunities for such businesses to exist in the City of Houston. Therefore, the challenge is to keep SOBs from infringing on the rights of citizens without denying SOBs a reasonable opportunity to operate in the City.

This report is not intended as a legal treatise on the regulation of SOBs, although the Committee was guided in its deliberations at various points from advice by the Legal Department and received numerous legal comments from counsel for the regulated businesses. This report is intended to be reviewed from a lay perspective for the use of the members of the City Council and members of the public in understanding the reasons that the amendments and additions to the Ordinance have been proposed. This report is intended only as a summary. The Committee has developed extensive files in connection with its work that are available for review.

On May 24, 1996, the Mayor's Office announced the members of the newly re-created committee, now titled the "Sexually Oriented Business Ordinance Revision Committee." Council Members Jew Don Boney, Jr. and Helen Huey served as co-chairs. In addition, Council Members Castillo, Driscoll, Roach, Robinson, Sanchez and Saenz served as members.

HISTORY OF THE ORDINANCE

The existing Ordinance had its basis in the work of the 1983 City Council Committee on Sexually Oriented Businesses that resulted in the adoption of Ordinance 83-1812. The history of the Committee's work is documented in the report filed with the City Secretary in connection with Ordinance 83-1812. This ordinance adopted a land use program that was controlled through permits and various incidental regulations for SOBs. Its focus was on regulating adult modeling studios, adult entertainment parlors, adult massage parlors and other similar businesses. Ordinance 83-1812 did not extend land use controls to premises that had alcoholic beverage permits and licenses, to adult bookstores or to adult movie theaters because the state enabling law upon which the Ordinance was predicated did not then authorize land use controls on those forms of adult businesses. See former Art. 2372w Tex. Rev. Civ. Stat. Ann..

In 1985 the Texas Legislature revised the state enabling law to delete the exemption for premises that held alcoholic beverage permits and licenses. Following the revision of the state enabling law, the Committee reconvened to consider adding the so-called "topless bars" to the land use control structure of the Ordinance. The Committee reconsidered its prior work and took additional evidence relating in the adoption of Ordinance 86-323 which extended land use controls to the topless bars and placed the Ordinance into substantially its present form. The work of the Committee in the submission of Ordinance 86-323 is extensively documented in the Legislative Report filed with the City Council at the time of its adoption.

The genesis for the 1991 proposal amending the Ordinance related to circumstances virtually identical to those that arose in 1985. The Legislature in its 1989 session again amended the state enabling law. The 1989 amendments deleted the exemption from land use controls that had formerly existed in the state law for adult bookstores and adult movie theaters. However, some of the evidence received from the public in 1983 and 1986 related to adult bookstores and adult movie theaters. For this reason the Committee drew upon its 1983 and 1986 works in the preparation of the amended Ordinance draft and regarded the 1983 and 1986 evidence and experiences as pertinent to its 1991 work.

The scope of the Committee's recent work evolved as a result of increasing community concern regarding the proliferation of Sexually Oriented Business under the existing regulations.

In addition, the Houston Police Department urged the City Council to consider means to control serious violations that were increasingly repetitive at numerous SOB establishments. Because of these requests and concerns the current Committee was established to review and strengthen the existing ordinance.

A DESCRIPTION OF THE COMMITTEE'S WORK

General. The Committee was re-established in the summer of 1996 to review ideas on strengthening the current Ordinance. The Committee has conducted its business in public meetings. These meetings were posted on the City Hall bulletin board and were typically attended by the Committee Members, City support staff and interested members of the public and/or the regulated businesses. The Committee also conducted three of its meetings as public hearings at which members of the industry and the general public testified. Along with the City Hall posting, notification of these public meetings was published in the newspaper and letters were sent to civic associations, individuals who had requested participation, and current SOB permit holders. The mailing list consisted of more than 1,000 names and was maintained in the office of Council member Huey and the Mayor's Citizens Assistance Office. Proponents and opponents of the regulation of SOBs were encouraged to speak openly of their ideas and viewpoints.

In addition to these public hearings, a significant number of people chose to voice their opinions through written correspondence to the mayor, city council, and/or legal department. The authors of these letters consisted of civic association presidents, topless club owners, City of Houston citizens, SOB dancers, state elected officials, advocates of various organizations and other concerned citizens. There are approximately two hundred and seventy-five letters on file. Most urged for the strengthening and enforcement of the current ordinance. While others stressed First Amendment rights, some urged industry cooperation, and others voiced concerns about the growing number of unlicensed SOBs.

Findings and Conclusions Based upon these proceedings, the committee has made additional findings and conclusions to supplement previous legislative reports.

First, because of the criminal activities that are associated with SOBs, the Committee determined the necessity of licensing all SOB entertainers and managers. Requiring an entertainer or manager to be licensed would establish a foundation for documenting those who have previous convictions for prostitution, public lewdness and other similar offenses. In addition, licensing could help eliminate underage entertainers because they would be required to prove that they are eighteen or older in order to obtain the license.

Second, the Committee found that there exists a serious predicament in the enforcement of public lewdness, prostitution, indecent exposure, and other criminal activities. Vice officers testified that because they do not engage in inappropriate behavior (such as removing their

clothing), convictions are difficult to achieve. The officer's non-participation is perceived by the entertainer that he is working under cover. The entertainer proceeds with caution, avoiding lewd behavior that might normally occur. In addition, when a patron is charged along with the entertainer, it is difficult to obtain a conviction because of the sensitivity of the relationship between the two accused.

Third, the Committee was shown a video by the HPD Vice of a bookstore "glory hole." These exist in small rooms or booths in which individuals are admitted and permitted to use one or more arcade devices. The enclosed booths are joined to the neighboring booth by a hole in the wall. These "glory holes" are used to promote anonymous sex and thus facilitate the spread of sexually transmitted diseases.

Fourth, the Committee found that sexually oriented businesses that did not have clear lines of vision encouraged lewd behavior or sexual contact. Many businesses are designed with areas that are out of the view of managers and are conducive to illegal behavior. Entertainers are cognizant of these areas where violations can occur unobserved by management or law enforcement personnel who are conducting open inspections. For example, high back chairs are used as barricades to shield illicit behavior. In addition, testimony revealed that private, secluded, dimly lit areas have the same effect. Testimony revealed that once the entertainer felt comfortable with the patron, ruling out that he was an undercover officer, he would be asked to move to a more private area. In some cases he would be asked to pay a fee to enter the "VIP" room by either purchasing a membership or purchasing an expensive bottle of champagne. HPD cannot always afford these admittance fees in the course of investigations and often cannot access and monitor these specific areas.

Fifth, the Committee considered the issue that multifamily tracts were being counted as one tract in the residential quota, where in actuality, many families were living independently upon one tract. Through the Planning and Development Department a new formula was established based on average homeowners' property size that would account for the piece of land. These new figures were used to achieve a residential formula of eight single family tracts for each acre of multi-family tract. In addition, those lots platted for residential development, but currently unimproved, were added to the residential tract formula.

Sixth, inadequate lighting prevents managers and police officers from monitoring illegal activities. Often the lighting is so dim that an investigator cannot observe the activities from one table to the next. Vice officers testified that smaller businesses use lighting as a way to camouflage illegal activities. As a measurement for responsible lighting it was suggested that the requirement be similar to those minimum requirements established by the Uniform Building Code for 'exit' signs.

Seventh, the committee determined that enterprises that had locked rooms, were often used as fronts for prostitution. An entertainer would simply request the patron to remove his clothing. Those who objected were deemed to be Vice officers therefore restricting the usual services of the entertainer. The more money that a customer showed, the greater the 'services'.

Eighth, in keeping with the theme of family preservation, the committee was urged through public and expert testimony to include public parks in distancing restrictions. A "public park" is defined as a publicly owned or publicly leased tract of land, whether situated in the city or not, designated, maintained and operated for public use for recreational purposes by the city or any political subdivision of the state and containing improvements, pathways, access or facilities intended for public recreational use. The term "public park" shall not include public roads, rights-of-way, esplanades, traffic circles, easements or traffic triangles unless such tracts or areas contain and provide improvements or access to a recreational use by the public. Additionally, members of the Committee felt that the testimony supported inclusion of "private parks" as a protected land use. The Legal Department was asked to consider possible inclusion of this category in the final draft Ordinance.

Ninth, repeated testimony requested that notification of a pending Sexually Oriented Business Permit be given to surrounding neighbors of proposed sights. It is within the framework of the current case law to require a SOB applicant to post signs on the proposed site in addition to publishing an intent to apply for a permit in the local newspaper. Testimony revealed a great deal of concern over the general public's lack of warning of the SOB application until it has been approved and opened.

Tenth, the committee found that continuing the amortization provisions of the previous Ordinances would be preferable to grandfathering the sexually oriented businesses that do not comply with the amended Ordinance. Grandfathering would allow nonconforming uses to continue under the new ordinance in perpetuity, or until market forces wiped out the business. Grandfathering creates a monopolistic position for non-conforming property uses and prevents the municipality from exercising its power to protect its residents. Under the amortization provisions of the previous Ordinance, a business regulated as to location had six months to come into compliance. However, if such a business believed that six months was an inadequate period in which to recoup a reasonable return on invested capital, that business would have the opportunity to request an extension of the compliance period. In light of this recourse, and taking into account the present, ongoing and serious detriment that such businesses pose for the community at large, the Committee determined that an appropriate balancing of interests justified continuation of the amortization provisions.

HPD Vice Review:

The Houston Police Department's Vice Division played a major role in providing the City with statistics, details and testimony regarding their experiences with SOBs. In addition to written reports, three undercover vice officers testified at the August 29th hearing. Currently, the licensed SOBs are broken down as follows:

36 Topless Clubs
9 Adult Theaters
9 Nude Clubs
4 Video Stores
28 Modeling Studios
18 Adult Bookstores

In addition to the above list, there are approximately 18 adult theaters, bookstores and video stores with injunctive relief under federal court order in pending litigation styled, 4330 Richmond Avenue Incorporated et al. v. The City of Houston. The City cannot enforce the SOB ordinance against the enterprises while the litigation is pending.

Between July 1, 1995 and August 31, 1996, the Houston Police Vice Division recorded 517 arrests in SOBs resulting in 355 convictions, or a conviction rate of 69%. Topless clubs experienced 289 dancer arrests with a conviction rate of 59%. In addition two managers were arrested but not convicted. There were six patrons of adult theaters taken into custody, resulting in a conviction rate of 83%. Dancers in all nude clubs accounted for 31 arrests, of which 71% were convicted. Thirty-six patrons of adult video stores were arrested resulting in an 86% conviction. The modeling studios' record consisted of four arrests and one conviction. One hundred and forty-nine patrons of adult bookstores were arrested with 125 convictions (84%).

Of the 36 topless clubs, the number of arrests per club ranged from 0 to 50. While seventeen clubs had less than 10 arrests in the last two years, one club had 50. Prostitution, public lewdness, narcotics, and indecent exposure made up these violations. Auto thefts are also on the rise in topless bar vicinities. This is due largely to the fact that a thief knows that he has about an hour and a half to steal the car before the owner comes back.

Topless clubs make up the majority of arrests in the Vice Division's enforcement experience. When the officer goes under cover in a club, he must assume the identity of a patron. Employees explicitly ask for badges, weapons, handcuffs, and go as far as feeling around the patron looking for these items. Once they feel comfortable that the patron is not a police officer, they will often ask him to move to a more secluded area, or possibly the VIP room of the club. The entertainer explains that she can do better dances in these areas and a 'lot more things' because they aren't watched as closely. This is when the opportunity for sexual or lewd activities occurs.

The Vice Division representatives testified that licensing and criminal background checks will assist in the regulation of the entertainers behavior. Often, the same dancer is arrested under a different or "stage" name. A license will ensure an individuals true name, thus avoiding the use of stage names. This will ensure that individuals who are arrested and convicted are properly identified in the event of future criminal arrests.

Modeling studios, tanning salons, encounter parlors and similar SOBs require the patron to disrobe on entry. Performance is based specifically on the amount of money a patron is willing to

spend. This takes place behind locked doors. Vice officers' testimony revealed that in their opinion, these businesses were merely fronts for prostitution. Vice officers elaborated on schemes of credit card fraud contributed to these enterprises. Often the charged amounts are altered or bogus charges are sent through for payment. When the client complains, he is threatened with the disclosure of the type of enterprise that he was in.

Vice officers testified that "bookstores are nothing more than just blatant open sexual contact between people with complete anonymity." With professionally cut 'glory holes', random sexual activity between males is rampant. One officer went as far as testifying that in his eleven years with Vice he does not recall ever seeing anyone go into a booth, watch the movie for thirty minutes and walk out.

The HPD Vice officers felt that the following ordinance change suggestions would be helpful in the enforcement and regulation of sexually oriented businesses:

- 1.) licensing of persons involved in a SOB - manager, owners, dancers, waiters, bartenders
- 2.) minimum age 21 (this requires a state law change)
- 3.) premises need to be well lit inside
- 4.) no touching
- 5.) models in modeling studios should not be allowed to remove all their clothes
- 6.) make it a violation for models to ask patrons to remove all clothes
- 7.) require bookstores and arcades to be well lit, no dark corners, no booths, no access between video booths, and no "glory holes"
- 8.) entertainers to be considered employees rather than contractors
- 9.) all investors and shareholders to be disclosed and licensed
- 10.) public display of licenses
- 11.) 6 foot distances between performer and patron
- 12.) no private viewing areas
- 13.) devices used as barriers limited to four foot heights
- 14.) illumination of one candle foot at floor level minimum
- 15.) no locked interior doors in modeling or tanning studios
- 16.) regulate escort services
- 17.) prohibition against use of inanimate objects by SOB employees to depict sexual conduct
- 18.) prohibition against warning systems
- 19.) redefine "multi-unit center"
- 20.) restrict transfer of permit/license
- 21.) develop time line for revocation/suspension hearing
- 22.) amend terms "knowingly" and "negligence"
- 23.) owners, managers and employees of a SOB shall have their license immediately available

Although not all of these items were determined by the Legal Department as legally defensible under the extant enabling statute and case law, they were taken into consideration.

PUBLIC HEARING SUMMARY

The initial Public Hearing was held on July 15, 1996 in the City Council Chamber. Council Member Boney outlined the intentions of the current committee as:

- a. review the ordinance
 1. enforcement issues
 2. effectiveness of the ordinance
 3. operating procedures
- b. review all SOBs, regulated and licensed, unlicensed and illegal
- c. licensing of employees
- d. visibility issues
- e. revision of land policies
- f. balance SOBs' constitutional right and the right of the communities

The public testimony proceeded as follows:

According to members of the industry, policies for public lewdness cases are made in a personal and participative way. In other words, Vice officers encourage lewd behavior, even to the extent of participating, in order to "get a case." Industry representatives generally agreed that employee licensing is necessary, though some prefer the Police Department, others prefer the Health Department. Depending on the quality of an arrest, three or five within twelve months should be sufficient for revocation/suspension of SOB license. In addition, it is felt that there lacks effective police enforcement of unlicensed tanning salons and massage parlors.

Dr. Devinney, professor of Abnormal psychology, testified that sexual deviants are attracted to communities because of Sexually Oriented Businesses. There are some deviants who cannot get sexual satisfaction unless they pay for it. While others are not satisfied unless they take or steal it. In addition, there are some sexual deviants who cannot have sexual satisfaction without forbidden partners such as children, invalids or elderly. SOBs located in residential or even retail areas attract sexual deviants because they have their entertainment, then they come out and have a fertile field for solicitation. Therefore, they do not belong in or near residential communities.

Because of the adverse secondary effects caused by Sexually Oriented Businesses, citizen responses urged the increase of distancing of SOBs from schools, churches and licensed day cares. In addition, they perceived a need to decrease the current residential formula of 75% to 25%. They also requested notification to area residents of proposed SOBs, either by posting a large sign on the property or individual mail outs. In addition, they urged that billboard advertising be illegal.

The second public hearing occurred on July 29, 1996. Attorneys representing the SOB industry requested that a hearing panel be developed to deal with permitting issues. In addition, the panel should consist of non-law enforcement individuals, and contain several different hearing officers.

Testimony indicated that although many SOBs follow the rules, most industry representatives are not against stronger regulations in regards to licensing the entertainers. Often the dancers are transient. The establishment of a license issued through HPD would create a data base of information.

Furthermore, a great deal of discussion was given to a "no touch" policy. Owners and dancers alike stated that touching was part of the entertainment. Plexiglass barriers, mini-stages, and six foot distancing were all criticized.

A third public hearing was scheduled for the public to comment on the draft ordinance prior to final council approval, and was held January 6, 1997.

REVIEW OF WRITTEN CORRESPONDENCE

More than two hundred seventy-five letters were received regarding the sexually oriented business ordinance. These letters came from property owners, SOB employees, concerned citizens, parents, educators, civic association, and business owners. While not all suggestions could be incorporated into this summary, each letter was carefully reviewed and passed to other members of the committee. These documents are on file in the Legal Department.

Approximately one hundred seventy five letters were the result of a letter writing campaign promoted by 'Adults for Legal Freedom'. The principal theme of these letters was the over-regulation of the adult business industry. They feel that this industry attracts tourism, pays considerable tax revenues, and creates jobs, and therefore is a valuable asset to the city. In addition, they believe the reworking of this ordinance is for political reasons only.

Letters came in urging the extension of distancing between a SOB and neighborhoods, schools, licensed daycares, churches, medical clinics, government offices, historic districts, public parks, hospitals, and distancing between sexually oriented businesses. It was asked that new residential projects with preliminary approval from the planning commission be included in the residential formula. Also, concerns arose over the representation of multifamily dwellings in the residential radius computations.

Notification of the public that a Sexually Oriented Business has applied for an application was a relatively new issue brought before the committee members. Suggestions ranged from 90

day notices by property signs to postcards being mailed to all residents in the area. Notification by newspaper, certified mail, and public hearings were also brought forth.

With regard to entertainers, recommendations were to prohibit touching, prohibit asking customers to undress, install an 8' high stage, require 6 feet distances from patron, and plexiglass barriers, license all dancers, increase minimum dancing age, require criminal background checks, no licenses issued to convicted felons, and require license to be worn at all times when inside an enterprise.

Other correspondence recommended that SOB permits should be renewed annually, repeated violations should be ground for denial, prohibit locked interior doors, require sufficient illumination of the facility, and to hold owner/manager accountable for activity occurring on the premises.

While opinions and suggestions varied. Most people agreed with the proposition that sexually oriented businesses would continue to exist, and expressed concern to create a solution in which they could coexist without infringing on the rights of the citizens of the city.

COMMITTEE RECOMMENDATIONS

A. Adult Arcade Ordinance Changes.

1. It is recommended that the Police Department's concerns regarding "adult arcades" or "peep shows" be addressed by amending art. II of Ch. 28 of the Code of Ordinances to eliminate problems of sexually transmitted disease and criminal sexual conduct in such operations. At present, art II prohibits enclosed booths for viewing sexually oriented entertainment but regulates only establishments whose "arcade devices" are intended for the viewing of five or fewer persons. The recommended amendment would make devices intended for viewing by less than one hundred persons come under the purview of art. II. In addition, no adult arcade or adult mini-theatre shall be configured in such a manner as to have any opening in any partition, screen, wall or other barrier that separates viewing areas for arcade devices or adult mini-theatre devices from other viewing areas for arcade devices or adult mini-theatre devices. This provision shall not apply to conduits for plumbing, heating, air conditioning, ventilation or electrical service, provided that such conduits shall be so screened or otherwise configured as to prevent their use as openings that would permit any portion of a human body to penetrate the wall or barrier separating viewing areas. This should eliminate the

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Newport News, Virginia

ADULT USE STUDY



ADULT USE STUDY

**Newport News
Department of Planning and Development**

March 1996

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I. INTRODUCTION

Merchants Associations and the residents in the City of Newport News that have adult uses near them have expressed concerns over the lack of controls over these uses.

This report identifies the need for an ordinance that would regulate Adult Uses in Newport News. Research in other cities on the impact of adult uses found that crime rates were higher and property values lower near adult uses. This report summarizes the findings of that research.

This report also identifies the adult uses in the Newport News. The report gives the police calls for service for incidents that would concern adjoining areas. It also provides opinions from the Board of Directors and Governmental Affairs Committee of the Virginia Peninsula Association of Realtors about the impact of adult uses on the value of nearby properties.

The report concludes with a proposed ordinance, Exhibits D-1 and D-2 in the Appendix, to control adult uses in the City.

Background

Cities which passed ordinances to regulate adult uses have been challenged in court over the violation of First Amendment and 14th Amendment rights. Courts have often struck down ordinances for various reasons:

1. The ordinances were motivated because of a distaste for the speech itself, and not on the desire to eliminate adverse effects.
2. The ordinances were not based on factual information that proved the existence of negative impacts on surrounding areas.
3. The ordinances severely restricted First Amendment Rights.
4. The ordinances placed arbitrary restrictions on legitimate businesses.
5. The licensing processes were confusing, and exorbitant license fees were punitive and bore little relation to the actual cost of the process or the public cost of the use.

Cities that have been successful in defending adult regulations used their police powers under zoning to develop performance oriented standards. Most cities are using variations of the Detroit, Michigan ordinance, that encourages dispersion of adult uses. A few use the Boston, Massachusetts model, (e.g. Seattle and Renton, Washington), which concentrates adult uses in certain areas.

The United States Supreme Court has upheld both types of zoning ordinances, (i.e. those ordinances that either disperse or concentrate adult uses). The Court is more likely to strike down an ordinance when . . . "cities attempt to regulate because they object to the sexually explicit messages conveyed by adult business. Courts will also void regulations that seek to exclude all adult uses through an outright ban, excessive locational requirements, or undue discretion placed in the hands of officials who review applications for special use permits or business licenses."¹

Detroit, Michigan

The Detroit Ordinance was challenged and upheld by the Supreme Court in 1976. In Young v. American Mini Theaters, 427 U.S. 50 (1976), 28 ZD 329, the Supreme Court held that "even though the First Amendment protects communication in this area (sexually explicit activities) from total suppression, we hold the State may legitimately use the content of these materials as a basis for placing them in a different classification from other movie theaters."²

The Detroit approach disperses adult uses. It separates adult use establishments from one another, keeps them separate from residential areas, and limits them to commercial and industrial zones. No adult uses are permitted within 500 feet of a residentially zoned area, or within 1,000 feet of any two other adult uses.

Boston, Massachusetts

The Boston approach, which concentrates adult uses, reflected an existing situation where adult uses were already clustered near each other in the city. The city created an "Adult Entertainment Zone," and provided urban renewal funding to upgrade the area. The objective was to concentrate the uses to a single, small area of the city, and prevent their spread to other parts of the city, especially

¹ Alan C. Weinstein, "Courts Take Close Look at Adult Use Regs," Land Use Law, May 1994

² Excerpt from City of Austin, Texas, Adult Use Study, citing McClendon, Bruce W., Zoning for Adults Only, Zoning News, American Planning Association, August, 1985

residential areas. This technique to concentrate adult uses in a small part of the city was upheld by the Supreme Court in City of Renton v. Playtime Theaters, Inc., 475 U.S.41 (1986), 38 ZD 310.

Proposed Newport News Ordinance

In Newport News, the adult uses are dispersed along major highway corridors in the City with clusters downtown, in the Hilton area and near Ft. Eustis. Adult uses usually are located in commercial zones: C2 Retail Commercial, C2-A General Commercial and RBD Regional Business District.

The proposed ordinance in the Appendix has been drafted to regulate adult uses through a conditional use permit process. New adult uses will need a conditional use permit to limit adverse impacts on surrounding areas. The ordinance encourages dispersal of adult uses, except for downtown where concentrations would be permitted. Outside of downtown, the ordinance separates adult uses from each other and from residential areas, churches, libraries, parks, playgrounds and schools. The separation requirements are similar to the controls proposed and recommended by the City Planning Commission in the draft zoning ordinance.

The ordinance has the following features:

- It defines adult entertainment establishments, adult uses, adult video stores, adult motion picture theaters, and night clubs.
- Locations for adult uses would be limited to the C2 Retail Commercial, C2-A General Commercial, and RBD Regional Business District zones.
- Conditional use permits would be required for adult uses.
- In the C2 and C2-A zoning districts, no adult use would be permitted closer than 500 feet--which is the width of a typical city block--to:
 - a. Any school, church, park, playground, or library property;
 - b. Any other adult entertainment establishment;
 - c. Any residentially zoned property which fronts on the same street or which contains any school, church, park, playground or library. Otherwise, the minimum distance from such structures to a residential zone shall be 200 feet.

II. ADULT USE FACILITIES IN NEWPORT NEWS

Number and Type

Based on the definitions in the proposed ordinance, there are 31 adult use establishments in Newport News. They include: 14 adult entertainment establishments (Go-Go Bars); eight adult book, merchandise or video stores; and, nine night clubs. These adult uses were identified by the Police Department, the Commissioner of Revenue, and the Department of Planning and Development. Their identification as adult uses confirmed in writing by most business owners.

Table 1 on page 5 lists the adult uses in Newport News and indicates the zoning districts in which they are located.

Existing Zoning of Adult Uses

The City has no special controls over adult uses in the existing zoning ordinance when they are in the C2-A General Commercial, M1 Light Industrial, or RBD Regional Business District zones. In the C2 Retail Commercial zone, night clubs and adult entertainment establishments require a special exception, recommended by the City Planning Commission and approved by the Board of Zoning Appeals, because they are considered enclosed recreational uses which require C2-A General Commercial Zoning. The zoning ordinance has no additional controls over adult book stores and adult video stores which are permitted without restrictions in C2 Retail Commercial zone.

Of the 31 adult uses in the City, 17 are located in the C2-A General Commercial zone, five are in the RBD Regional Business District zone, seven are in the C2 Retail Commercial zone, and two are in the M1 Light Industrial zone.

Location of Adult Uses

The locations of adult uses in the City are shown on Map 1 on page 6. For the most part, they are dispersed along Warwick Boulevard and Jefferson Avenue.

However, there are clusters of adult uses in the City. Five adult uses--four adult entertainment establishments and one adult book store--are located in the RBD Regional Business District in downtown Newport News. There is a concentration of five adult uses--two adult entertainment establishments, one adult video store, one adult merchandise store, and one night club--in the vicinity of Hilton Village on Warwick Boulevard between Main Street and Mercury Boulevard in the C2-A General Commercial strip. Two adult entertainment establishments and one night club occur in the Lee Hall area on Warwick Boulevard across from Ft. Eustis.

TABLE 1**ADULT USES IN NEWPORT NEWS, NOVEMBER 1995**

BUSINESS NAMES	ADDRESS	ZONING
ADULT ENTERTAINMENT ESTABLISHMENTS		
1. JB's Gallery of Girls	5825 Jefferson Ave	C2A
2. RD's Gallery of Girls	14872 Warwick Blvd	C2A
3. RB's Gentlemen Club (Debs Dollhouse)	9956 Warwick Blvd	C2A
4. The New Bluebeard / JB's Gallery of Girls # 7	606 Dresden Dr	C2A
5. The Flame II	9921 Jefferson Ave	C2A
6. Bluebeard Go-Go II	15674 Warwick Blvd	C2A
7. The Katt	7824 Warwick Blvd	C2A
8. Buck's Brand Steak and Seafood House	16906 Warwick Blvd	C2A
9. Solid Gold Restaurant	3416 Washington Ave	RBD
10. Bijou Cafe	11312 Jefferson Ave	C2A
13. Marylee Restaurant	100 33rd Street	RBD
14. The Junction Restaurant	16916 Warwick Blvd	C2
15. Moonlight Restaurant	3504 Washington Ave	RBD
16. JCR Social Club	3410 Washington Ave	RBD
NUMBER OF BUSINESSES:	14	
ADULT BOOK STORE, MERCHANDISE, VIDEO STORE		
20. Arcade	3404 Washington Ave	RBD
21. Mr. D's	9902-A Warwick Blvd	C2A
22. The Video Store	9903-B Jefferson Ave	C2A
23. The Video Store II	11299 Jefferson Ave	C2A
24. Video XXXtra	811 Old Oyster Point Rd	C2
25. Video X-Cel	9509 Warwick Blvd	C2A
26. Newport Video	13772 Warwick Blvd	C2
27. Video Quarter	15320-E Warwick Blvd	C2
NUMBER OF BUSINESSES:	8	
NIGHT CLUBS		
17. DD Corral	16912 Warwick Blvd	C2
19. Fox Den Lounge	6045 Jefferson Ave	C2A
28. Callabash	11234 Jefferson Ave	C2A
29. Chi-Chi's	12755 Jefferson Ave	C2
30. Cozzy's Comedy Club	9700 Warwick Blvd	C2A
31. Heartbreak Alley	100 West Newmarket Square	C2A
32. Manhattan's	601 Thimble Shoals Blvd	M1
33. Mitty's	1000 Omni Blvd	M1
34. Wipeout Eddy's	11712-L & K Jefferson Ave	C2
NUMBER OF BUSINESSES:	9	
TOTAL	31	

Exhibit A shows the locations of the adult uses in greater detail, the surrounding zoning, and a perimeter 500 feet from each adult use. Photographs of the adult uses in the City are in Exhibit C.

III. PUBLIC SAFETY IMPACTS

Studies of adult uses in other cities have found that crime rates were higher for areas near adult uses.

Indianapolis, Indiana

The 1984 Indianapolis Study Adult Entertainment Businesses in Indianapolis: An Analysis looked at the period of 1978 through 1982. The study found that the average annual rate for major crimes in areas with adult uses was 23 percent higher than the corresponding rate for control areas. The average annual rate for sex related crimes was 77 percent higher in the study area than the control area.

Los Angeles, California

The 1977 report Study of the Effects of Adult Entertainment Establishments in the City of Los Angeles monitored major crimes, which increased 7.6 percent in the Hollywood Area between 1969 and 1975. This was double the citywide rate of 4.2 percent. Street robberies and purse snatching increased by 94 percent and 51 percent, compared to the citywide average of 26 percent and 37 percent. Minor crimes increased 46 percent in the Hollywood area, but only 3 percent citywide. Prostitution arrests in Hollywood increased 372 percent while the city showed a 25 percent increase.

Austin, Texas

The Austin, Texas report found that in study areas containing adult uses, sex related crimes were two to five times the citywide average, and 66 percent higher in study areas than control areas. In the four study areas, sex related crimes ranged from 4.97 to 13.56 per 1,000 population, compared to the citywide rate of 2.81 per 1,000. The major crime rate was also higher. Major crimes ranged from 128.59 to 552.54 per 1,000 compared to the citywide rate of 83.14 per 1,000.

Other Cities

Studies for Amarillo, Texas; Beaumont, Texas; Los Angeles County, California; and Phoenix, Arizona indicated that the crime rates were higher near adult businesses.

Newport News, Virginia

Of the more than 100 dispatch codes for the different types of police calls for service, the Police Department identified 32 dispatch codes for incidents that would impact an adjoining business or residential area. The Police Department researched police calls for service by address for the 31 adult uses between January 1, 1994 and October 31, 1995. The police calls for service were cross checked to insure the calls were assigned to the correct address, and involved an incident at the address.

Table 2 summarizes the police calls for service for adult uses in the City. The 31 adult uses had 425 police calls for service between January 1, 1994 and October 31, 1995. Adult entertainment establishments had the most police calls--over 65 percent of the calls for service--and averaged 23 calls per business. Adult book stores, merchandise and video stores had the lowest number of calls--4 percent of the calls for service--and averaged two calls per business. Night clubs had 30 percent of the calls and averaged fourteen calls per business. By comparison, a selected list of restaurants with ABC licenses averaged eleven police calls for service during the same period.

TABLE 2
ADULT USES IN NEWPORT NEWS, POLICE CALLS FOR SERVICE
(JANUARY 1, 1994 - OCTOBER 31, 1995)

TYPE OF BUSINESS	POLICE CALLS FOR SERVICE 1/94 - 10/95	% OF TOTAL	AVERAGE CALLS
ADULT ENTERTAINMENT ESTABLISHMENTS	280	65.88%	23
ADULT BOOK STORE, MERCHANDISE, VIDEO STORE	17	4.00%	2
NIGHT CLUBS	128	30.12%	14
TOTAL	425	100.00%	13

Exhibit B in the Appendix gives more information about the types of police calls. The most frequent incidents resulting in police calls were: disorderly conduct (151), fighting (60), intoxicated person (39), Assaults (25) and destroying property (18).

Table 3 compares police calls for service by pairing selected adult entertainment establishments or night clubs with nearby restaurants with ABC licenses that are not adult uses.

By comparing adult uses with nearby restaurants that are not adult uses, it can be determined if adult uses have higher rates of police calls. For example, downtown adult entertainment establishment #1 had 116.7 police calls per 100 occupancy compared to non-adult use restaurant #1, which is located across the street and had 50 police calls per 100 occupancy. Adult entertainment establishment #2 in downtown had 94 police calls for service per 100 occupancy compared to nearby non-adult use restaurant #2 that had 27.5 police calls for service per 100 occupancy. Night club #3 in midtown had 10.8 police calls for service per 100 occupancy compared to non-adult use restaurant #3 in the same business area which had 5.6 police calls per 100 occupancy. Night club #4 in Denbigh had 3.4 police calls per 100 occupancy compared to nearby non-adult use restaurant #4 which had 1.9 police calls per 100 occupancy. Therefore, when pairing businesses in nearby locations, it appears that adult uses will have more police calls for service than a non-adult use restaurant with an ABC license.

TABLE 3
PAIRED COMPARISON OF SELECTED ADULT ENTERTAINMENT ESTABLISHMENTS,
NIGHT CLUBS, AND NON ADULT USE RESTAURANT WITH ABC LICENSES

PAIRING	POLICE CALLS FOR SERVICE 1/94 - 10/95	OCCUPANCY	POLICE CALLS PER 100 OCCUPANCY
DOWNTOWN			
ADULT ENTERTAINMENT ESTABLISHMENT #1	35	30	116.7
RESTAURANT #1	15	30	50
DIFFERENCE	+20		+66.7
DOWNTOWN			
ADULT ENTERTAINMENT ESTABLISHMENT #2	47	50	94
RESTAURANT #2	22	80	27.5
DIFFERENCE	+25		+66.5
MIDTOWN			
NIGHT CLUB #3	27	250	10.8
RESTAURANT #3	10	180	5.6
DIFFERENCE	+17		+5.2
DENBIGH			
NIGHT CLUB #4	12	350	3.4
RESTAURANT #4	4	216	1.9
DIFFERENCE	+8		+2.5

Study Areas/Control Areas

The effect of concentrations of adult uses were checked by comparing study areas with control areas.

Study Area 1, which has four adult uses in police reporting areas 13 and 14 was compared with a control area 1 nearby. Study Area 1 had 81 percent more police calls for service and 61 percent more crimes than the control area. When the calls for service were adjusted for population differences, the police calls for service were 57 percent higher and the crimes were 40 percent higher.

Study Area 2A is police reporting area 3, and Study Area 2B is police reporting area 4 in downtown Newport News. These were compared with Control Area 2A, which is police reporting area 2 in the vicinity of City Hall, the City Jail, Juvenile Detention Center, Police South Patrol Headquarters and the Courthouse. The population of Control Area 2A was adjusted to remove inmate population in the City Jail and Juvenile Detention. Police calls for service were adjusted to eliminate requests to pick up detention orders or warrants, transfer juveniles to less secure facilities, and crimes reported at the Police Station that occurred outside of the reporting area. Study Area 2A has 42 percent more police calls for service and 7 percent more crime than the Control Area. Study Area 2B has 17 percent more police calls for service and crime than the Control Area. Also, the rate of police calls for service and Crime per 1,000 people is much higher in the Study Areas than the Control Area.

Study Areas 2A and 2B were compared with Control Area 2B--police reporting area 6--as a separate check. Control area 2B has more population, higher unemployment, higher poverty, and lower median family income than Study Areas 2A and 2B. In this comparison, the Control Area had 18 percent and 33 percent more police calls for service and 21 percent and 16 percent more crimes. But when adjusted for population, the both Study Areas had 37 percent and 143 percent higher rates of police calls for service and 32 percent and 213 percent higher crime rates.

STUDY AREA 1
SOCIO-ECONOMIC DATA

AREA 1		1990 POPULATION		1990 HOUSING UNITS		1990 UNEMPLOY -MENT RATE *	1989 MEDIAN HOUSEHOLD INCOME *	1990 % BELOW POVERTY LEVEL *
AREA	LAND (ACRES)	PERSONS	PERSONS / ACRE	HOUSING UNITS	UNITS / ACRE			
CONTROL AREA 1	205	1,357	6.6	632	3.1	2.4%	\$35,760	4.4%
STUDY AREA 1	209	1,561	7.5	775	3.7	2.1%	\$34,998	3.1%

* COMPUTED

SOURCE: 1990 CENSUS SUMMARY TAPE FILE 3A / P70, P80A, P117

STUDY AREA 1
POLICE CALLS FOR SERVICE AND PART I & II CRIMES

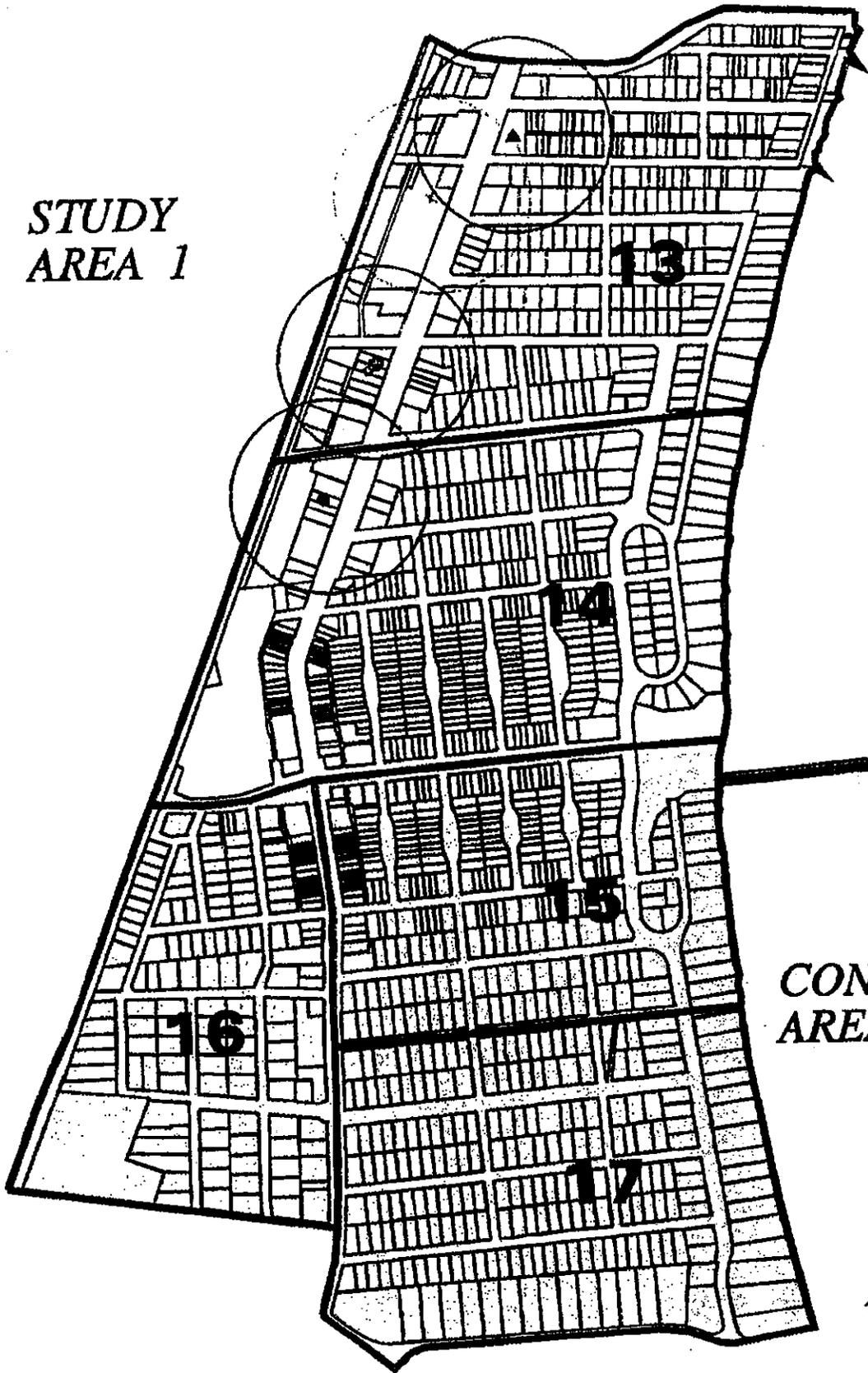
(JANUARY 1, 1994 - OCTOBER 31, 1995)

AREA 1	POLICE CALLS FOR SERVICE	CALLS FOR SERVICE PER 1,000	PART I & II CRIMES	PART I & II CRIMES PER 1,000
CONTROL AREA 1	465	343	230	169
STUDY AREA 1	842	539	370	237

STUDY AREA 1				
+% ABOVE CONTROL / -% BELOW CONTROL	+81%	+57%	+61%	+40%

SOURCE: NEWPORT NEWS POLICE DEPARTMENT CRIME ANALYSIS UNIT

*STUDY
AREA 1*



*CONTROL
AREA 1*



●	◆	▲	+	★
GO-GO BAR	ADULT BOOKSTORE	ADULT VIDEO	ADULT MERCHANDISE	NIGHTCLUB

CONTROL AREA 2A / STUDY AREA 2
SOCIO-ECONOMIC DATA

AREA 2		1990 POPULATION		1990 HOUSING UNITS		1990 UNEMPLOY -MENT RATE *	1989 MEDIAN HOUSEHOLD INCOME *	1990 % BELOW POVERTY LEVEL *
AREA	LAND (ACRES)	PERSONS	PERSONS / ACRE	HOUSING UNITS	UNITS / ACRE			
CONTROL AREA 2A	98	** 646	6.6	456	4.7	5.5%	\$23,465	12.1%
STUDY AREA 2A	85	332	3.9	111	1.3	3.6%	\$15,056	28.5%
STUDY AREA 2B	78	154	2.0	116	1.5	3.0%	\$12,522	33.4%

* COMPUTED

** DOES NOT INCLUDE POPULATION IN: CITY JAIL (236) & JUVENILE DETENTION (46)

SOURCE: 1990 CENSUS SUMMARY TAPE FILE 3A / P70, P80A, P117

STUDY AREA 2
POLICE CALLS FOR SERVICE AND PART I & II CRIMES

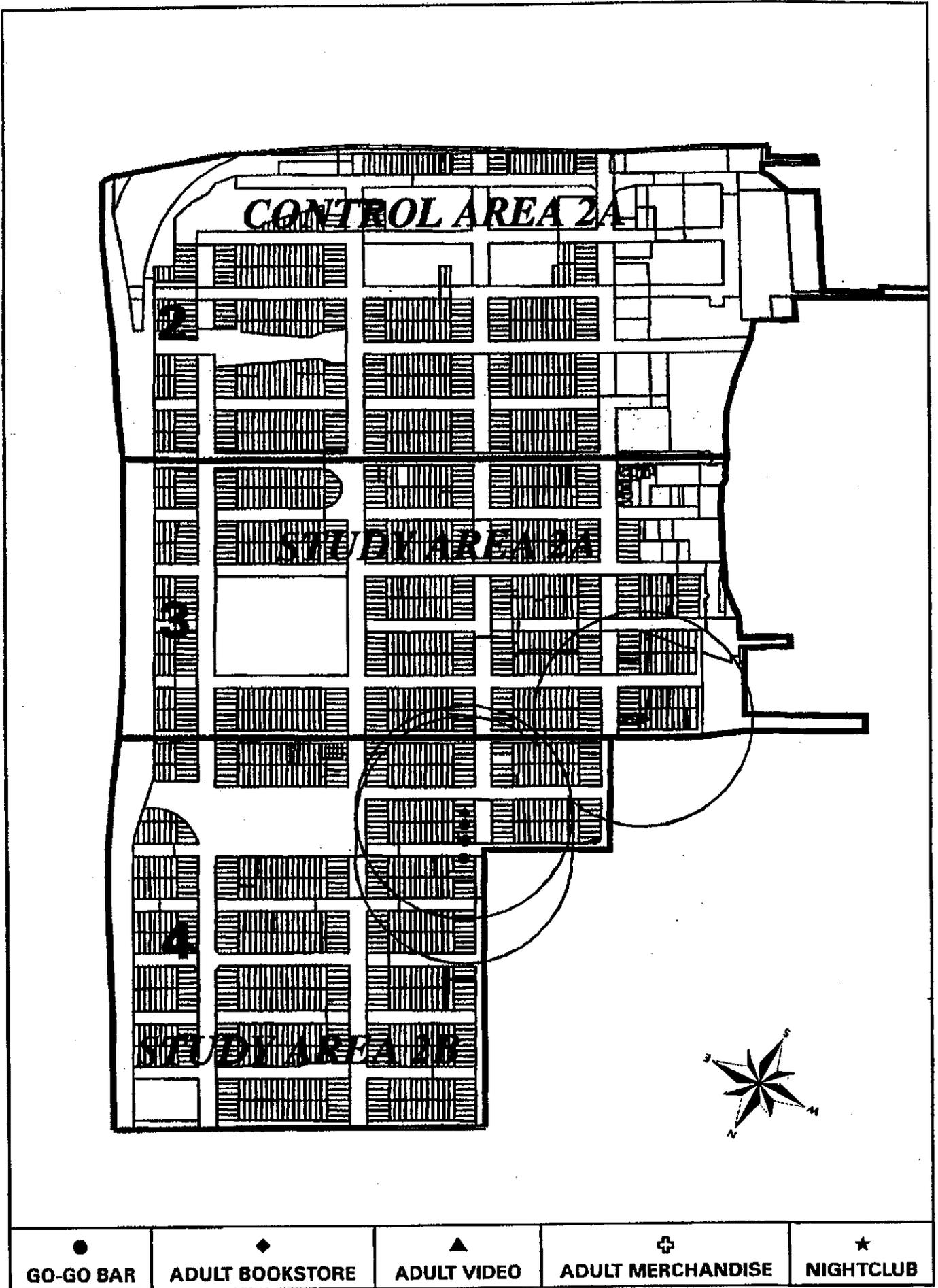
(JANUARY 1, 1994 - OCTOBER 31, 1995)

AREA 2	POLICE CALLS FOR SERVICE	CALLS FOR SERVICE PER 1,000	PART I & II CRIMES	PART I & II CRIMES PER 1,000
CONTROL AREA 2A	622	963	373	577
STUDY AREA 2A	886	2,669	398	1,199
STUDY AREA 2B	725	4,708	438	2,844

STUDY AREA 2A				
+% ABOVE CONTROL / -% BELOW CONTROL	+42%	177%	+7%	+108%

STUDY AREA 2B				
+% ABOVE CONTROL / -% BELOW CONTROL	+17%	+489%	+17%	+393%

SOURCE: NEWPORT NEWS POLICE DEPARTMENT CRIME ANALYSIS UNIT



CONTROL AREA 2B / STUDY AREA 2

SOCIO-ECONOMIC DATA

AREA 2		1990 POPULATION		1990 HOUSING UNITS		1990 UNEMPLOY -MENT RATE *	1989 MEDIAN HOUSEHOLD INCOME *	1990 % BELOW POVERTY LEVEL *
AREA	LAND (ACRES)	PERSONS	PERSONS / ACRE	HOUSING UNITS	UNITS / ACRE			
CONTROL AREA 2B	104	557	5.4	265	2.5	15.6%	\$8,198	49.7%
STUDY AREA 2A	85	332	3.9	111	1.3	3.6%	\$15,056	28.5%
STUDY AREA 2B	78	154	2.0	116	1.5	3.0%	\$12,522	33.4%

* COMPUTED

SOURCE: 1990 CENSUS SUMMARY TAPE FILE 3A / P70, P80A, P117

STUDY AREA 2

POLICE CALLS FOR SERVICE AND PART I & II CRIMES

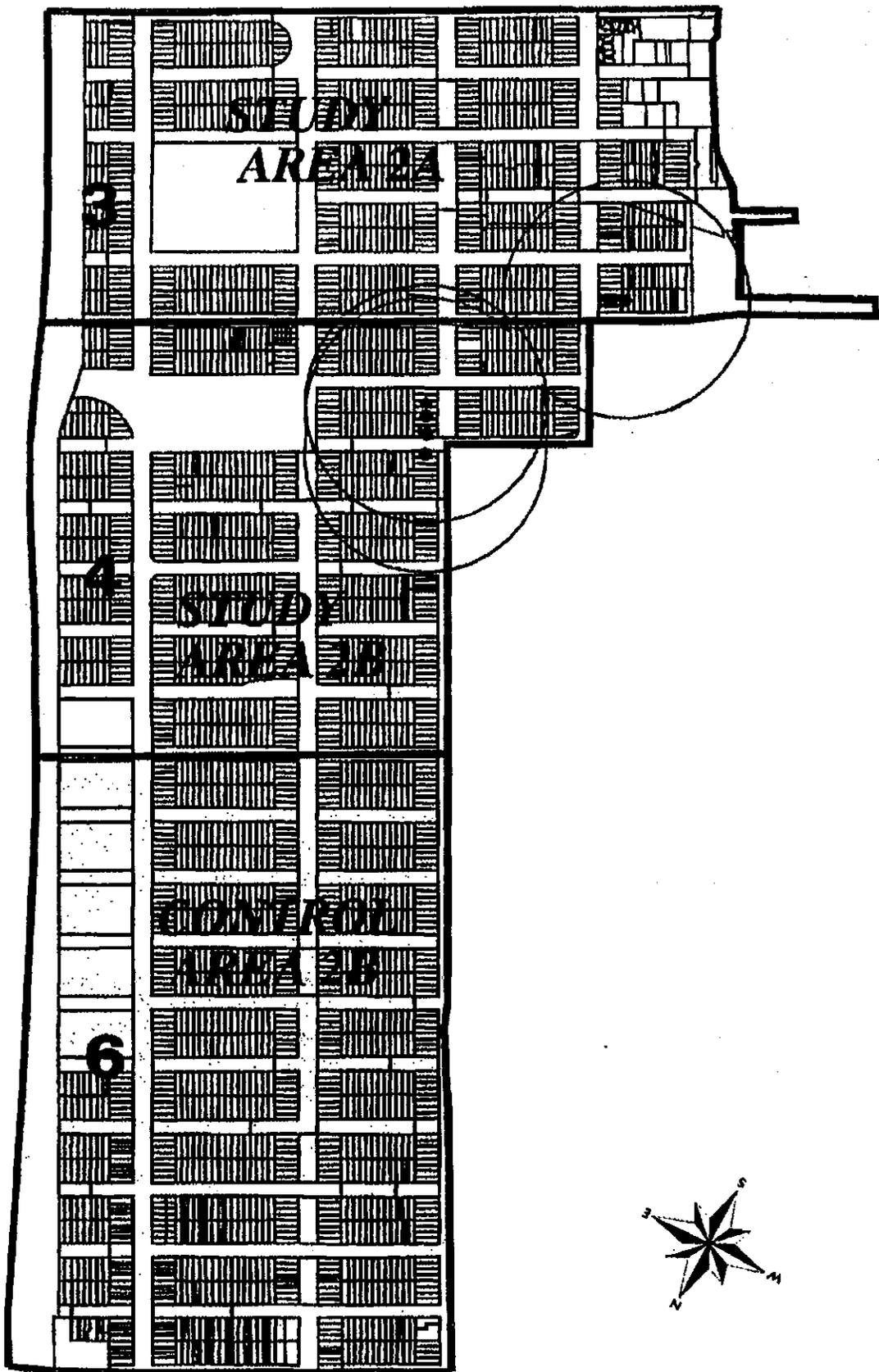
(JANUARY 1, 1994 - OCTOBER 31, 1995)

AREA 2	POLICE CALLS FOR SERVICE	CALLS FOR SERVICE PER 1,000	PART I & II CRIMES	PART I & II CRIMES PER 1,000
CONTROL AREA 2B	1,078	1,935	506	908
STUDY AREA 2A	886	2,669	398	1,199
STUDY AREA 2B	725	4,708	438	2,844

STUDY AREA 2A				
+% ABOVE CONTROL / -% BELOW CONTROL	-18%	+37%	-21%	+32%

STUDY AREA 2B				
+% ABOVE CONTROL / -% BELOW CONTROL	-33%	+143%	-16%	+213%

SOURCE: NEWPORT NEWS POLICE DEPARTMENT CRIME ANALYSIS UNIT



<p>● GO-GO BAR</p>	<p>◆ ADULT BOOKSTORE</p>	<p>▲ ADULT VIDEO</p>	<p>⊕ ADULT MERCHANDISE</p>	<p>★ NIGHTCLUB</p>
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IV. IMPACTS ON NEARBY PROPERTIES

Studies in other cities indicate that adult uses have a negative effect on property values nearby. There also is evidence from the Austin, Texas study that mortgage lenders consider adult uses in a neighborhood to be evidence that an area is in decline, thus making financing more difficult.

Indianapolis, Indiana

The Indianapolis study concluded that residential properties in study areas appreciated in value at one-half the rate of control areas. Appraisers felt that there is a negative impact on residential and commercial property within one block of an adult bookstore. The negative impact decreased with distance from the bookstore. The negative impact was greater for residential properties than commercial properties.

Los Angeles, California

The Los Angeles report surveyed 400 real estate professionals with 20 percent responding. Eighty-eight percent felt that the concentration of adult businesses would decrease the market value of business property located in the vicinity. Sixty-eight percent felt the concentration would decrease the rental value of business property. Fifty-nine percent felt the concentration would decrease the rentability/salability of business property nearby. Seventy-three percent felt the concentration would decrease the annual income of businesses located in the vicinity. Ninety percent felt the concentration of adult uses would decrease the market value of private residences within 1,000 feet, 86 percent felt the concentration would decrease the rental value of residential property, and 90 percent felt the concentration would decrease the rentability/salability of residential property within 1,000 feet.

St. Paul, Minnesota

The study Effects on Surrounding Area of Adult Entertainment Businesses indicated there was a correlation between deteriorating housing values, crime rates and the location of adult businesses. It also concluded that there was a stronger correlation with neighborhood deterioration after the establishment of an adult business than before.

Austin, Texas

A survey of real estate appraisers and lenders in Austin, Texas found that 88 percent of the respondents believed an adult bookstore would decrease residential property values within one block. They noted adult businesses nearby

made homes less attractive to families, which reduces demand and property values.

Newport News, Virginia

The Hilton Village Merchants Association, the Gateway Area Merchants, and the Citizens for the Hilton Area Revitalization have stated their desire for the City to regulate adult uses. These citizens fear that additional adult uses in Hilton Village and Rivermont will contribute to the deterioration of the area. They have advocated strengthening the City's control over adult uses.

Realtors knowledgeable of local market conditions have indicated that having adult uses nearby can reduce the number of people interested in occupying a property by 20 to 30 percent, and will hurt property values and the resale of property in adjacent residential neighborhoods.

Members of the Virginia Peninsula Association of Realtors' Board of Directors and the VPAR Governmental Affairs Committee were surveyed on the impact adult uses have on property values. Of 38 questionnaires sent out, 14 (37 percent) responded. The responses are summarized in Table 4.

A very high percentage of Realtors, 13 of 14 responding (93 percent), thought that having adult uses within one block of residential properties would most likely decrease residential property values.

Five Realtors (36 percent) thought commercial property values within one block of adult uses would decrease. Another five (36 percent) thought there would be no change. One (7 percent) thought commercial property values would increase. Two (14 percent) were undecided--indicating commercial property values could either decrease, stay the same, or increase--and one (7 percent) did not respond because she was not a commercial broker.

Those who thought commercial property values would decline cited concerns for personal safety, increased crime, noise, strangers in the neighborhood, and parking problems. One wrote that few residents or businesses would choose to be near any of the adult uses. Another indicated adult uses drove away family oriented businesses.

Those who thought commercial property values would not change within one block of an adult use wrote that property values may decrease depending on the appearance of the store front, the type of adult use, or if there were concentrations in a small area. One wrote that the public perceived that these uses attracted undesirable people.

Of the undecided responses, the Realtors indicated the effect on commercial property values depended on the type of adult use.

There were other comments that the impact on property values is lessened when the adult use is two or three blocks away, and that adult uses generally locate in declining areas needing revitalization.

Table 4

Impact of Adult Uses on Property Values within one Block					
	Decrease	No Change	Increase	Undecided	No Response
Impact on Residential Property Value	13 (93%)	1 (7%)	0 (0%)	0 (0%)	0 (0%)
Impact on Commercial Property Value	5 (36%)	5 (36%)	1 (7%)	2 (14%)	1 (7%)

V. CONCLUSION

Studies in other cities indicate that having adult uses nearby leads to increased crime and declining property values. In Newport News, the police calls for service indicate adult uses experience crime problems that impact on nearby neighborhoods or businesses. Pairing comparisons of selected adult uses with restaurants that have ABC licenses but are not adult uses, indicate the adult uses have more police calls for service. Control area comparisons suggest that police calls for service and crimes are higher in areas with concentrations of adult uses. A survey of Realtors indicates that adult uses will lessen nearby residential property values, and may lessen nearby commercial property values depending on the type of adult use and the amount of concentration. These studies indicate that the regulation of adult uses is warranted.

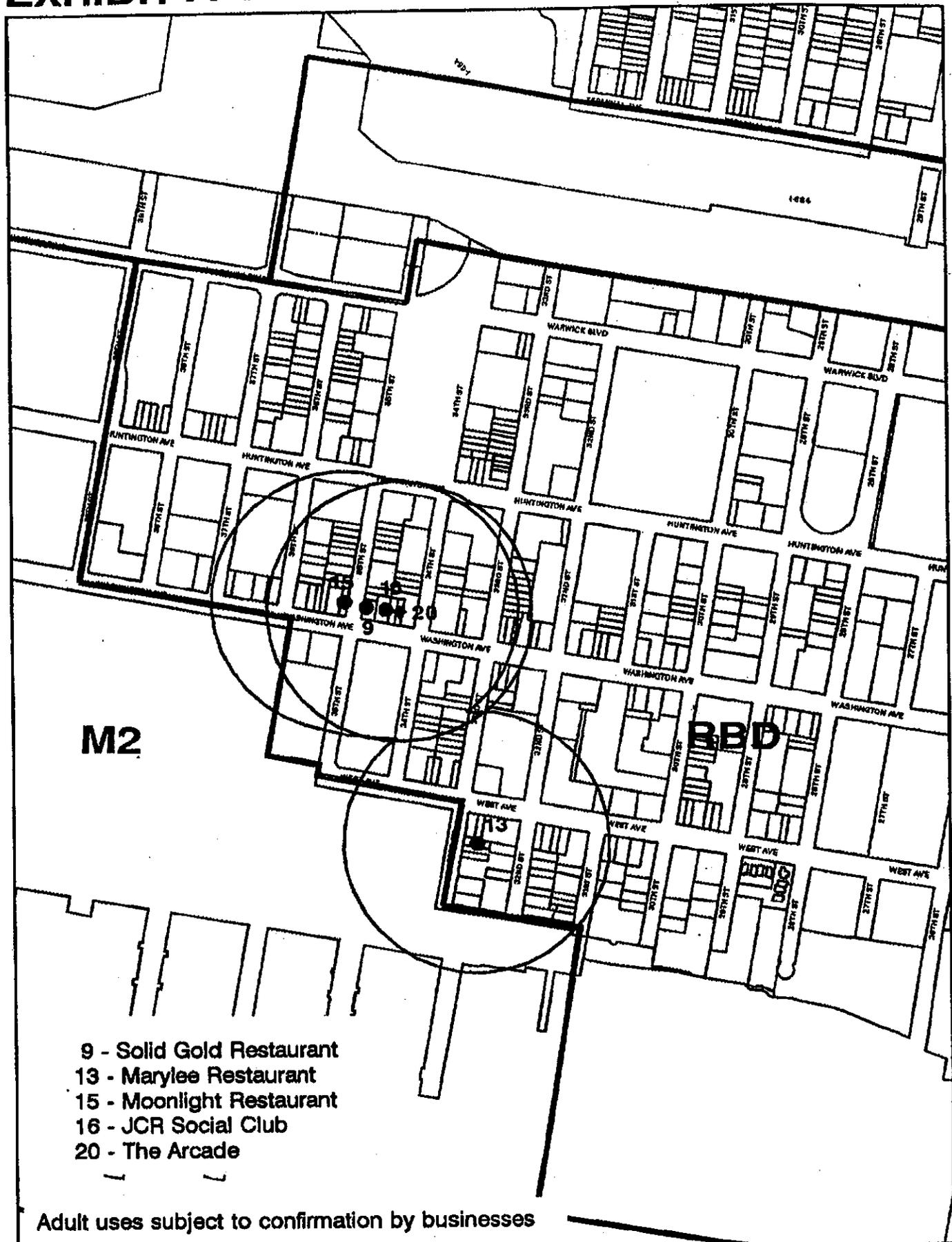
To better regulate adult uses, most cities use the Detroit, Michigan ordinance as a model. The Detroit ordinance encourages spatial separation of adult uses, and separation of these uses from residential areas. The amount of separation is 500 to 1,000 feet which is the equivalent of one to two city blocks.

The proposed Newport News ordinance defines adult uses and would limit their location to the C2 Retail Commercial, C2-A General Commercial, and RBD Regional Business District zones. Conditional use permits would be required for new adult uses. In the C2 Retail Commercial zones and C2-A Commercial zones, new adult uses must maintain a separation of 500 feet from other adult uses, churches, schools, parks, libraries and playgrounds. The ordinance recommends that the separation from residentially zoned property fronting on the same street be 500 feet; otherwise, the separation shall be 200 feet. Separation would not be required downtown in the RBD Regional Business District zone.

EXHIBITS

- A. Maps of Adult Uses**
- B. Dispatch Codes and Police Calls for Service**
- C. Photographs of Adult Uses**
- D. Proposed Adult Use Ordinance**
 - D-1 Article II. Definitions**
 - D-2 Article IV. Section 422. Adult Uses**

EXHIBIT A-1



M2

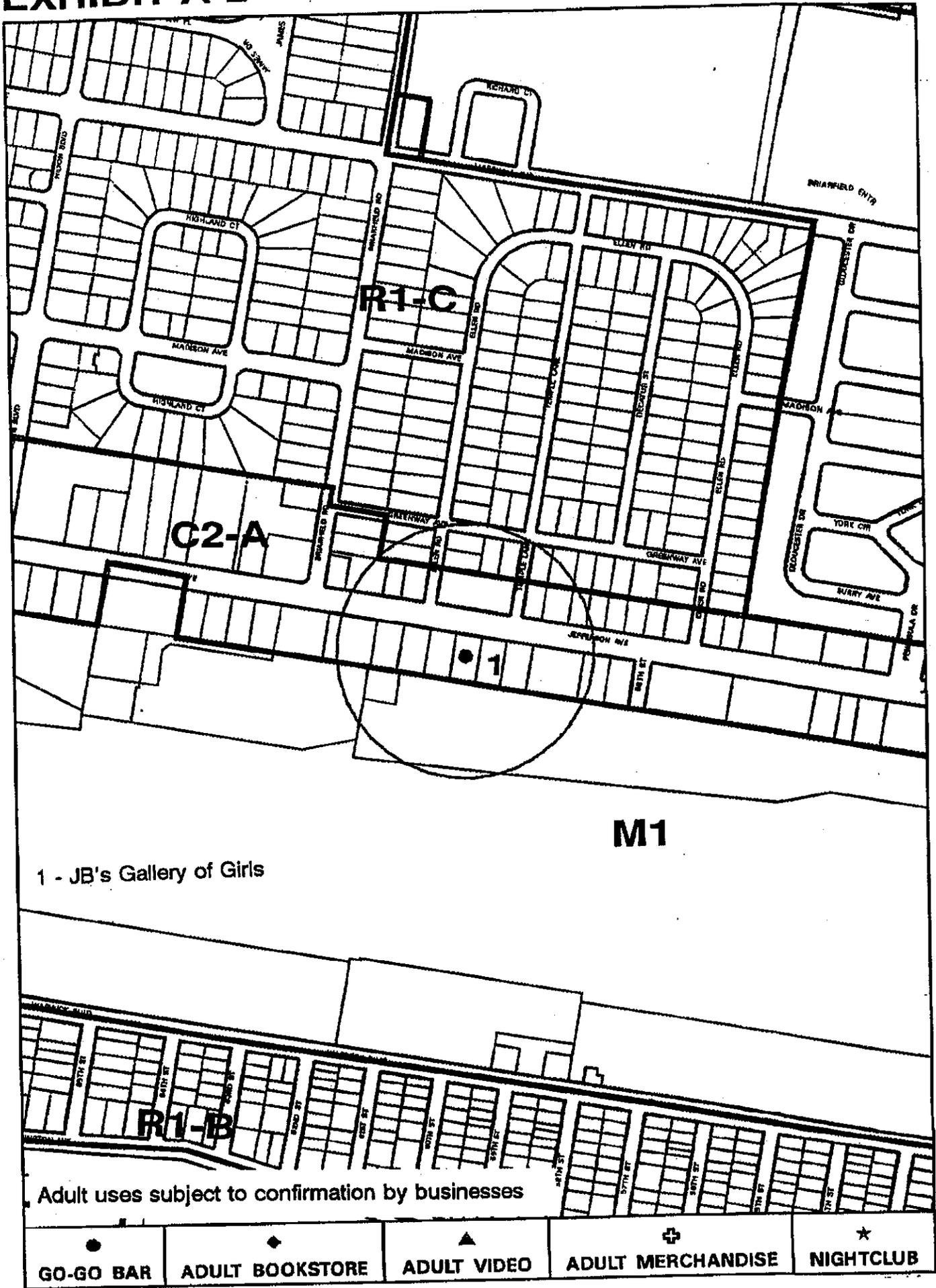
BBD

- 9 - Solid Gold Restaurant
- 13 - Marylee Restaurant
- 15 - Moonlight Restaurant
- 16 - JCR Social Club
- 20 - The Arcade

Adult uses subject to confirmation by businesses

●	◆	▲	+	★
GO-GO BAR	ADULT BOOKSTORE	ADULT VIDEO	ADULT MERCHANDISE	NIGHTCLUB

EXHIBIT A-2



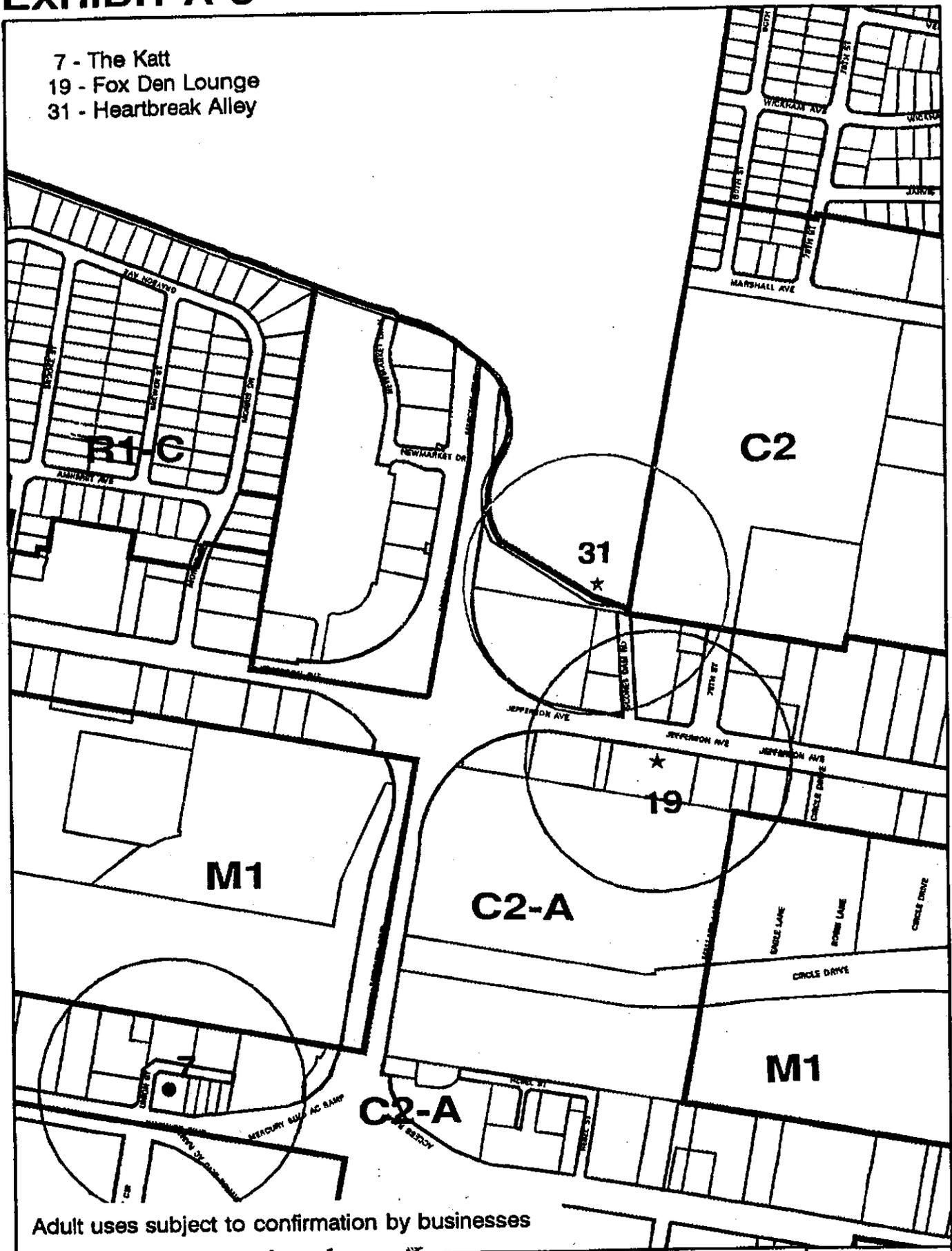
1 - JB's Gallery of Girls

Adult uses subject to confirmation by businesses

 GO-GO BAR	 ADULT BOOKSTORE	 ADULT VIDEO	 ADULT MERCHANDISE	 NIGHTCLUB
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EXHIBIT A-3

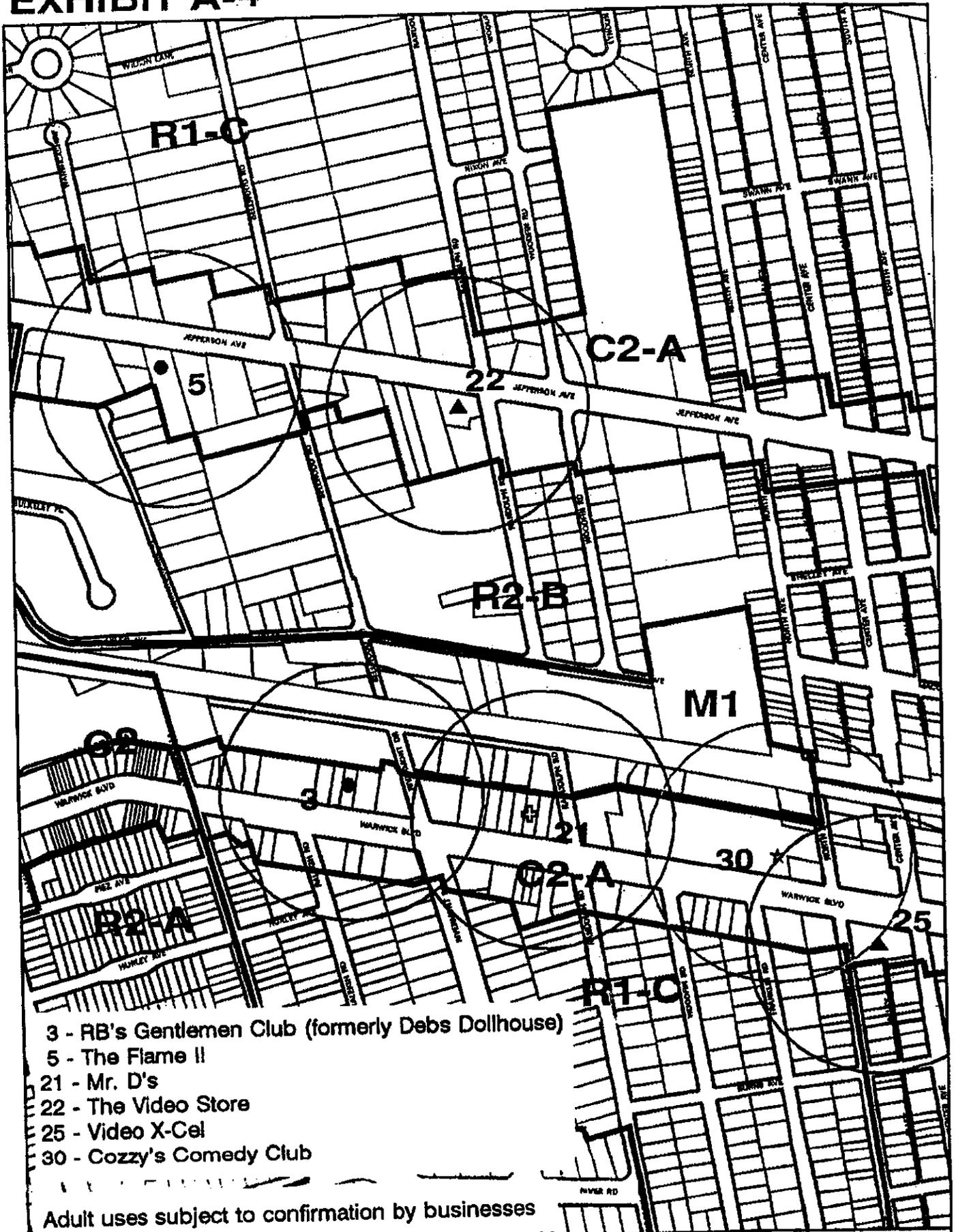
- 7 - The Katt
- 19 - Fox Den Lounge
- 31 - Heartbreak Alley



Adult uses subject to confirmation by businesses

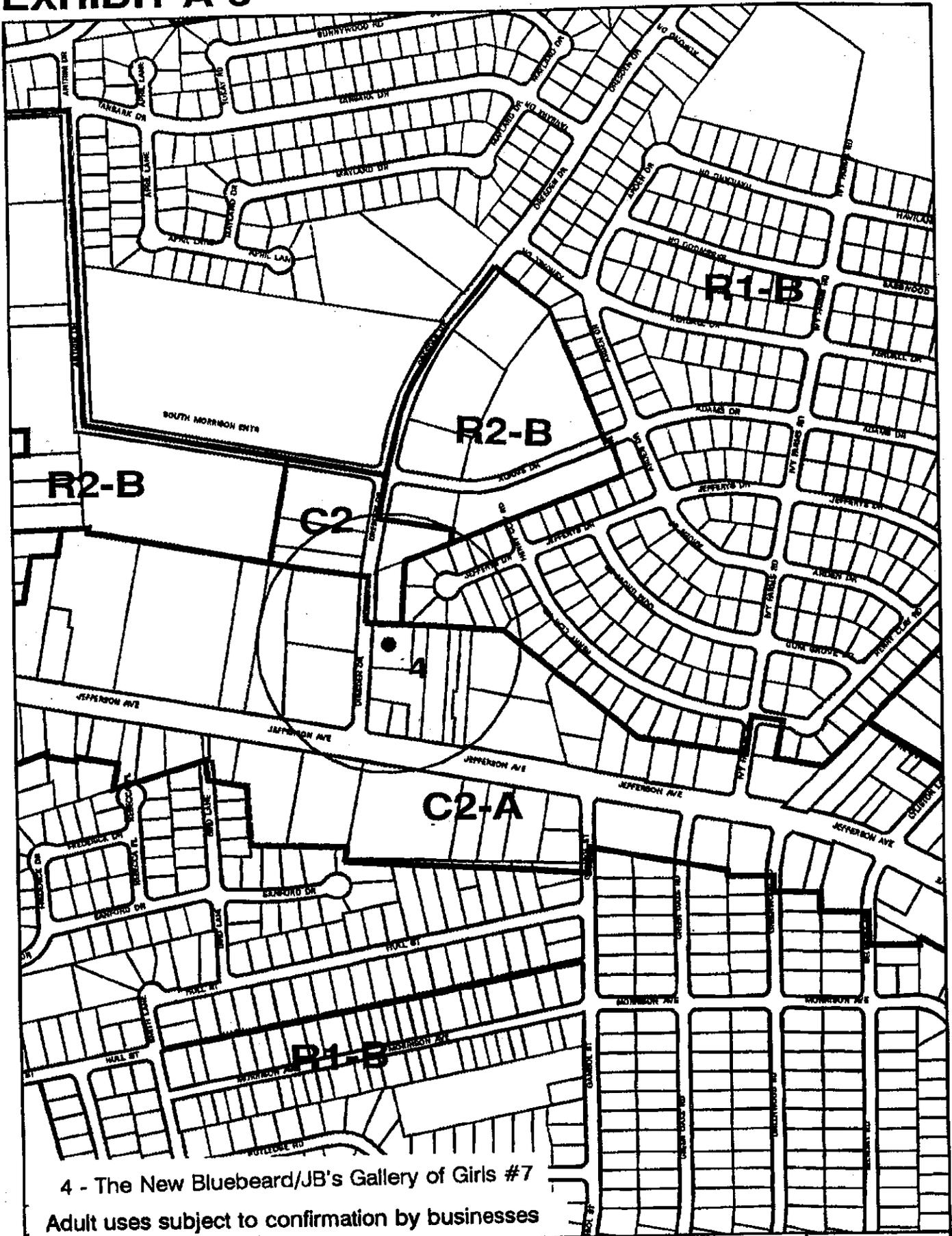
<p>● GO-GO BAR</p>	<p>◆ ADULT BOOKSTORE</p>	<p>▲ ADULT VIDEO</p>	<p>⊕ ADULT MERCHANDISE</p>	<p>★ NIGHTCLUB</p>
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EXHIBIT A-4



●	◆	▲	+	★
GO-GO BAR	ADULT BOOKSTORE	ADULT VIDEO	ADULT MERCHANDISE	NIGHTCLUB

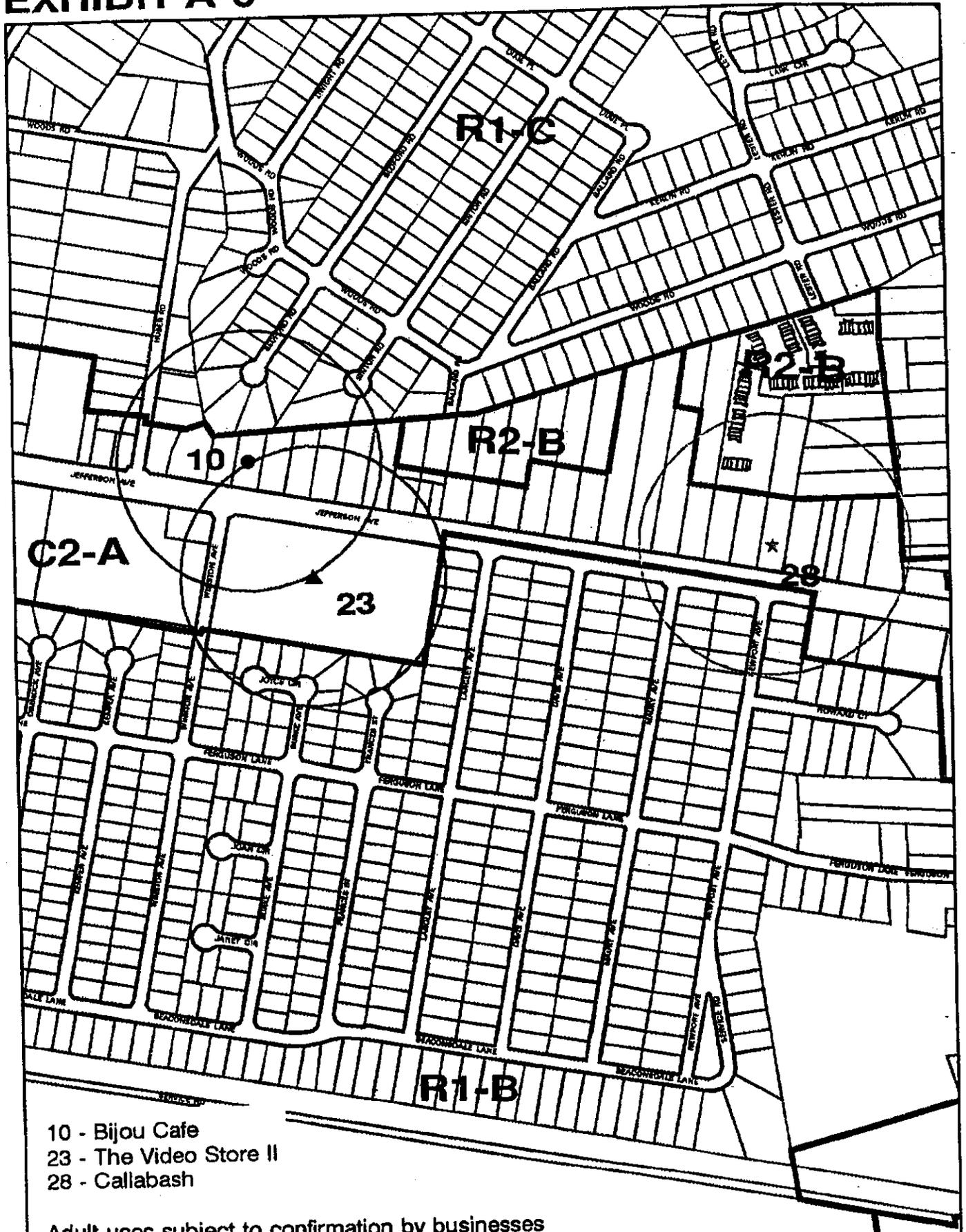
EXHIBIT A-5



4 - The New Bluebeard/JB's Gallery of Girls #7
 Adult uses subject to confirmation by businesses

 GO-GO BAR	 ADULT BOOKSTORE	 ADULT VIDEO	 ADULT MERCHANDISE	 NIGHTCLUB
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EXHIBIT A-6

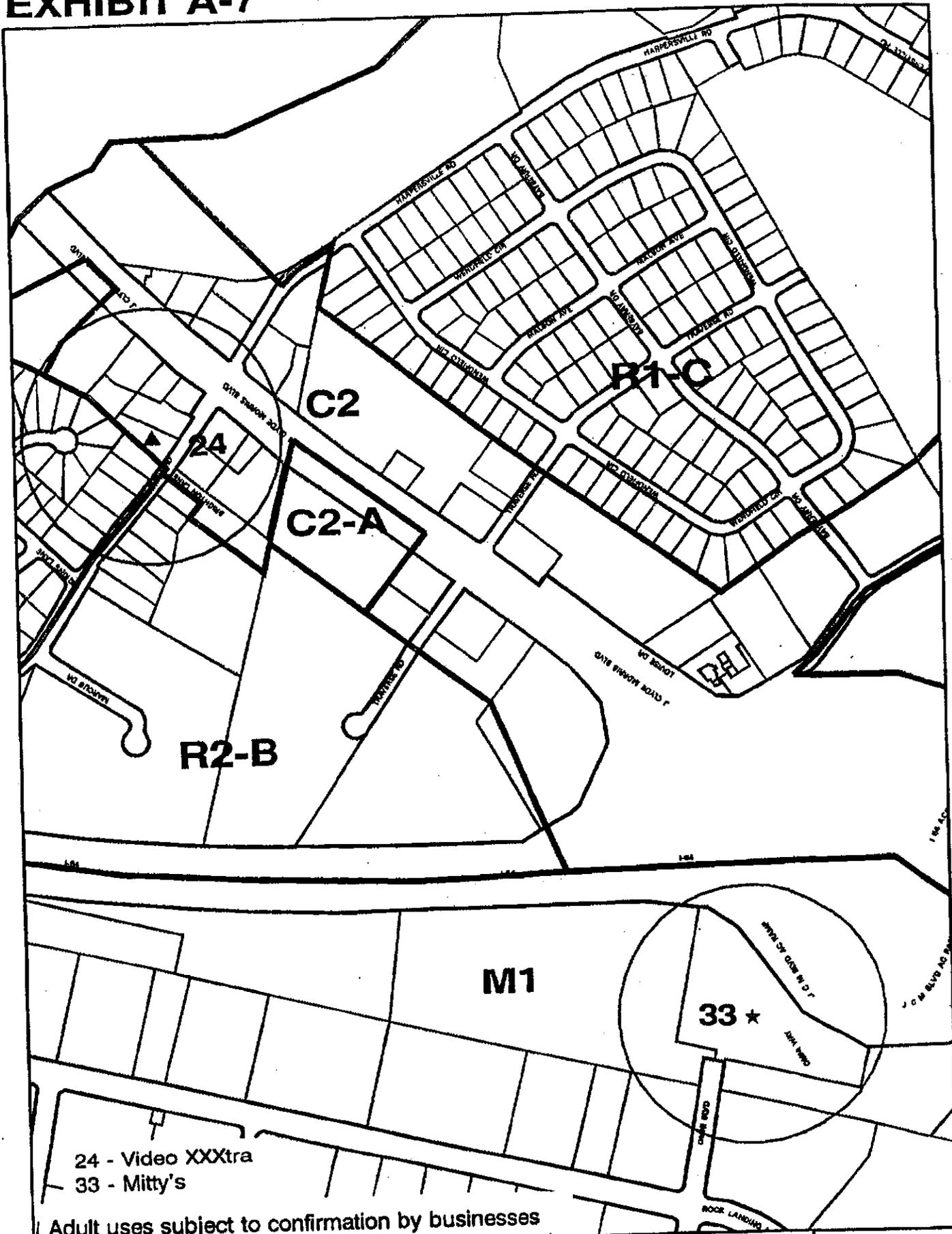


- 10 - Bijou Cafe
- 23 - The Video Store II
- 28 - Callabash

Adult uses subject to confirmation by businesses

●	◆	▲	+	★
GO-GO BAR	ADULT BOOKSTORE	ADULT VIDEO	ADULT MERCHANDISE	NIGHTCLUB

EXHIBIT A-7

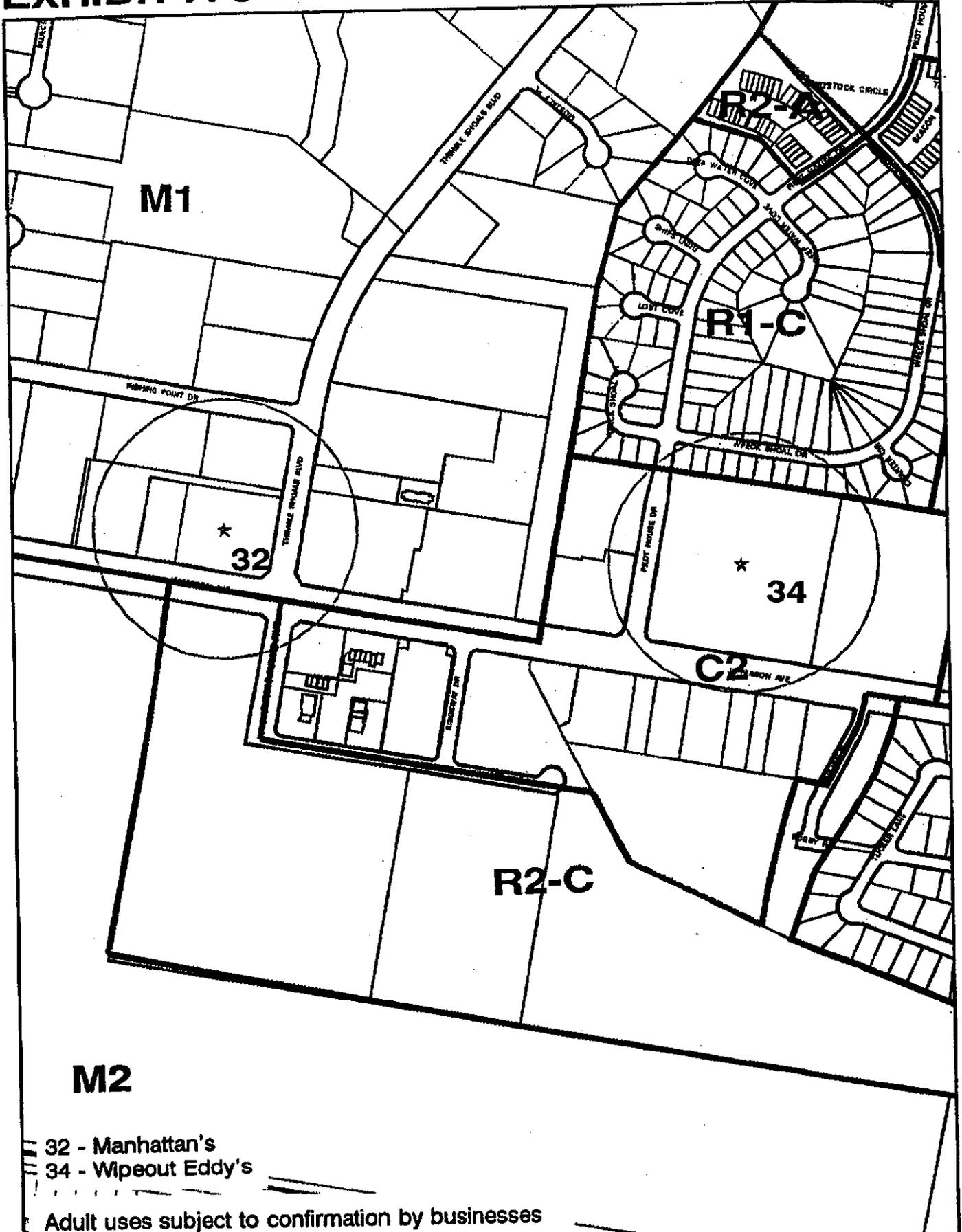


24 - Video XXXtra
 33 - Mitty's

Adult uses subject to confirmation by businesses

 GO-GO BAR	 ADULT BOOKSTORE	 ADULT VIDEO	 ADULT MERCHANDISE	 NIGHTCLUB
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EXHIBIT A-8

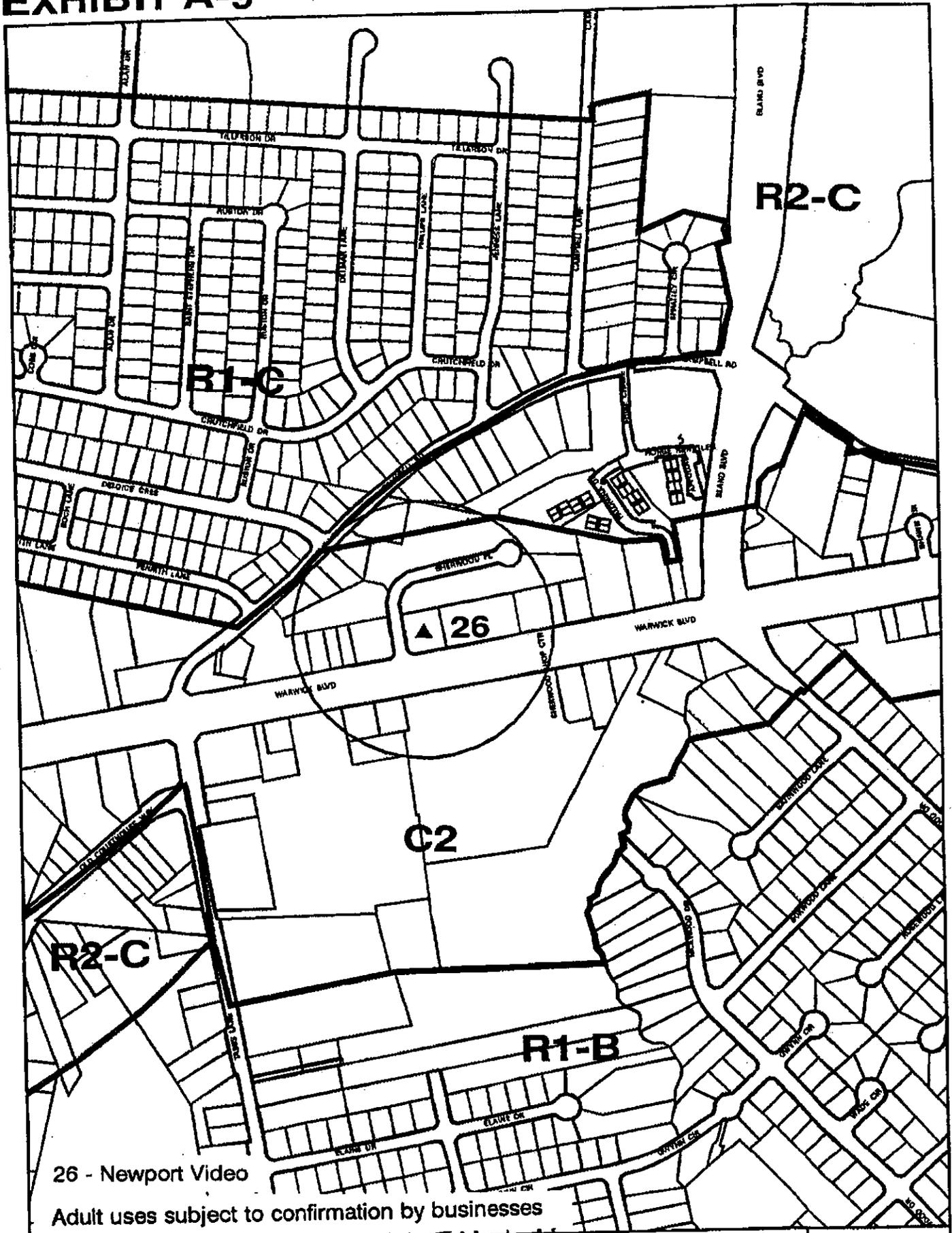


- 32 - Manhattan's
- 34 - Wipeout Eddy's

Adult uses subject to confirmation by businesses

●	◆	▲	+	★
GO-GO BAR	ADULT BOOKSTORE	ADULT VIDEO	ADULT MERCHANDISE	NIGHTCLUB

EXHIBIT A-9

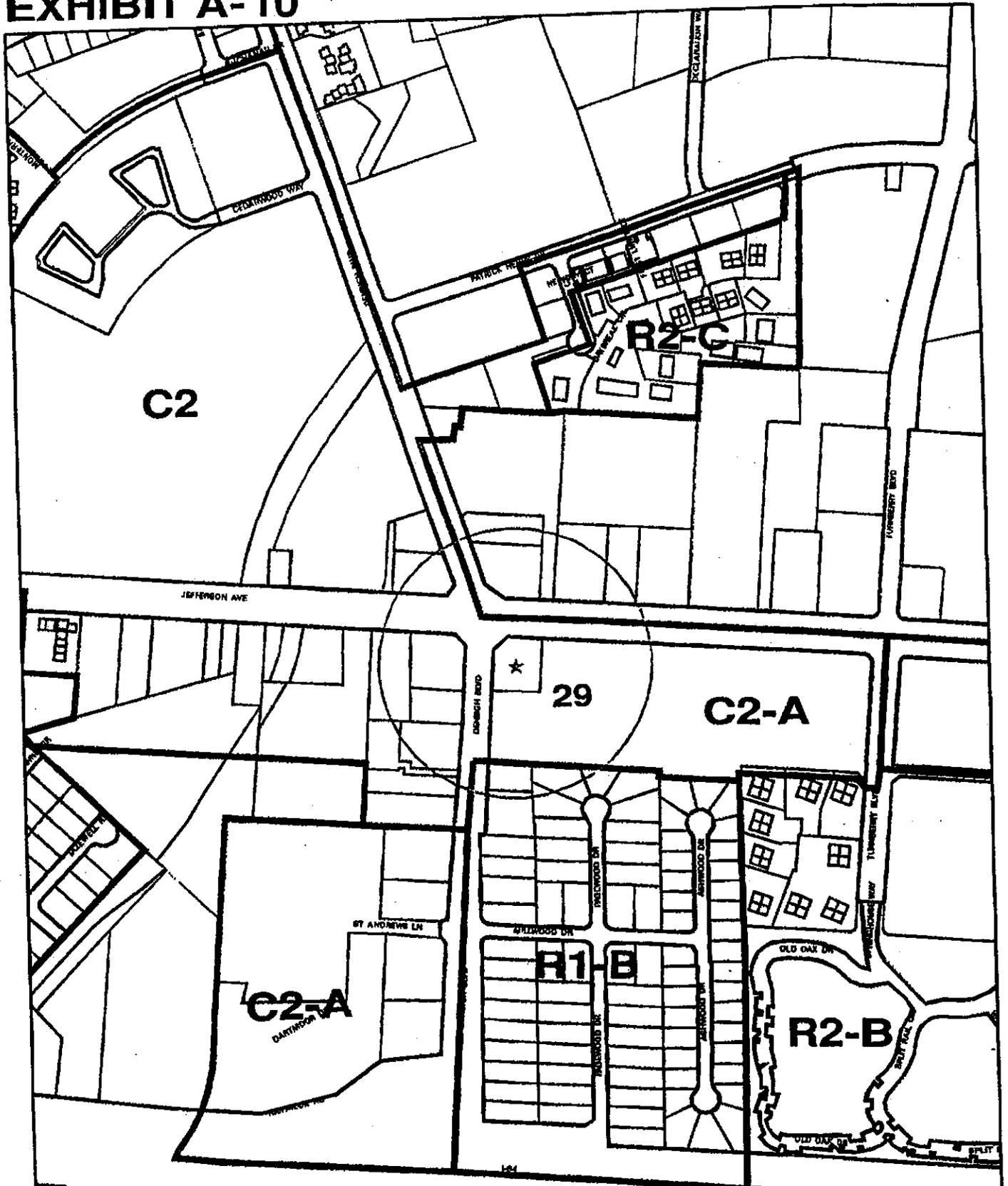


26 - Newport Video

Adult uses subject to confirmation by businesses

<p>●</p> <p>GO-GO BAR</p>	<p>◆</p> <p>ADULT BOOKSTORE</p>	<p>▲</p> <p>ADULT VIDEO</p>	<p>⊕</p> <p>ADULT MERCHANDISE</p>	<p>★</p> <p>NIGHTCLUB</p>
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EXHIBIT A-10

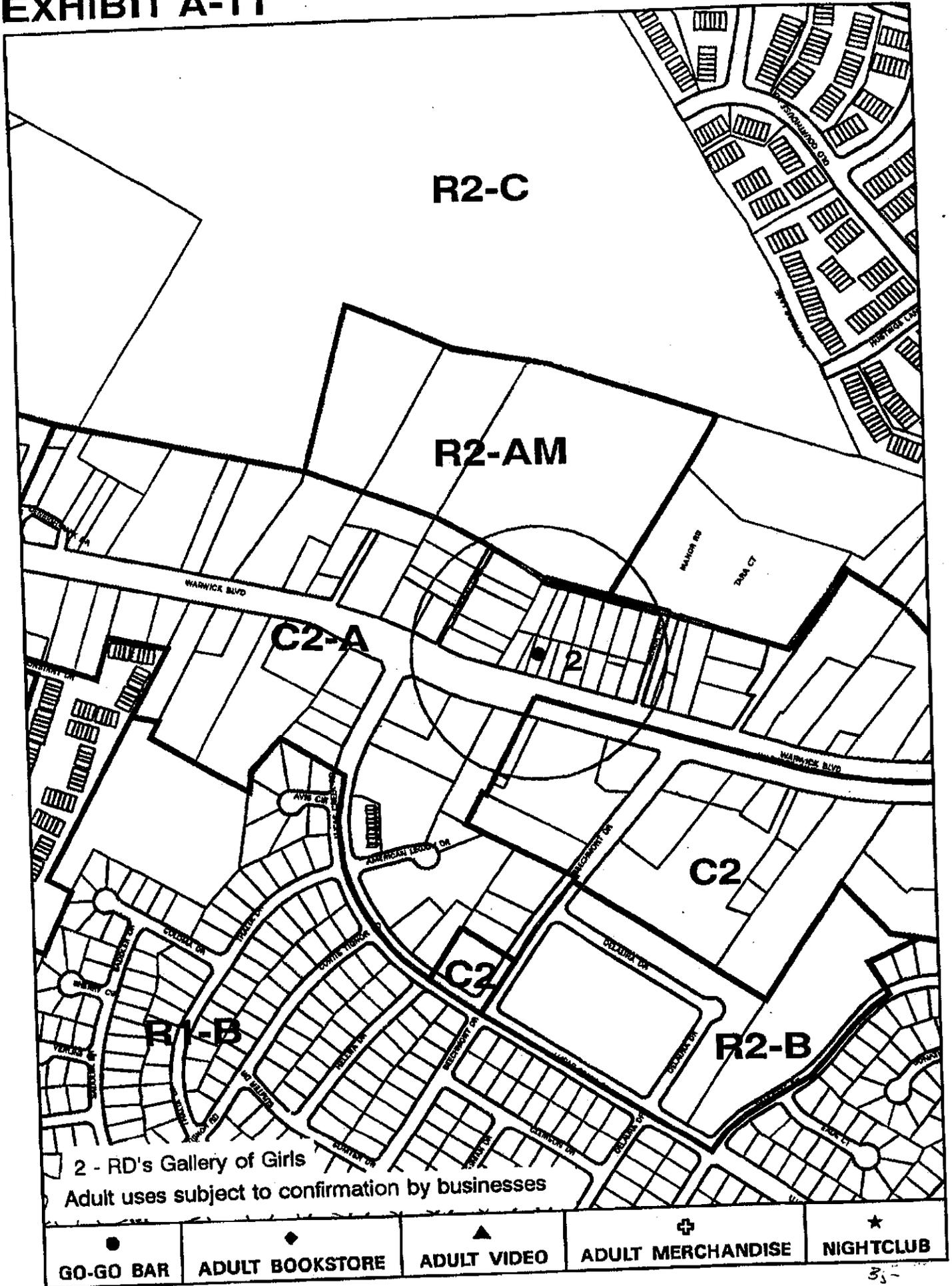


29 - Chi-Chi's

Adult uses subject to confirmation by businesses

●	◆	▲	⊕	★
GO-GO BAR	ADULT BOOKSTORE	ADULT VIDEO	ADULT MERCHANDISE	NIGHTCLUB

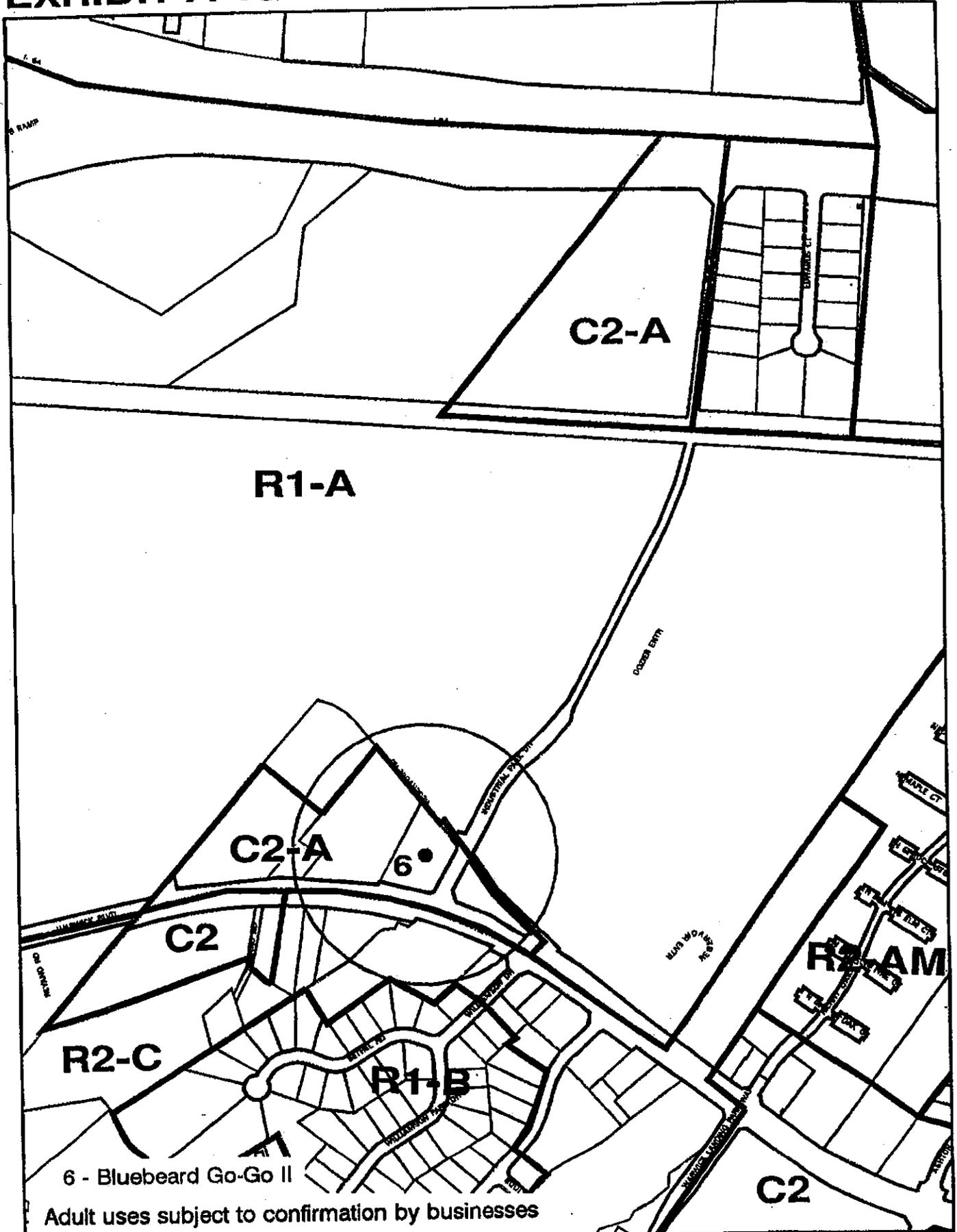
EXHIBIT A-11



2 - RD's Gallery of Girls
 Adult uses subject to confirmation by businesses

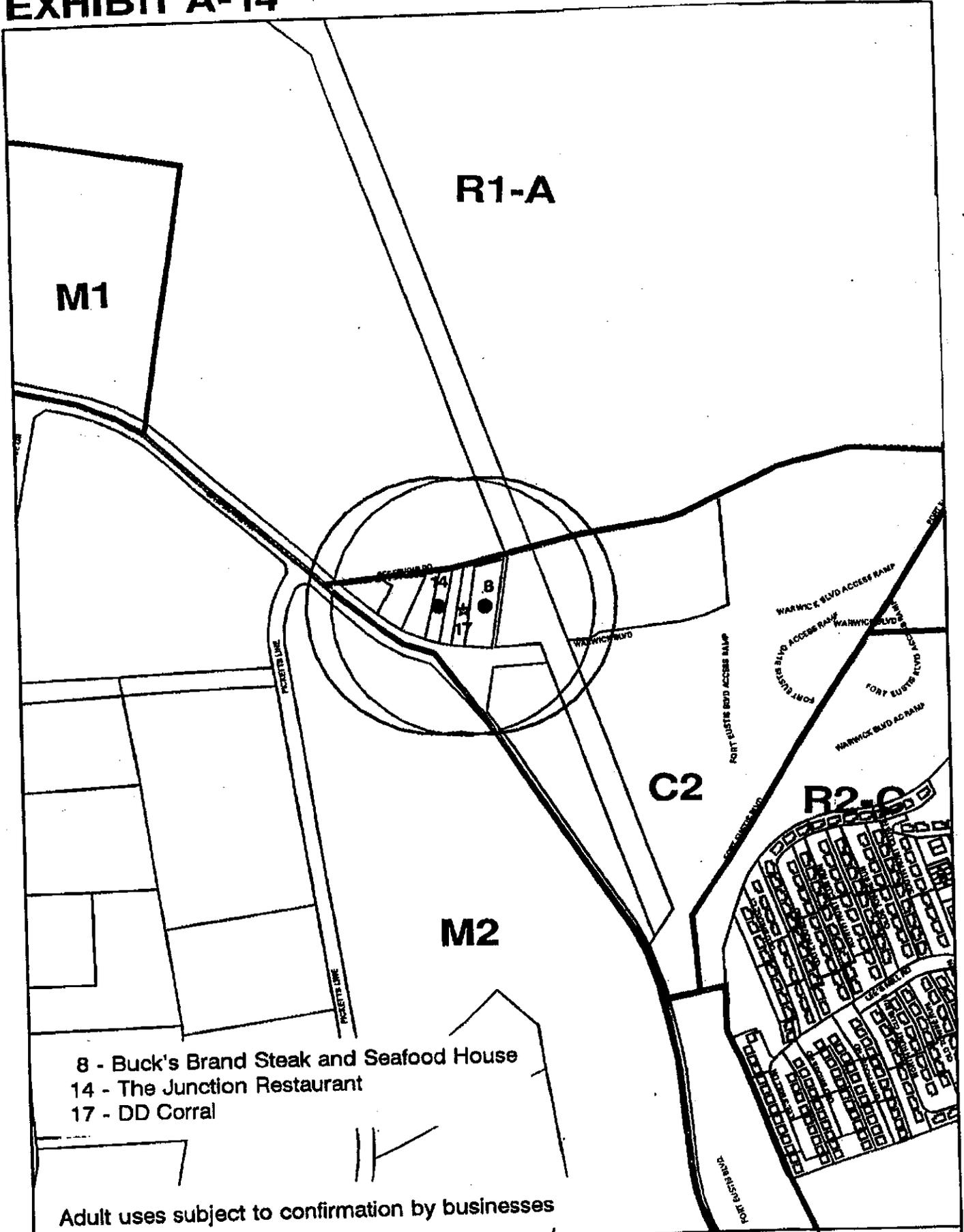
<p>● GO-GO BAR</p>	<p>◆ ADULT BOOKSTORE</p>	<p>▲ ADULT VIDEO</p>	<p>⊕ ADULT MERCHANDISE</p>	<p>★ NIGHTCLUB</p>
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EXHIBIT A-13



<p>● GO-GO BAR</p>	<p>◆ ADULT BOOKSTORE</p>	<p>▲ ADULT VIDEO</p>	<p>⊕ ADULT MERCHANDISE</p>	<p>★ NIGHTCLUB</p>
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EXHIBIT A-14



- 8 - Buck's Brand Steak and Seafood House
- 14 - The Junction Restaurant
- 17 - DD Corral

Adult uses subject to confirmation by businesses

●	◆	▲	+	★
GO-GO BAR	ADULT BOOKSTORE	ADULT VIDEO	ADULT MERCHANDISE	NIGHTCLUB

EXHIBIT B

DISPATCH CODES AND POLICE CALLS FOR SERVICE

January 1, 1994 - October 31, 1995

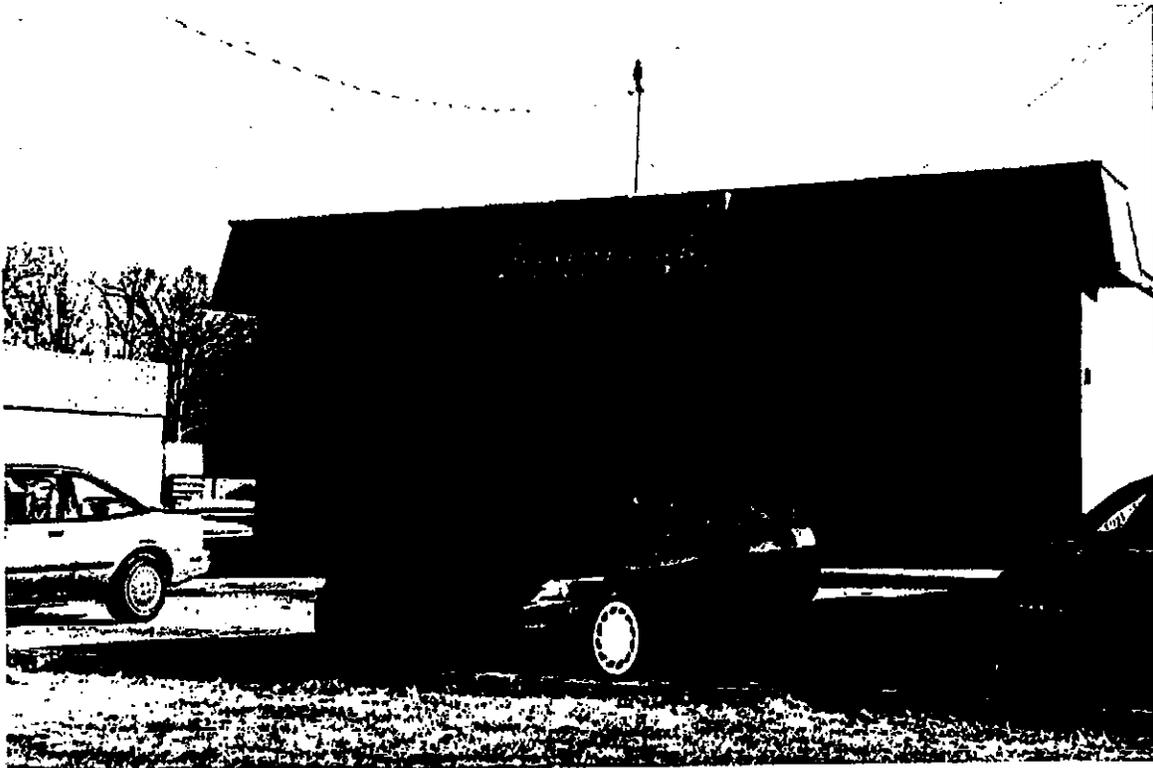
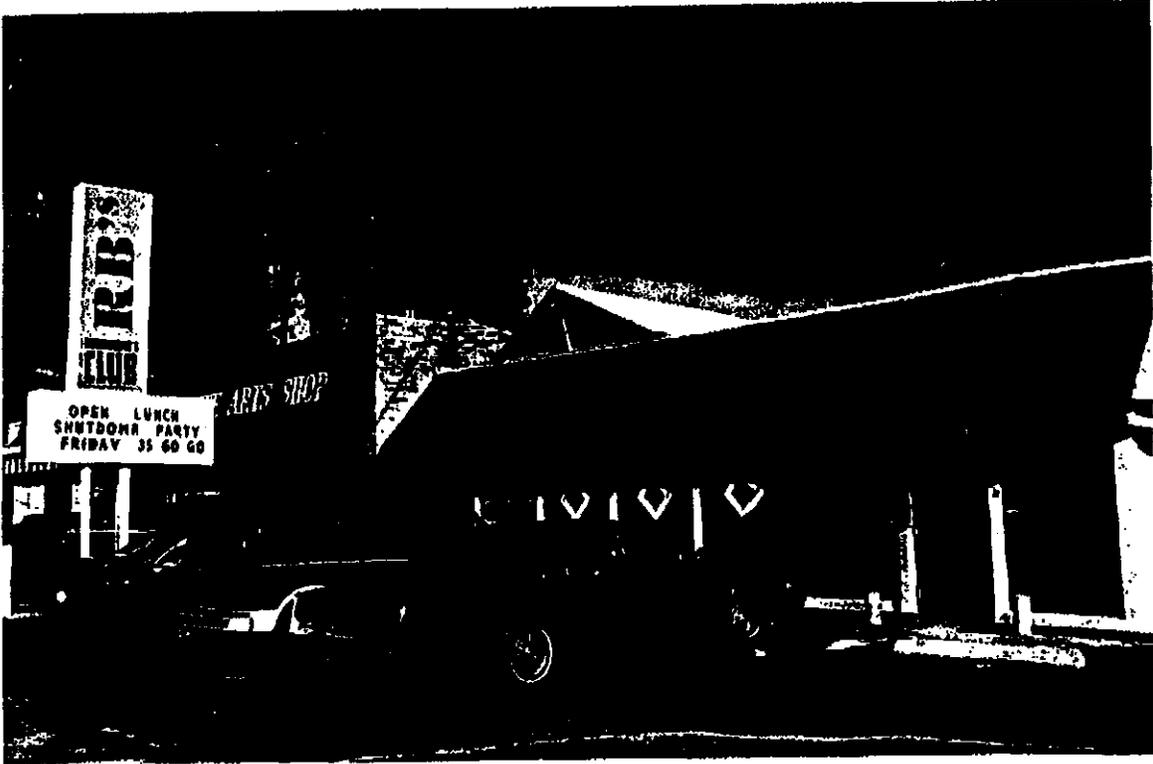
CODES	NO. OF CALLS	CODES	NO. OF CALLS
ABCV - Alcohol Violation	2	PARK - Parking Violation	12
ASDW - Assault, Deadly Weapon	1	PBAS - Public Assistance	8
ASLT - Assault	25	RAPE - Rape	0
CODE - City Code Violation	1	ROBB - Robbery, Business	1
DEPR - Destroying Property	18	ROBI - Robbery Individual	1
DISO - Disorderly Conduct	151	SHOT - Shooting	4
DMAS - Domestic Assault	5	STAL - Stalking	1
DMST - Domestic Problem	11	STLV - Stolen Vehicle	4
DUIA - Driving Under the Influence	5	SUSP - Suspicious Person	16
FGHT - Fight/Riot	60	SUSV - Suspicious Vehicle	8
GUNS - Gunshot Report	1	SXOF - Sex Offense	1
HOMI - Homicide	0	TAMP - Tampering W/Auto	1
IGUN - Individual W/Gun	15	TRAF - Traffic Problem	0
INTX - Intoxicated Person	39	TRES - Trespassing	7
JUVN - Juvenile Problems	1	UNSP - Unspecified	9
NUIS - Nuisance	12	VDCA - Violation of Drug Control Act	5

AADISPATCH.COD(ALP)

EXHIBIT C

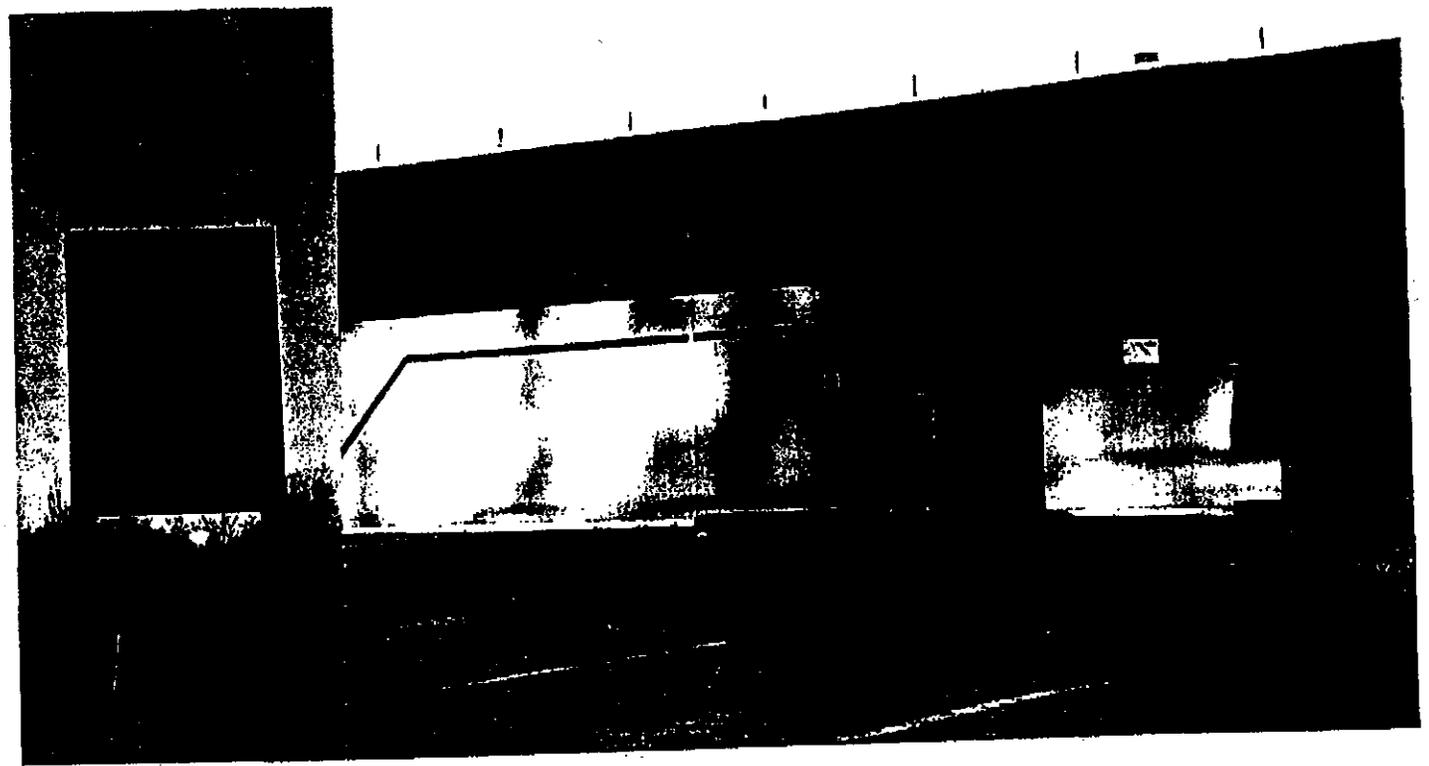
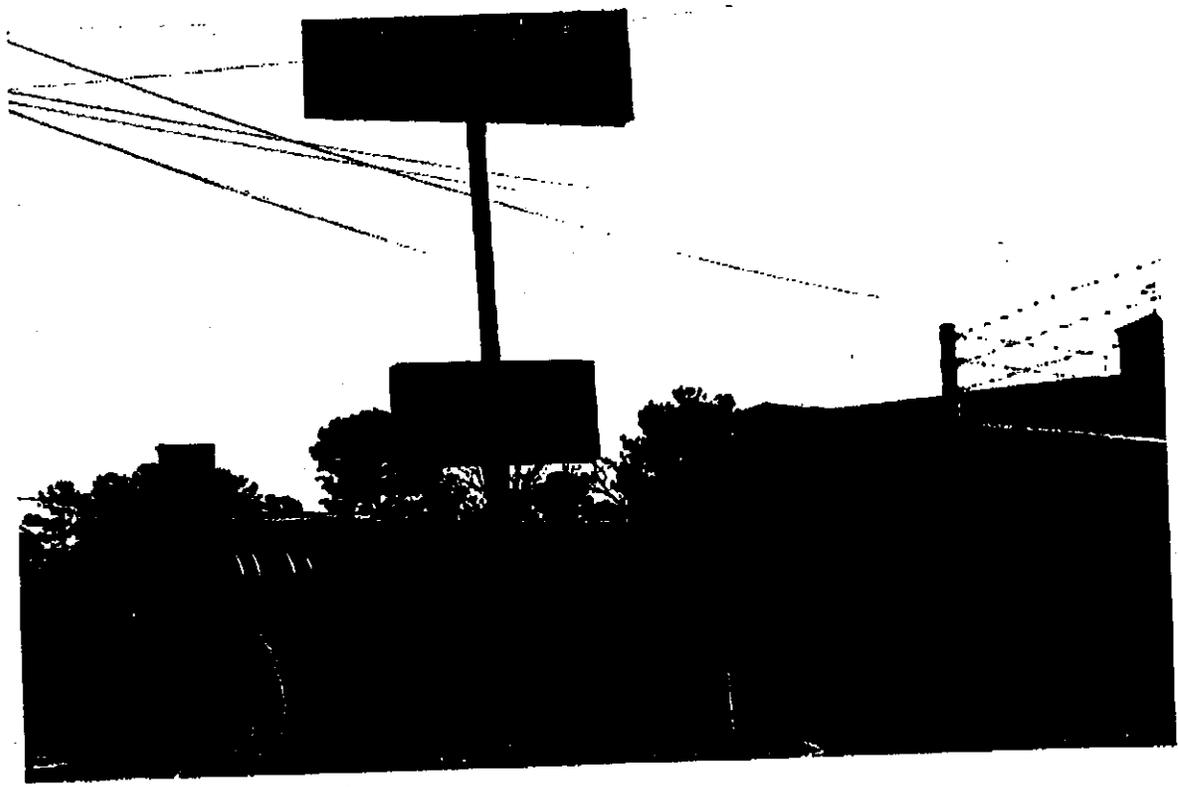


1. JB's Gallery of Girls, 5825 Jefferson Avenue
2. RD's Gallery of Girls, 14872 Warwick Boulevard



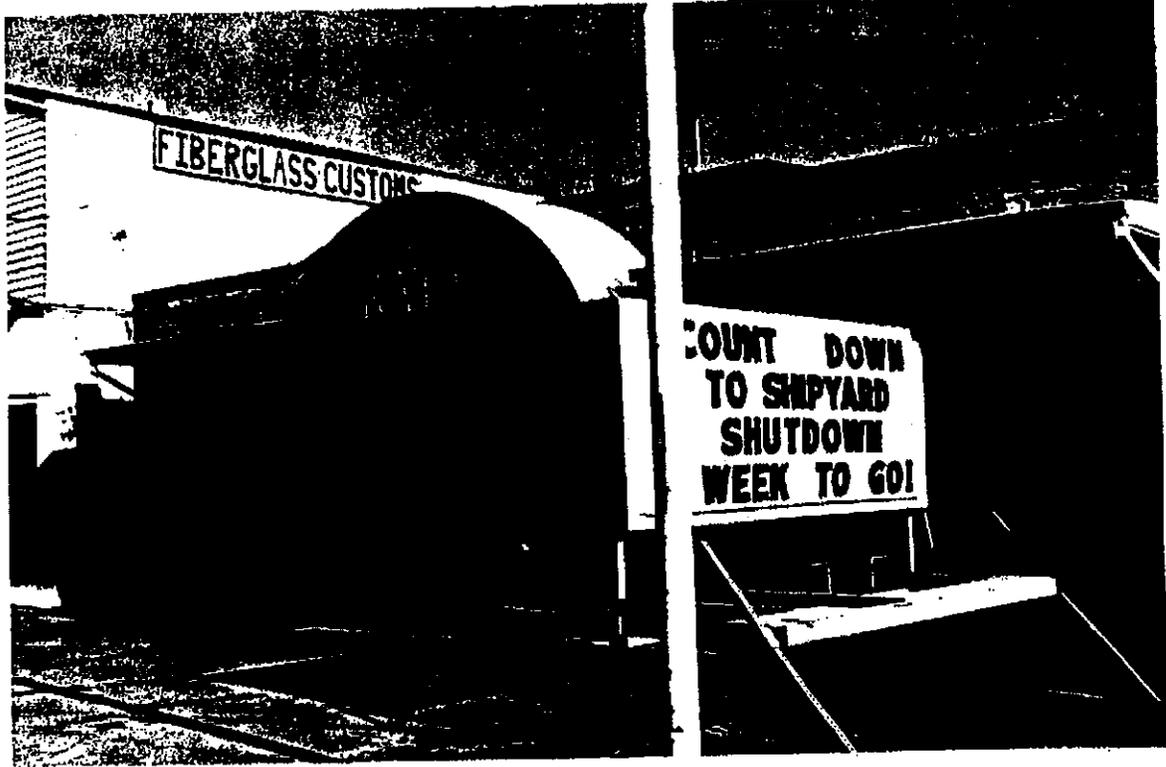
3. RB's Gentlemen Club (Deb's Dollhouse), 9956 Warwick Boulevard

4. The New Bluebeard/JB's Gallery of Girls #7, 606 Dresden Drive



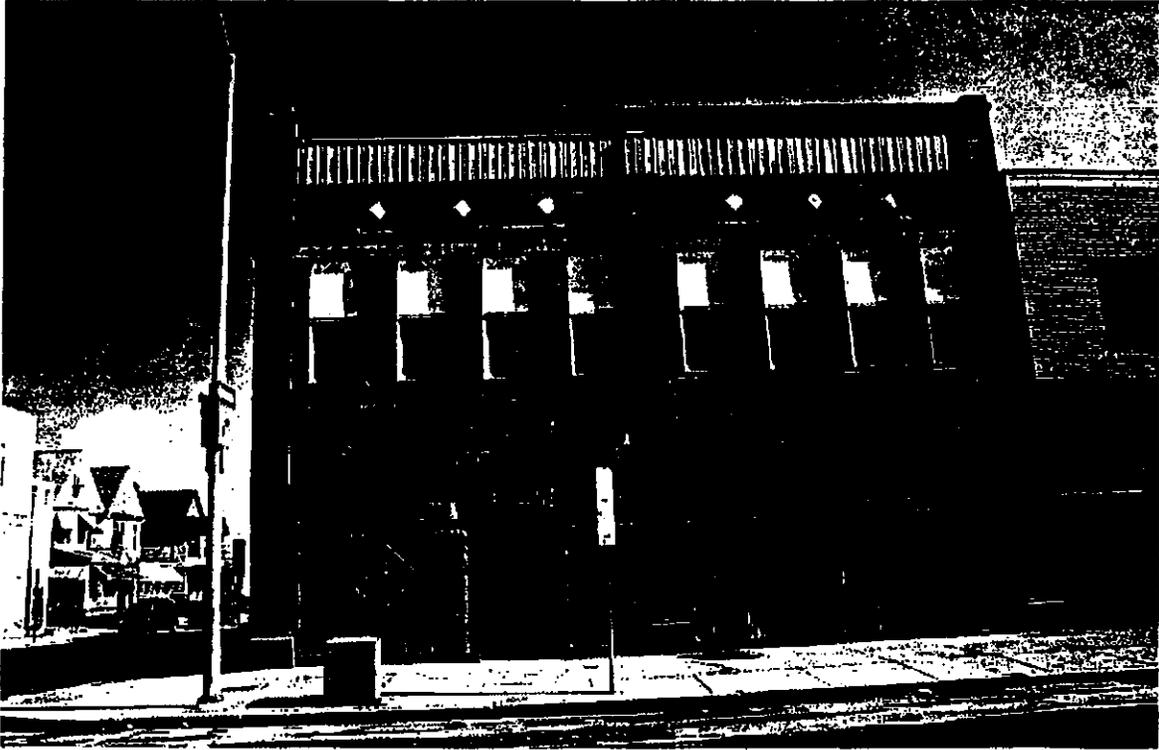
5. The Flame II, 9921 Jefferson Avenue

6. Bluebeard Go-Go II, 15674 Warwick Boulevard

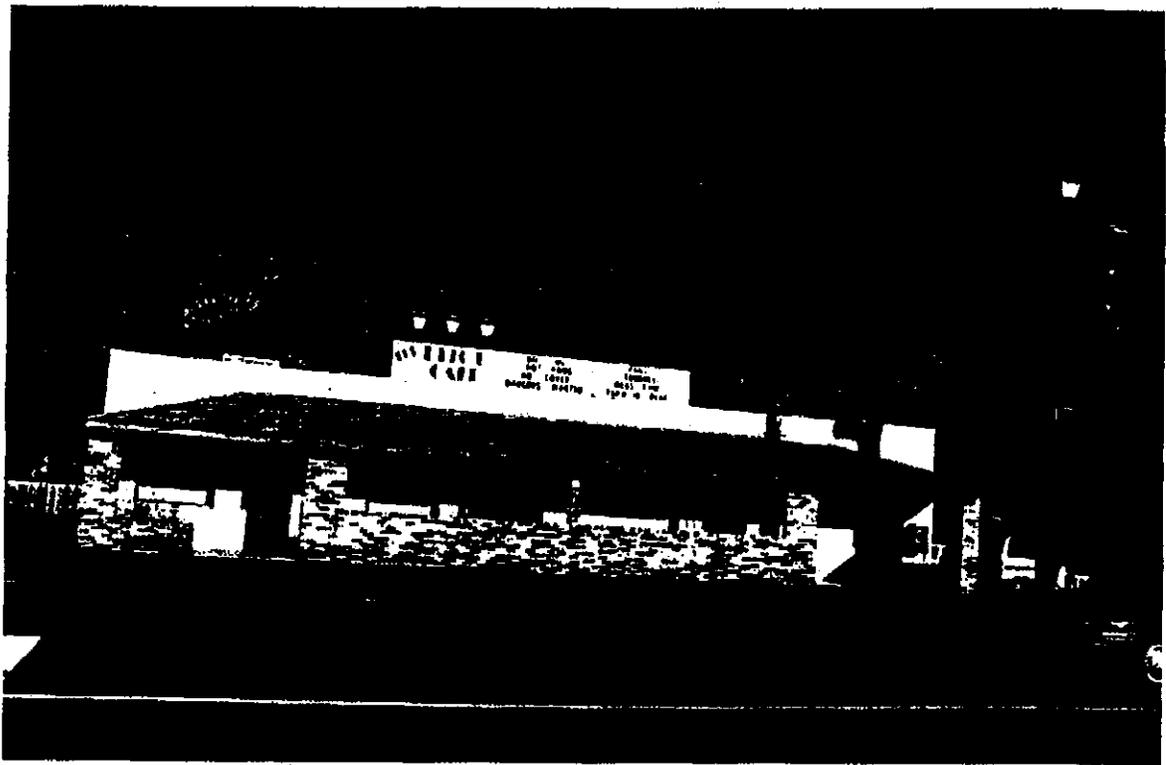


7. The Katt, 7824 Warwick Boulevard

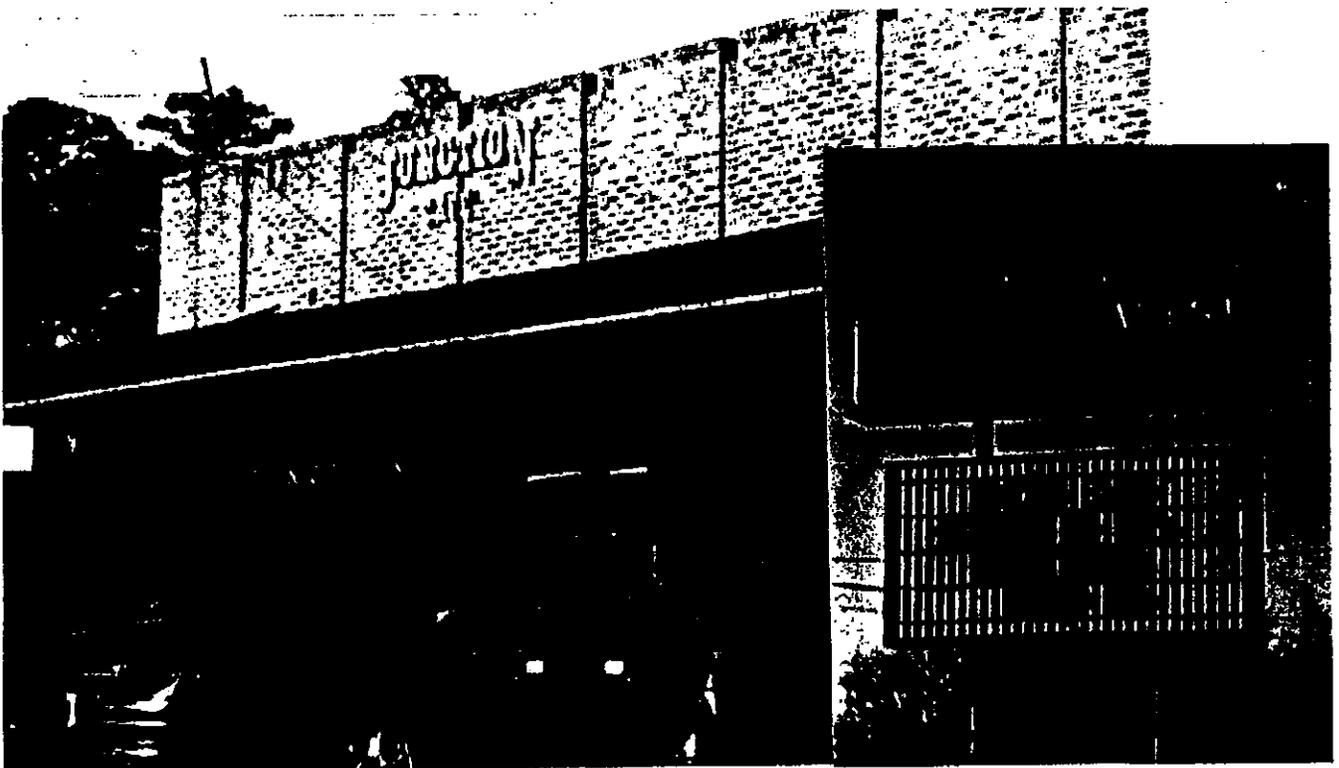
8. Buck's Brand Steak and Seafood House, 16906 Warwick Boulevard



9. Solid Gold Restaurant

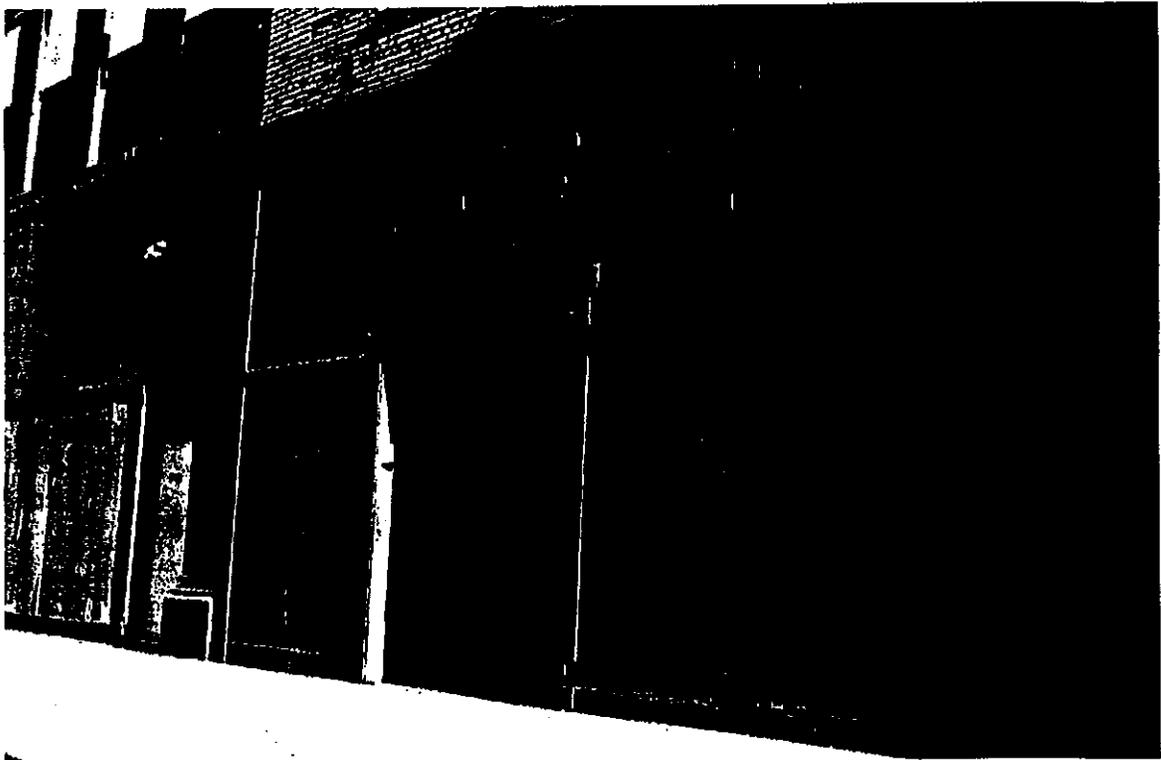


10. Bijou Cafe, 11312 Jefferson Avenue



13. Marylee Restaurant, 100 33rd Street

14. The Junction Restaurant, 16916 Warwick Boulevard



15. Moonlight Restaurant, 3504 Washington Avenue

16. JCR Social Club, 3410 Washington Avenue

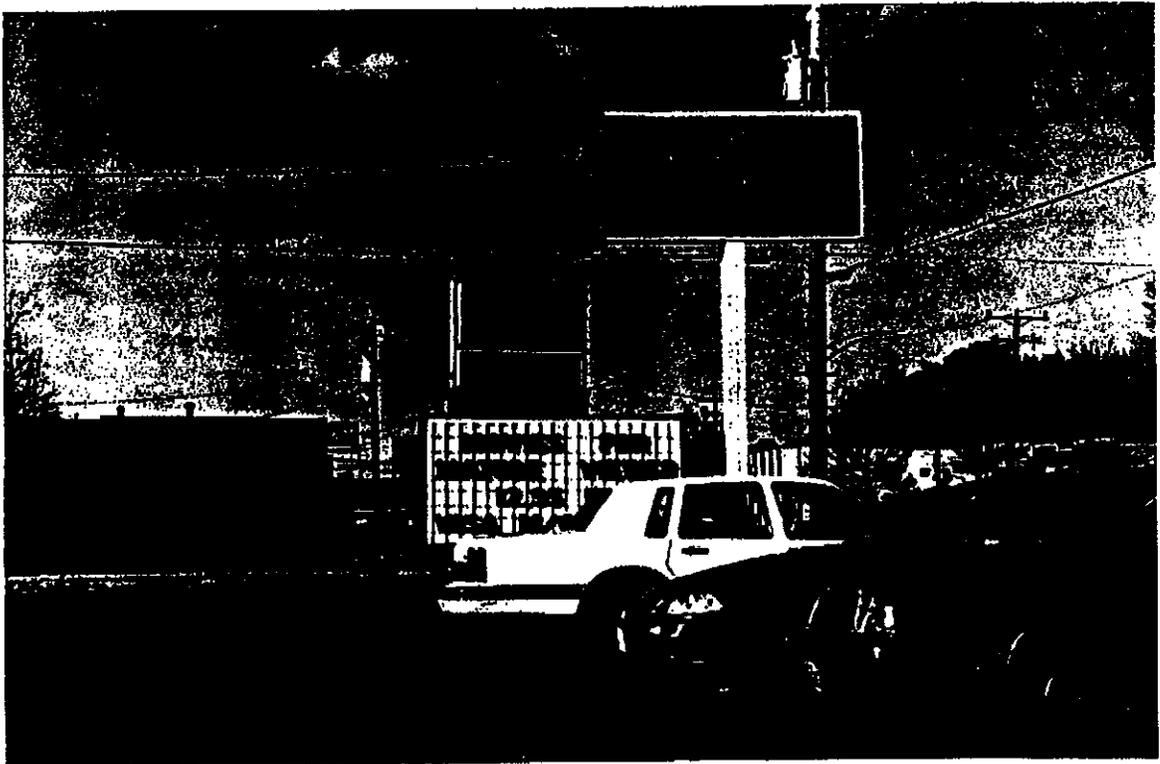
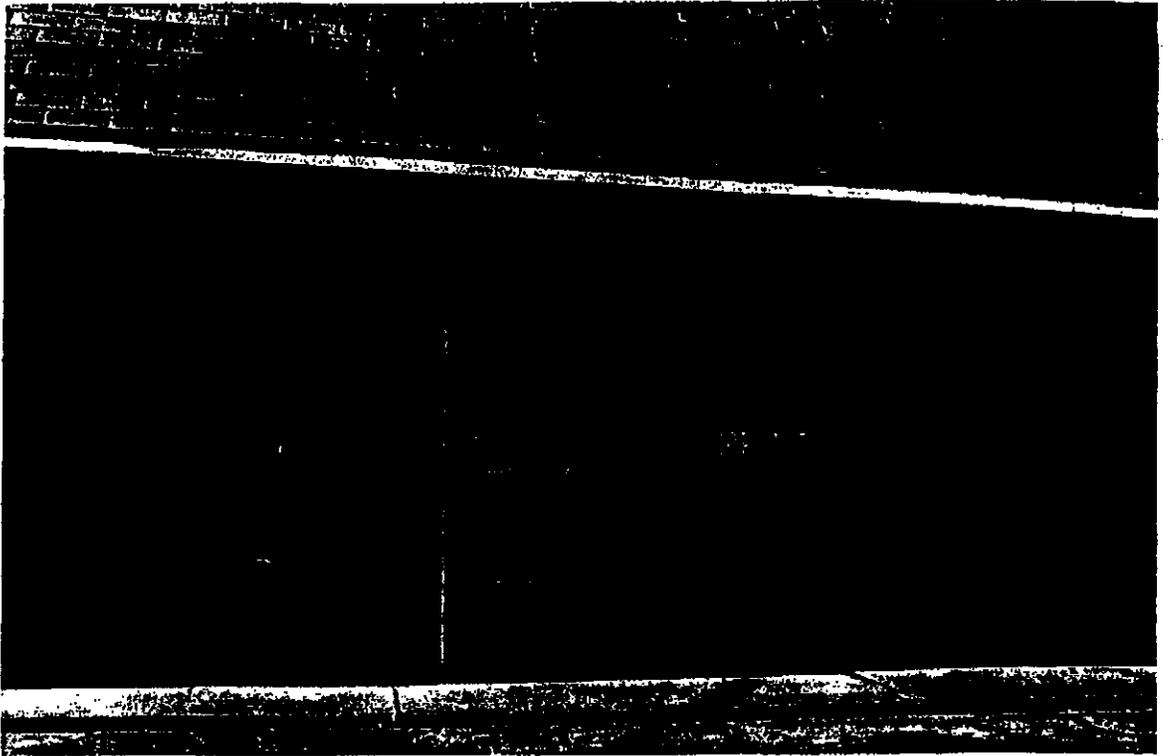


17. DD Corral, 16912 Warwick Boulevard



19. Fox Den Lounge, 6045 Jefferson Avenue

20. The Arcade, 3404 Washington Avenue



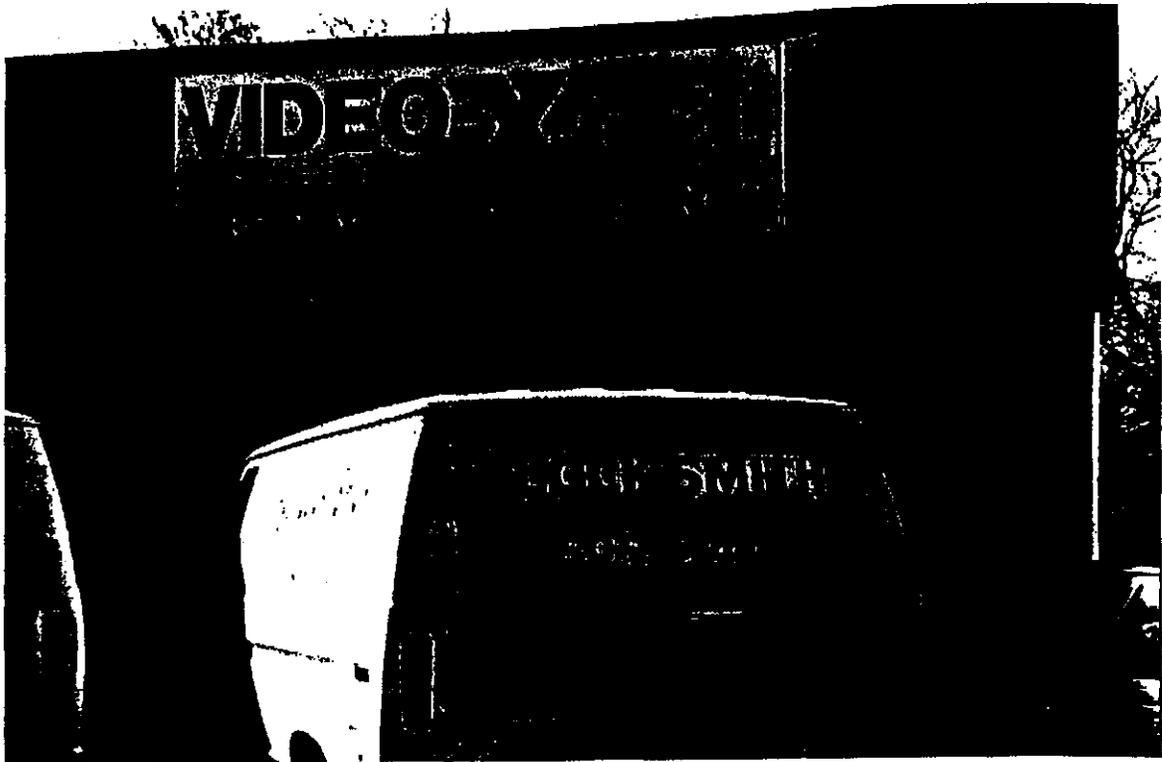
21. Mr. D's, 9902A Warwick Boulevard

22. The Video Store, 9903B Jefferson Avenue



23. The Video Store II, 11299 Jefferson Avenue

24. Video XXXtra, 811 Old Oyster Point Road



25. Video X-Cel, 9509 Warwick Boulevard

26. Newport Video, 13772 Warwick Boulevard



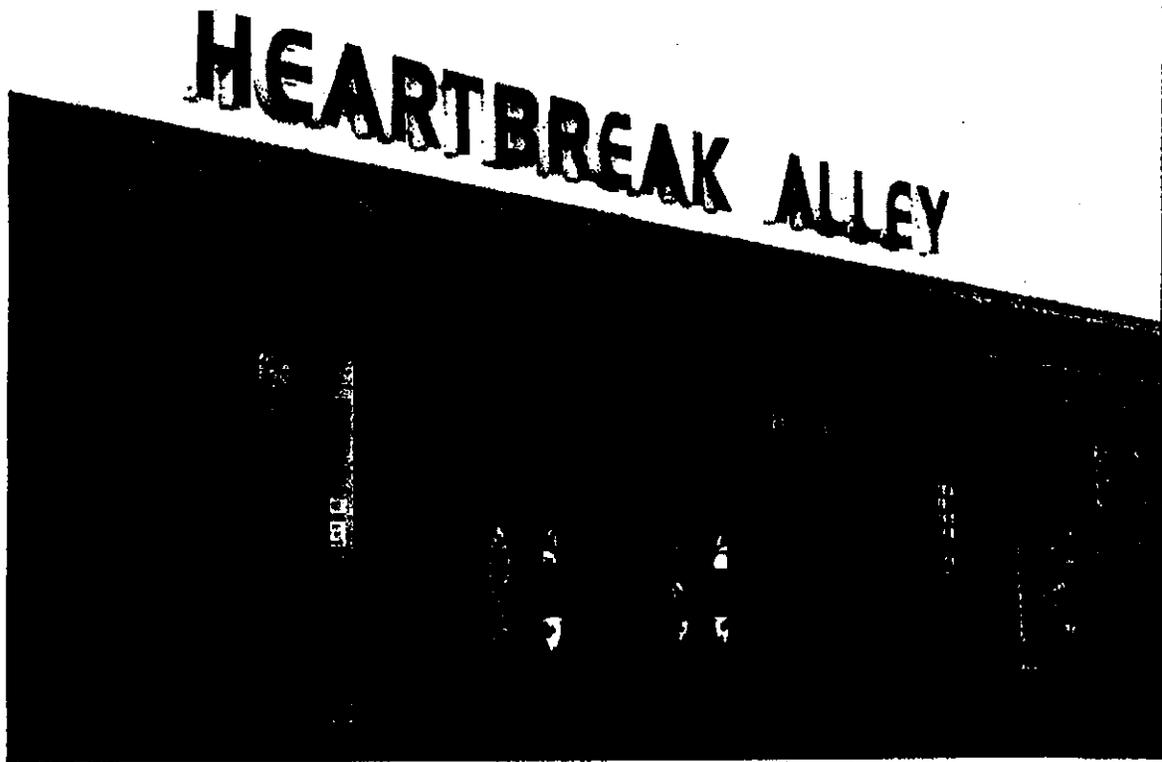
27. Video Quarters, 15320E Warwick Boulevard

28. Callabash, 11234 Jefferson Avenue



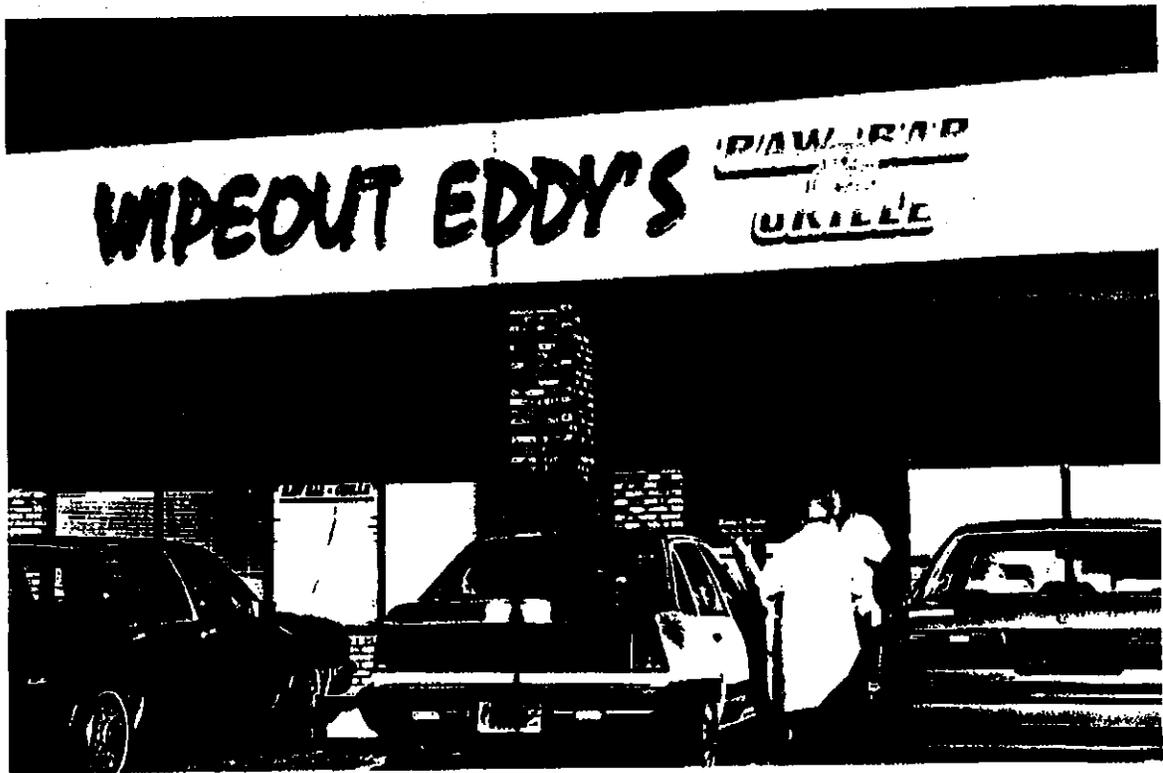
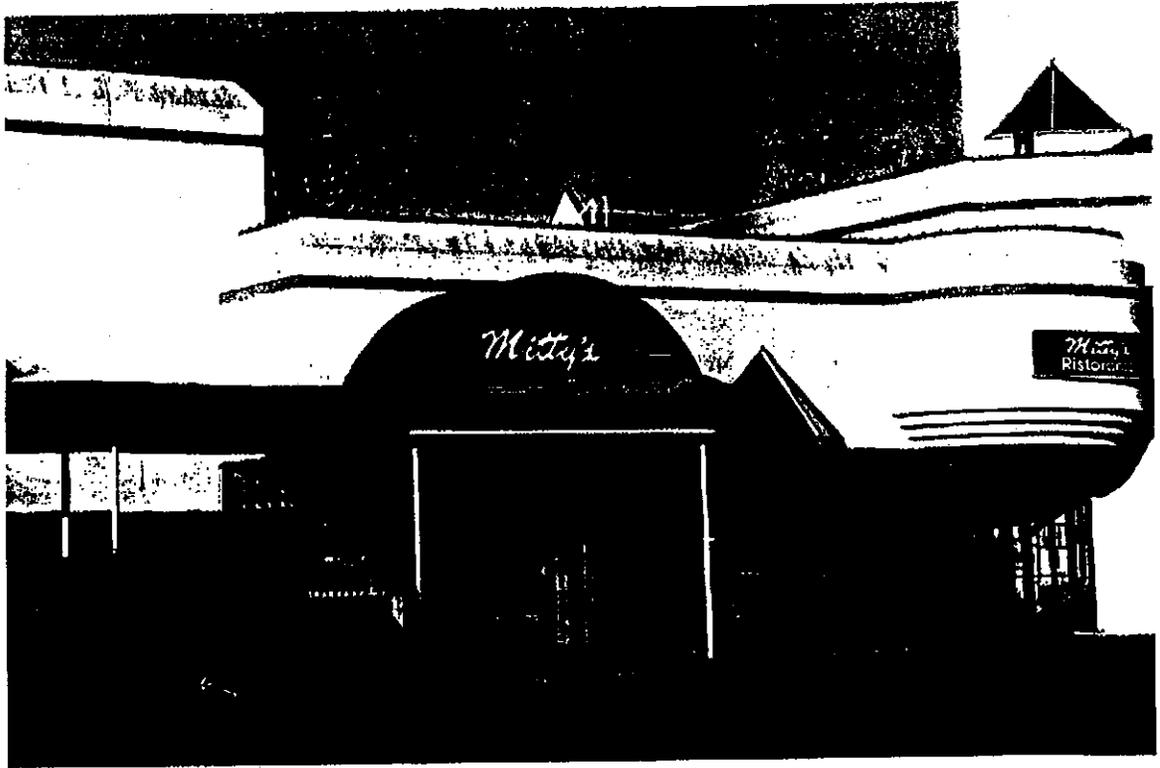
29. Chi-Chi's, 12755 Jefferson Avenue

30. Cozzy's Comedy Club, 9700 Warwick Boulevard



31. Heartbreak Alley, 100 West Newmarket Square

32. Manhattan's, 601 Thimble Shoals Boulevard



33. Mitty's, 1000 Omni Boulevard

34. Wipeout Eddie's, 11712 L & K Jefferson Avenue

EXHIBIT D-1

035

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN APPENDIX A, ZONING ORDINANCE, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE II, DEFINITIONS, SECTION 201, DEFINITION OF CERTAIN WORDS AND TERMS.

BE IT ORDAINED by the Council of the City of Newport News, Virginia:

That Appendix A, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article II, Definitions, Section 201, Definition of Certain Words and Terms, be, and the same hereby is, amended and reordained to provide as follows:

APPENDIX A

ZONING ORDINANCE

ARTICLE II.

DEFINITIONS

Section 201. Definition of certain words and terms.

A. For the purpose of this ordinance, certain words and terms are herewith defined as follows:

1. *Accessory building or use.* A building or use subordinate to the main building or use on the same lot and serving a purpose customarily and naturally incidental to the main building or use.

2. *Acreage.* Any parcel of land described by metes and bounds and not shown on a plat of a recorded subdivision legally admitted to record.

3. *Adult book store.* Any commercial establishment having its stock and trade in books, films, video cassettes, (whether for viewing off premises or on premises), magazines and other periodicals, or sex aids or paraphernalia of which more than 25 percent are distinguished or characterized by their emphasis on or having as its dominant theme or purpose, matters depicting, describing or relating to sexual activities.

4. *Adult entertainment establishment.* Any establishment where live performance, display or dance of any type, which has a significant or substantial portion of such activity or, when considered as a whole, has as its dominant theme or purpose, any actual or simulated performance of sexual activity, removal of articles of clothing or appearing unclothed.

5. *Adult motion picture theater.* An establishment, which excludes minors by reason of age, and which is regularly used for presenting material distinguished or characterized by or when considered as a whole having as its dominant theme or purpose, emphasis on matters depicting, describing or relating to sexual activities for observation by a patron therein.

6. *Adult uses.* Any adult book store, adult entertainment establishment, adult motion picture theater or nightclub.

73. *Alley.* A permanent service way providing a secondary means of access to abutting properties.

84. *Alterations.* Changes, improvements, and replacement of parts, in buildings or structures not affecting the supporting members of such buildings or structures.

95. *Apartment house.* See "Dwelling--multiple."

106. *Basement.* A story having not more than one-half (1/2) of its height below the level of a street grade or ground nearest the building. A basement shall not be counted as a story for the purpose of height regulation.

117. *Block.* The area fronting on the same side of a public street or road situated between two (2) street intersections, except that where the distance between such street intersections is greater than one thousand two hundred (1,200) feet, the area fronting on the same side of a public street or road not more than six hundred (600) feet on either side of the parcel, lot or tract of land being considered as a building

site shall be considered to be a block for the purpose of this ordinance; provided further, that in case of a dead-end or cul-de-sac street, the intersection of the circular right-of-way with the extension of the street, the centerline shall be considered the terminus of the block.

128. *Boardinghouse.* Any dwelling, other than a hotel, where meals, or lodging and meals, for compensation, are provided for five (5) or more persons.

139. *Boat basin.* A place for launching, docking or storage of small pleasure boats.

1410. *Building.* Any structure for the shelter, support or enclosure of persons, animals, chattels, or property of any kind.

1511. *Buildable width or buildable depth.* The width or depth respectively of that part of the lot not included within the front, side or rear yard.

1612. *Cellar.* A story having more than one-half (1/2) of its height below the level of a street grade or ground nearest the building. A cellar shall not be included in computing the height or number of stories of buildings referred to in any section of this ordinance.

1612.1. *Commercial vehicles, large.* A self-propelled or towed vehicle with a gross vehicle weight exceeding ten thousand (10,000) pounds and having one or more of the following characteristics:

- a. Licensed for hire;
- b. Lettering exceeding three (3) inches in height;
- c. Tire rims larger than sixteen (16) inches;
- d. Tandem axles;
- e. Dual wheels;
- f. Height greater than eight (8) feet;
- g. Length greater than twenty-four (24) feet;

- h. Lighting designed for emergency vehicles
- i. Air brakes;
- j. Permanently affixed mechanical or construction equipment;
- k. Designed to be used for or to be used to transport commercial, farm or construction equipment.

The gross vehicle weight that is reflected on state vehicle registration documents shall be prima facie evidence of a vehicles gross weight.

~~16~~2.2. *Commercial vehicles, small.* A self-propelled or towed vehicle with a gross vehicle weight of ten thousand (10,000) pounds or less and having one or more of the following characteristics:

- a. Licensed for hire;
- b. External racks or other devices used to hang ladders, pipes or other equipment or materials;
- c. Lettering exceeding three (3) inches in height;
- d. Lighting designed for emergency vehicles;
- e. Logos or three-dimensional sculptures, letters or numbers representing anything other than the manufacturer or model of vehicle.

For purposes of this definition, any wrecker or tow truck with a gross vehicle weight of sixteen thousand five hundred (16,500) pounds or less shall be considered a small commercial vehicle, provided that the wrecker or tow truck owner is on the list of approved wrecker or tow truck operators maintained for use in emergency situations by the Newport News Police Department or the Virginia State Police.

The gross vehicle weight that is reflected on state vehicle registration documents shall be prima facie evidence of a vehicles gross weight.

~~17~~3. *Court, enclosed.* An open, unoccupied space surrounded on all sides by walls or by walls and an interior lot line.

1814. *Court, open.* An open, unoccupied space surrounded by walls except that one side opens onto a street, alley or yard.

1915. *Clinic.* An establishment where persons who are not lodged overnight are admitted for examination and treatment by a group of physicians or similar professionals practicing together.

2016. *Clubs.* A building or portion thereof or premises owned or operated by a corporation, association, person or persons for social, educational or recreational purposes, but not primarily for profit or to render a service which is customarily carried on as a business.

2117. *District, zoning.* Any section of the City of Newport News, Virginia, for which regulations governing the use of buildings and land, the height of buildings, the size of yards and the intensity of use are uniform.

2117.1. *Developed site.* An area of improved property that independently meets all requirements of the site plan ordinance.

2218. *Dwelling.* Any building or portion thereof, designed or used exclusively for residential purposes.

2218.1. *Dwelling--high rise.* A multi-story dwelling building in which elevator service is provided for access to all floors.

2319. *Dwelling--one-family.* A dwelling building designed for or occupied exclusively by one family.

2420. *Dwelling--two-family.* A dwelling building providing housekeeping units for not more than two (2) families with no interconnection between the two (2) units except that it may have a single entrance; all other exterior characteristics shall be that of a one-family dwelling. Two (2) single housekeeping units connected by a breezeway or corridor shall be classified as a two-family dwelling.

2521. *Dwelling--multiple.* A dwelling building or portion thereof which is occupied by or designed for occupancy by three (3) or more families occupying housekeeping units.

2622. *Dwelling unit.* See: "Housekeeping unit."

2723. *Family*. An individual or married couple and the children thereof with not more than two (2) other persons related directly to the individual or married couple by blood or marriage; or a group of not more than five (5) unrelated (excluding servants) persons, living together as a single housekeeping unit in a dwelling unit.

2824. *Farm*. A tract of land used for the production of crops or for the raising of animals.

2925. *Floor area ratio*. The combined area exclusive of any space within the building used for parking or for recreational use defined in this ordinance, of all floors of all buildings on a premises expressed as a percent of the total lot area of the premises or in lieu of total lot area, the adjusted lot area as defined in this ordinance.

3026. *Frontage*. All the property on one side of a street between two (2) crossing or terminating intersecting streets measured along the line of the street, or if the street is dead-ended then all of the property abutting one side between an intersecting street and the dead-end of the street. For lots fronting on the turnaround portion of a cul-de-sac, the frontage shall be that portion of the lot abutting upon the turnaround as measured along the circumference of the circular right-of-way.

3127. *Garage, accessory*. An accessory building designed or used only for the storage of self-propelled vehicles owned and used by the occupants of the building to which it is accessory.

3228. *Garage, repair*. Any premises, except those described as an accessory storage garage, used for the storage of self-propelled vehicles or where any such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

3329. *Garage, storage*. Any premises, except for those described as an accessory or repair garage, used exclusively for the storage or parking of self-propelled vehicles.

3430. *Grade*. The highest level of finished ground surface adjacent to the exterior walls of a building which faces a street.

3430.1. *Gross leasable area*. All floor area within a building or mall intended for lease, rent or use by tenants. Space in malls used exclusively for public ingress/egress shall not be included therein.

3531. *Height of building*. The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard

roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs.

3632. Home for the aged, nursing home, convalescent home and rest home. A home for the aged or infirm in which one or more persons not of the immediate family are received, kept or provided with food, shelter and care for compensation; but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

3733. Home occupation. Any occupation or activity which is clearly incidental to the use of the premises for dwelling purposes that constitutes entirely or partly the livelihood of a member of a family residing on the premises.

3834. Hotel. Any building occupied as the abiding place of persons, who are lodged with or without meals, in which, as a rule, the rooms are occupied singly for hire, and in which there are more than ten (10) sleeping rooms, and from which ingress and egress are made through an inside lobby or office supervised by a person in charge at all hours.

3935. Housekeeping unit. A room or combination of rooms containing living, sleeping and kitchen facilities for one family.

4036. Kennel. Any premises, land or building, enclosed or unenclosed, wherein or whereon more than three (3) dogs, three (3) cats or other similar domesticated animals are housed or kept. When such animals are not raised or bred for sale, then in determining the number for the purposes of this ordinance, animals under the age of four (4) months shall not be considered.

4137. Lodginghouse. A dwelling other than a hotel where lodging for compensation is provided for five (5) or more persons.

4238. Institution. A nonprofit corporation or a nonprofit establishment for public use.

4339. Junkyard. Any lot used for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof. "Junkyard" shall include automobile graveyard, as defined in the state laws.

4440. Loading space. A space within the main building or on the premises

providing for the standing, loading or unloading of trucks.

4544. *Lot*. Any tract of land described by metes and bounds in a recorded deed or on a subdivision plat of record which possesses or is in the process of being assigned a number for tax assessment identification purposes.

4642. *Lot area, adjusted*. The total lot area plus any creditable additional area as prescribed in Article XXII which is used for offstreet parking, recreational or other open purposes.

4743. *Lot area, open*. Any portion of a lot or same premises not covered by a building or structure and which is open, usable and accessible to all persons who occupy dwelling units on the same premises.

4844. *Lot area, total*. The gross area of a lot or premises computed from the exterior horizontal lot dimensions.

4945. *Lot, corner*. A lot abutting upon two (2) or more streets at their intersection, the shortest side fronting upon a street shall be considered the front of the lot, and the longest side fronting upon a street shall be considered the side of the lot.

5046. *Lot, double frontage*. An interior lot having frontage on two (2) streets.

5147. *Lot, interior*. A lot other than a corner lot.

5248. *Lot lines*. Lines bounding a lot, as defined herein.

5349. *Lot of record*. A lot which has been recorded in the office of the clerk of the appropriate court prior to the passage of this ordinance.

5450. *Lot width*. The horizontal distance between the side lot lines at the minimum building setback line established by front yard requirements of this ordinance and/or by a recorded subdivision plat.

5450.1. *Mall*. An enclosed common pedestrian area serving more than one tenant located within a covered mall building.

5450.2. *Mall building, enclosed*. A single building or series of connected buildings having a total gross floor area in excess of four hundred thousand (400,000) square feet, enclosing a number of tenants and occupancies such as retail stores, drinking and

dining establishments, entertainment and amusement facilities, offices and other similar uses wherein all tenants have a main entrance into one or more common enclosed malls.

5551. Manufacture and/or manufacturing. The processing and/or converting of raw, unfinished or finished materials, or products, or any or either of them, into an article or articles or substance of different character, of for use for a different purpose; industries furnishing labor in the case of manufacturing or the refinishing of manufactured articles.

5652. Marina. A place for the launching, docking, storage, repair and sale of fuel and accessory equipment for small boats.

5753. Motel. A building or group of buildings containing sleeping accommodations for ten (10) or more persons not members of a resident family and used for temporary occupancy of transients and containing cooking facilities in not more than fifty (50) percent of the individual units, and from which egress and ingress is made to rooms from individual outside entrances.

57.175. Extended stay motel. A building or group of buildings containing sleeping accommodations for ten (10) or more persons not members of a resident family and used for temporary occupancy of transients and containing cooking facilities in more than fifty (50) percent of the individual units, and from which egress and ingress is made to rooms from individual outside entrances. For the purpose of construction, the lot area and dimensional regulations of the R2-C multiple family dwelling district shall apply.

58. Nightclub. An establishment, excluding motion picture theaters, which provides entertainment (including but not limited to live bands, floor shows, comedians, solo artists, and/or dance floor for patrons) more than two (2) times per month, stays open after 1:00 p.m., and has a capacity exceeding 100 patrons.

5954. Nonconforming use. Any lawful use, in existence at the time of the adoption of this ordinance and not prohibited by the zoning ordinances of the former cities of Newport News and Warwick, notwithstanding that such use does not conform with the regulations of the zoning district in which it is situated.

6055. Off-street parking area. Space provided for vehicular parking outside the dedicated street right-of-way having a dimension of not less than nine (9) feet in width and twenty (20) feet in depth for each vehicle space, exclusive of any necessary area for

ingress and egress.

6156. *Outlots*. Lots that do not meet the requirements of this ordinance as to minimum width and depth.

6257. *Pen*. A small enclosure used for the concentrated confinement and housing of animals or poultry; as a pig pen, a place for feeding and fattening animals; a coop, an enclosure within an enclosure. A pen is not to be construed to be a pasture or range.

6358. *Premises*. A parcel of land together with any building or structures occupying it.

6358.1. *Shopping center*. A developed site designed and developed as an entity and containing a variety of uses primarily oriented to retail and service commercial.

6358.2. *Recreational vehicle*. A self-propelled or towed vehicle, designed or constructed so as to transport people or property in connection with recreation and/or which may be used as a temporary dwelling. Such vehicles include, but are not limited to, travel trailers, utility trailers, pickup campers or coaches, motor homes, tent trailers, boats and boat trailers, amphibious houseboats, or similar recreational vehicles.

6459. [Reserved.]

6560. *Stable, private*. A stable with a capacity for not more than four (4) horses or mules.

6661. *Service station (gasoline station)*. Any building, structure or land used for the dispensing, sale or offering for sale at retail of any automobile fuels, oils or accessories including lubrication or servicing of automobiles and replacement or installation or minor parts and accessories, but not including major repair work such as a motor overhaul, body repair or spray painting.

6762. *Story*. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it.

6863. *Story-half*. A story immediately under a sloping roof, which has the point of intersection of the top line of the rafters and the face of the outside walls not to exceed three (3) feet above the top floor level, the floor area of which does not exceed

two-thirds of the floor area immediately below it, and which does not contain an independent apartment.

6964. *Street*. The principal means of access to abutting properties whether called place, avenue, boulevard, drive, lane, road, but not including alley.

7065. *Street line*. A dividing line between a lot, tract or parcel of land and a contiguous street.

7166. *Structural alteration*. A change in any of the supporting members of a building. (See also "alterations.")

7267. *Structure*. Any construction or any production or piece of work artificially built or composed of parts joined together. The word "structure" specifically includes signs and billboards, but not paving such as driveways, walkways, patios, etc.

7368. *Tourist home*. A dwelling in which overnight accommodations are provided or offered for compensation for one or more transient persons.

7469. *Trailer (mobile home)*. Any structure designed or constructed so as to permit occupancy as a temporary or permanent living or sleeping facility which is, has been or reasonably may be equipped with wheels or other devices for transporting the structure from place to place.

7570. *Trailer park (mobile home park)*. An area designed, constructed, equipped, operated and maintained for the purpose of providing spaces for trailers or mobile homes intended to be used as temporary or permanent living facilities.

7671. *Yard*. An open space between a building or use and the adjoining lot lines, unoccupied or unobstructed by any portion of a structure or use from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, or the depth of a rear yard, the minimum horizontal distance between the lot line and the building or yard shall be applied.

7772. *Yard, front*. Open land area extending across the full width of a lot and lying between the front lot line and the principal building(s) or use(s).

7873. *Yard, rear*. Open land area extending across the full width of the lot and lying between the rear lot line and the principal building(s) or use(s).

7974. *Yard, side.* Open land area between the side lot line and the principal building(s) or use(s), and extended from the front yard to the rear yard.

7974A. *Yard, required.* The open land area between the minimum setback lines required in a zoning district, and the lot lines.

EXHIBIT D-2

1034(a)

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN APPENDIX A, ZONING ORDINANCE, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE IV, GENERAL REGULATIONS APPLICABLE WITHOUT REFERENCE TO ZONING DISTRICTS, BY ADDING THERETO A NEW SECTION, DESIGNATED SECTION 422, ADULT USES.

BE IT ORDAINED by the Council of the City of Newport News, Virginia:

That Appendix A, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article IV, General Regulations Applicable Without Reference to Zoning Districts, be, and the same hereby is, amended and reordained by adding thereto a new Section, designated Section 422, Adult Uses, to provide as follows:

APPENDIX A

ZONING ORDINANCE

ARTICLE IV.

GENERAL REGULATIONS APPLICABLE WITHOUT REFERENCE TO ZONING DISTRICTS

Section 422. Adult uses.

A. Within the City, it is acknowledged that there are some uses, often referred to as adult uses, which because of their nature can have a negative impact on nearby property, particularly when several of them are concentrated under certain circumstances or located in direct proximity to a residential neighborhood, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing the concentration or location of these uses in a manner that would create such adverse

effects. The definition of adult uses is found in Section 201 of this Appendix.

B. No adult use shall be permitted except in RBD, C-2 and C-2A Districts. A conditional use permit, as provided for in Article XXA of this Appendix, is necessary for the establishment of an adult use. A conditional use permit may be issued by the City Council after recommendation by the Planning Commission and finding that the location, size, design and operating characteristics of the proposed adult use will be compatible with and will not adversely affect or be materially detrimental to neighboring uses.

C. No structure containing an adult use in the C-2 or C-2A districts shall be located nearer than 500 feet to:

- a. Any school, church, park, playground or a library property;
- b. Any other adult use;
- c. Any residentially zoned property which fronts on the same street or which contains any school, church, park, playground or library; Otherwise, the minimum distance from such structures to a residential zone shall be 200 feet.

For the purposes of this subsection, distances shall be measured on a straight line (1) from the structure containing the adult use to the nearest point of the property named in "a" or "c" above, or (2) between the structure containing the adult use and the structure containing any other adult use.