

**REPORT TO:
THE AMERICAN CENTER FOR
- LAW AND JUSTICE
ON THE SECONDARY IMPACTS OF
SEX ORIENTED BUSINESSES**

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OBJECTIVE

The object of this report is to review the current state of knowledge about the secondary impacts of sex oriented businesses upon its immediate neighborhood. This report deals with the secondary impacts upon nearby residential and commercial areas, as well as educational, recreational, and religious facilities with particular reference to what this means for smaller municipalities.

SUMMARY

Sex oriented businesses, although protected under First Amendment guarantees, can facilitate and support undesirable and detrimental patterns of activity in their vicinity. These secondary impacts are incompatible with activities and uses in residential areas, or near educational, recreational, and religious facilities. They also have negative impacts upon local businesses in their immediate neighborhood. When combined with additional sex oriented establishments or establishments serving alcoholic beverages, the evidence indicates that there are additional increases in undesirable and harmful patterns of activity.

It is important to point out that secondary impacts of sex oriented businesses is not a recent problem. Secondary activities associated with sex oriented businesses have historically included personal and property crimes as well as solicitation for prostitution, gambling, organized criminal activity, illicit drug transactions, shanghaiing/kidnaping, disorderly conduct, and other public nuisance activities. The work of many municipalities in examining the impact of sex oriented businesses buttresses the historic record providing ample evidence in support of regulation and restriction of the location and concentration of these types of business enterprises.

MAJOR POINTS

- 1. Sex oriented businesses provide a potential locus for illicit and undesirable activities by providing a place of contact for numerous potential customers for prostitution, pandering, and other activities.**
- 2. In combination with on-site or nearby alcoholic beverage service or other sex oriented businesses, the concentration of uses increases the quantity of undesirable activities. There is a snowball effect of undesirable activities that feed upon and support each other.**
- 3. There are a number of undesirable results of the facilitation effect upon illicit behavior. On the one hand, adjacent uses such as educational and religious institutions, or residential areas where there are numbers of children and youth are exposed to inappropriate models of behavior which they are unprepared to digest or respond effectively to. They are not old enough or mature enough to effectively decide what is appropriate behavior and these proximate uses create unhealthy influences. Where criminal activity is concerned children, the elderly, and women are especially prone to victimization in opportunistic personal crimes.**
- 4. Sex oriented business by its very presence sets a context for interpreting pedestrians presence in the area as potentially related to the sex oriented business. This can and has led to propositioning of passersby who have no relation to the sex oriented business. Where vulnerable populations are involved, particularly children, women by themselves, the elderly, this unwanted attention makes it intimidating for them to be on the street.**
- 5. There is going to be a strong tendency for inappropriate activities, to seek nearby venues. Prostitution and other illicit activities will find lightly used and under used nearby parks, parking lot, garages, alleyways, and other spaces for their activities. The sex oriented business(es) does not create the activity but provides a facilitating setting for supporting these activities. It provides a legitimizing reason for the presence of individuals who have illicit intent.**
- 6. Sex oriented businesses have a negative impact upon both residential and commercial property values within three blocks of the location. The preponderance of research suggests that the presence of sex oriented businesses is considered by real estate appraisers and lenders to be evidence of community decline and decay. Other research indicates that areas with sex oriented businesses experience lower rates of appreciation in property values and/or higher turnover in properties in comparison to comparable areas without sex oriented businesses.**

HISTORIC OVERVIEW

The issues of sex-oriented businesses and their effects is not something of recent vintage. Sex oriented businesses have an extensive history in the United States dating from at least the late eighteenth century [1]. The "tableau vivant" in theaters and the "concert saloon," appear as forerunners of what we know today by sobriquets such as "topless bar" or "go go bar" first appeared in the first half of the nineteenth century [1, pp. 126-128]. Their forebears seem to have appeared for much the same reason that the New York City Department of City Planning identified for the recent boom in topless bars. It was a response to economic pressures that effectively brought in customers, mostly males in their twenties, to the taverns, restaurants, and theaters of the times [2, p. 17].

The clientele has not changed very much over time. In the historic record, whether you look at boomtowns [3], cowtowns [4], frontier towns like Denver [5] and Salt Lake City [6], or seaports [7] the clientele has for the most part been young, single, transient/mobile males. That is still true today of the clientele for "topless bars" [2, p. 18].

In the nineteenth century, activities we would currently classify under secondary impacts were overtly present within the establishments of the day. In a different social, political, and legal climate, many of the taverns, concert saloons, and dives had active gambling and crooked gaming activities ranging from keno tables [7, p. 111] to bear and rat-baiting. Prostitution or sexual tease was always present. At the one end of the spectrum, "patrons in "Harry Hill's" were expected to buy overpriced drinks for the "waiter girls" or leave if they did not" [7, p. 111]. "Obstreperous patrons were treated to knockout drops," [7, p. 111] and probably robbed. At the other end, concert saloons often had waiter girls who were prostitutes; private rooms and balconies upstairs were used for prostitution [1, p. 129]. Where these activities did not relieve the customer, typically tourists, transients, sailors, or straying squares of their wallets, "crimps" specialized in drugging the unwary, robbing them of money, and then shanghaiing them onto boats, or just killing them [7, pp. 107ff]. Arrangements were sometimes made with the police on a designated location to dump the unconscious victim where the police would pick them up in the morning and jail them for public intoxication.

In a legal climate that was far less regulated, and a political and social climate where these activities were condoned or not discussed, the problems were clearer and more closely tied to the sex oriented facilities. Today, where there is a much higher degree of regulation, illicit activity has moved out of the facilities into less regulated public locations. This has, in its own way, made the impacts upon the public of these establishments less clear but broader in scope than was the situation in earlier times.

CRIMINAL ACTIVITY

Existing research strongly supports the existence of a relationship between the presence of one or more sex oriented businesses and elevated Part I and sex-related crime rates in the surrounding vicinity.

There are studies conducted in several cities that provide strong support for the observation that crime rates are significantly higher in areas with one or more sex oriented businesses than in comparable areas without these businesses within the same municipality. McCleary and Meeker's study in Garden Grove, California [8] and the Indianapolis study [9, pp.7-26] are two of the strongest studies.

McCleary and Meeker (1991) examined 10 years worth of crime statistics and reports for the main commercial street in Garden Grove, California. Using individual crime locations they examined the incidence of crime in relation to sex oriented businesses, taverns, and other locations along the boulevard. The seven sex oriented businesses along Garden Grove Boulevard accounted for 10.5 percent of Part I crimes and 25.5 percent of Part II crimes recorded for 610 addresses along the Boulevard that had crime reports during the 10 year period covered by the study. These figures have less than 1 chance in a 100 of happening at random [8,p.23]. Sex oriented businesses along Garden Grove Boulevard had more locations ranked among the top ten for crime reports than even the taverns along the same boulevard. The taverns that were ranked in the top ten for crimes happened to be located on the same blocks as sexually oriented businesses.

In addition, McCleary and Meeker conducted statistical analyses of crime rates before and after 5 changes to existing sex oriented business locations. This included expansion or opening of new sex oriented facilities in the immediate vicinity of an existing site, or the opening/closing of a tavern nearby [8,pp.26-28]. They compared crime rates around these locations to a composite index of crime rates at the other sex oriented business locations along Garden Grove Boulevard. Three of the instances involved additional sex oriented businesses and two involved sex oriented businesses and taverns. In the first three instances additional or expanded sex oriented businesses led to significantly increased property (e.g., burglary, theft, auto theft) and personal crimes (e.g., assault, robbery) within a 1000 foot radius of the sites. Except for one instance, and that only in relation to property crime, both personal and property crimes increased significantly within a 500 foot radius of the expanded or new sex oriented businesses.

In 2 other situations studied by McCleary and Meeks they looked at one situation where a tavern opened near the site of a sex oriented business and another where a tavern closed near the site of a sex oriented business. In the instance where a tavern opened near the site of a sex oriented business, personal crime rose significantly within a 1000 foot radius. Property crimes also rose, though not significantly [8,p.31]. In the second instance, a bar closed when it was located just over 1000 feet from a sex oriented business. No significant

change in personal or property crime rates was noted. The authors explain this as indicating that the interaction between taverns and sex oriented businesses does not hold beyond 1000 feet between the facilities [8,p.32].

The City of Indianapolis conducted comparisons between areas with one or more sex oriented businesses, with comparable control areas chosen on demographic characteristics, building types, and traffic levels [9,pp.7-26]. This effort at matching areas makes this study particularly important. The matched areas were compared for levels of recorded criminal activity for serious (Part 1) crimes and sex-related crimes. In the study areas with sex oriented businesses, the sex-related crime rate was 46.4 crimes per 10,000 population in comparison to 26.2 per 10,000 for control areas. This is 77% percent higher for study versus control areas [9,p.18]. If the ratio of sex-related crimes had followed the ratio of serious crimes (Part 1 crimes) for the study versus control areas the study area rate should only have been 23% higher or 32.3 per 10,000 population. A strong correlation was thus established between the presence of sex oriented enterprises and criminal activity, particularly sex related crime.

Other analyses done in Indianapolis pointed out crime related impacts of sex oriented businesses on residential neighborhoods. Sex-related crimes were found to occur 4 times more frequently in neighborhoods with a residential character and a sex oriented business than in district related commercial areas with a sex oriented business [9,p.23]. This dovetails with the trade area studies done in Austin, Texas [10,pp.27-31] and Bothell, Washington [11,p.5] that identified the majority of clients of the sex oriented businesses studied as coming from outside the immediate neighborhood. Sex oriented businesses thus help to create conditions that provide outsiders with reasons to be in a neighborhood increasing the potential for opportunistic crimes [12,p.21]. When semi-private locations, over which limited individual control can be exercised are also present, such as parking lots, parks, school yards, and playgrounds, the venues for opportunistic crimes are increased [12,p.23].

The Report of the Attorney General's Working Group on the Regulation of Sex oriented businesses (1989) for the state of Minnesota cites a number of supportive studies conducted in the Minneapolis-St. Paul metropolitan area. The 1980 study, by the Minneapolis Crime Prevention Center, examined sexually-oriented and alcohol-oriented adult entertainment businesses relation to several issues, including serious crime rates. Creating an index of burglary, robbery, rape, and assault (all Part 1 crimes) the 1980 study compared areas around sexually-oriented businesses to other areas in Minneapolis using simple and multiple regression statistical techniques. They found that the impact of sexually-oriented businesses on the crime rate index was positive and strong regardless of the control variables used in the regression equations, either singly or simultaneously. The report estimated, on the basis of the analyses, that the addition of one sexually-oriented business to a census tract area would produce an increase in the crime index rate of 9.15 crimes per thousand residents in the tract even if all other variables remained unchanged [13,p.7]. As for types

of Part II crimes, a 1987 study by the St. Paul Division of Planning reported that the police had determined that street prostitution in St. Paul clustered in an area adjacent to sexually-oriented businesses. Police statistics for 1986 indicated that 195, or 70% of prostitution arrests with identifiable locations were within this zone. All locations with ten or more arrests for street prostitution were in this zone. [13,p.11]

Another study cited by the Attorney General's report was one by the St. Paul Division of Planning and the Minnesota Crime Control Planning Board (1978). The study examined sexually-oriented and alcohol-oriented adult entertainment businesses and their relationship to rates of crimes per one thousand persons. Although this study lumped sexually-oriented and alcohol-oriented adult entertainment businesses together, it concluded that there were significantly greater numbers of crimes where there were 2 such businesses than where there was only one such business [13,p.8]. The New York City Department of Planning similarly comments that, "It is significant, however, that the concentration of sex-related businesses has been closely associated with substantial numbers of arrests within those establishments for prostitution and obscenity." [2, p.37]

Similar findings about multiple sexually-oriented businesses were found in Austin [10, pp. 9-24] through comparisons of Part 1 and sex-related crime rates in areas with several versus areas with only a single sex oriented business. The study areas with several sex oriented businesses had Part 1 crime rates 43 percent higher and sex-related crime rates that were 66 percent higher than those with only one sex oriented business [10, p.24]. Other comparisons between areas with sex oriented businesses and comparable control areas without such businesses found consistently that study areas had levels of Part 1 and sex related crime rates per 1000 population from 2 to 7 times higher than their respective control areas [10, p.23].

The City of Austin report also cites a 1977 study by the City of Los Angeles [10, pp. 38-39] comparing Hollywood, which had a very high concentration of sex oriented businesses, to the rest of the city of Los Angeles. From 1969 to 1975 the number of sex oriented businesses in Hollywood rose from 11 to 88. Part 1 crimes rose by 7.6 percent in Hollywood during the same period, compared to 4.2 percent for the citywide average. Personal Part 1 crimes, where the victim is confronted by the perpetrator, rose precipitously compared to city wide averages, 93.7 versus 25.6 percent for street robberies and 51.4 versus 36.8 percent for purse snatchings.

To summarize the research reviewed above it is fair to say that the similarity of findings from so many reports from different locations lends the aggregate weight of these reports to the conclusion that sex oriented businesses have a strong and positive relationship to increased crime and street crime in the areas in which they are located. The increases in Part 1 personal crimes (including assault and robbery) adds significantly to the negative impact these enterprises have upon neighborhoods and locations with particularly vulnerable populations, including the elderly, children, and women.

Existing research literature in the criminology, urban design, and environment and behavior fields provides supporting explanations for the findings described above and helps to understand their implications for neighborhoods. Fowler et al's [12] study of crime and prevention in a Hartford, CT neighborhood indicates that there is a class of spaces in neighborhoods that can be very attractive to criminal perpetrators under the appropriate conditions. Parking lots, open spaces between buildings, parks, and similar spaces display uncertain levels of ownership and control, or transient ownership. Sidewalks are an even more public area of uncertain ownership. It is often difficult to discern whether a person belongs or does not and the apparent right to question a person's presence is limited. (See Figures 1&2)



FIGURE 1. TRANSIT STOP AND ADJACENT PARKING ACROSS FROM THE REAR OF "THE CLUB" SITE
The presence of large, nearby parking areas that will be unused or only lightly used during the typical hours of operation for "The Club" provide a vast expanse of uncontrolled space that can facilitate illicit activity, cruising, and parking. The nearby presence of a bar adds additional facilities that can produce undesirable secondary effects.

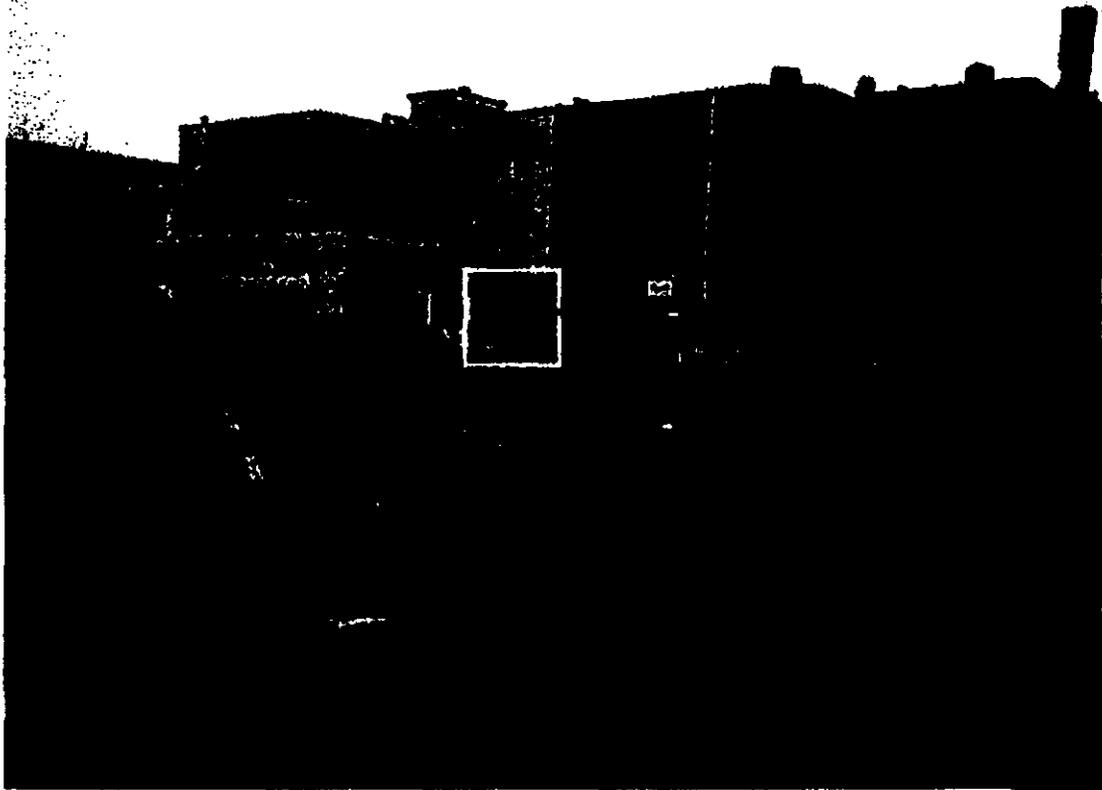


FIGURE 2. REAR ENTRY: "THE CLUB" SITE

The availability of a rear entry to the site of this sex oriented business is through a parking lot (a semi-private space) which provides convenient access to the bar nearby. The parking lot, with its many niches and hidden spaces, provides many locations that would facilitate illicit behavior to the detriment of nearby businesses, residences, churches, and community facilities. The proximity of a bar to a sex-oriented business is an additional factor that facilitates criminal activity.

Such public and semi-private spaces provide [14] places for all classes of people to gather. When there is a nucleus for illicit behavior nearby (e.g., a sex oriented business), there is a ready danger of such sites, innocent in themselves, being taken over and used for illicit purposes. When this occurs, legitimate users and neighborhood residents are typically excluded or driven away by the illicit activity.

Use of public spaces is tied to the typical level of activity in an area as well. It is said that nature abhors a vacuum. In a similar fashion it can be understood that spaces that are lightly used for legitimate purposes are open to use for less appropriate purposes. Interviews with perpetrators indicate that street crime is frequently a question of opportunity rather than deliberate planning [12,p.30]. Situations that provide legitimation for hanging out may significantly increase the probability of opportunistic street crime. Sex oriented enterprises frequently provide that legitimation for hanging out.

A related problem is the opaque face sex oriented businesses turn to the street. Blank building fronts do not provide connection between a facility and the street it fronts. The facility

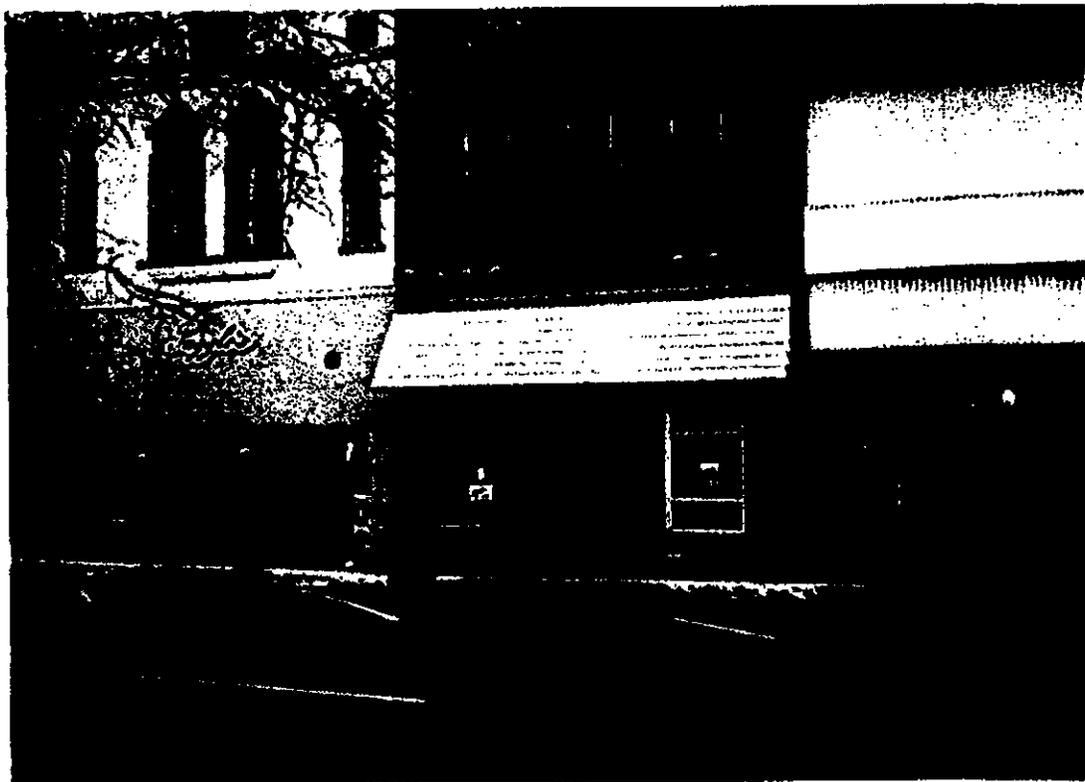
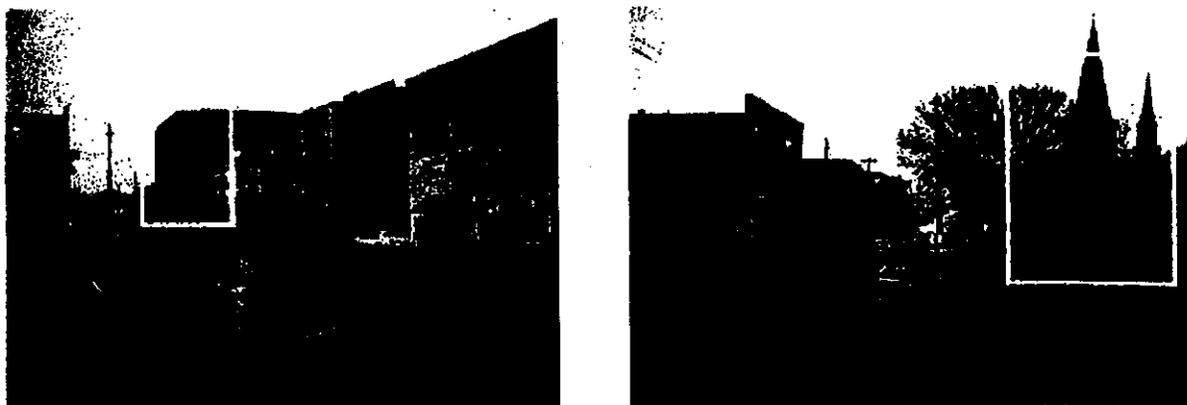


FIGURE 3. STREET FACADE: "THE CLUB" SITE

The recessed store fronts on either side of the site, as well as others on this and adjacent blocks, are available "semi-private" space over which there is no control during the hours when the shops are closed. These are typical locations for potential loitering, solicitation, and other undesirable behavior during the evening hours when "The Club" would be operating. The screened facade of the "The Club" also removes any supervision of what goes on outside the facility by those inside.



FIGURES 4&5. NEARBY FACILITIES: "THE CLUB" SITE

Standing across the street from the rear of "The Club" site in either direction one sees residential or community facilities that will be affected by the secondary impacts of the operation of a sex oriented business within a 500-1000 foot radius of its site.

turns its face away from the street avoiding any supervision of the sidewalk immediately in front of it. This is frequently a problem with large modern buildings that have blank walls at the pedestrian level [14]. Sex oriented businesses also provide such an opaque facade because of the limited legitimate audience for their products or services (persons over 18 or 21 years of age). The result, as noted by the New York City Department of Planning [2, p.37] is that, "As a result, and also because the sex-establishment patrons hurry in and out, the sidewalks are left unclaimed and thus available to those hustling and hanging out." New York State Urban Development Corporation, Vol. 1, August 1984." (See Figure 3.)

Women and the elderly show higher perceived fear than males and young adults in situations of unfamiliarity and also darkness [15]. Sex oriented business locations promote the presence of numbers of unfamiliar persons in that their trade area is not the local neighborhood. They typically operate primarily during the evening hours of darkness. Accompanied by other aversive activities in the vicinity of a sex oriented business, as depicted above, the area will soon be devoid of these vulnerable populations. Women are particularly sensitive to potential threats in public spaces. They will be the first to avoid locations that present a perceived threat to pedestrian safety. The gender and age mix found in public places has often been used as a good general measure of the relative safety of a public space [16, p.18]. Other types of businesses in the immediate vicinity will then be negatively impacted by the desire of patrons and potential patrons to avoid the area [17, pp.2-4].

Additionally, where the time frames of operation overlap between sex oriented businesses and other facilities (e.g., schools, churches, parks, playgrounds) there is even more potential for harm to legitimate users. Vulnerable populations that use these other facilities are exposed to the potential harm from the secondary effects of sex oriented businesses. This can take the form of personal or property crime, harassment or propositioning of pedestrians

[13,p.12], or exposure of minors to sexually explicit materials they are otherwise legally barred from obtaining on their own [13,p.12].

Harassment and propositioning of pedestrians in the vicinity can be seen as a direct outcome of the presence of sex oriented businesses. The presence and operation of a sex oriented business sets a context for interpreting behavior in the immediate area [18] in a frame defined by the most salient characteristic of the area. The sex oriented business is a highly visible element in its block because of its novelty and typically large signs [2,p.51;19,p.3] necessary to attract its regional clientele. This salience has a negative halo effect upon the area, defining the area and those within in it according to its most visible element, the sex oriented business. It is well documented that in interpreting the behavior of others we attribute their behavior to personal dispositions rather than to external influences [20]. Thus pedestrians, particularly women and especially younger women, walking in the vicinity of a sex oriented business may be perceived by other pedestrians in the area as being there for reasons related to the sex oriented business and approached or spoken to accordingly. The area in the vicinity of a sex oriented business thus becomes one women will not venture near to avoid being accosted. This is especially so in smaller cities and towns where they are more likely to be seen by persons who know them.

A related problem facilitated by the presence of the sex oriented businesses is the common focus for conversation among strangers it provides [14]. Whyte (1980) has described the impact of "triangulation" where the physical setting provides a salient event or object that creates a justification for strangers to speak to one another. Whyte uses the capture of a bank robbery suspect as an example of when unacquainted persons feel free to talk with one another in an anonymous public setting. However, to look at this phenomena from its less positive implications, a commercial sex business creates an atmosphere where opening discussions about sex with strangers is facilitated. The sex oriented business thus facilitates not only potentially harassing or intimidating situations for passersby but also provides the prop or support for those looking to make contacts for prostitution and solicitation among strangers.

The social and physical incivilities (e.g., harassment, propositioning, litter...) described above are well documented not only in their immediately intimidating aspects but also in their larger creation of a climate of fear in a neighborhood [21,p.294; 22; 23]. This may well have something to do with the impact of sex oriented businesses on property values and assessments documented in the next section of this report.

PROPERTY VALUES

A. ASSESSMENTS

Research indicates that the presence of sex oriented businesses is consistently and strongly associated with perceived decreases in value of both residential and commercial properties in the opinion of real estate appraisers and lenders.

There is a large body of work relating the presence of one or more sex oriented businesses to perceived reductions in the value of nearby residential and commercial properties. Appraisers and lenders in national and local surveys of consistently report negative impacts for sex oriented businesses on their immediate neighborhood.

The City of Indianapolis has conducted the most detailed and extensive work in this area. Most other studies They conducted both a 20% sample national survey of real estate appraisers and a 100% survey of appraisers in similar sized cities with a response rate of 33%. The majority of appraisers (75%) responded that an adult bookstore within 1 block of either a residential (80%) or commercial property (72%) would have a significant negative impact on the property's value. 59% estimated a loss of 1 to 20% of a residential property's value and 21% predicted a loss of over 20%. For commercial property 62% predicted a loss of 1 to 20% of a property's value with 10% predicted a loss of over 20%. No other type of facility, including a drug rehabilitation center had as significant a negative impact on estimated real estate values.

Similar results have been found in other studies. In Austin a questionnaire prepared by the Office of Land Development Services of the City of Austin was mailed to 120 local real estate appraisal and lending firms using a very similar questionnaire. The results from the 54 responses received were that 88% of respondents felt that an adult bookstore within one block would decrease residential property values, while 59% felt a negative, albeit reduced impact at 3 blocks distance. [10, pp.24-25] The margin of error for this survey is approximately plus or minus 14 percentage points. The reasons given by Austin respondents included:

1. These types of sex oriented businesses make homes less attractive to families thus lowering their value and demand for them.
2. Sex oriented businesses lead mortgage lenders to the conclusion that the neighborhood is in decline. This makes them unwilling to provide 95% financing for properties in these areas, again reducing demand and property values.

The Austin study also reviews a similar study by the City of Los Angeles. Similar results to the above mentioned studies were found with over 90 percent responding that concentration of adult businesses would make it more to rent or sell residential property within 1000 feet

of adult business enterprises [10,p.40]. A parallel survey of property owners within 500 feet of the Los Angeles study areas containing multiple adult businesses was conducted. Eighty-five percent of those responding indicated that adult businesses had a negative effect on the sales and profits of other businesses in the area [10,p.41]. Property owners also cited other negative impacts from the presence of adult businesses, including difficulty in recruiting employees and the deterrence of patronage by women and families [10,p.41]. Limitations on businesses evening hours of operation were also cited [10,p.41]. This clearly ties back into the issues of development of an intimidating atmosphere in the vicinity of a sex oriented business where significant portions of the community feel threatened just in passing through the area.

In 1986, Oklahoma City's Community Development Department [24,] conducted a similar survey of all real estate appraisers (N=100) listed in the local yellow pages. The survey had a 34% response rate (n=34) with 74% estimating some decrease in property values and 56% estimating a decrease of 10% or more for residential properties within one block. For commercial properties 76% estimated some decrease in property values and 47% estimating a decrease in value of 10% or more within one block. The proportions are similar to the studies cited above, although the small number of respondents increases the margin of error to more than plus or minus 20 percentage points.

The results of all studies reviewed find consistently that the vast majority of real estate professionals are of the opinion that the presence of sex oriented businesses decrease property values within a block of the business with the impact decreasing to none over 1000 feet from the sex oriented business.

B. PROPERTY VALUES

Research supports an association of the presence of sex oriented businesses with reduced property values in their vicinity.

The actual relationship between changes in property values and the presence of adult entertainment establishments has been shown to be a negative one in research in municipalities. The City of Indianapolis, Indiana compared changes in property values and activity in areas with sex oriented businesses, comparable areas, and the Township encompassing the city as a whole. Studying the years 1979 through 1982 it was found that areas with sex oriented businesses had slight increases in rates of turnover in property at a time when the control areas and the township as a whole showed strong decreases in real estate turnover. During the same period the study areas with sex oriented businesses showed smaller increases in property values in comparison to both control areas and the township as a whole.

RELATIONSHIP OF BUSINESSES TO THEIR LOCAL NEIGHBORHOOD

Sex oriented businesses are not neighborhood facilities. Trade area studies indicate they are regional facilities attracting people from outside the neighborhood they are located in. This increases the porosity of the neighborhood to strangers and perpetrators, decreases informal social control of behavior, and increases the potential for opportunistic crime.

Two municipalities have conducted observations of customers' license plates to identify the origin of customers for sex oriented businesses. Studies conducted in Bothell, Washington [11, p.5] and Austin, Texas [10, p.31] examined the registration addresses of vehicles parked at selected sex oriented businesses in their municipalities. Out of 321 vehicles observed in Bothell only 8 (2.5%) were registered in Bothell. In Austin, of 81 vehicles observed at an Adult Bookstore, a Topless Bar, and an Adult Theater only 3 had addresses within a mile of the facility. Forty-four percent of the vehicles were registered outside the city. Supporting this are comments gathered by the New York City Planning Department from owners of sex oriented businesses. Their comments confirm the regional rather than local market of these facilities. The comments restate the importance of main arterials, parking, and access to public transit to the location of successful sex oriented businesses [2, p.26].

Thus sex oriented facilities bring persons from outside the immediate community into the neighborhood where they have no attachment for the area. Increases in the presence of nonresidents, in vehicular traffic, and parking in the neighborhood stress resident's ability to recognize other residents and challenge those who are there for illicit purposes [12, 25]. The regional customer base also means that the connection between the neighborhood and the sex oriented business is weaker and the owners are less likely to be responsive to neighborhood concerns or problems.

IMPLICATIONS FOR SMALL TOWNS

The presence of sex oriented businesses in small towns is likely to be magnified beyond that which would be expected in larger cities because of the more compact nature of downtowns and their relationship to surrounding neighborhoods. (See diagrammatic representation on page 17)

1. The smaller the commercial district the larger the impact of a sex oriented business is likely to be. The negative halo effect of such a business will affect a larger proportion of the towns business than it would in a larger city. Considering that many commercial districts may only be one or two blocks deep and six to 10 blocks long there is likely to be a strong negative impact on commercial activity in the town if people wish to avoid the sex oriented business.

2. Sex oriented businesses are regional businesses. Small towns do not have sufficient target populations to support these businesses as has been documented in trade area studies. Thus a sex oriented business in a small town will have the impact of drawing a regional population into its area of the town. This will be a largely adult, male population in

its twenties. It is an audience that has interests and activities that are at odds with those of families and the elderly.

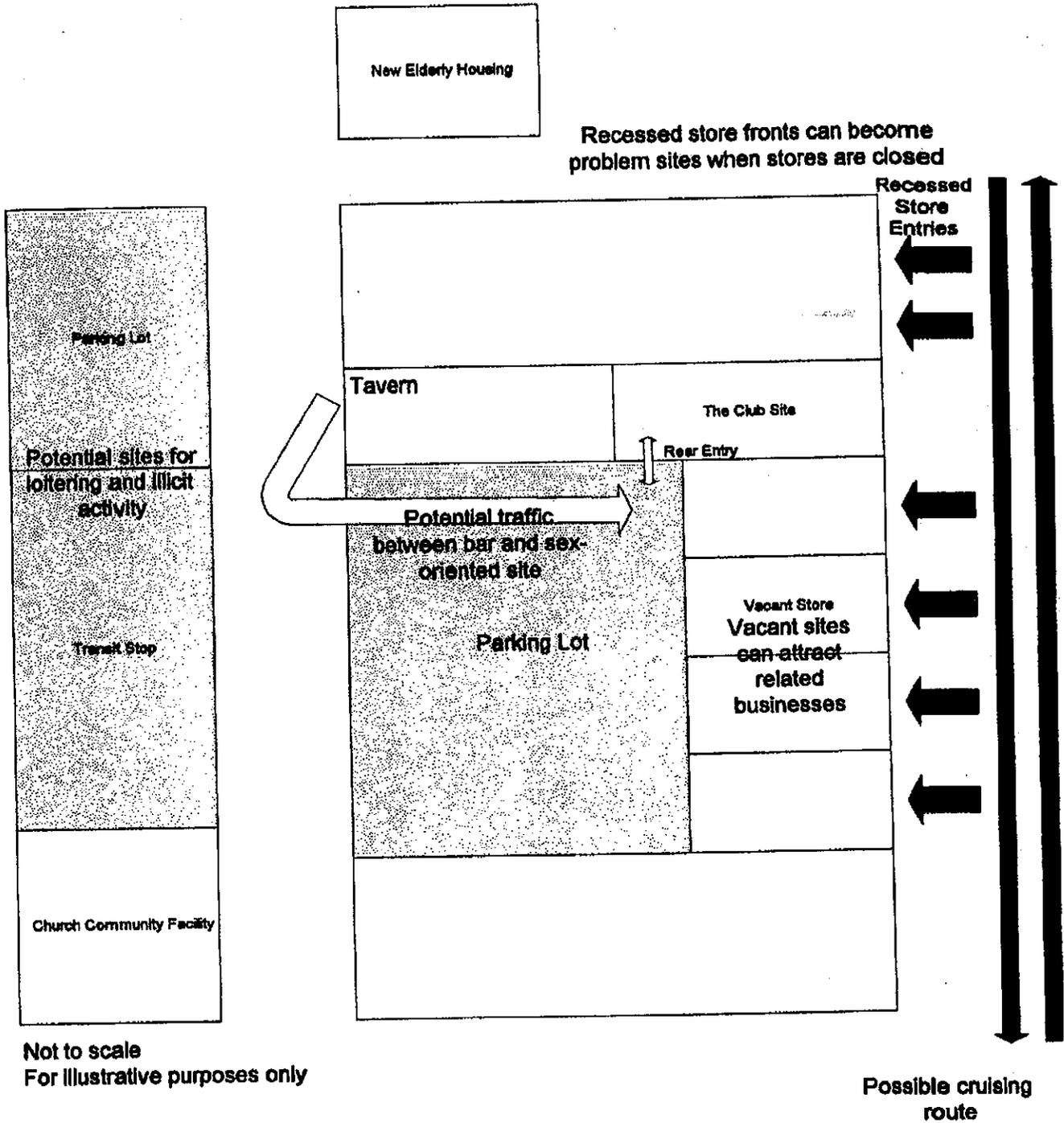
3. Small towns are more likely to have fewer days and hours of commercial activity than larger cities. This makes it more likely that an operating sex oriented business will have a larger impact on the area it is situated in during off hours for businesses. Where semi-private, uncontrolled spaces are in the vicinity (i.e., parking lots, parks, recessed storefronts, etc.), they are more likely to be available for inappropriate uses. Particularly in small towns, the likelihood of a cruising circuit for cars in the vicinity of the sex oriented business increases. This will bring additional noise, disruptive activity, and the likelihood of illicit activity into the area.

4. Small towns are currently more likely to be under economic stress than larger cities. This is frequently characterized by empty storefronts in the downtown. Where storefronts are empty in the location of sex oriented business, there is a greater likelihood of other sex oriented or alcohol oriented businesses locating there, further stressing the area businesses that are not sex oriented, and facilitating greater levels of illicit activity in the vicinity. Where downtowns are competing with regional mall shopping centers the presence of sex oriented business in the downtown will likely have an aggravated impact on downtown businesses in the vicinity.

5. The small size and lack of depth of small town commercial districts raises the probability of substantial impacts of sex oriented businesses upon residential areas of the town.

6. Smaller populations means, typically, that there will be gaps in the use of public and semi-private spaces, and larger periods of light use. This provides more locations for potential illicit activity when these spaces are within a five hundred to one thousand foot radius of a sex oriented business.

Rome, Georgia Illustrative Site Conditions



Not to scale
For illustrative purposes only

Possible cruising route

FIGURE 6. ILLUSTRATION OF POTENTIAL SECONDARY IMPACTS OF A SEX ORIENTED BUSINESS ON A SMALL TOWN MAIN STREET.

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9

**ADULT
ENTERTAINMENT
STUDY**

Adult Entertainment Study

Department of City Planning



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EXECUTIVE SUMMARY

Municipalities throughout the country regulate the locations of adult entertainment establishments to limit their impacts on neighborhoods and the quality of life. Despite the recent proliferation of such uses in New York City — an increase of 35 percent in 10 years — current zoning regulations do not distinguish adult entertainment establishments from similar commercial uses without an "adult character." For example, triple-X (XXX) video stores and video stores that do not purvey pornography are regulated identically in the Zoning Resolution. The Department of City Planning (DCP) undertook the "Adult Entertainment Study" to determine the nature and extent of the secondary impacts of adult entertainment uses on communities in the city. The Study includes: (1) a survey of existing studies concerning the impacts of adult entertainment establishments and regulations of such establishments in other localities; (2) a description of the adult entertainment business in New York City; (3) a review of studies and reports on adult entertainment establishments in New York City; (4) a DCP survey of the impacts such establishments have on communities in the City; and, (5) overall study findings and conclusion.

Background

In 1977, after concluding that adult entertainment uses had negative impacts on communities, the City Planning Commission (CPC) proposed new zoning regulations distinguishing adult entertainment uses and restricting their potential locations. The proposal was withdrawn at the Board of Estimate due to a lack of consensus regarding the appropriate extent of such regulations and concern that the regulations being proposed might result in the movement of adult uses to new locations.

The recent proliferation of adult entertainment establishments, often identified by graphic signage, has led to widespread concern about potential deterioration in the quality of life in many of the city's neighborhoods. Some residents, concerned about the negative impacts of adult uses in their neighborhoods and fearful of the potential results of proliferation, have organized ad hoc groups and appealed to local officials to have them closed down. Such local opposition ultimately resulted in the voluntary closing of adult video stores and bars in Astoria, Jackson Heights, Chelsea, Murray Hill, Forest Hills, and Bay Ridge. Two bills have been introduced in the City Council to regulate the location of adult entertainment uses. A resolution has also been introduced at the Council calling for zoning amendments to restrict adult entertainment uses.

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The consensus among those expressing opposition to the operation of adult uses is that adult entertainment establishments have a negative impact on the communities in which they are located. These impacts include: inappropriate exposure of children and teenagers to graphic sexual images, increased crime, diminishing property values, adverse effects upon the climate for other types of commercial activities, and overall negative influences upon community character.

Recent Trends in the Location of Adult Entertainment Uses

After burgeoning growth in the early 1970's, the number of adult entertainment establishments in the city declined by 13 percent from 151 in 1976 to 131 in 1984.¹ By 1993, however, DCP identified 177 such establishments with assistance from the 59 Community Boards. This represents an increase of 35 percent over the last decade. Should this growth continue at the same rate, an additional 60 adult entertainment establishments will be operating in the city by the year 2002. The DCP survey focused on three types of uses: triple-X video and bookstores, adult live or movie theaters, and topless or nude bars. These adult uses were further limited to those which identified themselves as "adult," through signage or other advertising. The survey may understate the total number of adult entertainment uses. The locations of these establishments are shown on a map following page 19. More than 75 percent of the adult establishments were located in zoning districts that permit residences. Since the survey was completed, several new adult entertainment establishments have opened.

The production and distribution of sexually explicit materials has changed dramatically in recent years. Adult material is more readily accessible than it used to be, and a greater variety of products are available to segments of the adult entertainment audience - both inexpensive material and fancier entertainment are more readily available than ten years ago. In particular, triple-X videos are now produced cheaply and sold for prices below \$5, whereas only a few years ago adult films commanded prices of approximately \$100. In addition there are more topless bars than previously, due to a proliferation of topless bars affecting an "upscale" image. Partially as a result of these changes in the adult use industry, adult entertainment establishments are now found more widely throughout the city.

¹ Historical data was obtained from various sources. Caution should be exercised in interpreting trend data because the defining characteristics of adult use may vary among sources.

In terms of their location, adult entertainment uses have continued an historical tendency to concentrate in specific areas. Over the last ten years most adult entertainment establishments have continued to concentrate within a few community districts in Manhattan. However, within that period the number of community districts citywide with seven or more adult entertainment establishments nearly tripled, from three to eight. Between 1984 and 1993, the number of adult bookstores/peep shows/video stores increased citywide from 29 to 86 establishments. Within this category, 74 percent consisted of adult video stores, none of which were noted in the 1984 survey. Adult movie and live theaters continued to decline from 48 in 1984 to 23 in 1993. Topless and nude bars increased by 26 percent in the same time period, from 54 to 68.

Impacts Found and Regulations in Other Localities

Other jurisdictions that have studied the effects of adult entertainment uses have consistently found that these uses have negative secondary impacts. This has been the case for large cities (such as Chicago and Los Angeles), medium-sized cities (such as Austin, Texas) and small villages (such as Islip, New York). Similar negative secondary impacts (e.g., a relationship between the concentration of adult entertainment uses and increased incidence of crime) have been found despite widespread variation in land use patterns and other local conditions. While New York may differ from these other jurisdictions in certain respects, their experience with adult entertainment uses is highly relevant to consideration of the need for some form of regulation. Both the United States Supreme Court and the New York Court of Appeals have recognized that, in adopting regulations, a municipality may rely on the experiences of other jurisdictions that have determined that adult uses have secondary impacts. Relevant studies from other jurisdictions include the following:

The Town of Islip, in Suffolk County on Long Island, prohibited adult uses from locating in downtown commercial areas because they would produce a "dead zone" that shoppers would avoid. Other government efforts to revitalize or stabilize these areas and attract private investment would be impacted negatively.

The City of Indianapolis, Indiana, conducted national and local surveys of real estate appraisers regarding the impact of adult uses on property values in middle-income residential neighborhoods. A majority of the appraisers, seventy five percent, responded that such a use located within one block of such a residential neighborhood would have a negative effect on the value of both residential and commercial properties.

The City of Whittier, California, in a study of the impacts of adult establishments found higher turnover rates in commercial and residential areas adjacent to adult uses. The study also compared 38 types of criminal activity over two time periods, showing a total increase of 102 percent for the study area containing adult businesses, while the city as a whole had only an eight percent increase.

A study by the City of Austin, Texas, compared areas with adult businesses to other areas containing similar land uses but no adult businesses, and found a sex crimes rate between two and five times greater in the areas with adult businesses. The study also showed that the sex-related crime rate was 66 percent higher in areas having two or more adult businesses than in those areas having only one such business.

Phoenix, Arizona, studied the relationship between arrests for sex crimes and the locations of adult businesses, and found an overall increase of six times the sex crime rate in the study areas with adult uses over the control areas without such uses.

The State of Minnesota reported that a study conducted in that state examining the effects of sexually-oriented businesses upon property values and crime rates indicated that such businesses had a strong negative impact on the crime rate. The addition of one sexually-oriented business to a census tract area caused an increase in the overall crime rate index in that area by more than nine percent. In another state study, it was determined that there was a statistically significant correlation between the location of adult businesses and neighborhood deterioration. Housing values were significantly lower in an area with three adult businesses than in an area with only one adult business. Also, there was a significantly higher crime rate associated with two adult businesses in an area than was associated with only one adult business in an area.

Many other cities currently regulate adult uses differently from other commercial uses and several of these are discussed later in this study. Most often, these regulations disperse such uses rather than concentrating them in any particular area of the municipality and may also exclude them from certain areas. For example, Los Angeles, California, generally prohibits new adult uses from locating within a certain distance of another such use. Los Angeles enacted its dispersal zoning after a study concluded that the concentration of adult uses had negative impacts on criminal activity, property values, and public perceptions of the quality of life.

Impacts Identified in Studies in New York City

Several studies have identified the impacts associated with adult entertainment establishments in New York City. In 1977, the City Planning Commission proposed a zoning plan to limit the concentration of adult uses after relating the proliferation of such establishments to economic decline, and finding a linkage between increased numbers of felonies and the concentrations of adult uses.

In 1993, the Chelsea Business Survey concluded, after surveying 100 businesses located in that community, that dispersal zoning should be enacted to prevent the transformation of Chelsea into a red light district. A majority of the businesses surveyed felt that a recent proliferation of adult entertainment establishments in Chelsea had hurt them economically.

This year, the Times Square Business Improvement District (TSBID), after conducting a study of the secondary effects of the concentration of adult use establishments in the Times Square area, called for the dispersal of adult uses in commercial and manufacturing areas. The TSBID study shows that the rate of increase in assessed values for blocks with an adult use did not increase as much as the rate of increase on nearby control blocks without adult uses. The study also notes that there were almost twice as many complaints about crime for the study blocks with adult establishments as nearby control blocks without adult uses. Property and business owners expressed the view that adult uses located in the area, particularly in concentration, have had a negative impact on their businesses, deterring potential customers.

DCP, as part of this Study, selected six study areas where adult uses were located. Because Times Square was already being studied by TSBID, DCP selected study areas which had lesser concentrations of adult uses. Most of the areas are in the other boroughs and in some cases contained only a single isolated adult entertainment use. DCP surveyed representatives from community boards, local organizations and local businesses, as well as real estate brokers, police and sanitation officers, and representatives of the adult entertainment industry to gather information on land use, street conditions, signage, and impacts. An analysis of assessed values and crime data was also made. The six study areas are shown on the map following page 49.

Many residents and community organizations cited adult entertainment establishments as having significant or potentially significant negative impacts in their communities. Real estate brokers indicated that such establishments have negative impacts on property values. These findings are consistent with the data found in the TSBID study and the Chelsea Business Survey, along with other data described in more detail in this report.

In some cases, particularly in study areas with only one adult entertainment establishment, the DCP survey did not yield conclusive evidence of a direct relationship between the adult use and the urban ills affecting the community. This reflects the fact that, in a city as dense and diverse as New York, it is difficult to isolate specific impacts attributable to any particular land use. Other cities that have conducted similar studies have acknowledged this same difficulty. For instance, the Los Angeles City Planning Department concluded that while assessed valuation of properties in areas characterized by adult uses "generally" tended to increase to a lesser degree than similar control areas, "there was insufficient evidence to support the contention that concentrations of sex-related businesses have been the primary cause of these patterns". Adult entertainment businesses were nevertheless perceived by the majority of the Los Angeles respondents as exerting a negative impact on surrounding business and residential properties. Whether or not such negative impacts had actually occurred, or were only perceived to have occurred, could not always be determined by the survey, but the study concluded that "in terms of the attitudes of the respondents towards such businesses, the conclusion must be drawn that the overall effect on surrounding properties is considered to be negative."

DCP's survey identified strong concerns about the negative impacts of adult uses similar to those found in the Los Angeles study. Even in those study areas where it could not be readily determined that negative impacts were already being felt, there was a strong body of opinion, especially among residents, that adult entertainment uses were having negative impacts and that a further proliferation of these uses in the community would lead to a neighborhood deterioration. The experience of urban planners and real estate appraisers indicates that negative perceptions associated with an area can lead to disinvestment in residential neighborhoods and a tendency to shun shopping streets where unsavory activities are occurring, leading to economic decline. The forces that influence real estate value are described as follows: "The market value of real property reflects and is affected by the interplay of basic forces that motivate the activities of human beings. These forces, which produce the variables in real estate market values, may be considered in four major categories: *social ideals and standards* (emphasis added), economic changes and adjustments, governmental controls and regulation, and physical or environmental changes."² The attitudinal data in the survey is thus significant even in those instances where the current negative impacts of adult entertainment establishments are difficult to measure.

Fear of the potential proliferation of adult uses is a well founded concern. Taken alone it may not seem significant if someone smokes in a subway car, scribbles graffiti, jumps a subway

² "The Appraisal of Real Property," seventh edition, by the American Institute of Real Estate Appraisers.

turnstile, aggressively panhandles or squeezees a car windshield, particularly in a city where there are other pressing problems such as homelessness, violent crime and unemployment. But when these small incidents, and establishments, proliferate and accumulate, they can tear at the urban fabric. Similarly, as the city's experience in the Times Square area indicates, the proliferation of adult uses in an area does have significant and potentially devastating impacts on the character of a community. The City has adopted an aggressive and comprehensive policy of addressing various quality-of-life issues that has begun to yield beneficial results. The problems posed by adult entertainment establishments are among the important quality-of-life issues that affect our neighborhoods and communities.

Overall Findings and Conclusion

- *Numerous studies in other localities found that adult entertainment uses have negative secondary impacts such as increased crime rates, depreciation of property values, deterioration of community character and the quality of urban life.*
- *There has been a rapid growth in the number of adult entertainment uses in New York City. Between 1984 and 1993, the number of such uses increased from 131 to 177. The number of video/book stores/peep shows almost tripled and there was a 26 percent increase in topless/nude bars. Adult theaters declined by 52 percent.*
- *Adult entertainment is more readily accessible in NYC than it was ten years ago. There are more such establishments in a greater number of communities. Adult videos are produced in greater numbers and at lower costs. They are often available in general interest video stores as well as those devoted exclusively to adult entertainment. Cable television has significantly increased the availability of adult viewing material. Adult material is also available at newsstands and book stores.*
- *Adult entertainment uses tend to concentrate. The number of community districts with seven or more adult uses increased from three to eight over the last ten years. Seventy five percent of the adult uses are located in ten of the city's 59 Community Districts. In Manhattan, adult uses cluster in central locations, such as the Times Square area. In the other boroughs, adult uses appear to cluster along major vehicular routes, such as Queens Boulevard and Third Avenue in Brooklyn, that connect outer reaches of the city and suburbs to the central business district .*
- *Studies of adult entertainment uses in areas where they are highly concentrated, such as Times Square and Chelsea, identified a number of significant negative secondary impacts. In the Times Square area property owners, theater operators and other business people overwhelmingly believe that their businesses are adversely affected. An analysis of criminal complaints indicated*

a substantially higher incidence of criminal activity in the Times Square area where adult uses are most concentrated. In addition, the study found that the rate of increase in assessed property values for study blocks with adult uses grew at a slower rate than control blocks without adult uses.

- *DCP's survey of areas with less dense concentrations of adult uses found fewer impacts than the study of the Times Square area. However, community leaders expressed concerns that adult uses impact negatively on the community and they strongly fear the potential results of proliferation.*
- *The strongest negative reactions to adult entertainment uses come from residents living near them.*
- *Where respondents indicated that their businesses or neighborhoods had not yet been adversely affected by adult uses, this typically occurred in study areas with isolated adult uses. Moreover, these same respondents typically stated that an increase in such uses would negatively impact them. Community residents fear the consequences of potential proliferation and concentration of adult uses in traditionally neighborhood-oriented shopping areas and view the appearance of one or more of these uses as a deterioration in the quality of urban life.*
- *Most real estate brokers report that adult entertainment establishments are perceived to negatively affect nearby property values and decrease market values. Eighty percent of the brokers responding to the DCP survey indicated that an adult use would have a negative impact on nearby property values. This is consistent with the responses from a similar national survey of real estate appraisers.*
- *Adult use accessory business signs are generally larger, more often illuminated, and graphic (sexually-oriented) compared with the signs of other nearby commercial uses. Community residents view this signage as out of keeping with neighborhood character and are concerned about the exposure of minors to sexual images.*

Based on these findings, DCP believes it is appropriate to regulate adult entertainment establishments differently from other commercial establishments. The experience of other jurisdictions, the city's historic experience in Times Square, studies performed by the TSBID and the Chelsea Business Survey, and DCP's own survey, establish the negative effects of adult entertainment uses. Consideration of the specific nature and extent of regulations that would be appropriate for adult entertainment establishments in New York City was not within the scope of this Study. However, in light of the negative impacts of adult uses in concentration, the following regulatory techniques, which have been used in other jurisdictions, merit consideration in developing adult use regulations: restrictions on the location of adult uses in proximity to residential areas, to houses of worship, to schools and to each other.

I. INTRODUCTION

Study Objectives

The Department of City Planning undertook a study to evaluate the nature and extent of adverse impacts associated with adult entertainment uses in other localities and in New York City. The study responds to concerns of city residents, businesses, and elected officials about the proliferation of adult entertainment establishments in various parts of the city. The issues posed by adult uses are complex, and often involve speech or conduct protected by the federal and New York State constitutions. Any regulation must be based on a careful analysis of past, present and potential adverse impacts of adult uses upon the quality of life in the city's neighborhoods, as well as the effects of possible regulatory solutions upon protected speech.

This study includes (1) a survey of existing studies concerning the impacts of adult entertainment establishments and of regulation of such establishments in other localities; (2) a description of the adult entertainment business in New York City; (3) a review of studies and reports on adult entertainment establishments in New York City; (4) a DCP survey of the impacts such establishments have on communities in the City; and (5) a set of overall findings and recommendations.

Definition of Adult Entertainment Establishments

There is a vast array of businesses that may be considered "adult." These include video and bookstores, motels, massage parlors, sex clubs, topless and bottomless or nude bars (not all of which serve alcohol), and peep shows. Materials may include sexually explicit videos or magazines. Services may include body rubs, or entertainment such as nude dancing.

For purposes of the DCP survey, an adult entertainment establishment is a commercial use that defines itself as such through exterior signs or other advertisements. Thus, a "triple-X or XXX" video store is an adult entertainment establishment, but a neighborhood video store that devotes a small area to triple-X videos is not. This self-defining characteristic allowed the survey to focus on those establishments for which there is some consensus that the use is adult. It also means that it is possible to obtain adult entertainment materials, such as videos and magazines, at establishments that sell primarily non-adult materials and that some

businesses that are devoted to adult entertainment but do not publicly proclaim the fact were not included in the DCP survey. The survey was further restricted to three types of such uses: adult video and bookstores, adult live or movie theaters, and topless or nude bars. Other uses directly associated with the commercialization of sex, such as massage parlors or brothels (which are not permitted in New York City), and sex clubs, as well as some of those uses indirectly associated with the commercialization of sex such as discos, motels, newsstands, and candy stores that sell some adult magazines, were excluded from the study.

The term "adult use" is technically defined differently from municipality to municipality, but generally refers to a commercial establishment that purveys materials or services of a sexual nature. For example, both the City of Boston, Massachusetts, and the Town of Islip, New York, classify adult book stores to mean those that exclude minors by reason of age.³ Other cities such as Detroit and Los Angeles classify adult uses on the basis of the content of the materials shown or the types of activities that may be found in adult establishments; the uses emphasize "specified sexual activities" or "specified anatomical areas."⁴ A movie theater generally showing adult films is an example of such a use.

³ "The adults-only definition recommended to be applied in the Islip Town ordinance avoids emphasis on the content of material, thereby avoiding Constitutional questions based on the First Amendment, and allowing pornographic uses to define themselves." Study and Recommendations for Adult Entertainment Businesses in the Town of Islip, Town of Islip Department of Planning and Development, 1978.

⁴ "Specified Anatomical Areas" shall mean and include any of the following: (a) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered. "Specified Sexual Activities" shall mean and include any of the following: (a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts; (b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy; (c) masturbation, actual or simulated; or (d) Excretory functions as part of or in connection with any of the activities set forth in (a) through (c) above. Planning and Zoning Code, Los Angeles, Section 12.70.B.13-B.14.

II. STUDIES AND REGULATIONS IN OTHER LOCALITIES

Impacts Found in Other Localities

DCP reviewed impact studies from the following municipalities: Islip (NY), Los Angeles (CA), Indianapolis (IA), Whittier (CA), Austin (TX), Phoenix (AZ), Manatee County (FL), New Hanover County (NC), and the State of Minnesota.

Islip, New York

The Town of Islip completed a study of adult uses in September, 1980.⁵ The study formed the basis of new zoning provisions that allowed adult uses only in Industrial I Districts, by special exception of the Board of Appeals. Adult uses would not be allowed to locate within 500 feet of residential uses and public facilities, nor would they be permitted to locate within one half-mile of another adult use. Islip proposed the one-half mile requirement to prevent a concentration of sex businesses visible to the driving public, thereby hindering the creation of a "combat zone."

By limiting adult uses to certain industrial zones, Islip proposed to prevent "skid row effects" in declining downtown commercial areas. The proposal was expected to further other anti-skid row efforts such as new public investment, the prohibition of certain residential conversions, and restrictions on new bars. It was also formulated to prevent "dead zones" from developing in commercial areas. According to the study, these areas are avoided because shoppers do not want to be associated in any way with adult uses, or have their children walk by adult uses.

Citing its case study, Islip indicated that the main complaint about a given adult book store is its proximity to an adjoining residential area. Other impacts included parking in residential areas (store patrons may wish to "hide" their automobile from view by parking away from the adult establishment). The study, relying on newspaper articles, indicated that another impact is the reputed association of the adult book store operators with organized crime.

⁵ "Study and Recommendations for Adult Entertainment Businesses in the Town of Islip," Department of Planning and Development, 1980.

Islip's study stated that persons who protested the establishment of the book store feared retaliation: ". . . the potential for violence or other illegal behavior is clearly possible."⁶

The individual site analyses identified similar impacts found in the case study. Some establishments were located close to residential areas, causing uncharacteristic parking impacts, night-time activity, noise and dust. Other establishments located in declining downtown areas created dead zones or discouraged shoppers from walking in pedestrian-oriented commercial areas.

Los Angeles, California

In 1977, the Los Angeles City Planning Department completed a study of adult uses for the Planning Committee of the City Council.⁷ The study was intended to determine whether a concentration of adult establishments has a blighting or degrading effect on nearby properties and/or neighborhoods. The study provided a basis for zoning regulations adopted the following year that prohibited adult entertainment businesses within 1,000 feet of another such business or within 500 feet of any religious institution, school or public park. More restrictive provisions were added subsequently.

Police Department statistics indicated a greater proportion of certain crimes in Hollywood (where the largest concentration of adult establishments is found in the city) compared with the city as a whole.

Other impacts could be traced to public perceptions. The study examined public testimony and found that many people, particularly the elderly, were afraid to walk the streets in Hollywood. Others had expressed concern that children were being exposed to sexually explicit materials and unsavory persons. Some businesses were no longer remaining open in the evenings and others had left the area allegedly directly or indirectly because of the establishment of adult businesses. Some churches in Hollywood were driving the elderly to services and others were providing private guards in their parking lots.

A survey of real estate professionals indicated that the concentration of adult establishments had an adverse economic effect on the value of commercial and residential property. Business

⁶ Ibid. p.12

⁷ "Study of the Effects of the Concentration of Adult Entertainment Establishments in the City of Los Angeles," Los Angeles City Planning Department, June, 1977.

persons believed that the quality of life and business was adversely affected by litter, graffiti, difficulty in recruiting employees and retaining and attracting customers. Also noted was difficulty in renting office space and keeping desirable tenants.

Indianapolis, Indiana

The Indianapolis Division of Planning undertook a study, published in 1984, to determine if zoning controls were warranted for adult entertainment businesses.⁸ The study recommended that adult uses should be allowed only by special exception in commercial districts oriented beyond a neighborhood, and not within 500 feet of a residential, school, church or park property line, or historic area.

The Indianapolis study analyzed crime data, including sex crimes, and real estate data, including a national survey of real estate appraisers. The study cautions that the analyses should not be construed as conclusively proving a causal relationship between adult uses and increased crime or decreased property values. However, the study found that major crimes occurred in study areas that contained at least one adult entertainment establishment at a rate that was 23 percent higher than six control areas (similar areas but without adult establishments), and 46 percent higher than the Indianapolis Police District. The average sex-related crime rate per 10,000 population in the control areas over a five-year period was 26.2, while that rate for the study areas was 46.4.

A survey of real estate professionals was undertaken in conjunction with the Indiana University School of Business' Division of Research. It consisted of a 20 percent random sample of nationwide members of the American Institute of Real Estate Appraisers and a 100 percent sample of Member Appraisers Institute members who practiced in 22 Metropolitan Statistical Areas (MSA) of a size similar to Indianapolis.

The appraisers were asked to give their "best professional opinion" about property values in a hypothetical situation where an adult bookstore was about to locate in a middle-income, residential neighborhood. A majority of appraisers (75%) responding to the national survey thought that an adult bookstore located within one block would have a negative effect on the value of both residential (80%) and commercial (72%) properties. At a distance of three blocks, 71 percent thought that the impact of an adult bookstore fell off sharply so that the impact was negligible on both residential (64%) and commercial (77%) properties.

⁸ "Adult Entertainment Businesses in Indianapolis, An Analysis," Division of Planning, 1984.

Whittier, California

In 1978, the City of Whittier, citing "operational characteristics which may have a deleterious effect on immediately adjacent residential and commercial areas," defined and regulated adult uses through a conditional use permit.⁹ The urgency measure was based on the Detroit dispersal model, pending a planning study of adult businesses and subsequent legislation, if necessary. The purpose of the study and eventual legislation was to protect adjacent commercial and residential districts within the City from the "possible blighting or downgrading effect of adult businesses" although the study cautioned, however, that adult businesses were only one of a variety of factors influencing the study areas.

The study found higher turnover rates in commercial and residential areas adjacent to adult uses. A compilation of police statistics indicated that all of the nude model studios and three massage parlors were actively involved in prostitution and that a number of assaults and thefts had occurred on the premises. There were also numerous reports of excessive noise, drunkenness and pornographic litter connected to adult businesses. A comparison of 38 types of criminal activity between two time periods, 1970-73 and 1974-77, showed a total increase of 102 percent for the study area containing adult businesses while the city, as a whole, only had an eight percent increase. Citizens testified at several public hearings about their fears of walking on nearby streets, of their children being confronted by offensive individuals or exposed to sexually explicit material, and some reported that businesses had left the area. The report discussed the difficulty of assessing the moral and emotional impact of adult businesses on a neighborhood but suggested that it could be gauged by community outrage.

The study concluded that the prolonged concentration of adult businesses adversely impacts neighborhoods, based on experiences in other municipalities, and recommended the regulation of a variety of defined sexually-oriented businesses by locational restrictions within portions of industrial areas and shopping centers subject to a conditional use permit.

Austin, Texas

In 1986, the City of Austin conducted a study to provide a factual basis for the development of a new ordinance regulating adult-oriented businesses.¹⁰

⁹ "Staff Report, Whittier City Planning Commission, Amendment to Zoning Regulations, Adult Businesses in C-2 Zone with Conditional Use Permit (Case No. 353.015), January 9, 1978.

¹⁰ "Report On Adult Oriented Businesses in Austin," Office of Land Development Services, City of Austin, May 19, 1986.

The study analyzed crime rates, comparing areas with adult businesses to other areas containing similar land uses but no adult businesses. The results were that the sex-related crime rate was between two and five times greater in the areas with adult businesses. The study also showed that the sex-related crime rate was 66 percent higher in areas having two or more adult businesses than in those areas having only one such business. The study included a survey of 120 real estate brokers and appraisal firms. The results showed that 88 percent of the respondents believed the presence of an adult business would decrease property values of residential property within a one-block radius and 69 percent felt an adult use would reduce the value of commercial property within the same radius.

Phoenix, Arizona

In 1979, the Planning Department of Phoenix designed a study to determine if there was a relationship between arrests for sex crimes and the locations of adult businesses.¹¹ The number of property crimes, violent crimes and sex-related crimes in 1978 were compared for three study areas containing adult businesses and three otherwise similar control areas that did not contain adult businesses.

There was a significantly greater difference between the study and control areas for sex-related crimes than for property or violent crimes: an overall increase of six times the sex crime rate in the study areas over the control areas. Although more than half of the arrests for sex crimes were for indecent exposure, the remainder of sex crimes remained significantly high. In one study area with a concentration of adult businesses and the highest number of reported sex crimes for the areas studied, 89 percent of the reported indecent exposure cases were committed at the addresses of the adult businesses. When compared to its control area, the sex crime rate (per 1,000 residences) for that study area, was over 11 times greater; in the remaining two study areas, which each contained one adult business, the sex crimes rate was four times and almost three times as great as the comparable control areas.

Minnesota

In 1988, the Attorney General of Minnesota formed a Working Group on the Regulation of Sexually-Oriented Businesses to review data presented by various jurisdictions within the state.¹²

¹¹ "Adult Business Study," Planning Department, City of Phoenix, May 25, 1979.

¹² Report of the (Minnesota) Attorney General's Working Group on the Regulation of Sexually-Oriented Businesses, June 6, 1989.

In 1980, the Minneapolis Crime Prevention Center examined the effects of sexually-oriented businesses upon property values and crime rates. The study concluded that such businesses concentrate in areas which are relatively deteriorated but, at most, they may slightly contribute to the continued depression of property values. However, it was clear that sexually-oriented businesses had a strong negative impact on the crime rate. The addition of one sexually-oriented business to a census tract area caused an increase in the overall crime rate index in that area by slightly more than nine percent per 1,000 people/year.

In 1978, the St. Paul Division of Planning and the Minnesota Crime Control Planning Board conducted a joint study of the relationship between adult uses and neighborhood blight. They found a statistically significant correlation between the location of adult businesses and neighborhood deterioration, although adult businesses tend to locate in somewhat deteriorated Housing values were significantly lower in an area with three adult businesses than in an area with only one adult business. There was a significantly higher crime rate associated with two adult businesses in an area than was associated with only one adult business in an area.

Manatee County, Florida

The Planning and Development Department of Manatee County undertook a study to investigate the impact of a proposed adult entertainment ordinance.¹³ The study recommended that adult uses be limited to commercial locations at least 500 feet from a residential district and 2,000 feet from churches, schools, child care facilities and public recreation areas. Also, no adult establishment should be located within 1,000 feet of another such use.

Manatee County relied on studies of other cities to identify the likely impacts of adult entertainment establishments. In addition to those of Boston, Detroit, Los Angeles and Indianapolis, studies from the following cities were reviewed: Austin, Texas; Phoenix, Arizona; Saint Paul, Minnesota; Amarillo, Texas; and, Beaumont, Texas. Impacts found in these studies included a relatively high incidence of crime including sex-related crimes, declining neighborhood conditions, a statistically significant decrease in residential property value when more than two adult bars were found in an area, increased glare, noise, and traffic, and a decline of neighborhood-oriented businesses.

¹³ "Adult Entertainment Business Study for Manatee County," Manatee County Planning and Development Department, June 1987.

Among the study recommendations, Manatee County notes:

The sign is often the most notable physical element of an adult entertainment business. Adult entertainment signs should be controlled to protect the general public from the negative aesthetics of "poor-taste." Sign controls should be considered which still protect a business's freedom to advertise, but also minimize public's exposure to such uses.

New Hanover County, North Carolina

In July, 1989, the New Hanover County Planning Department published a study in support of proposed zoning text amendments designed to control the location of adult entertainment businesses.¹⁴ The one or two adult businesses located in the County had not generally been a problem; the proposed zoning regulations were considered preventative.

New Hanover, like Manatee County, relied on studies of other cities to predicate its proposed zoning text amendments.¹⁵ Potential adverse impacts from adult uses and adult uses in concentration could be anticipated, according to the report, based on studies completed in Boston, Detroit, Los Angeles, Indianapolis, Beaumont, Phoenix, Amarillo, and others. Those impacts have been identified in the discussion, above.

Regulations in Other Localities

In communities throughout the United States, adult entertainment uses have appeared recently within or close to stable residential areas, leading many communities to adopt rules placing locational and other restrictions on these uses. In the New York metropolitan area, many Long Island communities (Islip, Brookhaven, Smithtown, Babylon, and Huntington, among others) have enacted zoning regulations that restrict the location and operation of adult businesses. In general, these restrictions attempt to protect residential and commercial areas by allowing adult uses only in low-visibility industrial districts.¹⁶

¹⁴ "Regulation of Adult Entertainment Establishments in New Hanover County," New Hanover County Planning Department, July, 1989.

¹⁵ New Hanover County cites the following studies in its analyses of impacts in other cities:

- McClendon, Bruce W., "Zoning for Adults Only," Zoning News, August 1985, pp. 1-3.
- Yow, Robert B., "Adult Entertainment Zoning: A Case Study," Carolina Planning, Vol. 7, No. 1, Spring 1981, pp. 33-41.

¹⁶ Jim Puzanghera, "Town OKs 3-Month Limit On Porn," New York Newsday, North Shore Edition, June 23, 1993, p.31.

In St. Petersburg, Florida, the city's 1993 adult entertainment ordinance restricts adult uses to a handful of locations in the city and forces existing adult businesses to move within a year's time.¹⁷ In communities around Atlanta, Georgia, new nude dancing operations now require a rezoning and are prohibited within 1,000 feet of residences and community facilities.¹⁸ Orange County, California, requires a special permit for topless dancing clubs.¹⁹ In Jackson, Mississippi, a 1992 ordinance restricts topless bars and other adult businesses to areas zoned for light industrial uses and requires distances ranging from 250 to 1,000 feet from residential uses and community facilities.²⁰ In San Diego, California, adult entertainment is not permitted within 500 feet of a school or home or within 1,000 feet of another adult entertainment use.²¹ Los Angeles enacted a similar ordinance in 1988.²² Seattle, Washington, recently enacted an ordinance restricting adult stores to manufacturing zones 1,000 feet away from churches, residential areas, schools and play grounds.²³

DCP relied on a variety of sources, including the Planners Advisory Service of the American Planning Association, to obtain information about how other cities regulate adult entertainment establishments. The Manhattan Borough President's office supplied information obtained from the National League of Cities, and information that they culled for the Borough President's Task Force on Sex-Related Businesses. Although some of the referenced material used herein may be dated, and the cities may have adopted more recent regulations, the purpose is to illustrate differences in regulatory strategies.

Essentially, two types of zoning regulations have been developed to control adult entertainment establishments. The control techniques include the concentration of adult uses in a specified location, and the dispersal of adult uses apart from one another. Dispersal models

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- ¹⁷ Nichole M. Christian, "Vixen Vexes Neighbors," St. Petersburg Times, City Edition, February 6, 1993, p.1.
- ¹⁸ Matt Kempner, "Sugar Hill Sets Tight Restrictions on Nude Clubs," The Atlanta Journal and Constitution, September 14, 1993, p. J-1.
- ¹⁹ Bob Elston, "Orange County Focus: Newport Beach; County Tells Club to Halt Topless Dancing," Los Angeles Times, February 5, 1993, p. B-3.
- ²⁰ Greg Henderson, "Supreme Court Allows Adult Entertainment Restrictions," Washington News, April 19, 1993.
- ²¹ Pauline Repard, "Topless Bar Has Its Eyes on Auto Lot in Chula Vista," The San Diego Union-Tribune, May 12, 1993, p. B-1.
- ²² Josh Meyer, "City Arms for New Legal War on Porn; Law Enforcement: A Zoning Ordinance Will be the City's Major Weapon as it Seeks to Shut Down Pornography Shops in Hollywood," Los Angeles Times, January 27, 1990, p. B-1.
- ²³ Geordie Wilson, "Tukwila Appeals Anti-Porn Case — Zoning of 'Adult' Outlets At Issue," The Seattle Times, February 21, 1992, p. B-1.

often exclude adult uses from areas in proximity to residential districts while also limiting their concentration where they are permitted. Concentration models are guided by regulations developed for Boston, Massachusetts; dispersion models follow the Detroit, Michigan ordinance. The Detroit dispersal model has been used more often than the Boston concentration model to control the location of adult entertainment establishments.

CONCENTRATION MODELS

Boston, Massachusetts

Boston established a two-block "adult entertainment district" in a downtown area known as the "combat zone," where approximately ninety percent of adult uses in the city were concentrated. The purpose of the district was to prevent the spread of adult uses to other areas of the city. Under the Boston zoning code, an adult entertainment district may be established as an overlay district superimposed upon existing zoning districts.

The overlay district allows adult entertainments and bookstores that are characterized as such because they "exclude minors by reason of age." According to information provided by the Boston Redevelopment Authority, adult use operators will prohibit attendance by minors in order to avoid violating the Massachusetts obscenity law. The overlay district allows the use of moving or flashing lights prohibited elsewhere in the city, and generally has fewer restrictive sign regulations compared with other Boston districts. Outside the overlay district, preexisting adult establishments may continue unless they have been abandoned for at least two years.

Seattle, Washington, and Camden, New Jersey

Seattle and Camden have developed zoning regulations generally following the Boston model of concentrating adult uses in one or more specified areas of the city. Seattle allows adult motion picture theaters in only three business and commercial districts. Non-conforming adult theaters must be discontinued. Camden has set aside a single area of the city where adult uses are permitted. Camden believes such a strategy will facilitate the city's ability to police adult establishments.

DISPERSAL MODELS

Detroit, Michigan

In 1972, Detroit amended its "anti-skid row" zoning ordinance, which prohibited concentrations of certain uses, to include adult theaters, mini-theaters, bookstores and cabarets, characterized by "specified sexual activities" or "specified anatomical areas." Detroit enacted the skid row regulations after a study indicated that the concentration of these businesses "tends to attract an undesirable quantity and quality of transients, adversely affects property values, causes an increase in crime, especially prostitution, and encourages residents and businesses to move elsewhere."²⁴

Not more than two adult businesses may be located within 1,000 feet of each other or within 500 feet of a residential area. The Detroit ordinance allowed a waiver of the 1,000 foot regulation upon certain findings by the Zoning Commission; the 500 foot requirement is not subject to the waiver provisions. The Detroit ordinance applied only to prospective uses.

Atlanta, Georgia, and Kansas City, Missouri

Atlanta prohibits adult bookstores, theaters and entertainment establishments from locating within 1,000 feet from any other such use. Adult uses may not be located within 500 feet of residential uses or houses of worship. An original amortization provision was amended subsequently to apply solely to bath houses and to comply with a judicial decision.²⁵

In Kansas City, adult bookstores, motion picture theaters, bath houses, massage shops, modeling and body painting studios may be located only in certain commercial districts, over which an overlay is placed. The adult uses may not locate within 1,000 feet of a residence district or a house of worship or school. No more than two uses may be located within 1,000 feet of each other. A petition of consent by a majority of residents or property owners within 1,000 feet of the proposed use may be made to the City Plan Commission to waive the restrictions on location.

²⁴ Jules B. Gerard, Local Regulation of Adult Businesses, Clark Boardman Callaghan, 1988.

²⁵ Rohan, Patrick J., Zoning and Land Use Controls, New York: Matthew Bender & Co., 1988, p. 11-32, Note 32: "The purpose of this amendment is to make the zoning ordinance conform to the decision of the United States Supreme Court in *Young v. American Mini Theatres, Inc., et. al.* (Decided June 24, 1976). . ."

Los Angeles, California

The Los Angeles ordinance regulates adult arcades, bookstores, cabarets, motels, motion picture theaters, adult theaters, massage parlors, and sexual encounter establishments. These establishments are characterized by their emphasis on specified sexual activities or specified anatomical areas.

The ordinance prohibits the establishment of an adult entertainment business within 1,000 feet of another such business or within 500 feet of any religious institution, school or public park. Los Angeles determined that adult uses, in concentration, result in blighting conditions.

A 1984 amendment to the ordinance added that an adult entertainment business may not be located within 500 feet of any lot in an agricultural or residential zone, or within "limited commercial" zones, unless approved by exception.²⁶ No more than one adult use may be located within any building containing another adult entertainment business.

Town of Islip, New York

Islip's ordinance is noteworthy in that it has been the subject of litigation reviewed by the New York Court of Appeals.²⁷ Islip defines adult uses to include adult bookstores, drive-in theaters, cabarets, motels, theaters, massage establishments, and peep shows. As in Boston, adult uses are characterized by their exclusion of minors by reason of age.

The zoning ordinance restricts the location of adult uses to light industrial districts by special exception of the Zoning Board of Appeals. Adult uses are allowed as-of-right in Industrial Districts, and prohibited from locating within 500 feet of any area zoned

²⁶ Various amendments have been made to the ordinance, including a provision prohibiting, after March 6, 1988, the continued operation of adult businesses located within 500 feet of a residential zone unless a conforming site is not "reasonably available" elsewhere. This provision has been successfully challenged on appeal; the businesses argued that the city has not provided them with a sufficient number of possible relocation sites, abridging their First Amendment rights. [Topanga Press v. City of Los Angeles, U.S. Court of Appeals, Ninth Circuit, 989 F.2d 1524, as reported in Land Use Law and Zoning Digest, Vol. 45, No. 9, September 1993].

²⁷ Town of Islip v. Caviglia, 542 NYS, 2d 139.

for residential use, or any school, park or house of worship.²⁸ In addition, an adult use may not be located within a one-half mile radius of another such use. These restrictions may be waived based on findings that the proposed use will have no negative impacts. No more than one adult use may be located on any lot. The Islip ordinance also contained amortization provisions for uses which became non-conforming.

Chicago, Illinois

Chicago also follows the Detroit dispersal model for regulating the location of adult entertainment establishments. However, in 1977, Chicago established a licensing requirement for all adult use businesses.²⁹

One of the primary purposes of this regulation was to prevent or limit the involvement of organized crime or other syndicates in the operation of adult-use establishments. The license application requires the prospective adult use operator to provide a great deal of personal and financial information. If the establishment is to have a manager, a separate manager's statement must also be filed.

The prospective operator of a sex-related business is also required to sign an affidavit attesting to those activities that will occur at his or her establishment. If, for example, the applicant signs an affidavit saying his or her business will be an adult-use book store and it is later determined that a "mini motion picture theater" is also operating at the site, the license can be revoked.

²⁸ The Appellate Division, Second Department, invalidated and severed the provision of the ordinance that required adult uses to obtain a special permit.

²⁹ Information on Chicago's regulations is based on a memorandum prepared by the Manhattan Borough President's Office for the Borough President's Task Force on Sex-Related Businesses, June 17, 1993.

III. THE ADULT ENTERTAINMENT INDUSTRY

Industry Trends

Adult entertainment is a multi-billion dollar, international industry that includes an ever changing and expanding range of activities.³⁰ The latest additions to the industry include phone-sex lines, international computer networks that offer sexually explicit messages, lingerie modeling shops, and "upscale" topless bars or strip clubs catering to businessmen.

It is difficult to obtain data on adult use organizations — they often consist of a maze of smaller companies that operate retail or service businesses, or distributorships. Linkages have been reported between sexually-oriented businesses and organized crime.³¹ Although it has experienced some significant changes in recent years, by most accounts the industry is booming in the United States. The tremendous growth in adult video sales and rentals and the resulting decline in the number of adult movie theaters is one significant change in the industry over the last ten years. Another is the entry of lower-end triple-X video entrepreneurs whose operations have recently emerged in many New York City neighborhoods.

Adult Video Sales and Rentals

As documented in recent newspaper and magazine articles, adult video sales and rentals are a segment of the industry that has experienced significant growth since 1980. Industry insiders contend that despite a 1986 Reagan Administration "all-out campaign" against pornography, "the number of adult-video makers and their videotapes has risen, cheap amateur videos have proliferated and the industry has expanded beyond magazines and videos to computer networks."³² One trade monthly, Adult Video News, reported adult video sales and rentals in general interest video stores have soared 75% since 1991 to \$2.1 billion last year, and by hundreds of millions more if adult-only outlets are included.³³ Thus, adult publications and videos are readily available at newsstands, general video stores and other outlets that are not characterized as adult entertainment establishments for purposes of DCP's study.

³⁰ Information contained in this section is based on an extensive review of recent newspaper articles on the adult entertainment industry. Given the recent proliferation of adult video stores and topless entertainment in New York City's neighborhoods, the literature review focused primarily on these uses.

³¹ State of Minnesota, "Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses," June 6, 1989.

³² "Despite U.S. Campaign, A Boom in Pornography," The New York Times, July 4, 1993, p. A-20.

³³ The Wall Street Journal, July 11, 1994, p. 1.

Concurrent with the growth in adult video is a decline in the number of adult movie theaters. The Adult Film Association of America recently estimated that the number of adult movie theaters across the United States had declined from 800 in 1979 to about 50 in 1990.³⁴ The estimate appears low considering the number of adult movie theaters located in New York City alone.

The growth in the adult video sales and rentals segment of the adult industry is directly related to the increasing availability of inexpensively produced triple-X videocassettes that have flooded the market in recent years. Adult video producers have cut costs dramatically by shooting on videotape rather than film, shooting for fewer days, cutting the length of scripts, using cheaper sets, and slashing production budgets. Performers' salaries, even for top stars, have dropped steadily from more than \$1,000/day five years ago to as low as \$100/day. Adult Video News estimates that in 1983, eight percent of the releases were shot on videotape, with the balance shot on film. Last year, 97 percent of the releases were shot on videotape. The Adult Video Association contends that cost cutting by producers of adult home videos has caused the price of a triple-X videocassette to plunge from \$100 a few years ago to as low as \$5 today.³⁵

Despite criticism that the latest entrepreneurs in the sex industry are delivering an inferior product, demand for their products appears to remain strong. One Los Angeles-based company, Evil Angel Productions, is typical of the latest producers of cheap adult videos. The company grossed \$34,000 in 1990 when it produced and released eight tapes. In 1993, the company grossed \$1 million by shooting, manufacturing and distributing a new hard-core videotape every three weeks.³⁶ Sales for another Hollywood-based price-cutter, Video Exclusives, rose from \$3 million in 1981 to \$30 million in 1991. Other hard-core video producers in Hollywood, where about 50 of the nation's 60 or so manufacturers of hard-core videotapes are located, report similar growth.³⁷

Despite these successes, some in the industry believe that the market for these products has peaked and that the novelty of pornography will simply wear off over time. Triple-X videos are still a billion-dollar business, says Gene Ross, an editor at Adult Video News, but the business

³⁴ John Needham, "Gone With the Sin: Closure of Adult Theater in Santa Ana Reflects Trend Credited To - Or Blamed On - The Videocassette Revolution," Los Angeles Times, August 14, 1990, p. E-1.

³⁵ John Johnson, "Demand Is Strong, But Police Crackdowns and A Saturated Market Spell Trouble for One of L.A.'s Biggest Businesses," Los Angeles Times, February 17, 1991, p. 8.

³⁶ "Despite U.S. Campaign, A Boom in Pornography," The New York Times, July 4, 1993, p. A-20.

³⁷ Johnson, p. 8.

"peaked a couple of years ago and is on a downward trend."³⁸ However, as one Los Angeles police expert on the industry explains, "No one should rush to write the obituary for porn. Although . . . the business climate has become tougher, the industry is not likely to disappear. The entrepreneurs of sex have proven that . . . many people still really want the stuff."³⁹

Topless Entertainment

In recent years, upscale topless clubs have become a booming segment of the adult entertainment industry. An article in The New York Times describes the proliferation of topless bars as a national phenomenon in large cities.⁴⁰ According to a recent report in New York Newsday, topless clubs that cater to a young, affluent clientele have become one of the fastest growing and most lucrative segments of the adult entertainment industry in New York City. By conservative estimates, the topless club industry in New York City is a \$50 million a year business, employing about 1,500 dancers.⁴¹ In two years, the number of these clubs has grown from about five in 1990 to more than 30 in 1992, not including clubs throughout the city that operate without liquor licenses.⁴²

Several factors appear to have influenced the recent proliferation of upscale topless clubs in New York. First, responding to the devastating effects of the recession on eating and drinking businesses, some entrepreneurs have retooled their establishments and used topless performances as a successful marketing device to win back their affluent male clientele. Second, the clubs have shed their "sleazy" reputations and become more mainstream by providing topless entertainment in safe, "elegant" surroundings furnished with other attractions such as giant closed circuit television screens, pool tables, and air hockey. Third, the instant financial success of the newest upscale topless clubs in Manhattan has attracted a number of imitators.

In a recent interview with New York Newsday, Jay Bildstein, the owner of Scores, a topless "sports bar" on the upper East Side of Manhattan, explained that while the new clubs may vary greatly in style, the corporate organization is often similar. Club owners typically contract with national organizations which, in exchange for a percentage of gross income,

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ "Strip Clubs Putting On a Suit and Tie," The New York Times, p. B-5, March 26, 1994.

⁴¹ Walter Fee, "Bare Market: For New Upscale Clubs, It's Boom and Bust," New York Newsday, City Edition, December 20, 1992, p. 7.

⁴² Ibid.

recruit and market the dancers. In the New York area, Goldfingers and Pure Platinum are two of the most successful national marketing organizations associated with local topless clubs. Typically, the dancers are treated as independent contractors, thereby releasing management from the responsibility for withholding taxes or social security, and protecting the club owners from potential legal liability for the dancers' behavior. The typical customer is an affluent male repeat customer between the ages of 25 and 30.⁴³

Certain factors appear to be influencing the recent proliferation of triple-X video stores and nude bars in or near residential neighborhoods in New York City, such as Murray Hill, Chelsea, Sunset Park, Sunnyside and Forest Hills. First, the availability of low-budget videotapes has enabled increasing numbers of low-end porn entrepreneurs to enter into a market that was previously closed to them. Second, topless bars have been successfully recast as upscale adult uses, catering to young businessmen with money to spend.

Inventory and Trends, by Location and Type

The locations of adult entertainment establishments in New York City that were identified by the DCP survey in 1993 are shown on the maps following page 19. Data in this section was obtained from different sources, and may reflect differences in definitions as to what constitutes adult entertainment. Pre-1993 data is presented because it is the most thorough available and, outside of Midtown Manhattan, provides an understanding of the location of adult uses at that time.

⁴³ Molly Gordy, "What's Under the Paint? How to Keep the Law Happy When Topless is a Business." New York Newsday, Manhattan Edition, September 17, 1992, p. 29.

Citywide Trends: 1965 to 1993

In 1965, there were nine adult establishments located in New York City. By 1976, the number of such establishments increased to 151. Between 1976 and 1984, the number of adult establishments declined to 131 citywide. Between 1984 and 1993, the number of adult establishments increased citywide, to 177. Citywide trends in adult entertainment establishments are indicated in Table 1.

TABLE 1 CITYWIDE TRENDS IN THE NUMBER OF ADULT ENTERTAINMENT ESTABLISHMENTS				
Year	1965	1976	1984	1993
Total Number	9	151	131	177

Sources: 1965 and 1976 data, Office of Midtown Enforcement files; 1984 data, Police Department; 1993 data, Department of City Planning.

In 1965, the number of adult establishments was small because the sale and distribution of pornography was largely restricted. By 1976, most restrictions were removed and the number of adult establishments burgeoned.

Between 1976 and 1984, the number of adult establishments dropped 13 percent, reflecting a decrease of 48 adult uses in Midtown Manhattan alone, from 97 to 49. This may be attributable to enforcement efforts by the city, the start of major construction projects in west Midtown that increased investor confidence in the area, and changing technology.⁴⁴ However, the decline was offset by an increase of 28 adult uses, from 30 to 58, in the other boroughs. The decline in adult uses in the Midtown area is probably unrelated to the increase in such uses to other areas of the city during that period.⁴⁵

Between 1984 and 1993, adult entertainment establishments increased 35 percent citywide. The trend — analyzed below — can be attributed to the advent of the adult video store, and greater numbers of topless or nude bars stemming from their changing, upscale image.

⁴⁴ 1983 Annual Report, Mayor's Office of Midtown Enforcement, p. 36.

⁴⁵ More detailed analysis indicates that the decline in adult uses in Manhattan was in bookstores/peep shows and theaters; the increase in adult uses in boroughs other than Manhattan was largely in topless bars.

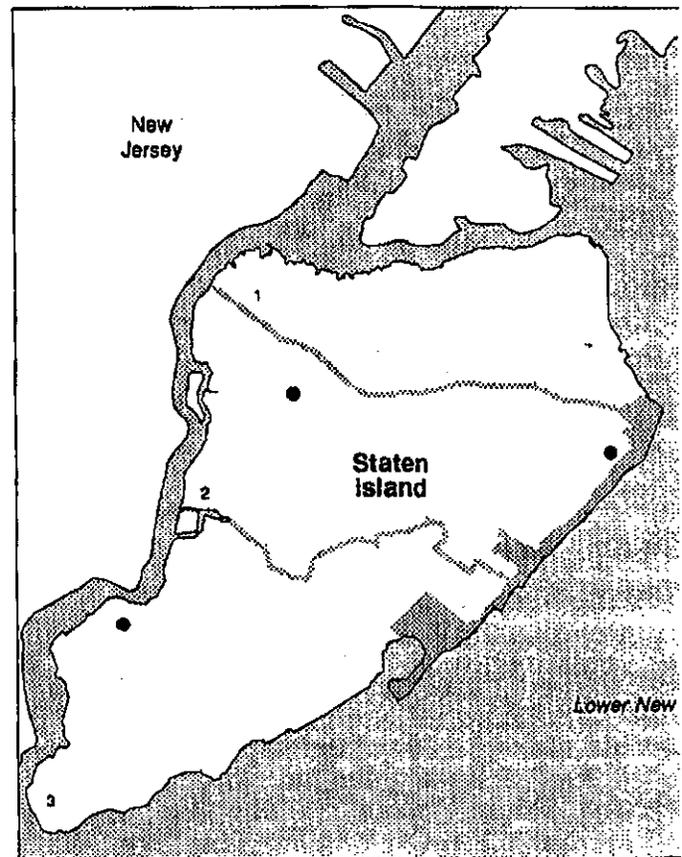
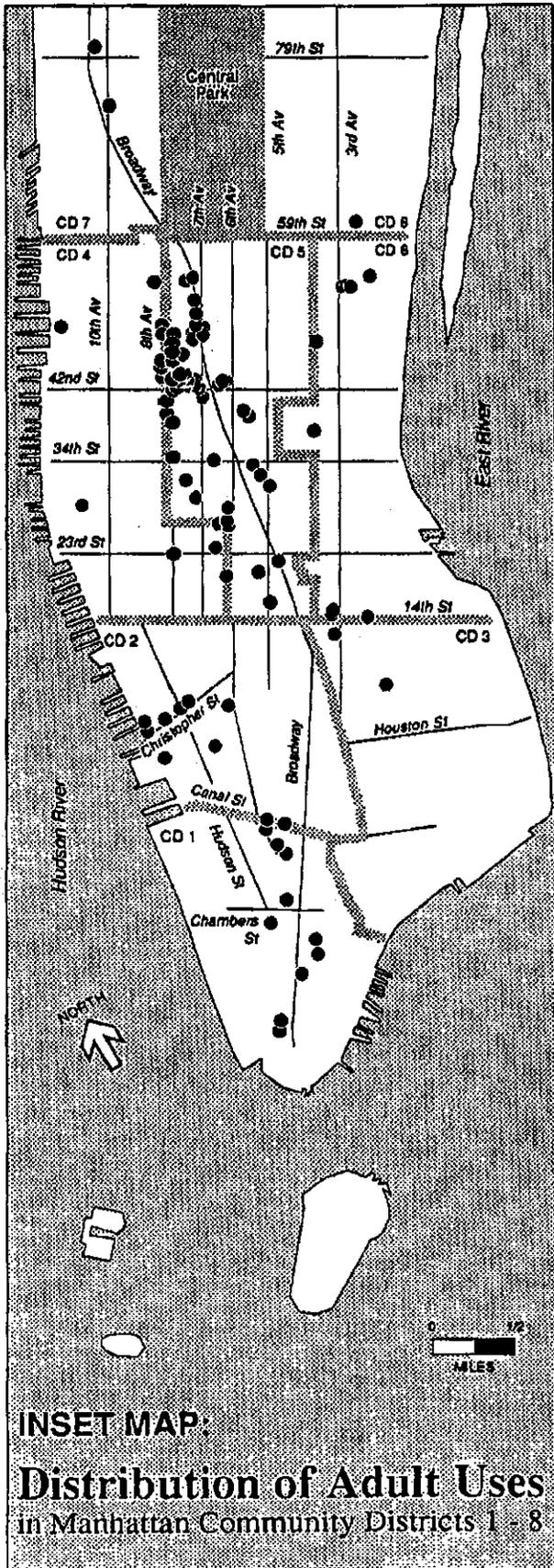
Citywide Distribution of Adult Uses by Community District

- adult use
- community district boundary
- 16 community district designation
- ▨ area not part of any community district

Source: Dept. of City Planning, 1993

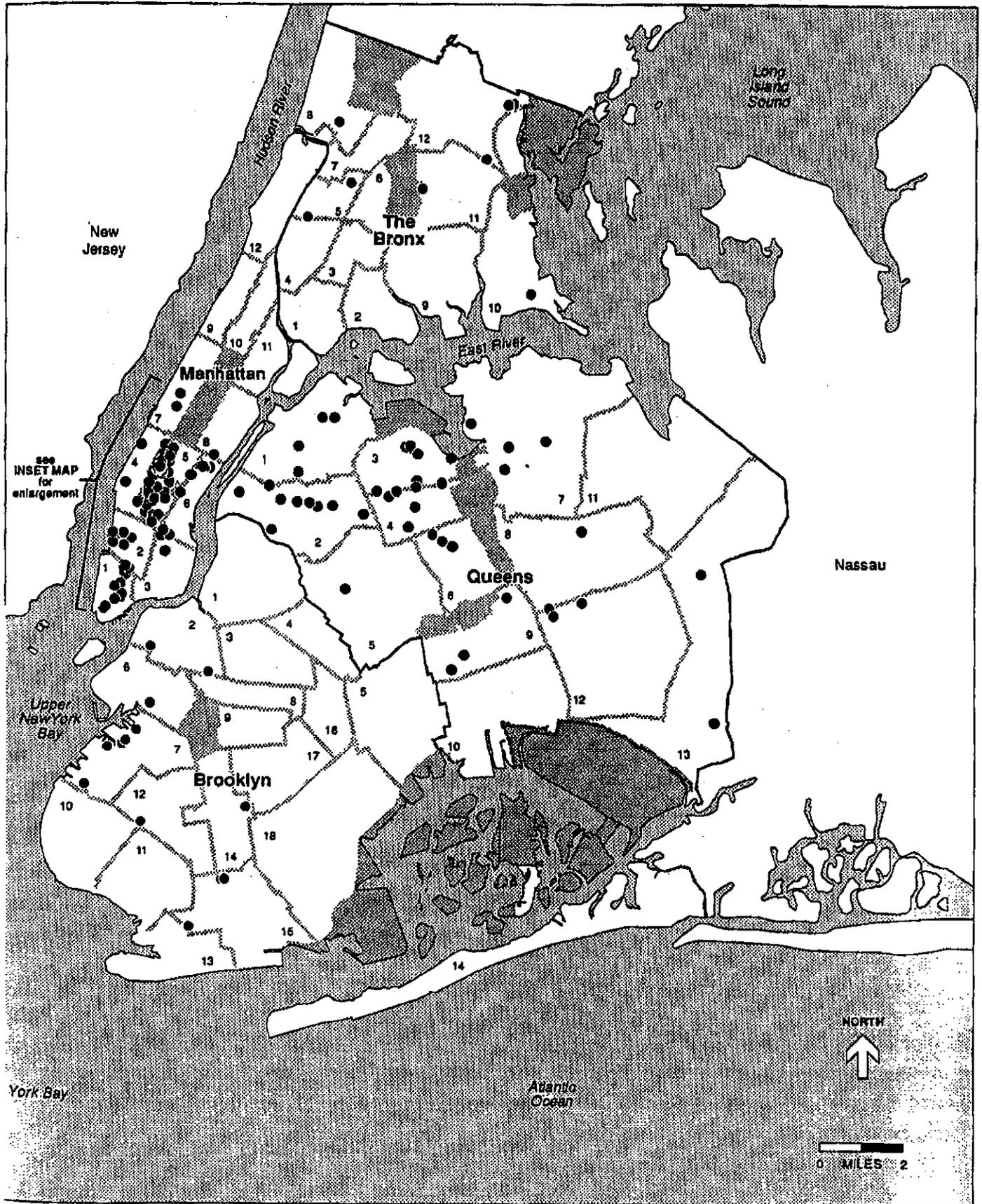
Adult Entertainment Study

Department of City Planning / City of New York



Inset Map

Citywide Map



Trends by Borough

Between 1984 and 1993, the greatest increases in adult entertainment establishments were found in Manhattan and Queens. Both boroughs had a 47 percent increase in adult uses, from 73 to 107 in Manhattan, and from 30 to 44 in Queens. Adult uses in the Bronx declined by two, from 10 to eight. In Brooklyn, adult establishments decreased by one, from 16 to 15. Staten Island had an increase of a single establishment.

Among the five boroughs, most adult entertainment establishments continue to be located within Manhattan. In 1976, 80 percent of all such uses were located in Manhattan, decreasing to 56 percent in 1984 and increasing to 61 percent in 1993. Queens has had the second greatest concentration of adult uses in New York City. In 1976, Queens contained 11 percent of the city's adult uses, rising to 23 percent in 1984, and increasing marginally to 25 percent in 1993. The Bronx, Brooklyn and Staten Island each have less than 10 percent of all adult establishments located in the city.

Trends within Categories of Adult Uses

Between 1984 and 1993, the number of adult bookstores/peep shows/video stores increased citywide 197 percent, from 29 to 86 establishments. Adult topless/nude bars also increased during the period, by 26 percent, from 54 to 68. Adult movie and live theaters declined over the period by 52 percent, from 48 to 23 establishments. Adult theaters declined from 41 percent of all adult uses in New York City in 1976, to 37 percent in 1984, and 13 percent in 1993.

Bookstores/peep shows comprised 44 percent of all adult uses in 1976, declining to 22 percent of the total in 1984. However, in 1993, the category consisted of 49 percent of the citywide total number of adult entertainment establishments, reflecting the rise in adult video establishments from none reported in 1984, to 64 in 1993. In 1993, adult video stores made up 74 percent of all establishments in the book/peep/video category. Their recent proliferation represents the largest percentage gain among all adult uses since the mid-1970s.

Topless and nude bars increased their share of all adult uses between 1976 and 1984, from 15 percent to 41 percent, respectively. By 1993, adult bars — although continuing to increase in absolute numbers — declined as a percentage of all adult uses to 38 percent of the total, reflecting the proliferation of adult video establishments.

If growth in the various segments of the business continue over the next decade at the same rate as they did between 1984 and 1993, by the year 2002, there would be a 197 percent increase in the number of bookstore/peep shows/videos from 86 to approximately 250; a 26 percent increase in topless/nude bars from 68 to 86; and a 52 percent decline in the number of adult movie and live theaters from 23 to 11.

Trends in Concentrations of Adult Entertainment Establishments, by Community District

Between 1984 and 1993, adult entertainment establishments have continued to concentrate in a few community districts in Manhattan. Citywide, the number of community districts with one or more adult uses has remained relatively stable over the period. However, adult uses have recently located in neighborhoods within community districts where they had not previously been.

Significantly, the number of community districts with seven or more adult entertainment establishments nearly tripled between 1984 and 1993, from three to eight. Community district designations for adult establishments identified in the 1976 survey are not readily discernible.

Table 2 indicates in rank order community districts by the number of adult uses within each district in 1993. Districts without adult uses are not listed. In 1993, the majority (53 percent) of adult uses in the city were located in Community Districts 1, 2, 4, and 5, Manhattan.

In 1984 and 1993, the greatest concentration of adult uses was found in Community District 5, Manhattan, which includes part of the Times Square area. In 1984, 34 percent of the citywide adult uses were located in the community district; in 1993, 30 percent of such uses were found there. Between 1984 and 1993, the number of adult establishments in the district increased by 18 percent, from 45 to 53, nearly half the rate of growth citywide.

Rank	Community District*	No. Establishments in Each District
1	M5	53
2	M4	19
3	M2	11
4	M1	10
5	M6 Q3	9
6	Q2	8
7	K7	7
8	Q1 Q7	5
9	Q4	4
10	B12 K15 Q6 Q9 Q12	3
11	B5 K2 M3 M7 Q13 S2	2
12	B8 B10 B11 K6 K12 K14 M8 Q5 Q8 S3	1

*Borough designations: B = the Bronx; K = Brooklyn; M = Manhattan; Q = Queens; S = Staten Island.
Source: Department of City Planning survey.

Community District 4, Manhattan, had the second greatest concentration of adult uses in the city in 1984 and 1993. The district, located west of Community District 5, encompasses Chelsea, Clinton and part of the Times Square area. In 1984, seven percent of the city's adult entertainment establishments were located in the community district. By 1993, 11 percent of such establishments were located there. Between 1984 and 1993, the number of adult uses within the district increased by ten establishments from nine to 19, or by more than 110 percent. The growth rate in adult uses in the community district over the nine-year period was more than triple that of the city as a whole.

This data suggests that over the past decade, while adult uses have spread to more community districts, there is a persistent tendency toward concentration of significant numbers of adult uses.

Location of Adult Uses by Zoning District

For purposes of this analysis, zoning districts were grouped according to certain characteristics. C1 (Local Retail) and C2 (Local Service) Districts were grouped together because they are both mapped widely in residential neighborhoods throughout the city. C4 (General Commercial) Districts are regional commercial districts, mapped in each borough. They comprise the city's major and secondary shopping centers. C5 (Restricted Central Commercial) Districts and C6 (General Central Commercial) Districts were grouped into a single category because they are mapped principally in Midtown and Downtown Manhattan and Downtown Brooklyn. These districts allow a broad array of commercial uses, and are characterized by high commercial densities. C8 (General Service) Districts that permit automotive uses were grouped with M1, M2 and M3 Districts that permit industrial uses. Residential use is not permitted in C8 Districts and generally not permitted in manufacturing districts except in certain circumstances.

The analysis indicates that of the 177 adult entertainment establishments, approximately 18 percent (31) are located in C1 and C2 Districts. Ten uses, or approximately six percent, are located in C4 Districts. Approximately forty percent (70) of adult uses in New York City are located in C5 and C6 (central commercial) Districts. Forty-five adult uses, or approximately 25 percent of the total number, are located in C8 and manufacturing districts. Combined, approximately 88 percent of adult entertainment establishments are located in commercial or manufacturing districts.⁴⁶

⁴⁶ Forty-two adult uses, or 24 percent of the citywide total, are located in M1-6, C5-3, C6-4, C6-5, C6-6, and C6-7 Districts within the Midtown Special District.

The remaining adult uses, 21, or approximately 12 percent of the total number, are located in residence districts which do not permit commercial uses. These uses may be legal non-conforming commercial uses in residential districts, or the locations may be classified as within residence districts, because of the primary characteristic of the tax lot.⁴⁷

All commercial districts except C8 permit residential use.⁴⁸ Many light manufacturing/mixed use zones permit residential uses in certain circumstances. More than 75 percent of the adult entertainment establishments are located in those commercial or manufacturing zoning districts that also permit residential uses.

Industry Views

Members of the adult entertainment industry met with city planners to discuss industry issues and needs. Those responding to the DCP invitation represented topless and nude clubs, triple-X video/bookstores/peep shows, live theaters, and suppliers. Some represented the Adult Industry Trade Association (AITA) as well as their own individual establishments. The meeting was designed to familiarize the representatives with the study and obtain specific information about location decisions, employment and revenues, tourism and industry changes and trends.

Industry representatives argued that there are a number of positive impacts directly attributable to adult businesses. For example, it was stated that "safer sex," due to the change in sexual mores caused by AIDS, has been promoted by the increase in triple-X video stores and the corresponding decrease in live sex clubs. Others noted that adult businesses provided safe places on otherwise dark streets because these businesses traditionally stay open very late. Also, late night uses on a street have encouraged other businesses to stay open later to cater to the customers drawn to adult businesses in the evening. Adult businesses often provide important rental revenues to landlords because they are willing to occupy vacant storefronts on a short-term basis. The manager of a triple-X video store in the East 50's in Manhattan observed 11 new businesses had since opened after his store opened in December 1992, observing that the presence of an adult business on the block is not a deterrent to new businesses. Industry representatives maintained that adult entertainment businesses earn

⁴⁷ Due to limitations in technology, different computer systems were used to cross-reference street address and zoning district. The predominant zoning classification of a tax lot was used to classify zoning districts.

⁴⁸ Residential uses are also not permitted in C7 districts. C7 districts, which accommodate large, open amusement uses, are not widely mapped.

revenue for the city, provide jobs and stimulate tourism. This would be true to the extent they do not discourage the growth of other businesses that would generate more employment, tax revenue and tourism.

Segmented Industry

The industry appears to regard itself as segmented — tourist oriented v. neighborhood-oriented, upscale v. tawdry, community fixture v. transitional presence, eye-catching v. discreet signage, triple-X products v. entertainment. A number of establishments that were invited to the meeting declined to attend because they did not identify with perceived industry-wide concerns. One adult bookstore owner, located for many years on Eighth Avenue in the mid-30's, said he was not part of the problem; the owner of a sexually-oriented boutique on the Upper West Side said he was a neighborhood service and disassociated himself from "heavy-duty" adult businesses. People attending the meeting questioned whether the DCP study had examined segments of the adult entertainment industry separately to isolate possible impacts or if the study had grouped all adult businesses together.

Location

The basic locational criterion for adult entertainment businesses is to be "where the customers are." In Manhattan, this is often determined by where the tourists are; "Broadway is better than Twelfth Avenue," said one club owner. In the other boroughs, a good location is one with easy access to public transit, main arterials and plenty of parking for local residents and commuters passing by on the way home. Mass transit and available parking are always important, wherever you are, commented one participant.

Adult entertainment businesses tend to be transitional and locate in areas that are "moving upwards"; they are rarely found in poorer neighborhoods. One statement submitted at the meeting maintained that some major real estate developments owe their existence to the ability of landlords to warehouse property by renting space to adult businesses that are willing to accept high rents and short leases during the period when a major assemblage is underway.

Economics

One corporation that operates two upscale, topless bars provided a number of statistics about their operation. Combined figures for both clubs during the last fiscal year show that they employed a total of 218 employees, had an annual payroll of \$1,302,627 and grossed more than \$600,000/month on credit card business alone. Credit cards rather than cash are the preferred method of payment. The legitimate, licensed nature of the business was stressed as well as the desire to be fully integrated into the New York City business community.

Marketing

According to a representative of the two topless clubs, it is essential to be near tourist areas where people are drawn to adult uses by publicity and signage. About 40 percent of the approximately 5,000 weekly patrons at their club on Broadway in Midtown Manhattan are tourists; approximately 15 percent of the clientele at their Downtown Manhattan club are tourists. However, the manager of a triple-X video store in the East 50's in Manhattan, and the owner of a triple-X video store in the West 30's in Manhattan, said they have a non-tourist clientele; most customers are local residents or office workers. One of the video store owners said that eighty percent of his customers are men between 30-50 years old and 20 percent are couples or women; customers want cleanliness and safety in a convenient location that is not "sleazy." Signage for his store, he said, was originally obtrusive (to "announce" the store's presence) but is now muted in an effort to blend into the neighborhood blockfront.

State Liquor Authority (SLA)

Participants representing topless bars stated that their establishments are particularly orderly and well-run because they must conform to stringent State Liquor Authority (SLA) requirements. If the SLA finds a "pattern of disorder" during an inspection, the bar owner will face disciplinary action — ranging from a warning letter to revocation of a liquor license. The SLA regulates liquor sales and the degree of performance nudity. Since SLA regulations do not allow total nudity, nude clubs do not serve liquor and are not governed by the SLA.

Trends

In response to a question about industry trends, the group responded that there was oversaturation of adult businesses in New York City, particularly in Manhattan, and that these establishments were closing. It should be noted that of 177 invitations mailed to the adult entertainment establishments identified in DCP's survey, 27 were returned primarily because the adult business was no longer located at that address. Concentrations of uses were said to be due to the "copycat factor" and the tendency of bar patrons to want to "barhop." These statements, indicating a tendency of adult uses to concentrate in a community, confirmed the conclusion of DCP's analysis of the location of adult uses by community districts. It was said that the emergence of Blockbuster Video (which does not carry any triple-X videos) had driven out some 'mom-and-pop' video stores that had a small section of triple-X videos, leaving the field clear for triple-X video stores in a few neighborhoods.

Summary

In a letter to the City Council dated March 9, 1994, AITA acknowledged concerns by some community groups regarding signage and windows and said AITA had been formed mainly to "address these problems by working as a liaison between community groups and adult use places." Most participants agreed that some adult businesses are regarded negatively by the community, but claimed this reaction is based on a visceral response and not on any secondary effects.

IV. ADULT ENTERTAINMENT ZONING IN NEW YORK CITY

Current Zoning

The Zoning Resolution of the City of New York currently regulates several general classes of commercial establishments which may or may not be characterized as adult uses.⁴⁹ For example, the Resolution regulates:

- theaters (including movie houses)
- bookstores (including video stores)
- eating or drinking establishments (including bars).

The zoning regulations are no different for a neighborhood video store or a triple-X video store, or for a bar or a topless or nude bar. However, the Resolution does distinguish physical culture or health establishments from adult physical culture or health establishments.⁵⁰

Theaters, bookstores, and bars are commercial uses, generally allowed as-of-right in most commercial and manufacturing districts. Commercial uses are generally prohibited from locating in residence districts. However, some commercial uses that are non-conforming in residence districts are essentially "grandfathered" and may continue at these locations until they have been abandoned for a period of time.

Theaters

Theaters (which include movie houses or motion picture theaters) are listed in the Zoning Resolution in Use Groups 8 and 13. Theaters are allowed as-of-right in C2 (Local Service), C4 (General Commercial), C6 (General Central Commercial), C7 (Commercial Amusement) and C8 (General Service) Districts. Theaters limited to a maximum capacity of 500 persons are allowed in C1 (Local Retail) Districts only by special permit of the Board of Standards and Appeals (BSA). In C1-5 through C1-9 Districts (mapped in high density areas), motion picture theaters must provide an indoor waiting area based on seating capacity.

Theaters are also allowed as-of-right in most manufacturing districts, except that in M1-5A and M1-5B Districts (mapped in Soho and Noho in Manhattan) theaters with 100 or more seats are allowed only by special permit of the Board of Standards and Appeals.

⁴⁹ The Zoning Resolution of The City of New York, adopted December 15, 1960, and as amended.

⁵⁰ The latter establishments, massage parlors, are considered to purvey prostitution and are not permitted in New York City.

Bookstores

Bookstores are listed in Use Groups 6C and 12B. They are allowed as-of-right in most commercial districts and in M1 (Light Manufacturing) Districts. Bookstores are not allowed in C3 Districts, and in M2 (Medium Manufacturing) and M3 (Heavy Manufacturing) Districts. Video stores have been treated as bookstores for zoning purposes.

Eating or drinking establishments

Eating or drinking establishments are listed in the Zoning Resolution in Use Groups 6A and 6C, and 10 and 12. Eating or drinking establishments include any use that serves food or drink, including alcohol, not otherwise more specifically listed in the Resolution.

Most eating or drinking establishments, including those with music for which there is no cover charge and specified showtime such as restaurants and bars listed in Use Group 6A, are allowed as-of-right in most commercial and manufacturing districts. They are allowed as-of-right in C1, C2, C4, C5 (Restricted Central Commercial), C6, C7 and C8 Districts, and in C3 (Waterfront Recreation) Districts by special permit of the Board of Standards and Appeals. They are also allowed as-of-right in manufacturing districts.

Eating or drinking establishments with entertainment, but not dancing, with a capacity of 200 persons or less are treated similarly to eating or drinking establishments listed in Use Group 6A, with certain exceptions.⁵¹ In C1-1 through C1-4, C2-1 through C2-4, and C5 Districts these establishments must obtain a special permit from the Board of Standards and Appeals. A special permit is also required in M1-5A and M1-5B Districts. Some special purpose districts may have additional restrictions on certain entertainment establishments but none distinguish between adult and other forms of entertainment.

Large eating or drinking establishments with entertainment, or those of any capacity with dancing, are listed in Use Groups 10 and 12. These establishments are permitted as-of-right in C6, C7, C8, most manufacturing districts, and in C4 Districts 100 feet or more from a residence district. They are allowed only by special permit of the Board of Standards and Appeals in C2, C3, M1-5A, M1-5B, LMM, M1-5M, M1-6M, and in C4 Districts within 100 feet of a residence district.

⁵¹ Eating or drinking establishments with musical entertainment, but not dancing, with a capacity of 200 persons or less, are allowed similarly as eating or drinking establishments in Use Group 6A.

Signs

Signs are regulated under the provisions of use regulations in the Zoning Resolution. Regulations include definitions, size or surface area, illumination, height, projection and location. Basic regulations for accessory business signs are summarized in Table 3.

TABLE 3 BASIC ACCESSORY BUSINESS SIGN REGULATIONS					
Zoning Districts	Size*	Illumination	Projection**	Height above Curb Level	Location
C1	3; 150	3 times frontage; up to 50 sq. ft.	1 ft.	25 ft.	
C2	3; 150	3 times frontage; up to 50 sq. ft.	1 ft.	25 ft.	Certain accessory business signs facing and in proximity to a residence district or public park shall conform to the sign regulations in C1 districts
C4	5; 500	Illuminated or flashing	1 ft.	40 ft.	
C5	3; 200	Not permitted***	1 ft.	25 ft.†	
C6	5; 500	Illuminated or flashing	1 ft.	40 ft.	
C6-5 or C6-7	No restriction	Illuminated or flashing	8 ft.	No restriction	
C8	6; 750 each sign	Illuminated or flashing; 5 times frontage, up to 500 sq. ft. each sign	1 ft.	40 ft.††	
M	No restriction	Illuminated or flashing	No restriction	No restriction†††	

* To determine the maximum permitted surface area, multiply the first number by the street frontage; the second number indicated is a "cap" on the maximum number of square feet allowed.

** In districts where 1 foot is identified, double- or multi-faced signs may project up to 18 inches beyond the street line.

*** Except in C5-4 Districts.

† In C5-4 Districts, may extend up to 40 feet high.

†† Non-illuminated or indirectly illuminated signs may extend to 58 feet high.

††† Except that within 500 feet of a residence or C1 or C2 District, restrictions apply to certain illuminated signs; indirectly illuminated signs may extend to 58 feet high.

Prior Zoning Proposals in New York City

In New York City, a modern-day attempt at regulating adult establishments through zoning was made in 1975, after they proliferated beyond the Times Square area. DCP proposed to restrict the location of "adult physical culture establishments," a zoning term for massage parlors which were then permitted uses in New York City, in the Times Square area. The zoning proposal, which included a provision that non-conforming facilities were to be amortized within one year, was adopted in 1976 by the Board of Estimate. Outside the Times Square area, a one-year moratorium was placed on new massage parlors.

In 1976, the United States Supreme Court upheld a Detroit "anti-skid row" zoning ordinance that placed locational restrictions and concentration limits on a variety of uses, including adult entertainment establishments. Shortly after the court decision in early 1977, the Mayor's Midtown Manhattan Action Office and the DCP prepared zoning recommendations modeled after Detroit.

The City Planning Commission proposed establishing five categories of adult uses: adult bookstores, adult motion picture theaters, adult coin-operated entertainment facilities (peep shows), adult "topless" entertainment establishments (topless bars), and adult physical culture establishments (massage parlors). According to the Commission, "By creating separate definitions for these adult uses it is now possible to distinguish in the Zoning Resolution adult uses and other uses. Without such definitions adult uses were for all purposes treated the same as their non-adult counterparts and were thus allowed to locate in any zoning district where the general use was permitted."⁵²

Under the proposal, adult entertainment uses would be allowed only in C4 and C6-4 through C6-9 Districts, which are General Commercial and General Central Commercial Districts, respectively. Existing adult entertainment uses outside of these districts, or within 500 feet of a residence district (R1 through R10 Districts), would not be allowed to continue as non-conforming uses. Adult physical culture establishments not subject to the 1976 amortization provisions would not be allowed after one year in any district in New York City, and the moratorium would be lifted.

⁵² Report of the City Planning Commission, N 760137 ZRY, January 26, 1977, Calendar #23.

In addition, adult uses would be subject to distance, concentration, sign and amortization restrictions, as follows:

- No adult use could be located within 500 feet of a residence district.
- In C4 Districts, no new adult use could be established where, within a 1,000 foot radius, two or more adult uses existed. In C6-4 through C6-9 Districts, no new adult use could be established where, within a 1,000 foot radius, three or more adult uses existed. Each adult use within a single establishment would be considered a separate primary use.
- No sign for any adult use could display or describe a specified sexual activity or a specified sexual area. No adult use could have more than one accessory business sign, except that an adult motion picture theater could, in addition, have a marquee. No advertising signs would be permitted for an adult use. No adult use sign could be illuminated or extend beyond the street line, except for adult motion picture theater marquees.
- Amortization provisions dictated that adult uses that failed to meet the proposed location and distance requirements would be required to terminate within one year. Where existing establishments within districts in which adult uses would be permitted exceeded the proposed concentration provisions, the adult uses closest to a residential district would generally be amortized first.

The proposal would have allowed the Board of Standards and Appeals to exempt existing adult uses, located in districts in which such uses would continue to be permitted, from the concentration and amortization provisions of the new regulations. Similarly, the City Planning Commission would have been authorized to allow a new adult use notwithstanding the proposed concentration provisions. In each case, the BSA or CPC, as applicable, would be required to make findings to ensure that any adverse impacts from the adult establishment were minimized. According to Norman Marcus, who at the time was counsel to the City Planning Commission, "This safety valve procedure was felt essential to withstand a challenge to the reasonableness of the regulation."⁵³

Numerous speakers appeared at the public hearing, both in favor of and in opposition to the proposed zoning regulations. In general, business and civic groups from Manhattan were supportive of the plan. Those in opposition included representatives of boroughs outside Manhattan, religious institutions, and civil libertarians.

⁵³ "Zoning Obscenity: Or, The Moral Politics of Porn," Norman Marcus, Buffalo Law Review, Vol. 27, 1978.

Subsequent to the Commission public hearing, several modifications were made to the proposal. For example, C4-1 Districts, characterized by large suburban-style shopping centers, were eliminated from the proposal as districts where adult entertainment establishments would be permitted. Also, adult entertainment establishments would not be permitted within 200 feet of a school or church.

The modified proposal was then reconsidered. According to Marcus:

By virtue of the recent Commission amendments, the heretofore dispersed and scattered eligible adult use regional commercial zones had been reduced to a handful of readily identifiable concentration targets in these boroughs — and as such, drew sharp denunciations. The Commission was accused [by citizens of the four boroughs other than Manhattan] of fostering "red light districts" in the outer boroughs and the cry was raised ever more loudly to restrict adult uses to Manhattan. The legislation foundered.⁵⁴

Marcus observed that the public's failure to understand the crucial distinction between pornography and obscenity, i.e., what is and what is not legally protected speech, resulted in a lack of sufficient political support needed to adopt a regulatory plan to limit the location and concentration of adult establishments.

In continuing to wrestle with the issue of adult establishments, the City Planning Commission in 1978 proposed, and the Board of Estimate adopted, new zoning text that distinguished adult physical culture establishments from physical culture establishments.⁵⁵ Adult physical culture establishments were eliminated as a permitted use in all districts in the city. They were to be amortized within one year. All other physical culture or health establishments would be permitted only by special permit of the Board of Standards and Appeals. The citywide moratorium on physical culture or health establishments that became effective in 1976 was deleted. Thus, only part of the effort to control the location of adult uses was adopted legislatively.

⁵⁴ Ibid.

⁵⁵ Resolution of the Board of Estimate, November 16, 1978, Cal. No. 145, approving a report (N 780387 ZRY) of the City Planning Commission, November 8, 1978, Cal. No. 16.

V. ADULT ENTERTAINMENT IMPACTS IN NEW YORK CITY

Impacts Identified by the City Planning Commission, 1977

On January 26, 1977, the City Planning Commission reported to the Board of Estimate its recommendation for zoning text changes relating to adult uses. The recommended zoning changes would have reduced existing concentrations of adult uses and prevented future concentrations, ". . . thereby substantially reducing the adverse economic and social effects that these concentrations produce. At the same time, adult uses will be prevented from disrupting residential neighborhoods by regulations requiring all adult uses to be located at least 500 feet from the nearest residence district boundary."⁵⁶ In its report, the Commission cited several negative impacts of adult uses including economic factors, increased criminal activity, the damaging influences on minors and the disruptive effects that adult uses have on neighboring residential communities and the youth of such communities.

At the public hearing on the proposed text amendments, many of the speakers appeared in favor of the proposal, expressing concerns about the blighting effect that the concentration of adult uses has had on the West Side of Manhattan. Some identified other reasons to support the proposal. For example, a psychiatrist who was a former Deputy Commissioner of the City's Addiction Services Agency and founder of Phoenix House — the city's major residential addiction rehabilitation program, said that the growth of adult uses has ". . . a direct bearing upon the number of young people who become addicted to heroin or dependent upon other drugs." He described the adult entertainment business as parasitic, attracting and victimizing adolescents and breeding prostitution and addiction. The doctor stated that limiting or dispersing adult uses can destroy the "pathological matrix." Most who spoke in opposition to the proposal did so because it would continue to permit adult uses near their communities.

The Commission noted that it analyzed the efforts of several municipalities, including Boston, Detroit, Minneapolis, Dallas and Atlantic City, to combine the best efforts of all these cities in a regulatory plan for New York. The Commission rejected the Boston concentration model, stating in the report that "Statistics indicate that the implementation of this zoning method in Boston has resulted in an increase in both the crime rate of the Boston Business and Entertainment district and an increase in the vacancy rate of the surrounding buildings." The Commission felt that a dispersion strategy, modelled after Detroit's regulatory plan, would

⁵⁶ Report of the City Planning Commission, N 760137 ZRY, January 26, 1977, Calendar No. 23.

provide room for constitutionally protected speech as well as protection for the health, safety and general welfare of the people.

The Commission noted that a proliferation of adult entertainment uses in the Times Square and Theater Districts could be related to the decade-old absence of major investment or development decisions, and to a substantial decline in economic viability. For a three-year period, tax arrears on West 42nd Street were 26 percent higher than the overall rate for Midtown. During a two-year period in the early 1970s, sales tax revenues in the area declined by 43 percent compared to an 11 percent increase citywide. In addition, jobs in retail sales declined in the area at a rate greater than that of the city as a whole. The Commission identified several businesses in the area that had closed, for example the Chase Manhattan Bank branch in Times Square, and noted that the ". . . decline of economic activity . . . can be directly related to the escalation of adult uses."

Crime data for 1975 were also analyzed, leading the Commission to state: "Increases in felonious criminal activity in areas where concentrations of adult uses are located are overwhelming." The Commission observed that in Midtown, police posts (subareas of a precinct) in which one or more adult uses were located had 69.5 percent more verified complaints than those in other subareas. Posts with one or more adult uses constituted 34.5 percent of the total posts in Midtown, but accounted for 47.1 percent of all complaints. Comparing posts with one or more adult uses to posts without an adult use, complaints for felonious assault were 142.3 percent higher, grand larceny complaints were 88.9 percent higher, rape was 185.2 percent higher and robbery was 130.2 percent higher.

Impacts Identified by the Office of Midtown Enforcement

The 1983 Annual Report of The Mayor's Office of Midtown Enforcement (OME) supported the City Planning Commission's earlier findings. The OME's report stated that in the early and mid-1970's, "Times Square was clogged with pimps, johns, and hookers as well as the addicts and muggers who along with them preyed on the public." The report noted that 1,200 prostitutes worked out of the dozen or so prostitution hotels and the 23 massage parlors concentrated along Eighth Avenue between 34th and 55th Streets, and another twelve sex businesses were wedged in between these businesses.

OME strategies (including investigation, enforcement, seeking and obtaining legislative changes in the Nuisance Abatement Law, closing hotels and obtaining substantial financial

penalties from hotel operators) worked to clean-up Times Square. According to the annual report, "At the end of 1983 Eighth Avenue is no longer 'The Minnesota Strip,' infested with the crowds of pimps, prostitutes and johns which once thrived on the atmosphere created by the multiplicity of sex uses. The crowds are no longer there because most of the sex uses which supported or attracted them have been closed."⁵⁷

Between 1978 and 1983, OME reported that it closed 106 illegal establishments, of which 82 were sex-related businesses. Additionally, they "virtually eliminated" the practice of sexually explicit handbilling on city streets, and after obtaining a zoning amendment establishing a permanent ban on heterosexual massage parlors, closed 37 illegally operated sex-related businesses in Midtown.

After reducing the number of sex-related businesses in midtown by 46 percent from 121 in 1978 to 65 at the end of 1983, OME reported that its "accomplishments have resulted in increased investor and consumer confidence in the midtown area as manifested by: the renovation and expansion of the Port Authority Bus Terminal; the opening of the new Milford Plaza Hotel on Eighth Avenue; the construction of the Marriott Marquis Hotel on Broadway; and the proposed 42nd Street Development Project."

The OME Annual Report for 1983 also reported the criminal activity occurring in sex-related businesses. Convictions for prostitution occurring inside the premises are used by OME as a basis for civil litigation. Between 1978 and 1983, the numbers of arrests for prostitution and obscenity inside sex-related businesses located in Midtown decreased from 419 to 300. The change in the number of such arrests for any given year is a function of many factors, (e.g., deployment of police personnel, unrelated litigation defining obscenity) and reflects only in part the drop in the number of massage parlors and other commercially-operated houses of prostitution. It is significant, however, that the concentration of sex-related businesses has been closely associated with substantial numbers of arrests within those establishments for prostitution and obscenity.

⁵⁷ It was found - in another study - that sex uses in the Times Square area supported hustling and hanging out on the street because of their configuration. The Final Environmental Impact Statement for the 42nd Street Development Project stated "most of these establishments present opaque facades to the street. This is presumably important to draw potential customers inside (rather than allowing them to look in) and also to provide some sense of privacy. The correlative, however, is that these operations do not look outwards or take a special interest in the sidewalks outside. As a result, and also because the sex-establishment patrons hurry in and out, the sidewalks are left unclaimed and thus available to those hustling and hanging out." New York State Urban Development Corporation, Vol. 1, August 1984.

Impacts Identified in the Chelsea Business Survey

In August, 1993, the Chelsea Action Coalition and Community Board 4, Manhattan, prepared a study describing the effects that sex-related establishments have on other businesses in the Chelsea section of New York City.⁵⁸ The Coalition called upon the city to "develop zoning proposals that will disperse, but not eliminate, these (adult) businesses . . ." The Chelsea Action Coalition called for zoning proposals because it felt that the neighborhood " . . . was being transformed before our eyes into a red light district."

The study identified the locations of sex-related adult establishments in a 76 block area of Manhattan between 13th and 32nd Streets, and Fifth and Ninth Avenues. Nine legal triple-X video stores, eleven locations closed in fiscal year 1993 for illegal sex-related activities, and seven locations of "multiple indoor prostitution arrests" in fiscal year 1993 were mapped within the study area. The Coalition stated that the concentration of triple-X video stores and peep shows "is intolerable," and "harmful to our community," noting that " . . . under the Constitution the City is permitted to prohibit this type of concentration."

Representatives of the Coalition and Community Board surveyed 100 businesses located near the triple-X video stores "to determine whether these 'adult use' businesses had negatively impacted upon the economic vitality of the Chelsea business community." Responses to eight questions were tabulated, and illustrative comments made by respondents were included in the study report.

Negative impacts stemming from the adult video establishments reported by area businesspersons included: a decline in the overall reputation of the community, a reduction in the economic vitality of individual business; a declining potential for business in the community; and observations that businesses may leave or have left Chelsea because of the adult video stores.

Sixty-one percent of respondents felt that the triple-X video stores had a negative impact on their business. Ninety-five percent believe that the reputation of Chelsea has been hurt by these stores. Nearly two-thirds think the economic vitality of their business has been hurt, and 88 percent think the potential for doing business in Chelsea has been negatively affected by the adult stores.

⁵⁸ "The Chelsea Business Survey, An Assessment of the Economic Impact of XXX-Rated Video Stores in Chelsea," The Chelsea Action Coalition and Community Board 4, 1993.

Specific comments made by businesspersons included the following:

My clients don't like to come to my office and have to go by these stores. The storefronts also lower my image as a business which is very detrimental to me.

- *publishing consultant*

There is a XXX store on the next block. We work until 8:00 P.M. Mon. - Thurs. and it is scary to walk past the seedy element that hangs out there.

- *retail furniture store*

Impacts Identified at the Public Hearing of The Task Force on the Regulation of Sex-Related Businesses

The Task Force on the Regulation of Sex-Related Businesses was established in 1993 by the Borough President of Manhattan, Ruth W. Messinger, in response to community concerns about increasing concentrations of sex-related businesses.

The Task Force conducted a public hearing on October 6, 1993, at which more than 20 people testified. Approximately twice as many individuals testified in favor of regulating adult entertainment establishments as those opposed to government regulation of adult uses. Those speaking in favor of regulation discussed adult establishments in various neighborhoods in Manhattan: Tribeca and Downtown Manhattan, Chelsea, East Harlem, Times Square, and the East Side; the majority spoke of Times Square and Chelsea.

The Task Force structured the hearing as a fact-finding hearing to obtain testimony about how adult uses impact residents, businesses and Manhattan neighborhoods. The impacts identified by the testimony are summarized below, and a copy of the transcript of the public hearing is available for review at DCP.

Crime, including drugs and prostitution, was the most frequently cited impact from adult establishments. For example, the President of the 42nd Street Development Project, referring to a concentration of sex-related uses on 42nd Street between 7th and 8th Avenues, cited a 60 percent drop in crime after the Project took title to two-thirds of the project area in April 1990 and a majority of the site was cleared.⁵⁹

⁵⁹ The transcript of the testimony, at pages 110 through 116, is instructive of the effects of the concentration of adult uses.

Several speakers noted that certain crimes were associated with adult entertainment establishments. One speaker, for example, stated that there had been no houses of prostitution in a particular neighborhood for ten years but, subsequent to the opening of a triple-X video store, two houses of prostitution had opened. These illegal establishments have since been closed by the city.

Quality-of-life impacts, such as littering, noise, late night operations, offensive signage, and general negative perceptions about neighborhoods or certain streets, were often mentioned as impacts. For example, the not-for-profit operator of an SRO stated that persons loitering near two adult establishments located across the street from the residence have made the street "intimidating," giving it a "different feeling" from that which had existed before the second adult use moved to the street. In other cases, certain impacts such as offensive signage depicting eroticism or sexually-explicit words were noted as especially problematic for children. It was observed that these signs are sometimes located near school bus stops.

Most of those testifying identified the impacts of adult entertainment establishments as especially troublesome in residential neighborhoods. Many noted the problem of adult uses in concentration, and expressed concern about the proliferation of these establishments absent the enactment of controls.

In general, those testifying against government regulation of adult entertainment establishments disputed the testimony about impacts. For example, testimony was offered that an adult burlesque theater provides 50 percent of the business of the commercial parking lot located across the street from it. Rather than having a negative impact on nearby businesses, it was claimed, the adult establishment brings in business and benefits other businesses. Others stated that the testimony of those proffering impacts from adult establishments was anecdotal. An adult video distributor, alluding to the Chelsea Business Survey, complained of bias in surveys and stated: "The way you phrase a question can determine the reply."

Impacts Identified in the Times Square Business Improvement District Study

In June 1993, a Times Square Business Improvement District study found that pending city-wide legislation, placing locational restrictions on adult entertainment uses, would remove adult uses from most of the Times Square area; the approximately 40 adult uses presently within the area would only be allowed in small clusters in manufacturing districts to the south

and west of the TSBID.⁶⁰ Aware of the legislative history of similar legislation around the country, the TSBID contracted for a further study on the secondary effects of adult entertainment uses and their concentration, which was issued in April 1994.⁶¹

The TSBID requests that the city restrict adult establishments in residential neighborhoods, and develop "legal and effective ways to mandate dispersal of these uses in commercial and manufacturing districts in such a way that no designated area becomes saturated, producing the negative impacts that Times Square and, Eighth Avenue in particular, suffer."

The study focused on the impacts of the dense concentrations of adult entertainment uses along 42nd Street between Seventh and Eighth Avenues and along Eighth Avenue between 42nd and 50th Streets. It briefly summarized the history and demographics of the area, crime statistics, and the results of 53 in-person and telephone interviews with large and small-scale business and property owners including retail, restaurant, hotel and theater enterprises as well as community boards, civic organizations, churches, schools and social service agencies. It also analyzed trends in property values.

Data for assessed property values for the 1985/86 and 1993/94 years were analyzed individually and in aggregation for study and control blockfronts to derive the specific and overall changes in valuation over that period of time. According to the study, aggregate data showed that the rate of increase of total assessed values for the study blocks with adult uses did not increase as much as the rate of increase for the control blocks without adult uses. For specific blocks, the rates of increase for other uses tended to be less than those for adult uses. The report stated that the proximity of an adult use may be "subjectively viewed" by assessors, and cited further corroboration by an appraiser with the Department of Finance. The study of property values concluded that "while it may be that the concentration of adult use establishments has a generally depressive effect on the adjoining properties . . . we do not have sufficient data to prove or disprove this thesis."

There were almost twice as many complaints about crime for the 42nd Street study block as the control block, and more than twice as many complaints for the Eighth Avenue study blocks as the control blocks. The number of criminal complaints are highest near 42nd Street where adult uses are most concentrated and decline further along Eighth Avenue. Prostitution arrests

⁶⁰ "Report on Adult Use Establishments in the Times Square Business Improvement District and the Effect of the New York City Council's Proposed Neighborhood Protection Act," Insight Associates (in association with Raven Design Works), June 14, 1993.

⁶¹ "Secondary Effects of the Concentration of Adult Use Establishments in the Times Square Area," Times Square Business Improvement District, April, 1994 (prepared by Insight Associates).

were higher on Eighth Avenue than Ninth Avenue but even higher for the area west of Ninth Avenue. Police statistics indicate that there has been a 54 percent decrease in crime during the past five years in the Times Square area, where the number of adult uses has also declined.

A survey of property and business owners in the Times Square area revealed several impacts from adult entertainment establishments located in the area, particularly in concentration. All (12) expressed the view that adult use businesses have a negative effect on the property values of businesses located in their vicinity, emphasizing the negative effects of a concentration of adult businesses. Theater organization executives (3) stated that adult uses are detrimental to their business. One cited complaints from theater patrons about an adjacent adult use. Representatives of restaurants (7) attributed declining business during evening hours, inability to book corporate parties, and "flamboyant" adult use advertising as having a negative impact on their businesses. Three hotel operators and one hotel owner "agreed that the dense concentration of adult entertainment venues was a deterrent to their trade". One hotelier stated bookings are down; customers have sent photographs of the adjacent porn store to complain to the hotel's national booking office. Of five retailers interviewed, two stated that "unsavory" people loiter in front of adult uses, and are involved in petty crime.

Impacts Identified in Newspaper Reports and Correspondence

Newspaper articles since 1993 have chronicled neighborhood concerns and opposition to the proliferation of adult entertainment establishments throughout New York City. Previously located in a few specific areas, e.g., the Times Square area, or isolated locations, triple-X video stores and topless/nude bars can now be found in or near areas of a more residential character. Some residents, outraged by the nature of adult uses in their neighborhoods, and afraid of potential negative impacts, have organized *ad hoc* groups and appealed to local officials to have them closed down. Using a combination of picketing, petitions, publicity and pressure tactics on landlords, these neighborhood groups have often been able to directly influence the location of adult entertainment uses.

The following is an abstract gathered from New York City newspapers, both daily and weekly, of the opinions and actions of local residents who oppose the operation of adult uses in their neighborhoods. Although anecdotal and subjective, these comments demonstrate the concern, outrage and sense of intrusion that many people feel.

Fear over the potential consequences of proliferation is a major factor in neighborhood opposition to adult entertainment uses. A businessman on Sixth Avenue in Chelsea who has just had a triple-X video store move into the ground floor space in his office building states: "Then I see every couple of blocks has that kind of store and just worry that the neighborhood would change to be like Times Square." A member of Manhattan Community Board 4 is more explicit: "You get three to five of these stores in an area and you create a strip. Have a strip, and you get prostitution and other related problems."

In the Chelsea area, concern is so great about the proliferation of adult entertainment uses that residents and businesspeople joined in a coalition that has been successful in routing four of the nine adult uses in the neighborhood. The Chelsea Action Coalition has held protest marches and rallies to denounce such uses and has picketed adult entertainment uses to intimidate both the store owner and the potential patron. A woman who participated in a protest march with her eight year old daughter said she did so because, when she and her daughter walk down Sixth Avenue, her daughter says: "Don't look, Mommy. It's a very dirty store." The Coalition has publicized the names of landlords who rent space to adult entertainment uses, pressuring landlords to evict them. After being picketed, one owner of a triple-X video store, at Seventh Avenue and 23rd Street, converted two-thirds of his store to conventional videos, put up a sign stating, "Ladies and Kids are Welcome," and distributed flyers apologizing for opening the store in a residential neighborhood. The Coalition has also reached out to the community board and the City Council, asking for legislative action.

Fear of proliferation of adult uses can mobilize community action even when local civic leaders and police officials agree that the sole adult use has provoked no illegal activity or even complaints about quality-of-life issues. When a local bar, located on upper Fourth Avenue in Bay Ridge, introduced topless dancers and started leafletting the neighborhood, over 1,000 people signed a petition opposing it. "This is a community issue for those of us who live in Bay Ridge," said one resident. Citing the belief that the topless club sets a precedent that other such establishments might follow, the leader of an ad hoc group formed to fight the topless club also reflected an apprehension that an adult entertainment use attracts people from outside the neighborhood: "This place is bringing in people from all over the place, who are not of, by or for this community. We've got people from Brooklyn Heights, Bensonhurst, members of the Hell's Angels, all kinds of people in there." The club owner, a long-time resident of Bay Ridge, met with local elected officials, civic leaders and police officials, and offered a number of concessions by curtailing dancing on Sundays and restricting dancing to after 9:00 pm on other nights. The community organization threatened daily protests if the bar continued to feature topless dancing. The club owner changed the topless

format, saying he "did not want to insult the community or church." "Communities have a lot of power in situations like this (because) if nothing else works, they could make it economically impossible for the club to operate by continuously picketing the place," said a local official.

Concerted community action has also been effective in Astoria, Queens. When an awning advertising "Adult Video" was installed for a store undergoing renovation on Ditmars Boulevard, irate civic leaders, politicians, clergy and residents hastily assembled a group called the Coalition for the Protection of Children. "I've never seen the community united like this on any issue," said a local politician suggesting that this was because the store was in the middle of a residential area and within walking distance of four schools. After negotiations with the landlord and store owner failed, the Coalition scheduled twice-daily protests opposite the store. Local newspapers provided publicity, listing protest times and telephone numbers for further information as well as the name of the store owner. The owner soon assured the Coalition that the store would become family-oriented with an adults-only section but it was finally shut down in the face of continued opposition. The Coalition vowed to demonstrate against other adult entertainment uses because "this is a significant problem in the city," according to one local legislator.

Residents on the Upper West Side joined with local politicians to picket and rally in front of a triple-X video store on Amsterdam Avenue. The store is still doing business but the signage was altered to a format less objectionable to the community. A year later, some neighbors picketed a newly-opened sex "boutique" eight blocks away between Amsterdam Avenue and Broadway, calling it a "smut shop." A couple living in the small building said they were afraid the store would attract transients and expose children to X-rated material. "We don't have any control or say about what's moving onto our block," said a woman who complained to the community board. "I believe in freedom of speech," added a neighbor who organized the demonstrations. "I understand that people have the right to sell and buy these things. I just don't want it across the street."

Concern over a triple-X video store on Bleecker Street in Greenwich Village located 200 feet from a church and parochial school prompted an informal protest by residents that led to the cancellation of the lease. "To have a store with pictures of a donkey having sex with a woman located 40 yards from an elementary school is simply unacceptable," said a member of a nearby block association. Another resident, concerned that an influx of triple-X video stores could harm the tourist business in the Village, stated: "No one wants to do away with the First Amendment but this is degrading to the quality of life in the neighborhood." A

number of merchants complained about the high visibility of a triple-X video store that has semi-naked women painted on the windows and flashing lights over the door. "This is bad for the atmosphere of the entire neighborhood. A lot of tourists come through here, and the [triple-X video] store can hurt everybody's business."

In November, at a community board meeting in the Clinton area of Manhattan, residents of West 30th Street in Manhattan testified for six hours about a 15 foot illuminated sign, "NUDE," that advertises a new topless club on Eighth Avenue near Madison Square Garden. Although worried about the proliferation of adult entertainment uses eroding their quality of life, it was reported that residents were most outraged by the blatant signage. "A lot of them just want to go into [the club] and smash the joint," said a member of the community board.

About 400 residents marched and picketed a 24-hour triple-X video store on Flatbush Avenue in Brooklyn because "it's a block and a half from an elementary school, and near a McDonald's and Burger King where high school kids hang out," according to one civic leader. "We feel it doesn't belong here."

In Community Board 12 in the Bronx, a neighborhood bordering Westchester County, residents have organized several protests against a topless club that opened in January on East Gun Hill Road near Laconia Avenue. The opposition is concerned about the location of the club. "The guy is surrounded by churches and schools," said the community board chairman noting that the three other adult entertainment uses in the district are in primarily commercial areas. Last fall, the Board was successful in deterring the owner of a bar on East 233rd Street from converting to a strip club. "We basically just told him that he was hurting the neighborhood's image and himself by doing it and that we'd fight him," said the chairman of the community board. "He agreed to stop."

In Jackson Heights, Queens, members of the Jackson Heights Neighborhood Association objected to a nude juice bar located on a commercial strip, Northern Boulevard, two blocks from a school. When informal protests were ineffective, they initiated protests every Friday and Saturday night. "We're not questioning at all the First Amendment or the right to be nude," said a local merchant and civic leader. "It's just their location, period."

On East 53rd Street in Manhattan, between Second and Third Avenues, some residents have formed a block association to protest the appearance of two triple-X video stores. The stores epitomize a relapse for the previously notorious block known as the Loop for its male prostitution and profusion of adult entertainment uses. "This was just beginning to get cleaned up," said one nearby resident. "Now, this." A landlord across the street from the video stores

complained: "Every one of our potential renters refer to those stores. They are unhappy to see this type of clientele in a residential neighborhood." The owner of an adjacent 55-unit apartment house, however, claimed to have a waiting list. At one of several protest rallies in front of the stores, one man who had brought his two young sons, said: "Bringing up kids in this environment is hard. My oldest started to ask, What's that, Daddy, as we walk by their big signs."

The explicit signage and gaudy lighting that draw attention to adult entertainment uses are a focus of much of the local condemnation. "These gross caricatures of sexual objects are an insult," said a member of Manhattan Community Board 4. "It's all psychological," said a store owner in Murray Hill directly across the street from a triple-X video store. "The store looks terrible but they're not doing anything wrong." A Chelsea resident agreed: "The problem is not that its a porn store but that it looks like hell."

Some residents perceive other impacts emanating from the presence of an adult entertainment use.

Residents reported seeing prostitutes for the first time on Third Avenue and 37th Street, in Manhattan, a result, allegedly, of the presence of a 24-hour triple-X video store. A local civic group held frequent demonstrations and set up a table on the sidewalk where volunteers sat and harangued customers of the triple-X video store. Although the signage has been described as muted, passersby had a clear view through the windows of the store interior. "It's an assault to the eye," said a member of the Murray Hill Committee Zoning Alliance who led twice-weekly protests and claimed to have gathered 7,000 signatures opposing the adult use. The owner masked the windows but eventually closed citing lack of business.

Neighbors joined in nightly demonstrations outside an upscale, nude cabaret, Runway 69, on Austin Street in Forest Hills, Queens. The landlord was subjected to a barrage of telephone calls protesting the presence of the nude dancers. "I don't want to sound like I'm all for it [the nude club]," said one local merchant, "but Forest Hills is changing." The club replaced a disco that attracted police attention because of the young, rowdy crowd. Afraid that the adult entertainment use would increase congestion, attract disreputable outsiders and attract crime, the demonstrators continued until the landlord negotiated to buy out the club's lease.

Referring to the First Amendment right of free speech that covers adult entertainment uses, a member of a neighborhood association in the East 60s in Manhattan claimed: "Everybody has a right to go to these places but when it becomes a nuisance, when it becomes a major problem, we can exercise our First Amendment rights to protest noise, sanitation problems, traffic and crimes."

There have been numerous letters and petitions from community groups and local organizations protesting the intrusion of adult uses into their community and asking the City to find solutions for the problem. "(We) just wish to live quietly and raise (our) families in quiet residential communities," wrote the president of one borough-wide civic group. A taxpayers' group in Glendale said that having to pass adult uses was offensive for children and adults who participated in activities at the many schools and churches prevalent in the area. Another neighborhood group in Queens asked for a moratorium on any new sexually-oriented bars.

The executive director of The New York Foundling Hospital was concerned that their young charges were exposed to the "blatant and offensive" signs advertising triple-X video stores in Chelsea. A neighborhood association in Manhattan, wrote that it "sees the proliferation of pornographic businesses as a dangerous trend that violates the integrity of our East Side neighborhood." A resident of the East Side wrote: "We, who live in the city's residential areas, are not opposed to free speech, we just feel porn establishments should exercise their free speech in more appropriate commercially zoned areas. The tenants of a residential hotel in the Times Square area submitted a number of signed petitions and wrote: "Although the people who live in this building and in this neighborhood can prove no hard numbers about how their businesses have been harmed or prove that crime has increased, they do know that the quality of their lives and their neighborhood is being deleteriously impacted." Another civic group summed it up when it wrote: "many law-abiding citizens view these establishments as a threat to the quality of life in their neighborhoods. Such concerns are quite valid and should not be easily dismissed."

VI. SURVEY OF ADULT ENTERTAINMENT USES

In 1993-94, DCP surveyed street and signage conditions, local organizations and businesses, real estate brokers, and police and sanitation officers, and analyzed criminal complaint and property assessment data for six study areas throughout the city to obtain information about the impacts of adult entertainment establishments. A map indicating the location of the study areas follows. The Times Square area was not chosen as a study area because the TSBID study was already underway. DCP's study areas were mostly in the other boroughs in areas with lesser concentrations of adult uses. Three of the six study areas contained a single isolated use. Within each study area, DCP selected "survey" blockfront(s), containing one or more adult entertainment establishments, and "control" blockfront(s), which have similar land uses, except for an adult use. A map of each study area is included in Appendix A.

Summary Survey Results

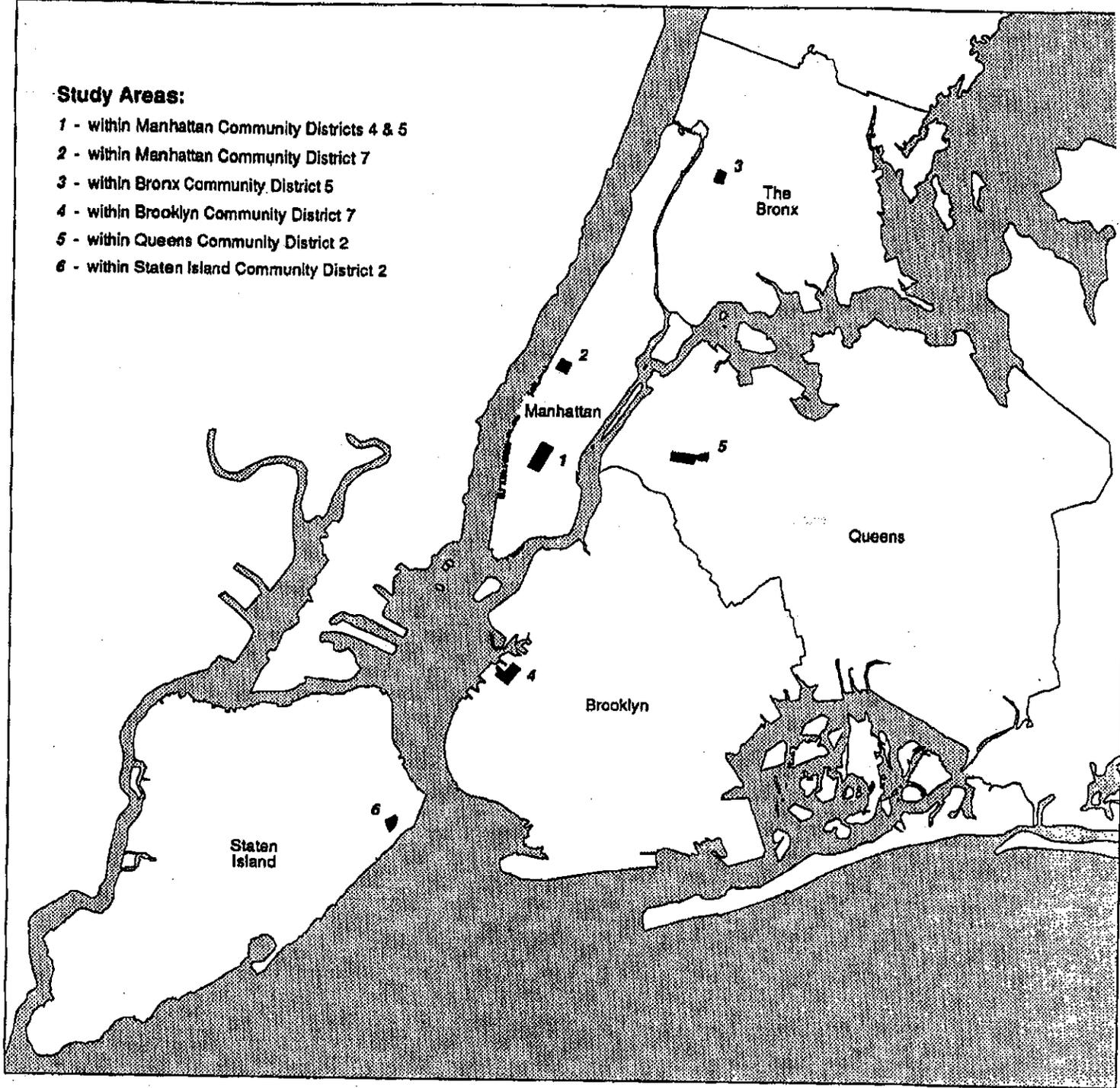
Planners' Assessment

Sidewalk and street frontages on the survey and control blockfronts in each of the six study areas were studied for noise, traffic, sanitation, and loitering. Caution should be exercised in generalizing from this survey. Observations were made during the cold weather months, and over a brief amount of time. Cold weather will discourage loitering because few people want to remain outdoors for extensive periods under such conditions. Surveyors did not spend significant amounts of time observing each street element, although observations were made more than once, on various days of the week, at different times of the day or night, and on numerous blockfronts.

On survey blockfronts in half of the study areas, impacts were noted. They were generally associated with non-adult uses, e.g., noise from voices and pedestrian congestion were noted on a blockfront in Study Area 2, but the impacts are associated with a playground. In Study Area 3, pedestrians were observed waiting on the sidewalk, but for meals served in a church. However, some noise from music emanating through the walls onto the street was noted for the topless bar in Study Area 6.

Study Areas:

- 1 - within Manhattan Community Districts 4 & 5
- 2 - within Manhattan Community District 7
- 3 - within Bronx Community District 5
- 4 - within Brooklyn Community District 7
- 5 - within Queens Community District 2
- 6 - within Staten Island Community District 2



Study Areas

- ◆ study area
- 4 study area designation

Adult Entertainment Study

Department of City Planning / City of New York

Signage Review

Accessory business signs were examined for all ground floor commercial uses located on the survey and control blockfronts in all six study areas. Little difference was noted for most signs on the survey blockfronts compared with the control blockfronts, except with respect to adult entertainment establishments.

In general, signage is characterized by the name of the establishment located above the storefront. Sometimes the accessory business signs are illuminated; less frequently they are flashing. Where there are display windows, additional signs are generally found; these are often neon or illuminated. Signs are generally flush with the buildings, but are sometimes located on projecting canopies.

Significantly, however, the signage for the adult entertainment establishments is characteristically at odds with that of other establishments. In half of the study areas, signage for the adult uses occupies a greater percentage of storefront surface area than other commercial uses located within the same blockfronts. For example, on blockfronts in Study Area 2, accessory business signs cover approximately 25 to 40 percent of the storefront surface area, but the adult use signage occupies 80 to 100 percent of such area. On blockfronts in Study Area 6, accessory business signs cover about 20 percent of frontage; the adult use has signage covering approximately twice that amount.

On blockfronts in four of the six study areas, adult use signage tends to be illuminated when that of non-adult commercial uses is not. For example, on blockfronts in Study Area 1, approximately 80 percent (32 of 37) of the ground floor commercial accessory business signs are non-illuminated. In stark contrast, 75 percent (3 of 4) of the adult entertainment establishments have illuminated signs. On blockfronts in Study Area 4, signs on most of the adult entertainment establishments are illuminated, but non-adult uses located on these blockfronts generally have non-illuminated signage.

In half of the study areas, graphic material for adult use signage was noted. For example, in Study Area 5, the outline of the female figure was a component of the adult use business sign. Flashing signs were generally not noted for the adult uses located in the six study areas. The structure of the signage for the adult use located in Study Area 3 is typical of that of movie theaters. Significantly, the movie marquee and movie poster board display windows are devoid of graphic material; only "XXX" and "adult" indicate that pornography is shown inside.

Community Responses

Twenty-eight local organizations, including the community district offices, within the six study areas were contacted and 23 responded to DCP's survey; not all responded to each question asked.

A majority (14 of 22) informed the surveyor that over the last year they had received comments about adult entertainment establishments located in their communities. Five said that these comments represented about half of all comments made about commercial uses; four informed DCP that they made up an even greater (a high) proportion of such comments. The comments, primarily from residents, mentioned graphic signage, potential proliferation of uses, proximity to residential neighborhoods, negative influence on children and teenagers and the nature of the adult use itself.

More than 80 percent of those surveyed (19 of 23) responded that adult entertainment establishments negatively impact the community in some way. Two-thirds (12 of 18) stated that the impacts from adult uses are different from those of similar establishments not characterized as adult; however, bars and discos were often said to create problems whether they have an adult use character or not. Approximately 20 percent of those responding (4 of 19) indicated that the impacts are the same for all types of adult uses studied.

Nearly 40 percent (9 of 23) of those responding stated that they have dealt with the owner or manager of an adult business about a community concern. Only two reported that the issue was resolved.

Business Responses

Ninety-seven businesses located within the survey and control blockfronts were contacted and asked to respond to DCP's business survey, and 70 agreed; not all responded to each question asked.

Approximately 20 percent (13 of 60) of those responding stated that they have received comments about adult uses in their area. For example, some said they were aware that residents, clients, etc., perceived that the adult use was inappropriate for the neighborhood, or that a proliferation would be bad for the community.

Thirty-three percent (17 of 52) responded "not known" to a question about how nearby adult uses impact their business. However, seventeen percent (9 of 52) responding to the question think that nearby adult uses do impact their business. Nine (of 40 responding) believe the impacts are the same for all types of adult uses, i.e., adult bars, triple-X video stores, and

adult theaters. Twenty percent of the businesses responding (11 of 53) think that the impacts from nearby adult entertainment establishments are different from the impacts of similar establishments not characterized as adult.

Nearly half of the businesses responding (27 of 57) believe that their business would be negatively affected if more adult establishments were to locate near them. However, a nearly equal number (24 of 55) believe that their business would be positively affected if more bars, movies or theaters, or video/bookstores of any kind were to locate nearby.

About 10 percent of the businesses responding (4 of 44) stated that they have dealt directly with the owner or manager of an adult business about a business concern. Half advised the surveyor that the concern was resolved.

Police Responses

The community liaison or beat officer was interviewed for each of the six study areas.

When the survey and control blockfronts were compared for criminal complaints and allegations, the officers generally did not link higher incidents with adult uses. Three officers believe that criminal allegations are higher on the survey blockfronts compared to the control blockfronts but, in two of these cases, the higher incidence of allegations was attributed by them to uses unrelated to the adult use. In a single instance, an officer replied that the adult entertainment establishment located in the study area has some effect on crime, and then "only rarely." Four of the six officers thought the adult uses have no effect on crime.

One officer stated that if more adult entertainment establishments were to locate in the study area, crime probably would increase. However, that officer and another responded that more bars, movies or theaters, or video/bookstores of any kind would effectively increase crime in the study area.

Real Estate Brokers Responses

Nineteen real estate brokers from all of the six study areas were interviewed; not all responded to each question asked.

It is significant that more than 80 percent of the brokers responding (11 of 13) reported that an adult entertainment establishment tends to decrease the market value of property that lies within 500 feet of it. When the distance is increased from between 500 to 1,000 feet of an adult use, a majority of brokers (7 of 13) indicated that the same phenomenon would occur. At 1,000 or more feet, less than 25 percent of the brokers (3 of 13) responded in this manner. The pattern

of response was basically unchanged when the question referred to two adult uses (a concentration) instead of one. In addition, approximately two-thirds (8 of 13) of the brokers expressing an opinion said that the presence of an adult entertainment establishment lengthens the time it takes to sell or lease nearby property, or the turnover rate of nearby properties.

Several brokers added comments to explain their responses about the impact of adult entertainment establishments on nearby property values. Some said that property value decreases would be minimal, or that values may be affected differently depending on the age make-up of the area. One broker suggested the area of impact as one avenue or two short blocks; most brokers said that it was not the physical distance but the perceived impact that mattered most. One broker said that impact depends on whether the (real estate) market is up or down. In general, commercial brokers said that impacts on commercial properties would tend to be limited because the value of storefronts on such strips is determined more by locational factors, business volume, etc., than by a nearby adult use. Not all comments were negative: for example, one broker asserted that a particular adult bar offers customers a check cashing service that would not otherwise be available in the manufacturing district to which he was referring.

Three brokers related incidents in which an adult use negatively impacted other properties. One incident involved a children's gym that moved after a topless bar located within the same shopping center. Another broker reported that a prospective residential loft purchase was terminated after it was reported that the Flower District planned to move. The purchaser feared that the vacant space would be occupied by adult uses. A third incident concerned the broker — he stated that when he learned that his wife's company was planning to move to a building containing a storefront adult use, he intervened and found new offices for the company. Subsequently, he heard that the space in the building containing the adult use took a long time to rent.

Sanitation Interview

The Sanitation Department official representing each study area was interviewed. Sanitation problems were attributed to one adult use, located in the Study Area 6. The problem consisted of two violations issued over the past year for litter and broken glass in the accessory parking lot.

Analysis of Criminal Complaint Data

The Police Department provided DCP with information about criminal complaints for the three-month period beginning June 1, 1993, for the survey and control blockfronts within the six study areas. The complaints were drawn from precinct files. Criminal complaints are allegations of unlawful acts, generally reported by a victim. The study analyzed this data to see if there was any association between complaints and adult uses.

Within each study area, there were generally more complaints noted in the survey blockfronts compared with the control blockfronts, as shown in Table 4, below. Only in Study Area 3 were more complaints recorded for the control blockfronts compared to the survey blockfronts. In Study Area 4, an equal number of complaints were noted for the survey and control blockfronts. Study Area 6 has too few complaints for meaningful analysis.

Study Area	Complaints on <u>Survey</u> Blockfronts	Complaints on <u>Control</u> Blockfronts
Study Area 1	80	24
Study Area 2	16	10
Study Area 3	47	99
Study Area 4	8	8
Study Area 5	117	29
Study Area 6	3	0

Within each study area, the number of survey and control blockfronts often differ. In Study Areas 1, 4, 5 and 6, the number of survey blockfronts is greater than the number of control blockfronts. To account for these differences, a control blockfront was "paired" with the survey blockfront that has the most similar land uses (and an adult entertainment establishment).

Criminal complaints for the paired blockfronts are shown in Table 5, below.⁶²

TABLE 5 CRIMINAL COMPLAINTS ON "PAIRED" BLOCKFRONTS		
Study Area	Complaints on <u>Control</u> Blockfront	Complaints on <u>Paired Survey</u> Blockfront
Study Area 1	10	7
Study Area 2	10	16
Study Area 3	99	47
Study Area 4	8	2
Study Area 5*	23	49
	6	10
Study Area 6	0	0

*Two control blocks were chosen for the study area; the area spans approximately one mile, and the character of it changes.

In Study Areas 1, 3 and 4, there were more complaints noted on the control blockfronts compared with the survey blockfronts. However, in Study Areas 2 and 5, more complaints were noted on the survey blockfronts compared with the control blockfronts. In Study Area 6, there were no complaints on either the control or survey blockfront.

Other land use related criteria could affect the analysis. For example, the location of the paired control and survey blockfronts was analyzed for proximity to transportation facilities such as subway stations and limited-access highways. These facilities bring concentrations of people into an area, and by doing so may affect the incidence of criminal complaints. In general, the blockfronts located closest to subway stations and a limited-access highway ramp had more criminal complaints than blockfronts located farther away. Excluding from this analysis one of the paired blockfronts in Study Area 5 that is distant from subway access, and Study Area 6, because there were too few complaints to consider, the analysis found that in each of the other study areas the number of criminal complaints was greater near transportation facilities, notwithstanding the location of an adult use.

⁶² Due to limitations in reported data, in Study Area 1 — where the complaints were generally listed by street intersection rather than by blockfront — 25th Street was chosen for the two survey blockfronts and 21st Street was chosen for the two control blockfronts.

In addition, caution should be exercised in making inferences using criminal complaints. Data was collected for the limited purpose of identifying differences in criminal complaints between survey and control blockfronts within each study area, not between or among study areas. Differences in the number of criminal complaints between or among study areas may be a function of variations in population densities, or other factors for which no study controls were established. Additionally, data was gathered for a single, limited period of time; not for trend analysis.

In summary, it was not possible to draw definitive conclusions from the analysis of criminal complaints. Land uses other than adult entertainment establishments, e.g., subway station access, appear to have a far stronger relationship to criminal complaints. It was not possible to isolate the impact of adult uses relative to criminal complaints.

Analysis of Property Assessed Values

For each study area, property assessed valuations were identified for 1986, 1989 and 1992, and the percentage changes between 1986 to 1992 were noted for the study area, survey blockfronts, control blockfronts, community district, and borough. The survey and control blockfronts were compared using the data indicating the percentage changes. The survey blockfronts were also compared in the same way with the community district and borough.

The analysis of trends in assessed valuation relative to adult entertainment uses was inconclusive. It would appear that if adult entertainment uses have negative impacts, they are overwhelmed by other forces that increased property values overall, at least as measured by assessed values. Even at the small scale of the survey blockfront, there is a wide diversity in the assessed value trends ranging from an increase of more than 18 percent to an increase of more than 200 percent over the period of analysis, strongly suggesting the importance of other factors. The influences on assessed value that the city's assessors take into account are numerous and include the sale prices of similar comparable properties adjusted for differences in size, age, and location. While the total assessed values on the survey blockfronts may be influenced to some extent by the presence of adult entertainment uses, demonstrating such effects is very difficult.

In the two Manhattan study areas (Study Areas 1 and 2), the change on the control blockfronts substantially exceeded the change in the assessed valuation on the survey blockfronts. Between 1986 and 1992, the total assessed valuation on the control blockfronts in Study Area

1 increased 165 percent; the survey blockfronts increased 68 percent. In Study Area 2 during that period, the control blockfronts increased 134 percent; the survey blockfronts increased 18 percent.

However, in the other four study areas, total assessed valuations increased by a greater percentage on the survey blockfronts compared to the control blockfronts. In Study Area 3 (the Bronx), the total assessed valuation on the survey blockfront increased by 164 percent over the six-year period; the control blockfront increased 155 percent. In Study Area 4 (Brooklyn), the total assessed valuation on the survey blockfronts increased 78 percent; the control blockfront by 19 percent. Study Areas 5 (Queens) and 6 (Staten Island) had increases of 153 percent and 202 percent on the survey blockfronts, and 149 percent and 88 percent on the control blockfronts, respectively.

There are several additional reasons why the assessed value findings are necessarily ambiguous. First, the survey blockfronts tend to be commercial strips or shopping streets. Commercial property in a stable area is likely to have assessed values updated with greater frequency by assessors, who take into account income and expense data that tends to have a net overall positive effect with inflation. Under the Direct Income Capitalization method used by assessors, this tends to yield a higher assessed valuation.

Second, the adjoining community district tends to contain a greater proportion of residential property, which is subject to legal limitations on the increase in assessed valuation. Since 1983, residential property in Class 1 (primarily one- to three-family houses) have had their potential annual assessment increase limited to six percent and their potential maximum five-year increase capped at 20 percent (unless the increase is due to a "physical change" such as construction). In addition, in the absence of a sale, residential property tends not to be reassessed, particularly compared to non-residential property in an active area.

Third, the total assessed value of the survey blockfronts is very small as would be expected compared to the community districts; in some cases less than one percent. While trends in the community district would tend to be reflective of local area trends, the magnitude of the survey blockfront component of total assessed value in the district is so small that its contribution to the community district trend would tend to be imperceptible, whether its specific impact was negative or positive.

VII. OVERALL STUDY FINDINGS AND CONCLUSION

DCP found that the number of adult entertainment establishments increased substantially throughout New York City between 1984 and 1993, increasing 35 percent — from 131 to 177. More than 75 percent of adult entertainment establishments are located in zoning districts that permit residential uses. Often these uses are found in concentration, such as in the Times Square area and Chelsea in Manhattan. Adult uses are now located in more of the city's neighborhoods than before, and have clustered within them. For example, between 1984 and 1993, the number of community districts with seven or more adult entertainment establishments nearly tripled, from three to eight. Seventy-five percent of the adult uses are located in ten of the city's 59 community districts. Outside of central locations, adult businesses have clustered along major thoroughfares, such as Queens Boulevard and Third Avenue in Brooklyn. Adult entertainment is more readily accessible now than it was ten years ago. Cable television, newsstands, bookstores and many general interest video stores also provide adult viewing material.

The proliferation of adult entertainment establishments within New York City is attributable in part to the increase in adult video stores, which recently have begun to carry inexpensive videos, and growing numbers of high-priced topless and nude bars. Changing sexual mores since the scourge of AIDS may be another factor. One segment of that industry, adult triple-X videos, reported \$2.1 billion in sales and rentals in 1993. Within New York City, the topless club segment of the industry is estimated conservatively as a \$50 million a year business, employing about 1,500 dancers.

DCP found secondary impacts, similar to those found in studies done by other localities. For example, the Town of Islip, New York, found that adult uses create "dead zones" in commercial areas that shoppers avoid. Los Angeles, California, found a greater proportion of certain crimes in areas of concentration of adult uses compared to the city as a whole, and other impacts traced to negative public perceptions about adult uses, such as the need to provide private security guards in parking lots and closing area businesses early. Los Angeles also found that adult businesses were perceived by the majority of survey respondents as exerting a negative impact on surrounding business and residential properties, stating "in terms of the attitudes of the respondents towards such businesses, the conclusion must be drawn that the overall effect on surrounding properties is considered to be negative."

Indianapolis, Indiana, in cooperation with the Indiana University School Of Business' Division of Research, surveyed national real estate appraisers and found that 75 percent of the appraisers

felt that an adult bookstore located within a block of a residential neighborhood would have a negative effect on real property. Major crimes occurred in study areas that contained at least one adult entertainment establishment at a rate that was 23 percent higher than six control areas (similar areas without adult entertainments), and 46 percent higher than the Indianapolis Police District.

The City of Whittier, California, found higher turnover rates in commercial and residential areas adjacent to adult uses. The study compared 38 types of criminal activity over two time periods, showing a total increase of 102 percent for the study area containing adult businesses while the city, as a whole, only had an eight percent increase.

A study by the City of Austin, Texas, compared areas with adult businesses to other areas containing similar land uses but no adult businesses, revealing a sex crimes rate between two and five times greater in the areas with adult businesses. The study also showed that the sex-related crime rate was 66 percent higher in areas having two or more adult businesses than in those areas having only one such business.

Phoenix, Arizona, studied the relationship between arrests for sex crimes and the locations of adult businesses, finding an overall increase of six times the sex crime rate in the study areas with adult uses over the control areas without such uses.

The State of Minnesota reported that a study conducted in that state examining the effects of sexually-oriented businesses upon property values and crime rates indicated clearly that such businesses had a strong negative impact on the crime rate. The addition of one sexually-oriented business to a census tract area caused an increase in the overall crime rate index in that area by more than nine percent. In another state study, it was determined that there was a statistically significant correlation between the location of adult businesses and neighborhood deterioration. Housing values were significantly lower in an area with three adult businesses than in an area with only one adult business. Also, there was a significantly higher crime rate associated with two adult businesses in an area than was associated with only one adult business in an area.

Many other localities such as Manatee County, Florida, and New Hanover County, North Carolina, relied on the studies of other localities to predicate zoning text amendments, a method sanctioned by the United States Supreme Court.⁶³ As a result of these impact studies, numerous communities enacted zoning laws to restrict the location of sex businesses

⁶³ City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986).

and to require their dispersal. Some of the communities include Islip, Huntington, Brookhaven, Smithtown and Babylon on Long Island; St. Petersburg, Florida; Atlanta, Georgia; Orange County, California; Los Angeles, California; Seattle, Washington; Camden, New Jersey; Kansas City, Missouri; Jackson, Mississippi; San Diego, California; and, Chicago, Illinois.

Studies and reports have documented the impacts or secondary effects of adult entertainment establishments located within New York City. A 1977 City Planning Commission report noted that the concentration of adult establishments in the Times Square area created adverse economic and social impacts. The Commission related the proliferation of adult entertainment uses to a decade-old absence of major investment in that area, citing tax arrearage, sales declines, the loss of jobs, and closed businesses. Increases in felonious criminal activity was characterized as "overwhelming" in areas where there were concentrations of adult uses. Complaints for felonious assault were 142.3 percent higher in police posts with one or more adult uses compared to posts without an adult use.

In 1994, the Times Square Business Improvement District published a study, "Secondary Effects of the Concentration of Adult Use Establishments in the Times Square Area." While conditions in the Times Square area have improved dramatically since 1977, the study found that the rate of increase of total assessed property values for the study blocks with adult uses did not increase as much as the rate of increase for the control blocks without adult uses. In addition, there were almost twice as many complaints about crime for the study blocks with adult entertainment establishments as nearby control blocks without adult uses. Property and business owners expressed the view that adult uses located in the area, particularly in concentration, have a negative impact on their businesses, deterring potential customers. The study expresses the concern that the recent proliferation of adult uses (from 36 in June, 1993 to 43 in April, 1994) constitutes a threat to more recent commercial prosperity and residential stability in the area.

Many residents of the communities in which adult entertainment establishments are located have complained about the impacts from these establishments. These impacts include: exposure of children and teenagers to graphic sexual images, increased crime, diminishing property values, adverse effects upon the climate for other types of commercial activities and overall negative influences upon community character. Sexually explicit business signs or displays visible from the public street are particularly offensive.

The public's concern about the impact on residential neighborhoods of even a single adult entertainment use, the threat of a proliferation of adult entertainment establishments in the city's neighborhoods, and especially a concentration of adult uses, is evidenced by a review

of recent newspaper articles. DCP's survey of newspaper articles about the proliferation of adult entertainment establishments shows widespread public concern about their impacts, such as increased crime, attracting disreputable outsiders to a residential area, changing neighborhood character, and outrage and fear.

For example, a businessman on Sixth Avenue in Chelsea who has just had a triple-X video store move into the ground floor space in his office building stated "Then I see every couple of blocks has that kind of store and just worry that the neighborhood would change to be like Times Square."⁶⁴ Concern over a triple-X video store on Bleecker Street in Greenwich Village located 200 feet from a church and parochial school prompted an informal protest by residents that led to the cancellation of the lease. "To have a store with pictures of a donkey having sex with a woman located 40 yards from an elementary school is simply unacceptable," said a member of a nearby block association. In another example, a report stated that about 400 residents marched and picketed a 24-hour triple-X video store on Flatbush Avenue in Brooklyn because, according to one civic leader, "it's a block and a half from an elementary school . . . we feel it doesn't belong here." In Community Board 12 in the Bronx, residents organized several protests against a recently opened topless club because of its location. "The guy is surrounded by churches and schools," said the community board chairman, noting that the three other adult uses are in primarily commercial areas.

In 1993, the Chelsea Action Coalition, in cooperation with Community Board No. 4, Manhattan, published the Chelsea Business Survey, which identified negative impacts associated with a concentration of sex-related businesses in that community. Of 100 businesses surveyed, 61 percent felt that the triple-X video stores had a negative impact on their businesses and 88 percent thought the potential for doing business in Chelsea has been negatively affected by the adult stores.

Several impacts from adult entertainment establishments were noted in a public hearing held October, 1993, by the Manhattan Borough President's Task Force on the Regulation of Sex-Related Businesses. More than 20 testified; approximately twice as many in favor of regulating adult businesses as those opposed to government regulation.

⁶⁴ References to "Times Square" are often made by New Yorkers concerned about the proliferation and concentration of adult establishments. It is not hard to understand why. According to the 1983 Annual Report of the Mayor's Office of Midtown Enforcement, in the mid-1970's "Times Square was clogged with pimps, johns, and hookers as well as the addicts and muggers who along with them preyed on the public." The report states that 1,200 prostitutes worked out of the dozen or so prostitution hotels and the 23 massage parlors concentrated along Eighth Avenue between 34th and 55th Streets, and another twelve sex businesses were wedged in between these businesses.

Those citing negative impacts from adult establishments noted crime most frequently, and quality of life impacts such as littering, noise, late night operations, offensive signage, and general perceptions about neighborhoods or certain streets. For example, the President of the 42nd Street Development Project, referring to a concentration of sex-related uses on 42nd Street between Seventh and Eighth Avenues, cited a 60 percent drop in crime after the Project took title to two-thirds of the project area in April, 1990 and a majority of the site was cleared. The operator of a not-for-profit SRO stated that persons loitering near two adult establishments located across the street from the residence have made the street "intimidating," giving it a "different feeling" from that which had existed before the second adult use moved to the street. Some observed that offensive signage depicting eroticism or sexually explicit words were noted as especially problematic for children; sometimes these signs were located near school bus stops.

Some noted that the impacts from adult entertainment establishments were positive, e.g., a burlesque theater owner stated that her business provided 50 percent of the business of the commercial parking lot located across the street. The positive impacts of adult entertainment establishments were further noted in a meeting held by DCP and industry representatives. They maintain that their businesses earn revenue for the city, provide jobs, and stimulate tourism.

Through the fall of 1993 and continuing into 1994, DCP surveyed street and signage conditions, local organizations and businesses, real estate brokers, and police and sanitation officers, and analyzed criminal complaint and property assessment data for six study areas throughout the city to obtain information about the impacts of adult entertainment establishments. Four of the six study areas were in boroughs other than Manhattan and in some cases contained a single isolated adult use. Surveyors found few problems but much of the work involving street conditions (noise, loitering, litter) was done during the winter months, and the results should be reviewed with caution.

Significantly, the survey noted that signage for the adult entertainment establishments is characteristically at odds with that of other nearby commercial establishments. In half the study areas, signage for the adult use occupies a greater percentage of storefront surface area than other commercial uses located within the same blockfronts. In one study area, accessory business signs cover approximately 25 to 40 percent of the storefront surface area, but the adult use signage occupies 80 to 100 percent of such area. In four of the six study areas, adult use signage tends to be illuminated when that of non-adult commercial uses is not. In one study area, approximately 80 percent of the ground floor commercial accessory business signs are non-illuminated; in stark contrast 75 percent of the adult

establishments have illuminated signs. Also, in half of the study areas graphic material was noted for adult use signage.

It is also significant that more than 80 percent of the real estate brokers responding to DCP's survey reported that an adult entertainment establishment tends to decrease the market value of property within 500 feet. When the distance is increased from between 500 to 1,000 feet of an adult use, a majority of brokers indicated that the same phenomenon would occur. The pattern of response was basically unchanged when the question referred to two adult uses instead of one. In addition, approximately two-thirds of the brokers expressing an opinion stated that the presence of an adult entertainment establishment lengthens the time it takes to sell or lease nearby property, or the turnover rate of nearby properties. This is consistent with general principles of determining market value of real property; value reflects and is affected by forces that motivate the activities of people, including social ideals and standards.

In surveys of community organizations, more than 80 percent responded that adult entertainment establishments negatively impact the community in some way. Nearly half of the businesses believe that their business would be negatively affected if more adult establishments were to locate near them. Where respondents indicated that their businesses or neighborhoods were not adversely affected by adult uses, the uses were not typically found in concentration; however, the respondents expressed a fear of the consequences of the potential proliferation and concentration of adult establishments in traditionally neighborhood-oriented shopping areas, along with a deterioration in the quality of urban life.

These perceptions are bolstered by the findings in the TSBID Study and the Chelsea Business Survey, along with other studies described in more detail in this report. Years of urban planning experience confirm that these perceptions of negative impacts are important because people act on their perceptions. As Deputy Commander Peter J. Buccino of the New York Police Department stated in a recent unrelated newspaper article on privately funded community patrols: "Residents . . . tell me they feel safer . . . To tell you the truth, perception often becomes reality."⁶⁵ As cited in a legal case on adult uses, "urban sociologist Mel Ravitz stated a sociological axiom: If people believe something to be true, even if it not originally, they will tend to act as if it were true and, in so doing, help produce the condition originally believed."⁶⁶

⁶⁵ "Hiring Private Security Guards to Cut Neighborhood Crime," *The New York Times*, August 18, 1994, p. C6.

⁶⁶ *Gibbs vs. American Mini-Theatres*, as cited in "Adult Entertainment, A 40 Acre Study," Planning Division, Department of Planning & Economic Development, St. Paul, Minnesota, 1983.

The analysis of criminal complaint data and property assessed valuation data was less conclusive than the surveys. Regarding criminal complaints, it appears that land uses other than adult entertainment establishments, e.g., subway station access, have a far stronger relationship to criminal complaints. It was not possible to isolate the impact of adult uses relative to criminal complaints. One reason is that data was collected for the limited purpose of identifying differences between survey and control blockfronts within each study area, not between or among study areas. Differences in the number of complaints between or among study areas may be a function of variations in population densities, or other factors for which no study controls were established. Additionally, data was gathered for a single period of time, not for trend analysis.

Comparisons of percentage changes in assessed valuations between 1986 to 1992 for the study areas, survey and control blockfronts, community district, and borough, did not reveal any significant relationship. It would appear that the negative impacts of adult entertainment uses on property values that were found in other studies were overwhelmed by forces that increased property values overall, at least as measured by assessed values. DCP found that demonstrating the effects of adult uses on property values on survey blockfronts is very difficult for several reasons, including the lack of sales and lease data, assessment practices, and the small total assessed value of the survey blockfront relative to the community district.

In some cases, particularly in study areas with only one adult entertainment establishment, the DCP survey did not yield conclusive evidence of a direct relationship between the adult use and the urban ills affecting the community. This reflects the fact that, in a city as dense and diverse as New York, it is difficult to isolate specific impacts attributable to any particular land use. Other cities that have conducted similar studies have acknowledged this same difficulty. For instance, the Los Angeles City Planning Department concluded that while assessed valuation of properties in areas characterized by adult uses "generally" tended to increase to a lesser degree than similar control areas, "there was insufficient evidence to support the contention that concentrations of sex-related businesses have been the primary cause of these patterns". Adult entertainment businesses were nevertheless perceived by the majority of the Los Angeles respondents as exerting a negative impact on surrounding business and residential properties. Whether or not such negative impacts had actually occurred, or were only perceived to have occurred, could not always be determined by the survey, but the study concluded that "in terms of the attitudes of the respondents towards such businesses, the conclusion must be drawn that the overall effect on surrounding properties is considered to be negative."

DCP's survey identified strong concerns about the negative impacts of adult uses similar to those found in the Los Angeles study. Even in those study areas where it could not be readily determined that negative impacts were already being felt, there was a strong body of opinion, especially among residents, that adult entertainment uses were having negative impacts and that a further proliferation of these uses in the community would lead to neighborhood deterioration. The experience of urban planners and real estate appraisers indicates that negative perceptions associated with an area can lead to disinvestment in residential neighborhoods and a tendency to shun shopping streets where unsavory activities are occurring, leading to economic decline. The forces that influence real estate value are described as follows: "The market value of real property reflects and is affected by the interplay of basic forces that motivate the activities of human beings. These forces, which produce the variables in real estate market values, may be considered in four major categories: *social ideals and standards* (emphasis added), economic changes and adjustments, governmental controls and regulation, and physical or environmental changes."⁶⁷ The attitudinal data in the survey is thus significant even in those instances where the current negative impacts of adult entertainment establishments are difficult to measure.

Fear of the potential proliferation of adult uses is a well founded concern. Taken alone, it may not seem significant if someone smokes in a subway car, scribbles graffiti, jumps a subway turnstile, aggressively panhandles or squeegees a car windshield, particularly in a city where there are other pressing problems such as homelessness, violent crime and unemployment. But when these small incidents, and establishments, proliferate and accumulate, they can tear at the urban fabric. Similarly, as the city's experience in the Times Square area indicates, the proliferation of adult uses in an area does have significant and potentially devastating impacts on the character of a community. The City has adopted an aggressive and comprehensive policy of addressing various quality-of-life issues that has begun to yield beneficial results. The problems posed by adult entertainment establishments are among the important quality-of-life issues that affect our neighborhoods and communities.

⁶⁷ The Appraisal of Real Property, seventh edition, American Institute of Real Estate Appraisers.

Overall Findings and Conclusion

- *Numerous studies in other localities found that adult entertainment uses have negative secondary impacts such as increased crime rates, depreciation of property values, deterioration of community character and the quality of urban life.*
- *There has been a rapid growth in the number of adult entertainment uses in New York City. Between 1984 and 1993, the number of such uses increased from 131 to 177. The number of video/book stores/peep shows almost tripled and there was a 26 percent increase in topless/nude bars. Adult theaters declined by 52 percent.*
- *Adult entertainment is more readily accessible in NYC than it was ten years ago. There are more such establishments in a greater number of communities. Adult videos are produced in greater numbers and at lower costs. They are often available in general interest video stores as well as those devoted exclusively to adult entertainment. Cable television has significantly increased the availability of adult viewing material. Adult material is also available at newsstands and book stores.*
- *Adult entertainment uses tend to concentrate. The number of community districts with seven or more adult uses increased from three to eight over the last ten years. Seventy five percent of the adult uses are located in ten of the city's 59 Community Districts. In Manhattan, adult uses cluster in central locations, such as the Times Square area. In the other boroughs, adult uses appear to cluster along major vehicular routes, such as Queens Boulevard and Third Avenue in Brooklyn, that connect outer reaches of the city and suburbs to the central business district.*
- *Studies of adult entertainment uses in areas where they are highly concentrated, such as Times Square and Chelsea, identified a number of significant negative secondary impacts. In the Times Square area property owners, theater operators and other business people overwhelmingly believe that their businesses are adversely affected. An analysis of criminal complaints indicated a substantially higher incidence of criminal activity in the Times Square area where adult uses are most concentrated. In addition, the study found that the rate of increase in assessed property values for study blocks with adult uses grew at a slower rate than control blocks without adult uses.*
- *DCP's survey of areas with less dense concentrations of adult uses found fewer impacts than the study of the Times Square area. However, community leaders expressed concerns that adult uses impact negatively on the community and they strongly fear the potential results of proliferation.*
- *The strongest negative reactions to adult entertainment uses come from residents living near them.*

- *Where respondents indicated that their businesses or neighborhoods had not yet been adversely affected by adult uses, this typically occurred in study areas with isolated adult uses. Moreover, these same respondents typically stated that an increase in such uses would negatively impact them. Community residents fear the consequences of potential proliferation and concentration of adult uses in traditionally neighborhood-oriented shopping areas and view the appearance of one or more of these uses as a deterioration in the quality of urban life.*
- *Most real estate brokers report that adult entertainment establishments are perceived to negatively affect nearby property values and decrease market values. Eighty percent of the brokers responding to the DCP survey indicated that an adult use would have a negative impact on nearby property values. This is consistent with the responses from a similar national survey of real estate appraisers.*
- *Adult use accessory business signs are generally larger, more often illuminated, and graphic (sexually-oriented) compared with the signs of other nearby commercial uses. Community residents view this signage as out of keeping with neighborhood character and are concerned about the exposure of minors to sexual images.*

Based on these findings, DCP believes it is appropriate to regulate adult entertainment establishments differently from other commercial establishments. The experience of other jurisdictions, the city's historic experience in Times Square, studies performed by the TSBID and the Chelsea Business Survey, and DCP's own survey establish the negative effects of adult entertainment uses. Consideration of the specific nature and extent of regulations that would be appropriate for adult entertainment establishments in New York City was not within the scope of this Study. However, in light of the negative impacts of adult uses in concentration, the following regulatory techniques, which have been used in other jurisdictions, merit consideration in developing adult use regulations: restrictions on the location of adult uses in proximity to residential areas, to houses of worship, to schools and to each other.

Appendix A

Study Areas

Study Areas 1 through 6 are identified in the following listing. A map of each area follows.

Study Area 1

Study Area 1 is located within the Chelsea section of Manhattan, Community Districts 4 and 5. It is bounded by 14th and 31st Streets, and Fifth and Seventh Avenues.

Study Area 2

Study Area 2 is located within the Upper West Side of Manhattan, Community District 7. It is bounded by West 71st and 78th Streets, and West End and Columbus Avenues.

Study Area 3

Study Area 3 is located within the Fordham section of the Bronx, Community District 5. It is bounded by East 184th Street, Valentine Avenue, East 181st Street, and Walton Avenue.

Study Area 4

Study Area 4 is located within the Sunset Park neighborhood of Brooklyn, Community District 7. It is bounded by 32nd and 44th Streets, and Fourth and First Avenues, including an area 200 feet to the west of First Avenue between 39th and 41st Streets.

Study Area 5

Study Area 5 is located in the Sunnyside neighborhood of Queens, Community District 2. It is bounded by 38th Street, 43rd Avenue, Roosevelt Avenue, 58th Street, Queens Boulevard, 51st Street and 47 Avenue.

Study Area 6

Study Area 6 is located within the South Beach neighborhood of Staten Island, Community District 2. It is bounded by Oceanside Avenue, Wentworth and Hickory Avenues, Foch Avenue, Humbert Street and Cedar Avenue, and Austin Avenue.

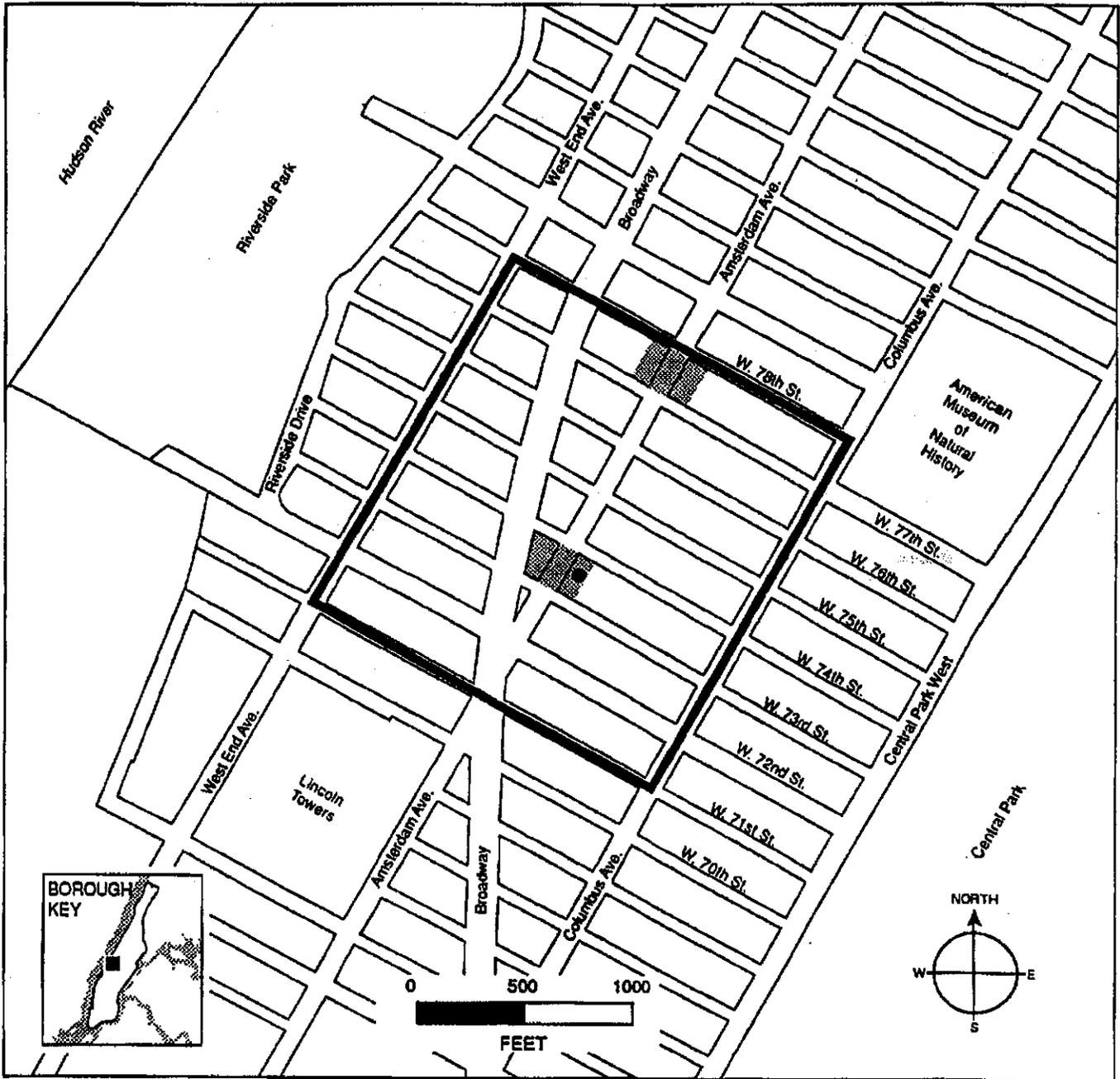


Study Area 1
 within Manhattan CD 4 and CD 5

- Adult Use
- ▨ Survey Blockfront(s)
- ▨ Control Blockfront(s)
- ▬ Study Area

Adult Entertainment Study

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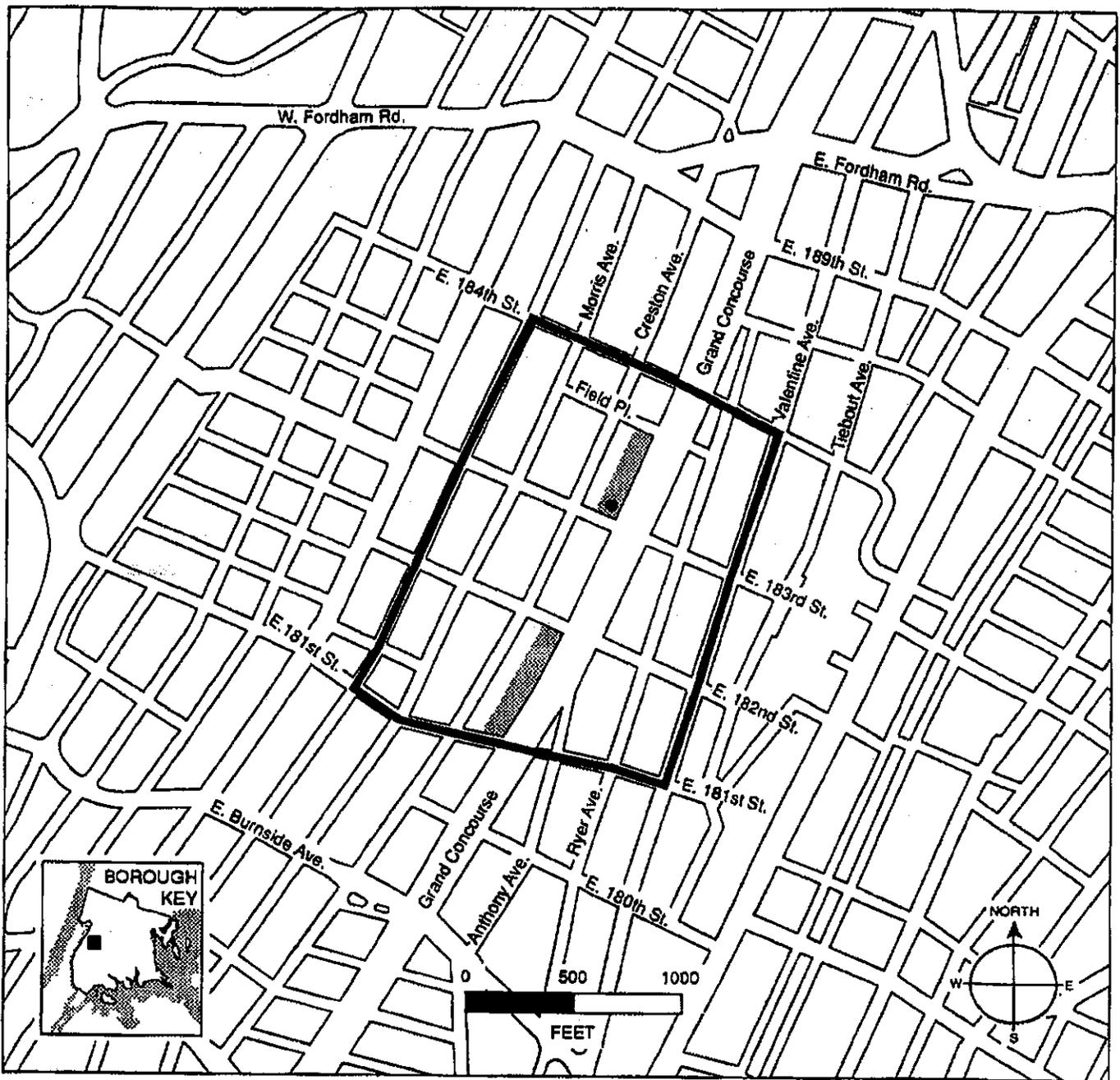


Study Area 2
within Manhattan CD 7

- Adult Use
- ▨ Survey Blockfront(s)
- ▨ Control Blockfront(s)
- ▬ Study Area

Adult Entertainment Study

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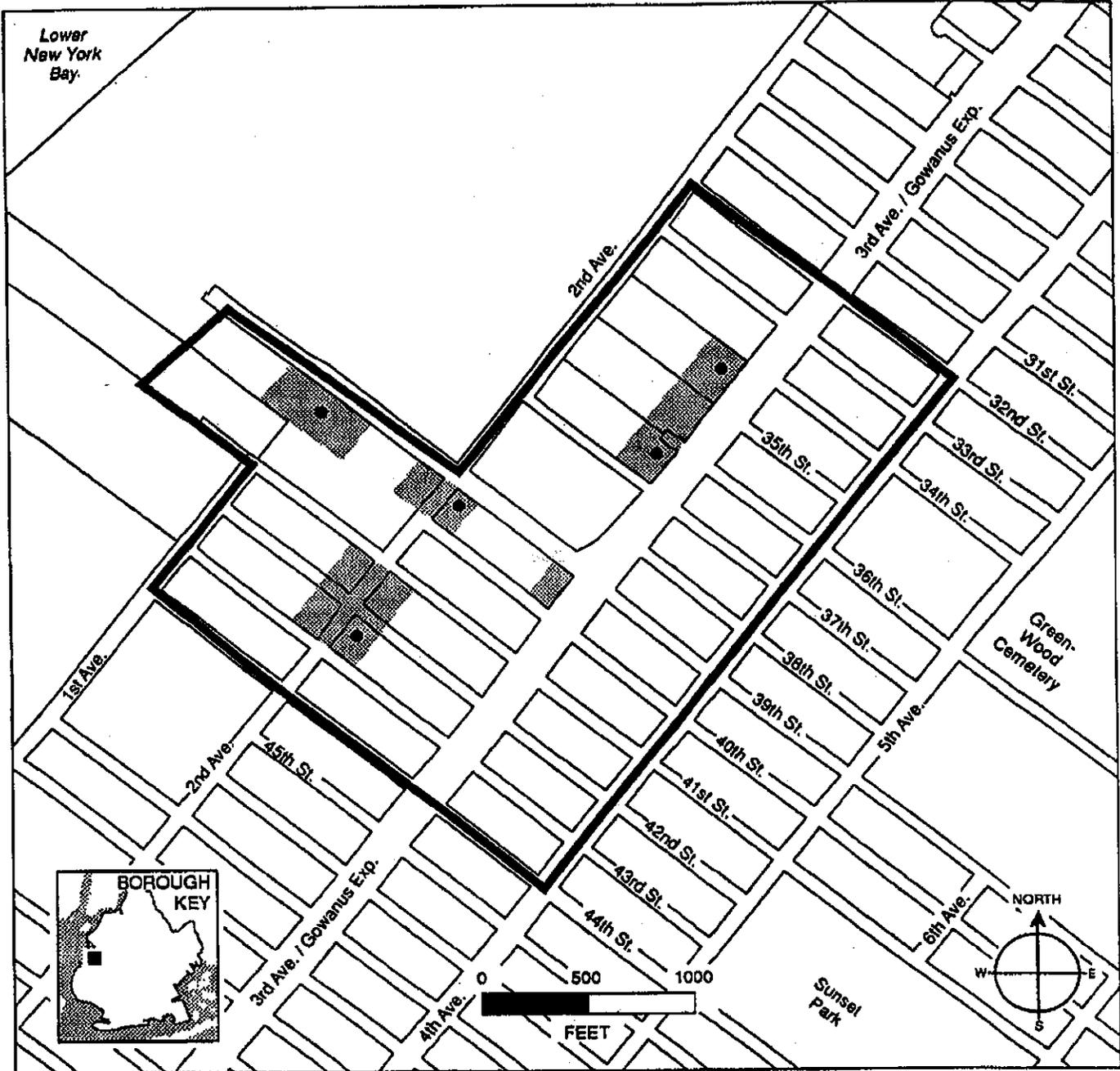


Study Area 3 within Bronx CD 5

- Adult Use
- Survey Blockfront(s)
- Control Blockfront(s)
- Study Area

Adult Entertainment Study

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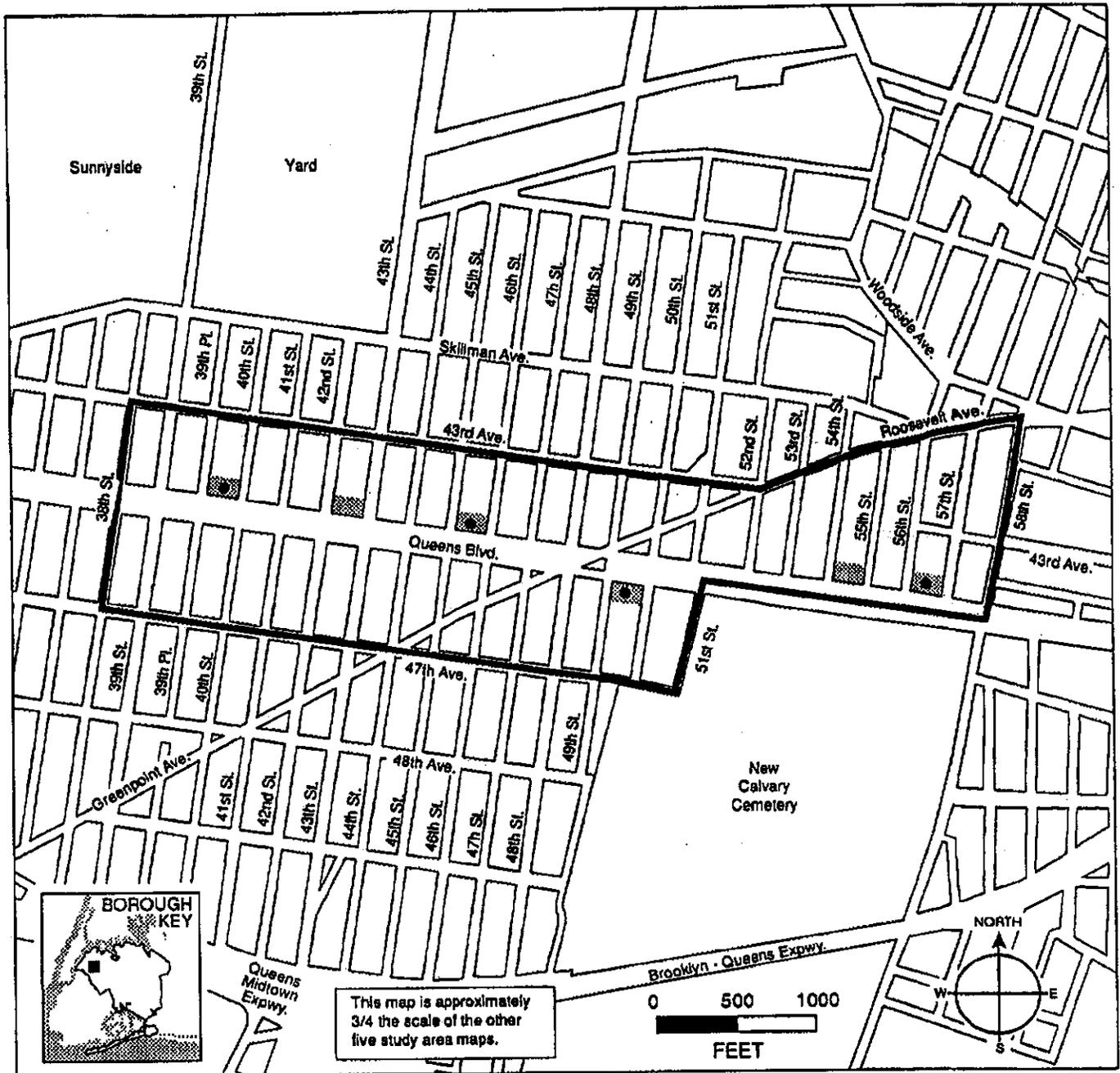


Study Area 4
within Brooklyn CD 7

- Adult Use
- Survey Blockfront(s)
- Control Blockfront(s)
- ▬ Study Area

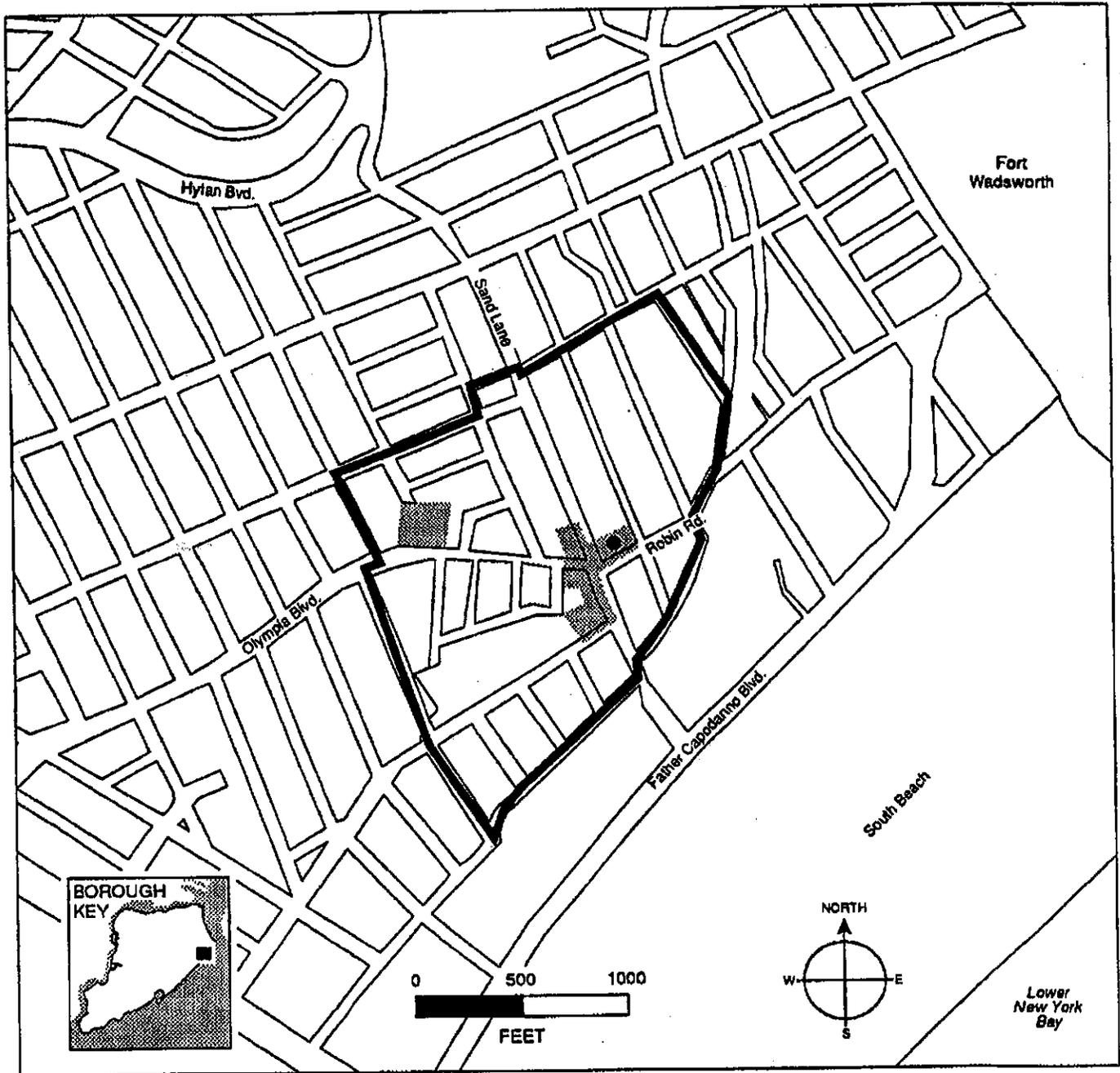
Adult Entertainment Study

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Study Area 5 within Queens CD 2

- Adult Use
- Survey Blockfront(s)
- Control Blockfront(s)
- Study Area



Study Area 6 within Staten Island CD 2

- Adult Use
- Survey Blockfront(s)
- Control Blockfront(s)
- Study Area

Adult Entertainment Study

Department of City Planning / City of New York

Appendix B

DCP Survey of Adult Entertainment Establishments, Fall 1993

BRONX

Community District	Name	Address	Use
05	Altagracia Restaurant	1548 University Av	Topless Bar
05	Ascot Movie Theatre	2313 Grand Concourse	Movie Theater
08	Just Us Bar	156 W 231st St	Topless Bar
10	Ruffles Bar	4026 E Tremont Av	Topless Bar
11	Globe Theater	640 Pelham Parkway S	Movie Theater
12	Foos Paradise	4074 Boston Rd	Topless Bar
12	Mickey & Anthony's Cabaret	1769 E Gun Hill Rd	Topless Bar
12	Pretty Woman	4141 Boston Rd	Topless Bar

BROOKLYN

Community District	Name	Address	Use
02	Pandora Books	88 Court St	Book Store
02	Video XXX	851 Atlantic Av	Video Store
06	Playpen Adult Video	463 3rd Av	Video Store
07	Corkscrew Cafe	6120 3rd Av	Topless Bar
07	Corrados Club	3915 1st Av	Topless Bar
07	Foxy Den	920 3rd Av	Topless Bar
07	Moms Bar	4201 2nd Av	Topless Bar
07	Video XXX	952 3rd Av	Video Store
07	Video XXX Warehouse	761 3rd Av	Video Store
07	Wild Wild West	3901 2nd Av	Topless Bar
12	Video XXX	1368 60th St	Video Store
14	Club Cheetah	1496 Flatbush Av	Topless Bar
15	The Cabaret	2937 86th St	Topless Bar
15	The Ruby Club	1105 Quentin Rd	Topless Bar
15	XXX Video	1103 Quentin Rd	Video Store

MANHATTAN

Community District	Name	Address	Use
01	Adult Video	21 Ann St	Video Store
01	Baby Doll Lounge	34 White St	Topless Bar
01	Desire Video	68 Reade St	Video Store
01	Harmony Theatre	279 Church St	Other Theater
01	Kinols	118 Nassau St	Topless Bar
01	Lovestyle Video	376 Canal St	Video Store
01	Pussycat Lounge	96 Greenwich St	Topless Bar
01	The Doll House	59 Murray St	Topless Bar
01	Thunder XXX Video	100 Greenwich St	Video Store
01	XXX Video	11 Maiden Lane	Video Store
02	Badlands Adult Video	388 West St	Video Store
02	Christopher St Books	500 Hudson St	Video Store
02	Crazy Fantasy XXX Video	331 6th Av	Video Store
02	Harmony Video	139 Christopher St	Video Store
02	Prince Theater	329 West St	Movie Theater
02	XXX Video	119 Christopher St	Video Store
02	XXX Video	220 Varick St	Video Store
02	XXX Video	391 West St	Video Store
02	XXX Video Sale	377 Canal St	Video Store
02	XXX Video Sale	323 Canal St	Video Store
02	XXX Video Sale	520 6th Av	Video Store
03	All Male Jewel Theatre	100 3rd Av	Movie Theater
03	Chippendales	110 1st Av	Topless Bar
04	Adonis Theater	693 8th Av	Movie Theater
04	Adult Video	763 8th Av	Video Store
04	Adult Video	228 8th Av	Video Store
04	Adult Video XXX	725 6th Av	Video Store
04	All-Star Harmony Club	161 W 22nd St	Topless Bar
04	Back Date Magazines	304 W 40th St	Book Store
04	Billys Topless	729 6th Av	Topless Bar
04	Club 44	689 8th Av	Topless Bar
04	Hollywood Twin	777 8th Av	Movie Theater
04	Hollywood Twin Adult Video	777 8th Av	Video Store
04	New King Male Cinema	356 W 44th St	Movie Theater
04	Pure Gold	262 11th Av	Topless Bar
04	Serendib XXX Video & Peep	755 6th Av	Video Store
04	Show World	669 8th Av	Book Store
04	The XXX Video	644 12th Av	Video Store
04	XXX Video	603 6th Av	Video Store
04	XXX-Tasy Video	691 8th Av	Peep Show
04	Zideo XX Video	539 8th Av	Book Store
04	300 Book Store	300 W 40th St	Video Store
05	A Carnivale	39 E 30th St	Book Store
05	Adult Entertainment Center	488 8th Av	Peep Show
05	Adult Video	795 6th Av	Video Store
05	Adult Video Express	216 W 50th St	Video Store
05	Banana Video	55 W 38th St	Video Store
05	Capri Theater	738 8th Av	Movie Theater
05	Circus Cinema	1606 Broadway	Movie Theater

MANHATTAN (continued)

Community District	Name	Address	Use
05	Club 90	208 W 29th St	Topless Bar
05	Eros Theater	738 8th Av	Movie Theater
05	Erotica	256 W 42nd St	Video Store
05	Famous Legz Diamond	231 W 54th St	Topless Bar
05	Flash Dancers	1672 Broadway	Topless Bar
05	Forsyth Books	598 7th Av	Book Store
05	Fun City	113 W 42nd St	Video Store
05	G & A Books	251 W 42nd St	Book Store
05	Harem	249 W 42nd St	Movie Theater
05	Jocks	711 7th Av	Other Theater
05	L & J Books & Videos	584 7th Av	Peep Show
05	Laps	204 W 47th St	Movie Theater
05	Les Gals	136 W 42nd St	Peep Show
05	Manhattan Video	60 W 39th St	Book Store
05	marquis video	265 W 45th St	Video Store
05	Medalios	552 8th Av	Topless Bar
05	Metropole Gogo (Runway 69)	725 7th Av	Topless Bar
05	Neptune Video	252 W 42nd St	Video Store
05	New David	236 W 54th St	Other Theater
05	Nimble Video	254 W 42nd St	Video Store
05	Peepworld	155 W 33rd St	Video Store
05	Penn Video	252 W 31st St	Video Store
05	Pinks	204 W 49th St	Other Theater
05	Playpen	266 W 43rd St	Book Store
05	Roxy Movie	244 W 42nd St	Movie Theater
05	Salax in New York	16 E 16th St	Topless Bar
05	Show Center	259 W 42nd St	Peep Show
05	Show Follies Center	711 7th Av	Book Store
05	Show Palace	670 8th Av	Book Store
05	Sir Merchandising	672 8th Av	Book Store
05	Stringfellow	35 E 21st St	Topless Bar
05	Super Video	264 W 43rd St	Video Store
05	Texas Gold	20 W 20th St	Topless Bar
05	The Male Box	268 W 43rd St	Video Store
05	Time Come Video	263 W 42nd St	Video Store
05	Times Sq Adult Shopping Center	267 W 42nd St	Video Store
05	Venus Cinema	728 8th Av	Movie Theater
05	Video Blow Out	247 W 42nd St	Video Store
05	Video World Center	210 W 42nd St	Peep Show
05	Vogue Video	296 5th Av	Video Store
05	World Famous Paradise	42 W 33rd St	Topless Bar
05	XXX Nectar	632 8th Av	Video Store
05	XXX Video	776 8th Av	Video Store
05	113 Video Center	113 W 42nd St	Video Store
05	241 Book Inc	241 W 42nd St	Book Store
05	250 Bookstore	250 W 42nd St	Book Store
06		301 E 14th st	Video Store
06	All Male Adult Video	125 3rd Av	Video Store
06	Flash Dancers Dangerous Curves	127 E 47th St	Topless Bar

MANHATTAN (continued)

Community District	Name	Address	Use
06	House of Dreams	220 E 53rd St	Video Store
06	Lions Den	230 E 53rd St	Video Store
06	Love to Love	220 E 53rd St	Video Store
06	The Doll House	307 E 54th St	Topless Bar
06	XXX Video	127 3rd Av	Video Store
06	24-hour XXX Video	557 3rd Av	Video Store
07	Amsterdam Ave Video	287 Amsterdam Av	Video Store
07	Les Hommes	217 W 80th St	Video Store
08	Scores	333 E 60th St	Topless Bar

QUEENS

Community District	Name	Address	Use
01	Candy	29-32 Northern Blvd	Topless Bar
01	Cityscape	35-03 38th St	Topless Bar
01	Mermaid	31-08 31st St	Topless Bar
01	Penny Whistle	31-07 23rd Av	Topless Bar
01	XXX Video	36-19 Ditmars Blvd	Video Store
02	Gallaghers	39-33 Queens Blvd	Topless Bar
02	Honeys	49-14 Queens Blvd	Topless Bar
02	Merry-go-round	45-15 Queens Blvd	Topless Bar
02	Naked City	56-07 Queens Blvd	Topless Bar
02	Nickels	69-20 Queens Blvd	Topless Bar
02	Riverhead Inn	45-08 Vernon Blvd	Topless Bar
02	Scandals	32-37 Greenpoint Av	Topless Bar
02	XXX Video	31-17 Queens Blvd	Video Store
03	Cozy Cabin	92-03 Astoria Blvd	Topless Bar
03	Earle Theater	73-07 37th Rd	Movie Theater
03	Fair Theatre	90-18 Astoria Blvd	Movie Theater
03	Fiddle & Bow	92-07 Roosevelt Av	Topless Bar
03	Johnny Jays Catch Me If You Can	112-08 Astoria Blvd	Topless Bar
03	Loveshack Adult Video	92-20 Astoria Blvd	Video Store
03	Polk Theater	93-09 37th Av	Movie Theater
03	Topless Bar	39-02 104th St	Topless Bar
03	Wileys	95-07 31st Av	Topless Bar
04	Adult Love Boutique	89-18 Queens Blvd	Peep Show
04	Canhe	92-02 Corona Av	Topless Bar
04	Dec Two Video	86-10 Roosevelt Av	Video Store
04	Pides Place II	81-26 Baxter Av	Topless Bar
05	Treasure Chest	60-07 Metropolitan Av	Topless Bar
06	Goldfingers	92-77 Queens Blvd	Topless Bar
06	Virginias	95-36 Queens Blvd	Topless Bar
06	XXX Video Store	98-32 Queens Blvd	Video Store

QUEENS (continued)

Community District	Name	Address	Use
07	Candlewood Inn	41-57 College Point Blvd	Topless Bar
07	Corsetorium Inc	36-35 Main St	Other
07	Gallaghers II	26-35 123rd St	Topless Bar
07	Goodtime Video	150-36 Northern Blvd	Video Store
07	Sports Bar	135-41 E Northern Blvd	Topless Bar
08	Mayfair Theatre	68-25 Fresh Meadow Lane	Movie Theater
09	Andys Bar	85-01 Rockaway Blvd	Topless Bar
09	Austin Theater	81-07 Lefferts Blvd	Movie Theater
09	Port O Call	93-10 Woodhaven Blvd	Topless Bar
12	Dreams Topless Bar	90-67 Sutphin Blvd	Topless Bar
12	Gordons Topless Bar	146-16 Hillside Av	Topless Bar
12	Krystalls	89-25 Merrick Blvd	Topless Bar
13	Happy Tips Lounge	215-50 Jamaica Av	Topless Bar
13	XXX Video	245-02 S Conduit Av	Video Store

STATEN ISLAND

Community District	Name	Address	Use
02	Lipsticks	3575 Victory Blvd	Topless Bar
02	Scarletts	283 Sand Lane	Topless Bar
03	Hipps	2945 Arthur Kill Rd	Topless Bar

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Andrew S. Lynn, Executive Director

William Bernstein, First Deputy Executive Director

Strategic Planning

Sandy Hornick, Deputy Executive Director

Richard Barth, Deputy Director

Zoning & Urban Design

Marilyn Mammano, Director

Tony Levy, Deputy Director

* **Kenneth J. Bergin, Project Director**

* **Louisa Craddock**

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* **Carol Levine**

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ADAMS COUNTY SHERIFF'S DEPARTMENT

EDWARD J. CAMP
Sheriff

1901 E. Bridge St., P.O. Box 566
Brighton, Colorado 80601-1937

Field Operations Bureau: 289-4335
4201 E. 72nd Ave., Commerce City, CO 80022

10

ADAMS COUNTY NUDE ENTERTAINMENT STUDY

Inclusions:

1. Synopsis of study
2. Newspaper articles of Colorado Supreme Court Ruling
3. Adams County Nude Entertainment Ordinance #1

~~79-0~~

ADAMS COUNTY NUDE ENTERTAINMENT STUDY

In order to offer support of the Nude Entertainment Ordinance, it was felt that several issues needed to be addressed:

1. To determine the correlation, if any, between nude entertainment establishments and the attraction of transients.
2. The correlation, if any, between nude entertainment establishments and increased crime and noise.
3. The correlation, if any, between nude entertainment establishments and increased safety hazard to neighborhood residents and/or neighborhood children.

And in order to testify to those matters, research needed to be performed to support the proposed correlations, if any. We also needed to be prepared to articulate any other findings that the research should yield and especially anything that developed having or showing any other correlation between nude entertainment establishments and functions relating to law enforcement.

Therefore, a study was conducted. Adams County unincorporated area boasted six (6) adult bookstores (all but one offering live nude entertainment), one (1) all nude 'pop shoppe', seven (7) massage parlors, eight (8) topless nightclubs (with liquor licenses), and some six (6) nude 'rap', lingerie, modeling type studios. This made a total of twenty eight (28) locations that were involved in nude entertainment.

Six representative locations were selected at random representing six different areas of the unincorporated portions of Adams County. Periodic checks were made at various times and on different days throughout April of 1988. This was done in order to make a determination of the numbers of transient patrons who were frequenting these businesses but did not live in Adams County. License plates were noted and since Colorado issued all license plates based on county of residence, it was a simple matter to determine the county of origin for patrons. The study clearly demonstrated that 76% of the patronage of these businesses were transient, meaning that they come from counties other than Adams County.

Statistical information was gathered from Sheriffs Department records for the years 1986 and 1987, a period of time in which there was no nude entertainment ordinance in effect. This part of the study was confined to two areas of unincorporated Adams County which supported a larger than normal concentration of the businesses which catered to nude entertainment. The results of the second phase of the study are as follows:

1. The area between 7200 N. Pecos and 7300 N. Pecos was selected because it contained two nude entertainment establishments, a 7-11 store, a neighborhood tavern, three fast-food businesses, and a gas station. The statistical information determined that in 1986, 24 crimes were reported from that area. 83% of them were attributed to the two nude entertainment establishments, 38% were for alcohol related offenses, 42% of them occurred at the address of one particular all nude establishment. Lastly, 64% of these crimes occurred during hours other than those be-

tween the hours of 1600 to 2400 hours. In 1987, a total of 28 crimes were reported from the same area. 93% of them were also attributed to the two nude entertainment establishments, 50% of them being for alcohol related offenses, 77% of them occurring at one particular nude entertainment establishment. Lastly, 22 of these offenses occurred on the same side of the street as the two nude entertainment businesses and 90% of those crimes were reported from those two businesses alone. 61% of those crimes were during hours other than between 1600 and 2400 hours.

2. A further statistical analysis was done on Federal Blvd. between the 5600 block and the 6700 block, an area which held three adult bookstores, two topless nightclubs, 1 neighborhood bar, 1 liquor store, and 1 3.2 beer outlet. During 1986, 55 crimes were reported as compared to 63 crimes in 1987, a 15% increase. In 1986, 29 of those crimes were liquor related and in 1987, there were 41 liquor related offenses reported, a 41% increase over 1986. The trend was demonstrating an increase in reported criminal activity.

3. At 1661 W. 64th, a fairly rural and isolated section of the county which was the location of a prominent topless nightclub, 13 crimes were reported in 1986 as opposed to 18 crimes in 1987, a 39% increase here as well.

1986 and 1987 showed a dramatic increase in nude entertainment establishments opening for business. The increases in crime that was documented and the increase in alcohol related offenses and the increased transiency of the patronage for these businesses all seemed to have direct correlation one with the others. It was clear that the attractant to these businesses was quite simply nude entertainment. This clearly established that the local neighborhoods would have cause for alarm. Criminal history checks of some of the arrestees from a good portion of the arrests made at these businesses for a variety of crimes included prior arrests for morals crimes, sexual assaults, many alcohol related arrests, and crimes of violence. Further, a statistical look at armed robbery over the two year period on the eleven block study area of N. Federal showed that 66% of all reported robberies took place at the three adult bookstores. And seven homicides were recorded between 1977 and 1987 which were directly attributable to adult bookstores and nude entertainment establishments.

The study clearly demonstrated that nude entertainment establishments were an attractant to a class of patronage which was very much undesirable to the good citizens of Adams County and represented a very real danger to the safety of the nearby residential citizenry and an undesirable image/model for youth and the community at large. The rise in crime was clearly demonstrated as was the rise in violence attributed to that crime rise.

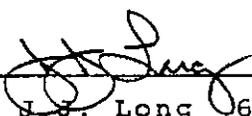
Adams County Sheriffs Department officers testified to the results of this study before an Adams County District Court. The officer was accepted as an expert witness on police investigative techniques and was allowed to testify to his opinion of the effects of crime in those specific neighborhoods and its correlation to the nude entertainment establishments at those locations. The Nude Entertainment Ordinance was passed and was kept fairly simplistic. Ultimately, agents representing the Nude Entertainment community challenged the ordinance and it went to the Colorado Supreme Court which upheld the right of the County to

regulate and control nude entertainment.

The enactment of the Nude Entertainment Ordinance has dramatically reduced the number of nude entertainment businesses in Adams County. At the present time, only 14 establishments continue to operate. Five of those businesses operate under liquor licenses which provide the controls and regulations for their specific type of nude entertainment. Three of those numbers involve massage parlors who refuse to license as such and are facing Special Proceeding Filings as Class 3 and 4 Public Nuisances for failure to comply, and are also being eyed for violations of the Nude Entertainment Ordinance. One other business is currently facing a Special Proceeding as a Class 3 and 4 Public Nuisance for violating the Nude Entertainment Ordinance.

Since the Colorado Supreme Court ruling, nude entertainment has been reduced within Adams County. Some businesses who were selling sex for money under the guise of 'nude entertainment', have closed their doors and moved on. Few seem willing to comply with the regulations established and continue in various forms to attempt challenges in order to gain time. The constitutionality challenge to the Ordinance prevented adequate enforcement for a considerable period of time, but is now beginning to take effect.

The ultimate goal is to reduce crime and its impact on the local community and to control those factors which act as 'attractants' to those elements which cause crime. That is now beginning to take place in Adams County.


Sgt. J. S. Long 6902
Special Investigation Section
Detective Division
Adams County Sheriffs Department
Adams County Colorado

UPDATE OF CRIME IMPACT STUDY:

Through 1990, no significant changes were noted in those areas which were originally looked at in 1988, with few exceptions.

Total reported crime in the 7200 block of north Pecos st. in unincorporated Adams County climbed steadily through 1990. The total number of reported crimes increased by 900% and those crimes which were attributed to those businesses which offered nude entertainment and/or alcohol increased 290% overall. Those crimes attributable to alcohol or assaults demonstrated no significant changes, including transiency which was up only 2% over the 1988 study.

The total number of reported incidents attributable to the three primary businesses which offered alcohol and/or nude entertainment was the same, being down 1%.

The tremendous jump in reported incidents is primarily attributed to a change in the reporting requirements of two businesses. One is a 7-11 store at 7211 Pecos and the other is a Vickers station at 7285 Pecos. They reported thefts involving shoplifting or gas driveaways which accounted for 40% of all reported incidents in the entire 7200 block of N. Pecos. The majority (68%) of the remaining incidents were recorded at the three businesses which offer nude entertainment and/or alcohol sales.

Obviously, the Nude Entertainment Ordinance was not enforced in 1990, as the issue was before the Colorado Supreme Court until very late in the year. This lack of enforcement was noted in the continued high incidence of reported incidents. Additionally, the Department continued to receive some complaints about noise, conduct of patrons, parking, and such, though they also dropped in number. The drop was attributed to frustration in the victims at the ability of the Department to effectively resolve their neighborhood problems in relation to these businesses.

Sgt. J.J. Long 6902 6/20/91

Controls on nude dancing upheld

High court rules county can regulate location, hours of operation

By John Sanko

Rocky Mountain News Staff Writer

Adams County commissioners can't force clothes on naked dancers at liquorless nightclubs, but they can tell them when and where they can do their strip-teases, bumps and grinds.

The Colorado Supreme Court ruled yesterday the county wasn't violating anyone's constitutional rights in clamping down on nude entertainment at nightclubs.

"To be sure, free speech is a fundamental right guaranteed by both the United States and Colorado constitutions, but not all forms of expression involve constitutionally protected speech," the high court said.

"Public nudity in and of itself, for example, is subject to governmental regulation."

The ruling overturned Adams County District Judge Michael Obermeyer, who struck down the county's 1988 ordinance on grounds it was an unconstitutional infringement of free speech. The ruling came in a suit filed by Pecos Junction, 7250 Pecos St., after the law was enacted.

"Terrific — really terrific news," said Adams County Attorney Robert Loew after learning of the high court's ruling.

He said it would give county commissioners the authority they need to oversee so-called "pop shops," which began cropping up a few years ago after liquor codes banned total nudity at bars.

"We haven't gone out to look at other places to see who was in conformity because that ordinance was enjoined from enforcement, but we will now," Loew said.

The law, which Adams County commissioners adopted after numerous complaints from area residents, banned anyone under 21 from entering or working at the all-nude nightspots.

It also limited nude entertainment to the hours of 4 p.m. to midnight and banned such establishments within 500 feet of any residential property, school or church. Violations would be punishable by a \$300 fine and county officials could shut down any facility that had three or more violations in a year.

"There can be no question that

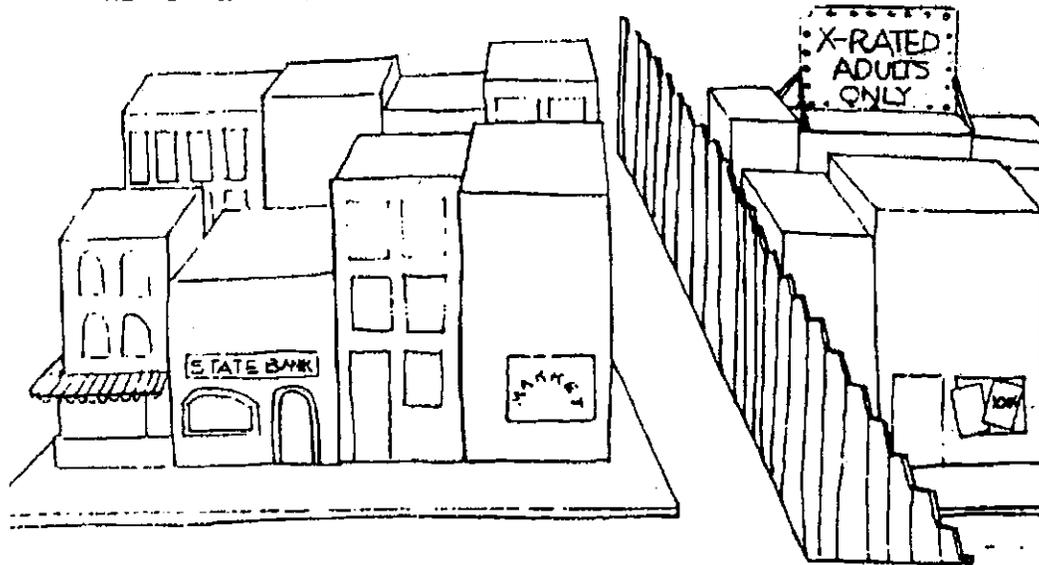
the ordinance is within the constitutional power of Adams County," former Chief Justice Joseph Quinn wrote for a unanimous court.

Denver attorney Michael Gross, who represented an intervenor, Burkey Management Inc., in the lawsuit, said the "really frightening" aspect about such ordinances is that governments can determine what nudity they find OK.

"That's the most outrageous part of the whole thing," he said. "It's government deciding what is artistic."

County officials said there were plenty of spots where nude entertainment establishments could locate with no special permit — 10 square miles of industrial-zoned property — and 1,100 square miles of agriculturally zoned property where a conditional use permit could be granted.

Pecos Junction owner Paul Bekela could not be reached for comment. At a hearing on his civil suit challenging the law, he argued he would not be able to afford to move into an industrial or agriculturally zoned area, and would not be able to make a profit.



Last dance

Court gives nod to nudity ordinance

By Justin Amole 10-14-90 p 66
His by Mountain News Staff Writer

In Adams County, it's not what you wear, it's when and where you don't wear it that counts.

Last week the Colorado Supreme Court reversed a district court ruling and said zoning ordinances used to curtail all-nude nightclubs are constitutional, despite restrictions on the age of patrons, hours of operation and locations.

The ruling may be the first such in Colorado, but it's another in a national trend of the use of zoning restrictions instead of obscenity statutes to regulate certain activities.

"I don't think you could get an obscenity conviction in Colorado," Arthur Schwartz, a Denver First Amendment attorney, "I think it's virtually impossible."

Schwartz said that more and more communities around the nation are using zoning ordinances to control activities. The laws are easier to establish than the more vaguely worded obscenity statutes, which rely on "community standards of tolerance" to define what is obscene.

"It's a question of the government trying to impose their views on the community," Schwartz said.

The case in question is that of Pecos Junction, a nude entertainment club smack-dab in the middle of a retail and residential area in unincorporated Adams County.

Surrounded by restaurants, stores and motels, Pecos Junction also is within a few blocks of private homes. And that's where the ordinance comes in.

The Nude Entertainment Ordinance, enacted by the Adams County commissioners in 1988, restricts nude entertainment to between the hours of 4 p.m. and midnight Monday through Saturday, to locations at least 500 feet away from residences, churches and schools, and to adults at least 21 years old.

The court also ruled there must be other areas within the county for such businesses to operate that do not violate the ordinance.

The suit challenging the ordinance was filed by Pecos Junction owner Paul Bekkela in December 1987. In it he claimed that the law violated constitutionally held principles of free speech by denying access by adults between ages 18 and 21, and by restricting free speech to a limited number of hours per day.

The suit also claimed the law unfairly singles out nude entertainment establishments and does not affect other forms of nudity such as movies, plays and museums.

"It's frightening to think that one group of adults can dictate to another group of adults what they can view," Schwartz said.

But the Supreme Court found that the statute didn't violate freedom of speech because it didn't ban nude dancing altogether and didn't "unreasonably inhibit the presentation of nude dancing in Adams County."

Adams County District Attorney Jim Smith said the zoning ordinances are the only way to regulate the so-called "pop shops" like Pecos Junction. The state liquor code prohibits all-nude dancing in places that serve liquor, but does permit topless dancing.

"Anytime you bump into the First Amendment privileges, you have a difficult time getting a conviction upheld," Smith said.

The Adams County District Court ruling held that nude dancing was constitutionally protected free speech and should have the same protection as other forms of dancing. The court acknowledged that the presence of nude entertainment establishments sometimes contribute to higher crime rates in a community, but said there was insufficient evidence to show that the county's interest outweighed the right to free expression.

During a hearing on the matter, an Adams County Sheriff's officer testified that a study of crime rates around nude entertainment establishments in the county did show an increase in crime. It also revealed that 65% of the patrons were nonresidents.

Other county officials said there are more than 1,100 square miles of industrially and agriculturally zoned property in Adams County where Pecos Junction and other nude entertainment establishments could do business without violating the ordinance.

Bekkela said he cannot afford to move his business and would lose profits if he moved it to an industrial or agricultural area.

So while the government, like the French philosopher Voltaire, is willing to defend to the death the right of free speech, it won't hesitate to define when and where that freedom may be exercised.

The Supreme Court found that (Adams County's Nude Entertainment Ordinance) didn't violate freedom of speech because it didn't ban nude dancing altogether and didn't "unreasonably inhibit the presentation of nude dancing in Adams County."

6785056

BOOK 3394 PAGE 911

WILLIAM DONALD
COUNTY RECORDER
ADAMS COUNTY, COLO.

STATE OF COLORADO)
) ss.
COUNTY OF ADAMS)

DEC 2 3 50 PM '87

785056

At a regular meeting of the Board of County Commissioners for Adams County, Colorado, held at the County Administration Building in Brighton on Monday, the 30th day of November, 1987, there were present:

- Leo M. Younger, Commissioner Chairman
- Steven E. Cramer, Commissioner
- Harold E. Kite, Commissioner
- Charlie Siner, County Attorney
- Wilma Thatcher, Clerk of the Board

when the following proceedings, among others were held and done, to-wit:

Under Entertainment
ORDINANCE NO. 1

ORDINANCE NO. 1
NUDE ENTERTAINMENT ORDINANCE

WHEREAS, there are a significant number of establishments in the unincorporated portion of Adams County in which persons appear in a state of nudity for the purpose of entertaining the patrons of such establishments; and,

WHEREAS, many of those establishments do not hold liquor licenses and consequently are not subject to the regulations imposed on nude entertainment by the liquor code; and,

WHEREAS, such establishments of this nature adversely impact the residential neighborhoods in which they are located; and,

WHEREAS, these adverse impacts include attraction of transients, parking and traffic problems, increased crime and noise, decreased property values, increased safety hazards to the neighborhood children, and overall deterioration of neighborhood quality; and

WHEREAS, it is the intent of the Board of County Commissioners to serve a substantial government interest by attempting to preserve the quality and vitality of residential neighborhoods in Adams County; and,

WHEREAS, alternative avenues of communication are not unreasonably limited for "speech" of this nature; and,

WHEREAS, the Colorado State Legislature has enacted Section 30-15-401(1)(1)(I), C.R.S.; and,

WHEREAS, Section 30-15-401(1)(1)(I), C.R.S., authorizes the Board of County Commissioners to adopt by ordinance those regulations necessary for the operation of establishments open to the public in which persons appear in a state of nudity for the purpose of entertaining such establishment's patrons.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Adams County, State of Colorado, that operation of establishments open to the public in which persons appear in a state of nudity for the purpose of entertaining the patrons of such establishments shall be subject to the following regulations:

- (1) These regulations shall apply to any establishment open to the public in which persons appear in a state of nudity for the purpose of entertaining the patrons of such establishments, hereinafter referred to as "Nude Entertainment Establishments." However, these regulations shall not apply to any liquor licensed establishments offering nude entertainment as such establishments are already subject to stringent regulation under the Colorado Liquor Code.

- (2) A person appears in a "state of nudity" when such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.
- (3) No one under 21 years of age shall be admitted to any Nude Entertainment Establishment. This minimum age limitation also applies to any employees, agents, servants or independent contractors working on the premises during hours when nude entertainment is being presented.
- (4) Nude entertainment shall only be available at Nude Entertainment Establishments from the hours of 4:00 p.m. to 12:00 midnight, Monday through Saturday of each week.
- (5) No Nude Entertainment Establishment shall be operated or maintained within 500 feet of any residentially zoned or used property, measured from the closest property line of such residential property to the property line of the Nude Entertainment Establishment.
- (6) No Nude Entertainment Establishment shall be operated or maintained within 500 feet of any school or church property, measured from the closest property line of such school or church property to the property line of the Nude Entertainment Establishment.
- (7) Any Nude Entertainment Establishment operating at the effective date of this ordinance in violation of parts (5) or (6) above shall be allowed to continue operating for an amortization period of six (6) months. Six months after this ordinance becomes effective all Nude Entertainment Establishments must comply with parts (5) and (6) above or be subject to the penalty provisions set forth herein.
- (8) Except for the amortization period set forth in part (7) above, each day of operation in violation of any provision of this ordinance shall constitute a separate offense.
- (9) Any person who violates any provision of these regulations commits a class 2 petty offense and upon conviction thereof shall be punishable by a fine of \$300 for each separate violation.
- (10) Any arresting law enforcement officer shall follow the penalty assessment procedure provided in Section 16-2-201, C.R.S., for any violation of this ordinance.

- (11) Any Nude Entertainment Establishment which engages in repeated or continuing violations of these regulations shall constitute a public nuisance. For purposes of these regulations "repeated violations" shall mean three or more violations of any provision set out herein within a one (1) year period dating from the time of any violation, and a "continuing violation" shall mean a violation of any provision set out herein lasting for three or more consecutive days.
- (12) The District Attorney, acting pursuant to Section 16-13-302, C.R.S., may bring an action in the District Court for Adams County for an injunction against the operation of such establishments in a manner which violates any of the provisions set out herein.
- (13) This ordinance shall become effective January 5, 1988.
- (14) If any provision of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not invalidate this ordinance in its entirety, and to this end the provisions of this ordinance are declared to be severable.
- (15) Any nude establishment operating before the effective date of this ordinance shall comply with every provision of this ordinance on the effective date except as set forth in Number 7 above.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF ADAMS,
STATE OF COLORADO

Leo M. Younger
LEO M. YOUNGER, Chairman

11-30-87
DATE

CERTIFICATE OF ATTESTATION

STATE OF COLORADO)
) ss.
 COUNTY OF ADAMS)

I, William Sokol, County Clerk and ex-officio Clerk of the Board of County Commissioners in and for the County and State aforesaid do hereby certify that the annexed and foregoing Order is truly copied from the Records of the Proceedings of the Board of County Commissioners for said Adams County, now in my office.

This Ordinance was published in full in a newspaper of general circulation in Adams County at least ten (10) days prior to its adoption; to wit, Thornton/Northglenn Sentinel, on November 12, 1987. Said Ordinance was introduced and read in full at a regular meeting of the Board of County Commissioners of the County of Adams, State of Colorado, on November 23, 1987. Said introduction and reading was held prior to the adoption of said Ordinance.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, at Brighton, this 30th day of Nov., 1987.



WILLIAM SOKOL
 County Clerk and ex-officio Clerk of the
 Board of County Commissioners

by Hilma Hatcher Deputy