

351 Pleasant Street, PMB 101
Northampton, MA 01060-3961
February 22, 2007

Anthony Patillo
Office of the Building Inspector
Puchalski Municipal Building
212 Main Street
Northampton, MA 01060

Dear Mr. Patillo:

We respectfully request that you revoke the building permit issued to Capital Video Corporation for their proposed adult video store at 135 King Street, on the grounds of noncompliance with the Northampton zoning ordinance.

Section 1.3 of the ordinance includes these criteria for site plan approval: "to conserve health", "to conserve the value of land and buildings", and "the prevention of blight and pollution of the environment". Capital Video failed to provide basic information about the store's proposed hours of operation, security measures, or traffic safety, rendering their submission deficient. Moreover, they have not shown that they understand or intend to comply with the recently enacted signage restrictions on adult businesses.

With respect to traffic, Capital Video has not demonstrated that its site will have safe pedestrian flows along the narrow alley that leads to its parking lot, nor that its inbound or outbound traffic will interact safely with an already congested King Street. According to the zoning ordinance:

Section 11.6 - Approval Criteria

In conducting the Site Plan Approval, the Planning Board shall find that the following conditions are met:

1. The requested use protects adjoining premises against seriously detrimental uses. If applicable, this shall include provision for surface water drainage, sound and sight buffers and preservation of views, light, and air; and
2. The requested use will promote the convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets, minimize traffic impacts on the streets and roads in the area. If applicable, this shall include considering the location of driveways openings in relation to traffic and adjacent streets, access by emergency vehicles, the arrangement of parking and loading spaces...

In estimating trip volume for the Planning Board, the company inaccurately categorized the store as "specialty retail," a category that describes high-margin, low-volume businesses. The category "video store," which would be more appropriate, leads to a higher trip estimate (see attached). At the site plan hearing, it was acknowledged that the

only pedestrian access would be through the same 20-foot-wide driveway that 135 King Street shares with the neighboring auto parts store, and that would also be used for two-way vehicle traffic. There is no sidewalk or barrier to shield pedestrians from cars. The issue was raised at the hearing but the Planning Board inexplicably dropped it, and Capital Video has not volunteered any information about how it will address this problem.

Northampton's zoning ordinance requires parking lots such as the one behind 135 King Street to be screened from residential areas that face it with a fence or planting:

Section 8.10 - Additional Standards for over five spaces. In addition to §8.9 above, all parking and loading areas containing over five (5) spaces, including automotive and drive-in establishments of all types shall either be contained within structures or shall also comply with the following:

1. The area shall be effectively screened with suitable planting or site impervious fencing on each side which adjoins or faces the side or rear lot line of a lot situated in any Residential "R" District...

The site plan submitted by Capital Video at the December 14, 2006 Planning Board meeting makes no provision for any such screening. The parking lot at 135 King Street directly faces a bike path, on the other side of which are homes with small children. Moreover, Capital Video disclosed at the same meeting that they intended to relocate the main entrance to the rear of the store, in the parking lot, rather than on King Street.

Given the heightened crime risk around adult establishments, such a fence is necessary for safety as well as aesthetic reasons. Many other towns have found that such establishments attract robberies (because of larger-than-average amounts of cash on the premises), prostitution, sex crimes, lewd behavior, and disposal of hazardous or sexually explicit trash on neighboring property. Capital Video has recently experienced some of these problems in Kittery, Maine and Meriden, Connecticut. They have not explained how they will keep their grounds clean in Northampton.

Finally, the proposed window display submitted by Capital Video at the site plan hearing was so inappropriate for a store bordering a residential neighborhood that Capital Video felt compelled to withdraw it after protests by Planning Board members, but no alternative picture was submitted. The recent amendment to Section 7.2 of the zoning ordinance states:

19. Signs may not include text, graphics or pictures defined as obscene in MGL Chpt. 272 §31 if taken as a whole it

A. Appeals to the prurient interest of the average person applying the contemporary standards of the county where the offense was committed;

B. Depicts or describes sexual conduct in a patently offensive way; and

C. Lacks serious literary, artistic, political or scientific value.

Nor may signs depict or describe sexual conduct or sexual excitement as defined in MGL Chpt 272, §31. (added paragraph 11/2/2006)...

Capital Video's submission, which depicted a showroom window with nearly-nude mannequins wielding sex toys in bondage poses, would clearly be disallowed by this ordinance. When pressed, Capital Video attorney Michael Pill vaguely promised the store would adhere to a "Victoria's Secret standard," which is not only unenforceable, but itself fails to comply with Northampton law. As *Newsweek* reported in 2005 on a Victoria's Secret mall display:

At the Tyson's Corner mall in northern Virginia last week, just a quick escalator ride from Oliver Owl's toddler playground and three doors down from Gap Kids, four beautiful plastic women shared an intimate moment in the brand new Victoria's Secret store. One of the mannequins, impossibly thin and blonde and dressed in microscopic panties and garters, crawled across a countertop on all fours toward her disheveled and reclining brunette partner, she of the bra with convenient nipple cutouts. Below them, in plain view of anyone walking past the store, two thong-sporting dream women spooned on a black leather bed, their perfect synthetic derrieres aligned side-by-side. A window display revealed a scantily-clad beauty draped in heavy ropes and teetering on five-inch stiletto heels, her arms straight up in the air, wrists entwined....

We have attached pictures relating to this display.

In conclusion, we request that you revoke Capital Video's building permit and require them to submit a revised application that complies with the aforementioned ordinances. Thank you for your consideration of this matter.

Sincerely,

Adam R. Cohen and Jendi Reiter
info@nopornnorthampton.org
413-320-2027

cc: Carolyn Misch, Northampton Office of Planning & Development

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CAPITAL VIDEO

C O R P O R A T I O N

1060 Park Avenue, Cranston, RI 02910
(401)464-4880 • FAX (401)464-4884

To: Carolyn Misch Senior Planner

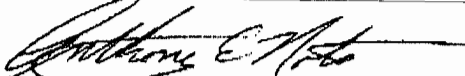
Dec. 13, 2006

I am responding to your email exchange with Michael Pill relating to information to trip generation to our proposed site. You had previously corresponded to me on Sept. 14 relating to the issue of traffic, please see-attached copy. On Sept. 21 I responded to you stating that we estimated our use would increase from the previous use by 10 cars a day. I offered to double that amount and pay \$4,000.00 to the city in an in-lieu of mitigation fee for the added trips.

Your recent email suggested that we relate the calculation to the ITE trip generation manual. Pursuant to this manual, auto sales are shown to have 2.5 trips per 1,000 sq. ft. The previous use utilized 8,874 sq. ft. of floor space, which would equate to 22 trips. Our proposed use is for a specialty retail store, which is shown in the manual as 4.93 trips per 1,000 sq. ft. Our plans are to reconstruct the building to have only 6,222 sq. of floor space. This calculates to 31 trips. The added trips calculate to 9.

Our Proposal provides an in-lieu mitigation of 20 trips and pay \$4,000.00 to the city. This far exceeds the actual requirements. If you have any further questions please contact me. You can contact me via the following means.

Sincerely



Anthony E. Nota
Property manager

Land Use: 896 Video Rental Store

Independent Variables with One Observation

The following trip generation data are for independent variables with only one observation. This information is shown in this table only; there are no related plots for these data.

Users are cautioned to use data with care because of the small sample size.

<u>Independent Variable</u>	<u>Trip Generation Rate</u>	<u>Size of Independent Variable</u>	<u>Number of Studies</u>	<u>Directional Distribution</u>
1,000 Square Feet Gross Floor Area				
Weekday p.m. Peak Hour of Generator	31.54	7	1	50% entering, 50% exiting
Saturday Peak Hour of Generator	26.92	7	1	46% entering, 54% exiting

Video Rental Store (896)

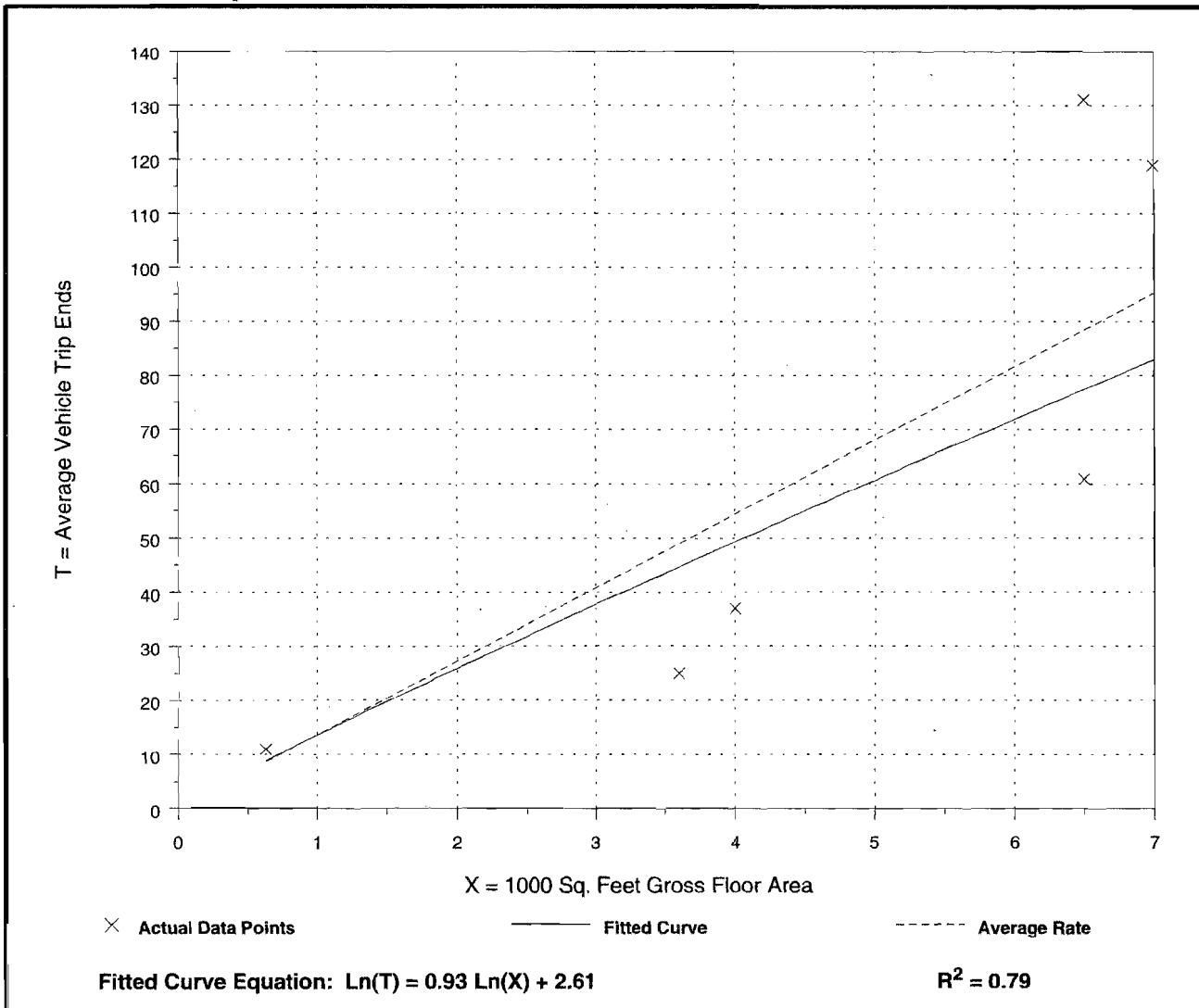
Average Vehicle Trip Ends vs: 1000 Sq. Feet Gross Floor Area
On a: Weekday,
Peak Hour of Adjacent Street Traffic,
One Hour Between 4 and 6 p.m.

Number of Studies: 6
 Average 1000 Sq. Feet GFA: 5
 Directional Distribution: 46% entering, 54% exiting

Trip Generation per 1000 Sq. Feet Gross Floor Area

Average Rate	Range of Rates	Standard Deviation
13.60	6.94 - 20.15	6.13

Data Plot and Equation





Building
Commissioner

City of Northampton

Massachusetts

DEPARTMENT OF BUILDING INSPECTIONS
212 Main Street • Municipal Building
Northampton, MA 01060
413-587-1240



February 26, 2007

Adam Cohen and Jendi Reiter
351 Pleasant Street, PMB 101
Northampton, MA 01060-3961

RE: Request to revoke Building permit issued to Capitol Video 135 King Street

Dear Adam Cohen and Jendi Reiter,

I received your letter dated February 22, 2007 requesting that I revoke the building permit issued to Capitol Video at 135 King Street. The building permit was issued after the Planning Board reviewed the application (PLN-2007-0014) and approved said application on December 21, 2006. The items presented in your letter were items that the Planning Board took under consideration in their review process. The decision that was rendered approved the site plan presented with the following conditions;

- 1. Lighting shall conform to section 12 of the Zoning Ordinance. Lights shall be shielded and replaced in compliance ordinance.**
- 2. As offered by the applicant, and prior to the issuance of the certificate of occupancy, a payment of \$9,000 in lieu of traffic mitigation shall be made to the City of Northampton.**
- 3. As stated by the applicant all windows and all exterior display areas shall comply with 11.6 (9): "No signs, text, graphics, pictures, publications, videotapes, CDs, DVDs, movies, covers, merchandise or other objects, implements, items or advertising, depicting, describing sexual conduct or sexual excitement as defined in MGL Chpt. 272, §31 will be displayed in the windows or on any building or be visible to the public from the street, pedestrian sidewalks, walkways, or bikepaths or from other areas outside the site."**

4. The front door along King Street shall be accessible for ingress and egress to create safe pedestrian access from the front to the rear of the parcel. This entry shall be operable during all business hours.

5. An additional bike rack shall be located at the King St. entrance.

The building permit was issued properly as per 780 CMR section 111.2 and will not be revoked.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anthony Patillo', written in a cursive style.

Anthony Patillo
Building Commissioner
City of Northampton.

CC: C. Misch Senior Planner, J. Sheppard City Solicitor, Mayor's Office