

From: Michael Pill < >
To: Wayne Feiden >, Carolyn Misch < >
CC: "Lesley Rich, Esq." < >, A Edward Nota < >
Subject: [Fwd: Capital Video Site Plan Review Application for Retail Use]
Attachments: (none)

Date: Sunday, December 03, 2006 5:51 AM

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Carolyn & Wayne,

Please accept my apologies for sending the email below to your old email addresses. If I had computer skills I would not have to practice law for a living. As indicated in the last paragraph below, if any submissions beyond those described below are needed, please let me know.

Thanks very much,
Michael Pill

----- Original Message -----

Subject: Capital Video Site Plan Review Application for Retail Use
Date: Fri, 01 Dec 2006 10:50:54 -0500
From: Michael Pill
Reply-To:
To: Carolyn Misch , Wayne Feiden
, A Edward Nota ,
"Lesley Rich, Esq."

Carolyn,

Thank you for your phone message yesterday (November 30, 2006) which was a reminder that you want additional submissions from Capital Video by today, December 1, 2006.

The reason no additional submission has been made is that Capital Video will comply with all legally valid provisions of the Northampton Zoning Ordinance, including the most recent amendments adopted by the City Council concerning signage, outside window displays (no outside windows will be blocked or shaded), and layout of the store within the 1000 square foot limitation on adult content.

Because the "total display area of such adult material" will be less than one thousand square feet, the proposed Capital Video store is not subject to regulation under the definition of "Adult Establishments with Adult Material" which the City Council has inserted in Section 2.1 of the Northampton Zoning Ordinance. Such establishments are subject to regulation under the definition of Section 2.1 only, "provided the total display area of such adult material exceeds 1,000 square feet." Because the proposed Capital Video store will not have more than "1,000 square feet" of "total display area of adult material", it is not subject to regulation as an "adult establishment with adult material" under Section 2.1.

Capital will provide photos of signage and window displays from its other stores which are representative of what Capital intends for its Northampton Store. Such additional submissions from Capital will be forwarded to your office (Planning Department, City Hall, 210 Main Street, Northampton, MA 01060) as soon as possible, with at least 11 hard copies, directly from Lesley Rich, Esq., General Counsel for Capital Video.

Store layout plans are still being developed and will be provided to the building inspector at the time of application for a building permit. Are you claiming that the Planning Board is entitled to demand as a condition of site plan review approval the same level of detail (e.g. signage, window displays and

internal plans for the store) that would be properly submitted to the building inspector as part of the application process for a building permit?

Capital representatives will be at the 7:00 P.M. Planning Board Hearing on Thursday, December 14, 2006, at the City Council Chambers, to answer questions that the planning board may have, and to discuss the retail use of the building. As you may recall, the trigger for site plan review was the change of use to retail, as stated in Capital's site plan application submitted in September, 2006.

If you believe that some additional submission is required for site plan review approval of this store as a retail use, please respond in writing as soon as possible, specifying in detail what you believe must be submitted. Your assistance in this regard will be greatly appreciated.

Thank you very much,
Michael