

STUDY & RECOMMENDATIONS

for

ADULT ENTERTAINMENT

in the

TOWN OF ISLIP

Prepared by:

TOWN OF ISLIP

Department of Planning & Development

September 23, 1980

Department of Planning & Development • Planning Division
Interoffice Memorandum

To: SUPERVISOR MICHAEL A. LO GRANDE

Date: 23 SEPTEMBER 80

Re: ADULT ENTERTAINMENT BUSINESSES

Please find attached the strategy for Regulating Adult Entertainment Businesses, which provides the information and rationale necessary for successful formulation of the zoning ordinance controlling these uses.

The purpose of this strategy is to reduce the destructive impact of adult entertainment on residential neighborhoods and to prevent a future concentration of such uses, which would encourage the deterioration of entire commercial districts. Through this strategy, these goals were achieved without infringing on the constitutionally upheld right of such establishments to exist.

I would like to thank Dan Dollmann for his efforts in preparing this report. It is my belief that implementation of this strategy will do much to protect our Town from the most harmful effects of adult entertainment uses.

Stephen M. Jones
Commissioner

SMJ:rm
Attachment

cc: Deputy Supervisor Gregory W. Munson
Councilman Frank Boncore
Councilman Norman DeMott
Councilman James Mackey
Councilwoman Anne Pfifferling
William Bennett, Town Attorney

Daniel D. Dollman
Senior Planner

Town of Islip
Department of Planning

AMENDMENT I of the Constitution of the United States part
of The Bill of Rights adopted December 15, 1791

Religious establishment prohibited. Freedom of speech, of
the press, and right to petition.

Congress shall make no law respecting an establishment of
religion, or prohibiting the free exercise thereof; or abridging
the freedom of speech, or of the press; or the right of the
people peaceably to assemble, and to petition the
Government for a redress of grievance.

INTRODUCTION

This report studies the effects of adult entertainment or sex businesses (both terms are used interchangeably throughout this report) on surrounding uses, both residential and commercial. Materials or entertainment opportunities offered at these businesses are not a concern of this report. The preservation of neighborhoods is the concern. The placement of businesses, which have deleterious effect on surrounding uses, would be contrary to this concern.

Planning relies heavily on public participation,¹ both by federal government mandates and by professional standards. The principle being that those persons living in an area should have control over its development, creating a distinct neighborhood quality reflective of their needs and desires. The planners role is to facilitate, orchestrate, consolidate, and mediate various groups to insure that the communities goal is achieved. This principle is especially true in a suburban environment with almost all land owned by individuals residing in the area. They are interested in their community and in protecting it from uses they perceive as deleterious. The most common manner of protection being complaint to the local government.

The rising tide of resentment of surrounding residents and businessmen to new adult entertainment businesses has hit its apex in the first half of 1980. Beginning with the establishment of an adult book store in Islip Terrace, public resentment has focused on location of these establishments. The Islip Terrace store adjoined a residence and was directly opposite other single-family homes. A great outpouring of neighborhood resentment culminated in having the building's owner evicting his tenant.

In Bay Shore, the Community Development Agency, after purchasing a building in the Downtown area containing an adult book store, administered the building in such a manner which resulted in the business moving.² It did move directly across the street, next to an adult theatre, rekindling public resentment once again (see Appendix A for documentation).

The catalyst for this study can be deemed the Bohemia Adult Book Store, formerly a Pancake House. The new business owners began modifications of the structure, which included the closing of windows. General public and governmental suspicions as to the use of the structure were proven when a combination adult book store/peep show opened. A case study of the Bohemia Book Store is contained in this report.

It appeared that these new facilities had locational problems which resulted in public resentment. The need for examining all adult entertainment establishments in Islip to determine what conditions caused public resentment and what did not was considered to be essential to the development of regulations designed to address "the

¹ Reported by the President of the Old Islip Terrace Civic Association.

² "Adult Shop Chased But Not Very Far," Newsday, August 2, 1980.

places at which this type of expression may be presented, a restriction that does not interfere with content."³ The case study examines resident concerns in fine detail for one establishment and highlights the public's concerns on locational problems rather than content of these establishments' materials.

PERSPECTIVE

On October 16, 1975, when the New York Times published an article entitled "Islip is Planning to Establish an 'Adult-Entertainment Zone,'" the first attempt by the Town of Islip to regulate sex businesses was brought to the public's attention. On October 20, 1975, after a stormy reception and nationwide publicity, the Times reported "Islip Drops Plan for Pornography Zone."

Similar in intent to zoning ordinances in Boston and Minneapolis, the proposed 1975 Ordinance was designed to contain adult entertainment within an area designated through conformance with prescribed criteria. Public response was overwhelmingly negative, not to the attempt to regulate sex related business, but to the possible creation of what was described as "such zoning (that) would lead to pockets of perversion all over the place."

In March of 1976, the Detroit "Anti-Skid-Row Ordinance" which separated "regulated businesses" (sex businesses) from each other and residential zones was upheld by the United States Supreme Court. The Detroit "Skid Row Ordinance" is based on observations of the types of businesses which have a degrading effect on surrounding properties. These businesses were identified as being: bars, pawnshops, public lodging houses, and adult entertainment businesses.

Current legislation in the Town of Islip regulates bars and public lodging houses. It has been proposed that sex businesses or adult entertainment businesses also be regulated in a manner similar to that which Detroit adopted, to prevent the deterioration of neighborhood quality in the Town of Islip.

METHODOLOGY

Studies and ordinances of other jurisdictions⁴ were reviewed and findings appropriate to the suburban Islip Town experience have been incorporated into this report and noted accordingly. During this research period, meetings between the Planning Department, Town Attorney's Office, Town Board and the Supervisor were held. It was determined that the Town of Islip would base its ordinance on Supreme

³ Mr. Justice Powell, U.S. Supreme Court, 44 U.S.L.W. 5007.

⁴ Detroit, Michigan; Norwalk, California; Dallas, Texas; Prince George's County, Maryland; and New Orleans, Louisiana.

Court and lower court rulings, and furthermore, base the ordinance on the Detroit Anti-Skid Row Ordinance which dispersed sex businesses (see perspective for historical basis of this decision and Appendix B).

Secondly, the Bohemia Book Store and public reaction were studied primarily using newspaper articles and supplemented using unsolicited letters of complaint from residents. Information related to material sold at this establishment was ignored as it was not relevant to this study.

The research of this book store allowed for the creation of a case study which could then be used to determine what locational factors were responsible for the outpouring of neighborhood residential opposition.

In the third section of this report, adult entertainment businesses were surveyed and inventoried by hamlet. Condition of the physical plant, its compatibility with the proposed ordinance, and surrounding land uses were noted by compass point.

As the proposed ordinance accurately reflects the findings of this report it is contained in the appendix along with other jurisdictions' ordinances (see Appendix C).

ORDINANCES OF OTHER JURISDICTIONS STUDIED

Right to Use Zoning to Regulate Sex Businesses

The June 23, 1976 ruling in favor of the Detroit ordinance which prevented restricted uses from locating within 1,000 feet of one another and 500 feet from a residentially zoned district states:

We have no doubt that the municipality may control the location of theaters as well as the location of other commercial establishments either by confining them to certain specified commercial zones or by requiring that they be dispersed throughout the city. The mere fact that the commercial exploitation of material protected by the first amendment is subject to zoning and other licensing requirements is not a sufficient reason for invalidating these ordinances...The city's interest in planning and regulating the use of property for commercial purposes is clearly adequate to support that kind of restriction...In short, apart from the fact that the ordinances treat adult theaters differently from other theaters and the fact that the classification is predicated on the content of material shown in the respective theaters, the regulation of the place where such films may be

exhibited does not offend the first amendment.⁵

Definition of Restricted Uses

A major argument concerning the definitions in the Detroit Ordinance was made by the attorneys for the plaintiff (operators of the restricted use). Although the court ruled in favor of Detroit's Definitions (44 U.S.L.W. 5001), the Town of Islip's Adult Entertainment Ordinance uses definitions recommended by the American Society of Planning Officials (now the American Planning Association).

"By using age restriction, communities can rid themselves of the generally vague content definitions. They can also rid themselves of the sometimes arbitrary judgments which are the common result of using poor definitions. It is important to remember that the Supreme Court was not passing judgment on the quality of Detroit's definition. They merely found the definition adequate to the specific case under consideration. That is quite a bit different from a judicial blessing on the definition itself."⁶

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.

Separation Standards

Chart 1

<u>Municipality</u>	<u>Distance from: Residences</u>	<u>Churches, Schools, or other like public facilities</u>	<u>Similar Use</u>
Detroit, MI	500 ft.	-----	1,000 ft. ¹
Norwalk, CA	500 ft.	500 ft.	-----
Dallas, TX	1,000 ft.	1,000 ft.	
Prince George's County, MD	1,000 ft. ³		1,000 ft. ³
New Orleans, LA	500 ft. ²	-----	1,000 ft. ²

⁵ Mr. Justice Stevens majority opinions published in 44 U.S.L.W. 4999-5013, June 23, 1976, pgs. 5002-3.

⁶ American Society of Planning Officials publication entitled Regulating Sex Businesses, published May

Proposed Islip Town, NY

500 ft.

500 ft.

2,640 ft.

¹can be waived if applicant proves that such business would result in creation of a "skid-row" district

²from the nearest property line

³can be waived if 51% of surrounding property owners agree

The major problem in the establishment of development standards, notably distance criteria, is that such distances can be overly restrictive, thereby resulting in an attempt to zone the sex business out of the community. An attempt to do so would certainly result in a court challenge as the rights guaranteed by the First Amendment of the United States Constitution would have been suppressed through zoning.

To develop standards for the Town of Islip, various distance proposals were mapped on zoning maps in the attempt to establish an ordinance which would meet with approval by the Town Board and the general public and at the same time allow substantial areas for the development of adult entertainment businesses.

Distance from Residential and Public Facilities

The 500 feet requirement is identical to that of three other municipalities, and less than two other municipalities that were studied (see Chart 1 above).

Although this distance requirement is greater than any other currently required in the Town ordinance, it is not in reality more restrictive. Industrial II zoning in Islip, although its distance requirements are less, by mapping this district, it is separated from residential uses by other more restrictive zones. In virtually no case do the distance requirements between Industrial II and residential areas actually occur. It is proposed that these requirements be revised to accurately reflect existing conditions. In this manner Industrial II will as in reality, have the greatest separation standards between it and residential uses.

The 500 feet requirement for separation accurately reflects the separation needs of adult entertainment businesses and residential uses based on the case study "The Bohemia Book Store;" the individual analysis of sites; and letters from residents (contained in the Appendix).

The Half-Mile Separation Requirement

Sunrise Highway in Islip Town presents a different situation and need for a

greater separation requirement than that experienced by other Jurisdictions.⁷

Upon studying development on the south side of Sunrise Highway (east bound) from the end of the limited access portion (just west of Saxon Avenue) to Oakdale-Bohemia Road in Oakdale, one finds approximately 22 shops and two shopping centers, Models and Marshalls. Of these stores, five (5) or 23% are adult entertainment oriented.

As the study area is about 5.5 miles, adult entertainment businesses are located on the average of 1.1 miles apart. This means a person travelling the posted speed limit would pass a sex business approximately once every minute for five minutes.

Due to the sparse development on Sunrise Highway and that the existing development is close to the right-of-way, these businesses tend to be highly visible to the passing public. Although the proposed requirement has no affect on the existing businesses, it does prevent the infilling of sex businesses along Sunrise Highway, which would hinder the creation of a visible concentration of sex businesses to the passing public and the creation of a "Combat Zone."⁸

It is the expressed intent of Town Board and the public, based on the proposed 1975 ordinance (see Appendix), to avoid a concentration of such uses. It is the intent of the proposed Adult Entertainment Ordinance to separate sex businesses in a manner similar to that found constitutional in Detroit.

Detroit, a city with a 1970 population of 1,500,000 and a density of 10,714 persons per square mile,⁹ separated businesses by 1,000 feet. As their concern centered around more urban concentrations of businesses in the city, where concentrated development occurs with standard 20 feet store fronts which means as many as 50 stores could lie between uses. On Sunrise Highway, in the study strip only, 19 stores lie between 5 sex businesses for an average of 4.75 stores.

As Detroit's posted speed limit is anticipated to be 30 miles per hour, it would take about twice as long to go 1,000 feet in Detroit as it does on Sunrise Highway in Islip. In brief, the speed limit differential at 55 miles an hour would equate into a distance of about 2,000 feet similar to the 2,640 feet proposed in Islip.

An additional difference between Islip and Detroit lies again in their respective suburban-urban differences. Where many main roads would parallel each other in Detroit, Sunrise is paralleled by only one similar such road, the Long Island Expressway which has no sex businesses along it in Islip Town.

⁷ Volume 7d Town of Islip Comprehensive Plan, Islip-East Islip-Islip Terrace-Great River-North Great River, pg. 147 entitled "4.3.5 Other Commercial Areas."

⁸ The colloquial name of the adult entertainment district (a concentration of such uses in Boston which has not been tested in the courts).

⁹ The density of the Town of Islip in 1970 was 2,826 persons per square mile or about one-quarter (1/4) the density of Detroit.

Industrial I Zone Requirement

The Industrial I zone represents primarily light manufacturing and warehousing type industries. Retail outlets are allowed.

Of the existing sex businesses in Islip, six (6) or 43% are currently located in Industrial I zones, or on land to be rezoned Industrial I.

A major reason for this requirement was to prevent skid row effects in the Historic Downtowns of Islip. Virtually no land in these Downtowns is zoned industrial. It has been the Town's experience that the historic downtowns, which are identifiable with both their residential communities and school districts, are in a vulnerable position. This condition was caused in part to their loss of importance in retail shopping activities to shopping malls and other auto-oriented shopping areas. The vulnerability and its corresponding effects are personified in Downtown Bay Shore, although other downtowns have decayed, including Islip Terrace, Central Islip and Brentwood.

The Detroit Anti-Skid-Row Ordinance developed and adopted in 1962, regulated bars, pawnshops, and public lodging houses, on the basis that these uses caused or accelerated skid-row districts. Islip Town currently restricts through zoning: bars, public lodging houses and non-conforming multi-family uses. There are no restrictions as of date on pawnshops. A study of Downtown Bay Shore and the regulation of bars and multi-family non-conforming uses indicates the Town of Islip's commitment to upgrade this shopping district and prevent its becoming a skid-row. The potential negative effects of sex businesses is also examined in a case study of Bay Shore Downtown.

Bay Shore's decline can be attributed to a variety of reasons but certainly as noted in Detroit, non-conforming multi-family housing and a multitude of bars, both currently regulated by existing Town ordinances, have helped create a skid-row effect similar to that found in Detroit. In Bay Shore, former mental patients and transients have flocked to the non-conforming multi-family housing (for example, the Bay Bright Hotel) and have become patrons of various bars.

Since the establishment of the Downtown Development District, and the Community Development Agency, the Town has actively pursued a policy which prohibits the conversion of homes to multi-family dwellings (repeal of boarder law, 1971, and the phasing out of "grandfathered boarders," 1979) and has actively encouraged the return to one-family units or two-family units.¹⁰

Regulation of bars became law in 1976 and regulation of hotels and boarding houses in 1971 upon the modification of Chapter 68 of the Town Code of the Town of Islip to read:

¹⁰ See Volume 7a Bay Shore Community Identity Study, pg. 19-46 and Volume 3, entitled "Housing" pg. 42 & 55.

"§68-257 Uses permitted by Special Permit from Town Board after public hearing

- D. Indoor theater or motion picture house
- E. Hotel (added 12-7-71)
- F. Motel or Boatel (added 12-7-71)
- G. Boarding house or lodging house (added 12-7-71)
- H. Restaurant, luncheonette, cafe and other places for the serving of food, beverages, or both food and beverages, whether such food and/or beverages are served inside of a structure or outside of a structure, or both inside of a structure and outside of a structure (added 9-7-76)."

Since that time no new bars have been permitted in Downtown Bay Shore.

The existence of two adult entertainment uses next to one another (see individual analysis sheets later in this report) has created a "dead zone " in one of the healthier portions of the downtown. Users of Bay Shore Downtown generally park and then walk about the town to shop. As various individuals would rather not be associated with or be seen in front of regulated businesses nor have their children walk by them,¹¹ many persons who might patronize other stores on the block avoid going there. This results in the loss of business of non-adult entertainment stores, possibly causing them to go out of business or to move to another area. This, as a result, hastens the decline, or hinders the up surging of the Downtown, creating or emphasizing it as a place not to go, furthering the creation of skid-row.

Another rationale for the use of the Industrial I zone is that adult entertainment businesses are night or evening oriented. This arrangement helps prevent conflicts in use as the majority of existing Industrial I uses are day oriented. It also allows for the maximum use of the existing infrastructure. The creation of multi-usage zones to allow for the maximum usage of existing infrastructure is currently being emphasized in New York City.

A CASE STUDY: THE BOHEMIA BOOK STORE

"The building (housing the Bohemia Book Store), which was formerly Woody's Pancake House, is on Sunrise Highway, directly adjacent to a residential neighborhood. Although there are approximately 15 adult-only establishments in Islip (including one 'book store' in Bayport, and one 'book store' in

¹¹ The Norwalk, California Ordinance reflects this concern by stating "shall not be located within 500 feet of schools, churches, parks, playing fields, or other areas in which large numbers of minors regularly travel or congregate."

Bay Shore) the Bohemia Book Store is closer to residences than the others.¹²

The above quote summarizes the main "non-material oriented" complaint: the Bohemia Book Store intrudes upon the residential area it adjoins to the south (see the 400' scale aerial for clarification). The building lies between Sunrise Highway, commercially zoned and developed, and East Golf Street, the south side of which is residentially zoned land and built single-family homes.

As Woody's Pancake House, the building housing the Bohemia Book Store, was developed using minimum rear yard standards - ten feet. Therefore, it intrudes upon East Golf Street by leaving a distance of only ten feet and the roadway between the front yard of a residence and the rear of the book store.

This occurrence is uncommon. Typically a Business 1 zoned parcel adjoining a residential zone requires a 15 foot transitional zone (§68-282 Rear Yard), and in addition, a 25 foot buffer and screen planting would be required (§68-284 Exterior site improvements and parking).¹³ These requirements are specified in Article XXXI, §68-409 entitled "Off-street parking areas: plot plan required showing site improvements.

"G. Screen planting

(2) Wherever a residence district adjoins any business district, industrial district or general service district, there shall be provided a landscaped buffer area of at least twenty-five (25) feet in width in each such abutting business, industrial or general service district. Such buffer zone shall be restricted to residential uses; and no structure, storage, parking or other similar accessory uses shall be permitted within such area unless specifically relaxed by the Town Board after public hearing.

(4) Fencing and/or screen planting. Unless specifically waived or otherwise amended by the Town Board, wherever the ordinance requires a buffer zone to protect residential properties, a six-foot-high chainlink fence with stockade attached shall be required and the buffer area seeded and planted in accordance with Town of Islip Construction Standards."

Another problem associated with the proximity of East Golf Street to this sex

¹² The Suffolk County News "Picketers Vow to Close Porno Book Store," July 24, 1980.

¹³ Had the rear yard been considered another front yard, a front yard setback would have been required (§68-280 of the Code of the Town of Islip).

business is that it is possible to park on East Golf Street and walk to the book store "hiding" from view the automobile of a customer who wants to be discreet. It was reported in both Newsday and The Suffolk County News that a pickup truck and a Cadillac which were parked on East Golf Street were used by patrons of the book store as they were leaving the premises in trying to run down picketers which documents the contention that parking on East Golf Street occurs.¹⁴

A factor which arose after the protest began was the association of the operators of the book store with organized crime,¹⁵ and the following summary of the criminal records of the owners was reported.

"The daily newspaper Newsday reported last week, that the proprietor of the adult bookstore on Sunrise Highway and Smithtown Avenue in Bohemia, is reputedly connected with, though not a member of the mob-operated national porno ring. Owner Alfred Scotti, 52, of Sayville, is also the owner of the Black Jack Bookstore on 42nd Street in Manhattan, one of Times Square's largest, which he inherited when his brother-in-law, Joseph Brocchini, said to be a soldier in the Lucchese crime family, who was murdered after he supposedly was caught skimming profits from family operations.¹⁶

Scotti, who is free on 25 dollars bail, after Suffolk Police raided the Bohemia establishment and confiscated truckloads of magazines, books, films, and paraphernalia, and charged him with obscenity and disseminating pornographic material. His son, Anthony, 26, the store manager was also arrested on the same charge. He had been convicted on obscenity charges five times, but has never served any time, nor has the elder Scotti, who had been convicted 35 times since 1949."

As no retraction or correction has been reported as of date by Newsday, the accuracy of their reporting seemingly has been acknowledged by the operators of the Book Store.

To dramatize the fear of residents who are legally protesting the book store within the boundaries of the First Amendment of the U.S. Constitution and the same amendment which the operator uses to justify his business, "...Manager Anthony Scotti

¹⁴ Newsday, August 1, 1980, "Porn Suspect Has City Store," and The Suffolk County News, July 31, 1980, "Bust at Porno Book Store Ends In Arrests."

¹⁵ Newsday, August 1, 1980, "Porn Suspect Has City Store."

¹⁶ News and Sentinel, August 6, 1980, "'Family' Porn Shop."

said of the picketing 'We know we're protected by the First Amendment'.¹⁷ The following sections of published articles are presented:

"One person who had helped organize the protest is now receiving police protection following anonymous threatening phone calls."¹⁸

"The woman, like most of the residents who are picketing the store, asked not to be identified for fear of retaliation. Last Saturday, several people participating in the non-stop demonstration reported to police an incident in which a Cadillac and a pickup truck tried to run them down. On Sunday evening, the store's manager, Alfred Scotti, 52, allegedly harassed the pickets and offered to fight anyone who cared to take him on."¹⁹

Clearly what is emerging is a conflict between the rights of the book store to sell material and the legal protest of residents to keep the separation of sex businesses from their residential area. While both may technically be correct, the potential for violence or other illegal behavior is clearly possible. To prevent this from occurring, legal action has taken place.

Legal Action

State Supreme Court Justice Arthur Cromarty signed, on August 12, 1980, a temporary restraining order closing the book store. This temporary injunction was extended August 20 by Justice Lester Gerard until such time as a trial on the Town's petition can occur.

According to a Newsday article entitled "Rule Closing Book Store is Expected," August 21, 1980:

"the Town wants the store closed for alleged violations of four Town zoning and fire ordinances." "The Town said it would it would not issue the proper permits even if these violations were corrected because of Islip's moratorium on the opening of any new adult book, film, or tape shops or topless bars. The moratorium ends in November."

Other material concerning the Bohemia Book Store:

¹⁷ Newsday, July 22, 1980, "Pickets Vow to Shut Store."

¹⁸ Suffolk Life, July 30, 1980, "Police Bust Porno Book Store."

¹⁹ Islip Bulletin, August 7, 1980, "Town, Residents Combat X-Rated Stores."

- Petition - A petition alleged to contain 10,000 signatures, opposing pornography, have been prepared by the picketers of the Bohemia Book Store.
- Letters - The appendix contains eight letters from surrounding residents which present the concern of the surrounding residents about the Bohemia Book Store.

**INDIVIDUAL
SITE ANALYSIS**

Happy Hour Book Store - Bay Shore

Tax Map #393-02-080

Item #010640

Location: Main Street, Downtown Bay Shore, approx. 197' e/of Park Avenue

Surrounding Area: North – Commercial and Parking Area
South – Commercial
East – Commercial
West – Regent Theatre (Adult Entertainment)

Area: .25 ac.

Land Value: \$14,300

Total Value: \$30,000

Observations on Plant: Small Store front in poor condition.

Owner of Record: Herbert & Clara Levenson
22 West Lane
Bay Shore, New York 11706

Analysis:

This adult book store is adjacent to the Regent Theatre, an adult cinema. The close proximity of these two restricted businesses creates a void in the commercial center of Main Street.

It also creates an area which certain shoppers will avoid due to their preference not to associate with these businesses. In combination these two reasons further add to the deterioration of the business district, leading to a "skid row environment" similar to that observed in Detroit, which lead to regulation of adult entertainment businesses in Detroit.

Regent Theatre - Bay Shore

Tax Map #393-02-079
Item #001081

Location: n/s/of Montauk Hwy. (N.Y. Rt. 27A) approx .147' e/of Park Avenue

Surrounding Area: North – Vacant Commercial (Grants)
South – Furniture Store
East – Adult Book store
West – Jewelry Store

Area: .25 ac.
Land Value: \$22,600
Total Value: \$83,100
Zoning: Business I

Observations on Plant: Building appears to be in good condition.

Owner of Record: Basay Realty Corp.
% Pointer Theatres Inc.
430 West 54 Street
New York, New York 10019

Analysis:

The theatre does not have its own parking area nor did it appear to have a means of entrance from the public parking area to the north. This factor can cause long-term parking on Main Street of patrons attending the theatre. Street parking in a downtown area is typically reserved for short-term parking, allowing for a high amount of convenience shopping opportunities.

Although the market is rather discrete, the location of this business in the core of the jewelry section of downtown Bay Shore, can cause discomfort to pedestrian shoppers who pass by comparison shopping at the various jewelry stores. Unlike the seemingly lack of effect adult oriented stores seem to have on strip type commercial development, customer deliberately chooses (by parking) where he will shop, while the downtown shopping environment is pedestrian oriented. The Downtown atmosphere prevents the use of the car to go by a use that one might find offensive but rather the individual pedestrian shopper might avoid the area entirely.

Downtown Bay Shore prior to opening of this business was suffering economic decline, and loss of its viability. Adult oriented stores typically are low investment business, placed in marginal shopping areas like downtown Bay Shore. Due to their lack of investment, they tend to further degrade the area creating a "skid-row" type atmosphere as found in Detroit and which lead to their adoption of the anti-skid-row

ordinance.

LaLa-Sinbads - Bay Shore

Tax Map #317-02-026
Item #383590

Location: Southwest corner of Sunrise Highway and South Denver Street

Surrounding Area: North – Vacant Industrial land
South – Vacant Residential land; Town of Islip Scavenger Waste
Plant and Dog Pound
East – Vacant residential land
West – Town Islip land

(Note: Vacant residential land south and east is being considered for a change of zone to industrial.)

Area: .39 ac.
Land Value: \$38,100
Total Value: \$91,500

Observations on Plant: Building is in poor condition. Parking area unpaved.

Owner of Record: James H. Gamblin
235 North Utica Avenue
North Massepequa, New York

Analysis:

Due to odors originating from the Scavenger Waste Treatment Plant, the desirability of nearby land is minimal. The closing of the treatment plant will have a positive effect on the area, and this business may then become a hindrance to the development of surrounding land. The nearby residentially zoned land is in the process of being rezoned as industrial land, which will result in this business being completely surrounded by industrial land. An investment in the building and site could prevent any negative affects this business could have on future industrial development,

Bohemia Book Store - Bohemia

Tax Map #256-02-017

Item #095245

Location: southeast corner of Sunrise Hwy. (N.Y. Rt. 27) & Smithtown Avenue

Surrounding Area: North – Single family homes
South – Single family homes
East – Bank
West – Gasoline Station

Area: . 68 ac.
Land Value: \$44,400
Total Value: \$69,000
Zoning: Business I

Observations on Plant: Windows have been closed through the modification of the building. No landscaping, poor condition of grass area to west of parking lot. Rear of building close to streetline.

Owner of Record: MIP Restaurant Inc.
102 Anchorage Drive
West Islip, New York 11795

Analysis:

The close proximity of this business to the residential area to the south is of great concern. The building visually intrudes upon the street and directly on the house to the south. Lack of a buffer area and screen planting tends to emphasize the buildings intrusion on the neighborhood.

Adult Entertainment - Central Islip

Tax Map #081-01-005
Item #052752

Location: e/s/of Veterans Memorial Highway, approx. 1000' n/of Suffolk Avenue
(Nicholls Rd.)

Surrounding Area: North – Industrial
South – Industrial
East – Single family Residential
West – Industrial

Area: .65 ac.
Land Value: \$41,100
Total Value: \$77,100
Zoning: Industrial I

Observations on Plant: Good condition.

Owner of Record: Tsantes Enterprises Inc. (Blue Dawn Diner)
1860 Veterans Memorial Highway
Central Islip, New York 11722

Analysis:

Although residential properties lie to the east of this establishment, the Highway provides an adequate barrier between the residences and this business. Its effect on surrounding businesses appears to be minimal, as indicated by the lack of any vacant stores in the immediate vicinity.

As the owner of record lists the same address as the Blue Dawn Diner, an eating establishment to the north of this business, it can be expected that if this business were to have a negative effect on the surrounding businesses, its use would be terminated.

Gloria's Place - Central Islip

Tax Map #206-01-048

Item #557870

Location: northeast corner of Islip Avenue and Pear Street

Surrounding Area: North – Single family home (Commercial land)
South – Vacant residential land
East – Residential
West – Residential and Commercial

Area: 1.52 ac.
Land Value: \$50,900
Total Value: \$98,000
Zoning: Business I

Observations on Plant: Formerly a residence converted to commercial usage.
Currently in poor condition.

Owner of Record: GMPL Properties Corp.
1011 Islip Avenue
Central Islip, New York 11722

Analysis:

Minimal investment has been made in both the building and the site. The building is in need of maintenance; the parking area unpaved. No buffer or fencing exists between this business and the residences to the north and east.

Sherwood Inn - East Islip

Part of New York State right-of-way

Location: southwest corner of Sunrise Hwy. (N.Y.Rt.27) & Wantaugh So. Ave.

Surrounding Area: North – New York State Police Troop L; Gasoline Station
South – Single family homes
East – Vacant Commercial land
West – Used car lot

Observations on Plant: Exterior is in poor condition; parking lot is not paved. No buffer or fencing adjoining residential land to the south. This building is scheduled to be removed for the widening of Sunrise Highway.

Owner of Record: New York State

Analysis:

This business is located on a major school-aged children pedestrian crossing of Sunrise Highway, connecting the residential areas of East Islip to the four-school site complex in Islip Terrace. Current usage of this access point is indicated by the need of Suffolk County crossing guards at this location and New York States Department of Transportation's concurrence with the East Islip School District contention that a walking bridge across Sunrise Highway is necessary at Wantaugh Avenue (Garepy St.).

The rear yard of the home to the south of this business adjoins the rear yard of the business without any barrier to visibility. The night operation of this business has a deteriorating effect on residential properties due to noise, starting of vehicles, and lights from vehicles flashing onto the residential building.

The unpaved parking area causes flying dust which is known to aggravate respiratory conditions.

Genies - East Islip

In Sunrise Highway right-of-way

Location: south side of Sunrise Hwy. (N.Y. Rt.27) approx. 430' east of Connequot Avenue

Surrounding Area: North – Vacant Commercial land
South – Grumman Aerospace Corp.
East – Grumman Aerospace Corp.
West – Cleared land for Sunrise Hwy. widening

Observation of plant: As to be expected, since the building is scheduled to be removed for the widening of Sunrise Highway, maintenance is poor.

Owner of Record: New York State

Analysis:

The building is fairly isolated from residential areas to the southwest and northwest. Lack of sidewalks prevent pedestrian traffic. Access to school to north is 430 feet west on Connetquot Avenue.

Holbrook Book Store - Holbrook

Tax Map #239-01-018

Item #698170

Location: northeast corner of Sunrise Hwy. (N.Y. Rt. 27) and Jersey Avenue

Surrounding Area: North – Vacant Industrial I
South – Commercial Stores
East – Mica; Vacant Industrial I land
West – Commercial Use

Area: .4 ac.

Land Value: \$29,100

Total Value: \$155,500

Observations on Plant: An attractive building in excellent condition.

Owner of Record: LML Enterprises Inc.
6080 Sunrise Highway
Holbrook, New York 11741

Analysis:

A substantial investment in the building site and business makes for an unobtrusive setting. This business's isolation from residences prevents any conflict with residential uses. Since all stores in the center are rented, this business apparently has little effect on the center's desirability for other businesses.

Lemon Tree - Islip

Land owned by the State of New York

Location: southeast corner of Sunrise Hwy. (N.Y. Rt. 27) and Roosevelt Ave.

Surrounding Area: North – Used car lot
South – Residential
East – Vacant Commercial land
West – Commercial stores

Observations on Plant: Unpaved parking area, building fairly good condition. This building is scheduled to be removed for the widening of Sunrise Hwy.

Owner of Record: New York State

Analysis:

The residential properties to the south on Courtney Avenue, are clearly visible from the parking area to the east of this building. Lights, car starting, noise and dust caused by the night operation of this business directly affect these residents. Children walking to the school to the north on Commack Road could possibly pass by this business, crossing Sunrise Highway at the turn intersection.

Happy Hour Bookstore - Islip Terrace

Tax Map #296-03-153
Item #159110

Location: northeast corner of Sunrise Hwy. (N.Y. Rt.27) and Park Avenue

Surrounding Area: North – Single family homes
South – Auto repair business
East – Single family home
West – Single family homes

Area: .14 ac.
Land Value: \$9,800
Total Value: \$17,700
Zoning: Business I

Observations on Plant: White cement block structure, formerly a gasoline station. Unpaved parking area, no fence, buffer planting, or landscaping. Building in need of paint.

Owner of Record: Raymond & Joseph Doino
7 Dearborne Avenue
North Patchogue, New York 11772

Analysis:

The close proximity of residences to the north and the residence to the west without benefit of fencing and screen planting, causes the intrusion of this business on the neighborhood. The small size of the plot presents the potential of a parking problem and may cause parking on Islip Boulevard, the residential street to the north.

Eden Rock Motel - -Lakeland

Tax Map #123-01-016

Item #520531

Location: northwest corner of Veterans Memorial Hwy. and Fifth Avenue

Surrounding Area: North – Industrial
South – Industrial
East – Vacant Industrial land
West – Industrial

Area: 1.72 ac.
Land Value: \$101,100
Total Value: \$430,800
Zoning: Industrial I

Observations on Plant: Well maintained building and site.

Owner of Record: Eden Rock Motel Inc.
% Eden Rock Associates
3055 Veterans Memorial Highway
Ronkonkoma, New York

Analysis:

Surrounded by Industrial land and buildings, this business has a minimal effect on residences to the south across Veterans Memorial Hwy.

Doll House - Oakdale

Tax Map #302-01-005
Item #452050

Location: south side of Sunrise Hwy. (N.Y. Rt.27), approx. 600' west of Oakdale-Bohemia Rd.

Surrounding Area: North – Vacant Commercial land
South – Vacant Industrial land
East – Vacant Industrial land
West – Vacant Industrial land

Area: .28 ac.
Land Value: \$29,700
Total Value: \$44,800

Observations on Plant: Building in fair condition.

Owner of Record: Gerald F. Hoffer & Joseph H. Cappello
75 Middle Road
Sayville, New York 11782

Analysis:

Impact on existing residential areas is minimal. Due to lack of sidewalks, pedestrian access is prevented. This business has had no affect on other businesses since none are in close proximity.

Birds – Ronkonkoma

In Brookhaven Township

Location: east side of Smithtown Ave., 200' north of Long Island Railroad

Surrounding Area: In Islip, south of business, parking, outdoor storage facilities, vacant.

Analysis:

Due to separation of this business from Town of Islip by the Long Island Railroad, negative impacts occurring to residents of Islip Town are prevented.

ADULT USE ZONING ORDINANCE
OF
THE TOWN OF ISLIP
(PROPOSED)

PUBLIC NOTICE

NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Islip will hold a public hearing on _____, 1980 at 2:30 P.M., at the Town Hall, 655 Main Street, Islip, New York, for the purpose of considering amending the Zoning Ordinance of the Town of Islip by adding a new Section 68-341.1, and amending Section 66-15(A) of the Islip Town Code, summarized as follows:

§68-341.1 Uses allowable in an Industrial I District only as a special exception by Board of Appeals after public hearing.

The purpose of the Ordinance is to regulate the location of adult uses located in the Town of Islip. Adult Uses are defined in the Ordinance as follows: Adult Bookstore; Adult Drive-In Theater; Adult Entertainment Cabaret; Adult Motel; Adult Theater; Massage Establishment; Peep Shows. All adult uses defined in the Ordinance shall be restricted to Industrial I Districts only as a special exception by the Board of Appeals after a public hearing and shall not be located within 500 feet of any area zoned for residential use; within 500 feet of any school, church or place of religious worship, park, playground or playing field; or within one-half mile of another such use.

The Zoning Board of Appeals has the right to waive the area restrictions for good cause provided that the following conditions are proved by the applicant: (1) the use will not be contrary to the public Interest, injurious to nearby properties, or violate the spirit or intent of the Ordinance; (2) establishment of additional use in the area will not be contrary to any neighborhood program of conservation or improvement; and (3) that 51% of the property owners within 500 feet of the area have signed a petition stating that they have no objection to the establishment of this use.

The Ordinance further provides that no more than one (1) adult use shall be located on any one (1) lot, and that nonconforming adult uses shall be terminated in accordance with the schedule contained in the Ordinance, which schedule provides for termination in from one (1) to five (5) years after the enactment of this Ordinance according to the amount of capital invested in the use.

Section 68-15(A) is amended as follows:

WHEREAS, the Town Board of the Town of Islip has been and is concerned with the conservation of the residential, business and commercial areas within the Town of Islip; and

WHEREAS, the Town Board has continued to support a program of residential neighborhood, business, and industrial, development and redevelopment in the Town of Islip through the Community Development Agency and other programs sponsored by the Town of Islip; and

WHEREAS, the Town Board is concerned with the existing and potential effects of movie theatres, commercial shops for the barter, rental or sale of printed material, pictures, motion, pictures, magazines and books and cabarets or bars offering live entertainment featuring strippers, go-go dancers, exotic dancers, or similar entertainments, and which are not open to the public generally but only to one or more classes of the public; excluding any minor by virtue of age; and

WHEREAS, it is in the best interest of the Town of Islip to protect the health, safety and welfare of the residents from the effects of these businesses upon the residential, business and commercial districts within the Town of Islip; and

WHEREAS, the Town Board is concerned that the unregulated proliferation and concentration of these businesses will adversely effect residential, business areas, commercial areas, and schools, houses of worship, parks, playgrounds and other areas frequented by juveniles throughout the Town of Islip;

NOW, THEREFORE, on motion of Council seconded by Council ,
be it

RESOLVED, that the Town Board of the Town of Islip hereby enacts an Adult Use Zoning Ordinance, as follows:

§68-341.1 Uses allowable in an Industrial I District only as a special exception by Board of Appeals after public hearing.

A. Adult Uses

1. Purposes and Considerations:

- a. In the execution of this ordinance it is recognized that there are some uses which, due to their very nature, have serious

objectionable characteristics. The objectionable characteristics of these uses are further heightened by their concentration in any one area thereby having deleterious effects on adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods or land uses.

- b. It is further declared that the location of these uses in regard to areas where our youth may regularly assemble and the general atmosphere encompassing their operation is of great concern to the Town of Islip.
- c. These special regulations are itemized in this section to accomplish the primary purposes of preventing a concentration of these uses in any one area and restricting their accessibility to minors.

2. Definitions:

Adult Bookstore: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, other periodicals, films, slides, video tapes, and which establishment is customarily not open to the public generally but excludes any minor by reason of age.

Adult Drive-In Theater: A drive-in theater that customarily presents motion pictures that are not open to the public generally but excludes any minor by reason of age.

Adult Entertainment Cabaret: A public or private establishment which presents topless dancers, strippers, male or female impersonators, exotic dancers, or other similar entertainments, and which establishment is customarily not open to the public generally but excludes any minor by reason of age.

Adult Motel: A motel which is not open to the public generally but excludes minors by reason of age, or which makes available to its patrons in their rooms films, slide shows, or videotapes, which if presented in a public movie theater would not be open to the public generally but would exclude any minor by reason of age.

Adult Theater: A theater that customarily presents motion pictures, films, videotapes, or slide shows that are not open to the public generally but exclude any minor by reason of age.

Massage Establishment: Any establishment having a fixed place of business where massages are administered for pay, including but not

limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or duly licensed physical therapist, or barber shops or beauty salons in which massages are administered only to the scalp, face, neck, or shoulders. This definition also shall exclude health clubs, which have facilities for physical exercise such as tennis courts, racquet ball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.

Peep Shows: A theater which presents material in the form of live shows, films, or videotapes viewed from an individual enclosure for which a fee is charged and which is not open to the public generally but excludes any minor by reason of age.

3. The adult uses as defined in "2" above are to be restricted as to location in the following manner in addition to any other requirements of this Code.
 - a. Any of the above uses shall not be located within a 500-foot radius of any area zoned for residential use.
 - b. Any of the above uses shall not be located within a 1/2 mile radius of another such use.
 - c. Any of the above uses shall not be located within a 500-foot radius of any school, church or other place of religious worship, park, playground or playing field.

4. The restrictions enumerated in "3" above may be waived by the Town Zoning Board of Appeals if the applicant shows and the Board finds that the following conditions have been met in addition to the general conditions contained in Article XXXIII of this Code:
 - a. That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this ordinance will be observed; and
 - b. That the establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation or improvement, either residential or non-residential; and
 - c. That 51% or more of the property owners within the restricted area as defined in §3(a) of this subdivision have signed a petition stating that they have no objection to the establishment of one of the uses defined above.

5. No more than one of the adult uses as defined above shall be located on any lot.
6. By amortization, the right to maintain a legal non-conforming adult use shall terminate in accordance with the following schedule:

<u>Amount of Capital Investment as of the Effective Date of this Ordinance:</u>	<u>Date Before Which Use Shall Terminate:</u>
0 to 5,000	January 1, 1982
5,001 to 8,000	January 1, 1983
8,001 to 15,000	January 1, 1984
15,001 to 22,000	January 1, 1985
22,001 or more	January 1, 1986

The term "Capital Investment," as used above, is defined to mean the initial outlay by the owner or operator of the use to establish the business as of the date of the enactment of the ordinance, exclusive of the fair market value of the structure in which the use is located.

7. Severability.

If any clause, sentence, section, paragraph or provision of this subdivision or any rule or regulation hereunder shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this subdivision but shall be confined in its operation to the clause, sentence, section, paragraph or provision or rule or regulation directly involved in the controversy in which such judgment shall have been rendered.

8. This ordinance shall take effect immediately.

and be it further

RESOLVED, that the Town Board of the Town of Islip hereby amends Section 68-15(A) of the Zoning Ordinance, to read as follows:

§68-15(A). Any legal non-conforming use may be continued except as set forth in §§66-12; §68-341.1(6); §68-401; provided, however, that a legal non-conforming use shall not be changed unless changed to a conforming use. A legal non-conforming use, if changed to a conforming use, may not be thereafter changed to any non-conforming use.

Upon a vote being taken, the result was:

**LAST PAGE "UPON A VOTE BEING TAKEN, THE
RESULT WAS:" AND THEN NOTHING,
THEREFORE, WAS LISTED IDENTIFYING THE
RESULTS**