

CITY OF KENT

ADULT USE ZONING STUDY



KENT PLANNING DEPARTMENT  
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EXHIBIT

E-1

## FOREWORD

On April 19, 1982, the Kent City Council allocated funds for the purpose of studying the effects of adult entertainment businesses on the surrounding community. Completed by the Kent Planning Department, The City of Kent Adult Use Zoning Study represents the product of the City Council's allocation.

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## SUMMARY

### CITY OF KENT ADULT USE ZONING STUDY

Adult uses are distinguished from similar non-adult businesses not only by the character of their product or service, but also by the nature of their land use impacts. As pointed out in this study, adult uses may have adverse impacts on surrounding land values, land use compatibility and the quality of the urban environment. To mitigate adverse impacts, many communities have turned to zoning. Based on the experiences of cities nationwide, zoning has proven to be an effective tool in controlling the total impact which adult uses have on the quality of urban life.

The Kent Adult Use Zoning Study is a comprehensive look at the regulation of adult businesses through zoning. The study includes an in depth examination of the land use impacts of adult businesses, adult use law and legal guidelines, and zoning alternatives for mitigating the adverse effects of adult businesses.

The residential, religious, educational and recreational environments of the Kent community are generally defined by the study. These areas require protection from the adverse land use impacts of adult uses. A range of alternative zoning approaches are explored for protection of these environments. Alternatives examined include:

Alternative 1 - Do Nothing. Maintain the existing zoning regulations.

Alternative 2 - Allow adult uses only in commercial zones which are separated from Kent's residential, religious, educational and recreational environments.

Alternative 3 - Allow adult uses only in industrial zones which are separated from protected uses.

Alternative 4 - Allow adult uses by conditional use permit only.

Alternative 5 - Prohibit certain adult uses altogether.

These alternatives are evaluated in terms of how well each protects the community's residential, religious, educational and recreational environments.

Based on the evaluation of zoning alternatives and the planning objectives and criteria specified in the study, The Planning Department recommends that the City Council endorse Alternative 2 which permits specified adult uses in commercial zones that are located more than 1,000 feet (or some other distance standard) from residential zones, churches, parks and schools. Furthermore the study recommends that the planning staff develop zoning regulations which are consistent with this approach, to include:

1. Specific commercial zones where adult business are permitted.
2. A regulation which requires a minimum distance be maintained between adult uses.
3. Specific definitions of all regulated adult uses.
4. Gambling activities to be excluded from such zoning regulations.

The Planning Department also feels that Alternative 5 (Prohibition of Certain Adult Uses) may be entirely realistic in spite of its uncertain legal status. Therefore, the staff recommends this approach as an alternative to permitting adult uses in scattered commercial zones in the City.

INTRODUCTION: PURPOSE AND SCOPE OF ADULT USE ZONING STUDY<sup>1</sup>

The recent controversy over adult motion picture theaters in other Puget Sound cities<sup>2</sup> has served to remind the City of Kent of its own regulatory provisions related to adult uses. As this study indicates, the land use impacts of adult uses are unique and far-reaching, requiring special regulatory treatment to mitigate adverse impacts. Despite this uniqueness, however, current City zoning regulations do little to differentiate adult uses from general business activities. In addition, existing adult use regulations have been drafted in a piecemeal fashion and do not comprehensively address the special impacts associated with adult uses.

The purpose of the adult use zoning study, as authorized by the Kent City Council, is to determine the effects of adult uses on surrounding businesses, residential neighborhoods, and the community in general. By identifying these effects, the City will be able to better evaluate how to relieve adverse land use impacts through regulatory changes. A secondary objective is to discuss the ability of the City to provide services—primarily protective services—based on alternative locational requirements for adult uses. Finally, alternative zoning approaches for regulating adult uses are discussed in terms of their application to the Kent community.

The scope of this study includes virtually all uses which are restricted to adults only (i.e., persons 18 years old and over). These uses include adult motion picture theaters, adult bookstores, adult motels, gambling establishments, massage parlors,<sup>3</sup> body painting studios, and headshops.

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<sup>1</sup> This study was originally funded by the Kent City Council under the title, "Adult Entertainment District". The name has been changed to the Adult Use Zoning Study since some adult uses are not so much entertainment as they are participatory activities, such as gambling. In addition, the word "district" presupposes that such uses will be concentrated in a single area or district by zoning regulations which would be adopted following the study. This is a decision properly made by the City Council and should not be presumed in the title of the study.

<sup>2</sup> Two cities in the Puget Sound area—Redmond and Renton—have recently been involved in controversies where motion picture theaters, previously oriented to family entertainment, changed to an emphasis on adult films.

<sup>3</sup> Massage parlors are included as an adult use because operators and massagists are required to be 21 years of age or older by Kent City Code, Section 5.28.16.

Taverns, bars, cocktail lounges, and other places where alcoholic beverages are served are not within the scope of this study inasmuch as these uses do not include a specific adult activity mentioned above.

To some people, adult entertainment is personally distasteful and disquieting. Attempts to regulate adult uses based purely on these motives, however, have been struck down by the courts. It is not with matters of taste and personal choice that this study is involved but rather the land use impacts associated with adult uses. The City of Kent seeks to determine if adult uses can be assimilated into the overall urban fabric with little adverse impact to the business and residential environments.



## STATE AND LOCAL LAWS REGULATING ADULT USES

State Law

While federal and state laws address adult publications, films, and personal conduct, they do not regulate where adult businesses locate. This is a matter to be determined by local government.

State law seeks to protect minors (persons under the age of 18) from sexually explicit films and publications. Under state law, such materials are defined as ". . . being patently offensive, affronting contemporary community standards, appealing to the prurient interests of minors in sex, and are utterly without redeeming social value," (RCW 9.68.050). Such books and films are required to be labelled "Adults Only", barring distribution to minors.

Nude entertainment — such as topless dancing, strip tease, and the like - is permitted by state law although attendance by minors is prohibited. Such activities become violations of the Washington Criminal Code (RCW, Title 9A) if they evolve into acts defined as prostitution, indecent liberties, or public indecency.

Massage parlors are regulated under state law (RCW 18.108) inasmuch as a state business license is required for the parlor itself and an operators license is required for each of the massagists employed on the premises. Massage parlors are "adult" uses only insofar as minors are prohibited from working in such activities.

Gambling activities are authorized and regulated under provisions of the Gambling Act of 1973 (RCW 9.46). Essentially, gambling activities are allowed in Washington State only as a stimulant to business and for certain fund-raising purposes. Bingo, social card games, punch boards, pull tabs, and raffles are permitted, under certain conditions, provided such activities are not the dominant aspect of a business being conducted on the premises. State regulations place a host of limitations on gambling activities in order to ensure that such activities remain merely a stimulant to existing business. Minors are prohibited from participating in any gambling activity.

## Local Law and Zoning Policy

Under local ordinances, certain adults uses are regulated by a disjointed collection of licensing requirements, zoning controls, and general public welfare provisions. No comprehensive set of regulations addresses all types of adult uses, and regulations relating to the location of such uses are conspicuously lacking.

As a starting point, city zoning policies do not differentiate adult uses from other similar business establishments and activities. For example, an adult bookstore is simply a bookstore as far as existing zoning regulations are concerned, and it is permitted to be located in any zone which allows general bookstores. This same policy applies to other adult uses. As a result, adult uses may be located in the following use districts according to existing zoning provisions:

<u>Type of Adult Use</u>	<u>Zone Permitted*</u>
Motion picture theater (adult)	GC, HC, DC
Bookstore (Adult)	GC, HC, DC
Body painting studio	GC, DC
Massage parlor	GC, DC
Novelty shops (sex related)	GC, DC
Gambling (e.g., bingo)	GC, HC, DC

\* Note: GC - General Commercial  
HC - Highway Commercial  
DC - Downtown Commercial

Since the abovementioned commercial zones are dispersed throughout the City of Kent, the pattern of permissible locations for adult uses under current zoning regulations is consequently widespread. HC (Highway Commercial) zoning is found primarily along Highway 99 and the East Valley Highway north of downtown Kent. GC (General Commercial) zoning is found along Highway 99 and on the east and west sides of the downtown area. DC (Downtown Commercial) zoning is concentrated in the central business district of downtown Kent. It should be noted that no HC, GC, or DC zoning presently occurs in the East Hill area.

Gambling activities are somewhat unique when it comes to zoning regulations. That is, state law permits certain gambling activities such as bingo, punch boards, and pull tabs to be conducted by clubs, churches, and charitable organizations. Of course, state regulations require that such gambling activities be only an accessory or secondary part of said club, church, or organization. However, since Kent zoning regulations allow churches and charitable organizations in non-business zones through the conditional use permit procedure, gambling activities may sometimes be located in the heart of well-established residential areas.

The Kent City Code maintains special licensing requirements and procedures for massage parlors (KCC 5.28) and model or body painting studios (KCC 5.26). The purpose of such license requirements is to define proper employee and customer conduct, ensure qualified and legitimate service to the public, and outline special operating provisions relative to such uses. No special zoning or locational requirements are imposed as a part of the licensing procedure.

A couple of recent City of Kent ordinances aimed at the general public welfare are worthy of note here. Ordinance 2312, passed in September 1981, addresses the conduct of persons (adults) on premises licensed under the authority of the Washington State Liquor Control Board. This ordinance prohibits topless dancing and other similar acts in places where alcoholic beverages are served.

Ordinance 2242, adopted in August 1980, deals with the sale and display of drug paraphernalia. This ordinance prohibits minors from entering business establishments which sell and/or display devices which are designed or intended to be used for illegal consumption of drugs.

### III ADULT USES IN KENT

Gambling activities comprise the primary type of adult use currently found in the City of Kent. Besides gambling, the only other adult uses are an adult motel and a "headshop". At the present time, no adult bookstore, adult theater, massage parlor, or body painting studio is operating within Kent City limits.

Eighteen establishments — 10 taverns, 4 social clubs, 2 restaurants, a church and a bowling alley - currently conduct bingo, social card games, punch board and pull tab gambling activities. Pull tabs are the most prevalent form of gambling, being offered in 16 of 18 establishments. Bingo is conducted in 5 establishments while social card games are offered in only one location. Punch boards are available in three establishments.

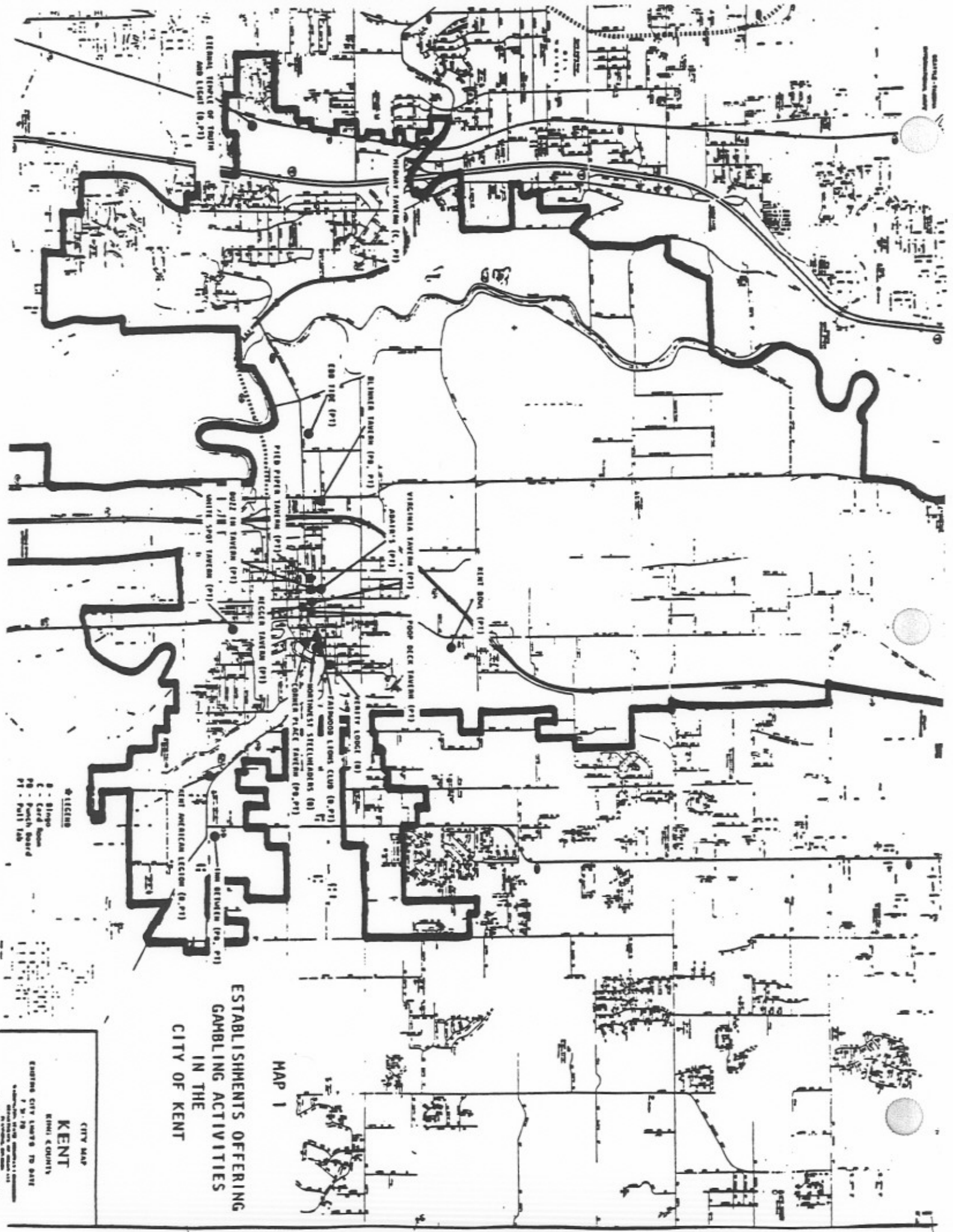
As shown on Map 1, 12 of the 18 establishments where gambling is conducted are located in or near the downtown area of Kent. Of these establishments, 11 are businesses where punch boards and pull tabs are used as a business stimulant.

Gambling is conducted at two locations in the East Hill area of Kent. In addition, two sites on West Hill offer gambling activities; both are located along Pacific Highway South.

An adult motel (a motel where adult films may be shown in individual rooms) is located in the commercial strip along Meeker Street west of the downtown area. This use has been in operation for many years as a motel but has operated as an adult motel for only the past couple of years. Also, a "headshop" (a business where drug paraphernalia is sold or displayed) is located in the Benson Center shopping area on East Hill.

Under local ordinance, minors are prohibited from entering such an establishment without the company of a parent or guardian.

Within the past year, two adult uses have been closed by the City due to violations of their business license and/or criminal activity which has occurred on the premises. Until September 1981, topless dancing was offered at the Roadside Inn Tavern on Meeker Street west of the downtown area. Acts of prostitution and narcotics violations which occurred at the Roadside eventually led to its being closed by the City.



ESTABLISHMENTS OFFERING GAMBLING ACTIVITIES

AND TICKET (B.P.)

680 TIRE (P1)

ALUMINUM TANKS (P1)

VIRGINIA TANKS (P1)

ANALYST (P1)

HEAT BOIL (P1)

POOP BEE TANKS (P1)

HERBIE LOCKE (B)

FALMOUTH TOWNS CLUB (B.P.)

DOMINANT STEELWORKERS (B)

FOURTH PRIZE TANKS (P1)

RECKER TANKS (P1)

BUZZ IN TANKS (P1)

WHITE SPOT TANKS (P1)

KENT AMERICAN SECTION (B.P.)

WIM BROTHER (P1)

**ESTABLISHMENTS OFFERING GAMBLING ACTIVITIES IN THE CITY OF KENT**

MAP 1

CITY MAP

**KENT**

OHIO COUNTY

ENDING CITY MAPS TO DATE  
 7-31-78  
 KENT, OHIO

- LEGEND**
- B - Bingo
  - C - Card Room
  - PT - Punch Board

An ordinance passed by the City Council late last year then banned any kind of nudity at establishments licensed by the Washington State Liquor Control Board. A second adult use was closed by the City last year due to alleged violations of its business license. The closure involved a former massage parlor on Pacific Highway South which has since moved to a location outside the City. (The following section of this report further details the history of these adult uses and discusses their impacts on surrounding residential and business environments.)

## THE LAND USE IMPACTS OF ADULT USES

In order to better plan for the regulation and location of adult uses, it is necessary to understand their special impacts. The purpose of this chapter is to examine the experience of other communities and the literature on the subject in order to ascertain these special impacts. Although much of the data and experience with adult uses is taken from other jurisdictions, many of them from within Puget Sound region, their implications for planning in the City of Kent are both relevant and illuminating.

Incidence of Crime

Between 1969 and 1972, the number of adult theaters in the City of Detroit increased from 2 to 18 and the number of adult bookstores rose from 2 to 21. During the same period, the incidence of crime in and around these establishments increased dramatically, although hard data on the actual numbers is hidden in gross criminal statistics. The high incidence of crime together with the blighting or skid-row effect of proliferating adult businesses led Detroit in 1972 to adopt stringent locational regulations for adult uses.

Similar to Detroit, the City of Cleveland experienced a rapid increase of adult uses during the early 1970's. Unlike Detroit, Cleveland kept detailed crime statistics by census tract and by location of adult businesses. In 1976, 26 adult businesses (8 theaters and 18 bookstores) were located in Cleveland's 204 census tracts. The same year, the two census tracts having the highest rates of crime had a total of 8 pornography outlets. Cleveland Police statistics showed that during 1976 there was an average of 20.5 robberies per census tract. In the 15 census tracts which contained adult businesses, the average was nearly double at 40.5 robberies. A single census tract which contained 5 pornography outlets and a population of only 730 persons had a total of 136 robberies. The statistics for rape echoed the same pattern as for robbery.

The city-wide average of rape crime in Cleveland in 1976 was 2.4 per census tract. In the 15 census tracts containing pornography outlets, the rate was double that of the city-wide average.

Furthermore, for four census tracts which contained a total of 10 adult uses, the average rate for rapes was 8.8 per tract, nearly four times the average for the city. The crime statistics compiled by the Police Department's Data Processing unit led the Department to state: "The facts that were obtained verified what knowledgeable police officers had always been aware of, and that is the incidence of crime is much greater in areas where smut outlets are located."<sup>4</sup>

Although hard crime statistics were not submitted, many of the respondents to the Planning Department's questionnaire stated that they felt the incidence of crime was related to the presence of adult businesses in their communities. Kent's own experience with the Roadside Inn Tavern serves to point this out, although it does not by itself prove that crime and adult uses are necessarily directly related. Prior to its forced closing, the Roadside Inn offered topless dancing and table dancing in conjunction with its selling of alcoholic beverages. Kent police investigations conducted in the summer of 1981 revealed a very high incidence of criminal activity at the Roadside, related primarily to sex crimes (prostitution) and drug related offenses. As a result of 57 hours of on-premise investigation, 162 charges were brought against 21 persons by the Kent Police Department. The report filed by the police stated: "The total time involved, and the number of charges, break down to a time expenditure of slightly more than 20 minutes per charge, attesting to the relative ease by which the subject of prostitution arises within an environment such as the Roadside."<sup>5</sup> In September 1981, the Roadside Inn Tavern was closed by the City.

Although crime statistics and police records seem to point to a connection between adult (primarily pornographic) uses and illicit behavior, psychological and behavioral studies attempting to link the two are more guarded. In 1970, the Presidential Commission on Obscenity and Pornography issued its final report which found "...no evidence... that exposure to explicit sexual materials plays a significant role in the causation of delinquent or criminal behavior among youth or adults."<sup>6</sup>

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<sup>4</sup>City of Cleveland Police Department memo, August 24, 1977.

<sup>5</sup>City of Kent Police Department memo, August 13, 1981.

<sup>6</sup>Presidential Commission on Obscenity and Pornography, New York (1970), p. 32.



Ever since the publication of the Commission's report in 1970, behavioral scientists have attempted to refute its conclusion, especially with reference to the relationship between violent pornography and aggressive (or criminal) behavior.

Some recent studies by psychologists and social scientists<sup>7</sup> indicate that under certain conditions, exposure to aggressive-erotic films and books can facilitate aggressive behavior, usually by men against women.

*and women against men*

The theory put forward by these studies is that sadomasochistic sex presented through the media may erode the inhibitions of the male viewer which normally suppress aggressive sexual (criminal) behavior. Watching an aggressive-erotic film, in other words, somehow makes the act of rape appear less immoral or injurious. Nevertheless, it is not the point of this report to prove that there is a link between sexual media and deviant or criminal behavior; the scientific community is obviously split on this issue as well as on the degree to which this relationship may or may not be true.

The fact is, however, many prominent psychologists and social scientists believe there is a relationship and have conducted experiments in order to demonstrate it. In addition, the assertion that aggressive-erotica may spur criminal behavior appears to be getting more plausible, if not less debatable. In any case, we find the criminal data developed by various police agencies together with the scientific literature developed around the issue of aggressive-erotica and violence to be compelling reasons for differentiating between adult uses and other business activities insofar as regulatory treatment is concerned.

#### Impacts to Property Values

A spin-off effect of providing compatibility between urban land uses is the preservation and enhancement of property values. This effect is often cited as a major objective or purpose of zoning.

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<sup>7</sup>SEE, for example; S. Feshbach and N. Malamuth, "Sex and Aggression: Proving the Link," Psychology Today (1978); E. Donnerstein, "Pornography and Violence Against Women," Annals of the New York Academy of Science (1979); Y. Jaffe, et al., "Sexual Arousal and Behavioral Aggression," Journal of Personality and Social Psychology (1974); T. P. Meyer, "The Effects of Sexually Arousing and Violent Films on Aggressive Behavior," Journal of Sex Research (1972); and, P. H. Tannenbaum and D. Zillmann, "Emotional Arousal in the Facilitation of Aggression Through Communication," Advances in Experimental Social Psychology, Vol. 8 (1975).

Nevertheless, a decline in property values is sometimes unavoidable, as in the case where there is a lack of market demand, a shift in locational preferences, or a downturn in general economic conditions. These unavoidable circumstances cannot be mitigated through zoning. On the other hand, certain negative influences which bear on property value, such as land use incompatibility, can be dealt with through zoning regulations. For example, urban zoning generally seeks to avoid placing noisy, heavy industrial uses in the same area with residential uses. Among other impacts, industrial uses tend to have an adverse effect on the value of residential property. The severity of the adverse effect varies with the intensity of use and specific locational and developmental characteristics.

In a similar vein, adult uses are incompatible with certain other land uses and, if juxtaposed, a reduction in property values may be a predictable result in certain cases. This expectation was borne out in a recent telephone survey of real estate appraisers conducted by the Kent Planning Department.<sup>8</sup> In the Department's survey, all appraisers cautioned that each case must be evaluated individually and according to its particular circumstances. Nevertheless, the majority of appraisers agreed that the impact of adult uses on residential property values is probably negative although no general rule can be applied. One appraiser estimated that the adverse effect could be as much as one to three percent of the property's total value. The total effect on property value depended on several factors including proximity to the adult use, exterior building appearance and condition of the adult business, neighborhood characteristics, among other factors.

There was also a consensus among appraisers on the effects of adult uses on commercial properties. As a general rule, most appraisers felt that in cases where an adult use located in a commercial environment, little or no adverse impact would be expected either to surrounding businesses or property values. No appraiser surveyed expected that the impact on property values would be detrimental while one ventured that in a depressed commercial area the impact could potentially be favorable.

#### Land Use Incompatibilities

Nationwide, the proliferation of adult uses has occurred primarily within the last 10-15 years.

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<sup>8</sup>Kent Planning Department, "Impacts of Adult Uses on Land Values: A Survey of Appraisers," August 1982

In the suburban Puget Sound area, the trend has been even more recent. As a result, comprehensive studies dealing with the compatibility of adult uses with other specific land uses are nonexistent. The reports and studies which have been prepared are essentially confined to the individual experiences of a myriad communities where adult uses have sprouted.

From the experience of Puget Sound communities researched by the Kent Planning Department, it can be stated that adult uses are incompatible with residential, educational, and religious uses, individually as well as collectively. This fact was demonstrated in the Greenwood area of Seattle in the mid-1970's when a local theater began showing X-rated films. Residents of Greenwood complained loudly about increased traffic, undesirable patrons, lowered property values and other adverse impacts. Residents argued that theirs was an area of residences, churches, schools, and social gathering places, a closely-knit neighborhood unaccustomed to adult theaters and the disruptive impacts associated with such uses. In order to safeguard the character and quality of residential life in the Greenwood neighborhood, the City of Seattle adopted zoning regulations which, in effect, forced the closure of the adult theater. The owner then sued the city. In the litigation which ensued, Seattle was able to demonstrate in the record that the location of the adult theater in the Greenwood area had a harmful effect on that area and contributed to neighborhood blight. In upholding the City of Seattle, the Washington State Supreme Court agreed that the goal of preserving the quality of residential neighborhoods by prohibiting disruptive adult uses was a valid and substantial public interest.<sup>9</sup>

As mentioned in the previous chapter, a "topless" tavern recently disrupted the quality of life for some Kent residents. The incident involved the Roadside Inn Tavern — a tavern offering topless table dancing — and the residents of an adjacent mobile home court. In July 1981, the residents of Bonel Mobile Home Court submitted a petition requesting the Kent City Council to revoke the business license of the Roadside. At the public hearing on the license revocation, residents complained about the Roadside's excessive noise and litter impacts which spilled over onto adjacent residential properties. As a result of public complaints and a police investigation of criminal activity at the tavern, the license for the Roadside was revoked by the City in September 1981.

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<sup>9</sup>Northend Cinema v. City of Seattle, 90 Wn 2d 709, 585 P.2d 1153 (1978).

Adult uses, especially pornographic establishments, have often been cited as incompatible with educational and religious uses. This was the case in the Greenwood example mentioned above. Seattle city planners maintained that the proximity of an adult theater to schools and churches was disruptive to the residential community. In addition, the exposure or visibility of the adult theater to school-age children in the Greenwood area was viewed as detrimental to the quality of residential life. Residents of the area testified to the adverse effect of such a use on the family orientation of the neighborhood. These findings were made part of the court's record in the Greenwood case and helped form a basis for its decision in favor of the city.

Gambling activities, authorized in Washington State only since 1973, have received little attention insofar as land use planning studies are concerned. With little research having been done in this area, the Kent Planning Department broke new ground by distributing a questionnaire<sup>10</sup> and interviewing police and planning personnel from other communities. The results of the Department's inquiry appear to indicate that gambling activities do not cause any special or undue land use impacts to neighboring uses above and beyond those normally associated with business enterprises. No one responding to the adult use questionnaire indicated that gambling caused any special land use compatibility problems for neighboring uses. During interviews, respondents revealed that gambling establishments were the source of very few complaints; the complaints which were received emanated not from the general public or abutting properties but from the gambling participants themselves.

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<sup>10</sup> Kent Planning Department, "Adult Use Questionnaire," Planning Department Files, October 1982.

## MAJOR CASES AND LEGAL GUIDELINES IN ADULT USE LAW

Municipalities have been turning to zoning laws as a means of controlling the spread of adult establishments ever since the 1976 U.S. Supreme Court decision of Young v. American Mini Theaters 427 U.S. 50, 96 S.Ct. 2440 (1976). In this landmark case, the zoning regulations of the City of Detroit, Michigan, which prohibited specified adult uses from locating within 1,000 feet of one another, were upheld as a constitutionally valid exercise of the City's police power. Since the Young case, countless jurisdictions across the country have followed Detroit's lead, utilizing zoning regulations to control the location of adult businesses.

Many of the new adult use zoning regulations have been challenged in the courts and not all have enjoyed the same success as Detroit. Case law since Young demonstrates one very important point: regulations must be carefully drafted. Regulation of adult uses, especially with regard to theaters and bookstores which are protected under the First Amendment, walks a thin line between valid land use control and unconstitutional restraint of free speech. While each case is unique, the courts appear to follow four general rules or guidelines in deciding adult use zoning cases.<sup>11</sup> These guidelines are discussed below in conjunction with some of the major cases:

1. Adult use zoning regulations must not be drawn so tight as to prohibit or severely restrict the location of adult businesses.

In the Young case mentioned earlier, the U.S. Supreme Court maintained that pornography zoning is constitutional only so long as the "market for this commodity (adult entertainment) is essentially unrestrained." In other words, locational requirements imposed by zoning ordinances must ensure available sites for adult businesses. Detroit's regulations were upheld partly because they provided a sufficient number of available sites for existing and potential adult businesses. The 1,000 foot anti-clustering provision in the Detroit ordinance did not, in the opinion of the court, "significantly reduce public access to sexually oriented businesses."

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<sup>11</sup>Much of the information discussed under these four guidelines is taken from Alan Weinstein, "Regulating Pornography: Recent Legal Trends," Land Use Law, February 1982; Also, SEE, Frederic A. Strom, Zoning Control of Sex Businesses, New York, 1977.

Although similar to the Detroit ordinance, adult use regulations in Atlanta, Georgia did not stand up under challenge in Purple Onion, Inc. v. Jackson, 511 F. Supp. 1207 (N.D. Georgia 1981). Enacted in 1976, Atlanta's regulations permitted adult uses in certain zone districts but only as long as they conformed to specific distance requirements from churches, residences, and other adult uses. Based on an analysis of site availability, the court found that only 10 sites in the whole of Atlanta were suitable for adult businesses. At the time of trial, 43 sexually oriented businesses were located in the city. The court invalidated Atlanta's ordinance, finding that it unconstitutionally suppressed the public's access to sexually oriented businesses.

In a similar case, CLR Corp. v. Henline, 520 F. Supp. 760 (W.D. Michigan 1981), the adult use regulations of Wyoming, Michigan, a city of 62,000 located adjacent to Grand Rapids, were struck down when the court found that they unreasonably restricted the location of adult businesses. During trial, it was revealed that the effect of the distance and zoning requirements rendered only two to four sites in the entire city available for adult businesses.

Regulations of Cook County, Illinois, were also found too restraining in County of Cook v. World Wide News Agency, 424 N.E. 2d 1173 (1981), but with a different twist. The Cook County ordinance limited adult businesses to a single zone district, required them to obtain a special use permit, and contained distance provisions designed to protect residential areas. The court found the cumulative effect of these regulations to be overly restrictive.

2. The basis for adult use zoning ordinances should be a factual record which relates such restrictions to recognized zoning purposes.

The Young case established very early that adult use regulations must be directed toward protecting the health, safety, and general welfare of the public in order to be sustained. In this case, the City of Detroit was able to convince the court through studies and the testimony of experts that its anti-clustering requirements prevented a skid-row effect and, hence, achieved a valid public purpose.

The City of Seattle was also able to demonstrate that its regulations were related to valid zoning purposes in Northend Cinema, Inc. v. City of Seattle, 90 Wn.2d 709, 585 P.2d 1153 (1978). In this case, an adult theater began operations in the Greenwood area of Seattle, a residential community oriented to families. Based on input from residents and statements by experts as to the incompatibility of adult theaters in residential environments, Seattle adopted regulations which restricted adult theaters to the downtown area of the City, far removed from family-oriented neighborhoods. In upholding the City of Seattle, the Washington State Supreme Court found a direct relationship between the adult theater regulations and the protection of the quality of residential life, a valid purpose of zoning.

The City of Wyoming, Michigan, was not as fortunate as Seattle in the Henline case, cited earlier. In overturning Wyoming's pornography zoning ordinance, the court found that the city had failed to conduct any background studies of adult uses and their land use impacts. It was not enough, in the opinion of the court, to rely entirely on the legislative history of other cities.

3. Zoning ordinances should not grant broad discretionary powers to public officials to determine whether or not adult uses will be permitted.

The courts will generally permit public officials to exercise discretionary powers relative to adult businesses only under limited circumstances. Discretion may be used to close or prohibit an adult use in cases where the authority to do so stems from an ordinance where such uses are not singled out for special, oftentimes discriminatory, treatment. Also, discretion may be used where strict limits on administrative authority and procedures work to safeguard First Amendment rights.

In Chulchian v. City of Indianapolis, 633 F.2d 27 (1980), the City's revocation of a business license for an adult theater was upheld by the court. In court, the City of Indianapolis showed that the business license ordinance applied to all businesses, not just adult uses, and that the purpose of revocation was not directed at the content of the motion pictures. Finding that a high incidence of crime took place on the premises and that neighboring residents considered the theater to be a nuisance, the court found the decision to close the theater a valid exercise of administrative authority.

Licensing procedures of Westmont, Illinois were thrown out by the court in Entertainment Concepts, Inc. v. Maciejewski, 631 F.2d 497 (1980). Westmont had established a three-member board whose purpose was to review motion pictures being shown in the community to determine whether or not they were obscene.

If the board found a movie to be obscene, the theater's business license could be suspended. Further violations by the same theater could lead to a revocation of its business license. The court found the licensing ordinance insufficient in failing to provide adequate procedural protections of speech. The court found the "unbridled discretion" delegated to public officials a particularly objectionable part of the licensing procedures.

In Genusa v. City of Peoria, 619 F.2d 1203 (1980), the court also frowned on special inspection requirements for adult businesses. According to Peoria's business license ordinance, adult uses were singled out for a special inspection to determine city code compliance. To the court, this "selective enforcement" was an unconstitutional requirement which discriminated against uses distinguished by the content of the books or movies sold on the premises.

4. Ordinances must be clear in their language, especially in their definitions, making it easy to determine what is and what is not regulated.

Court challenges to adult use zoning regulations have consistently attacked ordinance wording and definitions on the grounds of unconstitutional vagueness. In the eyes of the court, vaguely drawn ordinances, especially definitions, act as a prior restraint on free speech and are commonly invalidated. This is especially true with regard to adult theaters and bookstores which are protected by the First Amendment.

Purple Onion, Inc. v. Jackson, supra, serves as one of the most blatant cases involving a challenge to unconstitutional vagueness. In this case, the court found that Atlanta's definition of an "adult book store" could include any dwelling unit where adult publications were displayed. It also found that the Atlanta Civic Center could be defined, under the city's ordinance, as an adult entertainment establishment since, on occasion, the Center offered entertainment regulated by the ordinance. Broad, sweeping definitions were part of the reason for the court's invalidation of the Atlanta ordinance.



Nearly all of the cases mentioned previously in this section have also involved a challenge on the grounds of unconstitutional vagueness. In Entertainment Concepts, Inc. v. Maciejewski, supra, Westmont's ordinance was found to contain no definition of the term "adult movie," the precise use it was intended to regulate. Plaintiffs attacked the Indianapolis ordinance on grounds of not properly defining the word "permit" in Chulchian v. City of Indianapolis, supra. In both CLR Corp. v. Henline, supra, and Genusa v. City of Peoria, supra, the definition of "adult book store" was challenged as unconstitutionally vague. In Northend Cinema, Inc. v. City of Seattle, supra, Seattle's ordinance was attacked on the grounds that an "adult theater" was not properly defined, thus denying due process. Even in the landmark case of Young v. American Mini Theaters, supra, plaintiffs contested the definitions and procedures of the Detroit adult use zoning ordinance. Detroit's language ultimately held up in court, and since, many other cities have copied its definitions as well as its procedures and regulations. Of the cases cited in this analysis, only County of Cook v. World Wide News Agency, supra, did not involve a challenge to ordinance vagueness. Nor did it need to, for the ordinance was invalidated by the Illinois Appellate Court on a number of other grounds.

#### Additional Comments

Before going on to alternative zoning approaches for regulating adult uses, one additional point is worth noting. Adult motion picture theaters and adult bookstores enjoy protection under the First Amendment (free speech). As such, zoning regulations must be carefully drawn so as to not restrain the market for such activities. Gambling, massage parlors, and other adult uses are generally not protected under the First Amendment and regulations may be more direct and restrictive.

Any effort by the City of Kent to regulate adult uses is aided by the courtroom experience of other cities' ordinances. These cases help us to understand how the courts view such regulations and what specific concerns opponents have. Nationwide, many different zoning approaches have been developed for regulating adult uses, as the following chapter will show. Ultimately, Kent may choose to adopt a zoning scheme similar to one used by other communities, or it may choose to develop its own unique approach. In either case, the legal guidelines discussed in this section will be helpful in drafting these regulations.

## ALTERNATIVE APPROACHES TO ADULT USE ZONING

Because zoning regulations are an expression of local public policy, they differ widely from one community to another. This is certainly true for adult use zoning ordinances which have been adopted in the past 10 - 15 years. Some communities have followed Detroit's lead and require adult uses to disperse throughout the commercial areas of the city. Other communities have chosen different paths. Boston, for example, concentrates adult businesses in a seven-acre zoning district located in the commercial core. Seattle follows a similar scheme of concentrating adult uses but allows them in a much larger area of downtown. Norwalk, California designates certain adult uses as conditional uses and requires them to obtain a conditional use permit. At this time, the City of Redmond, Washington is considering an approach somewhere between that of Detroit and Boston which allows adult uses in designated commercial zones as long as specific distance requirements are maintained.

The nature of adult use zoning regulations is inextricably related to a city's unique local circumstances. As the above examples demonstrate, there is no standard or magic zoning formula which can be applied to all communities. Regulations reflect local development policy, existing development patterns, local zoning practice, and methods of impact mitigation. But while the specific requirements of adult use zoning ordinances vary greatly, there appear to be four generalized approaches to land use regulations which are in common use:

1. Dispersion ordinances;
2. Concentration ordinances;
3. Modified dispersion/concentration ordinances; and
4. Special ordinances (includes licensing approaches).

These approaches are discussed individually below in conjunction with specific examples from cities and counties.

Dispersion Approaches

Dispersion-type ordinances seek to spread adult uses throughout a city as opposed to concentrating them.

Dispersion regulations commonly require that adult uses locate in designated commercial or industrial zone districts while maintaining specified minimum distances from such uses as schools, churches, public parks and residences. In addition, dispersion ordinances (also called "anti-clustering" ordinances) usually require that adult uses maintain certain distances between themselves.

Perhaps the best known example of a dispersal approach is the City of Detroit ordinance mentioned earlier in this study. Detroit's regulations prohibit adult uses from locating within 500 feet of a residential zone, and require that a minimum distance of 1,000 feet be maintained between any two adult uses. The result of these restrictions is a dispersed pattern of location.

In Detroit's case, the purpose of dispersing adult uses was to prevent a "skid-row" effect in the commercial areas of the city. Detroit planners had noticed that concentrations of certain adult uses often resulted in decreased property value and urban blight, higher crime rates, traffic congestion, and depressed neighborhood conditions.<sup>12</sup> The city's zoning restrictions which required dispersion of such uses were aimed at alleviating this skid-row effect. A dispersion policy also protects residential areas by helping to maintain their social and recreational integrity.

Our research of Puget Sound jurisdictions did not uncover any "pure" example of a dispersion type ordinance presently in use. Most cities in this region utilize either a concentration or modified dispersion approach. Both of these approaches are discussed below.

#### Concentration Approaches

The concentration approach seeks to cluster or concentrate adult uses in certain areas, the opposite effect of a dispersion approach. The most common way to concentrate adult uses is by restricting them to a certain zone or district of the city. Boston's "adult entertainment zone" is the most prominent example of a concentration approach.

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<sup>12</sup>William Toner, Regulating Sex Businesses. American Society of Planning Officials, Planning Advisory Report No. 327, (1977), p.2.

Boston zoning regulations restrict adult uses to a special "overlay" district that applies to only seven acres of the city's downtown area.<sup>13</sup> Called the "combat zone," this is the only area in the city where adult bookstores and theaters, peep shows, and strip joints may locate. The ordinance simply defines certain adult uses and adds them to the list of permitted uses in a specific part of downtown Boston.

Concentration of adult uses seeks to confine the impacts of such uses to a small area. In effect, this prevents the spread of adult uses to other parts of the city. This approach is especially effective, at least in larger cities, in keeping adult uses from encroaching on residential areas. It also has advantages for law enforcement since patrols can be more efficient and effective, although it is debatable whether this approach has any different impact on the incidence of crime than a dispersion policy.

The City of Seattle ordinance is a good example of a concentration policy. According to Seattle's regulations, adult theaters are restricted to two commercial zoning districts located only in the downtown core area. Seattle adopted its regulations in order to protect its residential neighborhoods from the adverse impacts associated with adult movie theaters. The City of Lynnwood also maintains a concentration type ordinance. There, adult entertainment establishments are confined to a single zoning district, called the "metropolitan commercial" zone, which is designated on the city's zoning map. Lynnwood implemented a concentration policy in order to preserve its residential neighborhoods, as Seattle did, but also to protect the community's business activities which were "sensitive" to the adverse effects commonly associated with adult uses.

#### Modified Dispersion/Concentration Approaches

In many instances, the regulatory approach of a local government is neither purely a dispersion nor a concentration policy. Regulations oftentimes are borrowed from both types of approaches. Again, it should be stated that each municipality is unique and regulations that work in one community may not be appropriate or effective in another. In order to reduce adverse impacts while assimilating adult uses, it may be necessary to use a combination of regulations. The courts have allowed a variety of regulatory approaches for adult use zoning as long as the purposes of such regulations are valid.

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<sup>13</sup>Toner, p. 7.

The City of Renton employs a modified dispersion approach for adult theaters. Renton's ordinance allows adult motion picture theaters in certain commercial zoning districts as long as minimum distances are maintained from schools, churches, residences, and public parks. The ordinance both concentrates adult theaters in certain zones and disperses them away from residences and social and educational institutions. It is not a pure dispersion ordinance, however, since it does not require a minimum distance between like uses. The City of Tukwila zoning regulations for adult theaters are a virtual mirror image of the Renton ordinance.

As of August 1982, the City of Redmond was considering a modified dispersion approach for all adult entertainment establishments. Under the proposed regulations, adult uses would be permitted in certain commercial districts provided minimum distances from religious, educational, and residential uses were maintained.

#### Special Approaches

A number of regulatory approaches do not fall neatly under either of the approaches previously mentioned. Some of these "special" approaches still involve zoning, however, while others deal with licensing procedures and regulations.

An example of a special type of zoning approach is that of Norwalk, California. The Norwalk ordinance classifies adult bookstores as conditional uses, subject to the terms and procedures of a conditional use permit. Such uses may locate only in certain zones, they must conform to development standards and criteria specified in the ordinance, and they must undergo a special review and approval process by the planning commission and City Council. Norwalk's development standards which adult bookstores must conform to are aimed at mitigating the adverse impacts of such use.<sup>14</sup>

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<sup>14</sup>A similar approach to Norwalk's was that of the City of Westmont, Illinois, mentioned earlier in this report in connection with the court case Entertainment Concept, Inc. v. Maciejewski. Westmont's ordinance designated adult theaters as "special uses", requiring a special use permit from the city council. The ordinance's lack of adequate standards and criteria, however, led to its invalidation by the courts. Such special types of zoning must be carefully drawn, making sure to clarify the governmental interests being advanced, to give adequate criteria for decision making, and to safeguard the rights of operators under the First Amendment.

Licensing of businesses or operators is a very common method of controlling or regulating the location of adult businesses. Most licensing ordinances relate only to such adult uses as massage parlors, strip joints, peep shows, and the like where the activity is not necessarily protected under the First Amendment and where local officials may exercise greater discretion in their decision making. Adult theaters and adult bookstores, whose content is protected under the First Amendment, generally are not included in adult use licensing ordinances. In ordinances where they do appear, regulations and procedures must be sensitive to the constitutional issues associated with the control of speech.

In a typical licensing approach, an adult business is permitted within certain zoning districts only after a license to operate is issued. The issuance of the license is generally contingent upon an applicant's successful conformance to stipulated procedures of the ordinance. A license may be denied by the reviewing agency if it is left with an unfavorable impression of the proposed operation and its anticipated effects on the community. Typically, the location of the adult use is not regulated by the license ordinance but by zoning policy.

The City of Kent's massage parlor ordinance (KCC 5.28) is a representative example of a licensing approach to adult use regulation. While the ordinance does not regulate where massage parlors may locate (city zoning allows them in specific zoning districts), it does stipulate a number of procedures which applicants for such a use must conform to in order to operate. These procedures require extensive information on the applicants and employees, specify facility standards and operational conditions for the establishment, and stipulate special license fees. Kent also regulates and licenses body painting studios under procedures similar to those for massage parlors. Licenses for both massage parlors and body painting studios may be denied by the City if the applicant fails to comply with any of the requirements of the license ordinance. Under Kent's ordinances, a license for any business (including adult uses) can be revoked, once issued, if such activity becomes a public nuisance, as defined in KCC 9.04.08, or operates in violation of the provisions of KCC 5.02.42.

#### Evaluation of Alternative Zoning Approaches

Generally speaking, the primary purpose of a dispersion zoning policy is to prevent a skid-row effect in commercial areas of a community.

By requiring minimum distances between adult uses, their adverse impacts are diluted by surrounding business activities. Dispersion theoretically avoids the cumulative impacts of declining property values and urban blight. On the other hand, dispersion approaches run the risk of spreading out the adverse impacts of adult businesses over a wider area. To mitigate this effect, many communities modify the dispersion approach by adding minimum distance requirements between adult uses and residential zones, churches, and schools. This modified dispersion policy has the advantage of protecting residential and other uses from the incompatibilities caused by adult uses.

A common disadvantage of these modified approaches lies in their administration and enforcement. If not carefully drafted, the net effect of minimum distance requirements may be to eliminate suitable adult use sites, a result not favored by the courts.

On the other hand, a concentration approach has the advantage of confining the adverse impacts of adult businesses to a predetermined, designated area. Usually the chosen district or zone where adult uses are permitted is located far from residential neighborhoods; hence, residences may receive the greatest protection from the adverse impacts of adult uses under this type of approach. However, by concentrating adult uses in a certain part of the City, the adverse impacts of each use may contribute to an overall or cumulative adverse impact to the adult use district. Possible cumulative effects could include decreased property values, increased criminal activity, and urban blight.

Licensing ordinances are favored by many communities because of the leeway or flexibility they allow. Not only can such ordinances regulate where adult uses may locate, but also who, what, when, and how. Nevertheless, it is this same built-in flexibility which sometimes leads to abuses of administrative discretion.

It is important to understand that both the objectives and the effects of each zoning approach are different. In order to frame zoning regulations for adult uses in Kent, local objectives or purposes must be established. In addition, the local context, in terms of existing zoning and development, must also be recognized. Only then can a zoning policy be created for adult uses that will seek to achieve the desired purpose and effect.

VII  
ADULT USE ZONING ALTERNATIVES FOR KENT:  
STUDY RECOMMENDATION

The form of this chapter follows a very straightforward, traditional planning approach. The first step in the process involves establishing planning objectives and criteria for the zoning regulation of adult uses. Following an analysis of the application of these criteria to the City of Kent, alternative zoning approaches are described. These alternatives are briefly evaluated for their anticipated advantages and disadvantages and, based on this evaluation, a staff recommendation (preferred alternative) is made.

The staff recommendation (and, hence, the recommendation of this study) deals only with a general approach to adult use zoning; it does not specify exact zoning standards nor impose any new zoning classifications. Should the City Council decide to endorse the staff recommendation, a program would have to be initiated by the Planning Department to develop specific zoning regulations in order to actually implement the preferred regulatory approach. These proposed regulations, then, would have to be reviewed by the planning commission for a recommendation before being finally adopted by the City Council.

Planning Objectives and Criteria

Zoning regulations of adult business should accomplish the following land use objectives:

Overall planning objective - To provide, through adequate zoning regulations, suitable sites or locations for adult uses which reduce or eliminate the adverse impacts associated with such uses.

Planning objective 1 - Protect residential neighborhoods from incompatible adult uses.

Planning objective 2 - Protect the religious environment of the community from incompatible adult uses.

Planning objective 3 - Protect the integrity of public places such as parks, particularly those which are primarily used by or oriented to minors, from incompatible adult uses.

Planning objective 4 - Protect the community's educational environment, particularly schools oriented to minors, from incompatible adult uses.

Planning objective 5 - Protect commercial areas from the urban blighting effects of clustered adult uses.

In order to accomplish the above-stated objectives, the following criteria could apply (the order of criteria corresponds to the order of objectives, above):



- Criteria 1 - Prohibit the location of adult uses within a specified minimum distance of residential zone districts. (One thousand feet is a commonly used standard.)
- Criteria 2 - Prohibit the location of adult uses within a specified minimum distance of churches. (One thousand feet is a commonly used standard.)
- Criteria 3 - Prohibit the location of adult uses within a specified minimum distance of public parks and playgrounds which are oriented to use by children. (One thousand feet is a commonly used standard.)
- Criteria 4 - Prohibit the location of adult uses within a specified minimum distance of public and private elementary and secondary schools. (One thousand feet is a commonly used standard.)
- Criteria 5 - Require a minimum distance to be maintained between two or more adult uses in areas where such uses are permitted. (Five hundred feet is a commonly used standard.)

### Analysis

Maps 2-5 illustrate the application of the criteria outlined above. Map 2 depicts areas of the city which are located within 1000 feet of residential zone districts. Map 3 shows areas within 1000 feet of churches; Map 4 shows areas within 1000 feet of schools; and, Map 5 shows areas within 1000 feet of public parks and playgrounds.

Map 6 is a composite map consisting of an overlaying of Maps 2-5. Therefore, areas which are darkened or shaded on Map 6 represent areas within 1000 feet of either a residential zone district, church, public park, or school. For purposes of this discussion, we shall call this area the "protected area." The areas which are not shaded on Map 6 represent areas which are more than 1000 feet from protected uses.

Geographically, much of the central portion of the City of Kent lies within the shaded protected area. That is, much of the area stretching from West Hill, across the Valley and through downtown to the east city limits on East Hill is either zoned for residential use or lies within 1000 feet of a school, park, or church. On the other hand, the industrially zoned valley lands lying generally north of S. 228th Street and south of the Green River (including the agricultural lands on the west and south sides of the Green River) are outside of the shaded protected area. Of course, not all of the shaded area is currently zoned for commercial purposes and, therefore, not all of this area is potentially suitable for adult businesses.

Because current zoning policy does not allow commercial uses in industrial zone districts,<sup>15</sup> virtually all of the M-1, M-2, M-3 and CM zones are unavailable for adult business without a major shift in zoning policy. Agricultural lands (R-A and M-A zones) also do not allow commercial uses and are unsuitable areas for any type of adult business.

A closer examination of Map 6 and existing commercial zoning reveals several, small unshaded areas of potentially suitable commercial zoning for adult businesses. These locations are scattered around the city:

- Certain parcels located along Pacific Highway South in the Midway area of West Hill;
- Certain parcels located in an approximate two-block area of the Kent central business district, near the intersection of Second Avenue/Harrison Street;
- Certain HC and CC-zoned parcels located along the East Valley Highway north of its intersection with the Valley Freeway, and along S. 180th Street on the north end of the City.

While the above-described locations are generally small and scattered, they do represent areas which are isolated from protected uses. Field checks by the Planning Department staff indicate a varied development pattern at these sites, one which is probably adaptable for a variety of adult uses.

It is quite obvious from Map 6 that large areas of the City's industrial district are located outside of the protected area. As mentioned, however, commercial uses are generally not permitted in the industrial districts under current zoning regulations. Nevertheless, for the sake of discussion and analysis, if existing zoning were to be modified to allow business activities in all or some of the industrial zones, substantial areas of the City would be opened up for adult use location which would be removed from Kent's primary residential, religious, educational, and recreational areas. Such a change would represent a major shift in zoning policy since the industrial zones would then be opened up to commercial development of all kinds.

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<sup>15</sup>Only commercial office and retail uses which are supportive and complementary to industrial districts are permitted in the M-1, M-2, and M-3 zones. Such uses are authorized by the Hearing Examiner through the conditional use permit process (SEE, Zoning Code, Sections 3.17.3, 3.18.3, and 3.19.3).



AREAS WITHIN 1000 FEET OF RESIDENTIAL ZONING (INCLUDES AREAS ZONED FOR RESIDENTIAL USE): CITY OF KENT

TRANSITIONAL AGRICULTURAL

- RA RESIDENTIAL AGRICULTURAL
  - MA INDUSTRIAL AGRICULTURAL
- RESIDENTIAL**
- R-1 72 SINGLE FAMILY RESIDENTIAL
  - R-1 96 SINGLE FAMILY RESIDENTIAL
  - R-1 12 SINGLE FAMILY RESIDENTIAL
  - R-1 20 SINGLE FAMILY RESIDENTIAL
  - MRD DENSITY MULTI-FAMILY RESIDENTIAL
  - MRG DENSITY DENSITY MULTI-FAMILY RESIDENTIAL
  - MRM DENSITY DENSITY MULTI-FAMILY RESIDENTIAL
  - MRH DENSITY DENSITY MULTI-FAMILY RESIDENTIAL
  - MHP DENSITY DENSITY MULTI-FAMILY RESIDENTIAL
- SPECIAL USE COMBINING DISTRICT**

OFFICE

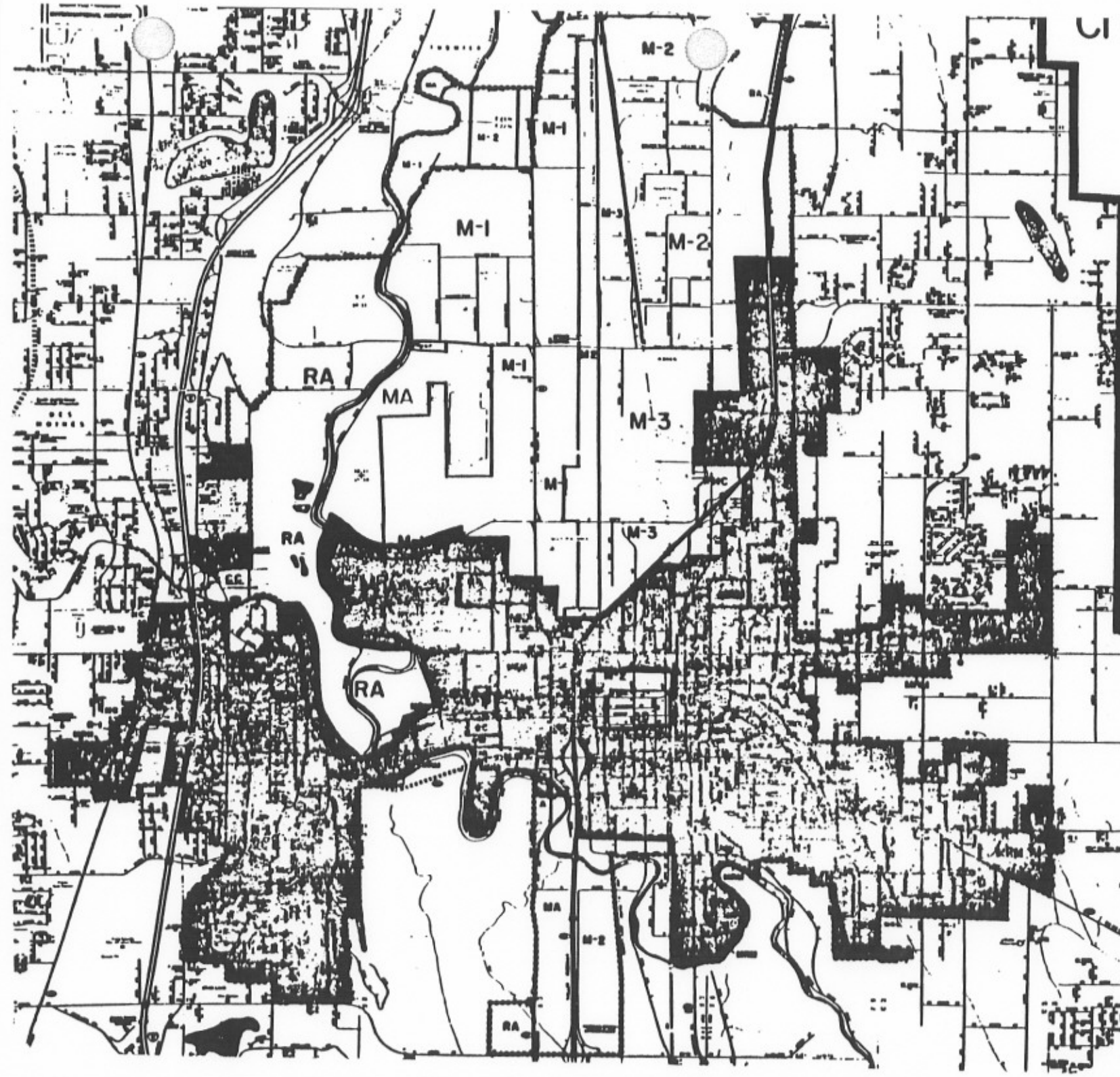
- O PROFESSIONAL AND OFFICE

COMMERCIAL

- CCC ENVIRONMENTAL ENVIRONMENTAL COMMERCIAL
- CC ENVIRONMENTAL COMMERCIAL DISTRICT
- DC ENVIRONMENTAL COMMERCIAL
- CM ENVIRONMENTAL COMMERCIAL
- HC ENVIRONMENTAL COMMERCIAL
- QC ENVIRONMENTAL COMMERCIAL

INDUSTRIAL

- M-1 INDUSTRIAL PARK DISTRICT
- M-2 LIMITED INDUSTRIAL DISTRICT
- M-3 GENERAL INDUSTRIAL DISTRICT



CITY MAP  
REVISED  
MAY 1981  
KENT  
ERNG COUNTY

UNOFFICIAL COPY...  
REPRODUCED BY THE CITY OF KENT  
FOR THE CITY OF KENT  
FROM THE CITY OF KENT



# CITY OF KENT

MAP 4

AREAS WITHIN 1000 FEET  
OF SCHOOLS (ELEMENTARY  
TO SECONDARY CURRICULA):  
CITY OF KENT

### TRANSITIONAL AGRICULTURAL

RA RESIDENTIAL AGRICULTURAL  
MA INDUSTRIAL AGRICULTURAL

### RESIDENTIAL

R-1 7.2 SINGLE FAMILY RESIDENTIAL  
R-1 9.6 SINGLE FAMILY RESIDENTIAL  
R-1 12 SINGLE FAMILY RESIDENTIAL  
R-1 20 SINGLE FAMILY RESIDENTIAL  
MRD MULTI-FAMILY DUPLEX RESIDENTIAL  
MRG SINGLE DENSITY MULTI-FAMILY RESIDENTIAL  
MRM HIGH DENSITY MULTI-FAMILY RESIDENTIAL  
MRH LOW DENSITY MULTI-FAMILY RESIDENTIAL  
MHP SINGLE HOME FOUR BEDROOM DISTRICT

### SPECIAL USE COMBINING DISTRICT

#### OFFICE

O PROFESSIONAL AND OFFICE

#### COMMERCIAL

CC COMMERCIAL GENERAL DISTRICT  
CC COMMUNITY COMMERCIAL DISTRICT  
DC BUSINESS COMMERCIAL  
CM COMMERCIAL MANUFACTURING  
HC SHOPPING COMMERCIAL  
GC GENERAL COMMERCIAL

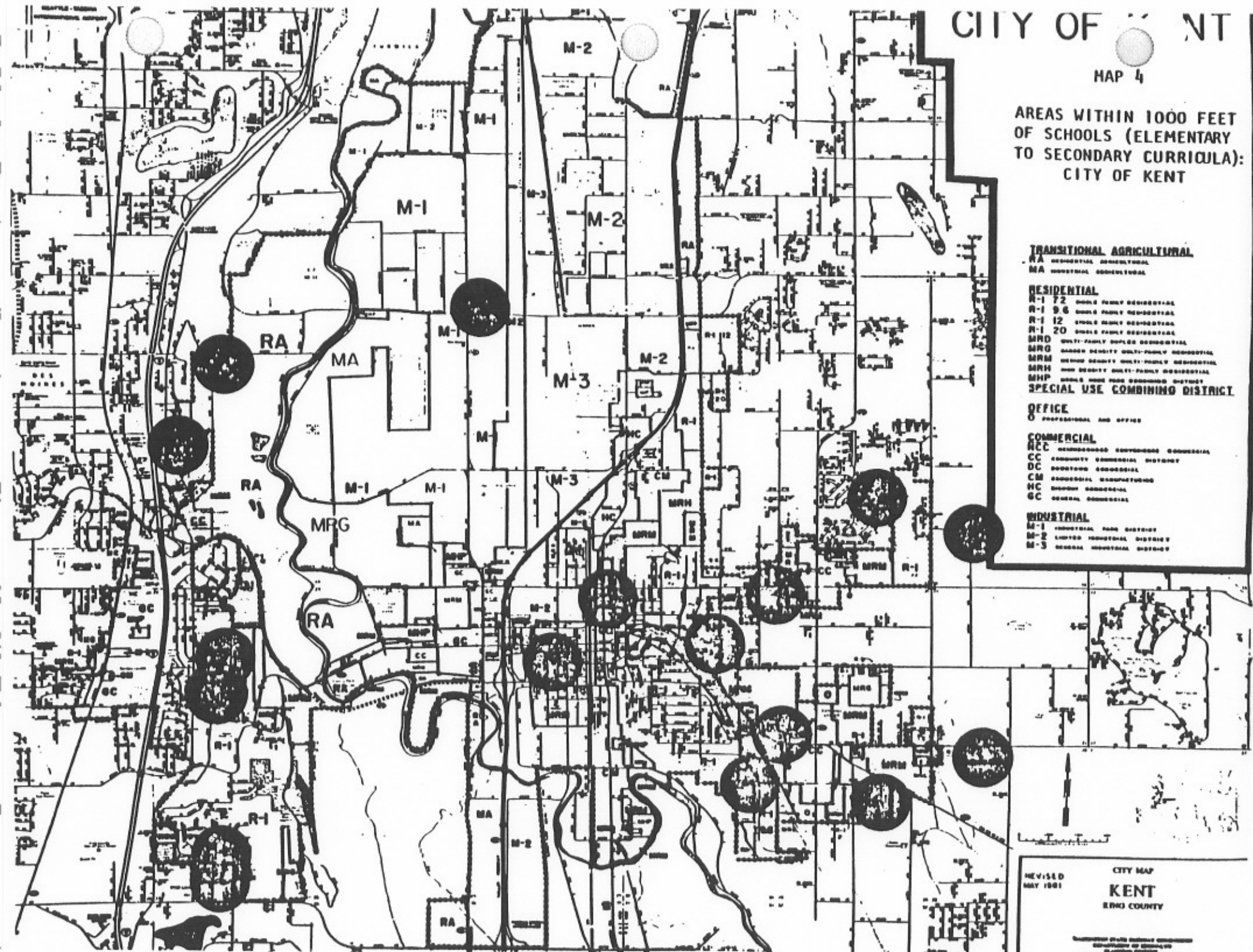
#### INDUSTRIAL

M-1 INDUSTRIAL PARK DISTRICT  
M-2 LIMITED INDUSTRIAL DISTRICT  
M-3 GENERAL INDUSTRIAL DISTRICT

REVISED  
MAY 1981

CITY MAP  
KENT  
KING COUNTY

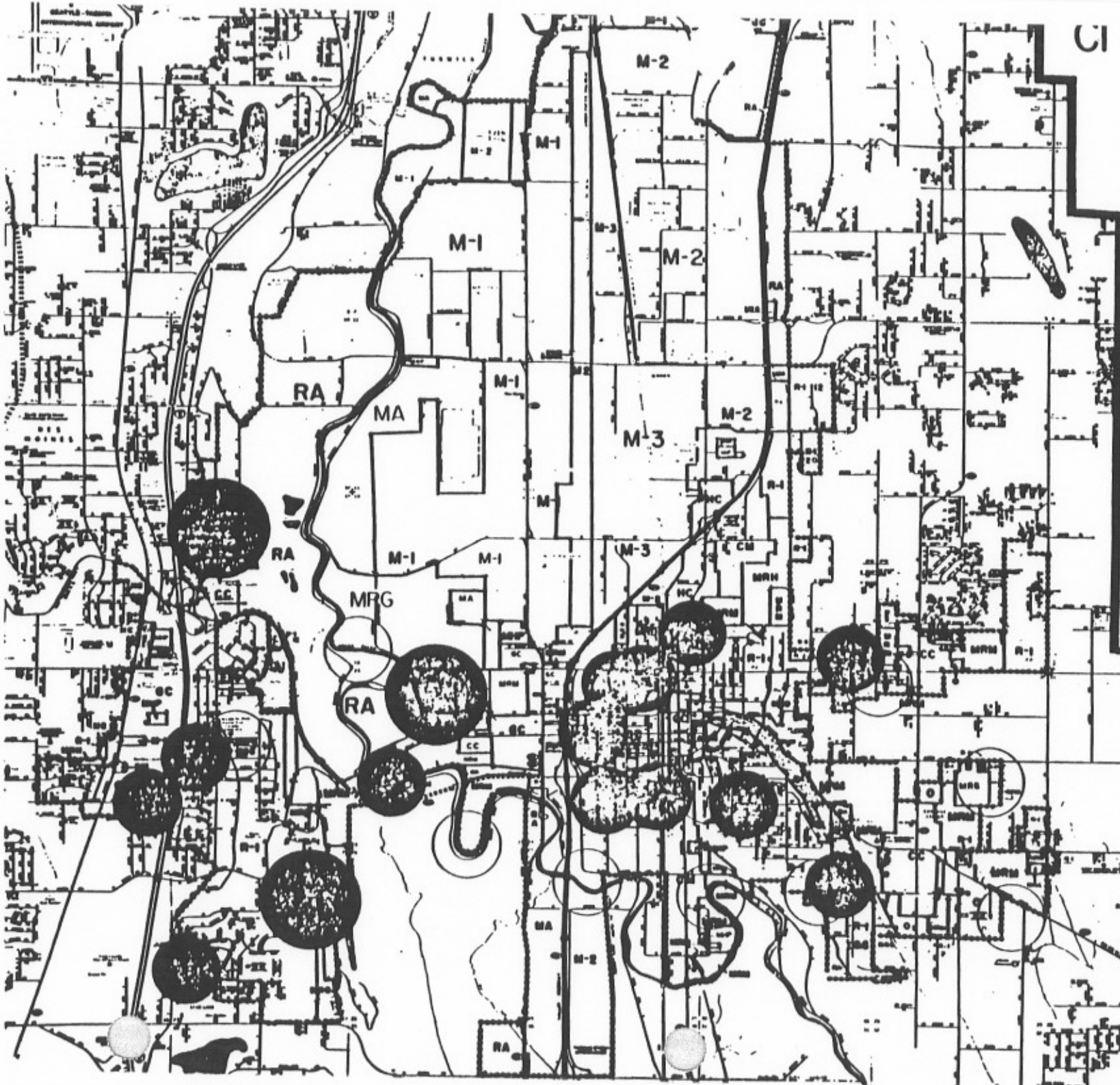
PLANNING AND COMMUNITY DEVELOPMENT  
PLANNING DIVISION  
KING COUNTY



# CITY OF KENT

## MAP 5

AREAS WITHIN 1000 FEET  
OF PUBLIC PARKS  
ORIENTED TO USE  
BY CHILDREN:  
CITY OF KENT



**TRANSITIONAL AGRICULTURAL**  
RA INDUSTRIAL AGRICULTURAL  
MA INDUSTRIAL AGRICULTURAL

**RESIDENTIAL**  
R-1 72 SINGLE FAMILY RESIDENTIAL  
R-1 96 SINGLE FAMILY RESIDENTIAL  
R-1 12 SINGLE FAMILY RESIDENTIAL  
R-1 20 SINGLE FAMILY RESIDENTIAL  
MRD MULTI-FAMILY DUPLEX RESIDENTIAL  
MRD DENSE DENSITY MULTI-FAMILY RESIDENTIAL  
MRM MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL  
MRH HIGH DENSITY MULTI-FAMILY RESIDENTIAL  
MHP SINGLE HOME PARK HOUSING DISTRICT  
**SPECIAL USE COMBINING DISTRICT**

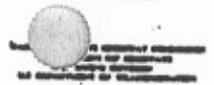
**OFFICE**  
O PROFESSIONAL AND OFFICE

**COMMERCIAL**  
C-1 NEIGHBORHOOD COMMERCIAL  
CC COMMUNITY COMMERCIAL DISTRICT  
DC DISTRICT COMMERCIAL  
CM COMMERCIAL MANUFACTURING  
HC HIGHWAY COMMERCIAL  
GC GENERAL COMMERCIAL

**INDUSTRIAL**  
M-1 INDUSTRIAL PARK DISTRICT  
M-2 LIMITED INDUSTRIAL DISTRICT  
M-3 GENERAL INDUSTRIAL DISTRICT

REVISED  
MAY 1981

CITY MAP  
**KENT**  
KENT COUNTY







## Zoning Alternatives for Kent

Table 1 lists five alternatives for adult use zoning in Kent. A brief explanation of each alternative is included along with an abbreviated evaluation of its advantages and disadvantages.

Alternative 1 is the "No Action" alternative. No changes to existing zoning regulations would be pursued under this alternative. Adult uses would continue to be undifferentiated from similar nonadult business activities and would be permitted outright in appropriate commercial zones.

Alternative 2 is a modified dispersion approach for commercial zones. Under this alternative, specified adult uses would be permitted in the several small, scattered commercial districts generally identified on Map 6 as being located more than 1000 feet from any residential zone, church, public park or school. To discourage clustering of adult uses in any one of these small districts, a dispersal requirement could be included which would require a minimum distance between two or more adult uses.

Alternative 3 would permit adult uses in industrial zones. Uses could either be concentrated or dispersed in selected industrial areas, depending on specific regulations. It is contemplated that only industrial zones lying north of approximately S. 228th Street (and lying in the unshaded area on Map 6) would be considered as suitable locations for adult businesses. This alternative represents a significant change in current zoning policy since it requires opening up industrial zones to commercial/retail development.

Alternative 4 would allow adult uses in selected commercial areas only by conditional use permit. Approval of use would be made by the Hearing Examiner after public notice and hearing, pursuant to Zoning Code, Section 8.3.2. The application for adult use of a proposed site would be subject to review according to a number of adopted guidelines or criteria which could be added to the zoning code.

Alternative 5 would prohibit some or all adult uses altogether. Definitions would be developed for specific types of adult uses which would then be prohibited by specific regulatory language.

Table 1  
EVALUATION OF ADULT USE ZONING ALTERNATIVES

ZONING ALTERNATIVES	NATURE OF REGULATIONS	EVALUATION: ADVANTAGES/DISADVANTAGES
1. No Action	<p>The "No Action" alternative would maintain the existing zoning policy of allowing adult uses in designated commercial zones throughout the city. Accordingly, adult businesses could locate in the DC, GC, and HC districts, depending on the nature of the specific use. This zoning policy does not distinguish between business activities based on the "adult" characteristic of certain uses.</p>	<p><u>Advantages:</u> Maintaining existing regulations represents the least cost option in that no resources would be required to draft and implement new regulations.</p> <p><u>Disadvantages:</u> Present zoning policy does not specifically seek to protect residential, educational, religious, and recreational uses from the land use incompatibilities of adult businesses. Some schools, churches, and residential areas are currently located near commercial zones which may allow adult businesses under existing zoning regulations. As a result, the "No Action" alternative does not appear to mitigate the adverse land use impacts commonly associated with adult businesses.</p>
2. Modified Dispersion in Commercial Zones	<p>Under this alternative, certain adult businesses would be permitted in designated commercial zones which are not located within 1,000 feet of any school, public park, church, or residential area. According to Map 6, this would restrict locations to small parts of the downtown area, West Hill, and certain commercial zones north of S. 228th Street. A dispersal requirement which would require a specified minimum distance between adult uses could be included as part of this alternative to avoid clustering of such uses in one area of the city.</p>	<p><u>Advantages:</u> This alternative would seek to maintain the integrity of the city's residential, educational, religious, and recreational environments by ensuring separation from incompatible adult uses. A dispersal requirement may also help to mitigate against any blighting influence which adult uses have on the business environment.</p> <p><u>Disadvantages:</u> There may be some administrative difficulties associated with defining all of the small, widespread areas where adult uses may be permitted. Administering regulations may also be difficult. Subsequent study may indicate a small number of eligible sites under this approach.</p>
3. Concentration (or Modified Dispersion) in Industrial Zones	<p>This approach would allow adult businesses in the industrial zones (M1, M2, and M3) in the general valley area located north of S. 228th Street and between the Green River and Valley Freeway. This area is generally in the unshaded area on Map 6. Amendments to present zoning policy to allow commercial uses in industrial zones would have to be implemented. This alternative could be modified by requiring a minimum distance between adult uses in industrial zones, in effect promoting dispersal of such uses.</p>	<p><u>Advantages:</u> This approach specifically defines a large area of the city as suitable for adult uses. In addition, the general area as described is separated from conflicting uses such as schools and residences.</p> <p><u>Disadvantages:</u> To allow adult businesses in industrial zones would probably require a significant change in zoning policy. Existing zoning allows only industrial uses with "supportive" retail uses in the M1, M2, and M3 districts. Allowing adult businesses would also involve allowing other general business activities; hence, a significant change in policy.</p>
4. Conditional Use Permit	<p>Under this alternative, certain adult uses would be permitted in specified commercial or industrial zones by conditional use permit (CUP) only. Therefore, approval would be made by the Hearing Examiner. Special criteria or guidelines relating to operational and/or locational characteristics could be included in the CUP approval process in order to make the proposed use compatible with its surrounding environment. (The CUP process could also be combined with either alternative #2 or #3, above.)</p>	<p><u>Advantages:</u> Depending on the particular guidelines or criteria developed, this alternative represents a flexible zoning device which is able to respond to varying circumstances. Through the adopted guidelines, protection of residential, educational, religious, and recreational uses could be pursued.</p> <p><u>Disadvantages:</u> This alternative would likely involve higher administrative costs since each application would have to be specially processed by the Hearing Examiner. Notwithstanding the objectives of the Hearing Examiner system, this alternative may be susceptible to inconsistent or discriminatory treatment of adult uses.</p>
5. Prohibition	<p>This alternative would prohibit certain adult uses altogether. As anticipated, specific adult uses would be defined and regulations would be developed which prohibited them from locating within the city.</p>	<p><u>Advantages:</u> Under this alternative, the total community would be protected from any adverse impacts of adult uses.</p> <p><u>Disadvantages:</u> Outright prohibition of all or certain adult uses, especially those which may be protected under the First Amendment, may be legally questionable. In addition, any economic benefits which might otherwise accrue to the community by adult businesses would be foreclosed under this approach.</p>



The "No Action" alternative represents the least effective approach since, under existing zoning policy, adult uses would be allowed in most commercial zones irrespective of their location relative to schools, residences, parks and churches.

Perhaps the most effective approach is represented by Alternative 5 (Prohibition of Specific Uses) which would prohibit certain adult uses altogether. While this alternative affords the greatest potential protection to the community from the impacts of adult uses, it may be the most legally uncertain alternative inasmuch as it may interfere with First Amendment (free speech and press) rights enjoyed by certain adult uses (such as adult theaters and bookstores).

Alternatives 2, 3, and 4 all differ slightly in their approach to adult use zoning, but they are probably similar in their effect — that is, all seek to protect schools, residences, churches, and parks. Alternative 3, which would allow adult businesses in industrial zones, probably presents the worst problems as far as implementation is concerned. Allowing adult businesses would also necessarily involve allowing other general business activities, undermining the purpose of the industrial zoning district and detracting from downtown goals. Alternative 2 would restrict adult uses to appropriate commercial zones, although the total number of available sites may be quite limited. Administration of Alternative 4 is expected to be the most costly since it would involve a lengthy public involvement process each time an adult use was proposed. It also could be susceptible to inconsistent or discriminatory treatment of adult use applications.

#### Economic Costs of Zoning Alternatives

Two kinds of costs are associated with adult use zoning. First, there is the direct cost of administering the zoning ordinance, of creating, adopting, and applying the specific regulations. Second, there is the indirect cost of enforcement services associated with the policing of these uses. In the view of the Planning Department staff, however, the costs of administration and enforcement services are secondary to the benefits of protecting the community's residential, religious, educational, and recreational environments from potential land use incompatibilities.

The costs of administration, particularly the costs associated with developing and implementing the specific adult use zoning regulations, could be mitigated by combining this effort with the on-going zoning ordinance revision project. Also, enforcement costs are currently low; very few adult uses other than gambling presently exist in the Kent community. Given the development of adult uses under either of the five zoning alternatives mentioned in the previous section, the difference in enforcement service costs is thought to be minimal.

#### Study Recommendation - Preferred Alternative(s)

Based on the preceding evaluation of alternatives and the findings of this study, the Planning Department recommends that the City Council endorse Alternative 2 (Modified Dispersion in Commercial Zones); and, furthermore, that the City Council direct the planning staff to develop adult use zoning regulations consistent with this approach, such regulations to be reviewed by the Planning Commission for recommendation to the City Council. Specific elements of these regulations should include:

1. Designated Commercial Zones where adult uses are permitted. This area should be reasonably separated from such uses as schools, parks, churches, and residential areas. Commercial areas which may be considered under this alternative include the "unshaded" commercial zones shown generally on Map 6 of this study.
2. A dispersal requirement. Regulations should require that a minimum distance be maintained between two or more adult uses within the designated commercial zones.
3. Specific definitions of regulated adult uses. Regulated adult uses should be well-defined so as to distinguish them from other business activities. Regulated uses might include adult bookstores, adult theaters, adult cabarets, adult sauna and massage parlors, adult bath houses, and adult retail stores.
4. Gambling activities to be excluded from such zoning regulations. At this time, gambling activities are regulated under the State Gambling Act of 1973 and are not considered a threat to Kent's residential, religious, educational, or recreational environments. Additional zoning regulations pertaining to gambling activities would not be a part of this zoning proposal.

While Alternative 2, above, may be preferable, the Planning Department staff also believes that Alternative 5 (prohibition of specific uses) may be entirely realistic in spite of its uncertain legal status. As shown by Map 6, much of Kent's commercial zoning lies within a short distance of the community's schools, residences, parks, and churches. If these uses are to be protected from the impacts of incompatible adult businesses by a minimum distance standard, a substantial portion of the City's commercial zoning is unsuitable for adult businesses. In addition, given that current zoning regulations do not allow commercial uses in industrial zone districts, much of the area that is separated from schools, residences, churches, and parks is, in fact, unsuitable for adult businesses. Based on these facts, a realistic and defensible regulatory approach may be to prohibit entirely certain adult uses which cannot reasonably be expected to be compatible with other general business activities in the City's several commercial zones.



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