

COUNTY COMMISSION MEETING, CALLED SESSION

MONDAY EVENING, NOVEMBER 1, 1993

BE IT REMEMBERED THAT:

COUNTY COMMISSION MET PURSUANT TO ADJOURNMENT IN A CALLED SESSION OF THE SULLIVAN COUNTY BOARD OF COMMISSIONERS THIS MONDAY EVENING, NOVEMBER 1, 1993, 6:30 P. M. IN BLOUNTVILLE, TENNESSEE. PRESENT AND PRESIDING WAS HONORABLE WILLIAM H. 'JOHN' MCKAMEY, COUNTY EXECUTIVE, GAY B. FEATHERS, COUNTY CLERK AND KEITH CARR, SHERIFF OF SAID BOARD OF COMMISSIONERS OF SAID COUNTY,

TO WIT:

The meeting was called to order by County Executive, John McKamey. Sheriff Keith Carr opened the Commission Meeting. Invocation was given by Commissioner Jim King and pledge to the flag was led by County Executive, John McKamey.

Roll was called by County Clerk, Gay Feathers. Commissioners present and answering roll call are as follows:

ROBERT L. (BOB) AMMONS	MARVIN HYATT
CAROL BELCHER	TERRY D. JONES
JAMES R. (JIM) BLALOCK	JAMES L. (JIM) KING, JR.
FRED CHILDRESS	CARL R. KRELL
HAROLD CHILDRESS	WAYNE MCCONNELL
EMMETT E. COOKENOUR	PAUL A MILHORN
MARGARET DEVAULT	HOWARD PATRICK
O. W. FERGUSON	RONALD E. REEDY
R. JONES FORTUNE	CRAIG M. ROCKETT, JR.
RITA GROSECLOSE	MICHAEL SURGENOR
RALPH P. HARR	MICHAEL RUTHERFORD
EDLEY W. HICKS	RANDY TRIVETT

County Executive John McKamey adjourned County Commission for public comments regarding this called session to amend the Sullivan County Zoning Resolution. There was no comments from the public and County Executive called the Commission back in session.

The foregoing pages gives in detail the amendments and the action taken by the Commission on said amendments.

TO THE HONORABLE Wm. H. "JOHN" MCKAMEY, COUNTY EXECUTIVE, AND THE MEMBERS OF THE SULLIVAN COUNTY BOARD OF COMMISSIONERS IN Called SESSION THIS THE 1st DAY OF November 19 93.

RESOLUTION AUTHORIZING The Sullivan County Board of Commissioners to Consider Amendments to the Sullivan County Zoning Resolution as Amended

WHEREAS, TENNESSEE CODE ANNOTATED; SECTION , AUTHORIZES COUNTIES TO

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners of Sullivan County, Tennessee, assembled in Called Session on the 1st day of November 19 93.

THAT WHEREAS, The attached proposed amendments have been initiated and approved by the Planning commission (minutes attached), have been published in their entirety in a newspaper of general circulation in the County, and have received a public hearing as required; and

WHEREAS, Such changes will require amending the Sullivan County Zoning Resolution;

THEREFORE BE IT RESOLVED, That the Sullivan County Board of Commissioners approves the attached amendments by roll call vote and that the vote be valid and binding and that any necessary amendments to the official zoning map be made also.

All resolutions in conflict herewith be and the same rescinded insofar as such conflict exist.

This resolution shall become effective on , 19 , the public welfare requiring it.

Duly passed and approved this 1st day of November, 1993
Attested: Gay B. Fechner Date: 11-1-93 Wm H. "John" McKamey Date: 11-1-93
County Clerk County Executive

INTRODUCED BY COMMISSIONER Trivett ESTIMATED COST:
SECONDED BY COMMISSIONER Belcher FUND:

Committee Action	Approved	Disapproved	Deferred	Date
Administrative				
Budget				
Executive				

Commission Action	Aye	Nay	Pass	Absent	Total
Roll Call	24				
Voice Vote					

COMMENTS: APPROVED 11/1/93 ROLL CALL

PROPOSED AMENDMENTS TO
THE SULLIVAN COUNTY ZONING RESOLUTION

SECTION 1: ADD NEW SECTION 203 TO THE SULLIVAN COUNTY
ZONING RESOLUTION RENUMBERING ALL SUBSEQUENT SECTIONS

ACCORDINGLY:

203. Adult oriented establishments: Sexually explicit establishments which cater to an exclusively or predominantly adult clientele and including but not limited to: adult book stores, adult theaters, adult motion picture theaters, cabarets and other enterprises which regularly feature materials, acts, or displays involving complete nudity or exposure of the "Specified Anatomical Areas" hereinbelow defined and/or sexual enticement or excitement.

A. Adult Book Store. An establishment having as more than fifty (50%) percent of the face value of its stock in trade, books, magazines, motion pictures, periodicals, and other materials which are distinguished or characterized by depicting, describing or relating to "specified anatomical areas" (as defined below).

B. Adult Cabaret. Any restaurant, bar, dance hall, nightclub or other such place which features dancers, strippers, male or female impersonators or similar entertainers for the entertainment of a predominantly adult clientele.

C. Adult Motion Picture Theater. Any public place, whether open or enclosed, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas", (as defined below), for observation by patrons therein.

D. Adult Theater. Adult theater means a theater, concert hall, auditorium or similar establishment which, for any form of consideration, regularly features live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

E. Sexual encounter establishment. Sexual encounter establishment means an establishment, other than a hotel, motel or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may

congregate, associate or consort in connection with "specified sexual activities" or the exposure of "specified anatomical areas." This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist or similar professional person licensed by the state engages in sexual therapy; and

SECTION II. ADD NEW SECTION 257 TO THE SULLIVAN COUNTY ZONING RESOLUTION, RENUMBERING ALL SUBSEQUENT SECTIONS

ACCORDINGLY:

257. SPECIFIED ANATOMICAL AREAS: Specified anatomical areas shall mean any of the following:

1. less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or
2. human male genitals in a discernibly turgid state, even if completely and opaquely covered; and

SECTION III. ADD NEW SECTION 258 TO THE SULLIVAN COUNTY ZONING RESOLUTION RENUMBERING ALL SUBSEQUENT SECTIONS

ACCORDINGLY:

258. Specified sexual activities. Specified sexual activities as used in this Resolution shall include but not be limited to the following:

1. human genitals in a state of sexual stimulation or arousal;
2. acts of human masturbation, sexual intercourse or sodomy;
3. fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;
4. flagellation or torture in the context of a sexual relationship;
5. masochism, erotic or sexually oriented torture, beating or the infliction of pain;
6. erotic touching, fondling or other such contact

with an animal by a human being; or

7. human excretion, urination, menstruation, vaginal or anal irrigation as part of or in connection with any of the activities set forth in "1" through "6" above.

SECTION IV: CHANGE SECTION 614 M-2 (HEAVY) INDUSTRIAL TO M-2 (HIGH IMPACT USE) DISTRICT AND ADD NEW SECTION 614.1.9, TO THE SULLIVAN COUNTY ZONING RESOLUTION:

614.1.9 Adult Oriented Establishments subject to meeting all requirements of Section 511 of this Resolution.

SECTION V. ADD NEW SECTION 511 TO THE SULLIVAN COUNTY ZONING RESOLUTION:

Section 511. ADULT ORIENTED ESTABLISHMENTS: Because adult oriented establishments have a deteriorating effect on property values, create higher crime rates in the area, create traffic congestion, and depress nearby residential neighborhoods and retail districts, these activities will only be permitted when minimum conditions are met.

A. The following minimum conditions must be complied with for a site to be approved for adult entertainment activities:

1. The site shall be not less than one thousand feet from any residentially zoned property at the time of approval for an adult entertainment activity.

2. The site shall be not less than one thousand feet from the site of any public amusement or entertainment activity, including, but not limited to, the following: arcades, motion picture theaters, bowling alleys, marinas, golf courses, playgrounds, ice skating or roller skating rinks or arenas, zoos, community centers and similar amusements offered to the general public. "Amusement or entertainment activities" in this section shall not include adult oriented establishments, and shall not reduce the distance requirements otherwise dictated by this section.

3. The site shall be not less than one thousand feet from any area devoted to public recreation activity.

4. The site shall be not less than one thousand feet from any school, library, day care center, park, church, mortuary or hospital.

5. The site shall be not less than one-half mile from any other adult entertainment business site.

6. Measurement shall be made from the nearest recorded property line of the lot on which the adult oriented establishment is situated to the nearest property line or boundary of the above mentioned uses, measuring a straight line on the Sullivan County Zoning Map.

B. Maps showing existing land use and zoning within one-half mile of the proposed site should be submitted with an application for Use on Review approval along with site plans, surveys or other such special information as might reasonably be required by the Planning Commission for use in making a thorough evaluation of the proposal.

SECTION VI (a). ANY PLACE WITHIN THE SULLIVAN COUNTY ZONING RESOLUTION WHERE THE TERM "M-2 (HEAVY) INDUSTRIAL DISTRICT" APPEARS, IT SHALL BE STRICKEN AND REPLACED WITH THE TERM "M-2 (HIGH IMPACT USE) DISTRICT."

SECTION VI (b). AMEND SECTION 615.4.5 TO THE SULLIVAN COUNTY ZONING RESOLUTION TO READ AS FOLLOWS:

615.4.5 Planned manufacturing district-2 (PMD-2). Any use permitted in any manufacturing district except automobile wrecking, salvage and junkyards; hazardous and non-hazardous waste disposal; adult oriented establishments.

MINUTES OF THE SULLIVAN COUNTY PLANNING COMMISSION

A special call meeting of the Sullivan County Planning Commission was held on Tuesday, October 5, 1993 at 7:00 P. M. in the Courthouse, Blountville, Tennessee.

Members Present:

James Greene, Jr., Chairman
 Jerry Teague, Vice Chairman
 Carol Belcher
 Harold L. Barnes
 Pete Holler
 Randy Trivette
 Don Brown

Members Absent:

Jeff Hickam,
 Secretary
 Fred Eldreth

Staff Representative: Jerry S. Webb

Also Present: David Parker, Sullivan County Building
 Commissioner
 John McKamey, County Executive
 Keith Carr, Sullivan County Sheriff
 news media - WCYB TV and others

The meeting was called to order by the chairman.

Review proposed Amendment to the Sullivan County Zoning Resolution Concerning Adult Oriented Establishments

Consider a proposal to amend the Sullivan County Zoning Resolution as follows:

II SECTION 1: ADD NEW SECTION 203 TO THE SULLIVAN COUNTY ZONING RESOLUTION RENUMBERING ALL SUBSEQUENT SECTIONS.

ACCORDINGLY:

203. Adult oriented establishments: Sexually explicit establishments which cater to an exclusively or predominantly adult clientele and including but not limited to: adult book stores, adult theaters, adult motion picture theaters, cabarets and other enterprises which regularly feature materials, acts, or displays involving complete nudity or exposure of the "Specified Anatomical Areas" hereinbelow defined and/or sexual enticement or excitement.

A. Adult Book Store. An establishment having as more than fifty (50%) percent of the face value of its stock in trade, books, magazines, motion pictures, periodicals, and other materials which are distinguished or characterized by depicting, describing or relating to "specified anatomical areas" (as defined below).

B. Adult Cabaret. Any restaurant, bar, dance hall, nightclub or other such place which features dancers, strippers, male or female impersonators or similar entertainers for the entertainment of a predominantly adult clientele.

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D. Adult Theater. Adult theater means a theater, concert hall, auditorium or similar establishment which, for any form of consideration, regularly features live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

E. Sexual encounter establishment. Sexual encounter establishment means an establishment, other than a hotel, motel or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate or consort in connection with "specified sexual activities" or the exposure of "specified anatomical areas." This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist or similar professional person licensed by the state engages in sexual therapy; and

SECTION II. ADD NEW SECTION 257 TO THE SULLIVAN COUNTY

ZONING RESOLUTION, RENUMBERING ALL SUBSEQUENT SECTIONS

ACCORDINGLY:

257. SPECIFIED ANATOMICAL AREAS: Specified anatomical areas shall mean any of the following:

1. less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or
2. human male genitals in a discernibly turgid state, even if completely and opaquely covered; and

SECTION III. ADD NEW SECTION 258 IN ARTICLE II OF THE
ZONING RESOLUTION RENUMBERING ALL SUBSEQUENT SECTIONS

ACCORDINGLY:

258. Specified sexual activities. Specified sexual activities as used in this Resolution shall include but not be limited to the following:

1. human genitals in a state of sexual stimulation or arousal;
2. acts of human masturbation; sexual intercourse or sodomy;
3. fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;
4. flagellation or torture in the context of a sexual relationship;
5. masochism, erotic or sexually oriented torture, beating or the infliction of pain;
6. erotic touching, fondling or other such contact with an animal by a human being; or
7. human excretion, urination, menstruation, vaginal or anal irrigation as part of or in connection with any of the activities set forth in "1" through "6" above.

SECTION IV: CHANGE SECTION 614 M-2 (HEAVY) INDUSTRIAL
TO M-2 (HIGH IMPACT USE) DISTRICT AND ADD NEW SECTION
614.1.9. TO THE SULLIVAN COUNTY ZONING RESOLUTION:

614.1.9 Adult Oriented Establishments
subject to meeting all requirements of Section
511 of this Resolution.

SECTION V. ADD NEW SECTION 511 TO THE SULLIVAN COUNTY
ZONING RESOLUTION:

Section 511. ADULT ORIENTED ESTABLISHMENTS: Because adult oriented establishments have a deteriorating effect on property values, create higher crime rates in the area, create traffic congestion, and depress nearby residential neighborhoods and retail districts, these activities will only be permitted when minimum conditions are met.

A. The following minimum conditions must be complied with for a site to be approved for adult entertainment activities:

1. The site shall be not less than one thousand feet from any residentially zoned property at the time of approval for an adult entertainment activity.

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3. The site shall be not less than one thousand feet from any area devoted to public recreation activity.

4. The site shall be not less than one thousand feet from any school, library, day care center, park, church, mortuary or hospital.

5. The site shall be not less than one-half mile from any other adult entertainment business site.

6. Measurement shall be made from the nearest recorded property line of the lot on which the adult oriented establishment is situated to the nearest property line or boundary of the above mentioned uses, measuring a straight line on the Sullivan County Zoning Map.

B. Maps showing existing land use and zoning within one-half mile of the proposed site should be submitted with an application for Use on Review approval along with site plans, surveys or other such special information as might reasonably be required by the Planning Commission for use in making a thorough evaluation of the proposal.

SECTION VI (a). ANY PLACE WITHIN THE SULLIVAN COUNTY ZONING RESOLUTION WHERE THE TERM "M-2 (HEAVY) INDUSTRIAL DISTRICT" APPEARS, IT SHALL BE STRICKEN AND REPLACED WITH THE TERM "M-2 (HIGH IMPACT USE) DISTRICT."

SECTION VI (b). AMEND SECTION 615.4.3 TO THE SULLIVAN
COUNTY ZONING RESOLUTION TO READ AS FOLLOWS:

615.4.3 Planned manufacturing district (PMD). Any use permitted in any manufacturing district except automobile wrecking, salvage and junkyards; hazardous and non-hazardous waste disposal; adult oriented establishments."

Staff reviewed the purpose of the proposed amendment, and noted concerns of county residents regarding the possible negative impact of adult oriented establishments on the quality of life in Sullivan county. Staff stated that studies from across the county have shown that adult oriented establishments are connected to depressed property values and high crime rates. Staff explained that the amendment proposed for the regulation of adult oriented establishments had been prepared with careful attention to a broad range of legal issues that might develop in regulating these uses, with the aim of protecting the rights of proprietors of adult oriented businesses as well as addressing legitimate concerns of the public. Staff recommended the amendment be approved.

Sheriff Keith Carr addressed the commission noting his concerns about uncontrolled development of adult oriented businesses in the county, and discussed statistics supporting the need for control of these type land uses and cited court cases involving issues of a similar nature indicating that the amendment would stand under court review.

County executive John McKamey informed the commission as to zoning amendment procedures and tentative county commission meeting date to consider planning commission recommendations on this zoning amendment.

Commissioner Teague discussed possible problems that might be associated with adult oriented business and cited recent arrests at an adult club in a nearby community.

Commissioner Brown spoke, questioning the inclusion of adult oriented establishments as a permitted use in the M-2 zone with heavy industrial uses, contending that courts might find this inappropriate, and offered a counter suggestion that adult uses be included under the planned business district (PBD) to utilize the site plan review process.

Commissioner Belcher spoke noting that "PBD's" are located in areas and contain uses not compatible with adult businesses therefore inclusion of "adult" type establishments would be more appropriate in a M-2 high impact district.

Building Commissioner David Parker spoke stating that he felt allowing adult establishments in a PBD zone would not be desirable because the zoning resolution allows many residential and business uses in the PBD that would be incompatible with adult establishments. Mr. Parker also noted that 50 percent of all existing property in the county currently zoned M-2 is vacant.

Motion by Teague, second by Holler to approve the proposed amendment of the Sullivan County Zoning Resolution concerning adult oriented establishments as presented. Vote in favor of the motion: Teague, Holler, Belcher, Barnes, Trivette; vote opposed to the motion: Brown, the motion carried 5 to 1.

The meeting adjourned at 7:30 P.M.

Signed: _____

Approved: _____

AND THEREUPON COUNTY COMMISSION ADJOURNED TO MEET AGAIN IN
REGULAR SESSION ON NOVEMBER 15, 1993.

William H. McKamey
~~WILLIAM H. "JOHN" MCKAMEY, COUNTY EXECUTIVE~~

