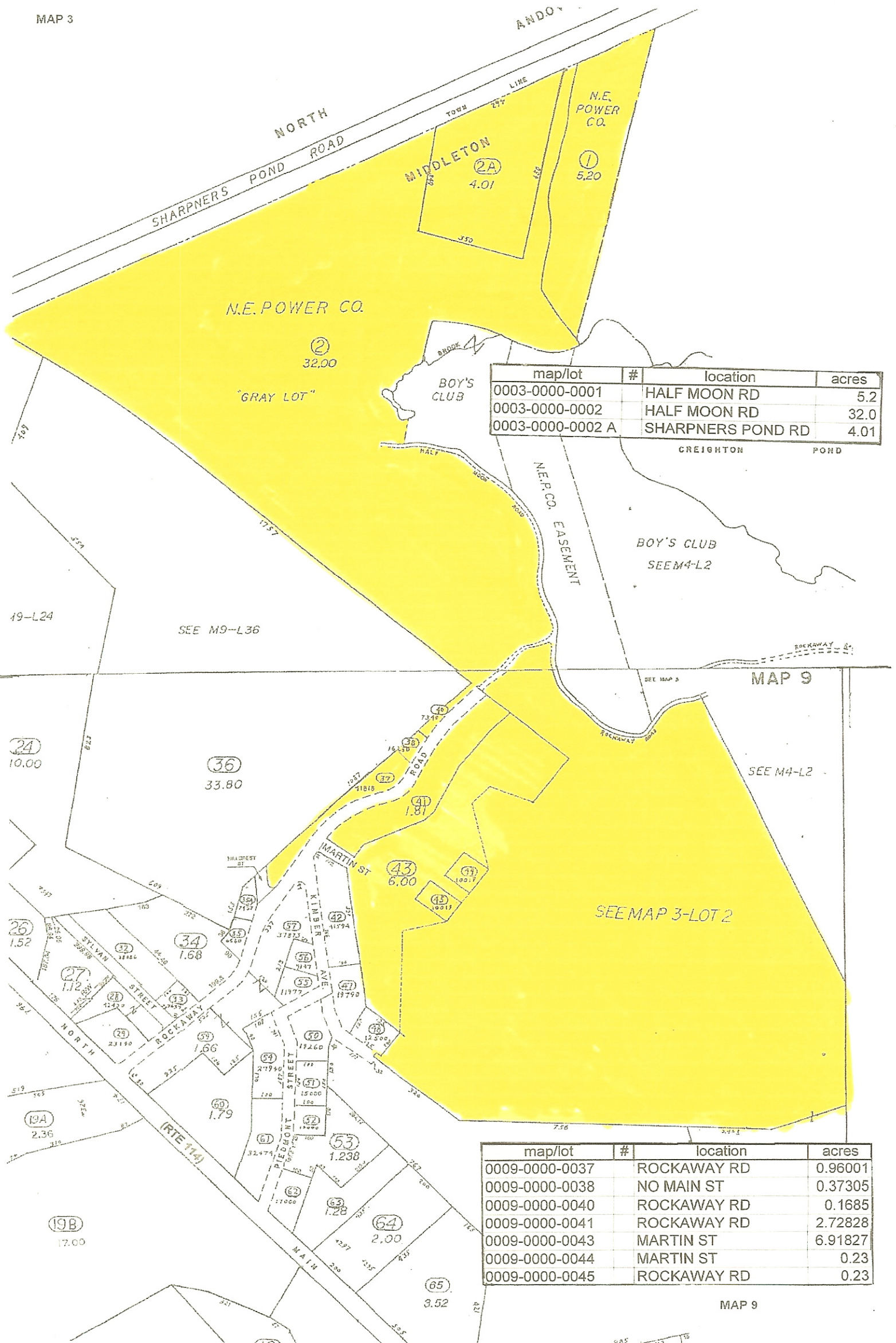


# ADULT ENTERTAINMENT OVERLAY DISTRICT

## MAY 12, 2009

MAP 3



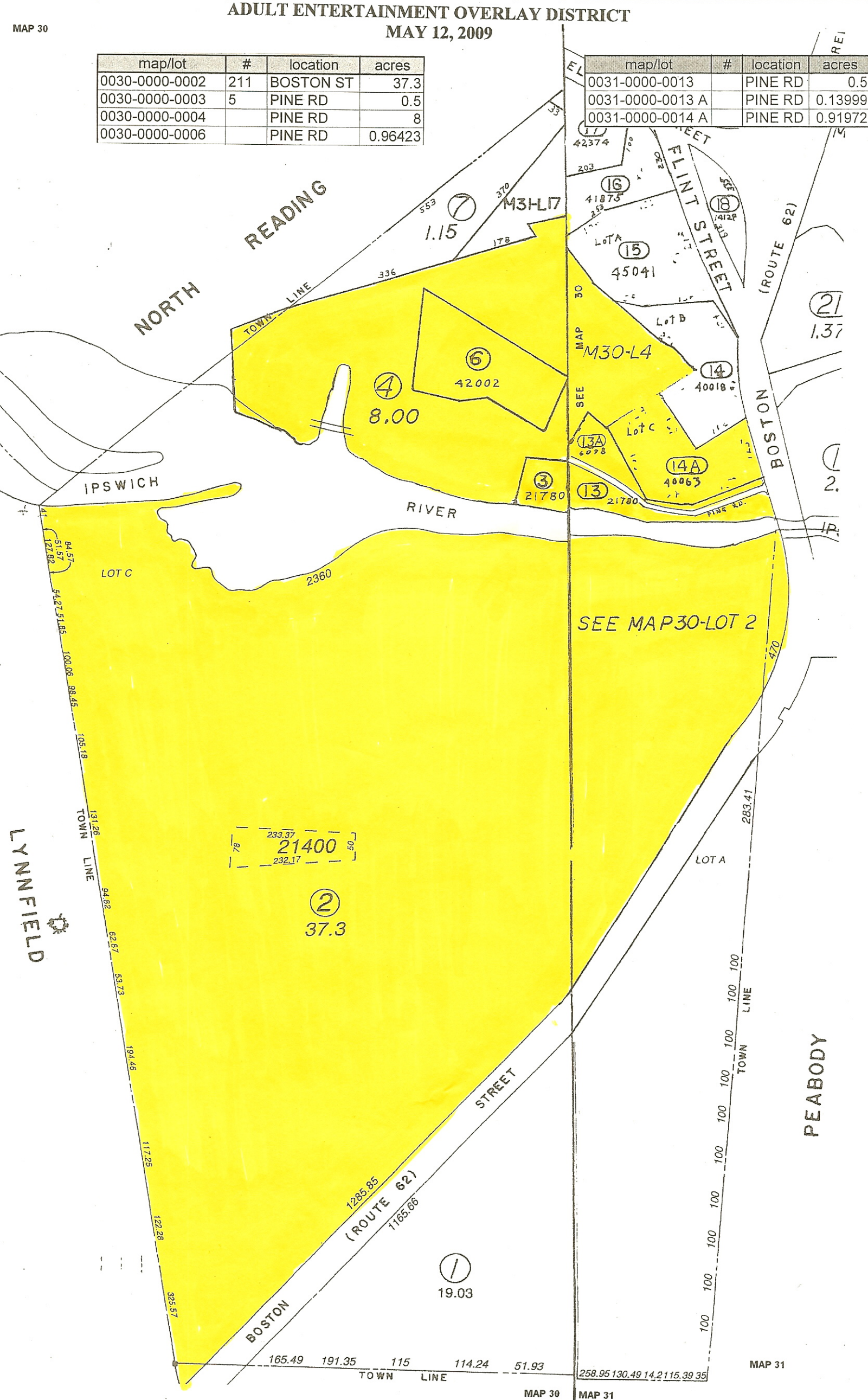
MAP 9



MAY 12, 2009

map/lot	#	location	acres
0030-0000-0002	211	BOSTON ST	37.3
0030-0000-0003	5	PINE RD	0.5
0030-0000-0004		PINE RD	8
0030-0000-0006		PINE RD	0.96423

map/lot	#	location	acres
0031-0000-0013		PINE RD	0.5
0031-0000-0013 A		PINE RD	0.13999
0031-0000-0014 A		PINE RD	0.91972



**1ARTICLE \_\_\_\_\_. TO SEE IF THE TOWN WILL VOTE TO AMEND THE ZONING BY-LAW BY ADDING REGULATIONS GOVERNING ADULT USES, AS FOLLOWS:**

**Item 1.** By adding the following definitions to Section 10, Definitions:

**Adult Bookstore.** An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.

**Adult Cabaret.** A nightclub, bar, restaurant, tavern, dance hall, or similar commercial establishment which regularly features persons or entertainers who appear in a state of nudity, or live performances which are distinguished or characterized by nudity, sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.

**Adult Motion Picture Theater.** An enclosed building or any portion thereof used for presenting material (motion picture films, video cassettes, cable television, slides or any other such visual media) distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31. of its stock devices, object, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined i n G.L. c. 272, s. 31.

**Adult Paraphernalia Store.** An establishment having as a substantial or significant portion

**Adult Video Store.** An establishment having a substantial or significant portion of its stock in trade - for sale or rent - motion picture films, video cassettes, and similar audio/visual media, which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.

**Adult Use or Adult Entertainment Enterprises.** Adult Bookstores, Adult Cabarets, Adult Motion Picture Theaters, Adult Paraphernalia Stores, and Adult Video Stores as defined in this bylaw.

**Item 2.** By adding the following new Section 8.5:

**8.5 ADULT ENTERTAINMENT OVERLAY DISTRICT.**

**8.5.1 Applicability.** The following regulations shall apply to adult uses as defined in Section 10 of this bylaw. Adult uses require a special permit from the Board of Appeals.

**8.5.2. Authority.** This By-Law is enacted pursuant to G.L. Chapter 40A and pursuant to the Massachusetts Constitution to serve the compelling Town interests of limiting the location of and preventing the clustering and concentration of certain Adult Entertainment Enterprises, as defined and designated herein, because of the deleterious effect in generating crime and blight.

**8.5.3 Purpose.** It is the purpose of the Adult Entertainment Overlay District to address and mitigate the secondary effects of the Adult Entertainment Enterprises and sexually oriented businesses that are referenced and defined herein. Secondary effects have been shown to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the Town, adverse impacts on the property values of residential and commercial properties, and adverse impacts on the quality of life in the Town. All of said secondary impacts are adverse to the health, safety and general welfare of the Town of Middleton and its inhabitants.

1. The provisions of this By-Law have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose or intent of this By-Law to restrict or deny access by adults to Adult Entertainment Enterprises or to sexually oriented matter or materials that are protected by the Constitution of the United States of America or of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Neither is it the purpose or intent of this By-Law to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials.

**8.5.4 Location; Overlay District.** The location of the Adult Entertainment Overlay district is shown on the map entitled, "Town of Middleton, Adult Entertainment Overlay District," dated \_\_\_\_\_, 2009. The Adult Entertainment Overlay District is an overlay district. To the extent that it provides for land use activities not otherwise set forth in the underlying district, the provisions of the overlay district shall control. Otherwise, the underlying district remains in full force and effect.

**8.5.5 Standards.** The following standards apply in the Adult Entertainment Overlay District.

1. Adult uses may not exceed 3,500 square feet of gross floor area.
2. No adult use special permit shall be issued to any person convicted of violating the provisions of G.L. c. 119, s. 63, or G.L. c. 272, s. 28.
3. No adult use shall be allowed to disseminate or offer to disseminate adult matter or paraphernalia to minors or to suffer minors to view displays or linger on the premises.

**8.5.6 Parking Requirements.** The following parking requirements shall apply:

1. Parking for adult bookstores, adult paraphernalia stores, and adult video stores shall meet the requirements for retail establishments.
2. Parking for adult cabarets and adult motion picture theaters shall meet the requirements of places of assembly or restaurants, whichever is greater.
3. Parking shall be provided in the side or rear yard area only.

4. All parking areas shall be illuminated, and all lighting shall be contained on the property and no adult use shall have any flashing lights visible from outside the establishment.

5. Parking areas shall be landscaped in conformance with the appropriate provisions of the Zoning By-law.

**8.5.7 Screening and Buffering.** The frontage in this zone will have 30 feet of landscaping not including any Town or State land, which will also be landscaped to the pavement. This frontage will be mounded to 3 feet, then with a wall and plantings or just plantings to achieve a 50% opacity. The final 6 feet toward the building will be grass or plantings no higher than 2 feet.

1. At the building there will be 6 feet of landscaping on at least three sides. The collector sidewalk can either be on the inside of this 6 feet or the outside.

2. The sides and rear of the property will have a minimum of 20 foot green buffer consisting of a 6 foot fence or wall and at least 8 feet of landscaping; also there will be a 4-6 inch street tree every 25 feet.

4. All building openings, entries and windows shall be screened in such a manner as to prevent visual access to the interior of the establishment by the public.

**8.5.8 Application Information.** The application for a special permit from the Board of Appeals for an adult use establishment must include the following information regarding the proposed facility:

1. Name and address of the legal owner of the establishment;

2. Name and address of all persons having lawful equity or security interest in the establishment;

3. Name and address of the manager;

4. The total number of employees and number of employees on a per shift basis;

5. Proposed provisions for security within and without the establishment;

6. The physical layout of the interior of the establishment;

7. Proposed hours of operation.

**8.5.9 Procedure.** An adult use special permit shall only be issued following a public hearing held within sixty-five (65) days after the filing of an application with the Board of Appeals, a copy of which shall forthwith be given to the Town Clerk by the applicant.

1. No building permit shall be granted for an adult use prior to submission and approval of a site plan by the Boards of Appeals.

2. The Board may impose reasonable conditions on the grant of any special permit, including limitations for the term of such special permit.

**8.5.10 Lapse.** Any adult use special permit issued under this bylaw shall lapse within one (1) year, and including such time required to pursue or await the determination of an appeal from the grant thereof, if substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause.

**OR WHAT IT WILL DO IN RELATION THERETO.**