

AD HOC COMMITTEE ON ADULT BUSINESS USES (ABU) (1-29-19)

DISCUSSION ITEM	TALKING POINTS	RATIONAL/STATUS	SUPPORTING DOCUMENTATION
<p>1. Regulation of ABU</p>	<ul style="list-style-type: none"> Is it reasonable to believe that ABU exist in DuPage County? Yes This type of use is a constitutional protected use. 	<ul style="list-style-type: none"> The County has 1 legal ABU (Zebulon Enterprise Book Store/Court order in 1986) The County has 2 land uses that are not technically ABU but have operation aspects that may touch on ABU activity. Over the years and particularly in the late 90s' and early 2000's the County had other ABU (e.g.: Diamonds Strip Club, several book stores and massages parlors, photo studios, spas etc.) 	<ul style="list-style-type: none"> United States Court of Appeals, Seventh Circuit. <i>Palmetto Properties, Inc. and Gregory A. Schirmer, Plaintiffs-Appellees, v. County of DuPage and Joseph E. Birkett, Defendants-Appellants</i>. No. 03-2174./ Decided: July 07, 2004 <i>Zebulon Enters. v. County of DuPage</i>, 496 N.E.2d 1256 (Ill. App. 1986)
<p>2. Regulation of (ABU) Continued</p>	<ul style="list-style-type: none"> Is it reasonable for the County of DuPage to develop regulations where we can demonstrate a substantial government interest? Yes 	<ul style="list-style-type: none"> Protect the health, safety and general welfare of the citizens of DuPage County. Maintain retail trade, maintain property values. Protect quality and character of urban and rural life and neighborhoods and commercial and industrial areas. Prevent crime. Combat crime Prevent juvenile delinquency. Prevent the spread of Aids and communicable diseases. Protect patrons of legal business Protect employees of legal business 	<ul style="list-style-type: none"> <i>Village of Euclid, Ohio v. Ambler Realty Co.</i>, 272 U.S. 365 (1926) Preamble to the Zoning Code stating the regulations are to advance the health safety and general welfare of the citizens of DuPage County <i>Renton v. Playtime Theaters</i> <i>Young v. American Mini-Theaters, Inc.</i> <i>City of Erie v. Paps, AM</i> <i>State v. Russo</i> <i>Thames Enterprise, Inc v. City of St. Louis</i> <i>Berg v. Health and Hospital Corporation of Marion County, Ind</i> <i>Town of Islip v. Caviglia</i> <i>City of Watseka v. Illinois Public Action Council</i> <i>Fantasy Land Video v County of San Diego 2005</i> <i>World Wide Video of Washington, Inc., v. City of Spokane, 2004</i> <i>Regulating Adult Business Uses-Zoning and First Amendment Limitations-Strafford 2013</i>
<p>3. Regulation of (ABU) Continued</p>	<ul style="list-style-type: none"> Is it reasonable for the County to balance the public's first amendment rights to freedom of speech and expression associated with ABU where the County seeks to advance its substantial government interest? Yes Is it reasonable to believe that there exists the opportunity for ABU uses to have adverse secondary effects based on studies performed by other jurisdictions similar in character to DuPage County, 	<ul style="list-style-type: none"> Are there other government entities that have researched the secondary effects of ABU and determined that said effects exist and are those experiences reasonably similar to that experienced in DuPage County? Have other similar government agencies created regulations to mitigate secondary effects of ABU? Are crime rates disproportionately higher near ABU, including open prostitution? Are Crime rates higher than average near ABU? Is there more of a spread of infectious communicable disease associated sexual activities? Do ABU cause adverse secondary effects (both prostitution and consensual sexual activity in public)? Does requiring a separation between ABU and places where public sex acts may occur reduce the adverse secondary effects of ABU? Is there a relationship between the spread of infectious communicable disease and sexual activities? Are there more occurrences of sexual offenses and public indecency activity in 	<ul style="list-style-type: none"> Los Angeles study on Adult Business Use- 1977 Garden Grove study, 1991 - (Tab L) residents perception of community were more negative, crime rates increased, property valuations decreased <i>Young v. American Mini-Theaters</i> decision – ditto <i>City of Renton v. Playtime Theaters</i> decision - Increased criminal activity near ABU <i>Northend Cinema v. Seattle</i> decision - All sorts of secondary effects related to ABU Whittier, CA study, 1994 - (summarized in the APA guide at p. 62-63) higher turnover of residential units, higher rate of crime. Indianapolis study, 1984 - Impacts on property valuations are greatest with residential areas compared to non-residential areas, properties appreciated at lower rates. Appraiser thought that effects diminish at 1000'. Crime rates, especially sex crimes, were higher than average near ABU Denver study, 1998 - (summarized in the APA guide at p. 57-58)

	<p>as evidence by the experiences of other jurisdictions relevant to the problem of adverse secondary effects of ABU? <u>Yes</u></p>	<p>open spaces associated with the proximity to ABU?</p> <ul style="list-style-type: none"> • Do public sex acts occur in and near ABU? • Are sex acts conducted in a high-risk manner, leaving behind bodily fluids? • Is there a concern that STD is further advanced and further contributes to a public health concern, and activities in and near an ABU worsens the problem? • Are adverse effects on property values magnified near ABU? • Do commercial properties appreciate at a lower rate when in proximity to an ABU such as rental rates, market time, sales, etc.? 	<p>individual ABU generated more police calls than did generic business, residential property typically appreciated at a lower rate when in proximity (city block- at least 660'-1000') to an ABU</p> <ul style="list-style-type: none"> • Ft. Worth, TX study, 1986 - (summarized in the APA guide at p. 58) crime rates are disproportionately high near ABU, open prostitution is detrimental to residential neighborhoods.
<p>4. Regulation of ABU Uses Continued</p>	<ul style="list-style-type: none"> • Is it reasonable to believe that ABU operators, employees and patrons too can suffer from the adverse secondary effects of ABU? • <u>Yes</u> 	<ul style="list-style-type: none"> • Is there a relationship between ABU operations and incidents of crime including crime between the ABU, its patrons/employees relative to robbery or theft? • Is there a relationship between ABU operations and incidents of crime including crime between the ABU and its patrons/employees relative to assault/battery? • Are sex acts conducted in a high-risk manner, leaving behind bodily fluids? • Is there a relationship between the spread of infectious communicable disease and sexual activities? 	<ul style="list-style-type: none"> • Testimony from the DuPage County Health Department • Testimony from the DuPage County Sheriff's Department • Testimony from Advocacy groups on Human Trafficking • Testimony from Law Enforcement on Human Trafficking • Testimony from Real Estate Appraiser • Characteristics between DuPage County and selected metropolitan areas • Ohio Senate Judiciary Committee Report- 03/12/2002 • New York City Case Study on Adult Entertainment 1994 • Crime incident report Miami Florida, 2007 • ABU and Sexually Oriented Crime-Relationship Study 2012 • FBI Incident Report to DuPage County and County Health Deptment- 2006 • <i>Strip Clubs According to Strippers-Exposing workplace Sexual Violence-</i> Kelly Hoppie, Freedom and Justice Center, Minneapolis Minnesota • <i>City of Austin TX Study 1986</i> • <i>Survey of Texas Appraisers-Secondary Effects of Sexually Oriented Business on Market Values-</i> Cooper 2008 • <i>Preventing the Secondary Effects of Adult Entertainment Establishments- Is Zoning the Solution?-</i> Tucker
<p>5. ABU Comprehensive Regulatory Program</p>	<ul style="list-style-type: none"> • Is it reasonable for the County to regulate ABU operations to advance its government interest to protect the public health, safety and general welfare from the secondary effects of ABU <u>Yes</u> 	<ul style="list-style-type: none"> • When and how best to mitigate the secondary adverse impacts of the operations of ABU? • Would a comprehensive ABU Ordinance directed at ABU operations prevent or mitigate the adverse effects of ABU, such as on premise crime, communicable disease, human trafficking? • The County proposes to develop a Comprehensive Regularity Program that includes the Zoning and Building codes, the Liquor Control Ordinance and licensing. 	<ul style="list-style-type: none"> • Testimony from ABU Licensing Advocate • Studies on ABU Business License - Dallas County, Texas • Studies on ABU Business License -San Diego County, California • Studies on ABU Business License- King County, Washington State