



UPPER MERION TOWNSHIP CODE ENFORCEMENT

175 WEST VALLEY FORGE ROAD
KING OF PRUSSIA, PA 19406-1802
610-265-2606
FAX: 610-265-8467
www.umtownship.org

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February 14, 2020

Letter mail certified and first class, return receipt requested

Amee S. Farrell, Esq.
Kaplan Stewart
Union Meeting Corporate Center
910 Harvest Drive
Blue Bell, PA 19422-0765

Re: 143 South Gulph Road King of Prussia, PA 19406

Dear Amee:

I received your letter dated January 22, 2020, regarding the above referenced property. Unfortunately, I do not believe that I have misapprehended the nature of the proposed use and furthermore, I do not consider your letter to be a new application. There are no material differences between your previously filed Use and Occupancy Application and the current Use and Occupancy Application, therefore my initial decision to deny your application, as outlined in my January 9, 2020 letter, remains in effect.

The Sexually Oriented Business Section 165-266 of the Township Code states;

Adult Book Store or Adult Video Store:

- A. A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:
 - 1) Books, magazines, periodicals or other printed matter or photographs, films, motion picture, videocassettes or video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas.
 - 2) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.
- B. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as "adult bookstore" or

What people do for themselves dies with them; what people do for their community lives on ...

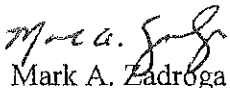
“adult video store.” Such other business purposes will not serve to exempt such commercial establishment from being categorized as an “adult bookstore or adult video store” so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas.

Section 165-266.B clearly indicates that a building can have multiple principal uses with a prohibited adult use being considered one of those principal uses. It also clearly indicates that the existence of other principal uses does not negate the fact that your proposal constitutes an adult use. You are proposing that since only 21% of the floor area is devoted to adult use, that it is not considered a principal use. Obviously, multiple principal uses can have less than 50% of the dedicated floor area and still be considered a principal use. Subparagraph B quoted above clearly contemplates the prospect of multiple principal uses and clearly dictates that the existence of other principal uses does not reclassify what is otherwise an adult use. Nowhere in the code are percentages mentioned for determining principal use, but rather it is the nature of the use that classifies the use as an adult use. Your client is specifically proposing the use as outlined in Section 165-266 A(1) and (2). The General Commercial Zoning District prohibits a sexually oriented business, therefore, your Use and Occupancy Permit Application is hereby denied.

You are hereby advised that you have the right to appeal this determination to the Upper Merion Township Zoning Hearing Board within thirty (30) days of the date of this letter in accordance with the procedures set forth in the code. If you have any questions, please do not hesitate to contact me at 610-205-8511.

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Sincerely,



Mark A. Zadroga

Director of Code Enforcement

CC: A. Hamaday, Township Manager
J. McGrory, Township Solicitor