

**Department of Community Planning and Economic Development – Planning Division Report**

Variance Request  
BZZ-3354

**Date:** February 15, 2007

**Applicant:** Randall Tigue, on behalf of Stiletto Group LLC

**Address of Property:** 121 Washington Avenue North

**Contact Person and Phone:** Randall Tigue, 612-825-0936

**Planning Staff and Phone:** Molly McCartney, 612-673-5811

**Date Application Deemed Complete:** December 20, 2006

**Public Hearing Date:** February 15, 2007

**End of 60 Day Decision Period:** February 18, 2007

**End of 120 Day Decision Period:** April 19, 2007, extension letter sent February 5, 2007

**Appeal Period Expiration:** February 26, 2007

**Ward: 7**      **Neighborhood Organization:** North Loop

**Existing Zoning:** B4S-1 Downtown Service District and DP Downtown Parking Overlay District

**Appeal of the decision of the Zoning Administrator:** Randall Tigue, on behalf of Stiletto Group LLC, is appealing of the decision of the Zoning Administrator that the window display at 121 Washington Avenue North violates the sign requirements for a sexually oriented use.

**525.170. Appeals of decisions of the zoning administrator.** All findings and decisions of the zoning administrator, planning director or other official involved in the administration or the enforcement of this zoning ordinance shall be final subject to appeal to the board of adjustment, except as otherwise provided by this zoning ordinance. Appeals may be initiated by any affected person by filing the appeal with the zoning administrator on a form approved by the zoning administrator. All appeals shall be filed within ten (10) calendar days of the date of the decision. Timely filing of an appeal shall stay all proceedings in the action appealed, unless the zoning administrator certifies to the board of adjustment, with service of a copy to the applicant, that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed. The board of adjustment shall hold a public hearing on each complete application for an appeal as provided in section 525.150. All findings and decisions of the board of adjustment concerning appeals shall be final, subject to appeal to the city council as specified in section 525.180.

## Background and Analysis:

The subject site, 121 Washington Avenue North, is a recently established adult entertainment center, Sinners, which features live adult-oriented entertainment. Sinners has received a City license from Business Licensing in the Department of Regulatory Services to operate at this location. As part of the licensing process, zoning approval was granted. Sexually oriented uses are restricted by the zoning code to be a certain distance from other sexually oriented uses, places of assembly, schools, day cares and residential and office residential districts. The business was established legally.

As a result of complaint, Zoning Enforcement staff inspected the exterior of the business and issued orders to remove a storefront display on November 20, 2006. The orders required removal of two illuminated mannequins in the storefront windows of the establishment. Staff found that the mannequins violated the sign requirements for a sexually oriented use:

549.370. Sign requirements. All sexually oriented uses shall comply with the following sign requirements, notwithstanding any other provision of this ordinance:

**(4) Window sign area shall be limited by the amount of total allowable sign area for the use, except that no merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from outside the building. (2002-Or-030, § 5, 4-5-02)**

While the mannequins are not truly anatomically correct, staff has determined the mannequins advertise that live adult entertainment occurs at the establishment and violated the sign requirements for sexually oriented uses. The zoning code definition of a sign states that a sign is used to define what is occurring at a business:

520.160. Sign. A structure, fixture, placard, announcement, declaration, image, device, demonstration, logo or insignia used for direction, information, identification, attraction, or to advertise or promote any business, product, activity, service, interest or entertainment.

The business owner is appealing the Decision of the Zoning Administrator that the window display at 121 Washington Avenue North violates the sign requirements for a sexually oriented use. The appellant states that since the establishment offers live entertainment and does not sell mannequins, the ordinance has not been violated because the mannequins do not depict the live entertainment taking place in the establishment. The appellants full appeal statement is included in the staff report.

## Recommendation of the CPED Department Planning Division:

The Department of Community Planning and Economic Development Planning Division recommends **denial** of the appeal of the Decision of the Zoning Administrator that the window display at 121 Washington Avenue North violates the sign requirements for a sexually oriented use.