

*City of*  
*Gainesville*

Inter-Office Communication

Planning Division  
x5022, FAX x2282, Station 11

Item No. 8

TO: City Plan Board DATE: Thursday, May 17, 2007

FROM: Planning Division Staff

SUBJECT: Petition 53TCH-07 PB, City of Gainesville. Amend section 30-90(f), Adult and Sexually Oriented Establishments, to eliminate the change of tenant or ownership requirement for a non-conforming use in this section.

Recommendation

Planning Division Staff recommends approval of the petition.

Explanation

The City Attorney's office has advised staff that the language in section 30-90(f) dealing with the change of tenant or ownership of non-conforming adult and sexually oriented establishments is probably unconstitutional and therefore should be stricken from the code. The proposed amendment is as follows:

Section 30-90(f) Existing establishments. Any use herein defined as a regulated use or an adult and sexually oriented establishment which, on the date this section becomes applicable to such use, is existing, in actual operation and open to the public, and which in all other respects is in full compliance with applicable laws and ordinances of the city, but which would not otherwise be permitted under the terms of this section, shall then become a permitted nonconforming uses. ~~Such uses may continue as nonconforming uses, except that any change of tenant or ownership of such nonconforming uses shall terminate that use's nonconforming status and any further operation of the use must be in full conformity with this section.~~

Respectfully submitted,



Ralph Hilliard  
Planning Manager

# DRAFT

**Petition 53TCH-07 PB City of Gainesville. Amend section 30-90(f), Adult and Sexually Oriented Establishments, to eliminate the change of tenant or ownership requirement for a non-conforming use in this section.**

Dean Mimms gave the Staff presentation and stated that this is a simple change advised by counsel.

Mr. Cohen stated that he is inclined to deny the petition without the City Attorney present to explain it, as they can not discuss the situation in any depth or understanding to make an informed decision.

Citizens came forward and expressed concern for this petition.

<b>Motion By:</b> Bob Cohen	<b>Seconded By:</b> Laura High
<b>Moved To:</b> Deny with the Board's request that in future petitions that involve legal issues, the City Attorney send a representative, at which time the Board will be please to review the petition again.	<b>Upon Vote:</b> 6 – 0.

# DRAFT