



## Planning and Development Department

# Petition PB-09-124 TCH Sexually Oriented Businesses January 21, 2010 (City Legistar No. 090643)

# Purpose and History

- **Purpose:**
- Address potential legal issues
- **History:**
- Legal Staff explained potential legal issues
- City Commission authorized city staff to hire a consultant.
- In 2008 the City of Gainesville retained Duncan Associates
- City Commission authorized staff to move forward with a petition

# Major Issues

**Negative Impacts**  
**Compatibility Site Availability**  
**Reasonable Opportunity**  
**Secondary**

# Proposed Regulations

**Definitions**

**Zoning Districts**

**Intent and Purpose**

**Findings**

**Spacing/Measurement**

**Design restrictions**

**Limited quantities**

**Signage restrictions**

# Findings

- **Whereas:**
  - The concept of separating sexually oriented businesses from residential areas and other sensitive uses is consistent with the use of zoning to separate incompatible uses, and it is a concept that has been upheld by the courts;
  - From a zoning perspective, sexually oriented business uses are incompatible with residential areas, places of religious assembly, public parks and uses that predominately serve minors;

- The separation of sexually oriented business businesses from residential areas, public parks, places of religious assembly, public and private schools, and youth associations will mitigate the negative effect of such businesses on these sensitive uses; and
- The studies indicate that the clustering of sexually oriented businesses can increase the negative secondary effect of such businesses

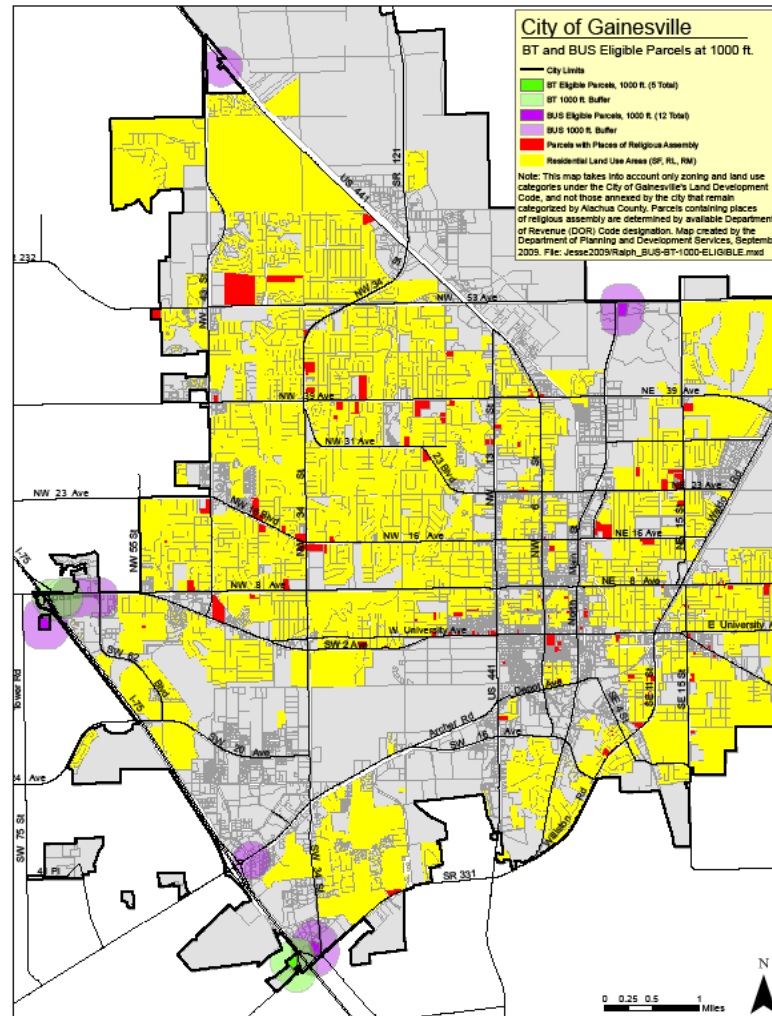
- The City Commission finds that the General Business (BUS) District and Tourist-Oriented Business (BT) District include many of the large and intensive commercial areas of the city, providing sites for additional commercial enterprises that would be adequately separated from incompatible issues; and
- The City Commission finds, however, that based on the Duncan Recommendations, the numbers of parcels in the BUS and BT district that will meet the proposed separation requirement of 1000 feet may be more limited than the number of parcels that the courts have held to be required in other communities; and

- After careful study of the options of allowing such businesses in the I-1 or I-2 industrial districts, the Commission concluded that the geography of the current I-1 district is such that allowing such businesses in both the I1 and BUS districts could lead to some apparent concentrations of such businesses in one part of the community, a result that could increase the negative secondary effects of the businesses; and

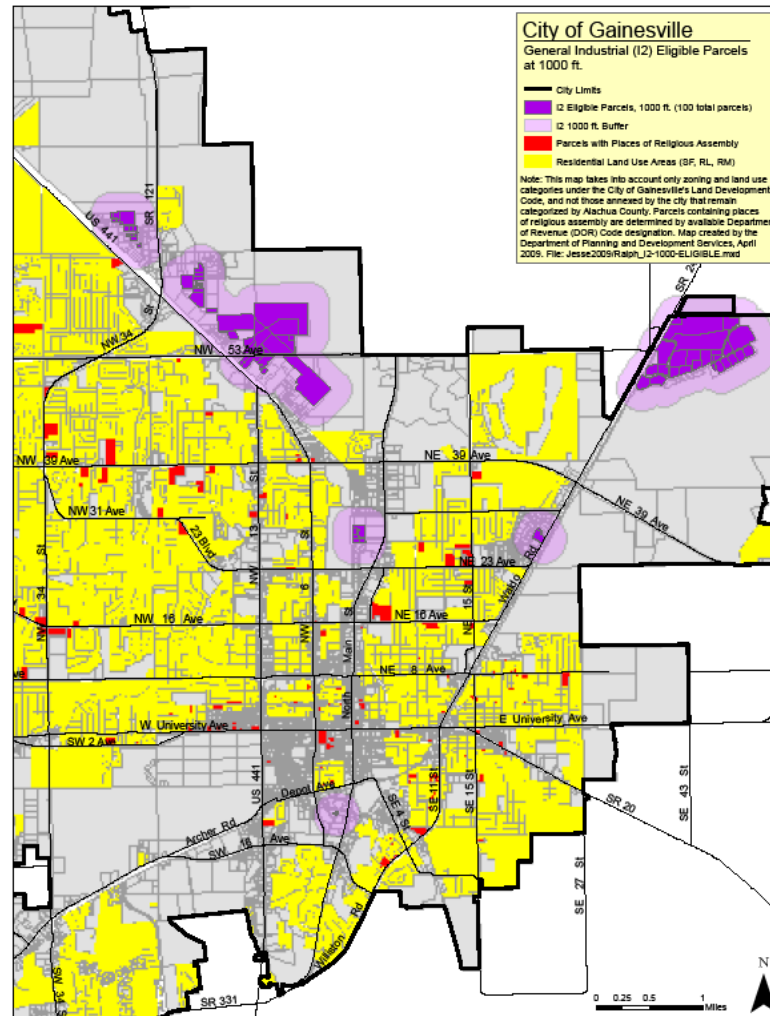


- The Commission finds that allowing such businesses in the I-2, BUS, and BT districts provides a large geographic area that allow for wider separation among potential sexually oriented businesses; and
- The Commission finds that allowing such businesses in the I-2, BUS, and BT districts provides more that 100 parcels potentially available for sexually oriented businesses and this number of parcels exceeds the number of sexually oriented businesses that currently exist or are likely to exist in the City; and .....

# BT and BUS Parcels



# General Industrial Parcels



# Recommendation

- Approve Petition PB-09-124 TCH with the findings identified in the staff report and with the following additional items:
  - 1. That staff create a finding that indicates that the proposed changes are consistent with the City's comprehensive plan.

- 2. That staff ensure that additional sign regulations contained within the proposed changes are the minimum necessary to identify differences from the existing sign code.
- 3. That staff work to ensure that the analysis of potentially available sites accounts for City-owned property, Alachua County land use and zoning, and restrictions due to Special Area Plans.
- 4. That staff identify an alternative [to measurement to property line] measurement standard for businesses located in multi-tenant developments.

- 5. That staff continue to examine specific regulations for the window display of retail goods.
- 6. That staff evaluate potential buffering requirements from health services/nursing homes.
- 7. That staff evaluate the potential for additional regulations on Gateway Streets as identified in the Land Development Code.

- 8. That approval is based on the fact that the City has a substantial interest in regulating negative impacts on blight, declining property values, traffic, which have been established by the reports that are listed in the staff report. Those reports establish the negative secondary impacts of adult entertainment, including crime

- **Recommendation:**
  - Approve the Petition