

**CITY OF MADISON
Common Council Office
INTER-DEPARTMENTAL
CORRESPONDENCE
210 Martin Luther King, Jr. Blvd., Room 417
Madison WI 53703
266-4071**

DATE: July 24, 2006

TO: Plan Commission Members

FROM: Ald. Tim Bruer, District 14

SUBJECT: **Agenda Item No. 21** - Legislative File No. 03842 - Amending Sec. 28.10(4)(c)56.d., of the zoning code of the Madison General Ordinances to provide that the 1,000 foot buffer between adult entertainment establishments and certain other uses shall not be measured to cross state or federal highways with more than four lanes and a posted speed limit of 45 mph or more, except where legal pedestrian access exists.

After discussions with the City Attorney, some of the members of the Plan Commission and Common Council members I would like to **request referral of the above ordinance.**

I would further appreciate consideration by the Commission to **establish a Plan Commission work group to review the issues and concerns associated with the siting of adult entertainment establishments and revising current ordinances associated with gift stores selling adult entertainment items.**

Several years ago the Plan Commission approved an initiative by the City Attorney's office and myself to recognize the First Amendment right of adult entertainment establishments to exist. Inadvertently a rezoning text amendment provision removed highways as a buffer resulting in minimizing the number of legitimate available parcels.

After a recent Planning and Zoning staff review and evaluation, the number of parcels today available for the siting of adult entertainment establishments has been minimized to a few possible marketable sites. This is due to development over time, covenant restrictions disallowing adult entertainment establishments and the construction of churches and other housing tracts that prevent siting. These factors have resulted in literally nowhere within the M1 districts for these uses to legitimately exist.

Also as a direct result of not having sites available within M1 districts, there has been and will continue to be a deliberate manipulation of the zoning ordinances to disguise adult entertainment establishments as gift stores. Often these adult gift stores locate immediately adjacent to residential neighborhoods and business districts. Unfortunately while the adult entertainment establishments have indicated their desire to locate outside of neighborhoods,

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the lack of locations has clearly been cited for their reasons for their choices of locating their adult entertainment gift stores.

It was our hope that making this text amendment before you would correct the inadvertent omission regarding highway buffers and provide for a reasonable number of sites for these establishments to exist. However after staff review which identified only a handful of locations and the geographical limitations one could conclude that a more in-depth study needs to be completed to determine other options or policy considerations.

Therefore I would appreciate the Plan Commission forming a working group to look at the broader public policy and legal issues and develop a siting strategy for adult entertainment establishments. This is particularly important since we also have an increasing number of adult entertainment establishments opening as gift stores and siting in residential neighborhoods and neighborhood business districts. As part of the Plan Commission working group's review it would also be appreciated if they provide greater consideration and criteria for gift stores selling adult entertainment gift items.

As a result of the Plan Commission working group hopefully will result in a comprehensive policy and protect the city against First Amendment legal court challenges.

Thank you for your consideration of my requests.

cc: Mayor Dave Cieslewicz
Common Council Members
Michael May, City Attorney