

# FLORIDA ASSOCIATION OF COUNTIES

## 2022 ANNUAL CONFERENCE & EDUCATIONAL EXPOSITION

*County Planning and Land Use Decisions: Impacts to Public  
and Private Interests*

# Introductions

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# What's the Public Interest?

# What are public and private interest?

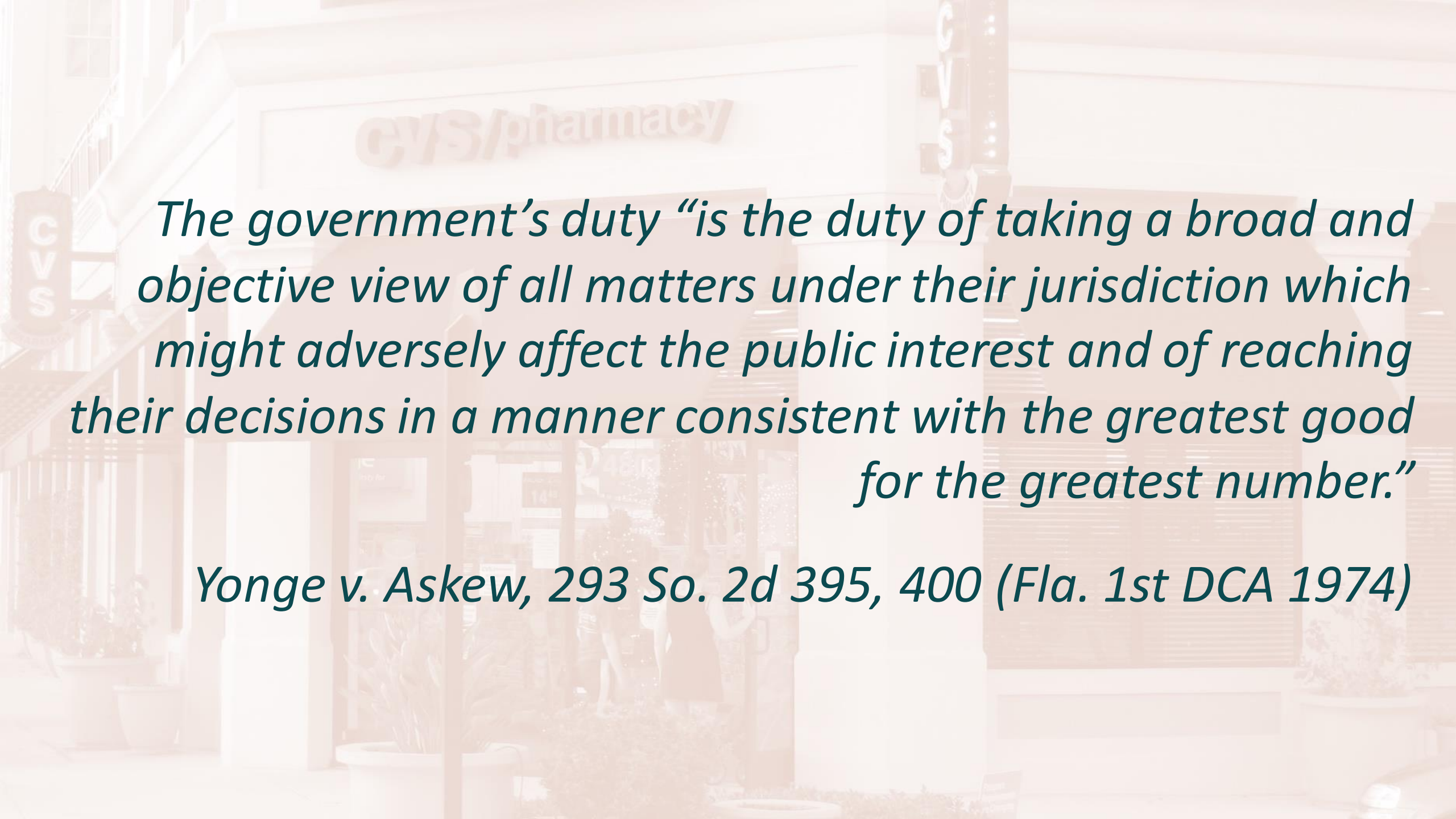
–Private interest:

- Narrow, special

–Public interest:

- Broad, common



A faded, light-colored background image of a CVS Pharmacy storefront. The building has a prominent 'CVS/pharmacy' sign above the entrance. To the left, a vertical sign also displays 'CVS'. The entrance area shows glass doors and windows, with some interior details visible. The overall image is semi-transparent, serving as a backdrop for the text.

*The government's duty "is the duty of taking a broad and objective view of all matters under their jurisdiction which might adversely affect the public interest and of reaching their decisions in a manner consistent with the greatest good for the greatest number."*

*Yonge v. Askew, 293 So. 2d 395, 400 (Fla. 1st DCA 1974)*



*“A determination of public interest requires a case-specific analysis based on consideration of the proposed settlement taken as a whole.”*

*Sierra Club v. Brown, 243 So. 3d 903, 910 (Fla. 2018) (citing In re: Petition for Rate Increase by Gulf Power Co., 2017 WL 2212158, at \*6.)*

# EXTERNALITIES

“An externality is a cost or benefit caused by a producer that is not financially incurred or received by that producer. ... The costs and benefits can be both private—to an individual or an organization—or social, meaning it can affect society as a whole.”

*-Investopedia*

# EXTERNALITIES

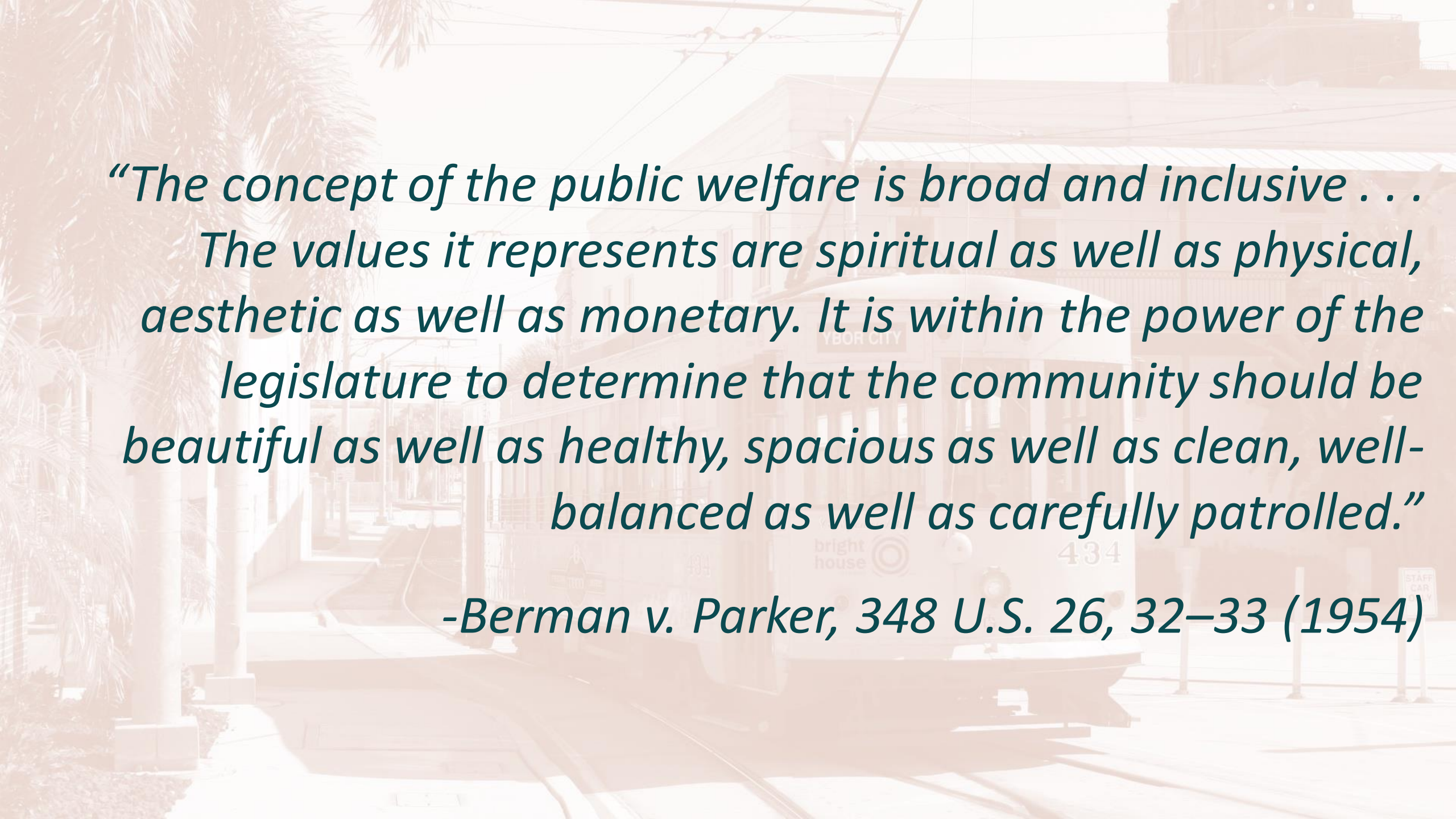
Can be negative

- Harm pollution causes

Can be positive:

- Benefit of preserving historic building

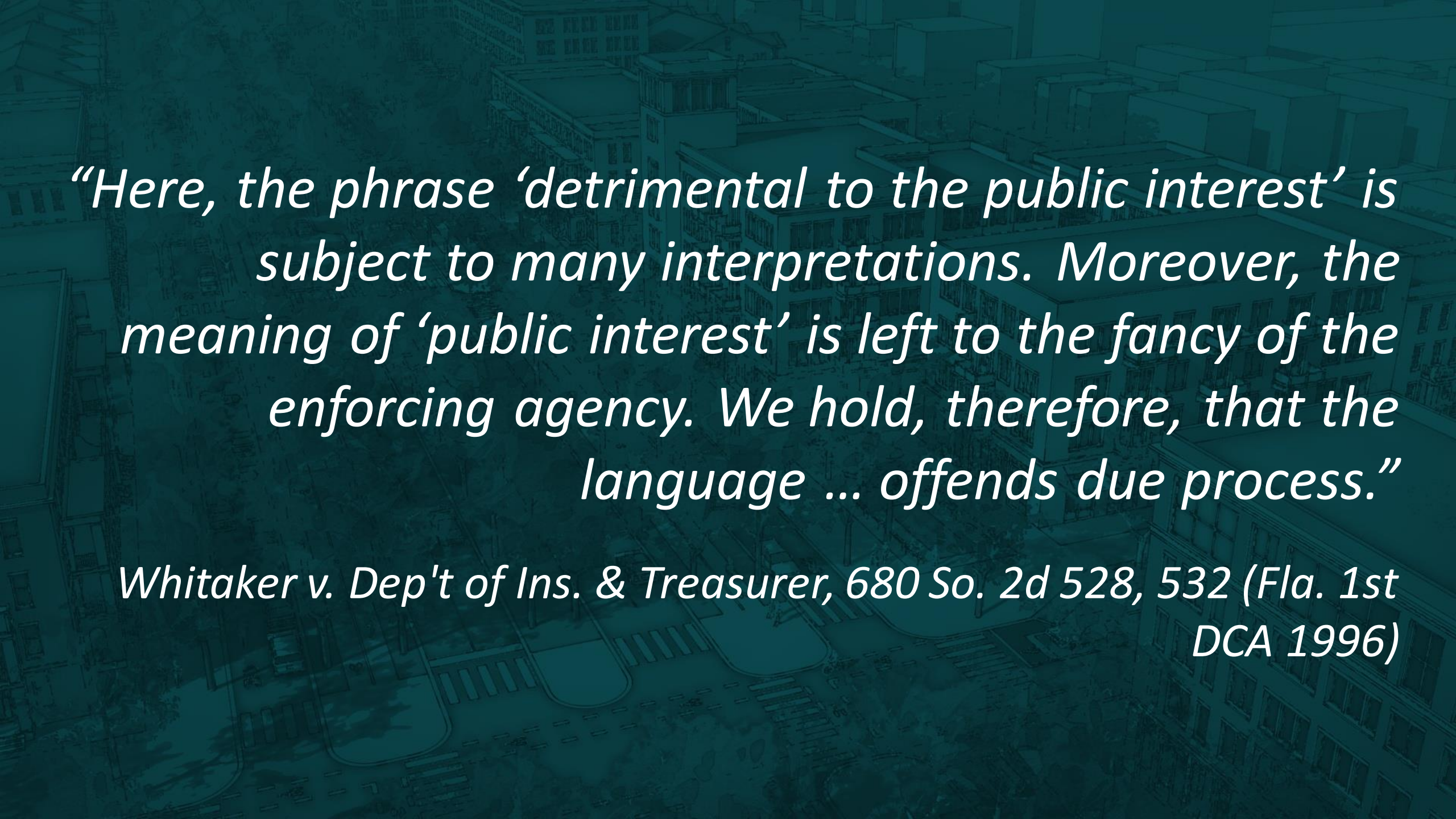


The background is a faded, sepia-toned photograph of a street scene. On the left, there are palm trees and a sidewalk. In the center, a trolley or tram is visible, with the words "YBOR CITY" and "bright house" on its side. The number "434" is also visible on the trolley. In the background, there are buildings and a street sign that says "STAFF CAR".

*“The concept of the public welfare is broad and inclusive . . .  
The values it represents are spiritual as well as physical,  
aesthetic as well as monetary. It is within the power of the  
legislature to determine that the community should be  
beautiful as well as healthy, spacious as well as clean, well-  
balanced as well as carefully patrolled.”*

*-Berman v. Parker, 348 U.S. 26, 32–33 (1954)*





*“Here, the phrase ‘detrimental to the public interest’ is subject to many interpretations. Moreover, the meaning of ‘public interest’ is left to the fancy of the enforcing agency. We hold, therefore, that the language ... offends due process.”*

*Whitaker v. Dep't of Ins. & Treasurer, 680 So. 2d 528, 532 (Fla. 1st DCA 1996)*

“Many of you will recall the celebrated confrontation a few years ago between Ralph Nader and Lloyd Cutler. Cutler's firm had represented automobile companies in settlement negotiations with the Justice Department. These negotiations had resulted in a consent decree which terminated an antitrust suit which charged the automobile companies with a conspiracy to impede the development of emission control systems.

“Through Nader's promptings a group of law students picketed Cutler's firm to call attention to the settlement, which they characterized as a ‘sell out’ out of the public interest. Cutler was visibly upset and accused the law students of violating legal ethics by picketing. He asked the sixty-four-dollar question: ‘Why do you think you have a monopoly on deciding what is in the public interest?’”

*Cramton, Roger C., "What is the Public Interest? Who Represents It?" 385-86 (1974). Cornell Law Faculty Publications. Paper 1362.*



Divining the public interest may be impossible.

But, the attempt is your highest calling as an elected official.



# Public vs. Private

- Different entities and goals but cannot function without each other.
- How do we define/decide what is best for the public? Is it best for all citizens, or those that have the loudest voice, or are part of the correct political party, or are part of staff?

# Urban Design









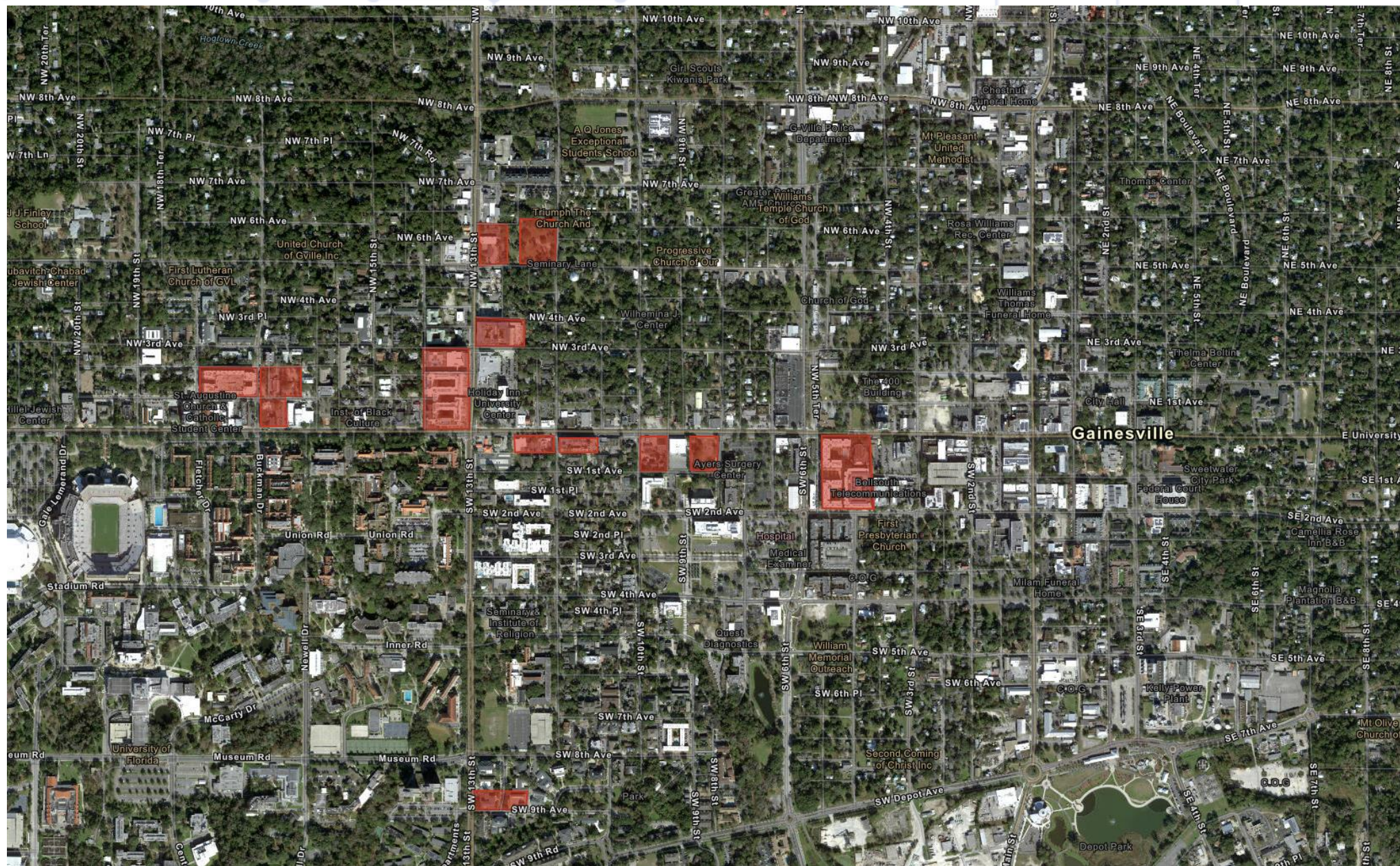














# Why Doesn't it Work?

- Example – Chick–Fil-A
  - The Standard vs. Butler Plaza (Urban vs. Suburban)
    - Monthly Traffic:
      - The Standard — 8,000 visits (170 out of 214 in FL)
      - Butler Plaza – 61,000 visits (2 out of 214 in FL)
  - Rent Impact: Rent is much higher for an urban store (\$40-50 psf) versus a suburban store with drive-thru

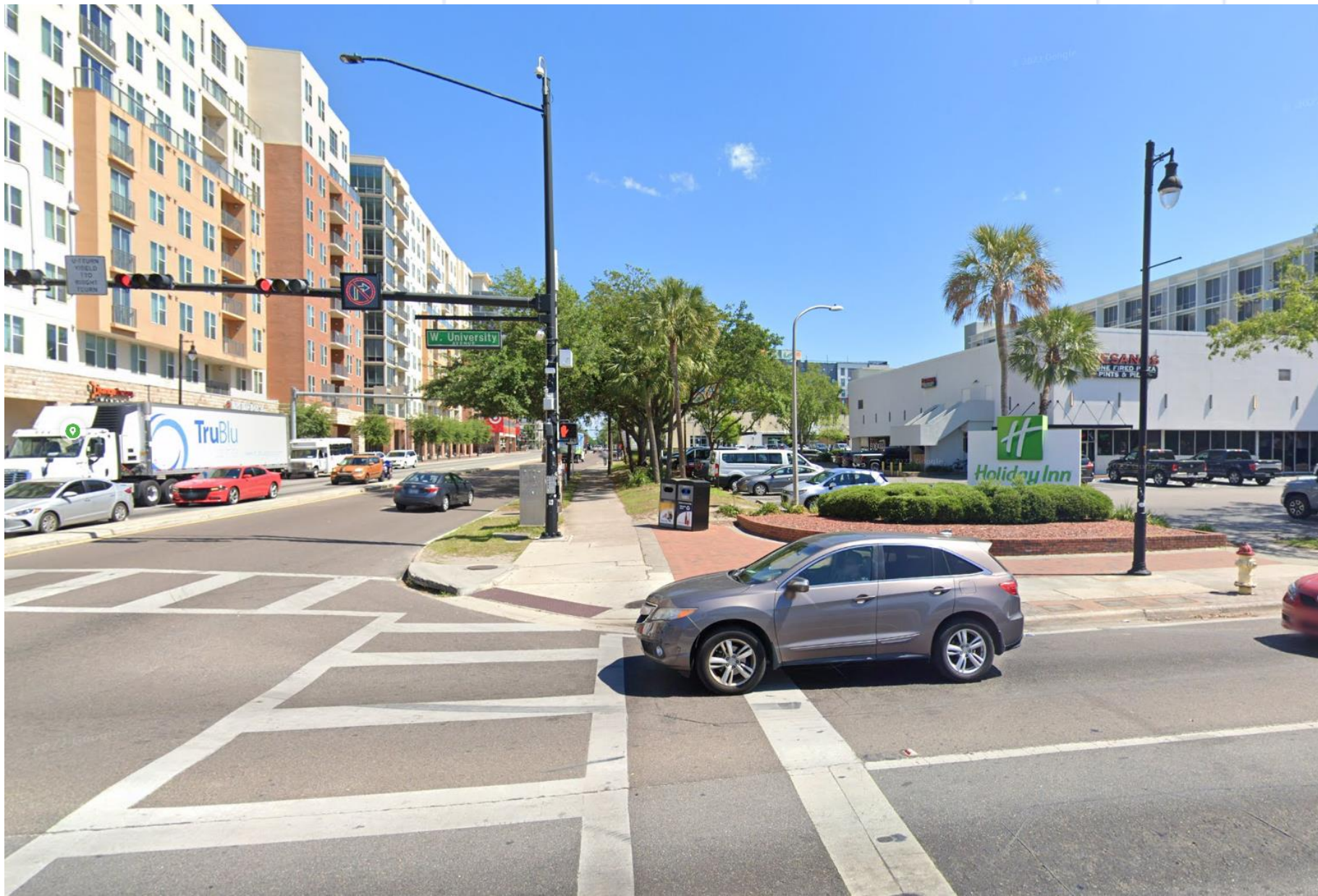


# Urban Design

- We want people to walk but we allow spaces that don't encourage it.



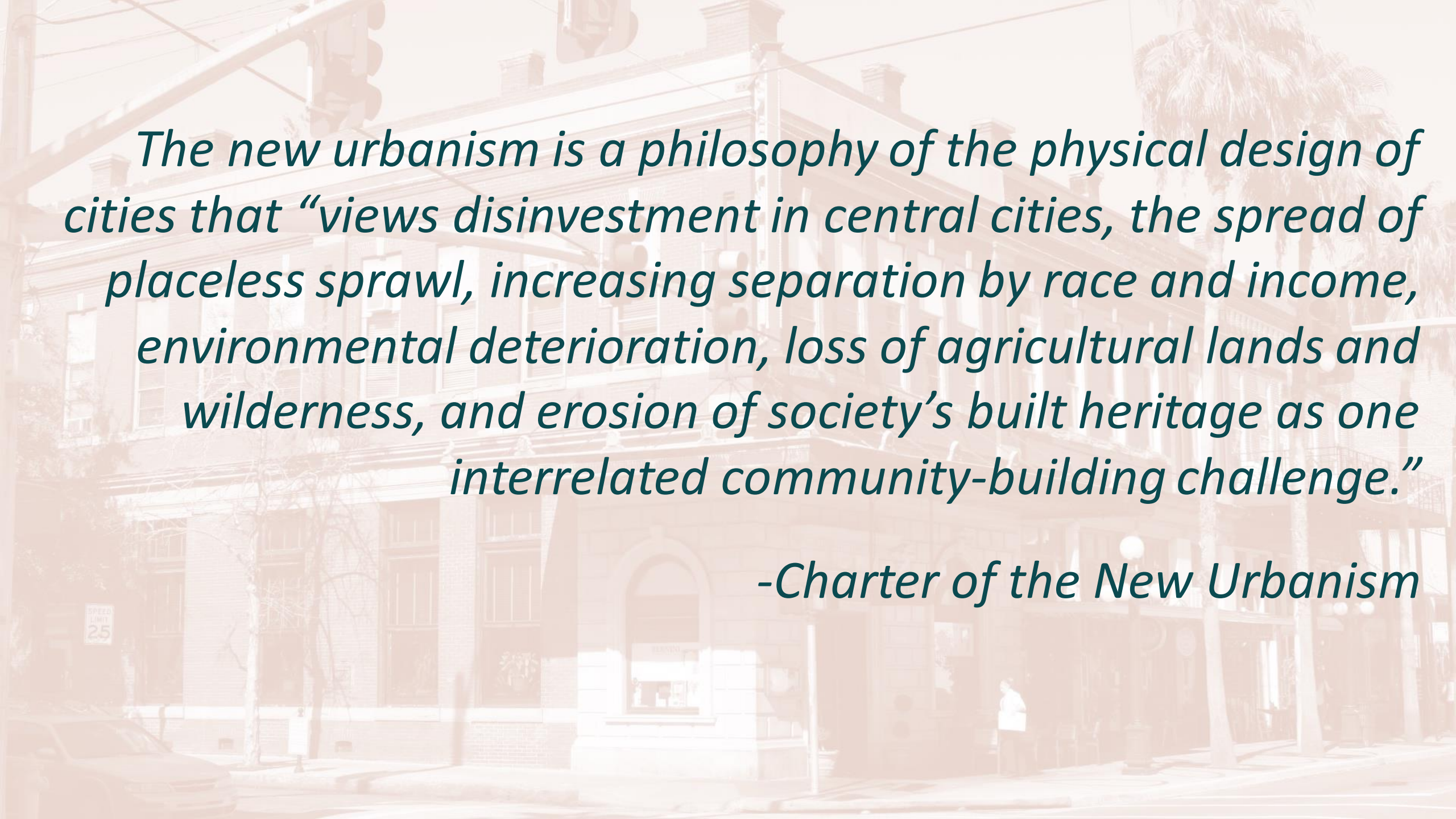










The background of the image is a faded, orange-tinted photograph of a city street. It shows multi-story brick buildings with many windows, some with awnings. A palm tree is visible on the right side. In the foreground, there's a sidewalk, a street with a car, and a speed limit sign that says '25'.

*The new urbanism is a philosophy of the physical design of cities that “views disinvestment in central cities, the spread of placeless sprawl, increasing separation by race and income, environmental deterioration, loss of agricultural lands and wilderness, and erosion of society’s built heritage as one interrelated community-building challenge.”*

*-Charter of the New Urbanism*

















# *How does development impact the public interest?*

- Jobs
- Traffic
- Environment
- Beauty
- Convenience
- Crime



# *How does development impact the private interest?*

- Developer profit
- Landowner profit
- Home value
- Benefit to a few commercial tenants
- Benefit to a few residents





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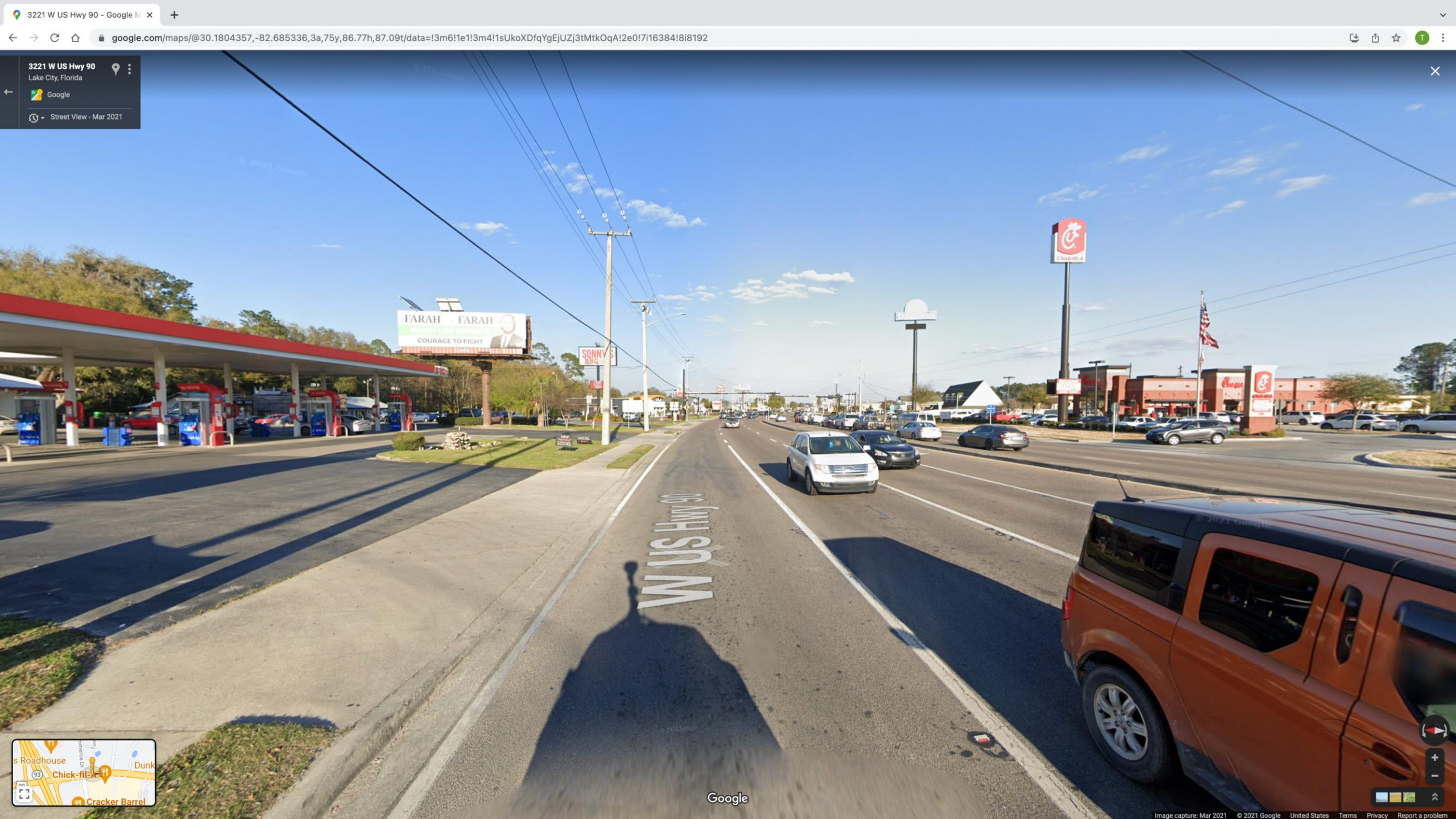
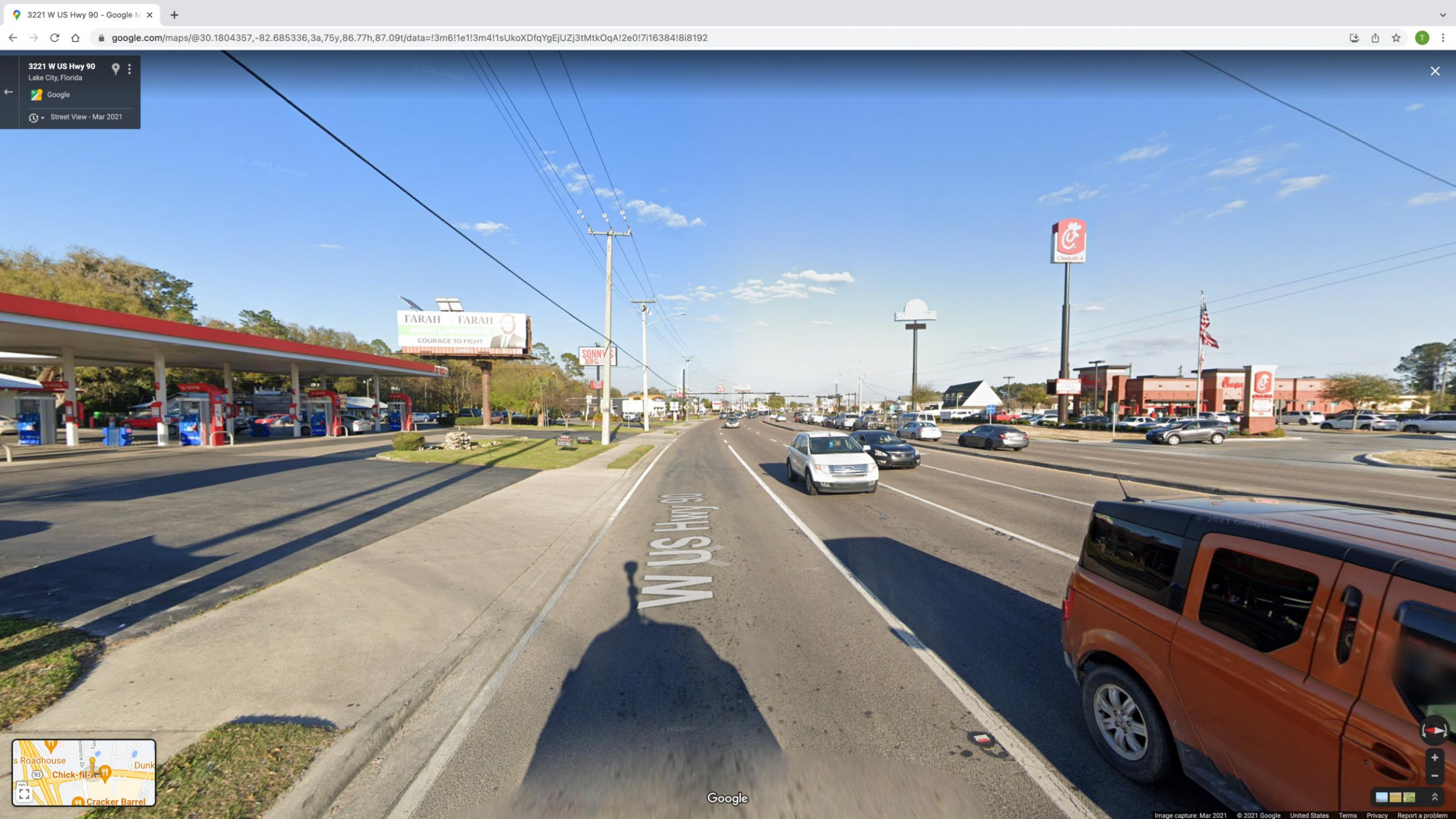
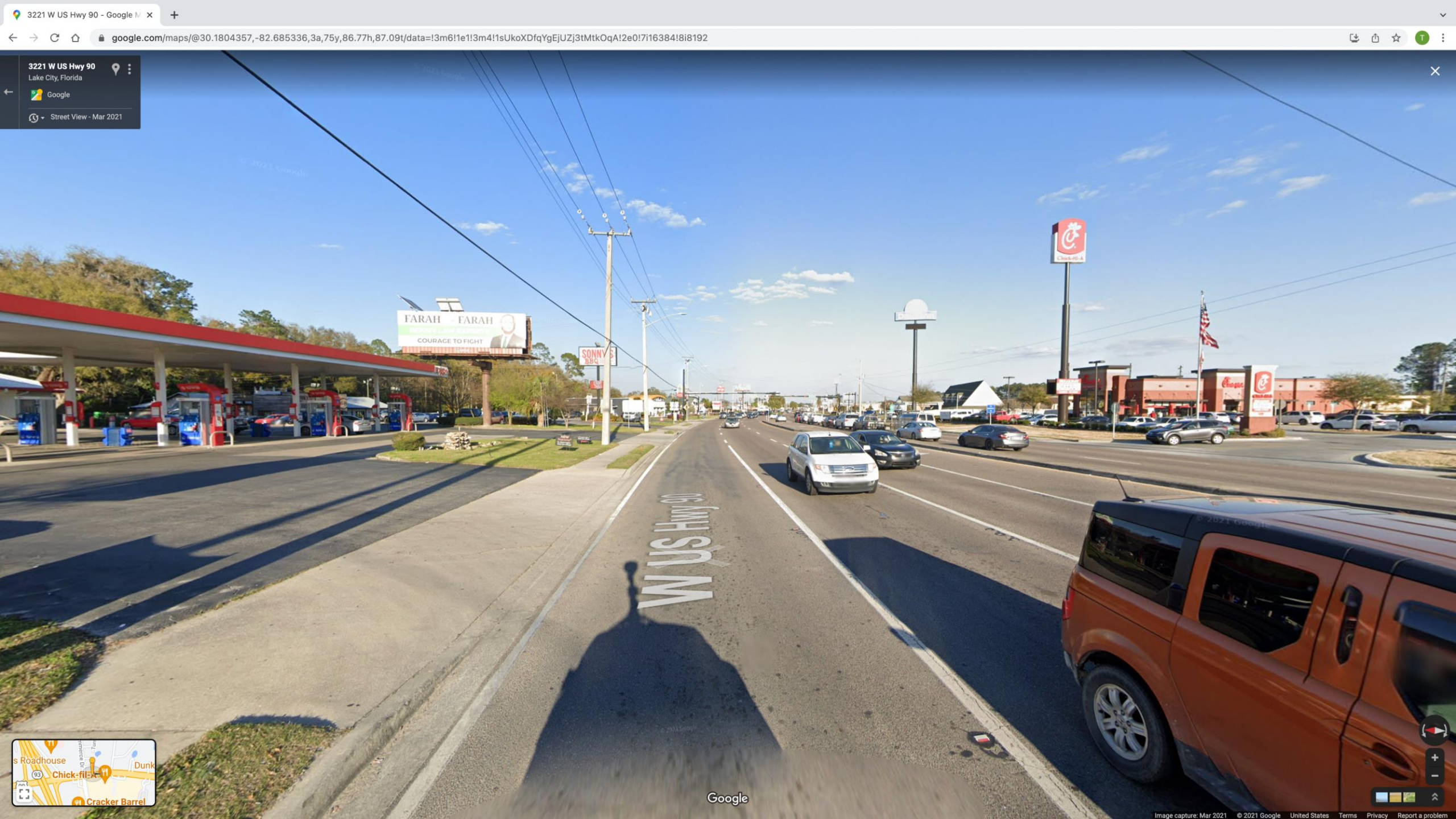
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FLORIDA QUALITY COUNCIL  
PRESENTS DAVID LYKKEN  
AUG 25 DOORS 330PM

7th AVE  
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FLA

15th ST  
CITY





















# The Planning Process

# ADVOCACY IMBALANCE

Private interests have more to gain or lose from your actions than any member of the public at-large.

So, the voices you hear are not balanced.



**TRANSPARENCY  
PREDICTABILITY  
RELIABILITY**

# TRANSPARENCY

**People can see and participate in decision-making process.**

- Transparency protects due process.
- Key concept is fairness.
- Every person should have access, not just professionals.

# PREDICTABILITY

**Local government follows rules that are clear and unambiguous.**

- Residents know what will happen in community.
- Investors know whether government will permit development.



# RELIABILITY

## Local government keeps commitments.

- Make and follow a realistic plan.
- Change plan only after thorough consideration and broad support.
- Supports long-term investments in community.

# The Planning Process

- What are the public's goals?
  - Are the goals attainable?
  - Process should reflect them
  - Planning should implement them.



# The Planning Process

- What are the public's goals?
  - Process should include – measurement – how are we doing?
  - Process should be as quick as possible – Time is money....
  - Should be sensitive to the private market.
    - *“The market doesn't care what you want/need.”*

# The Planning Process

- What are the public's goals and why?
  - **For example:**
    - Why is vertical mixed-used such a big topic? It doesn't work in most places.
    - Why don't we like parking?
    - Why do we always want to be someone else? (Gainesville would like to be Portland or Austin or Greenville)



# The Planning Process

- When should we have meetings and who should we listen too?
- Can the process actually be harmful to the public interest?
  - Katherine Levine Einstein (professor @ BU in politics)
    - ***Neighborhood Defenders: Participatory Politics and America's Housing Crisis***
      - NIMBY – Not in my backyard
      - BANANA – Build absolutely nothing anywhere near anyone
- Private interests care about certainty vs. uncertainty.



## Let's make it happen!

Alachua County is poised to evolve from a small college town to a prosperous university city. Working together we can make sure that our community will thrive for generations to come.

## What is Envision Alachua?

Envision Alachua is a community-based planning process that seeks to create a vibrant and sustainable future on Plum Creek lands located in eastern Alachua County. Envision Alachua responds directly to the needs and goals expressed by the public—creating opportunities for jobs and education, protecting natural lands and conserving valuable resources.

Envision Alachua's Focus:

- Strong Economy**
- Vibrant Communities**
- Healthy Environment**





# Questions & Discussion?