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February 2, 2023

Mayor Ken Kolowski,
Peru City Clerk, and
Aldermen of the City of Peru

RE: Petition of City of Peru for Zoning Ordinance Text Amendment – Video Gaming Cafés
Continued from January 25, 2023

Gentlemen:

Pursuant to legal notice published in the News Tribune in the manner provided by law, the Planning/Zoning Commission of the City of Peru convened for a public hearing on Wednesday, February 1, 2023, at 5:00 p.m. in the City Municipal Building, 1901 Fourth Street, Peru, IL, to consider the Petition of the City of Peru (“City”).

City seeks a text amendment to the City of Peru Zoning Ordinance to add “Video Gaming Café” as a special use in B-1 Neighborhood Shopping Districts, B-2 Community Shopping Districts, B-3 Central Business Districts, and/or B-4, Highway Business Districts.

Planning/Zoning Commission Members Miller, Lucas, Kalsto, Grabowski, Brady and Moreno were present at the hearing. Member Atkinson was absent.

City Corporation Counsel Scott Schweickert presented the petition on behalf of the City. Attorney Schweickert testified as follows:

The City of Peru is an Illinois home rule unit of government and, pursuant to the provisions of Article VII, Section 6(a) of the Illinois Constitution, may exercise any power and perform any function pertaining to its government and affairs, including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare.

The Illinois Video Gaming Act, 230 ILCS 40/1, *et seq.*, regulates the operation, licensing, and administration of video gaming.

Section 27 of the Video Gaming Act authorizes the City to prohibit video gaming within the corporate limits of the City and, implied within such authorization, is the authority to limit, license and regulate video gaming within the City’s corporate limits.

The City is further authorized by Section 11-5-1 of the Illinois Municipal Code, 65 ILCS 5/11-5-1, to suppress gaming and gambling houses.

Upon information and belief, there are 183 video gaming terminals operating across 32 locations within the corporate limits of the City.

Upon information and belief, 9 of the 32 locations offering video gaming within the City are “Video Gaming Cafés” – businesses whose primary purpose is to operate video gaming terminals.

Upon information and belief, video gaming cafés have proliferated along the City’s primary thoroughfares in the City’s Business Districts, including 6 video gaming cafés amongst other video gaming locations located within a 10-block stretch of Route 6 in downtown Peru.

The corporate authorities of the City have determined that it is desirable and in the best interest of public health, safety, morals and welfare to exercise its zoning powers to regulate and suppress the proliferation of video gaming cafés by imposing reasonable restrictions as to the location and number thereof by permitting new Video Gaming Café’s only by special use in compliance with such restrictions in areas zoned B-1, B-2, B-3 and/or B-4.

Attorney Schweickert passed out an aerial map showing the locations of the 9 video gaming cafes he identified in the City, a copy of which attached hereto as Exhibit A. There is one video gaming café located in of B-1, B-2, and B-3 zoning districts, and six located in B-4.

Attorney Schweickert then reviewed the proposed text amendments to the City’s Zoning Ordinance, stating that the Zoning Ordinance would define “*Video Gaming Café*” as “*a business whose primary purpose is to operate video gaming terminals as defined under the Illinois Video Gaming Act (230 ILCS 40/5) and in which alcoholic liquor is drawn, poured, mixed, or otherwise served for consumption on the premises which is subsidiary to the operation of the video gaming terminals.*”

The Zoning Ordinance would also be amended to set forth considerations for determining whether a business’s primary purpose is video gaming, which considerations include but are not limited to:

- (1) *A seating area for video gaming terminals being greater than the seating area for food and beverage services or merchandise sales.*
- (2) *The absence of a full-service kitchen.*
- (3) *An estimated net revenue of at least forty percent (40%) or more derived from video gaming terminals.*
- (4) *An overall size of one thousand five hundred (1,500) square feet or less.*

Finally, the Zoning Ordinance would be amended to impose reasonable restrictions on the location of Video Gaming Café in any zoning district where it is available by special use:

- (1) *No Video Gaming Café shall be located closer than one thousand feet (1,000’) from another Video Gaming Café, regardless of the jurisdiction in which the facility is located; and*
- (2) *No Video Gaming Café shall be located within three hundred feet (300’) of the perimeter of any school grounds, childcare facility, playground, public park, recreational center or facility, or place of religious worship regardless of the zoning district in which it is located when measured from the property line(s) containing such regulated use.*

With respect to the location restrictions, Attorney Schweickert noted that 1,000’ is approximately three City blocks. Further, Section 25(h) of the Video Gaming Act does already impose a location restriction for all gaming establishments of 100’ from a school or place of worship.

Attorney Schweickert testified further that existing business establishments that fall within the definition of Video Gaming Cafés would be allowed to renew their annual video gaming establishment licenses, continue operations and be treated as a nonconforming use under the Zoning Ordinance.

In response to questioning from Member Moreno, Attorney Schweickert confirmed that this would prevent a new Video Gaming Café from opening right next door to another one. It would need to be 1000', or approximately 3 blocks, away from another Video Gaming Café to be approved for a special use.

In response to questioning from Chairman Miller, Attorney Schweickert said this amendment does not cap the total number of Video Gaming Cafés allowed.

In response to questioning from Member Brady, Attorney Schweickert stated that he is not aware of any currently pending license applications for new Video Gaming Cafés.

Chairman Miller noted that video gaming signage is everywhere but was unaware there were that many locations.

Member Kalsto referred to a list of all locations with video gaming terminals within the City of Peru, noting the number and proximity of those locations on Fourth Street. In response to questioning from Member Kalsto, Attorney Schweickert explained the distinction between Video Gaming Cafés and other licensed establishments, such as bars and restaurants, which do not rely on video gaming for a majority of its revenue. In response to further questioning from Member Brady, Attorney Schweickert confirmed that two restaurants next door to each other could both have video gaming. If an application for a video gaming license was received by the City and Mayor determines the applicant is a Video Gaming Café, he would advise them a special use is required and forward that request to the Planning/Zoning Commission for its review and recommendation.

In response to questioning from Member Brady, Attorney Schweickert stated that information concerning estimated net revenue from video gaming terminals could be obtained from the applicant as part of the license application or during the Planning/Zoning Commission review. Many of these video gaming establishments have multiple locations that could be used as comparables.

Attorney Schweickert reiterated that the purpose of this hearing is, in part, to get input from the Planning/Zoning Commission as to whether the language and limitations set forth in the proposed text amendment is reasonable. Chairman Miller responded that he didn't see any problem with it at all.

In response to questioning from Member Lucas, Attorney Schweickert said it is the City's intent to not impact any existing businesses operating as Video Gaming Cafés. As a non-conforming use, existing Video Gaming Cafés can continue operations, apply for license renewals, or undergo a change in ownership. However, pursuant to the Zoning Ordinance, the non-conforming use cannot be expanded, and would not be allowed to continue if the non-conforming use is discontinued for a period of 12 consecutive months or the building is destroyed or severely damaged.

There were no public comments or objections.

The Planning/Zoning Commission found the proposed language and restrictions set forth in the proposed text amendment were reasonable and in compliance with the Zoning Ordinance. Member Lucas moved, and Member Kalsto seconded, to favorably recommend that the City Council approve the proposed text amendment to the Zoning Ordinance permitting Video Gaming Cafés by special use in B1, B-2, B-3 and B-4 zoning districts. The motion passed: 6 aye, 0 nay, and 1 Members absent.

Respectfully submitted,

CARY MILLER, Chairman of the
Planning/Zoning Commission

