

**DATE:** August 17, 2016

**TO:** Honorable Mayor John Rey  
City Council

**FROM:** Anne Marie Gaura, City Manager  
Ellen Divita, Community Development Director  
Jo Ellen Charlton, Principal Planner

**SUBJECT:** Video Gaming Businesses

## **I. Summary**

The City Council last discussed whether or not to impose limitations on the number or locations of video gaming businesses at their July 11, 2016 Committee of the Whole meeting. At that meeting, there was consensus that video gaming operating as an accessory use within an existing licensed bar should not be further restricted by the City. With regard to video gaming establishments that operate as a principal use, the City Council had concerns about the possibility that multiple video gaming businesses could open in one shopping center or in very close proximity to each other. Additional information was requested regarding the differences between video gaming as a principal versus accessory use, where video gaming is currently allowed, and possible options to restrict video gaming establishments without being arbitrary.

## **II. Background**

### **History of Video Gaming in DeKalb**

A map showing the location of all video gaming establishments in the City existing or pending is shown in Exhibit 1 on the following page. The map identifies establishments as “accessory” if they are located within bars or other already licensed establishments, as “principal” if they opened with video gaming as their primary business, and as “pending” if they are either approved or soon to be approved but not yet operational.

The City’s first video gaming establishment did not operate until January of 2013, when KJ’s tap and the Bowling alley were issued the first licenses. At that time, video gaming was supported by the business community and seen by many as a way to supplement the income of bars and certain other liquor license holders such as entertainment venues like the bowling alley, or not-for-profit entities, like the Moose, who was licensed later in 2013. A total of seven video gaming licenses were issued in DeKalb in 2013. Four

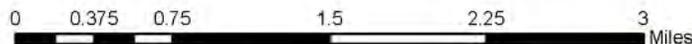
establishments opened in 2014. Two were accessories to bars (Fatty's and Hometown Sportsbar and Grill), and two were in not-for-profit establishments (American Legion and Elks).

Exhibit 1

## Video Gaming Sites



File: \\Projects\Community Development\Video Gaming\He at map for video gaming-City.mxd  
 Created: 8/5/2016 D.J.E  
 Last Updated: 8/10/2016 D.J.E



In 2015, the City received its first proposals for video gaming establishments to open as principal uses. Suzie's, at 2410 Sycamore, was DeKalb's first to begin the process, but they didn't open and begin reporting gaming revenues until May of 2016. Shelby's, at 2581 Sycamore, was the City's first licensed video gaming establishment to open and operate in 2015. They opened in August, and by September had captured 25 percent of all the money inserted into all slot machines in the City's then 15 establishments. Prior to that time, the bowling alley (also on Sycamore Road) was consistently the top location for money to be inserted into slot machines. For example, in July, which is the month before Shelby's opened, the bowling alley captured nearly 22 percent of the total amount gambled in the City. The bowling alley's share of the total amount gambled dropped to 18 percent by September, a month after Shelby's opened

With free access to revenue data on the State's gaming website, it doesn't take long for investors to learn where the new hotspots for potential video gaming locations might be located. Furthermore, the trend in video gaming to open them as stand-alone establishment instead of as an accessory to an existing business was a logical next step for investors to consider. Investors soon learned that some towns' definitions of "bars" made it fairly easy and attractive to request new liquor licenses for a "bar", when all they really intended was to get the liquor license as a means to operate a gaming facility, with the sales of liquor not required to be successful. This request initially caught many towns off guard not realizing that by issuing a liquor license for a bar that was intended for a video gaming facility, that they were actually allowing a use that most zoning codes did not define or regulate.

Unlike bars that include video gaming as an accessory use and find space within their facility to accommodate a few slot machines, video gaming as a principal use is laid out quite differently. First, most principal use facilities are smaller in total square footage than traditional bars. Because the State of Illinois only allows up to five machines per licensed establishment, investors quickly learned to target communities that would issue liquor licenses for "bars" that had no "kitchen" requirements with their liquor license. If liquor licenses would be issued with no requirement to operate a full-service kitchen, start-up costs for a new video gaming business in an existing strip center would be very low. Investors first looked for the smallest spaces they could find and proposed layouts with enough room for the five gaming machines, required bathrooms, and some private office areas. The "next generation" of video gaming establishments as principal uses may have added a separate space to relax, enjoy a drink or enjoy company of those that might come with you, such as illustrated in the photograph below for a similar type of establishment.



Most investors find spaces in the 1,200 to 2,000 square foot range to be adequate for their principal use video gaming businesses. Vacant store fronts in downtowns and strip shopping centers became the location of choice for these investors given their availability during an otherwise “down” market. What wasn’t immediately obvious was that these spaces attract a different, yet equally lucrative market in the housewives, seniors and other daytime consumers that frequent strip shopping centers for their other shopping needs. While bars cater to the “bar scene” that attracts most customers at night, a location in a strip shopping center could be operated successfully all day. And while the liquor license is the key to what allows them to operate in compliance with the State Statute, these facilities do not rely on liquor (or food) sales to be successful.

As stated above, Shelby’s entered the market late in 2015 and immediately enjoyed 25% of all the money inserted into machines located in the 14 establishments operating in the City during the first full month they were open. They continued to corner between 21% and 24% of the total market of money gambled from the time they opened until the next two principal use video gaming establishments (Suzie’s and CJ’s on Sycamore Road) started reporting revenue in May and June of 2016. Shelby’s share dropped to 18 percent in the month of June, which is the last month data is available on the State’s website.

Moving forward, four additional video gaming establishments have been, or will be, approved on Sycamore Road as principal use businesses. Exhibit 2 on the next page shows the location of the eight existing or soon-to-be open video gaming establishments located along Sycamore Road. Seven are located within about one mile of each other. Five, including Shelby’s, are located within a 1,500 linear foot strip along Sycamore Road.

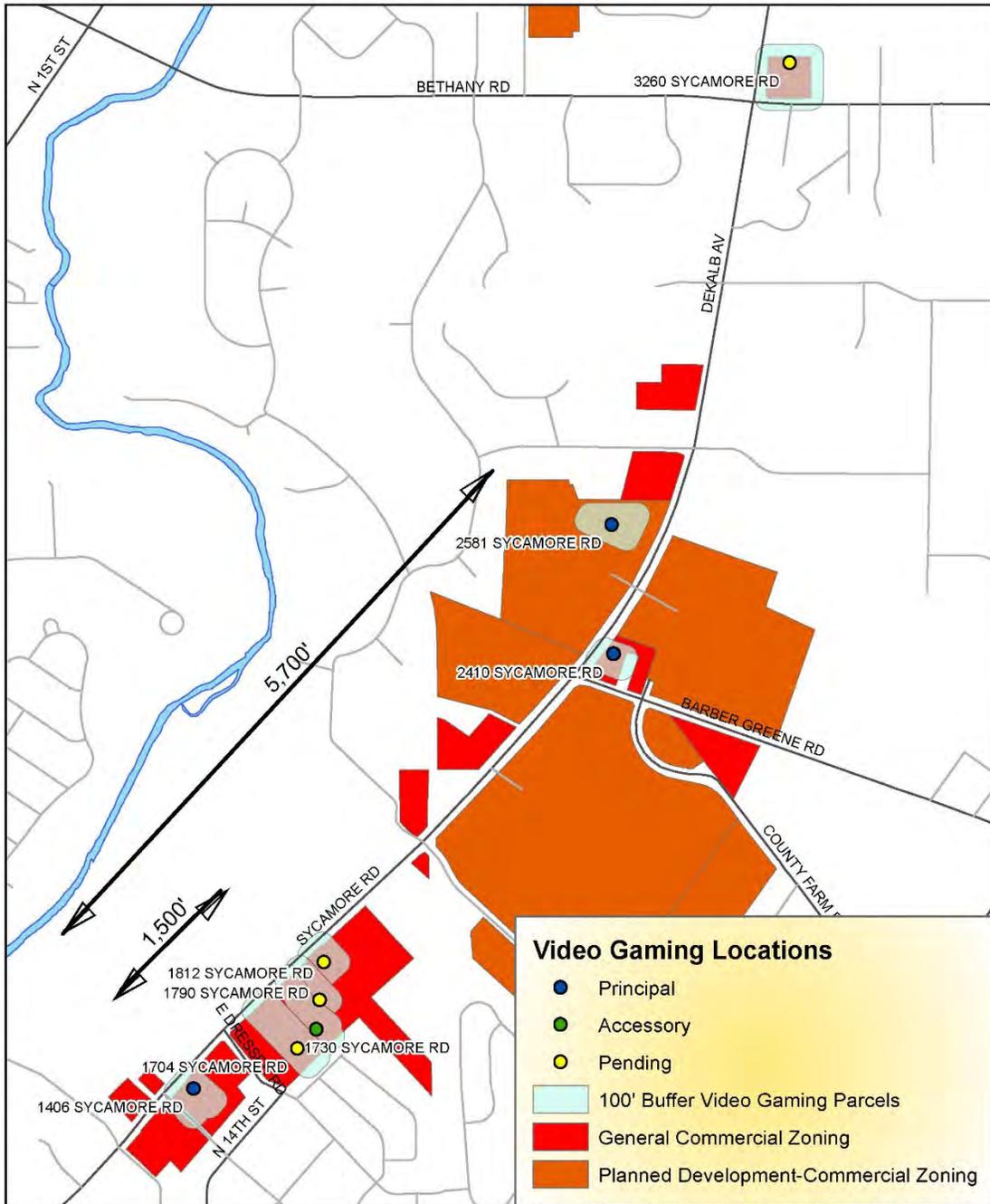
Given the availability of competitive data on the website and the recent interest in locating five establishments within 1,500 feet of each other, it is clear that the new form of video gaming as a principal use does not operate in the market as most businesses. While most businesses want to be located in popular commercial corridors and cluster with complementary businesses, it would be unusual for five like businesses to locate within 1,500 of each other, with all hoping to be successful. The relatively low start-up costs to open these businesses in vacant spaces when kitchens are not required to open a bar make the “gamble” worth it. If it doesn’t work out, they can likely quickly set up shop somewhere down the road just as easily, with little risk.

Not surprisingly, the only requests for liquor licenses in 2016 have been for “bars” intending to operate video gaming as a principal use. While the City would likely welcome a new full-service bar with food service to the community and the video gaming that would likely come with it, there have been no requests for these uses that the City would likely embrace.

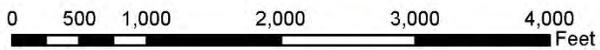


Exhibit 2

# Video Gaming Sites - Sycamore Road



File: V:\Projects\Community Development\Video Gaming\Video Gaming Sites - Sycamore Rd.mxd  
 Created: 8/3/2016 DJE  
 Last Updated: 8/11/2016 DJE



## **Where Does DeKalb Zoning Allow Video Gaming**

The City's Unified Development Ordinance (UDO) does not reference "video gaming". Therefore, under the strictest interpretation of the UDO, video gaming is not allowed as a principal use. Historically, however, the City interpreted and has allowed video gaming as a principal use as a "bar". "Bars" are allowed as "permitted" uses only in Central Business District (CBD) and General Commercial (GC) zoning districts, while they are allowed only as a special use in the Limited Commercial (LC) zoning district. Whether or not bars are permitted or special in any of the City's Planned Development (PD) projects is dependent on the ordinances approved for each of the City's PDs.

## **Parking Requirements**

Another factor now being considered when liquor licenses are being reviewed for video gaming establishments is whether individual strip shopping centers have adequate parking based on the UDO. The UDO requires parking in strip shopping centers to meet the sum of the requirements for each type of use. This means that a change in one use in a shopping center can change the total parking requirement for the entire center. So, while bars have a higher parking requirement than most retail uses, a request for a "bar"/video gaming establishment may cause a strip shopping center's parking requirement to exceed available existing parking, which would be grounds to deny a video gaming establishment.

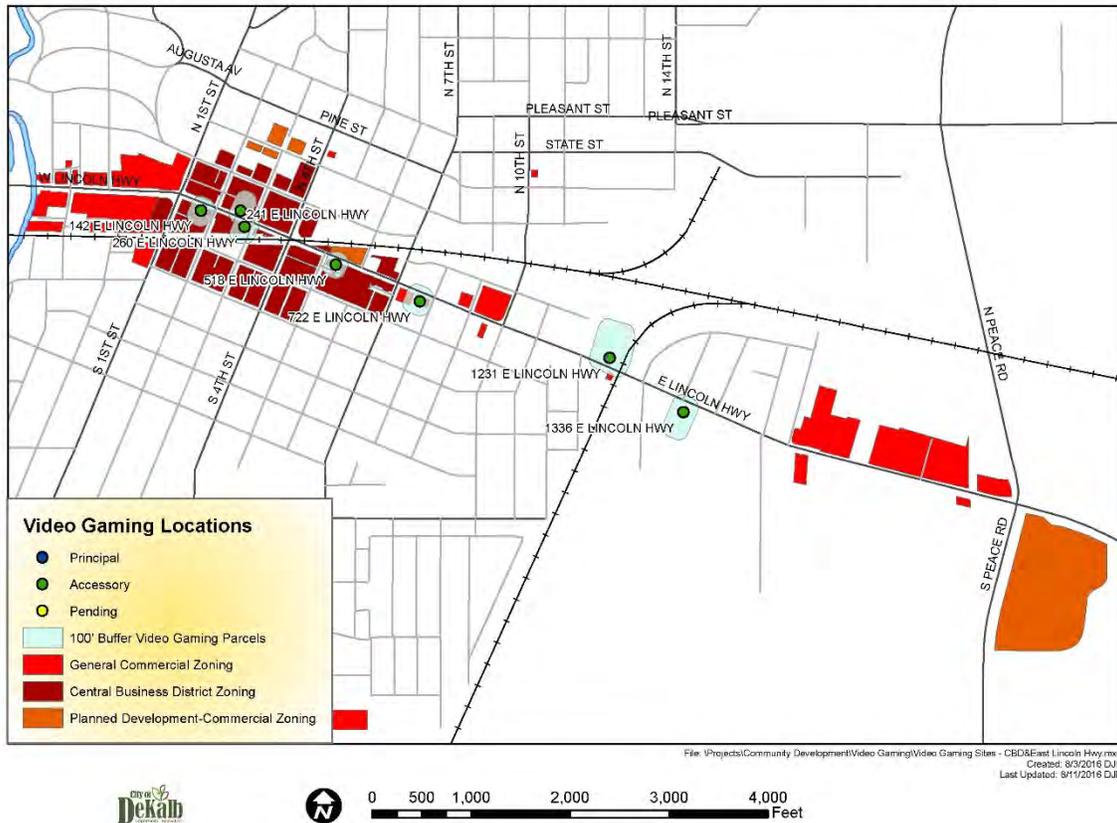
## **Central Business District Considerations**

The Central Business District has five video gaming establishments as shown in Exhibit 3 on the next page. There are currently no video gaming establishments operating in the CBD as a principal use. Given the importance of retaining key spaces for traditional downtown shopping experiences, staff recommends these spaces be excluded from further licensing for video gaming as a principal use, and that downtown spaces remain available for traditional retailers and approved commercial operations. This restriction would not impact a bar or brew pub that might wish to open. These establishments would be similar to existing uses such as O'Leary's who currently enjoys video gaming as an accessory use to their business in the Central Business District.



## Exhibit 3

### Video Gaming Sites - CBD/East Lincoln Highway



### Fiscal Impacts of New Video Gaming Establishments

While it is true that the addition of new gaming facilities continues to produce a general increase in the overall amount of money played into gaming machines in the City as shown in Exhibit 4 below, the impact of additional gaming facilities on the amount played in bars and not-for-profits may be impacted. Not-for-profits, in particular, are beginning to experience a downward trend in the amount played in their facilities as new facilities are added to the market as shown in Exhibit 5 on the next page.

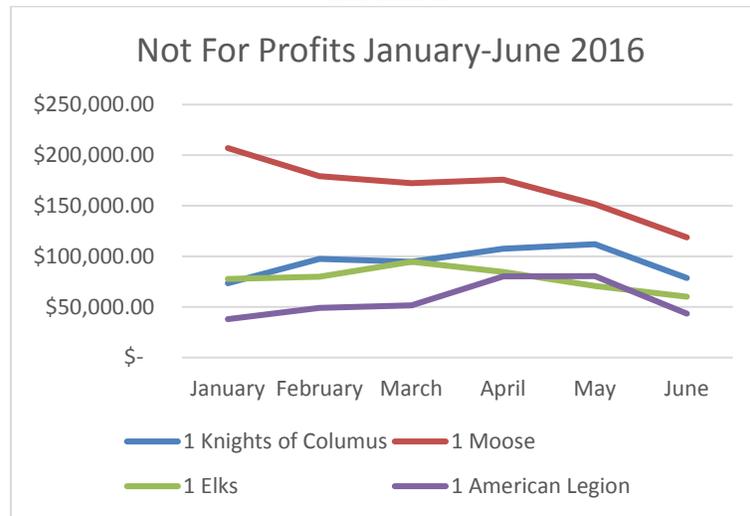
While there is not yet enough data to support any predictable trends as to when gambling does not increase even when new facilities are added, it is important to note that four approved or soon to be approved facilities are not yet operational and are therefore not included in the State's revenue reports. Regardless of the Council's direction on this topic, staff will continue to monitor the monthly reports from the State, and will report any significant trends that might arise. At some point, the City will reach a saturation for this business. Staff suggests it would best to reach this saturation with a mix of businesses that were distributed more evenly across the community, rather than clustered tightly together in one area.



Exhibit 4



Exhibit 5



### Considerations in Other Locations Not Yet Served by Video Gaming

The Council's last discussion questioned whether it would be appropriate to add limits to the number of principal use video gaming facilities to avoid what has happened on Sycamore Road. Concerns were expressed as to how the City might make these restrictions without being arbitrary. As stated above, video gaming is only allowed as a permitted use in the GC and CBD Zoning Districts, and that they might be allowed in the Planned Development Commercial (PDC) district depending on how those ordinances were written when the project was approved. They are also allowed in LC District, but only if granted a special use, requiring a public hearing. If the Council decides to restrict them in the CBD as recommended by staff, attention would then turn to properties zoned GC and PDC, and to a lesser extent LC zones. Note that Exhibits 2 and 3 showed a 100' buffer around each of the properties upon which an existing video gaming facility is located.



Exhibit 6 on the next page shows all properties zoned LC, GC and PDC in the City, along with the existing video gaming facilities and a 250' buffer around each facility. As discussed above, a very small 1,500 linear foot stretch along Sycamore Road does or will contain nearly 23% of all video gaming businesses in the community. Given that it has become fairly evident that video gaming facilities (particularly those that operate as principal uses) do not behave in an otherwise predictable commercial manner, the City has asked as to how they might be limited. Staff sees three alternatives as follows:

1. Do nothing. Let as many open up wherever they want.
2. Establish a limitation on the video gaming licenses so that no more than 1 is allowed in any continuous shopping center building.
3. In addition to number 2, add a restriction that they cannot be located on a property that is within 250' or some other acceptable distance from another video gaming facility.

A “do nothing” approach could result in clusters of establishments that start, fail and return empty storefronts to struggling areas. By looking at the areas in Exhibit 6 on the next page that do not contain existing video gaming facilities, it is possible to understand where additional video gaming facilities might be located in the future. There are “untapped” locations in the City that could become the next target for video gaming businesses as a principal use to cluster next to each other as they have done on Sycamore Road. Implementing options numbered 2 or 3 above would allow some currently under-served areas to add new establishments without being as excessive as Sycamore Road.

Additional video gaming locations will continue to have an impact on the amounts played in other existing venues. At some point, the amount played in each establishment will level off and possibly decline as assumedly there are only so many gambling dollars available.

### **Social and “Quality of Life” Impact of Video Gaming**

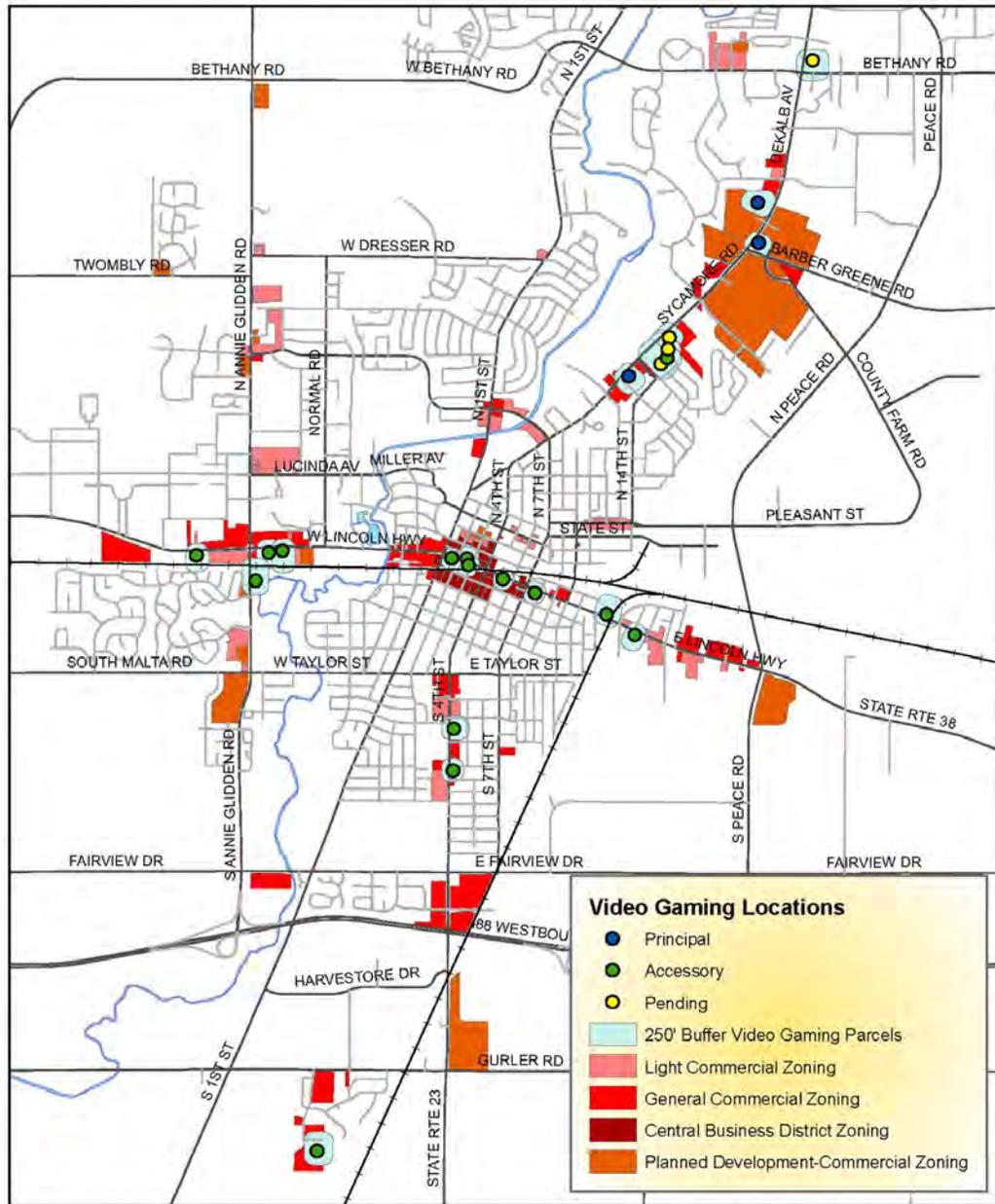
At the July 11<sup>th</sup> meeting, the Council questioned Police Chief Lowery as to whether there were any crime statistics related to video gaming. While he responded that there was no direct evidence of increased crime as a result of video gaming, he did comment that it would be hard to estimate whether there was any correlation between gambling and certain crimes like domestic violence that occur in the community. These crimes happen for a variety of reasons, some of which could be due to financial hardships caused by gambling addicts and their impact on the family. Additional impacts of pathological and problem gambling include lost work time, bankruptcies and other financial hardships on families. It may be more important than most think to regulate gambling in a community like DeKalb where many residents already depend on social services, as increased gambling addiction may lead to an increase in the need for the City to provide and fund more social services.



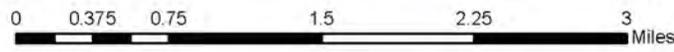
Some perceive that a large presence of video gaming establishments in a community or along a corridor promote a bad “Vegas-like” image and are a negative influence on a community’s “quality of life.” This may be subjective, but something many feel is important when protecting the “health, safety and welfare” of the community.

Exhibit 6

## Video Gaming Sites



File: V:\Projects\Community Development\Video Gaming\Heat map for video gaming-City.mxd  
 Created: 8/3/2016 D.J.E.  
 Last Updated: 8/11/2016 D.J.E.



## **State Statute Modifications**

In thinking about whether to limit the number of new video gaming establishment that operate as a principal use, the Council may want to consider what would happen if the State amended their laws. For example, if the state increased the number of allowed gaming machines from 5 to 10, or 15 or 20, how would that affect the City? Instead of 1,200-2,000 square foot stand-alone facilities, the City could be asked to amend its license for a facility that requests double the space. If the liquor license is unlimited and the use has been “permitted” previously, the obvious conclusion would be to allow the expansion. What if that expansion included a whole shopping center? While this may not be necessary given the current State Statute, staff will continue to monitor State activities and advise the Council if/when things change.

### **III. Community Groups/Interested Parties Contacted**

This item is anticipated to be discussed at the August 22, 2016 Council meeting as a follow up to the July 11, 2016 Committee of the Whole discussion. The public will be provided an opportunity to provide comment and feedback. Valuable additional public input from a possible public hearing before the Plan Commission could be obtained if the City Council provides direction to process a text amendment.

### **IV. Legal Impact**

The City has the legal authority to amend City Code and/or the UDO to add regulations that would place additional limitations on the number and location of video gaming businesses if direction is provided by the City Council to do so.

### **V. Financial Impact**

Limiting the number of establishments that are permitted to have video gaming terminals (VGT) or the total number of VGTs permitted in DeKalb may limit further growth in the amount DeKalb receives as its share of VGT Tax Distribution. It could also stabilize the amount of revenues to be expected, on average, by certain City establishments that rely on the revenues to be successful or to fund their not-for-profit programs.

### **VI. Options**

City staff requests the following from the City Council:

1. Confirm a “do nothing” approach and let the market dictate the number and location of video gaming establishment regardless of whether they are accessory to existing businesses or principal uses.
2. Confirm “no objection” to continuing video gaming as an accessory use to existing “bars” or other authorized liquor license establishments as long as they comply with all other UDO requirements.



3. Prepare and process a UDO amendment that would be forwarded to the Planning and Zoning Commission (PZC) for review and public hearing that would add and define video gaming, with the following additional amendments:
  - a. Continue to allow video gaming as an accessory use as currently allowed by the UDO, except that video gaming as a principal use shall not be allowed in the downtown CBD.
  - b. Limit principal use video gaming establishments in all other districts when allowed (either permitted or special use) so that there shall be no more than one (1) establishment in any one building or structure.
  - c. If additional limitations to principal use video gaming establishments are desired, add a restriction that would also limit the locations of new principal use video gaming establishments to not closer than 100' (or more as determined by the Council), from the property line of a building where another video gaming business is already located.

## **VII. Recommendation**

City staff requests the City Council provide guidance for future video gaming businesses in the City. While the City's existing regulations are comprehensive in the restriction of these businesses as accessory uses in existing businesses, there are no restrictions on video gaming businesses operating as a principal use. Staff recommends the Council focus possible restrictions on this category of video gaming businesses as recommended in Section VI "Options" above, if there is a desire to add regulations.

If the Council provides this direction, staff will prepare and process a text amendment for review and recommendation by the PZC, which would allow for additional public comment via the public hearing process. Final authority to amend any regulations regarding video gaming rests with the City Council, who would have an opportunity to review the matter further after public comment and the review and recommendation by the PZC.



**Existing and Pending Video Gaming Establishments**

<b>Liquor Class</b>	<b>Use Type</b>	<b># of Machines</b>	<b>Business</b>	<b>Business Address</b>	<b>Date Issued</b>
BAR	Accessory	5	K.J.'s Tap	518 East Lincoln	1/9/2013
HOSP	Accessory	5	Mardi Gras Lanes	1730 Sycamore	1/9/2013
OSP/BAR	Accessory	4	O'Leary's Irish Pub & Grill	260 East Lincoln	3/11/2013
BAR	Accessory	5	Sullivan's Tavern	722 East Lincoln	6/13/2013
BAR	Accessory	3	Molly's Bar and The Bottle Store	1000 West Lincoln	7/1/2013
PENP	Accessory	4	DeKalb Moose Family Center #586	1231 East Lincoln	9/11/2013
BAR	Accessory	5	Lord Stanley's Bar & Grill	142 East Lincoln	11/22/2013
PENP	Accessory	4	American Legion Post #66	1204 South 4 <sup>th</sup>	3/28/2014
PENP	Accessory	3	BPOE Elks DeKalb Lodge #765	209 South Annie Glidden	4/22/2014
HOSP/BAR	Accessory	3	Fatty's Pub & Grill	1312 West Lincoln	9/23/2014
BAR	Accessory	4	Hometown Sports Bar & Grill	241 East Lincoln	9/24/2014
BAR	Principal	5	Suzi's XIII	2410 Sycamore	3/20/2015
PENP	Accessory	3	DeKalb Columbus Club	1336 East Lincoln	4/14/2015
BAR	Principal	5	Shelby's	2581 Sycamore	8/7/2015
GOLF	Accessory	3	Chicago Golf & Tiki Tees	210 South Pointe	9/21/2015
BAR	Accessory	5	Ray's Chicago BBQ and Slots	870 W. Lincoln	10/16/2015
BAR	Accessory	3	Twins Tavern & Discount Liquors	1016 and 1028 South 4 <sup>th</sup>	12/28/2015
BAR	Principal	Pending 5	Lacey's Place, LLC	1704 Sycamore	4/6/2016
BAR	Principal	5	Cj's Gaming, LLC	1406 B Sycamore	6/13/2016
PENDING	Principal	Pending 5	Lucky Poker	1812 Sycamore	Ap 5/10/16
PENDING	Principal	Pending 5	Lucky Poker (2nd Location)	3260 Sycamore	Ap 5/10/16
PENDING	Principal	Pending 5	Charley's Video Gaming	1792 Sycamore	Ap 6/7/16

