

AGENDA



City of Tavares Planning & Zoning Advisory Board

August 18, 2022 -- 3:00 PM

**TAVARES CITY HALL COUNCIL CHAMBERS
201 E MAIN STREET, TAVARES**

I. Call to Order

II. Pledge of Allegiance

III. Approval of Minutes

1. Approval of the July 21, 2022 Planning and Zoning Board Meeting Minutes (Deputy Clerk)

IV. Swearing in by City Attorney and Disclosure of Exparte Contacts

V. Public Hearings

1. 203 N. St Clair Abrams Avenue - Special Use Permit for School
Recommendation on Resolution 2022-14
2. Code of Ordinances Amendment - Establish Regulations Pertaining to Electronic Game Rooms
Recommendation on Ordinance 2022-12
3. Land Development Regulation Amendments - Revision of Land Development Regulations in Accordance with Smart Growth Initiatives and the Comprehensive Plan.
Recommendation on Ordinance 2022-14

VI. Other Business

VII. Audience to be heard

VIII. Adjournment

F.S. 286.0105 If a person decides to appeal any decision or recommendation made by Council with respect to any matter considered at this meeting, he will need record of the proceedings, and that for such purposes he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Individuals with disabilities needing assistance to participate in any of these proceedings should contact

the City Clerk at least two (2) working days in advance of the meeting date and time at (352) 742-6209.

AGENDA SUMMARY
TAVARES PLANNING & ZONING ADVISORY BOARD
8/18/2022

AGENDA TAB NO.: 1.

**SUBJECT TITLE: Approval of the July 21, 2022 Planning and Zoning Board Meeting Minutes
(Deputy Clerk)**

OBJECTIVE:

To consider approval of the July 21, 2022 Planning and Zoning Board meeting minutes.

SUMMARY:

OPTIONS:

1. Move to approve the Planning and Zoning Board meeting minutes as submitted by the Deputy Clerk.
2. Move to approve the Planning and Zoning Board meeting minutes with corrections.

STAFF RECOMMENDATION:

For Board approval

FISCAL IMPACT:

N/A

LEGAL SUFFICIENCY:

Yes.

ATTACHMENTS AVAILABLE TO THE PUBLIC UPON REQUEST:

1. PZ 07-21-2022 Meeting Minutes

**CITY OF TAVARES
PLANNING AND ZONING BOARD MEETING
TAVARES COUNCIL CHAMBERS
201 E. MAIN STREET, TAVARES
July 21, 2022**

BOARD MEMBERS PRESENT

Gary Santoro, Chairman
Deborah Murphy, Vice-Chairman
Dian Joy, Board Member
Bruce Peterman, Board Member
Brooke Matthews, Board Member - Absent
James Sweezea, Board Member
Dara Treadwell, Board Member

LAKE COUNTY SCHOOL BOARD

Helen LaValley - Absent

STAFF MEMBERS PRESENT

Antonio Fabre – Planning Coordinator
Mike Fitzgerald, Community Development Director - Absent
Robert Q. Williams, City Attorney
Jillian Roberts, Deputy City Clerk

CALL TO ORDER

Chairman Santoro called the meeting to order at 3:00 p.m. and asked those present to silence their cell phones. He led those present in the Pledge of Allegiance.

APPROVAL OF MINUTES

Chairman Santoro asked if there are any additions or corrections to the June 16, 2022 Planning and Zoning Board Meeting minutes. There were none.

MOTION

Dian joy moved to approve the minutes of the June 16, 2022 Planning and Zoning Board Meeting, seconded by James Sweezea. The motion carried unanimously 6-0.

SWEARING IN BY CITY ATTORNEY AND DISCLOSURE OF EX PARTE COMMUNICATIONS

Attorney Williams swore those in that were present. Attorney Williams asked if there were ex-parte communications to be disclosed, there were none.

PUBLIC HEARING

1) **Recommendation on Ordinance 2022-10 – City of Tavares Property – Rezoning of Approximately 05.83 Acres Located East of Ridge Place, North of E. Caroline Street**

Mr. Fabre gave the following presentation:

SUMMARY:

The subject property consists of approximately 05.83 acres of vacant property located east of Ridge Place, north of E. Caroline Street. The property is owned by the City of Tavares and is currently zoned as Public Facilities District (PFD), and the City is proposing that the property be rezoned to Residential Multi-Family (RMF-3).

On May 18, 2022, City Council approved a Purchase and Sale Agreement between the City of Tavares and Cagan Management Group for the purchase of the 5.83 acre parcel for the intended purpose of developing a market rate multi-family rental townhome complex consisting of seventy-two (72) dwelling units. The Purchase and Sale Agreement is subject to the approval of the rezoning of the property to Residential Multi-Family (RMF-3).

The proposed zoning of Residential Multi-Family (RMF-3) is compatible with the surrounding zoning, which is a mixture of multi-family and single-family residential zoning. The proposed use is consistent with the Comprehensive Plan by ensuring the availability, quality, and sustainability of a mix of housing types in Tavares.

The developer of the property is required to obtain school capacity reservation prior to development approval.

The developer must submit an environmental assessment prior to any development approval and must comply with all Florida Fish and Wildlife Conservation Commission provisions as they pertain to threatened species.

The developer must submit a traffic analysis prior to any development approval.

Development of the property will be in accordance with the provisions of the City's Land Development Regulations. Prior to the issuance of any Building Permits for this property, compliance with all applicable regulations will be required.

The City is concurrently processing a future land use map amendment to re-designate the property from Public Facility / Institutional (PUB) to High Density (HD) on the Future Land Use Map 2040.

Ted Wicks, Wicks Engineering 225 W Main St, Tavares, representing the developer Kagen Management, was present and noted that he is present for questions. He noted that this property will be market rate rentals and gave an overview of properties Kagen Management has developed. Mr. Wicks gave an overview of the property which includes:

- Conceptual Plan, Building Elevations

- Floor Plans
- Pool
- Playground
- Pavilion
- Gated Community

He noted he is available for questions.

Board Member Peterman asked what was on the berm to the North. Mr. Wicks stated that a remnant of a berm and noted that landscaping and buffering will be there.

Board member Treadwell asked what the perimeter will consist of. Mr. Fabre stated that it will consist of walls and or fences and will be subject to new regulations.

Board Member Sweeza asked for clarification about the size of the property and if Caroline Street will be able to handle the traffic. Attorney Williams noted it is common to have variations in the size of the property. Mr. Wicks stated a traffic study has not been completed to date and will be evaluated. Board Member Sweeza noted his concern about heavy equipment affecting the quality of the roads.

Carl and Deborah Sarver, 1100 E Caroline St, Tavares, noted his concern is low-income housing and preference of having an onsite manager. He noted his concern of increased traffic and width of road and volume of apartments. She noted her concern of safety, trespassing, traffic and the height of buildings.

Kathline Rettig, 510 Ridge Place, noted her concern of increased traffic and losing green space.

Mary Sellars, 502 Dora Ave, noted her concerns of no sidewalks and increased traffic. She stated the green space is wonderful property.

Harry Morrison, P.O Box 120162, Clermont, noted his concern about increased development and selling land.

Chairman Santoro closed public comment.

Mr. Wicks reinforced what the project will entail.

Chairman Santoro asked if the property has been sold. Mr. Tweedie stated that the sale is subject to rezoning.

Mr. Fabre noted that the height of the building will be two stories and consistent with neighboring properties.

MOTION

Dian Joy moved to recommend approval [Option 1] of Ordinance 2022-03, seconded by James Sweeza. The motion carried unanimously 6-0.

2) **Recommendation on Ordinance 2022-11 – City of Tavares Property – Small Scale FLUM Amendment of Approximately 05.83 Acres Located East of Ridge Place, North of E. Caroline Street**

Mr. Fabre gave the following presentation:

SUMMARY:

The subject property is located east of Ridge Place, north of E. Caroline Street, and is approximately 05.83 acres in size. The land is presently vacant and has a land use designation of Public Facility / Institutional (PUB). The property is owned by the City of Tavares, and the City is proposing an amendment to the Tavares Comprehensive Plan Future Land Use Map 2040 to change the designation of said property from Public Facility / Institutional (PUB) to High Density (HD).

Ordinance 2022-11 proposes a small-scale amendment to the Future Land Use Map 2040 of the Comprehensive Plan from Public Facility / Institutional (PUB) to High Density (HD).

The subject property is adjacent to a mixture of multi-family and single-family residential. The City is concurrently processing a proposed rezoning of the property to Residential Multi-Family (RMF-3).

Future Land Use Amendment

The city is required to place a future land use designation on annexed property. The subject property is currently designated Public Facility / Institutional (PUB). A City High Density (HD) designation is compatible with surrounding property and County Future Land Use.

Compatibility

The land surrounding this property is residential in nature.

Site Conditions

The property is currently vacant. Impact on City Services The subject property is located in the City's Utility Service Boundary Area. The City of Tavares has municipal water and waste water utility service available for the subject parcel. The City's Concurrency Management System will ensure that Levels of Service (LOS) will not be degraded beyond the adopted levels of service for all regulated public facilities. Adverse impacts on Levels of Service are not implicated.

FINDINGS

This amendment request is considered to be in compliance with the Comprehensive Plan Goals, Objectives and Policies with the following findings:

- 1. A High Density (HD) Future Land Use designation would serve as the most appropriate land use for the subject property in accordance with Future Land Use policy 1-1.1.*

- 2.
2. *Impacts of the proposed development of the subject property shall be monitored through the City's Concurrency Management System. (Comp Plan, Chapter 8)*

MOTION

James Sweezea moved to approve [Option1] Ordinance 2022-11, seconded by Dian Joy. The motion carried unanimously 6-0.

OTHER BUSINESS

Chairman Santoro noted the compliment given by Mayor Pfister pertaining to the Planning and Zoning Board at the Council Meeting.

PUBLIC COMMENT

ADJOURNMENT

MOTION

Bruce Peterman moved to adjourn the meeting at 3:51 p.m., seconded by James Sweezea. The motion carried unanimously 6-0.

Respectfully submitted,

Jillian Roberts,
Deputy City Clerk

AGENDA SUMMARY
TAVARES PLANNING & ZONING ADVISORY BOARD
8/18/2022

AGENDA TAB NO.: 1.

**SUBJECT TITLE: 203 N. St Clair Abrams Avenue - Special Use Permit for School
Recommendation on Resolution 2022-14**

OBJECTIVE:

To consider a petition for a Special Use Permit for a School proposed to be located at 203 N. St Clair Abrams Avenue

SUMMARY:

An application for a Special Use Permit has been received to operate a school at 203 N. St Clair Abrams Avenue. The subject property is located on the northwest corner of the intersection of N. St Clair Abrams Avenue and Maud Street. The building located on the site was most recently occupied by a law firm. The property is within the Mixed Use (MU) zoning district, and a school is allowed only with the issuance of a Special Use Permit from the City Council.

The applicant envisions what is referred to as a "micro-school" with an estimated enrollment of 40 students across various grade levels. The subject property is in close proximity to the Tavares Public Library. The property includes an empty lot that will be utilized for student recess. The building has been evaluated by the Tavares Fire Department and Building Official, and no major issues were found. However, the applicant will be required to obtain permits for some plumbing and electrical improvements.

The subject property has limited on-site parking. It is the intention of the school operator to have parents use available public and private parking and walk children to and from the school. There will be no car drop off or pickup permitted to block any public right-of-way.

OPTIONS:

1. The Planning & Zoning Board moves to recommend approval of Resolution 2022-14, Special Use Permit for a school located at 203 N. St Clair Abrams Avenue.

2. The Planning & Zoning Board moves to recommend denial of Resolution 2022-14.

STAFF RECOMMENDATION:

Staff recommends that the Planning & Zoning Board moves to recommend approval of Resolution 2022-14, Special Use Permit for a school located at 203 N. St Clair Abrams Avenue.

FISCAL IMPACT:

N/A

LEGAL SUFFICIENCY:

This resolution has been reviewed by the City Attorney and approved for legal sufficiency.

ATTACHMENTS AVAILABLE TO THE PUBLIC UPON REQUEST:

1. Resolution 2022-14
2. Aerial Map
3. Zoning Map
4. Newspaper Ad

RESOLUTION 2022-14

A RESOLUTION OF THE CITY OF TAVARES, FLORIDA, APPROVING A SPECIAL USE PERMIT TO ALLOW A SCHOOL LOCATED AT 203 N ST CLAIR ABRAMS AVENUE; SUBJECT TO THE RULES, REGULATIONS AND OBLIGATIONS ORDAINED BY THE CITY OF TAVARES COUNCIL; PROVIDING AN EFFECTIVE DATE

WHEREAS, the owner of property addressed as 203 N. St. Clair Abrams Ave. desires this property to be utilized as a School; and

WHEREAS, this property is zoned Mixed Use (MU) under the City of Tavares Land Development Regulations; and

WHEREAS, a School in the Mixed Use District requires City Council to approve a Special Use Permit for this use under the city's Land Development Regulations; and

WHEREAS, City Council may add conditions, limitations or requirements to the approval of a Special Use Permit; and

WHEREAS, the City Council has determined School is an appropriate use at this location subject to the conditions contained within this Resolution of Approval, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TAVARES, FLORIDA AS FOLLOWS:

That property addressed as 203 N. St. Clair Abrams Avenue is granted a Special Use Permit for a School subject to compliance with all regulations applicable to this use. The Special Use Permit shall be contingent upon the school operator committing to not allowing drop off & pickup of children from car lines that would block any public right-of-way.

THIS RESOLUTION will become effective upon approval by the Tavares City Council.

PASSED AND RESOLVED this _____ day of _____ 2022, by the Tavares City Council.

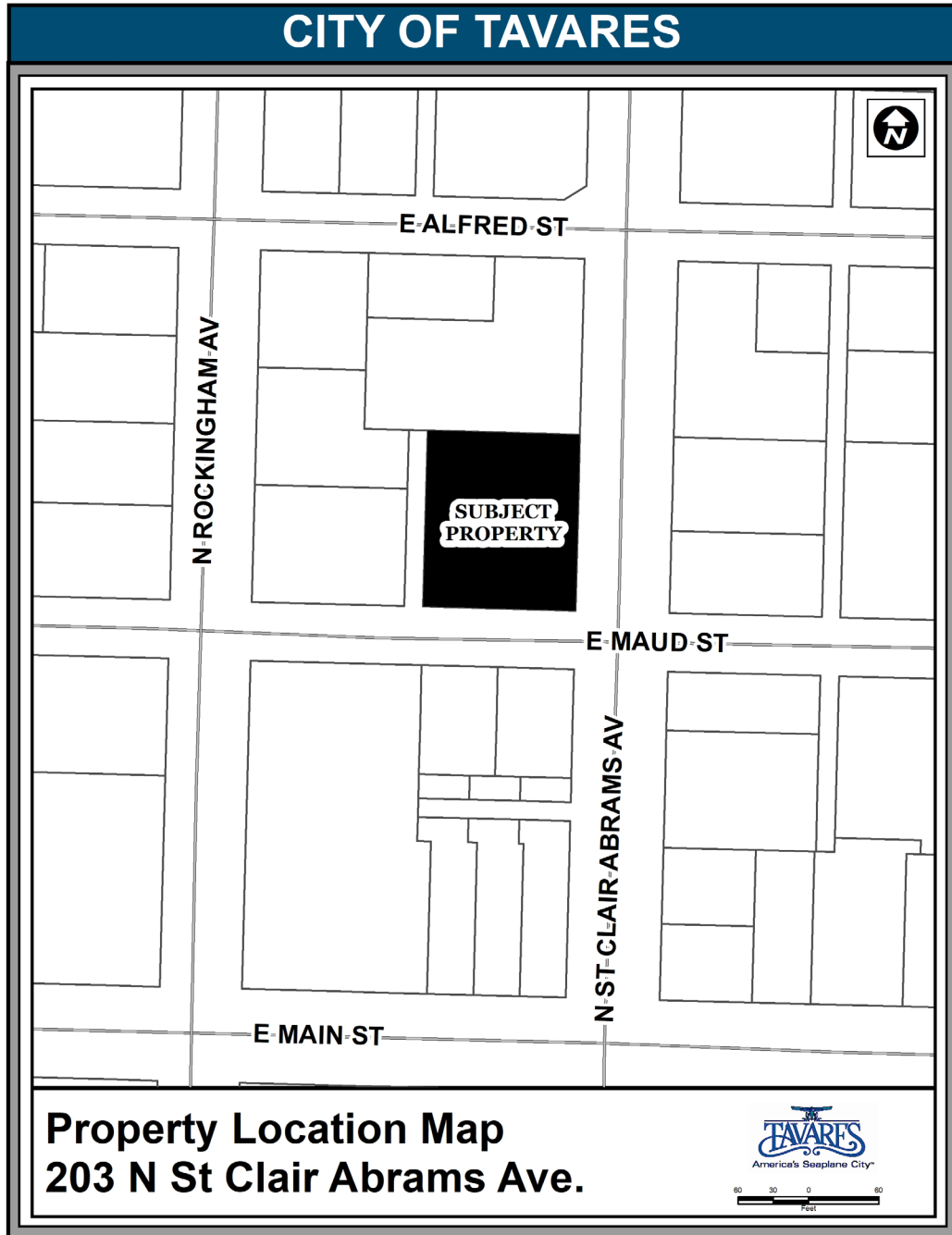
Lori Pfister, Mayor
Tavares City Council

ATTEST:

Susie Novack, City Clerk

Approved as to form:

Lindsay C. T. Holt, City Attorney



Created By: City of Tavares GIS

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Map Created on 07/27/22

AGENDA SUMMARY
TAVARES PLANNING & ZONING ADVISORY BOARD
8/18/2022

AGENDA TAB NO.: 2.

SUBJECT TITLE: Code of Ordinances Amendment - Establish Regulations Pertaining to Electronic Game Rooms
Recommendation on Ordinance 2022-12

OBJECTIVE:

To consider approval of a revision to the Code of Ordinances establishing regulations pertaining to electronic game rooms.

SUMMARY:

Pursuant to City Council's directive, the City of Tavares is proposing an amendment to the Code of Ordinances to establish regulations pertaining to electronic game rooms within the city limits. Ordinance 2022-12 creates Chapter 21 - Electronic Game Rooms in the Code of Ordinances regulating game rooms by limiting the number allowed, requiring operators to obtain permits and pay fees, limiting certain business operations, providing signage guidelines, providing safety and security requirements, and providing for enforcement and inspection of premises.

OPTIONS:

1. The Planning & Zoning Board moves to recommend approval of Ordinance 2022-12, a revision to the Code of Ordinances establishing regulations pertaining to electronic game rooms.

2. The Planning & Zoning Board moves to recommend denial of Ordinance 2022-12.

STAFF RECOMMENDATION:

Staff recommends that the Planning & Zoning Board moves to recommend approval of Ordinance 2022-12, a revision to the Code of Ordinances establishing regulations pertaining to electronic game rooms.

FISCAL IMPACT:

Initial permit fee payable to the City of Tavares - \$10,000

Annual permit renewal fee payable to the City of Tavares - \$3,000

LEGAL SUFFICIENCY:

This ordinance has been reviewed by the City Attorney and approved for legal sufficiency.

ATTACHMENTS AVAILABLE TO THE PUBLIC UPON REQUEST:

1. Ordinance 2022-12
2. Exhibit A - Chapter 21 Electronic Game Rooms
3. Newspaper Ad

ORDINANCE 2022-12

AN ORDINANCE OF THE CITY OF TAVARES, FLORIDA REGARDING ELECTRONIC GAME ROOMS; MAKING FINDINGS; ESTABLISHING A NEW CHAPTER 21 (ELECTRONIC GAME ROOMS) OF THE CITY OF TAVARES CODE OF ORDINANCES, TO REGULATE ELECTRONIC GAME ROOMS AND TECHNOLOGY; PROVIDING FOR LEGISLATIVE AUTHORIZATION, THE COVERED AREA TO BE ALL OF THE CITY OF TAVARES, FLORIDA, THE INTENT OF THE LEGISLATION, DEFINITIONS, REGULATIONS FOR PERMITTING AND FEES, INSPECTIONS, SIGNAGE REQUIREMENTS, LIMITATIONS ON THE OPERATIONS OF THE BUSINESSES, SAFETY AND SECURITY REQUIREMENTS, VIOLATIONS AND PENALTIES AND SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, in the last decade, electronic game rooms have created problematic issues for local law enforcement authorities, complicated by limitations of resources and difficulty of enforcement of state law; and

WHEREAS, the uncontrolled proliferation of electronic game rooms throughout the City of Tavares will have a detrimental impact on the health, safety and welfare of its citizens and visitors, unless properly regulated; and

WHEREAS, the City Council has a duty to affirmatively eliminate the potential detrimental impact of a proliferation of electronic game rooms; and

WHEREAS, confusion has existed for some years as to the interpretation and enforcement of state statutes regarding electronic games, which grant an exemption from the statutory framework prohibiting illegal gambling activities; and

WHEREAS, in order to avoid such activity transitioning to and becoming illegal gambling, strict compliance with the law must occur; and

WHEREAS, local law enforcement authorities have limited resources with which to police this industry, and a regulatory fee will better fund enforcement efforts and ensure compliance with the law; and

WHEREAS, the City of Tavares has evaluated and estimated the costs of permitting and enforcement, and has determined that the permitting fees and revenues will not exceed such costs; and

WHEREAS, the increased popularity in electronic game rooms has the potential to mislead and confuse unwary citizens if not regulated, and therefore increases the need for regulation; and

WHEREAS, an ordinance to regulate the use of electronic games which display images associated with slot machines and gambling will protect the public welfare; and

WHEREAS, increased popularity of electronic game rooms increases the need for a security presence on the premises offering the activity, so as to prevent and/or deter criminal activity; and

WHEREAS, pursuant to the Municipal Home Rule Powers Act, Florida Statute section 166.011 et seq., the City Council may regulate this activity for the health, safety, and welfare of the community; and

WHEREAS, a likelihood of confusion exists of businesses using electronic games to conduct drawings by chance and game promotions or sweepstakes or other lawful uses, with businesses that may use electronic equipment to conduct gambling, as both legitimate and illegal operations often display images associated with traditional slot machines, and fraud and misrepresentation may occur at these businesses because of this confusion unless properly regulated; and

WHEREAS, some operations display images of gambling or slot machines in their advertisements and signage suggesting the presence of illegal activity; and those activities should be controlled and regulated;

WHEREAS, adoption of this amendment is in the best interest of the health, safety, and general welfare of the citizens of Tavares.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Tavares, Florida as follows:

Section 1. Legislative Findings.

The City Council finds as follows:

(a) Desiring to protect individual rights, while at the same time affording opportunity for the fullest development of the individual, and promoting the health, safety, education, and welfare of the people, the City Council has a compelling interest in protecting its citizens from certain activities and influences which can result in irreparable harm if left unregulated.

(b) The City Council has a legitimate interest in protecting its citizens from unethical business practices, ensuring operators of regulated establishments are of good moral character, providing safe locations for people to congregate, and protecting the quality of life and well-being of its neighborhoods.

(c) It is necessary and in the public interest to ensure that businesses portray themselves in a manner not likely to mislead the public.

(d) The imposition of a regulatory scheme for electronic game rooms bears a rational relationship to the public interest and welfare.

(e) That the State of Florida authorizes drawings by chance, game promotions, sweepstakes, and other electronic games. The City Council further recognizes that establishments that utilize electronic equipment to display the results of drawings by chance and game promotions or sweepstakes by simulating a game or games ordinarily played on a slot machine can deceive members of the public into believing that they are engaging in a licensed gambling activity if left unregulated.

(f) That the City Council has an obligation and responsibility to protect its citizens from the use of deceptive practices.

(g) In order to ensure the uniform enforcement of existing laws, to preserve the public peace and good order, and to safeguard the health, safety, morals and welfare of the community and citizens thereof, it is necessary and advisable to provide greater regulation for the use of electronic equipment which displays the results of drawings by chance and game promotions.

Section 2. The City of Tavares Code of Ordinances, amended to create a new Chapter 21, Electronic Game Rooms.

The City of Tavares Code of Ordinances are amended to create a new Chapter 21 (Electronic Game Rooms) as shown in Exhibit "A" attached to this ordinance and incorporated herein by reference.

Section 3. Severability and Conflicts.

The provisions of this ordinance are severable and it is the intention of the City Council of Tavares, Florida, to confer the whole or any part of the powers herein provided. If any court of competent jurisdiction shall hold any of the provisions of this ordinance unconstitutional, the decision of such court shall not impair any remaining provisions of this ordinance.

Section 4. Effective Date.

This Ordinance shall take effect immediately upon its final adoption by the Tavares City Council.

PASSED AND ADOPTED this _____ day of _____, 2022 by the City Council of the City of Tavares, Florida.

Lori Pfister, Mayor
Tavares City Council

First Reading: _____

Second Reading & Final Adoption: _____

ATTEST:

Susie Novack, City Clerk

Approved as to form:

Lindsay C. T. Holt, City Attorney

EXHIBIT “A”

(TO ORDINANCE 2022-12)

Chapter 21 - ELECTRONIC GAME ROOMS.

Section 21-1 - Legislative Authorization

This Chapter is enacted in the interest of the public health, peace, safety, morals and general welfare of the citizens and inhabitants of the City of Tavares, Florida, pursuant to Fla. Const. Article VIII, section 1(g), Section 125.01, Florida Statutes. It is established to regulate the use of electronic game rooms, including giveaways through drawings by chance conducted in connection with the sale of a consumer product or service, sweepstakes, game promotions and other electronic games that do not otherwise violate Florida law.

Section 21-2 - Area of Enforcement

The City Council is acting herein as the governing body for the City of Tavares, Florida, and this Chapter shall be effective within the boundaries of the City of Tavares, Florida.

Section 21-3 - Intent

The intent of the City Council acting as the governing body of the City of Tavares, Florida in adopting this Chapter is to regulate electronic game rooms, including the use of electronic means to effect giveaways through drawings by chance conducted in connection with the sale of a consumer product or service, sweepstakes, and game promotions that do not otherwise violate Florida law. This regulation is intended to include all locations that utilize electronic games that simulate a game or games ordinarily played on a slot machine or other images associated with gambling, including those used to display the results of a drawing by chance conducted in connection with the sale of a consumer product or service, game promotion or sweepstakes. It also is intended to regulate all Operators (as defined herein) who operate electronic game rooms.

Section 21-4 - General Prohibition

Except as expressly regulated and permitted by this Chapter, no Person shall operate an electronic game room, including those that conduct drawings by chance pursuant to Section 849.0935, Florida Statutes, sweepstakes or game promotion pursuant to Section 849.094, Florida Statutes, or any other game of chance on any electronic or mechanical device provided by an operator of the game room which displays the result by simulating a game or games ordinarily played on a slot machine or other image associated with gambling.

Section 21-5 - Definitions

(a) "Person" means an individual, association, partnership, joint venture, corporation, limited liability company, not-for-profit entity, or entity of any kind authorized to engage in business in Florida.

(b) “Applicant” means the Operator for whom a permit application is submitted and in the name of whom, if the permit is granted, the electronic game room shall be operated.

(c) “Conviction” means a determination of guilt in a criminal case by a court of competent jurisdiction, regardless of whether the defendant pled guilty, no contest, or *nolo contendere*, was found guilty by a judge or jury, or had adjudication withheld.

(d) “Electronic Equipment” means any electronic or mechanical device provided by or on behalf of the Operator that is used or adapted for use to conduct game play and/or to reveal the results of a drawing by chance conducted in connection with the sale of a consumer product or service, sweepstakes or game promotions that display results by simulating a game or games ordinarily played on a slot machine or associated with gambling. For any server based or internet based electronic game, each player station shall be deemed a separate Electronic Equipment device.

(e) “Electronic Game Room” means a Premises at which electronic games are provided to members or the general public, that utilize Electronic Equipment for entertainment, amusement, or prize giveaways. This definition includes, but may not be limited to, Premises commonly known or identified as Internet Cafes. This definition does not apply to family style arcades wherein Minors are permitted.

(f) “Minor” means an individual under the age of eighteen (18) years.

(g) “Operator” means any Person in whose name a drawing by chance conducted in connection with the sale of a consumer product or service, sweepstakes, game promotion, or other electronic game that utilizes Electronic Equipment is conducted.

(h) “Permit Holder” means the Operator in whose name the City has issued a permit under this Chapter.

(i) “Premises” means the house, building, edifice, or location, along with its grounds, in or upon which the Operator operates an Electronic Game Room.

(j) “Rules” means the restrictions and covenants governing the operation of any drawing by chance, sweepstakes, or game promotion.

To the extent not defined in this section, the definitions utilized in the Florida Statutes shall be applicable to all terms used in this Chapter.

Section 21-6 - Permitting and Fees

(a) *Permit Required.* Every Operator operating an Electronic Game Room shall obtain a permit from the City for each Premises. Each permit is valid only for the Operator and the Premises named in the permit. Each permit is valid for one year.

(b) *Initial Permits.* Within thirty (30) days of enactment of this Ordinance, the current Operators that have been operating an Electronic Game Room on or before July 1, 2022 at a Premises, and which apply for, facially qualify for, and pay required fees for a permit, shall be granted a permit for the Premises as provided for in this section. Each such Operator shall, in addition to the requirements set forth herein as part of the application, provide proof satisfactory to the City that the Operator was lawfully operating or commencing the operation of an Electronic Game Room as of July 1, 2022, which such evidence may include a current and valid lease, rental agreement, purchase and sale contract, bill of sale or receipt indicating the purchase, lease or use of Electronic Equipment on the Premises, or other certificates, permits, licenses, receipts or filings issued by the Federal, State or local government indicating proof of the uses contemplated by this Ordinance on the Premises. Applications received within the initial thirty (30) days, but deemed insufficient or incomplete as of October 1, 2022, shall no longer be entitled to priority status under this subsection and shall be subject to the permit limitations set forth in subsection (c) below.

(c) *Permits Limited.* Unless greater than three (3) permits have been issued as provided for in subsection (b) above, the City shall limit the total number of permits issued pursuant to this section to three (3). After the permits authorized by subsection (b) are issued, no permits for new businesses shall be issued unless the issuance of the permit will not cause the total number of permits issued to exceed three (3) permits. All qualifying Operators who receive an initial permit as provided for in subsection (b) shall be entitled to renew their permit if they otherwise qualify and pay required fees.

(d) *Application Materials Required for Permit.*

(1) Applicant shall file with the City the following materials:

- (i) If applicable, a copy of Applicant's proposed Rules governing the drawing by chance, sweepstakes or game promotion which includes the odds of winning and the prize table;
- (ii) A complete list of all products and services offered and the prices charged therefore;
- (iii) A letter must be provided that identifies the full name, date of birth, current physical address, and social security number for every principal, officer, and director of the Operator and business owner if different from the Operator. The letter must authorize the City to conduct a criminal background check on all individuals listed in the letter in order to confirm the requirements of this Code have been satisfied;
- (iv) A sworn affidavit containing the following:
 - (A) the identity of the applicant;

- (B) a description, including the number of pieces, of the Electronic Equipment;
- (C) a statement of whether any of the individuals listed in subsection (d)(1)(iii) above have, within the five-year period immediately preceding the date of the application, been convicted of any felony under the laws of Florida, the United States, or any other state, or has had adjudication withheld, and, if so, the particular criminal act involved and the place of conviction;
- (D) the name and address of an individual in Tavares, Florida who is authorized to receive notices from the City; and
- (E) a statement certifying that all information on the application and any attachments thereto is true and that the Applicant understands that any misstatement of material fact in the application will result in the denial of the permit or, if it has been issued, in the suspension or revocation of the permit.

(e) Review of Application.

(1) Duration of Review. Within sixty (60) days of receipt of an Applicant's completed permit application, the City shall grant or deny the application.

(2) Eligibility of Applicant. The permit shall be denied for any of the following reasons:

- (i) The application contains false information or is incomplete;
- (ii) The Applicant has failed to comply with a provision of the state statutes, including, but not limited to, Chapter 607, Florida Statutes (regarding corporations), Chapter 620, Florida Statutes (regarding partnerships), or section 865.09, Florida Statutes (regarding fictitious names);
- (iii) The Applicant had a license under this Article that has been suspended or revoked, or was a partner in a partnership, or an officer, director or principle stakeholder of a corporation which had a license suspended or revoked during the previous five (5) years;

(iv) The Applicant, within five (5) years of the date of the application, has been convicted of any felony under the laws of Florida, the United States, or any other state unless said violation would not constitute a crime in Florida unless the applicant has had adjudication withheld; or

(v) The Applicant has been found to be in violation of any provision of this Article, other provision of the City of Tavares Code or Land Development Regulations by the City of Tavares Code Enforcement Special Magistrate when such violation occurs on the premises licensed hereunder.

(f) *Denial of Permit; Reapplication.* Any decision of the City Manager or designee (including City staff) pursuant to the granting or denying of a license under this Section may be reviewed as a matter of right by the circuit court upon the filing of the appropriate pleading by the aggrieved party within thirty (30) days of the date of the written decision. If an applicant reapplies for a permit at a particular location within a period of one (1) year from the date of denial of a previous application at the same location, and there has not been an intervening change in the circumstances which will lead to a different decision regarding the application, the application shall be rejected.

(g) *Permit fees.* The eligible Applicant, before receiving the permit, shall pay an initial Electronic Game Room Permit Fee for the Premises in the amount of \$10,000.00. The initial permit fee covers the first year of the issued permit. Subsequent yearly renewal permits will be charged a separate yearly renewal permit fee in the amount of \$3,000.00. The fee is for one year during which the permit is valid and shall be paid each time the permit is renewed. If an eligible Applicant fails to pay this fee(s) on or before the thirtieth (30th) day after approval, availability, and notice of the permit authorization, the application shall be deemed denied.

(h) *Duration of Permit.* A permit shall be valid for one (1) year from the date of issuance.

(i) *Renewal of Existing Permit.* Existing permits shall be renewed upon compliance with this Section, notwithstanding the total number of permits issued. The Permit Holder shall apply for the renewal permit no later than sixty (60) days and no sooner than one-hundred twenty (120) days before the expiration of the current permit. The renewal permit application shall include all the materials and the renewal application fee required for the issuance of an original permit as established by the City Council. Renewal permit applications shall be processed using the same procedure and standards as required for review of an original permit application. Upon approval, renewal permit applicants shall pay the same fees as set forth in subsection (h) above and said renewals shall be deemed denied if an eligible Applicant fails to pay these fees on or before the thirtieth (30th) day after approval, availability, and notice of the permit authorization.

(j) *Transfers of Permits Not Permitted.* Permits shall not be transferred to another premises nor shall Permits be transferred to another person or entity. Any change in majority or controlling interest in any corporate Permit Holder shall be deemed a transfer to another entity and the Permit shall be automatically revoked as of the date such change was made.

(k) *Revocation of Permit.* The City may revoke a permit for violation of any provision of this Chapter. Prior to revocation, the City shall provide to the Permit Holder, through their individual in Tavares, Florida authorized to accept notices from the City, the following:

- (1) A written notice of intent to revoke the permit;
- (2) A fourteen (14) calendar day opportunity to cure the alleged violation;
and
- (3) An opportunity to be heard prior to revocation.

Revocation shall not take place before twenty-one (21) days after a notice of revocation, opportunity to cure, and opportunity to be heard is delivered to the Permit Holder. Any decision of the City Manager or designee (including City staff), or City Council or Magistrate after hearing, to revoke a permit may be reviewed as a matter of right by the circuit court upon the filing of the appropriate pleading by the aggrieved party within thirty (30) days of the date of the written decision. Failure to file an action in the circuit court within the prescribed time period constitutes a waiver of the right to appeal.

Section 21-7 - Inspection of Premises

During business hours, the City, the Tavares Police Department, or their agents may enter the Premises for purposes of inspecting all areas of the Premises otherwise accessible to the general public, to ensure compliance with the provisions of this Chapter or any other ordinances within their authority, including but not limited to the right to enter the Premises and to select and remove any piece(s) of Electronic Equipment to inspect, test and/or have tested to determine compliance with this Chapter. The City or the Tavares Police Department may issue to the Permit Holder a show cause order requiring the production on Premises of documents or data relating to the electronic games. Production of the records or inventory shall only be for inspection and review to determine compliance with this Chapter. Within three (3) days of receipt of the show cause order the Permit Holder shall produce all requested records and inventory.

Section 21-8 - Signage Requirements

(a) *Exterior of Premises.* Exterior signage shall comply with Chapter 21 of the City's Land Development Regulations.

(b) *Interior of Premises.* The Permit Holder shall conspicuously post the Permit at the entrance or main counter. The Permit Holder shall also conspicuously post the name of the Permit Holder, a description of all products and services sold, and the complete rules for all drawings, sweepstakes or game promotions at the Premises' front or main counter. Rules for all game promotions shall include the following language in at least 26 point font: "State and local law prohibits this establishment from requiring an entry fee, payment, or proof of purchase as a condition of participating. No donation or contribution is required. You may obtain free entries upon request from any employee on the premises." The Permit Holder shall also post a sign which shall include the following language in at least 26 point type: "The video displays are for amusement and entertainment only. The video displays do not determine the result of your sweepstakes entries." The Permit Holder shall affix signage that shall include the following language in at least 10 point type on each piece of Electronic Equipment: "The video displays are for amusement and entertainment only. The video displays do not determine the result of your sweepstakes entries." A complete copy of the Rules, prizes, and odds of winning shall be made available on request without cost. Any consumer product or service offered for sale shall be identified by description and price by conspicuous posting.

Section 21-9 - Limitations on Operation of Business

(a) *Alcoholic Beverages.* Permit Holders shall not sell or permit any individual to consume or possess any alcoholic beverages on any Premises.

(b) *Tobacco.* Permit Holders shall not sell tobacco at any Premises.

(c) *Minors.* Permit Holders shall not permit Minors to enter the Premises.

(d) *Conditions of Alternative Means of Entry.* Entries that are available without purchase or financial donations shall be made available on request. The Permit Holder shall not impose any condition on the provision of such entries other than proof of identity by government issued identification from any state. The Permit Holder shall not limit the number of such entries offered per day per individual to less than the equivalent amount of entries that Permit Holder provides to individuals who make a donation, or purchase of a product or service, valued at least \$1.00.

(e) *Employee Background Checks.* Permit Holders shall ensure that a criminal background check is conducted on all employees within 30 days of hire and that such documentation is maintained on the Premises.

(f) *Additional Requirements.* An Operator conducting a drawing by chance in connection with the sale of a consumer product or service, sweepstakes or game promotion shall be required to:

- (1) maintain a list of the names and addresses of all persons who have won prizes which have a value of more than \$25 for one (1) year.

(2) maintain a trust account or bond in the amount of \$25,000.00.

Section 21-10 - Safety and Security Requirements

The Premises of the Electronic Game Room shall maintain the following security devices and standards:

(a) a security camera system operating during business hours and capable of recording and retrieving an identifiable image for both the interior and exterior of the Premises;

(b) a sign or posted notice that the premises are under surveillance;

(c) a drop safe or cash management device for restricted access to cash receipts;

(d) a conspicuous notice at all public entrances to Premises stating cash register contains limited amount of cash and that the manager does not have access to the safe;

(e) at exits to Premises, height markers displaying height measures;

(f) a cash management policy limiting cash on hand;

(g) a silent alarm system capable of notifying law enforcement; and

(h) during nighttime hours when the Premises is open for business at least one licensed, armed security guard.

Section 21-11 - Violations.

It shall be unlawful for any Person, Operator, Manager, or Permit Holder to violate any of the provisions of this Chapter. Violations of different provisions of this Chapter shall constitute separate offenses. Each day a violation occurs shall constitute a separate offense. A first violation of any of the provisions of this Chapter constitutes a civil infraction punishable by up to a \$100 fine. Any subsequent violation of any provision of this Chapter shall be punishable by up to a \$200 fine.

AGENDA SUMMARY
TAVARES PLANNING & ZONING ADVISORY BOARD
8/18/2022

AGENDA TAB NO.: 3.

SUBJECT TITLE: Land Development Regulation Amendments - Revision of Land Development Regulations in Accordance with Smart Growth Initiatives and the Comprehensive Plan. Recommendation on Ordinance 2022-14

OBJECTIVE:

To consider approval of the revision of Land Development Regulations in accordance with smart growth initiatives and the Comprehensive Plan.

SUMMARY:

On November 18, 2020, City Council adopted a new Comprehensive Plan for the City of Tavares entitled Taking Flight - Comprehensive Plan 2040. City staff subsequently conducted a full review of the City's Land Development Regulations to ensure consistency with the Comprehensive Plan. The review process included multiple Smart Growth Horizon Team workshops providing the public with the opportunity to collaborate with staff and share ideas regarding how the regulations may be improved. City staff compiled the input received and made revisions to the Land Development Regulations with the intention of promoting quality development standards within the City. Some key highlights include increasing lot sizes, increasing the size of required landscape buffers, adding a residential estate zoning category for rural areas of the City, updating parking regulations to account for golf carts, and amending development application fees.

OPTIONS:

1. The Planning & Zoning Board moves to recommend approval of Ordinance 2022-14 revision of Land Development Regulations in accordance with smart growth initiatives and the Comprehensive Plan.

2. The Planning & Zoning Board moves to recommend denial of Ordinance 2022-14.

STAFF RECOMMENDATION:

Staff recommends that the Planning & Zoning Board moves to recommend approval of Ordinance 2022-14 revision of Land Development Regulations in accordance with smart growth initiatives and the Comprehensive Plan.

FISCAL IMPACT:

Increase in development application fees paid to the City of Tavares.

LEGAL SUFFICIENCY:

This ordinance has been reviewed by the City Attorney and approved for legal sufficiency.

ATTACHMENTS AVAILABLE TO THE PUBLIC UPON REQUEST:

1. Ordinance 2022-14
2. CHAPTER_1__GENERAL_PROVISIONS
3. CHAPTER_3__DEFINITIONS
4. CHAPTER_4__APPLICATION_PROCEEDURES_AND_PERMITTING
5. CHAPTER_7__NON_CONFORMING_SITUATIONS
6. CHAPTER_8__ZONING_REGULATIONS
7. CHAPTER_9__HISTORIC_PRESERVATION_OVERLAY_DISTRICT_AND_ARCHITECTURAL_AND_SITE_DESIGN_STANDARDS
8. CHAPTER_10__CONCURRENCY_REVIEW_AND_DETERMINATION
9. CHAPTER_11__LANDSCAPING_AND_BUFFERING_REGULATIONS_PROTECTION_AND_REMOVAL_OF_TREES
- 10CHAPTER_12__PERFORMANCE_STANDARDS
- .
- 11CHAPTER_13__ENVIRONMENTAL
- .
- 12CHAPTER_15__STORMWATER_REGULATIONS w Griffey edits
- .
- 13CHAPTER_16_SUBDIVISION REGULATIONS
- .
- 14CHAPTER_17_UTILITIES
- .
- 15CHAPTER_19__STREETS AND SIDEWALKS
- .
- 16CHAPTER_20__PARKING_REGULATIONS
- .
- 17CHAPTER_21__SIGN_REGULATIONS
- .
- 18CHAPTER_22_BUILDINGS_AND_BUILDING_REGULATIONS
- .
- 19CHAPTER_23_COMMUNITY_ECONOMIC_DEVELOPMENT_INITIATIVES
- .
- 20CHAPTER_24__COMMUNITY_DEVELOPMENT_FEE_SCHEDULE
- .
- 21Newspaper Ad
- .

ORDINANCE 2022-14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TAVARES, FLORIDA, SUBSTANTIALLY REVISING AND REWRITING THE CITY LAND DEVELOPMENT REGULATIONS, WHICH INCLUDE CHAPTER 1 GENERAL PROVISIONS, CHAPTER 2 ADMINISTRATION, CHAPTER 3 DEFINITIONS, CHAPTER 4 APPLICATION PROCEDURES AND PERMITTING, CHAPTER 7 NON-CONFORMING SITUATIONS, CHAPTER 8 ZONING REGULATIONS, CHAPTER 9 HISTORIC PRESERVATION OVERLAY DISTRICT AND ARCHITECTURAL AND SITE DESIGN STANDARDS, CHAPTER 10 CONCURRENCY REVIEW AND DETERMINATION, CHAPTER 11 LANDSCAPING AND BUFFERING REGULATIONS PROTECTION AND REMOVAL OF TREES, CHAPTER 12 PERFORMANCE STANDARDS, CHAPTER 13 ENVIRONMENTAL PRESERVATION, CHAPTER 14 FLOODPLAIN, CHAPTER 15 STORMWATER, CHAPTER 16 SUBDIVISION REGULATIONS, CHAPTER 17 UTILITIES, CHAPTER 19 STREETS AND SIDEWALKS, CHAPTER 20 PARKING REGULATIONS, CHAPTER 21 SIGN REGULATIONS, CHAPTER 22 BUILDINGS AND BUILDING REGULATIONS, CHAPTER 23 COMMUNITY ECONOMIC DEVELOPMENT INITIATIVES, CHAPTER 24 COMMUNITY DEVELOPMENT FEE SCHEDULE; CHANGING THE ACTUAL LIST OF PERMITTED, CONDITIONAL, OR PROHIBITED USES WITHIN ZONING DISTRICTS; ADDING CERTAIN ZONING DISTRICTS; SUBJECT TO THE RULES, REGULATIONS AND OBLIGATIONS ORDAINED BY THE CITY OF TAVARES COUNCIL; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE. PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Tavares has previously adopted by ordinance Land Development Regulations which implement the City's Comprehensive Plan and guide and regulate the development of property within the City limits; and

WHEREAS, the City Council has undertaken a master revision to the Land Development Regulations to update those ordinances and make them consistent with the most recent amendments to the City's Comprehensive Plan; and

WHEREAS, the City of Tavares has advertised as required by law for two public hearings prior to adoption of this ordinance; and

WHEREAS, the City of Tavares Planning and Zoning Board, and City Council held duly noticed public hearings providing opportunity for individuals to hear and be heard regarding the adoption of the proposed ordinance; and,

WHEREAS, the City Council has reviewed and considered all relevant evidence and information and testimony presented by witnesses, the public, and City staff; and,

WHEREAS, the City Council now desires to adopt the revised and updated Land Development Regulations, to become effective as provided herein, now, therefore:

BE IT ORDAINED by the City Council of the City of Tavares, Florida, as follows:

Section 1: Text Amendments.

The revised City of Tavares Land Development Regulations attached hereto as Exhibit "A" and incorporated herein by reference are hereby adopted.

Section 2. Severability and Conflicts

The provisions of this ordinance are severable and it is the intention of the City Council of Tavares, Florida, to confer the whole or any part of the powers herein provided. If any court of competent jurisdiction shall hold any of the provisions of this ordinance unconstitutional, the decision of such court shall not impair any remaining provisions of this ordinance.

Section 3. Effective Date.

This Ordinance shall take effect immediately upon its final adoption by the Tavares City Council.

PASSED AND ADOPTED this _____ day of _____, 2022 by the City Council of the City of Tavares, Florida.

Lori Pfister, Mayor
Tavares City Council

Passed First Reading _____

Passed Second Reading _____

ATTEST:

Susie Novack, City Clerk

APPROVED AS TO FORM AND LEGALITY:

Lindsay C. T. Holt, City Attorney