



Village of Oak Park

STAFF REPORT 2

TO: Plan Commission

REVIEW DATE: April 5, 2018

FROM: Village Staff

PREPARED BY: Craig Failor, Village Planner

P R O J E C T T I T L E

PC 18-05: Zoning Ordinance Text Amendment – Community Residence. The Applicant has requested amendments to the Oak Park Zoning Ordinance: 1.) to better define “Community Residence;”: 2.) to make Community Residences a permitted use in all residential zoning districts without a resident count limitation; and, 3.) by adding “4. Requests for reasonable accommodations will be reviewed and acted upon in accordance with federal, state, and local laws and regulations.”

A P P L I C A N T I N F O R M A T I O N

APPLICANT Village of Oak Park
123 Madison Street
Oak Park, IL 60302

A n a l y s i s

Description

After a two and half year process to update and revise the Village’s Zoning Ordinance, the Village Board reviewed and approved the recommended document in September 2017 with a few items to be remanded to the Plan Commission for further consideration. One of those is the subject of this staff report – *community residence*. The previous and current Zoning Ordinance contains regulations for this land use. After public comment at a village board meeting, the direction by the Village Board to the Plan Commission was to look at ensuring the new Zoning Ordinance language was appropriate and within the Village’s legal parameters.

Plan Commission Discussion

The Plan Commission held working sessions in January and February 2018 to review possible scenarios for *community residence* language changes. It was determined that additional legal review was necessary. The Plan Commission attorney was asked by the Commission and directed by staff to review and comment on this subject. At the February meeting, the Plan Commission attorney presented a memorandum to the Plan Commission detailing State and Federal regulations as well as examples from other similar communities. The Plan Commission reviewed and discussed the memorandum and concluded with direction to set a public hearing.

The Plan Commission held a public hearing on March 1, 2018 where it was determined that additional considerations should be contemplated relative to Community Residence regulations. The Plan Commission stated that the Zoning Ordinance should be slightly modified to include language relative to the “reasonable accommodations” process based on the fact that both the Fair Housing Act and the Americans with Disabilities Act require that a municipality must *“reasonably accommodate a disabled person by making changes in rules, policies, practices or services [including requirements in zoning ordinances] as is necessary to provide that person with access to housing that is equal to that of those who are not disabled.”* The Fair Housing Act provides in this regard that it is unlawful to refuse *“to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.”* The Americans with Disabilities Act’s regulations provide in this regard that a *“public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.”*

In addition, the Plan Commission asked that these changes also be considered; 1. Better define Community Residence, and 2. Community Residences shall be a permitted use in all residential districts. At the conclusion of the public hearing on March 1st, the Plan Commission directed staff to re-notice the hearing with the above-mentioned modifications for consideration at their April 5, 2018 meeting.

Z o n i n g O r d i n a n c e

1. Article 2 (“Definitions and Rules of Measurement”), Section 2.3 (“Definitions”).
2. Article 8 (“Uses”), Section 8.3 (“Use Restrictions”); Table 8-1 (“Use Matrix”).
3. Article 8 (“Uses”), Section 8.4 (“Principal Use Standards”), Subsection 8.4(E) (“Community Residence”).

R e c o m m e n d a t i o n

In preparation for the April 5th public hearing, staff contacted the Village’s zoning consultant to seek their professional input regarding this matter. It was stated by the consultant that the proposed modification of eliminating the density requirements and allowing Community Residences as permitted uses in all residential districts is an approach they have used as well in some places.

It was also mentioned that the Plan Commission was reviewing the validity of the descriptor *“functional”* relative to *“disability”* within the definition of Community Residence. They indicated that *“functional disability”* is a term that is/has been used by government agencies, such as the Center for Disease Control (CDC) and World Health Organization (WHO). Other agencies like

HUD talk about disability as affecting major life activities; for example, WHO says: “A *functional concept of disability, defines a disability as any long-term limitation in activity resulting from a condition or health problem.*” For the HUD definition, major life activity is; “*Activities that are of central importance to daily life, such as seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, and speaking (disability is a limitation on that).*” Essentially the intent is to distinguish long term from short term; for example, breaking arms or legs in an accident that will heal and will not impact major life activities.

Staff believes, as does the Plan Commission attorney, that the current zoning language is appropriate and within the Village’s legal authority as written. However, a recommendation offered by the Plan Commission attorney during discussions to include language, which can be considered progressive, recognizing the reasonable accommodation process was agreed to at the March 1, 2018 plan commission public hearing.

Staff is supportive of the consultant’s explanation regarding the definition of Community Residence and believes it should remain as written – with the exception that the last sentence be removed as it references the Table relative to the number of occupants. Staff supports allowing Community Residences in all residential districts as a permitted use because it is the most lenient approach and not out of the ordinary according to our zoning consultant. Also, occupancy limits are not necessary since they are currently controlled by the Village Code.

End of Report.

- c. Plan Commission
Greg Smith; Klein, Thorpe & Jenkins / Plan Commission Attorney
Tammie Grossman, Development Customer Services Director
Michael Bruce, Zoning Administrator
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