



## Agenda Item Summary

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**File #:** MOT 18-367, **Version:** 1

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### **Submitted By**

Tammie Grossman, Development Customer Services Director

### **Agenda Item Title**

**Presentation and Discussion Regarding Community Residence Regulations and a Motion to Direct Staff to Prepare the Necessary Ordinance Consistent with the Plan Commission's Findings of Fact and Recommendation**

### **Overview**

The purpose of this item is to discuss the Plan Commission's findings based on Village Board direction relative to Zoning Ordinance regulations for community residences.

### **Anticipated Future Actions/Commitments**

If directed by the Village Board, this item would return to the Village Board on their regular agenda as a text amendment to the Zoning Ordinance.

### **Report**

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 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.

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 a "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.

In preparation for the April 5th public hearing, staff contacted the Village’s zoning ordinance 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.

Attached is the Plan Commission’s Findings of Fact and Recommendation.

#### **Alternatives**

1. Send this matter back to the Plan Commission with specific direction for reconsideration.
2. Forward the proposed regulation for adoption at a regular Village Board meeting.
3. Forward a modified regulation for adoption at a regular Village Board meeting.