



## Agenda Item Summary

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**File #:** ORD 18-397, **Version:** 1

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### Submitted By

David Mann, Plan Commission Chair thru Tammie Grossman, Development Customer Services Director

### Reviewed By

LKS

### Agenda Item Title

**Concur with the Plan Commission's Recommendation and Adopt an Ordinance Amending Article 8 ("Uses"), Section 8.3 ("Use Restrictions"), Table 8-1 ("Use Matrix"), and Article 8 ("Uses"), Section 8.4 ("Principal Use Standards"), Subsection 8.4E ("Community Residence") of the Oak Park Zoning Ordinance Regarding Community Residences**

### Overview

This matter was remanded by the Village Board to the Plan Commission for further consideration at the time of adoption of the Zoning Ordinance in September 2017. The Plan Commission held public hearings and the Village Board held a Study Session on July 30, 2018. This ordinance is based on the Board's direction from that Study Session.

### Recommendation

The Plan Commission recommends approval of modifications to the Zoning Ordinance as proposed for Community Residences in the attached Ordinance.

### Staff Recommendation

Staff supports the Plan Commission's Recommendation.

The following is an occupancy restriction example based on our Village Code regulations to help better understand the impact of a potential Community Residence scenario:

### Multiple Residential Occupancy

**EXAMPLE:** A typical 1,800 square foot single-family house with three - 100 square foot bedrooms (excludes basement).

*Maximum Occupancy based on bedroom number and size = 6 persons.*

While a 1,800 square foot house allows up to 11 persons per code (200 square feet for the 1<sup>st</sup> occupant, and 150 square feet for each other), the three - 100 square foot bedrooms limit their (sleeping) occupancy to;

- for multiple occupancy - only one (1) occupant per 50 square feet of bedroom square footage - in this case 2 occupants per bedroom would be allowed.
- If only one (1) occupant per bedroom, minimum square footage is 70 square feet.

The larger the bedroom size, the more occupants per bedroom - but only up to a house maximum of 11.

## **Fiscal Impact**

N/A.

## **Background**

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 - subject of this agenda item. The previous and current Zoning Ordinance contains regulations for this land use, however, 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. See Commission process below. On July 30<sup>th</sup> of this year the Village Board discussed the recommendation from the Plan Commission and heard commentary from staff and expert witnesses on this matter. The Village Board supported the Plan Commissions recommendation as presented and asked that it go forward for Board action.

## **Alternatives**

- 1.) Send this matter back to the Plan Commission with specific direction for reconsideration.
- 2.) Approve the modifications as recommended by the Plan Commission.
- 3.) Deny the recommended modifications.
- 4.) Modify the Zoning Ordinance text.

## **Previous Board Action**

On September 18, 2017 the Village Board remanded this matter to the Plan Commission.

On July 30, 2018 the Village Board held a Study Session on this matter at which the Village Board supported the Plan Commission's recommendation.

## **Citizen Advisory Commission Action**

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.

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

N/A.

#### **Intergovernmental Cooperation Opportunities**

Zoning and land use matters are unique to Village government within the corporate limits of Oak Park and therefore, intergovernmental cooperation opportunities do not exist.

#### **Performance Management (MAP) Alignment**

A Governance Priority established for the Development Customer Services Department is Land Use Regulations.