



AGENDA FOR REGULAR MEETING VILLAGE OF TINLEY PARK PLAN COMMISSION

March 16, 2023 – 7:00 P.M.
Council Chambers
Village Hall – 16250 S. Oak Park Avenue

Regular Meeting Called to Order

Pledge of Allegiance

Roll Call Taken

Communications

Approval of Minutes: Minutes of the February 16, 2023 Regular Meeting

ITEM #1 PUBLIC MEETING – ZONING MAP UPDATE

Consider recommending that the Village Board adopt the Village's Official Zoning Map reflecting map amendments through December 31, 2022.

**ITEM #2 WORKSHOP/DISCUSSION – TEXT AMENDMENT –
FENCE REGULATION CHANGES**

Discuss existing and proposed fence regulations to the Zoning Ordinance.

Receive Comments from the Public

Good of the Order

Adjourn Meeting



**MINUTES OF THE REGULAR MEETING OF THE
PLAN COMMISSION, VILLAGE OF TINLEY PARK,
COOK AND WILL COUNTIES, ILLINOIS**

February 16, 2023

The meeting of the Plan Commission, Village of Tinley Park, Illinois, was held in the Council Chambers located in the Village Hall of Tinley Park, 16250 Oak Park Avenue, Tinley Park, IL on February 16, 2023.

CALL TO ORDER –CHAIRMAN GRAY called to order the Regular Meeting of the Plan Commission for February 16, 2023 at 7:00 p.m.

Lori Kosmatka, Associate Planner called the roll.

Present and responding to roll call were the following:

Chairman Garrett Gray
James Gaskill
Terry Hamilton
Eduardo Mani
Steve Sepessy
Ken Shaw
Kurt Truxal

Absent Plan Commissioners:

Angela Gatto
Andrae Marak

Village Officials and Staff:

Dan Ritter, Community Development Director
Lori Kosmatka, Associate Planner
Michael O. Whalen, Associate Planner

Petitioners:

Ismat Haddad, Mr. Smoke

Members of the Public:

none

COMMUNICATIONS – Steve Sepessy was appointed as the newest Plan Commissioner.

APPROVAL OF THE MINUTES - Minutes of the February 2, 2023 Regular Meeting of the Plan Commission were presented for approval. A motion was made by COMMISSIONER GASKILL, seconded by COMMISSIONER TRUXAL to approve the February 2, 2023 minutes as presented. CHAIRMAN GRAY asked for a voice vote; all were in favor. He declared the motion carried.

TO: VILLAGE OF TINLEY PARK PRESIDENT AND BOARD OF TRUSTEES

FROM: VILLAGE OF TINLEY PARK PLAN COMMISSION

SUBJECT: MINUTES OF THE FEBRUARY 16, 2023 REGULAR MEETING

ITEM #1: PUBLIC HEARING – MR. SMOKE, 7212 191st STREET SUITE 300 – SPECIAL USE PERMIT

Consider recommending that the Village Board grant Ismat Haddad on behalf of Mr. Smoke a Special Use for Tobacco Store at 7212 191st Street Suite 300 in the B-3 PD (General Business & Commercial, Brookside Marketplace PUD) Zoning District.

Present and responding to roll call were the following:

Chairman Garrett Gray
James Gaskill
Terry Hamilton
Eduardo Mani
Steve Sepessy
Ken Shaw
Kurt Truxal

Absent Plan Commissioners: Angela Gatto
Andrae Marak

Village Officials and Staff: Dan Ritter, Community Development Director
Lori Kosmatka, Associate Planner
Michael O. Whalen, Associate Planner

Petitioners: Ismat Haddad, Mr. Smoke

Members of the Public: none

CHAIRMAN GRAY introduced Item #1. COMMISSIONER TRUXAL made a motion to open the public hearing. Second was made by COMMISSIONER MANI. CHAIRMAN GRAY requested a voice vote. Hearing no opposition, the motion was declared carried.

CHAIRMAN GRAY confirmed that he received certification of public legal notice being posted. He invited staff to present their report.

Michael O. Whalen, Associate Planner, presented the staff report.

CHAIRMAN GRAY confirmed the Petitioner was present and offered the opportunity to speak at the dais.

Ismat Haddad was sworn in.

Ismat Haddad introduced himself as the Petitioner. He stated that he worked for the smoke shop that previously occupied the suite of his proposed Tobacco Store. He said that he attempted to buy the business from the previous shop, Big Box Tobacco, but was unable to finish the deal before Big Box Tobacco went out of business. He said he has experience with tobacco shops and that he previously worked for the City of Chicago.

CHAIRMAN GRAY asked the Commissioners if they had any questions or comments, beginning with COMMISSIONER SHAW.

COMMISSIONER SHAW said he did not have comments and thanked the Petitioner for being entrepreneurial. He added that since there was previously a tobacco store at that location, that he did not have any concerns.

COMMISSIONER MANI said that he agreed with COMMISSIONER SHAW. He added that he was glad the Petitioner was filling the vacancy in the shopping center.

COMMISSIONER HAMILTON said that the proposed site appeared to be a good location for a tobacco shop. He said that there were no concerns with children nearby.

COMMISSIONER GASKILL had no comments.

COMMISSIONER TRUXAL thanked staff for a thorough staff report. He added that the proposed site was an appropriate location for a new Tobacco Store.

COMMISSIONER SEPESSY questioned whether or not there would be people smoking in front of other businesses and if the Petitioner intended to add any new “no smoking” signage.

Michael O. Whalen said that he would defer the question to the Petitioner.

Ismat Haddad said smoking in front of other businesses would not be allowed. He added that its not a place where people might loiter. He said that smokers would dispose of their cigarettes in a receptacle provided by the property manager. He said that if his customers smoke in front of businesses, he will instruct them to move to a different location.

CHAIRMAN GRAY said that he echoed what other commissioners said. He said that the business appeared to be built for success. He had no further comments.

CHAIRMAN GRAY asked if any other member of the public wished to speak on the matter. Seeing no one, he requested a motion to close the public hearing. COMMISSIONER SHAW made a motion to close the public hearing. Second was made by COMMISSIONER TRUXAL. CHAIRMAN GRAY requested a voice vote. Hearing no opposition, the motion was declared carried. He asked Staff to present the Standards.

Michael O. Whalen presented the standards.

There was one motion for this item.

CHAIRMAN GRAY entertained Motion #1.

Motion 1 – Special Use Permit for a Tobacco Store

COMMISSIONER TRUXAL made a motion to recommend that the Village Board grant the Petitioner, Ismat Haddad on behalf of Mr. Smoke, a Special Use Permit to operate a Tobacco Store at 7212 191st Street Suite 300 in the B-3-PD (General Business and Commercial, Brookside Marketplace PUD) zoning district, according to the submitted plans and adopt the Findings of Fact as listed in the February 16, 2023 staff report.”

COMMISSIONER GASKILL seconded the motion. The vote was taken by roll call; all were in favor.

Present and voting in the affirmative:

COMMISSIONER GASKILL
COMMISSIONER HAMILTON
COMMISSIONER MANI
COMMISSIONER SEPESSY
COMMISSIONER SHAW
COMMISSIONER TRUXAL
CHAIRMAN GRAY

CHAIRMAN GRAY declared the motion carried.

CHAIRMAN GRAY noted that the item will go to the Village Board on March 7, 2023.

TO: VILLAGE OF TINLEY PARK PRESIDENT AND BOARD OF TRUSTEES

FROM: VILLAGE OF TINLEY PARK PLAN COMMISSION

SUBJECT: MINUTES OF THE FEBRUARY 16, 2023 REGULAR MEETING

ITEM #2: WORKSHOP – PUBLIC MEETING NOTICE PROCEDURES – POLICY PROPOSAL
Discuss proposed public hearing notice policy.

Present and responding to roll call were the following:

Chairman Garrett Gray
James Gaskill
Terry Hamilton
Eduardo Mani
Steve Sepessy
Ken Shaw
Kurt Truxal

Absent Plan Commissioners: Angela Gatto
Andrae Marak

Village Officials and Staff: Dan Ritter, Community Development Director
Lori Kosmatka, Associate Planner
Michael O. Whalen, Associate Planner

Petitioners: none

Members of the Public: none

CHAIRMAN GRAY introduced Item #2, which is a public meeting item.

Lori Kosmatka, Associate Planner, presented the staff report.

CHAIRMAN GRAY invited each of the commissioners to comment, beginning with COMMISSIONER STEPESSY.

COMMISSIONER STEPESSY had no comment.

COMMISSIONER TRUXAL asked if the Village had recommendations for developers to acquire signs. Dan Ritter said Staff will reach out to a few sign companies to give them the template, and can give a list of sign companies with the template to developers. COMMISSIONER TRUXAL said the proposal sounded good and asked when the policy would be implemented. Dan Ritter said staff is working on getting the developer-provided signs going.

COMMISSIONER GASKILL had nothing to add.

COMMISSIONER SHAW noted that while the presentation used the Southtown as the newspaper to be used, but that the resolution specifies any newspaper with general circulation in the Village. He added that he agreed with Staff's approach. He asked about the process for continuing public hearings. He said that in the past the Commission has opened items before continuing them. Dan Ritter said that the procedure is a personal preference and that the procedures are based on Roberts Rules of Order. COMMISSIONER SHAW said as long as there is not a legal requirement to do it one way or another, he prefers not to open the item.

CHAIRMAN GRAY added the example of 7413 Duvan Drive, where an item was continued indefinitely. He said that if you open a meeting and then continue it, you then have to close the item at a future date. COMMISSIONER SHAW said he just wanted to verify a specific policy.

Dan Ritter said there are instances where an individual commissioner may want to open the public hearing to ask a question about a project being continued and that in that instance, that would be allowed.

CHAIRMAN GRAY said the purpose of the 90-day reposting rule proposed was to have a clear, transparent protocol.

Dan Ritter provided an example of Gas N Wash had been continued for a while and that it would be republished.

COMMISSIONER MANI had no comment.

COMMISSIONER HAMILTON questioned what the purpose of the policy was and asked if it was just to document existing protocols. Dan Ritter confirmed that documenting the policy was helpful for transparency. Dan Ritter added that the resolution could be adjusted later to add things.

CHAIRMAN GRAY did not have additional comments.

COMMISSIONER TRUXAL made a motion to recommend the Village Board adopt a Resolution Establishing a Public Hearing Notice Policy for the Village of Tinley Park as described in the February 16, 2023 Staff Report and drafted Resolution.

COMMISSIONER GASKILL seconded the motion. The vote was taken by roll call; all were in favor.

Present and voting in the affirmative:

COMMISSIONER GASKILL
COMMISSIONER HAMILTON
COMMISSIONER MANI
COMMISSIONER SEPESSY
COMMISSIONER SHAW

COMMISSIONER TRUXAL
CHAIRMAN GRAY

CHAIRMAN GRAY declared the motion carried.

CHAIRMAN GRAY noted that the item will go to the Village Board on March 7, 2023.

Dan Ritter noted that March 7th will be the first reading of the resolution.

DRAFT

Good of the Order

Lori Kosmatka noted that Smoothie King opened and Delta Sonic has partially opened, with the carwash opening in July. She added that Loyola was finishing interior buildout and is on track for June or July. She said the building for Banging Gavel is shored up and that deck and ramp installation had begun.

Dan Ritter noted that the Planning Manager position has been posted. He added that the March 2nd Plan Commission meeting would have the zoning map update and an initial discussion of fence regulations. He said that Gas N Wash received the latest round of review comments and will come back before the Commission in March for a workshop and public hearing. The Odyssey development will also be back in March. He thanked Commissioner Sepessy for joining the Commission.

Receive Comments from the Public

None were present.

CHAIRMAN GRAY requested a motion to adjourn the meeting.

COMMISSIONER SHAW made a motion to adjourn the Meeting. Second by COMMISSIONER GASKILL. CHAIRMAN GRAY requested a voice vote. Hearing no opposition, he declared the Meeting Adjourned at 7:36 p.m.



PLAN COMMISSION STAFF REPORT

March 16, 2023

Official Zoning Map Approval – 2022

Village of Tinley Park

Applicant

Village of Tinley Park

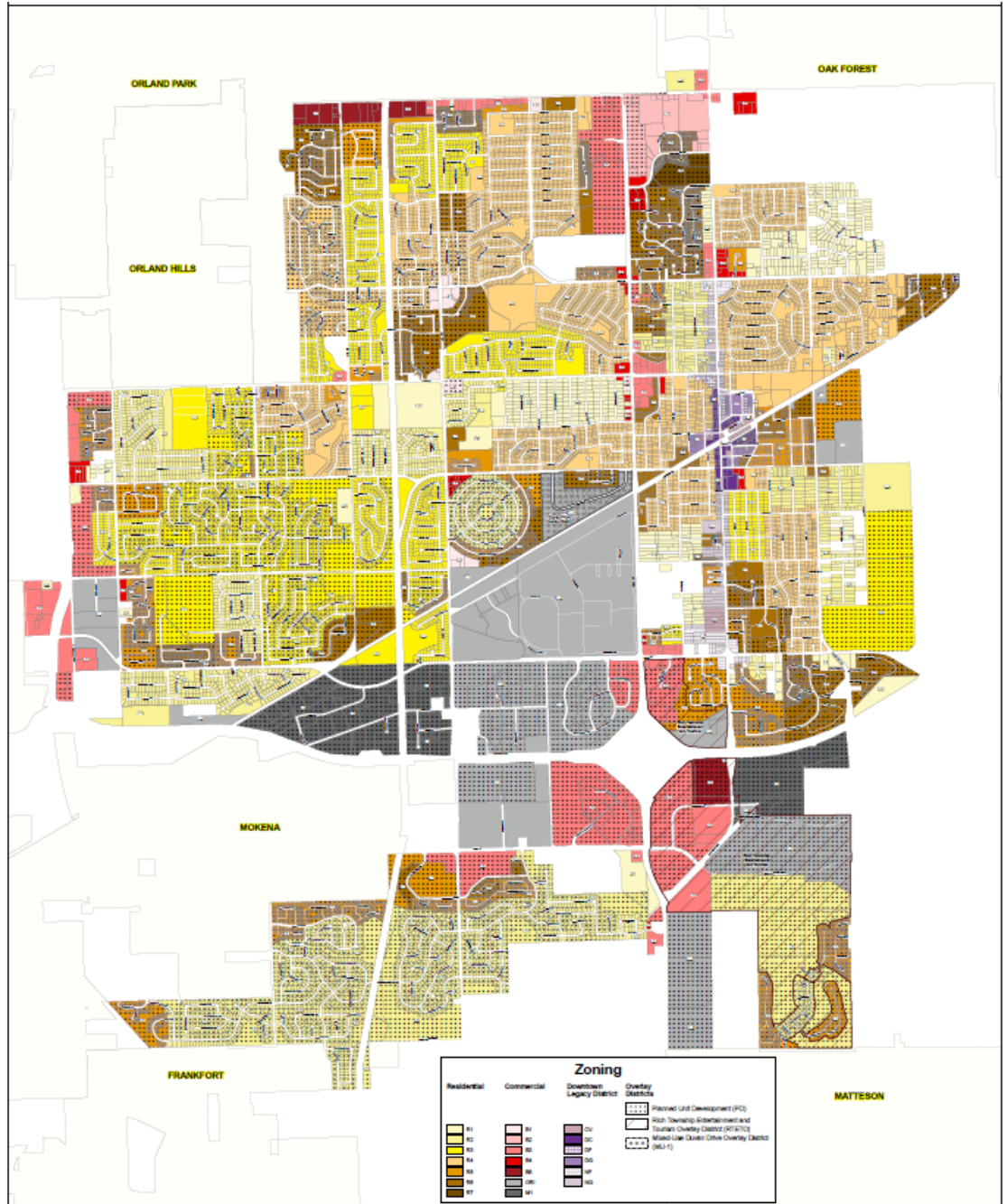
Approvals Sought

Official Zoning Map
Recommendation to the
Village Board

Project Planner

Lori Kosmatka
Associate Planner

Michael O. Whalen, AICP
Associate Planner



EXECUTIVE SUMMARY

Staff worked with the Village's GIS Consultant, MGP, Inc., to review the Village's Zoning Map and identify all updates and corrections through December 31, 2022. Per the Illinois Municipal Code, municipalities must adopt an Official Zoning Map by March 31st of each year.

Village Board review and approval of the 2022 Official Zoning Map is tentatively scheduled for March 21, 2023. The Plan Commission will provide a recommendation to the Village Board as to whether to approve the draft Zoning Map as proposed by Staff.

Staff notes that **no properties are being rezoned as part of the adoption of the official Zoning Map**. All zoning changes included a Public Hearing at the time of their approval and the request is simply ensuring the map correctly reflects any of the previous year's changes. The corrections made to the map being proposed reflect either map amendments (rezonings), annexations, and subdivisions approved in 2022, or corrections that were previously approved, but not accurately documented.

BACKGROUND

The Illinois Municipal Code (65 ILCS 5/11-13-19) requires certain municipal authorities to annually publish an Official Zoning Map by March 31st each year. While not required for home-rule municipalities, it is still considered good practice to do so annually to ensure the map remains accurate.

*(65 ILCS 5/11-13-19) (from Ch. 24, par. 11-13-19) Sec. 11-13-19. Except as otherwise provided in this section, **the corporate authorities shall cause to be published no later than March 31 of each year a map clearly showing the existing zoning uses, divisions, restrictions, regulations and classifications of such municipality for the preceding calendar year. The map published by the corporate authorities shall be the official zoning map.***

The Village's GIS Consultant maintains the on-line map and update's it with any changes throughout the year; however, an official map must still be approved each year. Staff has reviewed the current Zoning Map, made corrections based on map amendments through December 31, 2022, and provided a proposed draft of the Official Zoning Map for the Plan Commission's review.

CHANGES TO THE ZONING MAP

One annexation took place in 2022 (including rezoning and subdivision):

- Marriott (also known as New Horizon) – 9551 & 9555 183rd Street (PINs 27-34-300-013-0000 and 27-34-300-014-0000) was annexed and rezoned to B-3 General Business & Commercial Zoning District per Ordinance 22-O-063 (Annexation) and Ordinance 22-O-064 (Rezoning) and received a Final Plat of Subdivision as Resolution 22-R-086 creating two new lots as "New Horizon Subdivision".

One plat of subdivision with new Planned Unit Developments took place in 2022 (no other rezoning or annexation took place):

- Oak Ridge – Oak Forest Avenue and Ridgeland Avenue (PINs 28-29-300-030-0000, 28-29-300-036-0000, & 28-29-300-041-0000) received a Final Plat of Subdivision as part of the newly created "Oak Ridge Planned Unit Development" (Ordinance 22-O-036) creating new lots for the detached single family and townhome residences as the "Oak Ridge Subdivision" during the DR Horton Oak Ridge development.

One new Planned Unit Development took place in 2022 (no subdivision nor other rezoning or annexation took place)

- Tinley Downs Plaza - 7901-7951 171st Street (Southeast Corner 90th Avenue & 171st Street) (PIN 27-25-316-014-0000) was created as the “Tinley Downs Plaza” Planned Unit Development (Ordinance 22-O-013) during the Dunkin drive-through establishment development process.

Four plats of subdivisions took place in 2022 (no other rezoning or annexation took place):

- Tinley Park Business Center – 19501-19701 Harlem Avenue (Northeast Corner Vollmer Road & Harlem Avenue) (PINs 31-07-103-001-0000 & 31-07-300-001-0000) received a Final Plat of Subdivision (Resolution 22-R-072) and a Plat of Easement (Resolution 22-R-101) during the Scannell development process.
- Loyola Medicine – Southeast Corner 179th & La Grange (PINs 27-34-300-005-0000 and 27-34-300-011-0000) received a Final Plat of Subdivision (Resolution #22-R-028) resubdividing into two lots as “Loyola Medicine Subdivision”.
- Atlas Putty – 8301 185th Street (PINs 19-09-02-200-028-0000 & 19-09-02-201-001-0000) received a Final Plat of Subdivision as part of the existing Northstar Business Center Planned Unit Development creating two new lots as “Atlas Putty Subdivision”.
- Island 1 – One property at 6523 Vogt Street (PIN 28-30-412-007-0000) received a Plat of Subdivision that split the property creating two new lots as “Island 1 Subdivision”.

Staff also identified two various corrections to the Official Zoning Map over the last year, including:

- Multitenant retail building at 7101 183rd Street is split in half with half in the Convention Center PUD.
- 7820 Graphics Drive is zoned ORI-PD but is not shown in a PUD.

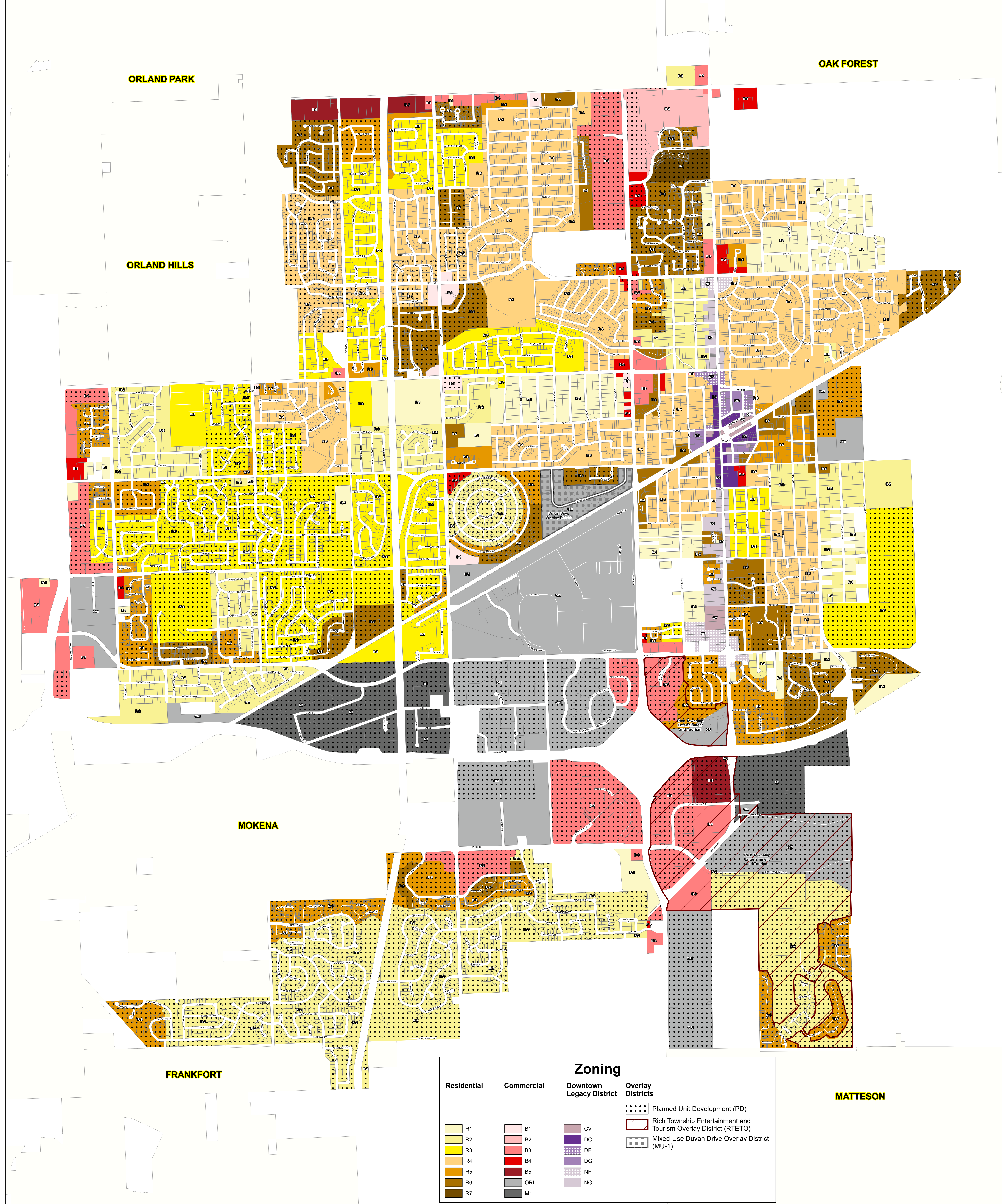
The Village’s GIS Consultant, MGP, Inc., has provided an updated map that reflects the corrections and annexation as noted by Staff. The updated map has been included in the Plan Commission packet in draft form.

RECOMMENDATION

Following a successful review, recommend proceeding with the Map to Village Board on March 21, 2023.

Village of Tinley Park Official Zoning Map 2022

Reflecting Map Amendments Through 12/31/2022



PLAN COMMISSION STAFF REPORT

March 16, 2023 – Workshop/Discussion

Zoning Text Amendment – Fence Regulations

Petitioner

Village of Tinley Park

Zoning Code Sections

Section III.J. Fence
Regulations

Approvals Sought

Text Amendment

Project Manager

Michael O. Whalen, AICP
Associate Planner



EXECUTIVE SUMMARY

The Tinley Park Zoning Ordinance regulates fences for residential and non-residential development. In 2022, the Community Development Department processed eleven fence variation applications, typically to adjust fenced-in areas for residential backyards on corner lots. These applications cost the Village staff time and cost residents time and money to go through the variation process. The Plan Commission, over the last couple of years directed staff to consider potential changes to allow additional flexibility while still maintaining aesthetics and safety.

Relating to corner lot fences, the Village allows residents to place a fence at the setback line of secondary front yard. An administrative approval provision is available to allow additional encroachment of up to ten feet into secondary front yards so long as fences do not project beyond the abutting neighbors' required primary front yards. This regulation is designed to create some uniformity and reduce the visual impact of fences. As with all parts of the Zoning Ordinance, the fence regulations apply equally to all properties. Non-conforming fences must be brought into compliance during replacement.

The purpose of this Workshop is to discuss the appropriateness of modifying Sec. III.J. Fence Regulations. The Village Board last amended this Code section in 2018, to adjust provisions relating to corner lot fences. This report contains an overview of existing provisions and the information presented to the Plan Commission and Zoning Board of Appeals in 2017. Staff is highlighting specific sections for discussion. The goal of any amendment is to reduce the number of fence variation applications the Village receives each year while still controlling the aesthetics concerns of fenced-in yards.

HISTORY

The Village adopted a building code in 1964 (Ord. No. 64-O-037) and amended it several times. Prior to 1974, the Village's Building Code had regulations pertaining to fences. Section 317 of this Code regulated fence materials, open and solid fences, and fence heights, and prohibited fences in required front yards. In 1976, the Building Code was amended (Ord. No. 76-O-041) to expressly prohibit fences outside required setbacks except where yards do not abut rights-of-way (rear and side yards for interior lots). This amendment also added that the finished side of fences must face adjacent properties and prohibited barbed wire. In 1978, a major amendment to the Zoning Ordinance occurred. While this Ordinance is missing, it is likely that this ordinance relocated fence regulations from the Building Code to the Zoning Ordinance.

The Village Board amended the Zoning Ordinance in 2018 (Ord. No. 2018-O-002) to explicitly prohibit fences in secondary front yards for corner lots. The amendment also clarified language, added new definitions, and created a ten-foot administrative variation to allow fences in secondary front yards in certain circumstances. The amendment was the result of months of deliberation between the Zoning Board of Appeals, the Plan Commission, and the Community Development Committee, and was intended to reduce ambiguity and the number of fence variations. These groups anticipated that many existing fences would become nonconforming with the updated Code provisions since fence rules were not uniformly enforced. Language was added to the ordinance that fences being replaced must conform to the new standards.

The Village Board amended the Zoning Ordinance again in 2019 (Ord. No. 2019-O-017) to increase the height of open fences in secondary front yards from four feet to five feet. The purpose of this amendment was to require taller fences in yards with pools as an alternative to pool enclosures.

COMPARISON TO OTHER JURISDICTIONS

Jurisdictions throughout Chicagoland regulate fences in different manners. The table below indicates the differences for nearby and similar communities. There is not much consistency across jurisdictions, except that privacy fences are not allowed in "primary" front yards (as opposed to corner/secondary front yards. Of the ten jurisdictions listed above, 6 allow some form of open style fences in front yards. Each community try to find a balance between visual aesthetics and a desire to allow increased use of yard space. Tinley park's current code tends to be somewhere in the middle of these regulations in terms of allowances and flexibility.

Corner Lots Front Yards	privacy			open			notes
	setback	height	front yard	setback	height	front yard	
Tinley Park	building setback*	6'	no	building setback*	6'	No*	*this is typically the case; fences 10' into secondary front yards w/ approval
Orland Park	5'	6'	no	1'	5-6'	no	
Frankfort	building line	5'	no	none	4'	yes	difficult to comprehend
Mokena	building setback	6'	no	none	4'	yes	
New Lenox							
Plainfield	building setback*	6'	no*	lot line*	4'	yes	front yard privacy fences are permitted in a specific area
Lemont	building setback*	6'	no	20' from street*	4'	yes	4' open fences at lot line allowed in specific area
Oak Forest	building setback	6'	no	building setback	6'	yes*	"except when negatively impacting the aesthetics" *3' front/side yard by variance
Evanston	3' behind front façade	6'	no	3' behind front façade	6'	no	for corner side yards: 3' back from front building line; 2' from property line must be landscaped
Naperville	none	6'*	no	none	4'	yes	* 3' privacy allowed in front yard at lot line
Highland Park	none	6'	no	none	4'	yes	
Oak Lawn	front yard/side yard building line	6'	no	front yard/side yard building line	6'	no	
Hoffman Estates	5' from side property line	6'	no	5' from side property line	6'	no	No setback restrictions if two rear yards abut each other.

EXISTING REGULATIONS

The Zoning Ordinance regulates the location, materials, and maximum height of fences. It contains provisions on permitting, temporary fences, and nonconforming fences. The allowable location is currently based on the lot type (interior, corner, etc.), and yard type (primary front, secondary front, side, and rear). The distances of the yards vary, depending on the zoning district the subject property is in. Thus, properties in a less-dense residential zoning district (such as R-1) require fences to be set back further in than a property in a more dense district (such as R-7). Sight lines and clear vision triangles must be maintained, and private fences are not allowed in rights-of-way, nor may obstruct utilities. Fences may be allowed in certain easements with written approval. Maximum fence height is 6'-0" from top of panel and 6'-6" to top of post, measured from grade. Permits are not required for fence repairs not more than one 8' section of fencing per year on a legally permitted fence.

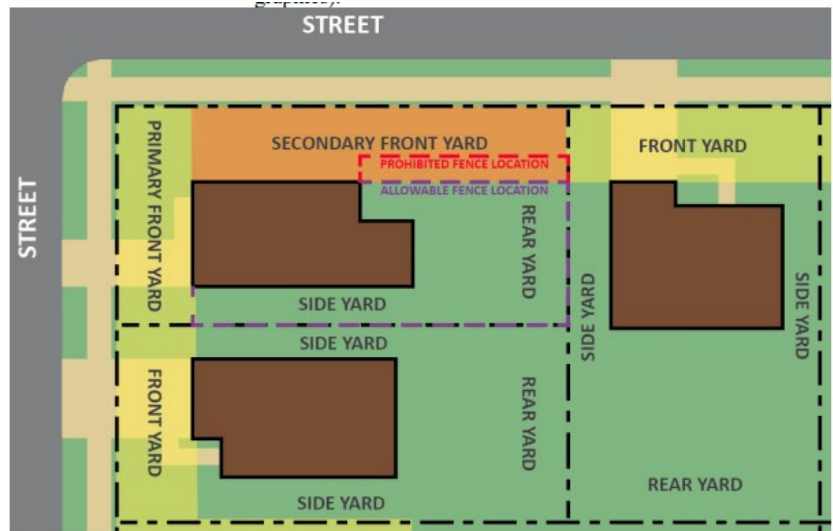
The Zoning Ordinance contains a provision that allows an administrative variation for corner lot fences in R-1 through R-7 zoning districts. This administrative approval allows fences to encroach up to ten feet into a secondary front yard. They are limited to a maximum height of five feet panels and 5'-6" posts, must be open style (prohibiting chain link and privacy style), and not obstruct sight lines or cause a negative impact to safety. They cannot abut a neighboring primary front yard, meaning the provision may only be applied to properties where rear property lines abut, as depicted above.

Fence Variation requests that come to the Village Plan Commission and Village Board are generally evaluated in terms of whether there is a physical hardship or uniqueness to the property. Hardships for a Variation must be related to the physical characteristics of the property. Some situations where a variation may be approved include lots that are of an unusual shape such as three sides (two secondary front yards) or lots that are located behind the neighboring lot due to extended right-of-way lawn area.

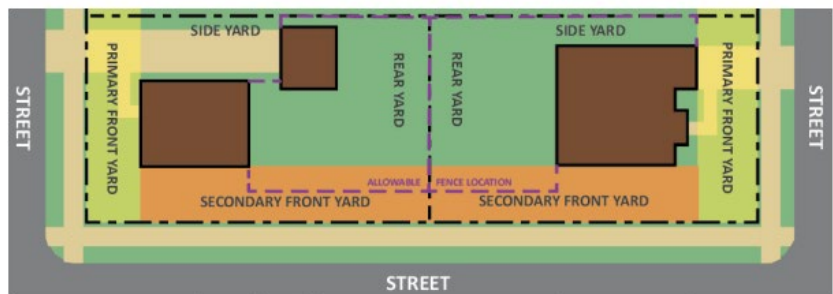
In the Legacy District, open fences may be located within the buffer zone (parkway) when incorporated into raised planter beds or used as tree guards. Fences three to four feet tall are permitted along front property lines of private frontages. Residential lots with secondary front yards are permitted to have six-foot open or privacy fences fifteen feet from the property line, not extending past the front façade of the primary structure.

PREVIOUS PLAN COMMISSION DISCUSSION AND OPTIONS

At the September 1, 2022 Plan Commission meeting, the Commission discussed fence regulations related to front yard fences in older, historic neighborhoods within the Village where the Legacy Code does not apply. Commissioners Shaw, Mani, and Gaskill, and Chairman Gray noted that the current regulations create nonconformities in historic neighborhoods where front yard fences are part of the character of the neighborhood.



Graphic: Prohibited Fence Location in Secondary Front Yard



Graphic: Allowable Fence Location in Secondary Front Yard

Graphic per Section III.J.3.a.1 Administrative Approvals – Secondary Front Yard

To address front yard fences in historic neighborhoods, the Plan Commission could continue the current policy of requiring a variation to replace or install open fences in front yards. These variations can be conditioned to control the character of front yard fences and coordinate with existing properties. This policy would be applied on a case-by-case basis, which requires Staff and Commission time to consider each variation request.

The City of Evanston and Villages of Plainfield and Lemont take a different approach to recognize the context of front yard fences. Evanston designates certain streets as “Type 1 Streets” which are based on the character of a neighborhood. Along these streets, open-style front-yard fences are permitted. There are five streets designated as Type 1 Streets in the Evanston City Code. The streets are designated with specific block ranges, and either prohibit certain fence materials (mostly chain-link) or require wrought iron fences. Both Plainfield and Lemont allow 4’ open fences only in their downtown zoning district areas.

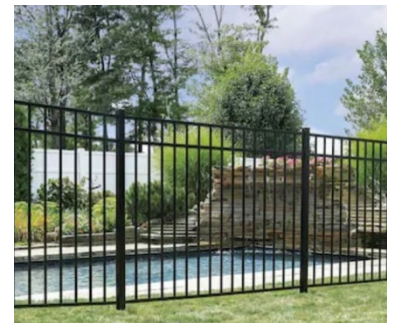
Evanston’s approach reduces the number of variations by allowing front yard fences by right along certain streets. Plainfield’s and Lemont’s approach does the same, but in a specific area rather than along certain streets. With front yard fences permitted by right, more property owners may opt to install appropriate style fences, enhancing the character of the neighborhood.

POTENTIAL NEW REGULATIONS

Staff is recommending the Plan Commission discuss the following items relating to the Fence Regulations (Sec. III.J.) at this meeting. All other provisions in Sec. III.J. are open for the Commission to discuss.

1. Consider permitting a uniform fence setback into secondary front yards, regardless of the neighboring yard type it abuts . This provision would be calculated from the lot line on the secondary frontage and would be applied across all residential zoning districts. This approach would differ from an encroachment into a particular minimum front yard setback that changes depending upon the zoning district. A ten-foot fence setback from secondary front yard property lines will allow for enlarged backyards in corner lots. This change will balance the Village’s policy of reducing visual clutter with some residents’ desire for larger backyards.
2. Allow fences in secondary front yards that abut a neighboring primary front yard. Currently, corner fence encroachments are not permitted at all in this situation (*see above Graphic per Section III.J.3.a.1*). By allowing fences to go into the secondary front yard, the neighboring lot will have the appearance of a fence in a portion of their front yard, which has not been permitted previously. Hundreds of homes (homes that are the first “interior lot” next to corner lots) could be impacted by this. Other regulations for these fences could be implemented like requiring them to be open style or limiting height.
3. Generally, there are two options that may help reduce the visual impact of fences with any proposed change that would allow encroachment of fences into secondary front yards.

- a. First, open fences could be permitted in secondary front yards while privacy fences remain prohibited. This option may yield a more uniform visual appearance. The Zoning Ordinance defines an open fence as a fence where the surface area of any segment of such fence contains at least fifty percent (50%) open spaces, as compared to solid materials. An open-style fence, such as an aluminum frame construction, may allow for more visual transparency.



Open Fence Example

- b. A second control could be to allow fences of either (or both) type(s) in secondary front yards, but with landscaping to soften the visual appearance. Planting type, height, location, and seasonal growth (deciduous or evergreen) would need to be considered.

- c. Another consideration may be to allow fences in front yards (such as in the options above), either in the primary or secondary front yards, but at a lower maximum fence height. The City of Highland Park allows for four-foot maximum fence height throughout required front yards and within 30 feet of the intersection of the lot lines at the intersection of any street and/or alley.

DISCUSSION POINTS

As this meeting is an initial discussion, Staff requests the Commission consider the history and existing regulations of fences and provide suggestions in relation to specific code sections in order. Consideration should take into account that an amendment would generally apply to the whole Village, which has various neighborhood characteristics. Some questions are posed below for general discussion:

1. *Should fences be allowed in secondary front yards beyond the current allowance?*
2. *Should fences be allowed in primary front yards (such as with a lower height)?*
3. *Should fences regulations vary by location depending on street or neighborhood character (such as local versus arterial streets, or older locations surrounding the Legacy District)?*
4. *What controls are appropriate to reduce the visual impact of fences?*
5. *Are there some extremes in the regulations we don't want to consider?*
6. *Is there a town you think balances aesthetics and flexibility well?*
7. *How will any changes affect non-conforming fences, and will it reduce variations (such as if those properties wish to replace fencing)?*

RECOMMENDATION

Upon completion of a successful Plan Commission discussion, staff will prepare any additional research and some different potential options for additional discussion at a future Plan Commission meeting (likely April 6 or April 20, 2023).

Staff Exhibit A

History of Fence Regulations Related to Corner Lots

1956-2005	<i>"Fences in which the opening between the materials of which the fence is constructed represent less than seventy (70) percent of the total surface may be erected to a height not exceeding four (4) feet along the boundaries of a lot, except that no such fence shall be erected within thirty (30) feet of a street intersection. Wire fences and other fences in which the openings between the materials of which the fence is constructed represent more than seventy (70) percent of the total fence area may be erected to a height of six (6) feet, except within thirty (30) feet of a street intersection."</i>
2007-2009	<p>Corner fences are allowed 10 feet into the required side yard similar to the current regulations and allowed to be 6 foot solid with Zoning Administrator review of visibility.</p> <p><i>"Fences not exceeding six (6) feet in height above natural grade level projecting not more than ten (10) feet into the required front setback on the side yard street frontage of a corner lot in a residential zoning district, provided that the Zoning Administrator or his designee determines that the provisions of Section III.G of this Ordinance will be maintained and that there will be no obstruction to the visibility of vehicular or pedestrian traffic. If the Zoning Administrator deems that such a visibility obstruction would occur, he may require that portions of or all of the fence be constructed of an open design, or of a shorter height, or a combination of both, or the Zoning Administrator may deny the request. The determination of the Zoning Ordinance may be appealed to the Zoning Board of Appeals pursuant to Section X.F of this Ordinance."</i></p>
2011-2017	A chart was created which determined what accessory uses and structures could encroach within a required yard under certain situations. It was here when fences 6 feet in height were permitted as an obstruction within 10 feet of the required secondary front yard. The Zoning Administrator was left to determine if the fence was a visibility obstruction and if it was required to obtain a Variation or not. This process and the standards attached resulted in the inconsistent enforcement of the zoning code requirements and numerous issues that created aesthetic and visibility concerns.
2017-Present	Code Changes were initiated to determine what fences in the secondary front yard should be permitted going forward and to make the regulations clear to residents and staff. The new regulations were reviewed and revised by the Zoning Board of Appeals, Community Development Committee, and the Plan Commission. They were approved by the Village Board in January 2018. The result of the text amendments reduced allowable fences extending into the required secondary front yard to be a maximum 4 feet in height (4'6" posts) and open style (50% open to light and air). When approved it was known that there would be numerous fences that would become legal non-conforming in the Village and would need to come into compliance when their fence needed replacement or adjustment.