



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

**March 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 March 16, 2023.

**CALL TO ORDER** –CHAIRMAN GRAY called to order the Regular Meeting of the Plan Commission for March 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  
Andrae Marak  
Steve Sepessy

Absent Plan Commissioners: Angela Gatto  
Ken Shaw  
Kurt Truxal

Village Officials and Staff: Lori Kosmatka, Associate Planner  
Michael O. Whalen, Associate Planner

Petitioners: none

Members of the Public: none

COMMUNICATIONS – none

APPROVAL OF THE MINUTES - Minutes of the February 16, 2023 Regular Meeting of the Plan Commission were presented for approval. A motion was made by COMMISSIONER MANI, seconded by COMMISSIONER GASKILL to approve the February 16, 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 MARCH 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.

Present and responding to roll call were the following:

Chairman Garrett Gray  
James Gaskill  
Terry Hamilton  
Eduardo Mani  
Andrae Marak  
Steve Sepessy

Absent Plan Commissioners: Angela Gatto  
Ken Shaw  
Kurt Truxal

Village Officials and Staff: Lori Kosmatka, Associate Planner  
Michael O. Whalen, Associate Planner

Petitioners: none

Members of the Public: none

CHAIRMAN GRAY introduced Item #1.

Lori Kosmatka, Associate Planner, presented the staff report. She asked if the Commissioners had any questions.

COMMISSIONER SEPESSY asked if the presentation was filed, saved, and stored.

Lori Kosmatka said the map is adopted via resolution.

COMMISSIONER SEPESSY pointed out a typo in the slide presentation.

CHAIRMAN GRAY and Staff confirmed the item with a typo in the slide presentation was correct in the staff report (7901-7951 171<sup>st</sup> Street).

CHAIRMAN GRAY asked if there were any additional comments. There were none. He noted the updates and corrections look good.

**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/DISCUSSION – TEXT AMENDMENT – FENCE**  
**REGULATION CHANGES**  
Discuss existing and proposed fence regulations to the Zoning Ordinance.

Present and responding to roll call were the following:

Chairman Garrett Gray  
James Gaskill  
Terry Hamilton  
Eduardo Mani  
Andrae Marak  
Steve Sepessy

Absent Plan Commissioners: Angela Gatto  
Ken Shaw  
Kurt Truxal

Village Officials and Staff: Lori Kosmatka, Associate Planner  
Michael O. Whalen, Associate Planner

Petitioners: none

Members of the Public: none

CHAIRMAN GRAY introduced Item #2, which was a workshop/discussion item.

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

CHAIRMAN GRAY highlighted the number of variation requests that have come before the Plan Commission. He added that nonconforming fences cannot be replaced in the same location due to code provisions. He said that in many cases, the new fences would be preferable to older, less aesthetic, and potentially less safe fences. He said property owners are reticent to replace older fences because new fences would shrink the size of the property's back yard.

CHAIRMAN GRAY called on COMMISSIONER HAMILTON for comment.

COMMISSIONER HAMILTON said historical properties in Tinley Park have nonconforming fences. He referred to these properties as showcase locations, but the fences violate Village rules.

CHAIRMAN GRAY said he is okay with the height restriction.

COMMISSIONER MANI said he has issues with the fence regulations because of the impacts to historic properties. He said that he receives requests from members of the public to ask where fences can be allowed. He highlighted a previous fence variation request that aimed to replace a decrepit fence. He said the current rule to replace the fence in eight-foot panels once per year makes it infeasible to replace a fence.

Michael O. Whalen clarified that the repair/replacement provision is not intended for general replacement of fences, but rather to allow some amount of reconstruction when damage occurs to a fence.

CHAIRMAN GRAY said the report and the chart contained in the report were helpful for the discussion. He said that he liked the concept of designating specific streets to allow front yard fences in more historic parts of Tinley based on neighborhood character. He said it may be more challenging to do by neighborhood.

Michael O. Whalen said its always hard to draw a line.

CHAIRMAN GRAY referenced a location where a conforming fence and a nonconforming fence abutted one another and said the gap does not look good. He said it's a fine balance or equilibrium to find.

COMMISSIONER MARAK highlighted two locations where fences were required to be installed in locations that appeared visually strange. He said that those instances were ludicrous. He said he also liked the option of designating specific neighborhoods for where certain types of fences would be allowed, as was previously done in a specific PUD to allow construction of sunrooms on houses. He agreed that it is challenging to define "what's a neighborhood" however he added that definitions and rules could be written into a PUD. He added that we're looking for conformity and cohesiveness.

CHAIRMAN GRAY again highlighted the issue with creating a gap between compliant and non-conforming fences. He referred to the staff report, mentioning that Evanston, Plainfield and Lemont allow front-yard fences in certain areas. He also recalled, as raised by COMMISSIONER MARAK, the sunroom example and how that was handled administratively. CHAIRMAN GRAY added that the potential solution of requiring landscaping along fence lines would not be appropriate because it does not get to the essence of the issue, which is to get the fence right, rather than force property owners to maintain landscaping.

CHAIRMAN GRAY asked about the possibility of four foot open style fences in front yards.

Michael O. Whalen explained that regulatory changes to allow front yard fences are not being considered at this time. If a four foot fence is deemed appropriate, then we could consider it. He added that decorative fences are allowed in front yards. Lori Kosmatka added that decorative fences are permitted to be up to two feet tall and that there are different rules in the Legacy District.

Michael Whalen said these regulations would not be easy to apply to other blocks. He reminded the Commission that hedges are not considered fences, and are currently allowed.

CHAIRMAN GRAY said for many people hedges aren't an option because kids and pets can go through.

CHAIRMAN GRAY asked for additional comments. He referred back to the presentation which asked three specific questions (fence height, distance from property line, and style [open or privacy]). The first question he addressed was the fence height question. He confirmed that the proposed six foot height limit was reasonable. He said it does not need to be increased.

Michael O. Whalen noted that height limit currently applies for all fences and asked if it should also apply to secondary front yard fences, which must be open style.

CHAIRMAN GRAY asked if the open-style requirement for secondary front yards was a sight-line concern.

Michael O. Whalen said that the open-style provision was more of an aesthetic concern, because fences so far from the street don't really create a sight-line issue.

CHAIRMAN GRAY asked for additional comment.

COMMISSIONER MANI referred to the building code's definition of railing which has restrictions on the distance of rails so as to avoid persons' heads from getting stuck. He said there should be a similar restriction for fences in residential areas

Michael O. Whalen said that would restrict many different types of fences.

COMMISSIONER MANI further discussed sight lines and said that should be specific.

Michael O. Whalen said the proposed ten foot distance from the property line addresses the sight line issue.

COMMISSIONER MANI reiterated his point that he prefers the sight lines be prescriptive.

CHAIRMAN GRAY said he understood COMMISSIONER MANI's point. He added that there are a variety of unique situations where sight lines could be an issue and there was a balance without being prescriptive.

COMMISSIONER MANI requested the photos he sent staff be shown on the screen. He said the fences were non-conforming and asked whether the fences detracted from the community character. He said nonconforming fences are a detriment to property owners because nonconforming fences cannot be replaced and new secondary front yard fences cannot be installed. He asked the Commission their opinions on the aesthetics of the fences. He highlighted one fence that was a rusted chain link fence and other code provisions would require better maintenance of the fences.

COMMISSIONER MANI said that one of his examples had a secondary front yard fence that appeared to be approximately ten feet from the sidewalk.

Michael O. Whalen said that the proposed regulations would likely allow that fence in that location.

COMMISSIONER MANI said the fence regulations in general are too restrictive.

CHAIRMAN GRAY raised the issue of pets getting through fences. He said that he would not want his pets to get through fences.

COMMISSIONER SEPESSY said that, in his neighborhood, predator animals like coyotes need to be kept out of backyards to protect pets and people.

COMMISSIONER GASKILL said foxes and coyotes climb the fences in his neighborhood.

CHAIRMAN GRAY said he's heard coyotes in downtown Tinley.

COMMISSIONER SEPESSY said his neighbor used to have children in the backyard all the time and now the kids are not outside without supervision.

COMMISSIONER MANI said he knows many property owners that would like to install fences in secondary front yards.

CHAIRMAN GRAY asked Michael O. Whalen to put the main questions back up for discussion.

Lori Kosmatka said fence heights reductions might be desired in front yards.

Michael O. Whalen said that six foot fences are allowed in back yards and asked whether we want to consider varying this height in secondary front yards.

CHAIRMAN GRAY said he agrees with COMMISSIONER SEPESSY that privacy fences be allowed in secondary front yards. CHAIRMAN GRAY said he was concerned of aesthetics for neighbors.

Lori Kosmatka stated the difference between open style or closed style and that for yards with pools, specific fence designs are required.

Michael O. Whalen referred to a graphic that showed a scenario where a corner lot's rear yard abuts a neighbor's front yard. He said the current policy of requiring open style fences in administratively approved scenarios is to minimize views.

Lori Kosmatka highlighted the difference between the current policy of ten feet into the setback and the proposed policy of ten feet into from the property line. Michael O. Whalen said the proposed change would substantially increase the size of fenced-in yard space for many properties in Tinley, except for corner lots with very large footprint houses.

CHAIRMAN GRAY asked whether the Commission had any issues with the ten-foot from lot line proposed rule. None took issue.

Lori Kosmatka asked about the height limit and the privacy vs. open issue.

CHAIRMAN GRAY said he agreed with COMMISSIONER GASKILL that the open vs. closed issue should be up to the property owners. He said the six-foot height is reasonable.

Michael O. Whalen highlighted that fence sightlines verification occurs at the permitting phase.

CHAIRMAN GRAY said that seemed reasonable.

COMMISSIONER MARAK said that its possible fences will be installed in a different location than the approved location on their permits.

CHAIRMAN GRAY said that fences installed in dangerous locations would have to be removed.

COMMISSIONER SEPESSY said permits can be modified when issues occur when people are transparent about issues.

CHAIRMAN GRAY said some people prefer to ask for forgiveness instead of permission.

Michael O. Whalen asked if the Commission was comfortable with the ten-foot from the lot line rule.

CHAIRMAN GRAY said that he was.

COMMISSIONER MANI asked if fences on lot lines were horrifying.

COMMISSIONER GASKILL said closed fences on the property lines could create a hazard for visibility.

COMMISSIONER SEPESSY agreed.

COMMISSIONER MARAK said he agreed with the proposed ten-foot rule. COMMISSIONER HAMILTON agreed.

Michael O. Whalen said that he reviewed six variances and determined that the propose ten-foot rule would have eliminated the need for two of the variances. He added that reduction in the number of variances is the goal of the proposed changes.

COMMISSIONER SEPESSY said there's benefit to the residents to expedite getting fences.

Lori Kosmatka said that the proposed rules would also be easier for the public to understand.

COMMISSIONER MARAK said that some of the remaining four variances that applied for might

have been okay with the proposed rule and decided not to apply for a variance.

Michael O. Whalen said that some variance requests may be asking for such substantial deviations from standards so they have room to negotiate, so variance requests of that nature may be reduced as well.

CHAIRMAN GRAY asked if Staff has reached out or will reach out to applicants whose variances have been denied. He recommended doing so.

Michael O. Whalen confirmed the Commission was okay with the proposed height limit of six feet, the proposed location of ten feet from the lot line, and asked about the open style vs. closed style.

COMMISSIONER SEPESSY said he thought fences that abut neighbor's front yards should be required to be open style.

COMMISSIONER GASKILL disagreed and said either style should be allowed.

COMMISSIONER SEPESSY said that there's an aesthetic concern.

COMMISSIONER MARAK asked what the current rules are.

Michael O. Whalen explained the current policy allowing an administrative variance to allow a five-foot open style fence ten feet from the front setback. Lori Kosmatka added that chain link is not allowed.

CHAIRMAN GRAY says the closed fence might bother neighbors.

COMMISSIONER MANI asked if there's ever been a situation where a neighbor has come to a variance hearing to oppose their neighbors fence variation.

CHAIRMAN GRAY said yes.

COMMISSIONER MANI said usually the neighbors are on board.

COMMISSIONER MARAK said that one case might have been more about other neighbor issues than about the fence variation.

CHAIRMAN GRAY said that its more common for neighbors to come to support their neighbors fence variation request.

CHAIRMAN GRAY asked if the discussion answered Michael O. Whalen's question.

Michael O. Whalen said that it did not. He asked if the Commission wanted to only allow open-style fences which may then result in variance requests for privacy style fences.

COMMISSIONER MARAK said that a variance request to allow a closed privacy fence would not



meet any of the criteria for granting a variance. He said we should be more flexible. He added that he didn't care if its open or closed as long as its not chain-link.

COMMISSIONER GASKILL agreed.

CHAIRMAN GRAY said that allowing privacy fences makes sense because most residents would not be installing a privacy fence along part of their lot line and an open fence along the third side.

COMMISSIONER MARAK agreed with CHAIRMAN GRAY.

COMMISSIONER GASKILL said only allowing open style fences eliminates a resident's privacy, which is often the purpose of a fence in the first place.

CHAIRMAN GRAY said it should depend on the residents' preference.

COMMISSIONER MANI agreed but mentioned the fence post spacing again.

Michael O. Whalen said that the post/rail spacing applies to commercial railings, not fences.

COMMISSIONER GASKILL agreed about the concerns about heads getting stuck in fences.

Michael O. Whalen said that at least one community required 80% open fences, but that that limits the types of fences that could be installed. He added that he would check with the Building Official to see if fence permits consider the width of slat/post gaps. He added that the 50% rule is probably appropriate so that picket style fences could be allowed. Lori Kosmatka said the Zoning Administrator reviews fences and pool enclosures and that there are specific parameters. Michael O. Whalen added that changing the 50% rule does not need to be memorialized in the Zoning Ordinance.

Michael O. Whalen asked if there were any material choices the Commission would like to see prohibited other than chain link fences.

COMMISSIONER SEPESSY asked if wrought iron fences with finials would be allowed. Michael O. Whalen said the language is broad enough that standard finials would be permitted as determined at the permitting phase, but that a sharpened spike would not be allowed.

COMMISSIONER MANI said this would be regulating design.

COMMISSIONER GASKILL said sharp points are a safety issue.

COMMISSIONER MANI said fence finials (referring to sharpened finials) would only be dangerous if someone fell onto one from above.

COMMISSIONER GASKILL said they're also dangerous for someone hopping a fence.

Michael O. Whalen said that it would be very difficult to regulate the degree of sharpness. He said

that generally something that would cut your finger if you touched it would not be allowed but the standard Chicago style wrought iron fence with finials would be allowed.

CHAIRMAN GRAY summarized the material choice to no chain link and everything else would be determined at permitting phase.

COMMISSIONER SEPESSY said he's seen fences that are made from pallets.

Lori Kosmatka said she saw an image of a fence made of skis.

CHAIRMAN GRAY asked if there were any other items needed from staff.

Michael O. Whalen said the answered questions were enough to bring forward an ordinance to cut down on the number of variations. He added that, based on the discussion, that a broader fence discussion is probably needed in the future, but that that would likely be most appropriate after the Comprehensive Plan and Zoning Ordinance are rewritten/significantly modified.

CHAIRMAN GRAY asked staff to track the number of variations and requests from the public.

CHAIRMAN GRAY said the meeting could proceed to the Good of the Order.

**Good of the Order**

Lori Kosmatka said the posting for the Planning Manager has occurred and that the application window is closing soon.

She said that the Odyssey HOA issues will be back before the Commission on April 6<sup>th</sup>.

She said nothing new has really changed:

- Ascend cannabis opening soon and inspections will occur in April,
- Loyola construction is moving fast,
- Chipotle is in the permitting phase, and
- Marriott is in the permitting phase.

**Receive Comments from the Public**

None were present.

CHAIRMAN GRAY requested a motion to adjourn the meeting.

COMMISSIONER MARAK made a motion to adjourn the Meeting. Second by COMMISSIONER MANI. CHAIRMAN GRAY requested a voice vote. Hearing no opposition, he declared the Meeting Adjourned at 8:13 p.m.



# PLAN COMMISSION STAFF REPORT

March 16, 2023

## Official Zoning Map Approval – 2022

Village of Tinley Park

### Applicant

Village of Tinley Park

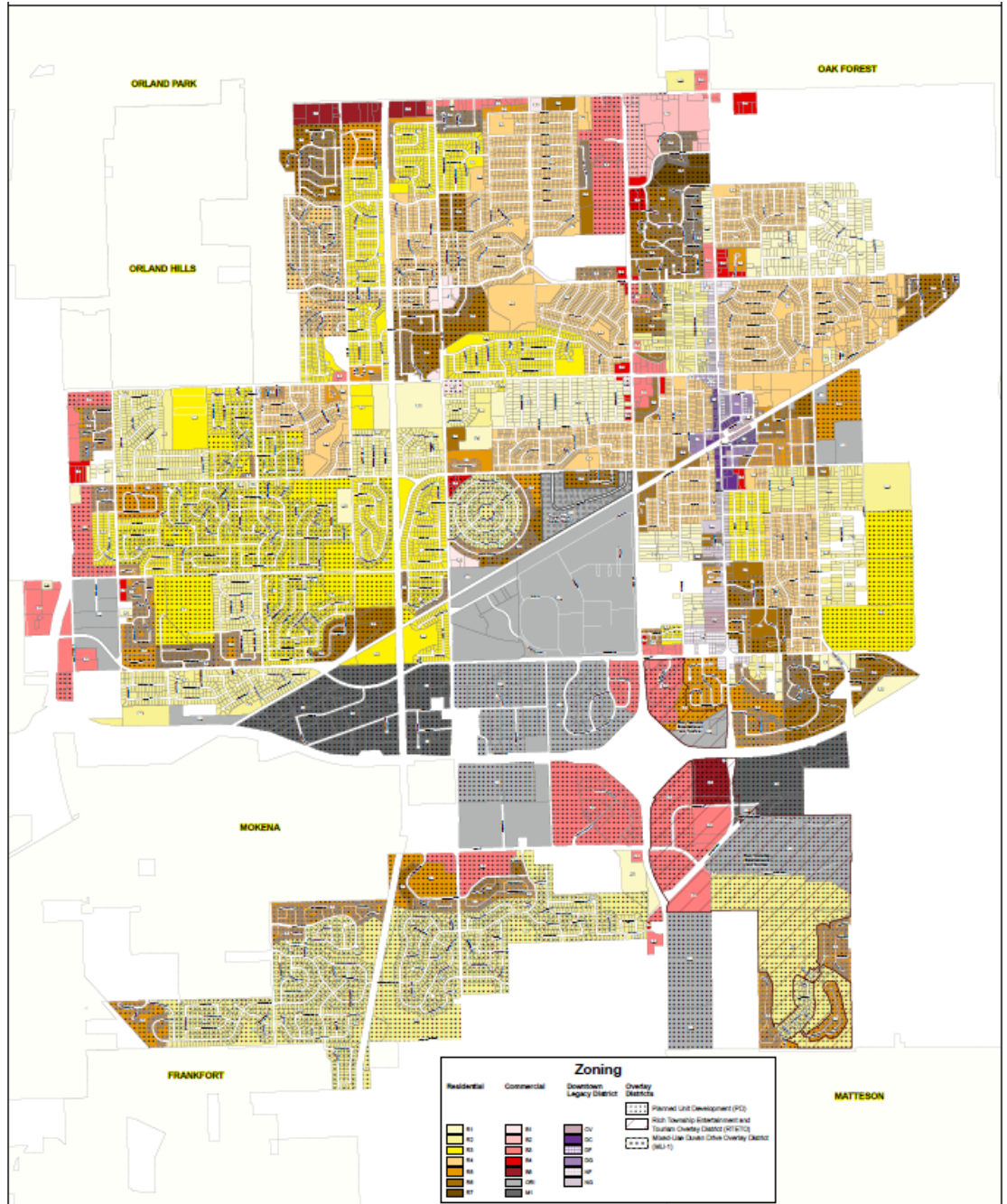
### Approvals Sought

Official Zoning Map  
Recommendation to the  
Village Board

### Project Planner

Lori Kosmatka  
Associate Planner

Michael O. Whalen, AICP  
Associate Planner



## EXECUTIVE SUMMARY

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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 31<sup>st</sup> 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

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The Illinois Municipal Code (65 ILCS 5/11-13-19) requires certain municipal authorities to annually publish an Official Zoning Map by March 31<sup>st</sup> 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

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

- Marriott (also known as New Horizon) – 9551 & 9555 183<sup>rd</sup> 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 171<sup>st</sup> Street (Southeast Corner 90<sup>th</sup> Avenue & 171<sup>st</sup> 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 179<sup>th</sup> & 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 185<sup>th</sup> 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 183<sup>rd</sup> 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

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

# 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

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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

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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

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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.

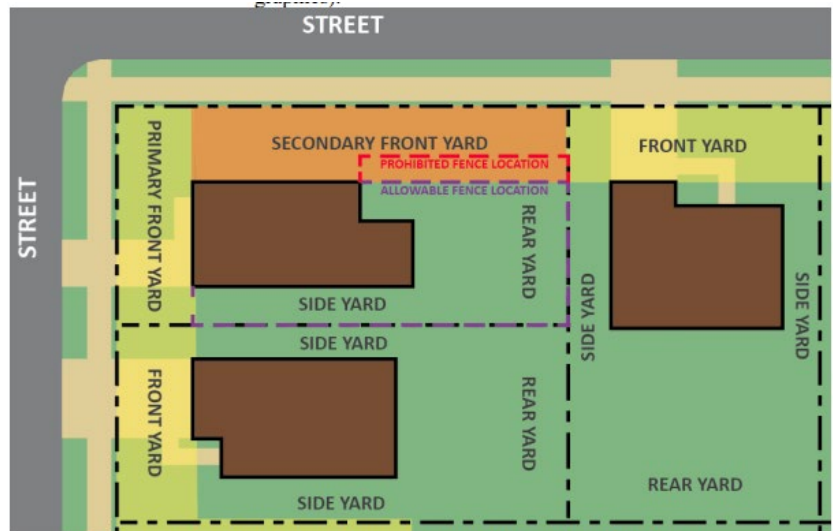
The Zoning Ordinance contains a provision that allows an administrative variation for corner lot fences in R-1 through R-7 zoning districts. This administrative approval allows fences to encroach up to ten feet into a secondary front yard. They are limited to a maximum height of five feet panels and 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.

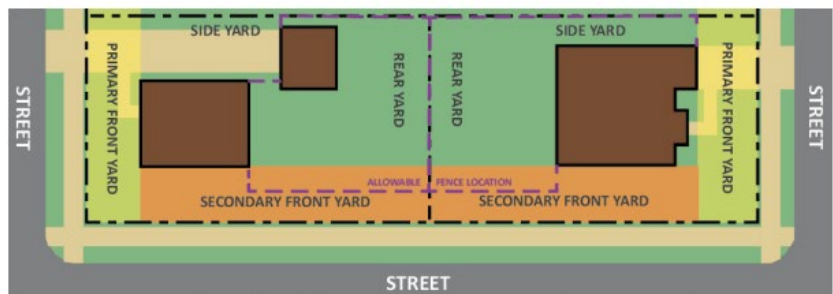
In the Legacy District, open fences may be located within the buffer zone (parkway) when incorporated into raised planter beds or used as tree guards. Fences three to four feet tall are permitted along front property lines of private frontages. Residential lots with secondary front yards are permitted 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.

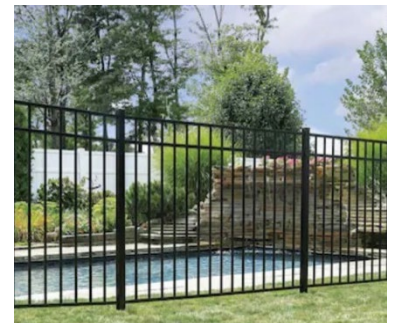
## POTENTIAL NEW REGULATIONS

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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

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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

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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.