

VILLAGE OF HOMEWOOD



BOARD AGENDA MEMORANDUM

DATE OF MEETING: August 23, 2022

To: Village President and Board of Trustees

Through: Napoleon Haney, Village Manager

From: Angela Mesaros, Director of Economic and Community Development

Topic: Amendment to Homewood Zoning Ordinance related to Places of Worship

PURPOSE

In May 2021, the U.S. Department of Justice and the United States Attorney's Office initiated an inquiry into the Village of Homewood's zoning and land-use practices pursuant to the Religious Land Use and Institutionalized Person Act of 2000 (RLUIPA). The focus was on how the Village's zoning laws may treat secular areas of assembly differently than religious areas of assembly. The equal terms provision of RLUIPA requires that restrictions on land use be justified by the intent and purpose of that regulation and that similarly situated uses cannot be treated differently based on whether they are religious or non-religious uses.

PROCESS

The last comprehensive update to the Homewood Zoning Ordinance was in 2002, and the Village is currently in the process of a complete rewrite of the Zoning Ordinance. This process takes up to 18 months. However, the places of worship and similar uses require more immediate action for clarification. The Village Attorney and the Village's zoning consultant, Houseal Lavigne, have provided guidance for amendments to the code.

The Village Attorney and Village Staff presented options for the amendment related to places of worship at public hearings before the Planning & Zoning Commission on December 3, 2020, and November 18, 2021. On November 18, 2021, the Homewood Planning & Zoning Commission unanimously recommended approval of the proposed zoning text amendments.

OUTCOME

As currently written, the Homewood Zoning Ordinance classifies "places of worship" as a special use in every business and residential district. However, places of worship and other non-commercial uses such as libraries, museums, and art galleries, do not align with the stated purpose of business districts, which focus on the preservation and maintenance of commercial development that generates tax revenue.

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The proposed amendment would clarify the purposes of the business districts and revise the permitted and special uses within these districts. Places of worship and other similar uses that do not generate sales tax would be allowed as special uses in the residential and the public land and open space districts but would not be permitted in the business districts. Commercial uses would continue to be allowed in the business districts. The Seventh Circuit Court of Appeals, which includes Illinois, Indiana, and Wisconsin, has held that excluding non-commercial uses from areas zoned for commercial activity does not violate RLUIPA.

There currently are 10 places of worship sites within the Village of Homewood. Of those, nine are in residential districts. The 10th site, the St. Joseph campus of the recently combined St. Joseph, St. Anne, and St. Emeric parishes, can continue since it existed before approval of this ordinance.

FINANCIAL IMPACT

- **Funding Source:** No Financial Impact
- **Budgeted Amount:** N/A
- **Cost:** N/A

LEGAL REVIEW

Completed

RECOMMENDED BOARD ACTION

Pass an ordinance amending Chapter 44 of the Homewood Municipal Code clarifying the purposes of business districts within the Village and amending tables of permitted and special uses within residential and business districts.

ATTACHMENT(S)

Ordinance