



## Staff Report

**File #:** LN-336

Zoning Board of Appeals  
Meeting Date: August 18, 2022

### **SPECIAL EXCEPTION - TRANSITIONAL COMMUNITY RESIDENCE - 914 NORTH EAST SECOND STREET LLC**

**Request:** Special Exception - Transitional Community Residence  
**P&Z#** 22-17000008  
**Owner:** 914 North East Second Street LLC  
**Project Location:** 914 NE 2<sup>nd</sup> Street  
**Folio Number:** 4842 36 05 0730  
**Land Use Designation:** L- LOW 1-5 DU/AC  
**Zoning District:** Single-Family Residence 2 (RS-2)  
**Agent:** Hattie Willis  
**Project Planner:** Scott Reale

### **Summary:**

The Applicant Landowner is requesting SPECIAL EXCEPTION approval as required by Section 155.4202(J) (1) [Districts Where Permitted] of the Pompano Beach Zoning Code in order to utilize the subject property (Zoning District: RS-2) for a Transitional Community Residence for persons recovering from the temporary effects of physical enhancement surgery.

The property is located at the southwest corner of the intersection of NE 2<sup>nd</sup> Street and NE 10<sup>th</sup> Avenue in the Pine Crest First Addition subdivision.

### **ZONING REGULATIONS**

#### **§155.4202. RESIDENTIAL: HOUSEHOLD LIVING USES**

#### **J. Transitional Community Residence**

#### **1. Districts Where Permitted**

RS-1	<b>RS-2</b>	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
S	<b>S</b>	S	S	S	S	P	P	P	P	P		P	P	P	

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-1
						P						P	P	P	P	P

## 2. Definition

A transitional community residence is a community residence that provides a temporary living arrangement for four to ten unrelated people with disabilities with a limit on length of tenancy less than a year that is measured in weeks or months as determined either in practice or by the rules, charter, or other governing document of the community residence. A community residence for people engaged in detoxification is an example of a very short-term transitional community residence.

## 3. Standards

### a. Districts Where Listed as a Permitted use

A transitional community residence shall be allowed as of right in the designated zoning districts, except as required by Chapter 419 of state law, when:

- i. It is at least 660 linear feet from the closest existing community residence housing four or more individuals or recovery community as measured from the nearest property line of the proposed community residence to the nearest property line of the closest existing community residence or recovery community, and
- ii. The operator or applicant is licensed or certified by the State of Florida to operate the proposed community residence, has certification from an appropriate national accrediting agency, or has been recognized or sanctioned by Congress to operate the proposed community residence much such as an Oxford House but with a programmatic or actual limit on length of tenancy.

b. A transitional community residence that does not comply with both standards a. and b. may be allowed only by special exception in accord with the standards established in Section 155.2406.D. of this Code.

### c. Districts Where Listed as a Special Exception

In the zoning districts where a transitional community residence is allowed only by special exception in accord with the applicable standards in Section 155.2406.D. and E. of this Code.

## 4. Reasonable Accommodation Required for More than Ten Occupants

To establish a transitional community residence for more than ten occupants, the applicant shall submit a request for reasonable accommodation in accord with the procedures and applicable standards in Section 155.2432 of this Code except as required by state law.

## 5. License Certification, or Recertification Denied or Suspended

A transitional community residence that has been denied a license the State of Florida requires or certification offered by the State of Florida, had its license or certification suspended, or be denied recertification is not allowed in the City of Pompano Beach and must cease operations and vacate the premises within 60 days of the date on which its license or certification was denied or suspended or recertification denied.

## PROPERTY INFORMATION

1. The subject property has no open code cases and no open building permits.
2. Permit archives suggest the property was first developed in the 1950s as a single-family dwelling, with at least two known additions throughout the years.
3. The applicant is proposing to operate a facility at this site where people stay temporarily (generally less than one week) after physical enhancement surgery. Staff has determined this use falls under the classification of a *Transitional Community Residence*, which requires Special Exception approval in Single-Family (RS- ) zoning districts. The applicant is not proposing a drug rehab or sober living home.
4. Staff has verified the subject property is just over 660 linear feet from the closest existing community residence or recovery community.
5. The applicant has indicated they are currently seeking a license from AHCA (Agency for Health Care Administration), but have yet obtained final approval.
6. The applicant submitted a Community Residence application to the Business Tax Receipt Division on 2/22/2022. The application indicated there will be a maximum of 10 residents at any one time; the building has 5 bedrooms and two living rooms. Along with a 3-car garage, 6 parking spaces are shown on the site/parking plan. The code requires 2 spaces per dwelling unit plus 1 space located within

1,200 linear feet off-site for each resident who maintains a motor vehicle on the premises.

7. The review standards for a Family or Transitional Community Residence differ from most other Special Exception review standards, and this is one of the few types of applications that only requires a simple majority - rather than a super majority - Board vote for approval.

### **LAND USE PATTERNS**

Subject property (Zoning | Existing Use):

- RS-2 | single-family dwelling

Surrounding Properties (Zoning District | Existing Use):

- North: RS-2 | single-family dwelling
- South: RS-2 | single-family dwelling
- East: RS-2 | single-family dwelling
- West: RS-2 | single-family dwelling

### **SPECIAL EXCEPTION REVIEW STANDARDS**

#### **§155.2406. SPECIAL EXCEPTION**

##### **E. Special Exception Review Standards for Community Residences**

A Special Exception for a community residence (family or transitional) shall be approved by simple majority vote of the Board members present, only on a finding that there is competent substantial evidence in the record that the Special Exception meets the following applicable standards:

1. When the proposed community residence arrangement is required to obtain a special exception because it would be located within 660 linear feet of an existing community residence or recovery community:
  - a. The applicant demonstrates that the proposed community residence will not interfere with the normalization and community integration of the residents of any existing community residence or recovery community and that the presence of other community residences or recovery communities will not interfere with the normalization and community integration of the residents of the proposed community residence, and
  - b. The applicant demonstrates that the proposed community residence in combination with any existing community residences and/or recovery communities will not alter the residential character of the surrounding neighborhood by creating an institutional atmosphere or by creating or intensifying an institutional atmosphere or de facto social service district by concentrating or clustering community residences and/or recovery communities on a block face or in a neighborhood.
2. When the proposed community residence is required to obtain a special exception because the State of Florida does not offer a license or certification for this type of community residence and the population it would serve, the applicant must demonstrate that:
  - a. The proposed community residence will be operated in a manner effectively similar to that of a licensed or certified community residence;
  - b. Staff will be adequately trained in accord with standards typically required by licensing or state certification for a community residence;
  - c. The community residence will emulate a biological family and be operated to achieve normalization and community integration; and
  - d. The rules and practices governing how the community residence is operated will actually protect residents from abuse, exploitation, fraud, theft, insufficient support, use of illegal drugs or alcohol, and misuse of prescription medications.
3. In districts where a community residence is allowed as a special exception, the community residence shall be approved only on a finding that there is competent substantial evidence in the record that the Special Exception meets the applicable standards:

a. The applicant demonstrates that the proposed community residence will not interfere with the normalization and community integration of the residents of any existing community residence and/or recovery community and that the presence of other community residences and/or any recovery communities will not interfere with the normalization and community integration of the residents of the proposed community residence;

b. The applicant demonstrates that the proposed community residence in combination with any existing community residences and/or recovery communities will not alter the residential character of the surrounding neighborhood by creating an institutional atmosphere or by creating or intensifying a de facto social service district by concentrating or clustering community residences and/or any recovery community on a block or in a neighborhood, and

c. The applicant demonstrates that the proposed community residence will be compatible with the residential uses allowed as of right in the zoning district;

d. When the proposed community residence would be located in a single-family zoning district, the applicant demonstrates that the proposed transitional community residence, alone or in combination with any existing community residences, will not alter the residential stability of the single-family zoning district;

e. The applicant demonstrates that the applicant or the proposed community residence has been granted certification by the State of Florida or license required by the State of Florida; and

f. When the State of Florida does not offer certification or require a license for this type of transitional community residence and the population it would serve, the application demonstrates that:

i. The proposed community residence will be operated in a manner effectively similar to that of a licensed or certified community residence;

ii. Staff will be adequately trained in accord with standards typically required by licensing or state certification for a community residence;

iii. The community residence will emulate a biological family and be operated to achieve normalization and community integration; and

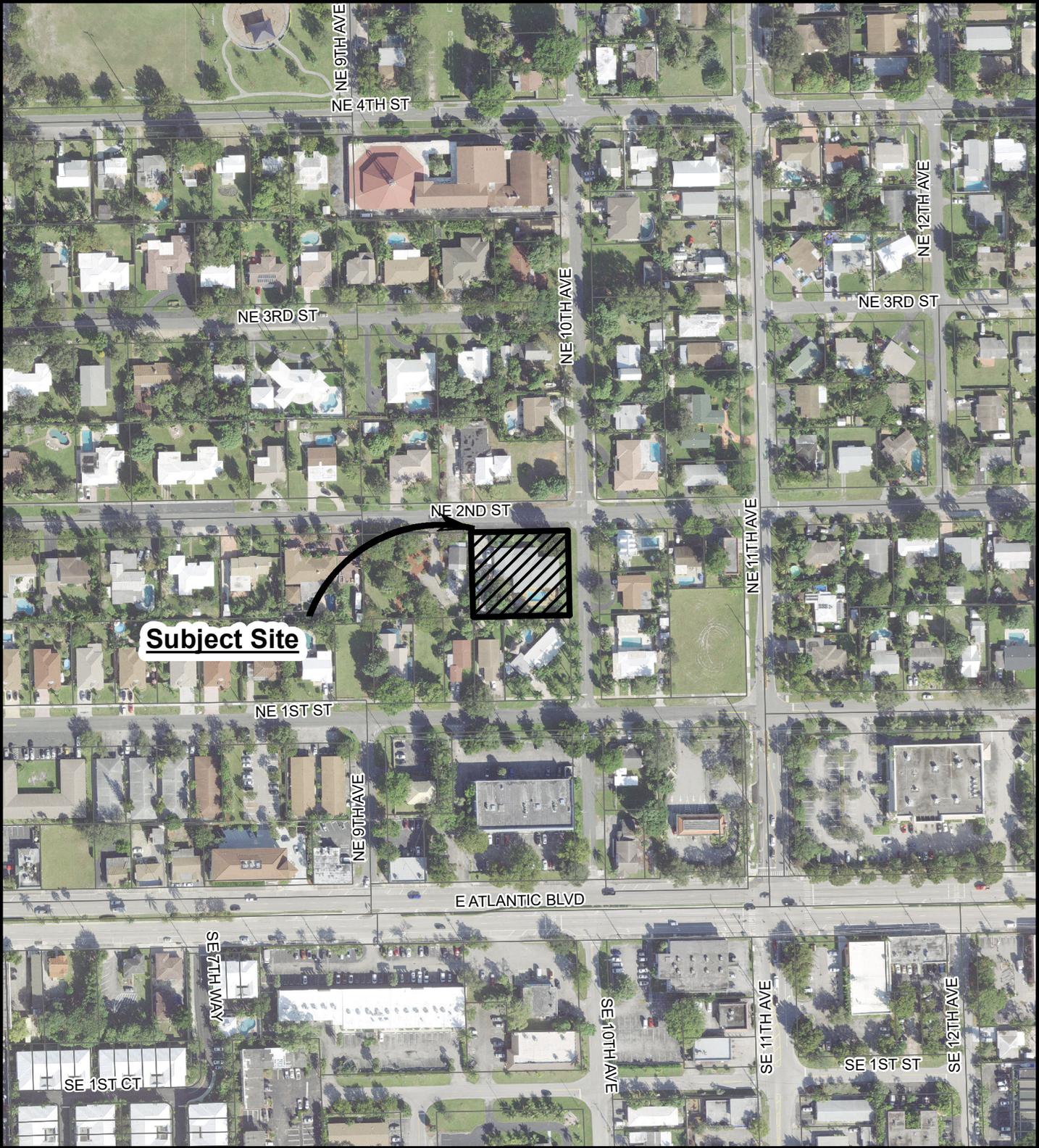
iv. The rules and practices governing how the community residence is operated will actually protect residents from abuse, exploitation, fraud, theft, insufficient support, use of illegal drugs or alcohol, and misuse of prescription medications.

### **Staff Conditions:**

Should the Board determine the applicant has provided competent substantial evidence sufficient to satisfy the Special Exception review standards for a Transitional Community Residence, staff requests the Board include the following conditions as part of the Order:

1. Obtain all necessary governmental permits and approvals, including obtaining the required licensing and certification by the State of Florida prior to commencement of business operations.
2. Approval is strictly limited to the business model described in the applicant's narrative; any changes to the operations would require a new Special Exception application.

# CITY OF POMPANO BEACH AERIAL MAP



1 in = 229 ft

914 NE 2nd Street

PREPARED BY:  
DEPARTMENT OF  
DEVELOPMENT SERVICES