



## Staff Report

**File #:** LN-635

ZONING BOARD OF APPEALS  
Meeting Date: OCTOBER 17, 2024

### SPECIAL EXCEPTION - RYAN NTAWIGENGA

**Request:** Special Exception  
**P&Z#** 24-17000008  
**Owner:** Ryan Ntawigenga  
**Project Location:** 1400 NW 3<sup>rd</sup> Ave  
**Folio Number:** 484235290630  
**Land Use Designation:** LM (Low-Medium 5-10 DU/AC)  
**Zoning District:** RS-2 (Single-Family Residence 2)  
**Agent:** Ryan Ntawigenga  
**Project Planner:** Scott Reale

### Summary:

The Applicant Landowner is requesting SPECIAL EXCEPTION approval as required by Section 155.4202(J) (3)(c) [Transitional Community Residence Standards] of the City’s Zoning Code in order to utilize the subject property (Zoning District: RS-2) for a Transitional Community Residence.

The property is located at the northeast corner of the intersection of NW 14<sup>th</sup> Street and NW 3<sup>rd</sup> Avenue in the Pompano Terrace subdivision, which is part of the Northwest CRA.

### ZONING REGULATIONS

#### 155.4202. RESIDENTIAL: HOUSEHOLD LIVING USES

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#### J. Transitional Community Residence

##### 1. Districts Where Permitted

|      |      |      |      |      |      |      |       |       |       |       |       |     |     |     |     |
|------|------|------|------|------|------|------|-------|-------|-------|-------|-------|-----|-----|-----|-----|
| RS-1 | RS-2 | 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    | S    | 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 AND STAFF ANALYSIS

1. The subject property has no open building permits and no active Business Tax Receipts, but does have one active code case (Case #23-09003238) associated with a tree obstructing the intersection. A Certificate of Occupancy was issued on 9/3/1999 for a 2,795 sq ft single-family dwelling via BP #94-2360.
2. Ordinance No. 2018-60, adopted 6/12/2018, codified Pompano Beach land use regulations to give prospective operators of community residences for people with disabilities and recovery communities clarity and certainty on where such uses may locate as of right and via Special Exception.
3. Community Residences and Recovery Communities are subject to distance separation requirements from other similar uses so as to avoid clustering and altering the character of the neighborhood. Staff has verified there is neither a community residence nor a recovery community within 660 feet of the subject property. The closest known operating facility is separated by approximately 1,600 ft, located at 401 NW 16<sup>th</sup> Street. However, because the applicant is proposing a Transitional Community Residence in a single-family residential zoning district, a Special Exception is required.
4. 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. The applicant's narrative indicates they intend to house 6 to 8 short-term residents, and there will be a property manager. Further, the applicant indicates the proposed community residence will be granted the applicable State certification and licensing if the Special Exception is granted.

5. *Pompano Beach, Florida: Principles to Guide Zoning for Community Residences for People with Disabilities* by Daniel Lauber, AICP, June 2018, is included in the backup of this agenda item. Mr. Lauber is a well-respected planning and law expert on zoning for community residences since 1974 and has written model zoning guidelines for community residences on behalf of the American Planning Association and American Bar Association. This study was approved and accepted by City Commission Resolution #2018-99 (later revised to its current version and approved and accepted by Resolution #2018-178), and was the impetus and framework for the aforementioned Ordinance that codified Community Residence regulations in Pompano Beach.
6. The subject property is located in the Single-Family Residence 2 (RS-2) district which is established and intended to accommodate primarily single-family dwellings including family community residences at moderate densities on lots greater than 7,000 square feet in area. The district also accommodates accessory dwelling units and transitional community residences as well as limited nonresidential uses usually found in urban single-family neighborhoods (e.g., parks, places of worship, golf courses), generally as Special Exceptions.
7. Unlike most applications that are heard by the ZBA, a Special Exception for a Community Residence requires only a simple-majority vote rather than a super-majority vote, and only on finding that there is competent substantial evidence in the record that the Special Exception meets certain review standards.

### **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: RM-20 | triplex
- East: RS-2 | single-family dwelling
- West: RS-3 | single-family dwelling

### **SPECIAL EXCEPTION REVIEW STANDARDS FOR COMMUNITY RESIDENCES**

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.

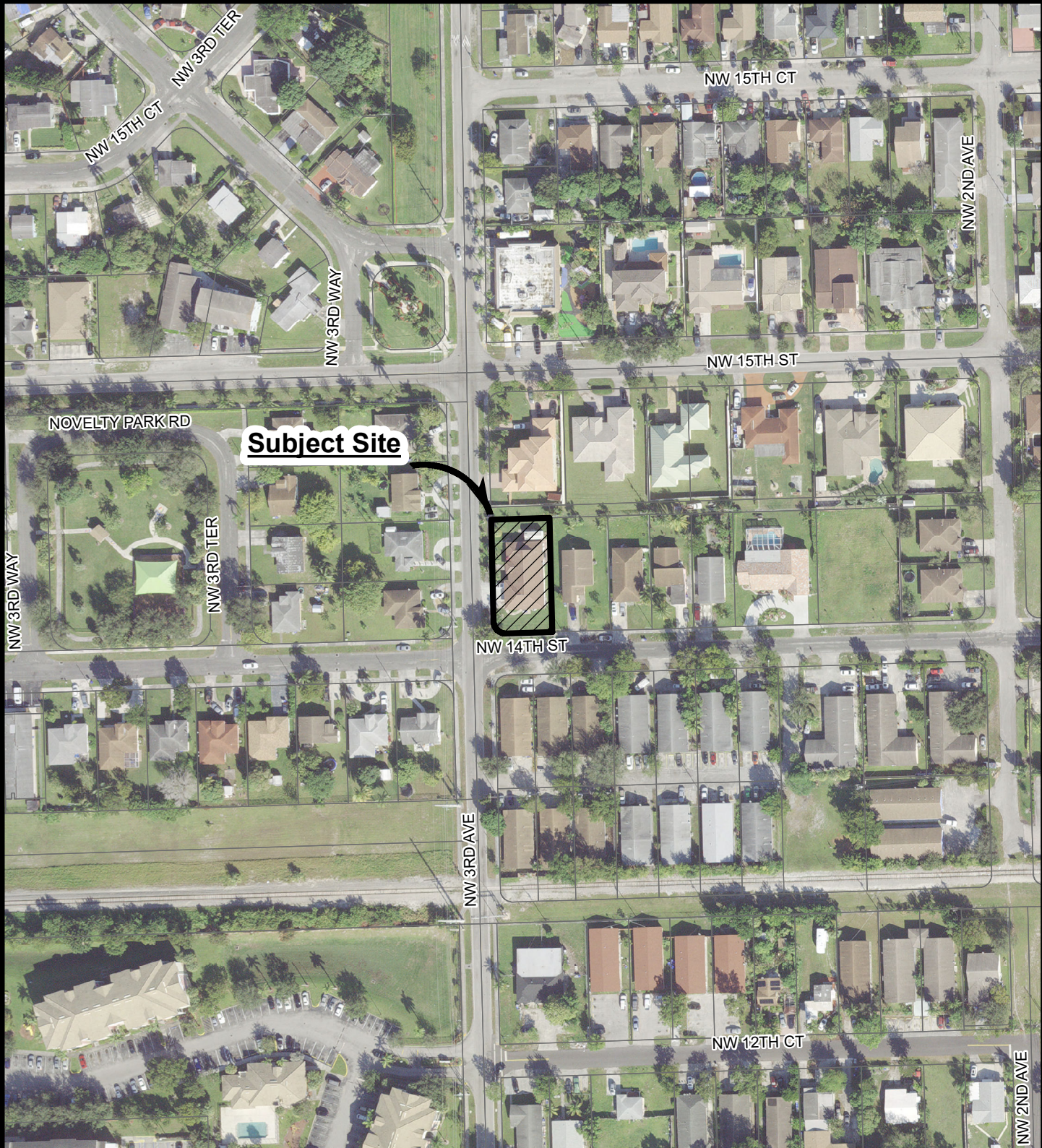
### **Staff Conditions:**

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

1. Obtain all necessary governmental permits and approvals, including an approved Community Residence Certificate and a BTR for a rental property.
2. Obtain and maintain FARR certification (or equivalent accreditation).
3. The Community Residence shall be limited to a maximum of eight (8) residents.



# CITY OF POMPANO BEACH AERIAL MAP



1 in = 167 ft

**1400 NW 3 AVE**

PREPARED BY:  
DEPARTMENT OF  
DEVELOPMENT SERVICES