



Legislation Text

File #: LN-602, **Version:** 1

ZONING BOARD OF APPEALS

Meeting Date: JUNE 18, 2024

SPECIAL EXCEPTION - JEAN PIERRE FAMILY COMMUNITY RESIDENCE

Request: Special Exception for a Community Residence
P&Z# 24-17000006
Owner: Jean Pierre
Project Location: 221 NE 24 ST
Folio Number: 484223100380
Land Use Designation: L (Low 1-5 DU/AC)
Zoning District: RS-3 (Single-Family Residence 3)
Agent: Jean Pierre
Project Planner: Scott Reale

Summary:

The Applicant Landowner is requesting SPECIAL EXCEPTION approval as required by Section 155.4202(I) (3) [Family Community Residence Standards] of the City’s Zoning Code in order to utilize the subject property (Zoning District: RS-3) for a family community residence located less than 660 linear feet from an existing family community residence rather than separated by at least 660 linear feet as required by code.

The property is located along the north side of E Copans Road and the east side of NE 2nd Avenue in the Skylake Subdivision Section B.

ZONING REGULATIONS

155.4202. RESIDENTIAL: HOUSEHOLD LIVING USES

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I. Family 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
P	P	P	P	P	P	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 family community residence is a community residence that provides a relatively permanent living arrangement for people with disabilities where, in practice and under its rules, charter, or other governing document, does not limit how long a resident may live there. The intent is for residents to live in a family community residence on a long-term basis, typically a year or longer. Oxford House is an example of a family community residence.

3. Standards

a. Except as required by Chapter 419 state law, a family community residence shall be allowed as of right in the designated zoning districts, 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 such as an Oxford House.

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

4. Reasonable Accommodation Required for More than Ten Occupants

To establish a family 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 family 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 code enforcement cases.
2. The subject property contains a single-family dwelling on a cul-de-sac. The applicant proposes utilizing the subject property as a Family Community Residence for elderly residents.
3. Adjacent to the subject property is an existing Family Community Residence for persons in recovery. Although these two populations are quite different, both fall under the definition of a Family Community Residence, which is a community residence that provides long-term living arrangements - typically a year or longer - for people with disabilities.
4. The applicant's narrative suggests locating these two group homes next to one another will actually benefit both populations through integration and community engagement, while simultaneously preserving the neighborhood's residential character.
5. The initial Community Residence & Recovery Community application (CRH-2024-5) - which proposed five residents (3 persons with disabilities and 2 live-in staff) in a 3-bedroom home - was denied by Zoning because of the proximity to Patrick's Place 4 LLC, located 0 ft away at 2410 NE 2nd Avenue.

The Zoning reviewer also noted the applicant will need to obtain licensing from the state if cleared to operate by the City.

6. 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.
7. 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. A group home that doesn't comply with the minimum distance separation may be permitted in single-family and two-family (duplex) neighborhoods; however, they must seek approval of the Zoning Board of Appeals, by way of a Special Exception in order to operate.
8. Pompano Beach requires that applicants of such facilities must obtain Special Exception approval when they are located within 660 linear feet from an 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.
9. *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. Following are a few of the pertinent findings in the study, particularly as they relate to separation between similar facilities.
 - The study states that, “When community residences are allowed as a permitted use, it is most reasonable to imposing a spacing distance between community residences that keeps them about a block apart in terms of actual walking distance, generally about 660 feet.” (660 feet is the length of the typical American urban block.)
 - It goes on to state that, “Proposals to locate another community residence so close to an existing one warrant the case-by-case consideration. If the operator of a proposed community residence wishes to locate it within the spacing distance, then the heightened scrutiny of a special use permit is warranted.”
 - “Generally speaking, the existing social structure of a neighborhood can accommodate no more than one or two community residences on a single block face.”
 - “This research strongly suggests that there is a legitimate government interest to assure that

community residences do not cluster.”

- “[Although] two community residences separated by at least several other houses on a block produce no negative impacts, there is very credible concern that community residences located more closely together on the same block - or more than two on a block - can generate adverse impacts...”
- “Interaction with neighbors without severe disabilities is an essential component to community residences and one of the reasons planners and the courts long ago recognized the need for them to be located in residential neighborhoods. Their neighbors serve as role models which helps foster the normalization and community integration at the core of community residences.”
- “As the courts have consistently concluded, community residences foster the same family values that even the most restrictive residential zoning districts promote. Family community residences comply with the purpose statements for each of Pompano Beach zoning district that allows residential uses.”

10. As part of their narrative and justification, the applicant has incorporated and referenced many aspects of this study.
11. Included in the backup of this agenda item is a 5/15/2018 Memorandum from Daniel Lauber titled *Tips for Evaluating Special Exception Applications for Community Residences and Recovery Communities Located Within the Spacing Distance*.
12. Mr. Lauber recently supplemented his initial report and to clarify the zoning requirements and processes for evaluating a community residences. The 2/19/2024 Memo from Mr. Lauber is provided in the agenda backup and encourages flexibility when looking at spacing distance between two community residences.
13. Unlike almost all other application types that are heard by the ZBA, a Special Exception for a Community Residence requires only a simply majority vote rather than a super majority vote. Moreover, there are only two review standards to consider when a Community Residence seeks Special Exception approval because of the separation requirement. Those standards are included in this report and the applicant has addressed each of them in their narrative.

LAND USE PATTERNS

Subject property (Zoning | Existing Use):

- RS-3 | single-family dwelling

Surrounding Properties (Zoning District / Existing Use):

- North: RS-3 | Family Community Residence (Patrick’s Place 4 LLC)
- South: ROW | E Copans Road
- East: RS-3 | single-family dwelling
- West: ROW | NE 2nd Avenue

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.

Staff Conditions:

Should the Board determine the applicant has provided competent substantial evidence sufficient to satisfy the two Special Exception review standards for a Community Residence, staff request 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, a BTR for a rental property, and state license certification.
2. This Family Community Residence is intended to house an elderly/senior population rather than persons in recovery. Changes or alterations to the composition of the resident population and/or lease agreements for a term of less than one year would require a new Special Exception approval.
3. Substantial conformance to all applicable zoning code standards.