

PLANNING AND ZONING BOARD

CITY OF DELRAY BEACH

STAFF REPORT

MEETING DATE: July 16, 2018

ITEM: Recommendation to the City Commission on a request for Conditional Use approval to establish a **Community Residence (Stepping Stones), 2018-082**, at 602 SE 3rd Avenue, pursuant to Sections 2.4.5(E), 4.3.3(I)(4), and 4.3.3(I)(6).

RECOMMENDATION: Approve

GENERAL DATA:

Location..... Southwest corner of SE 3rd Avenue and SE 6th Street

Property Size..... 0.15 Acres

Future Land Use Map..... LD (Low Density Residential, 0-5 Units/Acre)

Current Zoning..... R-1-A (Single Family Residential)

Adjacent Zoning.....North: R-1-A

East: R-1-A

South: R-1-A

West: R-1-A

Existing Land Use..... Single Family Residence

Proposed Land Use..... Community Residence

Water Service..... Existing on site.

Sewer Service..... Existing on site.



ITEM BEFORE THE BOARD

The action before the Board is making a recommendation to the City Commission on a request for Conditional Use approval to establish a **Community Residence (Stepping Stones)**, pursuant to Sections 2.4.5(E), 4.3.3(I)(4), and 4.3.3(I)(6).

BACKGROUND

The subject property, 602 SE 3rd Avenue, is located on lot 19, block 7 of the Osceola Park plat, PB. 3, PG. 2, and is approximately 0.15 acres. It is in the R-1-A Single Family Residential zoning district and has a Future Land Use designation of Low Density (LD). The property fronts on SE 3rd Avenue which is the eastern property line, SE 6th Street along the northern property line, an alley along the western property line and an adjoining residential property along the southern property line. There is a 2,455 square feet (sf) single family residence on the subject property with 1,907 sf under air, including four bedrooms. The original residence was constructed in 1948. A series of later additions created the total square footage of 2,455 sf. The subject property is within 660 feet of another community residence establishing the need for a conditional use consideration (Ord. No. 25-17).

The residence currently provides housing for seven unrelated same gender individuals. One of the residents is designated as a senior member and functions as the head of the household. Currently the residence is not certified by the Florida Association of Recovery Residences (FARR). It was the community residence management's understanding that since residents were not transient and no treatment was being provided on site, FARR Certification was not necessary. However, the applicant has an application for Level II FARR Certification in process. Further, in accordance with the Land Development Regulations (LDR), Section 4.3.3(I)(3)(c), a conditional use permit is required to ensure community residences operate in a manner consistent with the protections afforded by the State of Florida's licensing or certification standards for community residences serving individuals with disabilities similar to those of the proposed community residence to protect the residents of the proposed community residence from abuse, exploitation, fraud, theft, insufficient support, use of illegal drugs or alcohol, and misuse of prescription medications, therefore, the community residence management has applied for and is awaiting FARR certification.

Now before the Board is a conditional use request for **Stepping Stones** to allow an existing **Family Community Residence** within 660 feet of another existing community residence. The community residence before you existed prior to the passage of Ordinance No. 25-17, but the applicant did not ever apply for or obtain a reasonable accommodation to exceed more than three unrelated individuals.

PROJECT DESCRIPTION

The development proposal consists of the following:

- Establishing a Family Community Residence at 602 SE 3rd Avenue within 660 feet of an existing community residence.

Pursuant to the Land Development Regulations, Appendix A – Definitions: Community Residence, except as required by state law, a community residence is a residential living arrangement for up to 10 unrelated individuals with disabilities living as a single functional family in a single dwelling unit who are in need of the mutual support furnished by other residents of the community residence as well as the support services, if any, provided by the staff of the community residence. Residents may be self-governing or supervised by a sponsoring entity or its staff, which provides habilitative or rehabilitative services, related to the residents' disabilities. A community residence seeks to emulate a biological family to normalize its residents and integrate them into the surrounding community. Its

primary purpose is to provide shelter in a family-like environment; treatment is incidental as in any home. Supportive inter-relationships between residents are an essential component.

A community residence shall be considered a residential use of property for purposes of all zoning, building, and property maintenance codes. The term, "community residence", does not include any other group living arrangement for unrelated individuals who are not disabled nor residential facilities for prison pre-parolees or sex offenders. Community residences include, but are not limited to, those residences that comport with this definition that are licensed by the Florida Agency for Persons with Disabilities, the Florida Department of Elderly Affairs, the Florida Agency for Health Care Administration, and the Florida Department of Children and Families, and functional family sober living arrangements also known as recovery residences certified by the state's designated credentialing entity established under Section 397.487 of the Florida Statutes.

Per LDR Section 4.4.3(D) Conditional uses and structures allowed, a Family Community Residence is allowed as a conditional use, except as required by state law, that is less than 660 linear feet from the closest existing community residence housing four or more individuals as measured from the nearest property line of the proposed community residence to the nearest property line of the closest existing community residence. There are three community residences within 660 linear feet of the Applicant's property:

- (1) 610 SE 2nd Avenue is approximately 240 feet to the southwest,
- (2) 701 SE 3rd Avenue is approximately 450 feet southeast, and
- (3) 713 SE 3rd Avenue is approximately 600 feet south.

The community residence at 610 SE 2nd Avenue is the only one of the three that is considered a Transitional Community Residence. A map of the proposed community residence along with the three above is provided.

Per LDR Section 4.6.9(C)(7), Community Residences shall provide off-street parking for the greater of (a) the number of off-street spaces required under this code for the type of dwelling unit (single family, duplex, multi-family, etc.) in which the community residence is located, or (b) one-half off-street space for each staff member on a shift and/or live-in basis plus, when residents are allowed to maintain a motor vehicle on premises, the maximum number of occupants that is permissible under this land development regulation and the city's building and property maintenance codes. Off-street spaces may be provided on the premises or at an off-site location other than a street or alley. According to the information provided by the Applicant, there are seven live-in residents, one acting as a senior member and only two members are permitted to have a motor vehicle on the site. Per the required parking calculations, 0.5 off-street spaces are required for one live-in staff member, in this case utilizing the senior member in place of staff, and 0.50 off-street spaces for the residents that are permitted motor vehicles on premise for a total of 1.5 spaces, rounded up to two, required spaces. Per the Applicant, there are six available spaces onsite. A condition of approval is recommended that the Applicant provide a parking plan for the site to illustrate and confirm the six parking spaces.

In determining the maximum number of people that can live in a community residence, the City of Delray Beach adheres to the Standard Housing Code, 1994 Edition, which establishes formulas to prevent overcrowding in dwelling units. The key provision establishes a minimum of 70 square feet of floor area for bedrooms with only one occupant. For bedrooms with more than one occupant, the code requires a minimum of 50 square feet for each occupant. Per the Applicant, there are four bedrooms within the dwelling. Three bedrooms with square footages of 255 sf, 225 sf and 210 sf have two occupants each. The fourth bedroom has a square footage of 196 sf and will have one occupant. A condition of approval is recommended for the Applicant to provide an updated floor plan of the entire residence to confirm the square footages of each bedroom.

CONDITIONAL USE ANALYSIS

CHAPTER 3 (REQUIRED FINDINGS): (Performance Standards)

Pursuant to Section 3.1.1 (Required Findings) of the Land Development Regulations (LDR), prior to approval of development applications, certain findings must be made in a form which is part of the official record. This may be achieved through information on the application, the staff report, or minutes. Findings shall be made by the body which has the authority to approve or deny the development application. These findings relate to consistency with the Future Land Use Map (FLUM), Concurrency, Comprehensive Plan Consistency, and Compliance with the LDR.

FUTURE LAND USE MAP: The use or structures must be allowed in the zone district and the zoning district must be consistent with the land use designation.

The subject property has a FLUM designation of Low Density (LD) and a zoning designation of R-1-A Single Family Residential. The R-1-A zoning district is consistent with the FLUM designation of LD. Per LDR Section 4.4.3(D), a Family Community Residence is allowed as a conditional use, except as required by state law, that is less than 660 linear feet from the closest existing community residence housing four or more individuals as measured from the nearest property line of the proposed community residence to the nearest property line of the closest existing community residence. This property is within 660 linear feet of three existing community residences and therefore requires conditional use approval. A positive finding is made with respect to consistency with the FLUM.

CONCURRENCY: Facilities which are provided by, or through, the City shall be provided to new development concurrent with issuance of a Certificate of Occupancy. These facilities shall be provided pursuant to levels of service established within the Comprehensive Plan.

The existing single family residence consists of a total square footage of 2,455 sf. The conditional use request is to allow a community residence within 660 feet of an existing community residence. No significant increase in traffic demand, solid waste services or water and sewer will be created by this development proposal, nor affect the existing level of concurrency which is met. A positive finding with respect to concurrency is made.

CONSISTENCY: Compliance with performance standards set forth in Chapter 3 and required findings in Section 2.4.5(E)(5) for the Conditional Use request shall be the basis upon which a finding of overall consistency is to be made. Other objectives and policies found in the adopted Comprehensive Plan may be used in making a finding of overall consistency.

Ordinance No. 25-17 was adopted on July 18, 2017. It was determined that pursuant to Section 163.3174(4)(c) Florida Statutes, the Planning and Zoning Board has determined that the changes are consistent with and further the goals, objectives and policies of the Comprehensive Plan.

A review of the goals, objectives, and policies of the adopted Comprehensive Plan was conducted and the following applicable policy is noted:

Housing Element Policy A-11.3 In evaluating proposals for new development or redevelopment, the City shall consider the effect that the proposal will have on the stability of nearby neighborhoods. Factors such as noise, odors, dust, traffic volumes and circulation patterns shall be reviewed in terms of their potential to negatively impact the safety, habitability and stability of residential areas. If it is determined

that a proposed development will result in a degradation of any neighborhood, the project shall be modified accordingly or denied.

All lots surrounding the subject property are zoned R-1 A, Low Density Residential. The subject property fronts on SE 3rd Avenue and has SE 6th Street to the north and an alley to the west. Only the southern property line abuts directly to a residential property. The adjacent structure is approximately 15 feet from the residence on the subject property. There is an existing fence between the two properties as well as some landscaping to help create a buffer between the residences. Entrances on the southern side of the residence appear to be west of northern side of the adjoining building to negate ingress and egress disruption from the subject residence. Provided parking areas on the site appear to be paved to prevent excess dust during utilization. It appears that the outside gathering area for the residence is on the front porch facing SE 3rd Avenue to the east. Negative effects from odors or noise could be a possibility, however, the utilization of a front porch for a gathering area is a typical use for single family neighborhood. It is to be noted that any land use established within the City of Delray Beach must comply with the requirements of Chapter 99, Noise Control, of the Code of Ordinance.

Because the treatment model of the community residence does not entail additional staff or shift changes, traffic volumes are not a significant concern. Vehicular circulation patterns within the neighborhood will not change as only two residents are permitted motor vehicles on site.

Although it is not a code requirement, the Applicant has provided a City of Delray Beach Police Grid location check with their application. For 2017, it appears there are ten events listed for this address. The Applicant provided justification explaining that the residents of the subject parcel call the police when they witness drug transactions or others performing suspicious activities.

A positive finding with respect to consistency with the Comprehensive Plan.

SECTION 2.4.5(E) REQUIRED FINDINGS: (Conditional Use)

Pursuant to Section 2.4.5(E)(5) (Findings), in addition to provisions of Chapter 3, the City Commission must make findings that establishing the conditional use will not:

- A. Have a significantly detrimental effect upon the stability of the neighborhood within which it will be located;**
- B. Nor that it will hinder development or redevelopment of nearby properties.**

The following zoning designations and uses border the property:

<i>Direction:</i>	<i>Zoning:</i>	<i>Use:</i>
North	R-1-A (Low Density Residential)	Single Family Residence
South	R-1-A (Low Density Residential)	Single Family Residence
East	R-1-A (Low Density Residential))	Single Family Residence
West	R-1-A (Low Density Residential)	Single Family Residence

As previously mentioned, concerns over this type of use as it relates to noise and odors with the adjacent residential uses are noted, however they are not out of line with uses found in any single family home. The residents have an unlimited duration of residency as long as they remain sober, therefore, the timeline to develop relationships within the neighborhood and the community is a possibility adding stability to the neighborhood. The Applicant's encouragement of police contact while witnessing

suspicious activities within the neighborhood is also a positive finding of the neighborhood stability with respect to LDR Section 2.4.5 (E).

The zoning of the subject parcel is consistent with the surrounding properties. Because the conditional use of a community residence is in a single family home in a Low Density zoning district, it will not hinder development or redevelopment of nearby properties.

COMPLIANCE WITH LAND DEVELOPMENT REGULATIONS:

Findings: In addition to any findings required by Section 2.4.5(E) of the Land Development Regulations, and any other required findings, the following specific findings shall be made for any Community Residence to be approved for a conditional use:

4.3.3 (I)(3) Community Residences: All applications for a conditional use for a community residence must demonstrate compliance with all three of these standards:

- (a) Be located a sufficient distance from any existing community residences so that the proposed community residence does not lessen nor interfere with the normalization and community integration of the residents of existing community residences or combine with any existing community residences to contribute to the creation or intensification of a de facto social service district,**

As previously stated, there are three community residences within 660 linear feet (measured from closest property line to closest property line) of the Applicant's property:

- (1) 610 SE 2nd Avenue is approximately 240 feet to the southwest, within the next block to the west
- (2) 701 SE 3rd Avenue is approximately 450 feet southeast, and
- (3) 713 SE 3rd Avenue is approximately 600 feet south.

Property to property distance may appear insufficient, however, if utilizing the walking distance, the distance from 610 SE 2nd Avenue is approximately 400 linear feet. The other two community residences within 660 feet from the subject parcel are located within the 700 block of SE 3rd Avenue on the opposite side of the street from the subject parcel. This application is currently the only proposed community residence within the 600 block of SE 3rd Avenue. Additionally, per the code, a community residence shall be considered a residential use of property for purposes of all zoning, building, and property maintenance codes. Therefore, this residence will be responsible for the upkeep of property for all aspects of the code that apply to single family residence.

- (b) Operate as a functional family (also known as emulating a biological family) that fosters normalization and community integration of its residents, and**

The community residence will operate as a Family Community Residence. A family community residence is a relatively permanent living arrangement for four to 10 unrelated people with disabilities with no limit on how long a resident may live in the home. The length of tenancy is measured in years. The subject property provides housing for seven unrelated, same gender individuals. One of the residents is designated as a senior member and functions as the head of the household. The residents are self-governing and are free to come and go as they please and are gainfully

employed. The residents reside together in a peer-supported, alcohol free and drug free environment. It is noted by the applicant that the emotional and mutual support and bonding of the residents in support of their recovery is the equivalent of the type of love and support received in a traditional family. The residence holds weekly family house meetings to discuss management of the house, discuss recovery issues as well as having residents socialize both inside and outside of the house within the community to foster normalization and community integration.

- (c) Operate in a manner consistent with the protections afforded by the State of Florida's licensing or certification standards for community residences serving individuals with disabilities similar to those of the proposed community residence in order to protect the residents of the proposed community residence from abuse, exploitation, fraud, theft, insufficient support, use of illegal drugs or alcohol, and misuse of prescription medications.**

Currently, the Applicant is obtaining the final approval as a Level II Certified Recovery Residence from the Florida Association of Recovery Residences (FARR). The Level II certification means any resident can live in the residence for as long as they choose so long as they are established in their own recovery, not actively in treatment, do not drink alcohol or use drugs, pay an equal share of the house expenses and follow all house rules, including being a good neighbor. Once the certification is obtained, the community residence will meet this requirement. The FARR certification is recommended as a condition of approval.

4.3.3 (l)(4) Community Residences: A required conditional use permit may be issued only if the proposed community residence meets the following standards:

- (a) When the proposed community residence is required to obtain a conditional use permit because it would be located within 660 linear feet of an existing community residence,**

- 1. 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 that the presence of other community residences will not interfere with the normalization and community integration of the residents of the proposed community residence, and**

As stated previously, within the 660 foot radius from the subject property, there are three existing community residences. Of those three, 610 SE 2nd Avenue is the only one of the three community residences that is considered a Transitional Community Residence. The other two community residences are operating as Family Community Residences and a block to the south of the subject property. As their distances are on the next block, there would be little interference with or from the other community residences.

- 2. The applicant demonstrates that the proposed community residence in combination with any existing community residences 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 community residences on a block or in a neighborhood.**

Per the code, a community residence shall be considered a residential use of property for purposes of all zoning, building, and property maintenance codes. Therefore, this residence, as well as any community residence, will be responsible for the upkeep of property for all aspects of the code that apply to single family residence in landscaping, maintenance and building. Additionally, the code requires each community residence within 660 feet of another community residence to go through the conditional use process to determine when the presence of community residences will alter the residential character of the neighborhood. As this is the only community residence on the 600 block of SE 3rd Avenue, the character of the neighborhood has not been altered.

REVIEW BY OTHERS

The subject property is not in a geographical area requiring review by the DDA (Downtown Development Authority) and CRA (Community Redevelopment Agency).

Courtesy Notices:

Special courtesy notices were provided to the following homeowners and civic associations:

- Osceola Park

Public Notice:

Formal public notice has been provided to property owners within a 500' radius of the subject property. Attached to this report are letters of objection (or support) that have been received to date. Additional letters of support or objection may be presented at the Planning and Zoning Board meeting.

ASSESSMENT AND CONCLUSION

Stepping Stones is compatible with the surrounding neighborhood; meets all of the required findings/standards for a conditional use for a community residence.

ALTERNATIVE ACTIONS

- A. Move to **continue** with direction.
- B. Recommend **approval** to the City Commission of the Conditional Use request for a *Community Residence (Stepping Stones)* by adopting the findings of fact and law contained in the staff report, and finding the request and approval thereof is consistent with the Comprehensive Plan and meets criteria set forth in Section 2.4.5(E)(5) and Chapter 3 (Performance Standards) of the Land Development Regulations, subject to the following conditions: (Required Findings),
 1. Provide a parking plan for the site to illustrate the 6 parking spaces.

2. Provide an updated floor plan of the entire residence with dimensions of each bedroom.
 3. Provide the FARR certification for the residence.
- C. Recommend **denial** to the City Commission of the Conditional Use request for a *Community Residence (Stepping Stones)* finding that the request is inconsistent with the Comprehensive Plan and does not meet criteria set forth in Sections 2.4.5(E)(5), and Chapter 3 of the Land Development Regulations.

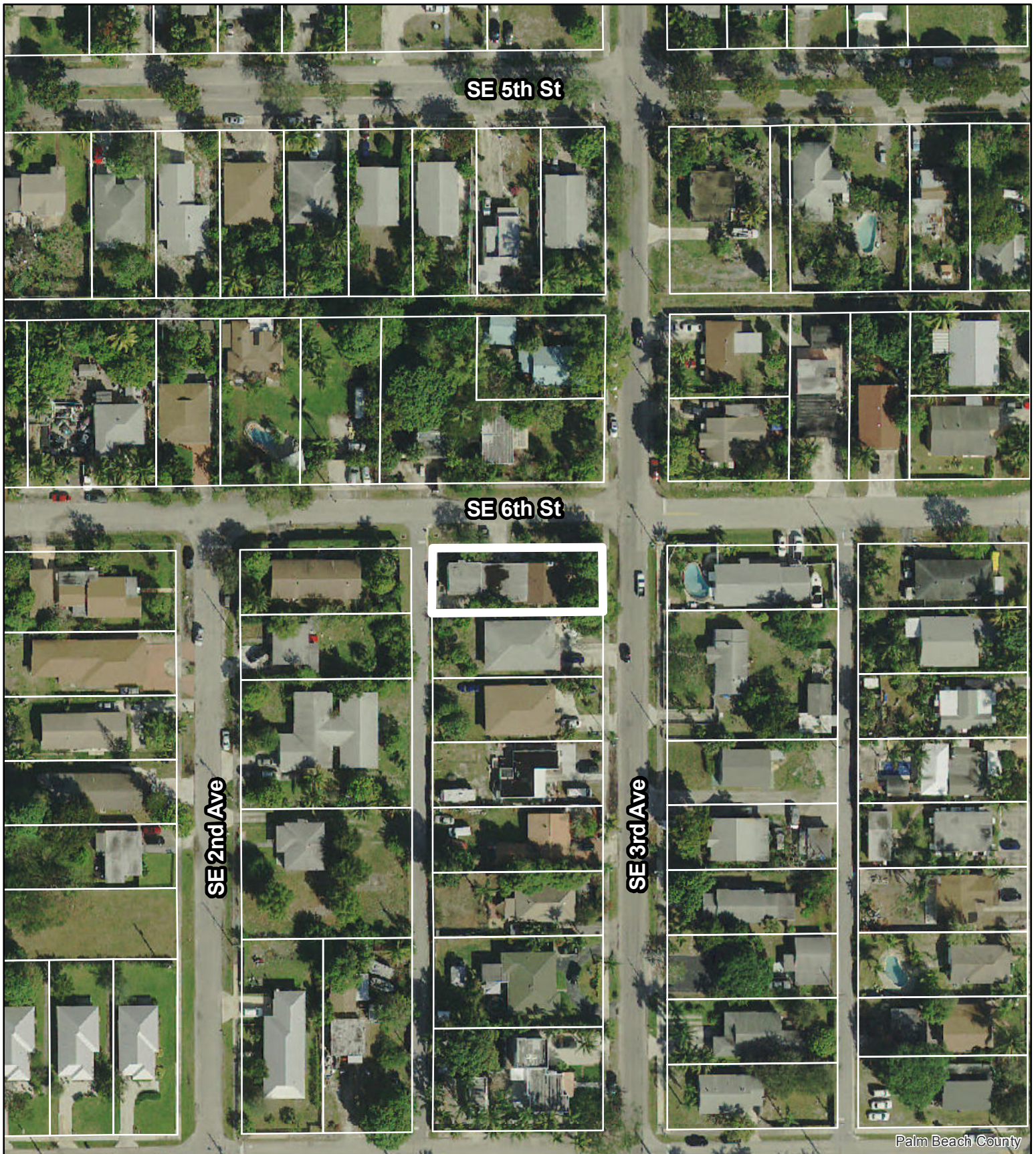
RECOMMENDED ACTION

Recommend **approval** to the City Commission of the Conditional Use request for a *Community Residence (Stepping Stones)* by adopting the findings of fact and law contained in the staff report, and finding the request and approval thereof is consistent with the Comprehensive Plan and meets criteria set forth in Section 2.4.5(E)(5) and Chapter 3 (Performance Standards) of the Land Development Regulations, subject to the following conditions: (Required Findings),

1. Provide a parking plan for the site to illustrate the 6 parking spaces.
2. Provide an updated floor plan of the entire residence with dimensions of each bedroom.
3. Provide the FARR certification for the residence.

Attachments:

- Location Map
- Radius Map



Palm Beach County



PLANNING, ZONING AND
BUILDING DEPARTMENT

602 SE 3rd Ave



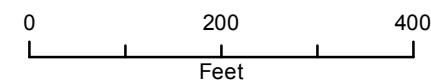
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Feet



Community Residences



- Submitted for Recertification
- Recertified 2018-2019
- Submitted for Approval
- Approved 2018-2019
- Closed



City of Delray Beach
Planning & Zoning Division

Date: 7/2/2018

