

## PLANNING AND ZONING BOARD REPORT

**PZB Project Number 23-00600002:** Consideration of a distance waiver to allow a Type I community residence with six (6) or fewer residents to be located at 1734 12th Avenue North within a radius of one thousand (1,000) feet of another community residence with six (6) or fewer residents. The subject site is zoned Single-Family Residential (SF-R) and has a future land use designation of Single Family Residential (SFR).

**Meeting Date:** May 24, 2023

**Property Owner/Applicant:** Iliodette Mezius/YLO Home Care

**Address:** 1734 12<sup>th</sup> Avenue North

**PCNs:** 38-43-44-21-03-000-0410

**Size:** .18-acre lot / ±1,544 square feet of existing structure

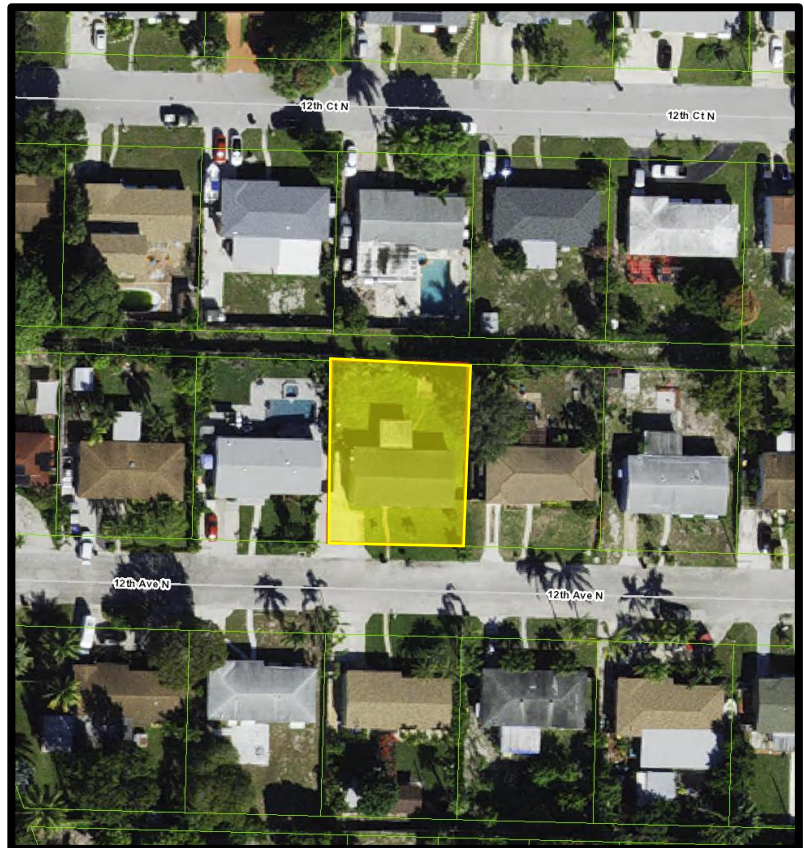
**General Location:** West of North A Street between 12<sup>th</sup> Court North and 12<sup>th</sup> Avenue North

**Existing Land Use:** Single-Family

**Current Future Land Use Designation:** Single-Family Residential (SFR)

**Zoning District:** Single-Family Residential (SFR)

Location Map



## RECOMMENDATION

Staff has reviewed the documentation and materials provided, and recommends that the Planning and Zoning Board reviews this information to determine if the proposed distance waiver meets the criteria of the Comprehensive Plan and LDRs. The subject site is within the 1,000-foot distance requirement by approximately 70 feet (±930 feet).

## PROJECT DESCRIPTION

The applicant, Iliodette Mezius of YLO Home Care, is requesting a community residence distance waiver to allow a Type I community residence with six (6) or fewer residents to be located at 1734 12th Avenue North within a radius of one thousand (1,000) feet of another community residence with six (6) or fewer residents. The subject property is located  $\pm 930$  feet from the closest community residence. The lot currently has a  $\pm 1,544$  square-foot residence. The subject site is surrounded by single-family zoned properties to the north, east, south, and west. There are no specified review criteria for granting this waiver.

## COMMUNITY OUTREACH

Staff has not received letters of support or opposition from adjacent or nearby neighbors.

## BACKGROUND

Below is a summary of the property based on Palm Beach Property Appraiser's records and City records:

**Use/Construction:** The existing  $\pm 1,544$  square-foot single-family home was built in 1955.

**Code Compliance:** There are no active code cases on the subject site.

### Chronology:

- 2017: Florida Agency for Health Care Administration (AHCA) sign-off from the City is requested by the applicant. Subsequently, a Community Residence Type I use approval or business license was not formally requested to the City. The Community Residence was never established and licensed by AHCA.
- 2019:
  - A zoning verification letter is issued on July 9, 2019 which indicates a Community Residence Type 1 is not permitted at the subject location due to its proximity to another Community Residence Type 1. The project manager/contact person on the application is Iliodette Mezius (property owner).
  - A Fire alarm permit (19-3458) is applied for on September 12, 2019 and issued on October 7, 2019.
  - A Commercial fire sprinkler permit (19-4403) if applied for on November 26, 2019 and issued on December 30, 2020.
- 2023:
  - The applicant requested a pre-application meeting to obtain a use approval and business license for a Community Residence Type I. The applicant was informed that an existing Community Residence Type I was existing within the 1,000-foot separation distance per Florida Statute §419.001 and staff could not approve the request.
  - The applicant requested a meeting to discuss the Community Residence Waiver option and staff provided applicable information per LDR Section 23.2-27, Community residence waiver.
  - The applicant applied for a Community Residence Waiver.
  - At the May 3, 2023, Planning and Zoning Board meeting, the item was continued since the property owner/applicant did not attend.

## ANALYSIS

### Consistency with the Comprehensive Plan and Strategic Plan

The subject site has a Future Land Use (FLU) designation of Single-Family Residential (SFR). Per Policy 1.1.1.2, the Single-Family Residential category is intended primarily to permit development of single-family structures. Single-family

structures are designed for occupancy by one family or household. Zoning regulations shall protect single-family residential development from the encroachment of incompatible land uses. At the same time, provisions may be made for a limited number of nonresidential uses for the convenience of residents. These nonresidential uses shall be compatible by reason of their nature and limited frequency of occurrence with an overall single-family residential character. The City's Land Development Regulations (LDR) provide for compatible nonresidential uses either through additional review processes such as development standards, supplementary standards, administrative and conditional use permits. Therefore, the consistency analysis of the proposed distance waiver is located in the next section as the LDR guide the concentration of this use based on the Florida Statutes and the Federal Fair Housing Act. Allowing for a diversity of housing types, including community residences, is supportive of Pillar II of the City's Strategic Plan - Strengthening Lake Worth Beach as a 'Community of Neighborhoods.' However, the distance requirements in the LDR and Florida Statutes are important protections for all residents of these districts. A more detailed analysis of the proposed waiver is provided in the section below.

### Consistency with the City's Land Development Regulations

**Single-Family Residential (SF-R):** The "SF-R single-family residential district" is intended primarily to permit development of one (1) single-family structure per lot. The "SF-R single-family residential district" implements the "single-family residential" land use category of the Lake Worth Comprehensive Plan. Provisions are made in the district for a limited number of nonresidential uses for the convenience of residents, and for compliance with Florida Statutes, and the Federal Fair Housing Act. These nonresidential uses, including community residences, are compatible by reason of their nature and the limited frequency of occurrence within an overall single-family residential character. Additionally, separation distances are beneficial to residents of both single-family homes and community residences. A 2020 Palm Beach County report summarized the therapeutic and legal origin of separation distances in local laws and in the Florida Statutes as a concentration of these uses can "create a de facto social service district," which "can seriously hinder their [community residences] ability to achieve normalization for their residents — one of the core foundations on which the concept of community residences is based." (Lauber, 2020)

**Analysis:** Per LDR Section 23.3-6, Use Tables, a Type I Community Residence with six (6) or fewer residents is permitted by right in the SF-R zoning district as a principal use. A Type I Community Residence is also subject to the regulations and standards set forth in LDR Section 23.3-7 (Development Standards) that are based on Florida Statutes. The proposed use will be located within the existing ±1,544 square foot structure which is currently a single-family home. The use will be utilized as an Adult Family Care Home with six (6) or fewer residents including the property owner.

Florida Statute § 419.001 requires that community residences shall be allowed in single-family or multifamily zoning without approval by the local government, provided that such homes are not located within a radius of 1,000 feet of another existing such home with six or fewer residents. An existing Type I Community Residence (Hibiscus Palace Assisted Living Facility) is located at 1755 14<sup>th</sup> Avenue North. The Hibiscus Palace Assisted Living Facility is within 1,000 feet of the proposed YLO Home Care. Per LDR Section 23.2-27, "An applicant for a permit for a community residence may request that the planning and zoning board or the historic resources preservation board, as applicable, grant it a waiver from the distance requirements of these LDRs." The applicant is seeking a community residence distance waiver as an existing Type I Community Residence is within the 1,000-foot separation buffer. If granted the distance waiver, the applicant will be required to maintain the number of residents at six (6) or fewer.

## CONCLUSION AND CONDITIONS

Staff recommends that the PZB discuss the applicant's request for a distance waiver. Further, the board should determine that the proposed community residence would not negatively impact the character of the single-family district, and is functionally separated in a manner consistent with the purpose of the zoning district and statutory separation distance requirements. If the PZB approves the community residence waiver, staff has provided the following conditions of approval:

1. The Applicant shall apply for a City of Lake Worth Beach Business License to legally operate the Type I Community Residence with six (6) or fewer residents.
2. This distance waiver shall be null and void if the Community Residence operates with 7 or more residents.

#### BOARD POTENTIAL MOTION:

I MOVE TO RECOMMEND APPROVAL OF PZB PROJECT NUMBER 23-00600002 of the Community Distance Waiver for the YLO Home Care located at 1734 12<sup>th</sup> Avenue North.

I MOVE TO NOT RECOMMEND APPROVAL OF PZB PROJECT NUMBER 23-00600002 of the Community Distance Waiver for the YLO Home Care located at 1734 12th Avenue North is not consistent for the following reasons. [Board member please state reasons.]

***Consequent Action:*** *The Planning and Zoning Board's decision will be the final decision for the Community Distance Waiver. The Applicant may appeal the Board's decision to the City Commission.*

#### ATTACHMENTS

- A. Application Package

Source: Daniel Lauber, Zoning Analysis and Framework for Community Residences for People With Disabilities and for Recovery Communities in Palm Beach County, Florida (River Forest, IL: Planning/Communications, July 2020)

[https://discover.pbcgov.org/pzb/zoning/AdminNewsReleases/Community\\_Residential\\_Housing.pdf](https://discover.pbcgov.org/pzb/zoning/AdminNewsReleases/Community_Residential_Housing.pdf)