

Zoning Analysis and Framework for Community Residences for People With Disabilities and for Recovery Communities in Palm Beach County, Florida



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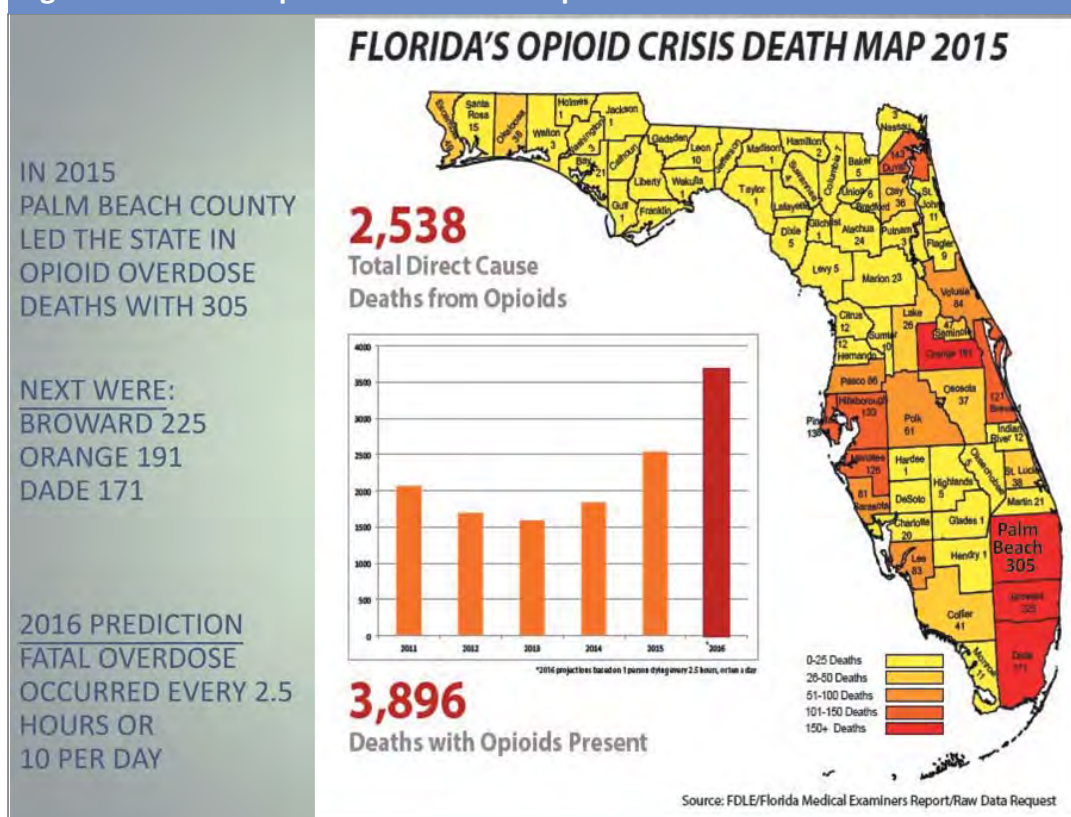
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Introduction

For more than a decade, the nation's war on drugs and alcohol abuse has faced a new front — an epidemic of unprecedented proportions due to the deadly rise in the abuse of opioids. One of the most essential weapons to successfully combat the misuse and abuse of drugs, including opioids, and alcohol has long been the sober living home or recovery residence. Properly operated and located, this type of community residence for people with disabilities offers a supportive family-like living environment that fosters the normalization and community integration essential to attain long-term, permanent sobriety.

Figure 1: Florida's Opioid Crisis Death Map 2015



Source: Palm Beach County, *Addressing the Opioid Epidemic: County Staff Report to the Board of County Commissioners*, 5 (April 4, 2017).

This study reports on the use of community residences for people with disabilities including sober homes as well as the related recovery community for people with drug and/or alcohol addiction. It examines the basis for these land uses, how they function and perform, the research on their impacts, and the legal framework for regulating them within the mandates of the nation's Fair Housing Act and Florida law. It recommends a framework for a zoning approach to provide the reasonable accommodation the Fair Housing Act requires and that protects the occupants of recovery communities and community residences for people with disabilities from mistreatment and fosters their normal-

ization and community integration which are the core function of community residences for people with disabilities.

This “Opioid Crisis” has engulfed the State of Florida with opioids the direct cause of 2,538 deaths and also present in an additional 3,896 fatalities in 2015. The next year saw a 57 percent increase to 3,993 deaths *directly* due to opioids. In 2017, this number had risen to 4,280, a nine percent increase. There was a 13 percent decline to 3,727 in 2018 according to provisional data provided by the Florida Department of Law Enforcement. However, provisional data for the first half of 2019 show a 5.8 percent increase compared to the first half of 2018.¹

Two metrics reveal that this opioid crisis has been more intense in Palm Beach County than the rest of the State of Florida. From 2015 through the first half of 2019, 77.5 percent of all drug overdoses in the state were due to opioids. In Palm Beach County, 85.1 percent were due to opioids.

The much higher proportion of suspected non-fatal opioid-involved overdoses in the county than in the state more starkly illustrates the intensity of opioid abuse in Palm Beach County. Of the 19,934 suspected non-fatal drug overdoses during this time period in the county, 70.2 percent have involved opioids. But statewide, just 35.3 percent of the 172,676 suspected non-fatal overdoses have involved opioids, about half the proportion in Palm Beach County.²

These data strongly suggest that opioid abuse is more deadly than abuse of other drugs and that opioid use and abuse is more widespread in Palm Beach County than in the rest of the State of Florida. Palm Beach County’s status relative to the rest of the state likely remains the same as in 2015 as shown in Figure 1 above.

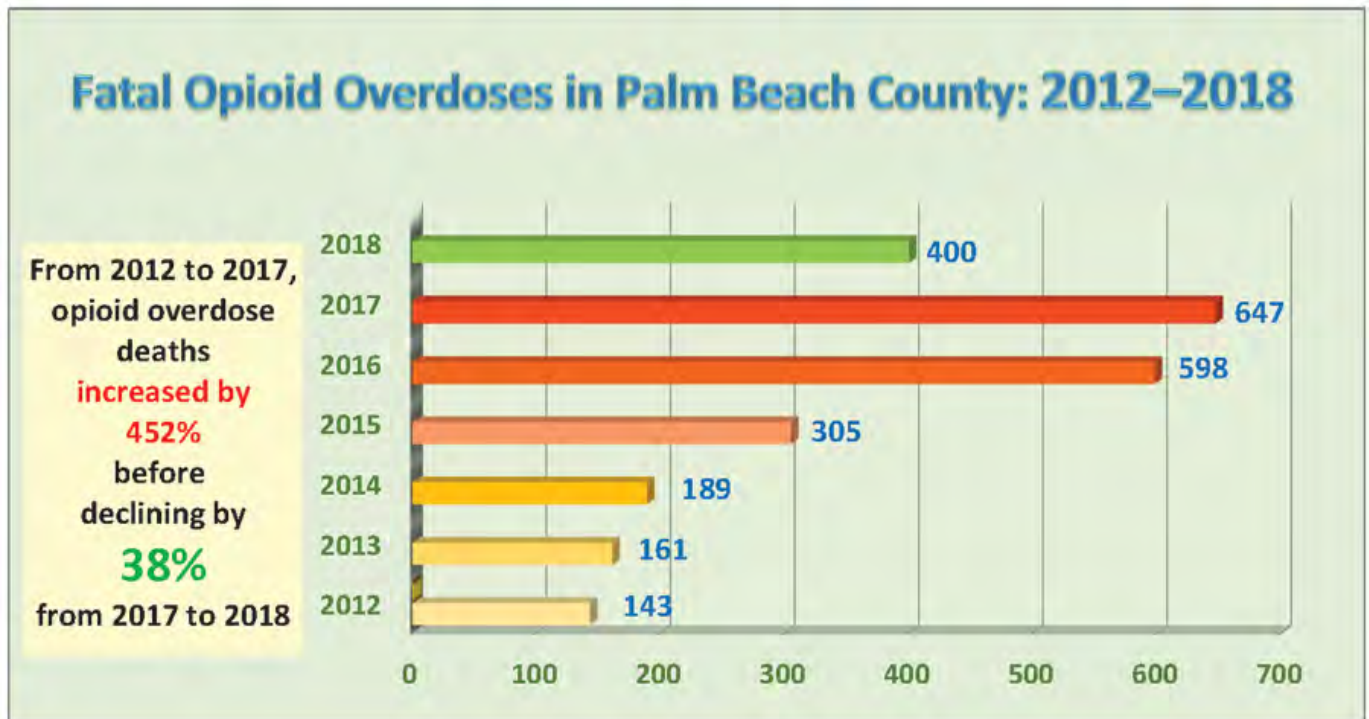
This crisis does not respect municipal or county boundaries. Opioid deaths are concentrated in southeast Florida as reflected in Figure 1 above. Palm Beach County has seen more deaths due to opioid overdoses than any other county in the state.

After five years during which fatal opioid overdoses increased 449 percent in Palm Beach County, the county experienced a 38 percent decline from 2017 to 2018. But as noted above, the number of fatal opioid overdoses in the first half of 2019 was 5.8 percent higher than in the first half of 2018 suggesting that the totals for 2019 are likely to be higher than for 2018, but still lower than in previous years.

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1. Florida Department of Health, Bureau of Community Health Assessment, Division of Public Health Statistics and Performance Management, *Opioid Use Dashboard* at: <http://www.floridahealth.gov/statistics-and-data/e-forcse/news-reports/index.html> and <http://www.flhealthcharts.com/ChartsReports/rdPage.aspx?rdReport=ChartsProfiles.OpioidUseDashboard>.
 2. Ibid.



Figure 2: Fatal Opioid Overdoses in Palm Beach County: 2012–2018



Sources: 2012–2014 – Annual Drug Raw Data spreadsheets prepared by Policy and Special Programs, Medical Examiners Commission, Florida Department of Law Enforcement, November 2019. 2015–2018 – *Opioid Use Dashboard*, <http://www.flhealthcharts.com/ChartsReports/rdPage.aspx?rdReport=ChartsProfiles.OpioidUseDashboard>

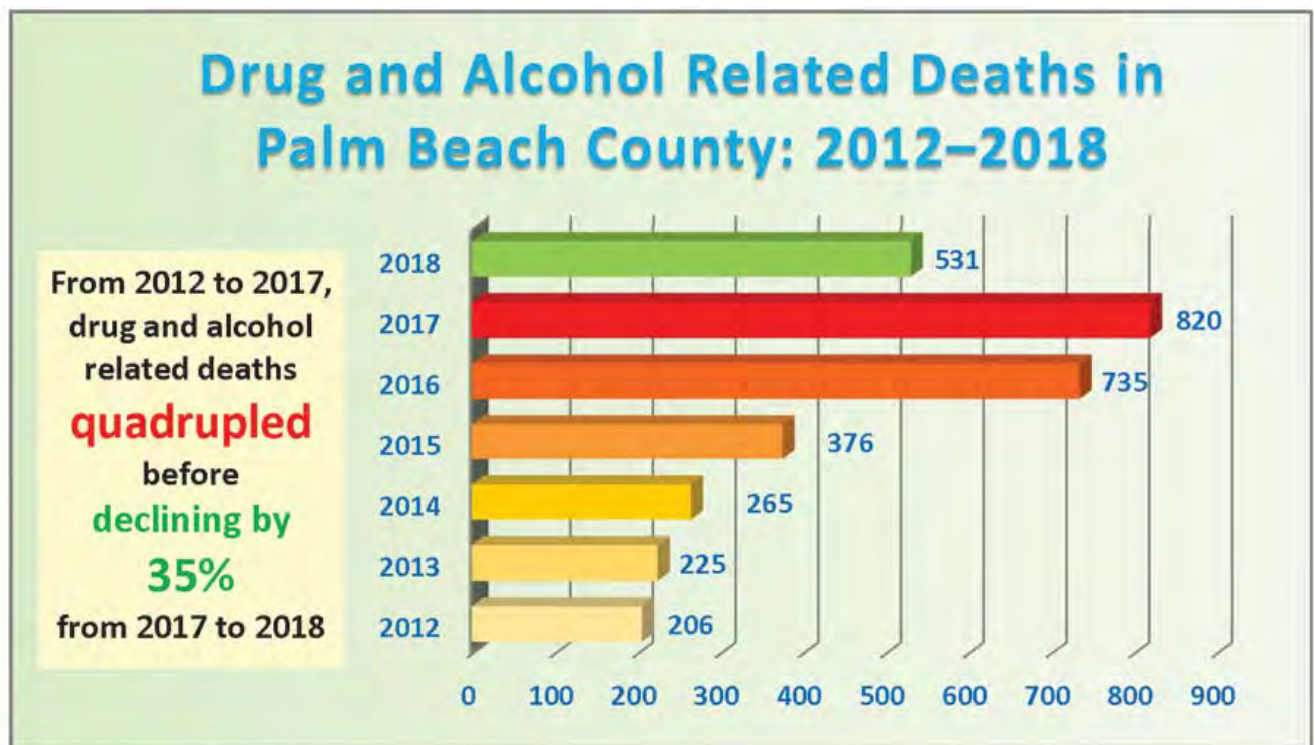
While the news has focused largely on deaths due to opioid addiction, that's just part of the larger scope of deaths due to the use of alcohol and/or drugs. Here, too, the large increase in deaths from 2012 through 2017 has been followed by a substantial decline in 2018 as shown in Figure 3 below. Data for 2019 were not available as of this writing.

A well-informed word of caution. These data on opioid overdoses should be kept in perspective. Steven Farnsworth, Executive Director of the Florida Association of Recovery Residences, the state's certification entity, reports that an unknown but substantial number of nonfatal opioid overdoses are *not* being reported. Narcan® (naloxone HCl) Nasal Spray, the only FDA-approved nasal form of naloxone for the emergency treatment of an opioid overdose, is now widely distributed in Florida and saving the lives of many who overdose.

Even though most reasonable people would agree that emergency responders should be summoned when there is a suspected opioid overdose, Executive Director Farnsworth reports that there are strong incentives not to call 911 when administering Narcan® succeeds. Calling 911 triggers a pretty massive response — ambulance, fire engine, police — with lights flashing and sirens roaring. Many sober home operators do not want that kind of attention which, candidly, can irritate and alienate their neighbors.

In addition, going to the emergency room often results in bills as high as \$6,000 which few, if any, the uninsured who overdose can afford. After a few hours, the patient is usually released back into the same environment where she overdosed. To avoid these costs and the attention an emergency response brings, sober home providers do not perceive much of a benefit from calling 911 when the Narcan® works, which skews lower the reported number of overdoses.

Figure 3: Deaths in Palm Beach County To Which Drug and/or Alcohol Use Contributed: 2012–2018



Source: Annual Drug Raw Data spreadsheets for 2012 through 2018 prepared by Policy and Special Programs, Medical Examiners Commission, Florida Department of Law Enforcement, November 2019. Data for 2019 will be available in November 2020.

Consequently, while the number of reported deaths due to opioid overdoses and other drugs and alcohol have declined, Executive Director Farnsworth concludes that it should not be assumed that drug and alcohol abuse is diminishing. While reported deaths are down substantially, use very well may be unabated.

Executive Director Farnsworth explains that the decline in reported deaths is often presented in an inaccurate narrative, minimizing the effect of the widespread availability of Narcan®. He is concerned that professionals of all kinds, including medical personnel, and particularly those who are financially driven, are desperate to prove positive outcomes to enhance their personal agendas. As a result, they almost always minimize the effect that Narcan® has had. Some of their efforts, particularly the intense and aggressive push of Medication As-

sisted Treatment (MAT), have likely resulted in a decline in deaths. However, Executive Director Farnsworth notes, there is a plausible argument that it has also caused an increase in deaths when not appropriately monitored and may have a net-zero effect.³

Most people who have been in recovery for decades believe these medical reports claiming “evidence-based” statistics are benign. They have a different definition of the problem and an extremely different definition of “successful recovery.”

Executive Director Farnsworth while the opioid epidemic has stolen the spotlight from alcoholism, alcohol-related deaths have remained consistent and not declined. He notes that there are no reports of improvements in treatment of alcohol addiction and that it is worthy of a discussion separate from that of opioid and drug abuse.

Sober homes essential to achieve long-term sobriety

Sober living homes are a crucial component to achieve long-term recovery and sobriety. Palm Beach County houses Delray Beach, dubbed “the recovery capital of America” a decade ago by the newspaper of record. The *New York Times* reported that “Delray Beach, a funky outpost of sobriety between Fort Lauderdale and West Palm Beach, is the epicenter of the country’s largest and most vibrant recovery community, with scores of halfway houses, more than 5,000 people at 12-step meetings each week, recovery radio shows, a recovery motorcycle club and a coffeehouse that boasts its own therapy group....”⁴ But as noted earlier, *this epidemic does not respect municipal boundaries*.

During the past decade, operators of sober living homes have expanded north, south, and west of Delray Beach into the rest of Palm Beach County and beyond. Delray Beach, for example, had 183 verified sober homes and another 64 thought to be sober homes in 2017.⁵ In early 2018, In Broward County, Pompano Beach had 66 certified or licensed community residences for people with disabilities within its borders plus another 102 locations that the Broward County Sheriff confirmed are sober living homes. There were another 102 locations thought to

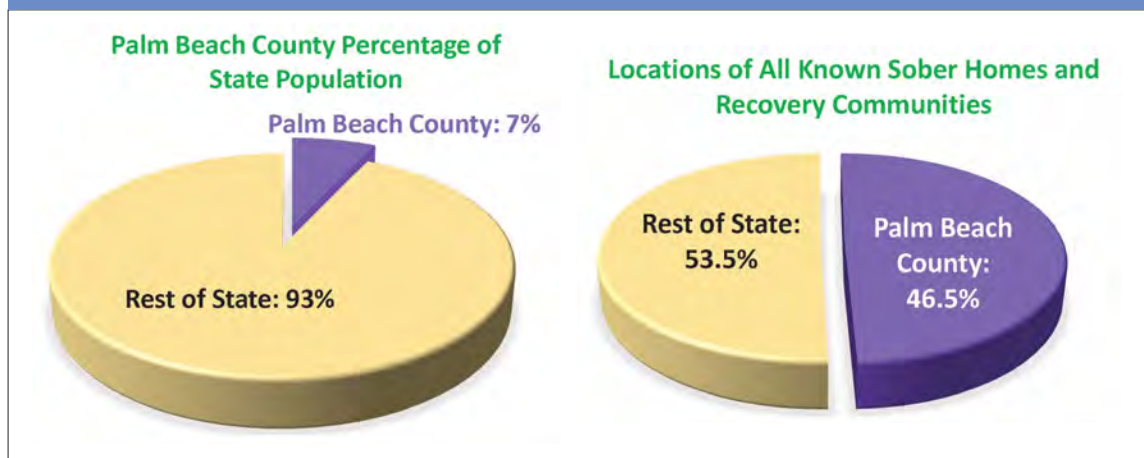
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3. Telephone Interview with Steven Farnsworth, Executive Director, Florida Association of Recovery Residences (Dec. 12, 2019) and email to Daniel Lauber (Dec 13, 2019, 11:12 am. CST) (on file with the Law Office of Daniel Lauber). These concerns are not limited to Florida. See “This Carroll County drug user got sober, as overdoses declined in 2019. But officials aren’t celebrating yet,” *Baltimore Sun*, Jan. 24, 2020. Available online at <http://www.baltimoresun.com/maryland/carroll/news/cc-carroll-overdose-trends-20200124->.
 4. Jane Gross, “In Florida, Addicts Find an Oasis of Sobriety,” *New York Times*, Nov. 11, 2007. Available online at <http://www.nytimes.com/2007/11/16/us/16recovery.html>
 5. Daniel Lauber, *Delray Beach, Florida: Principles to Guide Zoning for Community Residences for People With Disabilities* (River Forest, IL: Planning/Communications, 3rd ed. August 2017) 23.

be sober living homes but not confirmed as such.⁶ Late in 2017, Broward County’s Fort Lauderdale was home to at least 83 certified or licensed community residences with another 17 locations thought to be sober living homes or recovery communities.⁷

In 2017, the number of fatalities in Broward County to which drug overdoses and alcohol contributed was up 273 percent from 2014 following a brief two-year decline from 2012 to 2014.

Palm Beach County, however, continues to host a disproportionate number the state’s sober homes and recovery communities. While the county’s 1,485,941 residents constitute just seven percent of the state’s 21,299,325 population,⁸ Palm Beach County is home to 46.5 percent of the state’s sober homes and recovery communities⁹ — contributing to the need to enact land–use controls for these uses and community residences serving people with other types of disabilities in order to ensure these uses can function effectively.

Figure 4: Proportion of State Population and Proportion of Known Sober Homes and Recovery Communities in Palm Beach County and the State of Florida



Sources: United States Census, 2018 Population Estimates, Table PEPANNRES and Florida Association of Recovery Residences.

As this report explains, clustering community residences — especially sober living homes with their mobile populations — on a block and concentrating them in neighborhood reduces their efficacy by obstructing their ability to foster normalization and community integration. For the residents of these homes

6. Daniel Lauber, *Pompano Beach, Florida: Principles to Guide Zoning for Community Residences for People With Disabilities* (River Forest, IL: Planning/Communications, June 2018) 24.
7. Daniel Lauber, *Principles to Guide Zoning for Community Residences for People With Disabilities in Fort Lauderdale, Florida* (River Forest, IL: Planning/Communications, Feb. 2018) 24.
8. United States Census Bureau, *Annual Estimates of the Resident Population: April 1, 2010 to July 1, 2018 — 2018 Population Estimates*, Table PEPANNRES.
9. Calculated from data supplied by the Florida Association of Recovery Residences, January 2020.

to achieve long-term sobriety, it is critical to establish regulations and procedures that assure a proper family-like living environment, free of drugs and alcohol, that weed out the incompetent and unethical operators, and protect this vulnerable population from abuse, mistreatment, exploitation, enslavement, and theft.

The southeast Florida media have been reporting on ongoing criminal investigations of sober living operators in Palm Beach County.¹⁰ These investigations have found so-called sober homes that kept residents on illegal drugs, patient brokering, enslavement of residents into prostitution, kickbacks, bribery, and other abuses.

These illegitimate “sober homes” almost certainly do not comply with the minimum “Quality Standards” that the National Alliance of Recovery Residences has promulgated and the certification standards the Florida Association of Recovery Residences administers. The greatest concentration of these homes has been in Palm Beach County.

This failure to comply with even minimal standards of the recovery industry and the clustering of community residences in much of southeast Florida may help explain the inability of so many sober living homes in the region to achieve sobriety among their residents and for high recidivism rates. These failures are in contrast to the much lower recidivism rates around the country of residents of certified sober living homes and of homes in the Oxford House network which are subject to the requirements of the Oxford House Charter and an inspection regime Oxford House maintains.¹¹

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10. A sampling of articles: “Kenny Chatman pleads guilty to addiction treatment fraud,” *mypalmbeachpost.com* (March 16, 2017); Christine Stapleton, “Three more sober home operators arrested in Delray Beach,” *Palm Beach Post* (Feb. 27, 2017); Lynda Figueredo, “Two Delray Beach sober home owners arrested for receiving kickback,” *cbs12.com* (Nov. 19, 2016); Pat Beall, “Patient-brokering charges against treatment center CEO ramped up to 95,” *mypalmbeachpost.com* (Dec. 27, 2016).
 11. L. Jason, M. Davis, and J. Ferrari, The Need for Substance Abuse Aftercare: Longitudinal Analysis of Oxford House, 32 *Addictive Behaviors* (4), (2007), at 803-818. For additional studies, *also see* Office of Substance Abuse and Mental Health, *Recovery Residence Report Fiscal Year 2013–2014 General Appropriations Act*, Florida Department of Children and Families (Oct. 1, 2013), 21–25. Since the report focused on Palm Beach County, it did not provide similar data for cities outside that county. It is possible, however, that the residents of Oxford Houses tend to be more advanced in their recovery which could help account for the relatively low recidivism rate of Oxford House “graduates.”

Oxford House is discussed throughout this study. The later discussion of Oxford House will make it clear that, unlike the sober living homes so prevalent in southeast Florida, each Oxford House is a self-run and self-governed sober home completely independent from any treatment center. Also see footnote 8 below.

The failure to comply with minimal standards was a focus of a grand jury that the Palm Beach County State Attorney convened to investigate fraud and abuse in the addiction treatment industry. The grand jury reported:¹²

The Grand Jury received evidence from a number of sources that recovery residences operating under nationally recognized standards, such as those created by the National Alliance for Recovery Residences (NARR), are proven to be highly beneficial to recovery. The Florida Association of Recovery Residences (FARR) adopts NARR standards. One owner who has been operating a recovery residence under these standards for over 20 years has reported a 70% success rate in outcomes. The Grand Jury finds that recovery residences operating under these nationally approved standards benefit those in recovery and, in turn, the communities in which they exist.

In contrast, the Grand Jury has seen evidence of horrendous abuses that occur in recovery residences that operate with no standards. For example, some residents were given drugs so that they could go back into detox, some were sexually abused, and others were forced to work in labor pools. There is currently no oversight on these businesses that house this vulnerable class. Even community housing that is a part of a DCF [Department of Children and Families] license has no oversight other than fire code compliance. This has proven to be extremely harmful to patients.

The grand jury reported 484 overdose deaths in nearby Delray Beach in 2016, up from 195 in 2015.¹³ It recommended certification and licensure for “commercial recovery housing.”¹⁴ For full details on the grand jury’s findings and recommendations, readers should see the grand jury’s report.¹⁵

Thanks in large part to the crackdown on patient brokering and other discordant practices of illegitimate predator sober homes in Palm Beach County, it has been noted that there is a migration of patient brokering and of sober homes to other counties in southeast Florida. Authorities believe that illegitimate operators are leaving cities like Delray Beach, Pompano Beach, and Fort Lauderdale

12. Palm Beach Grand Jury in the Circuit Court of the 15th Judicial Circuit In and For Palm Beach County, Florida, *Report on the Proliferation of Fraud and Abuse in Florida’s Addiction Treatment Industry*, (Dec. 8, 2016) 16–17.

13. *Ibid.* 99–101.

14. *Ibid.* 18. In contrast to the self-governed Oxford Houses that adhere to the Oxford House Charter and are subject to inspections by Oxford House, “commercial recovery housing” is operated by a profit-making third party entity, sometimes affiliated with a specific treatment program, complete with supervisory staff like most community residences for people with disabilities. In Florida, as elsewhere, such homes are almost always required to obtain a license from the state.

15. The grand jury’s report is available online at:
<http://www.trbas.com/media/media/acrobat/2016-12/70154325305400-12132047.pdf>.



where the zoning requires existing and proposed sober living homes and recovery communities to obtain certification from the Florida Association of Recovery Residences (FARR).

According to the former head of the Florida Association of Recovery Residences, requiring certification or licensing of sober homes appears to deter “those who are driven to enter the recovery housing arena by opportunities to profit off this vulnerable population. When seeking where to site their programs, this predator group evaluates potential barriers to operation. For them, achieving and maintaining FARR Certification is a significant barrier.”¹⁶

This report explains the basis for a framework for text amendments to Palm Beach County’s Unified Land Development Code for regulating community residences for people with disabilities in accord with sound zoning and planning principles and the nation’s Fair Housing Act. The framework for amendments based on this study makes the reasonable accommodation for community residences for people with disabilities and the related use, recovery communities, that is needed to achieve full compliance with national law and sound zoning and planning practices and policies. The framework for the recommended zoning approach is based upon a careful review of:

- ◆ The functions and needs of community residences and the people with disabilities who live in them
- ◆ Sound urban planning and zoning principles and policies
- ◆ The Fair Housing Amendments Act of 1988 (FHAA) and amended Title VIII of the Civil Rights Act of 1968, 42 U.S.C. Sections 3601–3619 (1982)
- ◆ Report No. 100–711 of the House Judiciary Committee interpreting the FHAA amendments (the legislative history)
- ◆ The HUD regulations implementing the amendments, 24 C.F.R. Sections 100–121 (January 23, 1989)
- ◆ Case law interpreting the 1988 Fair Housing Act amendments relative to community residences for people with disabilities
- ◆ Joint Statement of the Department of Housing and Urban Development and the Department of Justice, *State and Local Land Use Laws and Practices and the Application of the Fair Housing Act* (Nov. 10, 2016)¹⁷
- ◆ Florida state statutes governing local zoning for different types of community residences: Title XXIX Public Health, chapters 393 (Developmental Disabilities), 394 (Mental Health), 397 (Substance Abuse Services), 419 (Community Residential Homes); Title XXX,

16. Email from John Lehman, past CEO and current board member, Florida Association of Recovery Residences to Daniel Lauber, Law Office of Daniel Lauber (Nov. 16, 2017, 9:34 a.m. CST) (on file with the Law Office of Daniel Lauber).

17. At <http://www.justice.gov/crt/page/file/909956/download>.

chapters 429 (Assisted Care Communities — Part 1: Assisted Living Facilities, Part II: Adult Family–Care Homes); and Title XLIV, Chapter 760 (Discrimination in the Treatment of Persons; Minority Representation) (2019)

- ◆ Florida state statute establishing voluntary certification of sober living homes: Title XXIX Public Health, chapter 397 (Substance Abuse Services) §397.487 (2019)
- ◆ The actual Florida certification standards for sober living homes as promulgated and administered by the certifying entity, the Florida Association of Recovery Residences, based on standards established by the National Alliance of Recovery Residences
- ◆ The existing provisions of Palm Beach County’s *Unified Land Development Code*.

Community residences

Community residences are crucial to achieving the adopted goals of the State of Florida and the United States of America to enable people with disabilities to live as normal a life as possible in the least restrictive living environment. The nation has made great strides from the days when people with disabilities were warehoused out of sight and out of mind in inappropriate and excessively restrictive institutions.

People with substantial disabilities often need a living arrangement where they receive staff support to engage in the everyday life activities most of us take for granted. These sorts of living arrangements fall under the broad rubric “community residence” — a term that reflects their *residential nature and family-like living environment* rather than the institutional nature of a nursing

home or hospital or the non–family nature of a boarding or lodging house. Their primary use is as a residence or a home like yours and mine, not a treatment center, an institution, nor a boarding house.

One of the core elements of community residences is that they seek to emulate a family in how they function. The staff (or officers in the case of a self–governed Oxford House) function in the role of parents, doing the same things our parents did for us and we do for our children. The residents with disabilities are in the role of the siblings, being taught or retaught the same life skills and social behaviors our parents taught us and we try to teach our children.

Community residences seek to achieve “normalization” of their residents and incorporate them into the social fabric of the surrounding community, called “community integration.” They are operated under the auspices of a legal entity such as a non–profit association, for–profit private care provider, or a

Recovery communities

As explained beginning on page 54, a “recovery community” serving people in recovery from addiction to drugs and/or alcohol is a different land use than a community residence with dissimilar characteristics that warrant a somewhat different zoning approach.



government entity.

The number of people who live in a specific community residence tends to depend on its residents' types of disabilities as well as therapeutic and financial needs.¹⁸ Like other local jurisdictions across the nation, Palm Beach County needs to adjust its land use regulations to enable community residences for people with disabilities to locate in all residential zoning districts, subject to objective conditions via the least drastic means needed to actually achieve a legitimate government interest.

Since 1989, the nation's Fair Housing Act has required all cities, counties, and states to make a "reasonable accommodation" in their zoning when the number of residents exceeds the local zoning code's cap on the number of unrelated people who can live together in a dwelling so that community residences for people with disabilities can locate in all residential zoning districts.¹⁹ The zoning approach recommended in this study constitutes this reasonable accommodation by creating a zoning process that uses the least drastic means to actually achieve legitimate government interests.

When President Reagan signed the Fair Housing Amendments Act of 1988 (FHAA), he added people with disabilities to the classes protected by the nation's Fair Housing Act (FHA). The 1988 amendments recognized that many people with disabilities need a community residence (group home, sober living home, small halfway house) in order to live in the community in a family-like environment rather than being forced into an inappropriate institutional setting.

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18. While the trend for people with developmental disabilities is toward smaller group home households, valid therapeutic and financial reasons lead to community residences for people with mental illness or people in recovery from drug and/or alcohol addiction to typically house eight to 12 residents. However, all community residences must comply with minimum floor area requirements that prevent overcrowding like any other residence. If the local building code or property maintenance code would allow only six people in a house, then six is the maximum number of people that can live in the house whether it's a community residence for people with disabilities or a biological family. *City of Edmonds v. Oxford House* 514 U.S. 725, 115 S.Ct. 1776, 131 L.Ed.2d 801 (1995).
 19. As explained in this study, "family community residences" should be allowed as a permitted use in all zoning districts where dwellings are allowed when located outside a rational spacing distance from the nearest existing community residence and if licensed or certified. "Transitional community residences" should be allowed as of right in districts where multiple family dwellings are permitted uses (subject to spacing and licensing) and as a conditional use in other residential districts. A conditional use back-up is needed for proposed community residences that would be located within the spacing distance or for which a license or certification is not available.

People without disabilities and people with disabilities who pose “a direct threat to the health or safety of others” such as prison pre-parolees and sex offenders are not covered by the 1988 amendments to the Fair Housing Act. Therefore, cities and counties do not have to make a reasonable accommodation for them like they must for people with disabilities who do not pose “a direct threat to the health or safety of others.” The zoning amendments to be based on this study will not allow halfway houses for people who fall into these categories of dangerous people as a permitted use in residential areas.

Consequently, the act requires all cities, counties, and states to allow for community residences for people with disabilities by making some exceptions in their zoning ordinance provisions that, for example, may limit how many unrelated people can live together in a dwelling unit.

The legislative history of the Fair Housing Amendments Act (FHAA) states:

“The Act is intended to prohibit the application of special requirements through land-use regulations, restrictive covenants, and conditional or special use permits that have the effect of limiting the ability of such individuals to live in the residence of their choice within the community.”²⁰

While many advocates for people with disabilities suggest that the Fair Housing Amendments Act prohibits all zoning regulation of community residences, the Fair Housing Amendments Act’s legislative history suggests otherwise:

“Another method of making housing unavailable has been the application or enforcement of otherwise neutral rules and regulations on health, safety, and land-use in a manner which discriminates against people with disabilities. Such discrimination often results from false or overprotective assumptions about the needs of handicapped people, as well as unfounded fears of difficulties about the problems that their tenancies may pose. These and similar practices would be prohibited.”²¹

Many states, counties, and cities across the nation continue to base their zoning regulations for community residences on these “unfounded fears.” The 1988 amendments require all levels of government to make a *reasonable accommodation* in their zoning rules and regulations to enable community residences for people with disabilities to locate in the same residential districts as other residential uses.²²

It is well settled that for zoning purposes, a community residence is a residen-

20. H.R. Report No. 711, 100th Cong., 2d Sess. 311 (1988), reprinted in 1988 U.S.C.C.A.N. 2173.

21. Ibid.

22. 42 U.S.C. §3604(f)(B) (1988).



tial use, not a business use. The Fair Housing Amendments Act of 1988 specifically invalidates restrictive covenants that would exclude community residences from a residential district. The Fair Housing Act renders these restrictive covenants unenforceable against community residences for people with disabilities.²³

Types of community residences

Within the broad category of community residences are two types of living arrangements that warrant slightly different zoning treatments tailored to their specific characteristics:²⁴

- ◆ **Family community residences** which include uses commonly known as group homes and those sober living homes that offer a relatively permanent living environment that emulates a biological family
- ◆ **Transitional community residences** which include such uses commonly known as halfway houses as well as those sober living homes that offer a relatively temporary living environment like a halfway house does.

The label an operator places on a community residence does *not* determine whether it is a family or a transitional community residence. That is ascertained by the relevant performance characteristics of each community residence.

Family community residences

A **family community residence** offers a relatively permanent living arrangement for people with disabilities that emulates a family. They are usually operated under the auspices of an association, corporation, or other legal entity, or the parents or legal guardians of the residents with disabilities. Some, like sober living homes for people in recovery from alcohol and/or drug addiction, are self-governing.

Residency, not treatment, is the home's primary function. *There is no limit to how long an individual can live in a family community residence. Depending on the nature of a specific family community residence, there is an expectation that each resident will live there for as long as each resident needs to live there. Tenancy is measured in years, not months.* Family community residences are most often used to house people with developmental disabilities (mental retardation, autism, etc.), mental illness, physical disabilities including the frail elderly,

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23. H.R. Report No. 711, 100th Cong., 2d Sess. 311 (1988), reprinted in 1988 U.S.C.C.A.N. 2173, 2184. The overwhelming majority of federal and state courts that have addressed the question have concluded that the restrictive covenants of a subdivision and the by-laws of a homeowner or condominium association that exclude businesses or "non-residential uses" do *not* apply to community residences for people with disabilities — even before passage of the Fair Housing Amendments Act of 1988.
24. Recovery communities are significantly different in nature than community residences and are discussed in detail beginning on page 38.

and individuals in recovery from addiction to alcohol or drugs (legal or illegal) who are *not* currently “using.”

Family community residences are often called *group homes* and, in the case of people with alcohol or drug addictions, sober living homes, or *sober homes*.²⁵ *Their key distinction from transitional community residences* is that people with disabilities can reside, are expected to reside, and actually do live in a family community residence for a year or longer, not just months or weeks. In a nation where the typical household lives in its home five to seven years, these are long-term, relatively permanent tenancies. There is no limit on how long someone can dwell in a family community residence as long as they obey the rules or do not constitute a danger to others or themselves, or in the case of recovering alcoholics or drug addicts, do not use alcohol or illegal drugs or abuse prescription drugs.

To achieve normalization and community integration of their occupants, a community residence needs to be located in a conventional residential neighborhood. The underlying rationale for a community residence is that by placing people with disabilities in as “normal” a living environment as possible, they will be able to develop to their full capacities as individuals and citizens. The atmosphere and aim of a community residence is very much the *opposite* of an institution.

The family community residence emulates a family in most every way. The activities in a family community residence are essentially the same as those in a dwelling occupied by a biologically-related family. Essential life skills are taught, just like we teach our children. Most family community residences provide “habilitative” services for their residents to enable them to develop their life skills to their full capacity. *Habilitation* involves learning life skills for the first time as opposed to *rehabilitation* which involves relearning life skills.

While sober living homes are like group homes in most respects, they tend to engage more in rehabilitation where residents relearn the essential life skills we tend to take for granted, although for some very long-term alcoholics or drug addicts in recovery, they may be learning some of these life skills for the first time. Some sober living homes have been referred to as *three-quarter houses* because they are more family-like and permanent than the better known *halfway house* which falls under the *transitional community residence* category.

The original sober living home concept popularized by Oxford House does not limit how long somebody can live there. In an Oxford House, the residents periodically elect officers who act in a supervisory role much like parents in a biological family while the other residents are like the siblings in a biological family.²⁶ In a group home and in structured sober living homes, the staff func-

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25. For example, those “sober living homes” that limit how long occupants may live there are most accurately characterized as “transitional community residences.” *It is crucial that a jurisdiction evaluates each proposed community residence on how it operates and not only on how its operator labels it.*
 26. Each Oxford House is subject to the demanding requirements of the Oxford House Charter which includes a monthly financial accounting. This procedure constitutes a functional



tions in the supervisory parental role.

Sober living homes are essential for people in recovery for whom a supportive living environment is needed to learn how to maintain sobriety — *before* they can return to their family. Tenancy in a sober living home can last for years in contrast to tenancy in a sober living environment or small halfway house where there is a limit on length of tenancy measured in weeks or months.

Interaction between the people who live in a community residence is essential to achieving normalization. The relationship of a community residence's inhabitants is much closer than the sort of casual acquaintance that occurs between the residents of a boarding or lodging house where interaction between residents is merely incidental. In both family and transitional community residences, the residents share household chores and duties, learn from each other, and provide one another with emotional support — family-like relationships not essential for, nor present in lodging houses, boarding houses, fraternities, sororities, nursing homes, or other institutional uses.

In addition, 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.

On the next two pages, Table 1 illustrates the many functional differences between community residences for people with disabilities, institutional uses (including nursing homes), and rooming or boarding houses. These functional differences help explain the rational basis for the *Unified Land Development Code* to treat these land uses differently than community residences for people with disabilities.

equivalent of licensing and for the purposes of zoning ordinances, would serve as a proxy for formal licensing or certification.



— Table continued on next page

Differences Between Community Residences, Institutional Uses, and Rooming or Boarding Houses			
Characteristic	Community Residence for People With Disabilities	Institutional Uses (Includes Nursing Homes)	Rooming or Boarding House
Proper Environment	Residential Home-like	Institutional Hospital-like	Residential Hotel-like
Appropriate Zoning Districts	Single-family residential preferred Multiple-family in some instances	Institutional, commercial, mixed use, medical	Multiple-family residential
Relationship of Residents	Single housekeeping unit emulating a biological family Sibling-like relationships essential Bonding between residents highly desirable	Relationships not planned nor essential Incidental friendships may develop	No dependency on other residents Incidental friendships may develop Relationships not planned nor essential
Supervision	Staff in the role of the parents; officers in self-governed homes in role of parents	Total staff supervision	Landlord-tenant relationship
Values Fostered	Family values	None	None
Purpose	Achieve normalization and community integration Habilitation or rehabilitation	No effort to achieve normalization or community integration	No effort to achieve normalization, community integration, habilitation or rehabilitation
Relationship to Neighbors On the Block	Interaction with nondisabled neighbors is an essential component of normalization and community integration; neighbors without disabilities serve as role models to foster normalization and community integration	Interaction with neighbors not facilitated; use is largely self-contained. Neighbors have no role related to the occupants of the institutional use	Interaction with neighbors is hit or miss
Residential Integration	Integration with the surrounding community is essential in contrast to the segregation of living in an institution surrounded by people with the same disability	Essentially segregated from the surrounding community such that immediate neighbors are people with the same disability	Not applicable

Table 1: Differences Between Community Residences, Institutional Uses, and Rooming or Boarding Houses

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Differences Between Community Residences, Institutional Uses, and Rooming or Boarding Houses			
Characteristic	Community Residence for People With Disabilities	Institutional Uses (Includes Nursing Homes)	Rooming or Boarding House
Primary Functions	<p>Emulate a biological family Provides support in a family-like residential setting; residents dependent on each other like in a biological family</p> <p>Share family and household tasks Educate residents in many of the areas in which parents normally educate their children: <ul style="list-style-type: none"> Personal health and hygiene Eating habits Dressing/clothing care Household duties and chores House maintenance House safety Developing social and interpersonal skills Developing shopping skills Developing public behavior skills Developing recreational skills Using public transportation Use and value of money Using public facilities (stores, restaurants, theaters, recreational facilities, banks) </p>	<p>Provide medical treatment and institutional care No family-like living; not a residential nature</p> <p>Patients not expected to perform household tasks; patients are cared for No educational role</p>	<p>Lodging for unrelated individuals Residents are completely independent of each other</p> <p>Residents do not share household tasks; each boarder functions as an individual; no attempt to emulate a biological family</p> <p>No educational role</p>

Table 1 continued from previous page

As was realized a century ago, being segregated away in an institution only teaches people how to live in an institution. It does nothing to facilitate learning the skills needed to be all you can be and live as independently as possible and be integrated into community life.

For example, filling an apartment building with people in recovery — a recovery community — segregates them away with other people in recovery as their neighbors, minimizing the interaction, if any, they might have with sober neighbors which fosters normalization and community integration. Placing sober living homes in a series of adjacent single-family homes or townhouses has the same effect as a recovery community. While these arrangements possess some of the characteristics of community residences, they also possess many institutional characteristics and function more like mini-institutions than the biological family a community residence is supposed to emulate.

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 purposes of the Palm Beach County zoning districts that allow residential uses.

Even before passage of the 1988 amendments to the Fair Housing Act, most courts concluded that family community residences for people with disabilities must be allowed as of right in all residential zones, at least when certain conditions are met. Under the Fair Housing Act, a city or county can require a spacing distance between community residences and a license of community residences allowed as permitted uses when the number of residents in a proposed community residences exceeds the cap on unrelated occupants in the jurisdiction's zoning code definition of "family."

Transitional community residences

In contrast to the group homes and sober living homes that fit in the category of family community residences, *transitional community residences* are a comparatively temporary living arrangement that is more transitory than a group home or sober living home and a bit less family-like. Residency is measured in weeks or months, not years. A sober living residence that imposes a limit on how long someone can live there exhibits the performance characteristics of a transitional community residence, much like the better known small halfway house.²⁷

Typical of the people with disabilities who need a temporary living arrange-

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27. As used in this study, the term "halfway house" refers to the original halfway house concept that is small enough to emulate a biological family, *not* to large halfway houses occupied by 20, 50, or 100+ people. Nor does term here refer to detoxification facilities that do not emulate a family. These larger congregate living facilities exhibit the performance characteristics of a mini-institution and *not* the characteristics of a residential use that emulates a biological family. Consequently, sound zoning principles call for them to be located in commercial, medical, or institutional zoning districts. A residential neighborhood is *not* essential for the larger halfway houses that do not emulate a biological family to function successfully.



ment like a halfway house are people with mental illness who leave an institution and need only a relatively short stay in a halfway house before moving to a less restrictive living environment. Similarly, people recovering from addictions to alcohol or drugs move to a halfway house, short-term sober living home following detoxification in an institution until they are capable of living in a relatively permanent long-term sober living home or other less restrictive environment.

“Direct threat” exclusions

United States: Individuals with disabilities who “constitute a direct threat to the health or safety of others” are not covered by the Fair Housing Amendments Act of 1988. 42 U.S.C. § 3602(f)(9) (1988). Consequently, municipal ordinances that prohibit such individuals from living in community residences do not run afoul of the Fair Housing Act.

State of Florida: “Nothing in this section shall permit persons to occupy a community residential home who would constitute a direct threat to the health and safety of other persons or whose residency would result in substantial physical damage to the property of others.” *Florida Statutes* §419.001 (10) (2019). This prohibition which applies to homes the state licenses is equivalent to the Fair Housing Act’s exclusion for people who constitute a direct threat.

Halfway houses are also used for prison pre-parolees. *However, such individuals are not, as a class, people with disabilities.* Zoning can be more restrictive for halfway houses for people *not* covered by the Fair Housing Act. Consequently zoning codes can and should treat halfway houses for prison pre-parolees or other populations *not* covered by the Fair Housing Act more restrictively than classes that the Fair Housing Act protects.

The community residences for people with disabilities that limit the length of tenancy are residential uses that need to locate in residential neighborhoods if they are to succeed. But since they do not emulate a family as closely as a more permanent group home or sober home does, and the length of tenancy is relatively temporary, it is likely that a jurisdiction can require a conditional use for them in single-family districts while allowing them as a permitted use in multiple family districts subject to the two requisite conditions explained later in this report. *However, it is important to remember that a conditional use cannot be denied on the basis of neighborhood opposition rooted in unfounded myths and misconceptions about the residents with disabilities of a proposed transitional community residence.*²⁸

28. Note that the proposed definitions of “community residence,” “family community residence,” and “transitional community residence” all speak of a family-like living environment. These definitions *exclude* the large institutional facilities for many more occupants that, today, are often called “halfway houses.” The county’s current zoning treatment of these large facilities may also require revision.

Rational bases for regulating community residences

Community residences have probably been studied more than any other small land use. To understand the rationale for the guidelines to regulate community residences that are suggested in this report, it is vital to review what is known about community residences, including their appropriate location, number of residents needed to succeed both therapeutically and financially, means of protecting their vulnerable populations from mistreatment or neglect as well as excluding dangerous individuals from living in them, and their impacts, if any, on the surrounding community. Most of the principles discussed in this section apply to both community residences and recovery communities.

Relative location of community residences. For at least 40 years, researchers have found that some community residence operators will locate their community residences close to other community residences, especially when zoning does not allow community residences for people with disabilities as of right in all residential districts. They tend to be clustered in a community's lower cost or older neighborhoods and in areas around colleges.²⁹ In every jurisdiction for which Planning/Communications has conducted an Analysis of Impediments to Fair Housing Choice, there was clustering or concentrations of community residences when the zoning did *not* require a rationally-based spacing distance between community residences allowed as of right. As discussed below, some counterproductive clusters and concentrations of community residences and recovery communities have developed within unincorporated Palm Beach County.

Why clustering is counterproductive. Placing community residences (and recovery communities) too close to each other can create a *de facto* social service district and can seriously hinder their ability to achieve normalization for their residents — one of the core foundations on which the concept of community residences is based. In today's society, people tend to get to know nearby neighbors on their block within a few doors of their home (unless they have children together in school or engage in walking, jogging, or other neighborhood activities). The underlying precepts of community residences expect neighbors who live close to a community residence (and recovery community) to serve as role models to the occupants of a community residence (and recovery community) — which requires interacting with them.

29. See General Accounting Office, *Analysis of Zoning and Other Problems Affecting the Establishment of Group Homes for the Mentally Disabled* (August 17, 1983) 19. This comprehensive study found that 36.2 percent of the group homes for people with developmental disabilities surveyed were located within two blocks of another community residence or an institutional use. Also see Daniel Lauber and Frank Bangs, Jr., *Zoning for Family and Group Care Facilities*, American Society of Planning Officials Planning Advisory Service Report No. 300 (1974) at 14; and *Familystyle of St. Paul, Inc., v. City of St. Paul*, 923 F.2d 91 (8th Cir. 1991) where 21 group homes that housed 130 people with mental illness were established on just two blocks.



For normalization to occur, it is essential that occupants of community residence have neighbors without disabilities as role models. But if another community residence is opened very close to an existing group home — such as next door or within a few lots of it — the residents of the new home can replace the role models without disabilities with other people with disabilities and quite possibly hamper the normalization efforts of the existing community residence. Clustering three or more community residences on the same block not only undermines normalization but could inadvertently lead to a *de facto* social service district that alters the residential character of the neighborhood. All the evidence recorded to date shows that one or two nonadjacent community residences for people with disabilities on a block do *not* alter the residential character of a neighborhood.³⁰ The same cannot be said for recovery communities.

The research strongly suggests that as long as several community residences are not clustered on the same block face they will not generate these adverse impacts. Consequently, *when community residences are allowed as a permitted use*, it is most reasonable to impose a spacing distance between community residences that keeps them about a block apart in terms of actual walking distance, generally about 660 feet or about ten lots apart in the typical American town with the common 55 to 65 foot minimum lot width.³¹

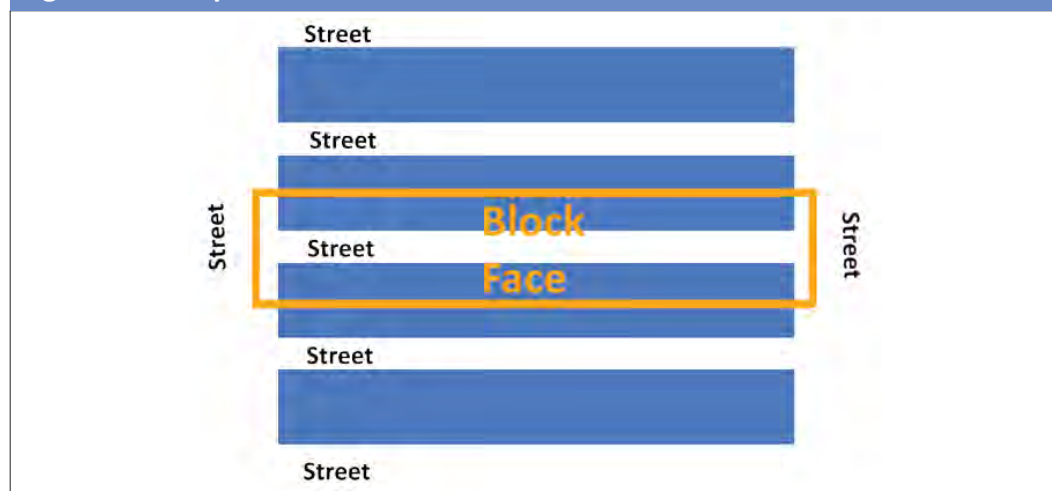
However, the minimum lot widths in Palm Beach County's zoning districts in which residences are allowed range from 65 to 300 feet, with a substantial proportion of residentially-zoned land requiring a minimum lot width of at least 100 feet. Consequently, as explained in detail beginning on page 23, this study recommends establishing a flexible spacing distance between community residences of 660 feet or seven lots, whichever is greater, to be allowed as of right as a permitted use. But there are times when locating another community residence within the spacing distance of an existing community residence will not in-

30. See General Accounting Office, *Analysis of Zoning and Other Problems Affecting the Establishment of Group Homes for the Mentally Disabled* 27 (August 17, 1983).

31. Some cities and counties establish a different spacing distance between community residences allowed as of right based on the density of the zoning district. The denser the district, the shorter the spacing distance. See Peter Natarrelli, *Zoning for a New Kind of Family* 17 (Westchester County Department of Planning, Occasional Paper 5, 1976) where spacing distances vary by the number of persons per square mile. The spacing distance in Clark County, Nevada reduces its 660-foot spacing distance to 100 feet when there is a street, freeway, or drainage channel wider than 99 feet between community residences. See Table 30.44-1, *Clark County Code*, Section 4. Title 30, Chapter 30.44. Also see *An Ordinance Amending Title 6 of the Village of Lincolnshire Village Code (Community Residential Homes)*, Ordinance No. 90-1182-66, adopted December 10, 1990, Lincolnshire, Illinois. This distant Chicago suburb established spacing distances ranging from 500 to 1,500 feet between community residences depending on the zoning district. Some of Lincolnshire's zoning districts have extremely large minimum lot sizes greater than an acre. Possibly due to the complexity involved, very few jurisdictions establish different spacing distances in different zoning districts. Different spacing distances in zoning districts measured in feet are also next to impossible to administer. For example, if a proposed community residence is in a different zoning district with a different spacing distance in feet than the closest existing community residence, which spacing distance does the county apply? Consequently, nearly all jurisdictions employ the same spacing distance throughout.

terfere with normalization or community integration. Proposals to locate another community residence so close to an existing one warrant the case-by-case consideration.

Figure 5: Example of a Block Face



The area within the orange rectangle is a conventional “block face.”

If the operator of a proposed community residence wishes to locate it within the spacing distance, then the heightened scrutiny of a conditional use is warranted. The conditional use process allows a jurisdiction to evaluate the cumulative effect of locating so close to an existing community residence and whether the proposed community residence would interfere with normalization and community integration of the occupants living in the existing community residence, discourage the use of nondisabled neighbors as role models, or alter the character of the neighborhood. For example, if there is a geographic feature such as a freeway, drainage channel, or hill between the proposed and existing community residences that acts as a barrier between the two, it is unlikely that allowing the proposed community residence would interfere with normalization and community integration, discourage the use of nondisabled neighbors as role models, or alter the community’s character — and the conditional use should be granted.

There are several schools of thought on the most appropriate way to measure a spacing distance. Spacing distances are measured from the lot line nearest the existing community residence that is closest to a proposed community residence.

One school of thought calls for measuring along the public or private pedestrian right of way. The idea is to measure the actual distance people would have to walk to go from one community residence to another, as opposed to measuring as the crow flies. Depending on the technology a jurisdiction has, implementing this approach ranges from is extremely difficult to next to impossible. It fails to achieve the objectives of spacing distances when a jurisdiction contains “superblocks,” namely blocks that are substantially lengthier than the typical American urban block of 660 feet. The greater length of a superblock —

twice that of a typical block — would allow clustering and concentrations to develop by enabling a community residence to locate back to back or lot corner to lot corner with an existing community residence as of right — one of the scenarios that spacing distances seek to prevent from happening.

The other school of thought holds that the spacing distance should be measured as the crow flies from the closest lot line of the existing community residence and the proposed community residence. This method establishes a predictable radius around existing community residences that can quickly be measured using a jurisdiction's geographic information system. Even with superblocks, this approach would preclude a new community residence from locating back to back or lot corner to lot corner with an existing community residence as of right. This is the more appropriate approach to use in Palm Beach County and elsewhere.

However, in zoning districts with large minimum lot widths, the usual 660-foot spacing distance is unlikely to achieve the aforementioned purposes of a spacing distance. For example, a significant portion of Palm Beach County's residential districts have a minimum lot width of 100, 200 or 300 feet. Just two of the conventional residential zoning districts (RS and RM) have minimum lot widths of 65 feet. The situation is similar in commercial districts where residential uses are allowed, albeit not as right. In some of these districts, a 660-foot spacing distance would result in community residences being able to locate as permitted uses within as few as four lots of each other — greatly increasing the likelihood of their occupants interacting largely with other people with disabilities living just a few lots away rather than with neighbors without disabilities who are supposed to serve as role models and hindering normalization and community integration.

In those zoning districts, Palm Beach County is more likely to achieve the normalization and community integration goals of a spacing distance by establishing a distance based on the number of lots between existing community residence closest to a proposed community residence. In jurisdictions without large lot zoning, the typical 660-foot spacing distance usually results in about ten lots between community residences allowed as of right. In the zoning districts with minimum lot widths of 100 or more feet, Palm Beach County would be well served with a spacing distance of about seven lots between community residences allowed as of right. Consequently, it is recommended that the spacing distance between community residences be set at 660 feet or seven lots, whichever is greater.³²

Whichever approach is used, it is necessary for the operator of every proposed community residence and recovery community to complete a "Community Residence and Recovery Community Zoning Application" form that is recommended for Palm Beach County to use so the county can measure spacing distances from existing community residences and/or recovery communities and implement its zoning

32. The rationale discussed here also applies to recovery communities which are examined beginning on page 54. The provisions in the *Unified Land Development Code* that establish rules of measurement may need to be amended. These are in Article 1 General Provisions; Chapter C - Rules of Construction and Measurement; Section 4 Measurement.

provisions for community residences and recovery communities. The county should also maintain a confidential database and map³³ of the locations of all existing community residences and recovery communities so it can apply the spacing distance to any proposed community residence or recovery community.³⁴

This database and map need to be kept current so that a proposed community residence or recovery community is not subjected to a spacing distance from a community residence or recovery community that has ceased operations. A mechanism will be needed for an operator who closes one of these homes to promptly notify the county of its closure so the county can remove its location from this database and map.

The technical explanation. This section speaks solely of community residences. The research upon which it is based was conducted before recovery communities came into being.

Normalization and community integration require that persons with disabilities substantial enough to need a supportive living arrangement like a community residence be absorbed into the neighborhood's social structure. Generally speaking, the existing social structure of a neighborhood can accommodate no more than one or two community residences on a single block face. Neighborhoods seem to have a limited absorption capacity for service-dependent people that should not be exceeded.³⁵

Social scientists note that while this capacity level exists, an absolute, precise level cannot be identified. Writing about service-dependent populations in general, Jennifer Wolch notes, "At some level of concentration, a community may become saturated by services and populations and evolve into a ser-

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33. Confidentiality is recommended because it is possible that releasing the actual addresses of community residences and recovery communities *could* violate privacy laws. County attorneys will need to determine how this concern over privacy interacts with the requirements of Florida's public record laws. The proposed zoning approach, however, *cannot* be implemented without maintaining the recommended database and map.
 34. While this is discussed in depth beginning on the next page, it is critical to note now that when the number of occupants of a community residence falls within the land-use code's cap on the number of unrelated individuals permitted in the jurisdiction's definition of "family," *the land-use ordinance must always treat the community residence as a "family" or "household"* — to do otherwise would constitute discrimination on its face in violation of the Fair Housing Act. In Palm Beach County, the cap on unrelated individuals is four. Such homes *cannot* be used to calculate spacing distances for *zoning* purposes because they are "families" by definition. Spacing distances are applicable *only* to community residences for people with disabilities that *exceed* the cap on unrelated people in the definition of "family," "household," or "single housekeeping unit." This principle is most clearly enunciated in *United States v. City of Chicago Heights*, 161 F. Supp. 2nd 819 (N.D. Ill. 2001). *Also see* Joint Statement of the Department of Housing and Urban Development and the Department of Justice, *State and Local Land Use Laws and Practices and the Application of the Fair Housing Act*, 10–12 (Nov. 10, 2016).
 35. Kurt Wehbring, *Alternative Residential Facilities for the Mentally Retarded and Mentally Ill* 14 (no date) (mimeographed).



vice-dependent ghetto.”³⁶

According to one planning study, “While it is difficult to precisely identify or explain, ‘saturation’ is the point at which a community’s existing social structure is unable to properly support additional residential care facilities [community residences]. Overconcentration is not a constant but varies according to a community’s population density, socio-economic level, quantity and quality of municipal services and other characteristics.” There are no universally accepted criteria for determining how many community residences are appropriate for a given area.³⁷

This research strongly suggests that there is a legitimate government interest to assure that community residences do not cluster. While the research on the impact of community residences makes it abundantly clear that 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 on both the surrounding neighborhood and on the ability of the community residences to facilitate the normalization of their residents, which is, after all, their *raison d’être*.

Limitations on number of unrelated residents. The majority view of the courts, both before and after enactment of the Fair Housing Amendments Act of 1988, is that community residences constitute a functional family and that zoning should treat the occupants of a community residence as a “family” even if the community residence does not fit within the definition of “family” in a jurisdiction’s zoning or land use code.³⁸

At first glance, that approach appears to fly in the face of a 1974 Supreme Court ruling that allows cities and counties to limit the number of unrelated people that constitutes a “family” or “household.” Zoning ordinances typically define “family” or “household” as (1) any number of related individuals and (2) a limited number of unrelated persons living together as a single housekeeping unit. As explained in the paragraphs that follow, the U.S. Supreme Court ruled that a local zoning code’s definition of “family” can place this cap on the number of unrelated persons living together as a single housekeeping unit.³⁹ *But the Fair Housing Act requires jurisdictions to make a **reasonable accommodation** for community residences for people with disabilities by making narrow exceptions to these caps on the number of unrelated people living together that qualify as a “family” or “household.”*

36. Jennifer Wolch, “Residential Location of the Service-Dependent Poor,” 70 *Annals of the Association of American Geographers*, at 330, 332 (Sept. 1982).

37. S. Hettinger, *A Place They Call Home: Planning for Residential Care Facilities* 43 (Westchester County Department of Planning 1983). See also D. Lauber and F. Bangs, Jr., *Zoning for Family and Group Care Facilities* at 25.

38. The principles discussed here are applicable to community residences, but *not* to recovery communities, a land use that does *not* emulate a family and is essentially a mini-institution.

39. *Belle Terre v. Borass*, 416 U.S. 1 (1974).

In *Belle Terre*, the U.S. Supreme Court upheld the resort community's zoning definition of "family" that permitted no more than two unrelated persons to live together. It's hard to quarrel with the Court's concern that the specter of "boarding housing, fraternity houses, and the like" would pose a threat to establishing a "quiet place where yards are wide, people few, and motor vehicles restricted.... These are legitimate guidelines in a land-use project addressed to family needs...."⁴⁰ Unlike the six sociology students who rented a house during summer vacation in Belle Terre, Long Island, a community residence emulates a family, is not a home for transients, and is very much the antithesis of an institution. In fact, community residences for people with disabilities foster the same goals that zoning districts and the U.S. Supreme Court attribute to single-family zoning.

One of the first community residence court decisions to distinguish *Belle Terre* clearly explained the difference between community residences and other group living arrangements like boarding houses. In *City of White Plains v. Ferraioli*,⁴¹ New York's highest court refused to enforce the city's definition of "family" against a community residence for abandoned and neglected children. The city's definition limited occupancy of single-family dwellings to related individuals. The court found that it "is significant that the group home is structured as a single housekeeping unit and is, to all outward appearances, a relatively normal, stable, and permanent family unit...."⁴²

Moreover, the court found that:

"The group home is not, for purposes of a zoning ordinance, a temporary living arrangement as would be a group of college students sharing a house and commuting to a nearby school. (c.f., *Village of Belle Terre v. Boraas*, [citation omitted]). Every year or so, different college students would come to take the place of those before them. There would be none of the permanency of community that characterizes a residential neighborhood of private homes. Nor is it like the so-called 'commune' style of living. *The group home is a permanent arrangement and akin to the traditional family, which also may be sundered by death, divorce, or emancipation of the young.... The purpose is to emulate the traditional family and not to introduce a different 'life style.'*"⁴³

The New York Court of Appeals explained that the group home does not conflict with the character of the single-family neighborhood that *Belle Terre* sought to protect, "and, indeed, is deliberately designed to conform with it."⁴⁴

40. Ibid. at 7–9.

41. 313 N.E.2d 756 (N.Y. 1974).

42. Ibid. at 758–759.

43. Ibid. at 758 [citation omitted]. *Emphasis added.*

44. Ibid.



In *Moore v. City of East Cleveland*,⁴⁵ Justice Stevens favorably cited *White Plains* in his concurring opinion. He specifically referred to the New York Court of Appeals' language:

"Zoning is intended to control types of housing and living and not the genetic or intimate internal family relations of human beings. So long as the group home bears the generic character of a family unit as a *relatively permanent household*, and is not a framework for transients or transient living, it conforms to the purpose of the ordinance."⁴⁶

Justice Stevens' focus on *White Plains* echoes the sentiments of New York Chief Justice Breitel who concluded that "the purpose of the group home is to be quite the contrary of an institution and to be a home like other homes."⁴⁷

Since 1974, the vast majority of state and federal courts have followed the lead of *City of White Plains v. Ferraioli* and treated community residences as "functional families" that should be allowed in single-family zoning districts despite zoning ordinance definitions of "family" that place a cap on the number of unrelated residents in a dwelling unit. In a very real sense, the Fair Housing Amendments Act of 1988 essentially codifies the majority judicial treatment of zoning ordinance definitions with "capped" definitions of "family."

Palm Beach County's definition of "family" allows a single housekeeping unit of up to four unrelated people to live together. The full, multi-faceted definition reads:

Family – either a single person occupying a dwelling unit and maintaining a household, including not more than one boarder, roomer, or lodger as herein described; or two or more persons related by blood, marriage, or adoption occupying a dwelling, living together and maintaining a common household, including not more than one such boarder, roomer, or lodger; or *not more than four unrelated persons occupying a dwelling, living together and maintaining a non-profit housekeeping unit* as distinguished from a group occupying a boarding or lodging house, hotel, club or similar dwelling for group use. A common household shall be deemed to exist if all members thereof have access to all parts of the dwelling.⁴⁸

Under the nation's Fair Housing Act, any community residence for up to four people with disabilities must be treated the same as any other family. To do otherwise would constitute housing discrimination on its face.

45. 431 U.S. 494 (1977) at 517 n. 9.

46. *Ibid.* *Emphasis added.*

47. *City of White Plains v. Ferraioli*, 313 N.E. 2d at 758.

48. *Palm Beach County, Unified Land Development Code*, Article 1, Chapter I, Sec. 2, F. 2.

The Fair Housing Act requires the county to make a “reasonable accommodation” for community residences that house more than the four unrelated individuals allowed under Palm Beach County’s definition of “family.” The zoning approach this study proposes for Palm Beach County’s *Unified Land Development Code* is designed to make this requisite reasonable accommodation for community residences occupied by more than four unrelated individuals with disabilities.

However, as explained below, *no matter what cap a county’s zoning ordinance places on the number of unrelated individuals that constitutes a “family,” any county code provisions applicable to all residential uses determines the maximum number of people that can occupy any type of residence.*

The U.S. Supreme Court brought this point home in its 1995 decision *City of Edmonds v. Oxford House*.⁴⁹ The Court ruled that housing codes that “ordinarily apply uniformly to all residents of all dwelling units ... to protect health and safety by preventing dwelling overcrowding” are legal.⁵⁰ Zoning ordinance restrictions that focus on the “composition of households rather than on the total number of occupants living quarters can contain” are subject to the Fair Housing Act.⁵¹

As the discussion above implies, classifying community residences on the basis of the number of residents is inappropriate. A more appropriate and rational approach is proffered beginning on page 50 of this report.

Protecting the residents. People with disabilities who live in community residences constitute a vulnerable population that needs protection from possible abuse and exploitation. Community residences for these vulnerable individuals need to be regulated to assure that their residents receive adequate care and supervision. Licensing and certification are the regulatory vehicles used to assure adequate care and supervision.⁵² Florida, like many other states, has not established licensing or certification for some populations with disabilities that community residences serve. In these situations, certification by an appropriate national certifying organization or agency that is more than simply a trade group can be used in lieu of formal licensing. Licensing or certification also tends to exclude from community residences people who pose a danger to others, themselves, or property. As noted earlier, such people are *not* covered by the Fair Housing Act.

Therefore, there is a legitimate government interest in requiring that a community residence or its operator be licensed in order to be allowed as of right as

49. 514 U.S. 725, 115 S.Ct. 1776, 131 L.Ed.2d 801 (1995).

50. *Ibid.* at 1781[emphasis added]. See the discussion of minimum floor area requirements beginning on page 63.

51. *Ibid.* at 1782.

52. Any local or state licensing must be consistent with the Fair Housing Act. Joint Statement of the Department of Housing and Urban Development and the Department of Justice, *State and Local Land Use Laws and Practices and the Application of the Fair Housing Act* (Nov. 10, 2016) 13.



a permitted use. If state licensing does not exist for a particular type of community residence, the residence can meet the certification of an appropriate national certifying agency, if one exists, or is otherwise sanctioned by the federal or state government.⁵³ Florida law appears to allow a city or county to establish its own licensing requirements for community residences *not* covered by state licensing. For example, while community residences for people with eating disorders are beginning to appear around the country, we are unaware of any state that has established a license or certification for them. In such a situation, the heightened scrutiny of a conditional use is warranted so the county can make sure that the residents of a proposed community residence are protected by requiring the applicant to demonstrate that it will operate with the sort of protections for occupants that licensing or certification normally requires.

The State of Florida does not *require* licensing or certification of sober living homes. Instead, in 2015, the state established *voluntary certification* for sober living homes.⁵⁴ The state statute required the state's Department of Children and Family Services to approve at least one credentialing entity by December 1, 2015.⁵⁵ The department named the Florida Association of Recovery Residences as a credentialing entity. As §397.487 mandates, the association promulgates and administers requirements for certifying sober living homes and established procedures for the application, certification, recertification, and disciplinary processes. It has established a monitoring and inspection compliance process, developed a code of ethics, and provided for training for owners, managers, and staff.⁵⁶

As the state statute requires, the operator of a proposed sober living home must submit with its application and fee a policy and procedures manual that includes job descriptions for all staff positions; drug-testing requirements and procedures; a prohibition of alcohol, illegal drugs, and using somebody else's prescription medications; policies that support recovery efforts; and a good neighbor policy.⁵⁷ Each certified sober living home must be inspected at least once a year for compliance. The certification process allows for issuance of provisional certification so the home can open. Actual certification is issued only after the home has been inspected and residents and staff interviewed after the home has been in actual operation for a specific length of time.

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53. For example, the U.S. Congress has recognized and sanctioned the sober living homes that operate under the auspices of Oxford House. Oxford House maintains its own procedures and staff to inspect and monitor individual Oxford Houses to enforce the organization's strict charter and standards designed to protect the residents of each Oxford House and foster community integration and positive relations with its neighbors. An Oxford House can lose its authorization if found in violation of the Oxford House Charter. The charter and inspections are the functional equivalent of licensing or certification.
54. *Florida State Statutes*, §397.487 (2019).
55. *Ibid.* at §397.487(2).
56. *Ibid.* The standards that the Florida Association of Recovery Residences adopted are based on the nationally-accepted standards of the National Alliance of Recovery Residences.
57. *Ibid.* at §397.487(3).

The requirements of Florida’s voluntary certification process and standards for sober living homes are comparable to the state’s existing licensing processes and standards for community residences that serve other populations of people with disabilities.

Impacts of community residences. The impacts of community residences have been studied more than those of any other small land use. Over 50 statistically-rigorous studies have found that licensed community residences *not clustered* on a block face do not generate adverse impacts on the surrounding neighborhood. They do not affect property values, nor the ability to sell even the houses adjacent to them. They do not affect neighborhood safety nor neighborhood character — *as long as they are licensed and not clustered on a block face*. They do not create excessive demand on public utilities, sewer systems, water supply, street capacity, or parking. They do not produce any more noise than a conventional family of the same size. All told, *licensed or certified, unclustered* group homes, sober living homes, and small halfway houses have consistently been found to be good neighbors just like biological families.

Clustering community residences only undermines their ability to achieve their core goals of normalization and community integration. A community residence needs to be surrounded by so-called “normal” or conventional households, the sort of households this living arrangement seeks to emulate. Clustering community residences adjacent to one another or within a few doors of each other increases the chances that their residents will interact with other service-dependent people living in a nearby community residence rather than conventional households with non-service dependent people who, under the theory and practice that provide the foundation for the community residence concept, are to serve as role models.

Appendix A is an annotated bibliography of representative studies. The evidence is so overwhelming that few studies have been conducted in recent years since the issue is well settled: *Community residences that are licensed and not clustered on a block face do not generate adverse impacts on the surrounding community*.

Disappointedly, a similar body of research does *not* exist on the impacts of recovery communities.

Clustering and concentrations in unincorporated Palm Beach County

As noted in this report, clustering and concentrations threaten the ability of the people with disabilities living in community residences to achieve the normalization, community integration, and use non-disabled neighbors as role models — all essential core characteristics of community residences.

Palm Beach County staff have produced the 14 maps on the following pages that show known community residences for people with disabilities and recovery communities in unincorporated Palm Beach County. These include:



- ① Community residences for people with disabilities that have been either (a) certified under the Florida state statute establishing voluntary certification of recovery residences: Title XXIX Public Health, chapter 397 (Substance Abuse Services) §397.487 (2019) or (b) licensed under Title XXIX Public Health, chapters 393 (Developmental Disabilities), 394 (Mental Health), 397 (Substance Abuse Services), 419 (Community Residential Homes); Title XXX, chapters 429 (Assisted Care Communities — Part 1: Assisted Living Facilities, Part II: Adult Family–Care Homes); and Title XLIV, Chapter 760 (Discrimination in the Treatment of Persons; Minority Representation) (2019).
- ② Recovery residences and recovery communities known to exist in unincorporated Palm Beach County as reported by the state’s entity for certifying them, the Florida Association of Recovery Residences.

The county is divided into 13 areas for analysis as shown in Figure 6 below. The area maps show:

- ① The 264 known community residences and recovery communities in unincorporated Palm Beach County (white background on each map), and
- ② The 80 community residences and recovery communities located in incorporated cities (grey background on each map) known to be located within two typical blocks (1,320 feet or a quarter mile) of their borders with unincorporated Palm Beach County.

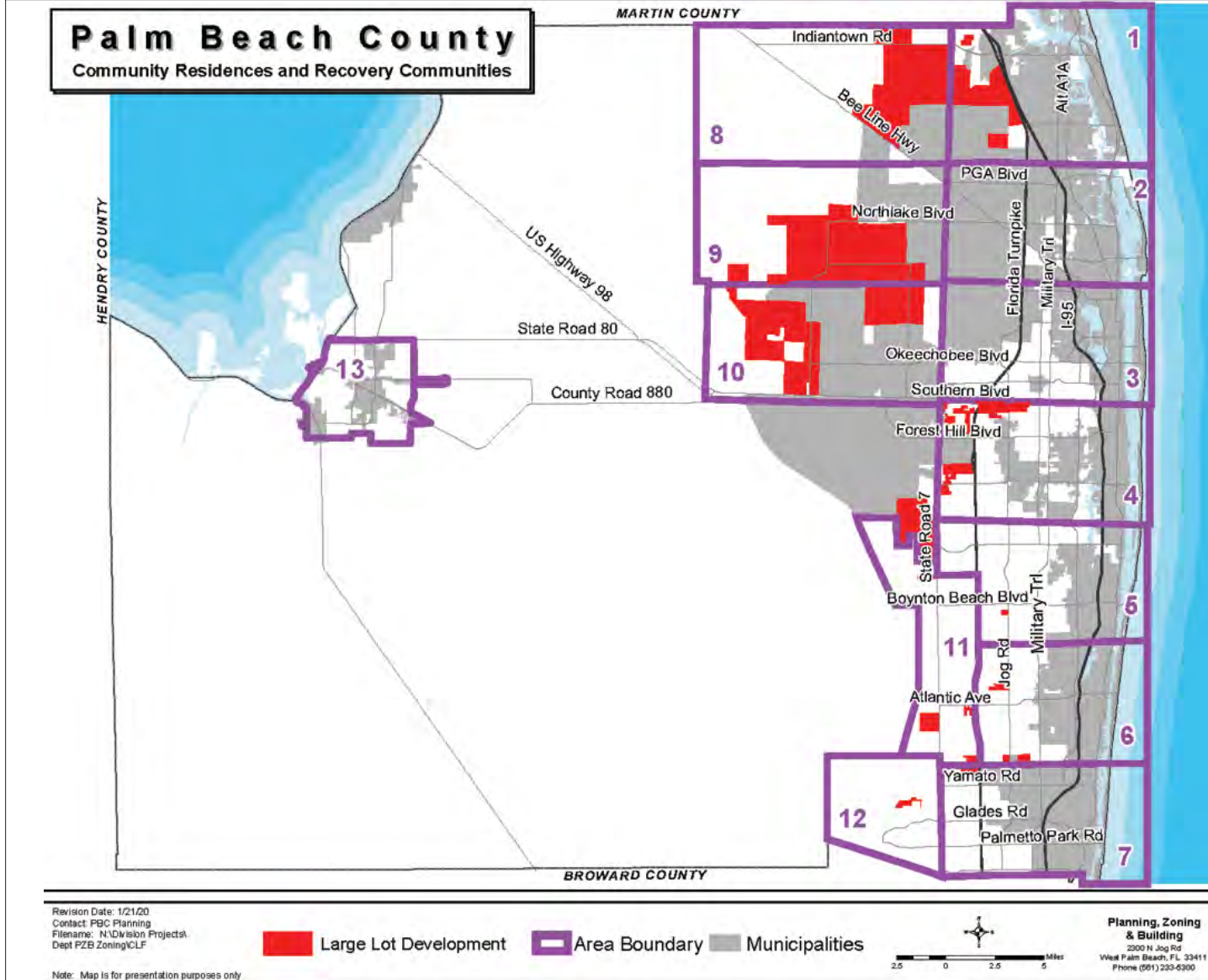
Because clustering and concentrations do not respect county or municipal boundaries, this second group is included so we could identify any clustering or concentrations that include both unincorporated Palm Beach County and incorporated municipalities within the county.

No community residences or recovery communities are known to be located in adjacent Martin, Hendry, and Broward counties within two typical blocks of their borders with Palm Beach County.

The maps and analysis on the following pages reveal that, with a few exceptions, the *very intense* concentrations of community residences and recovery communities that have formed in some southeast Florida jurisdictions have not developed in unincorporated Palm Beach County. However the spatial distribution of these homes in unincorporated Palm Beach County reveals some clustering and some concentrations that may be developing. In the absence of appropriate zoning controls, these nascent clusters and concentrations can become more intense as has happened in a number of southeast Florida cities.

Palm Beach County, however, is well–positioned to employ rational zoning regulations in accord with the nation’s Fair Housing Act that enable community residences and recovery communities to locate without clustering on blocks or concentrating in neighborhoods — both phenomena of which undermine their ability to foster normalization and community integration. With proper zoning regulation, the county can prevent existing clusters and concentrations from becoming more intense and new ones from developing.

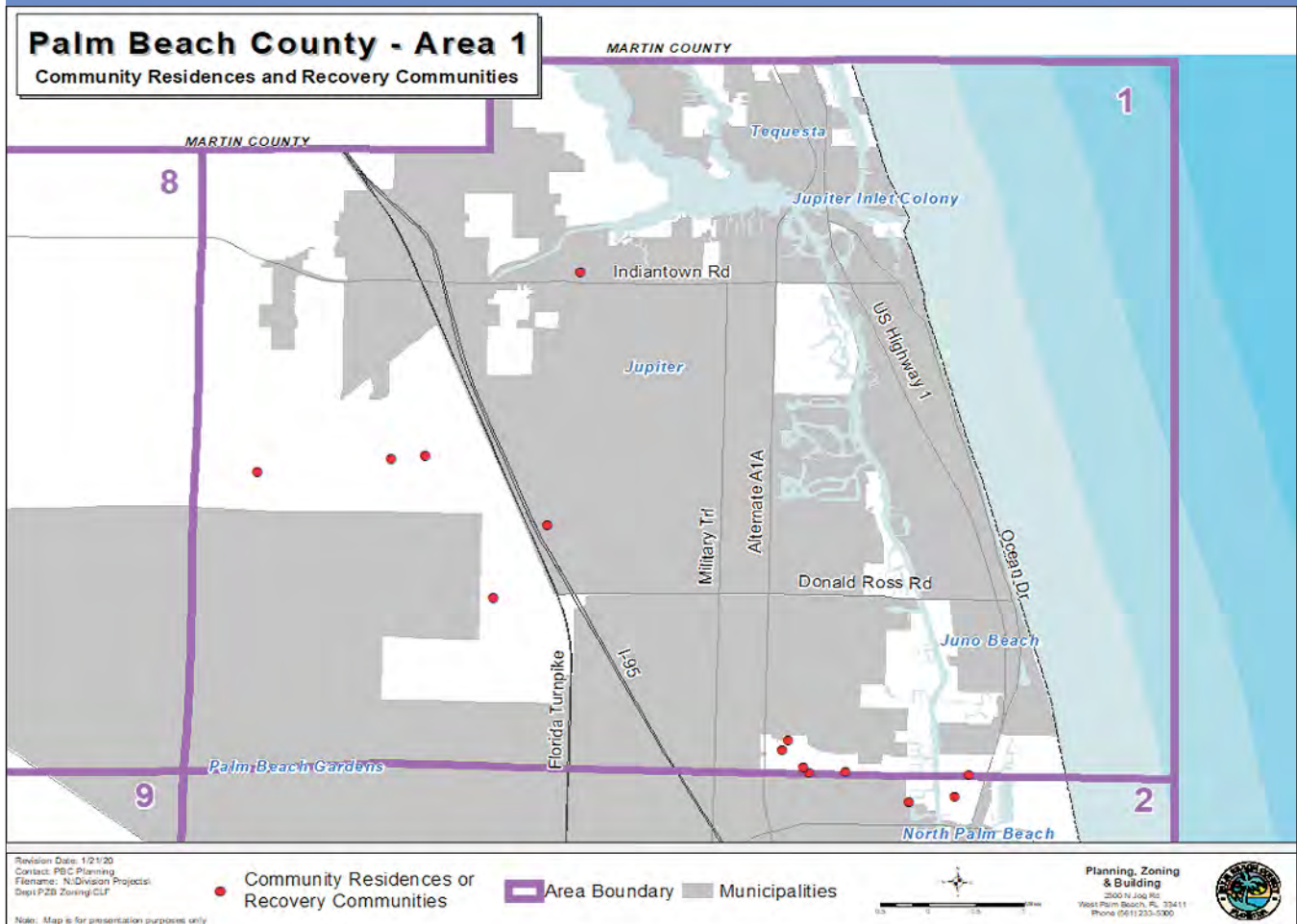
Figure 6: Locations of the 13 Area Maps of Palm Beach County



Source: Palm Beach County Planning, Zoning & Building, May 2020.

Areas 1 through 7 are along the county's east coast. Areas 8 through 12 are immediately to their west with Area 13 abutting the southeast corner of Lake Okeechobee. As the above map shows, large lots with a minimum lot width of at least 200 feet and minimum lot size of at least 1.25 acres, cover larger portions of Areas 8, 9, and 10 and much of the west end of Area 1. There is a small amount of large lot development in areas 4, 5, 6, 11, and 12.

Figure 7: Relative locations of community residences and recovery communities in Area 1



Source: Palm Beach County Planning, Zoning & Building, April 2020.

Unincorporated Palm Beach County Sites: 10

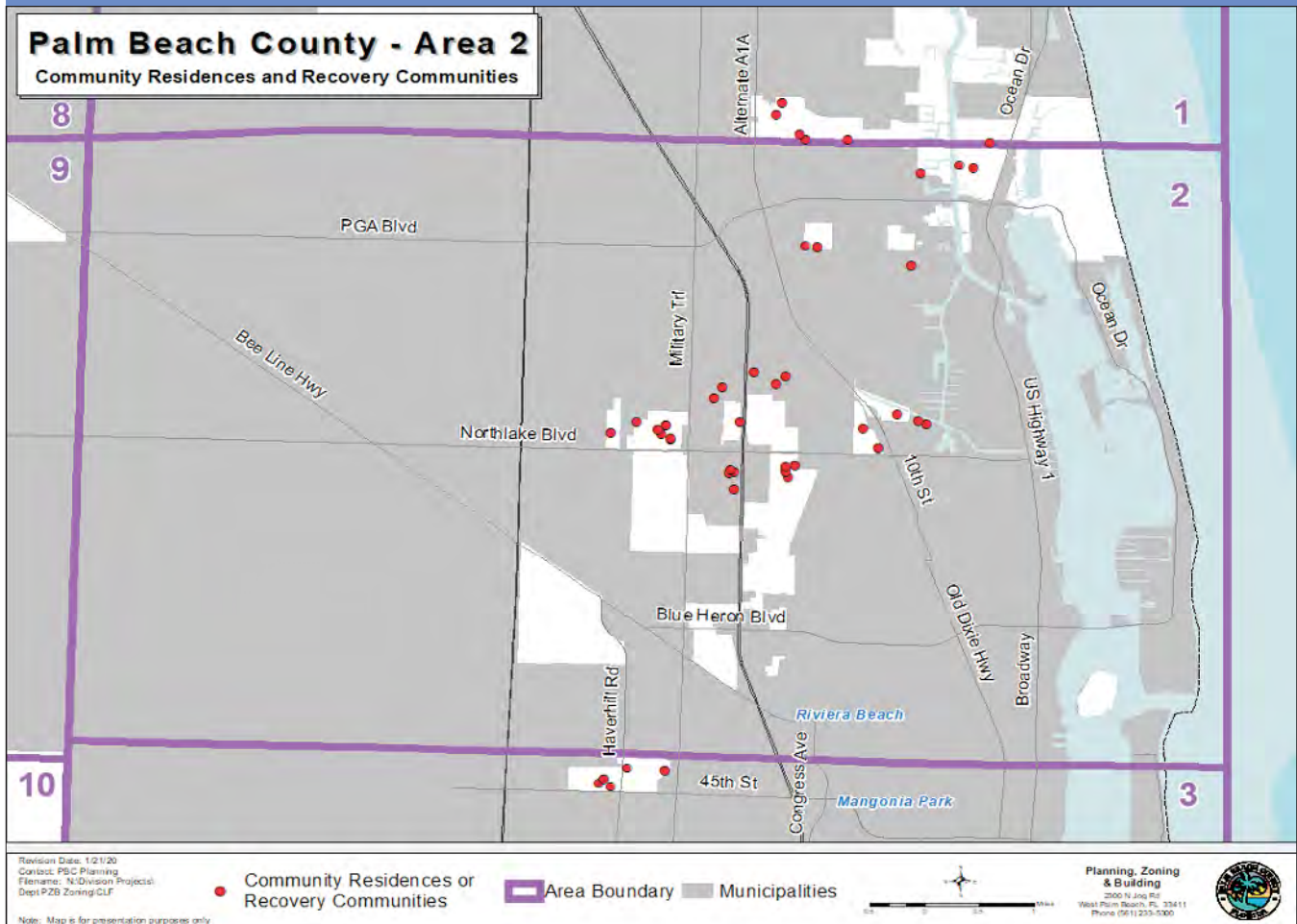
Sites in adjacent municipalities within two typical blocks: 2

Starting in the northeast corner of Palm Beach County is Area 1. Two community residences or recovery communities are clustered within feet of each other north of Village Boulevard and east of Old Dixie Highway. A third is about 500 feet southeast. The fourth is not at all close to these three. North of 155th Place are two that are nine lots apart.

A small concentration of community residences or recovery communities could be developing east of Alternate AIA and north of Atlantic Road. Two of the homes are about half a block apart with a third about a block and a half east of them. Three blocks away are two others that are a bit more than two short blocks apart.

The remaining community residences or recovery communities in Area 1 are widely scattered.

Figure 8: Relative locations of community residences and recovery communities in Area 2



Source: Palm Beach County Planning, Zoning & Building, April 2020.

Unincorporated Palm Beach County Sites: 18

Sites in adjacent municipalities within two typical blocks: 12

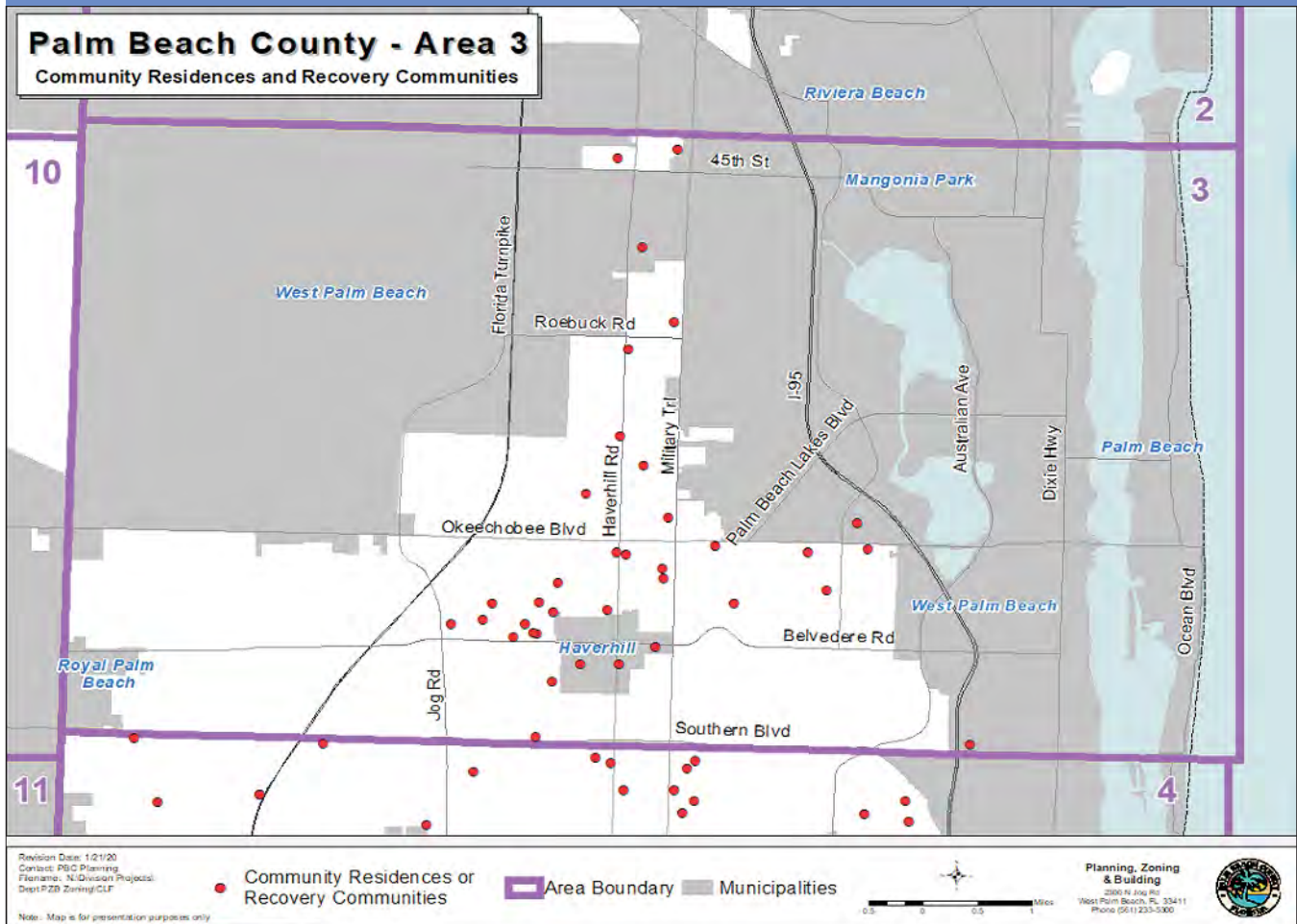
Immediately south of Area 1 is Area 2 where fewer than half of the community residences or recovery communities are clustered or in a mild concentration.

Six sites are north of Northlake Boulevard and west of Military Trail. Two are on adjacent lots with three others within a block of them. Another is two blocks away. A seventh is well separated from the other six.

Another five are clustered between Northlake and Constellation boulevards west of Burma Road. Three of the homes are adjacent with a fourth one lot south and across the street. A fifth is just three lots east of the northern most of the three adjacent homes.

The remaining Area 2 community residences or recovery communities are scattered.

Figure 9: Relative locations of community residences and recovery communities in Area 3



Source: Palm Beach County Planning, Zoning & Building, April 2020.

Unincorporated Palm Beach County Sites: 30

Sites in adjacent municipalities within two typical blocks: 6

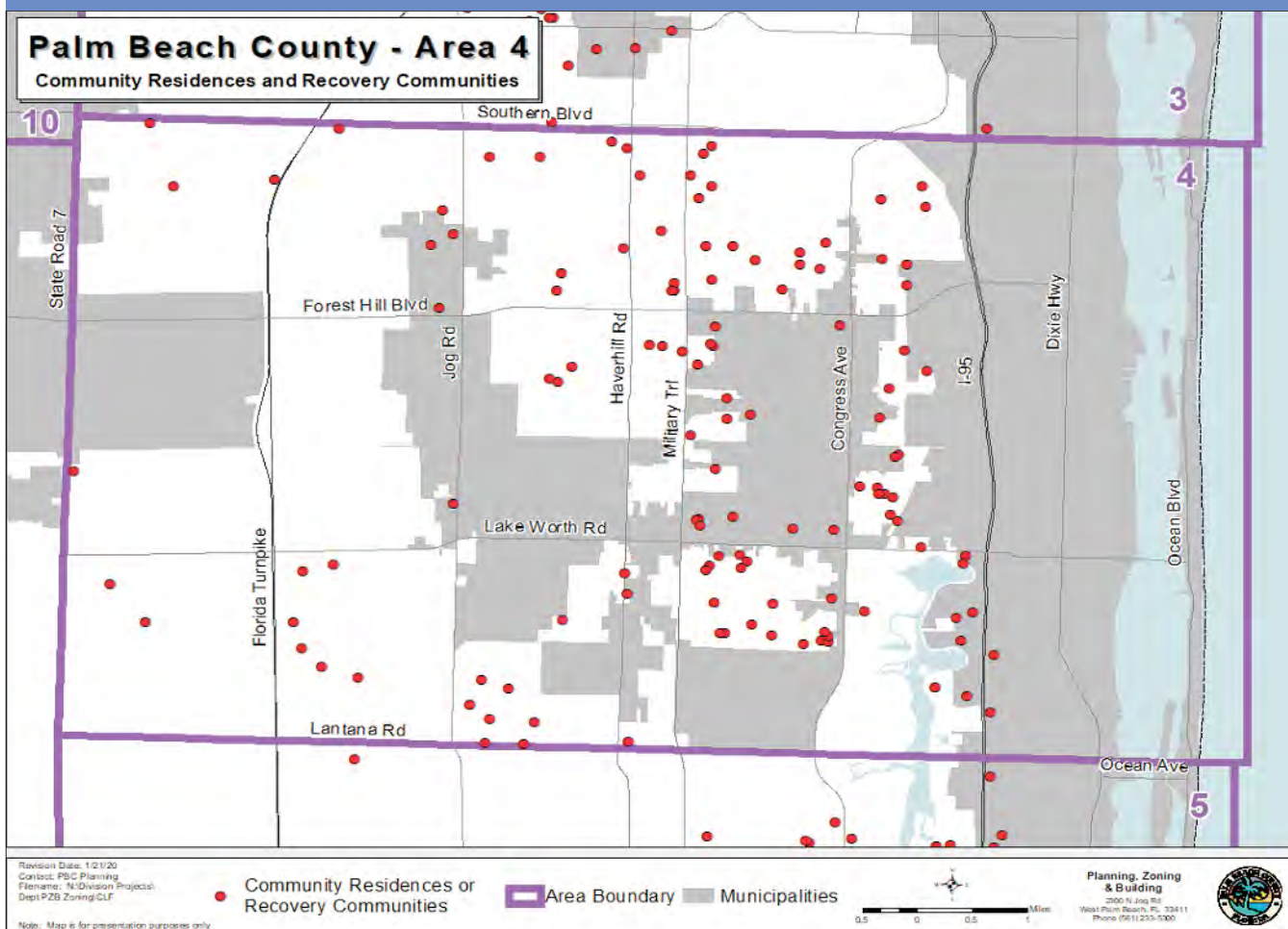
South of Area 2, still along the coast, is Area 3 where most of its community residences and/or recovery communities are pretty well-scattered throughout the area. However, a number of the sites are in clusters and a concentration appears to be emerging.

Two community residences and/or recovery communities between Okeechobee Boulevard and Elmhurst Road are just four lots apart while two blocks southeast of them are two sites separated by four lots.

A concentration may be developing east of Jog Road between Belvedere Road and Oro Verde Boulevard. Of the nine community residences or recovery communities, two are separated by a single lot with another within a block. Two more are two and three blocks away. Three more are scattered west of this cluster and two more are scattered north of the cluster.

The other Area 3 community residences or recovery communities are widely scattered.

Figure 10: Relative locations of community residences and recovery communities in Area 4



Source: Palm Beach County Planning, Zoning & Building, April 2020.

Unincorporated Palm Beach County Sites: 97

Sites in adjacent municipalities within two typical blocks: 29

More than a third of the community residences and recovery communities under the county's jurisdiction are located in Area 4, which sits immediately south of Area 3. Numerous sites are clustered in Area 4 and several fledgling concentrations have developed.

West of Haverhill Road between Canal Road and Cheryl Lane are two homes six lots apart. Several blocks east are two more within a block of one another between Garand and Winchester lanes.

East of Haverhill Road and south of Sutton Terrace, two are separated by a single lot with another north of them separated by a single lot and street. A few blocks south of Summit Boulevard and west of Kirk Road are two homes less

than a block apart. Two more are a block apart east of Davis Road between Barrington and Housatonic drives.

Three are east of Sherwood Forest Boulevard between Purdy Lane and Rue Road. Two of them are separated by six lots. The third is about one and a half blocks from this pair. To their southeast are two located on adjacent lots south of Cresthaven Boulevard and west of Haverhill Road.

A concentration may be in its nascent stages south of Canal 8 Road and east of Carol Circle. Two are six lots apart with a third just one block east of them. Another block east are two on adjacent lots. A sixth is three blocks south.

Another budding concentration may be developing east of Military Trail south of Lake Worth Road. Two homes are two lots apart with a third five lots northeast of them. Two to three blocks east are three more community residences or recovery communities, each separated by two lots.

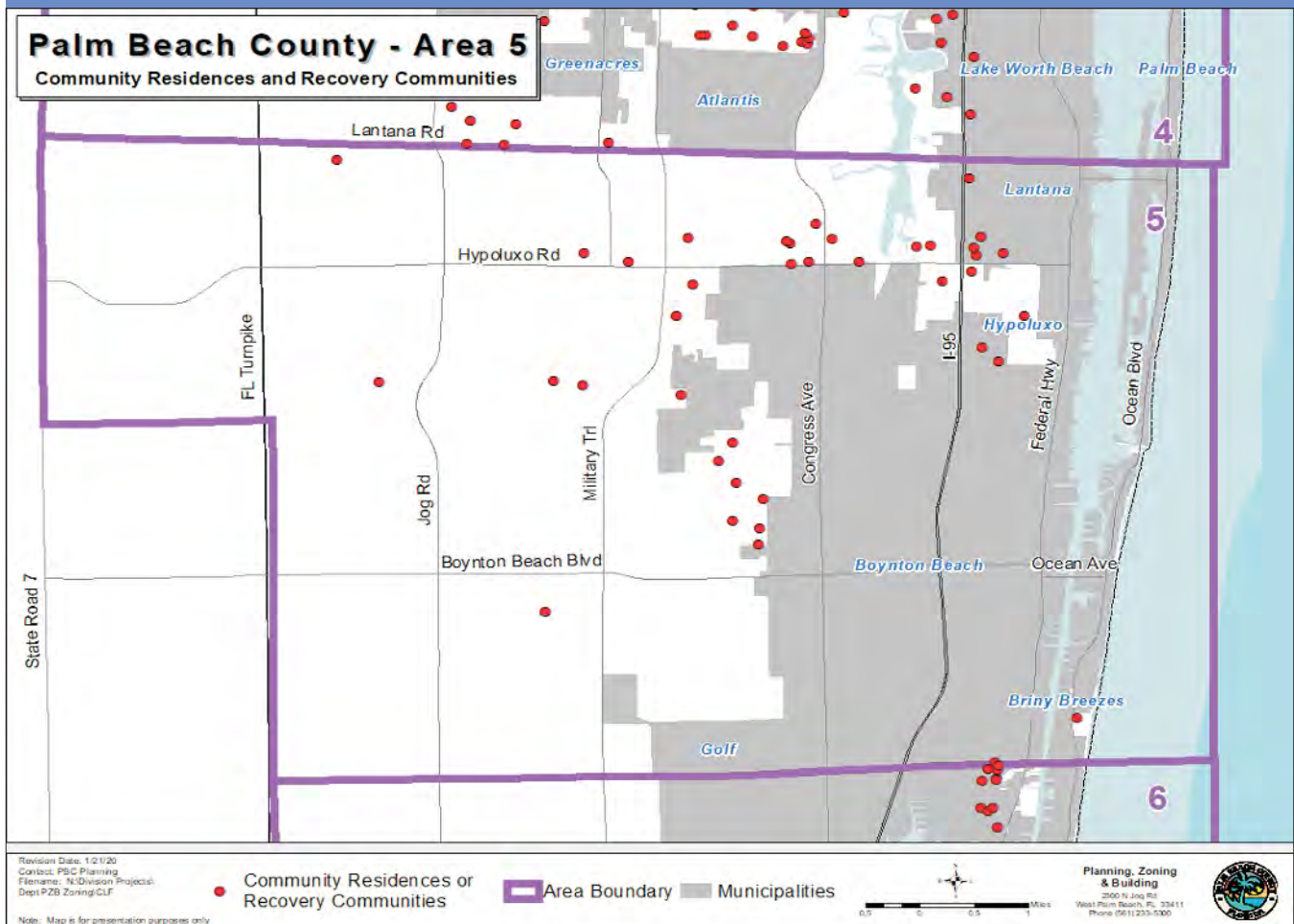
A concentration may be developing with five community residences or recovery communities clustered north of 7th Avenue and east of Congress Avenue with three of them adjacent to each other. The fourth is three lots north and the fifth two blocks west. A sixth is four blocks south with a seventh in an incorporated city to the east.

A concentration appears to be developing on several blocks north of the City of Atlantis. South of Roberts Lane and east of 32nd Drive is a cluster of five community residences and/or recovery communities with four on adjacent lots with the fifth separated from them by a single lot. Seven more are located in the blocks west and northwest of this cluster.

A concentration may be in its early stages north of Lantana Road and west of Chestnut Hill Road where seven community residences and/or recovery communities are known to exist.

The remaining community residences or recovery communities in Area 4 are scattered.

Figure 11: Relative locations of community residences and recovery communities in Area 5



Source: Palm Beach County Planning, Zoning & Building, April 2020.

Unincorporated Palm Beach County Sites: 31

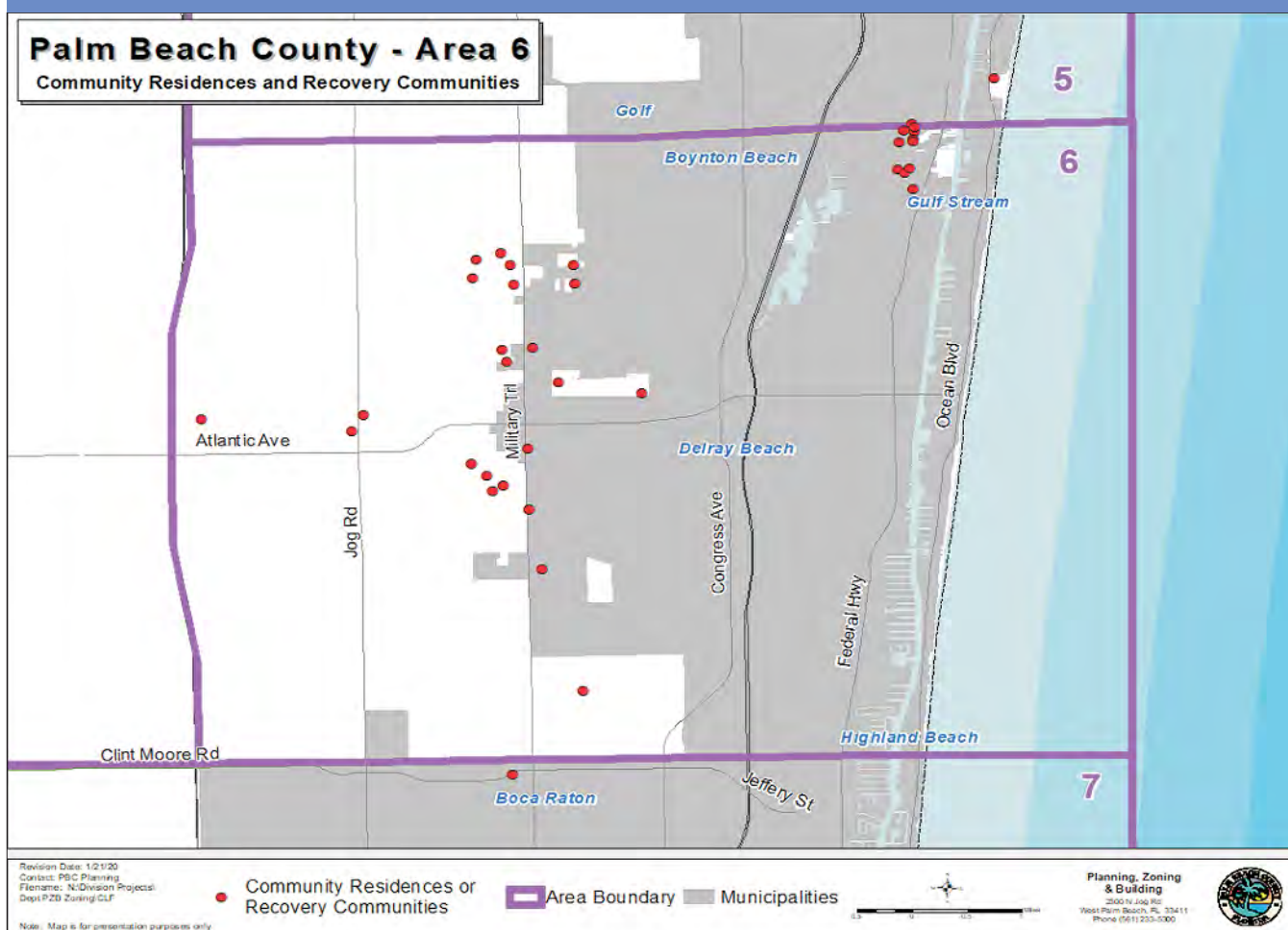
Sites in adjacent municipalities within two typical blocks: 8

Area 5 sits along the coast immediately south of Area 4. With a few exceptions, the community residences and recovery communities in Area 5 are scattered. North of Hypoluxo Road and west of Military Trail are two community residences or recovery communities located about three blocks apart. Two north of Palomino Drive and east of Venitian Drive, are separated by a single lot. Five more are scattered in the immediate neighborhood, although two are within a block of each other.

Another two are about 600 feet apart on either side of High Ridge Road north of Hypoluxo Road. A few blocks east in incorporated territory is a small concentration of four sites within a block or so of each other. Two are four lots apart on Glenwood Drive with two more a bit more than a block south of them along Willow Spring Circle. A group of four community residences or recovery communities south of Genevra Avenue and east of Lawrence Road *could* constitute a concentration in the making. A fifth site is just three blocks north.

The rest of the community residences or recovery communities in Area 5 are well scattered.

Figure 12: Relative locations of community residences and recovery communities in Area 6



Source: Palm Beach County Planning, Zoning & Building, April 2020.

Unincorporated Palm Beach County Sites: 18

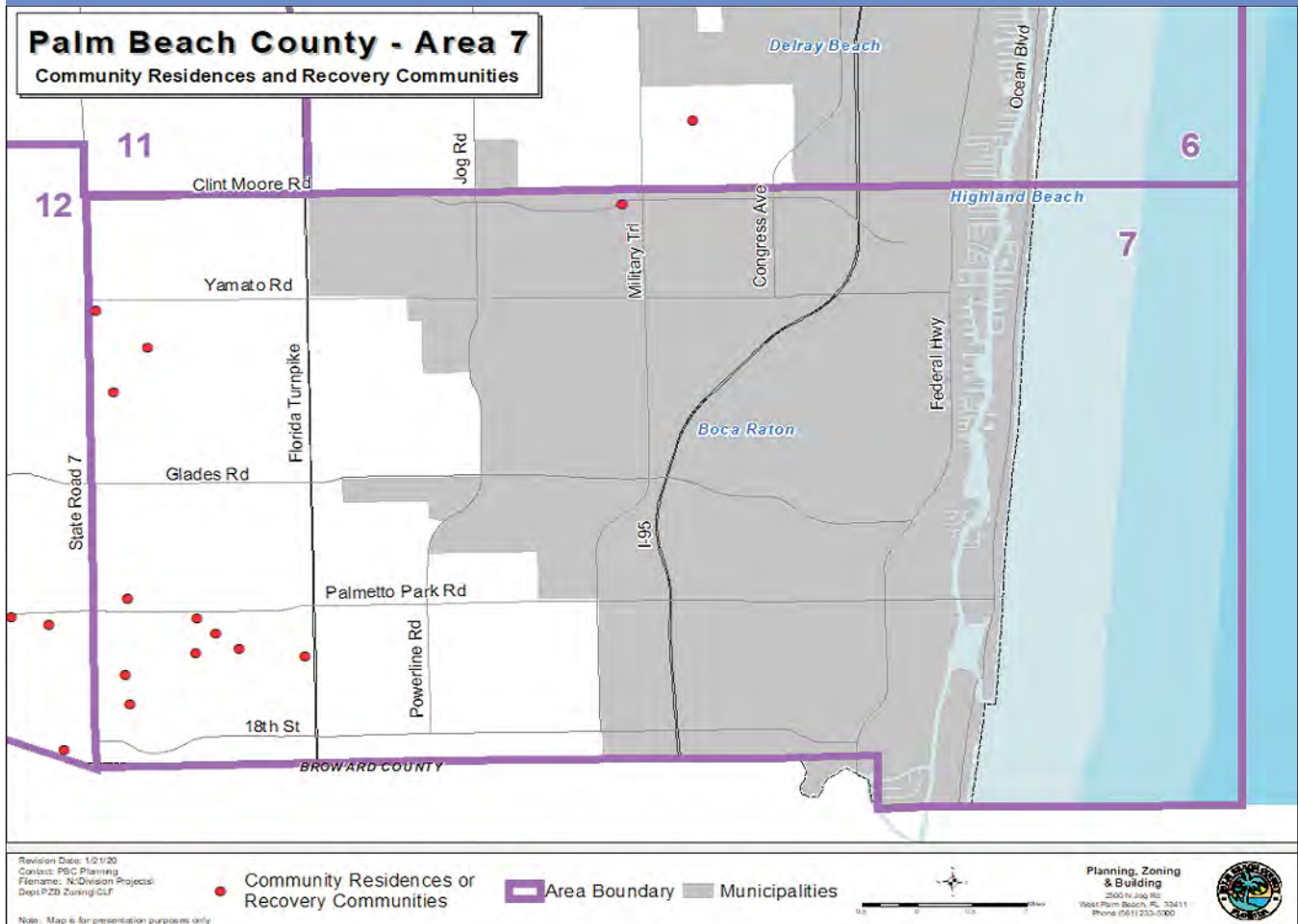
Sites in adjacent municipalities within two typical blocks: 16

Area 6 is located just north of the southeast corner of the county. A concentration of seven community residences or recovery communities rests in Boynton Beach just outside unincorporated Palm Beach County south of 28th Avenue and west of Old Dixie Highway. In this concentration are two adjacent sites with a third located two lots north and a fourth five lots west. Six lots south of this cluster are two adjacent sites with another site eight lots west of them. There are no sites close to these in unincorporated Palm Beach County.

Five community residences and recovery communities are situated in a square with Via Delray and Military Trail forming its southeast corner. They are generally one to two blocks apart. Similarly, four community residences or

recovery communities are in the square west of Military Trail between Garfield and Washington roads. Two are just six lots apart.

Figure 13: Relative locations of community residences and recovery communities in Area 7



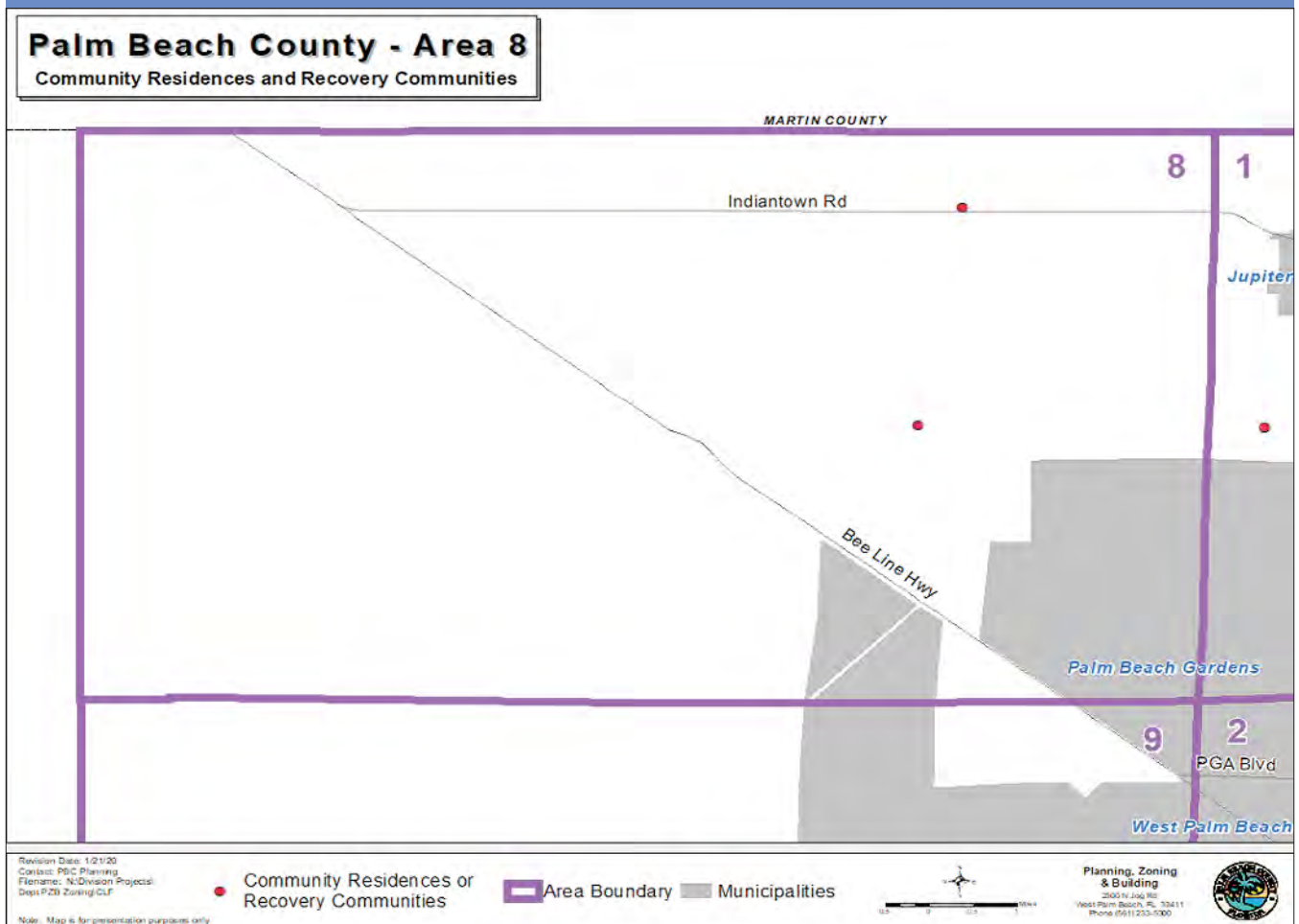
Source: Palm Beach County Planning, Zoning & Building, April 2020.

Unincorporated Palm Beach County Sites: 11

Sites in adjacent municipalities within two typical blocks: 1

Area 7 is located in the county's southeast corner south of Area 6. Except for two community residences or recovery communities located about a block apart east of 66th Avenue and north of Sandalfoot Boulevard, the community residences and/or recovery communities in Area 7 are scattered.

Figure 14: Relative locations of community residences and recovery communities in Area 8



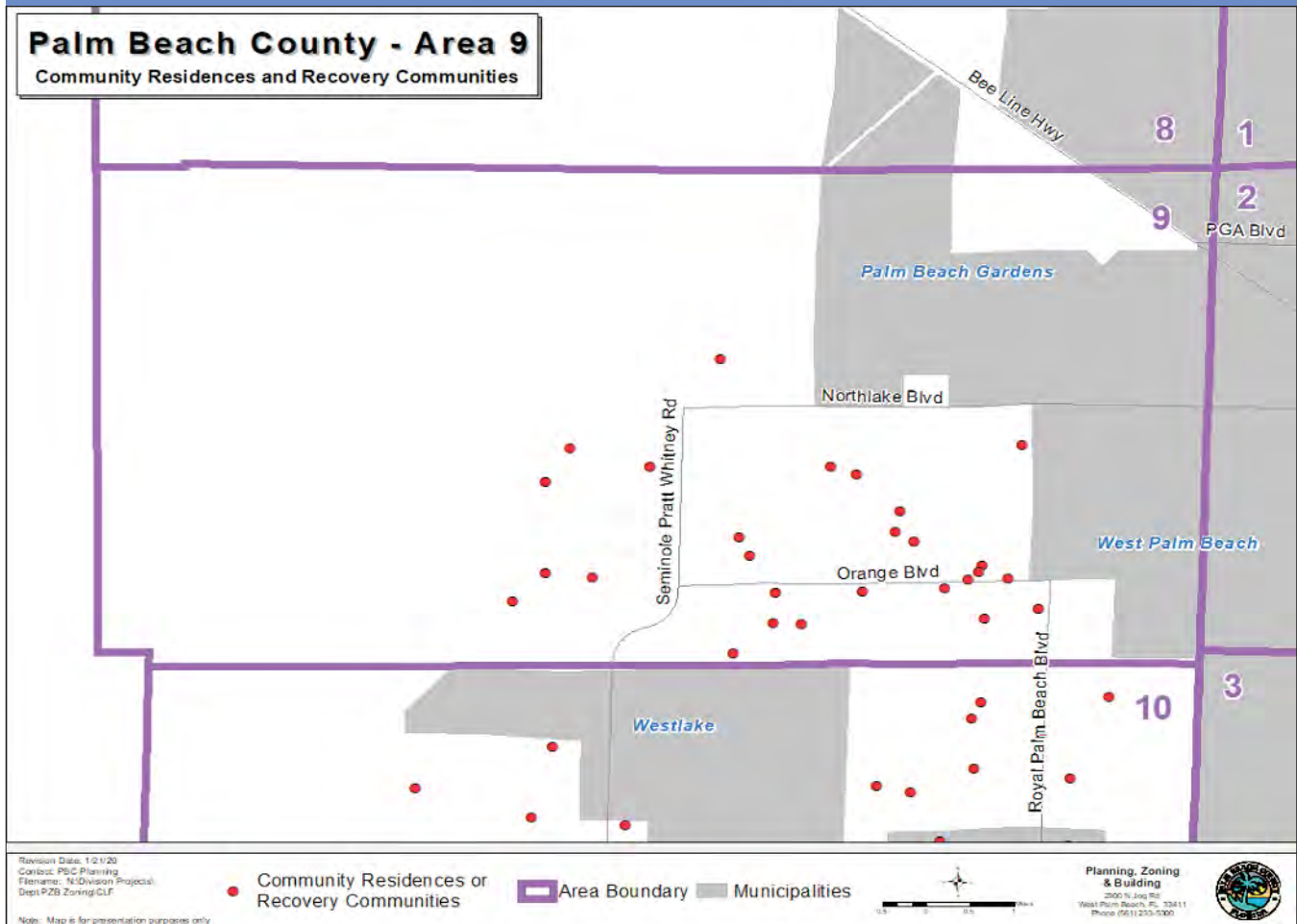
Source: Palm Beach County Planning, Zoning & Building, April 2020.

Unincorporated Palm Beach County Sites: 2

Sites in adjacent municipalities within two typical blocks: 0

Area 8 is immediately west of Area 1. Like areas 9 and 10 south of it, the large lot zoning has produced lots at least 1.25 acres in size and with a 200-foot minimum lot width. The two community residences or recovery communities in Area 8 are not remotely close to each other.

Figure 15: Relative locations of community residences and recovery communities in Area 9



Source: Palm Beach County Planning, Zoning & Building, April 2020.

Unincorporated Palm Beach County Sites: 27

Sites in adjacent municipalities within two typical blocks: 0

Area 9, where the minimum lot widths are at least 200 feet, is located immediately west of Area 2 and south of Area 8. While the 27 community residences or recovery communities *appear* to be well-scattered throughout Area 9, many are within a few large lots of each other.

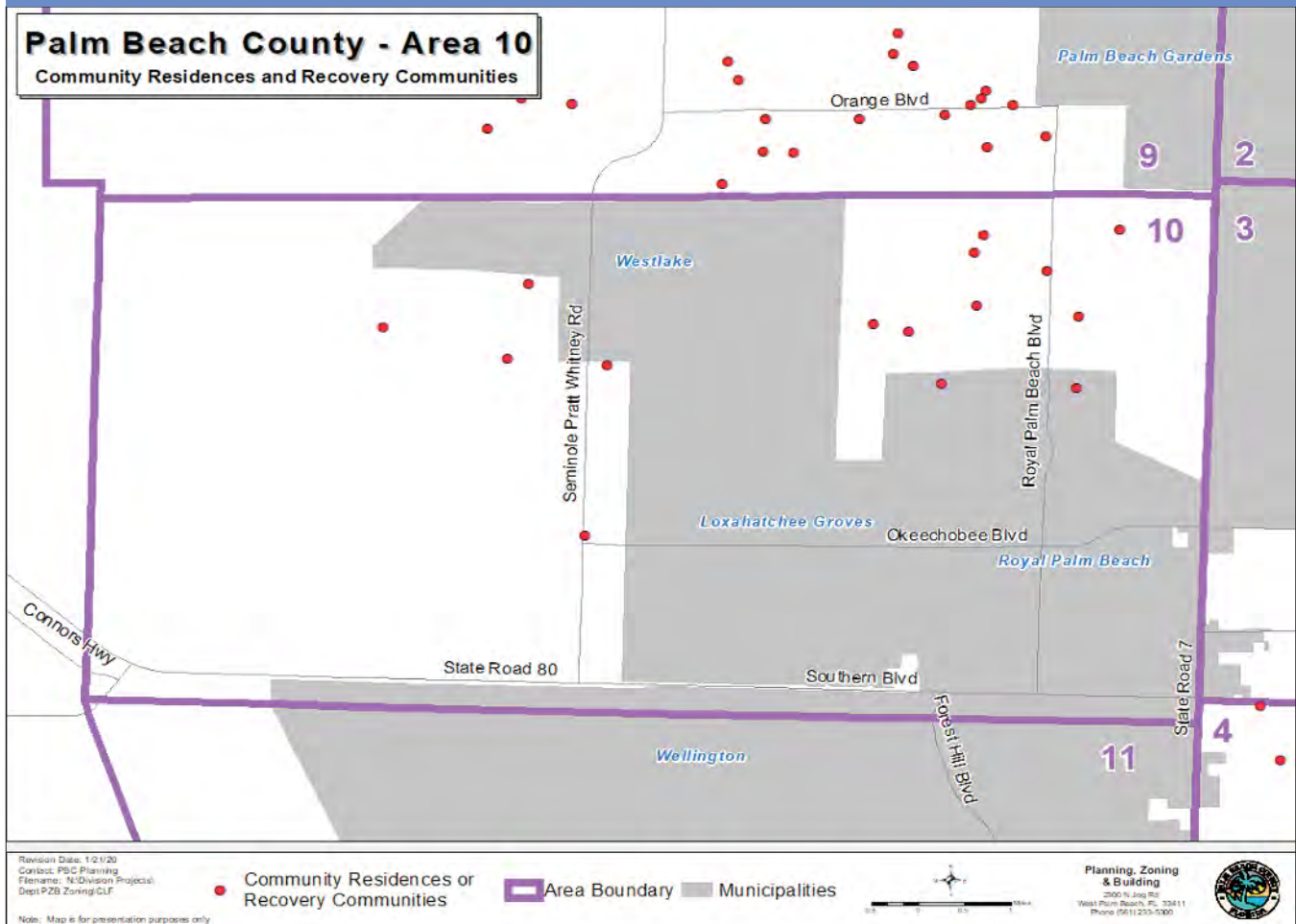
East of Apache Boulevard and between 75th Lane and 73rd Street are two sites within six lots of each other. Three more are each about eight lots from each other between Orange Boulevard and 64th Court, east of Hall Boulevard.

Two sites are eight lots apart west of 140th Avenue and north of 82nd Lane. A block east and six blocks south is another site with another one six lots south of it and another five lots southeast of that one.

A concentration may be developing east of 140th Avenue between 76th Road and Tangerine Boulevard. Two sites are within five lots of each other in the

northeast corner of that area. East of 130th Avenue are seven community residences and/or recovery communities. Two are separated by a single lot with a third just three lots away and a fourth seven lots from the third one. A fifth is just seven lots from the first cluster. Three more scattered sites are located south of 69th Street.

Figure 16: Relative locations of community residences and recovery communities in Area 10



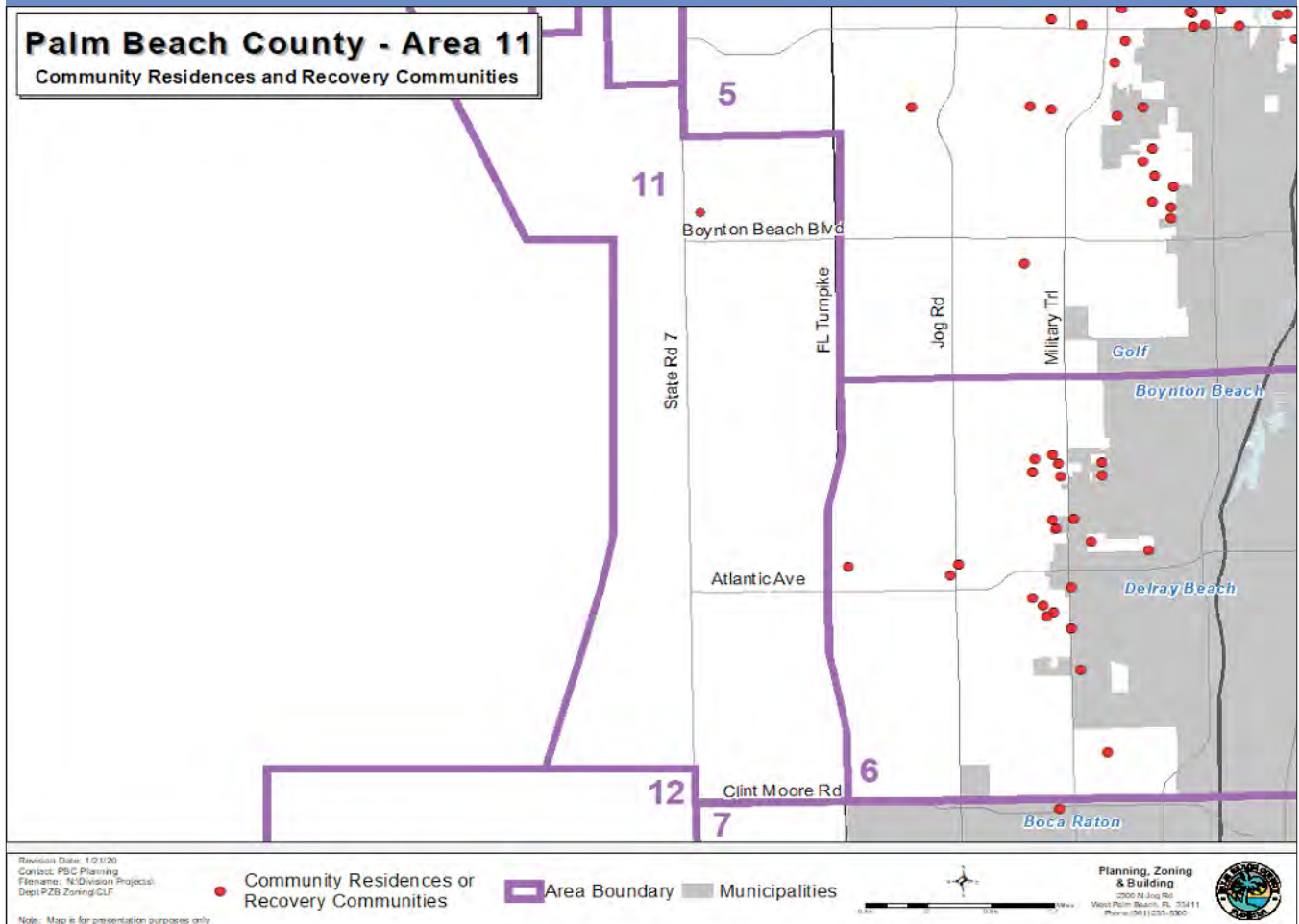
Source: Palm Beach County Planning, Zoning & Building, April 2020.

Unincorporated Palm Beach County Sites: 13
Sites in adjacent municipalities within two typical blocks: 2

Area 10 sits immediately south of Area 9 and west of Area 3. Minimum lot widths are at least 200 feet. With just a handful of exceptions, the 15 community residences or recovery communities in Area 10 are well scattered.

Two community residences or recovery communities on either side of Orange Grove Boulevard and west of 130th Avenue are nine large lots from each other. The rest are quite scattered or separated by an impediment to travel.

Figure 17: Relative locations of community residences and recovery communities in Area 11



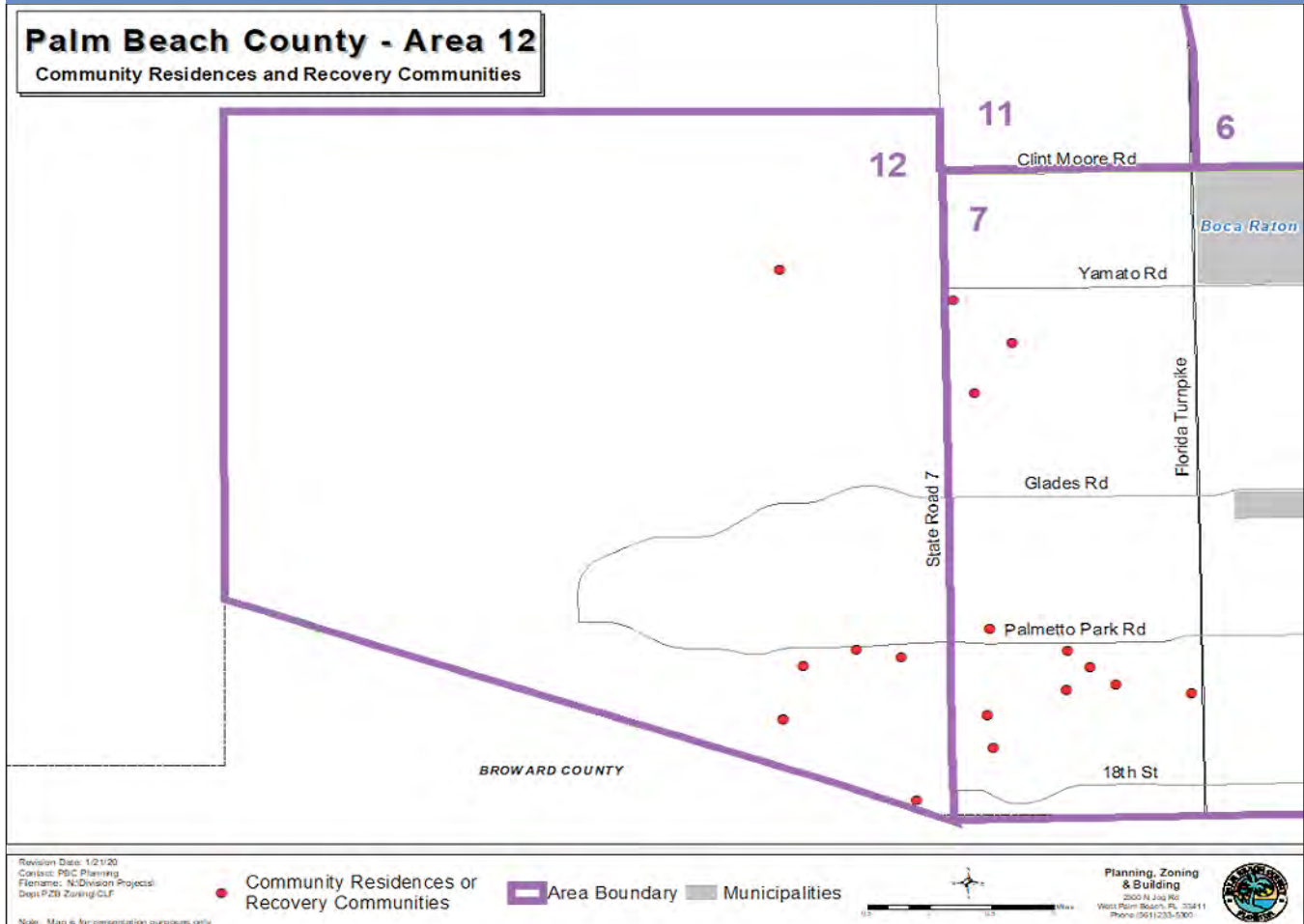
Source: Palm Beach County Planning, Zoning & Building, April 2020.

Unincorporated Palm Beach County Sites: 1

Sites in adjacent municipalities within two typical blocks: 0

Area 11, which is west of areas 5 and 6, hosts a 120–person recovery community in a rural setting.

Figure 18: Relative locations of community residences and recovery communities in Area 12



Source: Palm Beach County Planning, Zoning & Building, April 2020.

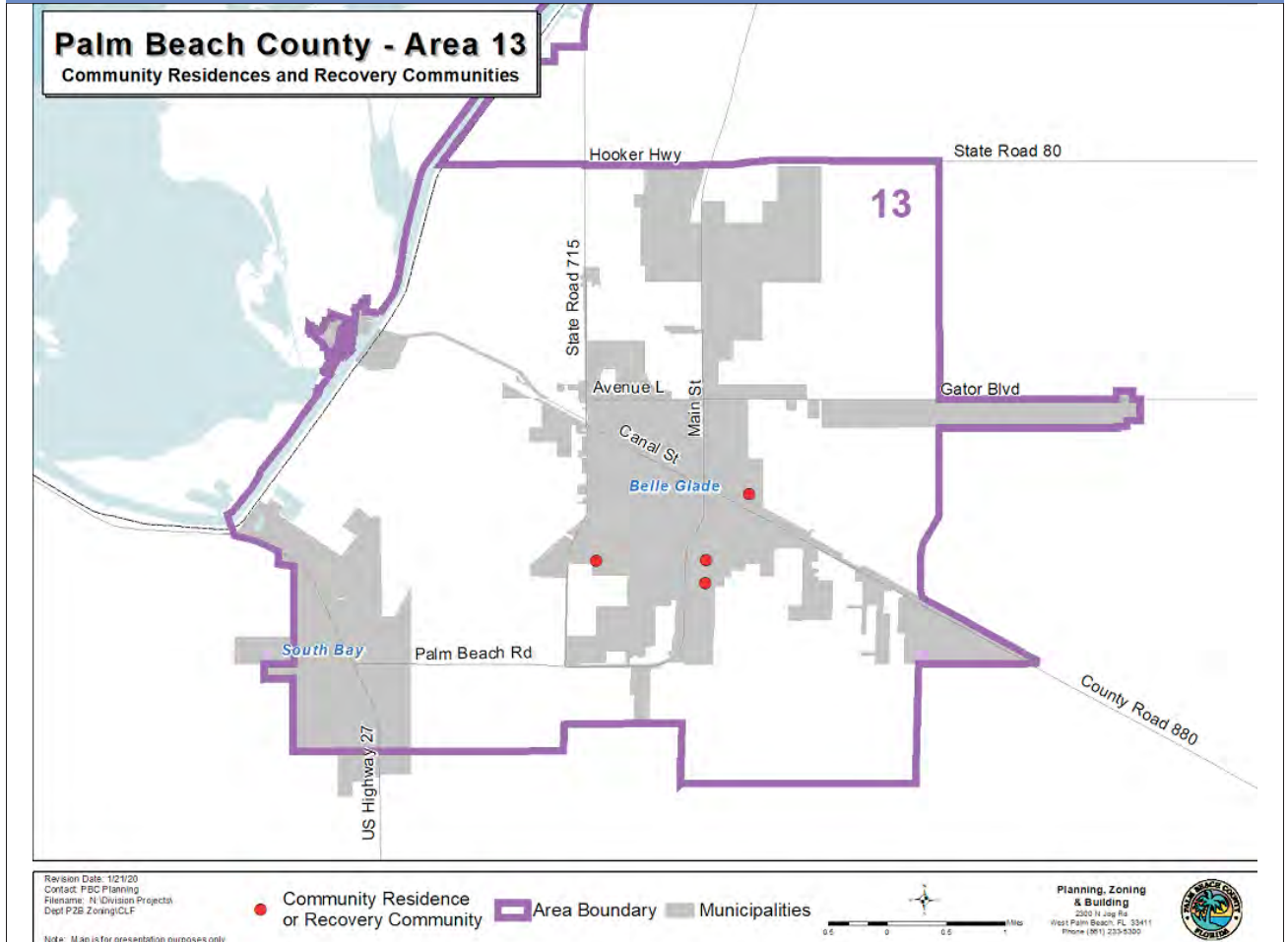
Unincorporated Palm Beach County Sites: 6

Sites in adjacent municipalities within two typical blocks: 0

Area 12 is nestled immediately west of Area 7 in the southeast corner of Palm Beach County. Lots and lot widths are similar to those in Area 7. Of the six community residences or recovery communities in Area 11, two south of Palmetto Park Road are located a block and a half apart. Two near 65th Terrace are about a block apart. The other two are well scattered.

A concentration of community residences and/or recovery communities might be in the early stage of development in the southwest corner of Area 12 and adjacent southwest corner of Area 7.

Figure 19: : Relative locations of community residences and recovery communities in Area 13



Source: Palm Beach County Planning, Zoning & Building, April 2020.

Unincorporated Palm Beach County Sites: 0

Sites in adjacent municipalities within two typical blocks: 4

There are no community residences in unincorporated Palm Beach County in Area 13. There are four known community residences — two of which are separated by nine lots — in the City of Belle Glade on the southeastern shore of Lake Okeechobee.

Observations

As noted above, there are a number of existing clusters and a handful of areas where concentrations may be emerging. However, Palm Beach County is well-situated to prevent serious clusters of community residences or recovery communities from developing or intensifying on a block and significant concentrations from developing or intensifying in its neighborhoods.

It must be stressed that these *could* be the *beginnings* of clustering or con-

centrations. Proper zoning safeguards are likely to prevent these clusters from developing into concentrations that grow more intense and expand geographically to become *de facto* social service districts that alter the character of the residential neighborhoods in which they are located.

Located in the center of the county along the sea coast, the 97 community residences and recovery communities in Area 4 constitute the epicenter of community residences and recovery communities in unincorporated Palm Beach County. As noted beginning on page 36, numerous community residences and recovery communities are clustered in Area 4 and several fledgling concentrations have developed. The land use regulations suggested in this study should prevent intensification of the clusters and concentrations in Area 4.

Palm Beach County is very well-positioned to avoid the sorts of intense concentrations that have led to *de facto* social service districts in numerous southeast Florida cities including some within Palm Beach County. With the exception of some portions of Area 4, the nascent clustering and concentrations in unincorporated Palm Beach County are currently mild enough that the zoning approach this study recommends will almost certainly prevent more intense clusters and concentrations from germinating. As explained in this study, such clustering and concentrations threaten the ability of the people with disabilities living in community residences and recovery communities to achieve the normalization, community integration, and use of non-disabled neighbors as role models. These three factors are among the essential core goals of community residences and, to a somewhat similar extent, recovery communities.

Recommended zoning framework

The 1988 amendments to the nation's Fair Housing Act require all government jurisdictions to make a "reasonable accommodation" in their zoning codes and other rules and regulations to enable group homes and other community residences for people with disabilities to locate in the residential districts essential to their success. The zoning ordinance amendments that will be proposed for Palm Beach County make this reasonable accommodation that the Fair Housing Amendments Act of 1988 requires for those people with disabilities who wish to live in a community residence. The legislative history of the Fair Housing Amendments Act of 1988 makes it clear that jurisdictions *cannot* require a conditional use (also known in other jurisdictions as a special exception or a special use) as the *primary* means of regulating family community residences for people with disabilities in residential districts. It does *not*, however, disallow requiring a conditional use in single-family districts for transitional community residences. Nor does the Fair Housing Amendments Act of 1988 require that a county allow community residences for persons who do *not* have disabilities in residential districts.

As explained below, there are two types of community residences: "family community residences" and "transitional community residences." A third community-based congregate living arrangement for people in recovery is called a "recovery community" which does not emulate a family. They do not resemble a community residence in nature and performance, hence warranting different

treatment in the county's Unified Land Development Code as explained beginning on page 54.

When a “community residence” is legally a “family”

Like any other dwelling, when a community residence — whether it be “family” or “transitional” — fits within the cap of four unrelated persons in the *Unified Land Development Code*'s definition of “family,” it must be allowed as of right in *all* residential districts the same as any other family or single housekeeping unit.⁵⁸

The case law is very clear: No additional zoning restrictions can be imposed on a community residence for people with disabilities that fits within the cap on the number of unrelateds in the local definition of “family.” *Consequently, when a zoning code allows up to four unrelated people to constitute a “family,” the zoning ordinance cannot require certification, licensing or a spacing distance around a community residence with as many as four occupants with disabilities.*⁵⁹

As explained beginning on page 27, Palm Beach County's *Unified Land Development Code* allows up to four unrelated people living as a single housekeeping unit to be a family. Any community residence for people with disabilities that fits within this cap of four must be treated as a “family” and such a home *cannot* be used for calculating spacing distances required by *local zoning*, as explained in footnotes beginning on page 17 and on page 50.

So even though the county's definition of “family” disallows more than four unrelated people from dwelling together, the Fair Housing Act requires the county to make a “reasonable accommodation” for community residences that would house more than four unrelated people with disabilities to locate in the residential districts in which they need to locate to achieve their purposes. That is when a zoning code can establish a spacing distance and licensing or certification requirement for community residences (and recovery communities) allowed as permitted uses. A county must establish a case-by-case review

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58. In addition, when a zoning code does not define “family” at all or allows any number of unrelated people to constitute a family, it *cannot* impose any additional zoning requirements on community residences for people with disabilities. If a jurisdiction did impose additional zoning requirements, it would be imposing them solely because the occupants were people with disabilities. But legally they constitute families like all other families and imposing licensing or spacing requirements in these circumstances would constitute housing discrimination on its face. In the absence of a definition of “family” (or its equivalent) or a cap on the number of unrelated individuals that can constitute a “family,” zoning cannot legally regulate community residences for people with disabilities — and very likely recovery communities as well — through zoning.
59. Remember that there is a distinction to be made between local zoning and licensing or certification. A licensing or certification statute or ordinance *can* require licensing or certification of community residences of any number of residents, including sober living homes, and licensing or certification *can* establish rational spacing requirements between community residences of any number of residents — even those that fit within a jurisdiction's definition of “family.” This is a nearly universal practice by states across the nation.



process as a backup to make a further “reasonable accommodation” when these two requirements are not met. In Palm Beach County, this backup process would be a conditional use.

General principles for making the zoning reasonable accommodation

Taken as a whole, the case law suggests that any reasonable accommodation must meet these three tests:

- ◆ The proposed zoning restriction must be *intended* to achieve a legitimate government purpose.
- ◆ The proposed zoning restriction must *actually achieve* that legitimate government purpose.
- ◆ The proposed zoning restriction must be the *least drastic means necessary to achieve* that legitimate government purpose.

In *Bangerter v. Orem City Corporation*, the federal Court of Appeals said the same thing a bit differently, “Restrictions that are narrowly tailored to the particular individuals affected could be acceptable under the FHAA if the benefits to the handicapped in their housing opportunities clearly outweigh whatever burden may result to them.”⁶⁰

But the nation’s Fair Housing Act is not the only law that affects how cities and counties in Florida can regulate community residences for people with disabilities. The State of Florida has adopted several statutes that restrict local zoning of community residences for specific populations with disabilities that are licensed by the state.

The proposed zoning amendments take into account both federal fair housing law and the legal provisions in the Florida statutes that restrict local zoning.⁶¹

The proposed zoning amendments seek to enable community residences to locate in all appropriate residential zoning districts through the least drastic regulation needed to accomplish the legitimate government interests of preventing clustering and concentrations (which undermine the ability of community residences to accomplish their purposes and function properly, and which alters the residential character of a neighborhood) and of protecting the residents of the community residences from improper or incompetent care and from abuse. They are narrowly tailored to the needs of the residents with disabilities to provide greater benefits than any burden that might be placed upon them.

60. 46 F.3d 1491 (10th Cir. 1995) 1504.

61. Our review suggests that there is a need to coordinate the state statutes and revise them to eliminate their weaknesses and facilitate more rational zoning treatment of community residences for people with disabilities throughout the State of Florida. The state statutes contain provisions that likely do not fully comply with the nation’s Fair Housing Act as explained beginning on page 66.

And they constitute the requisite legitimate government purpose for regulating community residences for people with disabilities.⁶²

Key to establishing a zoning approach in compliance with the Fair Housing Act is classifying community residences on the basis of functionality rather than on the number of people living in the community residence — at least as much as the legal provisions of Florida’s statutes allow.

Community residences for people with disabilities (both family and transitional) that house no more than Palm Beach County’s cap of four unrelated residents in a single housekeeping unit would be treated the same as any other family and cannot be included when calculating spacing distances between community residences for people with disabilities.

When to apply a spacing distance

It is critical to remember that spacing distances are applied and measured *only* between community residences and recovery communities. As explained beginning on page 17, a *spacing distance is not applied to, nor measured from, a community residence that fits within the jurisdiction’s limit on unrelated individuals that can constitute a “family” in its zoning code.* It is classified as a “family” under zoning and must be treated as a “family.” To do otherwise would constitute housing discrimination on its face.

So in Palm Beach County where the zoning definition of “family” allows up to four unrelated individuals to dwell together, a community residence housing up to four people with disabilities is classified as a “family” for zoning purposes and no spacing distance is measured from it or to it. And as a “family,” the zoning code cannot require a license or certification (although the *State of Florida* can require a license or certification no matter how many people live in a community residence).

The spacing distance kicks in only when a “family community residence” (which houses more than four people with disabilities), a “transitional community residence” housing more than four people with disabilities (described below), or a recovery community is proposed. A spacing distance is measured from the closest existing community residence (with five or more occupants) and/or from the closest existing recovery community.

Community residences

As emphasized throughout this report, emulating a biological family is an

62. The proposed zoning provisions for recovery communities seek to achieve the same goals.



essential core characteristic of every community residence. It is difficult to imagine how more than ten individuals — perhaps as many as 12 in some circumstances — can successfully emulate a biological family. (For the sake of simplicity, this report will use ten as the maximum number of occupants in a community residence allowed as of right.) Once the number of occupants exceeds ten, the home tends to take on the characteristics of a mini-institution rather than a family or a residential use. Palm Beach County should consider defining community residences as housing no more than ten people,⁶³ while allowing for a case-by-case review process for proposed community residences housing more than ten people where they need to demonstrate they can and will emulate a family as well as require more than ten residents for therapeutic and/or economic viability.⁶⁴

Zoning guidelines for “family community residences”

Unlike the transitional community residences discussed below, tenancy in family community residences is relatively permanent. There is no limit on how long people can live in them. In terms of stability, tenancy, and functionality, family community residences for people with disabilities are more akin to the traditional owner-occupied single-family home than are transitional community residences for people with disabilities.

To make this reasonable accommodation for more than four people with disabilities who wish to live in a community residence, the proposed zoning ordinance amendments will make family community residences for five to 10 people with disabilities a permitted use in all zoning districts where residential uses are currently allowed, subject to two objective, nondiscretionary administrative criteria:

- ◆ The specific community residence or its operator must receive authorization to operate the proposed family community residence by receiving the license that the State of Florida requires, the voluntary certification available through the Florida Association of Recovery Residences, or a self-imposed maintenance and set of criteria that are the

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63. The maximum number of residents allowed as of right should be an even number to take into account the established need of assuring all recovery home residents have a roommate. Similarly, there are therapeutic reasons that make it desirable for the occupants of a community residence for people with mental illness to have a roommate.
64. As explained beginning on page 63, community residences for people with disabilities are subject to building code, housing, or property maintenance provisions that prevent overcrowding which apply to all residential uses. So if a housing code would allow just seven people in a dwelling unit, then seven is the maximum number of people that can live in that dwelling unit whether it is occupied by a biological family, children in foster care, or the functional family of a community residence for people with disabilities.

functional equivalent of certification or licensing (the Oxford House Charter);⁶⁵ and

- ◆ The proposed family community residence is not located within a rationally-based distance of 660 feet or seven lots, whichever is greater, from an existing community residence or recovery community as measured from the nearest lot lines.

When a proposed family community residence does not meet both standards, the operator can apply for a case-by-case evaluation through a conditional use or administrative review by the Development Review Officer as explained beginning on page 61.

Voluntary Certification of Sober Homes in Palm Beach County

The Florida Association of Recovery Residences (FARR) is the state's certification entity as explained beginning on page 29.

The Florida Association of Recovery Residences uses a demanding certification process that determines whether a sober living home is actually operated in accord with certification standards rather than depending on a prospective operator's promises of how she will operate the home. The six steps required to achieve certification are available at <http://farronline.org/certification/apply-for-certification>. Detailed certification and compliance protocols are available to download at <http://farronline.org/document-library>.

FARR requires unrestricted access to interview management, staff, and residents to ensure that policies, procedures, and protocols are actually being followed at the sober living home.⁶⁶

So while an applicant must meet FARR's initial criteria to open a sober living home, FARR makes its final determination on certification after the sober living home has existed for a specified period of time. This enables FARR to conduct an inspection after a home has been operating for three months and to interview current and former residents and staff members.

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65. There appears to be no legal reason why any local Florida jurisdiction could not require sober living homes to obtain certification from the State of Florida to satisfy this criterion. As noted above, Oxford House, which is recognized by Congress, maintains its own standards and procedures under the Oxford House Charter that are fairly comparable to the standards and procedures of licensing laws in states around the country. Consequently, Oxford Houses, as well as recovery residences certified by the State of Florida, would meet this first criterion.
66. Emails from John Lehman, past CEO and current board member of the Florida Association of Recovery Residences to Daniel Lauber, Law Office of Daniel Lauber (Nov. 17, 2017, 9:34 a.m. CST and Nov. 20, 2017, 11:27 a.m. CST) (on file with the Law Office of Daniel Lauber).



When a jurisdiction requires licensing or certification for community residences, FARR issues an initial provisional certificate based on the paper application until annual certification is issued following the on-site inspection and confirmation of compliance with FARR's standards. FARR's provision certification will satisfy the certification requirements in the zoning proposed here for Palm Beach County. If permanent certification is denied, the sober home or recovery community could not continue to operate in Palm Beach County.

Zoning guidelines for “transitional community residences”

Residency in a “transitional community residence” is more transitory than in a “family community residence” because transitional community residences either impose a maximum time limit on how long people can live in them or actually house people for a few months or weeks.⁶⁷ Tenancy is measured in months or weeks, not years. This key characteristic makes a transitional community residence more akin to multiple-family residential uses with a higher turnover rate typical of rentals than single-family dwellings with a lower turnover rate typical of single-family ownership housing.

Even though multiple-family uses are not allowed in single-family districts, the Fair Housing Act requires every city and county to make a “reasonable accommodation” for transitional community residences for people with disabilities. This reasonable accommodation can be accomplished via the heightened scrutiny of a conditional use when an operator wishes to locate a transitional community residence in a single-family district.

However, in multiple-family districts, a transitional community residence for five or more people with disabilities should be allowed as a permitted use subject to two objective, nondiscretionary administrative criteria:

- ◆ The specific community residence or its operator must receive authorization to operate the proposed transitional community residence by receiving the license that the State of Florida requires, the voluntary certification available through the Florida Association of Recovery Residences, or a self-imposed set of criteria that are the functional equivalent of certification or licensing (the Oxford House Charter); and
- ◆ The proposed transitional community residence is not located within a rationally-based distance of 660 feet or seven lots, whichever is greater, from an existing community residence or recovery community as measured from the nearest lot lines.

67. Time limits typically range from 30 days to 90 days, and as long as six, nine, or 12 months, depending on the nature of the specific transitional community residence and the population it serves. With no time limit, residents of family community residences can live in them for many years, even decades.

When a proposed family community residence does not meet both standards, the operator can apply for a case-by-case evaluation through a conditional use as explained beginning on page 61.

Recovery communities

Community residences are not the only housing option available for people in recovery from drug and/or alcohol addiction or abuse. “Recovery communities” offer a more intensive living arrangement with more people than can emulate a family and a more segregated, institutional-like atmosphere than a community residence. Due to their fundamental differences, recovery communities warrant somewhat different zoning treatment than community residences.

A recovery community consists of multiple dwelling units in a single multi-family structure that are *not* available to the general public for rent or occupancy. A recovery community provides a drug-free and alcohol-free living arrangement for people in recovery from drug and/or alcohol addiction. But, unlike a community residence, a recovery community does *not* emulate a biological family. As explained below, a recovery community is a different land use than a community residence and it warrants a different zoning treatment.

Unlike a community residence with a maximum of roughly ten occupants whose essence is emulating a biological family, a recovery community can consist of dozens and even scores of people in recovery making it more akin to a mini-institution in nature and number of occupants. The U.S. Department of Justice and Department of Housing and Urban Development have jointly noted that the U.S. Supreme Court’s decision in *Olmstead v. L.C.*⁶⁸

...ruled that the Americans With Disabilities Act (ADA) prohibits the unjustified segregation of persons with disabilities in institutional settings where necessary services could reasonably be provided in integrated, community-based settings. An integrated setting is one that enables individuals with disabilities to live and interact with individuals without disabilities to the fullest extent possible. By contrast, a segregated setting includes congregate settings populated exclusively or primarily by individuals with disabilities. Although *Olmstead* did not interpret the Fair Housing Act, the objectives of the Fair Housing Act and the ADA, as interpreted in *Olmstead*, are consistent.⁶⁹ [*Emphasis added*]

As will be explained on the following pages, recovery communities constitute a pretty segregated setting that does not facilitate interaction with nondisabled people in the surrounding neighborhood — quite contrary to the core nature of community residences where interaction with neighbors without disabilities is

68. 527 U.S. 581 (1999).

69. Joint Statement of the Department of Housing and Urban Development and the Department of Justice, *State and Local Land Use Laws and Practices and the Application of the Fair Housing Act*, 11 (Nov. 10, 2016)



a fundamental characteristic.

There may be as many as 200 recovery communities within Palm Beach County, including those in county municipalities.⁷⁰ Some are located in multi-family buildings where the operators place several individuals in each apartment. The most extreme situation is a recovery community within the county occupied by 152 individuals in recovery with another 100–person recovery community just across the street. Both are under the the same ownership and are shown in the figure below.

Figure 20: Two Adjacent Recovery Communities in Palm Beach County



A total of 252 people in recovery occupy these two adjacent recovery communities, 100 in one and 152 in the other. Both are operated by the same recovery community provider.

The reality, however, is that these are functionally segregated mini-institutions that do *not* emulate a family, facilitate the use of non-disabled neighbors as role models, or foster integration into the surrounding community like a community residence does.⁷¹

Operators of recovery communities are known to move residents from one apartment to another — unlike how a family or roommates behave. This sort of arrangement certainly does *not* constitute a community residence in any sense of the term — remember that the essence of a community residence is to emulate a biological family. The segregated housing a recovery community creates runs counter to the core purpose of a community residence: to achieve normalization and community integration with the neighbors without disabilities as role models.

70. Based on data the Florida Association of Recovery Residences supplied.

71. Many of these recovery communities offer what is called “Level IV” support, the highest, most intense degree of support. In its description of “support levels” that service providers offer, the Florida Association of Recovery Residences (FARR) notes that “Level IV” “[m]ay be a [sic] more institutional in environment.” See <http://farronline.org/standards-ethics/support-levels>.

Few jurisdictions have adjusted their zoning provisions to account for recovery communities. In the absence of zoning provisions for recovery communities, some providers have skirted zoning provisions intended to prevent adverse clustering and concentrations by misusing the cap on the number of unrelated individuals in the local zoning code's definition of "family." In these instances, when a county has a cap of four unrelateds in its definition of "family" like Palm Beach County does, the operator places as many as four people in recovery in each unit in an apartment building and sometimes several nearby buildings. The people in recovery, however, function as a single large "community," not as individual functional families. Concentrations and clusters of these mini-institutions can and do alter the residential nature of the surrounding community no less than a concentration of nursing homes would and maybe even more since the occupants of recovery communities are ambulatory and frequently maintain a motor vehicle on the premises.

A single recovery community can effectively recreate the circumstances in other jurisdictions where the courts have concluded that an institutional atmosphere was recreated. In *Larkin v. State of Michigan Department of Social Services*, the Sixth Circuit Federal Court of Appeals arrived at this conclusion when it referenced the decisions in *Familystyle*. In the *Familystyle* case, the operator sought to increase the number of community residences on one and a half blocks from 21 to 24 and the number of people with mental illness housed in them from 119 to 130. Referring to the federal district and appellate court decisions in *Familystyle*, the *Larkin* court noted, "The courts were concerned that the plaintiffs were simply recreating an institutionalized setting in the community, rather than deinstitutionalizing the disabled."⁷²

That is exactly what has happened in Palm Beach County. In fact, the density of these mini-institutions has often been greater than in the *Familystyle* case. The operators have recreated an institutional setting in the midst of a residential district. These mini-institutions not only interfere with the core goals of normalization and community integration, but also alter the character of the neighborhood and the county's zoning scheme.

As noted earlier, a key *raison d'être* for community residences locating in residential zoning districts has long been that the neighbors without disabilities serve as role models for the people with disabilities. Consequently, this essential rationale for community residences expects the occupants of the community residences to interact with their neighbors. Filling apartment buildings with people in recovery is hardly conducive to achieving these fundamental goals. Instead the occupants of the recovery community will almost certainly interact nearly exclusively with the other people in recovery rather than with the "clean and sober" people in the surrounding neighborhood.

72. *Larkin v. State of Michigan Department of Social Services*, 89 F.3d 285 6th Cir. (1996). See also *Familystyle of St. Paul, Inc. v. City of St. Paul*, 728 F.Supp. 1396 (D. Minn. 1990), *aff'd*, 923 F.2d 91 (8th Cir. 1991).



As a larger and significantly more intense use than an community residence, recovery communities exert a wider influence on the neighboring community. Consequently, it stands to reason that a greater spacing distance from any existing recovery community or community residence is warranted for a proposed recovery community.

Figure 21: Two Clustered Recovery Communities in Palm Beach County



One operator located this recovery community of 17 apartments occupied by 51 people in recovery right across from its recovery community of 14 people in four apartments.

Introducing multiple mini-institutions such as these can and has altered and the residential character of the surrounding neighborhood. In addition, there is no evidence that such arrangements do not affect property values, property turnover rates, or neighborhood safety. The studies of the impacts of community residences examined actual community residences that emulate a family, not these mini-institutions. The *de facto* social service districts that clusters of recovery communities produce fall far outside the foundations upon which the courts have long based their decisions to treat community residences as residential uses, including emulating a biological family and utilizing nearby neighbors without disabilities as role models to foster normalization as well as participation in the nondisabled community to achieve community integration.

It is important to remember that zoning is based on how each land use functions. The original community residence concept is based on the community residence behaving as a “functional family,” namely emulating a biological family. Such homes need to be in a residential neighborhood where the so-called “able bodied” neighbors serve as role models. Those are key cornerstones upon which the court rulings that require community residences to be allowed in residential districts rest.

But filling a multifamily building with people in recovery — or filling adjacent houses or town homes with people in recovery — hardly emulates a biological family in a residential neighborhood. Instead of “clean and sober” people in the surrounding dwelling units serving as role models, everybody is surrounded by other people in recovery. It is difficult to imagine how such segre-

gated living arrangements foster the normalization and community integration at the core of the community residence concept. Such arrangements are like a step back to the segregated institutions in which people with disabilities were placed before deinstitutionalization became the nation's policy more than half a century ago.

Figure 22: Adjacent Recovery Communities With 108 Occupants



These adjacent recovery communities are occupied by 108 people in recovery spread out among 19 apartments.

These are among the reasons why spacing distances are so crucial to establishing an atmosphere in which community residences can enable their occupants to achieve normalization and community integration. And these are among the reasons why zoning should treat recovery communities as the mini-institutions that they functionally are.⁷³

Since recovery communities are appropriately located in multi-family buildings, it makes no sense for a zoning code to allow new recovery communities to be located in single-family districts where new multi-family housing is not permitted. But they should be allowed in zoning districts where multi-family housing is allowed,

73. The case law that requires *zoning* to treat a community residence that fits within the cap on unrelateds in the definition of “family” is based on fact situations involving actual, individual community residences. The case law under the Fair Housing Act regarding community residences for people with disabilities is very fact specific. It is difficult to imagine that a court would fail to recognize that, for example, placing 20 or more people with disabilities in a building is an attempt to subvert the definition of “family” and would be anything but an institutional use plopped down in a residential area.

Figure 23: Thirty-Two Person Recovery Community in Palm Beach County



The large signs at the entrance announce this is a recovery community and do not comport with the concept of maintaining anonymity and blending into the surrounding neighborhood.

As explained beginning on page 24, the capacity of a neighborhood to absorb service dependent people into its social structure is limited. When two or more recovery communities are clustered on a block or even within a block and a half of each other, they almost certainly exceed this capacity. This situation warrants a substantially greater spacing distance for recovery communities allowed as of right in a zoning district than between community residences allowed as of right, also subject to certification/licensing standards. When a recovery community is proposed to be located within the spacing distance of a community residence or another recovery community, the heightened scrutiny of a conditional use is warranted to identify the likely impacts of the proposed recovery community on the nearby existing community residence or recovery community, as well as their combined impacts on the neighborhood.

Under the zoning amendments that Palm Beach County adopts, an existing recovery community may become a legal nonconforming use as long as it obtains certification or licensing. Such recovery communities, like any other legal nonconforming use, would not be allowed to expand or become a more intense nonconforming use.

Figure 24: Eighty Person Recovery Community in Palm Beach County



Forty apartments are occupied by 80 people in this Palm Beach County recovery community.

Zoning framework for recovery communities

As discussed above, recovery communities consist of multifamily housing. Consequently, they should be not allowed as permitted uses in single-family districts where multifamily housing is not allowed of right. In single-family districts where multifamily housing is allowed as a conditional use, recovery communities should be allowed as a conditional use subject to the narrowly-crafted criteria proffered immediately below.

However, in multiple-family districts and other zoning districts where multifamily housing is allowed as of right, a recovery community should be a permitted use subject to two objective, nondiscretionary administrative criteria:

- ◆ The specific recovery community or its operator must be certified by the Florida Association of Recovery Residences,⁷⁴ and
- ◆ The proposed recovery community is at least 1,200 feet or ten lots, whichever is greater, from an existing community residence or recovery community as measured from the nearest lot lines.⁷⁵

When a proposed recovery community does not meet both standards, the operator can apply for a case-by-case evaluation through a conditional use or Development Review Officer as explained immediately below.

74. If the State of Florida replaces this certification with a license, then the local zoning should be amended to require the available license.

75. The rationale for a longer spacing distance for recovery communities is explained on page 57.

Conditional use or Development Review Officer backup

Sometimes an operator will seek to establish a new community residence or recovery community within the spacing distance of an existing community residence or recovery community. For some types of community residences, no license, certification, or accreditation may even be offered by the State of Florida or the locality. In these situations, the heightened scrutiny of a conditional use⁷⁶ or administrative review by the Development Review Officer is warranted to protect the occupants of the prospective community residence or recovery community from the same mistreatment, exploitation, incompetence, and abuses from which licensing, certification, accreditation, or recognition from Congress protects them. There are two circumstances under which a conditional use could be sought:

- (1) **Locating within the spacing distance.** To determine whether a proposed community residence or recovery residence should be allowed within the specified spacing distance from an existing community residence or recovery community, the county would need to consider whether allowing the proposed use will hinder the normalization for residents and community integration in the existing community residence or recovery community and/or whether the proposed use would alter the character of the neighborhood.
- (2) **When no local, state, or federal licensing, certification, or accreditation program is applicable.** If an operator seeks to establish a community residence in Palm Beach County for which neither the State of Florida nor the federal government requires or offers a license or certification or is not under a self-imposed license equivalency like Oxford House, the operator must show that the proposed community residence will be operated in a manner comparable to typical licensing standards that protects the health, safety, and welfare of its residents that is.⁷⁷

In evaluating an application for a conditional use, a county *can* consider the cumulative effect of the proposed community residence because altering the character of the neighborhood or creating a *de facto* social service district interferes with the normalization and community integration at the core of a community residence. A local jurisdiction can consider whether the proposed community residence or recovery community in combination with any existing community residences and recovery communities will alter the character of the

76. Palm Beach County has two types of conditional uses, “Conditional Use A” where applications are heard and decided by the County Board and “Conditional Use B” where the Zoning Commission hears and decides whether or not to grant to conditional use.

77. This paragraph refers only to community residences, not sober living homes because the State of Florida offers certification for recovery communities through the Florida Association of Recovery Residences.

surrounding neighborhood by creating an institutional atmosphere or by creating a *de facto* social service district by concentrating community residences and/or recovery communities on a block face or in a neighborhood.

When the required license, certification, or accreditation has been denied to a proposed community residence or its operator, suspended, or revoked, it becomes an illegal use under state law and obviously will be ineligible for a conditional use and cannot be located in unincorporated Palm Beach County.

It is vital to stress that the decision on a conditional use must be based on a record of factual evidence and not on neighborhood opposition rooted in unfounded myths and misconceptions about people with disabilities. As explained earlier in this report, restrictive covenants *cannot* exclude a community residence for people with disabilities — and such restrictions are, of course, irrelevant when evaluating an application for the conditional use.

Additional issues to consider

The precise language of the zoning amendments will need to make allowances for the legal provisions in the Florida state statutes on zoning for certain types of community residences for people with specific disabilities.

Note that the state statute governing local zoning for most types of community residences for people with disabilities (called “community residential homes”) allows local governments to adopt zoning that is *less restrictive* than the state statutes.⁷⁸ While the zoning proposed here is broader in scope than the state statutes — covering all types of community residences for all types of disabilities — some of the suggested zoning regulations fall within this statutory provision.

The state statutes, however, do *not* establish any zoning standards for sober living homes — sober homes and small halfway houses for people in recovery — or for recovery communities. As discussed earlier, the state statutes do establish a voluntary credential for sober living homes administered by the Florida Association of Recovery Residences. The credentialing standards and processes are as demanding or even more demanding than existing licensing laws in some other states.

Local zoning provisions for community residences need to also properly provide for unstructured, self-governed sober living homes called “Oxford House.” Congress has recognized Oxford House which has its own internal monitoring

78. *Florida Statutes*, §419.001(12). “State law on community residential homes controls over local ordinances, but nothing in this section prohibits a local government from adopting more liberal standards for siting such homes.”



system in place to maintain compliance with the Oxford House Charter.⁷⁹ The standards and procedures that both Oxford House and the State of Florida's voluntary certification of sober living homes employ are functionally comparable to licensing requirements and procedures for sober living homes in other states. The zoning approach suggested here recommends that Oxford House and certified sober living homes be treated the same as state certification.

Maximum number of occupants

Under the Fair Housing Act, it is clearly improper to apply building, housing, or property maintenance code standards for institutions, lodging houses, boarding houses, rooming houses, or fraternities and sororities to community residences for people with disabilities. They must be treated as residences like other residential uses.

Under fair housing case law, it is quite clear that *for determining the maximum number of occupants*, community residences established in single-family structures are to be treated the same as all other single-family residences. Those located in a multiple-family structure are to be treated the same as all other multiple-family residences. The maximum number of occupants is typically regulated to prevent overcrowding for health and safety reasons.

Palm Beach County's Housing Code establishes minimum occupancy limits to prevent overcrowding:

Every habitable room used for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) person shall contain at least fifty (50) square feet of floor area for each occupant thereof. Exception: Shelters, hospitals and similar uses shall be exempt.⁸⁰

These minimum floor area requirements to prevent overcrowding apply to all residential uses in unincorporated Palm Beach County, including community residences for people with disabilities and units in a recovery community.

Under the first formula above, a room in which just one person sleeps could be no smaller than seven feet by ten feet or other dimensions that add up to 70 square feet. A bedroom in which two people sleep could be no smaller than 100 square feet, or ten by ten, for example. A bedroom for three people must be at least 150 square feet, or ten by 15, for example.⁸¹ Keep in mind that these are minimum criteria to prevent overcrowding based on health and safety standards. Bedrooms, of course, are often larger than these minimums. This sort of

79. Oxford House does not allow its sober living homes to open in a state until Oxford House has established its monitoring processes to assure that Oxford Houses will operate within the standards of the Oxford House Charter.

80. *Palm Beach County Code*, Chapter 14, Housing Code, Sec. 14 44. – Occupancy limitations. (c).

81. Obviously these dimensions are examples. A 150 square foot room could also be 12 feet by 12.5 feet as well as other dimensions that add up to 150 square feet.

provision is the type that the U.S. Supreme Court has ruled applies to *all* residences including community residences.⁸²

Very often a state's licensing rules and regulations for community residences set a maximum number of individuals that can live in a licensed community residence. In Florida, some types of community residences can house as many as 14 people. *But no matter how many people state licensing may allow, the number of residents could not exceed the maximum number permissible under the provisions quoted above — which apply to all residences.* For example, if a particular house has enough bedroom space to be occupied by six people under the county's formula, then no more than six people can live there legally whether the residence is occupied by a biological family or a functional family of a community residence — no matter what the state group home licensing allows.

Nonetheless, a county can still establish a cap on the number of individuals who can live in a community residence based on a determination of how many unrelated people can successfully emulate a biological family. Given that emulation of a biological family is a core component of community residences for people with disabilities, it is reasonable for a jurisdiction's land-use code to establish the maximum number of individuals in a community residence it is confident can actually emulate a biological family. It is likely that ten unrelated individuals in a community residence can emulate a biological family. It is highly doubtful whether significantly larger aggregations can.

Consequently the proposed zoning amendments will cap community residences at ten occupants and establish a process to allow case-by-case consideration of proposals to house more than ten individuals in a community residence. Whether this is accomplished through a conditional use permit or the Development Review Officer administrative process, the applicant will have the burden to show the community residence needs more than ten residents to achieve therapeutic and/or economic viability, and to convincingly demonstrate that the group will emulate a biological family. The proposed community residence will be subject to the spacing and licensing/certification requirements applicable to all community residences housing more than four people with disabilities.

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82. *City of Edmonds v. Oxford House, Inc.*, 514 U.S. 725, 115 S.Ct. 1776, 131 L.Ed.2d 801 (1995). "Maximum occupancy restrictions... cap the number of occupants per dwelling, typically in relation to available floor space or the number and type of rooms. See, e. g., International Conference of Building Officials, *Uniform Housing Code* § 503(b) (1988); Building Officials and Code Administrators International, Inc., *BOCA National Property Maintenance Code* §§ PM-405.3, PM-405.5 (1993) (hereinafter *BOCA Code*); Southern Building Code Congress, International, Inc., *Standard Housing Code* §§ 306.1, 306.2 (1991); E. Mood, APHA—CDC Recommended Minimum Housing Standards § 9.02, p. 37 (1986) (hereinafter *APHA—CDC Standards*).[6] *These restrictions ordinarily apply uniformly to all residents of all dwelling units. Their purpose is to protect health and safety by preventing dwelling overcrowding.* See, e. g., *BOCA Code* §§ PM-101.3, PM-405.3, PM-405.5 and commentary; Abbott, Housing Policy, Housing Codes and Tenant Remedies: An Integration, 56 *Boston University Law Review*, 1, 41-45 (1976)." At 733. [Emphasis added]



Other zoning regulations for community residences

All regulations of the zoning district apply to a community residence including height, lot size, yards, building coverage, habitable floor area, and signage. There is no need for a land development code to repeat these requirements in its sections dealing with community residences for people with disabilities.

The state's statute reinforces this basic concept:

A dwelling unit housing a community residential home established pursuant to this section shall be subject to the same local laws and ordinances applicable to other noncommercial, residential family units in the area in which it is established.⁸³

Off-Street Parking. Even within the context of the state statute quoted immediately above, localities can establish off-street parking requirements for community residences for people with disabilities. Depending on the nature of the disabilities of residents, some community residences generate parking needs that exceed what a biological family would likely generate and others will need fewer spaces. However, there has to be a factual, rational basis to impose more demanding zoning requirements on community residences for people with disabilities that exceed the cap of four unrelated individuals in Palm Beach County's definition of "family." It is recommended that those community residences that fall within the definition of "family" be subject to the same off-street parking requirements for the type of structure in which they are located (single-family detached, single-family attached, etc.).

For example, different types of community residences can generate very different off-street parking demand. Generally, the occupants of community residences do not drive. People with developmental disabilities and the frail elderly do not drive and will not maintain a motor vehicle on the premises. They will get around town with a vehicle and driver the operator provides. A very small percentage, if any, of people with mental illness might have a driver's license and keep a vehicle on the premises.

But unlike the other categories of disabilities, people in recovery often drive and a motor vehicle, motorcycle, or scooter on the premises. A vehicle is critical for the recovery of many, especially if public transportation is not readily accessible. An essential component of their rehabilitation is relearning how to live on their own in a sober manner. So one of the most common conditions of living in a legitimate sober home and recovery community is that each resident agrees to spend the day at work, looking for a job, or attending classes. They cannot just sit around the home during the day. Visitor parking can be accommodated on the street as it is for all residential uses.

It is, however, rational to require off-street parking for staff, whether it be live-in staff or staff that works on shifts. The county needs to carefully craft

83. *Florida State Statutes*, §419.001(8) (2019).

off-street parking requirements for community residences for people with disabilities that allow for the varying needs of community residences for people with *different* disabilities. The *Unified Land Development Code* allows off-street parking to be located within 600 feet of a land use, a bit less than a typical block. This distance may need to be increased to reasonably accommodate the parking needs of community residences for people in recovery and for recovery communities.

Factoring in the Florida state statute on locating community residences

The State of Florida has adopted statewide zoning standards for a mixed bag of what it calls “community residential homes” licensed by the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, the Department of Children and Families, or the Agency for Health Care Administration.⁸⁴ *Some of these homes house people with disabilities while others do not.*⁸⁵ This review focuses on community residences occupied by people with disabilities, the class protected under the nation’s Fair Housing Act.

Before reviewing the impact of the State of Florida’s statute on zoning for community residences, it is important to note that the state statute gives localities some leeway to craft local zoning provisions:

Nothing in this section requires any local government to adopt a new ordinance if it has in place an ordinance governing the placement of community residential homes that meet the criteria of this section. State law on community residential homes controls over local ordinances, but *nothing in this section prohibits a local government from adopting more liberal standards for siting such homes.*⁸⁶

Consequently, any local jurisdiction is free to adopt its own zoning regulations for community residences for people with disabilities that are “more liberal” — namely less restrictive — than the state’s.⁸⁷

84. *The zoning standards appear in Title XXX, Social Welfare, Chapter 419, “Community Residential Homes,” §419.001, “Site selection of community residential homes,” Florida State Statutes, §419.001 (2016).*

85. The nature of the residents of these homes are defined in *Florida State Statutes*. Among those with disabilities are “frail elder” as defined in §429.65, “person with handicap” as defined in §760.22(7)9(a), and “nondangerous person with a mental illness” as defined in §394.455. Two other categories that may or may not include people with disabilities are “child found to be dependent” as defined in §39.01 or §984.03 and “child in need of services” as defined in §984.03 or §985.03. As of this writing, the State of Florida does not require licensing of community residences that serve people in recovery, although it offers voluntary credentialing.

86. *Florida State Statutes, §419.001(10) (2019). Emphasis added.*

87. While the author has never before seen statutory language using the phrase “more liberal,” the most rational interpretation of the phrase is that it means the same as “less restrictive.”



As will become apparent from the analysis that follows, the state statute is a bit confusing, seems to contradict itself, and contains at least one provision that, if challenged, would very likely be found to run afoul of the nation's Fair Housing Act.

No state law, including Florida's, provides a "safe harbor" for local zoning. A state statute that regulates local zoning for community residences for people with disabilities *can* run afoul of the nation's Fair Housing Act. For example, the State of Nevada had a state statute that required municipalities and counties to treat certain types of community residences for people with disabilities as residential uses, much like Florida's statute does. In 2008, a federal district court found that several other provisions in the Nevada's statute on community residences for people with disabilities violated the Fair Housing Act.⁸⁸

State Statute's Limited Scope

It is vital to remember that limitations on local zoning that the state statute on the location of "community residential homes" establishes apply *only* to the community residences licensed by the five state agencies. Local jurisdictions are perfectly free to establish different rationally-based zoning regulations for community residences *not* licensed by these five state agencies. As explained earlier, recovery residences and recovery communities are subject to voluntary certification administered for the state by the Florida Association of Recovery Residences (FARR).

When sued in 2015 over its zoning treatment of community residences for people with disabilities, Beaumont, Texas claimed that it was merely complying with a 1987 state law that established a half-mile spacing distance between community residences for people with disabilities. Beaumont was applying that spacing distance to all group homes, including those that fit within its zoning code's definition of "family" which limits to three the number of unrelated people that can constitute a "family." Beaumont settled the case for \$475,000 in damages while agreeing to discontinue imposing its unsupportable half-mile spacing distance as well as its excessive building code requirements.⁸⁹

In Florida, the state statute defines "community residential home" as a dwelling unit licensed by one of the five state agencies listed above that "provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents."⁹⁰ This language gives the impression that "community residential homes" house seven to 14 residents.

88. *Nevada Fair Housing Center, Inc. v. Clark County*, 565 F.Supp.2d 1178 (D. Nevada, 2008).

89. *United States of America v. City of Beaumont, Texas*, Consent Decree Civil Action No. 1:15-cv-00201-RC (E.D. Texas, May 4, 2016).

90. *Florida State Statutes*, §419.001(1)(a) (2016).

That's not exactly the case. Later the statute speaks of "[h]omes of six or fewer residents which otherwise meet the definition of a community residential home shall be deemed a single-family unit and a noncommercial, residential use for the purpose of local laws and ordinances."⁹¹

Without any stated rational basis, the statute treats homes for up to six residents differently than those for seven to 14 residents. Community residential homes for up to six residents must "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 or within a radius of 1,200 feet of another existing community residential home."⁹² Here the phrase "another existing community residential home" *appears* to mean a home for seven to 14 residents.

The smaller homes are not required to comply with the statute's notification provisions if, before they receive their state license, the "sponsoring agency" supplies to the local jurisdiction the "most recently published data compiled from the licensing entities that identifies all community residential homes within the jurisdictional limits of the local government in which the proposed site is to be located." This is required in order to show that the proposed homes would not be located within the state's 1,000 foot spacing distance from an existing community residential home for six or fewer residents or the state's 1,200 foot spacing distance of an existing community residential home for seven to 14 individuals. When the home is actually occupied, the sponsoring agency is required to notify the local government that the requisite license has been issued.⁹³

This statute does not affect the legal nonconforming use status of any community residential home lawfully permitted and operating by July 1, 2016.⁹⁴ In addition, the statute states that nothing in the statute "shall be deemed to affect the authority of any community residential home lawfully established prior to October 1, 1989, to continue to operate."⁹⁵

The state statute departs from the rationality of sound planning and zoning practices when it flips basic concepts on their head and requires a more intensive review of "community residential homes" in multiple family zoning districts than in single-family districts.⁹⁶ Unlike in single-family districts, the

91. Ibid. at §419.001(2) (2016).

92. Ibid.

93. Ibid. A sponsoring agency is "an agency or unit of government, a profit or nonprofit agency, or any other person or organization which intends to establish or operate a community residential home." At §419.001(1)(f) (2016).

94. Ibid.

95. Ibid. At §419.001(9) (2019).

96. Florida's statute is the first time in more than 40 years of monitoring zoning regulations for community residences that the author has seen more heightened scrutiny for locating community residences in multifamily zones than in single-family zones. Normally the greater scrutiny is applied in single-family zones. The information and logic upon which the legislature based this provision is unknown.



state statute gives local governments the ability to approve or disapprove of a proposed “community residential home.”

When a site for a community residential home has been selected by a sponsoring agency in an area zoned for multifamily, the agency shall notify the chief executive officer of the local government in writing and include in such notice the specific address of the site, the residential licensing category, the number of residents, and the community support requirements of the program. Such notice shall also contain a statement from the licensing entity indicating the licensing status of the proposed community residential home and specifying how the home meets applicable licensing criteria for the safe care and supervision of the clients in the home. The sponsoring agency shall also provide to the local government the most recently published data compiled from the licensing entities that identifies all community residential homes within the jurisdictional limits of the local government in which the proposed site is to be located. The local government shall review the notification of the sponsoring agency in accordance with the zoning ordinance of the jurisdiction.⁹⁷

If a local government fails to render a decision to approve or disapprove the proposed home under its zoning ordinance within 60 days, the sponsoring agency may establish the home at the proposed site.⁹⁸

*This provision appears to conflict with the earlier paragraph in the state statute establishing that “community residential homes” for six or fewer individuals “shall be allowed in single-family or multifamily zoning **without** approval by the local government” when the state’s spacing distances are met.⁹⁹*

The state statute specifies three grounds on which a local government can deny the siting of a “community residence home:”

- ◆ When the proposed home does not conform to “existing zoning regulations applicable to other multifamily uses in the area”¹⁰⁰
- ◆ When the proposed home does not meet the licensing agency’s applicable licensing criteria, “including requirements that the home be located to assure the safe care and supervision of all clients in the home”¹⁰¹
- ◆ When allowing the proposed home would result in a concentration of community residential homes in the area in proximity to the site selected, or would result in a combination of such homes with other

97. Ibid. at §419.001(3)(a) (2019).

98. Ibid. at §419.001(3)(b) (2019).

99. Ibid. at §419.001(2) (2019).

100. Ibid. at §419.001(3)(c)1. (2019).

101. Ibid. at §419.001(3)(c)2. (2019).

residences in the community, that “the nature and character of the area would be substantially altered. A home that is located within a radius of 1,200 feet of another existing community residential home in a multifamily zone shall be an overconcentration of such homes that substantially alters the nature and character of the area. ***A home that is located within a radius of 500 feet of an area of single-family zoning substantially alters the nature and character of the area.***”¹⁰²

While the first criterion is reasonable, it is also redundant because all residential uses are naturally required to conform to zoning regulations. It is unclear why the state statute needed to single out community residences for people with disabilities.

The second standard is unnecessary because a proposed home that doesn’t meet the licensing agency’s criteria would not receive the license required to operate. It is unclear what circumstances might exist where a community residence would receive a state license and then fail to “be located to assure the safe care and supervision of all clients in the home.”

The third set of criteria almost certainly runs afoul of the nation’s Fair Housing Act. The statute declares that locating a new community residence within the 1,200 spacing distance constitutes “an overconcentration” of community residences “that substantially alters the nature and character of the area.”¹⁰³

In more than 40 years working with zoning for community residences for people with disabilities, we have never come upon any factual basis for that conclusion and this *complete ban* on allowing community residences within a spacing distance. The rationale behind this report’s recommendation to require a conditional use for a community residence that would be located within the spacing distance is to enable a case-by-case examination of the facts to determine whether the proposed home would, indeed, interfere with the ability of any existing community residence to achieve its core functions of normalization and community integration of its residents. We are unaware of any factual information to suggest that the *mere presence* of another community residence within the spacing distances of an existing community residence *always* creates an overconcentration or that it always substantially alters the nature and character of any area.¹⁰⁴

Finally, the statute’s declaration that locating a community residential home within 500 feet of single-family zoning “substantially alters the nature and character of the area” simply lacks any factual foundation. It is difficult to imagine a

102. Ibid. at §419.001(3)(c)3. (2019). *Emphasis added.*

103. Ibid. at §419.001(3)(c)3 (2019).

104. For a thorough discussion of these points, see American Planning Association, *Policy Guide on Community Residences* (Chicago: American Planning Association, Sept. 22, 1997) 8, and for more detailed analysis, Daniel Lauber, “A Real LULU: Zoning for Group Homes and Halfway Houses Under the Fair Housing Amendments Act of 1988” *John Marshall Law Review*, Vol. 29, No 2, Winter 1996, 369–407. Both are available at <http://www.grouphomes.law>.



scenario in which a legal challenge to this statutory provision would fail.

The state statute simply does not allow for the necessary and proper review of an application to establish a community residence within the spacing distance required to be allowed as of right. It is critical that zoning allow for the case-by-case review of proposals for such homes to evaluate on the facts presented whether allowing the proposed community residence would actually result in an overconcentration or actually alter the character of the surrounding neighborhood. The Florida statute effectively disallows the proper review.

These state statute provisions regarding overconcentrations and alteration of the nature and character of an area constitute unsubstantiated conclusions that obstruct the ability of a local jurisdiction to make the “reasonable accommodation” that the nation’s Fair Housing Act requires for community residences for people with disabilities. The state needs to remove these provisions from the state law if it wishes to comply with the Fair Housing Act. Those state provisions that Palm Beach County adopted will be excised from the county’s *Unified Land Development Code* in the forthcoming amendments based on this study.

However, as explained beginning on page 66, the state statute allows local jurisdictions to adopt zoning provisions that are less restrictive than the state’s — which authorizes cities and counties to ignore these unjustifiable and almost certainly illegal state provisions and avoid exposing themselves to legal liability for housing discrimination. As Beaumont, Texas learned so painfully, following an illegal state statute does *not* protect the county from legal liability.

The actual zoning amendments for community residences for people with disabilities will be crafted to abide by with the provisions of the state statutes that comply with the nation’s Fair Housing Act.¹⁰⁵

Impact of Florida statute on vacation rentals

In some circles there appears to be confusion over the major differences between vacation rentals and community residences for people with disabilities. These are diametrically different land uses subject to different zoning and licensing or certification treatments.

The Florida legislature has adopted a state statute that pre-empted home rule and now allows vacation rentals in residential zoning districts throughout the state. Local laws regulating vacation rentals that were in place on June 1, 2011 were allowed to stand.¹⁰⁶ Palm Beach County allows short-term and vacation rentals but has correctly not treated community residences or recovery communities as short-term or vacation rentals.

105. Local governments have learned that state statutes that violate the Fair Housing Act do *not* offer a “safe harbor.” The statutes of the State of Texas had required a plainly illegal 2,500 foot spacing distance between group homes for people with disabilities. Attempts by cities to justify their 2,500 foot spacing distances based on the state statute failed to shield them from being in violation of the Fair Housing Act.

106. *Florida State Statutes*, §509.032(7)(b) (2019).

This state law has no impact on how a jurisdiction can zone for community residences for people with disabilities. Vacation rentals are nothing like community residences for people with disabilities. The former are commercial uses akin to a mini-hotel while the latter are residential uses. The former do not make any attempt to emulate a biological family; the host is a landlord and there is no effort for the guests to merge into a single housekeeping unit with the owner-occupant of the property.

The language in the state statutes does not suggest any similarities between vacation rentals and community residences for people with disabilities. The Florida state statutes define “vacation rental” as:

any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but that is not a timeshare project.¹⁰⁷

The state statutes define “transient public lodging establishment” as:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.¹⁰⁸

Community residences for people with disabilities constitute a very different land use than a “transient public lodging establishment.” No community residence for people with disabilities is “held out *to the public* as a place regularly rented to guests” [*emphasis added*]. Each community residence houses people with a certain type of disability — *not* members of the general public. In fact, by definition, occupants of a community residence are not “guests” in any sense of the word. They are residents, not vacationers.

In contrast to a “vacation rental” which, by state law, is a “transient public lodging establishment,” a community residence by definition is a single housekeeping unit that seeks to emulate a biological family to achieve normalization and community integration of its occupants with disabilities. Family community residences offer a relatively permanent living arrangement that can last for years — far different than a vacation rental. Transitional community residences establish a cap on length of residency that can be as much as six months or a year — very different than vacation rentals.

Unlike the guests in a vacation rental unit, the occupants of a community residence for people with disabilities constitute a vulnerable service-dependent population for which each neighborhood has a limited carrying capacity to

107. *Florida State Statutes*, §509.242(1)(c) (2019).

108. *Florida State Statutes*, §509.013(4)(a)1 (2019).



absorb into its social structure. The occupants of a community residence are seeking to attain normalization and community integration — two core goals absolutely absent from vacation rentals. The occupants of a community residence rely on their so-called “able bodied” neighbors to serve as role models to help foster habilitation or rehabilitation — a concept completely foreign to a transient public lodging establishment. It is well-documented that the vulnerable occupants of a community residence need protection from unscrupulous operators and care givers. In terms of type of use, functionality, purpose, operations, nature of their occupants, and regulatory framework, there is nothing comparable between community residences for people with disabilities including sober living homes and transient public lodging establishments including vacation rentals.

Summary

The [framework for the](#) regulatory approach proposed in this study offers the least restrictive means needed to achieve the legitimate government interests of protecting people with disabilities from unscrupulous operators, assuring that their health and safety needs are met, enabling normalization and community integration to occur by preventing clustering of community residences and/or recovery communities, and preventing the creation of de facto social service districts which undermine the ability of community residences and recovery communities to achieve these goals. Protecting the residents of community residences for people with disabilities and recovery communities also protects the neighborhoods in which the homes are located. These provisions help assure that adverse impacts will not be generated. As with all zoning issues, county staff will enforce compliance with the *Unified Land Development Code*.

The proposed amendments based on this framework will not change the cap of four unrelated individuals functioning as a housekeeping unit in the *Unified Land Development Code*’s definition of “family.” The forthcoming zoning amendments will treat community residences that comply with the cap of four unrelated individuals in the county’s definition of “family” the same as any other family. The amendments will impose no additional zoning requirements upon them.

However, when the number of unrelated occupants in a proposed community residence exceeds the cap of four unrelated individuals in definition of “family,” the forthcoming amendments will make “family community residences” for people with disabilities a permitted use in all residential districts subject to objective, rationally-based licensing/certification and spacing standards. Transitional community residences will be (1) permitted as of right in all districts where multifamily housing is allowed subject to these same two criteria and (2) allowed in single-family districts via a conditional use based on standards that are as objective as possible to promote compatibility with the single-family neighborhood.

When a proposed community residence for five or more people does not satisfy both the spacing and licensing/certification criteria to be permitted as of right, the heightened scrutiny of a conditional use or review by the Development Review Officer is warranted. For example, an operator would have to be

granted a conditional use if her proposed community residence would be located within a spacing distance of 660 feet or seven lots, *whichever is greater*, from an existing community residence for five or more people or a recovery community, or if there is no licensing, certification, or accreditation program of the State of Florida, the federal government, or the Oxford House Charter for the proposed home. The burden rests on the operator to show that the proposed home would meet the narrowly-crafted standards Palm Beach County adopts for awarding a conditional use. *A community residence that has not been issued a required license, certification, or accreditation would not be allowed in Palm Beach County at all.* But when no certification, licensing, or accreditation is required or available, then the community residence operator can seek a conditional use under the conditional use backup provision.

A community residence proposed to house more than ten individuals will be required to obtain a conditional use or be subject to an administrative review by the Development Review Officer.

A recovery community will be allowed only in districts where multifamily housing is allowed, as long as it is at least 1,200 feet or ten lots, whichever is greater, from the closest community residence or recovery community and obtains state certification or licensing. A recovery community proposed to be located within the applicable spacing distance of an existing community residence or recovery community would be subject to the heightened scrutiny of a conditional use or administrative review by the Development Review Officer, whichever approach the county chooses to adopt.

Since the zoning amendments that will be proposed are strictly for community residences for people with disabilities, halfway houses for prison pre-parolees or sex offenders, or of drug treatment facilities with an on-site residential component will be treated differently than community residences for people with disabilities.

To implement and administer these amendments, the county will need to maintain an internal map and its own internal database of all community residences for people with disabilities and recovery communities within and around Palm Beach County¹⁰⁹ — otherwise it would be impossible to implement the spacing distances required by the forthcoming zoning and by existing state licensing of some types of community residences. To balance the privacy interests of the residents of community residences for people with disabilities and of recovery communities with implementing the forthcoming amendments to the *Unified Land Development Code*, availability of the map should be limited as much as federal and Florida law allow, to county staff and verified potential applicants seeking to establish a community residence for people with disabilities or recovery community.

109. Since it is possible that community residences for people with disabilities may be located within whatever spacing distance the county chooses to adopt, it is critical that the county be fully aware of any community residences outside its borders and inside cities within the county located within the designated spacing distance. The adverse effects of clustering community residences do not respect municipal boundaries.



Appendix A: Representative studies of community residence impacts

More than 50 scientific studies have been conducted to identify whether the presence of a community residence for people with disabilities has any effect on property values, neighborhood turnover, or neighborhood safety. No matter which scientifically-sound methodology was used, the studies consistently concluded that community residences that meet the health and safety standards imposed by licensing and that are not clustered together on a block have no effect on property values — even for the house next door— nor on the marketability of nearby homes, neighborhood safety, neighborhood character, parking, traffic, public utilities, or municipal services.

The studies that cover community residences for more than one population provide data on the impacts of the community residences for each population in addition to any aggregate data.

The following studies constitute a representative sample. Few studies have been conducted recently simply because this issue has been examined so exhaustively and the findings of no adverse impacts have been so consistent. Consequently, funding just isn't available to conduct more studies on a topic that has been studied so thoroughly.

Christopher Wagner and Christine Mitchell, *Non-Effect of Group Homes on Neighboring Residential Property Values in Franklin County* (Metropolitan Human Services Commission, Columbus, Ohio, Aug. 1979) (halfway house for persons with mental illness; group homes for neglected, unruly male wards of the county, 12–18 years old).

Eric Knowles and Ronald Baba, *The Social Impact of Group Homes: a study of small residential service programs in first residential areas* (Green Bay, Wisconsin Plan Commission June 1973) (disadvantaged children from urban areas, teenage boys and girls under court commitment, infants and children with severe medical problems requiring nursing care, convicts in work release or study release programs).

Daniel Lauber, *Impacts on the Surrounding Neighborhood of Group Homes for Persons With Developmental Disabilities*, (Governor's Planning Council on Developmental Disabilities, Springfield, Illinois, Sept. 1986) (found no effect on property values or turnover due to any of 14 group homes for up to eight residents; also found crime rate among group home residents to be, at most, 16 percent of that for the general population).

Minnesota Developmental Disabilities Program, *Analysis of Minnesota Property Values of Community Intermediate Care Facilities for Mentally Retarded (ICF-MRs)* (Dept. of Energy, Planning and Development 1982) (no difference in property values and turnover rates in 14 neighborhoods with group homes during the two years before and after homes opened, as compared to 14 comparable control neighborhoods without group homes).

Dirk Wiener, Ronald Anderson, and John Nietupski, *Impact of Community-Based Residential Facilities for Mentally Retarded Adults on Surrounding Property Values Using Realtor Analysis Methods*, 17 *Education and Training of the Mentally Retarded* 278 (Dec. 1982) (used real estate agents' "comparable market analysis" method to examine neighborhoods surrounding eight group homes in two medium-sized Iowa communities; found property values in six subject neighborhoods comparable to those in control areas; found property values higher in two subject neighborhoods than in control areas).

Montgomery County Board of Mental Retardation and Developmental Disabilities, *Property Sales Study of the Impact of Group Homes in Montgomery County* (1981) (property appraiser from Magin Realty Company examined neighborhoods surrounding seven group homes; found no difference in property values and turnover rates between group home neighborhoods and control neighborhoods without any group homes).

Martin Lindauer, Pauline Tung, and Frank O'Donnell, *Effect of Community Residences for the Mentally Retarded on Real-Estate Values in the Neighborhoods in Which They are Located* (State University College at Brockport, N.Y. 1980) (examined neighborhoods around seven group homes opened between 1967 and 1980 and two control neighborhoods; found no effect on prices; found a selling wave just before group homes opened, but no decline in selling prices and no difficulty in selling houses; selling wave ended after homes opened; no decline in property values or increase in turnover after homes opened).

L. Dolan and J. Wolpert, *Long Term Neighborhood Property Impacts of Group Homes for Mentally Retarded People*, (Woodrow Wilson School Discussion Paper Series, Princeton University, Nov. 1982) (examined long-term effects on neighborhoods surrounding 32 group homes for five years after the homes were opened and found same results as in Wolpert, *infra*).

Julian Wolpert, *Group Homes for the Mentally Retarded: An Investigation of Neighborhood Property Impacts* (New York State Office of Mental Retardation and Developmental Disabilities Aug. 31, 1978) (most thorough study of all; covered 1570 transactions in neighborhoods of ten New York municipalities surrounding 42 group homes; compared neighborhoods surrounding group homes and comparable control neighborhoods without any group homes; found no effect on property values; proximity to group home had no effect on turnover or sales price; no effect on property value or turnover of houses adjacent to group homes).

Burleigh Gardner and Albert Robles, *The Neighbors and the Small Group Homes for the Handicapped: A Survey* (Illinois Association for Retarded Citizens Sept. 1979) (real estate brokers and neighbors of existing group homes for the retarded, reported that group homes had no effect on property values or ability to sell a house; unlike all the other studies noted here, this is based solely on opinions of real estate agents and neighbors; because no objective statistical research was undertaken, this study is of limited value).

Zack Cauklins, John Noak and Bobby Wilkerson, *Impact of Residential Care Facilities in Decatur* (Macon County Community Mental Health Board Dec. 9, 1976) (examined neighborhoods surrounding one group home and four intermediate care facilities for 60 to 117 persons with mental disabilities; members of Decatur Board of Realtors report no effect on housing values or turnover).

Suffolk Community Council, Inc., *Impact of Community Residences Upon Neighborhood Property Values* (July 1984) (compared sales 18 months before and after group homes opened in seven neighborhoods and comparable control neighborhoods without group homes; found no difference in property values or turnover between group home and control neighborhoods).

Metropolitan Human Services Commission, *Group Homes and Property Values: A Second Look* (Aug. 1980) (Columbus, Ohio) (halfway house for persons with mental illness; group homes for neglected, unruly male wards of the county, 12–18 years old).

Tom Goodale and Sherry Wickware, *Group Homes and Property Values in Residential Areas*, 19 Plan Canada 154–163 (June 1979) (group homes for children, prison pre-parolees).

City of Lansing Planning Department, *Influence of Halfway Houses and Foster Care Facilities Upon Property Values* (Lansing, Mich. Oct. 1976) (No adverse impacts on property values due to halfway houses and group homes for adult ex-offenders, youth offenders, alcoholics).

Michael Dear and S. Martin Taylor, *Not on Our Street*, 133–144 (1982) (group homes for persons with mental illness have no effect on property values or turnover).



John Boeckh, Michael Dear, and S. Martin Taylor, *Property Values and Mental Health Facilities in Metropolitan Toronto*, 24 *The Canadian Geographer* 270 (Fall 1980) (residential mental health facilities have no effect on the volume of sales activities or property values; distance from the facility and type of facility had no significant effect on price).

Michael Dear, *Impact of Mental Health Facilities on Property Values*, 13 *Community Mental Health Journal* 150 (1977) (persons with mental illness; found indeterminate impact on property values).

Stuart Breslow, *The Effect of Siting Group Homes on the Surrounding Environs* (1976) (unpublished) (although data limitations render his results inconclusive, the author suggests that communities can absorb a “limited” number of group homes without measurable effects on property values).

P. Magin, *Market Study of Homes in the Area Surrounding 9525 Sheehan Road in Washington Township, Ohio* (May 1975) (available from County Prosecutors Office, Dayton, Ohio). (found no adverse effects on property values.)

Appendix B: Sample zoning compliance application form

To implement the forthcoming amendments to the county's *Unified Land Development Code* that will be based on this research, Palm Beach County will need to create a form for applicants wishing to establish a community residence for any number of people with disabilities or a recovery community. The form will enable county staff to fairly quickly determine whether the proposed community residence or recovery community:

- ◆ Is a permitted use under the definition of “family” in the county's *Unified Land Development Code*
- ◆ Is a permitted use in the zoning district in which it would be located
- ◆ Is required to apply for a conditional use (or administrative review by the Development Review Officer, whichever approach the county adopts)
- ◆ Needs to also obtain a conditional use or administrative review by the Development Review Officer (whichever approach the county adopts) to house more than ten individuals
- ◆ Meets the minimum floor area requirements to which all residences are subject, and
- ◆ Provides the required minimum number of off-street parking spaces

The application form that Pompano Beach uses illustrates such a form. It can be adapted for use by Palm Beach County.

It is crucial that the operators of *all* proposed community residences and recovery communities be required to complete this form so the city can identify the applicable spacing distances between community residences/recovery communities and determine appropriate zoning treatment. Completing this form places no burden on people with disabilities while offering them substantial benefits by enabling the county to prevent clustering and concentrations that lessen the ability to achieve the normalization and community integration essential to operate a community residence or recovery community — and assuring they are protected from abuse and exploitation by requiring licensing or certification of the housing provider.





City of Pompano Beach
Department of Development Services

100 W. Atlantic Blvd Pompano Beach, FL 33060

Phone: 954.786.4668 Fax: 954.786.4666

License Year _____

Community Residence & Recovery Community Application

Lying or misrepresentation in this application can lead to revocation. (155.8402.B. Revocation of Approval)

PROCEDURE:

Submit this completed application to the Business Tax Receipt Office or send the completed application to the Business Tax Receipt Division to the attention of the Chief BTR Inspector. Staff will process the application, and it will be routed to a planner for review.

APPLICATION CHECKLIST: The following documentation shall be submitted with this completed application:

Submittal Requirement	Contact
<input type="checkbox"/> A copy of the state license with the State of Florida to operate the proposed community residence <i>(when applicable)</i>	State of Florida Department of Health <u>Address:</u> 4052 Bald Cypress Way Tallahassee, FL 32399 <u>Phone:</u> 850-245-4277 <u>Website:</u> http://www.floridahealth.gov/
<input type="checkbox"/> A copy of the Oxford House's "Conditional Charter Certificate" or "Permanent Charter Certificate" <i>(when applicable)</i>	Oxford House, Inc. <u>Address:</u> 1010 Wayne Avenue, Suite 300 Silver Spring, MD 20910 <u>Phone:</u> (800) 689-6411 <u>Website:</u> http://www.oxfordhouse.org/userfiles/file/index.php
<input type="checkbox"/> A copy of the provisional certification to operate the proposed community residence or recovery community <i>(when applicable)</i>	Florida Association of Recovery Residences <u>Address:</u> 326 W Lantana Rd., Suite 1 Lantana, FL 33462 <u>Phone:</u> (561) 299-0405 <u>Website:</u> http://farronline.org/
<input type="checkbox"/> A copy of the certification or license to operate the proposed community residence or recovery community <i>(when applicable)</i>	Florida Association of Recovery Residences <u>Address:</u> 326 W Lantana Rd., Suite 1 Lantana, FL 33462 <u>Phone:</u> (561) 299-0405 <u>Website:</u> http://farronline.org/
<input type="checkbox"/> A copy of the certification or license to operate the proposed assisted living facility <i>(when applicable)</i>	Agency for Health Care Administration <u>Address:</u> 2727 Mahan Drive MS #30 Tallahassee, FL 32308 <u>Phone:</u> (850) 412-4304 <u>Website:</u> http://ahca.myflorida.com/
<input type="checkbox"/> A copy of the standard rental/lease agreement to be used when contracting with occupants.	
<input type="checkbox"/> Detailed exterior site plan identifying property lines, parking spaces, storage area of garbage receptacles, screening of garbage receptacles, fences, and other similar accessory features.	
<input type="checkbox"/> Detailed interior floor plan identifying all bedrooms (with dimensions excluding closets), exits and location of fire extinguishers. <i>(fill in the information required on the table on page 4 of this application)</i>	
<input type="checkbox"/> A letter of authorization that is notarized by the property owner or corporate officer (if the property is owned by a partnership, corporation, trust, etc. or the application is being submitted on behalf of the owner by an authorized representative.)	
<input type="checkbox"/> A copy of the development order, approving a Special Exception, for the proposed use (if applicable).	
<input type="checkbox"/> A copy of the order, approving Reasonable Accommodations, for the proposed use (if applicable).	



100 W. Atlantic Blvd Pompano Beach, FL 33060

Phone: 954.786.4668 Fax: 954.786.4666

License Year _____

Community Residence & Recovery Community Application

Lying or misrepresentation in this application can lead to revocation. (155.8402.B. Revocation of Approval)

Family (City Ordinance / Zoning Code / Chapter 155 Article 9 Part 5)

An individual or two or more persons related by blood, marriage, state-approved foster home placement, or court-approved adoption—or up to three unrelated persons—that constitute a single housekeeping unit. A family does not include any society, nursing home, club, boarding or lodging house, dormitory, fraternity, or sorority.

Family Community Residence (City Ordinance / Zoning Code / §155.4202. H.)

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.

Transitional Community Residence (City Ordinance / Zoning Code / §155.4202. I.)

A transitional community residence 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.

Recovery Community (City Ordinance / Zoning Code / §155.4203. B.)

A recovery community consists of multiple dwelling units in a single multi-family structure that are not held out to the general public for rent or occupancy, that provides a drug-free and alcohol-free living arrangement for people in recovery from drug and/or alcohol addiction, which, taken together, do not emulate a single biological family and are under the auspices of a single entity or group of related entities. Recovery communities include land uses for which the operator is eligible to apply for certification from the State of Florida. When located in a multiple-family structure, a recovery community shall be treated as a multiple family structure under building and fire codes applicable in Pompano Beach.

Licensing and Certification

<input type="checkbox"/>	Family Community Residence	<input type="checkbox"/>	Transitional Community Residence	<input type="checkbox"/>	Recovery Community	<input type="checkbox"/>	Assisted Living Facility	<input type="checkbox"/>	Other: _____
<input type="checkbox"/>	Agency has issued a certification, provisional certificate or license to operate the community residence as a:								
<input type="checkbox"/>	FARR Certification Level (if applicable)								
<input type="checkbox"/>	Name of State Licensing or Certification Agency:								
<input type="checkbox"/>	Statutory number under which license is required:								

Describe the general nature of the resident's disabilities (developmental disabilities, recovery from addiction, mental illness, physical disability, frail elderly, etc.) *Do not discuss specific individuals:*



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Department of Development Services

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STREET ADDRESS (of the Subject Property):						FOLIO #:	
# of Live-in Staff				Maximum # of Residents (Licensed)			
Minimum Duration of Residency				Maximum Duration of Residency			
Day(s)	Month(s)	Year(s)	No Minimum	Day(s)	Month(s)	Year(s)	No Maximum
			<input type="checkbox"/>				<input type="checkbox"/>
# of Bedrooms				# of Dwelling Units			
Will the residents be able to maintain a motor vehicle?					No <input type="checkbox"/>	Yes <input type="checkbox"/>	
# of Parking Spaces On-Site				# of Parking Spaces Off-Site (if applicable)			
Has a certification been applied for and a provisional certification been issued?					No <input type="checkbox"/>	Yes <input type="checkbox"/>	
Special Exception # (if applicable)				Date Provisional certification was issued (if applicable):			

Property Owner (Please Print)	Applicant / Agent Information (Complete if the applicant / agent is not the owner of the property)
Business Name (if applicable):	Business Name (if applicable):
Print Name and Title:	Print Name and Title:
Mailing Street Address:	Mailing Street Address:
Mailing Address City/ State/ Zip:	Mailing Address City/ State/ Zip:
Primary Phone Number:	Primary Phone Number:
Secondary/ Cell Phone Number:	Secondary/ Cell Phone Number:
Email:	Email:



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Number of Occupants:

Bedroom	Dimensions of each bedroom (excluding closets) in feet:		Total Square feet in bedroom (excluding closets)	Number of residents (including any live-in staff) to sleep in each bedroom	Total gross floor area of all habitable rooms
	Width (ft)	X Length (ft)	Area (ft ²)		
1					<p>If you're unsure how to measure this, ask City staff for instructions.</p> <p>Print the total gross floor area in the cell below:</p>
2					
3					
4					
5					
6					
7					
8					
Totals				_____	_____
				Residents	Square feet

Please return this completed application to:

Development Services Department
100 West Atlantic Boulevard Room 352
Pompano Beach, FL 33060

Questions? Need assistance?

Call city staff at (954) 786-4679



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Department of Development Services

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**Community Residence &
Recovery Community Application**

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Local 24 Hour Contact Affidavit

In accordance with the responsibilities of a 24-hour contact person as provided for in § 153.33(F), the responsibilities of the 24-hour contact person include:

- Be available and have the authority to address or coordinate problems associated with the property 24 hours a day, 7 days a week;
- Monitor the entire property and ensure that it is maintained free of garbage and refuse; provided however, this provision shall not prohibit the storage of garbage and litter in authorized receptacles for collection;
- See that provisions of this section are complied with and promptly address any violations of this section or any violations of law, which may come to the attention of the 24-hour contact person and
- Inform all occupants prior to occupancy of the property regulations regarding parking, garbage and refuse, and noise.

I certify that I have read and understand the information contained on this affidavit, and that to the best of my knowledge such information is true, complete, and accurate.

BEFORE ME, the undersigned authority, personally appeared _____ (PRINT NAME)
Who after being duly sworn, deposes and says: That I am the person whose signature appears below, and that the information I have provided above in this document is true and correct.

24 Hour Contact	Property Owner	Responsible Party	Other (below)
Business Name (if applicable):		Print Name:	
Relationship to Property Owner (if applicable):		Title:	
Physical Street Address of Home or Business:		Address City/ State/ Zip:	
Primary Phone Number:		Secondary/ Cell Phone Number:	
Signature:		Date:	

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 20____, in
Pompano Beach, Broward County, Florida.

Notary Public
Seal of Office

Notary Public, State of Florida

(Print Name of Notary Public)

Type of identification Produced: Personally Known
Produced Identification