



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## New Business - Development and Environmental Services Group

J.1.

4/20/2021

### Subject:

Waiver of Subdivision Perimeter Buffer, Re: Melbourne Beach Homes (21WV00003) (District 3)  
Developer: Oceanfront D & M, LLC.

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

The Board is requested to consider the applicant's waiver request to Section 62-2883(d) that requires a 15-foot perimeter buffer tract along the perimeter of a residential subdivision.

### Summary Explanation and Background:

Section 62-2883(d) requires that subdivisions provide a minimum 15-foot perimeter buffer, undisturbed along all property boundaries, platted as a common tract separate from individual lots. It is intended to provide screening between the boundaries of residential developments. This project is on the east side of Highway A1A, across from Seaview Street and contains a four-unit townhome complex and private beach access easement on 1.55 acres. The perimeter buffer tract is required.

The applicant states that this is a redevelopment site which was previously developed with a duplex and does not possess an undisturbed perimeter buffer. There is a five-story condominium to the north, which the applicant notes as a more intense use than their proposed development. To the south is a six-foot private access for Seabreeze Subdivision. To the east and west there are no neighbors who will benefit from the perimeter buffer tract; to the east is the Atlantic Ocean and west is Highway A1A.

According to the site plan (19SP00020), the applicant has proposed a 27.50-foot private beach access easement along the north side of the project. This easement will be utilized by this development and the Harbor Island Beach Homes across Highway A1A. The area will contain sidewalks, a restroom/cabana building, and a gazebo, separated from the abutting condominium property by a 6' tall vinyl fence. The applicant will be required to meet landscaping requirements and the approved landscaping plan. All of the applicable County agencies have reviewed the request and did not identify any issues with granting this waiver.

Staff has not granted approval of waiver request 21WV00003, and pursuant to Section 62-3207 of the Code, requests that it be evaluated by the Board of County Commissioners. Board approval of this project does not relieve the developer from obtaining all other necessary jurisdictional permits.

Reference: 20WV00003, 20FM00011, 19SP00020

Contact: Amanda Elmore, Assistant Director, Ext. 58996



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April 21, 2021

**MEMORANDUM**

TO: Tad Calkins, Planning and Development Director Attn: Amanda Elmore

RE: Item J.1., Waiver of Subdivision Perimeter Buffer for Melbourne Beach Homes  
(21WV00003) – Developer: Oceanfront D & M, LLC

The Board of County Commissioners, in regular session on April 20, 2021, approved the applicant's waiver request to Section 62-2883(d) that requires a 15-foot perimeter buffer tract along the perimeter of a residential subdivision.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

  
Kimberly Powell, Clerk to the Board

/sm

# BREVARD COUNTY LAND DEVELOPMENT WAIVER APPLICATION

This form should be used for all waiver requests or appeals associated with the Code of Ordinances, Section 62 as it relates specifically to Unpaved Roads, Subdivisions, Minor Subdivisions, and Site Plans.

PLEASE COPY ENGINEER ON ALL CORRESPONDENCE AT: jeffrey.lucas@atkingglobal.com

## APPLICATION TYPE

- ☒ SUBDIVISION WAIVER  
☐ UNPAVED ROAD WAIVER  
☐ SITE PLAN WAIVER  
☐ OTHER

## Land Development Use Only

Request Date: \_\_\_\_\_ Fees \$ \_\_\_\_\_ Board Date: \_\_\_\_\_  
Original Project # \_\_\_\_\_ Waiver # \_\_\_\_\_  
Coordinator Initials: \_\_\_\_\_ Reference Files: \_\_\_\_\_  
County Manager/Designee approval \_\_\_\_\_

Tax Parcel Identification: SEE TAX ACCOUNT #'s

(List all parcels)

Tax Account # ('s): 2851533

(List all account numbers)

Project Name: Melbourne Beach Homes

Property Owner: Oceanfront D & M LLC

Site Address: 3055 Highway A1A Melbourne Beach, FL 32951

## ALL CORRESPONDENCE TO BE PROVIDED TO APPLICANT AT THIS ADDRESS:

Name: Dan Winkler

Company: Oceanfront D & M LLC

Address: 119 Signature Drive

E-Mail

City: Melbourne Beach

State FL

Zip 32951

Phone

Fax

Cell

## ENGINEER/CONTRACTOR (if different from applicant):

Company Name: ATKINS

Eng. or Proj. Mgr.: Jeffrey Lucas

Address: 2671 W Eau Gallie Blvd 32935

Ph # ( 321 ) 775-6647

Fax ( )

## DESCRIPTION OF WAIVER REQUEST AND CODE SECTION:

Section 62-2883(d) - Request Waiver for disturbances of 15 foot perimeter residential subdivision buffer. County code does require a buffer for minor subdivision (less than 6 lots Le. - this project); however, under County code Section 62-2805(c) for Minor Subdivisions, includes only detached single family lots. Since this project is attached single family this underlying provision should also be waived.

Owner/Applicant Signature:

Print Name: Dan Winkler

If you wish to appeal any decision made by the county staff on the waiver, you may request the Board of County Commissioners to make a determination. Their decision approving or disapproving the waiver or interpretation is final.

Fees for Waivers are \$775.

APPLICATION FEES: A schedule of fees and charges for review is established and adopted by the Board of County Commissioners of Brevard County, Florida, and may, from time to time, be amended.

PLEASE MAKE CHECKS PAYABLE TO: THE BOARD OF COUNTY COMMISSIONERS

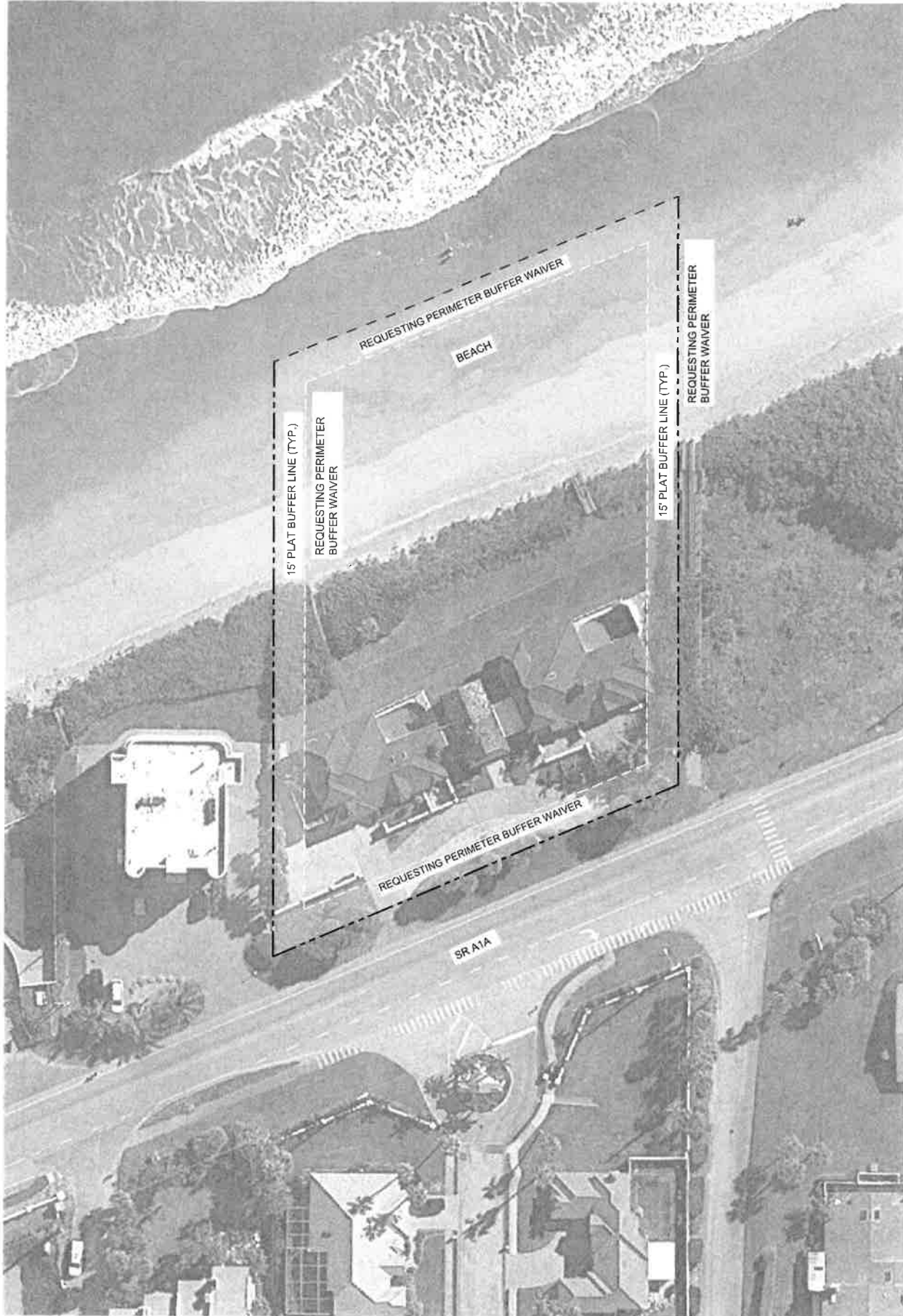
## LAND DEVELOPMENT APPLICATIONS – DOCUMENT SUBMITTAL REQUIREMENTS

Application type	Application	Waiver Criteria below	Alternative Plan Design				8 1/2 x 11 vicinity map		Fees
Waiver - Site Plan	1	Y	-		-	-	1	-	Y
Waiver - Subdivision	1	Y	-				1		Y

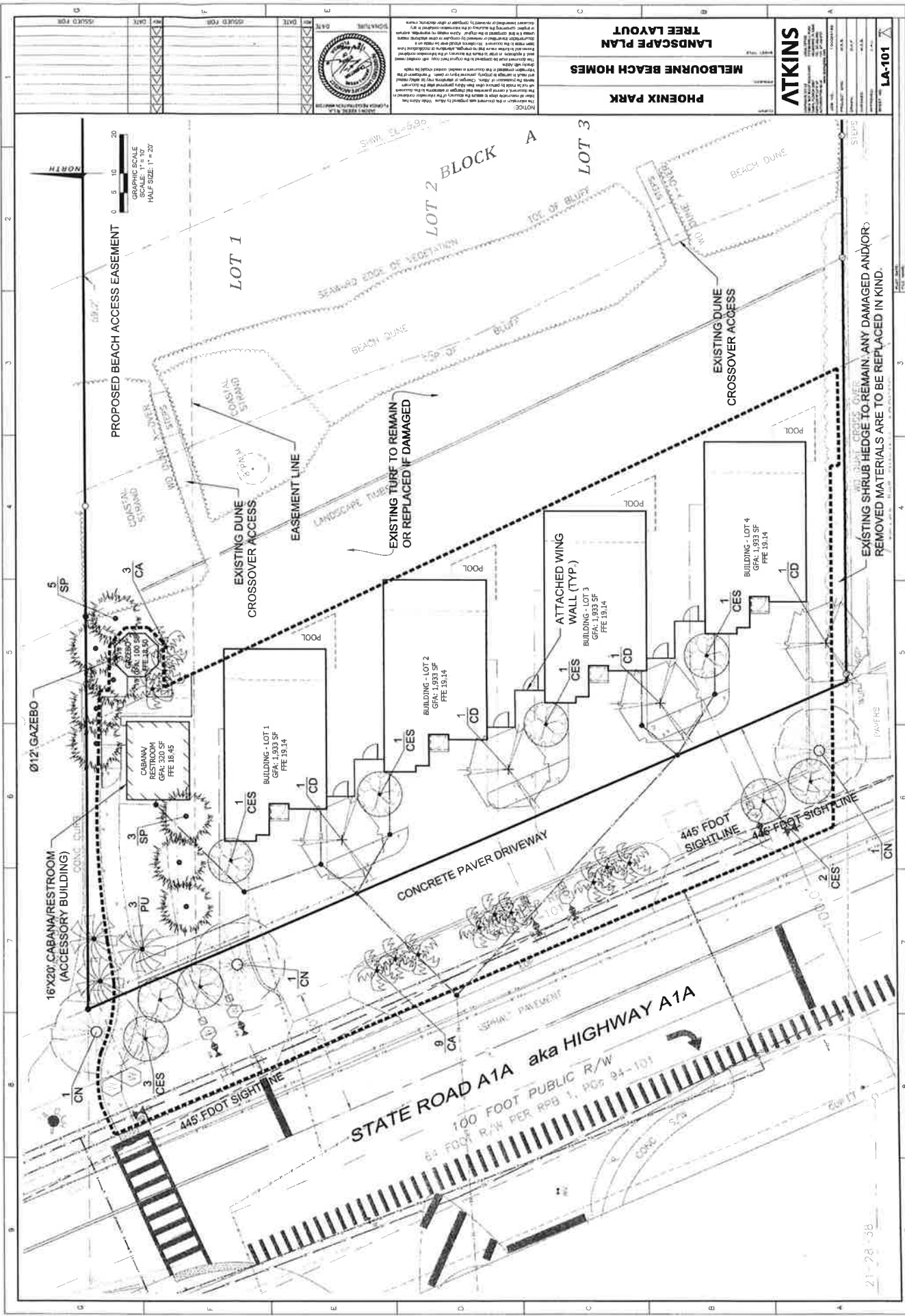
### WAIVER CRITERIA (SUBDIVISION, UNPAVED ROADS & SITE PLANS)

For a waiver to be considered and approved by staff, your request must comply with all of the following criteria.  
Please explain, in detail, how your request meets the following conditions:

1. The particular physical conditions, shape or topography of the specific property involved causes an undue hardship to the applicant if the strict letter of the code is carried out.  
The particular physical condition of this property is that it is a redevelopment of an existing site that does not possess an undisturbed buffer. Other unique characteristics of this property that negate the potential benefits of 15' buffer, is that to the east is the Atlantic Ocean, available for public use. To the west is SR A1A. To the north, a 5 story condo. To the south, existing beach access points. These "neighbors" either do not benefit from a buffer or are more intense than the proposed development.
2. The granting of the waiver will not be injurious to the other adjacent property.  
The waiver request will not be injurious to other adjacent property since these properties are either more intense or public in nature to the proposed development. The subject property will be landscaped and buffered per the landscape code.
3. The conditions, upon which a request for waiver are based, are particular to the property for which the waiver is sought and are not generally applicable to other property and do not result from actions of the applicant.  
It is very rare to see beachfront property redeveloped. Therefore, the conditions upon which this waiver are based are not "generally applicable" to other property. There is no benefit to the more intense condominium to the north, the dunes/beach to the east, the beach access to the south or SR A1A to the west, to have a 15' buffer that currently does not exist.
4. The waiver is consistent with the intent and purpose of the county zoning regulations, the county land use plan of the county and the requirements of this article.  
The redeveloped of this site consistent with the intent and purpose of county zoning regulations, the county land use plan and all other county requirements. In fact, this beachfront site is being developed at a density that is LESS than the entitlements possessed by virtue of its zoning and comprehensive plan density.
5. Delays attributed to state or federal permits.  
Project Certification with the Water Management District will not be possible should the waiver request be denied as components and structures of the stormwater management system are within this area and have been approved during the site plan process. Furthermore, beach access is provided by a pedestrian crossing on SR A1A at a specific, permitted location, within the buffer limits.
6. Natural disasters.  
Natural disasters have impacted Brevard County, unfortunately, multiple times over the past several years. Redeveloping this site less dense than permitted, and compared to neighbors, minimizes future impacts.
7. County development engineer and affected agencies concur that an undue hardship was placed on the applicant. (To be filled out by County staff)









PLOT DATE: Sep 13, 2019 - 12:01pm  
 FILE NAME: G:\PROJECTS\100056195 - Hampton Apt. Redevelopment\000\_BEACH HOMES\EXHIBITS\2019-06-19 STORMWATER EXHIBITS\EXHIBITS.dwg



# ATKINS

CORPORATE OFFICE:  
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 33607  
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 AUTHORIZATION NO.24

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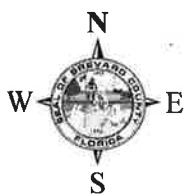
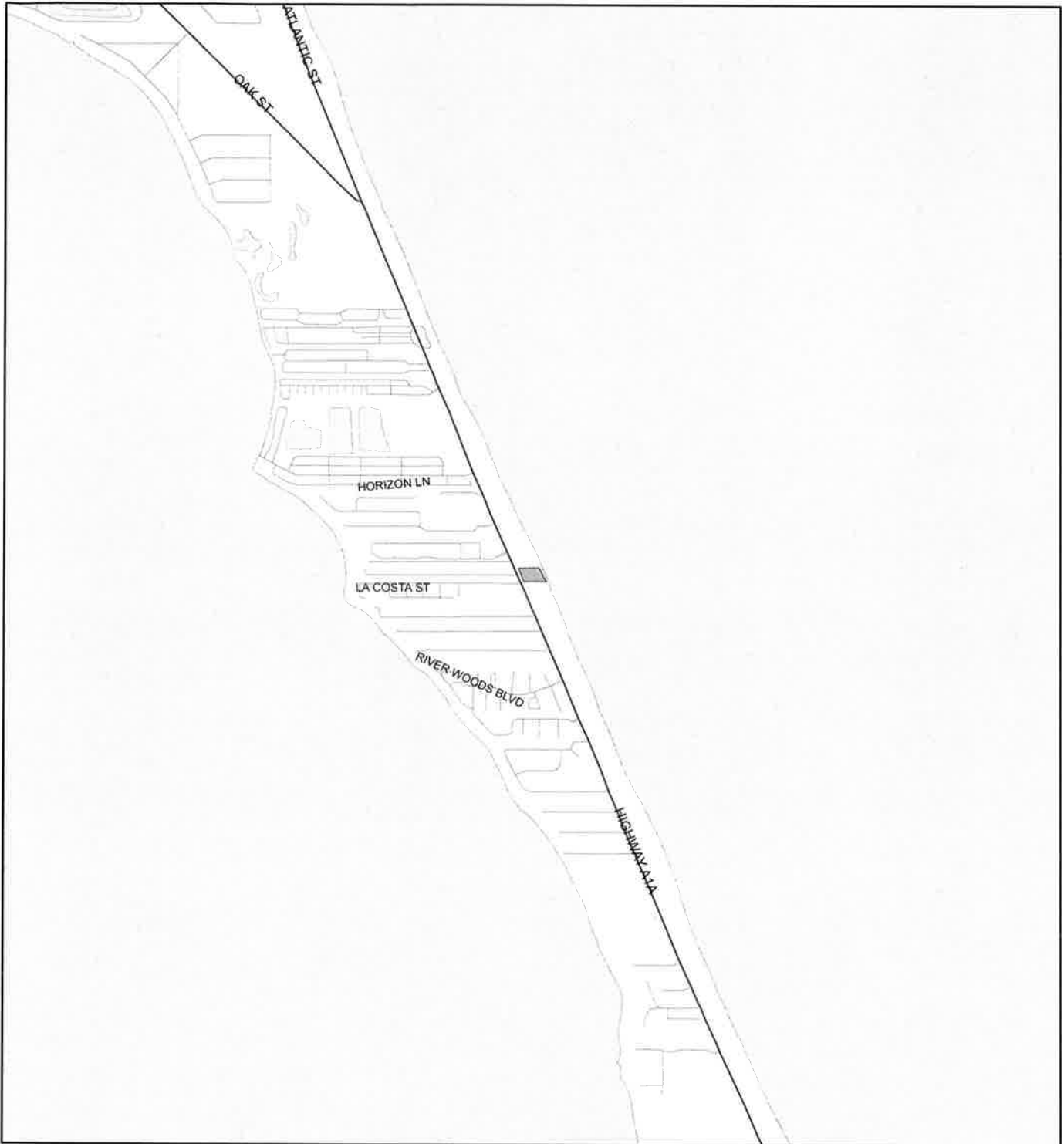
## VICINITY MAP

Job nos. 100056195		Refer to Sheet No. N/A	
Sketch Date 6/19/2019		Add./Rev.	RFI N/A
Scale 1"=250'		VICINITY	
Dr JM	Ck JAL		

# LOCATION MAP

MELBOURNE BEACH HOMES

20FM00011



1:24,000 or 1 inch = 2,000 feet



Subject Property

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 3/30/2021