# Agenda Report

2725 Judge Fran Jamieson Way Viera, FL 32940



### **New Business - Development and Environmental Services Group**

**J.2** 

4/20/2021

### Subject:

Final Plat and Contract Approval, Re: Melbourne Beach Homes

Developer: Oceanfront D & M, LLC.

### **Fiscal Impact:**

None

### Dept/Office:

Planning and Development

### Requested Action:

In accordance with Section 62-2841(i) and Section 62-2844, it is requested that the Board of County Commissioners grant final plat approval and authorize the Chair to sign the final plat and contract for Melbourne Beach Homes.

### **Summary Explanation and Background:**

There are three stages of review for subdivision plan approval: the pre-application conference, the preliminary plat/final engineering plan review, and the final plat review. The pre-application conference for the above project was held on July 25, 2019 along with the site plan. The preliminary plat and final engineering plans, which is the second stage of approval, was approved on January 13, 2020. The third stage of review is the final plat approval for recordation. The applicant is posting a performance bond and contract for guarantee of the completion of the infrastructure improvements.

Staff has reviewed the final plat for the Melbourne Beach Homes subdivision, and has determined that it is in compliance with the applicable ordinances.

Melbourne Beach Homes is south of Melbourne Beach, across from Seaview Street on the east side Highway A1A. The proposed subdivision contains four lots on 1.2163 acres.

This approval is subject to minor engineering changes as applicable. Board approval of this project does not relieve the developer from obtaining all other necessary jurisdictional permits.

Reference: 20FM00011, 21WV00003, 19SP00020

Contact: Amanda Elmore, Assistant Director Ext. 58996

### Clerk to the Board Instructions:

Please have the contract signed and return the original and a certified copy to Planning and Development.



FLORIDA'S SPACE COAST

Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001 Fax: (321) 264-6972 Kimberly.Powell@brevardclerk.us



April 21, 2021

MEMORANDUM

TO:

Tad Calkins, Planning and Development Director Attn: Amanda Elmore

RE:

Item J.2., Final Plat and Contract Approval for Melbourne Beach Homes

Developer - Oceanfront D & M, LLC

The Board of County Commissioners, in regular session on April 20, 2021, granted final plat approval; and authorized the Chair to sign the final plat and contract for Melbourne Beach Homes - Developer - Oceanfront D & M, LLC, subject to minor changes, if necessary, receipt of all documents required for recording, and developer responsible for obtaining all other necessary jurisdictional permits. Enclosed are fully-executed Contract and certified copy.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS

RACHEL M. SADOFF, CLERK

Kimberly Powell, Clerk to the Board

/sm

Encls. (2)

Subd	ivision No	20FM00011	Project Name_Melbourne Be	each Homes
		Subd	livision Infrastructure Contract	
County	HIS CONTRAC Commissioners front D&M LLC	of Brevard Cou	2021, by and the street to as "PRINCIPAL."	as "COUNTY," and
follows:	SIDERATION (		ants and promises herein contained, the p	parties hereto agree as
1.	The PRINCIP	AL agrees to constru	et the improvements described below:	
	and all other in said plat to be	mprovements depicte recorded in the Plat	(completing pavemend in subdivision number 20FM00011  Books of the Public Records of Brevard Co	A copy of
2.	specifications to as the "Wo incorporated i that the Work County's approfaults and defapproved and	on file in the Land ork"). Such plans and nto this Agreement be will conform to the roval of the Work. Plects. Work not conformathorized, may be a	Development Division (which construction specifications (hereinafter referred to as by reference and made a part hereof. Prince requirements of the Plans and other requirements of the Plans and other requirements also warrants to County that the remaining to these requirements, including successions to be defective. All defective vaccepted as provided in this paragraph 2.	n is hereinafter referred the "Plans") are hereby ipal warrants to County rements specified in the Work will be free from abstitutions not properly
•	found to be de Work, or, if it Work. If Prince any of the ren to be free from again by Prince bond given by	efective, Principal shat has been rejected by cipal does not prompinedies provided for in defects for a periocipal promptly upon y Principal in connections.	val and acceptance of the improvements ball promptly, without cost to County, either County, remove it from the site and replately comply with the terms of such instruct in paragraph 6 herein below. Corrective Wildow of six (6) months. Any defect in such Vinotice of the defect from County. In the tion with County's acceptance of the impovided for herein shall be extended for a like	or correct such defective ace it with nondefective tions, County may elect work shall be warranted work shall be corrected event the maintenance provements is extended
	construction c provided by la asserted by C	contract with the contract with equity with County on behalf of	all assigns to County all of Principal's wateractor constructing the improvements (i respect to such construction contract), we remark the event Principal fails to anties granted hereunder overlap, the more	ncluding all warranties hich warranties may be o perform its warranty
3.	The PRINCIPA	AL agrees to complet	e said construction on or before the 20	day of

- 4. In order to guarantee performance of PRINCIPAL'S obligations herein contained, PRINCIPAL shall furnish cash, letter of credit, certificate of deposit or surety bond in a form approved by the COUNTY, in the amount of \$\_224,656.26 \_\_\_\_\_ If such bond is a cash bond or a certificate of deposit, said amount shall be deposited with the Board of County Commissioners within five (5) business days of the County's acceptance of this contract. Said bond shall be 125% of the estimated cost of construction, as determined by the Land Development Division. PRINCIPAL shall maintain such records and accounts, including property, personnel, financial records, as are deemed necessary by the COUNTY to ensure proper accounting for all funds expended under the agreement. Said records shall be made available upon request for audit purposes to Brevard County and its auditors.
- 5. The COUNTY agrees to accept said plat above described for recording in the public records of Brevard County, Florida and to accept the areas depicted thereon as dedicated for public use, including but not limited to streets and parks, at such time as said improvements are satisfactorily completed. Satisfactory completion in accordance with the plans and specifications shall be determined by written approval of the County-Development Engineer or designated assistant.
- 6. In the event, PRINCIPAL fails to complete said improvements within the time prescribed, the COUNTY may elect to take all or any of the following actions:
  - A. Vacate all or part of such recorded plat where improvements have not Been completed in accordance with the plans and specifications,
  - B. Complete the improvements utilizing COUNTY employees and materials and request payment from the bond or the PRINCIPAL,
  - C. Request the surety on said performance bond to complete such improvements, or
  - D. Contract for completion of said improvements.
- 7. The PRINCIPAL and Surety on said performance bond shall be liable for all costs, expenses, and damages incurred by the COUNTY, including attorney's fees, in the event the PRINCIPAL defaults on this contract.
- 8. In the performance of this Agreement, the PRINCIPAL shall keep books, records, and accounts of all activities, related to the agreement, in compliance with generally accepted accounting procedures. Books, records and accounts related to the performance of this agreement shall be open to inspection during regular business hours by an authorized representative of the Office and shall be retained by the PRINCIPAL for a period of three years after termination of this agreement. All records, books and accounts related to the performance of this agreement shall be subject to the applicable provisions of the Florida Public Records Act, Chapter 119 of the Florida Statutes.
- 9. No reports, data, programs or other materials produced, in whole or in part for the benefit and use of the County, under this agreement shall be subject to copyright by PRINCIPAL in the United States or any other country.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written. TTEST **BOARD OF COUNTY COMMISSIONERS** OF BREVARD COUNTY, FLORIDA Rita Pritchett, Chair As approved by the Board on: April 20, 20, 21. PRINCIPAL: Daniel Winkler , as President Oceanfront D&M LLC State of: County of: The foregoing instrument was acknowledged before me this 26 day of WW who is personally known to me or who has produced as identification and who did (did not) take an oath. My commission expires: SEAL Commission Number: Notary Name printed, typed or stamped Notary Public State of Florida Carli M Frazier

Revised 12/03/2014

### SURETY PERFORMANCE BOND

Bond #41K235044

KNOW AL	L MEN E	BY THESE	PRESENTS:
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That we, _	Oceanfront D&M, LLC The Ohio Casualty Insurance Company	. hereinafter referred to
as "Owner" and, _	The Ohio Casualty Insurance Company	hereinafter referred to as
outery, are nero	i and illinia pond auto the BOAKD OF CODNIA C	OMMISSIONERS OF RREVARD
COUNTY, FLORID	A, hereinafter referred to as "County", in the sum	of \$ 224,656.26 for the
payment of which severally, firmly by	1 we bind ourselves, our heirs, executors, succes	ssors and assigns, jointly and
WHEREAS April	Owner has entered into a contract with the C 20 <u>21</u> , which contract is made a part hereof by ref	County dated the $\frac{20\text{th}}{}$ day of ference.
faithfully perform :	REFORE, the condition of this obligation is such the said contract and complete the work contemplated	therein by March 26
20 <u>23</u> , then this	obligation shall be null and void, otherwise it shall re	emain in full force and effect.
If the Owne	er shall be declared in default of said contract by th	e County, the Surety shall have
sixty (60 days fron	n the date of said default within which to take what	ever action it deems necessary
in order to Insure	performance. If, at the expiration of sixty (60) day	s from the date of said default
no arrangements	have been made by the Owner or surety satis	factory to the County for the
completion of said	contract, then the County shall have the right to	complete said contract and the

sixty (60 days from the date of said default within which to take whatever action it deems necessary in order to Insure performance. If, at the expiration of sixty (60) days from the date of said default, no arrangements have been made by the Owner or surety satisfactory to the County for the completion of said contract, then the County shall have the right to complete said contract and the Owner and Surety jointly and severally, shall pay all costs of completing said contract to the County, including but not limited to engineering, legal and other costs, together with any damages, either direct or consequential, which the County may sustain on account of the Owner's default of said contract. After the expiration of the aforesaid grace period, the County shall have the additional right to contract for the completion of said contract upon which the Owner has defaulted and upon the County's acceptance of the lowest responsible bid for the completion of said contract, the Owner and Surety shall become immediately liable for the amount of said bid and in the event the County is required to commence legal proceedings for the collection thereof, interest shall accrue at the rate of six percent (6%) per annum beginning with the commencement of such legal proceedings. The County, in its discretion, may permit the Surety to complete said contract, in the event of Owner's default.

In the event that the County commences suit for the collection of any sums due hereunder, the obligors and each of them agree to pay all costs incurred by the County, including attorney's fees.

EXECUTED this 30th day of March , 2021

19

Seal No. 3212

OWNER: Oceanfront D&M, LLC

SURETY: The Ohio Casualty Insurance Company

Cindy L. Mrisola, Attorney-in-Fact & Florida Resident Agent

INQUIRIES: (407)389-3588

Pre-approved Form reviewed for Legal form and content: 12/18/07



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company The Ohio Casualty Insurance Company West American Insurance Company

Certificate No: 8202911-964018

### **POWER OF ATTORNEY**

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casually Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Robert II Bond; Heather Bradley; Shelley Fane; Cindy L. Mirrisola; Louis G. Mitchell; Gerald K. Sihle
all of the city of Altamonte Springs state of FL each individually if there be more than one named, its true and lawful altorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.
IN WITNESS WHEREOF, this Power of Altorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this15thday ofJanuary, 2020
Liberty Mulual Insurance Company The Ohio Casualty Insurance Company West American Insurance Company West American Insurance Company West American Insurance Company By:
State of PENNSYLVANIA County of MONTGOMERY  State of PENNSYLVANIA County of MONTGOMERY
On this 15th day of Junuary, 2020 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casually Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.  IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my noterial seal at King of Prussia, Pennsylvania, on the day and year first above written.
State of PENNSYLVANIA County of MONTGOMERY  On this 15th day of Junuary . 2020 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.  IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notorial seal at King of Prussia, Pennsylvania, on the day and year first above written.  COMMONWEALTH OF PENNSYLVANIA Rotarial Sent Toursup Public Horizottons of Altorney is made and executed pursuant to and by authority of the following By-laws and Authorizottons of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:  ARTICLE IV – OFFICERS: Section 12. Power of Altorney.  Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairmen or the President may prescribe, shall appoint such altorneys in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surely any and all undertakings, bonds, recognizances and other surely obligations. Such altorneys in-fact, subject to the limitations set forth in their respective powers of altorney, shall
This Power of Altorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mulual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:
ARTICLE IV - OFFICERS: Section 12. Power of Attorney.  Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surely any and all undertakings, bonds, recognizances and other surely obligations. Such altorneys-in-fact, subject to the fimitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.  ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.
ARTICLE XIII – Execution of Contracts: Section 5. Surety Bonds and Undertakings.  Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, Leading specific processing the processing of the processing specific processing the processing specific processing the processing specific processing the processing specific processing specific processing the processing specific p

Contificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such altorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surely any and all undertakings, bonds, recognizances and other surely obligations.

Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if

Authorization – By unanimous consent of the Company's Board of Directors, the Company consents that facsimite or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surely bonds, shell be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Muluel Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by seid Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of sald Companies this 30th day of MARCH , 2021 .







By: Renne C. Hewelive, Assistant

LMS-12873 LMIC OCIC WAIC Multi Co\_12/19

signed by the president and attested by the secretary.

# MELBOURNE BEACH HOMES

A SUBDIVISION LYING IN SECTION 21 TOWNSHIP 28 SOUTH, RANGE 38 EAST, BREVARD COUNTY, FLORIDA,

# PLAT NOTES:

than, Inc. see Official Records Book \_\_\_\_\_ Page For articles or incorporation of Melbourne Beach Homes Owners

) For escinction of coverants, condutions and restrictions of Melbourne Beach Hames Owners Association, inc. see Official Access Book Annex Page and Property and Property Book Annex (Page 1975) 

 $\bullet$  All lots are subject to a private blanket willly easement dedicated to and maintained by the Malbaurne Boach Homes  $0_{\rm HI}$ 

5. All lois we subject to a private blanket drainage ecsement dedicated to and maintained by the Malsaume Beech Homos Omers Associatios, inc.

The prival access resement across upt 1 a o privale mon-acutaine exament dedicated to Malbourne Basah Name Osessi contain we and America Paur And V, US. Rater to agreement recorded in Official Records Book 1840, Page 1830's essent effectives. All tots are subject to a private blooket ingress and regress costiment for use of the common driveways and for accommon special regress. The observent is deducated to and manifoline by the Melbourne Backti Homes Owners Association, Inc.

All out dramage is private and is the responsibility of the individual tot armer and/or the Hamsawners! Association to tan

3. Each led emerg purplicating a list shown on this pical consents to the imposition of a Wuncipal Service Benefit, Unit by Secretical County or brother experience county and proper of the Veneran-ward Secretical county for carmination expenses in certification to make replacing repairing expenses premise or easy of secretical county and the common orea must be ground to Breword Cleurly prev to establishment of an WSBU.

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ont Agreement as recorded in Otticial Records Book 8637, Page 3492. Subject to Sidewalk Ass.

1), Bearings are based on the State Plant Coordinate System for the East Zone of Horinos Datum is derived from a line controllation deposite. Survey Manuments "BRDARD GPS 5022" (FPD UCB/28) and "NIT 2" (PID AK4032) being 222022"4", See Labb.

The October 6, 1881 Costal Controller Carres Lice was loan from Sarry Back 74, Pages 13 Dru 28, etc. 1956 25-447-25, on those it Sarry 1958 25, Pages 13 thrus 42 of the Pales Records of Berons County, Tonda, proposed Inter 4, 1885

The centilence of the right of way of State Road A1A was taken from the State of Florida Department of Transportation of the State of Florida Department of Transportation of Court, Florida State Road A1A Breard County recorded in Road Piak Book 1, Pages 91 – 101 of 19th public records of ord Court, Florida.

Les Kan Mares and G.71 (kelt North American Venical Datum of 1988) is based on extending tidat calum from Fonda potential of the process that the property of the potential of the Planta Department or the process of the Planta Department of the Planta Department of the Planta Department or

? National Gaudelic Survey benchmark (G-304 (PID AK40S1) is lacultan within the boundaries and/or vicinity of this plat. Please contact the Brevars County survey department to obtain vertical data on this and other plat benchmans.

refer to Brevard County, Florido unless noted otnorwisa

EPARTMENT OF TRANSPORTATION LECKNON - ABBRERNATIONS:
CCC. COSTAIR DESIGNATIONS:
CCC. COSTAIR DESIGNATION CONTROL C

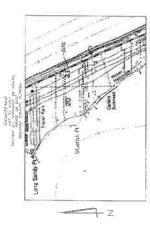
AN VERTICAL DATUM

17.4 CONCRETE MONUMENT WITH DISK STAMPED 'BRIEL 183869 PHN'

DESCRIPTIONS

A PROTON OF CONCERNADAY LOT I, SECTION 21, TOWISHIRE 28 SOUTH, RANCE 38 EAST, BREAKE COUNTY, ARRIVE STATE CONCERNADAY LOT I, SECTION 21, TOWISHIRE STATE CONCERNADAY CONCERNAD

ING 1.2153 ACRES MORE OR LESS



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BRIEL & ASSOCIATES
Land Surveyors, Inc.

Land Surveyors, Inc. Leabes 1790 Hwy, AIA, Suire 208 Sardlice Beach FL 32937 (321)773-775

9 PLAT BOOK SHEET 1

NOW ALL MEN BY THESE PRESENTS. That the Owners names below, being the owners in fee simple of the londs described. S. RANGE 36

MELONING ENCH HOMES

THE SEASON SERVICE SERVICE SERVICE SERVICE

THE SEASON SERVICE SERVICE SERVICE

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THE SEASON

Company 3055 Hwy Melbourne Beedle, 11 33444 Department 0 to 111C. mary All in man library

HED NOTICE R BRIEL

STATE OF FLOKIDA, COUNTY OF BREAMED The foregoing instrument was acknowledged before me by

A TANK BETWEEN TO THE CONTROL TO THE STATE OF THE STATE O

to withten mithies, there seems the above of the committee of the committe

The state of the s

AIA Sulle 208 th Florida 32937

CERTIFICATE OF COUNTY SURVEYOR

HEREBY CERRIPY. That I have reviewed the foregoing plot and find that it is conformly with Chapter 177, Part II. Dinds Statistics and County Ordinance 62, 2841(s)(d), as moneying

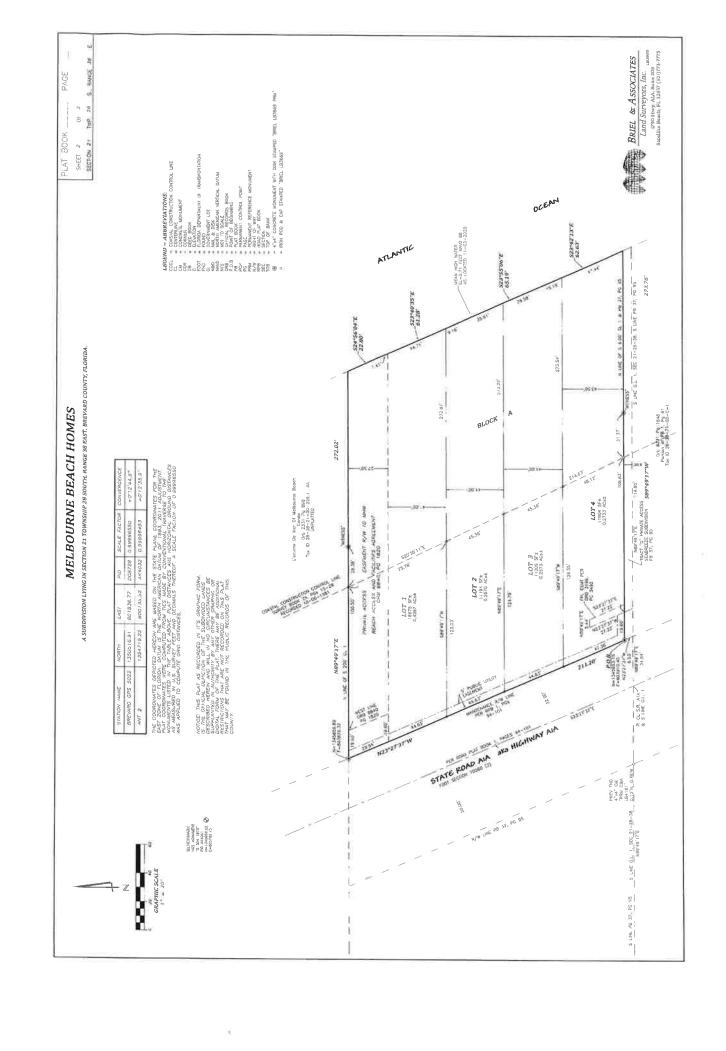
SETPICATE OF ACCEPTANCE OF DEDICATION BY BOARD OF COUNTY COMMISSIONERS Michael J. Sweency, PSM 4870 County Surviyor in and for Brevard County, Florida

THIS IS TO CERTIFY. That the Boord of County Comm Rito Pritchett, Chair

SERVINGALE OF APPROVAL BY BOARD OF COUNTY COMMISSIONERS ATIEST Clear at The Boar

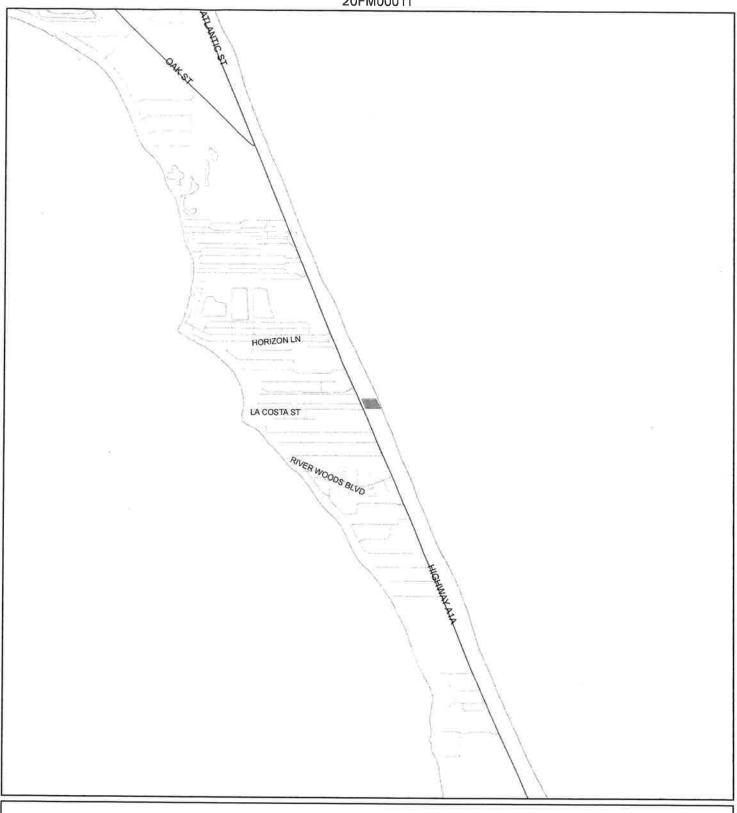
THIS IS TO CERTIFY. That on plat was approved by the Board of County Commiss Brevard County, Florido Rita Prilchett Chair 411531.

CERTIFICATE OF CLERK



## 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