

Meeting Date
July 11, 2017



AGENDA	
Section	New Business
Item No.	VI.A.1

AGENDA REPORT
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	WAIVER REQUEST OF SIDEWALK, ROADWAY WIDTH & BACKING ONTO PUBLIC ROW: FLORES DE LA COSTA DEVELOPER: ALLEN ENGINEERING, INC FISCAL IMPACT: NONE	DISTRICT 2
DEPT/OFFICE:	PLANNING & DEVELOPMENT DEPARTMENT/LAND DEVELOPMENT	

Requested Action:
 The applicant is asking for a waiver to Section:
 1. Sidewalk Waiver for Turtle Beach Lane – Section 62-2956(b)(2)
 2. Roadway Pavement Width for Turtle Beach Lane – Section 62-2956(a)(2)
 3. Backing out onto Turtle Beach Lane – Section 62-3206(c)(9)

Summary Explanation & Background:
 The developer requests a waiver of the requirement to construct a sidewalk along the east side of the property along Turtle Beach Lane, the road width of Turtle Beach Lane and backing onto Turtle Beach Lane.

Section 62-2956(b)(2) states the applicant shall provide sidewalks adjacent to the roadways on the development abuts, with a minimum width of five feet. The applicant is stating Turtle Beach Lane Right-of-Way width is non-standard with no future plans for a sidewalk. The Right-of-way is currently approved as a 12 foot alley with an eight foot easement, given to the county by the owner, to be used a fire lane totaling the alleyway width to 20 feet.

Section 62-2956(a)(2) states the minimum pavement width for local streets shall be 22 feet. The Right-of-way is currently approved as a 12 foot alley with an eight foot easement, given to the county by the owner, to be used a fire lane totaling the alleyway width to 20 feet paved road.

Section 62-3206(c)(9) states that parking an loading areas shall be designed and constructed to prevent backing vehicles directly onto a public road or right-of-way. The applicant's site design proposes to back onto Turtle Beach Lane with the driveways three townhome style condominiums.

Staff has not granted approval of this waiver request, and pursuant to Section 62-3207 of the Code, requests that it be evaluated by the Board of County Commissioners. Section 62-3207 outlines the criteria that the Board should consider (below). The applicant's response is shown in **bold** and staff observations are *italicized*:

Reference: 17SP00003; 17WV00008; 15WV00016

Contact: Rebecca Ragain, Assistant Director Ext. 5-2362

Clerk to the Board Instructions:

Exhibits Attached: Waiver request, exhibit, location maps

Contract /Agreement (If attached): Reviewed by County Attorney Yes No PR

Interim County Manager Frank Abbate	Assistant County Manager Venetta Valdengo	Department Director / Extension Tad Calkins, Director Planning and Development Department Andy Holmes, Interim Director Public Works Department
	Interim Assistant County Manager John Denninghoff	<i>Rebecca Ragain for Tad Calkins</i>

Criteria 1: The particular physical condition, 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,

1. Turtle Beach Lane Right-of-way width is non-standard with no future plans of a sidewalk therefore requesting a waiver.

Turtle Beach Lane is a 12' Alley. Owner is already giving the county an 8' easement for a 20' width, therefore requesting a waiver from 22' requirement.

3. Site configuration requires backing onto Turtle Beach Lane.

Staff finds the existing right-of-way dedication of 12 feet in width does not meet development standards for the minimum width required for access. This width for the road was approved for the phase one of this development directly to the east. Reference 15WV00016

Criteria 2: The granting of the waiver will not be injurious to the other adjacent property,

No. Requests are consistent with the existing usage along Turtle Beach Lane.

The property adjacent to the subject property to the west is developed as the Surf Side Villa condominiums and zoned RU-2-30, and built in 1962 with 9 units, The Two lots just north Surf Side belong to Turtle Beach Properties and is part of the Flores De La Costa Condominium project. The adjacent property to the north is a single family residence is zoned RU-2-15, and was built in 1982. The Lot adjacent to the east is developed as single family residence and zoned RU-2-15, and built in 1979. The property adjacent to the south across Wilson Avenue is vacant.

Criteria 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.

Requests are based on access requirements from a 12-ft alley width a non-standard right-of-way width.

Staff finds that the waiver referenced 15WV00016 grants the applicant access to Flores De La Costa Condominium adjacent to the East to utilize Turtle Beach Lane based on existing conditions. The condition existed prior to multi-family units being constructed, and the applicants actions would further increase traffic on an inadequate right-of-way. The radii at the intersecting streets to the north and south does not allow for turn movements of large trucks within the right-of-way.

Criteria 4: The waiver is consistent with the intent and purpose of the county zoning regulations, the county land use plan and the requirements of this article.

Consistent and already granted for the condominium project on Turtle Beach Lane

Staff has found that this application is not consistent with the intent of the code. The right-of-way widths and pavement standards are generally considered minimum standards and implemented to preserve and protect the public. These guidelines and standards provide a network for development, allowing sufficient flexibility to balance quality of development, safety, cost and other important community values. The applicant requests was approved under similar circumstances with the phase one portion of the Condominium project. Reference 15WV00016

Criteria 5 & 6: Delays attributed to state or federal permits & natural disasters.

None

Criteria 7: County land development engineer and affected agencies concur that undue hardship was placed on the applicant.

Staff defers to the Board of County Commissioners.



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

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

July 12, 2017

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director Attn: Rebecca Ragain

RE: Item VI.A.1., Waiver Requests for Sidewalk, Roadway Width, and Backing Onto Public Right-of-Way – Flores Del La Costa – Allen Engineering, Inc.

The Board of County Commissioners, in regular session on July 11, 2017, granted waiver request for sidewalk on Turtle Beach Lane in Section 62-2956(b)(2); granted waiver request for roadway width on Turtle Beach Lane in Section 62-2956(a)(2); and granted for backing onto public right-of-way on Turtle Beach Lane in Section 62-2956(a)(2).

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/ds

cc: Public Works Interim Director

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.

APPLICATION TYPE

- SUBDIVISION WAIVER
 UNPAVED ROAD WAIVER
 SITE PLAN WAIVER
 OTHER

Land Development Use Only

Request Date: _____ Fees \$ _____ Board Date: _____
Original Project # 17SP00003 Waiver # 17NV 00008
Coordinator Initials: _____ Reference Files: _____
County Manager/Designee approval _____

Tax Parcel Identification: Twp. 24 Rng. 37 Sec. 26 S/D CG Blk/Par 98 Lot(s)⁹ _____ (List all parcels)

Tax Account # ('s): 2435834 _____ (List all account numbers)

Project Name: Flores De La Costa Townhomes Property Owner: Turtle Beach Properties, LLC

Site Address: 326 Wilson Avenue, Cocoa Beach

ALL CORRESPONDENCE TO BE PROVIDED TO APPLICANT AT THIS ADDRESS:

Name: John Dorough Company: Turtle Beach Properties, LLC

Address: 11906 Provincial Way E-Mail johndorough@aol.com

City: Windermere State FL Zip 34786

Phone _____ Fax _____ Cell 321 332-8775

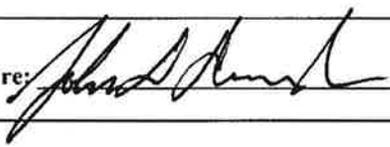
ENGINEER/CONTRACTOR (if different from applicant):

Company Name: Allen Engineering, Inc. Eng. or Proj. Mgr.: Michael S. Allen

Address: 106 Dixie Lane, Cocoa Beach, FL 32931 Ph # (321) 783-7443 Fax (321) 783-5902

DESCRIPTION OF WAIVER REQUEST AND CODE SECTION:

1. Sidewalk waiver for Turtle Beach Lane - Section 62-2956(b)(2); 2. Roadway Pavement Width for Turtle Beach Lane - Section 62-2956(a)(2); 3. Backing out onto Turtle Beach Lane - Section 62-3206(c)(9).

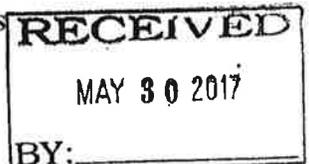
Owner/Applicant Signature:  Print Name: John D. Dorough

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.
 1. Turtle Beach Lane Right-of-way width is non-standard with no future plans of a sidewalk therefore requesting a waiver.
 2. Turtle Beach Lane is a 12' alley. Owner is already giving the County an 8' easement for a 20' width, therefore requesting waiver from 22' requirement.
 3. Site configuration requires backing onto Turtle Beach Lane.

2. The granting of the waiver will not be injurious to the other adjacent property.

No. Requests are consistent with existing usage along Turtle Beach Lane.

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.

Requests are based on access requirements from a 12-ft alley with non-standard right-of-way width.

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.

Consistent and already granted for condominium project on Turtle Beach Lane.

5. Delays attributed to state or federal permits.

None

6. Natural disasters.

None

7. County development engineer and affected agencies concur that an undue hardship was placed on the applicant. (To be filled out by County staff)

Plan Name Flores De La Costa Townhomes Site Address: 326 Wilson Avenue, Cocoa Beach

Plan No. 17SP00003 Agreement for Frontage on: Turtle Beach Lane

SIDEWALK ASSESSMENT AGREEMENT

THIS AGREEMENT made and entered into this 30th day of May, 2017 by and between Turtle Beach Properties, LLC, hereinafter referred to as "OWNER", and the Board of County Commissioners of Brevard County, hereinafter referred to as "COUNTY".

WITNESSETH :

The attached described real property and the improvements thereon situated in Brevard County, Florida and legally described as follows to wit: (attach legal description)

SEE EXHIBIT "A"

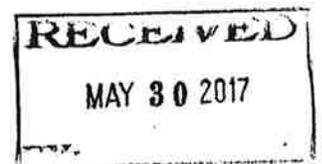
WHEREAS, the OWNER has agreed to participate in the construction of sidewalks to the extent of their pro-rata share and also waived any right to object to a future assessment for the said sidewalks, and

WHEREAS, sidewalk construction is required by the County Comprehensive Plan but is not practical at this time, and

WHEREAS, the parties hereto are desirous of placing their agreement in writing.

NOW, THEREFORE, for and in consideration of One Dollar (\$1.00) and other good and valuable considerations, the receipt whereof which is hereby acknowledged, the OWNER agrees as follows:

- 1) OWNER shall pay his pro-rata share for sidewalk improvements, according to Chapter 98 of the Code Ordinances.
- 2) The OWNER hereby agrees that if the COUNTY elects under the provisions of Chapter 170 of the Florida Statutes or Chapter 98, Code of Ordinances of Brevard County, FL, to initiate a program of special assessments against all the private property adjacent to the property described in Exhibit "A", the OWNER will consent to the application of the special assessment procedures in accordance with the provisions of Chapter 170, Florida Statutes, or Chapter 98 Code of Ordinances of Brevard County, Florida, to their property.
- 3) The OWNER however, reserves the right to apply to the Equalization Board under the provisions of Section 170.08, Florida Statutes, to request any adjustment and equalization of any assessment which would be applied against their property. The procedures of Chapter 98, Code of Ordinances of Brevard County, Florida, if applicable, may also be used by OWNER to request a modification of the amount of the assessment.



- 4) This Agreement and its covenants terms and conditions shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto and shall run with the Premises.
- 5) In the performance of this Agreement, the OWNER shall keep books, records, and account 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 OWNER 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, Florida Statutes.
- 6) 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 OWNER 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.

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

Signature of Witness

Planning & Development Department, Director

Approved on: _____

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ who is personally known to me or has produced _____ as identification and who did (did not) take an oath.

My Commission Expires:

Signature of Notary Public

Name Typed/Printed of Notary Public

Signed, Sealed and Delivered
in presence of:

[Signature]
Signature of Witness
[Signature]
Signature of Witness

[Signature]
Owner Signature
John D Dorrough
Authorized Representative
Turtle Beach Properties, LLC

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me, this 30th day of May, 2017, by John D. Dorrough who is personally known to me or has produced _____ as identification and who did (did not) take an oath.

My Commission Expires:

10/24/2019

[Signature]
Signature of Notary Public
Dale L. Cox
Name Typed/Printed of Notary Public

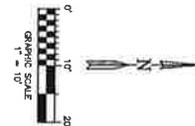
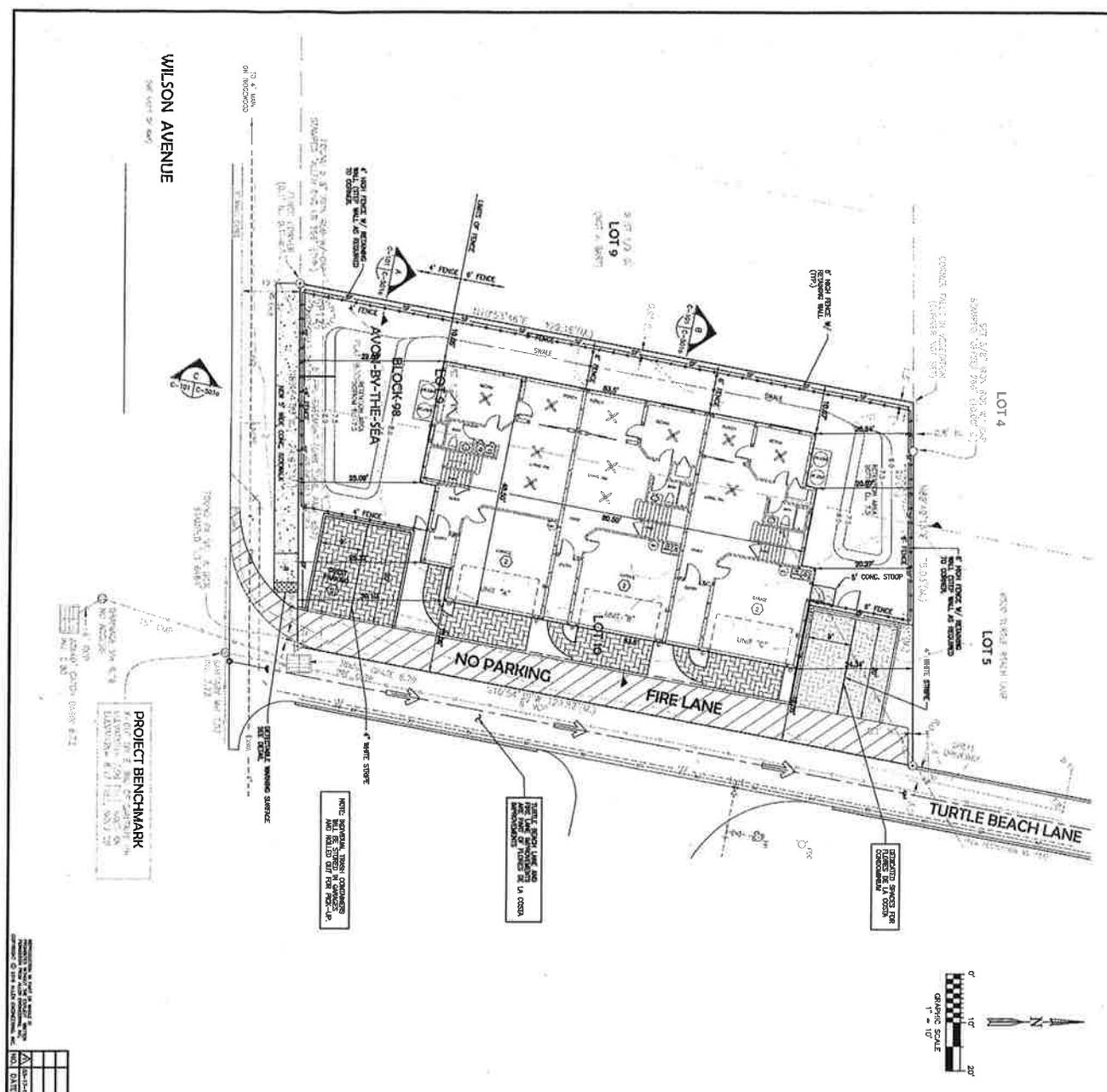


EXHIBIT "A"

Township 24 South, Range 37 East, Section 26

Further described as follows:

Lot 10 and East 1/2 of Lot 9, Block 98, AVON-BY-THE-SEA, according to the plat thereof as recorded in Plat book 3, Page 7 of the Public Records of Brevard County, Florida.



DESCRIPTION:
 This is a site plan for a residential development consisting of 20 townhome units. The units are arranged in a row along the eastern side of the property. The plan shows the building footprint, parking areas, and setbacks. The site is bounded by Wilson Avenue to the west, Turtle Beach Lane to the east, and an easement to the north. The plan also shows the location of a project benchmark and various utility lines.

SURVEYOR'S NOTES:
 1. See attached survey for details on the location of the project benchmark.
 2. The survey shows the location of the project benchmark and the location of the easement.
 3. The survey shows the location of the easement and the location of the utility lines.
 4. The survey shows the location of the utility lines and the location of the building footprint.
 5. The survey shows the location of the building footprint and the location of the parking areas.

SITE INFORMATION:
 Current Statement: 2019-08-04
 Project Name: FLORES DE LA COSTA - TOWNHOMES
 Project Address: 10000 WILSON AVENUE, SUITE 100, MIAMI, FL 33157
 Project Phone: (305) 555-1234
 Project Email: info@floresex.com
 Project Website: www.floresex.com
 Project Manager: John Doe
 Project Engineer: Jane Smith
 Project Designer: Bob Johnson
 Project Checker: Alice Brown
 Project Approver: Charlie White
 Project Date: 2019-08-04
 Project Status: In Progress

FLOOR COVERAGE

FLOOR	AREA (SQ. FT.)	PERCENTAGE
GROUND FLOOR	2,400	100%
2ND FLOOR	2,400	100%
3RD FLOOR	2,400	100%
TOTAL	7,200	100%

ABBREVIATIONS:
 A: ALLEN ENGINEERING, INC.
 B: BOUNDARY
 C: CONCRETE
 D: DRIVE
 E: EASEMENT
 F: FENCE
 G: GRASS
 H: HATCH
 I: IRON
 J: JOINT
 K: KITCHEN
 L: LANE
 M: MASONRY
 N: NORTH
 O: OPENING
 P: PARKING
 Q: QUARTERS
 R: ROAD
 S: SIGN
 T: TOWER
 U: UTILITY
 V: VENT
 W: WALL
 X: WINDOW
 Y: YARD
 Z: ZONE

LEGEND:
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NOTES:
 1. See Sheet C-101 for General Notes.
 2. See Sheet C-102 for Foundation Notes.
 3. See Sheet C-103 for Structural Notes.
 4. See Sheet C-104 for Mechanical Notes.
 5. See Sheet C-105 for Electrical Notes.
 6. See Sheet C-106 for Plumbing Notes.
 7. See Sheet C-107 for Fire Protection Notes.
 8. See Sheet C-108 for Energy Conservation Notes.
 9. See Sheet C-109 for Accessibility Notes.
 10. See Sheet C-110 for Other Notes.



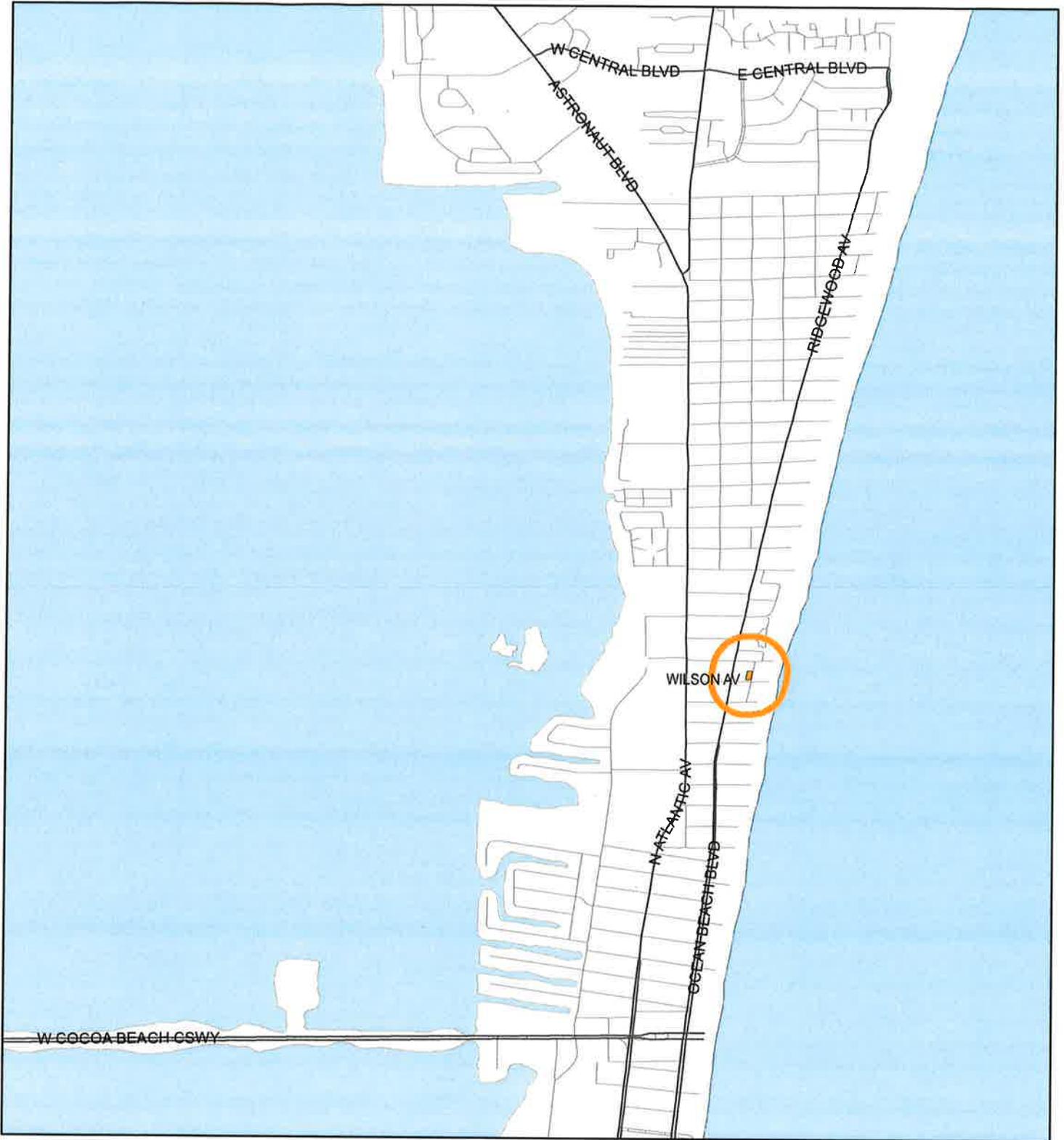
NO.	DATE	DESCRIPTION	BY
1	08/04/2019	ISSUED FOR PERMIT	JTS
2	08/04/2019	ISSUED FOR PERMIT	JTS
3	08/04/2019	ISSUED FOR PERMIT	JTS
4	08/04/2019	ISSUED FOR PERMIT	JTS
5	08/04/2019	ISSUED FOR PERMIT	JTS



TURTLE BEACH PROPERTIES, LLC
 FLORES DE LA COSTA - TOWNHOMES
 BREVARD COUNTY, FLORIDA
 ENGINEERING SITE AND STRIPING PLAN
ALLEN ENGINEERING, INC.
 1000 WILSON AVENUE, SUITE 100
 MIAMI, FLORIDA 33157
 PHONE: (305) 555-1234
 FAX: (305) 555-1235
 E-MAIL: info@floresex.com

DATE: 07-08-19
 SCALE: 1" = 10'
 SHEET NO.: 108 OF 108
 PROJECT NO.: 19000004-A
 C-101

LOCATION MAP
17WV00008
FLORES DE LA COSTA TOWNHOMES



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 the Brevard County Planning and Zoning Office - GIS Section Date: 6/15/2017