

Meeting Date
December 19, 2017



AGENDA	
Section	Consent
Item No.	<i>II. A. 5</i>

AGENDA REPORT
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Approval Re: Public Access Easement Agreement from Palm Beach of Brevard, Inc. to Brevard County, Florida Related to Site Plan # 17SP00014 – District 5. (Fiscal Impact: None)
DEPT/OFFICE:	Public Works Department / Land Acquisition Section / Parks and Recreation Department / Planning and Development Department

Requested Action:

It is requested that the Board of County Commissioners 1) approve the Public Access Easement Agreement and 2) authorize the County Manager (or designee) to accept delivery of and cause the recording of any deed, grant of easement or other instrument conveying interest in real property needed for Site Plan # 17SP00014, pursuant to BCC-24.

Summary Explanation & Background:

The subject parcel is located in Section 25, Township 27 South, Range 37 East.

Palm Beach of Brevard, Inc. wishes to develop beachfront property located at 1795 N. Highway A1A, Indialantic, known as Palm Beach Condominium, Site Plan #17SP00014. The improvements to be made to the site include a public beach access with a 5' wide concrete sidewalk and dune crossover. Brevard County Land Development Regulations 62-2105 (c) states that the owner may offer to dedicate, and the County may accept, a public access easement for pedestrian and bicycle access to the beach. The public access easement must be a minimum of 15 feet in width, with a maximum of 30 feet in width. Owner shall be granted a breezeway credit equal to twice the width of the dedicated public access. The improvements will be constructed at the sole expense of the developer and will be maintained by the developer or assigns.

Revisions to BCC-24 and AO-37, accepted by the Board of County Commissioners at their regular meeting dated July 9, 2013, allow for the Board to authorize the County Manager (or designee) to accept delivery of and cause the recording of any deed, grant of easement or other instrument conveying interest in real property to the County when the Project is currently within the approved budget.

Land Acquisition Policies and Procedures require approval and acceptance by the Board of County Commissioners for all easements.

Fiscal impact: FY 2017 – 2018: No impact
FY 2018 – 2019: No impact

Clerk to the Board Instructions:

Exhibits Attached: Copy of unexecuted Public Access Easement Agreement with Exhibit A, Location Map

Contract /Agreement (If attached): Reviewed by County Attorney		Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
County Manager Frank Abbate <i>[Signature]</i>	Assistant County Manager John P. Denninghoff <i>[Signature]</i>	Interim Assistant County Manager Jim Liesenfelt <i>[Signature]</i>		Department Director / Extension Andrew J. Holmes, PE / 57202 <i>[Signature]</i>			
				Mary Ellen Donner / 52046 <i>[Signature]</i> Tad Calkins / 52069			

BOARD OF COUNTY COMMISSIONERS

AGENDA: PUBLIC ACCESS EASEMENT AGREEMENT FROM PALM BEACH OF BREVARD, INC. (OWNER) TO BREVARD COUNTY IN CONNECTION WITH SITE PLAN #17SP00014

AGENCY: PUBLIC WORKS DEPARTMENT / LAND ACQUISITION SECTION / PARKS AND RECREATION DEPARTMENT / PLANNING AND DEVELOPMENT DEPARTMENT

AGENCY CONTACT: LUCY HAMELERS, LAND ACQUISITION SPECIALIST

CONTACT PHONE: 321-690-6847 (56316)

REVIEW

	APPROVE	DISAPPROVE	DATE
LAND ACQUISITION Dan Jones, Supervisor	<u>DPJ</u>	_____	<u>12/1/17</u>
PARKS & RECREATION Mary Ellen Donner, Director	<u>MEID</u>	_____	<u>12.4.17</u>
COUNTY ATTORNEY Matt Soss Assistant County Attorney	<u>see attached</u>	_____	<u>12/4/17</u>
PUBLIC WORKS Andrew J. Holmes, PE, Director	<u>Ally</u>	_____	<u>12/5/17</u>
PLANNING & DEVELOPMENT Tad Calkins, Director	<u>see attached</u>	_____	<u>12/4/17</u>

AGENDA DUE DATE: December 5, 2017 for the December 19, 2017 Board meeting

IF ANY REVIEWING OFFICE HAS QUESTIONS OR CONCERNS REGARDING THIS PACKAGE, PLEASE ADVISE AGENCY CONTACT IMMEDIATELY.

PLEASE CALL DEBBIE CRUZ AT 690-6847 (5-6847) WHEN READY TO BE PICKED UP.

THANK YOU.

BOARD OF COUNTY COMMISSIONERS

AGENDA: PUBLIC ACCESS EASEMENT AGREEMENT FROM PALM BEACH OF BREVARD, INC. (OWNER) TO BREVARD COUNTY IN CONNECTION WITH SITE PLAN #17SP00014

AGENCY: PUBLIC WORKS DEPARTMENT / LAND ACQUISITION SECTION / PARKS AND RECREATION DEPARTMENT / PLANNING AND DEVELOPMENT DEPARTMENT

AGENCY CONTACT: LUCY HAMELERS, LAND ACQUISITION SPECIALIST

CONTACT PHONE: 321-690-6847 (56316)

REVIEW

	APPROVE	DISAPPROVE	DATE
LAND ACQUISITION Dan Jones, Supervisor	<u><i>DJ</i></u>	_____	<u>12/1/17</u>
PARKS & RECREATION Mary Ellen Donner, Director	_____	_____	_____
COUNTY ATTORNEY Matt Soss Assistant County Attorney	_____	_____	_____
PUBLIC WORKS Andrew J. Holmes, PE, Director	<u><i>Alh</i></u>	_____	<u>12/5/17</u>
PLANNING & DEVELOPMENT Tad Calkins, Director	<u><i>HC</i></u>	_____	<u>12/4/17</u>

AGENDA DUE DATE: December 5, 2017 for the December 19, 2017 Board meeting

IF ANY REVIEWING OFFICE HAS QUESTIONS OR CONCERNS REGARDING THIS PACKAGE, PLEASE ADVISE AGENCY CONTACT IMMEDIATELY.

PLEASE CALL DEBBIE CRUZ AT 690-6847 (5-6847) WHEN READY TO BE PICKED UP.

THANK YOU.

BOARD OF COUNTY COMMISSIONERS

AGENDA: PUBLIC ACCESS EASEMENT AGREEMENT FROM PALM BEACH OF BREVARD, INC. (OWNER) TO BREVARD COUNTY IN CONNECTION WITH SITE PLAN #17SP00014

AGENCY: PUBLIC WORKS DEPARTMENT / LAND ACQUISITION SECTION / PARKS AND RECREATION DEPARTMENT / PLANNING AND DEVELOPMENT DEPARTMENT

AGENCY CONTACT: LUCY HAMELERS, LAND ACQUISITION SPECIALIST

CONTACT PHONE: 321-690-6847 (56316)

REVIEW

	APPROVE	DISAPPROVE	DATE
LAND ACQUISITION Dan Jones, Supervisor	<u>DPJ</u>	_____	<u>12/11/17</u>
PARKS & RECREATION Mary Ellen Donner, Director	_____	_____	_____
COUNTY ATTORNEY Matt Soss Assistant County Attorney	<u>MDS</u>	_____	<u>12/11/17</u>
PUBLIC WORKS Andrew J. Holmes, PE, Director	_____	_____	_____
PLANNING & DEVELOPMENT Tad Calkins, Director	_____	_____	_____

AGENDA DUE DATE: December 5, 2017 for the December 19, 2017 Board meeting

IF ANY REVIEWING OFFICE HAS QUESTIONS OR CONCERNS REGARDING THIS PACKAGE, PLEASE ADVISE AGENCY CONTACT IMMEDIATELY.

PLEASE CALL DEBBIE CRUZ AT 690-6847 (5-6847) WHEN READY TO BE PICKED UP.

THANK YOU.



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

December 20, 2017

M E M O R A N D U M

TO: Andrew Holmes, Public Works Director

RE: Item II.A.5., Public Access Easement Agreement from Palm Beach of Brevard, Inc. for Site Plan #17SP00014

The Board of County Commissioners, in regular session on December 19, 2017, executed the Public Access Agreement; and authorized the County Manager or designee to accept delivery of and cause the recording of any deed, grant of easement or other instrument conveying interest in real property needed for Site Plan #17SP00014, pursuant to BCC-24. Enclosed are two executed copies of the Agreement.

Upon execution by Palm Beach of Brevard, Inc, please forward a fully executed copy to this office for inclusion in the official minutes.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/cmw

Encls. (2)

cc: Parks and Recreation Director
Planning and Development Director
Budget
Finance

PUBLIC ACCESS EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT ("Easement") made this 19____ day of December 2017, between Palm Beach of Brevard, Inc., a Florida corporation, whose address is 1684 W. Hibiscus Blvd., Melbourne, Florida 32901, as the grantor ("Grantor"), and BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida, 2725 Judge Fran Jamieson Way, Viera, Florida 32940 as the grantee, for the use and benefit of BREVARD COUNTY, FLORIDA ("Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner in fee simple of the property further described in Exhibit "A", which is attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, Grantor desires to provide a perpetual easement commencing on the above date, for the sole purpose of Public Beach Access and other allied uses which shall be construed so as not to enlarge the use, scope or purpose of the Easement; and

WHEREAS, Grantor and its successors and assigns shall construct and maintain improvements to the Property for the benefit of the public; and

WHEREAS, Grantee desires to accept this Easement in order to provide for public beach access;

NOW, THEREFORE, in consideration of the sum of \$10.00 and other good and valuable consideration, paid to Grantor by the Grantee, the receipt whereof is hereby acknowledged, the parties hereto agree as follows:

1. **RECITALS.** The foregoing recitals are true and correct and are incorporated herein by reference.
2. **EASEMENT.** Grantor hereby establishes and creates for the benefit of the Grantee, its occupants, invitees, employees, visitors, and guests, a nonexclusive perpetual easement, as shown

on attached Exhibit "A", for pedestrian access over, under, across and within that certain portion of the Property for use by Grantee, its occupants, invitees, employees, visitors, and guests so as to provide and facilitate access to, from, and across the Property, pursuant to the terms and conditions set forth herein.

3. **IMPROVEMENTS TO THE PROPERTY.** As a condition of this Easement, Grantor shall construct and maintain improvements consisting of a 5-foot wide concrete public beach access walkway, dune crossover and a Public Beach Access Sign (to be posted near Highway A1A as shown in the County-approved site plan), the improvements are hereinafter referred to collectively as the ("Improvements"). Nothing herein shall be construed as creating an obligation upon Grantee to perform any act of construction or maintenance upon said Property. Grantor and its successors and assigns shall be solely responsible for the maintenance, or in the case of destruction, replacement, of the Improvements, which said Improvements shall be maintained and replaced, as needed, by Grantor at no cost to the County.

4. **INDEMNIFICATION.** Grantor agrees to indemnify and hold harmless Grantee from and against any and all claims, actions, causes of action, loss, damage, injury, liability, costs, or expenses (including attorney's fees) attributable to its negligent acts or omissions or those of its officials and employees acting within the scope of their employment or arising out of or resulting from the indemnifying party's negligent performance under this Easement. The foregoing shall not constitute an agreement by either party to assume any liability for the acts, omissions, or negligence of the other party.

5. **NO PARTNERSHIP.** Nothing in this Easement shall be construed to make the parties partners or joint ventures or render either of them liable for the debts or obligations of the other.

6. **NOTICES.** All notices required or contemplated by this Easement will be in writing and will be delivered in person, overnight courier, or by United State certified mail, return receipt

requested, addressed to the party to whom such notice is directed at the addresses set forth in the first paragraph of this Easement. By giving at least five (5) days prior written notice to the other party, any party to this Easement may change its address as set forth herein. Notice shall be deemed given when sent.

7. **GOVERNING LAW AND VENUE.** This Easement shall be construed and enforced in accordance with the laws of the State of Florida, without regard to principles or conflicts of laws thereof. The exclusive jurisdiction and venue for any action or dispute arising hereunder shall lie in the appropriate court having jurisdiction in Brevard County, Florida. Grantor and Grantee hereby irrevocably consent to such exclusive jurisdiction and venue.

8. **COVENANTS RUNNING WITH THE PROPERTY.** This Easement shall be binding, and shall inure to the burden and benefit of the parties, their heirs, representatives, successors, and assigns, and shall be a covenant running with the Property.

9. **RECORDATION OF AGREEMENT.** The parties hereto agree that this Easement shall be recorded in the Official Records of Brevard County, Florida, at Grantee's expense, within ten (10) business days after the Effective Date of this Agreement.

10. **SEVERABILITY.** If any term or provision of this Easement or the application thereof to any person or circumstance shall, to any extent, be invalid and unenforceable, the remainder of the Easement or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby and each term or provision of this Easement shall be enforced to the fullest extent permitted by law.

11. **ENTIRE AGREEMENT.** This Easement sets forth the entire understanding between the parties with respect to the matters contained herein.

12. **COUNTERPARTS.** This Easement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same document.

TO HAVE AND TO HOLD said Easement unto the County of Brevard and to its successors and assigns.

AND, the said Grantor does hereby fully warrant the title to said Easement, and will defend the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the Grantor and Grantee having set their hand and seal this, the day and year first above written.

Signed, Sealed and Delivered
In the Presence of:

WITNESSES:

**PALM BEACH OF BREVARD, INC.,
a Florida corporation**

Print Name:

BY: _____
William Braselton, President

(Corporate Seal)

Print Name:

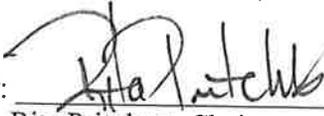
STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by William Braselton, President of Palm Beach of Brevard, Inc., a Florida corporation, on behalf of the corporation, who is personally known to me or has produced _____ as identification.

NOTARY PUBLIC
My commission expires: _____

ATTEST


Scott Ellis, Clerk of Court

**BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA**
By: 

Rita Pritchett, Chair

As approved by the Board on 12/19/17.

LEGAL DESCRIPTION

EXHIBIT "A"

PARCEL 801

SHEET 1 OF 2

NOT VALID WITHOUT SHEETS 1-2

THIS IS NOT A SURVEY

PARENT PARCEL ID#: 27-37-25-EV-*--1
SECTION 25, TOWNSHIP 27 SOUTH, RANGE 37 EAST, AND
SECTION 30, TOWNSHIP 27 SOUTH, RANGE 38 EAST, BREVARD COUNTY, FLORIDA
PURPOSE: BEACH ACCESS EASEMENT

LEGAL DESCRIPTION: PARCEL 801 (PREPARED BY SURVEYOR)

DESCRIPTION:

THE SOUTH 20 FEET OF LOT 2, GRIFFITH'S OCEAN VILLAGE SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 10, PAGE 39A, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA. LYING S ECTION 25, TOWNSHIP 27 SOUTH, RANGE 37 EAST, AND SECTION 30, TOWNSHIP 27 SOUTH, RANGE 38 EAST, BREVARD COUNTY, FLORIDA.
CONTAINING 0.21 ACRES (9,130 SQUARE FEET) MORE OR LESS.

SURVEYORS NOTES:

1. THIS SKETCH AND DRAWING HAVE BEEN PREPARED TO CONFORM WITH APPLICABLE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.
2. THIS SKETCH IS FOR THE SOLE BENEFIT OF THE PARTIES NAMED HEREON AND FOR THE SPECIFIC PURPOSE NOTED, AND SHOULD NOT BE RELIED UPON BY ANY OTHER ENTITY, AND IS NOT TRANSFERABLE UNDER ANY CIRCUMSTANCES.
3. THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF THE FLORIDA LICENSED SURVEYOR, AND REPRODUCTION OF THIS DRAWING WITHOUT WRITTEN PERMISSION OF THE SURVEYOR IS HEREBY FORBIDDEN.
4. THIS SKETCH WAS PREPARED WITH THE BENEFIT OF OWNERSHIP AND ENCUMBRANCE REPORT PREPARED BY FIRST AMERICAN TITLE INSURANCE COMPANY, FILE NUMBER/COMMITMENT NO, 2037-3708957, DATED JULY 13, 2017. NO ENCUBERANCE SHOWN.
6. THIS SKETCH WAS PREPARED FROM INFORMATION FURNISHED TO THE SURVEYOR BY THE CLIENT, AND MAY BE SUBJECT TO EASEMENTS OR LIMITATIONS EITHER RECORDED OR IMPLIED.
7. EASEMENTS RECORDED IN ORB 1823, PAGE 0207 AND ORB 7020, PAGE 0931 WERE NOT LISTED IN THE OWNERSHIP AND ENCUMBRANCE REPORT LISTED PER NOTE 4 ABOVE BUT WERE KNOW TO THE SURVEYOR AND ARE SHOWN ON SHEET 2.
8. BEARINGS ARE BASED ON A ASSUMED BEARING OF NORTH 16°39'38" WEST FOR THE EAST RIGHT OF WAY LINE OF STATE ROAD A-1-A, SHOWN AS BEING THE BASIS OF BEARINGS. THE BEARING STRUCTURE AS DEPICTED ON THE PLAT HAS BEEN ROTATED TO THE STATE PLANE COORDINATE SYSTEM WHICH SUPPORTS THE COASTAL CONSTRUCTION CONTROL LINE.
9. OFFICIAL RECORDS BOOK 1823, PAGE 207 AND OFFICIAL RECORDS BOOK 7020, PAGE 931 ARE SHOWN ON PAGE 2.
10. THE MEAN HIGH WATER LINE AS SHOWN IS RECORDED IN THE REPOSITORY OF THE FLORIDA DEPARTMENT OF ENVIROMENTAL PROTECTION, MEAN HIGH WATER FILE #6229.

PREPARED FOR AND CERTIFIED TO:
BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS


DANIEL D. GARNER, PSM 6189
PROFESSIONAL SURVEYOR & MAPPER

PREPARED BY: **AAL LAND SURVEYING SERVICES, INC.**
3970 MINTON ROAD, WEST MELBOURNE, FL 32904
PHONE: (321)768-8110 FAX: (321)952-9771 EMAIL: frontdesk@aalsurvey.com

LICENSE BUSINESS #6623

SECTION 25,
TOWNSHIP 27 SOUTH,
RANGE 37 EAST AND
SECTION 30,
TOWNSHIP 27 SOUTH,
RANGE 38 EAST

DRAWN BY:
DANIEL D. GARNER

CHECKED BY:
ANDREW W. POWSHOK

REVISION: _____

REVISION: COUNTY COMMENTS 07-24-17

DATE: 10-04-16

PROJECT #36188-20BC

REVISION: COUNTY COMMENTS 07-19-17

SKETCH OF DESCRIPTION

EXHIBIT "A"

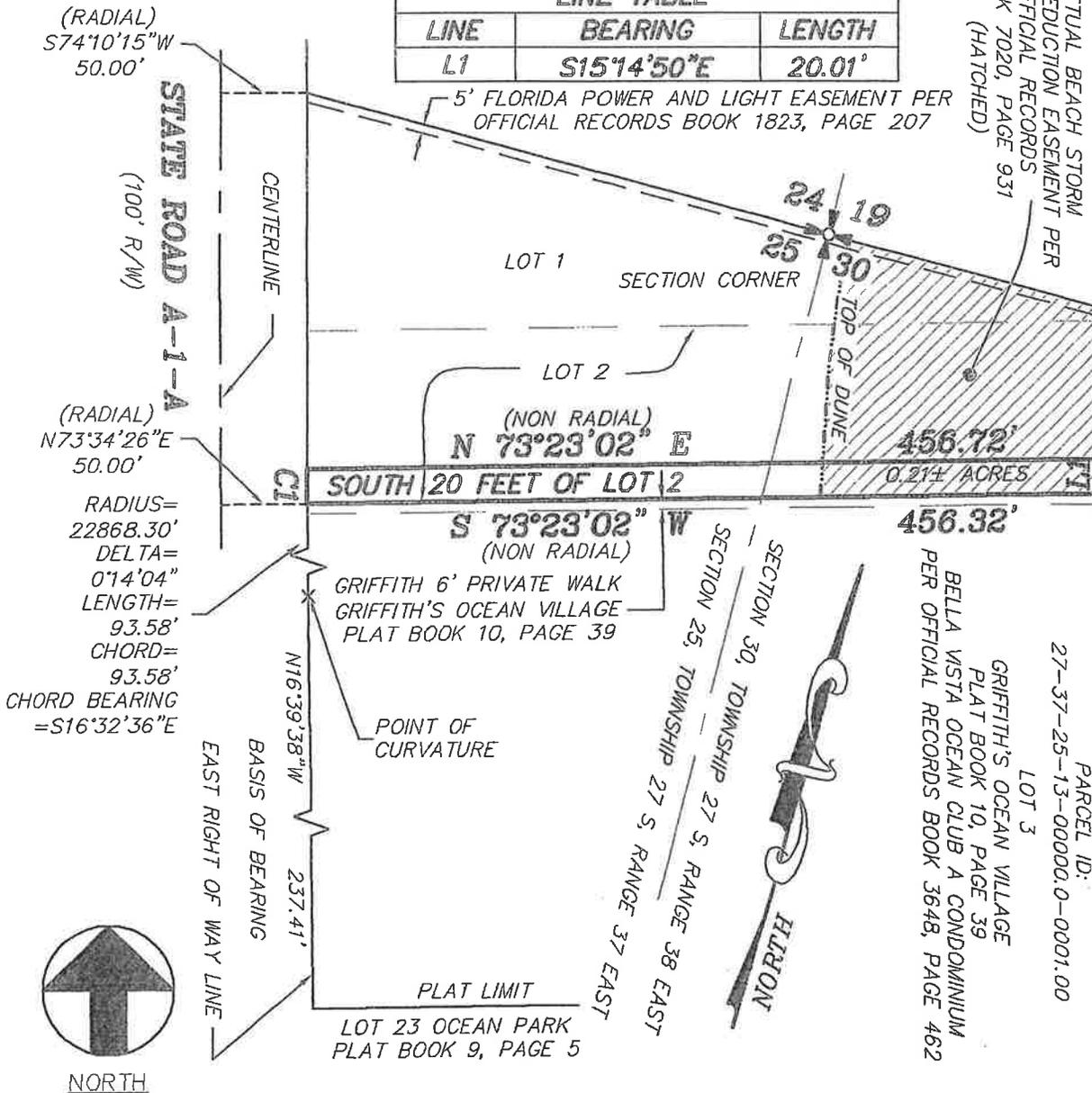
PARCEL 801

SHEET 2 OF 2
 NOT VALID WITHOUT SHEETS 1-2
THIS IS NOT A SURVEY

PARENT PARCEL ID#: 27-37-25-EV-*-1
 SECTION 25, TOWNSHIP 27 SOUTH, RANGE 37 EAST, AND
 SECTION 30, TOWNSHIP 27 SOUTH, RANGE 38 EAST, BREVARD COUNTY, FLORIDA
 PURPOSE: BEACH ACCESS EASEMENT

CURVE TABLE					
CURVE	RADIUS	LENGTH	DELTA	CHORD	CHORD BEARING
C1	22868.30'	20.00'	0°03'00"	20.00'	N16°24'04"W

LINE TABLE		
LINE	BEARING	LENGTH
L1	S15°14'50"E	20.01'



ATLANTIC OCEAN
 MEAN HIGH WATER LINE EL. 0.74' (NAVD 1988)
 AS LOCATED 08-16-18

PERPETUAL BEACH STORM
 DAMAGE REDUCTION EASEMENT PER
 OFFICIAL RECORDS
 BOOK 7020, PAGE 931
 (HATCHED)

PARCEL ID:
 27-37-25-13-00000.0-0001.00

LOT 3
 GRIFFITH'S OCEAN VILLAGE
 PLAT BOOK 10, PAGE 39
 BELLA VISTA OCEAN CLUB A CONDOMINIUM
 PER OFFICIAL RECORDS BOOK 3648, PAGE 462

PREPARED BY: **AAL LAND SURVEYING SERVICES, INC.**
 3970 MINTON ROAD, WEST MELBOURNE, FL 32904
 PHONE: (321)768-8110 FAX: (321)952-9771 EMAIL: frontdesk@aalsurvey.com

LICENSE BUSINESS #6623

SECTION 25,
 TOWNSHIP 27 SOUTH,
 RANGE 37 EAST AND
 SECTION 30,
 TOWNSHIP 27 SOUTH,
 RANGE 38 EAST

SCALE: 1"=100'
 PROJECT #36188-20BC

REVISION: _____
 REVISION: COUNTY COMMENTS 07-24-17
 REVISION: COUNTY COMMENTS 07-19-17

PARCEL NAME: BEACH ACCESS EASEMENT

NORTH: 1374223.1716 EAST : 793530.5086
LINE COURSE: N 73-23-02 E LENGTH: 456.72
NORTH: 1374353.7742 EAST : 793968.1570
LINE COURSE: S 15-14-50 E LENGTH: 20.01
NORTH: 1374334.4686 EAST : 793973.4193
LINE COURSE: S 73-23-02 W LENGTH: 456.32
NORTH: 1374203.9803 EAST : 793536.1542
CURVE LENGTH: 19.96 RADIUS: 22868.30
DELTA: 0-03-00 TANGENT: 10.00
CHORD: 19.96 COURSE: N 16-24-04 W
COURSE IN: N 73-34-26 E COURSE OUT: S 73-37-26 W
RP NORTH: 1380670.6464 EAST : 815471.0892
END NORTH: 1374223.1246 EAST : 793530.5193
LINE COURSE: S 70-49-16 W LENGTH: 0.00
NORTH: 1374223.1246 EAST : 793530.5193

PERIMETER: 953.05 AREA: 9,130 SQ. FT. 0.21 ACRES

MAPCHECK CLOSURE - (USES LISTED COURSES, RADII, AND DELTAS)
ERROR CLOSURE: 0.0482 COURSE: S 12-52-42 E
ERROR NORTH: -0.04696 EAST : 0.01074
PRECISION 1: 19,771.99

LOCATION MAP

SEC: 25 TWP: 27 S RNG: 37 E DISTRICT: 5

STREET NAME: N Highway A1A

OWNER'S NAME: Palm Beach of Brevard, Inc.

