

**TOWN OF OCEAN BREEZE  
REGULAR TOWN COUNCIL MEETING  
AGENDA**

November 9, 2020, 10:30 am  
Ocean Breeze Resort Clubhouse Pineapple Bay Room  
700 NE Seabreeze Way, Ocean Breeze, FL

***PLEASE TURN OFF CELL PHONES –  
SPEAK DIRECTLY INTO MICROPHONE***

- 1. Call to Order, President De Angeles**
  - Pledge of Allegiance
  - Roll Call
- 2. Approval of Minutes** – Regular Meeting, Monday, October 12, 2020 (Motion, second, all in favor)
- 3. Announcement of Election Results** – Town Clerk, Pam Orr
- 4. Oath of Office** – Rick Crary, Town Attorney
  - Karen Ostrand, Mayor
  - Richard Gerold, Council Member
  - Terry Locatis, Council Member
  - David Wagner, Council Member
- 5. Selection of Council President and Vice President; and Review of Board and Agency Memberships**
- 6. Budget to Actual** – Kim Stanton, Bookkeeper
- 7. Council Determination on Whether to Accept the Seawalk Developer's Donation of Parcel "A" under the Ocean Breeze West Planned Unit Development (PUD) Agreement**  
(Motion, second, public comment, roll call vote)
- 8. Discussion of Changing Time of Regular Town Council Meetings** – Kevin Docherty
- 9. Proclamation Commemorating the 60<sup>th</sup> Anniversary of the Town of Ocean Breeze, Florida** – Mayor Ostrand
- 10. Comments from the public on topics not on the Agenda**
- 11. Comments from the Council on topics not on the Agenda**
- 12. Comments from Town Management Consultant Terry O'Neil**
- 13. Comments from Mayor Ostrand**
- 14. Announcements** – Regular Town Council Meeting – Monday, December 14, 2020 at 10:30 am to be held at Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze
- 15. Adjourn** (Motion, second, all in favor)

TOWN OF OCEAN BREEZE  
MINUTES REGULAR TOWN COUNCIL MEETING  
Monday, October 12, 2020, 10:30 a.m.  
Ocean Breeze Resort Clubhouse, Pineapple Bay Room  
700 NE Seabreeze Way, Ocean Breeze, FL

**1. Call to Order** – President De Angeles called the meeting to order at 10:30 a.m.

- Pledge of Allegiance – Mayor Ostrand led the Pledge of Allegiance
- Roll Call – Mayor Karen M. Ostrand, President Kenneth De Angeles, Vice-President Richard Gerold, Council Members Bill Arnold, Kevin Docherty, Terry Locatis and David Wagner
- Staff Present – Town Management Consultant, Terry O’Neil; Town Attorney, Rick Crary, Town Clerk, Pam Orr; and Bookkeeper/Clerical Assistant, Kim Stanton

**2. Approval of Minutes** – Council Member Locatis, seconded by Council Member Arnold, made a Motion to approve the Minutes of the September 14, 2020, September 16, 2020 and September 23, 2020 meetings with a correction to the September 23, 2020 Final Budget Hearing.

President De Angeles asked for any other comments, corrections or deletions.

There were none.

President De Angeles asked for public comments.

There were none.

All in Favor: Yes: De Angeles, Gerold, Arnold, Docherty, Locatis & Wagner; No: None; Motion Passed - 6 - 0

**3. Comments from the public on topics not on the Agenda** –President De Angeles asked for public comment on topics not on the Agenda.

There were none.

**4. Comments from the Council on topics not on the Agenda** – Council Member Locatis asked for an update regarding West End Boulevard.

President De Angeles stated that there was no update.

President De Angeles asked for further comments from the Council.

There were none.

**5. Comments from Town Management Consultant – Terry O’Neil** – Mr. O’Neil stated that he, as well as the Mayor, were prepared to provide an update on West End Boulevard.

**6. Comments from Mayor Ostrand** – Mayor Ostrand asked if Council Member Docherty had any further information on the census.

Council Member Docherty stated that after looking into it further with Mr. O'Neil, it was decided that the participation rate was in the high eighties or low nineties.

Mayor Ostrand announced that at the MPO meeting Martin County would be discussing long term plans. The meeting was to be held at the Blake Library, on October 19, 2020 at 9:00 a.m. and she spoke about the importance of attending.

President De Angeles stated that he was on that committee and that he would attend.

Mayor Ostrand emphasized that this meeting was open to the public.

Mayor Ostrand gave an update and discussed details on the Town's 60<sup>th</sup> Anniversary celebration.

Council Member Locatis, seconded by Council Member Arnold, made a Motion to approve the Proclamation regarding the Town's 60<sup>th</sup> Anniversary.

All in Favor: Yes: De Angeles, Gerold, Arnold, Docherty, Locatis, Wagner; No: None: Motion Passed - 6 - 0

President De Angeles asked for questions from the public.

Mayor Ostrand announced the Blood Drive to be held on Saturday, November 7, 2020, which would include covid-19 testing, and that the Bus would be parked in lot #618. She stated that Sun Communities was partnering with the Town and that flyers and emails would be sent. She continued that the Blood Drive was by appointment only and expounded on the safety measures to be taken.

Mayor Ostrand stated that she was on the Land and Economic Development committee for legislation and that she would be attending legislative committee meetings in Orlando through the Florida League of Cities. She asked for any requests for new legislation.

Deidre Henry asked about West End Boulevard.

Mr. O'Neil gave a brief history about Martin County working with the railroad to change the traffic direction on West End Boulevard to a one-way traffic movement. He stated that this impacted the Town, particularly the residents of the Resort. He spoke about a letter sent to Martin County asking them to provide impacts to changing West End Boulevard to either one-way north or one-way south. He described a letter from Martin County in which certain questions by the Mayor and Town Council were not clearly answered. He commented that the Town had reiterated to the County that an analysis was in order, especially relating to the impacted residents, to give them an opportunity to weigh-in on the decision.

Deidre Henry asked about the ownership and location of the Whistle Stop apartments along West End Boulevard.

Mr. O'Neil replied that those locations were located within the unincorporated area of Martin County. He stated that he believed the County was leaning toward southbound traffic movement along West End Boulevard outside of the Town boundaries.

**7. Announcements** – Council Member De Angeles announced the Regular Town Council meeting to be held at Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze, at 10:30 am on Monday, November 9, 2020.

**8. Adjourn** – Council Member Arnold, seconded by Council Member Wagner, made a motion to adjourn the meeting at 11:02 a.m.

Ann Kagdis, resident of Ocean Breeze Resort, stated that she had attended the CAC meeting and gave a verbal report about public buses along Jensen Beach Boulevard. She stated that she believed the FEC decision making with Martin County was complete as far as West End Boulevard but that they did not involve the small businesses. She added that the NAC, CRA and Jensen Beach Chamber of Commerce were also working on the issue.

Ms. Kagdis commented that she believed it was important for at least one member of the Town Council attend the Jensen Beach Chamber events.

Janet Galante, resident of Ocean Breeze Resort, stated that this was the first time she was hearing about the new traffic pattern along West End Boulevard. She suggested a petition within the community to Martin County.

All in Favor: Yes: De Angeles, Gerold, Arnold, Docherty, Locatis, Wagner: No: None: Motion Passed - 6 - 0

Respectfully Submitted,

*Pam Orr*  
Town Clerk

Minutes approved: \_\_\_\_\_





Item #3

# CERTIFICATE OF ELECTION

State of Florida  
County of Martin

Office of Town Clerk  
Acting as Supervisor of Elections

August 25, 2020

This is to certify that:

Karen M. Ostrand

was elected Mayor, and,

Richard Gerold

Terry L. Locatis

David J. Wagner

were elected Council Members in and for the Town of Ocean Breeze, Martin County, Florida, having not been opposed during said Election for the two-year seats, as shown by the qualifying documents on file in my office.

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Town Clerk acting as  
Supervisor of Elections  
Town of Ocean Breeze

 **COPY**



## TOWN OF OCEAN BREEZE OATH OF OFFICE

STATE OF FLORIDA  
COUNTY OF MARTIN

"I do solemnly swear (or affirm) that I will support, honor, protect and defend the Constitution and Government of the United States of America and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State and under the Charter of the Town of Ocean Breeze; and that I will faithfully perform the duties of the Town Council to the best of my abilities, so help me God."

\_\_\_\_\_  
(MAYOR)

STATE OF FLORIDA  
COUNTY OF MARTIN

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_ A.D., personally appeared before me \_\_\_\_\_, personally  
known by me \_\_\_\_\_ or produced driver's license or passport  
# \_\_\_\_\_.

\_\_\_\_\_  
Notary



## TOWN OF OCEAN BREEZE

### OATH OF OFFICE

STATE OF FLORIDA  
COUNTY OF MARTIN

"I do solemnly swear (or affirm) that I will support, honor, protect and defend the Constitution and Government of the United States of America and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State and under the Charter of the Town of Ocean Breeze; and that I will faithfully perform the duties of the Town Council to the best of my abilities, so help me God."

\_\_\_\_\_  
(COUNCIL MEMBER)

STATE OF FLORIDA  
COUNTY OF MARTIN

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_ A.D., personally appeared before me \_\_\_\_\_, personally  
known by me \_\_\_\_\_ or produced driver's license or passport  
# \_\_\_\_\_.

\_\_\_\_\_  
Notary



## MEMORANDUM

TO: Town Council and Mayor  
FROM: Pam Orr, Town Clerk  
DATE: November 9, 2020  
RE: Annual Election of President and Vice President

After "Oath of Office" on your Agenda, you will need to elect a President and Vice President.

### ANNUAL ELECTION OF PRESIDENT AND VICE PRESIDENT

#### Election of President:

1. The current President asks for nominations for the office of President.
2. The current President asks if there are any other nominations.
3. The current President asks for a Motion to close the nominations.
4. The current President asks for "all in favor" of closing nominations.

#### Election of Vice President:

1. The new President asks for nominations for the office of Vice President.
2. The new President asks if there are any other nominations.
3. The new President asks for a Motion to close the nominations.
4. The new President asks for "all in favor" of closing nominations.

Council/Mayor Board Appointments and Liaison Activities  
as of November 9, 2020

Organization	Appointee(s)
1 Florida League of Cities (FLC)	Mayor and Council Members participate on their own initiative
2 Florida League of Mayors (FLM)	Mayor Ostrand
3 Treasure Coast Regional League of Cities (TCRLC)	Mayor Ostrand (Council Member Arnold is the alternate)
4 Treasure Coast Regional League of Cities Advocacy Team (TCRLCAT)	Council Member Wagner (President or Vice-President to fill-in as needed)
5 Treasure Coast Council of Local Governments	Council Member Arnold (primary member); Council Member Docherty (alternate member)
6 Local Legislative Delegation	Mayor Ostrand, designated liaison
7 Martin Metropolitan Planning Organization Technical Advisory Committee (TAC)	President De Angeles
8 Martin Metropolitan Planning Organization Bicycle and Pedestrian Advisory Committee (BPAC)	Council Member Docherty
9 Martin County Complete Count Committee (CCC)	Mayor Ostrand, Council Member Docherty served as alternate; committee has been dissolved due to end of census process
10 Martin County/Jensen Beach Community Redevelopment Area (CRA) Neighborhood Advisory Committee (NAC)	Vice-President Gerold (liaison)
11 Jensen Beach Chamber of Commerce (JBCC)	Mayor and Council Members participate on their own initiative
12 Invitations to official events, ribbon cuttings, State of the County Speech, etc.	Mayor and Council Members participate on their own initiative

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## Memorandum

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TO: OCEAN BREEZE TOWN COUNCIL

FROM: HOLLY VATH, FINANCIAL CONSULTANT

SUBJECT: 2020 BUDGET

DATE: NOVEMBER 2, 2020

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Attached is the unaudited financial report for fiscal year 2020. The unaudited Profit and Loss statement increases the fund balance by \$74,035.16.

The 2020 expenses remained within the amended 2020 budget. As such, no additional budget amendment is needed for the 2020 budget. The Town Council and staff continuously monitor the budget to ensure budgetary compliance.

**Town of Ocean Breeze General Fund**  
**Profit & Loss Budget vs. Actual**  
**October 2019 through September 2020**

	Oct '19 - Sep 20	Budget	\$ Over Budget
<b>Ordinary Income/Expense</b>			
<b>Income</b>			
6001 • Taxes from other Governments			
312300 • State Fuel Tax	4,154.30	5,000.00	-845.70
312410 • Local Option Gas Tax	3,451.40	2,500.00	951.40
312420 • New Local Option Gas Tax	2,534.25	2,500.00	34.25
314200 • Local Communications Svc Tax	5,275.04	6,500.00	-1,224.96
335120 • State Revenue Sharing	14,196.16	13,800.00	396.16
335140 • Mobile Home Tags	2,151.24	1,600.00	551.24
335150 • Alcoholic Beverage Licenses	2,153.53	1,450.00	703.53
335180 • 1/2 Cent Sales Tax	19,148.47	15,000.00	4,148.47
<b>Total 6001 • Taxes from other Governments</b>	<b>53,064.39</b>	<b>48,350.00</b>	<b>4,714.39</b>
6002 • Licenses & Permits			
322000 • Building Permits	108,521.71	110,000.00	-1,478.29
338200 • Occupational Licenses	275.51	150.00	125.51
<b>Total 6002 • Licenses &amp; Permits</b>	<b>108,797.22</b>	<b>110,150.00</b>	<b>-1,352.78</b>
6003 • Other Fees for Services			
322001 • Fire Inspections	400.00	1,200.00	-800.00
322004 • Charges for Services	16,662.59		
<b>Total 6003 • Other Fees for Services</b>	<b>17,062.59</b>	<b>1,200.00</b>	<b>15,862.59</b>
6004 • Investment & Other Earnings			
361000 • Interest Income	856.47	1,000.00	-143.53
<b>Total 6004 • Investment &amp; Other Earnings</b>	<b>856.47</b>	<b>1,000.00</b>	<b>-143.53</b>
6005 • Ad Valorum Revenue			
312100 • Ad Valorum	169,353.33	167,755.00	1,598.33
<b>Total 6005 • Ad Valorum Revenue</b>	<b>169,353.33</b>	<b>167,755.00</b>	<b>1,598.33</b>
6007 • Miscellaneous Income			
369000 • Misc Inc - MCSB Admin Fee, Etc.	4,509.59	10,000.00	-5,490.41
<b>Total 6007 • Miscellaneous Income</b>	<b>4,509.59</b>	<b>10,000.00</b>	<b>-5,490.41</b>
<b>Total Income</b>	<b>353,643.59</b>	<b>338,455.00</b>	<b>15,188.59</b>
<b>Expense</b>			
6101 • General Government			
513150 • Gross Payroll	75,440.18	83,750.00	-8,309.82
513155 • PTO Accrual	-183.84		
513297 • Grant Management Consultant	0.00	0.00	0.00
513301 • Management Consultant	20,189.00	28,000.00	-7,811.00
513302 • Rent	11,833.88	12,050.00	-216.12
513304 • Communications / Website	6,397.32	6,925.00	-527.68
513305 • Engineering	412.50	2,500.00	-2,087.50
513306 • Accountant	4,410.00	8,000.00	-3,590.00
513308 • Insurance W/C	1,732.73	700.00	1,032.73
513309 • Insurance Package	9,615.00	9,600.00	15.00

**Town of Ocean Breeze General Fund**  
**Profit & Loss Budget vs. Actual**  
**October 2019 through September 2020**

	Oct '19 - Sep 20	Budget	\$ Over Budget
513311 · Public Advertising Notices	887.11	4,000.00	-3,112.89
513312 · Office Equipment & Supplies	8,379.66	9,300.00	-920.34
513313 · Postage	505.30	670.00	-164.70
513315 · Audit	18,500.00	20,000.00	-1,500.00
513316 · Utilities	574.34	720.00	-145.66
513317 · Dues	1,603.00	1,500.00	103.00
513318 · Mileage Reimb. - Clerks	435.15	1,300.00	-864.85
513319 · Conferences & Travel - Council	2,814.10	9,000.00	-6,185.90
513321 · Election Expenses	525.00	1,200.00	-675.00
513323 · Special projects Code of Ord	950.00	15,000.00	-14,050.00
513324 · Special Project-Digitizing	1,263.98	10,000.00	-8,736.02
513820 · Contributions	0.00	0.00	0.00
514100 · Legal Counsel	43,598.43	24,000.00	19,598.43
514200 · Computer Services	2,200.95	1,200.00	1,000.95
531110 · Payroll Taxes - Fica	4,677.36	5,190.00	-512.64
531111 · Payroll Taxes - Medicare	1,093.94	1,210.00	-116.06
531112 · Benefits	19,076.86	19,100.00	-23.14
<b>Total 6101 · General Government</b>	<b>236,931.95</b>	<b>274,915.00</b>	<b>-37,983.05</b>
<b>6102 · Public Safety</b>			
522300 · M.C. Fire Rescue	0.00	0.00	0.00
524200 · Building Official Services	26,925.00	15,000.00	11,925.00
524210 · Building Code Compliance Ser	8,373.00	15,000.00	-6,627.00
524220 · Code Compliance Legal	2,075.00	20,000.00	-17,925.00
524300 · Fire Safety Inspector	476.00	1,200.00	-724.00
<b>Total 6102 · Public Safety</b>	<b>37,849.00</b>	<b>51,200.00</b>	<b>-13,351.00</b>
<b>6104 · Transportation</b>			
541300 · Road and Street Maintenance	5,622.00	9,200.00	-3,578.00
541301 · Street Lights	1,366.49	1,500.00	-133.51
<b>Total 6104 · Transportation</b>	<b>6,988.49</b>	<b>10,700.00</b>	<b>-3,711.51</b>
<b>6200 · Physical Environment</b>			
531000 · Grants - Contract Labor	0.00	0.00	0.00
<b>Total 6200 · Physical Environment</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>6600 · Capital Outlay</b>			
555000 · Furniture & Equipment	2,198.99	6,000.00	-3,801.01
<b>Total 6600 · Capital Outlay</b>	<b>2,198.99</b>	<b>6,000.00</b>	<b>-3,801.01</b>
<b>Total Expense</b>	<b>283,968.43</b>	<b>342,815.00</b>	<b>-58,846.57</b>
<b>Net Ordinary Income</b>	<b>69,675.16</b>	<b>-4,360.00</b>	<b>74,035.16</b>



**Town of Ocean Breeze General Fund**  
**Profit & Loss Budget vs. Actual**  
October 2019 through September 2020

	<u>Oct '19 - Sep 20</u>	<u>Budget</u>	<u>\$ Over Budget</u>
Other Income/Expense			
Other Expense			
80000 - Ask My Accountant	<u>0.00</u>		
Total Other Expense	<u>0.00</u>		
Net Other Income	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Net Income	<u><b>69,675.16</b></u>	<u><b>-4,360.00</b></u>	<u><b>74,035.16</b></u>

## Memorandum

Item #7

**To:** Town Council and Mayor  
**From:** Terry O'Neil, Town Management Consultant  
**Cc:** Rick Crary, Town Attorney  
Pam Orr, Town Clerk  
**Date:** November 4, 2020  
**Re:** Donation of Ocean Breeze West PUD Parcel "A" to the Town

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Under condition K. 5. of the 2017 Ocean Breeze West PUD, Sea Walk developer DR Horton/Forestar has voluntarily agreed to donate to the Town an approximately 17, 000 sq. ft. vacant lot fronting South Street. The Town's deadline to accept the lot is November 28, 2020. Specifically, the condition states:

Parcel "A" as shown on the revised master/final site plan shall be voluntarily donated to the Town by the OWNER prior to or in conjunction with the recordation of the plat. Said donation shall be subject to the Town's acceptance. Approval for development of Parcel "A" as a Town office or single-family home shall require a minor amendment to this ordinance, including posting the site, mailed notice to property owners within 300 feet and at least one public hearing before the Town Council. Authorization for the Town to apply for and process said minor amendment is hereby deemed to be granted by the OWN and the HOA. In no instance shall the Town, or any owner of Parcel "A", be a member of the HOA or be subject to its provisions or covenants. Owner shall provide stub-out of water and sewer connections to the site.

In considering how Parcel "A" might be used, the Council in 2017 briefly discussed two scenarios. The first envisioned a town office/meeting facility. The second is sale of the lot for a single-family home. Staff has since determined that the lot is too small to accommodate an office building and place of assembly, particularly given the on-site parking, storm water and landscaping features that will be required. The lot is clearly of sufficient size to accommodate a home. A recent "opinion of value letter" from a local Realtor estimates the lot's worth at between \$59,000 and \$69,000.

### **Title concerns versus the Town's future ability to market the lot**

Town Attorney Crary has carefully evaluated Parcel A's title record and after considerable discussions with the developer's lawyer has identified several title concerns which staff feels may suggest against accepting the lot. Please see his attached memorandum dated November 3, 2020.

### **Staff recommendation**

- (1) Receive Mr. Crary's presentation regarding the lot's title concerns
- (2) Conduct a discussion among the Council Members, Mayor, Staff and the Public regarding the practicality of accepting the lot
- (3) Entertain a motion and second to either reject or accept the lot

### **Attached documents**

- Attorney Crary's Memo dated November 3, 2020, with attachments
- Lot acceptance agreement with developer
- Lot survey and location map
- Broker's option of value

Memo

November 3, 2020

RE: Parcel "A"

To: Mayor and Town Council

From: Rick Crary, Town Attorney

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Parcel "A" has a couple of unusual title concerns, which both the Town Engineer and I recommend should be cured prior to the Town taking ownership; however, it now looks as if the donor does not intend to fix them:

1. Per a title exception, the title commitment issued by Forestar's title agent revealed that the property is subject to a Notice of Environmental Resource or Surface Water Management Permit placed of record by South Florida Water Management District ("SFWMD").

I objected to that title exception and required that it be deleted, because the notice indicates SFWMD could have restrictions that limit or burden the use of Parcel "A." Such notices do not always mean there's a problem, but further investigation by the Town Engineer and Forestar's engineer revealed that Parcel "A" is more specifically burdened by Forestar's drainage permit than might normally be expected. What that apparently means is that Parcel "A" cannot be freely developed as a separate parcel unless Forestar's permit is amended to make the property part of the subdivision's actual drainage system (which the Town Engineer says is impossible—or nearly so). Alternatively, Forestar's permit with SFWMD needs to be revised to remove Parcel "A" altogether. (If Parcel "A" were to be removed from the permit, the title insurer could then remove the title exception).

Earlier in the year when the Town made Forestar aware of the problem, the Town was told by Forestar's civil engineer that he had been authorized to move forward with efforts to remove Parcel "A" out from under the permit. While Parcel "A" is designated as being under the SFWMD permit, it was apparently not viewed as being actually needed for the development's drainage system. So, removal from the permit was assumed to be an easy solution. However, due to costs involved with amending the permit, Forestar agreed in June that it would amend the permit as previously indicated by their engineer, but only after the Town affirms its acceptance of the donation. Now, Forestar's title insurer/attorney has said that she is not sure whether the permit can or will be amended, and so she cannot confirm that the title exception will be removed.

2. A recent survey provided by Forestar shows an easement on the eastern side of the property, which has not been properly dedicated or granted. (It appears that might be the location of Martin Counties Utilities waterline).

To date, the attorney/title agent for Forestar has not been able to confirm whether the waterline for Martin County Utilities ("MCU") crosses Parcel "A", or whether it does so in the location the surveyor has noted as being encumbered by a (nonexistent) utilities easement. My guess is that MCU probably assumed a proposed easement across Parcel "A" was dedicated per the plat. It was not. Forestar's attorney has been informed that they will probably need to enter into MCU's standard easement agreement, and the Town would need to review the terms of that easement prior to acceptance of title.

3. An additional outstanding issue concerns the legal description for the property. Earlier this year, the new survey provided by Forestar created a completely revised legal description. We have requested an updated and revised title commitment showing the new legal description to be insured, but a revised commitment has not been provided.

4. The survey diagram shows the western half of the property as being part of Highlands Avenue "per plat." While the original legal description does indicate that half of the property was designated for roadway purposes many years ago, the designation was not made as part of a properly dedicated plat, so it should not be considered legally effective. I have asked the title insurer to see if Forestar's surveyor will remove the road designation from the survey. (Per the new legal description, the reference to the planned road should be entirely unnecessary). I want the title insurer to confirm that the revised title commitment will not make an exception for the road designation as a possible encumbrance. To date we have not received that confirmation.

Due to the complexities involved, the Town has offered to extend the time for acceptance of the donation for another 4 months, and we have provided their attorney with a modification agreement to do just that. However, last week their attorney said her client does not wish to do an extension. At this point we still have no confirmation that they intend to cure the title defects, nor do we have a revised title commitment to insure the new legal description.

The question for the Town is whether the donation has value sufficiently exceeding whatever engineering and attorney costs might be involved in straightening out the title at the Town's expense, if the Town accepts the donation "as is." Those expenses cannot be accurately estimated at this time. The ultimate decision of whether and how easily the Town could independently resolve the permit issue would be in the hands SFWMD.

Alternatively, if the Town took the donation with the title defects and decided not to fix them itself, the Town would need to find a buyer willing to take on the problems. It should be noted that future use of the property would also involve a PUD amendment, or a possible voluntary de-annexation. If title remains in the donor, I would assume Forestar could more readily fix the apparent problems to suit its own designs.

Lastly, the Town could choose to take ownership simply to hold and control the property, and allow it to lie fallow.

When the donation was first offered, the Town gave itself the option to decline the donation, if investigations were to reveal property conditions the Town did not wish to accept. Unfortunately, it appears the donation would come with some tangles. What is not clear is how difficult and time-consuming they might be to undo.

I have attached some supporting correspondence and documentation for your review.

**From:** Rick Crary II <RCII@crarybuchanan.com>  
**Sent:** Thursday, October 1, 2020 9:40 AM  
**To:** Michelle Jessell  
**Cc:** Terry O'Neil; townclerk@townofoceanbreeze.org  
**Subject:** Re: Forestar (DR Horton) conveyance to Town of Ocean Breeze

Michelle,

In my form files, I haven't found a form specifically dealing with a nonexclusive underground easement that fits the apparent situation. It probably needs to be specifically drafted. But as I was looking through old files, I began wondering if the water line belongs to someone else like Martin County Utilities. If so, the utility company might have thought the plat gave them the right to cross Parcel "A". It may be that your client should be giving an easement to them per their form. Please check with your client regarding the specifics and let me know.

Kind regards,  
Rick

On Sep 30, 2020, at 1:58 PM, Michelle Jessell <[michelle.jessell@nelsonmullins.com](mailto:michelle.jessell@nelsonmullins.com)> wrote:

Rick,

I'm responding to this email regarding your email today asking about the status. Please see my notes in **red** below.

Thanks.

Michelle



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MICHELLE JESSELL **OF COUNSEL**  
[michelle.jessell@nelsonmullins.com](mailto:michelle.jessell@nelsonmullins.com)

LYNN FINANCIAL CENTER | SUITE 310  
1905 NW CORPORATE BLVD | BOCA RATON, FL 33431  
T 561.218.6916 F 561.483.7321  
NELSONMULLINS.COM [VCARD](#) [VIEW BIO](#)

---

From: Rick Crary II <[RCII@crarybuchanan.com](mailto:RCII@crarybuchanan.com)>  
Sent: Wednesday, August 19, 2020 12:09 PM  
To: Michelle Jessell <[michelle.jessell@nelsonmullins.com](mailto:michelle.jessell@nelsonmullins.com)>  
Cc: [townclerk@townofoceanbreeze.org](mailto:townclerk@townofoceanbreeze.org); Terry O'Neil <[twoneil@aol.com](mailto:twoneil@aol.com)>; Sandra D. Robinson <[SRobinson@crarybuchanan.com](mailto:SRobinson@crarybuchanan.com)>  
Subject: Forestar (DR Horton) conveyance to Town of Ocean Breeze

◀External Email▶ - From: [rcii@crarybuchanan.com](mailto:rcii@crarybuchanan.com)

Hi Michelle,

It's been quite awhile since our last correspondence. I am the Town Attorney for Ocean Breeze. When last we were corresponding, we were dealing with deletions of exceptions to your commitment (File no. 2037-3580059-A). Since then, Forestar has provide the Town with the attached survey. Parcel "A" is a "not included" parcel on the plat, so they have revised the legal description accordingly, instead of referencing the old unrecorded plat. If you have previously amended your title commitment to change the description, I cannot find that revision in my laptop files. (I am working from home nowadays).

Also attached below, you will find a copy of a Modification giving the Town until the end of November to decide whether to accept the donation of Parcel "A." I believe the Town intends to make that election sooner, rather than later. As you will see, one of the conditions of transfer will be for Forestar to first amend its permit with SFWMD to take Parcel "A" out from under the encumbrance of the permit, which is intended to allow you to delete the exception referencing the SFWMD permit (Exception 15). – **I am waiting to hear back from my Client as to whether this can be done.**

On the survey diagram there is reference to a utility easement running along the eastern 10 feet of the property. Although referenced on the plat, I don't believe that easement was actually dedicated. Please consider and discuss with Forestar the possibility that they will need to create that easement per a recorded instrument. - **Do you have a form for the grant of the 10' utility easement?**

Other questions I would like to have resolved with regard to the survey:

- 1) Why is there reference to the update as a "permit sketch"?; **I have asked that this be revised and am waiting to hear back from the surveyor.**
- 2) Can the survey diagram be revised to remove reference to "Highlands Avenue (unimproved) (per plat)? I don't believe that portion of Highlands Avenue was ever dedicated per the old unrecorded plat. One of the things we're trying make sure of is that we won't end up with a title exception for an old road encumbering the property. I would think there is no reason to reference "Lot 99" of the unrecorded plat either. **I have asked that these changes be made to the survey.**
- 3) The survey should depict the FPL easement referenced in your exception #16. **I have asked that these changes be made to the survey.**

If you need to reach me by phone, please use my cell: (772) 475-5072.



Thanks so much. I look forward to working with you to wrap up this closing. Please note that I am not otherwise in direct contact with anyone on Forestar's side of the transaction.

Kind regards,  
Rick Crary

Nelson Mullins is continuing to monitor developments related to COVID-19, including guidance from the Centers for Disease Control and various health officials; and federal, state, and local government authorities. The firm has implemented precautionary measures and plans to ensure the continuation of all firm services to clients from both in office and remote work arrangements across our 25 geographically dispersed offices. [Click here to visit the Nelson Mullins Coronavirus Resources page.](#) Information described therein is subject to change.

**Confidentiality Notice**

This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged, confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately either by phone (800-237-2000) or reply to this e-mail and delete all copies of this message.

**From:** Rick Crary II <RCII@crarybuchanan.com>  
**Sent:** Wednesday, October 28, 2020 2:13 PM  
**To:** Terry O'Neil  
**Cc:** townclerk@townofoceanbreeze.org  
**Subject:** Fwd: Parcel A memo

FYI

Begin forwarded message:

**From:** Rick Crary II <RCII@crarybuchanan.com>  
**Date:** October 28, 2020 at 2:12:48 PM EDT  
**To:** Kevin Henderson <evergreenengineeringinc@gmail.com>  
**Cc:** "townclerk@townofoceanbreeze.org" <townclerk@townofoceanbreeze.org>  
**Subject:** Re: Parcel A memo

Thank you, Kevin. Hope you are doing well.

On Oct 28, 2020, at 2:07 PM, Kevin Henderson <evergreenengineeringinc@gmail.com> wrote:

Hi Rick.

The sketch of survey says it was not abstracted for easements, among other things. You might inquire as to what evidence of easement was used by the surveyor to show it.

If the site is under the SFWMD permit, any user will have to go back to them for either a permit mod, or a permit modification to get out of the permit. If there is no easement, a prospective user will have to create one satisfactory to MCU. Neither of these will be cheap, so deduct cost from parcel value.

Assuming you have some leverage on Forestar, time to use it.

Regards, Kevin



On Wed, Oct 28, 2020 at 11:03 AM Rick Crary II  
<RCII@crarybuchanan.com> wrote:

Kevin: I think your memo may have gotten detached from the earlier email I sent you this morning. So I am sending it again.

Begin forwarded message:

From: Kevin Henderson <evergreenengineeringinc@gmail.com>

Subject: Parcel A memo

Date: June 3, 2020 at 11:41:06 AM EDT

To: Rick Crary II <rcii@crarybuchanan.com>, Pam Orr  
<townofocceanbreez@bellsouth.net>

Memorandum

June 2, 2020

To: Rick Crary, Town Attorney

From: Kevin Henderson, Town Engineer

Re: OBW Parcel A

At your direction we reviewed SFWMD permit 43-02398-P for its impact on Parcel A and any consequences thereof that pertain to its future use by the Town of Ocean Breeze. Parcel A is a 160' by 106.44' vacant lot bordering South Street to the north and OBW lots to the south.

Parcel A is included within the boundaries of the referenced permit. However, it is specifically excluded from the drainage calculations submitted in support of the ERP, and there are no drainage improvements to the Parcel shown in the permit plans.

The water and sanitary plans for OBW call for an 8" water main running along the eastern boundary approximately 5' inside Parcel A. There are no facilities designed to support central sanitary sewer service to the lot.

If the Town were to accept Parcel A as is, we believe it would require an ERP modification either to connect drainage to OBW (impractical to impossible) or to remove it from the permit and handle drainage internally with development. Highly permeable soils are favorable for developing drainage internally.

In my conversations today with Mike Grzelka, P.E., he reported his direction from Horton is to submit an ERP modification to SFWMD by the end of June 2020 to remove Parcel A from the permit.

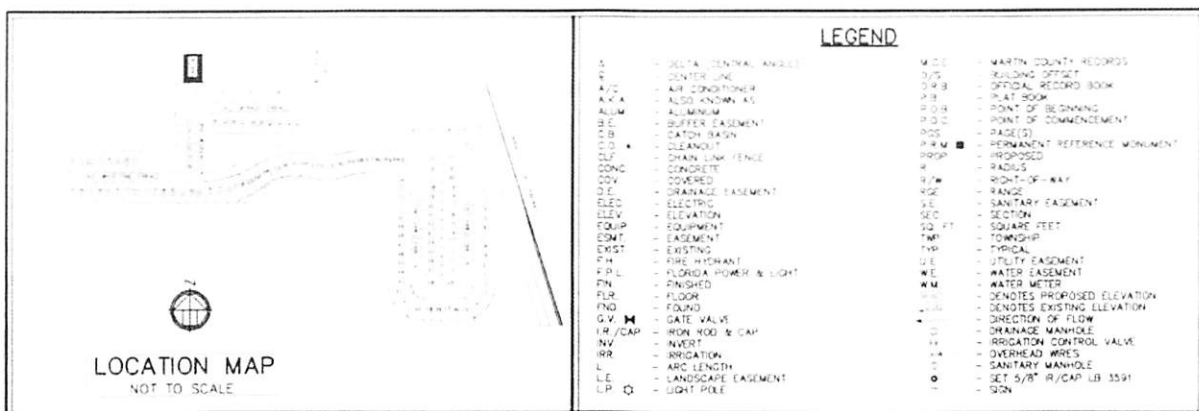
This action should be preferred by the Town prior to accepting dedication of Parcel to the Town.

Other issues related to acceptance by the Town include the 8" water main shown within Parcel A, which should have a utility easement over the line to the benefit of Martin County Utilities. We believe Parcel A was excluded from the plat of OBW, and we did not find evidence in the construction plans of the required easement.

Another issue is lack of provision of sanitary sewer, without which any future development of Parcel A will be constrained by septic tank permitting requirements.

Separately, Parcel A appears in largely native plant communities typical of sand pine scrub, and thus is gopher tortoise (and commensals) habitat. If gopher tortoise are present they will require specific permitting to remove them for development, as whatever permits for gopher tortoise management and relocation were issued for OBW will no longer apply.

Please do not hesitate to call if we can be of further assistance.



#### NOTES:

1. ANY REPRODUCTIONS OF THIS SKETCH ARE NOT VALID UNLESS SEALED WITH A SURVEYOR'S SEAL.
2. THIS SURVEY MAP, OR ANY COPIES THEREOF, ARE NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL SEAL OF A FLORIDA LICENSED PROFESSIONAL LAND SURVEYOR.
3. THE LANDS, AS SHOWN HEREON, WERE NOT ABSTRACTED FOR RIGHT-OF-WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENT OF RECORD.
4. THE ELEVATIONS, AS SHOWN HEREON, ARE RELATIVE TO THE NORTH AMERICAN VERTICAL DATUM OF 1988.
5. BEARINGS SHOWN HEREON REFER TO RECORD PLAT AND ASSUMES THE NORTH LINE OF PARCEL "A" AS S89°57'52"E.
6. THE DESCRIPTION, AS SHOWN HEREON, IS IN ACCORD WITH THE INSTRUMENT OF RECORD.
7. ANY UNDERGROUND FOUNDATIONS WERE NOT LOCATED.
8. ADDITIONS OR DELETIONS TO SURVEY MAPS BY OTHER THAN THE SIGNING PARTY, OR PARTIES, IS PROHIBITED, WITHOUT WRITTEN CONSENT OF SAID SIGNING PARTY, OR PARTIES.
9. FLOOD ZONE: "X"; FIRM MAP NO. 12085C(15)G; COMMUNITY NO. 120161; DATED: MARCH 16, 2015.
10. BENCHMARK: NATIONAL GEODETIC SURVEY MONUMENT "P 517", ELEVATION = 42.74'

#### DESCRIPTION:

PARCEL "A", "PLAT OF OCEAN BREEZE WEST, A P.U.D.", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 18, PAGES 1 THROUGH 5, OF THE PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA, AND BEING MORE PARTICULAR DESCRIBED AS FOLLOWS:

COMMENCING AT MONUMENT MARKING THE CENTER OF SAID SECTION 22; THENCE ALONG THE SOUTH LINE OF THE AFORESAID UNRECORDED PLAT 4 AND THE SOUTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 22, NORTH 89°28'29" WEST, A DISTANCE 998.56 FEET THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE CONTINUE ALONG SAID SOUTH LINE, NORTH 89°58'28" WEST, A DISTANCE OF 106.44 FEET; THENCE DEPARTING SAID SOUTH LINE, NORTH 00°05'54" EAST, A DISTANCE OF 160.31 FEET TO THE WESTERLY EXTENSION OF THE SOUTH RIGHT OF WAY LINE OF SAID SOUTH STREET; THENCE ALONG SAID SOUTH RIGHT OF WAY LINE SOUTH 89°57'52" EAST, A DISTANCE 106.44 FEET; THENCE DEPARTING SAID SOUTH RIGHT OF WAY LINE, SOUTH 00°05'54" WEST, A DISTANCE OF 160.30 FEET TO THE AFORESAID SOUTH LINE OF SAID UNRECORDED PLAT 4 AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL.

SAID LANDS SITUATE IN THE TOWN OF OCEAN BREEZE, MARTIN COUNTY, FLORIDA.

CONTAINING 17,063.11 SQUARE FEET OR 0.3917 ACRES, MORE OR LESS.

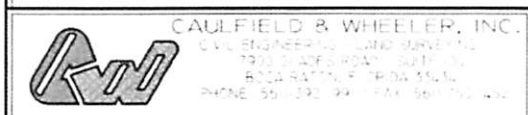
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS, AND RIGHTS-OF-WAY OF RECORD.

#### CERTIFICATE:

I HEREBY CERTIFY THAT THE ATTACHED BOUNDARY SURVEY OF THE HEREON DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AS SURVEYED UNDER MY DIRECTION, ON FEBRUARY 18, 2020. I FURTHER CERTIFY THAT THIS BOUNDARY SURVEY MEETS THE STANDARDS OF PRACTICE SET FORTH IN CHAPTER 5J-17, ADOPTED BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS, PURSUANT TO FLORIDA STATUTES 472.027.

DAVID P. LINDLEY, P.L.S.  
REG. LAND SURVEYOR #5005  
STATE OF FLORIDA - LB #3591

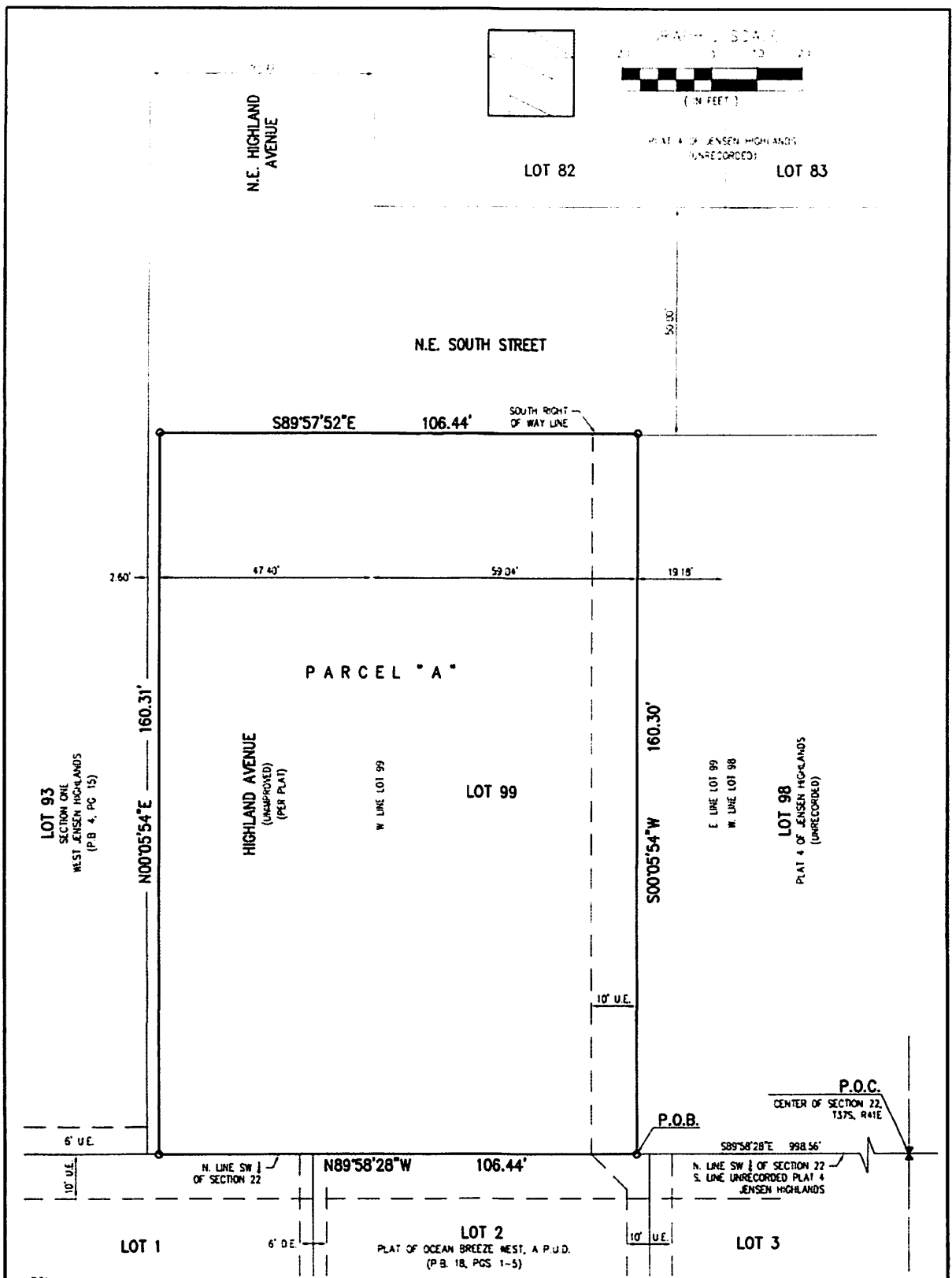
SHEET 2 OF 2




PLAT OF OCEAN BREEZE WEST, A P.U.D. (SEAWALK)  
PARCEL "A" - BOUNDARY SURVEY

PERMIT SKETCH	2/18/20	EC
REVISIONS	DATE	BY
FILE NAME: 8144_PARCEL "A".dwg		

DATE	2/18/20
DRAWN BY	E
F.B./PG.	N/A
SCALE	1" = 20'
JOB NO.	8144



NOTE:  
 • IMPROVEMENTS SHOWN ARE PROPOSED UNLESS OTHERWISE NOTED.  
 • DRIVEWAYS SHOWN HEREON ARE FOR GRAPHIC PURPOSE ONLY AND NOT FOR CONSTRUCTION.



**CAULFIELD & WHEELER, INC.**  
 CIVIL ENGINEERING AND SURVEYING  
 1000 W. 10th Street, Suite 100  
 Brea, California 92621  
 PHONE: (949) 440-1234 FAX: (949) 440-1235

**PLAT OF OCEAN BREEZE WEST, A P.U.D. (SEAWALK)  
 PARCEL "A" - BOUNDARY SURVEY**

PERMIT SKETCH	2/19/20	EC
REVISIONS	DATE	BY
FILE NAME: 8144_PARCEL "A" .dwg		

**SHEET 1 OF 2**

DATE	2/18/20
DRAWN BY	EC
F.B./ PG.	N/A
SCALE	1" = 20'
JOB NO.	8144

MODIFICATION OF AGREEMENT REGARDING PARCEL "A"

This Modification Agreement is made as of the 5th day of June, 2020, by and between Forestar (USA) Real Estate Group, Inc. a Delaware Corporation, hereinafter called "Forestar", and the Town of Ocean Breeze, a Florida municipal corporation, hereinafter called the "Town."

WHEREAS, Forestar and the Town entered into that certain Agreement Regarding Parcel "A" dated November 28, 2018 (the "Agreement"), and

WHEREAS, in light of matters related to the Governor's State of Emergency regarding Covid-19 and other concerns, the parties hereto wish to extend the deadline for the Town to provide Forestar with written notice of its decision whether to accept the donation of Parcel "A", and in order for the parties to otherwise perform under the Agreement;

NOW, THEREFORE, for and in consideration of One Dollar and other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree that the Agreement shall be modified as follows:

1. The Town shall have until November 30, 2020 to provide Forestar with written notice of its decision whether or not to accept the donation of Parcel "A". Upon notification of acceptance, prior to closing Forestar shall amend its permit with the South Florida Water Management District to remove Parcel "A" therefrom, such that Forestar's title insurance agent shall then be able to remove the title exception for said permit from the title commitment and title policy.
2. All terms and provisions of the Agreement shall remain in effect, except as modified herein.

WHEREUNDER the parties hereto have executed this modification as of the date set forth above.

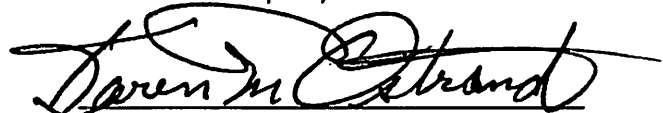
FORESTAR:

TOWN:

FORESTAR (USA) REAL ESTATE GROUP, INC.,  
a Delaware corporation

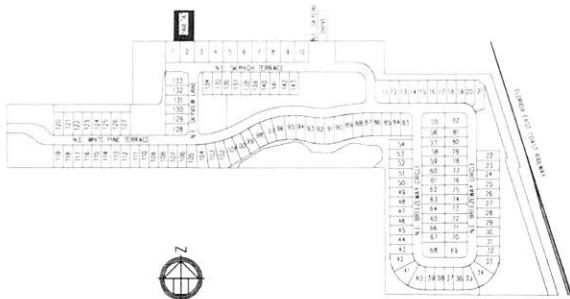
TOWN OF OCEAN BREEZE,  
a Florida municipality

  
By: FRANK CUVELL  
Its: Director of Land Development

  
Karen M. Ostrand, Mayor

ATTEST:

  
Pam Orr, Town Clerk



LOCATION MAP  
NOT TO SCALE

## LEGEND

Δ	- DELTA (CENTRAL ANGLE)	M.C.E.	- MARTIN COUNTY RECORDS
○	- CENTER LINE	O/S	- BUILDING OFFSET
A/C	- AIR CONDITIONER	O.R.B.	- OFFICIAL RECORD BOOK
A.K.A.	- ALSO KNOWN AS	P.B.	- PLAT BOOK
ALUM.	- ALUMINUM	P.O.B.	- POINT OF BEGINNING
B.E.	- BUFFER EASEMENT	P.O.C.	- POINT OF COMMENCEMENT
C.B.	- CATCH BASIN	PGS.	- PAGE(S)
C.O.	- CLEANOUT	P.R.M.	- PERMANENT REFERENCE MONUMENT
CLF	- CHAIN LINK FENCE	PROP.	- PROPOSED
CONC.	- CONCRETE	R.	- RADIUS
COV.	- COVERED	R/W	- RIGHT-OF-WAY
D.E.	- DRAINAGE EASEMENT	RGE.	- RANGE
ELEC.	- ELECTRIC	S.E.	- SANITARY EASEMENT
ELEV.	- ELEVATION	SEC.	- SECTION
EQUIP.	- EQUIPMENT	SQ. FT.	- SQUARE FEET
ESMT.	- EASEMENT	TWP.	- TOWNSHIP
EXST.	- EXISTING	TYP.	- TYPICAL
F.H.	- FIRE HYDRANT	U.E.	- UTILITY EASEMENT
F.P.L.	- FLORIDA POWER & LIGHT	W.E.	- WATER EASEMENT
FIN.	- FINISHED	W.M.	- WATER METER
FLR.	- FLOOR	26.00	- DENOTES PROPOSED ELEVATION
FND.	- FOUND	27.00	- DENOTES EXISTING ELEVATION
G.V.	- GATE VALVE	→	- DIRECTION OF FLOW
I.R./CAP	- IRON ROD & CAP	⊙	- DRAINAGE MANHOLE
INV.	- INVERT	⊙	- IRRIGATION CONTROL VALVE
IRR.	- IRRIGATION	—	- OVERHEAD WIRES
L.	- ARC LENGTH	⊙	- SANITARY MANHOLE
L.E.	- LANDSCAPE EASEMENT	○	- SET 5/8" IR/CAP LB 3591
L.P.	- LIGHT POLE	+	- SIGN

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REG. LAND SURVEYOR #5005  
STATE OF FLORIDA - LB #3591

SHEET 2 OF 2

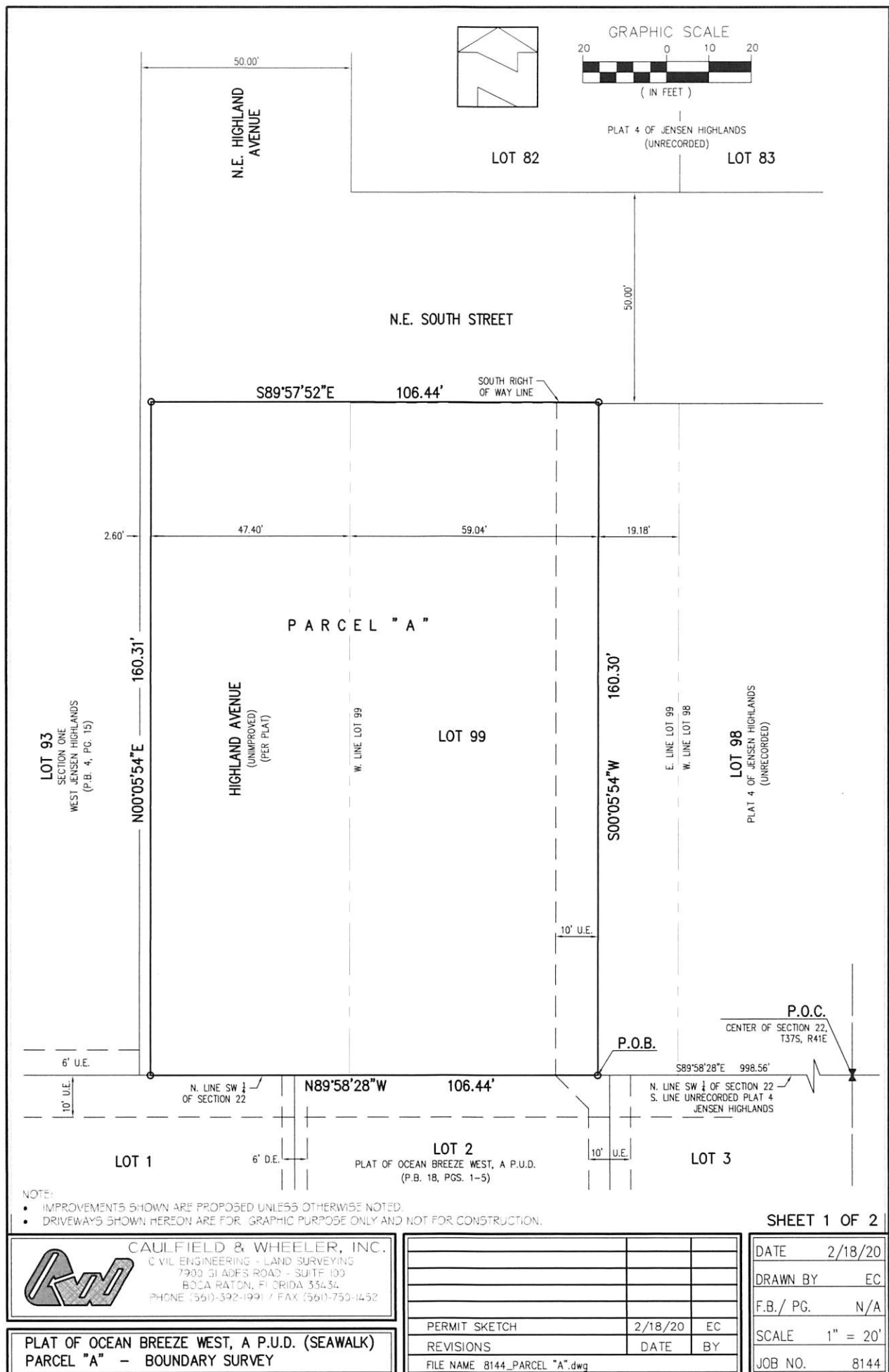


CAULFIELD & WHEELER, INC.  
CIVIL ENGINEERING - LAND SURVEYING  
7900 GLADES ROAD - SUITE 100  
BOCA RATON, FLORIDA 33434  
PHONE (561) 392-1991 / FAX (561) 750-1452

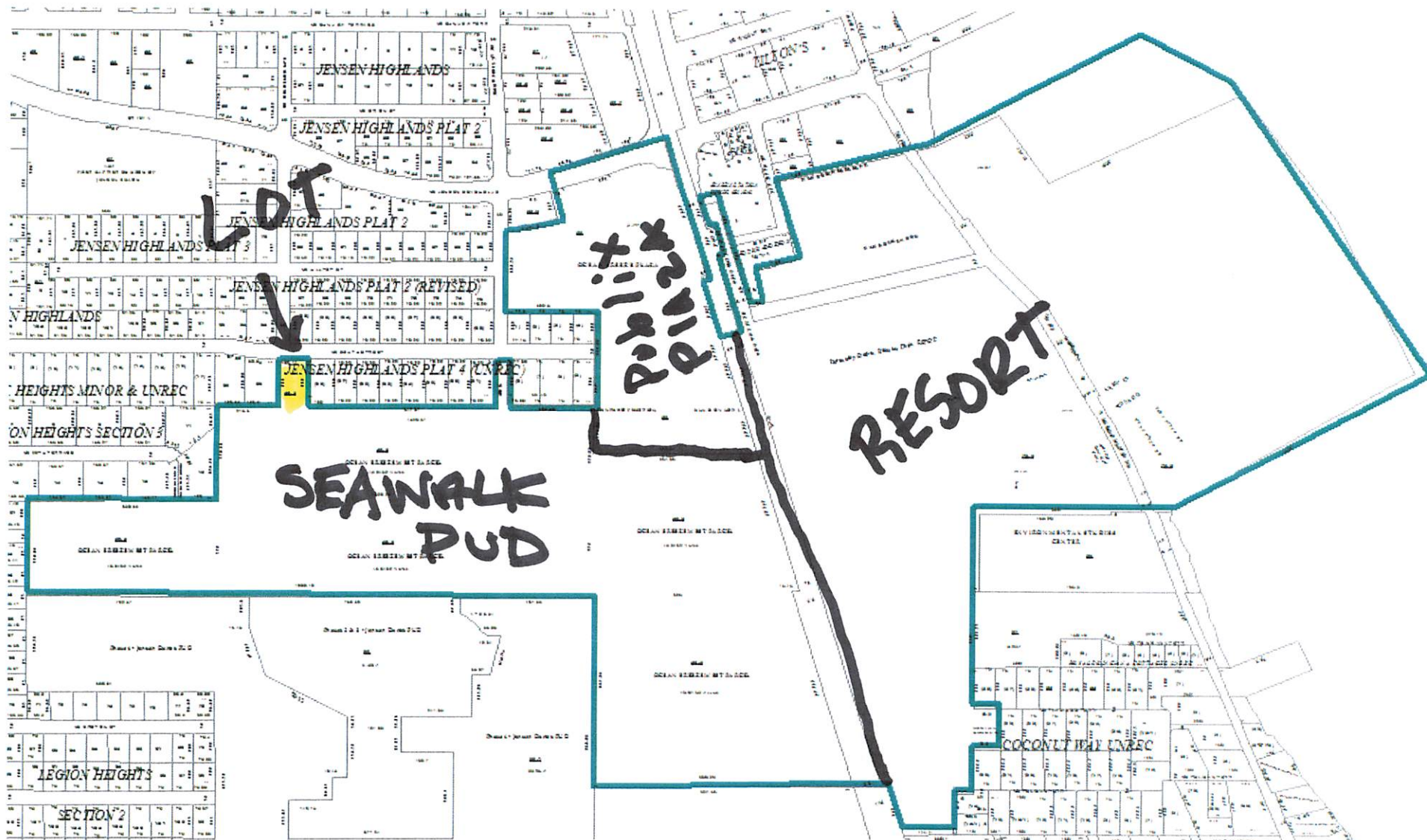
PLAT OF OCEAN BREEZE WEST, A P.U.D. (SEAWALK)  
PARCEL "A" - BOUNDARY SURVEY

PERMIT SKETCH	2/18/20	EC
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DATE	2/18/20
DRAWN BY	E
F.B./ PG.	N/A
SCALE	1" = 20'
JOB NO.	8144









All American Realty of the Treasure Coast, LLC

# Broker's Price Opinion

Prepared for the Town of Ocean Breeze  
for property located at:

1562 NE South Street, (aka Parcel "A")  
Ocean Breeze, Florida



## All American Realty of the Treasure Coast, LLC

July 30, 2020

Town of Ocean Breeze  
P. O. Box 1025  
Jensen Beach, FL 34958

Thank you for the opportunity to provide a Broker's Price Opinion on the property located at 1562 NE South Street, Ocean Breeze, FL 34957. Outlined below are my findings and the price range recommended for listing. All American Realty would be honored to assist with marketing efforts should the Town decide to list this property for sale.

### Subject Property

1562 NE South Street, Jensen Beach (aka Parcel "A")  
Dimensions 106 x 160, .38 acre and is approximately 16,960 square feet (see attachments)

### Comparable Sold Properties

1124 NE Hansen Terrace, Jensen Beach .32 acre  
Sold on March 3, 2020 for \$65,000  
Property is similar in size and located in a neighborhood with similar homes. (listing attached)

NE Tropical Way, Jensen Beach .186 acre approximately 8102 square feet  
Sold on January 31, 2020 for \$45,000.  
Property is smaller and location is slightly less comparable. (listing attached)

### Active Listing (currently under contract at a price of \$75,000)

Lot 50, NE Oceanview Circle, Jensen Beach .39 acre  
List price \$89,900 (days on the market 15 days)  
Property is extremely similar in size to the subject property; homes in the neighborhood are generally larger and more expensive. (listing attached)

Analysis takes into account the following:

- Neighboring homes in the immediate vicinity
- Subject to transfer ownership with a clear title
- Research indicates that single family home vacant lots in Martin County are scarce
- Jensen Beach is a desirable neighborhood with schools

**Recommended List Price Range \$59,000 - \$69,000**

*Nancy Johnson*  
Nancy Johnson  
Broker

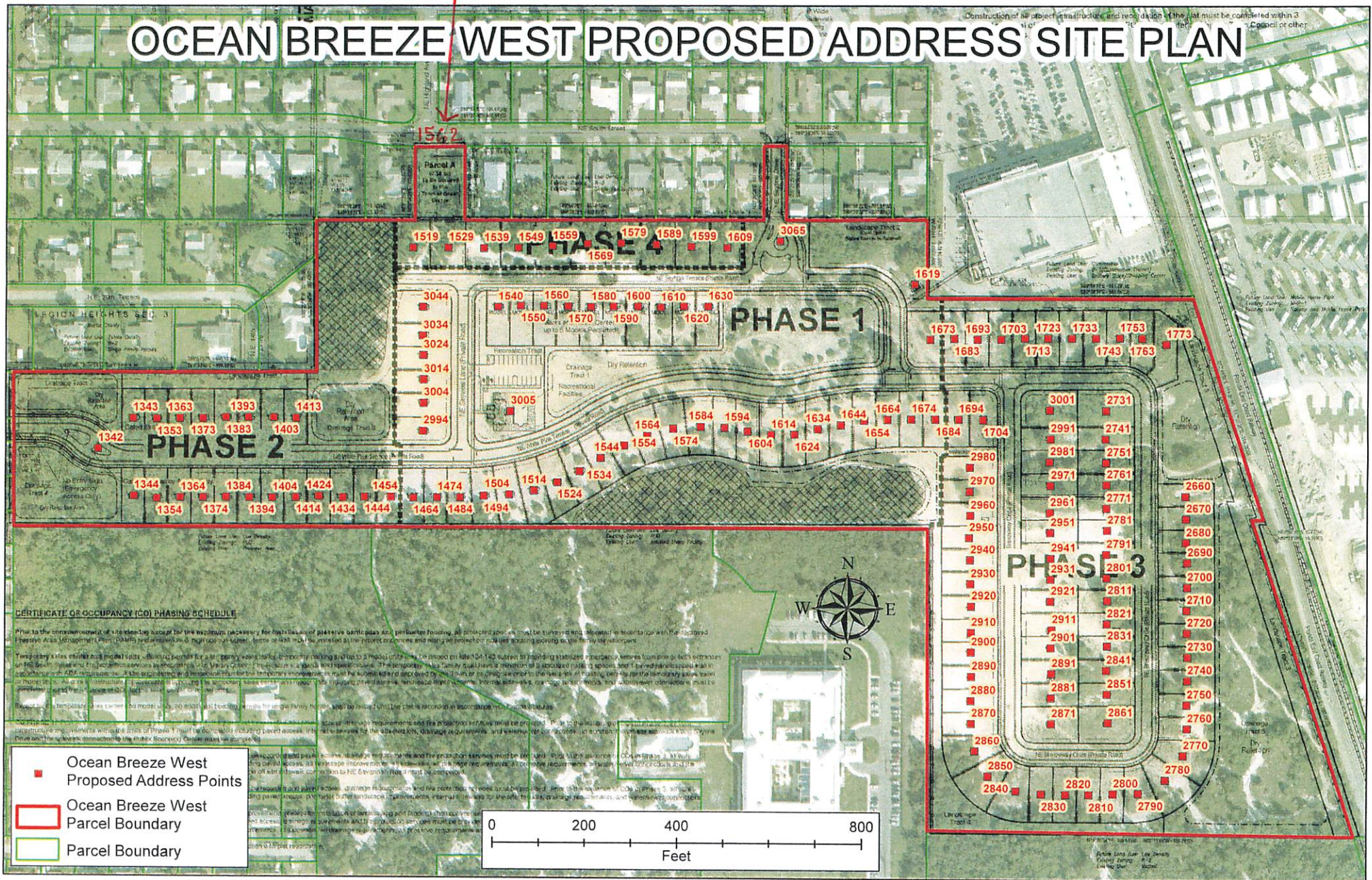


# Subject Property

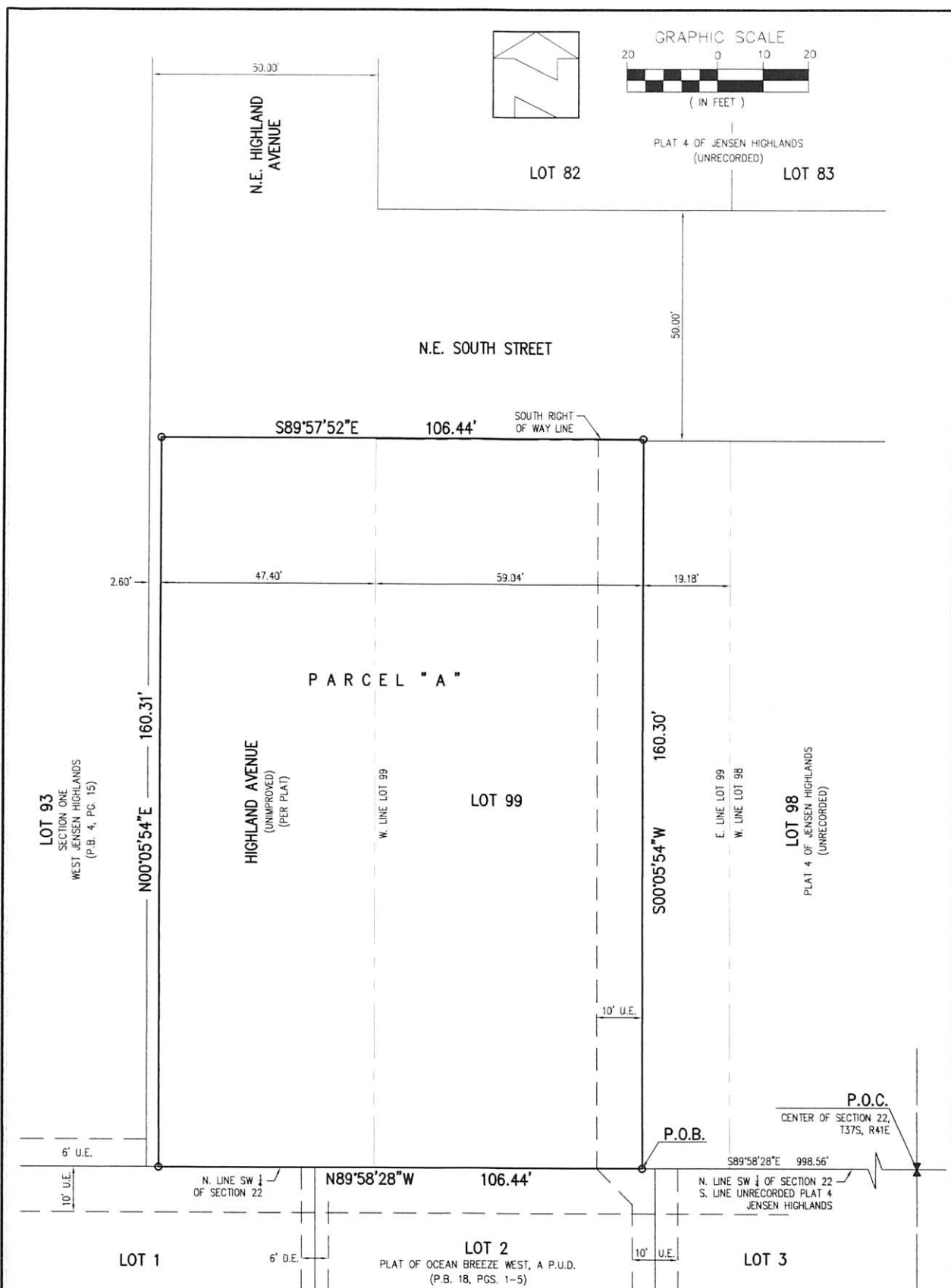
Parcel "A" 1562 NE South Street

223741000000004051

## OCEAN BREEZE WEST PROPOSED ADDRESS SITE PLAN







**CAULFIELD & WHEELER, INC.**  
C.V.I.L. ENGINEERING - LAND SURVEYING  
7900 GLADES ROAD - SUITE 100  
BOCA RATON, FLORIDA 33434  
PHONE (561)-392-1991 / FAX (561)-750-1452

**PLAT OF OCEAN BREEZE WEST, A P.U.D. (SEAWALK)**  
**PARCEL "A" - BOUNDARY SURVEY**

PERMIT SKETCH	2/18/20	EC
REVISIONS	DATE	BY
FILE NAME 8144_PARCEL "A".dwg		

**SHEET 1 OF 2**

DATE	2/18/20
DRAWN BY	EC
F.B./ PG.	N/A
SCALE	1" = 20'
JOB NO.	8144

Parcel "A"





# Surrounding Neighbors - Parcel "A"





List Price: **\$64,000**Sold Price: **\$65,000**

## Land



ML #: **R10515832** Status: **Sold** LP/SF: **\$4.52**  
 SubType: **Single Family Detached**  
 Address: **1124 NE Hansen Terrace, Jensen Beach, FL 34957**  
 Area: **3-Jensen Bch Stuart - N Roosevelt Br**  
 Short Sale: **No** SS Add: **No** REO: **No**  
 County: **Martin** Price/Acre:  
 Prop ID: **213741001000001607** View:  
 List Type: **Excl Agency** Zoning: **R3-A**  
 Legal Desc: **PETERMAN'S UNREC, W1/2 LOT 3, BEG 361.12' S OF NE COR OF SE1/4 OF NE1/4 & W 317.5' FOR BEG, S 125', W 112.5', N 125' & E NE Jensen Beach Blvd. Right on NE Lake Ave, Left on NE Hansen Terrace.**  
 Directions:

Subdivision: **PETERMANS**  
 Lot Size: **14157.00** Acre: **1/2 to < 1 Acre**  
 Lot Frontage: **112.50** Lot #: **0.32**  
 Lot Desc: **No** Total Acre: **0.32**  
 Waterfront: **No**  
 Frnt Exp: **\$4.59** SP/LP Ratio: **101.56%**  
 SP/SF:

## Features

Style: **Single Family** Road: **Other**  
 Avail Docs: **None** Min Acres Req'd:  
 Soil Type: **Sand** Trees: **Partially Treed**  
 Ground Cover: **Other**  
 Utilities Avail: **Other**  
 Utilities On Site: **Electric, Sewer**  
 Improvements: **None**  
 Subdv Amenities: **No Amenities**  
 Location: **Subdivision**

## Remarks

Broker Remarks: **Contact Chris Belland with any questions: 772-418-4506**  
 Public Remarks: **Build your dream home!!! 0.32 AC vacant land available in the sought out area of Jensen Beach. In close proximity to shopping center, Downtown Jensen Beach, and minutes away from the beaches!**

Tax Year/Amt: **2018/\$773**  
 VOW Y/N: **Yes** Allow AVM: **Yes** Allow Blogging: **Yes**  
 Address Display: **Yes** IDX YN: **None** Zillow/Trulia:  
 Monthly Mnt/HOA\$: **Cash, Conventional** HOA: **None** Special Asmt: **No**  
 Terms Considered:  
 Mgmt Company: **Owner Name: KLEINFELD, PAUL L & HELEN KAY**  
 Var Dual Rate: **3%** Comp Basis: **3%** Bonus: **3%** Seller Rep:  
 Trns Brkr Cmp: **03/25/2019** Non Rep Comp: **02/03/2020** Buyer Broker: **3%** DOM: **315**  
 List Date: **03/25/2019** Pending Date: **02/03/2020** CDOM: **315**  
 Expire Date: **Mathew Crady (RML276535765)** Orig LP: **\$64,000**  
 List Agent: **cradymatt@yahoo.com**  
 List Agent Email: **Commercial Real Estate LLC (RML276541467)**  
 List Office: **Call Listing Office, Sign on Property**  
 Showing Instruct: **772-418-4506**  
 Alternate Contact: **772-418-4506**  
 Sale Price: **\$65,000** Terms of Sale: **Cash** Close Date: **03/03/2020**  
 Buyer Agent: **Mathew Crady (RML276535765)**  
 Buyer Agent Email: **cradymatt@yahoo.com**  
 Buyer Office: **Commercial Real Estate LLC (RML276541467)**

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List Price: **\$45,900**Sold Price: **\$45,000**

## Land



ML #: **M20015279** Status: **Sold** LP/SF:  
 SubType: **Single Family Detached**  
 Address: **0 NE Tropical Way, Jensen Beach, FL 34957**  
 Area: **3-Jensen Bch Stuart - N Roosevelt Br**  
 Short Sale: **No** SS Add: REO: **No**  
 County: **Martin** Price/Acre:  
 Prop ID: **2737410040000036090000** View:  
 List Type: **Excl Right of Sale** Zoning:  
 Legal Desc: **BLUE DIAMOND FRUIT CO, LOTS 36 38 & 40**  
 Directions: **NE Dixie Hwy to W on Seaview Dr, immediate left onto Tropical Way. Lot on Rt with sign.**

Subdivision: **Blue Diamond Fruit Co**  
 Lot Size: **90W x 90D** Acre: **< 1/4 Acre**  
 Waterfront: **No**  
 Frnt Exp:  
 SP/SF: SP/LP Ratio: **98.04%**

## Features

Utilities: **Water Available**  
 Location: **Other**

## Remarks

Broker Remarks: **Corporate owned, sign on property.**  
 Public Remarks: **Great area to build a single family home. Mostly multi-family across the street, mostly single family on same side. Seconds to Langford and Indian Riverside Parks, Sailing Center and Boat Ramps. Minutes to both Stuart and Jensen Beach causeways and beaches. Hookup ready for city water/sewer**

Governing Bodies: **None**  
 Special Info: **None**  
 Taxes Desc: **Land Only**  
 Tax Year/Amt: **2017/\$686**  
 VOW Y/N: **Yes**  
 Address Display: **Yes**  
 Internet: **FL Properties, Realtor.com**  
 Mnt Fee Inc: **None**  
 Monthly Mnt/HOA\$: **\$0**  
 Terms Considered: **Cash**  
 Mgmt Company:

Allow AVM: **Yes** Allow Blogging: **Yes**  
 IDX YN: **Yes** Zillow/Trulia: **Yes**

HOA: **None** Special Asmt:

Var Dual Rate: **No** Comp Basis: **Contract Price** Owner Name: **OWNER OF RECORD**  
 Possession: **At Closing** Bonus: Seller Rep: **Yes**  
 Ownership: **Limited Partner** Comp Plan Use:  
 Trns Brkr Cmp: **3** Non Rep Comp: **0** Buyer Broker: **3** DOM:  
 List Date: **12/18/2018** Pending Date: **12/18/2018** CDOM:  
 Expire Date: Orig LP: **\$65,000**  
 List Agent: **Tricia Stone (3413572)** Cell Phone: **772-209-0047**  
 List Agent Email: **tricia@whrintl.com** Direct Phone: **772-209-0047**  
 List Office: **Welcome Home Realty International (279000929)** Office Phone: **772-934-9400**  
 Showing Instruct: **Sign on Property**  
 Buyer's Country: **United States** Buyer's Zip: **34957**  
 Sale Price: **\$45,000** Terms of Sale: **Cash** Close Date: **01/31/2020**  
 Buyer Agent: **Tricia Stone (3413572)**  
 Buyer Agent Email: **tricia@whrintl.com**  
 Buyer Office: **Welcome Home Realty International (279000929)**

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List Price: **\$89,900****contract price \$75,000**

Land

**Pending**

ML #: **R10637137** Status: **Back Up** LP/SF: **\$5.29**  
 SubType: **Single Family Detached**  
 Address: **Lot 50 NE Oceanview Circle, Jensen Beach, FL 34957**  
 Area: **3-Jensen Bch Stuart - N Roosevelt Br**  
 Short Sale: **No** SS Add: **No** REO: **No**  
 County: **Martin** Price/Acre:  
 Prop ID: **153741000004906** View:  
 List Type: **Excl Right of Sale** Zoning: **R2**  
 Legal Desc: **SKYLINE PARK, 1ST ADDN, LOT 50 & SLY PART OF LOT 49 DESC AS: BEG SW COR LOT 50, NW 25', NE 112.88', SE 26.28' & SW TO PO**  
 Directions: **Vacant Building lot close to downtown Jensen Beach and Beaches! Perfect location to raise a family or to retire to the beach life!**

Subdivision: **SKYLINE**  
 Lot Size: **16988.40** Acre: **1/4 to 1/2 Acre**  
 Lot Desc:  
 Waterfront: **No** Total Acre: **0.39**  
 Frnt Exp:

**Recent Change: 07/24/2020 : Backup : ->BU**Elementary : **Jensen Beach**Middle: **Stuart**High: **Jensen Beach**

Features

Style:	<b>Single Family</b>	Road:	<b>Public</b>
Avail Docs:	<b>Survey</b>	Min Acres Req'd:	
Soil Type:		Trees:	<b>Non Native</b>
Ground Cover:	<b>Brush</b>		
Utilities Avail:	<b>Public Water</b>		
Utilities On Site:	<b>Public Water</b>		
Improvements:	<b>Septic</b>		
Location:	<b>City, County</b>		

Remarks

Broker Remarks: **OWNER / SELLER IS AN ARCHITECT AND HAS SEVERAL PLANS TO CHOSE FROM! WILL OFFER PLANS AS A NEGOTIATING PLATFORM. SITE PLAN IN DOCUMENTS.**

Public Remarks: **ABSOLUTE PERFECT LOCATION FOR MARTIN COUNTY! CLOSE TO SHOPPING AND DOWNTOWN AND ALSO CLOSE TO THE BEACHES! VERY FEW OPPORTUNITIES LIKE IT REMAIN!**

Tax Year/Amt:	<b>2019/\$1,746</b>	Allow AVM:	<b>Yes</b>	Allow Blogging:	<b>Yes</b>
VOW Y/N:	<b>Yes</b>	IDX YN:		Zillow/Trulia:	
Address Display:	<b>Yes</b>	HOA:	<b>None</b>	Special Asmt:	<b>Yes</b>
Monthly Mnt/HOA\$:					
Terms Considered:	<b>Cash, Conventional</b>				
Mgmt Company:		Owner Name:	<b>Kent L Staker</b>		
Var Dual Rate:	<b>No</b>	Bonus:	<b>No</b>	Seller Rep:	
Trns Brkr Cmp:	<b>2.5%</b>	Buyer Broker:	<b>2.5%</b>	DOM:	<b>16</b>
List Date:	<b>07/08/2020</b>			CDOM:	<b>16</b>
Expire Date:				Orig LP:	<b>\$89,900</b>
List Agent:	<b>Kent Loren Staker Jr (RML20017288)</b>	Cell Phone:	<b>772-209-2856</b>		
List Agent Email:	<b>LuxuryRealtyAssociates@gmail.com</b>	Direct Phone:	<b>772-209-2856</b>		
List Office:	<b>Luxury Realty Associates (RML276551776)</b>	Office Phone:	<b>772-209-2856</b>		
Showing Instruct:	<b>Call Listing Agent, Call Listing Office, No Sign</b>				

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ORDINANCE NO. 66

**AN EMERGENCY ORDINANCE OF THE TOWN  
OF OCEAN BREEZE PARK, FLORIDA  
SETTING AND CONFIRMING THE TIME  
AND PLACE OF REGULAR MEETINGS OF  
THE TOWN COUNCIL;**

WHEREAS, the revised Town Charter requires that regularly scheduled meetings of the Town Council be set by ordinance;

BE IT ORDAINED AND ENACTED BY THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE PARK, FLORIDA:

**SECTION I:** That an emergency exists within the Town of Ocean Breeze Park affecting the health, welfare and safety of the citizens of said town.

**SECTION II:** That regularly scheduled meetings of the Town Council shall be held at the Town Hall at 10:30 a.m. on the second Monday of each month, unless such day is a holiday, in which such event such meeting shall take place at the aforesaid time and place upon the next following Monday which is not a holiday.

**SECTION III:** Special meetings may be held as provided in the Charter.

**SECTION IV:** It is hereby acknowledged and confirmed that the foregoing schedule of regular meetings has been a longstanding procedure well known within the community.

**SECTION V:** This Ordinance shall become effective immediately upon its adoption.

PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE this 14th day of September, 1992.

TOWN COUNCIL  
TOWN OF OCEAN BREEZE PARK

By: Dorothy Leebeon  
Its President

ATTEST:  
Sharon Chicky  
Town Clerk

APPROVED:  
Paul E. Hines  
Mayor

APPROVED AS TO FORM:  
[Signature]  
TOWN ATTORNEY





**PROCLAMATION  
COMMEMORATING THE 60<sup>th</sup> ANNIVERSARY OF  
THE TOWN OF OCEAN BREEZE, FLORIDA**

**WHEREAS,** The Town of Ocean Breeze incorporated on November 12, 1960 with the great State of Florida in Martin County; and

**WHEREAS,** In June 1938 Harry and Queena Hoke with their two sons Dick and Gene, purchased a camp ground and called it Ocean Breeze Camp; and

**WHEREAS,** During the few beginning years of Ocean Breeze Camp, Harry Hoke developed the campground adding electric, sewer, running water and roads within the camp. They offered many activities to entertain their guests. Then the name was changed to Ocean Breeze Park.

**WHEREAS,** Ocean Breeze Park became the largest trailer park on the east coast and the largest privately owned park in the United States. On November 12, 1960, Ocean Breeze Park became the only "Town on Wheels".

**WHEREAS,** In the year 2012, under the Mayorship of David W. Myers, and James Walker, as Council President, the Town Council and the residents voted to remove "Park" from the now known, Town of Ocean Breeze.

**NOW, THEREFORE,** CONGRATULATIONS TO THE TOWN OF OCEAN BREEZE WITH SIXTY YEARS OF GROWTH AND PROSPERITY.

**COMMEMORATING THE 60<sup>th</sup> ANNIVERSARY OF  
THE TOWN OF OCEAN BREEZE, FLORIDA**

**IN WITNESS WHEREOF,** I have hereunto set my hand and caused the seal of the Town of Ocean Breeze to be affixed this 9th day of November, 2020.

  
KAREN M. OSTRAND  
MAYOR



# **GENERAL INFORMATION ITEMS**

**The attached items (i.e.: correspondence, e-mails, reports, etc.) are provided as general information and are not necessarily subject to discussion during this meeting unless Council Members or the Mayor wish to do so.**



## **Memorandum**

**To: Town Council and Mayor**

**From: Terry O'Neil, Town Management Consultant**

**Cc: Rick Crary, Town Attorney  
Pam Orr, Town Clerk**

**Date: November 4, 2020**

**RE: FYI Item: Proposed County ordinance increasing the minimum age for purchasing tobacco and prohibiting flavored vaping products**

---

County Administrator, Taryn Kryzda, advises that the BOCC is considering a local ordinance increasing the minimum age for purchasing tobacco from 18 to 21 and prohibiting the sale of flavored vaping products. If adopted, the ordinance (please see attached) will apply only in the unincorporated areas. Stuart and the other municipalities in Martin County appear to be awaiting the BOCC's decision before deciding whether to follow suit with an ordinance of their own.

Further, it should be noted that a similar, state-wide initiative (SB 810) was overwhelmingly adopted by the Florida Legislature earlier this year but was vetoed by the Governor late in the process. It is possible that the bill will be resurrected in the next legislative session. Whatever the outcome, the Town's ability to impose such restrictions would be feasible only if the Sheriff's Department agrees to handle enforcement, which has yet to be determined.

Whether the BOCC adopts a local ordinance or the Legislature pursues the matter again next year remains up in the air. Given our size and resources, Staff sees no urgency for the Town to act at this time and will keep you informed as events unfold.

On Oct 22, 2020, at 2:08 PM, Taryn Kryzda <[tkryzda@martin.fl.us](mailto:tkryzda@martin.fl.us)> wrote:

So, on Tuesday (10/27) – my Board will be taking up the attached item – it is only applicable to the unincorporated area – we have worked out details with the tax collector on the licensing, and law enforcement to assist us with enforcement. I know some of you do not have any commercial properties that currently sells tobacco products – but that always can change. I just didn't want one of your Commissioners or Council members to hear about it, and you not knowing about it.

**Taryn G. Kryzda, MPA, CPM**  
County Administrator  
Martin County Board of County  
Commissioners  
2401 SE Monterey Road  
Stuart, FL 34996  
772-288-5939 (o)  
<image001.gif>

**From:** Tara Taggart <ttaggart@flcities.com>  
**Sent:** Monday, November 2, 2020 2:40 PM  
**To:** townclerk@townofoceanbreeze.org  
**Cc:** Erinn Streeter  
**Subject:** Tobacco/Vaping Legislation

Hi Pam,

Thanks for reaching out to Erinn about the tobacco/vaping bill from this past session. The bill he was referring to was SB 810 by Senator David Simmons. It was quite contentious as it went through the process because of the vaping regulations. Ultimately, the bill that passed would have increased the purchase age from 18 to 21, and it would also have banned the sale of flavored vaping products.

The legislature held off on presenting the bill to the governor for quite some time, but when the Governor received the bill in early September he issued a veto. The Governor cited much of his reasoning on the fact that he felt the bill was redundant since the federal government passed the "Tobacco 21" bill in December 2019 that raised the purchase age to 21 nationwide.

It's always a guessing game as to whether or not a bill will get filed again. A legislator could certainly file the bill again. With this issue in particular I think it was the vaping regulations that prevented SB 810 from passing. A bill solely increasing the purchase age from 18 to 21 would have a much better chance of passing since that is now federal law.

Bill filing begins in a few weeks, if I see this get filed again I will be sure to let you know. Anyway, I hope that helps! If you have any questions or would like to discuss further please give me a call.

Thanks,

**Tara Taggart**  
Legislative Policy Analyst  
Florida League of Cities, Inc.  
850.701.3603  
[www.flcities.com](http://www.flcities.com)







## Board of County Commissioners

2401 SE Monterey Road  
Stuart, Florida 34996

### Agenda Item Summary

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**File ID:** 20-1148

**PH-3**

**Meeting Date:** 10/27/2020

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**PLACEMENT:** Public Hearings

**TITLE:**

**PUBLIC HEARING TO CONSIDER ADOPTION OF AN ORDINANCE AMENDING ARTICLE 6 RELATING TO TOBACCO PRODUCTS AND ARTICLE 7 RELATING TO ELECTRONIC NICOTINE DELIVERY DEVICES, CHAPTER 87, GENERAL ORDINANCES, MARTIN COUNTY CODE**

**EXECUTIVE SUMMARY:**

On December 20, 2019, President Trump signed legislation to raise the federal minimum age for the purchase of tobacco products from 18 to 21. The proposed ordinance brings Martin County into compliance with existing federal law by raising the minimum age to purchase tobacco products to 21. The amendment also creates a Tobacco Distribution License (TDL) which all tobacco retailers will have to obtain in order to sell tobacco products within unincorporated Martin County. Retailers that violate the ordinance by selling to underaged persons will be penalized with a monetary fine and the suspension of their license.

**DEPARTMENT:** County Attorney

**PREPARED BY:** **Name:** Elysse A. Elder  
**Title:** Senior Assistant County Attorney

**REQUESTED BY:** Commissioner Hetherington

**PRESET:** 10:30 AM

**PROCEDURES:** None

**BACKGROUND/RELATED STRATEGIC GOAL:**

On December 20, 2019, President Trump signed legislation to amend the Federal Food, Drug and Cosmetic Act to raise the federal minimum age for the purchase of tobacco products from 18 to 21. This created inconsistencies with many state laws that establish 18 as the minimum age for the purchase of tobacco products, including Florida. Nonetheless, the federal law supersedes any conflicting state law for the purchase of tobacco products. As a result, it is illegal for a retailer to sell any tobacco products, which includes cigarettes, cigars, vapor-generating electronic devices and many other products and components, to anyone under 21 years of age in the United States. The Florida Legislature approved Senate Bill (SB) 810 in the 2020 legislative session. SB 810 raised the minimum age for the sale of tobacco products to 21 in Florida. In addition, the bill added vapor-generating electronic devices and its components in the definition of tobacco products and limited the sale of certain flavored liquid nicotine products. On September 8, 2020, Governor DeSantis vetoed SB 810. As a result, Florida law still remains the same and is inconsistent with federal law for the

minimum age for the purchase of tobacco products.

Currently, Article 6, Chapter 87, General Ordinances, Martin County Code establishes 18 as the minimum age for the purchase of tobacco products in Martin County and provides limited restrictions on the sale of tobacco products. Article 7, Chapter 87, General Ordinances provides limits on the sale of vapor-generating electronic delivery devices and prohibits the use of vapor-generating devices as provided in Florida Statutes Chapter 386 or within 50 feet thereof and at County parks.

The proposed Ordinance amends both Article 6, pertaining to tobacco products and Article 7 pertaining to electronic nicotine delivery devices.

Below is a summary of the changes to Article 6:

- The title of Article 6 will be changed to "Prohibition of Sale or Distribution of Tobacco Products to Persons Under 21 Years of Age."
- The minimum age to purchase tobacco products is raised from 18 to 21 for consistency with federal law.
- The definition of tobacco products is significantly expanded and includes vapor-generating electronic delivery devices.
- Tobacco retailers in unincorporated Martin County will have to obtain a TDL in order to sell tobacco products.
- The Tax Collector's Office will issue TDLs, which must be renewed annually by September 30<sup>th</sup>.
- The Board establishes the fees for TDLs by Resolution. The proposed Resolution establishes the fee to obtain and renew a TDL at \$300. At the request of the Tax Collector to be consistent with late fees for Business Tax Receipts, the Resolution also establishes late fees as follows:
  - 10% late fee for licenses not renewed by October 1
  - 15% late fee for licenses not renewed by November 1
  - 20% late fee for licenses not renewed by December 1
  - 25% late fee for licenses not renewed by January 1
  - \$200 late fee for any licenses renewed after January 1
- The Martin County Sheriff's Office will enforce the ordinance and will issue citations to violators.
- Tobacco retailers will be penalized if they sell any tobacco products to anyone under the age of 21. The penalties for violating the ordinance are as follows:
  - 1<sup>st</sup> Violation: 7-day license suspension and \$100 fine.
  - 2<sup>nd</sup> Violation: 30-day license suspension and \$250 fine.
  - 3<sup>rd</sup> Violation: 90-day license suspension and \$500 fine.
  - 4<sup>th</sup> Violation: Revocation of license with no option to review and \$500 fine.
- Any money collected for licenses or penalties under Article 6 and Article 7 will be put into a trust, entitled the Prevention of Underaged Tobacco Use Trust Fund, which will be administered by the Clerk of the Circuit Court and Comptroller. The money in the fund will be used for administrative costs of the licensing component and to financially assist tobacco use prevention programs in schools.

Florida Statutes Section 386.209 preempts the regulation of smoking to the State of Florida. As a result, the County is unable regulate where smoking is prohibited. However, Section 386.209 specifically does not preclude local governments from adopting more restrictive regulations for the use of vapor-generating electronic devices. Article 7 is the County's regulation on the use of vapor-

generating electronic devices. Below is a summary of the changes to Article 7:

- The title of Article 7 is being changed to Prohibition on Use of Vapor-Generating Electronic Devices.
- All provisions of Article 7, except the use of vapor-generating electronic devices as provided in Chapter 386, within 50 feet thereof and at County parks, have been eliminated because they are captured in Article 6 based on the inclusion of vapor-generating electronic devices in definition of tobacco products.

The proposed effective date of the Ordinance is February 1, 2021. This provides sufficient time for the Tax Collector's Office to accommodate the administration of issuing the license and for the County to educate tobacco retailers about the new licensing requirement.

**ISSUES:**

None

**LEGAL SUFFICIENCY REVIEW:**

This is a legislative matter. Legislative decisions are those in which the local government formulates policy rather than applying specific rules to a particular situation. A local government's approval or denial of an issue in its legislative capacity is typically subject to a fairly debatable standard of review. Fairly debatable means that the government's action must be upheld if reasonable minds could differ as to the propriety of the decision reached. Decisions subject to the fairly debatable standard of review need only be rationally related to a legitimate public purpose, such as the health, safety, and welfare of the public, to be valid. Given this broad discretion, only decisions that arbitrary and capricious or illegal are subject to serious legal challenge.

**RECOMMENDED ACTION:**

**RECOMMENDATION**

The Board consider implementing the TDL program and amending the existing tobacco ordinance. If the Board decides to implement the program: Move that the Board approve the proposed Ordinance amending Articles 6 and 7, Chapter 87, General Ordinances, Martin County Code and the Resolution establishing TDL fees.

**ALTERNATIVE RECOMMENDATIONS**

Provide staff with further direction.

**FISCAL IMPACT:**

**RECOMMENDATION**

None

**ALTERNATIVE RECOMMENDATIONS**

**DOCUMENT(S) REQUIRING ACTION:**

- ☐ Budget Transfer / Amendment   ☐ Chair Letter   ☐ Contract / Agreement  
☐ Grant / Application   ☐ Notice   ☒ Ordinance   ☒ Resolution  
☐ Other:

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**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 87, GENERAL ORDINANCES, MARTIN COUNTY CODE; AMENDING ARTICLE 6 RELATING TO TOBACCO PRODUCTS; AMENDING ARTICLE 7 RELATING TO ELECTRONIC NICOTINE DELIVERY DEVICES; PROVIDING FOR CONFLICTING PROVISIONS, SEVERABILITY, AND APPLICABILITY; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE AND DEPARTMENT OF REVENUE, AN EFFECTIVE DATE AND CODIFICATION.**

**WHEREAS**, the Board of County Commissioners of Martin County, Florida, is authorized by provisions in Chapter 125, Florida Statutes, to establish programs providing for the health, safety and general welfare of the residents of Martin County; and

**WHEREAS**, the Board has determined that the existing ordinances pertaining to tobacco products should be amended to provide additional definitions and guidelines pertaining to the sale and distribution of tobacco products; and

**WHEREAS**, On December 20, 2019, President Trump signed legislation to amend the Federal Food, Drug and Cosmetic Act to raise the federal minimum age pertaining to the sale of tobacco products from 18 to 21 years; and

**WHEREAS**, it is illegal for a retailer to sell any tobacco products, including cigarettes, cigars and vapor-generating electronic devices, to anyone under 21 years of age in the United States; and

**WHEREAS**, the use of tobacco products has devastating health and economic consequences; and

**WHEREAS**, tobacco use is the foremost preventable cause of premature death in America. It causes half a million deaths annually and has been responsible for 20.8 million premature deaths in the U.S. over the past 50 years; and

**WHEREAS**, tobacco use leads to more than \$300 billion in health care and lost worker productivity costs each year; and

**WHEREAS**, an estimated 5.6 million youth under the age of 18 are projected to die prematurely from a tobacco-related illness if prevalence rates do not change; and

**WHEREAS**, national data show that about 95 percent of adult smokers begin smoking before they turn 21. The ages of 18 to 21 are a critical period when many smokers move from experimental smoking to regular, daily use; and

**WHEREAS**, young minds are particularly susceptible to the addictive properties of nicotine. As a result, 3 out of 4 teen smokers end up smoking into adulthood; and

**WHEREAS**, as reported by the Florida Department of Health, vapor-generating electronic device use among Martin County youth between the ages of 11 and 17 has increased from 6.4% in 2014 to 16.3% in 2020; and

**WHEREAS**, as reported by the Florida Department of Health, 17.1% of Martin County youth between the ages of 11 and 17 currently use tobacco products; and

**WHEREAS**, the Board finds that amending the existing regulations within the Martin County Code is necessary for the preservation of the health, safety and welfare of Martin County youth, residents and visitors.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA, THAT:**

**PART 1: ARTICLE 6. TOBACCO PRODUCTS, CHAPTER 87, HEALTH, GENERAL ORDINANCES, MARTIN COUNTY CODE, IS HEREBY AMENDED AS FOLLOWS:**

**ARTICLE 6. - ~~TOBACCO PRODUCTS~~ PROHIBITION OF SALE OR DISTRIBUTION OF TOBACCO PRODUCTS TO PERSONS UNDER 21 YEARS OF AGE**

**Sec. 87.131. - Title.**

This article shall be known and cited as the ~~"Martin County Tobacco Product Placement"~~ "Prohibition of Sale or Distribution of Tobacco Products to Persons Under 21 Years of Age."

**Sec. 87.132. - Intent.**

~~This article is intended to prevent the sale to and possession of tobacco products by persons under the age of 18 by regulating the placement of such products.~~ It is the intent of this article to promote, protect, and improve the health, safety, and general welfare of the citizens of Martin County, Florida, by discouraging the unhealthy practice of using tobacco products and to help prevent the addiction to nicotine, especially by young people under the age of 21, through regulation of the marketing, sale and merchandising of tobacco products, to the extent such regulation is not preempted to the federal or state government. This article shall not be interpreted or construed to prohibit the sale or delivery of tobacco products which are otherwise lawful or regulated pursuant to F.S. ch. 569.

**Sec. 87.133. - Definitions.**

For the purpose of this article the following terms shall mean:

Business means any sole proprietorship, joint venture, partnership, corporation, limited liability company or other business formed for profit making or non-profit purposes operating within the unincorporated area of Martin County, Florida, including all retail establishments where goods or services are sold.

Delivery Sale means the sale of any licensed product to any person for personal consumption and not for resale when the sale is conducted by any means other than an in-person, over-the counter sales transaction in a licensed retail establishment. Delivery Sale includes but is not limited to the sale of any licensed product when the sale is conducted by telephone, other voice transmission, mail, the internet, or app-based service. Delivery Sale includes delivery by licensees or third parties by any means, including curbside pick-up.

Distribute or Distribution means to furnish, give, provide, or to attempt to do so, whether gratuitously or for any type of compensation.

Licensed Products means the term that collectively refers to any tobacco product, including liquid nicotine, nicotine product, or vapor-generating electronic device.

Open display unit, in the context of the retail sale of tobacco products, means any device, furniture or furnishing within or upon which tobacco products are displayed to customers, and includes but is not limited to any case, rack, shelf, counter, table, desk, kiosk, booth, stand and other surface.

Person means any natural person or entity capable of suing and being sued in the State of Florida.

Recipient means any person who obtains or attempts to obtain a tobacco product.

Retail establishment means any place of business where tobacco products are available for sale to the general public. Retail establishment includes but is not limited to grocery stores, tobacco products shops, convenience stores, liquor stores, gasoline service stations, bars, restaurants other place at which sales of tobacco products are made to purchasers.

Self-service display or placement means the open display or placement of tobacco products to which the public has access without the intervention of the vendor, store owner or other store employee.

Smoking means inhaling, exhaling, burning, carrying or possessing any lighted tobacco product, including cigarettes, cigars, pipe tobacco, and any other lighted tobacco product or inhaling, heating or igniting a vapor-generating electronic device which creates a vapor of liquid nicotine or other substances mixed with propylene glycol which can be inhaled in simulation of smoking.

Tobacco products ~~include loose tobacco leaves, and products made from tobacco leaves, in whole or in part, and cigarette wrappers, which can be used for smoking, sniffing or chewing, as defined in F.S. ch. 569,~~ means any product containing, made or derived from tobacco or nicotine, whether natural or synthetic, that is intended for human consumption or is likely to be consumed.

whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by other means, or any component, part or accessory of a tobacco product, including but not limited to, cigarettes, e-liquids, gels, cigars, cheroots; stogies, perique, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, Cavendish, plug and twist tobacco, fine cut and all other forms of tobacco. Tobacco products include vapor-generating electronic devices. Tobacco products also include any component or accessory used in the consumption of tobacco, whether or not they contain nicotine, including but not limited to filters, cartridges, pods, pens, rolling papers, blunt, hemp wraps or pipes. Tobacco products do not include any product that is approved by the United States Food and Drug Administration for sale as a tobacco-cessation product or as a tobacco-dependence product intended to assist tobacco users with quitting or reducing tobacco use, or for other medical purposes, and is being marketed and sold solely for such purpose.

*Tobacco retailer or retailer* means any person, partnership, joint venture, society, club, trustee, trust, association, organization, corporation or business that owns, operates or manages any tobacco retail establishment, a store, stand, booth, concession or other place at which sales of tobacco products are made to purchasers.

*Vapor-generating electronic device* means any product that employs an electronic, chemical, or mechanical means capable of producing vapor or aerosol from a nicotine product or any other substance, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, vapor product, e-hookahs or other similar device or product, any replacement cartridge for such device; and any other container of nicotine in a solution or other substance form intended to be used with or within an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, a vape pen, an electronic hookah, or other similar device or product. The term includes any component, part or accessory of the device and also includes substance intended to be aerosolized or vaporized during the use of the device, whether or not the substance contains nicotine.

*Vendor assisted* means the customer has no access to tobacco products without the assistance of the vendor, store owner or other store employee.

#### **Sec. 87.134. Distribution License required.**

87.134.A. No person shall sell or offer to sell any tobacco products within the unincorporated area of Martin County without first having obtained a distribution license pursuant to this article.

87.134.B. A distribution license shall not be issued to any person for a location that is within 1000 feet of any public high school, middle school, or elementary school, as measured by the shortest line from the property line of the premises to be licensed and the nearest property line of the school. This restriction does not apply to an applicant who has been licensed by the State of Florida to sell tobacco products in that location prior to the effective date of this Ordinance.



**Sec. 87.135. License application.**

- 87.135.A.     No distribution license shall be issued except upon written application to the Martin County Tax Collector on the form provided by the County.
- 87.135.B.     The application must contain the full name and address of the retailer; the street address of the premises to be licensed; and any additional information the County deems necessary.
- 87.135.C.     If a retailer has multiple premises where tobacco products are to be distributed, a separate license for each premises must be obtained.
- 87.135.D.     Prior to submitting an application to the Tax Collector, the retailer must obtain an acknowledgement from the Growth Management Department of the County that the premises to be licensed is not restricted pursuant to Sec. 87.134.B.

**Sec. 87.136. License fee.**

- 87.136.A.     Fees associated with distribution licenses shall be set by resolution of the Board of County Commissioners.
- 87.136.B.     All license fees collected will be deposited into the Prevention of Underaged Tobacco Use Trust Fund established in Section 87.143.

**Sec. 87.137. Display of license and sign required.**

- 87.137.A.     A copy of the distribution license must be posted and displayed in plain view of the general public on the licensed premises.
- 87.137.B.     A public awareness sign shall be displayed at each licensed premises in a conspicuous location that is clearly visible to the public and employees of the licensed premises.
- 87.137.C.     The required public awareness sign must be at least 8.5 inches by 11 inches in size, must be printed in at least 16-point type, and must state the following: "The sale of tobacco and nicotine products to person under the age of 21 is against the law. Proof of age is required for purchase."
- 87.137.D.     Licensees must notify and train all employees on the legal requirements related to the sale of tobacco products and the possible consequences of license violations.

**Sec. 87.138. Term, renewal and transfer of license.**

- 87.138.A.     Distribution licenses are valid for no more than one year and expire on September 30<sup>th</sup> each year.
- 87.138.B.     Distribution licenses must be renewed by the retailer annually in order to continue distribution of tobacco products. Licensees that fail to renew

prior to October 1<sup>st</sup> will be assessed late fees as establish by Resolution of the Board of County Commissioners.

87.138.C. A license may not be renewed if it has been previously revoked with no opportunity to reapply pursuant to Section 87.142.B.

87.138.D. Transfer of a distribution license issued pursuant to this article by any means is prohibited.

**Sec. 87.139. Minimum legal sales age for tobacco products.**

No person or tobacco retailer may sell or offer to sell any tobacco product to any person under the age of 21.

**Sec. 87.140. Age verification.**

87.140.A. Before selling or offering to sell any tobacco product, or products regulated by this article, the retailer shall verify that the recipient is at least 21 years of age.

87.140.B. Retailers must verify the legal sale age by examining the recipient's government issued identification.

**Sec. 87. 141134. Delivery Sales, Self-service display and placement prohibited.**

87.141.A. It shall be unlawful for any tobacco retailer to sell, to permit to be sold, to offer for sale or to display any tobacco product by means of self-service display or placement or by any means other than vendor assisted sales. No retailer shall place tobacco products in an open display unit unless the same is located in an area that is inaccessible to customers.

~~87.135.A. Exceptions:  
The provisions of this section shall not apply to an establishment that prohibits persons under 18 21 years of age on the premises.~~

~~87.136~~141.A.1. Penalties for improper self-service display and placement. Violation of this section improper self-service display and placement is a misdemeanor pursuant to F.S. sec. 125.69 and is punishable under said section by imprisonment for up to 60 days, or a fine of up to \$500.00, or both such imprisonment and fine.

87.141. B. It shall be unlawful for any tobacco retailer to sell, to permit to be sold, or to offer for sale any tobacco product by means of delivery sales. All sales of tobacco products must be conducted in person, in a licensed retail establishment, in over-the-counter sales transactions.

87.141. C.     It shall be unlawful for any tobacco retailer to sell, to permit to be sold, or to offer for sale any tobacco product to any other person, or in any other manner or form prohibited by federal, state, or other local law, ordinance provision, or other regulation.

87.141. D.     Violation of Sections 87.141.B or 87.141.C. shall be a violation of the license and is punishable as provided in Section 87.142.

**Sec. 87.142. Enforcement.**

County law enforcement officers may conduct random, unannounced inspections at locations where tobacco products are distributed to test and ensure compliance with this ordinance.

87.1421.A.     Penalties. In addition to any penalties specifically mentioned in this article:

87.132.A.1.     Licensees. Any licensee found to have violated this article, or whose employee violates this article, will be subject to the following:

<u>Number of Violations</u>	<u>Penalty</u>
<u>1<sup>st</sup> Violation</u>	<u>7-day license suspension and \$100 fine</u>
<u>2<sup>nd</sup> Violation within a 24-month period</u>	<u>30-day license suspension and \$250 fine</u>
<u>3<sup>rd</sup> Violation within a 24-month period</u>	<u>90-day license suspension and \$500 fine</u>
<u>4<sup>th</sup> Violation within a 24-month period</u>	<u>Revocation of license with no option to reapply and \$500 fine</u>

87.142.A.2.     Distribution without a valid license. Selling or otherwise distributing tobacco products without a valid license in the County is a misdemeanor pursuant to F.S. sec. 125.69 and is punishable by imprisonment for up to 60 days or a fine up to \$500 or both.

87.142.B.     License Revocation

A tobacco product distribution license may be revoked with no option to reapply whenever it is determined that a licensee has violated this article four times (4) within a 24-month period.

87.142.C.     Exceptions and defenses

The penalties in this article do not apply to a person younger than 21 years old who purchases or attempts to purchase tobacco products while under the direct supervision of County staff or law enforcement for training, education, research, or enforcement purposes.

87.142.C.1. Nothing in this article prohibits a person younger than 21 years old from handling tobacco products in the course of lawful employment.

87.142.C.2. It shall be an affirmative defense to a violation of this article for a person to have reasonably relied on government-issued identification for proof of age.

#### **Sec. 87.143. Creation of Fund and Accounting.**

87.143.A. The Clerk of the Circuit Court and Comptroller shall keep a record of all monies collected pursuant to this article and Article 7 and shall deposit all monies into the fund entitled "Prevention of Underaged Tobacco Use Trust Fund."

87.143.B. The Clerk of the Circuit Court and Comptroller shall provide the Board of County Commissioners with a monthly report as to the funds collected and deposited into the Prevention of Underaged Tobacco Use Trust Fund and the amount of expenditures from the Prevention of Underaged Tobacco Use Trust Fund.

#### **Sec. 87.144. Expenditures.**

Monies deposited into the Prevention of Underaged Tobacco Use Trust Fund shall be used for the administration of the distribution licenses, enforcement of this article and to financially assist the prevention of underaged tobacco use programs in public and nonpublic schools in Martin County. In order to receive assistance grants from the Prevention of Underaged Tobacco Use Trust Fund, programs shall be selected as recipients on the basis of selection procedures which shall be developed by the County Administrator or designee. Final approval shall be made by the Board of County Commissioners. The terms and conditions of such grants shall be contained in an agreement between the Martin County Board of County Commissioners and the grantee.

#### **Sec. 87.145. – Reserved. Sees. 87.137–87.140. Reserved.**

**PART 2. ARTICLE 7. ELECTRONIC NICOTINE DELIVERY DEVICES, CHAPTER 87, GENERAL ORDINANCES, MARTIN COUNTY CODE, IS HEREBY AMENDED AS FOLLOWS:**

**ARTICLE 7. PROHIBITION ON USE OF VAPOR-GENERATING ELECTRONIC NICOTINE DELIVERY DEVICES**

**~~Sec. 87.141. Title.~~**

~~This article shall be known and may be cited as the "Martin County Nicotine Merchandising Ordinance."~~

**~~Sec. 87.142. Purpose and intent.~~**

It is the intent of this article to promote, protect, and improve the health, safety, and general welfare of the citizens of Martin County, Florida, by discouraging the unhealthy practice of using nicotine products and to help prevent the addiction to nicotine, especially by young people, ~~through regulation of the marketing, sale and merchandising of nicotine products,~~ to the extent such regulation is not preempted to the federal or state government.

**~~Sec. 87.143. Definitions.~~**

~~As used in this article:~~

~~*Business* means any sole proprietorship, joint venture, partnership, corporation, limited liability company or other business formed for profit making or non-profit purposes operating within the unincorporated areas of Martin County, Florida, including all retail establishments where goods or services are sold.~~

~~*E-cigarette* means any electronic device composed of a mouthpiece, heating element, battery and electronic circuits that provides a vapor of liquid nicotine or other substances mixed with propylene glycol to the user that he or she inhales in simulation of smoking. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.~~

~~*Liquid nicotine* means any liquid product composed either in whole or part of pure nicotine and propylene glycol and manufactured for use with e-cigarettes.~~

~~*Open display unit*, in the context of the retail sale of e-cigarettes and liquid nicotine, means any device, furniture or furnishing within or upon which e-cigarettes or liquid nicotine are displayed to customers, and includes but is not limited to any case, rack, shelf, counter, table, desk, kiosk, booth, stand and other surface.~~

~~*Person* means any natural person or artificial entity capable of suing and being sued in the State of Florida.~~

~~*Retailer* means any person or business engaged in the retail sale of e-cigarettes or liquid nicotine.~~

~~*Self-service merchandising*, in the context of the retail sale of e-cigarettes and liquid nicotine, means the open display of e-cigarettes and liquid nicotine, whether packaged or otherwise, for direct retail customer access and handling prior to purchase without the intervention or assistance of the retailer or the retailer's owner, employee or agent. Such open display includes the use of an open display unit.~~

~~*Smoking* means smoking as defined in F.S. § 386.203 and any successor thereto.~~

~~Use of an e-cigarette means the heating or ignition of an e-cigarette which creates a vapor of liquid nicotine or other substances mixed with propylene glycol to the user that he or she can inhale in simulation of smoking.~~

**~~Sec. 87.144. Sale of e-cigarettes to minors prohibited.~~**

~~It is prohibited for any person to sell or offer for sale e-cigarettes or liquid nicotine within the unincorporated County to a person under 18 21 years of age. The retailer shall verify the age of the purchaser prior to completing the sale of any e-cigarettes or liquid nicotine.~~

**~~Sec. 87.145. Self-service merchandising prohibited.~~**

- ~~(a) No retailer shall sell, permit to be sold, offer for sale, or display for sale e-cigarettes or liquid nicotine by means of self-service merchandising.~~
- ~~(b) No retailer shall place e-cigarettes or liquid nicotine in an open display unit unless the same is located in an area that is inaccessible to customers.~~

**Sec. 87.1476. Use of vapor-generating electronic device e-cigarette prohibited.**

The use of a vapor-generating electronic device, as defined in Article 6, ~~an e-cigarette~~ is prohibited at all locations within the unincorporated County at which smoking and vaping are is prohibited under F.S. ch. 386, or within 50 feet thereof and at County parks.

**~~Sec. 87.147. Marketing restrictions.~~**

~~In addition to the other responsibilities under this part, each business shall remove from each point of sale all self-service displays, advertising, labeling, and other items that do not comply with the requirements under this article.~~

**Sec. 87.148. - Penalties.**

87.148.A. ~~(a)~~ The violation of any provision of this article is a misdemeanor pursuant to F.S. sec. 125.69 and is punishable under said section by imprisonment for up to 60 days, or a fine of up to \$500.00, or both such imprisonment and fine.

~~(b) Any condition caused or permitted to exist in violation of any of the provisions of this article shall be deemed a public nuisance and shall be subject to abatement by the county.~~

87.148.B. ~~(c)~~ Each and every act or action done in violation of the provisions of this article, shall be construed, deemed and taken as a separate and distinct violation of such provisions of this article. Every day that a violation of this article or any provisions hereof shall continue shall be deemed a separate and distinct violation of the provisions of this article.

87.148.C. ~~(d)~~ Nothing contained in this section prohibits the Board of County Commissioners from enforcing codes by any other means.

**PART 3: CONFLICTING PROVISIONS.**

Special acts of the Florida Legislature applicable only to unincorporated areas of Martin County, County ordinances and County resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this ordinance to the extent of such conflict.

**PART 4: SEVERABILITY.**

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative or void, by a court of competent jurisdiction, such holding shall not affect the remaining portions of this ordinance. If this ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstances by a court of competent jurisdiction, such holding shall not affect its applicability to any other person, property or circumstances.

**PART 5: APPLICABILITY.**

This ordinance shall be applicable throughout the unincorporated area of Martin County.

**PART 6: FILING WITH DEPARTMENT OF STATE AND DEPARTMENT OF REVENUE.**

The Clerk shall be and is hereby directed forthwith to scan this Ordinance in accordance with Rule 1B-26.003, Florida Administrative Code, and file same with the Florida Department of State via electronic transmission. The Clerk is further directed to send a certified copy of this Ordinance to the Florida Department of Revenue.

**PART 7: EFFECTIVE DATE.**

This ordinance shall take effect on February 1, 2021.

**PART 8: CODIFICATION.**

Provisions of this ordinance shall be incorporated in the County Code, except parts 3 to 8 shall not be codified. The word "ordinance" may be changed to "section," "article" or other word, and the sections of this ordinance may be renumbered or re-lettered.

**DULY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY THIS \_\_\_\_ DAY OF OCTOBER 2020.**

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA

---

CAROLYN TIMMANN, CLERK OF THE  
CIRCUIT COURT AND COMPTROLLER

---

HAROLD E. JENKINS II, CHAIRMAN

APPROVED AS TO FORM & LEGAL  
SUFFICIENCY:

---

SARAH W. WOODS, COUNTY ATTORNEY

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**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA**

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION TO ESTABLISH FEES FOR TOBACCO DISTRIBUTION LICENSES**

**WHEREAS**, the Board of County Commissioners of Martin County, Florida, has duly adopted an ordinance requiring a tobacco distribution license for the sale of tobacco products within unincorporated Martin County; and

**WHEREAS**, the Board is authorized to establish fees for tobacco distribution licenses pursuant to Section 87.136, Article 6, Chapter 87, General Ordinances, Martin County Code.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA, THAT:**

1. An original application or timely annual renewal of a tobacco distribution license shall be \$300.00.
2. Tobacco retailers that fail to timely renew their tobacco distribution license will be subject to the following late fees:
  - a. 10% late fee for licenses not renewed by October 1
  - b. 15% late fee for licenses not renewed by November 1
  - c. 20% late fee for licenses not renewed by December 1
  - d. 25% late fee for licenses not renewed by January 1
  - e. \$200 late fee for any licenses renewed after January 1

**DULY PASSED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2020.**

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA

\_\_\_\_\_  
CAROLYN TIMMANN, CLERK OF THE  
CIRCUIT COURT AND COMPTROLLER

\_\_\_\_\_  
HAROLD H. JENKINS II, CHAIRMAN

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

\_\_\_\_\_  
SARAH W. WOODS,  
COUNTY ATTORNEY

**From:** David J. Rosko <djrosko@sheriff.martin.fl.us>  
**Sent:** Monday, November 2, 2020 3:46 PM  
**To:** Erick J. Day  
**Cc:** Joseph M. Angelico; townclerk@townofoceanbreeze.org  
**Subject:** RE: West End Blvd. Traffic Analysis

Erick,

If you would add West End Blvd (Jensen Beach) to the list of RDCU deployments per Mrs. Orrs requests. Please follow up with Mrs. Orr when complete.

**Sgt. David J. Rosko**

Traffic Unit

Office of Sheriff William D. Snyder

Martin County Sheriff's Office

800 S.E. Monterey Rd.

Stuart, Florida 34994

Office: (772) 220-7013

<http://www.sheriff.martin.fl.us/>



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**From:** Joseph M. Angelico  
**Sent:** Thursday, October 29, 2020 2:42 PM  
**To:** townclerk@townofoceanbreeze.org  
**Cc:** David J. Rosko <djrosko@sheriff.martin.fl.us>  
**Subject:** RE: West End Blvd. Traffic Analysis

Pam,

All is well here, wish you the same. I am referring your request to our traffic supervisor Sgt Rosko. I have copied him on this email. Please continue your conversation in more detail with him. I know last time we put the radar trailer up inside the park and I was thinking you wanted it outside the park on the roadway. Let me know if I can be of any further assistance.

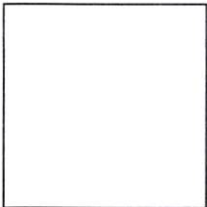
Joe

**From:** [townclerk@townofoceanbreeze.org](mailto:townclerk@townofoceanbreeze.org) [<mailto:townclerk@townofoceanbreeze.org>]

**Sent:** Wednesday, October 28, 2020 2:55 PM

**To:** Joseph M. Angelico <[jmangelico@sheriff.martin.fl.us](mailto:jmangelico@sheriff.martin.fl.us)>

**Subject:** West End Blvd. Traffic Analysis



Hi Deputy Joe:

Hope all is well with you, your family and Deputy Andy!

May we please request a traffic analysis on west End Blvd. specifically traffic volume and incidents of traffic accidents.

Thank you!!

---

Pam Orr  
Town Clerk



Town of Ocean Breeze  
P. O. Box 1025  
Jensen Beach, FL 34957  
772-334-6826 office  
772-334-6823 fax  
[townofoceanbreeze.org](http://townofoceanbreeze.org)

**Please make note of our new email address.**



# MARTIN COUNTY

## BOARD OF COUNTY COMMISSIONERS

2401 S.E. MONTEREY ROAD • STUART, FL 34996

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HAROLD E. JENKINS II  
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October 12, 2020

Mayor Karen Ostrand and Council President Ken De Angeles  
PO Box 1025  
Jensen Beach, FL 34958

Re: West End Blvd traffic alterations by Brightline

Dear Mayor Ostrand and Council President De Angeles,

Please accept this letter as a response to your letter dated October 5, 2020. I believe there is a misunderstanding that I feel compelled to clarify.

In your letter, you express a concern over the County's 'apparent position' regarding solicitation for input from those that may be impacted by the proposed traffic alterations to West End Boulevard before the plans are finalized. The reason for the County's position is because this is not a County project. This project is being planned, designed and will be constructed by Brightline and the Florida East Coast Railway (FEC). That was the basis for County staff to not only recommend, but also try to facilitate having their design team conduct a presentation to the Town of Ocean Breeze (Town) at their next scheduled Council meeting. The County believes it would be in the best interest of the Town to interject themselves into this project. This would ensure any concerns the Town may have are effectively communicated directly to their design team and where possible, addressed by FEC as this project proceeds.

The County's approach to this project, along with all other FEC projects that are within an established municipality, has been very consistent. For the Town's information, the County's contact for FEC is Mr. Ryan White, Project Engineer at 300 North Drive, Melbourne, FL 32934. Mr. White's phone number is 407-304-8432 and his e-mail address is [rmwhite@HNTB.com](mailto:rmwhite@HNTB.com).

I hope this clarifies the County's initial response and how we will proceed as this project commences.

Sincerely,

Harold E. Jenkins II  
Chairman and District 3 Commissioner

cc: Martin County Board of County Commissioners  
Ocean Breeze Town Council  
Taryn Kryzda, County Administrator  
Don Donaldson, Deputy County Administrator  
Jim Gorton, Public Works Director  
Lisa Wischer, County Engineer  
Gena May, Regional Vice President Sun Communities  
Chris Walters, General Manager, Ocean Breeze Resort  
Ryan White, Brightline Project Engineer