



Consent 08/18/2020

Office of **INDIAN RIVER COUNTY**  
**ATTORNEY**

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Dylan Reingold, County Attorney  
William K. DeBaal, Deputy County Attorney  
Susan J. Prado, Assistant County Attorney

MEMORANDUM

TO: Board of County Commissioners

THROUGH: Richard B. Szyrka, P.E., Public Works Director

FROM: William K. DeBaal, Deputy County Attorney

DATE: August 11, 2020

SUBJECT: Partial Release of Limited Access Easement for Stillwater Affidavit of Exemption  
Located at 6905 61<sup>st</sup> Street

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The Stillwater Affidavit of Exemption (AOE) is located on the south side of 61<sup>st</sup> Street, west of 66<sup>th</sup> Avenue. An aerial photo of the AOE is attached to this memorandum. As with most developments that front a paved road, a 5' wide limited access easement is dedicated to the County along the edge of the right-of-way for control over access rights. With this AOE, the easement runs the length of the development along 61<sup>st</sup> Street. The purpose of a limited access easement is to control the number and location of driveways to maintain safe ingress and egress from the development and surrounding properties.

The Stillwater AOE was recorded in 2006 and consists of two lots that share a common north/south border. The southern-most lot is a "flag" lot with a long narrow access strip to 61<sup>st</sup> Street. The northern-most lot has approximately 265 feet of frontage on 61<sup>st</sup> Street with the limited access easement running parallel to 61<sup>st</sup> Street and parallel to an Indian River Farms Water Control District canal (IRFWCD).

The owner of the north lot, Joyce Darlene Hamilton, has applied to Public Works for a right-of-way permit to build a separate driveway for ingress and egress onto her property. The proposed driveway will be 45' wide but the culvert needed will be over 60' long so the slope may be graded on either side of the new driveway culvert to prevent erosion into the canal. Mr. David Gunter, IRFWCD Superintendent, has informed staff that he has issued a permit for construction of the proposed driveway and culvert in the canal right-of-way. Ms. Hamilton seeks a partial release of the limited access easement held by the County for construction of the driveway. Public Works staff has inspected the site of the proposed driveway and has no objection to the partial release of the limited access easement.

**FUNDING:** There is no funding associated with this matter as Ms. Hamilton will pay for the cost of recoding the easement as a condition of right-of-way permit approval.

**RECOMMENDATION:** Staff recommends that the Board approve a 45' wide partial release of the limited access easement held by the County over the northern boundary of the Stillwater Affidavit of Exemption and authorize the Chairman to execute the partial release on behalf of the Board.

Attachments: Aerial photo, Sketch and Legal description of the Limited Access Easement, Stillwater AOE and proposed Partial Release of Easement

Copies to Joyce D. Hamilton and David Gunter via email