



Office of

Attorney's Matters 06/08/2021

**INDIAN RIVER COUNTY
ATTORNEY**

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

MEMORANDUM

TO: The Board of County Commissioners

THROUGH: Phillip J. Matson, AICP, Community Development Director

FROM: Susan J. Prado, Assistant County Attorney
Andrew Sobczak, Chief, Environmental Planning,
& Code Enforcement

DATE: May 27, 2021

SUBJECT: Request for Release of an Easement Located at 170 Seaspray Lane,
Town of Orchid, FL

It is requested that the Board of County Commissioners formally consider the following information at its regular meeting of June 8, 2021.

DESCRIPTION AND CONDITIONS

The County has been petitioned by VRB Realty LLC, owner of a lot located at 170 Seaspray Lane, in the Town of Orchid for release of a portion of a Visual Access Easement (hereinafter "easement"). The purpose of the easement release request is to accommodate the construction of a new single-family residence. The easement was granted to the County and the Town of Orchid by the Orchid Island Associates Limited Partnership on October 16, 1989 to preserve visual access / line of sight over Jungle Trail's historic alignment. Since the realignment of Jungle Trail to its current location, no part of Jungle Trail runs through the portion of the visual access easement petitioned for release.

Based on the recorded easement, no construction of any vertical structures within the easement are allowed. Release of the easement by the Grantees to the underlying property owner would allow for such vertical construction. Staff reviewed the historic documentation for Jungle Trail and found that the road's current alignment is designated (report available in the BCC office for review), however this does not formally extend to

the area of the visual access easement that encumbers the property located at 170 Seaspray Lane.

ANALYSIS

On April 7, 2021, an easement release request was submitted to the Town of Orchid. After receiving the request, Town staff contacted the adjacent property owners to determine if there were any objections to the release. No objections to the release were indicated, and on May 5, 2021, the Town of Orchid's Town Council met and voted to release the visual access easement. Following this action, the property owner has moved forward with his petition to the County for release of the easement. The request has been reviewed by the County Surveyor; the County Community Development Department, and the Town of Orchid. None of the reviewing agencies expressed an objection to the requested release of easement. Therefore, staff has no objection to the request for release of the easement.

STAFF RECOMMENDATION

Staff has no objection to the request and has attached a proposed County Resolution for Release of the Visual Access Easement.

FUNDING: There is no funding required for this item.

Attachments: Exhibit "A" Image of Petition for Release of Publicly D Easement
Exhibit "B" Image of Orchid Island Plat 5, Plat Book 13, Page 23A.
Exhibit "C" Copy of Visual Access Easement
Exhibit "D" Minutes from Town of Orchid May 5, 2021 Meeting Releasing Easement
Exhibit "E" Aerial Demonstrating Portion of Visual Access Easement Requested for Release

Exhibit "A"
PETITION FOR
RELEASE OF PUBLICLY DEDICATED EASEMENT

VRB Realty LLC, hereby petitions Indian River County to
(Print Name)

release the: old Jungle Trail easement
(description of easement / i.e. rear 10' drainage & utility, conversation, etc.)

located in/at 170 Seaspray Lane, Orchid, FL 32963
(address, subdivision name, parcel ID #, or tract)

If requesting release of a portion of an easement, fill in section below and submit a legal description of area to be released:

Release easement starting at Contained within Lot 38 Orchid Island - Plat 1
and terminating at P.B. 13, Pg. 8

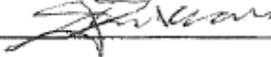
laying adjacent to (or in) Block _____, Lot 38, Section _____, Township _____, Range _____,
as recorded in Plat Book 5, Page 13-23, Public Records of Indian River County, Florida.

The reason for this request is (should include intended use of property): _____
To remove easement for old Jungle Trail which is no longer in use to allow construction
of residence on private lot.

Applicants Name (Please Print): John Kean

Mailing address: 176 North Shore Road, Vero Beach, FL 32963

Telephone #: _____ E-mail: jetkean@aol.com

Signature:  Date: 2/4/21

List of property owners abutting portion of public easement requested to be released:

Exhibit "B"

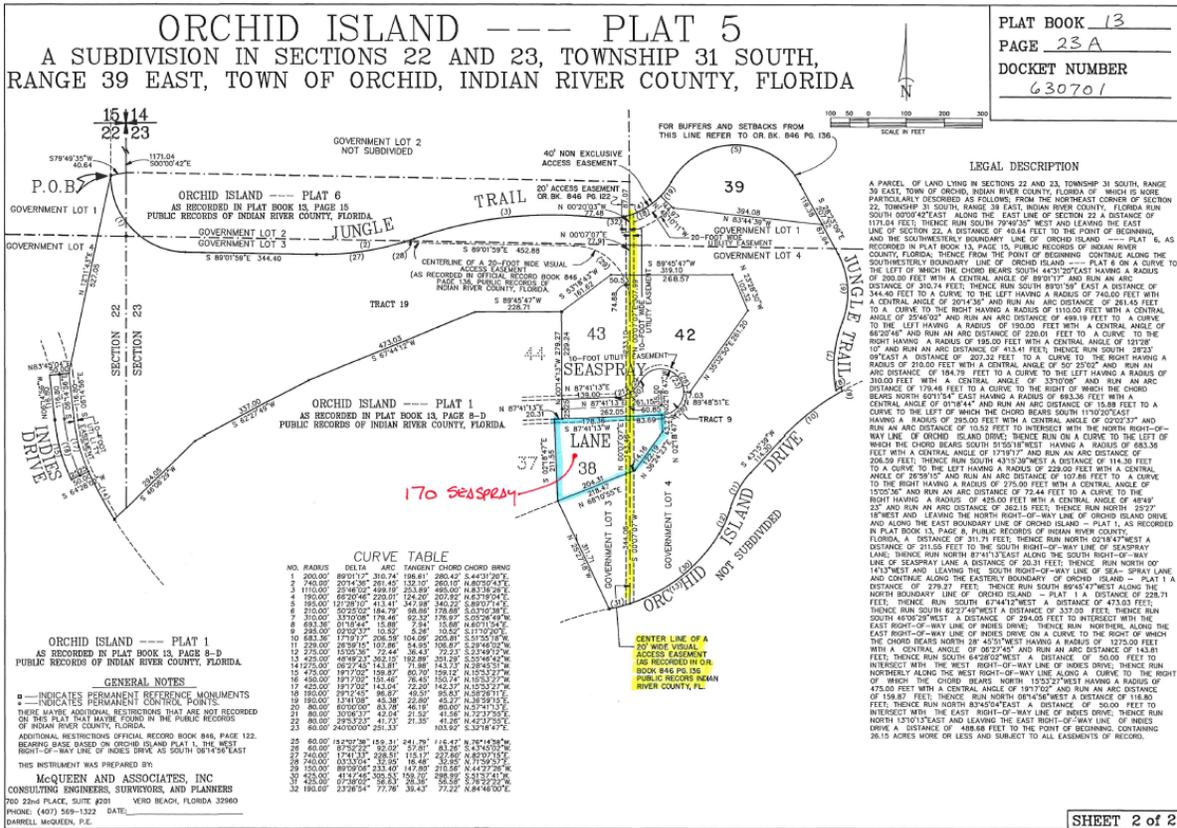


Exhibit "C"

5/26/2021

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Rec. 15.00.
Doc. .55

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620526

VISUAL ACCESS EASEMENT

WHEREAS, Orchid Island Associates Limited Partnership, a Connecticut limited partnership, hereinafter "Grantor", is the fee simple owner of certain property situated in the Town of Orchid, Indian River County, Florida, which property is currently undergoing development; and

WHEREAS, Grantor's property is immediately adjacent to Jungle Trail; and

WHEREAS, Grantees, Indian River County and Town of Orchid have agreed to allow the Grantor to realign a portion of Jungle Trail, the County having found that the plan for realignment has met each of the criteria established by the Indian River County Jungle Management Plan; and

WHEREAS, the parties have agreed that it is desirable to preserve the line of sight along the length of that portion of Jungle Trail abandoned by the County;

W I T N E S S E T H:

That Grantor, for and in consideration of the approval by Indian River County to realign Jungle Trail, further and in consideration of the approval by the Town of Orchid for the construction of the realigned portion of Jungle Trail, and other good and valuable consideration, by these presents does grant to Indian River County and Town of Orchid, hereinafter "Grantees", an easement preserving visual access or line of sight over that real property described in Exhibit "A". Vertical structures which would impair the line of sight such as buildings, sheds, shacks, houses, or garages shall not be erected in the area described. Grassy areas, planted areas, landscaping, walking paths, fairways, greens, golf cart paths, drainage swales, roadways, utilities, and other uses which do not impair the line of sight shall be permitted in the described easement.

DOC. ST. - AMT. \$ - 55
JK. GARTON, Clerk of Circuit Court
Indian River County - by *J. Clark*

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Return to:
County Attorney's Office
Indian River County
1840 - 25th Street
Vero Beach, FL 32960

O.R. 846 PG 0136

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This easement shall be perpetual and shall run with the land and be binding upon all subsequent owners of the servient estate. This easement shall not be assignable by the Grantees. This easement may be enforced by the Grantees by injunction or proceeding in equity or at law. This easement may be released by the Grantees to the owners of the servient estate. This easement shall be recorded and indexed in the same manner as any other instrument affecting the title to real property.

Grantor hereby covenants that it is lawfully seized of said servient land in fee simple, and that it has good right and lawful authority to convey the easement established hereby, and will defend the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, Grantor has caused these presents to be executed this 16th day of October, 1989.

WITNESSES:

ORCHID ISLAND ASSOCIATES LIMITED PARTNERSHIP, A Connecticut Limited Partnership

RICHARD ROBERTS CO., INC., a General Partner

Susan B. Alvin
Eric J. Hamchuck

By: *Robert H. Haines III*
Robert H. Haines III, President

(Corporate Seal)

STATE OF CONNECTICUT
COUNTY OF HARTFORD

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared ROBERT H. HAINES III, well known to me to be the President of RICHARD ROBERTS CO., INC., General Partner of ORCHID ISLAND ASSOCIATES LIMITED PARTNERSHIP, and that he acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in him by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.

Witness my hand and official seal in the County and State last aforesaid this 16th day of October, 1989.



Patricia B. Reidy
Notary Public
My Commission Expires:

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PATRICIA B. REIDY
NOTARY PUBLIC
MY COMMISSION EXPIRES MARCH 31, 1994

O.R. 846 PG 0137

Prepared by:
Bruce Barkett
Collins, Brown & Caldwell
744 Beachland Blvd.
Vero Beach, FL 32963

5/26/2021

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EXHIBIT "A"

Ten feet on either side of the Jungle Trail maintenance map baseline as recorded in Plat Book 13, Page 4 Public Records of Indian River County, Florida from Station 173 + 48.92 feet to Station 194 + 42.48 feet.

SEARCHED
SERIALIZED
INDEXED
FILED
OCT 25 PM 4:15
INDIAN RIVER COUNTY
CLERK OF COUNTY RECORDS
VICTOR J. SMITH, JR., CLERK

O.R. 846 PG 0138

Exhibit “D”

Release of Visual Access Easement on 170 Seaspray Lane

The Town Manager explained that since the last meeting he had reached out to adjoining property owners as well as the Orchid Island Community Association and that he had received no feedback against the release of the Visual Access Easement upon the vacant residential lot at 170 Seaspray Lane.

Councilmember Browning moved to grant the request for release of the Visual Access Easement of October 16, 1989, as it pertains specifically to the property addressed as 170 Seaspray Lane. Councilmember Benedetto seconded the motion.

The Town Clerk took a roll-call vote as follows:

Councilmember Benedetto aye
Vice-Mayor Knapp aye
Mayor Gibbons aye
Councilmember Browning aye

Exhibit "E"

