



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of September 26, 2009**

DATE: September 8, 2009

SUBJECT: Enactment of an Ordinance to Vacate a Portion of an Easement for Public Sanitary Sewer Purposes, on Lot 128A, Section 2, Shirlington Crest (RPC No. 31033206), with Conditions.

Applicant/Owner: Shirlington Neighborhoods, LLC

C. M. RECOMMENDATIONS:

1. Enact the attached Ordinance to Vacate a Portion of an Easement for Public Sanitary Sewer Purposes, on Lot 128A, Section 2, Shirlington Crest (RPC No. 31033206), with Conditions (the "Ordinance of Vacation").
2. Authorize the Real Estate Bureau Chief, Engineering and Capital Projects Division, Department of Environmental Services, to execute, on behalf of the County Board, the Deed or Deeds of Vacation and all documents necessary to effectuate the Ordinance of Vacation, subject to approval as to form by the County Attorney.

ISSUES: The Applicant has requested the vacation of a one square foot portion of a sanitary sewer easement because the existing sanitary sewer easement conflicts with the corner of a newly constructed townhouse. There are no issues identified with this request.

SUMMARY: The Applicant has requested the vacation of a one (1) square foot portion of a sanitary sewer easement located on Lot 128A, Section 2, Shirlington Crest (RPC No. 31033206) because a corner of a newly-constructed townhouse exists within a one (1) square foot portion of an existing easement for public sanitary sewer purposes (the "Easement").

With the enactment of the Ordinance of Vacation, and upon satisfaction of the conditions contained therein and recordation of the Deed or Deeds of Vacation, the County's interest in the vacated portion of the Easement will be extinguished.

BACKGROUND: The subject site, 2618 S. Kenmore Court (Lot 128A, Section 2, Shirlington Crest, RPC No. 31033206) ("Property"), is located in the subdivision known as Shirlington Crest, a townhouse development located at the northwest corner of South Four Mile Run Drive and Shirlington Road. (See Vicinity Maps One and Two, attached hereto as Exhibits B and C,

County Manager: _____

County Attorney: _____

Staff: Linda Collier, Michael Halewski, Real Estate Bureau, DES

respectively). As part of the redevelopment process, the Applicant resubdivided the underlying property, as reflected in the following documents: 1) a Deed of Resubdivision and Easements, dated November 20, 2007, and recorded on November 29, 2007 among the land records of the Arlington County Circuit Court (the "Land Records") in Deed Book 4151 at Page 1940 (the "First Resubdivision"); and 2) a Deed of Resubdivision, dated September 12, 2008, and recorded on September 17, 2008 among the Land Records in Deed Book 4216 at Page 398 (the "Second Resubdivision"). The First Resubdivision included the Applicant's dedication of certain easements to the County, including the Easement. The Second Resubdivision did not alter the Easement. However, it has been determined that one (1) square foot of the townhouse constructed on the Property encroaches into the Easement. The portion of the Easement for which this vacation request was filed is depicted on a plat entitled "Plat Showing the Vacation of Various Easements on the Property Now in the Name of Arlington Building & Development L.L.C. (Deed Book 3882, Page 97), Arlington County, Virginia," dated November 13, 2006, prepared by Bowman Consulting Group, Ltd. ("Plat"), and attached hereto as Exhibit A-1 and Exhibit A-2. County staff has determined that the vacation of this one (1) foot square portion of the Easement will not detrimentally affect the County's ownership or use of the Easement.

DISCUSSION: The townhouse located on Lot 128A currently encroaches upon the Easement, which prevents the Applicant from obtaining a certificate of occupancy for the townhouse. By vacating the one (1) square foot portion of the Easement, the encroachment will be eliminated. Staff does not object to the vacation of a small portion of the Easement, as such vacation will not impact the operation or maintenance of the existing sanitary sewer infrastructure installed within the Easement. The proposed Ordinance of Vacation is attached to this report as "Attachment 1".

Legal and Physical Description: The Easement that is the subject of this vacation request is described on the Plat attached to this report as Exhibits A-1 and A-2. The Property is located at 2618 S. Kenmore Court (Lot 128A, Section 2, Shirlington Crest, RPC No. 31033206) and is part of the subdivision known as Shirlington Crest, a townhouse development located at the northwest corner of South Four Mile Run Drive and Shirlington Road. The County acquired the Easement by a Deed of Resubdivision and Easements, dated November 20, 2007, recorded at Deed Book 4151, Page 1940, among the land records of Arlington County, Virginia on November 29, 2007.

Compensation: Because the portion of the Easement being vacated is small and does not impact the operation or maintenance of the existing sanitary sewer infrastructure within the Easement, staff recommends that no compensation be required from the Applicant for the requested vacation of the Easement.

Public Notice: Public notice of the proposed vacation was given in accordance with the Code of Virginia. Notices were placed in the September 1, 2009 and September 8, 2009 issues of the Washington Times for the County Board Meeting of September 26, 2009.

FISCAL IMPACT: None.

CONCLUSION: It is recommended that the County Board enact the attached Ordinance to Vacate a Portion of an Easement for Public Sanitary Sewer Purposes, on Lot 128A, Section 2, Shirlington Crest (RPC No. 31033206), with Conditions.

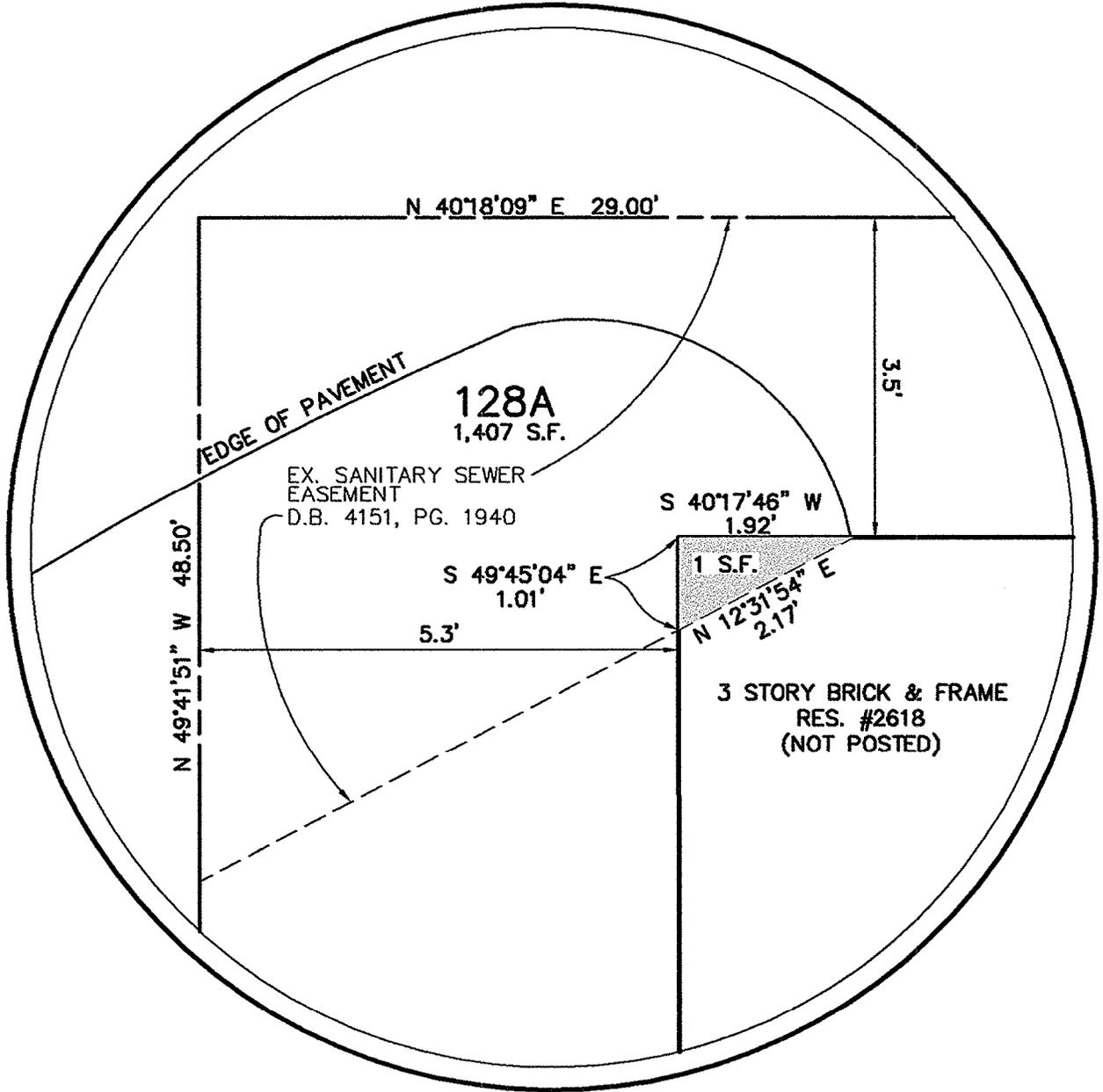
ATTACHMENT 1

ENACTMENT OF AN ORDINANCE TO VACATE A PORTION OF AN EASEMENT FOR PUBLIC SANITARY SEWER PURPOSES, ON LOT 128A, SECTION 2, SHIRLINGTON CREST (RPC NO. 31033206), WITH CONDITIONS.

BE IT ORDAINED that, pursuant to a request by Shirlington Neighborhoods (“Applicant/Owner”), on file in the offices of the Department of Environmental Services, that a portion of an Easement for Public Sanitary Sewer Purposes (“Easement”), on Lot 128A, Section 2, Shirlington Crest (RPC No. 31033206), such Easement being created by a Deed of Resubdivision and Easements, dated November 20, 2007, recorded at Deed Book 4151, Page 1940, among the land records of Arlington County, Virginia on November 29, 2007, and shown on and shown on a schematic entitled “Exhibit Showing Proposed Conditions, Vacation of a Portion of Sanitary Sewer Easement That Encroaches Building, Lot 128A, Section 2, Shirlington Crest, Deed Book 4216, Page 398, Arlington County, Virginia”, dated March 18, 2009 (“Plat”), and attached to the County Manager’s September 8, 2009 Board Report as Exhibit A-1 and Exhibit A-2, is hereby vacated, subject to the following conditions:

1. The Applicant/Owner shall prepare and submit to the County for review and approval, the Deed(s) of Vacation, all required plats, and all required deeds of easement, subject to approval thereof by the County Manager, or his designee, and approval of the deeds as to form by the County Attorney.
2. The Applicant/ Owner shall record all plats, the Deed(s) of Vacation, and all deeds of easement required by the conditions of this Ordinance of Vacation among the land records of the Clerk of the Circuit Court of Arlington County.
3. The Applicant/Property Owner shall pay all fees, including the fees for review, approval, and recordation of the required documents associated with the Ordinance of Vacation.
4. All conditions of the Ordinance of Vacation shall be met by noon on September 26, 2012 or this Ordinance of Vacation shall become null and void, without the necessity of any further action by the County Board.

EXHIBIT A-2



DETAIL

NOT TO SCALE

SHADED PORTION OF SANITARY SEWER EASEMENT, 1 S.F. TO BE VACATED

EXHIBIT B

VICINITY MAP ONE



Proposed Ordinance of Vacation to Vacate a Portion of an Easement for Public Sanitary Sewer Purposes, on Lot 128A, Section 2, Shirlington Crest (RPC No. 31033206), with Conditions

September 26, 2009

