

ORDINANCE NO. 2015-04

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, VACATING AND ABANDONING A PORTION (1,407 SQUARE FEET) OF THE EMILIA AVENUE (7TH AVENUE PER PLAT) RIGHT-OF-WAY FORTY FEET (40') IN WIDTH, AS SHOWN ON THE PLAT OF OCEANVIEW SECTION OF HALIFAX SHORES, AS RECORDED IN MAP BOOK 11, PAGE 100 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; PROVIDING FOR CONDITIONS AND THE TAKING OF IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR NON-CODIFICATION AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, an application was filed with the City Council of the City of Daytona Beach Shores, Florida, to vacate, and abandon a portion (approximately four (4) to eight (8) feet in width by two hundred and four (204) feet in length for a total of one thousand four hundred and seven (1,407) square feet), of the Emilia Avenue (7th Avenue per plat) right-of-way forty feet (40') in width, as shown on the plat of Oceanview Section of Halifax Shores, as recorded in Map Book 11, Page 100 of the Public Records of Volusia County, Florida which property is more specifically described in Exhibit "A"; and

WHEREAS, the City Council of the City of Daytona Beach Shores, Florida finds that vacating, and abandoning of said right-of-way will not operate to the detriment of the City or the public provided that the conditions and provisions set forth in this Ordinance are imposed relative to the vacation and abandonment action taken herein in order to protect the public interest.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA THAT:

SECTION ONE: LEGISLATIVE FINDINGS AND INTENT.

(a) The City Council of the City of Daytona Beach Shores hereby adopts and incorporates into this Ordinance the recitals (whereas clauses) to this Ordinance, the City staff report and City Council agenda memorandum relating to the application relating to the proposed partial vacation and abandonment of the right-of-way as set forth herein.

(b) The City of Daytona Beach Shores has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance.

(c) This Ordinance is consistent with the goals, objectives and policies of the *Comprehensive Plan of the City of Daytona Beach Shores*.

SECTION TWO. VACATION OF RIGHT-OF-WAY (PARTIAL)/IMPLEMENTING ACTIONS.

(a) A portion (approximately four (4) to eight (8) feet in width by two hundred and four (204) feet in length for a total of one thousand four hundred and seven (1,407) square feet), of the Emilia Avenue (7th Avenue per the referenced plat) right-of-way forty feet (40') in width, as shown on the plat of Oceanview Section of Halifax Shores, as recorded in Map Book 11, Page 100 of the Public Records of Volusia County, Florida; more specifically described in Exhibit "A", be and the same is hereby vacated, and abandoned.

(b) The City Manager, or designee, is hereby authorized to execute any documents necessary to the action taken herein.

(c) The applicant shall pay all costs of the action herein taken to the City prior to this Ordinance being recorded and becoming effective as set forth in Section Six.

(d) As a condition of the action taken in this Ordinance relative to the vacation of the portion of the right-of-way as set forth in Subsection Two(a), the applicant, or such other person(s) and entity(ies) as the City Attorney shall determine, shall grant unto the City a sidewalk easement, in a form acceptable to the City Attorney, over the portion of the vacated right-of-way.

SECTION THREE: CODIFICATION.

This Ordinance shall not be codified in the *Code of Ordinances of the City of Daytona Beach Shores, Florida*.

SECTION FOUR: CONFLICTS.

All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION FIVE: SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION SIX: EFFECTIVE DATE.

This Ordinance shall take effect immediately upon the Daytona Beach Shores Building Department's issuance of a building or foundation permit for the construction of a thirty four (34) unit multifamily residential structure at the adjacent property to the north with Volusia County Short Parcel ID Number 6302-05-08-0380 and the recording of this Ordinance in the Public Records (Land Records) of Volusia County, Florida as authorized by the City Manager.

CITY OF DAYTONA BEACH SHORES, FLORIDA



HARRY JENNINGS, MAYOR



MICHAEL T. BOOKER, CITY MANAGER



CHERI SCHWAB, CITY CLERK

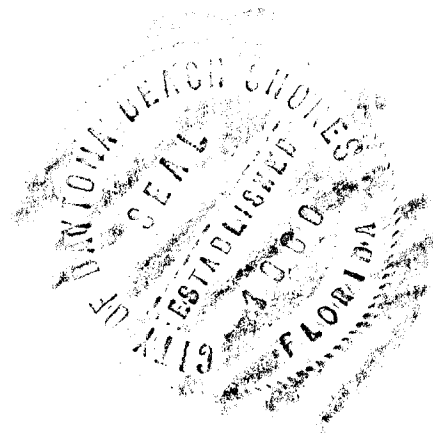
Approved as to form and legality:

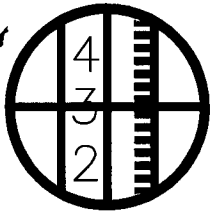


LONNIE GROOT, CITY ATTORNEY

Passed on first reading this 14 day of July, 2015.

Adopted on second reading this 28 day of July, 2015.



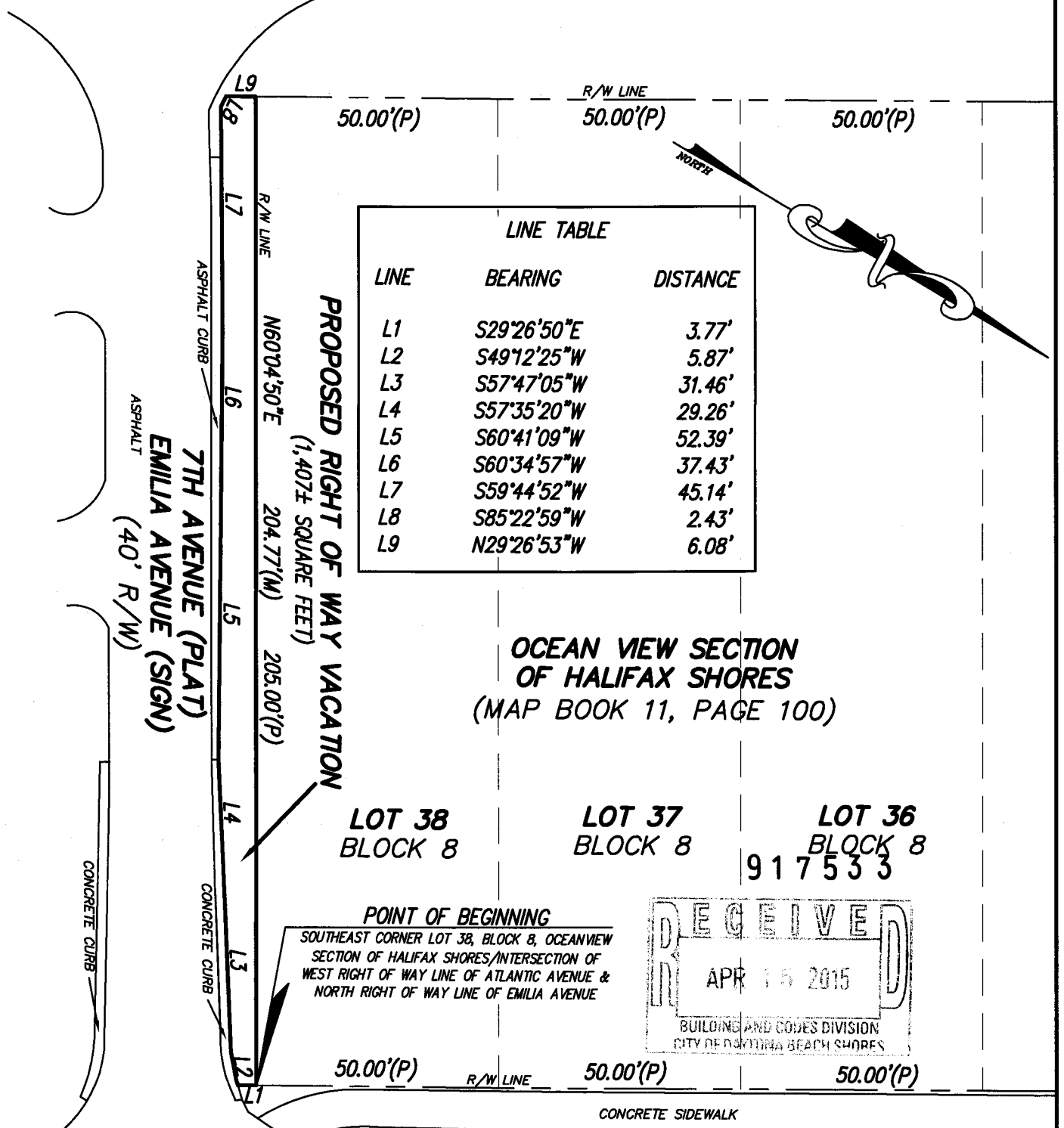


SLIGER & ASSOCIATES, INC.

PROFESSIONAL LAND SURVEYORS
LICENSED BUSINESS CERTIFICATION NO. 3019
3921 NOVA ROAD
PORT ORANGE, FL. 32127
(386) 761-5385
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www.sligerassociates.com

Instrument# 2015-142173 # 4
Book: 7146
Page: 3107

PENINSULA BOULEVARD (PLAT)
CARDINAL AVENUE (SIGN) ASPHALT
(70' R/W)



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S29°26'50"E	3.77'
L2	S49°12'25"W	5.87'
L3	S57°47'05"W	31.46'
L4	S57°35'20"W	29.26'
L5	S60°41'09"W	52.39'
L6	S60°34'57"W	37.43'
L7	S59°44'52"W	45.14'
L8	S85°22'59"W	2.43'
L9	N29°26'53"W	6.08'

**OCEAN VIEW SECTION
OF HALIFAX SHORES**
(MAP BOOK 11, PAGE 100)

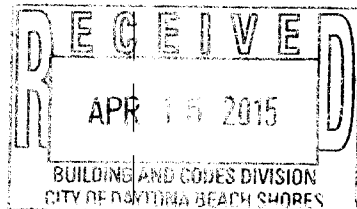
**LOT 38
BLOCK 8**

**LOT 37
BLOCK 8**

**LOT 36
BLOCK 8
917533**

POINT OF BEGINNING

SOUTHEAST CORNER LOT 38, BLOCK 8, OCEANVIEW SECTION OF HALIFAX SHORES/INTERSECTION OF WEST RIGHT OF WAY LINE OF ATLANTIC AVENUE & NORTH RIGHT OF WAY LINE OF EMILIA AVENUE



ATLANTIC AVENUE (OCEAN SHORE BOULEVARD) (PLAT)
S. ATLANTIC AVENUE (SIGN) SKETCH OF DESCRIPTION ONLY
(80' R/W) NOT A BOUNDARY SURVEY

FOR: MARK SCHARFF

DESCRIPTION: A PORTION OF THE RIGHT OF WAY OF EMILIA AVENUE (7TH AVENUE PER PLAT), A 40 FOOT RIGHT OF WAY AS SHOWN ON THE PLAT OF OCEANVIEW SECTION OF HALIFAX SHORES, AS RECORDED IN MAP BOOK 11, PAGE 100 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

(SEE SHEET 2 OF 2 FOR COMPLETE DESCRIPTION)

JOB #15-0126

SCALE: 1"=30'

FIELD BOOK:

PAGE:

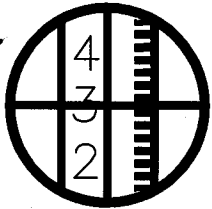
ABBREVIATIONS

(P)	PLATTED DIMENSION
(D)	DEEDED DIMENSION
(M)	MEASURED DIMENSION
(C)	CALCULATED DIMENSION
ID	IDENTIFICATION
A/C	AIR CONDITIONER
R/W	RIGHT OF WAY
CL	CENTERLINE
D	CENTRAL ANGLE
R	RADIUS
L	ARC LENGTH
CB	CHORD BEARING
FP&L CO.	FLORIDA POWER & LIGHT COMPANY
N.G.V.D.	NATIONAL GEODETIC VERTICAL DATUM
U.S.C. & G.S.	UNITED STATES COAST AND GEODETIC SURVEY

SHEET 1 OF 2

LEGEND

●	IRON ROD WITH CAP
○	IRON PIPE
□	CONCRETE MONUMENT
■	PERMANENT REFERENCE MONUMENT
△	PERMANENT CONTROL POINT
(R)	RADIAL LINE
(NR)	NON-RADIAL LINE
○	EXISTING ELEVATION
□	PROPOSED ELEVATION



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Instrument# 2015-142173 # 5

Book: 7146

Page: 3108

Diane M. Matousek

Volusia County, Clerk of Court

SURVEYORS NOTES

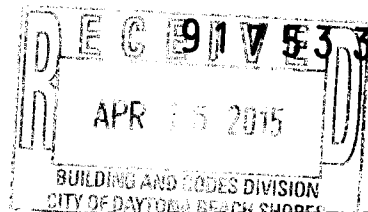
1. NOTICE: THERE MAY BE ADDITIONAL RESTRICTIONS AND/OR OTHER MATTERS THAT ARE NOT SHOWN ON THIS PLAT OF SURVEY/SKETCH OF DESCRIPTION THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY. THIS SURVEY/SKETCH OF DESCRIPTION PREPARED WITHOUT BENEFIT OF AN ABSTRACT.
2. DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.
3. RECORD PLAT CONTAINS ANGLES ONLY, NO BEARINGS. BEARING STRUCTURE IS ASSUMED WITH THE BEARING ON SOUTH LINE OF LOT 38, BLOCK 8, OCEANVIEW SECTION OF HALIFAX SHORES BEING N60°04'50"E.
4. UNDERGROUND FOUNDATIONS, IF ANY, NOT LOCATED.
5. "NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER."
6. UNLESS OTHERWISE SHOWN, RECORD DISTANCES AND DIRECTIONS AND FIELD MEASURED DISTANCES AND DIRECTIONS ARE THE SAME.

LEGAL DESCRIPTION AS PREPARED BY SLIGER & ASSOCIATES, INC. FEB. 17, 2015

A PORTION OF THE RIGHT OF WAY OF EMILIA AVENUE, (7TH AVENUE PER PLAT), A 40 FOOT RIGHT OF WAY, AS SHOWN ON THE PLAT OF OCEANVIEW SECTION OF HALIFAX SHORES, AS RECORDED IN MAP BOOK 11, PAGE 100 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHEAST CORNER OF LOT 38, BLOCK 8, SAID OCEANVIEW SECTION OF HALIFAX SHORES, ALSO BEING THE INTERSECTION OF THE WESTERLY RIGHT OF WAY LINE OF ATLANTIC AVENUE (OCEANSHORE BOULEVARD PER SAID PLAT) AN 80 FOOT RIGHT OF WAY, AND THE NORTHERLY RIGHT OF WAY LINE OF EMILIA AVENUE (7TH AVENUE PER SAID PLAT), A 40 FOOT RIGHT OF WAY; THENCE SOUTHERLY ALONG A PROJECTION OF THE EAST LINE OF SAID LOT 38, BLOCK 8, S29°26'50"E, 3.77 FEET; THENCE DEPARTING SAID SOUTHERLY PROJECTION, RUN SOUTHWESTERLY, PARALLEL TO THE NORTH EDGE OF PAVEMENT OF SAID EMILIA AVENUE, THE FOLLOWING COURSES AND DISTANCES; S49°12'25"W, 5.87 FEET; THENCE S57°47'05"W, 31.46 FEET; THENCE S57°35'20"W, 29.26 FEET; THENCE S60°41'09"W, 52.39 FEET; THENCE S60°34'57"W, 37.43 FEET; THENCE S59°44'52"W, 45.14 FEET; THENCE S85°22'59"W, 2.43 FEET TO A POINT ON THE SOUTHERLY PROJECTION OF THE WEST LINE OF AFOREMENTIONED LOT 38, BLOCK 8; THENCE N29°26'53"W, ALONG SAID SOUTHERLY PROJECTION, 6.08 FEET TO THE SOUTHWEST CORNER OF SAID LOT 38, BLOCK 8, ALSO BEING THE INTERSECTION OF THE EASTERLY RIGHT OF WAY LINE OF CARDINAL BOULEVARD (PENINSULA BOULEVARD PER SAID PLAT), A 70 FOOT RIGHT OF WAY, AND THE NORTH RIGHT OF WAY LINE OF SAID EMILIA AVENUE, A 40 FOOT RIGHT OF WAY; THENCE N60°04'50"E, ALONG THE NORTH RIGHT OF WAY OF SAID EMILIA AVENUE AND THE SOUTH LINE OF SAID LOT 38, BLOCK 8, 204.77 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,407 SQUARE FEET, MORE OR LESS.



NOTE:

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

REFERENCE: A PORTION OF THE RIGHT OF WAY OF EMILIA AVENUE, SHOWN ON OCEANVIEW SECTION OF HALIFAX SHORES PLAT PREPARED FOR THE FOLLOWING: (ONLY THE LAST DATE IS CERTIFIED ON SEALED COPY)

THIS PLAT OF SURVEY IS CERTIFIED TO AND PREPARED FOR THE SOLE AND EXCLUSIVE BENEFIT OF THE ENTITIES AND/OR INDIVIDUALS LISTED BELOW, ON THE MOST CURRENT DATE, AND SHALL NOT BE RELIED UPON BY ANY OTHER ENTITY OR INDIVIDUAL WHOMSOEVER.

TYPE OF SURVEY	CERTIFIED TO	SURVEY DATE	JOB NUMBER
SKETCH OF DESCRIPTION	MARK SCHARFF	FEB. 17, 2015	15-0126
	JAMES MORRIS, ESQUIRE		
NOT CERTIFIED	ED TO ANY ENTITIES AND/OR INDIVIDUALS OTHER THAN THOSE LISTED ABOVE.		

SHEET 2 OF 2

VALID WITH SIGNATURE & EMBOSSED SEAL ONLY

FOR: SHEET 2 OF 2						I HEREBY CERTIFY THAT THIS PLAT MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17.05, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES. J.E. ZAPERT, P.L.S. NO. 4046 STEVEN T. KRUGER, P.L.S. NO. 4722 C.O. VAN KLEECK JR., P.S.M. NO. 6149 MICHAEL S. MURPHY, P.S.M. NO. 6208
DATE	JOB NO.	P.C.	DRW.	CHECKED BY		
FEB. 17, 2015	15-0126		COVKJR	STK		
SKETCH OF DESCRIPTION						
BOUNDARY SURVEY						
TOPOGRAPHIC SURVEY						
FOUNDATION LOCATED						
FINAL IMPROVEMENTS						
RECERTIFICATION						
PROPOSED HOUSE LOCATION						