

ORDINANCE NO. 2023-

**TOWNSHIP OF MIDDLETOWN
COUNTY OF MONMOUTH**

**ORDINANCE AUTHORIZING THE VACATION OF A PORTION OF
GARRETT HILL BOULEVARD WITHIN THE TOWNSHIP OF
MIDDLETOWN, COUNTY OF MONMOUTH, NEW JERSEY TO THE
PROPERTY OWNER OF BLOCK 459, LOT 21**

WHEREAS, the Township of Middletown (the “**Township**”) has determined that a portion of Garrett Hill Boulevard, as shown on the official tax maps of the Township, is not needed for any public purposes, and that the public interest would be best served by vacating and extinguishing all public right, title and interest in and to a portion of Garrett Hill Boulevard, so that the underlying lands may be combined with, and become and form part of an adjacent property; and

WHEREAS, the portion of Garrett Hill Boulevard to be vacated (the “**Subject Area**”) measures approximately 6,000 square feet, and is located adjacent to Block 459, Lot 21; and

WHEREAS, the Subject Area is shown on a survey prepared by John C. Ritt, NJPLS, of James P. Deady Surveyor, LLC, dated April 27, 2023, last revised July 10, 2023 a copy of which is attached hereto as **Exhibit A** and made a part hereof, and is more particularly described in a legal description prepared by John C. Ritt, NJPLS, of James P. Deady Surveyor, LLC, a copy of which is attached hereto as **Exhibit B** and made a part hereof; and

WHEREAS, Exhibits A and B have been reviewed by the Township Engineer to confirm that the descriptions are accurate; and

WHEREAS, the Subject Area has been offered to the adjacent property owners, with only the owner of Block 459, Lot 21 expressing interest and the other adjoining property owner declining any interest; and

WHEREAS, it is the intention of the Township that once the Subject Area has been vacated, the ownership of the underlying lands shall revert to the adjoining property owner of Block 459, Lot 21 by operation of law; and

WHEREAS, a vacation of a public street, or part, thereof, which has not been opened by the municipality, may be authorized by the municipal governing body by Ordinance pursuant to N.J.S.A. 40:67-19, et seq., when there is no longer any need for the use of said area by the public; and

WHEREAS, the Township believes that the vacation of all public right, title and interest in and to in the Subject Area is in the best interests of the Township as well as the adjacent property owner.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Middletown in the County of Monmouth, State of New Jersey, that:

1. Pursuant to N.J.S.A. 40:67-19, et seq., the Township hereby vacates, extinguishes, releases and abandons all public right, title and interest in and to that unimproved portion of Garrett Hill Boulevard which is located immediately adjacent to Block 459, Lot 21, an area that measures approximately 6,000 square feet, as more particularly described in Exhibits A and B attached hereto.

2. It is the intention of the Township that once the Subject Area has been vacated, then ownership of the underlying lands shall revert to the owner of Block 459, Lot 21 by operation of law.
3. The provisions of this Ordinance shall not be deemed to vacate any rights and privileges which may be possessed by any public utility company (as defined in N.J.S.A. 48:2-13), or by any cable television company (as defined in N.J.S.A. 48:5A-1, et seq.), to maintain, repair, and replace any existing facilities in, adjacent to, over or under the said vacated area.
4. Following the introduction of this Ordinance, the Township Clerk shall provide notice of its pending status as mandated by N.J.S.A. 40:49-6, and at least one week prior to the time fixed for further consideration and final passage of the Ordinance the Township Clerk shall mail a copy of the Ordinance, together with a notice of the introduction thereof, and information as to the time and place of when and where the Ordinance will be further considered for final passage, to every person whose lands may be affected by the Ordinance, by certified mail return receipt requested and regular mail, to their last known post office address.
5. Following the adoption of this Ordinance, the Township Clerk shall within 60 days of the effective date thereof, file a copy of this Ordinance along with the attached Exhibits, certified by the Clerk, under the Seal of the Township, to be a true and exact copy of the Ordinance, together with a copy of the proof of publication thereof, in the Office of the Monmouth County Clerk for recordation in the County's Book of Vacations, pursuant to N.J.S.A. 40:67-21.
6. Once the Subject Area has been vacated, then the Township's interests in and to the said area shall be released.
7. The Township Attorney and Township Engineer are hereby authorized and directed to undertake all actions and to prepare all documents that are necessary in order to effectuate the intentions of the within Ordinance.
8. The Mayor or the Township Administrator is authorized to execute, and the Municipal Clerk or Deputy Municipal Clerk, are authorized to attest any and all documents, and to perform all actions, which may be necessary in order to effectuate the intentions of this Ordinance.
9. All costs and expenses associated with this matter shall be the responsibility of the owner of Block 459, Lot 21, and sufficient funding shall be posted by said property owner prior to the adoption of the within Ordinance in order to cover all the Township's expenses associated with this matter.
10. The provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgement shall be limited in its effect only to the portion of the Ordinance actually adjudged invalid and shall not be deemed to affect the

operation of any other portion thereof, which shall remain in full force and effect.

11. All other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.
12. This Ordinance shall take effect immediately upon final passage and publication in accordance with the law.