

ORDINANCE 2022-3348
TOWNSHIP OF MIDDLETOWN
COUNTY OF MONMOUTH

**AN ORDINANCE AUTHORIZING THE VACATION OF A PORTION OF
JEFFERSON WAY WITHIN THE TOWNSHIP OF MIDDLETOWN,
MONMOUTH COUNTY, NEW JERSEY**

WHEREAS, the Township of Middletown has determined that a portion of Jefferson Way, as shown on the official Tax Maps of the Township, is not needed for any public purpose(s) of the Township, and that the public interest would be best served by vacating and extinguishing all public right, title and interest in and to that portion of Jefferson Way, so that the underlying lands may be combined with, and become and form part of, adjacent properties; and

WHEREAS, the area of Jefferson Way to be vacated (the "subject area") measures approximately 1,386 square feet, and is located adjacent to Block 306, Lot 156, Block 306, Lot 154, Block 306, Lot 152, and Block 306, Lot 153, and

WHEREAS, a portion of the subject area is shown on a survey prepared by Thomas Craig Finnegan, P.L.S., of Thomas Finnegan Land Surveying, dated July 1, 2021, a copy of which is attached hereto as Exhibit "A" and made a part hereof, and is more particularly described in a the legal descriptions prepared by Thomas Craig Finnegan, P.L.S., dated June 15, 2022 a copy of which is attached hereto as Exhibit "B" and made a part hereof; and

WHEREAS, the remaining portion of the subject area is shown on a survey prepared by Colliers Engineering & Design, dated June 29, 2022, a copy of which is attached hereto as Exhibit "C" and made a part hereof, and is more particularly described in a legal description prepared by Colliers Engineering & Design, dated July 6, 2022, a copy of which is attached hereto as Exhibit "D" and made a part hereof; and

WHEREAS, it is the intention of the Township of Middletown that once the subject area has been vacated, the ownership of the underlying lands shall revert to the adjoining property owners of the adjacent Block 306, Lot 156, Block 306, Lot 154, Block 306, Lot 152, and Block 306, Lot 153 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 NJSА 40:67-19, et seq., when there is no longer any need for the use of said area by the public; and

WHEREAS, the Mayor and Township Committee believe 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 of Middletown, as well as the adjacent property owners.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Township Committee of the Township of Middletown in the County of Monmouth, State of New Jersey, as follows:

1. That, pursuant to NJSА 40:67-19, et seq., the Township of Middletown hereby vacates, extinguishes, releases and abandons all public right, title and interest in and to that unpaved portion of Jefferson Way which is located immediately adjacent to Block 306, Lot 156, Block 306, Lot 154, Block 306, Lot 152, and Block 306, Lot 153, an area that measures approximately 9,570 square feet, as more particularly shown on Exhibits A and C attached hereto, and as more particularly described in Exhibits B and D attached hereto.
2. That it is the intention of the Township of Middletown that once the subject area has been vacated, then ownership of the underlying lands shall revert to the owners of the adjacent properties by operation of law.
3. That 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 NJSА 48:2-13), or by any cable television company (as defined in NJSА 48:5A-1,

et seq.), to maintain, repair, and replace any existing facilities in, adjacent to, over or under the said vacated area.

4. That, following the introduction of this Ordinance, the Township Clerk shall provide notice of its pending status as mandated by NJSA 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(es).
5. That, following the adoption of this Ordinance, the Township Clerk shall within sixty (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 NJSA 40:67-21.
6. That, once the subject area has been vacated, then the Township's interests in and to the said area shall be released.
7. That 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. That the Mayor and/or the Township Administrator is authorized to execute. And the Municipal Clerk and/or Deputy Municipal Clerk, is authorized to attest any and all documents, and to perform all actions, which may be necessary in order to effectuate the intentions of the within Ordinance.
9. That all costs and expenses associated with this matter shall be the responsibility of the owner of Block 306, Lot 156, Block 306, Lot 154, Block 306, Lot 152, and Block 306, Lot 153 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. That this Ordinance shall take effect immediately upon final passage and publication in accordance with the law.
11. That 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.
12. That all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

PASSED ON FIRST READING:

PASSED AND APPROVED:

ATTEST:

HEIDI R. BRUNT, Township Clerk

ANTHONY S. PERRY, Mayor