

ORDINANCE NO. 2022-3342

**TOWNSHIP OF MIDDLETOWN
COUNTY OF MONMOUTH**

Ordinance Authorizing the Vacation of a Portion of Barberie Place Within the Township of Middletown and Accepting Drainage Easement and Right of Way Associated with The Area to Be Vacated

WHEREAS, the Township of Middletown (the “**Township**”) has determined that a portion of Barberie Place, as shown on the official tax map of the Township, is not needed for any public purpose, 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 Barberie Place, so that the underlying lands may be combined with, and become and form part of, adjacent properties; and

WHEREAS, the area of Barberie Place to be vacated (the “**Subject Area**”) measures approximately 3,744 square feet, and is located adjacent to Block 223, Lot 44.01 and other lots where the property owners declined any interest in the Subject Area being vacated; and

WHEREAS, the Subject Area is shown on a survey prepared by Thomas Craig Finnegan, P.L.S., of Thomas Finnegan Land Surveying, dated August 31, 2021, 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 Thomas Craig Finnegan, P.L.S., a copy of which is attached hereto as **Exhibit B** and made a part hereof; 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 the adjacent Block 223, Lot 44.01 by operation of law subject to proposed Drainage Easement as further described in **Exhibit C** attached hereto and made a part hereof; and

WHEREAS, when not necessary for any public use, a public street, or part thereof, which has not been opened by the municipality, may be vacated by the governing body by Ordinance pursuant to N.J.S.A. 40:67-19, et seq.; 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 owners.

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 unpaved portion of Barberie Place which is located immediately adjacent to Block 223, Lot 44.01, an area that measures approximately 3,744 square feet, as more particularly shown on **Exhibit A** attached hereto, and as more particularly described in **Exhibit 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 adjacent owner of Block 223, Lot 44.01 by operation of law subject to a Drainage Easement and Right of Way, that is hereby accepted by the Township, as further described in **Exhibit C** attached hereto.
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(es).
5. 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 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 extinguished, but for the Township's continuing interest in the Drainage Easement and Right of Way.
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 this Ordinance.
8. The Mayor and/or the Township Administrator are hereby authorized and directed to execute any documents necessary to effectuate this Ordinance.
9. All costs and expenses associated with this Ordinance shall be the responsibility of the owner of Block 223, Lot 44.01, and sufficient funding shall be posted by said property owner prior to the adoption of this Ordinance to cover all Township expenses associated with this Ordinance.
10. This Ordinance shall take effect immediately upon final passage and publication in accordance with the law.
11. 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.