

ORDINANCE OF THE TOWNSHIP OF LAKEWOOD, COUNTY OF OCEAN, STATE OF NEW JERSEY, RELEASING, EXTINGUISHING AND VACATING THE RIGHTS OF THE PUBLIC TO A PORTION OF CERTAIN PAPER STREETS AND RIGHTS-OF-WAY LOCATED IN THE TOWNSHIP OF LAKEWOOD KNOWN AS NASSAU AVENUE AND PINEHURST AVENUE

WHEREAS, pursuant to N.J.S.A. 40:67-1(b) and N.J.S.A. 40:67-19, the Township Committee may, by ordinance, vacate any public street or portion thereof, dedicated to public use, but not accepted by the Township, whether or not the same, or any part, has been actually opened or improved; and

WHEREAS, the Township Committee of the Township of Lakewood, County of Ocean, State of New Jersey, is of the opinion that the public interest would be best served by abandoning, vacating, releasing and extinguishing any and all public rights which the Township may have in and to a rights-of-way and/or paper streets known as Nassau Avenue and Pinehurst Avenue as shown on Schedule A attached hereto (metes and bounds and sketches); and

WHEREAS, the paper streets are bounded on either side by private property which properties and their owners are identified on the attached Schedule B ("Adjoining Property Owners"); and

WHEREAS, the Adjoining Property Owners are aware, that upon successful adoption of the vacation ordinance, one half of the right-of-way adjacent to their respective property will be transferred to each of the Adjoining Property Owners by operation of law; and

WHEREAS, the Adjoining Property Owners have agreed to immediately reconvey their interest in the vacated rights-of-way to the Township of Lakewood by Quitclaim Deed, provided, however, that the Adjoining Property Owners identified on Schedule C attached hereto shall retain a twenty-foot wide strip immediately adjacent to their existing properties; and

WHEREAS, the Oak Street Joint Venture, at its sole cost and expense has agreed to construct public passive recreation parks for use by the general public, upon the vacated property that is to be deeded back to the Township;

WHEREAS, it has been determined by the Township Committee as follows:

(1) That these portions of rights-of-way and/or paper streets known as Nassau Avenue and Pinehurst Avenue as shown on Schedule A attached hereto are not needed for public road purposes; and

(2) Said portions of rights-of-way and/or paper streets known as Nassau Avenue and Pinehurst Avenue as shown on Schedule A attached hereto lend itself to higher and better

use than for public road purposes and that it is in the best interest of the general public and the Township of Lakewood that the rights and interests in and to same shall as a public right of way be vacated, released and extinguished, on the terms set forth above; and

WHEREAS, pursuant to N.J.S.A. 40:67-1(b), the Township Committee must, by Ordinance, preserve the right of public utilities to maintain, repair and replace their existing utility facilities, including cable television facilities, in, adjacent to, over, or under the property or right-of-way to be vacated.

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Lakewood, County of Ocean, State of New Jersey, as follows:

SECTION 1. All public easements, right and interests to portions of rights-of-way and/or paper streets known as Nassau Avenue and Pinehurst Avenue as shown on Schedule A attached hereto as described hereinbelow are hereby vacated, released and extinguished except for all rights and privileges now possessed by public utilities, as defined in N.J.S.A. 48:2-13, and by any Cable Television Company, as defined in the "Cable Television Act," N.J.S.A. 48:5A-1 et seq., to maintain, repair and replace their existing facilities in, adjacent to, over or under the street, or any part thereof, to be vacated subject to the conditions described herein; all conditions, unless otherwise noted, shall be satisfied prior to said vacation being effective.

Description of the portions of portions of Nassau Avenue and Pinehurst Avenue, Lakewood Township, being vacated:

See Schedule A, attached hereto.

SECTION 2. The Township Clerk shall publish, this ordinance, after being introduced and having passed a first reading, at least once not less than ten (10) days instead of one (1) week prior to the time fixed for further consideration for final passage, pursuant to N.J.S.A. 40:49-6.

SECTION 3. It is the intent of the Township Committee of Lakewood to vacate the aforementioned interests that the public may have in the property, and to provide that the property shall be conveyed, in its "as is" condition, to the adjoining property owners for no further consideration.

SECTION 4. It is the requirement of the Township Committee that these properties (except those identified on the attached Schedule C) be returned to the Township via Quitclaim Deed as identified herein and that the properties are to be developed for public passive recreation at the sole cost and expense of the Oak Street Joint Venture. For purposes of this Ordinance, "public passive recreation" shall be limited to walking paths, park benches and low maintenance landscaping.

SECTION 5. The Township Clerk shall, at least one (1) week prior to the time fixed for final passage of such ordinance, mail a copy thereof, together with a notice of the

introduction thereof, and the time and place when and where the ordinance will be further considered for final passage, to every person whose lands may be affected by the ordinance or any assessment which may be made in pursuance thereof, pursuant to N.J.S.A. 40:49-6.

SECTION 6. The Township Clerk shall within sixty (60) days after such ordinance becomes effective file a certified copy of the ordinance vacating the street with the office of the County Clerk in a special book set aside for dedications and vacations, pursuant to N.J.S.A. 40:67-21.

SECTION 7. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 8. If any section, subsection, paragraph, sentence or any part of this ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance not directly involved in the controversy in which such judgment shall have been rendered.

SECTION 9. This Ordinance shall take effect upon final passage and publication in accordance with law.

NOTICE

PUBLIC NOTICE is hereby given that the foregoing ordinance was introduced at a meeting of the Township Committee of the Township of Lakewood, in the County of Ocean and State of New Jersey on the **18th day of January, 2018**, and was then read for the first time. The said Ordinance will be further considered for final passage by the Township Committee in the Town Hall at 7:30 p.m. on **February 8, 2018**. At such time and place or any time or place to which said meeting may be adjourned, all persons interested will be given an opportunity to be heard concerning said ordinance.

Kathryn Hutchinson, RMC, CMC, CMR
Township Clerk