

TOWNSHIP OF FRANKLIN

O-11-19

An Ordinance of the Township of Franklin Releasing, Extinguishing and Vacating the Rights of the Public in a Portion of Paper Streets

WHEREAS, there exists in the Township of Franklin a portion of an unimproved paper street known as Unimproved Street, known as Belmont Avenue between Malaga Lake Boulevard and Cedarwood Avenue, as shown on the Official Tax Map of Franklin (the “Unimproved Street”) that serves no public purpose, requires unwarranted Township maintenance costs, and needs to be vacated; and

WHEREAS, there exists in the Township of Franklin a portion of an unimproved paper street known as Unimproved Street, known as East Fifth Street between Greenwood Avenue and Lake Boulevard, as shown on the Official Tax Map of Franklin (the “Unimproved Street”) that serves no public purpose, requires unwarranted Township maintenance costs, and needs to be vacated; and

WHEREAS, the entirety of Unimproved Street, including the portion to be vacated, is neither open to the public for the purposes of vehicular traffic nor publicly maintained as a street; therefore, this vacation ordinance is not subject to review by the Commissioner of the New Jersey Department of Transportation with regard to the traffic regulations thereon pursuant to N.J.S.A. 39:4-8; and

WHEREAS, N.J.S.A 40:67-1b. and N.J.S.A 40:67-19 empowers the governing body of a municipality to make, amend, repeal and enforce ordinances to vacate any public street, including the vacation of any portion of any public street, and to vacate any street, or any part thereof, dedicated to public use but not accepted by the municipality, whether or not the same, or any part, has been actually opened or improved; and

WHEREAS, the Planning Board of Franklin Township has recommended to the Township Committee the vacation of the public right-of-way being a portion of the Unimproved Streets; and

WHEREAS, the Township Council of the Township of Franklin has considered evidence that the portion of the Unimproved Street to be vacated is not needed by the general public as a public thoroughfare and lends itself to higher and better use than as and for a public thoroughfare and for use by the general public, and the public interest will best be served by abandoning, vacating, releasing and extinguishing any and all public rights which the Township may have in and to the below described portion of the Unimproved Street; and

WHEREAS, the portion of the Unimproved Street to be vacated known as Belmont Avenue, between Malaga Lake Boulevard and Cedarwood Avenue, specifically that portion that is immediately adjacent to Block 4819, Lots 1, 5, 6, 7 & 8; Block 4820, Lots 1, 2, 3 and 10; Block 4822, Lot 1; and Block 4823, Lots 1, 3, 4, 5 & 6 as depicted on the Tax Map of the Township of Franklin attached here as **Exhibit A** (hereafter the area to be vacated shall be referred to as the “Belmont Road Vacation Area”); and

WHEREAS, the portion of the Unimproved Street to be vacated known as East Fifth Street between Greenwood Avenue and Lake Boulevard, specifically that portion that is immediately adjacent to Block 4819, Lot 7, 8 & 9; Block 4820, Lots 1, 8, 9, 12; Block 4822, Lots 1 & 2; and Block 4823, Lots 3 & 8 as depicted on the Tax Map of the Township of Franklin attached hereto as **Exhibit A** (hereafter the area to be vacated shall be referred to as the “East Fifth Road Vacation Area”); and

WHEREAS, the public right-of-way to be vacated shall revert to the corresponding property owners of the adjacent properties identified as Block 4819, Lots 1, 5, 6, 7 & 8; Block 4820, Lots 1, 2, 3 and 10; Block 4822, Lot 1; and Block 4823, Lots 1, 3, 4, 5 & 6 on the Belmont Road Vacation Area; and

WHEREAS, the public right-of-way to be vacated shall revert to the corresponding property owners of the adjacent properties identified as Block 4819, Lot 7, 8 & 9; Block

4820, Lots 1, 8, 9, 12; Block 4822, Lots 1 & 2; and Block 4823, Lots 3 & 8 on the East Fifth Vacation Area; and

WHEREAS, the Township Committee of the Township of Franklin does determine that the public right-of-way being a portion of the Unimproved Streets is no longer needed for public purposes; and

WHEREAS, the Township Committee of the Township of Franklin does determine that the vacation of the public right-of-way being a portion of the Unimproved Streets identified as Belmont Road Vacation Area and East Fifth Road Vacation Area will better serve the public interest; and

WHEREAS, the Township Committee of the Township of Franklin finds it to be in the best interests of the Township and its citizenry to vacate the public right-of-way with the Township's property interests reverting to the owners of Lots as more particularly described herein.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Township Committee of the Township of Franklin, County of Gloucester and State of New Jersey as follows:

1. Subject to the conditions set forth herein, the rights of the public in and to a portion of the Unimproved Streets, identified as Belmont Road Vacation Area and East Fifth Road Vacation Area on **Exhibit A**, is hereby released, extinguished and vacated.
2. The Belmont Road Vacation Area, being a portion of the Unimproved Street, which is hereby vacated, shall revert to the owners of, and shall merge, consolidate with, and become a part of the adjacent properties identified as Block 4819, Lots 1, 5, 6, 7 & 8; Block 4820, Lots 1, 2, 3 and 10; Block 4822, Lot 1; and Block 4823, Lots 1, 3, 4, 5 & 6 on the Official Tax Map of the Township of Franklin.
3. The East Fifth Road Vacation Area, being a portion of the Unimproved Street, which is hereby vacated, shall revert to the owners of, and shall merge, consolidate with, and become a part of the adjacent properties identified as Block 4819, Lot 7, 8 & 9; Block 4820, Lots 1, 8, 9, 12; Block 4822, Lots 1 & 2; and Block 4823, Lots 3 & 8, on the Official Tax Map of the Township of Franklin.
4. Pursuant to N.J.S.A. 40:67-1b. all public easements, right and interests to the portions of the Unimproved Street described hereinbelow, are hereby vacated, released and extinguished except for said easements and rights specifically set forth in the description hereinbelow and 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 the said vacation being effective.
5. Pursuant to N.J.S.A. 40:67-21, the Township Clerk shall within 60 days after this ordinance becomes effective file a copy of this ordinance, certified by her, under the seal of the Township of Franklin, to be a true copy of such ordinance, together with a copy of proof of publication, if publication be required, in the office where conveyances of lands are recorded in Gloucester County and such certified copy shall be recorded in a book with proper index to be provided for the purpose and entitled "Vacations."
6. After introduction, this Ordinance shall be referred to the Franklin Township Planning Board for review and comment pursuant to N.J.S.A. 40:55D-26, -32, and -33, since vacation of a public street or portion thereof constitutes a change to the official map of Franklin Township, Gloucester County and the closing of a public street, albeit a paper unimproved street.
7. At least seven (7) days prior to the time fixed for the consideration of this Ordinance for final passage, a copy of this Ordinance, together with a notice of its introduction and the time and place when and where the Ordinance will be further considered for final passage, shall be given by the Township Clerk to the owners of all real property, as shown on the current tax map duplicates, to be located within 200 feet in all directions of the Belmont Road Vacation Area (Block 4819, Lots 1, 5, 6, 7 & 8; Block 4820, Lots 1, 2, 3 and 10; Block 4822, Lot 1; and Block 4823, Lots 1, 3, 4, 5 & 6) and the East Fifth Road Vacation Area (Block 4819, Lot 7, 8 & 9; Block 4820, Lots 1, 8, 9, 12; Block 4822, Lots 1 & 2; and Block 4823, Lots 3 & 8). At least ten (10) days prior to the time fixed for the consideration of this Ordinance for final passage, a copy of this

Ordinance, together with the a notice of its introduction and the time and place when and where the Ordinance will be further considered for final passage, shall be published at least once in a newspaper published and circulated in the Township. This is the notice required by N.J.S.A. 40:67-19 and N.J.S.A. 40:49-6.

8. This Ordinance shall take effect upon final passage, adoption and publication according to law, and the recording of this Ordinance with the Gloucester County Clerk's Office.
9. If any article, section, subsection, paragraph, phrase or sentence is, for any reason, held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed severable.

CERTIFICATION

I, Barbara Freijomil, Clerk of the Township of Franklin, County of Gloucester, do here certify that the foregoing Ordinance was introduced at the Regular Meeting of the Township of Franklin held on November 26, 2019 and thereafter duly advertised in the legal newspaper of the Township at least seven (7) days prior to it being considered for final passage and adoption at a subsequent meeting to be held on December 30, 2019 at which time any person interested therein will be given an opportunity to be heard.

Barbara Freijomil, Municipal Clerk

Introduced November 26, 2019

Name	Yes	No	Abstain	Absent
Vassallo				
Flaim				
Bruno				
Petsch-Wilson				
Deegan				

Adopted December 30, 2019

Name	Yes	No	Abstain	Absent
Vassallo				
Flaim				
Bruno				
Petsch-Wilson				
Deegan				