



Borough of Chatham

BOROUGH HALL

54 FAIRMOUNT AVENUE • CHATHAM • NEW JERSEY 07928

ORDINANCE #16-07

ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY PROVIDING FOR THE VACATION OF A PORTION OF THE STREET KNOWN AS OLIVER STREET IN THE BOROUGH OF CHATHAM

WHEREAS, pursuant to N.J.S.A. 40:67-1 et seq. the governing body of a municipality may make, amend, repeal and enforce an ordinance to vacate any public street, highway, lane or alley, or any portion thereof; and

WHEREAS, the Borough of Chatham (the “Borough”) has received a request from the Board of Education of the School District of the Chathams, with an address of 102 Washington Avenue, Chatham, and Eric Merse, 92 Washington Avenue, Chatham, to vacate that portion of the street known as Oliver Street; and

WHEREAS, the current configuration of Oliver Street is contrary to the interest of traffic and pedestrian safety and fails to provide safe access to the Borough’s roadways to the Washington Avenue School students, parents and employees, as well as to neighboring property owners of Block 18, Lot 16; and

WHEREAS, the Borough of Chatham has entered into an agreement with the adjoining property owners of Block 18, Lot 16 to construct certain improvements at the roadway commonly known as Oliver Street in the Borough located near the Washington Avenue Elementary School to preserve access from Block 18, Lot 16 to the public roadways as required by law; and

WHEREAS, the request for vacation arises from federal, state or municipal government action such that the provisions of §244.50 et seq. do not apply; and

WHEREAS, the portion of Oliver Street to be vacated is more particularly delineated on a map entitled “Roadway Vacation Exhibit” prepared by DPK Consulting, Professional Land Surveyors, dated June 23, 2016 attached hereto and made a part hereof as Exhibit A; and

WHEREAS, upon the recommendation of the Borough Engineer, the Mayor and Borough Council have determined that the area to be vacated is no longer needed for public purposes and are of the opinion that it is in the best interests of the Borough and its citizenry to vacate same; and

WHEREAS, upon adoption of this vacation ordinance, the area to be vacated, from the centerline of the vacated roadway to the width of the roadway, shall revert to the corresponding property owners of the adjacent properties identified as Block 18, Lot 16 and Block 18, Lot 9 on the Official Tax Map of the Borough of Chatham in its “as is” condition as improved under the Shared Services Agreement.

NOW THEREFORE BE IT ORDAINED, by the Mayor and Council of the Borough of Chatham, County of Morris, and State of New Jersey as follows:

Section 1. Subject to the conditions set forth herein, the rights of the public in and to the portion of Oliver Street as depicted on Exhibit A are hereby released, extinguished and vacated.

Section 2. The area hereby vacated, from the centerline of the vacated roadway to the width of the roadway, is conveyed to the adjoining property owners of, and shall merge, consolidate with, and become a part of the adjoining properties identified as Block 18, Lot 16 and Block 18, Lot 9 on the Official Tax Map of the Borough of Chatham.

Section 3. To the extent any of the adjoining properties identified as Block 18, Lot 16 and Block 18, Lot 9 on the Official Tax Map of the Borough of Chatham are under common ownership and use, they shall merge for tax assessment purposes.

Section 4. The vacation hereby enacted expressly reserves to the Borough, for itself, its successors and assigns, and excepts from vacation, all rights and privileges heretofore granted to all public utilities as defined by R.S. 48:2-13 and by any cable television company as defined in the "Cable Television Act". P.L. 1972c. 186 (c.48:5A-1 et. seq.), to access, construct, install, build, operate, maintain, use, repair, replace and relocate any such public utilities and cable television facilities in, adjoining to, over or under the portion of Oliver Street as hereby vacated.

Section 5. The vacation hereby enacted further expressly reserves to the Borough, for itself, its successors and assigns, and excepts from vacation, a 10 foot wide perpetual utility easement and right-of-way for the construction, reconstruction, inspection, maintenance, operation, use, and repair of any storm water drainage improvements in, under, over and along the portion of Oliver Street as hereby vacated.

Section 6. It is the intent of the Mayor and Borough Council to vacate the aforementioned interests that the public may have in that portion of the street known as Oliver Street, subject, however, to the reservations set forth herein and as depicted on Exhibit A, and to provide that the property shall be conveyed, in its "as is" condition as improved under the Shared Services Agreement, to the adjoining property owners.

Section 7. The Borough Clerk shall, within thirty (30) days of the effective date of this Ordinance, file a copy of this Ordinance certified by her under the seal of the Borough to be a true copy thereof, together with proof of publication thereof, in the office of the Clerk of the County of Morris in the Book of Vacations, in accordance with the provisions of N.J.S.A. 40:67-21.

Section 8. If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

Section 9. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

Section 10. This Ordinance shall take effect upon passage and publication in accordance with applicable law, and the recording of this Ordinance with the Morris County Clerk's Office.

Introduced: July 11, 2016
Adopted: August 8, 2016

[Signature and Certification Page Follows]

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Adopted: August 8, 2016

BOROUGH OF CHATHAM

MAYOR BRUCE A. HARRIS

Date signed: August 8, 2016

Attest:

Robin R. Kline, MAS, RMC, CMR
BOROUGH CLERK

CERTIFICATION

I, Robin R. Kline, Municipal Clerk of the Borough of Chatham, County of Morris, State of New Jersey, do hereby certify this is a true and correct copy of the Ordinance adopted by the Borough Council at its meeting held on August 8, 2016.

Robin R. Kline, MAS, RMC, CMR