

**AN ORDINANCE VACATING A PORTION OF ROOSEVELT AVENUE LOCATED IN
THE TOWNSHIP OF NORTH BRUNSWICK, COUNTY OF MIDDLESEX,
STATE OF NEW JERSEY AND CONVEYING SUCH VACATED LANDS TO THE
ADJACENT PROPERTY OWNERS**

WHEREAS, a portion of Roosevelt Avenue is an unimproved, paper street located in the Township of North Brunswick, Middlesex County, New Jersey; and

WHEREAS, as part of the 2020 Road Improvement Program, the Township of North Brunswick reconstructed Roosevelt Avenue and removed a portion of Roosevelt Avenue running northeasterly from the intersection of Halsey Road adjacent to Block 143.10 Lot 1, as shown on the official Tax Map of the Township of North Brunswick; and

WHEREAS, the remaining paper street serves no public purpose and the Township of North Brunswick seeks to vacate the 50' wide right-of-way in accordance with a map entitled "Map of Colonial Terrace South Section Two," filed in the Middlesex County Clerk's Office on March 30, 1965, as Map No. 2855, in File No. 952, made a part hereof as Exhibit "A"; and

WHEREAS, Joseph and Jenna Calder are the owners of property adjacent to Roosevelt Avenue on the east side, known as Block 143.10, Lot 1, on the Official Tax Map of the Township of North Brunswick, Middlesex County, New Jersey; and

WHEREAS, the Township of North Brunswick is the owner of the property adjacent to Roosevelt Avenue on the west side, known as public right-of-way commonly known as Roosevelt Avenue and the Roosevelt Avenue Extension, on the Official Tax Map of the Township of North Brunswick, Middlesex County, New Jersey; and

WHEREAS, in support of the interest to vacate a portion of Roosevelt Avenue, maps and metes and bounds descriptions by a professional land surveyor, are attached hereto and made a part hereof as Exhibit "B",

WHEREAS, the Township of North Brunswick seeks the portion of the street vacation that it is retaining to be established as a new municipal lot assigned by the Tax Assessor as Block 143.10 Lot 1.01; and

WHEREAS, the creation of the new lot will cause the adjoining property currently designated as Block 143.10 Lot 1 with the newly created lot as a result of the street vacation assigned by the Tax Assessor to now be known and designated as Block 143.10 Lot 1.02; and

WHEREAS, N.J.S.A. 40:67-1(b) authorizes the governing body of every municipality to adopt an ordinance to vacate any public street or any part thereof; and

WHEREAS, pursuant to N.J.S.A. 40:67-19, a municipality may vacate a public street where there has been a dedication of lands as a public street and same has not been accepted by the municipality and it shall appear to the governing body of the municipality that the public interest will

be better served by releasing those lands or a part thereof from such dedication and the lands or part thereof released from the dedication shall be effectively discharged therefrom as though the dedication had not taken place; and

WHEREAS, pursuant to N.J.S.A. 40:49-6, a municipality must publish ordinances authorizing vacations or dedications of land in the manner required by N.J.S.A. 40:49-2, except that every such ordinance, after being introduced and having passed a first reading, shall be published at least once not less than ten (10) days instead of one week prior to the time fixed for further consideration for final passage, and, at least one week prior to the time fixed for final passage, a copy of such ordinance, together with a notice of the introduction thereof and the time and place when and where the ordinance shall be considered for final passage shall be mailed to every person whose lands may be affected by the ordinance; and

WHEREAS, pursuant to N.J.S.A. 40A:12-5 and N.J.S.A. 40 A:12-13, a municipality has the power to acquire or sell any real property for a public purpose through negotiated agreement; and

WHEREAS, the Township Council of the Township of North Brunswick has determined that it would fulfill a public purpose to vacate a portion Roosevelt Avenue (as shown and more fully described in Exhibits “B” attached hereto and made a part hereof) as same is not needed nor used as a public street, and to convey the vacated lands to Joseph and Jenna Calder, and the Township of North Brunswick, in accordance with law.

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of North Brunswick, County of Middlesex and State of New Jersey that a portion of Roosevelt Avenue, as more fully described in the attached Exhibit “C” be and is hereby vacated; and

BE IT FURTHER ORDAINED, that the vacated lands formerly comprising Roosevelt Avenue are to be conveyed to the adjacent property owners, Joseph and Jenna Calder and the Township of North Brunswick, in accordance with law, and shall merge, consolidate with, and made part of their respective properties identified as Block 148.10, Lot 1 and municipal public right-of-way, on the Official Tax Map of the Township of North Brunswick, Middlesex County, New Jersey; and

BE IT FURTHER ORDAINED, the Township of North Brunswick seeks its portion of the street vacation to be established as a new municipal lot assigned by the Tax Assessor as Block 143.10 Lot 1.01; and

BE IT FURTHER ORDAINED, the identifiers for the adjoining property shall now be known as Block 143.10 Lot 1.02; and

BE IT FURTHER ORDAINED, that the Mayor and Township Clerk are hereby authorized and directed to execute any documents which may be required to convey the aforesaid vacated lands; and

BE IT FURTHER ORDAINED, that the Township of North Brunswick, pursuant to the

provisions of N.J.S.A. 40:67-1(b), hereby expressly reserves and excepts from vacation all rights and privileges currently 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. 48:5-1 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; and

BE IT FURTHER ORDAINED, that, pursuant to N.J.S.A. 40:49-6, the Township Clerk shall publish this Ordinance in the manner required by N.J.S.A. 40:49-2, except that after same has been introduced and passed a first reading, this Ordinance shall be published at least once not less than ten (10) days prior to the time fixed for further consideration for final passage, and the Clerk shall, at least one week prior to the time fixed for final passage, mail a copy of this Ordinance, together with a notice of the introduction thereof and the time and place when and this Ordinance shall be considered for final passage to every person whose lands may be affected by this Ordinance; and

BE IT FURTHER ORDAINED, that within sixty (60) days after this Ordinance becomes effective, the Township Clerk shall file a copy thereof, certified by her, under the Seal of the Township of North Brunswick to be a true copy of such Ordinance, together with a proof of publication thereof, in the office of the Middlesex County Clerk to be recorded in a book with proper index to be provided for this purpose entitled “vacations”, in accordance with the provisions of N.J.S.A. 40:67-21; and

BE IT FURTHER ORDAINED, that 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 provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

TITLE

This Ordinance shall be known and may be cited as the Ordinance Authorizing the Vacation of a portion of Roosevelt Avenue and the conveyance of the portions thereof to Joseph and Jenna Calder and the Township of North Brunswick in accordance with law.

Michael C. Hritz
Director of Community Development

Justine Progebin
Business Administrator

Ronald Gordon, Township Attorney (Approved legal form)

RECORDED VOTE FIRST READING

| COUNCIL MEMBER | YES | NO | ABSTAIN | NOTES |
|-----------------------|------------|-----------|----------------|--------------|
| MEHTA | | | | |
| GUADAGNINO | | | | |
| LOPEZ | | | | |
| ANDREWS | | | | |
| DAVIS | | | | |
| SOCIO | | | | |
| MAYOR WOMACK | | | | |

RECORDED VOTE SECOND READING

| COUNCIL MEMBER | YES | NO | ABSTAIN | NOTES |
|-----------------------|------------|-----------|----------------|--------------|
| MEHTA | | | | |
| GUADAGNINO | | | | |
| LOPEZ | | | | |
| ANDREWS | | | | |
| DAVIS | | | | |
| SOCIO | | | | |
| MAYOR WOMACK | | | | |

CERTIFICATION

I hereby certify that the above Ordinance was duly adopted by the Township Council of the Township of North Brunswick, County of Middlesex, at its meeting held on September 27, 2021.

Lisa Russo, Township Clerk

EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication in accordance with applicable law.

- APPROVED
- REJECTED

Francis M. Womack III, Mayor
Township of North Brunswick

Date signed: _____, 2021