

**TOWNSHIP OF HAMILTON  
COUNTY OF MERCER, NEW JERSEY**

**ORDINANCE**

No. **20-013**

1ST READING March 3, 2020

DATE TO MAYOR \_\_\_\_\_

2ND READING & PUBLIC HEARING March 17, 2020

DATE RESUBMITTED TO COUNCIL \_\_\_\_\_

WITHDRAWN \_\_\_\_\_ LOST \_\_\_\_\_

DATE EFFECTIVE \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY

FACTUAL CONTENTS CERTIFIED TO BY

\_\_\_\_\_  
TOWNSHIP ATTORNEY

\_\_\_\_\_  
TITLE

**AN ORDINANCE TO VACATE, RELEASE AND EXTINGUISH ANY AND ALL EXISTING OR PROPOSED PUBLIC RIGHTS WHICH HAVE BEEN CONVEYED TO THE TOWNSHIP FOR PORTIONS OF PEARSON DRIVE IN THE TOWNSHIP OF HAMILTON, COUNTY OF MERCER AND STATE OF NEW JERSEY**

*Whereas* there has heretofore been created a public right-of-way, which is more particularly described in the attached descriptions, annexed hereto as Exhibit A and Exhibit B and shown on the attached plan annexed hereto as Exhibit C; and

*Whereas* the Council of the Township of Hamilton, by Ordinance No. 19-028, approved a Redevelopment Plan which entails the vacation of the public right-of-way described in Exhibit A; and

*Whereas* 2018 S. Broad Hamilton, LLC, has a pending application before the Hamilton Township Planning Board for the construction of a WaWa food market with gasoline dispensing (the "Application") as part of the Redevelopment Plan; and

*Whereas* as part of the Application, 2018 S. Broad Hamilton, LLC, proposed the vacation of the public right-of-way described in Exhibit A and Exhibit B to be utilized to enhance on and off-site traffic circulation to and from the proposed WaWa food market; and

*Whereas* the portion of the right-of-way described in Exhibit A is being transferred to the adjoining property owners and the portion of the right-of-way described in Exhibit B is being transferred to the New Jersey Department of Transportation because the right-of-way is no longer needed as there is no longer any intention to construct the roadway, and as a result, such a roadway will not extend across the right-of-way; and

*Whereas* the Council of the Township of Hamilton has determined that as a result of the decision to remove the right-of-way from future development, the public interest will best be served by now vacating, releasing and extinguishing any public interest of the Township in the right-of-way described in Exhibit A and Exhibit B, whether said rights be those of dedication or any other public rights in said easement;

*Now, Therefore, Be It Ordained* by the Council of the Township of Hamilton, County of Mercer and State of New Jersey, that:

**SECTION 1:** Any and all dedication of public rights or any public rights which may heretofore have come into effect in said aforementioned right-of-way, as mentioned above, in any way contained within the following described property, be and the same hereby are vacated, released and extinguished to the end that said lands be as effectively discharged therefrom as though no dedication or other public rights therein had ever existed, and the portions of the vacated right-of-way shall revert to the owners of, and shall merge, consolidate with, and become a part of the adjacent properties, said portions of the vacated right-of-way being more particularly described as follows:

"All that certain tract or parcel of land, situate, lying and being in the Township of Hamilton, County of Mercer and State of New Jersey as shown on a plan entitled "Township R.O.W. and Alley Exhibit" prepared by Stonefield Engineering and Design, dated February 10, 2020, Project ID No.: T-16308, Sheet 1 of 1, annexed hereto as Exhibit C, and more particularly described in Exhibit A and Exhibit B."

**TOWNSHIP OF HAMILTON  
COUNTY OF MERCER, NEW JERSEY**

**ORDINANCE**

No. **20-013**

**AN ORDINANCE TO VACATE, RELEASE AND EXTINGUISH ANY AND ALL EXISTING OR PROPOSED PUBLIC RIGHTS WHICH HAVE BEEN CONVEYED TO THE TOWNSHIP FOR PORTIONS OF PEARSON DRIVE IN THE TOWNSHIP OF HAMILTON, COUNTY OF MERCER AND STATE OF NEW JERSEY**

**SECTION 2:** By virtue of N.J.S.A. 40:67-1, as amended, vacation of any street, highway, lane, alley, square, place or park, etc., as defined in N.J.S.A. 40:67-1, shall be subject to the express reservation and exception from the vacation of all rights and privileges possessed by public utilities as defined in R.S. 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, highway, lane, alley, square, place or park, or any part thereof, to be vacated pursuant to this Ordinance. More specifically, the vacation of certain portions of Pearson Drive shall be subject to the Public Utility Easement attached hereto as Exhibit D.

**SECTION 3:** 2018 S. Broad Hamilton, LLC agrees to extend access to the public across the vacated areas for ingress and egress to other existing public rights-of-way.

**SECTION 4:** All Ordinances of the Township of Hamilton that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 5:** This Ordinance shall become effective upon site plan approval with regards to 2018 S. Broad Hamilton, LLC's Application, in final and unappealable form. In the event the Application is not approved, this Ordinance shall be null and void.

**SECTION 6:** The Clerk of the Township of Hamilton, within sixty (60) days after this ordinance becomes effective, shall cause a copy of this ordinance, certified by her under the seal of the Township of Hamilton, to be a true copy thereof, together with a copy of the proof of publication thereof, to be filed in the Office of the Clerk of the County of Mercer as required by law.

This ordinance shall become effective immediately upon final adoption and publication thereof according to law.

\_\_\_\_\_  
PRESIDENT

\_\_\_\_\_  
MUNICIPAL CLERK

RECORD OF VOTE													
First Reading							Second Reading						
COUNCIL	AYE	NAY	NV	AB	ORD	SEC	COUNCIL	AYE	NAY	NV	AB	ORD	SEC
ANTHONY P. CARABELLI, JR.	✓					✓	ANTHONY P. CARABELLI, JR.						
NANCY PHILLIPS	✓				✓		NANCY PHILLIPS						
CHARLES F. WHALEN	✓						CHARLES F. WHALEN						
PASQUALE "PAT" PAPERIO, JR.	✓						PASQUALE "PAT" PAPERIO, JR.						
RICHARD L. TIGHE, JR.	✓						RICHARD L. TIGHE, JR.						

X - Indicates Vote    A.B. - Absent    N.V. - Not Voting    ORD. - Moved    SEC. - Seconded

REJECTED \_\_\_\_\_

\_\_\_\_\_  
JEFFREY S. MARTIN, MAYOR

\_\_\_\_\_  
DATE

APPROVED \_\_\_\_\_

RECONSIDERED BY COUNCIL \_\_\_\_\_

\_\_\_\_\_  
OVERRIDE VOTE

AYE \_\_\_\_\_ NAY \_\_\_\_\_