

**BOROUGH OF EMERSON
COUNTY OF BERGEN
NOTICE OF ADOPTION**

ORDINANCE NO. 1576-18

Introduced: December 4, 2018

Adopted: December 18, 2018

NOTICE IS HEREBY GIVEN that the following ordinance was adopted on the second reading after a Public Hearing at the Regular Meeting of the Borough Council of the Borough of Emerson on the 18th day of December, 2018. A copy of Ordinance 1576-18 is on file in the Borough Clerk's Office in the Municipal Building, 1 Municipal Pl., Emerson, NJ 07630.

**AN ORDINANCE VACATING KENNETH AVENUE IN THE BOROUGH OF
EMERSON, COUNTY OF BERGEN, STATE OF NEW JERSEY AND
CONVEYING SUCH VACATED LANDS TO EMERSON REDEVELOPER'S
URBAN RENEWAL, LLC**

WHEREAS, Kenneth Avenue is a public street located in the Borough of Emerson ("Borough"), Bergen County, New Jersey; and,

WHEREAS, it is the intent of the Borough that Kenneth Avenue as described on the metes and bounds description dated November 9, 2018 by Alan Boettger, Professional Land Surveyor, attached hereto as **Exhibit A**, be vacated and conveyed to Emerson Redeveloper's Urban Renewal, LLC; 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. 40:49-6, a municipality must publish ordinances authorizing vacations 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, a municipality has the power to acquire or sell any real property for a public purpose through negotiated agreement; and,

WHEREAS, the Borough entered a Redevelopment Agreement with Emerson Redevelopers Urban Renewal, LLC on June 14, 2016 and a First Amendment to the Redevelopment Agreement on October 4, 2016 (collectively "Agreement") to fulfill the public purpose of redevelopment of an area; and,

WHEREAS, pursuant to Section 5.01 of the Agreement the Borough agreed to vacate Kenneth Avenue (as more fully described in the metes and bounds description in **Exhibit A** attached hereto and made a part hereof) and to convey the vacated lands to Emerson Redevelopers Urban Renewal, LLC in 1926513-1

accordance with the Agreement and the law;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Emerson, County of Bergen, State of New Jersey that Kenneth Avenue as more fully described in the attached **Exhibit A** be and is hereby vacated, subject to full, final, and unappealable site plan approval and the construction of the project as set forth in the Agreement; and

BE IT FURTHER ORDAINED, that the vacated Kenneth Avenue is hereby conveyed to Emerson Redevelopers Urban Renewal, LLC in accordance with the Agreement and the law; however, if the Agreement is at anytime breached, if final unappealable site plan is not approved and/or if the project is not constructed in accordance with the Agreement then Kenneth Avenue shall immediately revert back to the Borough;

BE IT FURTHER ORDAINED, that the Mayor and Borough Clerk are hereby authorized and directed to execute any documents which may be required to vacate and convey the aforesaid Kenneth Avenue; and

BE IT FURTHER ORDAINED, that the Borough of Emerson, 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 Borough 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 Borough Clerk shall file a copy thereof, certified by her, under the Seal of the Borough to be a true copy of such Ordinance, together with a proof of publication thereof, in the office of the Bergen 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.

ATTEST:

Jane Dietsche, RMC
Borough Clerk

Louis J. Lamatina
Mayor

COUNCIL	M O V E D	S E C O N D E D	A Y E S	N A Y E S	A B S E N T	A B S T A I N
DiPaola				X		
Bayley			X			
Wolf			X			
Knoller	X		X			
Falotico					X	
Downing		X	X			

I hereby certify that the above Ordinance 1576-18 was duly adopted by the Borough of Emerson at a meeting held on December 18, 2018.

Attest:

Jane Dietsche
Municipal Clerk

EXHIBIT A
LEGAL DESCRIPTION

CLEARPOINT SERVICES LLC

Description of an area located within the Borough of Emerson, Bergen County, New Jersey, being currently shown as Kenneth Avenue on the Official Tax Map of the same, to be vacated and more particularly described as follows;

Beginning at the point of intersection of the southeasterly line of Lincoln Boulevard (50' wide), with the northeasterly line of Kenneth Avenue (40' wide), and from said beginning point running, thence;

- 1) South 05°25'49" West a distance of 252.00', along the said northeasterly line of Kenneth Avenue to a point, thence;
- 2) North 73°26'41" West a distance of 40.77', along a portion of the northeasterly line of Tax Map Lot 6.01 to a point, thence;
- 3) North 05°25'49" East a distance of 249.22', along the southwesterly line of Kenneth Avenue to a point, in the said line of Lincoln Boulevard, thence;
- 4) South 77°19'11" East a distance of 40.32', along the said line of Lincoln Boulevard, to the point and place of beginning.

Having an area of 10024.42 square feet, or 0.230 acres.

Alan Boettger, PLS
NJ LICENSE No. 41997
November 9, 2018
JOB No. 18-31254 KennethAvenueRoadVacation