

ORDINANCE NO. 2021- 10

**AN ORDINANCE OF THE TOWNSHIP OF BARNEGAT,
COUNTY OF OCEAN AND STATE OF NEW JERSEY,
RELEASING, EXTINGUISHING AND VACATING THE
RIGHTS OF THE PUBLIC IN A PORTION OF PAPER
STREETS KNOWN AS MIRO AVENUE, PICASSO
AVENUE, AND MULBERRY STREET.**

WHEREAS, pursuant to N.J.S.A. 40:67-1(b) and N.J.S.A. 40:67-19, the Township Committee may, by ordinance, vacate any public street or portion thereof, dedicated to public use, but not accepted by the Township, whether or not the same, or any portion, has been actually opened or improved; and

WHEREAS, the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey, is of the opinion that the public interest would be best served by abandoning, vacating, releasing and extinguishing any and all public rights which the Township may have in and to a right-of-way and/or paper streets known as (1) Picasso Avenue beginning at the northerly intersection of Cherry Street and Picasso Avenue through its entire length, north to the property line of Lot 47.01, Block 174, a distance of 750 feet +/- for a width of 50' feet; (2) Miro Avenue from the northerly intersection of Cherry Street until its full length to the property line of Lot 47.01, Block 174, a distance of 701 feet +/- for a width of 50' feet; and (3) Mulberry Street running in a west/east direction starting at the property line of Lot 48, Block 174 and ending at the property line of Lot 37, Block 174, a distance of 493 feet +/- for a width of 50' feet, as more fully set forth on the proposed Street Vacation Map prepared by Challoner & Associates, LLC attached hereto as Exhibit A; and set forth in the March 30, 2021 correspondence by the Applicant's attorney, Stephan R. Leone, Esq., attached hereto as Exhibit B.

WHEREAS, the paper streets are located in the project known as Stonehill at Barnegat II, west of Cherry Street; and

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WHEREAS, Barnegat Township Planning Board P-2020-4 required the Applicant to submit the appropriate application to the Township Committee for formal vacation of the paper streets, a copy of Planning Board Resolution P-2020-4 is attached hereto as Exhibit C.

WHEREAS, the portions of the right-of-ways and/or paper streets known as Miro Avenue, Picasso Avenue and Mulberry Street lend themselves to higher and better use than for public road purposes and that it is in the best interest of the general public and the Township of Barnegat that the rights and interests in and to same shall as a public right of way be vacated, released, and extinguished; and

WHEREAS, pursuant to N.J.S.A. 40:67-1(b), the Township Committee must, by Ordinance, preserve the right of public utilities to maintain, repair and replace their existing utility facilities, including cable television facilities, in, adjacent to, over, or under the property or right-of-way to be vacated; and

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey, as follows:

SECTION 1. All public easements, right and interests to portions of right-of-way and/or papers streets known as Miro Avenue, Picasso Avenue and Mulberry Street as shown on Exhibit A and Exhibit B attached hereto as described as: (1) Picasso Avenue beginning at the northerly intersection of Cherry Street and Picasso through its entire length, north to the property line of Lot 47.01, Block 174, a distance of 750 feet +/- for a width of 50' feet; (2) Miro Avenue from the northerly intersection of Cherry Street until its full length to the property line of Lot 47.01, Block 174, a distance of 701 feet +/- for a width of 50' feet; and (3) Mulberry running in a west/east direction starting at the property line of Lot 48, Block 174 and ending at the property line of Lot 37, Block 174, a distance of 493 feet +/- for a width of 50' feet are hereby vacated, released and

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extinguished 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 said vacation being effective.

SECTION 2. The Township Clerk shall publish, this ordinance, after being introduced and having passed a first reading, at least once not less than ten (10) days instead of one (1) week prior to the time fixed for further consideration for final passage, shall be published at least once in a newspaper published and circulated in the Township, pursuant to N.J.S.A. 40:49-6.

SECTION 3. It is the intent of the Township Committee of Barnegat to vacate the aforementioned interests that the public may have in the property, and to provide that the property shall be conveyed, in its “as is” condition, to Stonehill at Barnegat II for no consideration.

SECTION 4. 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 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 Miro Avenue, Picasso Avenue and Mulberry Street (as shown on Exhibit A), pursuant to N.J.S.A. 40:67-19 and N.J.S.A. 40:49-6.

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SECTION 5. The Township Clerk shall within sixty (60) days after such ordinance becomes effective file a certified copy of the ordinance vacating the street with the office of the County Clerk in a special book set aside for dedications and vacations, pursuant to N.J.S.A. 40:67-21.

SECTION 6. After introduction, this Ordinance shall be referred to the Barnegat Township Planning Board for review and comment pursuant to N.J.S.A. 40:55D-26, N.J.S.A. 40:55D-32, and N.J.S.A. 40:55D-33, since vacation of a public street or portion thereof constitutes a change to the official map of Barnegat Township, Ocean County and the closing of a public street, albeit a paper unimproved street.

SECTION 7. All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 8. If any section, subsection, paragraph, sentence or any part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance not directly involved in the controversy in which such judgment shall have been rendered.

SECTION 9. This Ordinance shall take effect upon final passage and publication in accordance with law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed by the Township Committee on first reading at a meeting of the Township Committee of the Township of Barnegat on the **4th day of May 2021**, and will be considered for second and final passage at a meeting of the Township Committee to be held on the **1st day June of, 2021, at 10:00 AM**. in the Municipal Building located at 900 West Bay Avenue, Barnegat, New Jersey, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.

DONNA M. MANNO, RMC
Township Clerk

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CERTIFICATION

I, Donna M. Manno, Municipal Clerk of the Township of Barnegat, County of Ocean, State of New Jersey do hereby certify by my hand and seal that the foregoing Ordinance namely **Ordinance 2021-10** entitled Releasing, Extinguishing and Vacating the Rights of the Public in a Portion of Paper Streets known as Miro Avenue, Picasso Avenue and Mulberry Street was introduced and passed at a meeting of the Township Committee on the 4th day of May, 2021 and finally adopted after Public Hearing at a meeting held in the Municipal Complex, 900 West Bay Avenue, Barnegat, NJ on the 1st day of June, 2021

Donna M. Manno, RMC
Municipal Clerk

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