

**ORDINANCE NO. \_10\_-2016**

**AN ORDINANCE VACATING A PORTION OF HARRISON AVENUE AND  
A PORTION OF DOLAN AVENUE IN THE TOWNSHIP OF ABERDEEN, COUNTY OF  
MONMOUTH, STATE OF NEW JERSEY AND CONVEYING SUCH VACATED LANDS TO  
ABERDEEN PLAZA STATION URBAN RENEWAL, LLC AS THE ADJACENT PROPERTY  
OWNERS**

**WHEREAS**, a portion of Harrison Avenue and a portion of Dolan Avenue Drive are streets (the "Vacation Streets") located in the Township of Aberdeen, Monmouth County, New Jersey; and

**WHEREAS**, the Township of Aberdeen has agreed to convey certain properties to Aberdeen Plaza Station Urban Renewal, LLC ("Redeveloper") to be included as part of a transit village redevelopment project; and

**WHEREAS**, the Vacation Streets are adjacent to Block 259, Lots 1, 2 3, 4 5, 6, 7 and 8 and Block 263, Lot 2 in the Township of Aberdeen on the Official Tax Map of the Township of Aberdeen all of which are owned by or about to be owned by Redeveloper; and

**WHEREAS**, it is the intent of the Township of Aberdeen that the Vacation Streets be conveyed to the Redeveloper which is the adjacent landowner; 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, 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 Aberdeen has determined that it would fulfill a public purpose to vacate a portion of Harrison Avenue and a portion of Dolan Avenue (the "Vacation Streets") (as more fully described in Exhibit "A" and Exhibit "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 the Redeveloper in accordance with law.

**NOW, THEREFORE, BE IT ORDAINED**, by the Township Council of the Township of Aberdeen, County of Monmouth and State of New Jersey that a portion of Harrison Avenue and a portion of Dolan Avenue (the "Vacation Streets"), as more fully described in the attached Exhibit "A" and Exhibit "B" be and are hereby vacated; and

**BE IT FURTHER ORDAINED**, that the vacated lands formerly comprising a portion of Harrison Avenue and a portion of Dolan Avenue (the "Vacation Streets") are to be conveyed to the adjacent property owner, Redeveloper, in accordance with law; 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 Aberdeen, 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 Aberdeen to be a true copy of such Ordinance, together with a proof of publication thereof, in the office of the Monmouth 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:

TOWNSHIP OF ABERDEEN

\_\_\_\_\_  
Karen Ventura, Township Clerk

By: \_\_\_\_\_  
Fred Tagliarini, Mayor