

TOWNSHIP OF PEMBERTON

**AN ORDINANCE OF THE TOWNSHIP OF PEMBERTON,
COUNTY OF BURLINGTON, STATE OF NEW JERSEY TO
VACATE A PORTION OF ARIZONA TRAIL AND
CONVEYING SAME TO ABUTTING PROPERTY OWNERS
WITH THE TOWNSHIP RETAINING ANY AND ALL
EXISTING RIGHTS UNDER THE LAW**

ORDINANCE NO. 20-2017

WHEREAS, there exists a portion of unimproved land dedicated as a public right of way on Arizona Trail, from the intersection of New York Road to the intersection of Connecticut Road, which intersection is unimproved land dedicated as a public right of way, designated on the Township of Pemberton's tax map as adjacent to Block 751, Lots 2, 3 and 11, and Block 752, Lot 1; and

WHEREAS, the Township of Pemberton (the "Township") currently exercises control over this portion of land on Arizona Road as an unimproved dedicated public street; and

WHEREAS, the abutting property owners, to wit: Christopher S. and Amy P. Cosnoski (collectively, "the Cosnoski's"), 103 New York Road, Browns Mills, New Jersey have requested the Township vacate the portion of Arizona Road designated on the Township tax map beginning at the intersection of New York Road and continuing to the intersection of Arizona Road and Connecticut Road; and

WHEREAS, the Township is in receipt of a letter from the abutting property owners, the Cosnoski's, dated June 30, 2017, indicating their request that the Township vacate that portion of Arizona Road; and

WHEREAS, N.J.S.A. 40:67-19 allows a municipality to authorize by ordinance the release and extinguishment of the public rights arising from the dedication of land as a public street as to the whole or any part of the land, however any rights and privileges possessed by public utilities and cable television companies to maintain, repair, and replace their existing utility facilities in, adjacent to, over or under the property are expressly reserved and excepted from vacation pursuant to N.J.S.A. 40:67-1; and

WHEREAS, when the Township Council makes a determination that the public interest will be better served by extinguishing the public right, the land shall become the title of the abutting landowners in accordance with N.J.S.A. 40:49-6; and

WHEREAS, the Township Council finds that the Township will realize financial and other savings as a result of this vacation, including but not limited to the costs and efforts associated with maintenance of said right of way; and

WHEREAS, the Township Council finds it in the best interest of the Township to authorize the roadway vacation as detailed herein.

NOW, THEREFORE, IT IS ORDAINED by the Township Council of the Township of Pemberton, County of Burlington, and State of New Jersey that the street vacation of Arizona Road which is further detailed within the body of this ordinance, is hereby authorized; and

IT IS FURTHER ORDAINED that any rights and privileges which may be possessed by public utilities, as defined by 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 facilities, in, adjacent to, over or under the street, or any part thereof are hereby expressly reserved and excepted from vacation; and

IT IS FURTHER ORDAINED, that the street vacation set forth within this ordinance is contingent upon the abutting property owners, to wit: the Cosnoski's entering into an agreement with the Township that no construction will take place on the vacated property except for the installation of fencing that is consistent with Township Code and that the Township shall retain all lawful rights to enter, inspect and make repairs to existing utilities above and below ground where applicable; and

IT IS FURTHER ORDAINED that the street vacation set forth within this ordinance is contingent upon the abutting property owners, to wit: the Cosnoski's providing to the Township a fee in the amount of five hundred dollars (\$500.00), representing reasonable costs for professional services and administrative and publications costs in connection with the aforesaid vacation; and

IT IS FURTHER ORDAINED that the street vacation set forth within this ordinance is contingent upon the abutting property owners, to wit: the Cosnoski's, providing to the Township a survey and legal description, both in a form acceptable to the Township Attorney, of the property they are to receive as a result of the aforesaid vacation; and

IT IS FURTHER ORDAINED that the street vacation set forth within this ordinance is contingent upon the abutting property owners, to wit: the Cosnoski's providing to the Township a deed or deed of consolidation with their current property, in a form acceptable to the Township Attorney, for the property they are to receive as a result of the aforesaid vacation; and

IT IS FURTHER ORDAINED that the Deputy Township Clerk shall publish this ordinance, after introduction and passage at 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 pursuant to N.J.S.A. 40:49-6; and

IT IS FURTHER ORDAINED that the Deputy Township Clerk shall, at least one (1) week prior to the time fixed for final passage of such ordinance, mail a copy thereof,

together with a notice of the introduction thereof, and the time and place when and where the ordinance will be further considered for final passage, to every person whose lands may be affected by the ordinance or any assessment which may be made in pursuance thereof, pursuant to N.J.S.A. 40:49-6; and

IT IS FURTHER ORDAINED that the Deputy Township Clerk shall within sixty (60) days after such ordinance becomes effective file a certified copy of this ordinance 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; and

IT IS FURTHER ORDAINED that if any part of this ordinance is for any reason held to be invalid, such decision shall not effect the validity of the remaining portion of the ordinance; and

IT IS FURTHER ORDAINED that this ordinance shall take effect upon passage and publication in accordance with applicable law.

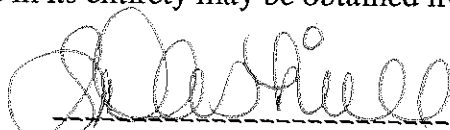
PEMBERTON TOWNSHIP COUNCIL

**TOWNSHIP OF PEMBERTON
NOTICE OF PUBLIC HEARING
ORDINANCE NO. 20-2017**

**AN ORDINANCE OF THE TOWNSHIP OF PEMBERTON,
COUNTY OF BURLINGTON, STATE OF NEW JERSEY TO
VACATE A PORTION OF ARIZONA TRAIL AND
CONVEYING SAME TO ABUTTING PROPERTY OWNERS
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The foregoing Ordinance was introduced and passed on first reading by the governing body of Pemberton Township at a meeting held on August 2, 2017 and will be considered for final passage after a public hearing at a meeting of the said governing body to be held on September 6, 2017 at the Pemberton Township Municipal Building, 500 Pemberton-Browns Mills Road, Pemberton, New Jersey, at 6:30 p.m. prevailing time, at which time any interested member of the public may comment on said Ordinance. During the week prior to and up to and including the date of such meeting or further consideration, copies of said Ordinance in its entirety may be obtained from the Township Clerk.

ATTEST:



SUNSHINE DASHIELL, DEPUTY TOWNSHIP CLERK

**TOWNSHIP OF PEMBERTON
NOTICE OF FINAL PASSAGE
ORDINANCE NO. 20 -2017**

**AN ORDINANCE OF THE TOWNSHIP OF PEMBERTON,
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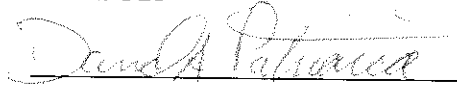
Notice is hereby given that Ordinance No. 20-2017 as entitled above has been finally adopted on final reading by the governing body of Pemberton Township after a public hearing, at a meeting held on September 6, 2017. Said Ordinance shall take effect in accordance with law.

ATTEST:



SUNSHINE DASHIELL, DEPUTY, TOWNSHIP CLERK

ACKNOWLEDGEMENT OF APPROVAL BY MAYOR



David A. Patriarca

DATE 9/7 2017

ATTEST:



SUNSHINE DASHIELL, DEPUTY, TOWNSHIP CLERK