

ORDINANCE # 3-2022

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF
CLAYTON VACATING THE SOUTHERLY ONE HALF OF ERIE AVENUE IN
THE BOROUGH OF CLAYTON, COUNTY OF GLOUCESTER, STATE OF
NEW JERSEY**

WHEREAS, the Mayor and Council of the Borough of Clayton have determined that it is in the best interests of the residents of the Borough of Clayton to vacate the following public street, more specifically described below:

STREET NAME

Erie Avenue

LOCATION

Southerly one half of Erie Avenue
between Franklin Street and Bernard
Street

WHEREAS, vacation of a public street, road, highway or part thereof, may be authorized by the municipal governing body, by Ordinance, pursuant to N.J.S.A. 40:67-1, et. seq., when there is no longer any need for the use of said area by the public; 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 a 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, et seq.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Clayton, in the County of Gloucester and State of New Jersey, and it is hereby enacted and ordained by the authority of same as follows:

Section 1.

1. Pursuant to N.J.S.A. §40:67-19, et seq., all public rights and interests in, along, upon the public streets, roads, highways or parts thereof, more particularly described below, is hereby vacated, surrendered and extinguished.

2. This Ordinance vacates no other portion of the streets/roads, except that portion set forth as follows:

(See LEGAL DESCRIPTION attached as Exhibit A)

3. Expressly reserved and excepted from this vacation Ordinance are all rights and privileges heretofore possessed by public utilities as defined in N.J.S.A. 48:2-13, and any cable television company as defined in the “Cable Television Act,” N.J.S.A. 48:5A-1, et seq., to maintain or repair their existing facilities adjacent to, over and under the street to be vacated. A perpetual easement, if the same is required, is reserved for the benefit of public utility companies for the purpose of ingress and egress over and upon the same in order to maintain, repair or replace existing utility facilities, if any, including water lines, gas lines and telephone, electric and cable television wires and poles which may be located beneath the surface of the foregoing premises or above the same.

4. Once the street/roads have been vacated, then it is in the Borough’s best interests in and to the said streets/roads described herein to be released. To the extent that any portion(s) of the underlying vacated areas do not transfer automatically to the adjacent property owners by operation of law, the Borough Council hereby authorizes the conveyance of said underlying area(s) to the adjoining property owner(s) of Block 209, Lot 3, by Deed, for nominal consideration (\$1.00), pursuant to N.J.S.A. 40:67-19, et. seq.,

N.J.S.A. 40:60-28, and/or N.J.S.A. 40A:12-13(b)(5), so that these portions may be combined with and become part of the said adjacent properties.

5. The Borough Clerk shall, within sixty (60) days of the effective date of this Ordinance, file a copy hereof, certified by the Clerk, under seal of the Borough, to be a true and exact copy of the Ordinance, together with a copy of the proof of publication thereof, in the Office of the Gloucester County Clerk for recordation in the County's Book of "Dedications and Vacations" pursuant to N.J.S.A. 40:67-21.

6. The Borough 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.

7. The Borough 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.

Section 2. Repealer

All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistencies.

Section 3. Severability

Each section of this Ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective, shall not be deemed to affect the validity or constitutionality of any other sections or parts hereof.

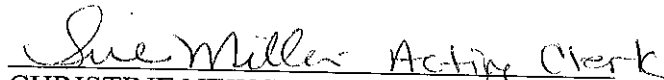
Section 5. *BE IT FURTHER ORDAINED* that this Ordinance shall take effect immediately upon final passage and publication as required by law.

BOROUGH OF CLAYTON



THOMAS BIANCO, Mayor

Attest:



CHRISTINE NEWCOMB, Borough Clerk

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EXHIBIT "A)

January 4, 2022
Revised March 10, 2022

**Description of Property
Vacation of Roadway
Southerly one half of Erie Avenue**

All those certain unimproved tracts or parcels of land as illustrated adjoining Block CD, Lots 1 through 5 on plan entitled "Clayton Land Improvement Co., Inc." said plan having been dated July 1922 by J. Owen Carter, CE and filed in the office of the Gloucester County Clerk and further as illustrated as adjoining Block 209, Lot 3 on sheet 2 of the official tax maps of the Borough of Clayton as Erie Avenue (Southerly one half of 40 foot wide unimproved roadway) being more particularly described as follows:

**Southerly one half of Erie Avenue between
Franklin Street and Bernard Street**

Beginning at a point formed by the intersection of the Westerly line of Franklin Street with the Southerly line of Erie Avenue, said point being the northeasterly corner to Block 209, Lot 3, and from said beginning point runs, Thence;


1. Along the southerly line of Erie Avenue South $85^{\circ} 16' 00''$ West 100.00 feet to a point in the corner of Block 209, Lots 2 and 3, Thence;
2. At right angles to Erie Avenue North $4^{\circ} 44' 00''$ West 20.00 feet to the centerline at Erie Avenue, Thence;
3. Along the centerline of Erie Avenue North $85^{\circ} 16' 00''$ East 100.00 feet to a point, said point being the Northeasterly corner, Thence;
4. At right angles to the centerline of Erie Avenue South $4^{\circ} 44' 00''$ East 20.00 feet to the point and place of beginning.

Said above described tract or parcel of land containing within said bounds 2,000 square feet of land (0.046 acres) more or less.

Said above described tract or parcel of land consisting of the southerly one half of Erie Avenue to be vacated and consolidated with Block 209, Lot 3.

Prepared by:

Sickels & Associates, Inc.


Bruce Ewing, P.L.S.
N.J. Professional Land Surveyor #35835

CB-090-6 (Blk. 209, Lot 3)

NOTICE OF INTRODUCTION

ORDINANCE 3-2022

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TAKE NOTE that the foregoing ordinance was introduced at a meeting of the Mayor and Council of the Borough of Clayton held on February 10, 2022 and was then read for the first time. The said ordinance will be further considered for final passage by the Mayor and Council at the Municipal Building, 125 N. Delsea Drive, Clayton, New Jersey, at a meeting beginning 6:30 p.m. on March 10, 2022, at which time and place, or any time and place to which such meeting be adjourned, all persons interested will be given an opportunity to be heard concerning such ordinance.

BY ORDER of the Mayor and Council of the Borough of Clayton.

Christine Newcomb
Borough Clerk

NOTICE OF ADOPTION

ORDINANCE #3-2022

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF
CLAYTON VACATING THE SOUTHERLY ONE HALF OF ERIE AVENUE IN
THE BOROUGH OF CLAYTON, COUNTY OF GLOUCESTER, STATE OF
NEW JERSEY**

The foregoing Ordinance was finally adopted by the Mayor and Council of the Borough of Clayton on March 10, 2022.

Christine Newcomb
Borough Clerk