

ORDINANCE NO. 17, 2014

AN ORDINANCE TO VACATE THE FOLLOWING PUBLIC STREET SITUATED IN THE CITY OF LINWOOD, COUNTY OF ATLANTIC AND STATE OF NEW JERSEY AND TO RELEASE THE PUBLIC RIGHTS THEREIN – A PORTION OF BELHAVEN AVENUE, AND REPEALING OTHER ORDINANCES HERETOFORE ADOPTED, THE PROVISIONS OF WHICH ARE INCONSISTENT HEREWITH.

WHEREAS, a request has been made to vacate a certain portion of Belhaven Avenue, hereinafter described, which is presently a dedicated but unimproved and unaccepted municipal street; and

WHEREAS, the subject request has been made by Marcia Portnoy, an abutting landowner, who is the owner of Block 45, Lot 28 and Lot 29, which lots were created as a result of a minor subdivision application by the landowner before the Linwood Planning Board in January of 1992.; and

WHEREAS, the minor subdivision was granted to realign lot lines and as a condition of the subdivision approval, the Linwood Planning Board required that a portion of Lot 28 be dedicated to the City of Linwood for the extension, by the landowner, of Belhaven Avenue; and

WHEREAS, it is the current intent of the landowner to consolidate Lot 28 and Lot 29 into one lot and to construct a single family home on the consolidated lot; and

WHEREAS, as a result of the aforesaid lot consolidation, the extension of Belhaven Avenue becomes unnecessary; and

WHEREAS, the Linwood Planning Board has reviewed this application and has recommended the partial street vacation based upon the aforesaid information; and

WHEREAS, for the reasons referenced above, among others, it appears to the governing body that the public interest will be better served by releasing the affected lands from any and all public rights therein and thereto pursuant to *N.J.S.A. 40:67-19*.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Linwood, County of Atlantic and State of New Jersey that:

SECTION 1: The following herein described streets and/or alley and portions thereof are hereby vacated and any and all public rights therein are hereby released and extinguished which arise from the prior dedication thereof, subject to a public utility easement and public access easement, if any, being reserved, the respective descriptions of which are as follows:

BEGINNING at a point in the Southwesterly line of Belhaven Avenue (50' wide) North 61 degrees 13 minutes 45 seconds West 233.97' from the Northwesterly line of Wabash Avenue (130' wide) and from thence running:

1. North 61 degrees 13 minutes 45 seconds West 70' to a point; thence
2. North 28 degrees 46 minutes 15 seconds East a distance of 35.10' to a point; thence
3. South 61 degrees 13 minutes 45 seconds East a distance of 70' to a point,; thence
4. South 28 degrees 46 minutes 15 seconds West a distance of 35.10' to the point and place of beginning.

BEING the area dedicated to the City of Linwood for the extension of Belhaven Avenue as depicted on a minor subdivision plat of Lots 28, 29, and 30 in Block 45 of the Linwood Tax Map recorded by the Atlantic County Clerk on March 4, 1992 as Map #3154.

This Ordinance is adopted pursuant to an Application for Vacation of Streets and Easements dated July 7, 2014 and filed with the City of Linwood on behalf of applicant property owner, Marcia Portnoy.

SECTION 2: That the public rights arising from any dedication, actual or implied, of the streets and/or alley above mentioned, and indicated on copies of maps filed in the office of the City Clerk, as aforesaid, be and the same are hereby released and extinguished.

SECTION 3: That any costs including publication fees or engineering expenses incurred, beyond those included in the engineering retainer, incident to the vacating of the aforementioned and above named streets, shall be paid by the person or persons in whose favor the streets are being vacated.

SECTION 4: The passage of this Ordinance is conditioned upon the consolidation of Lots 28 and 29 in Block 45.

SECTION 5: The City Clerk shall immediately after final passage and publication of this Ordinance, and after satisfaction of the conditions referenced in Section 4 above, make and file in the office of the Clerk of Atlantic County a copy of this Ordinance together with a copy of the proof of publication hereof duly certified by her, under the corporate seal of the City of Linwood for record, as required by law.

SECTION 6: That all ordinances or parts of ordinances inconsistent with the provisions hereof be and the same hereby are repealed and this Ordinance shall take effect immediately after final passage and publication.

FIRST READING: August 13, 2014
PUBLICATION: August 18, 2014
FINAL PASSAGE: September 10, 2014

The within Ordinance was introduced at a meeting of the Common Council of the City of Linwood, County of Atlantic and State of New Jersey held on August 13, 2014 and will be further considered for final passage after a public hearing thereon at a meeting of said Common Council on September 10, 2014.

LEIGH ANN NAPOLI, RMC, MUNICIPAL CLERK

RICHARD L. DEPAMPHILIS, III, MAYOR