

*****ADOPTED FEBRUARY 10, 2014*****

DELANCO TOWNSHIP

ORDINANCE 2014-3

**VACATING COMMERCE DRIVE UPON CONDITIONS
AND AUTHORIZING EXECUTION OF DEED**

WHEREAS, the Township Committee of the Township of Delanco (“Township”) previously adopted Resolution 1998-59, wherein the Township recognized the dedication of “Commerce Drive” across what was then the Jevic property but declined acceptance of same; and

WHEREAS, this action was based, at least in part, upon the request of Jevic at that time; and

WHEREAS, since that time, the Township has not exerted ownership or control over Commerce Drive, and maintenance, such as snow removal, has not been done by the Township, nor has same been requested by Jevic or any successor in interest; and

WHEREAS, Costume Gallery, Inc., recently acquired Block 2000, Lots 13.09 and 13.13, which lots straddle Commerce Drive on its long sides and as condition to their approvals, they were required to clarify the legal status of Commerce Drive; and

WHEREAS, following communications between the attorneys for Costume Gallery, Inc. and the Township, the parties determined that the most efficient way to resolve any issue as to the legal status of Commerce Drive would be to have the Township formally vacate any interest in Commerce Drive and to deed same to Costume Gallery, Inc.; and

WHEREAS, the Township desires to formalize this action upon certain conditions to ensure that the matter is fully resolved and no new issues are created by this enactment.

NOW , THEREFORE, BE IT HEREBY ORDAINED by the Township Committee of the Township of Delanco, County of Burlington, State of New Jersey that:

Section 1.

To the extent it may have any legal interest in Commerce Drive, Delanco Township formally vacates same to become part of Costume Gallery, Inc.’s properties at Block 2000, Lots 13.09 and 13.13, upon the following condition:

A. Because of the potentially confusing history, and status of Commerce Drive presently, as a part of the Township’s vacating of it, the Township will also execute a deed of conveyance for the street bed of Commerce Drive, and Costume Gallery will accept same, which when recorded with the Burlington County Clerk’s office shall have attached as an exhibit a copy of the “filed” ordinance as authorized and directed herein. The deed will be prepared by counsel

for Costume Gallery and Costume Gallery shall be responsible for the filing of same, including costs.

B. Costume Gallery, Inc., LLC shall provide an access easement to the owner of the adjacent Block 2000, Lot 13.12, and those private parties shall work out an agreement with regard to the maintenance of the private drive. This obligation of Costume Gallery to provide an access easement to adjacent Lot 13.12, itself is conditioned upon the owner of Lot 13.12 entering into a written maintenance agreement with Costume Gallery, which agreement shall be recorded as an attachment to the required deed of easement with the maintenance agreement attached. If the parties cannot resolve a mutually agreeable maintenance agreement, the Township shall be notified and shall thereafter make a determination as to whether to enforce this condition or waive same. If the Township waives the condition, such waiver shall be in writing and by motion at a formal public meeting. The Township expects both parties to negotiate in good faith to resolve the form of maintenance agreement consistent with normal and customary standards.

BE IT FURTHER ORDAINED that the Township Clerk is hereby authorized to cause a copy of this Ordinance to be filed with the Office of the County Clerk. Upon such filing the Township Clerk shall notify the Township Engineer to amend the Official Tax Map of the Township to either delete Commerce Drive as a public street, or append a note to the Official Tax Map confirming the Township's action in vacating Commerce Drive as a public right of way. Such determination shall be in the Township Engineer's discretion

Section 2. Repealer. Any Ordinances inconsistent with this ordinance is hereby repealed to the extent of its inconsistency.

Section 3. Severability. If any provision of this Ordinance is deemed unlawful by a Court is found to be contrary to law by a court of competent jurisdiction, such provision shall be of no force or effect; but the remainder of this Agreement shall continue in full force and effect.

Section 4. Effective date. This Ordinance shall take effect upon proper passage and publication in accordance with the law.