

TOWNSHIP OF RARITAN

COUNTY OF HUNTERDON, NEW JERSEY

ORDINANCE #16-17

WHEREAS, on December 12, 2006, Leffler Hill Associates, Inc. (“Leffler Hill”) received final subdivision approval from the Planning Board (the “Planning Board Approval”) for a four (4) lot subdivision on property known as Lot 22, Block 59 (before subdivision) as shown on the Tax Map of the Township of Raritan, which approval was memorialized by Resolution dated January 9, 2007 (the “Resolution of Approval”); and

WHEREAS, as set forth in the Resolution of Approval, the Planning Board Approval was granted pursuant to certain conditions, including the execution of a Developers Agreement, the posting of a performance guarantee and the conveyance to Raritan Township of certain easements, including but not limited to, an underground water storage tank and access easement and a drainage easement; and

WHEREAS, the Planning Board Approval also required the dedication to Raritan Township from Leffler Hill of a portion of Lot 22, Block 59 (before subdivision) for roadway and utility purposes in order to create a new cul-de-sac road commonly known as Tamarack Court, and also a portion of Block 59, Lot 22.01 (after subdivision) for roadway and utility purposes for Leffler Hill Road; and

WHEREAS, in accordance with the Planning Board Approval, Leffler Hill executed a Developers Agreement dated July 13, 2007, and posted a performance guarantee in the amount of \$212,679.60 (the “Performance Guarantee”) for the installation of public improvements; and

WHEREAS, Leffler Hill granted to Raritan Township an underground water storage tank and access easement (the “Fire Suppression Easement”) dated May 14, 2007 across a portion of Block 59, Lot 22.02 (after subdivision),, which Fire Suppression Easement was recorded in the Office of the Hunterdon County Clerk on June 15, 2007 in Deed Book 2186, Page 579; and

WHEREAS, Leffler Hill also granted to Raritan Township a drainage easement (the “Drainage Easement”) dated May 14, 2007 across a portion of Block 59, Lots 22.03 and 22.04 (after subdivision), which Drainage Easement was recorded in the office of the Hunterdon County Clerk on June 15, 2007 in Deed Book 2186, Page 559; and

WHEREAS, as required by the Planning Board Approval, Leffler Hill executed a deed of dedication (the “Tamarack Deed of Dedication”) dated May 14, 2007 granting to Raritan Township, for roadway and utility purposes, a portion of Block 59, Lot 22 (before subdivision), which Tamarack Deed of Dedication was recorded in the Office of the Hunterdon County Clerk on June 15, 2015 in Deed Book 2186, Page 599; and

WHEREAS, the metes and bounds description of the paper street known as Tamarack Court (“Tamarack Court”) is as more fully described in the Tamarack Deed of Dedication by “Metes and Bounds Description, Tamarack Court, Block 59, Lot 22, Raritan Township, Hunterdon

County, New Jersey”, prepared by Van Cleef Engineering Associates dated March 2, 2007, which Deed of Dedication is attached hereto as Exhibit A; and

WHEREAS, on February 18, 2016, Leffler Hill received from the Raritan Township Zoning Board (the “Zoning Board”), approval (the “Zoning Board Approval”) of a c “2” frontage variance to allow consolidation of three of the previously subdivided lots to create one large lot (the “Lot Consolidation”), which approval was memorialized by Resolution No. 2016-02 dated May 19, 2016; and

WHEREAS, the Zoning Board Approval was granted subject to, among other things, the conditions that (i) Leffler Hill apply to the Township Committee to obtain a vacation of the Tamarack Court road dedication, and that (ii) Leffler Hill return to the Raritan Township Planning Board (the “Planning Board”) if it seeks relief from the requirement of the prior Planning Board Approval to install an underground fire water storage tank; and

WHEREAS, Leffler Hill requested from the Planning Board the removal of certain conditions which were no longer necessary as a result of the Lot Consolidation, and was advised to seek prior approval from the Raritan Township Committee for the vacation of the Fire Suppression Easement, the Drainage Easement, the Tamarack Deed of Dedication and the Developers Agreement, as well as the return of the Performance Guarantee; and

WHEREAS, Leffler Hill, through its counsel, has submitted a letter to the Township Committee requesting that the Township Committee consider the matter, and agree to vacate the Fire Suppression Easement, the Drainage Easement, the Tamarack Deed of Dedication and the Developers Agreement, and to return the Performance Guarantee to Leffler Hill; and

WHEREAS, Tamarack Court remains a “paper street”, not having been paved or improved and the Township Committee of the Township of Raritan has determined that Tamarack Court is no longer needed for public purposes, and that the public interest will be better served by extinguishing Tamarack Court from such public dedication; and

WHEREAS, N.J.S.A. 40:67-19 authorizes the Township to release and extinguish the rights of the public and the rights of the Township in and to Tamarack Court; and

WHEREAS, the Township Committee has reviewed the letter submitted by Leffler Hill, which has also been reviewed by the Township Attorney, and now desires to vacate the Fire Suppression Easement, the Drainage Easement, the Tamarack Deed of Dedication and the Developers Agreement, and return the Performance Guarantee to Leffler Hill, as the Lot Consolidation will negate the necessity of certain conditions of the Planning Board Approval, and public improvements will no longer be installed

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Raritan, County of Hunterdon and State of New Jersey as follows:

1. The Township Committee hereby consents to the vacation of the Developers Agreement, and authorizes the return of the Performance Guarantee in the amount of \$212,679.60, as no public improvements will be installed, subject to satisfaction with incomplete items.

2. The Township Committee hereby consents to the vacation of the Fire Suppression Easement referenced herein and the Drainage Easement referenced herein.

3. The Mayor and Township Clerk are hereby authorized to execute any and all documents consistent with this Ordinance for the vacation of the Fire Suppression Easement, the Drainage Easement, which documents shall be prepared by Leffler Hill subject to the review and approval of the Township Attorney, which documents shall be recorded in the office of the Hunterdon County Clerk.

4. The rights of the public and the rights of the Township in and to Tamarack Court to are hereby extinguished and vacated.

5. There is expressly reserved and excepted from vacation all rights and privileges now 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. 48:5A-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.

6. There is also expressly reserved and excepted from vacation any sanitary sewer or drainage structures and any easements in, adjacent to, over or under the street or portion thereof to be vacated, except for the Fire Suppression Easement and the Drainage Easement specifically vacated hereby.

7. The lands being vacated, as more fully described in the Deed of Dedication attached hereto and made a part hereof as Exhibit A, shall be consolidated into existing lots 22.01, 22.02, 22.03 and 22.04, Block 59. Deeds to perfect the consolidation shall be prepared by Leffler Hill, subject to the review and approval of the Township Attorney, and shall be recorded in the office of the Hunterdon County Clerk.

8. After this Ordinance has been introduced and passed a first reading, the Township Clerk shall cause this Ordinance to be published in the manner set forth in N.J.S.A. 40:49-2 not less than ten (10) days instead of one week prior to the time fixed for further consideration for final passage.

9. At least seven (7) days prior to the time fixed for the consideration of this Ordinance for final passage, a copy of this Ordinance, together with a notice of its introduction and the time and place when and where the Ordinance will be further considered for final passage, shall be mailed to every person whose land may be affected by this Ordinance so far as may be ascertained. Said notices shall be mailed by the Township Clerk in accordance with the provisions of N.J.S.A. 40:49-6, the cost of such mailing to be borne by Leffler Hill.

10. The Township Clerk shall, within sixty (60) days of the effective date of this Ordinance, file a copy of this Ordinance certified by the Township Clerk under seal of the Township to be a true copy thereof, together with a copy of the proof of publication thereof, in the office of the Hunterdon County Clerk in accordance with the provisions of N.J.S.A. 40:67-21.

11. The vacation of the Fire Suppression Easement approved hereby shall be subject to the further approval of the Planning Board as required by condition 2. of the Zoning Board Approval.

12. The Conservation Easement, Sight Triangle Easement and Deed of Dedication for Leffler Hill Road granted to the Township as required the Planning Board Approval shall not be vacated, and all rights granted to the Township therein shall remain in full force and effect.

**TOWNSHIP COMMITTEE OF
TOWNSHIP OF RARITAN**

ATTEST:

William Bray
Acting Township Clerk

Karen Gilbert
Mayor

NOTICE OF PENDING ORDINANCE

PLEASE TAKE NOTICE that the foregoing Ordinance was introduced at a Township Committee Meeting by the Township Committee of the Township of Raritan on September 20, 2016, the same was then ordered to be published according to law with a public hearing and a vote scheduled for the meeting of October 18, 2016 beginning at 7:00 p.m. at the Municipal Building, One Municipal Drive, Flemington, New Jersey at which time all interested persons will be heard.

William Bray
Acting Township Clerk

Roll Call	Moved	Seconded	Ayes	Nays	Abstain	Absent
Richard Chen, Committee Member		X	X			
Michael Mangin, Deputy Mayor	XX		X			
Craig O'Brien, Committee Member			X			
Lou Reiner, Committee Member			X			
Karen Gilbert, Mayor			X			