

**ORDINANCE #1194**

**AN ORDINANCE TO APPROVE A SALE AGREEMENT  
FOR A PORTION OF NEPTUNE AVENUE  
IN THE BOROUGH OF DEAL  
PURSUANT TO N.J.S.A. 40A:12-13(b)(5) et seq.**

WHEREAS, the Borough has proposed vacating the easterly portion of Neptune Avenue which lies between the southerly boundary line of Lot 1, Block 82, and the northerly boundary line of Lot 1, Block 83 with the exception of the access sidewalk adjacent to Lot 1, Block 82 leading to the beach and the Borough's right for ingress and egress to maintain, repair and/or replacement of all existing public utilities, including but not limited to, storm water lines, potable water main and lines, sanitary sewer pipes, etc.; and

WHEREAS, the Borough has concluded that the proposed vacated portion of Neptune Avenue serves no public purpose; and

WHEREAS, the Estate of Barry Sitt, owner of Block 82, Lot 1, by virtue of executing a Quit Claim Deed dated December 24, 2018 has relinquished any past, present or future interest in the vacated portion of Neptune Avenue to ICC Neptune Ave LLC.; and

WHEREAS, the Borough is amenable pursuant to N.J.S.A. 40A:12-13(b)(5) to enter into an Agreement for the sale of the vacated portion of Neptune Avenue property to ICC Neptune Ave LLC, a Delaware limited liability company whose post office address is c/o Crown Acquisitions, 767 Fifth Avenue, 24<sup>th</sup> Floor, New York, New York 10153 and the record owner of the adjacent property, Lot 1, Block; and

WHEREAS, the Borough has advised ICC Neptune Ave LLC that it intends to vacate the public rights in the Unimproved Portion of Neptune Avenue with the exception of the access sidewalk leading to the beach and the Borough's right for ingress and egress to maintain, repair and/or replacement of all existing public utilities, including but not limited to, storm water lines, potable water main and lines, sanitary sewer pipes, etc.; and

WHEREAS, the Agreement shall be executed between the Borough of Deal and ICC Neptune Avenue LLC pursuant to N.J.S.A. 40A:12-13(b)(5) setting forth the consideration that shall be paid by ICC Neptune Ave, LLC to the Borough of Deal and in further consideration of the parties' mutual promises and covenants as provided in the Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Borough of Deal, that

1. In accordance with N.J.S.A. 40A:12-13(b)(5) the Mayor and Borough Administrator are authorized to execute the Agreement with ICC Neptune Avenue LLC setting forth the consideration that shall be paid by ICC Neptune Ave, LLC to the Borough of Deal and in further consideration of the parties' mutual promises and covenants as provided in the Agreement.
2. The Borough Clerk shall publish, this ordinance, after being introduced and having passed 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.
3. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.
4. If any section, subsection, paragraph, sentence or any part of this ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance not directly involved in the controversy in which such judgment shall have been rendered.
5. This Ordinance shall take effect upon passage and publication according to law.

Introduced by Commissioner Ades on March 13, 2019

Seconded by Commissioner Simhon

Roll Call: Ayes 2; Ades & Simhon

Absent 1; Cohen

Motion to Adopt by Commissioner Ades on April 10, 2019

Seconded by Commissioner Simhon

Roll Call: Ayes 3; Cohen, Ades & Simhon