

(4)

13-2023

AN ORDINANCE OF THE TOWNSHIP OF BERKELEY HEIGHTS, COUNTY OF UNION, STATE OF NEW JERSEY ACCEPTING DEDICATION OF PUBLIC ROAD, RIGHT-OF-WAY, AND RELATED IMPROVEMENTS FOR THE LONE PINE DRIVE EXTENSION

WHEREAS, the Township of Berkeley Heights (the "**Township**") is a public body corporate and politic of the State of New Jersey; and

WHEREAS, pursuant to N.J.S.A. 40A:12-4 and 40A:12-5, the Township is authorized to acquire, by ordinance, real property by purchase, gift, devise, lease, exchange, condemnation, or installment purchase agreement; and

WHEREAS, Lone Pine Drive Urban Renewal LLC, a Delaware limited liability company, whose address is One Evertrust Plaza, Suite 804, Jersey City, New Jersey 07302 (the "**Grantor**"), is the owner in fee simple of Block 703, Lot 4 situated in the Township of Berkeley Heights, County of Union, State of New Jersey (the "**Grantor's Property**"); and

WHEREAS, in accordance with the amended preliminary and final site plan approval granted by the Township Planning Board (the "**Planning Board**") concerning the Grantor's Property, dated September 23, 2020 (the "**Planning Board Resolution**"), pursuant to that certain redevelopment agreement between Grantor and the Township, dated November 21, 2018 (the "**Redevelopment Agreement**"), and as amended by that certain amendment to Redevelopment Agreement, dated September 8, 2020 (the "**Amendment**"), Grantor was required to construct an extension of the existing Lone Pine Drive and dedicate to the Township such extension, as shown in **Exhibit A-1** and described in **Exhibit A-2**, attached hereto (the "**Dedicated Property**"), which is located across a certain portion of Grantor's Property for public road and right-of-way purposes; and

WHEREAS, pursuant to the terms of the Redevelopment Agreement, Grantor may only dedicate the Dedicated Property to the Township if the Lone Pine Drive Extension is constructed in accordance with the Township design standards and ordinances, and all plans and design documents are reviewed and approved by the Township Engineer prior to commencement of construction; and

WHEREAS, the Township Engineer has confirmed the Lone Pine Drive Extension was constructed in accordance with the Township design standards and ordinances, and all plans and design documents were reviewed and approved by the Township Engineer; and

WHEREAS, pursuant to the Planning Board Resolution, Condition No. 10, Grantor shall be responsible for the maintenance of the Dedicated Property unless and until Lone Pine Drive is further extended to Snyder Avenue as a public right of way; and

WHEREAS, Grantor is willing to dedicate and convey to the Township, and the Township is willing to accept from Grantor, the Dedicated Property for public road and right-of-way purposes, subject to the maintenance provisions as outlined in the proposed deed of dedication attached hereto as **Exhibit B** (the "**Deed of Dedication**").

NOW, THEREFORE, BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY AS FOLLOWS:

Section 1. The recitals are incorporated herein as though fully set forth herein.

Section 2. The Township hereby accepts the dedication of the Dedicated Property for use as a public roadway, subject to the maintenance provisions as outlined in the Deed of Dedication attached hereto as **Exhibit B**.

Section 3. The Mayor, Business Administrator, and/or Township Clerk of the Township of Berkeley Heights are hereby authorized and directed to execute and deliver the Deed of Dedication, substantially in the form attached hereto as **Exhibit B**, subject to modification or revisions deemed necessary or desirable in consultation with counsel, and to take all other necessary or appropriate action to effectuate the purposes of this Ordinance.

Section 4. The Clerk of the Township is hereby authorized and directed to publish notice of the introduction of this Ordinance pursuant to N.J.S.A. 40:49-2.

Section 5. Once adopted, the Township Clerk is authorized and directed to cause a certified copy of this Ordinance to be filed with the Clerk of Union County, pursuant to N.J.S.A. 40:67-2.

Section 6. This Ordinance shall take effect according to applicable law.

Introduced: _____

Adopted: _____

Angie Devanney, Mayor

ATTEST:

Ana Minkoff, Township Clerk

EXHIBIT A-1

Lone Pine Drive Extension Survey

SHERMAN AVENUE (Ref. #1)
(66' R.O.W.)
(PAPER STREET)

N47° 51' 56"E
25.00'

POINT OF BEGINNING

R=25.00'
L=23.19'
CH=S74°41'35"E
CH=22.37'
(Dedication)

R=25.00'
L=31.09'
CH=S83°44'36"E
CH=29.12'
(Total)

BLOCK 703
LOT 6

DIVISION LINE
BETWEEN LOTS 4 & 6

BLOCK 703
LOT 4 (ref. #2)
Formerly Known As LOT 3 (ref. #1)

N48° 08' 04"W

S48° 08' 04"E

450.78'

430.71'

PROPOSED RIGHT-OF-WAY DEDICATION
15,217 SQ. FT OR 0.3493 ACRES

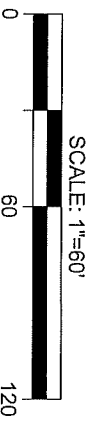
S41° 51' 56"W
35.00'

BLOCK 703
LOT 4

BLOCK 703
LOT 6



REFERENCE:
1) Map entitled "Preliminary and Final Site Plans for Modera Berkeley Heights, Layout & Dimensioning Plan, Block 703, Lots 3, 4 & 8, Township of Berkeley Heights, Union County, New Jersey", dated to December 16, 2020
2) Deed of Consolidation, DB 6401 Pg 2372.



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NJ Certificate of Authorization
No. 24GA28222600

DATE: 03/24/23
PROJ.: 080955-02-001

CHKD.:

MODERA BERKELEY HEIGHTS
LONE PINE DRIVE
RIGHT-OF-WAY DEDICATION
EXHIBIT

BLOCK 703, LOT 4 (FKA LOT 3),
TWP. OF BERKELEY HEIGHTS, UNION CO., N.J.

EXHIBIT A-2

Metes and Bounds Description of Lone Pine Drive Extension

DATE: February 22, 2023
Revised March 24, 2023
BCG Proj.080955-02-001

DESCRIPTION OF A PROPOSED 35 FOOT WIDE RIGHT OF WAY DEDICATION
SITUATED IN THE TOWNSHIP OF BERKELEY HEIGHTS, UNION COUNTY, NEW JERSEY.

BEING a portion of Lot 4 as described in Deed of Consolidation, Deed Book 6401 at Page 2372 recorded in the County Clerk's Office on February 18, 2021, formerly known as Lot 3, Block 703, as shown on a map entitled "Preliminary and Final Site Plans for Modera Berkeley Heights, Layout & Dimensioning Plan, Block 703, Lots 3, 4 & 8, Township of Berkeley Heights, Union County, New Jersey", dated to December 16, 2020 and as further shown on a map entitled "Modera Berkeley Heights, Lone Pine Drive, Right-of-Way Dedication Exhibit, Block 703, Lot 4 (FKA Lot 3), Township of Berkeley Heights, Union County, New Jersey" dated March 24, 2023, all as prepared by Bowman Consulting, more particularly described as follows:

BEGINNING at a point in the southeasterly sideline of Sherman Avenue, 66 feet wide, where same is intersected by the division line between said Lot 4 and Lot 6, Block 703, and running; Thence

- 1) Along said division line and then extending by a new line through said Lot 4, S 48°08'04" E, 430.77 feet to an angle point in same; Thence, continuing along said new line the following 2 courses
- 2) S 41°51'56" W, 35.00 feet to an angle point in same; Thence
- 3) N 48°08'04" W, 450.78 feet to a point where same is intersected by the aforesaid southeasterly sideline of Sherman Avenue; Thence, along said sideline the following 2 courses
- 4) Along a non-tangent curve to the right having a radius of 25.00 feet, an arc length of 23.19 feet, having a chord bearing of S 74°41'35" E, 22.37 feet to a point of non-tangency in same; Thence
- 5) N 41°51'56" E, 25.00 feet to the aforesaid point of BEGINNING.

Containing 15,217 square feet or 0.3493 acres more or less. Subject to easements and restrictions of record.

This description prepared by:


Kevin P. Bollinger, PLS Lic. 30744

BOWMAN CONSULTING GROUP, LTD.

V:\080955 - Mill Creek-Berkeley Heights\080955-02-001 (SUR) - MCRT Berkley Heights\Survey\Legal Descriptions\Description Proposed Roadway Dedication-REV 3-24-23.docx

EXHIBIT B

Proposed Deed of Dedication

Record and Return to:
Tiena M. Cofoni, Esq.
McManimon Scotland & Baumann, LLC
75 Livingston Avenue
Roseland, New Jersey 07068

Prepared by:
Andy S. Norin, Esq.
Faegre Drinker Biddle & Reath LLP
600 Campus Drive
Florham Park, New Jersey 07932

**DEED OF DEDICATION FOR PUBLIC ROAD, RIGHT-OF-WAY
AND RELATED IMPROVEMENTS**

This Deed of Dedication (this “Deed”) is made as of _____, 2023, by and between **LONE PINE DRIVE URBAN RENEWAL LLC**, a Delaware limited liability company, whose address is One Evertrust Plaza, Suite 804, Jersey City, New Jersey 07302 (the “**Grantor**”), and the **TOWNSHIP OF BERKELEY HEIGHTS**, a body politic of the State of New Jersey, whose address is Municipal Building, 29 Park Avenue, Berkeley Heights, New Jersey 07922 (the “**Grantee**”).

WITNESSETH

WHEREAS, Grantor is the owner of that certain parcel of land (the “**Grantor’s Property**”) located in the Township of Berkeley Heights, County of Union, State of New Jersey known as Block 703, Lot 4; and

WHEREAS, pursuant to that certain redevelopment agreement between Grantor and the Township, dated November 21, 2018 (the “**Redevelopment Agreement**”), as amended by that certain amendment to Redevelopment Agreement, dated September 8, 2020 (the “**Amendment**”), Grantor was required to construct an extension of the existing Lone Pine Drive and to dedicate to Grantee such extension which is located across a certain portion of Grantor’s Property for public road and right-of-way purposes; and

WHEREAS, Grantor is willing to dedicate and convey to Grantee, and Grantee is willing to accept from Grantor, such portion of Grantor’s Property for public road and right-of-way purposes, which portion of Grantor’s Property is commonly known as the Lone Pine Drive extension in the Township of Berkeley Heights, New Jersey, and is more particularly described in **Exhibit A** attached hereto (the “**Dedicated Property**”); and

WHEREAS, pursuant to the September 23, 2020 Resolution of the Township of Berkeley Heights Planning Board (“**Planning Board Resolution**”), Condition No. 10, Grantor shall be responsible for the maintenance of the Dedicated Property from the Lone Pine Drive Bridge over Snyder Avenue Brook to the east up to the existing building, unless and until Lone Pine Drive is further extended to Snyder Avenue as a public right of way; and

WHEREAS, such maintenance shall include, but not be limited to, snow and ice removal, tree maintenance, lighting, and all repair and maintenance of the roadway, as well as the

maintenance of the sidewalk throughout the Property, the Dedicated Property and up to Block 702, Lot 18 (also known as the MEA Property);

NOW, THEREFORE, in consideration of these premises, the covenants and promises set forth herein and the sum of One Dollar (\$1.00), the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee hereby agree:

1. Grantor hereby grants, dedicates and conveys to Grantee, and Grantee hereby accepts from Grantor, the Dedicated Property for public road and right-of-way purposes, including all the improvements located thereon.

2. Grantor hereby acknowledges and accepts the maintenance responsibilities and requirements as detailed in the Planning Board Resolution Condition No. 10, which provides that Grantor shall be responsible for the maintenance of the Dedicated Property from the Lone Pine Drive Bridge over Snyder Avenue Brook to the east up to the existing building, unless and until Lone Pine Drive is further extended to Snyder Avenue as a public right of way. Such maintenance shall include, but not be limited to, snow and ice removal, tree maintenance, lighting, and all repair and maintenance of the roadway, as well as the maintenance of the sidewalk throughout the Property, the Dedicated Property and up to Block 702, Lot 18 (also known as the MEA Property).

3. The purpose of this Deed is to convey the Dedicated Property to Grantee for public roadway purposes.

4. Grantor promises that Grantor has done no act to encumber the Dedicated Property other than matters of record. This promise is called a "covenant as to grantor's acts" (N.J.S.A. 46:4-6). This promise means that Grantor has not allowed anyone else to obtain any legal rights which affect the Dedicated Property (such as by making a mortgage or allowing a judgment to be entered against Grantor).

[signatures on following page]

IN WITNESS WHEREOF, Grantor signs this Deed as of the date as first set forth above.

LONE PINE DRIVE URBAN RENEWAL LLC

By: _____
Name:
Title:

ACKNOWLEDGMENT

STATE OF NEW JERSEY)
) SS:
COUNTY OF)

Be it remembered that on this ___ day of _____, 2023, _____ personally appeared before me, and this person acknowledged under oath, to my satisfaction, that:

(a) this person executed the attached document as _____ of LONE PINE DRIVE URBAN RENEWAL LLC, the Grantor named in this document;

(b) this document was signed and made by the Grantor as its duly authorized and voluntary act and deed; and

(c) this deed for One and 00/100 Dollars (\$1.00) as the full and actual consideration paid or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. 46:15-5.)

Notary Public

**NOTICE OF
INTRODUCTION**

Ordinance -2023

AN ORDINANCE OF THE TOWNSHIP OF BERKELEY HEIGHTS, COUNTY OF UNION, STATE OF NEW JERSEY ACCEPTING DEDICATION OF PUBLIC ROAD, RIGHT-OF-WAY, AND RELATED IMPROVEMENTS FOR THE LONE PINE DRIVE EXTENSION

I, Ana Minkoff, Township Clerk of the Township of Berkeley Heights , do hereby certify that the foregoing Ordinance was introduced on First Reading at a meeting of the Township Council of the Township of Berkeley Heights, County of Union and State of New Jersey, on **June 27, 2023** and that said Ordinance shall be submitted for consideration and final passage at the Public Hearing to be held on **July 18, 2023** at **7:00** p.m. or as soon thereafter, as practical, same can be considered, at the Municipal Building, 29 Park Avenue, Berkeley Heights, NJ, at which time and place all persons interested therein or affected thereby will be given an opportunity to be heard concerning the same. During the week prior to and up to the time of Public Hearing, copies of said Ordinance will be available in the Municipal Clerk's office in said Municipal Building, to the members of the general public who shall request the same.

**Ana Minkoff
Township Clerk**

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

NOTICE OF FINAL ADOPTION

**AN ORDINANCE OF THE TOWNSHIP OF BERKELEY HEIGHTS,
COUNTY OF UNION, STATE OF NEW JERSEY ACCEPTING
DEDICATION OF PUBLIC ROAD, RIGHT-OF-WAY, AND RELATED
IMPROVEMENTS FOR THE LONE PINE DRIVE EXTENSION**

I, Ana Minkoff, Township Clerk of the Township of Berkeley Heights, County of Union, State of New Jersey, hereby certify that the above-entitled Ordinance was adopted on final Passage by the Township Council of the Township of Berkeley Heights at its meeting held on July 18, 2023.

**Ana Minkoff,
Township Clerk
Township of Berkeley Heights**