

**BOROUGH OF DUNELLEN
ORDINANCE 2024-02**

The following ordinance was Introduced for first reading on January 16, 2024. A second reading, public hearing and adoption is being held at 7:00 p.m. in the Dunellen Borough Municipal Building, 355 North Avenue, Dunellen, New Jersey, on January 29, 2024, and copies of this Ordinance have been posted on the public bulletin board prior to the date for second reading and final passage and copies of this Ordinance have been available at the Office of the Borough Clerk for any interested members of the public.

ORDINANCE AUTHORIZING CONDITIONAL ACCEPTANCE OF SEWER IMPROVEMENTS CONSTRUCTED IN CONNECTION WITH THE DEVELOPMENT COMMONLY KNOWN AS DUNELLEN STATION ON A PORTION OF BLOCK 85, LOTS 1.01 AND 1.02, SAID SEWER IMPROVEMENTS CONSISTING OF (A) ON-SITE SEWER PUMP STATION AND FORCE MAIN (BLOCK 85, LOTS 1.01 AND 1.02), (B) SEWER FORCE MAIN (NORTH WASHINGTON AVENUE IN DUNELLEN); (C) SEWER FORCE MAIN (NORTH WASHINGTON AVENUE IN GREEN BROOK) AND (D) NORTH WASHINGTON PUMP STATION REPAIRS (BLOCK 15, LOT 1 AND BLOCK 16, LOT 1) AND FOR TEMPORARY EASEMENT FOR ON-SITE SEWER PUMP STATION AND FORCE MAIN (BLOCK 85, LOTS 1.01 AND 1.02)

WHEREAS, the Borough Council of the Borough of Dunellen, Middlesex County, State of New Jersey (the “Borough”), wishes to conditionally accept the dedication of certain sewer improvements constructed by Brudner Redevelopment Partners Urban Renewal, LLC (“Redeveloper”) consisting of (a) on-site sewer pump station and force main (Block 85, Lots 1.01 and 1.02), (b) sewer force main (North Washington Avenue in Dunellen); (c) sewer force main (North Washington Avenue to municipal boundary with Township of Green Brook) and (d) North Washington pump station repairs (Block 15, Lot 1 and Block 16, Lot 1, each owned by the Borough) (“Sewer Improvements”), in connection with the redevelopment project commonly known as Dunellen Station; along with a temporary easement (“Temporary Easement”) in favor of the Borough for the on-site sewer pump station and force main located on Block 85, Lots 1.01 and 1.02, each parcel separately owned by Dunellen Prism Associates Urban Renewal, LLC and K. Hovnanian at Dunellen Urban Renewal, LLC, respectively (and collectively, “Sub-Redevelopers”); and

WHEREAS, these dedications are required by that certain Redevelopment Agreement between the Borough and Redeveloper and Sub-Redevelopers dated July 13, 2017 and as subsequently amended (“Redevelopment Agreement”); and

WHEREAS, pursuant to the Redevelopment Agreement, the Borough may adopt an ordinance conditionally accepting the Sewer Improvements and after such adoption the Borough shall operate the Sewer Improvements as stated therein pending the adoption by the Borough of an ordinance finally accepting the Sewer Improvements; and

WHEREAS, pursuant to the Redevelopment Agreement, Redeveloper and/or Sub-Redevelopers have applied to the Borough for conditional acceptance of the Sewer Improvements and have provided evidence of (1) completion of the Sewer Improvements, with the exception certain punch list items identified in the letter from CME Associates Dated October 19, 2023 attached hereto; (2) furnishing of record drawings and operation and maintenance manuals for the Sewer Improvements to the Borough, (3) certification of actual costs for the construction of the Sewer Improvements, (4) testing of the Sewer Improvements, and (5) placement into service of the Sewer Improvements; and

WHEREAS, the Borough Engineer and Plainfield Area Regional Sewerage Authority (PARSA) have preliminarily inspected and approved the Sewer Improvements; and

WHEREAS, the Redeveloper and/or Sub-Redevelopers have executed and placed into escrow the Temporary Easement; and

WHEREAS, the Borough Attorney and Borough Engineer for the Borough reviewed the Temporary Easement and find it acceptable.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Dunellen, Middlesex County, State of New Jersey, as follows:

Section 1. The Recitals are incorporated by reference as if set forth in full.

Section 2. The Borough hereby conditionally accepts the Sewer Improvements and accepts the Temporary Easement, subject to the conditions set forth in the Redevelopment Agreement and below, as follows:

- (a) After the adoption of this Conditional Acceptance Ordinance and until the adoption of the Final Acceptance Ordinance (the "Conditional Acceptance Period"), the Redeveloper acknowledges and agrees that it will keep in place the appropriate insurance for and (as applicable) maintain, repair, and/or replace, the Sewer Improvements; and
- (b) Redeveloper shall address the punch list items in the October 19, 2023 letter from CME Associates to the satisfaction of the Borough Engineer prior to Final Acceptance; and
- (c) Except for insurance and any applicable maintenance, repair and replacement costs for the Sewer Improvements, which are the sole responsibility of Redeveloper, the Borough shall be solely responsible for all operational costs in connection with the Sewer Improvements. By way of example only and not to limit the Borough's obligations, during the Conditional Acceptance Period, the Borough shall be solely responsible for operating the Sewer Improvements, collecting the applicable sewer fees (on a unit-by-unit basis) from the Dunellen Station Project, and making all required payments to PARSA; and
- (d) Redeveloper and Sub-Redevelopers' acknowledgement and agreement that the Borough's operation of the Sewer Improvements during the Conditional Acceptance Period does not constitute final acceptance of the Sewer Improvements.

Section 3. The Clerk of the Borough is authorized to record the Temporary Easement, at Redeveloper's sole cost and expense.

Section 4. The Borough's conditional acceptance of the Sewer Improvements and adoption of this Ordinance shall not be deemed to include or constitute acceptance by the Borough of the costs incurred by the Redeveloper to construct the force main located in North Washington Avenue in the Borough and the Township of Green Brook.

Section 5. This Ordinance shall become effective according to law.

Approved January 29, 2024