

# ORDINANCE

O-11-2021

BOROUGH OF NORTH CALDWELL, ESSEX COUNTY, NEW JERSEY

## **AN ORDINANCE AUTHORIZING THE BOROUGH OF NORTH CALDWELL TO ACQUIRE AN EASEMENT FOR PERMANENT ACCESS TO BIRCHWOOD ROAD IN LINDSLEY HEIGHTS**

**WHEREAS**, the Governing Body of the Borough of North Caldwell desires to create and maintain an area for easement purposes, to grant unrestricted right-of-way access for the general public, municipal employees and all vehicles and pedestrians; and

**WHEREAS**, the Borough further finds that public use and purpose would be served for the benefit of the Borough and the public at large by acquiring the easement in order to best promote, protect and preserve the public health, safety, and welfare of the Borough and its inhabitants; and

**WHEREAS**, the Governing Body has been in discussion with the Lindsley Heights Association, LLC, regarding the conveyance of certain property interests, namely, easement rights on Birchwood Road from the westerly boundary of Block 2102, continuing east and terminating at Stephanie Drive, for the benefit of the Borough and for the public at large; and

**WHEREAS**, the proposed permanent easement acquisition of Block 2102, Part of Lot 6, a private portion of Birchwood Road in the Lindsley Heights Development has been appraised at the request of the Borough and the fair market value of the proposed permanent easement is \$14,500.00; and

**WHEREAS**, any and all purchases of interests in real property are subject to the Local Lands and Buildings Law (N.J.S.A. 40A:12-1, et seq.) which limit the purchase price of the proposed property interest to be no higher than the property's fair market value pursuant to a valid appraisal; and

**WHEREAS**, the Borough is authorized by the New Jersey State Constitution, N.J.S.A. 40A:12-5(a), N.J.S.A. 20:3-1. et seq. and/or by any other provision of applicable law to proceed with acquiring certain property interests by acquisition, condemnation, or eminent domain as long as just compensation is paid for the same; and

**WHEREAS**, the discussions have resulted in an Agreement for the purchase of the easement that the Governing Body believes are in the best interests of the Borough and its citizens to approve; and

**WHEREAS**, the Chief Financial Officer has certified that there are funds available for this purpose.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of North Caldwell that it hereby authorizes the Mayor to execute the attached Purchase Agreement; and

**BE IT FURTHER RESOLVED**, that a copy to this resolution be forwarded to the County of Essex County forthwith.

**BE IT FURTHER RESOLVED**, by the Mayor and Council of the Borough of North Caldwell, County of Essex, State of New Jersey as follows:

1. The above recitals are incorporated into this section of the Ordinance as if specifically set forth at length herein.
2. Pursuant to N.J.S.A. 40A:12-1, et seq. the Borough is hereby authorized to acquire said easement from the Lindsley Heights Association, LLC, of North Caldwell, NJ, which consists of a portion of a private roadway commonly

known as Birchwood Road which now serves as a private access road extending from the easterly end of the private roadway and terminating at the public roadway known as Stephanie Drive, annexed hereto as "Exhibit A".

3. That the Borough is authorized to purchase the propose easement for the price of \$14,500.00, of which shall be paid by the Borough of North Caldwell, and authorize the negotiation execution and delivery of an agreement, deed and/or other closing documents, and the completion of any and all other necessary action required to effectuate the completion of this easement transaction the, the Agreement of which is annexed hereto as "Exhibit B".
4. That all relevant Borough officials are authorized to execute any documents that are necessary in order to effectuate the acquisition of the necessary easements concerning the above property in furtherance of the intentions of the within Ordinance.
5. That all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.
6. That if any part of this Ordinance shall be deemed invalid by an administrative agency or court of competent jurisdiction, such decision shall not affect the legality and enforceability of any other provision hereof.
7. That this Ordinance shall take effect upon final passage and publication as provided by law.

**INTRODUCED:** April 27, 2021

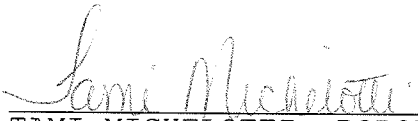
**PUBLIC HEARING:** May 25, 2021

**ADOPTED:** May 25, 2021  
 Moved By: Councilman Atlas  
 Seconded By: Council President Astorino

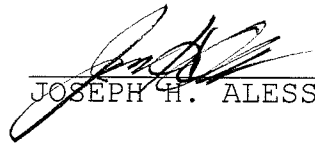
COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT	COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT
ASTORINO	X				KESSLER	X			
ATLAS	X				REES	X			
FLORIA-CALLORI	X				TILTON		X		

**ATTEST:**

**APPROVED:**



TAMI MICHELOTTI, BOROUGH CLERK



JOSEPH H. ALESSI, MAYOR