



ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE
offered and moved adoption of the following ordinance:

CITY ORDINANCE 10-009

TITLE:

A FRANCHISE ORDINANCE GRANTING PERMISSION TO ONE LLC, ITS SUCCESSORS AND ASSIGNS, TO MAKE PRIVATE IMPROVEMENTS TO A PORTION OF LANDS WITHIN THE SIDEWALK AREA OF THE BOWERS STREET PUBLIC RIGHT-OF-WAY LOCATED ADJACENT TO 3438 KENNEDY BOULEVARD, JERSEY CITY, NJ

WHEREAS, One LLC, having its offices located at 53 Hillside Avenue, Berkeley Heights, New Jersey, is the owner of the property located at 3438 Kennedy Boulevard, Jersey City, and known as Block 866, Lot E on the current tax maps of the City of Jersey City, and as part of its development desires to make site improvements to a portion of lands located within the sidewalk area of the Bowers Street public right-of-way. The proposed development of the property includes the renovation of the existing building and continue its use for retail purposes (a Dunkin' Donuts); and

WHEREAS, the property is located on the corner of Kennedy Boulevard and Bowers Street; and

WHEREAS, part of the renovation includes the proposed construction of a handicap ramp and landing within the Bowers Street sidewalk area of the public right-of-way; and

WHEREAS, One LLC has filed a petition for relief and represented to the Municipal Council of the City of Jersey City that the passage of this Ordinance is essential for the construction of the handicap ramp for handicap accessibility to the building; and

WHEREAS, after due notice was given in accordance with law, a public hearing was held on the Petition filed by One LLC to grant permission to construct private improvements within the public right-of-way for the following purposes:

1. The contemplated improvements will include the installation of a handicap ramp and landing to be located within the sidewalk area of the Bowers Street public right-of-way for the purpose of providing handicap accessibility to the building.
2. All costs associated with these improvements will be incurred by the Petitioner.

and there being no objections thereto; and

WHEREAS, the Jersey City Zoning Officer and Building Department approved the construction of the improvements at the subject property conditioned upon the Petitioner being granted a franchise ordinance by the City Council of the City of Jersey City; and

WHEREAS, a franchise ordinance is required to permit the construction of the private improvements within the public right-of-way; and

WHEREAS, by reason of the character of the development of the area within which this property is situated, and the area requested for the franchise is minimal, and the said improvements will assist in meeting handicap access to the property and greatly benefit Jersey City and the surrounding neighborhood; and

WHEREAS, the public interest will be served by said improvements, which will be of great benefit to the citizens of Jersey City and Hudson County and the rights of the public will not be injuriously or adversely affected by the requested relief;

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NOW, THEREFORE, BE IT ORDAINED, by the Municipal Council of the City of Jersey City, that:

SECTION I. Permission be, and is hereby granted to One LLC, its successors and assigns, to make private improvements to a portion of lands located at the corner of Kennedy Boulevard and Bowers Street (3438 Kennedy Boulevard), and known as Block 866, Lot E in the City of Jersey City, said areas being more particularly described as follows and on the plan attached hereto as Exhibit A (survey and metes and bounds description).

1. The contemplated improvements will include the installation of a handicap ramp and landing to be located within the sidewalk area of the Bowers Street public right-of-way (see Exhibits A & B); and
2. The contemplated improvements will be constructed consistent with the Plans approved by the Jersey City Zoning Officer and Building Department and will provide a minimum of five (5) feet clearance for the respective pedestrian sidewalks.
3. All costs associated with these improvements will be incurred by the Petitioner.

SECTION II. All the work herein authorized shall be done under the supervision of the proper department or departments of the City of Jersey City. Further, all the work herein authorized shall comply with any State of New Jersey Uniform Construction Code requirements. The construction plans shall be submitted to the City Engineer for his review and comments prior to the start of construction. After construction there shall remain no damage to the sidewalk or roadway or interference with the free and safe flow of pedestrian traffic and vehicular traffic. One LLC, and its successors and assigns, shall maintain all improvements installed by it for the entire term of this Franchise at no cost to the City.

SECTION III. This Ordinance shall remain in full force and effect for a period of ninety-nine (99) years. This Ordinance shall take effect upon final passage and publication according to law. In the event that the Municipal Council determines that this Ordinance must be canceled in whole or in part because of a public purpose, the City reserves the right to cancel this Ordinance or any part thereof by giving written notice to the Petitioners one year prior to the date of cancellation.

SECTION IV. All costs and expenses incident to the introduction, passage and publication of this Ordinance shall be borne and paid by said One LLC.

SECTION V. In accepting the privileges of this Ordinance and the installation, maintenance and use hereby authorized, One LLC, its successors and assigns hereby agree to assume full, complete and undivided responsibility for any and all injury or damage to persons or property by reason of said installation, maintenance and use, and to indemnify and hold the City of Jersey City harmless from all injury or damage to persons or property by reason of such installation, maintenance and use (except such injury or damage which is caused by the negligence or misconduct of the City or its officers, employees or agents) for the term of this Ordinance. One LLC, its successor and assigns, shall maintain in effect, during the term of this franchise, liability insurance naming the City of Jersey City, its officers and employees as additional insured, covering the use and occupancy of the public property subject to this franchise. A certificate of insurance, in the amount of \$1,000,000.00 in a form deemed acceptable by the City's Risk Manager, shall be delivered to the Risk Manager before use or occupancy of the premises subject to this Franchise Ordinance.

SECTION VI. This Ordinance shall not become effective unless an acceptance hereof in writing is filed by the Petitioner with the City Clerk. In the event, that the Petitioner shall not file with the City Clerk its acceptance in writing of the provisions of this Ordinance within 30 days after receiving notice of its passage, this Ordinance shall become void and be of no effect.

SECTION VII. Only with prior written consent and approval by the City Council of the City of Jersey City, which consent and approval shall not be unreasonably withheld, shall Petitioner have the right to assign or otherwise transfer its rights under this Franchise Ordinance.

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SECTION VIII. An easement for the duration of this Ordinance is reserved for the benefit of the City of Jersey City and all public utility companies including any cable television company as defined in the "Cable Television Act", P.L. 1972, c. 186 (c. 48:5A-1 et seq.) for the purpose of ingress and egress over and upon the area subject to this Franchise Ordinance in order to maintain, repair or replace existing utility facilities including water lines, sewer lines, gas lines and telephone, electrical and cable television wires and poles which may be located either beneath or above the surface of the area subject to this Franchise Ordinance.

SECTION IX. For the rights and privileges herein granted, said beneficiaries hereunder, their successors and assigns, shall pay annually to the City of Jersey City the sum of One Dollar (\$1.00), which payment shall be made annually on the 1st day of July next succeeding the time when this Ordinance shall become effective and on each first day of July thereafter until the termination of this Ordinance.

SECTION X.

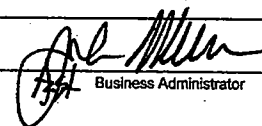
- A. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
- B. This Ordinance shall be a part of the Jersey City Code as though codified and fully set forth therein. The City Clerk shall have this Ordinance certified and incorporated in the official copies of the Jersey City Code.
- C. This Ordinance shall take effect at the time and in the manner as provided by law.
- D. The City Clerk and the Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing Code, in order to avoid confusion and possible accidental repealers of existing provisions.

APPROVED AS TO LEGAL FORM


Corporation Counsel

APPROVED: _____

APPROVED: _____


Business Administrator

Certification Required ☐

Not Required ☐

Ordinance of the City of Jersey City, N.J.

ORDINANCE NO. Ord. 10-009TITLE: 3.A. JAN 2 7 2010 4.A. FEB 2 4 2010

A franchise ordinance granting permission to One LLC, its successors and assigns, to make private improvements to a portion of lands within the sidewalk area of the Bowers Street public right of way located adjacent to 3438 Kennedy Boulevard, Jersey City, New Jersey.

RECORD OF COUNCIL VOTE ON INTRODUCTION JAN 2 7 2010 8-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
DONNELLY	✓			FULOP	✓			FLOOD	✓		
LOPEZ	✓			RICHARDSON	✓			VEGA,		ABSENT	

✓ Indicates Vote

N.V.-Not Voting (Abstain)

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING FEB 2 4 2010 9-0											
Councilperson <u>BRENNAN</u>				moved, seconded by Councilperson <u>SOTTOLANO</u>				to close PH.			
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
DONNELLY	✓			FULOP	✓			FLOOD	✓		
LOPEZ	✓			RICHARDSON	✓			VEGA,	✓		

✓ Indicates Vote

N.V.-Not Voting (Abstain)

RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY											
Councilperson				moved to amend* Ordinance, seconded by Councilperson				& adopted			
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO				GAUGHAN				BRENNAN			
DONNELLY				FULOP				FLOOD			
LOPEZ				RICHARDSON				VEGA			

✓ Indicates Vote

N.V.-Not Voting (Abstain)

RECORD OF FINAL COUNCIL VOTE FEB 2 4 2010 9-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
DONNELLY	✓			FULOP	✓			FLOOD	✓		
LOPEZ	✓			RICHARDSON	✓			VEGA,	✓		

✓ Indicates Vote

N.V.-Not Voting (Abstain)

Adopted on first reading of the Council of Jersey City, N.J. on JAN 2 7 2010Adopted on second and final reading after hearing on FEB 2 4 2010This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on FEB 2 4 2010

Robert Byrne, City Clerk

*Amendment(s):

APPROVED:

Peter M. Brennan, Council President

Date: FEB 2 4 2010

APPROVED:

Jeremiah T. Healy, Mayor

Date MAR - 2 2010Date to Mayor FEB 2 5 2010