



ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 10-173

TITLE:

AN ORDINANCE GRANTING PERMISSION TO 769 MONTGOMERY STREET URBAN RENEWAL COMPANY, LLC, ITS SUCCESSORS AND ASSIGNS TO PERMIT EXISTING ENCROACHMENTS IN THE MONTGOMERY STREET AT BOLAND STREET RIGHTS OF WAY ADJACENT TO THE PROPERTY LOCATED AT 769 MONTGOMERY STREET, JERSEY CITY, NEW JERSEY ALSO KNOWN ON THE TAX MAPS OF THE CITY OF JERSEY CITY AS BLOCK 1831, LOT A1

The Municipal Council of the City of Jersey City does hereby ordain:

WHEREAS, 769 Montgomery Street Urban Renewal Company, LLC ("Petitioner") having offices at 769 Montgomery Street, Jersey City, NJ 07306 is the owner of the property located at 769 Montgomery Street, Jersey City, and known as Block 1831, Lot A1 on the current tax maps of the City of Jersey City ("Property"); and

WHEREAS, pursuant to Resolution for Preliminary Site Plan (case #P05-076), the Planning Board of Jersey City granted approval to renovate the Property containing a six (6) story building with thirty-eight (38) residential units, two (2) units of first floor retail space and thirty (30) on-site parking spaces; and

WHEREAS, part of the development of the Property pertained to the refurbishing of the exterior of the existing building including the brick front entry stairs of the building which faces Montgomery Street and the existing westerly brick façade which contains window wells providing light and air to the basement level of the building; and

WHEREAS, The Jersey City Engineering Division made an inspection of the Property on March 2, 2010 and concluded: "The staircase located on Montgomery Street and the window well located on Boland Avenue are within the public Right-of-Way A Franchise Ordinance Agreement must be submitted for City Council approval"; and

WHEREAS, the Petitioner has filed a Petition for a Franchise Ordinance in order to satisfy one of the conditions of its Planning Board approval, namely to address "comments from other municipal agencies"; and

WHEREAS, there has always been and there will remain sufficient area in the right-of-way which will not impede or have a negative impact on typical pedestrian use; and

WHEREAS, Petitioner 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 in the best interest and essential for the completion of construction of the development; and

WHEREAS, after due notice was given in accordance with law, a public hearing was held on the Petition filed by 769 Montgomery Street Urban Renewal Company, LLC to grant permission for the private improvements to remain within the public right-of-way for the following purposes:

1. The subjects of this Ordinance are the existing brick front stairway facing Montgomery Street and the existing window wells on the westerly façade facing Boland Avenue both of which are located in the public rights-of-way and both of which were a part of the original structure which was built in the early 1900's.
2. All costs associated with these improvements, including maintenance costs will be borne by the Petitioner, its successors and assigns and there being no objections thereto.

Page _____

AN ORDINANCE GRANTING PERMISSION TO 769 MONTGOMERY STREET URBAN RENEWAL COMPANY, LLC, ITS SUCCESSORS AND ASSIGNS TO PERMIT EXISTING ENCROACHMENTS IN THE MONTGOMERY STREET AT BOLAND STREET RIGHTS OF WAY ADJACENT TO THE PROPERTY LOCATED AT 769 MONTGOMERY STREET, JERSEY CITY, NEW JERSEY ALSO KNOWN ON THE TAX MAPS OF THE CITY OF JERSEY CITY AS BLOCK 1831, LOT A1

WHEREAS, Jersey City Building Department approved construction of the improvements on the Property but Petitioner needs to file an Application for Final Site Plan to reflect that all improvements and conditions approved by the Planning Board in its Preliminary approval have been met, including its application for a Franchise Ordinance; and

WHEREAS, a Franchise Ordinance is required to permit the continued uninterrupted use of the subject improvements within the public rights-of-way; and

WHEREAS, by reason of the character of the development of the area within which the Property is located, the completion of the project will enhance the aesthetic character of the Property and greatly benefit Jersey City, and the surrounding neighborhood; and

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

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 769 Montgomery Street Urban Renewal Company, LLC, its successors and assigns, to refurbish, maintain and utilize the improvements to a portion of lands located in the public rights-of-way adjacent to 769 Montgomery Street, Jersey City, and known as Block 1831, Lot A1, on the current tax maps of the City of Jersey City, said areas being more particularly described on the survey attached to the Petition as Exhibit C, as Proposed Easements #1 and #2 and further described by metes and bounds descriptions on Exhibits D & E respectively, also attached to the Petition.

1. Easement #1 includes the brick front entry stairway which faces Montgomery Street and Easement #2 faces Boland Avenue, both of which are located within public rights-of-way.
2. There will remain sufficient area in the right-of-way (at least five (5) unobstructed feet) for typical pedestrian use.
3. The improvements within the right-of-way have been refurbished consistent with the plans approved by the Jersey City Planning Board, the Jersey City Division of Engineering and the Jersey City Building Department.
4. All costs associated with these improvements will be incurred by the Petitioner.
5. The requested Franchise Ordinance is necessary to permit completion of the project in accordance with the development approvals and will greatly benefit Petitioner's Property and the surrounding neighborhood.
6. Petitioner and its successors and assigns shall maintain all improvements which are the subject of this Ordinance for the entire term of this Franchise at no cost to the City of Jersey City.
- 7.

SECTION II. All the work herein has/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. 769 Montgomery Street Urban Renewal Company, 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 (1) 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 769 Montgomery Street Urban Renewal Company, LLC, its successors and assigns.

SECTION V. In accepting the privileges of this Ordinance and the installation, maintenance and use hereby authorized, 769 Montgomery Street Urban Renewal Company, 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 such 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. 769 Montgomery Street Urban Renewal Company, LLC, its successors 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.

AN ORDINANCE GRANTING PERMISSION TO 769 MONTGOMERY STREET URBAN RENEWAL COMPANY, LLC, ITS SUCCESSORS AND ASSIGNS TO PERMIT EXISTING ENCROACHMENTS IN THE MONTGOMERY STREET AT BOLAND STREET RIGHTS OF WAY ADJACENT TO THE PROPERTY LOCATED AT 769 MONTGOMERY STREET, JERSEY CITY, NEW JERSEY ALSO KNOWN ON THE TAX MAPS OF THE CITY OF JERSEY CITY AS BLOCK 1831, LOT A1

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.

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 repeals 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. 10-173
3.G. DEC 15 2010 4.F. JAN 12 2011



An ordinance granting permission to 769 Montgomery Street Urban Renewal Company, LLC, its successors and assigns to permit existing encroachments in the Montgomery Street at Boland Street rights-of-way adjacent to the property located at 769 Montgomery Street, Jersey City New Jersey also known on the tax maps of the City of Jersey City as Block 1831, Lot A1.

RECORD OF COUNCIL VOTE ON INTRODUCTION											
				DEC 15 2010				8-0			
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
DONNELLY	✓			FULOP	✓			FLOOD	ABSENT		
LOPEZ	✓			RICHARDSON	✓			VE LAZQUEZ	✓		

✓ Indicates Vote N.V.-Not Voting (Abstain)

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING											
				JAN 12 2011				8-0			
Councilperson <u>GAUGHAN</u>				moved, seconded by Councilperson <u>SOTTOLANO</u>				to close P.H. <u>8-0</u>			
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
DONNELLY	✓			FULOP	✓			FLOOD	ABSENT		
LOPEZ	✓			RICHARDSON	✓			VE LAZQUEZ	✓		

✓ 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				VE LAZQUEZ			

✓ Indicates Vote N.V.-Not Voting (Abstain)

RECORD OF FINAL COUNCIL VOTE											
				JAN 12 2011				8-0			
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
DONNELLY	✓			FULOP	✓			FLOOD	ABSENT		
LOPEZ	✓			RICHARDSON	✓			VE LAZQUEZ	✓		

✓ Indicates Vote N.V.-Not Voting (Abstain)

Adopted on first reading of the Council of Jersey City, N.J. on DEC 15 2010

Adopted on second and final reading after hearing on JAN 12 2011

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on JAN 12 2011

Robert Byrne, Deputy
 Robert Byrne, City Clerk

*Amendment(s):

APPROVED:

Peter M. Brennan
 Peter M. Brennan, Council President

Date: JAN 12 2011

APPROVED:

Jerramiah T. Healy
 Jerramiah T. Healy, Mayor

JAN 18 2011

Date: _____

JAN 13 2011

Date to Mayor _____