

O-19-35
05/15/19

ORDINANCE AUTHORIZING THE EXECUTION OF AN ENCROACHMENT AGREEMENT WITH MHP 33 PROSPECT AVENUE URBAN RENEWAL, LLC TO ALLOW CERTAIN ENCROACHMENTS INTO THE PUBLIC RIGHT OF WAY ADJACENT TO BLOCK 455, LOT 1.01

WHEREAS, MHP 33 PROSPECT AVENUE URBAN RENEWAL, LLC (hereinafter “Redeveloper”) is the owner of property known as 33 Prospect Avenue and designated as Block 455, Lot 1.01 on the official Tax Map of the City of Bayonne (the “**Property**”); and

WHEREAS, the Property is subject to a redevelopment plan and Preliminary and Final Site Plan Approval for Application No. P-18-025 dated October 9, 2018 by the City’s Planning Board (“Approvals”); and

WHEREAS, the Property is presently being redeveloped in accordance with the Approvals to provide a multifamily apartment building containing seventy six (76) residential units; and

WHEREAS, Redeveloper has requested that the City permit certain physical encroachment within the public right of way to facilitate the residential uses of the new apartment building, including the installation of: (1) a steel canopy appended to the building, 4’ extending into the rights of way for both Prospect Avenue and East 21st Street; (2) a three (3) foot high iron fence around a planted area extending into the Prospect Avenue right of way; and (3) double out-swinging lobby door extending into the Prospect Avenue right of way; all such encroaching improvements depicted on the plan prepared by Dynamic Engineering, dated March 11, 2019, which is appended hereto as Exhibit A (the “Encroachment Area”); and

WHEREAS, the proposed encroachments within the public right of way are subject to approval by City Council; and

WHEREAS, Redeveloper has agreed to enter into an Encroachment Agreement, the salient terms of which are set forth in the proposed Encroachment Agreement attached hereto as Exhibit B, setting forth the Redeveloper’s obligations regarding said encroachments; and

WHEREAS, the proposed encroachments within the public right of way are subject to approval by the Municipal Council; and

WHEREAS, the Redeveloper agrees to defend, indemnify, and hold harmless the City, its agents, employees, successors and assigns, from any and all claims, liabilities, actions, demands, personal injuries, death, or property damage resulting from or arising out of the use or presence of the easements granted herein, including all costs, counsel fees, expenses and liabilities incurred in connection with any such claim(s).

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF BAYONNE THAT:

1. The Mayor and City Clerk are hereby authorized to execute an Encroachment Agreement with MHP 33 Prospect Avenue Urban Renewal, LLC for Block 455, Lot 1.01. in substantially the form attached hereto and subject to any further review, analysis or modifications that counsel on behalf of the City may deem appropriate.

EXHIBIT A

Old Republic National Title Insurance Company

Commitment Number. MTANJ-
122522

TITLE INSURANCE COMMITMENT SCHEDULE A LEGAL DESCRIPTION

All that certain lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the City of Bayonne, County of Hudson, State of New Jersey.

BEGINNING at a point being the intersection of the westerly line of Prospect Avenue and the northerly line of East 21st Street; thence

1. Westerly and along the northerly line of East 21st Street having a bearing of North 47 degrees 12 minutes West, for a distance of 100.00 feet to a point; said point being distant 50.00 feet easterly from the center line of Conrail (formerly C.R.R. of N.J.); thence
2. Northerly and along a line having a bearing of North 42 degrees 20 minutes East for a distance of 75.00 feet to a point; thence
3. Easterly and along a line having a bearing of South 47 degrees 12 minutes East for a distance of 100.00 feet to the westerly line of Prospect Avenue; thence
4. Southerly and along the westerly line of Prospect Avenue, having a bearing of South 42 degrees 20 minutes West, for a distance of 75.00 feet to the northerly line of East 21st Street, being the point and place of BEGINNING.

NOTE: Being Lot(s) 1, Block 455, Tax Map of the City of Bayonne, County of Hudson, State of New Jersey.

Tract 1

All that certain lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the City of Bayonne, County of Hudson, State of New Jersey.

BEGINNING at a point on the westerly side of Prospect Avenue distant thereon northerly 75.00 feet from the corner formed by the intersection of the said side of Prospect Avenue and the northerly side of East 21st Street running; thence

1. Westerly and parallel with East 21st Street 100.00 feet to the line of the Central Railroad of New Jersey; thence
2. Northerly and along said line of the Central Railroad of New Jersey 100.00 feet; thence
3. Easterly and parallel with the first course 100.00 feet to said side of Prospect Avenue; thence
4. Southerly and along said side of Prospect Avenue 100.00 feet to the point or place of BEGINNING.

NOTE: Being Lot(s) 2, Block 455, Tax Map of the City of Bayonne, County of Hudson, State of New Jersey.

**SCHEDULE A LEGAL
DESCRIPTION**

(Continued)

Tract 2:

All that certain lo piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the City of Bayonne, County of Hudson, State of New Jersey.

BEGINNING at a point in the northwesterly side of Prospect Avenue (formerly Railroad Avenue) distant 175.00 feet northeasterly along the same from the northerly corner of Prospect Avenue and East 21st Street, being the easterly corner of property conveyed to Ann Thompson by the Central New Jersey Land Improvement Company by deed dated August 26, 1878 running; thence

1. Northwesterly along said Thompson's line and at right angles to Prospect Avenue, 100.00 feet to a point distant 50.00 feet southeasterly at right angles from the center line of the Central Railroad of New Jersey as filed in the Office of the Secretary of State; thence
2. Northeasterly and parallel with said center line 25.00 feet; thence
3. Southeasterly and at right angles to Prospect Avenue 100.00 feet to the northwesterly side of said Avenue; thence
4. Southwesterly along the same 25.00 feet to the point or place of BEGINNING.

NOTE: Being Lot(s) 3, Block 455, Tax Map of the City of Bayonne, County of Hudson, State of New Jersey.

NOTE FOR INFORMATION: Being Lot 1, Block 455, Lot 2, Block 455, Lot 3, Block 455, Tax Map of the City of Bayonne, County of Hudson.