

City of Philadelphia



(Bill No. 170553)

AN ORDINANCE

Authorizing Brandywine Realty Trust to construct, own and maintain various right-of-way encroachments at 3001-23 Market Street, all under certain terms and conditions.

WHEREAS, Brandywine Realty Trust located at 555 East Lancaster Avenue, Suite 100, Radnor, PA 19087, through its affiliates and/or assigns, is the owner and developer of an active park area (the "Park") along 3001-23 Market Street, Philadelphia, PA, including several planters and access stairs along Market Street, 30th Street and John F. Kennedy Boulevard as part of the Schuylkill Yards development; and

WHEREAS, Brandywine Realty Trust, through its affiliates and/or assigns, has requested permission to construct, own and maintain encroachments along Market Street, 30th Street and John F. Kennedy Boulevard in support of the Park; now, therefore

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to Brandywine Realty Trust, its affiliates, successors and assigns, and therefore is hereby authorized to construct, own and maintain various right-of-way encroachments ("Encroachments") appurtenant to 3001-23 Market Street and fronting along Market Street, 30th Street and John F. Kennedy Boulevard in support of the Park as follows:

Market Street

Planter: One planter shall be placed along the north side of Market Street site frontage at a maximum dimension of approximately 83 feet in length and 35 feet in width, and projecting approximately 5 feet, 4 inches onto the right-of-way, leaving over 13 feet of clearance for pedestrian traffic.

Access Stairs (2): Two (2) access stairs shall be placed on both sides of the planter along the north side of Market Street site frontage. The first shall be at the west side of the planter and at a maximum dimension of approximately 26 feet in length and 6 feet in width, 5 feet, 4 inches onto the right-of-way, leaving over 13 feet of clearance for pedestrian traffic. The second shall be at the east side of the planter at a maximum dimension of approximately 29 feet in length and 6 feet in width, 5 feet, 4 inches onto the right-of-way, leaving over 13 feet of clearance for pedestrian traffic.

30th Street

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Planters (4): Four (4) separate planters shall be placed along 30th Street. The first will be located along the western side of 30th Street site frontage at a maximum dimension of approximately 28 feet in length and 45 feet in width, and projecting approximately 4 feet, 8 inches onto the right-of-way, leaving over 10 feet of clearance for pedestrian traffic. The second planter shall be further north of the first planter towards the center of 30th Street site frontage at a maximum dimension of 28 feet in length and 44 feet in width and projecting approximately 3 feet, 6 inches onto the right-of-way, leaving over 10 feet of clearance for pedestrian traffic. The third planter shall be further north of the second planter towards the center of the 30th Street site frontage at a maximum dimension of 28 feet in length and 44 feet in width and projecting approximately 3 feet, 6 inches onto the right-of-way, leaving over 10 feet of clearance for pedestrian traffic. The fourth planter shall be further north of the third planter above the center of the 30th Street site frontage at a maximum dimension of 29 feet in length and 40 feet in width and projecting approximately 3 feet, 6 inches onto the right-of-way, leaving over 10 feet of clearance for pedestrian traffic.

Access Stairs (4): Four (4) access stairs shall be placed along the west side of 30th Street. The first will be placed on the southern portion of 30th Street near Market Street at a maximum dimension of approximately 27 feet in length and 5 feet in width, projecting approximately 5 feet onto the right-of-way, leaving over 10 feet of clearance for pedestrian traffic. The second will be placed further north of the first access stairs towards the center portion of 30th Street at a maximum dimension of approximately 23 feet in length and 4 feet in width, projecting approximately 4 feet onto the right-of-way, leaving over 11 feet of clearance for pedestrian traffic. The third will be placed further north of the second access stairs above the center of 30th Street at a maximum dimension of approximately 23 feet in length and 4 feet in width, projecting approximately 4 feet onto the right-of-way, leaving over 11 feet of clearance for pedestrian traffic. The fourth will be placed further north of the third access stairs and curve along onto southern portion of John F. Kennedy Boulevard at a maximum dimension of approximately 115 feet in length and 3 feet in width, projecting approximately 3 feet onto the right-of-way, leaving over 13 feet of clearance for pedestrian traffic.

John F. Kennedy Boulevard

Planter: One planter shall be placed along the south side of John F. Kennedy Boulevard site frontage at a maximum dimension of approximately 91 feet in length and 33 feet in width, and projecting approximately 3 feet, 6 inches onto the right-of-way, leaving over 18 feet of clearance for pedestrian traffic.

Access Stairs: One access stair shall be placed along the south side of John F. Kennedy Boulevard at a maximum dimension of approximately 48 feet in length and 3 feet in width, projecting approximately 3 feet onto the right-of-way, leaving over 20 feet of clearance for pedestrian traffic.

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SECTION 2. The construction, use and maintenance of the Encroachments described and listed in Section 1 shall be in accordance with the laws, rules and regulations of the City of Philadelphia, and specifically those of the Department of Licenses and Inspections, the Department of Streets and the Art Commission, provided that the Department of Streets, in its sole, unreviewable discretion, may allow minor variations of the dimension limits of Section 1, within standard tolerances of current engineering practice.

SECTION 3. Before exercising any rights or privileges under this Ordinance, Brandywine Realty Trust, its affiliates, agents and/or assigns, must first obtain or have its contractor(s) obtain all required permits, licenses and approvals from all appropriate departments, boards, agencies or commissions. No such department, board, agency or commission shall be required to issue any such permit, license or approval solely because this Ordinance has been enacted, it being the express intent of this Ordinance not to supersede any other provision of law governing the issuance of such permits, licenses or approvals. In addition, before exercising any rights and privileges under this Ordinance, Brandywine Realty Trust shall enter into an agreement (“Agreement”) with the appropriate City department or departments, satisfactory to the City Solicitor, to provide that Brandywine Realty Trust *inter alia*:

(a) agrees that upon one hundred and eighty (180) days notice from the City, it shall remove the various Encroachments without cost or expense to the City and shall remove the various Encroachments at no cost and expense to the City of Philadelphia when given written notice to do so by the City of Philadelphia to accommodate a municipal or municipal sponsored construction project;

(b) shall secure all necessary permits, licenses and approvals from all appropriate departments, agencies, boards or commissions of the City as may be required by regulation or law. No such department, board, agency or commission shall be required to issue any such permit, license or approval solely because this Ordinance has been enacted;

(c) shall assume the costs of all changes and adjustments to, and relocation or abandonment of City utilities and City structures wherever located as may be necessary by the reason of the Encroachments;

(d) shall carry public liability and property damage insurance, co-naming the City of Philadelphia as an insured party, in such amounts as shall be satisfactory to the City Solicitor, or in lieu thereof, submit documentation in form and content acceptable to the City that Brandywine Realty Trust is self-insured and is providing the City of Philadelphia the same coverage and benefits had the insurance requirements been satisfied by an insurance carrier authorized to do business in the Commonwealth of Pennsylvania;

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(e) shall insure that all construction contractors for the various Encroachments carry public liability and property damage insurance, naming the City of Philadelphia as an insured party in such amounts as shall be reasonably satisfactory to the City Solicitor;

(f) shall give the City and all public utility companies the right-of-access, ingress and egress for the purpose of inspection, maintenance, alteration, relocation or reconstruction of any of their respective facilities which may lie within the public footway adjacent to the Encroachments described in Section 1; and

(g) furnish the City with either a bond with corporate surety in an amount required by the Department of Streets and in a form satisfactory to the City Solicitor to insure the compliance with all the terms and conditions of this Ordinance and the Agreement, and to protect and indemnify the City from and against all damages or claims for damages which may arise directly or indirectly as a result of the construction, maintenance or use of the Encroachments described in Section 1 or their removal, or in lieu thereof, submit documentation in a form and content acceptable to the City that Brandywine Realty Trust self-assumes liabilities and obligations normally covered by Surety Bond.

SECTION 4. The City Solicitor shall include in the Agreement such other terms and conditions as shall be deemed necessary to protect the interests of the City.

SECTION 5. The permission granted to Brandywine Realty Trust to construct, own and maintain the Encroachments described in Section 1 shall expire without any further action by the City of Philadelphia if Brandywine Realty Trust has not entered into an Agreement and satisfied all requirements of the Agreement that are listed in Section 3 of this Ordinance within one (1) year after this Ordinance becomes law.

SECTION 6. This Ordinance shall not become effective unless the sum of two hundred dollars (\$200.00), toward costs thereof, is paid into the City Treasury within one-hundred and twenty (120) days after the date this Ordinance becomes law.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 22, 2017. The Bill was Signed by the Mayor on July 11, 2017.



Michael A. Decker
Chief Clerk of the City Council