

AN ORDINANCE No. 87-251-226

ADOPTED OCT 26 1987

To authorize Franklin Parking Partnership, owner, and any successors, to encroach in, under, across, through and along the east right of way line of 5th Street north of Main Street and south of Franklin Street with building footing and brick pavers with street trees and tree grates, and in the west right of way line of an alley that extends southerly from Franklin Street with building footing and grade beam (aggregate encroachment area of 842 square feet, more or less), as shown on plan prepared by the Department of Public Works, designated D.P.W. Drawing No. N-21685, entitled: "Proposed Sidewalk and Underground Encroachments in 5th St. and an Alley Between 5th, 6th, Franklin and Main Sts.", upon certain terms and conditions.

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Patron - City Manager (By Request)

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Approved as to form and legality  
by City Attorney

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THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That Franklin Parking Partnership, owner, and any successor thereof, hereinafter referred to as "Licensee", is hereby permitted to encroach in, under, across, through and along the east right of way line of 5th Street north of Main Street and south of Franklin Street with building footing (bell caisson) and brick pavers with street trees and tree grates, and in the west right of way line of an alley that extends southerly from Franklin Street with building footing (bell caisson) and grade beam (aggregate encroachment area of 842 square feet, more or lees), as shown on

plan prepared by the Department of Public Works, designated D.P.W. Drawing No. N-21685, entitled: "Proposed Sidewalk and Underground Encroachments in 5th St. and an Alley Between 5th, 6th, Franklin and Main Sts.", dated June 4, 1987, a copy of which is attached to the draft of this ordinance. The permission herein granted shall continue until such time as the encroachments or a substantial part or parts thereof shall be removed or destroyed subject to the provisions and conditions contained in Section 2.04(e) of the Charter of the City of Richmond.

§ 2. That the permission granted in § 1 of this ordinance is granted upon and subject to the following additional terms and conditions:

(a) That all cost shall be borne by the Licensee, Franklin Parking Partnership, or successor.

(b) That the Licensee, or successor, shall pay to the City for the use and occupancy of the space in the street such charges as Council has heretofore or may hereafter prescribe for such use of the public streets which may be increased or decreased or otherwise modified at any time and from time to time by the Council.

(c) That the Licensee, or successor, shall indemnify, keep and hold the City free and harmless from liability on account of injury or damage to persons, firms and corporations and property growing out of such use of the

street and alley and the installation, construction, maintenance, repair, operation and removal of the encroachments, and in the event that suit shall be brought against the City, either independently or jointly with the Licensee on account thereof, the Licensee will defend the City in any such suit at its cost, and in the event of a final judgment being obtained against the City either independently or jointly with the Licensee, it will pay such judgment and all costs and hold the City harmless therefrom.

(d) That the Licensee, or successor, shall insure its liability in connection with the encroachments providing indemnities of not less than \$500,000 for bodily injuries and property damage resulting from such encroachments. The City shall be named as an additional insured under the insurance contract. The Licensee, or successor, shall keep the insurance in full force and effect at all times during the installation, maintenance, existence and removal of the encroachments. The Licensee shall provide the City with a certificate of such insurance which shall contain a statement that the insurance is provided to enable the Licensee to perform its obligation under this paragraph (d) and that the insurance will not lapse or otherwise expire prior to sixty days' written notice thereof given by the Licensee's insurance carrier to the City Manager of the City, anything in such insurance contract to the contrary notwithstanding.

(e) That the Licensee, or successor, shall furnish the City a bond with corporate surety approved by the City Attorney in the sum of twenty-five thousand dollars conditioned upon the replacement and restoration of the street and alley and any public utility therein damaged, disturbed or destroyed thereby in a manner and with such materials to the satisfaction of the Directors of Public Works, Public Utilities and Public Safety on order to do so by the Council, or upon repeal of this ordinance, or upon the failure, refusal or neglect of the Licensee to comply fully and in all respects with the provisions of this or any other ordinance relating thereto. The Licensee, or successor, shall pay all premiums chargeable for the bond and shall keep the same in full force and effect at all times during the existence and removal of the encroachments. The bond shall contain a provision that it shall not be terminated or otherwise allowed to expire prior to sixty days written notice to that effect given to the City Manager of the City. In lieu of such bond, the Licensee may substitute an irrevocable letter of credit approved as to form by the City Attorney.

(f) Prior to commencing work in, over, upon, through or along any street or alley any and all permits required for such work shall be obtained under provisions of ordinances and regulations relating to issuance of such permits.

All work performed pursuant to such permits shall be performed in a manner satisfactory to the Directors of Public Works, Public Safety, and Public Utilities.

(g) That the Licensee shall require any contractor or contractors engaged by it to furnish a public liability and property damage insurance contract or contracts naming therein the City as an insured thereunder, which shall provide indemnities of not less than \$500,000 combined coverage for bodily injuries and property damage resulting from the construction. Such policy shall provide for the payment of any final judgment that may be rendered against the City by reason of any person being injured or damaged in any way in person or property by the construction.

(h) Licensee, or its successor, shall at all times protect and, if requisite, restore and replace portions of the street, alley and public utilities of the City disturbed or destroyed.

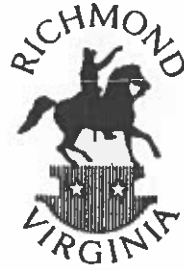
(i) This ordinance is adopted pursuant to the power granted the Council by law. It is not intended by the adoption of this ordinance to offer or grant a franchise and the permission hereby granted shall at all times be subject to revocation by the Council and the terms and conditions upon which granted shall be subject to modification at any time and from time to time by the Council. Upon such revocation or modification the Licensee, or successors, shall

immediately conform to the requirements, if any, prescribed by the Council with respect thereto.

§ 3. This ordinance shall be in force upon adoption and shall become effective when within twelve months of the date of adoption the Licensee shall furnish the required insurance and bond (or irrevocable letter of credit) and files with the City Clerk a written statement in form satisfactory to the City Attorney to the effect that the Licensee agrees to the terms and conditions upon which such permission is granted and agrees to be bound thereby and to observe and comply therewith, and any contractor of said Licensee furnishes required insurance.

§ 4. That Franklin Parking Partnership, or successor shall be responsible for satisfying all terms and conditions for this ordinance becoming in force and effect.

City of Richmond  
City Planning Commission



900 East Broad Street, Richmond, Virginia 23219  
804•780-6304

October 20, 1987

To the Honorable Council of the  
City of Richmond, Virginia

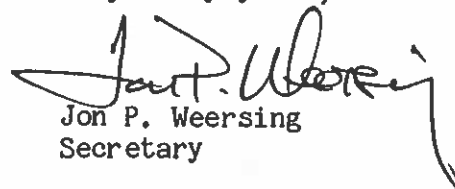
At its meeting of October 19, 1987, the City Planning Commission voted  
(5-0-1 abstention) to recommend APPROVAL of:

Ordinance No. 87-251

To authorize Franklin Parking Partnership, owner, and any successors, to encroach in, under, across, through and along the east right of way line of 5th Street north of Main Street and south of Franklin Street with building footing and brick pavers with street trees and tree grates, and in the west right of way line of an alley that extends southerly from Franklin Street with building footing and grade beam (aggregate encroachment area of 842 square feet, \*\*\*, as shown on plan prepared by the Department of Public Works, \*\*\*, entitled: "Proposed Sidewalk and Underground Encroachments in 5th St. and an Alley Between 5th, 6th, Franklin and Main Sts.", upon certain terms and conditions.

The purpose of this paper is to authorize encroachments for underground concrete caissons in the sidewalk area of 5th Street and an adjacent north-south alley, and to authorize surface encroachments for brick pavers, street trees and grates in the 5th Street sidewalk area in the block bounded by 5th, 6th, Franklin and Main Streets. The petitioner proposes construction of a seven-story parking deck on the adjacent property next to the Second Presbyterian Church. The structure has been approved by the Director of Community Development under the plan of development process. A total of four concrete bell caissons are proposed to encroach under the sidewalk and alley areas. The caissons are necessary for the structural supports for the deck. The surface sidewalk encroachments include brick pavers and three street trees and grates. They are consistent with normal City standards for streetscape improvements. The encroachments will not impair use of the sidewalk area and will constitute an aesthetic enhancement of the site. The ordinance contains the normal encroachment conditions regarding proper installation and maintenance, payment of fees and liability protection for the City.

Very truly yours,

  
Jon P. Weersing  
Secretary

JPW:lk

cc: Director - Department of Public Works

ORDINANCE OR RESOLUTION SUMMARY

CITY OF RICHMOND, VIRGINIA

Resolution Ordinance No. <u>87-251</u>	Subject
Patron(s) <u>City Manager (By Request)</u>	Encroachment in 5th Street and alley - brick pavers, trees, tree grates and building footings (bell caissons)

**SUMMARY**

This Ordinance would authorize encroachments for underground concrete caissons (4) in the sidewalk areas of 5th Street and a north-south alley. It would also authorize surface encroachments for brick pavers, street trees (3) and grates in the 5th Street sidewalk area in the block bounded by 5th, 6th Franklin and Main Streets.

The petitioner proposes construction of a 7-story parking deck on property adjacent to the Second Presbyterian Church.

The structure has been approved by the Director of Community Development.

The Urban Design staff has reviewed the proposed surface encroachments and found them to be consistent with normal City standards for streetscape improvements.

The Ordinance contains the normal encroachment conditions regarding proper installation and maintenance, payment fees and liability protection for the City.

Planning Commission granted approval (5-0-1) October 19, 1987.

**COUNCIL ACTION**

- On Docket 10/26/87
- Amended \_\_\_\_\_
- Adopted \_\_\_\_\_
- Rejected \_\_\_\_\_
- Stricken \_\_\_\_\_