

City Clerk File No. Ord. 09-103

Agenda No. 3.A 1st Reading

Agenda No. _____ 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 09-103

TITLE: A FRANCHISE ORDINANCE GRANTING PERMISSION TO THE AMBRIOLA COMPANY, INC., ITS SUCCESSORS AND ASSIGNS, TO MAKE PRIVATE IMPROVEMENTS IN AND USE OF THE PUBLIC RIGHT OF WAY ADJACENT TO THE PROPERTY LOCATED AT 2 BURMA ROAD (A/K/A 95 BURMA ROAD), JERSEY CITY, NEW JERSEY, ALSO KNOWN ON THE TAX MAP OF THE CITY OF JERSEY CITY AS BLOCK 2154 LOT 13.C.

WHEREAS, The Ambriola Company, Inc., having an address located at 2 Burma Road (a/k/a 95 Burma Road), Jersey City, New Jersey, 07305, is the owner of the property located at 2 Burma Road (a/k/a 95 Burma Road), Jersey City, and known as Block 2154, Lot 13.C on the current tax maps of the City of Jersey City (the "Property"); and

WHEREAS, pursuant to a Resolution for the Preliminary and Final Site Plan with deviations, by the Jersey City Planning Board, Case # P05-033, site plan approval was granted with regard to the Property to renovate and expand the pre-existing warehouse/distribution center, with related parking and site improvements; and

WHEREAS, pursuant to a Resolution for Minor Subdivision Approval by the Jersey City Planning Board, Case # P05-032, minor subdivision was granted. Said Minor Subdivision was re-affirmed by the Jersey City Planning Board on September 9, 2008, and May 26, 2009.

WHEREAS, part of the development approval includes the construction of landscaping improvements to comply with the provisions of the Liberty Harbor Redevelopment Plan. The northeastern portion of the subject Property along with the required landscaping encroaches on a portion of the Burma Road public right-of-way, which is more particularly depicted and described in the Subdivision Plat/Franchise Plans with Metes and Bounds Description, Exhibit A, attached hereto; and

WHEREAS, the encroachment of the northeastern portion of the subject Property is a pre-existing condition dating prior to Applicant's acquisition of the subject Property in 1979, and the construction of the additional landscaping is consistent with the recommendation of the Division of Planning staff for aesthetic purposes in accordance with the Liberty Harbor Redevelopment Plan; and

WHEREAS, there will remain sufficient area in the right-of-way for vehicular use, and the proposed private improvements will not impede or have a negative impact on vehicular traffic; and

WHEREAS, The Ambriola Company, Inc. 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 interests of the City of Jersey City; and

WHEREAS, after due notice was given in accordance with law, a public hearing was held on the Petition filed by The Ambriola Company, Inc. 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 mountable curb from the middle of the Property north to the northern Property line; and
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 can approve 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 remedy the pre-existing condition of the Property, and to permit the completion of 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, the said improvements will enhance the aesthetic and character of 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;

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 The Ambriola Company, Inc., its successors and assigns, to complete private improvements to a portion of lands located within the public right of way adjacent to 2 Burma Road (a/k/a 95 Burma Road), Jersey City, and known as Block 2154, Lot 13.C on the current tax maps of the City of Jersey City, said areas being more particularly described as follows and on the franchise plan with metes and bounds description attached hereto as Exhibit A.

1. The contemplated improvements will include the installation of a mountable curb from the middle of the Property north to the northern Property line.
2. The contemplated improvements will be constructed consistent with the Plans previously approved by the Jersey City Planning Board, the Jersey City Zoning Officer and Building Department.
3. All costs associated with these improvements will be incurred by the Petitioner.
4. The contemplated improvements will greatly benefit the Petitioner's Property and the surrounding neighborhood.

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 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 vehicular traffic. The Ambriola Company, Inc., 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 The Ambriola Company, Inc. All

rights and obligations of the Ambriola Company, Inc. set forth herein shall run with the Property, and, upon transfer of the Property shall be the responsibility of said transferee and not the Ambriola Company, Inc.

SECTION V. In accepting the privileges of this Ordinance and the installation, maintenance and use hereby authorized, The Ambriola Company, Inc., and its successors in interest in the Property 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. The Ambriola Company, Inc., and its successors in interest in the Property, 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. 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 VIII. For the rights and privileges herein granted, said beneficiaries hereunder, and their successors in title, shall pay annually to the City of Jersey City the sum of One Dollar (\$1.00), for the entire term of the Franchise shall be made within thirty (30) days of final adoption of this Ordinance.

SECTION IX. 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

APPROVED: _____

Corporation Counsel

APPROVED: _____
Business Administrator

Certification Required

Not Required

March 12, 2009

Job No. 747-01



DESCRIPTION OF A PROPOSED
FRANCHISE AREA
SITUATED WITHIN
BURMA ROAD
TO BE GRANTED BY THE
CITY OF JERSEY CITY
TO
LOT 13C IN BLOCK 2154
CITY OF JERSEY CITY
HUDSON COUNTY, NEW JERSEY

Jersey City**Corporate Office**

371 Warren Street, 3rd Floor
P.O. Box 38
Jersey City, NJ 07303-0038
PHONE: 201-217-9200
FAX: 201-217-9607

Asbury Park Office

603 Matteson Avenue
Asbury Park, NJ 07712
PHONE: 732-988-7020
FAX: 732-988-7032

Camden Office

433 Market Street, Suite 203
Camden, NJ 08102
PHONE: 856-968-9400
FAX: 856-968-0015

Pennsauken Office**Perks Reutter Division**

Fairway Corporate Center
4300 Haddonfield Road, Suite 115
Pennsauken, NJ 08109
PHONE: 856-488-6200
FAX: 856-488-4302

Wayne Office**Hanson Engineering Division**

7 Doig Road, Suite 1
Wayne, NJ 07470
PHONE: 973-696-2600
FAX: 973-696-1362

Beginning at a point in the westerly line of Burma Road (40' wide), said point of beginning being southerly along the westerly line of Burma Road (40' wide) along a curve to the right having a radius of 899.00 feet, an arc length of 62.29 feet, a central angle of 03° 58' 11" and a chord which bears S 09° 16' 37" W 62.27 feet from the point of intersection formed by the dividing line between Lot 13C in Block 2154 as shown on the City of Jersey City Tax Assessment Map to the south and Lot 67 in Block 2154 (Tax Map) to the north with the westerly line of Burma Road (40' wide) and running; thence

- 1) S 64° 07' 34" E 10.19 feet to a point; thence
- 2) S 25° 52' 26" W 43.48 feet to a point on curve in the westerly line of Burma Road (40' wide) thence
- 3) Northerly along the westerly line of Burma Road (40' wide) along a curve to the left having a radius of 899.00 feet, an arc length of 44.67 feet, a central angle of 02° 50' 48" and a chord which bears N 12° 41' 07" E 44.66 to a point, the point and place of beginning.

Containing 213 square feet.

Subject to all easements, rights of way and agreements of record.

Deed Description refers to map entitled, "Minor Subdivision Plat, The Ambriola Co., Inc. Jersey City Block 2154, Lots 13c & 67, Hudson County, New Jersey", prepared by Dresdner Robin, dated: December 30, 2004 and last revised: March 10, 2009.

Very truly yours,

Dresdner Robin

Hanson Engineering Division

Bruce D. Callahan

www.dresdnerrobin.com

PETITION

TO: THE HONORABLE, THE MAYOR AND MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY:

Your Petitioner, The Ambriola Company, Inc. having an address located at 2 Burma Road (a/k/a 95 Burma Road), Jersey City, New Jersey, 07305, respectfully says that:

1. Petitioner is the owner of the property located at 2 Burma Road (a/k/a 95 Burma Road), Jersey City, New Jersey, 07305, and known as Block 2154, Lot 13.C on the current tax maps of the City of Jersey City (the "Property"). The Petitioner was granted Preliminary and Final Site Plan with deviations, by the Jersey City Planning Board, Case # P05-033, site plan approval was granted with regard to the Property to renovate and expand the pre-existing warehouse/distribution center, with related parking and site improvements.

2. In addition, the Petitioner was granted Minor Subdivision approval by the Jersey City Planning Board, Case # P05-032. Said Minor Subdivision was re-affirmed by the Jersey City Planning Board on September 9, 2008 and May 26, 2009. In preparing the Final Subdivision Plat for filing in accordance with the New Jersey Map Filing Law (N.J.S.A. 46:23-9.9 et seq.) the Division of Engineering noted that the northeastern portion of the subject Property encroaches on a portion of the Burma Road public right-of-way.

3. The encroachment of the northeastern portion of the subject Property is a pre-existing condition dating prior to Applicant's acquisition of the subject Property in 1979. In addition, the Jersey City Planning Board approved the development consistent with the recommendation from the Division of Planning that landscaping be constructed in the public right-of-way consistent with the requirements set forth in the Liberty Harbor Redevelopment Plan for aesthetic purposes.

4. Consistent with the recommendation of the Division of Engineering, Petitioner files this petition for relief with regards to the pre-existing condition of the subject Property.

5. In addition, consistent with the Planning Board's approval, and the recommendation of the Division of Planning, Petitioner proposes to make the following site improvements within the areas of the public right-of-way:

- A. The contemplated improvements will include the installation of a mountable curb from the middle of the Property north to the northern Property line.
- B. All costs associated with these improvements will be incurred by the Petitioner, and there being no objections thereto.

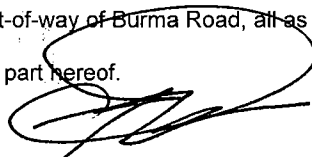
6. Petitioner has presented the proposed improvements to the Jersey City Zoning Officer and Building Department, which can approve the proposed improvements conditioned

upon the Petitioner being granted a franchise ordinance by the City Council of the City of Jersey City.

7. This petition for relief is necessary to remedy the pre-existing condition of the Property, and to construct the proposed improvements consistent with the noted approvals, and will greatly benefit the Petitioner's Property and the surrounding area and neighborhood.

WHEREFORE, your Petitioner respectfully prays for itself, its successors and assigns, for the enactment of a Franchise Ordinance to allow it to make private improvements within and under the sidewalk area of the public right-of-way of Burma Road, all as more particularly shown on the plans annexed hereto and made a part hereof.

By:



Robert A. Verdibello,
Attorney for Petitioner

City Clerk File No. Ord. 09-104
Agenda No. 3.B 1st Reading
Agenda No. _____ 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 09-104

TITLE:

A FRANCHISE ORDINANCE GRANTING PERMISSION TO WELLS REIT II-INTERNATIONAL FINANCIAL TW%M. CALITOWER, LLC, ITS SUCCESSORS AND ASSIGNS, TO INSTALL DECORATIVE SAFETY BOLLARDS APPROXIMATELY 3 FEET-8 INCHES IN LENGTH AND NO MORE THAN 1 FOOT-11 INCHES IN DEPTH ALONG THE PUBLIC RIGHT OF WAY OF COLUMBUS DRIVE, MARIN BOULEVARD, AND WAYNE STREET ADJACENT TO BLOCK 203, LOT 26, IN ACCORD WITH THE SITE PLAN APPROVED BY THE JERSEY CITY PLANNING BOARD

**THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY DOES
ORDAIN:**

WHEREAS, Petitioner is the owner of real property in Jersey City known as: 95 Columbus Drive, Block 203, Lot 26, and

WHEREAS, Petitioner has filed a petition with the Municipal Council of Jersey City, requesting a franchise as shown on a Site Plan prepared by Highland Associates, (hereinafter referred to as Exhibit "A", being more particularly described in the metes and bounds description attached to said petition which is hereinafter referred to as Exhibit "B"), said Petition, Site Plan and Metes and Bounds Description being on file with the Office of the City Clerk, requesting a franchise giving permission to use an area of approximately 434.44 feet in length and no more than 45 feet-five inches in depth of the public right of way of Columbus Drive, Marin Boulevard, and Wayne Street as and for the installation of decorative safety bollards as depicted on Exhibits "A" and "B", and

WHEREAS, the public interest will be served by this franchise as it will advance the public safety and welfare, and the design of the bollards in question blends well with the surrounding developments, and

WHEREAS, WELLS REIT II-INTERNATIONAL FINANCIAL TW%M.CALITOWER, LLC, its successors and assigns, request that this ordinance be adopted and has made application to the Municipal Council of Jersey City by written petition for the franchise herein referred to:

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

SECTION 1: Permission is hereby granted to WELLS REIT II-INTERNATIONAL FINANCIAL TW%M.CALITOWER, LLC, its successors and assigns to install decorative safety bollards as depicted on Exhibits "A" and "B"

SECTION 2: This Ordinance shall remain in full force and effect for a period of ninety-nine (99) years. The City of Jersey City reserves the right to cancel the Ordinance without cause by giving written notice to the Petitioner one year to the date of cancellation.

SECTION 3: 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 4: In accepting the privileges of this ordinance and the installation, maintenance and use hereby authorized, WELLS REIT II-INTERNATIONAL FINANCIAL TW%M.CALITOWER, LLC, its successors and assigns, hereby agrees to assume full, complete, and undivided responsibility for any and all injury or damage to persons or property by reason of said construction, installations, maintenance and use for the term of ordinance.

A). WELLS REIT II-INTERNATIONAL FINANCIAL TW%M.CALITOWER, 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 insured, covering the use and occupancy of the franchised portion of Columbus Drive, Marin Boulevard, and Wayne Street. A Certificate of the 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 the Franchise Ordinance.

SECTION 5: 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. After construction, there shall remain no damage to the area or successor or assigns, shall maintain all improvements installed by it for the entire term of this franchise at no cost to the City.

SECTION 6: The costs and expenses incidental to the introduction, passage and publication of the Ordinance shall be paid by the Petitioner.

SECTION 7: The Ordinance shall not become effective unless acceptance hereof in writing be filed by the Petitioner.

SECTION 8: In the event that the Petitioner shall not file with the City Clerk its acceptance, in writing, of the provisions of this Ordinance within thirty (30) days after receiving notice of its passage, this Ordinance shall become void and be of no effect.

SECTION 9: For the Franchise herein granted, the Petitioners shall pay annually to the City of Jersey City the sum of ONE DOLLAR (\$1.00), which payment shall be made in advance to the Chief Financial Officer, at his/her office at City Hall, on the first day of January in each year after this Ordinance becomes effective and remains in force.

SECTION 10: This Franchise Ordinance shall be subject to the following conditions:

- a) An easement upon the portion of the property subject to the Franchise Ordinance is hereby reserved for the benefit of the City of Jersey City and all public utility companies for the purpose of operating, maintaining, inspecting, protecting, repairing, replacing or reconstructing any existing water, sewer or utility lines together with the right of ingress and egress at all times for such purposes and all other purposes in connection with or in any way relating to the City of Jersey City's or public utility companies', use or operation of water, sewer or utility lines.
- b) No building or structure of any kind may be constructed over the water or sewer utilities within the area subject to the franchise without the consent of the Chief Engineer of the City of Jersey City.
- c) The Petitioner shall install the bollards in accord with the approved Site and Planning Board resolution.
- d) All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

e) 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 codified and incorporated in the official copies of the Jersey City Code.

f) This Ordinance shall take effect at the same time and in the manner provided by law.

g) The City Clerk and the Corporation Counsel are 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 conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repeal of the existing provisions.

G:\WPDOCS\JANET\ORD\WELLS REIT II.wpd

APPROVED AS TO LEGAL FORM

APPROVED: _____

Corporation Counsel

APPROVED: _____
Business Administrator

Certification Required

Not Required

