

City Clerk File No. Ord. 14.059

Agenda No. 3.1 1st Reading

Agenda No. 4.6 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE : 14.059

TITLE:

AN ORDINANCE GRANTING PERMISSION TO MCREF WARREN LLC, ITS SUCCESSORS AND ASSIGNS, TO MAKE PRIVATE IMPROVEMENTS IN THE MORGAN STREET, WARREN STREET AND BAY STREET RIGHTS-OF-WAY ADJACENT TO PROPERTY LOCATED AT 335-341 WASHINGTON STREET, JERSEY CITY, NEW JERSEY, ALSO KNOWN ON THE TAX MAPS OF THE CITY OF JERSEY CITY AS BLOCK 11611, LOT 1

WHEREAS, MCREF Warren LLC, successor-in-interest to Mill Creek Residential Trust LLC, ("Petitioner"), having offices located at 135 Route 202/206, Suite 14, 3rd Floor, Bedminster, New Jersey 07921, is the owner of the property located at 335-341 Washington Street, Jersey City, New Jersey, and designated as Block 11611, Lot 1 on the current tax maps of the City of Jersey City ("Property"); and

WHEREAS, the Property is located within the Rehabilitation Zone of the Powerhouse Arts District Redevelopment Plan and Petitioner applied for and was approved for a Certificate of Appropriateness by the Jersey City Historic Preservation Commission ("Historic Approval") to rehabilitate and adaptively reuse the existing Butler Brothers Warehouse building on the Property as an approximately 377-unit residential building with ground floor retail, ground floor artist studio and gallery space, and an approximately 99-space basement parking garage, and to subdivide the Property into two lots, one of which will contain the development and will be designated as Block 11611, Lot 1.01; and

WHEREAS, pursuant to a Resolution for Preliminary and Final Site Plan Approval, Minor Subdivision Approval and Variances, Application No. P13-078 & P13-077, the City of Jersey City Planning Board granted approval ("Planning Board Approval") to rehabilitate and adaptively reuse the existing Butler Brothers Warehouse building on the Property as an approximately 377-unit residential building with ground floor retail, ground floor artist studio and gallery space, and an approximately 99-space basement parking garage, and to subdivide the Property into two lots, one of which will contain the development and will be designated as Block 11611, Lot 1.01; and

WHEREAS, as part of the Historic Approval and the Planning Board Approval, the development of the Property includes the construction of a raised walkway, stairs and ramps within a portion of the Morgan Street right-of-way and the rehabilitation of an existing loading platform and stairs and the construction of planters and stairs and a landing within a portion of the Bay Street right-of-way, which improvements are more particularly depicted and described in the plans, Exhibits A-1 through J-1, and metes and bounds descriptions, Exhibits A-2 through J-2, attached hereto and made a part hereof; and

WHEREAS, certain portions of the Butler Brothers Warehouse building, including the existing loading platform and stairs, currently encroach upon portions of the Morgan Street, Bay Street and Warren Street rights-of-way, and these encroachments have existed since the building was constructed in the early 20th century; and

WHEREAS, the Petitioner is required to file a petition for a franchise ordinance to make any private improvements within the public right-of-way; and

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

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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 interests and essential for the completion of the 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 Petitioner to grant permission to construct private improvements within the public right-of-way for the following purposes:

- A. The improvements will include a raised walkway, stairs and ramps and a portion of the building that will be located within portions of the Morgan Street right-of-way; a portion of the building that will be located within a portion of the Warren Street right-of-way; and planters, stairs and a landing, and a portion of the building, including an existing loading platform and stairs, that will be located within portions of the Bay Street right-of-way.
- B. There will remain sufficient area in the right-of-way for typical pedestrian use.
- C. All costs associated with these improvements will be incurred by the Petitioner, and there being no objections thereto.

WHEREAS, the Jersey City Zoning Officer and the Building Department can approve the construction of the improvements at the subject property conditioned upon the Petitioner being granted a franchise ordinance by the Municipal Council of the City of Jersey City; and

WHEREAS, a franchise ordinance is required to permit the long-standing, existing encroachments and 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 the Property is situated, the said improvements will enhance the aesthetic and character of the Property, assist persons with disabilities, promote historic preservation, 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; and

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 Petitioner, its successors and assigns, to complete private improvements to a portion of lands located within the public rights of way adjacent to the Property, said areas being more particularly described as follows and on the plans and metes and bounds descriptions attached hereto as Exhibits A-1 through J-1, and Exhibits A-2 through J-2, respectively.

- A. The improvements will include a raised walkway, stairs and ramps and a portion of the building that will be located within portions of the Morgan Street right-of-way; a portion of the building that will be located within a portion of the Warren Street right-of-way; and planters, stairs and a landing, and a portion of the building, including an existing loading platform and stairs, that will be located within portions of the Bay Street right-of-way.
- B. There will remain sufficient area in the right-of-way for typical pedestrian use.
- C. The improvements will be constructed consistent with the plans approved by the City of Jersey City Planning Board, the Jersey City Zoning Officer, and the Jersey City Building Department.
- D. All costs associated with these improvements will be incurred by the Petitioner.
- E. The improvements are necessary to construct the proposed development consistent with the development approvals and will greatly benefit the Property and the surrounding neighborhood.

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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 Uniform Construction Code requirements. The construction plans shall be submitted to the City of Jersey 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. Petitioner, 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 of Jersey 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 of the City of Jersey City determines that this ordinance must be cancelled in whole or in part because of a public purpose, the City of Jersey City reserves the right to cancel the ordinance or any part thereof by giving written notice to the Petitioner 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 Petitioner.

SECTION V. In accepting the privileges of this ordinance and the installation, maintenance and use hereby authorized, Petitioner, 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 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 of Jersey City or its officers, employees or agents) for the term of this ordinance. Petitioner, its successors and assigns, shall maintain in effect, during the term of this franchise, comprehensive general 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, with liability limits of \$2,000,000.00 combined single limit per occurrence for bodily injury and property damage. A certificate of insurance, in the amount of \$2,000,000.00 and in a form deemed acceptable by the City of Jersey 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 of Jersey City Clerk. In the event that the Petitioner shall not file with the City of Jersey 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, 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 IX. Only with the 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 X.

- A. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
- B. This ordinance shall be a part of the City of Jersey City Code as though codified and fully set forth therein. The City of Jersey City Clerk shall have this ordinance certified and incorporated in the official copies of the City of Jersey City Code.
- C. This ordinance shall take effect at the time and in the manner as provided by law.

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- D. The City of Jersey City Clerk and 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 City of Jersey City Code, in order to avoid confusion and possible accidental repeals of existing provisions.

G:\WPDOCS\TOLONDA\Franchise Ordinance Correspondence\335-341 Washington Street (Mill Creek -Butler Lofts)\Franchise Ordinance 14-058.docx

APPROVED AS TO LEGAL FORM

Certification Required ☐
Not Required ☐

APPROVED: _____

APPROVED: _____

Corporation Counsel

Business Administrator

Ordinance of the City of Jersey City, N.J.



ORDINANCE NO. Ord. 14.059

TITLE: 3.1 MAY 14 2014 4.G

MAY 28 2014

An ordinance granting permission to MCREW Warren, LLC, its successors and assigns, to make private improvements in the Morgan Street, Warren Street and Bay Street rights-of-way adjacent to property located at 335-341 Washington Street, Jersey City, New Jersey, also known on the tax maps of the City of Jersey City as Block 11611, Lot 1.

| RECORD OF COUNCIL VOTE ON INTRODUCTION MAY 14 2014 9-0 | | | | | | | | | | | |
|--|-----|-----|------|---------------|-----|-----|------|----------------|-----|-----|------|
| COUNCILPERSON | AYE | NAY | N.V. | COUNCILPERSON | AYE | NAY | N.V. | COUNCILPERSON | AYE | NAY | N.V. |
| GAJEWSKI | ✓ | | | YUN | ✓ | | | RIVERA | ✓ | | |
| RAMCHAL | ✓ | | | OSBORNE | ✓ | | | WATTERMAN | ✓ | | |
| BOGGIANO | ✓ | | | COLEMAN | ✓ | | | LAVARRO, PRES. | ✓ | | |

| RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING MAY 28 2014 8-0 | | | | | | | | | | | |
|---|-----|-----|------|---------------|--------|-----|------|----------------|-----|-----|------|
| Councilperson <u>WATTERMAN</u> moved, seconded by Councilperson <u>RIVERA</u> to close P.H. | | | | | | | | | | | |
| COUNCILPERSON | AYE | NAY | N.V. | COUNCILPERSON | AYE | NAY | N.V. | COUNCILPERSON | AYE | NAY | N.V. |
| GAJEWSKI | ✓ | | | YUN | ABSENT | | | RIVERA | ✓ | | |
| RAMCHAL | ✓ | | | OSBORNE | ✓ | | | WATTERMAN | ✓ | | |
| BOGGIANO | ✓ | | | COLEMAN | ✓ | | | LAVARRO, PRES. | ✓ | | |

✓ Indicates Vote

N.V.--Not Voting (Abstain)

SPEAKERS:

| 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. |
| GAJEWSKI | | | | YUN | | | | RIVERA | | | |
| RAMCHAL | | | | OSBORNE | | | | WATTERMAN | | | |
| BOGGIANO | | | | COLEMAN | | | | LAVARRO, PRES. | | | |

| RECORD OF FINAL COUNCIL VOTE MAY 28 2014 8-0 | | | | | | | | | | | |
|--|-----|-----|------|---------------|--------|-----|------|----------------|-----|-----|------|
| COUNCILPERSON | AYE | NAY | N.V. | COUNCILPERSON | AYE | NAY | N.V. | COUNCILPERSON | AYE | NAY | N.V. |
| GAJEWSKI | ✓ | | | YUN | ABSENT | | | RIVERA | ✓ | | |
| RAMCHAL | ✓ | | | OSBORNE | ✓ | | | WATTERMAN | ✓ | | |
| BOGGIANO | ✓ | | | COLEMAN | ✓ | | | LAVARRO, PRES. | ✓ | | |

✓ Indicates Vote

N.V.--Not Voting (Abstain)

MAY 14 2014

Adopted on first reading of the Council of Jersey City, N.J. on _____

MAY 28 2014

Adopted on second and final reading after hearing on _____

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

MAY 28 2014

Robert Byrne

Robert Byrne, City Clerk

*Amendment(s):

APPROVED:

Rolando R. Lavarro, Jr.
Rolando R. Lavarro, Jr., Council President

Date MAY 28 2014

APPROVED:

Steven M. Fulop
Steven M. Fulop, Mayor

Date MAY 29 2014

Date to Mayor MAY 29 2014