

City Clerk File No. Ord. 15.179

Agenda No. 3.G 1st Reading

Agenda No. 4.D 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 15.179

TITLE: AN ORDINANCE GRANTING PERMISSION TO ONE EDWARD HART ROAD, LLC, ITS SUCCESSORS AND/OR ASSIGNS, TO MAKE PRIVATE IMPROVEMENTS IN THE PUBLIC RIGHT-OF-WAY OF ONE EDWARD HART ROAD, JERSEY CITY, NEW JERSEY ALSO KNOWN ON THE TAX MAP OF THE CITY OF JERSEY CITY AS BLOCK 24304, LOT 6.

WHEREAS, 1 EDWARD HART DRIVE, LLC, having offices located One Edward Hart Road, Jersey City, New Jersey 07302, is the owner of the property located at One Edward Hart Road, and known as Block 24304, Lot 6 on the current tax map of the City of Jersey City ("Property"); and

WHEREAS, 1 Edward Hart Road, LLC is referred to as the Petitioner; and

WHEREAS, the development of the Property is currently under construction; and

WHEREAS, pursuant to a Jersey City Planning Board Resolution for Preliminary and Final Major Site Plan Approval Petitioner was granted approval to convert the existing building into public recreation uses that includes a restaurant/bar with an associated "brew pub" with recreational and instructional bowling and other activities, with regard to the Property

WHEREAS, part of the development approval granted includes the right to add a public area totaling approximately 10,422.9 square feet, which shall consist of Block 24304, Lot 6 along Morris Pesin Drive and Edward J. Hart Road (a/k/a Edward Hart Drive) in the public right of way fronting the building at Morris Pesin Drive, (see Franchise Area Plans prepared by Callisto J. Bertin, P.E., Miloslav Rehak, P.L.S. and Jeffrey M. Zielinski, P.E., of Bertin Engineering, 66 Glen Avenue, Glen Rock, New Jersey 07452 and attached hereto as Exhibit "A" and Exhibit "B"); and

WHEREAS, the franchise area is more particularly described in the Franchise Description prepared by Miloslav Rehak, NJ Professional Land Surveyor, No. 43233 of Bertin Engineering, 66 Glen Avenue, Glen Rock, New Jersey 07452 and attached hereto as Exhibit "C".

WHEREAS, as part of their approvals the Applicant will be constructing an outdoor public area, repairing and/or replacing an outdoor patio, grass area, seating area, installing lighting and any other ancillary outdoor uses in the Franchise Area; and

WHEREAS, the Applicant will also be constructing a functioning silo in the Franchise Area that will hold grain to be used in production of the ale; and

WHEREAS, the Applicant will also be constructing and maintaining an entryway in the Franchise Area that is necessary to transition the public from the outdoor area to the building at the Property.

WHEREAS, the Petitioner, shall be constructing any and all improvements necessary for **WHAT ARE YOU DOING** in the public right of way, fronting the building at One Edward Hart Road; and

WHEREAS, the construction of the Franchise Area in the public right of way will not interfere with pedestrian traffic but will enable pedestrian traffic upon the right-of-way; and

WHEREAS, the proposed construction in the public right of way, will enhance the Liberty Harbor Redevelopment Plan and property and the surrounding area and neighborhood; and

WHEREAS, the construction of private improvements to the Property will aesthetically enhance the Property; and

WHEREAS, the Petitioner has provided a proposed Franchise Area Plan and rendering of the proposed improvements (see Exhibit "A" and Exhibit "B") and a metes and bounds description of the area (see Exhibit "C"); and

WHEREAS, the Petitioner is required to file the Petition for a Franchise Ordinance to place these improvements; and

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

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, 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 of the development and the general welfare; 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:

1. The contemplated improvements will include the following along Morris Pesin Drive and Edward J. Hart Road (a/k/a Edward Hart Drive):
 - A. The construction of an outdoor public area, repair, construction, replacement and/or protection of the outdoor patio, grass area, seating area, lighting and other ancillary outdoor uses.
 - B. The construction of a functioning silo that will hold grain to be used in production of the ale.
 - C. Construction and maintenance of an entryway that is necessary to transition the ; and
2. All costs and maintenance 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 these improvements at the Properties 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 permit 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 this Property is situated, the said improvements will enhance public purposes, and 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 Petitioner 1 Edward Hart Road, LLC, its successors and/or assigns, to construct and maintain private improvements to a portion of lands located within the Morris Pesin Drive and Edward J. Hart Road (a/k/a Edward Hart Drive) public right-of-way, Jersey City, New Jersey and known as Block 24304, Lot 6, on the current tax map of the City of Jersey City, said areas being more particularly described on the Franchise Area Plan and the metes and bounds descriptions attached hereto as **Exhibit "A", Exhibit "B" and Exhibit "C"**.

1. The contemplated improvements will include the (a) construction of an outdoor public area, repair, replacement and/or protection of the outdoor patio, grass area, seating area, lighting and other ancillary outdoor uses, (b) the construction of a functioning silo that will hold grain to be used in production of the ale, and (c) construction and maintenance of an entryway that is necessary to transition the public from the outdoor area to the building at the Property.
2. The contemplated improvements will be consistent in design as shown in Exhibit "B".
3. There will remain sufficient area in the right-of-way for pedestrian use.
4. The contemplated improvements will be constructed consistent with the development plans approved by the Jersey City Zoning Officer and Building Department.
5. All costs and maintenance associated with these improvements will be incurred by the Petitioner.
6. The contemplated improvements will greatly benefit the Liberty Harbor Redevelopment Plan and the Petitioner's Property, and the surrounding area and 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 Uniform Construction Code 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 pedestrian traffic. Edward Hart Road, LLC, and its successors and/or 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 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 1 Edward Hart Road, LLC.

SECTION V. In accepting the privileges of this Ordinance and the installation, maintenance and use hereby authorized, 1 Edward Hart Road, LLC, its successors and/or 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 or its officers, employees or agents) for the term of this Ordinance. 1 Edward Hart, 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 additional insured, covering the use and occupancy of the public property subject to this franchise. A certificate of insurance, in the amount of \$2,000,000.00 or in such amount and type as the City of Jersey City's Risk Manager may deem reasonable shall be delivered to the Risk Manager before use or occupancy of the Property subject to this Franchise Ordinance. Insurance limits shall be reviewed annually by the City of Jersey City's Risk Manager to determine if they need to be increased.

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. 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 VIII. 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 IX. 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 _____ next succeeding the time when this Ordinance shall become effective and on each first day of _____ thereafter until the termination of this Ordinance.

SECTION X. 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

Corporation Counsel

APPROVED: _____

APPROVED: _____
Business Administrator

Certification Required ☐

Not Required ☐

PETITION

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

Your Petitioner, 1 Edward Hart Road, LLC ("Petitioner"), having an office at One Edward Hart Road, Jersey City, New Jersey 07302, respectfully says that:

1. Petitioner is the owner of the property located at One Edward Hart Road, Jersey City, New Jersey and known as Block 24304, Lot 6, on the current tax maps of the City of Jersey City (the "Property"). The property is located within the Liberty Harbor Redevelopment Plan. Petitioner was granted Preliminary and Final Major Site Plan Approval by the Jersey City Planning Board to convert the existing building into public recreation uses that includes a restaurant/bar with an associated "brew pub" with recreational and instructional bowling and other activities, with regard to the Property

2. Petitioner proposes to obtain permission from the City to use the right-of-way along Morris Pesin Drive and Edward J. Hart Road for the following purposes:

- A. The construction of an outdoor public area, repair, replacement and/or protection of the outdoor patio, grass area, seating area, lighting and other ancillary outdoor uses.
- B. The construction of a functioning silo that will hold grain to be used in production of the ale.
- C. Construction and maintenance of an entryway that is necessary to transition the public from the outdoor area to the building at the Property.
- D. All costs associated with these improvements will be incurred by the Petitioner.

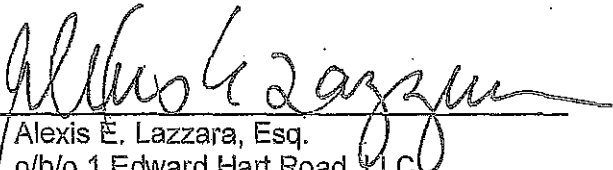
3. The contemplated improvements would enhance the Liberty Harbor Redevelopment Plan, and the petitioner's property, and will greatly benefit the Petitioner's property, and the surrounding area and neighborhood.

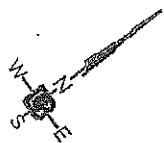
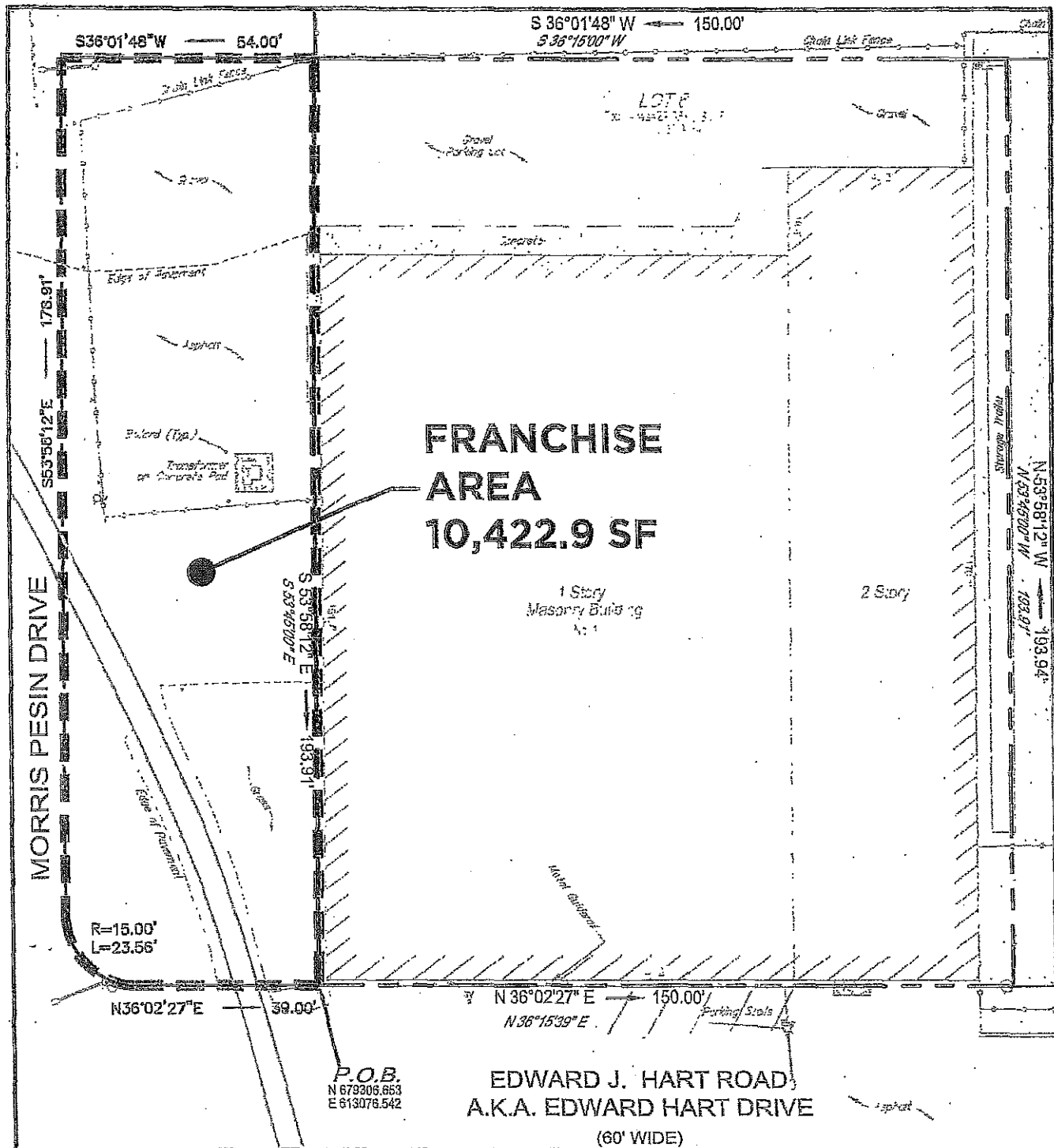
4. The Petitioner presented the proposed improvements to the Jersey City Zoning Officer and Building Department, which can approve proposed improvements conditions upon the Petitioner being granted a franchise ordinance by the City of Jersey City.

5. The contemplated improvements are necessary to construct the proposed development consistent with the development approvals, and will greatly benefit the Liberty Harbor Redevelopment Plan and Petitioner's property and the surrounding area and neighborhood.

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



By: _____

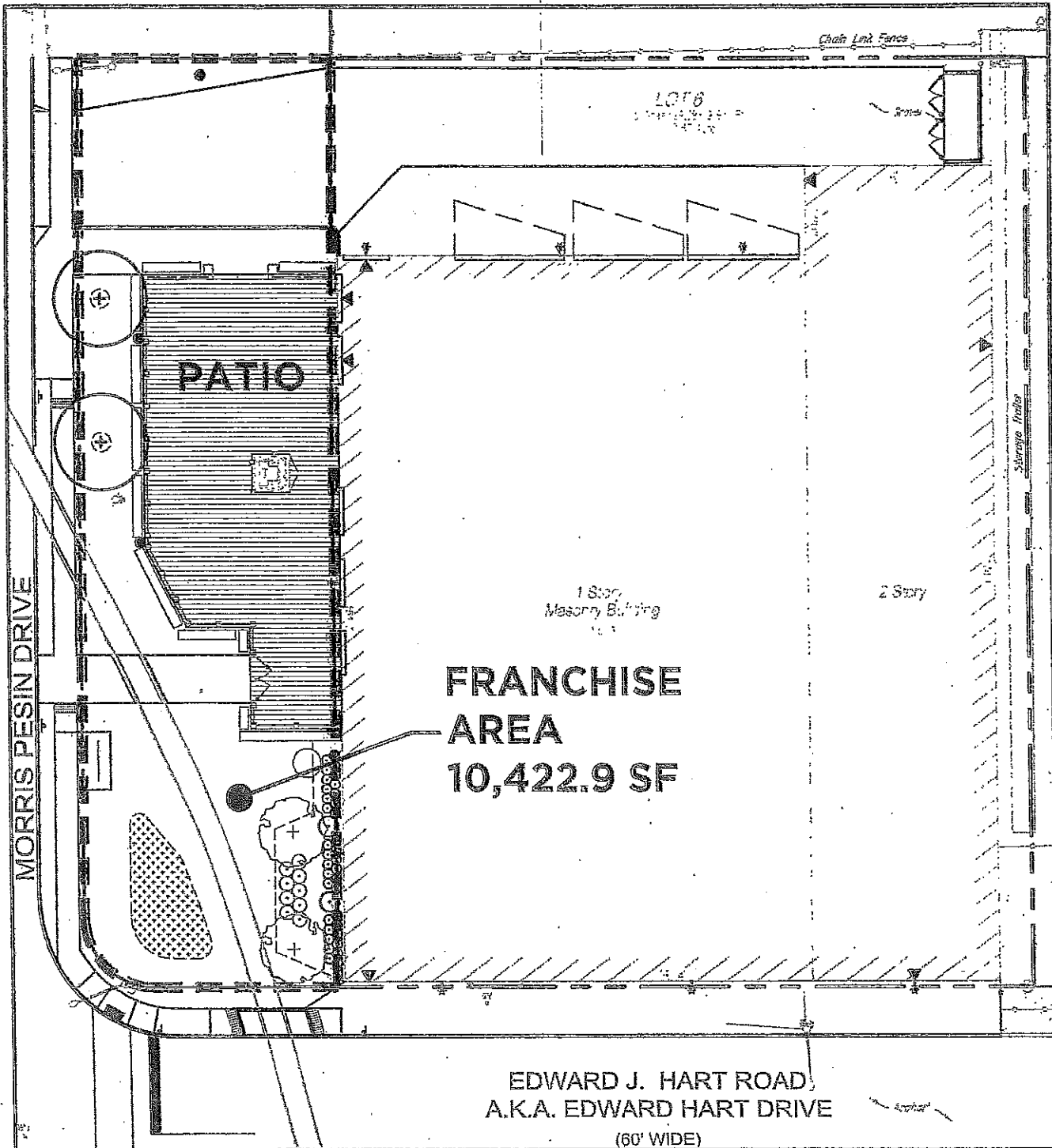

Alexis E. Lazzara, Esq.
o/b/o 1 Edward Hart Road, LLC
Attorney for the Petitioner



GRAPHIC SCALE



CERTIFICATE OF AUTHORIZATION GA 28068900 21M-H00002800		DRAWN BY V.L.	PROJ. MGR C.J.B.	FRANCHISE AREA & EXISTING CONDITION SURVEY	
MILOSLAV REHAK, P.L.S. PROFESSIONAL LAND SURVEYOR N.J. LIC. NO.: 43233		CALISTO J. BERTIN, P.E. PROFESSIONAL ENGINEER CT. LIC. NO.: 12950 MA. LIC. NO.: 40595 N.H. LIC. NO.: 9368 N.J. LIC. NO.: 28845 N.Y. LIC. NO.: 60022 R.I. LIC. NO.: 6694		BOWLING ALLEY & MICRO BREWERY BLOCK 24304, LOT 6 1 EDWARD J. HART ROAD CITY OF JERSEY CITY, COUNTY OF HUDSON, NEW JERSEY	
		 BERTIN ENGINEERING		66 GLEN AVENUE GLEN ROCK, NJ 07452 P 201.670.6688 F 201.670.9788 www.bertinengineering.com	
DATE 9-14-15		SCALE 1"=30'		REVISION NO. 0	
PROJECT NO. 14-111A		DWG. NO. FA-1			



CERTIFICATE OF AUTHORIZATION GA 28068900 ZIMH00002800		DRAWN BY: V.L.	PROJ. MGR. C.J.B.	SITE IMPROVEMENTS	
JEFFREY M. ZIELINSKI, P.E. PROFESSIONAL ENGINEER MD. LIC. NO.: 29935 N.J. LIC. NO.: GE51577 N.Y. LIC. NO.: 090563		CALISTO J. BERTIN, P.E. PROFESSIONAL ENGINEER CT. LIC. NO.: 12950 MA. LIC. NO.: 40595 N.H. LIC. NO.: 9368 N.J. LIC. NO.: 28845 N.Y. LIC. NO.: 60022 R.I. LIC. NO.: 0894		BOWLING ALLEY & MICRO BREWERY BLOCK 24304, LOT 6 1 EDWARD J. HART ROAD CITY OF JERSEY CITY, COUNTY OF HUDSON, NEW JERSEY	
GRAPHIC SCALE 0 15 30				BERTIN ENGINEERING 66 GLEN AVENUE GLEN ROCK, NJ 07452 P 201.670.6688 F 201.670.9788 www.bertinengineering.com	
DATE 9-14-15		SCALE 1"=30'		REVISION NO. 0	
PROJECT NO. 14-111A		DWG. NO. SI-1			



**BERTIN
ENGINEERING**

66 GLEN AVENUE
GLEN ROCK, NJ 07452
P 201.670.6688
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www.bertinengineering.com

August 28, 2015
BEA#14-111C

FRANCHISE DESCRIPTION

**LOT 6, BLOCK 24304 / MORRIS PESIN DRIVE
CITY OF JERSEY CITY
COUNTY OF HUDSON
STATE OF NEW JERSEY**

BEGINNING at the southerly corner of Lot 6 in Block 24304, said point being the corner formed by the northwesterly line of Edward J. Hart being 60 feet wide with the northeasterly line of Morris Pesin Drive, said beginning point having established New Jersey State Plane Coordinates of the North American Datum of 1983, (US Feet) Northing 679306.653, Easting 613076.542 and running thence;

1. Along the northeasterly line of Morris Pesin Drive to a point on the southwesterly corner of Lot 6, North $53^{\circ}58'12''$ West a distance of 193.91 feet, thence the following four courses along the franchise area.
2. South $36^{\circ}01'48''$ West a distance of 54.00 feet, thence
3. South $53^{\circ}58'12''$ East a distance of 178.91 to a point of curvature, thence
4. Along a curve to the left having a radius of 15.00 feet, an arc length of 23.56, a delta angle of $90^{\circ}00'00''$, a chord bearing of North $81^{\circ}01'48''$ East and a chord distance of 21.21 feet to a point on the new northwesterly line of Edward J. Hart Road
5. North $36^{\circ}02'27''$ East a distance of 39.00 feet to the point and place of **BEGINNING**.

Area Contains: 10,422.9 Sq. Ft./0.2393 Acres

In accordance with a certain plan entitled "Site Plan, Bowling Alley & Micro Brewery" prepared by Bertin Engineering, Inc. and dated May 27, 2015, last revised August 20, 2015

Miloslav Rehak
NJ Professional Land Surveyor
No. 43233

SOUTHBRIDGE, MA

CIVIL • SURVEYING • TRAFFIC • STRUCTURAL • ENVIRONMENTAL • MECHANICAL • LANDSCAPE

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



ORDINANCE NO. Ord. 15.179
TITLE: 3.G DEC 16 2015 4.D JAN 13 2016

A Franchise ordinance granting permission to One Edward Hart Road, LLC its successors and/or assigns, to make private improvements in the public right-of-way of One Edward Hart Road, Jersey City, New Jersey also known on the tax map of the City of Jersey City as Block 243004, Lot 6.

RECORD OF COUNCIL VOTE ON INTRODUCTION DEC 16 2015 7-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
GAJEWSKI	✓			YUN	✓			RIVERA	✓	Ent	
RAMCHAL	✓			OSBORNE	✓	Ent		WATTERMAN	✓		
BOGGIANO	✓			COLEMAN	✓			LAVARRO, PRES.	✓		

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING JAN 13 2016											
Councilperson <u>WATTERMAN</u> moved, seconded by Councilperson <u>OSBORNE</u> to close P.H. 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.	✓		

✓ 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 JAN 13 2016 6-2-1											
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.	✓		

✓ Indicates Vote

N.V.--Not Voting (Abstain)

Adopted on first reading of the Council of Jersey City, N.J. on DEC 16 2015
Adopted on second and final reading after hearing on JAN 13 2016

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on JAN 13 2016
Robert Byrne, City Clerk
Robert Byrne, City Clerk

*Amendment(s):

APPROVED: [Signature]
Rolando R. Lavarro, Jr., Council President

Date JAN 13 2016

APPROVED: [Signature]
Steven M. Fulop, Mayor

Date JAN 15 2016

Date to Mayor JAN 14 2016