



Legislation Details (With Text)

**File #:** 23-0081      **Version:** 1      **Name:** Green Acres Encumbered Land Diversion (Liberty Park)  
**Type:** Resolution      **Status:** Adopted  
**File created:** 1/12/2023      **In control:** Economic and Housing Development  
**On agenda:** 3/1/2023      **Final action:** 3/1/2023

**Title:** Dept/ Agency: Economic and Housing Development  
Action: ( ) Ratifying (X) Authorizing ( ) Amending  
Type of Service: Resolution designating private property as Green Acres replacement land and authorizing utilization of the property by the City of Newark for that purpose.  
Purpose: Resolution authorizing designation and utilization of property owned by NJ Properties, Inc., an affiliate of PSE&G, 23-67 Jersey Street (Block 172, Lot 3) as replacement land to compensate for the diversion of a 0.031 acre portion of Green Acres encumbered land at Liberty Park, 450-470 Central Avenue (Block 1844, Lot 1).  
List of Property:  
(Address/Block/Lot/Ward)  
450-470 Central Avenue/Block 1844/Lot 1/Central Ward  
23-67 Jersey Street/Block 172/Lot 3/East Ward  
Additional Information:

**Sponsors:** Council of the Whole

**Indexes:**

**Code sections:**

Date	Ver.	Action By	Action	Result
3/1/2023	1	Municipal Council	Adopt	Pass

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23-67 Jersey Street/Block 172/Lot 3/East Ward  
**Additional Information:**

**WHEREAS**, the Legislature of the State of New Jersey has determined that it is in the public interest to preserve as much open space as possible in order to protect the quality of life for New Jersey residents; and

**WHEREAS**, the Legislature established the Green Acres Program in order to provide low interest loans and grants (“Green Acres Funds”) to municipal and county governments for the

acquisition and preservation of open space and recreational facilities; and

**WHEREAS**, the Legislature established the Office of Green Acres within the Department of Environmental Protection (“NJDEP”) in order to carry out the goals and objectives of the Green Acres Program; and

**WHEREAS**, NJDEP has promulgated N.J.A.C. 7:36-1.1 et seq. (the “Green Acres Rules”) in order to establish the procedures by which the Office of Green Acres will administer the Green Acres Funds and ensure that lands purchased with Green Acres Funds, and all other municipal lands held for the purposes of recreation and conservation remain permanently in use for those purposes; and

**WHEREAS**, 450-470 Central Avenue, part of Liberty Park, and commonly known as Block 1844, Lot 1 on the Official Tax Map of the City of Newark (“Green Acres Land”) is listed on the City’s Recreation and Open Space Inventory (“ROSI”) and is encumbered with restrictions by the Green Acres Program; and

**WHEREAS**, Green Acres regulations prohibit a local governmental unit from either disposing of, or diverting to a use other than for recreation and conservation purposes, those properties on its ROSI without first obtaining approval from the NJDEP Commissioner and the State House Commission pursuant to the procedures outlined at N.J.A.C. 7:36-26.1 et seq.; and

**WHEREAS**, in conjunction with PSE&G’s Fairmount Heights Switching Station Project, it is necessary to remove the Green Acres restrictions from the Green Acres Land in order to authorize PSE&G’s previous installation of an underground electric conduit through Liberty Park; and

**WHEREAS**, the removal of Green Acres restrictions from the Green Acres Land requires that the City obtain a major diversion approval from the NJDEP Commissioner and the State House Commission pursuant to N.J.A.C. 7:36-26 (the Liberty Park Diversion”); and

**WHEREAS**, pursuant to Resolution 7R2-j, which was adopted on July 13, 2022, the Newark Municipal Council of the City of Newark (the “Municipal Council”) authorized the filing of a pre-application with the Green Acres Program for the Liberty Park Diversion in accordance with the requirements of N.J.A.C. 7:36-26; and

**WHEREAS**, as a condition of approval of the Liberty Park Diversion, the City must compensate for the value of the lost Green Acres Land at Liberty Park with eligible replacement land and/or monetary compensation at the ratios set forth in the Green Acres Rules; and

**WHEREAS**, the Green Acres Rules, at N.J.A.C. 7:36-26.10(d)2.i., identify certain categories of land that are eligible to be used as replacement land, including privately-owned land, recreation and conservation facilities, and private parkland that are not deed restricted or encumbered with an easement or other legal instrument for recreation and conservation purposes; and

**WHEREAS**, NJ Properties Inc., an affiliate of PSE&G, is the current owner of the land located at 23-67 Jersey Street and commonly known as Block 172, Lot 3 on the Official Tax Map of the City of Newark, which property is approximately 1.0896 acres in size, and is zoned for park use (the “PSE&G Property”); and

**WHEREAS**, the PSE&G Property comprises a portion of a former manufactured gas plant that was owned and operated by predecessor companies of PSE&G; and

**WHEREAS**, PSE&G has implemented a permanent remedial measure for the soil contamination at the PSE&G Property and a Response Action Outcome has been issued, dated June 27, 2016; and

**WHEREAS**, the PSE&G Property, which is privately-owned and is not deed restricted or encumbered with an easement or other legal instrument for recreation and conservation purposes, qualifies as eligible replacement land under the Green Acres Rules; and

**WHEREAS**, any portion of the PSE&G Property to be utilized as replacement land for the Liberty Park Diversion will be dedicated by PSE&G at no cost to the City and will not involve the use of Green Acres funds or any other funding method dedicated to recreation and conservation purposes; and

**WHEREAS**, any portion of the PSE&G Property that remains after fulfillment of the City's replacement property obligation in connection with the Liberty Park Diversion, may be purchased by the City with Green Acres funds or any other funding method dedicated to recreation and conservation purposes; and

**WHEREAS**, the City intends that any future use of the remainder of the PSE&G Property as parkland and any potential encumbrance by Green Acres restrictions resulting therefrom shall not affect the eligibility of a portion of the PSE&G Property as replacement land under the Green Acres Rules; and

**WHEREAS**, the Municipal Council desires to designate and utilize the PSE&G Property, or any portion thereof, as eligible replacement land for the Liberty Park Diversion; and

**WHEREAS**, the Municipal Council makes said designation prior to acquiring title to the PSE&G Property and prior to proceeding with developing the PSE&G Property as parkland.

**NOW, THEREFORE, BE IT RESOLVED BY THE NEWARK MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

1. The Newark Municipal Council ("Municipal Council") authorizes the receipt of the property located at 23-67 Jersey Street, on the Official Tax Map of the City of Newark as Block 172, Lot 3, which is currently owned by NJ Properties Inc., an affiliate of PSE&G, to be designated as Green Acres Replacement land and shall be utilized by the City to compensate for the diversion of a 0.031-acre portion of Liberty Park, 450-470 Central Avenue (Block 1844, Lot 1), for the installation of an underground electric conduit through the park, in connection with PSE&G's Fairmount Heights Switching Station Project, Pursuant to N.J.A.C. 7:36-26.10(d)2.ii(3). , , is being acquired by the City.
2. The Municipal Council makes said designation prior to acquiring title to 23-67 Jersey Street, Block 172, Lot 3 ("PSE&G Property"), and prior to proceeding with developing the PSEG&G Property as parkland.

3. Any portion of the PSE&G Property to be utilized as replacement land for the Liberty Park Diversion will be dedicated by NJ Properties Inc, an affiliate of PSE&G, at no cost to the City and will not involve the use of Green Acres funds or any other funding method dedicated to recreation and conservation purposes.
4. Any portion of the PSE&G Property that remains after fulfillment of the City's replacement property obligation in connection with the Liberty Park Diversion, may be purchased by the City with Green Acres funds or any other funding method dedicated to recreation and conservation purposes.
5. Any future use of the remainder of the PSE&G Property as parkland and any potential encumbrance by Green Acres restrictions resulting therefrom shall not affect the eligibility of a portion of the PSE&G Property as replacement land under the Green Acres Rules
6. A copy of this Resolution shall be provided to the New Jersey Department of Environmental Protection's Office of Green Acres and shall be filed with the Office of the City Clerk by the Deputy Mayor/Director of the Department of Economic and Housing Development.
7. This Resolution shall take effect immediately.

#### STATEMENT

This Resolution designates private property owned by NJ Properties, Inc., a PSE&G affiliate, located at 23-67 Jersey Street (Block 172, Lot 3) ("PSE&G Property") to be acquired by the City of Newark for use as replacement land to compensate for the diversion of a 0.031-acre portion of Green Acres encumbered land at Liberty Park, 450-470 Central Avenue (Block 1844, Lot 1). Said designation is made prior to acquiring title to the PSE&G Property and prior to proceeding with its development as parkland.