



## Legislation Text

File #: 23-1310, Version: 1

**Dept/ Agency:** Economic and Housing Development

**Action:** ( ) Ratifying (X) Authorizing ( ) Amending

**Type of Service:** Filing of Final Green Acres Application by the Department of Economic and Housing Development.

**Purpose:** Resolution supporting State House Commission Final Application to NJDEP Green Acres Program to amend the compensatory replacement land previously approved for the disposal of Founder's Park.

**List of Property:**

**(Address/Block/Lot/Ward)**

8-12 Columbia Street/Block 167/Lot 10.02/East Ward

**Additional Information:**

**WHEREAS**, Founder's Park was previously situated at the intersection of Saybrook Place and McCarter Highway, on a portion of the present-day New Jersey Performing Arts Center ("NJPAC") site, on property that was formerly designated as Block 17, Lots 5, 6 & 7 and is currently designated as a portion of Block 17, Lot 1.02 on the tax maps of the City of Newark; and

**WHEREAS**, Founder's Park was encumbered with restrictions against disposal or diversion from recreation and conservation uses by the New Jersey Department of Environmental Protection's ("NJDEP") Green Acres Program; and

**WHEREAS**, to enable NJPAC to construct a world-class cultural center in the heart of the City and to allow the New Jersey Department of Transportation ("NJDOT") to improve McCarter Highway's vertical and horizontal geometry, realign intersections, and upgrade the lighting and landscaping through the City's central business district, it was necessary to remove the Green Acres restrictions from the entire approximately 7,666 square foot (0.176 acre) Founder's Park; and

**WHEREAS**, the removal of Green Acres restrictions from parkland requires the approval of the Commissioner of NJDEP and the State House Commission pursuant to N.J.A.C. 7:36-26; and

**WHEREAS**, by Resolution 7RBE, duly adopted on April 5, 1995, the Municipal Council of the City of Newark authorized submission of an application to the Commissioner of NJDEP and the State House Commission requesting a disposal of parkland under N.J.A.C. 7:36 in order to relocate Founder's Park from its original location to the intersection of Center Street and McCarter Highway, on property comprised of small portions of (a) Block 137, Lot 56, and (b) an NJDOT-owned right of way, which were to be assembled for that purpose ("Original Replacement Land") in order to satisfy the 1:1 replacement land ratio in place under Green Acres Regulations in effect at the time; and

**WHEREAS**, October 31, 1995, the Commissioner of NJDEP and the State House Commission approved the City of Newark's application to dispose of Founder's Park, including its relocation to the Original Replacement Land (SHC File #0714005); and

**WHEREAS**, during the public hearing that preceded the SHC approval, the public

overwhelmingly supported the project; and

**WHEREAS**, prior to the relocation of Founder's Park, the Original Replacement Land was developed as part of New Jersey Transit's Light Rail system and therefore was unavailable; and

**WHEREAS**, the City of Newark, by and through the Department of Economic and Housing Development, has made application for approval to use a portion of "Mulberry Commons," designated as Block 167, Lot 10.02 (8-12 Columbia Street), to serve as the revised compensatory replacement property ("Revised Replacement Land") for the previously approved Founder's Park Disposal; and

**WHEREAS**, on August 2, 2017, prior to development of Mulberry Commons as a park, the Municipal Council of the City of Newark adopted Resolution 7R2-a specifically designating Mulberry Commons to serve as replacement compensation lands for the potential diversion and/or disposal of any Green Acres Land situated in the City of Newark; and

**WHEREAS**, the Green Acres Program is requiring the City of Newark to comply with the current Green Acres regulations, which require the City to compensate for a major disposal of parkland by offering replacement land at either a 2:1 ratio (for approvals obtained in advance of a diversion or disposal of parkland for a public project) or 5:1 (for "after the fact" diversions or disposals of parkland for a public project), as well as meeting all other eligibility requirements in N.J.A.C. 7:36-26.10(d) and the land valuation requirements in N.J.A.C. 7:36-26.10(f); and

**WHEREAS**, under N.J.A.C. 7:36-26.10(j)(3)(ii), the Green Acres Program accepted the City of Newark's assertion that the use of the Original Replacement Land for New Jersey Transit's Light Rail System was beyond the control of the City and presented sufficient mitigating circumstances to justify the reduction of the ratio for the Revised Replacement Land to 2:1; and

**WHEREAS**, the Green Acres Program authorized the City of Newark, by and through the Department of Economic and Housing Development, to conduct a public hearing in connection with the Founder's Park Amended Disposal application in concert with the public scoping hearing required by certain unrelated City-sponsored diversion applications, which took place virtually on July 7, 2021; and

**WHEREAS**, in accordance with N.J.A.C. 7:36-26.11(i)4, it is necessary for the City of Newark to submit, as part of the final application for the Founder's Park Amended Disposal, a Resolution endorsing the application; and

**WHEREAS**, the City of Newark desires and finds it in its best interest to file the Final Green Acres Application to amend the Compensatory Replacement Land for the Disposal of Founder's Park pursuant to N.J.A.C. 7:36-26.

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

1. The City of Newark endorses the Department of Economic and Housing Development's filing of a final application for the Founder's Park Amended Disposal, pursuant N.J.A.C. 7:36-26.
2. The City of Newark has reviewed both oral and written comments accepted during the

public comment period and has made a finding that amending the site of the replacement land for the Founder's Park Disposal is in the public's best interest.

3. The City of Newark acknowledges that in order to obtain the approval of the Founder's Park Amended Disposal, all applicable substantive and procedural requirements of N.J.A.C. 7:36-26 must be met, including compensation requirements at N.J.A. C. 7:36-26.10.
4. Upon approval of the Founder's Park Amended Disposal by the Commissioner of NJDEP and the State House Commission and proof that all terms and conditions of the approval have been satisfied or will be satisfied in a timely manner, the Municipal Council of the City of Newark hereby authorizes and directs the Deputy Mayor/Director of the Department of Economic and Housing Development and the City Clerk to execute (1) a Green Acres Release and Compensation Agreement and (2) a Deed of Restriction or Deed of Easement, whichever shall be applicable, for any replacement land serving in whole or in part as compensation for the Founder's Park Amended Disposal, in accordance with N.J.A. C. 7:36-26.11(m).
5. A copy of this Resolution shall be provided to NJDEP's Green Acres Program and shall be filed with the Office of the City Clerk by the Deputy Mayor/Director of the Department of Economic and Housing Development.
6. This Resolution shall take effect immediately.

### **STATEMENT**

This Resolution endorses the Department of Economic and Housing Development's filing of a State House Commission final application to NJDEP Green Acres Program to amend the compensatory replacement land previously approved for the disposal of Founder's Park from property located at the intersection of Center Street and McCarter Highway (comprised of small portions of (a) Block 137, Lot 56, and (b) an NJDOT-owned right of way) to a portion of "Mulberry Commons," designated as Block 167, Lot 10.02. The City acknowledges that in order to obtain the approval of the Founder's Park amended disposal, all applicable substantive and procedural requirements of N.J.A.C. 7:36-26 must be met, including compensation requirements at N.J.A. C. 7:36-26.10. Upon approval of the Founder's Park amended disposal by the Commissioner of NJDEP and the State House Commission, and proof that all terms and conditions of the approval have been satisfied or will be satisfied in a timely manner, the Municipal Council of the City of Newark authorizes and directs the Deputy Mayor/Director of the Department of Economic and Housing Development and the City Clerk to execute (1) a Green Acres Release and Compensation Agreement and (2) a Deed of Restriction or Deed of Easement, whichever shall be applicable, for any replacement land serving in whole or in part as compensation for the Founder's Park amended disposal, in accordance with N.J.A. C. 7:36-26.11(m).

