



## Legislation Text

File #: 19-0002, Version: 1

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

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

**Type of Service:** Resolution Endorsing

**Purpose:** Resolution Pursuant to N.J.S.A. 40:55D-62 setting forth reasons for the adoption of an “Ordinance of the Municipal Council of the City of Newark Amending the City of Newark Zoning Ordinance, Title XLI, Chapters 1 Through 5 of the Municipal Code, and the City of Newark Zoning Maps, to create an MX-3 Zone, which will allow a blend of High Density Residential and Commercial Uses” which is inconsistent with the Land Use Element of the City of Newark Master Plan

**Additional Information:**

Sets forth reasons for the adoption of an amendment to the Zoning Ordinance, which is inconsistent with the Land Use Element of the City of Newark Master Plan, pursuant to N.J.S.A. 40:55D-62

**WHEREAS**, the Municipal Council, pursuant to N.J.S.A. 40:55D-62, may adopt or amend a zoning ordinance “relating to the nature and extent of the uses of land and of buildings and structures thereon”; and

**WHEREAS**, the Municipal Council, by Resolution 7R2-a(S), adopted on November 27, 2018, referred an “Ordinance of the Municipal Council of the City of Newark Amending the City of Newark Zoning Ordinance, Title XLI, Chapters 1 Through 5 of the Municipal Code, and the City of Newark Zoning Maps, To Create an MX-3 Zone, Which Will Allow A Blend of High Density Residential And Commercial Uses” (the “Proposed Amendment”) to the Newark Central Planning Board (the “Board”) pursuant to N.J.S.A. 40:55D-64; and

**WHEREAS**, on December 3, 2018, the Board reviewed the Proposed Amendment and prepared a report including identification of any provisions “which are inconsistent with the master plan and recommendations concerning these inconsistencies”, as required by N.J.S.A. 40:55D-26 (the “Report”); and

**WHEREAS**, after its review, the Board in its report made “a finding that the proposed Ordinance is largely consistent with planning best practices and the goals and objectives of the Newark Master Plan, but is inconsistent with the Land Use Element” and further transmitted “that finding and the findings incorporated herein” to the Municipal Council; and

**WHEREAS**, more specifically, in the Report, the Board found the “building height and development density permitted” by the Proposed Amendment to be “inconsistent with the Land Use Element of the Master Plan”, since the Land Use Element “indicates that the desired Future Land Use for the areas proposed to be re-zoned to MX-3 is Mid-Rise Multifamily Residential”, with a height limitation of eight stories and 96 feet, and the development density as currently regulated by the City of Newark Zoning Ordinance as 625 square feet of lot area per dwelling unit; and

**WHEREAS**, the Proposed Amendment implements a height limitation of 145 feet in most areas proposed to be re-zoned, and a base requirement of 200 square feet per dwelling unit, which may be lowered if thresholds for bedroom mix are met; and

**WHEREAS**, despite its determination that the building height and development density were inconsistent with the 2012 Land Use Element of the Master Plan, the Board acknowledged that there are “a number of goals, objectives, recommendations, strategies, and policy statements within the Master Plan that support increasing residential densities within the City, particularly in close proximity to Penn Station”, as envisioned by the Proposed Amendment; and

**WHEREAS**, the Municipal Council recognizes that the Board found the Proposed Amendment to be inconsistent with the Land Use Element of the Master Plan, but expressly noted that there are statements in the Master Plan that support the increased height and density of development in proximity to transit stations, as set forth in the Proposed Amendment; and

**WHEREAS**, the Board noted in the Report the following statements in the Master Plan that “are supportive of increasing density and height and concentrating a mix of uses as proposed in the MX-3 Zone”:

• Goal 02: Healthy and Safe Neighborhoods (p.24 Vol. 1)

-Provide diversity of housing options for all stages of life and lifestyles, and which accommodate a range of needs and desires. Newark’s housing options take advantage of its neighborhoods, downtown, and the riverfront, as well as access to retail, recreation, and transportation

- Provide mixed income housing compactly integrated with a full mix of other uses - especially in areas near transportation nodes and places attractive to market rate development.

• Goal 03: A City of Choice (p.29 Vol. 1)

- Create a walkable city.

- Create and sustain a healthy environment.

- Business and Industry.

- Strategy 2.1 (p.51, Vol. 1) - Encourage dense mixed-use development around downtown transit hubs.

- Strategy 2.2.3 (p. 53, Vol. 1) - Revise parking standards to encourage the redevelopment of surface parking lots, while providing sufficient levels of parking on an ongoing basis to patrons of downtown businesses and residents, in particular.

- Ferry Street, which is in the immediate vicinity of the proposed MX-3 zone, is identified as a key neighborhood commercial corridor. (p.56, Vol. 1)

- Strategy 3.3 - Increase density and diversify business types by attracting new retail and mixed use development in infill areas. (p.58, Vol. 1)

- Housing

- Strategy 1.2 (p. 75, Vol. 1) - Expand the supply of quality, affordable housing through re-zonings.

- Mobility Strategies

- Strategy 1.2 (p.103, Vol. 1) - Encourage transit-oriented development (TOD) and use of the Urban Transit Hub Program at all the appropriate locations, with an emphasis on Newark Penn, Broad Street, Orange Street, and Newark Liberty International Airport Stations.

-Strategy 8.1 - Use zoning and land use regulations to reduce vehicle demand in the downtown and concentrate development around transit stations.

- Strategy 8.1.1 - Allow and encourage increased densities and reduced parking requirements at and near transit facilities”; and

**WHEREAS**, the Municipal Council concurs with the findings of the Board that the cited specific goals and objectives of the Master Plan are advanced by the Proposed Amendment; and

**WHEREAS**, Newark Penn Station is a regional transit hub, served by Amtrak, multiple New Jersey Transit train lines, Newark Light Rail, PATH trains, Greyhound, and New Jersey Transit local and express buses, the areas subject to the Proposed Amendment include approximately nine blocks within one half-mile of Newark Penn Station and largely consist of surface parking lots, and the Proposed Amendment will encourage the redevelopment of surface parking lots, enhance the opportunity to concentrate development around transit stations, expand the supply of affordable housing, and encourage transit-oriented development; and

**WHEREAS**, the Board further noted that the City’s “Master Plan was adopted in 2012, and was prepared in the years preceding its adoption. The Plan is approaching the point where a statutory reexamination will be required. The Newark of late 2018 is far different from the Newark of 2010-2012”; and

**WHEREAS**, pursuant to N.J.S.A. 40:55D-62, “all of the provisions of such zoning ordinance or any amendment or revision thereto shall either be substantially consistent with the land use plan element and the housing plan element of the master plan or designed to effectuate such plan elements”; however; the Municipal Council may adopt “a zoning ordinance or revision thereto which in whole or part is inconsistent with or not designed to effectuate the land use element and the housing plan element, but only by affirmative vote of a majority of the full authorized membership” of the Municipal Council, and with the reasons “for so acting set forth in a resolution and recorded in its minutes for adopting such a zoning ordinance”; and

**WHEREAS**, the Municipal Council finds that changed conditions within the City since the time of the preparation (2010-2011) and adoption (2012) of the Master Plan have generated the following

set of facts which have been compiled by the Department of Housing and Economic Development and, which, together with other factors set forth herein, support the adoption of the Proposed Amendment to increase height and density limitations for certain mixed use buildings in the area adjacent to Newark Penn Station, notwithstanding that the Proposed Amendment has been found by the Board to be inconsistent with the Land Use Element of the 2012 Master Plan, A partial list of such changed conditions includes, but is not limited to the following:

The Master Plan, was prepared when Newark was struggling to recover from economic damage resulting from the Great Recession of 2009. Since then, unemployment within the City has decreased from 14.8% to 6.2%; and the total population of the City of Newark has increased by approximately 3%;

The U.S. Census American Community Survey data, reports that although job growth in Newark remained stagnant throughout most of the decade, in the past two years approximately 7,000 jobs in the City have been created and job growth in Newark has been accelerating at a higher rate than that of Union, Essex, and Hudson Counties combined;

Amazon.com, one of the world's largest companies, selected Newark as one of only 20 finalists in a field of almost 300 cities competing to host its second North American Headquarters;

Panasonic opened its North American Headquarters at the corner of Raymond Boulevard and McCarter Highway in 2013, creating approximately 700 full time jobs;

Prudential, an anchor to the Newark business community, opened two additional office towers in 2015, expanding its footprint to add an additional 1,000 employees in Downtown Newark;

Broadridge Financial relocated 1,100 employees from Jersey City to the Gateway Center in 2016;

Fabuwood, a kitchen cabinet manufacturer, opened its new headquarters in a one million square foot building in the Ironbound area in 2018 with 800 employees, and expects to increase to 1200 employees within the next two years;

The rehabilitation of the Ironside Newark building, a former warehouse on Edison Place and McCarter Highway into 450,000 square feet of office space, is close to completion, and over 70% of the office space has been leased;

M&M Mars recently announced plans to relocate its corporate headquarters, with approximately 500 employees, to the newly-rehabilitated Ironside Building by 2020;

Whole Foods Market opened in March 2017 at the recently rehabilitated Hahne Building, employing 200 workers;

Audible.com expanded its footprint in Newark to 7 floors of the long un-occupied multi story building at 15 Washington Park, and will occupy the rehabilitated former church at

the corner of Washington and James Streets to provide more office space and accommodate 350 new jobs;

Over 35 acres of additional open space is in development in and around the Newark Penn Station area, including the rehabilitation of Military Park, (completed in 2014), the continuation of Riverfront Park along the Passaic River, from Jackson to Bridge Streets, and the construction of Mulberry Commons, a 3 plus acre park which is intended as the centerpiece of a Downtown Core district adjacent to Penn Station and the Prudential Arena;

In the area near Military Park the Tryp Hotel opened in 2018, 160 residential rental units at the rehabilitated Hahne Building have been developed, and One Theater Square, the first new ground-up market rate residential construction in the City in several decades opened; and

**WHEREAS**, the Municipal Council recognizes that the Board found the Proposed Amendment to be "...largely consistent with planning best practices and the goals and objectives of the Newark Master Plan..." and notes that improving economic conditions in the City, as evidenced by the facts stated above, support the increased height and density of development in proximity to transit stations, as set forth in the Proposed Amendment, in order to provide additional residential density and options in the Downtown Area of the City as necessary and useful to complement and enhance the advancing economic revitalization of commercial and employment activity in Newark, and to achieve the goals of the Master Plan; and

**WHEREAS**, a study conducted by the Rutgers University Equitable Development Working Group and Center on Law, Inequality & Metro Equity, which was summarized in an October 2017 report entitled "Recommendations to the City of Newark, Mayor Ras Baraka" (the "Rutgers Study"), concluded that Newark faces a housing affordability crisis and stated that preserving affordable housing options is the most important factor in preventing displacement or destructive trends in gentrification; and

**WHEREAS**, it is the policy of the Municipal Council that every effort be made to prevent displacement and destructive gentrification and to include all the residents of the City the historic revitalization of Newark; and

**WHEREAS**, in order to maximize the opportunity for the inclusion of City residents in affordable residential development, as the City experiences renewed vitality, by Ordinance 6PSF-b, adopted October 4, 2017, the Municipal Council adopted "An Ordinance Amending Title 41 of the Municipal Code of the City of Newark, New Jersey, to Establish a New Chapter Entitled "Inclusionary Zoning for Affordable Housing" (the "Inclusionary Zoning Ordinance"); and

**WHEREAS**, the Inclusionary Zoning Ordinance requires that 20% of all units, at a minimum, in certain new residential developments and substantially rehabilitated developments are set aside as income-restricted, or "affordable" for lower income individuals or families; and

**WHEREAS**, an increase in residential building height by the adoption of the Proposed Amendment will produce added density and thereby enable the construction of additional affordable housing; and

**WHEREAS**, the Regional Plan Association issued a report in 2017 entitled “Untapped Potential: Opportunities for Affordable Homes and Neighborhoods Near Transit”, which advised that development within walking distance of one half-mile to public transit (“Transit-Oriented Development”, or “TOD”) will help expand the number of affordable homes while creating healthier, more attractive, and energy-efficient neighborhoods.

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

1. Pursuant to N.J.S.A. 40:55D-62, the Municipal Council hereby sets forth its reasons, as stated above, for the adoption of an “Ordinance of the Municipal Council of the City of Newark Amending the City of Newark Zoning Ordinance, Title XLI, Chapters 1 Through 5 of the Municipal Code, and the City of Newark Zoning Maps, To Create an MX-3 Zone, Which Will Allow A Blend of High Density Residential And Commercial Uses”, to be attached upon adoption.
2. A copy of this Resolution and the Proposed Amendment shall be filed with the Office of the City Clerk by the Director of the Department of Economic and Housing Development.
3. This Resolution shall take effect immediately.

### **STATEMENT**

This Resolution sets forth the reasons of the Municipal Council in adopting an “Ordinance of the Municipal Council of the City of Newark Amending the City of Newark Zoning Ordinance, Title XLI, Chapters 1 Through 5 of the Municipal Code, and the City of Newark Zoning Maps, To Create an MX-3 Zone, Which Will Allow A Blend of High Density Residential And Commercial Uses”, which has been determined by the Newark Central Planning Board to be inconsistent with the Land Use Element of the Master Plan, in accordance with N.J.S.A. 40:55D-62.