ASSEMBLY, No. 1278

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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SYNOPSIS

Authorizes conversion of certain office parks and retail centers to mixed-use developments.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

(Sponsorship Updated As Of: 12/2/2021)

AN ACT concerning the conversion of certain office parks and retail centers to mixed-use developments and supplementing chapter 55D of Title 40 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The Legislature finds and declares:

a. New Jersey is one of the most suburban states in the country.

b. The rapid, post-World War II development of New Jersey was based upon an automobile-dependent economy and lifestyle, and led to the proliferation of large regional shopping malls and suburban office parks.

c. While, for decades, large regional shopping malls and suburban office parks prospered, and enabled New Jersey to prosper, these old single-use forms of development are now in such significant decline throughout the State and the country that academics and planners have termed them "stranded assets."

d. Rutgers University professors, James W. Hughes and Joseph J. Seneca, in their 2015 publication "New Jersey's Postsuburban Economy," explain that just as New Jersey successfully evolved from an urban manufacturing-based economy to a suburbanized information-age, and research-driven economy, societal changes are again challenging the State to reinvent itself.

e. As the post-war baby boom, suburban-centric workforce declines, and is replaced by a new generation comprised of echo boomers and millennials, the preferences of the new generation are causing corporations to leave regional shopping malls and suburban office parks behind, and to locate in places that are attractive for the new workforce.

f. Millennials are driving these changes because there are so many of them. People between 20 and 36 years old outnumber every other generation in the country. Businesses want to hire them, sell to them, or both. While in a former day, it was common for employees to relocate to secure employment, today it is more and more common for companies to relocate to areas in which millennials want to live, work, and play.

g. According to Professors Hughes and Seneca, the new workforce does not find the car-culture suburbs in which they grew up an attractive place to live, work and play. "Density, walkability, public transit, work-life balance, and urban amenities have grown significantly as quality-of-life locational attractions. Suddenly, New Jersey's greatest core advantage in the late twentieth century – a suburban-dominated, automobile-dependent economy and lifestyle – is regarded as a disadvantage.

h. PlanSmart NJ's 2016 publication, "A Guide to the Future: Repurposing Stranded Assets and Revitalizing New Jersey's Suburbs," states that "technological advances and changing societal

demands have eroded the suburbs' attractiveness to residents and corporations leaving behind large isolated and underutilized buildings, or 'stranded assets,' which no longer act as economic engines."

i. While the new workforce and employers alike want to locate in livable walkable mixed-use communities, in which employees can have a range of amenities within walking distance of work and home, it is possible and desirable to repurpose stranded office parks and shopping malls into mixed-use communities.

j. One significant impediment to repurposing stranded assets into mixed-use communities are outdated, rigid zoning regulations that often separate residential and commercial uses from each other.

k. According to the PlanSmart NJ report, "[z]oning ordinances in suburban towns almost universally limit opportunities for mixed use walkable designs because of the Euclidean template where uses are rigorously separated. . . . In fact, single-use zoning ordinances often 'unintentionally stand in the way of providing developers, employers, and workers the types of modern spaces they desire,' therefore, 'inhibiting a community's economic competitiveness.'"

l. In order to encourage developers to repurpose stranded assets, it is appropriate for the Legislature to temporarily preempt local use restrictions that stand in the way of attempts to redevelop stranded single-use regional shopping centers and office parks into vibrant, desirable, mixed-use communities.

2. a. As used in this section:

"Eligible property" means an office park of at least 50,000 square feet or a retail center of at least 15,000 square feet, which office park or retail center has a vacancy rate of at least 40 percent.

"Mixed-use development" means a development which includes both a non-residential development component and a residential development component.

b. A mixed-use development shall be a permitted use and shall not require a use variance pursuant to subsection d. of section 57 of P.L.1975, c.291 (C.40:55D-70) if the mixed-use development is the subject of an application for development to convert an eligible property to a mixed-use development, the application for development is submitted for approval prior to the first day of the 25th month next following the effective date of this act, and the application for development complies with the following requirements:

(1) the application proposes to develop at least two types of uses;

(2) the application proposes to either:

(a) reuse the existing building or buildings without expanding the square footage of the building or buildings on the eligible property, or

(b) redevelop the eligible property without expanding the square footage of the building or buildings on the eligible property; and

(3) if the application for development proposes new residential units, at least 20 percent of the residential units constructed for owner-occupancy and 15 percent of the residential units constructed for rental occupancy shall be reserved as low income housing, moderate income housing, or very low income housing, as those terms are defined in section 4 of P.L.1985, c.222 (C.52:27D-304).

c. The planning board shall approve an application for development to convert an eligible property to a mixed-use development if the board determines that:

(1) the application can be granted without causing substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance, and

(2) the application complies with the other requirements of this section.

d. The planning board may condition approval of an application for development to convert an eligible property to a mixed-use development upon complying with requirements for parking, water supply, sanitary sewer capacity, storm water management, bulk standards, and all reasonable site plan review, recreation, and design standards provided, however, that the height and setback limitations applicable to a converted mixed-use development shall be the greatest height and least restrictive setback limitations allowed within the zoning district under municipal ordinance or variance approved by the planning board.

3. This act shall take effect immediately.

STATEMENT

This bill would establish a limited preemption from local zoning regulations for applications to convert certain office parks and retail centers into mixed-use developments. Office parks and retail shopping centers located within suburban parts of the State have been termed “stranded assets” and that one of the problems inhibiting the reuse or redevelopment of these properties is zoning regulations which restrict their development to a single land use.

This bill seeks to spark interest among property owners to develop these sites by establishing a two-year window of time within which a developer may submit an application to convert an eligible property into a mixed-use development without being constrained by outdated zoning ordinances. The bill defines “eligible property” as an office park of at least 50,000 square feet or a retail center of at least 15,000 square feet, which office park or retail center has a vacancy rate of at least 40 percent.

The bill provides that a mixed-use development is a permitted use, which does not require a use variance, if the mixed-use development is the subject of an application for development to convert an eligible property to a mixed-use development, the application for development is submitted for approval within two years of the bill's effective date, and the application for development:

- proposes to develop at least two types of uses;
- proposes to either:
  - reuse the existing building or buildings without expanding their square footage, or
  - redevelop the eligible property without expanding the square footage of the building or buildings on the eligible property.

Furthermore, under the bill, if the application for development to convert an eligible property to a mixed-use development proposes construction of new residential units, at least 20 percent of the residential units constructed for owner-occupancy and 15 percent of the residential units constructed for rental occupancy must be reserved as low income housing, moderate income housing, or very low income housing, as those terms are defined in section 4 of P.L.1985, c.222 (C.52:27D-304).

The bill would require a planning board to approve an application to convert an eligible property to a mixed-use development if the board determines that:

- the application can be granted without causing substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance, and
- the application complies with the other requirements of this section.

While freeing developers of these properties from municipal use restrictions, the bill retains local control over other aspects of the approval of an application to convert an eligible property to a mixed-use development. The bill specifically authorizes planning boards to condition approval of an application to convert an eligible property to a mixed-use development upon complying with requirements for parking, water supply, sanitary sewer capacity, storm water management, bulk standards, and all reasonable site plan review, recreation, and design standards. However, the bill imposes one limitation on this grant of authority by providing that the height and setback limitations applicable to a converted mixed-use development will be the greatest height and least restrictive setback limitations allowed within the zoning district under municipal ordinance or variance approved by the planning board.