



MINUTES OF AN OFFICIAL MEETING

Regular Meeting of: Plan Commission

Date and Time: Monday, November 13, 2023, at 6:30 pm

Location: City Hall Council Chambers, 2000 North Calhoun Road, Brookfield WI

Members Present: Mayor Steven Ponto (Chairman), Alderman Gary Mahkorn, Alderman Mike Hallquist, Alderman Rick Owen, Commissioner Michael Franz, Commissioner Scott Thomas, Commissioner Austin Moore

Others Present: Director of Community Development Dan Ertl, Fire Chief Dave Mason, City Engineer Dan Erickson, Assistant City Attorney Julie Aquavia, Planning Administrator Richard VanDerWal, Associate Planner Emily Zandt, Alderman Blackburn

Members Absent/Excused: None

11/13/2023 - Minutes

1. Roll Call

Mayor Steven Ponto noted a quorum present and called the Plan Commission meeting to order at 6:31 pm.

2. Announcements

- a. The Next Regularly Scheduled meeting is December 11, 2023, 6:30 PM

3. Approval of Minutes

- a. Minutes of the October 9, 2023 meeting.

Motion by Alderman Gary Mahkorn, second by Alderman Mike Hallquist to approve the minutes of the October 9, 2023, Plan Commission meeting. Motion carried 7-0.

4. New Business

- a. Request of Alan Krug, 14770 Woodland Place, Brookfield, WI 53005 – Owner, for approval of a preliminary concept map and certified survey map to certify delineation of existing metes and bounds description of the property extents into a platted lot of record for the parcel at said address. (SE ¼ of Sec. 2) – RV **Requires Common Council Action**

Report:

1. The site consists of one parcel not located in a Targeted Investment Area (TIA), one of eleven areas identified in the City of Brookfield 2050 Comprehensive Plan (Comp Plan) that foster community reinvestment by supporting new economic development and sustainable, mixed-use redevelopment with sensitivity to surrounding neighborhoods. The adopted land use of the site in the Comp Plan is "Housing

Focused – Lower Density.” The site is zoned R-2 Residence District (Chapter 17.32). The existing and proposed continued use for a one-family dwelling and associated accessory structures is permitted by the zoning. The proposed preliminary concept map and certified survey map are consistent with the Comp Plan land use recommendations for the site.

2. Property owner’s application letter attests that he does not seek to alter any existing boundaries, nor to build any additional structures on the parcel. The preliminary concept map and certified survey map are sought to formally certify the boundaries of the property, converting a metes and bounds parcel description to a platted lot in the City.

3. Preliminary Concept Map Characteristics:

Zoning: R-2 Residence District (current)

Building Setback: existing 78.65 feet condition conforms to zoning min. 50 ft.

Building Offset: existing 22.07 feet condition conforms to zoning min. 20 ft.

Principal Building Height: existing 1.5 story building conforms to zoning max. 35 ft.

Accessory Building Height: no existing accessory building

Attached Garages: existing attached tuck-under garage conforms to zoning regulations (not higher than the principal building’s roof ridge, garage is consistent with the principal dwelling’s architecture and building materials as well as the character of the neighborhood)

Floor Area: existing approx. 2,358 sq.ft. 3 bedroom dwelling conforms to zoning min. 1,600 sq.ft. per family for 1 Bedroom, 2 Bedroom, and 3 Bedroom dwellings

Lot Size: 37,660.32 sq.ft. (0.8646 ac.) conforms to zoning min. 25,000 sq.ft. (0.57392 ac.)

Lot Width: 130 ft. minimum at the 50 ft. setback line conforms to zoning minimum 130 ft. at the 50 ft. setback line

Open space: 37,660.32 sq.ft. lot with one dwelling unit conforms to zoning min. 20,000 sq.ft. per dwelling unit

Maximum Lot Coverage: existing 2,575 sq.ft. combined principal building and attached garage conforms to zoning max. twenty (20) percent principal building; five percent accessory buildings, including attached garages (9,415.08 sq.ft. combined permitted).

4. Per Municipal Code (Code) definition of “land reconfiguration” (§16.04.020), the standards in §16.12.040.B. do not apply. Regardless, the preliminary concept map and certified survey map would conform as the land reconfiguration:

- adheres to the official map and the standards and requirements of the Code;
- does not result in the deterioration of any natural environment such as a wetland or floodplain (none exist on or adjacent to the property)
- size and width of lot, lot configuration, and consideration of impacts to subdivision’s public utilities or drainage do not apply (parcel is not within a subdivision)

5. The preliminary concept map and certified survey map conform to 16.16 Design Standards:

- No wetlands, drainageways, environmental corridors, conservancy areas, or open spaces apply (§16.16.010);

- Existing public street and driveway serve the property (§16.16.020.A.-K.);
- Block length does not exceed 1,300 feet nor have less than sufficient width to provide for two tiers of lots of appropriate depth between street lines (§16.16.040.A.);
- Pedestrian crosswalk through center of block would not provide circulation or access to schools, playgrounds, shopping centers, transportation, nor better facilitate the comprehensive plan for water and sewer utility services (§16.16.040.B.)
- Size, shape, and orientation of the lot conforms with zoning code and the comprehensive plan, has lot depth more than 130 feet measured from the street frontage with side lot lines radial to the right-of-way line of the street the lot faces, does not exceed depth to width proportion of two and one-half to one, ninety percent of the minimum lot area is at least two feet above the approximate high water elevation of any navigable waterway affecting the lot, eighty percent of the minimum lot area is at least three feet above the highest ground water level, building site conforms to drainage regulations and is not located in floodplain, lot fronts the public street which it derives primary access a minimum of 120 feet, does not create lots at right angles to each other, and lot is comprised of the minimal number of lot lines practical (§16.16.040.C.1.-12.).

6. No new easements are required for the lot to be platted (16.16.050.A.-D.). Preliminary concept map indicates an existing twelve (12) foot Wisconsin Electric Power Company and Wisconsin Telephone Company Easement runs the entire westerly property boundary. Certified survey map shall be amended to depict this easement per State Statute 236 and Chapter 16.16 of the Code.

7. Street yard landscaping requirements do not apply to the plat, nor does the lot abut a major or secondary street. A landscape plan is not required to approve the preliminary concept map.

Staff Recommendation for Preliminary Concept Map: The Plan Commission recommends the Common Council approve conditionally the preliminary concept map for one lot, property tax key BRC1016983, at 14770 Woodland Place, subject to:

1. Preliminary concept map dated October 9, 2023, by Jahnke & Jahnke Associates, LLC, subject to Engineering Division and City Attorney review and approval, including technical corrections and adjusting parcel boundary to exclude northly half of Woodland Place right-of-way.

Planning Administrator VanDerWal summarized the agenda item. Alan Krug, 14770 Woodland Place, was available for questions.

Motion by Alderman Gary Mahkorn, second by Alderman Rick Owen to approve Staff Recommendation to approve conditionally the preliminary concept map for one lot, property tax key BRC1016983, at 14770 Woodland Place. Motion carried 7-0.

Staff Recommendation for Certified Survey Map: The Plan Commission recommends the Common Council approve conditionally the certified survey map for one lot, property tax key BRC1016983, at 14770 Woodland Place, subject to:

1. Common Council adopting a resolution to approve conditionally the preliminary concept map per Plan Commission recommendation of conditions.
2. Certified survey map dated September 5, 2023, by Jahnke & Jahnke Associates, LLC, subject to Engineering Division and City Attorney review and approval, including technical corrections and depiction of easements of record.

Motion by Alderman Gary Mahkorn, second by Alderman Rick Owen to approve Staff Recommendation to approve conditionally the certified survey map for one lot, property tax key BRC1016983, at 14770 Woodland Place. Motion carried 7-0.

- b. Request of Everest Brookfield, LLC, 731 N Jackson Street, Suite 502, Milwaukee, WI 53202 and Twain GL IX, LLC, 2200 Washington Ave, St. Louis, MO 63105, for approval to amend the zoning of 375 S

Moorland Road (Tax Key BRC1141998002) to be Office and Limited Residential/Commercial District No. 2 with existing Modified Suburban Overlay District – Southern Brookfield Square Area Overlay zoning to remain, in association with proposed development on the north portion of the lot. (NE ¼ of Section 34) – EZ **Requires Common Council Action**

Report:

1. The site consists of one lot located within the Bluemound Road/I-94 Area Targeted Investment Area (TIA), one of eleven areas identified in the City of Brookfield 2050 Comprehensive Plan (Comp Plan) that foster community reinvestment by supporting new economic development and sustainable, mixed-use redevelopment with sensitivity to surrounding neighborhoods. The adopted neighborhood plan is the Calhoun Road South Neighborhood Plan – 2001 (Neighborhood Plan). The recommended land use of the Neighborhood Plan for the site is “Mixed Use”. The adopted land use of the Comp Plan is “Mixed Use – Higher Density”. The site is currently split-zoned “O&LR/C #2 Office & Limited Residential/Commercial #2 and B-3 Regional Business District” with a modified suburban overlay (MSO Ord. 2594-20 – Southern Brookfield Square Area Overlay) which established regulations and design standards for this area.

2. The applicant is seeking a rezoning of the site to the O&LR/C #2 district to bring the entire property into one zoning district, consistent with the properties to the north and west. The existing MSO District would continue to apply to this property as previously approved. The portion of the property that is zoned B-3 is only one of two remaining B-3 zoned properties within the Brookfield Square area from the era before the new zoning concepts were created. The other B-3 site is US Bank located along Moorland Road. Having consistent zoning in the area will aid in future development/redevelopment of the area.

3. The applicant is negotiating with the property owner (Twain GL IX, LLC Sheraton Hotel) to purchase the northern approximately 2 acres of the property for a financial services user and a first-to-Wisconsin restaurant. The applicant has filed a controlling interest in the property. See the conceptual site plan included in the packet.

4. §17.08.070.B.2.b.ii. of the Municipal Code requires property owners seeking a zoning amendment to submit:

ii. A written explanation of how the proposed rezoning complies with the City's comprehensive plan, including a general description of how the intended land use is in compliance with the comprehensive plan and citation to the comprehensive plan, neighborhood plan or other document incorporated into the comprehensive plan.

The applicant has submitted a letter of explanation, which is included in the application materials. The letter acknowledges the proposed land use and zoning is consistent with the Comprehensive Plan and neighborhood plan.

5. The proposed zoning amendment is consistent with the Comprehensive Plan. The Mixed Use Land Use Category is “intended for a carefully planned, deliberately designed mix of compatible uses within the same site, building, and/ or development, including housing, shopping, employment, and recreation uses, with a range of densities and formats depending on the subcategory and zoning.” The future project would be consistent with the requested zoning, however it may not be able to meet the objectives of a more robust density and residential uses. The higher-density designation calls for a Floor Area Ratio (FAR) of greater than 0.4 and/or greater than 6 dwelling units/acre, however existing sanitary sewer constraints limits the ability for additional residential units in this area without a sanitary sewer system upgrade. A parking deck would also be necessary to achieve a higher, fuller density.

6. The proposed zoning amendment is consistent with the Calhoun Road South Neighborhood Plan. The Neighborhood Plan states that the parcel “is encouraged to have added density through mixed use development approach combining hotel, conference, office, and restaurant uses” (pg. 69-70). The plan also calls for the use of structured parking, however, as previously mentioned, the intensity of the

proposed uses is limited on the existing sanitary sewer capacity. Existing surface parking on the property is anticipated to be sufficient for the project and the existing hotel will have sufficient remaining parking per the parking analysis that was submitted by the applicant.

7. The O&LR/C #2 District calls for mixed-use infill development. Permitted uses include:

1. Office. Those uses allowed as permitted uses in the office district;
2. Multiple-family dwellings;
3. Any retail or customer service uses allowed as a permitted use in the B-1 local business district;
4. Uses allowed in the B-3 regional district limited to shopping centers, hotels, theaters, and restaurants with outdoor seating not exceeding twenty-five (25) percent of the indoor seating capacity, excluding fast food and drive-thru. The location and operating hours for the outdoor seating and adequacy of parking will be subject to plan commission approval. Excluding kennels, animal hospice, animal hospital/clinic, veterinary hospital/clinic, emergency animal hospital/clinic and emergency veterinary hospital/clinic;
5. Parking structures;
6. Bus terminal, railroad passenger, or any other transportation terminal facility;
7. Mixed-use buildings.

Dimensional Standards are dictated by the MSO district that applies to the property. These can be found under Section II of Ordinance No 2594-20 attached.

8. A Neighborhood Information Meeting (NIM) was held on Monday, October 23, 2023 at 6:30pm in the Council Chambers, per code requirements. Representatives from the project team were in attendance as well as Aldermen Blackburn and Alderman Mallone. No members of the public attended the meeting. No comments regarding the proposed rezoning were received.

9. A public hearing for the rezoning request was held on November 7, 2023, per code requirements. Randy Roth, The Endeavour Corp, spoke on behalf of the project team. The applicant and Planning Staff answered questions from the Common Council. No members of the public spoke at the public hearing.

Staff Recommendation: The Plan Commission finds the requested zoning amendment consistent with the objectives and land use recommendations stated in the Neighborhood Plan and 2050 Comprehensive Plan and recommends that the Common Council approve an ordinance amending the zoning of lands at 375 S. Moorland Road, property tax key BR C1141998002, to the "O&LR/C No. 2" Office and Limited Residential/Commercial District No. 2, maintaining the existing Southern Brookfield Square Area Overlay District.

Associate Planner Zandt summarized the background and the request. Tracy Schroeder, Endeavour Corp, was in attendance and representing the request.

Alderman Mike Hallquist commented that, from his perspective, if the city allows this lower density proposal to move forward, he would argue the City needs to fulfill the housing and other objectives of the comprehensive plan by encouraging higher density development elsewhere in the Brookfield Square Mall area. However, he feels that the proposal follows the Comprehensive Plan enough that he will support it. Alderman Hallquist pointed out that he believes statutorily the City is obligated to make housing a priority in redevelopment opportunities.

Motion by Alderman Rick Owen, second by Alderman Mike Hallquist to approve staff recommendation to approve an ordinance amending the zoning of lands at 375 S. Moorland Road, property tax key BR C1141998002, to the "O&LR/C No. 2" Office and Limited Residential/Commercial District No. 2, maintaining the existing Southern Brookfield Square Area Overlay District. Motion carried 7-0.

- c. Request of Everest Brookfield, LLC, 731 N Jackson Street, Suite 502, Milwaukee, WI 53202 and Twain GL IX, LLC, 2200 Washington Ave, St. Louis, MO 63105, for approval of a preliminary concept map to

split 375 S Moorland Road (Tax Key BRC1141998002) into two lots via land reconfiguration resulting in the creation of one new lot of record, in association with proposed development on the northeast corner of the site at said address. (NE ¼ of Section 34) – EZ **Requires Common Council Action**

Report:

1. The site consists of one lot located within the Bluemound Road/I-94 Area Targeted Investment Area (TIA), one of eleven areas identified in the City of Brookfield 2050 Comprehensive Plan (Comp Plan) that foster community reinvestment by supporting new economic development and sustainable, mixed-use redevelopment with sensitivity to surrounding neighborhoods. The adopted neighborhood plan is the Calhoun Road South Neighborhood Plan – 2001 (Neighborhood Plan). The recommended land use of the Neighborhood Plan for the site is “Mixed Use”. The adopted land use of the Comp Plan is “Mixed Use – Higher Density”. The site is currently split-zoned “O&LR/C #2 Office & Limited Residential/Commercial #2 and B-3 Regional Business District” with a modified suburban overlay (MSO Ord. 2594-20 – Southern Brookfield Square Area Overlay) which established regulations and design standards for this area.
2. The applicant submitted a separate application to rezone the property to the O&LR/C #2 district to bring the entire property into one zoning district, consistent with the properties to the north and west. The existing MSO District would continue to apply to this property as previously approved. A neighborhood information meeting was held on October 23, 2023 and a Public Hearing before the Common Council was held on November 7, 2023.
3. The applicant is negotiating with the property owner (Twain GL IX, LLC Sheraton Hotel) to purchase the northern approximately 2 acres of the property for a financial services user and a first-to-Wisconsin restaurant. The applicant has filed a controlling interest in the property. See the conceptual site plan included in the packet.
4. Proposed Preliminary Concept Map Characteristics:
 - Lot 1
 - Lot Size: 397,766 sq. ft. (9.1314 acres) – Contains existing building (Sheraton Hotel) and associated parking
 - Lot 2
 - Lot Size: 92,659 sq. ft. (2.1272 acres) – Currently parking lot
5. The preliminary concept map and certified survey map conform to 16.16 Design Standards:
 - a. No wetlands, drainageways, environmental corridors, conservancy areas, or open spaces apply (§16.16.010);
 - b. The lot abuts a public street and takes access from the public street via a shared driveway and access easement and via an existing private street (Brookfield Square Dr.), created in compliance with Chapter 12.09, and with a proposed reciprocal access agreement (§16.16.020.A.-K.);
 - c. Block length does not exceed 1,300 feet nor have less than sufficient width to provide for two tiers of lots of appropriate depth between street lines (§16.16.040.A.); - Not Applicable.
 - d. Pedestrian crosswalk through center of block would not provide circulation or access to schools, playgrounds, shopping centers, transportation, nor better facilitate the comprehensive plan for water and sewer utility services (§16.16.040.B.)
 - e. Size, shape, and orientation of the lot conforms with zoning code and the comprehensive plan, has lot depth more than 130 feet measured from the street frontage with side lot lines radial to the right-of-way line of the street the lot faces, does not exceed depth to width proportion of two and one-half to

one, ninety percent of the minimum lot area is at least two feet above the approximate high water elevation of any navigable waterway affecting the lot, eighty percent of the minimum lot area is at least three feet above the highest ground water level, building site conforms to drainage regulations and is not located in floodplain, lot fronts the public street a minimum of 120 feet and derives access via a shared driveway with access easement and from an existing private street (Brookfield Square Drive), does not create lots at right angles to each other, and lot is comprised of the minimal number of lot lines practical, given the existing property boundaries and access easement along the west side of proposed Lot 2 (§16.16.040.C.1.-12.).

6. A proposed access easement is shown on the draft CSM (16.16.050.A.-D.). Proposed utility locations are shown on the Utility Plan. Final utility easement documents will be coordinated with the Engineering and Legal Departments.

7. Street yard landscaping requirements will be required as a part of the Plan and Method of Operation for the newly created lot. A landscape plan is not required to approve the preliminary concept map.

8. Municipal Code §16.12.040.B. enforces the following standards for land reconfigurations by certified survey maps (emphasis added):

- All land reconfigurations shall adhere to the official map and the standards and requirements set forth in this code;

- The land reconfiguration does not result in the deterioration of any natural environment such as a wetland or floodplain per an expert opinion procured and paid for by the subdivider if a wetland or floodplain exists on the parcel or is adjacent; and

- If the land reconfiguration lies within a subdivision the following also apply:

1. The land reconfiguration should be in relationship to the average size and width of existing lots in the subdivision. If the average size and width of the lots contained within the subdivision exceed current minimum dimensions required in the subdivision and zoning codes, this subsection supersedes those provisions; and

2. The land reconfiguration does not create a material and detrimental departure from the prevailing lot configuration of the subdivision; and

3. The land reconfiguration does not unfavorably impact the public utilities in the subdivision or create drainage problems.

9. The proposed land reconfiguration adheres to the official map and code. There is no wetland or floodplain on the property. The proposed land reconfiguration is not located within a subdivision.

10. The reconfiguration of the lot into two lots, with appropriate technical corrections made to the preliminary concept map, would achieve compliance with the "O&LR/C No. 2" Office and Limited Residential/Commercial #2 zoning district. It should be noted that if the separate request to rezone the property to the O&LR/C No. 2 district is not approved by the Common Council, the preliminary concept map should not be approved as it does not conform to existing zoning district boundary lines. A title report with copies of all exceptions has been submitted to the City of Brookfield Engineering Division for review.

11. Staff has reviewed the preliminary concept map and request and finds the following:

- It conforms with Sections 236.34 and 236.45, Wisconsin Statutes, the official map, and the comprehensive plan.

- Parking lots, different from parking structures, are not a permitted use by themselves in the O&LR/C #2 District. As such, a condition of approval has been added that a draft development agreement be completed prior to the execution/recording of the Certified Survey Map.

Staff Recommendation: The Plan Commission recommends the Common Council conditionally approve the preliminary concept map for 375 S. Moorland Road, reconfiguring one lot into two lots for the purpose of proposed commercial development, subject to the following conditions:

1. Common Council approval of the separate rezoning application for the property to the Office and Limited Residential/Commercial District No. 2.
2. A draft development agreement completed prior to the execution of the Certified Survey Map, subject to requirements of Engineering and the City Attorney and any technical corrections thereof.
3. The applicant making any technical corrections required by the Engineering Department to the Preliminary Concept Map dated February 20, 2023, by raSmith subject to Engineering Division review and approval.

If the Common Council does not approve the rezoning request for the property to the Office and Limited Residential/Commercial District No. 2, the Plan Commission recommends denial of the preliminary concept map application.

Associate Planner Zandt summarized the application. Tracy Schroeder, Endeavour Corp was available to answer questions.

Alderman Rick Owen pointed out that the architecture of the proposed building is conceptual at this point and that the Plan Commission will have the chance to review the design in the upcoming months with the Plan and Method of Operation application.

Motion by Alderman Mike Hallquist, second by Alderman Gary Mahkorn to approve staff recommendation to conditionally approve the preliminary concept map for 375 S. Moorland Road, reconfiguring one lot into two lots for the purpose of proposed commercial development, subject to items 1-3. Motion carried 7-0.

- d. Introduction of code amendments to Titles 16, Subdivisions, and 17, Zoning, regarding the minimum lot depth, size, open space and average width in certain areas of the City and the subdivision design variance standards – JA **Requires Common Council Action**

Report:

There are 4 residential subdivisions* that were platted between 1927 and 1929 whose lots are substandard in size and in other ways due to the City updating size requirements and other zoning regulations starting in at least 1954 with the City's Incorporation. Current City regulations require these lots to be combined in order for an individual to build a home on them as authorized by Chapter 17.128. In some instances, properties have been combined and in others homes have been built over lot lines of lots owned in common over the years in these subdivisions.

In 2017 the Legislature enacted what is commonly known as the "Property owner's bill of rights". 2017 Wisconsin Act 67, effective November 29, 2017. There are several provisions within the Act that affect the use of these substandard lots. As relevant to this memo and proposals:

- The first change prohibits municipalities from enacting or enforcing ordinances preventing development of "substandard lots". §66.10015(1)(e) and (2)(e), Stats. A substandard lot is now considered developable if, when it was created, it met applicable lot size requirements per the definition at §66.10015(1)(e), Stats., and it meets both of the following:

- the lot has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel; and
- the lot is developed to comply with all other ordinances of the political subdivision. §66.10051(2)(e), Stats.
- The second change prohibits a municipality from enacting or enforcing an ordinance or take action that requires one or more lots to be merged with another, for any purpose, without the consent of the lot owners. §66.10015(4), Stats.

As a result of this legislation, people's interest in living in Brookfield, and the limited amount of vacant residential lots in the City, the Planning and Zoning staffs have been fielding more and more requests about combining these lots, building on these lots, or selling portions of these lots to adjacent property owners.

Currently new parcels require a 130' depth minimum and conformance to the zoning district size regulations. Section 16.16.040.C. 1. And 2. Based on the amount of land available in these old subdivisions and depth it is difficult, if not impossible to reconfigure or combine lots to meet current standards, if the owner wishes to do so. These subdivisions are all zoned R-3 (§17.36

The City recently received variance requests associated with reconfiguration applications in one of these subdivisions. After working through the current variance process, it appears that it may never provide relief for property owners in these areas as intended, therefore we believe code changes are warranted.

Because our Code requires combining lots that is a requirement that is no longer authorized and it is difficult to combine lots if an owner wanted to in these specific subdivisions, Planning and Legal staffs recommend updating our Code to provide exceptions to certain requirements for specific subdivisions that long predate the City's existence and/ or make it easier to obtain a variance.

** Blue Mound Park Estates, Columbia the Gem of Bluemound Rd., Greenfield Heights Estates, and Kinsey's Garvendale (and 4 continuations). Linfield Crossing is a re-plat of a portion of Fourth Continuation of Kinsey's Garvendale and will be included in the proposed changes.*

The proposed schedule for these changes, if the Plan Commission agrees with the proposal, is to hold the Public Hearing on December 5 and action by the Common Council on December 19. (Changes to both the subdivision code and zoning require public hearings preceded by class 2 notice).

Proposed language is as follows:

16.16.040 Block and lot layout.

C. Lots in General must meet the following standards, except as provided here:.

1. The size, shape and orientation of lots shall be in conformance with the zoning code and the comprehensive plan.
2. No lot, including lots on a cul-de-sac, shall have lot depth of less than 1310 feet measured from the street frontage. In the case of corner lots, the minimum lot depth shall be measured from the narrowest street frontage. Side lot lines shall be approximately at right angles or radial to the right- of-way line of the street or cul-de-sac on which the lot faces.

D. Land reconfigurations do not have to comply with C.1., and 7., if they are located within the Bluemound Park Estates; Columbia Gardens the Gem of Bluemound Rd; Greenfield Heights Estates; Kinsey's Garvendale, or Linfield Crossing subdivisions including any plat additions.

16.16.060 Landscaping requirements.

A. Findings. The Common Council hereby finds that street-yard landscaping of all new residential subdivisions and land reconfigurations which abut upon major or secondary streets is for the good of the public health and safety and, therefore, is an improvement required from the subdivider except for land reconfigurations within the Bluemound Park Estates; Columbia the Gem of the Bluemound Rd.; Greenfield Heights Estates; Kinsey's Garvendale, or Linfield Crossing subdivisions, including any plat additions.

16.16.070 Variances.

A. The Common Council may grant variances from the provisions of this chapter if the subdivider proves by substantial evidence that strict compliance with the provisions of this chapter would render conformity an unnecessary hardship, a variance allows a public purpose to be achieved, or as otherwise provided here A public purpose is defined as achieving an objective, policy, program or initiative in the Comprehensive Plan. A variance from the provisions of Section 16.16.040(C)(7) for properties in zoned village area business district (Chapter 17.50) may be granted upon a showing of no economic viability.

B. Variance requests shall be filed along with the application for a preliminary plat or preliminary concept map. It is the applicant's responsibility to provide support for its request. The Plan Commission shall afford the subdivider and the City a hearing to present evidence to the Commission to determine the aforementioned factors and shall render findings of fact, conclusions of law, and a recommendation to the Common Council on the matter within 45 days after the conclusion of the hearing. The Common Council shall determine whether to grant or deny the variance request. The Council's decision shall be put in writing and the Community Development Department shall send a copy of the Council's decision to the applicant's last-known mailing address. Any person aggrieved by the Common Council's decision may seek certiorari review within 30 days of the final determination. For the purposes of this chapter, pursuant to Section 68.16, Wisconsin Statutes, the City of Brookfield is specifically electing not to be governed by Chapter 68, Wisconsin Statutes.

17.36.040 Area regulations.

B. Lot Size.

2. Minimum width: one hundred thirty (130) feet at the fifty (50) foot setback line unless created before August 15, 1989, then 120 feet or 75 feet for land reconfigurations within the Bluemound Park Estates; Columbia Gardens, the Gem of the Bluemound Road; Greenfield Heights Estates; Kinsey's Garvendale or Linfield Crossing subdivisions including any plat additions.

D. Maximum lot coverage: twenty (20) percent principal building; five percent accessory buildings, including attached garages. For land reconfigurations within the Bluemound Park Estates; Columbia Gardens, the Gem of the Bluemound Road; Greenfield Heights Estates; Kinsey's Garvendale or Linfield Crossing subdivisions including any plat additions the maximum is 25% principal building and five percent accessory buildings unless it is a single-story building then the maximum is 40%.

Assistant City Attorney Aquavia summarized the proposed code amendments. Director Ertl stated if we have received an application, perhaps time is of the essence and the Plan Commission could allow action by the Common Council on the night of the public hearing. Staff commented that there are some technical corrections that need to be made prior to the public hearing.

Alderman Rick Owen confirmed that the intent of the text amendment is not to allow tiny homes to be built on small lots, but to allow lot reconfigurations and residential development that fit the existing established neighborhood. Staff stated yes, except that Act 67 allows homes on existing lots.

Alderman Mike Hallquist requested a list of the technical corrections be available at the public hearing so that it is clear what is modified between the Plan Commission meeting and the Public Hearing. Staff

agreed this would be helpful and improve transparency. Alderman Hallquist commented that we should also consider other areas in the City that may benefit from exceptions like those being proposed, such as the Village area, and that this amendment does not necessarily enable the combination of several lots in this area to be used as "estate lots".

Motion by Citizen Commissioner Austin Moore, second by Alderman Rick Owen to approve staff recommendation supporting the proposed amendments to Chapter 16 & 17 (with necessary technical corrections), scheduling a public hearing on the text amendments, and allowing action by the Common council at the same meeting. Any corrections should be highlighted in a memo for the Common Council to review the night of the public hearing.

- e. Recommendation regarding amendments to Chapter 17.82 Northeast Industrial District to add "parking lots for a period not to exceed 5 years", an exception to the Site Development and Landscape Standards for said parking lots, and technical corrections. – EZ ** Requires Common Council action**

Report:

Previously Reported:

The Northeast Industrial District, located immediately west of N 124th Street, north of Lisbon Road, and south of the City's border with the Village of Butler, is the oldest industrial area in the city. Much of the district is made up of small parcel sizes which will likely require reconfiguration (combination) for larger scale redevelopment in the near future. The Current City Code is more appropriate for suburban industrial development and lacks some of the flexibility needed to accommodate redevelopment in this area. An update to the 124th Street and Lisbon Road Neighborhood Plan is needed in the near future. However, to aid in the combination and redevelopment of properties today, Community Development staff are proposing a text amendment in the Northeast Industrial District only. The proposed language of Section 17.82.070 Site Development Standards is:

A. The Site development standards for nonresidential uses as regulated by Chapter 17.100 shall apply to all properties in this district, except as identified below:

1. Parking lots for a period not to exceed five (5) years under 17.82.010 (26). As part of a phased plan for the redevelopment of contiguous properties, parking lots may be exempted from the full requirements of the Site Development Standards and from Title 17.100.122 Landscaping, subject to approval by the Plan Commission.

While making amendments to Section 17.82, the City Attorney's office also recommends a series of amendments to clean-up the code. The proposed language is shown below:

1. General and clerical offices;
2. Professional offices;
3. Research laboratories;
4. Schools and training centers;
5. Storing, cleaning, testing, repairing or servicing establishments as determined by operations conforming with performance standards set forth in this title;
6. Light industrial plants such as required for production of millwork, machine tools, paper containers, patterns, die castings, light metal fabrication and similar small industries;
7. Radio, television and electronics assembly, but not within five hundred (500) feet of any residential district;

8. Printing, lithographing, blueprinting and photocopying establishments, including retail sales;
9. Wholesalers and distributors;
10. Food and milk processing and soft drinks bottling plants;
11. Dry cleaning and dyeing establishments, including retail laundry services;
12. Restaurants dine-in without drive-up or drive-through service;
13. Automobile car washes;
14. Automobile service stations with accessory retail sales not including automobile sales subject to the regulations set forth in Chapter 17.60;
15. Automobile and truck rental or leasing;
16. Auto parts sales, except not including auto salvage yards or operations;
17. Building supply store or warehouse;
18. Office supply store or warehouse;
19. Landscaping services;
20. Plant nursery;
21. An adult-oriented establishment, as defined and regulated in Chapters 5.04 and 17.132;
22. Parking structures;
23. Animal hospice, animal shelter, animal rescue and humane society;
24. Retail sales and service as an ancillary use to the primary permitted use;
25. Religious uses. (Ord. 2792-22 § 1, 2022; Ord. 2606-20 § 24, 2020; Ord. 2284-12 § 1 (part), 2012)
26. Parking lots for a period not to exceed five (5) years;
27. Motels and hotels.

Newly Reported:

At the September 11, 2023 Plan Commission meeting, the Plan Commission requested that Staff identify other examples of where the proposed zoning code change might be applied within the Northeast Industrial District. Staff identified two examples.

The Plan Commission also asked if there are other zoning districts to which this code amendment should be applied. Staff is of the opinion that the Northeast Industrial District is most prime for phased redevelopment and the provision should not be added to other districts at this time.

Staff Recommendation: The Plan Commission should discuss the proposed text amendment and

provide direction to the staff regarding any modifications the Commission recommends.

Staff recommends that the Plan Commission directs the Department of Community Development to schedule a public hearing regarding the request and for approval of the text amendment. It is also recommended that the Mayor directs the Common Council agenda be scheduled for action on the proposed amendments the night of the public hearing.

Alderman Mike Hallquist asked if there are other areas of the city that would benefit from a provision such as this. Associate Planner Zandt commented that the Northeast Industrial District is the most prime for property consolidation and redevelopment and the amendments are not proposed for any other districts at this time, although the Plan Commission and Common Council could consider that in the future.

Alderman Hallquist commented that he does have some concern that property owners may try to use this provision as a loophole or as a way to avoid meeting the full requirements of Site Development and Landscape Standards permanently. Associate Planner Zandt commented that the 5-year time frame was proposed to make certain applicants understand the provision cannot be used to create a permanent condition.

Motion by Alderman Gary Mahkorn, second by Alderman Mike Hallquist to approve staff recommendation directing the Department of Community Development to schedule a public hearing regarding the request and for approval of the text amendment, and that the Mayor directs the Common Council agenda be scheduled for action on the proposed amendments the night of the public hearing. Motion carried 7-0.

- f. Brookfield Road and Capitol Drive Neighborhood Plan Update – Status of planning effort and discussion and feedback from the Plan Commission on priorities identified for the Neighborhood Plan update - RV

Report:

This report intends to update the Plan Commission on the Brookfield Road and Capitol Drive Node Neighborhood Plan. The following priorities were identified at the April 10th Plan Commission meeting. An update to each priority is identified below.

1. Study potential pedestrian infrastructure alternatives to improve connectivity across Capitol Drive and Brookfield Road-High Priority.

The Department of Community Development (CD) began communication with the Wisconsin Department of Transportation (WisDOT) on July 17th, 2023, about the planned Capitol Drive resurfacing project and potential improvements planned for summer of 2025. Staff began email correspondence with Dan Sellers, Communications Manager for this project on September 15, 2023. Dan Sellers confirmed that there will be no new or added infrastructure as part of the project. Existing curb ramps at the Brookfield Road and Capitol Drive intersection will be updated to meet current ADA compliance. The project's final design and draft plans are near completion and WisDOT will be looking forward to the City of Brookfield's input. See Attachment 1, WisDOT Correspondence with Dan Sellers.

On October 2nd, CD staff began email correspondence with Natalie Schneider, Special Projects Project Manager at the City of Brookfield. She confirmed that there are no proposed plans to add a pedestrian crosswalk across Brookfield Road at Fresno Road. A crosswalk across Brookfield Road was added at Thomson Drive at the request of residents seeking to cross at Ventura Circle. Natalie Schneider said a crosswalk could be added if pedestrian and bicycle traffic volume were to warrant a crosswalk. Such crosswalk would need to consider median modifications, the current 5-lane road width, and proximity to Capitol Drive intersection. See Attachment 2, Engineering Correspondence re: Potential Crosswalks, for the email correspondence.

2. Determine potential vehicular and pedestrian improvements for internal pedestrian circulation and flow between destinations within Sendik's Towne Centre-High Priority

Additionally, staff identified existing pedestrian connections and potential pedestrian linkages in Attachment 4, the Pedestrian & Trail Linkages map. Additional sidewalks and crosswalks may be needed to encourage walkability throughout the center. These connections include clearly identified crosswalks through parking lots and adding ADA accessible curb cuts. Potential linkages are based on an active Towne Centre in the future with few vacancies.

3. Discuss multimodal options and long-term planning efforts for Capitol Drive with SEWRPC and WisDOT-Low Priority

According to 2050 Vision developed by SEWRPC, there are no planned multimodal improvements.

Dan Sellers, Communications Manager at WisDOT, confirmed via email that there are no plans for additional multimodal improvements to Capitol Drive. Existing stormwater and sewage infrastructure will remain. Stormwater inlets will be repaired and replaced as needed. See Attachment 1. WisDOT Correspondence with Dan Sellers

4. Explore expanded off street multi-use path opportunities to connect to the Greenway Corridor Trail System-Low Priority

CD staff discussed with John Kelliher, Director of Parks, Recreation & Forestry, about possible connections with the Greenway Trail System into the node. Kelliher confirmed that there are no additional improvements currently planned for the plan area. CD staff identified potential options for trail connections between Mitchell Park Drive and Sendik's Towne Centre in Attachment 4, Pedestrian & Trail Linkages Map. Option A connects Mitchell Park Drive and Richland Parkway by a trail through the Vincent Park wetlands. This trail option would allow users to avoid Capitol Drive when heading toward Mitchell Park, allow users coming from the park to have a more scenic entry into Sendik's Towne Center, and does not send users through the neighborhoods to the east. Option B connects Mitchell Park Drive to Legend Court of the Vincent Park subdivision south of Sendik's Towne Center. This trail option shortens the overall traversal through the wetlands for less impact and cost, while still providing a more direct connection between Sendik's Towne Center and the park through Richland Parkway. Option C makes use of an existing easement and path connected to Summerhill Court, located in the Vincent Park subdivision just south of Legend Court. This trail option has no wetland impacts and still provides connection to Sendik's Towne Center via Richland Parkway, though it is also the least direct route and connects to a path for parking lot access instead of Mitchell Park Drive. Kelliher and CD staff agree that the preferred trail connection should justify its cost based on expected use and benefit, while also minimizing impacts to the wetlands and neighboring residents. Therefore, option C is the preferred option for enhancing connectivity for trail users from Mitchell Park to Sendik's Towne Center as it:

- uses an existing path connection into the neighborhoods,
- does not involve any fill or construction activity in the wetlands,
- is the shortest, most cost-effective connection,
- and is the most convenient access for the immediate neighborhoods to the east who are likely to be the most frequent users.

Staff also identified potential sites for bike parking within Sendik's Towne center to support bike traffic. See Attachment 4. Pedestrian & Trail Linkages map.

5. Ensure stormwater is being adequately managed to address current issues while preparing for future needs of the node-Low Priority

CD staff began email correspondence with Theresa Caven, Stormwater Project Engineer for the City of Brookfield in 2022. In Attachment 5, Theresa Caven summarized in the February 15th, 2022, memo titled "Brookfield Rd and Capitol Dr Neighborhood Stormwater Management Scope", that the area is not

subject to frequent flooding. However, Theresa Caven noted “the City should always snap up any opportunity to install or modify our infrastructure in an effort to meet the City’s Federally permitted requirements for TSS (Total Suspended Solids), Bacteria and Tp (total phosphorous) removal.” In a July 2023 email thread in Attachment 6, Stormwater Correspondence with Theresa Caven, Theresa Caven noted “resurfacing work is exempt from all Wisconsin DNR stormwater quantity and quality requirements” and would likely not be included in any upcoming roadwork on WIS-190/Capitol Drive. Any new development within the node will need to evaluate existing onsite stormwater capacity to determine if additional stormwater infrastructure is needed.

6. Identify capacities and appropriate parcels for residential development/redevelopment within the node-High Priority

Staff developed diagrams of potential addition of 65 dwelling units that could be developed within the plan area. These diagrams were sent to be reviewed by the Engineering Department on September 29, 2023. A meeting between the planning staff and the engineering department on October 13th concluded that flow monitoring of the main interceptor would be needed to develop an accurate assessment of sewer capacity once the plan concepts are adopted by the Plan Commission and Council. CD staff will follow-up with PC based upon the findings from the Engineering Department regarding any sanitary sewer capacity issues with the recommended 65 additional units. If no capacity issues exist, the plan would advocate the recommended 65 units. If capacity issues exist, then options will be proposed and the plan would be amended, or capacity issues will need to be considered by separate actions by city committees and the Council.

CD staff completed a preliminary analysis of current parking requirements within Towne Centre. The analysis calculated a requirement of 1,150 stalls for the existing and assumed uses within the center. There are currently 1100 parking stalls onsite, an overall deficit of 50 parking stalls. However, the current code requirements do not consider the mixed-use nature of the development, which may allow for parking to be shared by several businesses based on their peak traffic times. Visual observation indicates that there is more than sufficient parking within the center for current uses.

Staff considered the impact of an additional 65 residential units on parking supply in the node. According to parking regulations for the M-2 Residence District in sec. 17.48.050 of the zoning code, “One parking space shall be provided for each bedroom per unit. One such space required per unit shall be in an enclosed garage. In addition, one-half parking space per unit shall be provided for visitor and service parking.” Presently, buildings E, F, and J as illustrated in Attachment 8, Potential Residential Diagrams, all have underground parking that could be allocated toward the enclosed space requirement. Further, the residential use would replace the office use, allowing the required office parking to be used to meet the residential requirements. See Attachment 3, Sendik’s Towne Centre Parking Analysis Memo, for a detailed description of the analysis.

7. Identify future land uses for properties that are underperforming or could need repositioning- High Priority

On August 16, 2023, staff began email correspondence with management of Sendiks Towne Centre about the possibility of adding residential within the Centre. Bill Prendergast, Principal at Integrated Properties responded and said that management has floated the idea in the past but received negative feedback from neighbors. He believes they are past that now. They are interested in restarting the conversation. See Attachment 7. Integrated Properties Correspondence with Bill Prendergast, Principal, re: Potential Residential.

The vacant parcel on the south side of W Capitol Drive, east of Brookfield Road is currently zoned Office. Based on a lack of interest for development with the existing zoning and the support voiced by neighbors for additional multi-family development consistent with the current St. Andrews Square development, staff identifies a rezoning to the M-2 Residence District as appropriate. This rezoning would also require a public hearing and a Neighborhood Information Meeting prior to execution.

Staff also identified vacant parcels that could be positioned for residential development in the core of

Towne Centre and near St. Andrews Square, off W. Capitol Drive. See Attachment 8, Potential Residential Diagrams. More investigations into this topic will be completed once sewer capacity is determined.

The businesses and uses on the north side of Capitol Drive in the node are not currently underperforming. However, it is still important to establish an acceptable range of potential re-use for these sites in the plan. CD staff discussed the degree of flexibility for repositioning of these sites and determined the following:

- The density of redevelopment should be less than the density of Sendik's Towne Center.
 - Residential would be limited to 6 du/ac or less but could still support a range of housing types, including single family dwellings through fourplexes with the variety of arrangements in-between, including live-work options.
 - Commercial redevelopment could be a mix of local and regional service, retail, office, and institutional uses, but the plan would not encourage high density development of these uses.
- The uses and architecture of redevelopment should be compatible with development on the south side of Capitol Drive in the node to maintain overall resiliency and character.

The Plan Commission should give direction to staff if more detailed development scenarios and alternatives for these properties are sought by the Commission. Absent specific alternatives, CD staff would proceed with the baseline vetting of the above density and land use assumptions for the area north of Capitol Drive with Engineering, Public Works, Fire Department, and Parks, Recreation & Forestry to ensure the plan aligns with long-term expectations of quality for City infrastructure, amenities, and services.

8. Formulate strategies and expected outcomes for adaptive re-use to mitigate office/retail vacancies-High Priority

Staff identified sites within the plan area for adaptive re-use of second floor office and retail vacancies within Towne Centre. See Attachment 8, Potential Residential Diagrams for conceptual floorplans of adaptive re-use of existing floorspace. Diagrams were sent to Dan Erickson, City Engineer, and the Engineering Department to determine if additional residential development could be accommodated with the existing sanitary sewer infrastructure.

9. Evaluate current regulations and identify potential zoning amendments that would facilitate continued investment within Sendik's Towne Centre-Low Priority

The existing Sendik's Towne Centre Planned Development District does permit residential use beyond the existing multi-family buildings on the south side of the site. A PDD amendment would be required to add residential as a permitted use across the site. This would require a public hearing as well as a Neighborhood Information Meeting. Discussions need to take place related to where residential is appropriate on the site and what limitations need to be set. This amendment may be required to accommodate the market realities of developing a multi-family residential development.

10. Explore opportunities to enhance public oriented active and passive programming and associated design enhancements-High Priority

CD staff have identified the vacant area near the center of the Towne Centre as a potential target site for privately developed and managed public space. If residential development is added to the vacant area in Towne Centre, an opportunity may exist for additional public space abutting a new residential building to activate a portion of the now vacant area. Opportunities exist to enhance public space behind building J and around the adjacent wetland area. More discussion is needed with property management about potential design enhancements throughout Towne Centre such as public benches and picnic tables. CD staff believe small additions such as more seating, attractive design elements and

landscaping will have a significant impact on the hospitality of existing public spaces throughout Towne Centre. Amendments to the PDD may be needed. See Attachment 9, Public Space at Towne Centre for design concepts for public space amenities.

11. Conduct outreach with property owners, management, and residents, including Sendik's Grocery Store, to ensure continued business opportunities and success-High Priority

In July, staff developed a survey and began reaching out to business owners within Towne Centre.

Business owners discussed a variety of concerns and comments. Many worried that vacancies within the center contribute to declining perception. Business owners agreed there needs to be more activity within the Towne Centre but disagreed about the best way to make that happen. Some owners advocated for more retail business, others for more businesses aimed for families with young children.

Some want more restaurants, while others rejected this idea for fear it might take business away from the food businesses that already exist. Staff will continue to reach out to businesses that have not yet responded to the survey. See Attachment 10, Towne Centre Business Survey Summary & Questions for a copy of the business survey. See Attachment 11, Towne Centre Business Survey Responses for summaries of business owners' responses.

12. Identify opportunities for streetscape improvements along Brookfield Road and Capitol Drive-Low Priority

Staff continue to identify opportunities for streetscape improvements along Brookfield Road and Capitol Drive. The existing plan addresses increasing landscaping as natural buffering between Sendik's Towne Centre and Brookfield Road as well as Towne Centre and Capitol Drive. As improvements are made, we must continue to bring landscaping into conformance with site standards, specifically tree frontage on Capitol Drive and Brookfield Road. Those improvements will be more detailed and shared when the other site and access strategies become realized.

NEXT STEPS

CD staff recommend the Plan Commission review the provided materials and provide comments as deemed necessary for City staff to continue drafting the neighborhood plan. Specifically, staff would like the Plan Commission to provide:

- Direction on the need for more detailed development scenario alternatives for sites on the north side of Capitol Drive.
- Any further information or alternatives the Plan Commission would like to have included in the plan.

Associate Planner Zandt and Planning Administrator VanDerWal thanked Community Development Intern Khari Bell for his work on the plan update and on preparing the summary and commented on the highlights of the memo.

Planning Administrator VanDerWal highlighted the items on which staff is seeking input from the Plan Commission, commenting that input may lengthen the anticipated timeline for adoption of the plan update.

Alderman Mike Hallquist agrees with staff on the northside of Capitol Drive, that a broader brush stroke can be used for this area given the existing thriving businesses. Alderman Hallquist supports allowing residential use/development in the northeast pad site of the office area located on the west side of Richland Parkway, south of Capitol Drive.

Alderman Hallquist expressed an overall concern with setting policy based on existing sanitary sewer infrastructure challenges, and that concrete numbers are needed to appropriately plan for the future of the City.

Director Ertl provided background on the sanitary sewer limitations that the City is currently experiencing. If the Plan Commission is recommending staff explore adding more than 65 housing units in this area, the larger study on the Fox River Treatment Plant needs to be completed prior to making that recommendation.

Alderman Hallquist reiterated that he does not want a situation where we are allowing existing infrastructure to drive land use planning or a situation where more units could be accommodated in this area, but the plan has limited future residential development to 65 units. The plan should be open enough to support additional residential in the future if it can be accommodated in the future.

Alderman Hallquist also commented on the poor condition of the pavement within Sendik's Towne Centre and the traffic existing traffic pattern as a concern. He stated that there may be room for additional development between existing buildings that are not identified within the plan.

Citizen Member Mike Franz commented on developing residential in the office area west of Richland Parkway, stating that residential development on just one site does not seem like a likely scenario but if that whole area was rezoned to allow for redevelopment, the demand may present itself in the future. Infrastructure could then be brought in to support said development. Member Franz also stated that he agrees that the Sendik's Towne Centre is overparked and that the design is not conducive to pedestrians. Residential/mixed use development should be encouraged in this area.

Citizen Member Scott Thomas provided additional comments that focus should be put on Sendik's Towne Centre as he believes the nearby uses are more ancillary will see spin off development and improvements from improvements made to the Centre.

Alderman Rick Owen commented that what was presented (in terms of residential) is incredibly logical in terms of volume and amount. Alderman Owen confirmed with staff that the residents of St. Andrews were supportive of an extension of the condominium development to the north on the vacant parcel. Alderman Owen recognized the value in adding pedestrians connections, however he does not support adding crosswalks in a location that will be unsafe for the pedestrians.

Staff will continue to aim for plan adoption in April, but there may be caveats included that may require plan amendments once the conclusion/solution for the sanitary sewer capacity issue is determined.

5. Adjournment

Motion by Alderman Mike Hallquist, second by Citizen Member Scott Thomas, to adjourn the meeting at 8:15pm. Motion carried unanimously.

Respectfully Submitted: Daniel F. Ertl - Director of Community Development