

ORDINANCE NO. 2101-07
by the Plan Commission

ORDINANCE CREATING A NEW MIXED USE ZONING DISTRICT- THE “OFFICE AND LIMITED RESIDENTIAL/COMMERCIAL DISTRICT NO. 3 (O&LR/C NO. 3)” - WITHIN THE ZONING CODE TO APPLY TO CERTAIN LANDS LOCATED IN THE 124TH STREET AND BLUEMOUND ROAD NEIGHBORHOOD PLAN

WHEREAS, the City of Brookfield Common Council adopted the *124th Street and Bluemound Road Neighborhood Plan* on February 6, 2007, (Resolution No. 7686-07), which identified the need for significant zoning changes in several parts of the neighborhood; and

WHEREAS, that planning effort was part of implementing the City Master Plan adopted on December 7, 1999, (Resolution No. 6469), that characterized the neighborhood as a “Targeted Intervention Area” or “node”; and

WHEREAS, the Plan Commission introduced an amendment to the City Zoning Code that the Commission deemed necessary to implement the Neighborhood Plan shortly after Council approval of the Plan; and

WHEREAS, this amendment received a properly noticed Public Hearing on May 1, 2007, before the Common Council, and a recommendation to the Council by the Plan Commission on May 7, 2007; and

WHEREAS, amendments also were the topic of an informational meeting on April 23, 2007, to which directly affected property owners or representatives of such owners had the opportunity to meet with City staff; and

WHEREAS, the amendment adopted by this Ordinance appears needed and appropriate to achieve implementation of the Neighborhood Plan, as an element of the City Master Plan.

NOW, THEREFORE, the Common Council of the City of Brookfield does ordain a new zoning district called the “Office and Limited Residential/Commercial District No. 3 (O&LR/C No. 3)” is hereby created within the City of Brookfield Zoning Ordinance as follows:

PART I: Chapter 17.75 “Office and Limited Residential/Commercial District No. 3 (O&LR/C No. 3)” is created by adding the following to Title 17 of the municipal code:

Chapter 17.75 OFFICE AND LIMITED RESIDENTIAL/COMMERCIAL DISTRICT NO. 3

Sections:

- 17.75.010 Purpose.
- 17.75.020 Permitted uses.
- 17.75.030 General restrictions.
- 17.75.040 Layout and dimensional standards.
- 17.75.050 Area regulations.
- 17.75.060 Aesthetics and details.

17.75.010 Purpose.

The Office and Limited Residential/Commercial District No. 3 (O&LR/C No. 3) is intended to encourage and promote a well-planned mixed-use environment with commercial, mixed-use, and residential components. A portion of the district should be designed to include mixed-use buildings with commercial and residential uses layered vertically. A specific goal is to encourage efficient land use by facilitating developments that minimize the amount of land needed for surface parking through the use of underground parking while at the same time acknowledging the existence of bedrock close to existing land surface grades in the district. A safe, comfortable and attractive environment is desired for pedestrians, bicyclists, patrons and residents. This goal would also be enhanced with designs that locate land uses in close proximity to each other in order to promote a pedestrian focused environment. This section will implement the preferences for the *124th Street and Bluemound Road Neighborhood Plan* (neighborhood plan), an update to the city master plan.

17.75.020 Permitted uses.

The following land uses shall be permitted within the Office and Limited Residential/Commercial District No. 3 (O&LR/C No. 3) – *124th Street and Bluemound Road Neighborhood Plan* area (12501 through 12935 Bluemound Road).

- A. Permitted uses, subject to all approvals and conditions required by Chapter 17.100 of this Code and the provisions of this district.
1. Commercial. Property generally located to a depth of 300 south of the center line of Bluemound Road beginning at the easterly right-of-way of Columbia Boulevard and continuing easterly to a point 250 feet east thereof. Also property generally located to a depth of 500 feet south of the center line of Bluemound Road beginning at a point 250 feet east of the easterly right-of-way line of Columbia Boulevard and continuing easterly to the South Branch of the Underwood Creek.
 - a. “B-3” Regional Business, excluding fast food with drive-thrus, hotels, motels, theaters, auto service uses, animal hospitals and kennels, and wholesale establishments.
 - b. Office uses only permitted above first-floor retail or on the first floor when incidental to a retail business. Retail service uses are also permitted above the first floor.
 - c. Buildings containing the above uses must be a minimum of two (2) stories in height, unless otherwise approved by the Plan Commission. The plan commission shall make a written determination that such approval is consistent with the intent of the neighborhood plan.
 - d. A building containing a single permitted use shall not exceed 70,000 square feet for a one-story building, if the plan commission approves a one-story building, or 100,000 square feet for a two-story building.
 2. Mixed-Use. Properties located south of the “Commercial” uses and north of the “Residential” uses as described within this section.

- a. “B-1” Local Business, excluding taverns within 200 feet of the easterly line of the dedicated right-of-way of Columbia Boulevard.
 - b. First floor retail is preferred.
 - c. First floor office and retail service uses are permitted.
 - d. Residential uses are preferred above the first floor. More than one (1) residential unit is allowed per one (1) commercial tenant in a building.
 - e. Office and retail service uses are permitted above the first floor.
 - f. Buildings containing the above uses must be a minimum of two (2) stories, unless otherwise approved by the Plan Commission. The plan commission shall make a written determination that such approval is consistent with the intent of the neighborhood plan.
3. Residential. Multiple-family dwellings shall be generally located in the western and southern portions of the district, or more specifically, east of a landscaped berm (with an average depth of approximately 75 feet and beginning at the south right-of-way line of Kent Avenue extended and extending south approximately 810 feet) located along the easterly right-of-way of Columbia Boulevard existing at the time of the enactment of this district and north property boundary of Krueger Park to the southern boundary of the Mixed –Use as described in this section.
 4. Gateway. A gateway feature, including but not limited to a water element, is intended to be located at the southwest corner of the 124th Street (extended) and Bluemound Road intersection. This use would be initiated under the review of a plan and method of operation (Section 17.100 of this code) for property located at 12501-05 West Bluemound Road (tax key number 1108-114) or other adjacent property under the provisions of subsection 17.75.050 B. 7 of this section.

17.75.030 General restrictions.

A. Written Determination: When reviewing and approving or advising on requests for zoning or development approvals, the plan commission shall make written determinations that the proposed development is consistent with the goal/vision identified in neighborhood plan.

B. Placement, Density, and Design: The provisions identified in the neighborhood plan are incorporated herein by reference and shall serve as guidelines for the placement and design of new development within this District. Generally, these call for infill mixed-use development with horizontal mixing and vertical layering of residential, office and ground level retail uses. The neighborhood plan includes a provision for the placement of a retail anchor within this district not exceeding the floor area maximums as listed. The development pattern is intended to provide coordinated site planning, sidewalks, bike paths, and other connections, connecting features that create a multi-use pedestrian environment.

17.75.040 Layout and dimensional standards.

A. Height regulations – principal building: seventy (70) feet maximum for the principal, except within two hundred (200) feet of the easterly right-of-way of Columbia Boulevard, where thirty-five (35) feet is the maximum height. Regardless of the need or desire for basements, the existence of shallow bedrock depth near Columbia Boulevard shall not permit the designer to artificially raise the topography more than five (5) feet above the existing ground levels at the time of the enactment of this district, within 200 feet of the easterly right-of-way of Columbia Boulevard.

B. Height regulations – accessory building: fifteen (15) feet maximum. The plan commission may approve a taller accessory building (not to exceed the height of the principal building) if the building complements the principal building design.

C. Setback: twenty-five (25) feet minimum for buildings along Bluemound Road and Columbia Boulevard, and zero (0) feet along other public streets. Parking is prohibited between the building and Bluemound Road, and side yard parking shall be no closer to Bluemound Road than the building it services, unless otherwise approved by the Plan Commission. The plan commission shall make a written determination that such approval is consistent with the intent of the neighborhood plan. A minimum four (4) foot high garden wall consisting of an open decorative metal fence and shrubs must be located at the street side edge of any parking that is permitted between the building and Bluemound Road.

A landscaped berm existing at the time of the enactment of this district (with an average depth of approximately 75 feet and beginning at the south right-of-way line of Kent Avenue extended and extending south approximately 810 feet) located along the easterly right-of-way of Columbia Boulevard, shall remain intact; and neither parking nor buildings shall be permitted in this area.

D. Build-to Line: twenty-five (25) feet along Bluemound Road and zero (0) feet along Kent Avenue (extended), and the building's street façade shall be constructed along the build-to line for a minimum of fifty percent (50%) of the lot width. The balance of the build-to line shall include features such as elevated landscape planters, hedges, or decorative fences, with the exception of points of access, as approved by the plan commission. Attempts are to be made by the designer to minimize the portions of the building that recede from the build-to line.

E. Offset: zero (0) feet minimum for buildings and parking.

F. Vision corner: development within the district shall be exempt from the vision triangle provisions as set forth in the zoning code wherever compliance with the build-to line or other standards of the district would otherwise prevent compliance with the vision corner provisions, as reviewed by the city engineer, and approved by the plan commission. Regardless of this provision, Wisconsin Department of Transportation regulations may apply along Bluemound Road (USH 18).

17.75.050 Area regulations.

A. Allocation of Land Uses. Per the neighborhood plan, developable lands in the district are to consist of land uses in the following approximate proportions. At the time of the creation of this district, the area of this district consists of approximately 28 acres of privately-owned lands:

1. Commercial. 152,000 square feet maximum, of which a minimum of fifteen percent (15%) must be office.
 - a. Approximately 18,000 square feet of building area is allotted to Tax key Number 1108-137 (12935 West Bluemound Road).
 - b. Approximately 134,000 square feet is allotted to Tax key Number 1108-136 (12785 West Bluemound Road), of which a minimum of fifteen percent (15%) must be office.

2. Residential. 160 dwelling units are allotted to Tax key Number 1108-136 (12785 West Bluemound Road).
3. Green Space. Approximately 2.9 acres (126,000 SF), or ten percent (10%) minimum of the district area. The following elements shall qualify to meet this requirement:
 - a. A landscaped berm (with an average depth of approximately 75 feet and length of approximately 810 feet) located along the easterly right-of-way line of Columbia Boulevard existing at the time of the enactment of this district.
 - b. Mature trees in an approximate 200 foot by 120 foot area located 350 feet south of the center line of Bluemound Road and 700 feet east of the easterly right-of-way line of Columbia Boulevard existing at the time of the enactment of this district (on property located at 12785 West Bluemound Road, tax key number 1108-136). Such area includes three 24 inch diameter trees, five 18 inch diameter trees and one 15 inch diameter tree existing at time of the enactment of this district.
 - c. A gateway feature constructed at 124th Street and Bluemound Road.
 - d. If the minimum green space can not be fully achieved through the elements listed in a, b or c above, the plan commission may allow the inclusion of protected wetlands on a site if the plan commission provides a written determination that the allocation of such element is consistent with the intent of the neighborhood plan.

B. Potential Additional Allocation of Land Uses. The plan commission may authorize additional allocation of land uses and shall provide a written determination if the granting of additional allocation of land uses is consistent with the intent of the neighborhood plan when one (1) or more of the following items are included in the review of plan and method of operation (Section 17.100 of this Code):

1. Wetland enhancement.
2. Increased floodplain storage.
3. Additional sidewalk and bicycle path dedication.
4. Krueger Park land dedication or amenity enhancement.
5. Berm enhancement.
6. Additional tree preservation.
7. Gateway design, construction, and land dedication as defined in the neighborhood plan.
8. Floodplain mitigation (compensatory storage) for Tax key Number 1108-144 (12501-05 West Bluemound Road), that would create a buildable area that is not inundated by a designated floodplain district, as approved by the appropriate agencies.
9. A series of lights accentuating a radial street system or a unique streetscape.
10. Abandonment and removal of the existing railroad spur and removal of rail street crossing.
11. Acquisition of lands and construction of a public street connection to the existing traffic signals located at 124th Street and Bluemound Road.

C. Lot size: no minimum.

D. Open Space: no minimum, except preserve the existing berm, as identified in this district and allocate land uses as listed in this district.

PART II: Section 17.16.010 of the Zoning Code shall be amended to include the “Office and Limited Residential/Commercial District No. 3 (O&LR/C No. 3)” as Subsection A.17.

PART III: All ordinances or parts of ordinances contravening the provisions of this ordinance are hereby repealed.

PART IV: This Ordinance shall take effect and be in force from the date of its passage and publication.

ADOPTED AND APPROVED ON May 15, 2007

Kristine A. Schmidt, City Clerk

Jeff R. Speaker, Mayor

Publish: May 24, 2007