

# ORDINANCE

## BOROUGH OF NORTH CALDWELL

O-10-19

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 107, ZONING AND LAND USE, OF THE BOROUGH OF NORTH CALDWELL, ESSEX COUNTY, NEW JERSEY, TO ESTABLISH A NEW BLOOMFIELD AVENUE OVERLAY (BAO) ZONE

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of North Caldwell, County of Essex, New Jersey, as follows:

**Section 1.** Section 107-9 of the Code of the Borough of North Caldwell entitled “Zone Districts Enumerated” is hereby amended to include the following new zone district:

BAO Bloomfield Avenue Overlay District

**Section 2.** The Zoning Map of the Borough of North Caldwell, as referenced in Section 107-10 of the Code of the Borough of North Caldwell, is hereby amended to include a new BAO Bloomfield Avenue Overlay Zone, which shall be shown to encompass the entirety of Block 100, and which shall retain the underlying Office District and RAD Redevelopment Area District zoning on these parcels, as shown on the accompanying Map.

**Section 3.** Chapter 107, Article III, “Zoning”, shall be amended to include a new Section 107-28.1 entitled “BAO Bloomfield Avenue Overlay District”. This new Section 107-28.1 shall read as follows:

### 107-28.1. BAO BLOOMFIELD AVENUE OVERLAY DISTRICT

- A. **Purpose.** The purpose of the BAO Bloomfield Avenue Overlay District is to create a realistic opportunity for the construction of low- and moderate-income housing in a suitable portion of the Borough of North Caldwell, and thereby help to address the fair share housing obligation of the Borough of North Caldwell under the New Jersey Fair Housing Act (“FHA”), applicable Council on Affordable Housing (“COAH”) regulations, the settlement agreement entered into between the Borough and Fair Share Housing Center (“FSHC”) on December 11, 2018, the Borough’s Housing Element and Fair Share Plan, and any applicable order of the Court, including a Judgment of Compliance and Repose Order. The BAO Bloomfield Avenue Overlay District encourages the development of low- and moderate-income housing by allowing for inclusionary multifamily residential above the ground floor; however, developers shall also have the option of developing in accordance with the underlying zone standards.
- B. **Permitted uses.** The uses permitted in the BAO Bloomfield Avenue Overlay District shall be identical to those uses permitted in the Office District as set forth at Section 107-25.A; provided, however, that any developer that elects to develop in accordance with the BAO Bloomfield Avenue Overlay District standards as set forth herein below shall be required to provide residential apartments above the first floor of all buildings.
- C. **Accessory uses.** Permitted accessory uses in the BAO Bloomfield Avenue Overlay District shall be identical to those accessory uses permitted in the Office District as set forth at Section 107-25.B. In addition, permitted accessory uses in the BAO Bloomfield Avenue Overlay District shall include those accessory uses that are customary and incidental to residential apartments, including but not limited to community rooms and other ancillary uses to serve only the residents of the development. The requirements for permitted accessory uses shall be consistent with those set forth at Section 107-25.B.
- D. **Affordable housing requirements.**
- (1) All developments constructed in accordance with the BAO Bloomfield Avenue Overlay District standards shall be required to set aside a minimum percentage of the required residential apartment units for affordable housing. Where units will be for sale, the minimum set aside shall be twenty percent (20%). Where units will be for rent, the minimum set aside shall be fifteen percent (15%). When calculating the required number of affordable units, any computation resulting in a fraction of a unit shall be rounded upwards to the next whole number.

(2) All affordable units to be produced pursuant to this section shall comply with the Borough's Affordable Housing Regulations at Article XVI of the Borough Code, as may be amended and supplemented, the Uniform Housing Affordability Controls ("UHAC")(N.J.A.C. 5:80-26.1 et seq.), or any successor regulation, the Borough's Housing Element and Fair Share Plan, as may be amended from time to time, and any applicable order of the Court, including a Judgment of Compliance and Repose Order. This includes, but is not limited to, the following requirements for all affordable units:

(a) Low/Moderate Income Split: A maximum of fifty percent (50%) of the affordable units shall be moderate-income units and a minimum of fifty percent (50%) of the affordable units shall be low-income units. At least thirteen percent (13%) of all restricted rental units shall be very low-income units within each bedroom distribution, which shall be counted as part of the required number of low-income units within the development.

(b) Bedroom Mix: If the development is not age-restricted, the following bedroom mix shall apply:

[1] The combined number of efficiency and one-bedroom units shall be no greater than twenty percent (20%) of the total low- and moderate-income units;

[2] At least thirty percent (30%) of all low- and moderate-income units shall be two bedroom units;

[3] At least twenty percent (20%) of all low- and moderate-income units shall be three bedroom units; and

[4] The remaining units may be allocated among two and three bedroom units at the discretion of the developer.

(c) Deed Restriction Period: All affordable units shall be deed restricted for a period of at least thirty (30) years from the date of the initial occupancy of each affordable unit (the "Deed-Restriction Period"). The affordability controls shall expire only after they are properly released by the Borough and/or the Borough's Administrative Agent at the Borough's sole option in accordance with N.J.A.C. 5:80-26.11 for rental units or N.J.A.C. 5:80-26.5 for for-sale units.

(d) Administrative Agent: All affordable units shall be administered by a qualified Administrative Agent paid for by the developer, which may or may not be the Borough's Administrative Agent.

(e) Other Affordable Housing Unit Requirements: Developers shall also comply with all of the other requirements of the Borough's Affordable Housing Regulations at Article XVI, including, but not limited to, (1) affirmative marketing requirements, (2) candidate qualification and screening requirements, (3) integrating the affordable units amongst the market rate units, and (4) unit phasing requirements. Developers shall ensure that the affordable units are dispersed between all of the buildings on its site, and shall identify the exact location of each affordable unit at the time of site plan application.

E. **Area and bulk requirements.** The area and bulk requirements for developers electing to build in accordance with the BAO Bloomfield Avenue Overlay District standards are set forth below. For developers not electing to build in accordance with the BAO Bloomfield Avenue Overlay District standards, the area and bulk regulations of the underlying zoning shall remain in full force and effect.

(1) Minimum front footage: one hundred fifty (150) feet at the curb line.

(2) Minimum lot size: twenty-two thousand five hundred (22,500) square feet.

(3) Minimum front yard setback: twenty (20) feet.

- (4) Minimum side yard setback (each): ten (10) feet.
- (5) Minimum combined side yard setback: forty (40) feet.
- (6) Minimum rear yard setback: fifteen (15) feet.
- (7) Maximum building coverage: thirty-five percent (35%) of total lot size.
- (8) Maximum impervious coverage: eighty percent (80%) of total lot size.
- (9) Maximum density: ten (10) dwelling units per acre.
- (10) Maximum building height: thirty-five (35) feet. Cooling towers, water storage towers, light stanchions, air conditioners and other rooftop structures shall be specifically regulated by the Municipal Agency, giving due consideration to the nature and characteristics of the building, the topography of the land on which it is situated and the general characteristics of the land surrounding the area.

F. **Additional requirements.** The following additional requirements shall be complied with for developers electing to build in accordance with the BAO Bloomfield Avenue Overlay District standards.

- (1) The additional requirements set forth at Section 107-25.E shall be complied with.
- (2) Dwelling Units.
  - (a) Dwelling units shall only be located above the ground floor, except that ground floor areas used for access to such uses shall be permitted.
  - (b) Any dwelling unit shall contain a minimum habitable floor area of 600 square feet.
  - (c) The gross floor area devoted to residential use, including hallways and other common areas accessory to the residential use, shall not exceed two-thirds (2/3) of the total gross floor area of the building within which the residential use is located.
- (3) Off-Street Parking and Loading.
  - (a) The minimum number of off-street parking spaces to be provided shall be consistent with the requirements set forth at Section 107-20.D; with the exception, however, that permitted residential apartments shall be provided with off-street parking spaces consistent with the Residential Site Improvement Standards (N.J.A.C. 5:21).
  - (b) The location and buffering requirements for the proposed parking area shall be consistent with those set forth at Section 107-20.E.
  - (c) Off-street loading shall be consistent with the requirements set forth at Sections 107-20.F and 107-25.B(1)(b).
- (4) Stormwater Detention. Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect properties or the public storm drainage system. Stormwater shall be removed from all roofs, canopies and paved areas and carried away in an efficient and approved manner. Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved areas.

**Section 4.** If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

**Section 5.** In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of North Caldwell, the provisions hereof shall be determined to

govern. All other parts, portions and provisions of the Revised General Ordinances of the Borough of North Caldwell are hereby ratified and confirmed, except where inconsistent with the terms hereof.

**Section 6.** The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this ordinance to the Essex County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

**Section 7.** After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of North Caldwell for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Borough Council, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

**Section 8.** This Ordinance shall be presented to the Mayor for his approval and signature, which approval shall be granted or denied within ten (10) days of receipt of same, pursuant to N.J.S.A. 40:69A-149.7. If the Mayor fails to return this Ordinance with either his approval or objection to same within ten (10) days after it has been presented to him, then this Ordinance shall be deemed approved.

**Section 9.** This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7; (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the Essex County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1.

**INTRODUCED: July 16, 2019**

Moved By: Councilman Raymond  
 Seconded By: Council President Santomauro

COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT	COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT
ASTORINO				X	RAYMOND	X			
CHIAIA	X				REES			X	
KESSLER	X				SANTOMAURO	X			

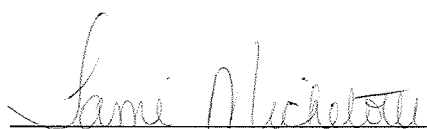
**PUBLIC HEARING: August 13, 2019**

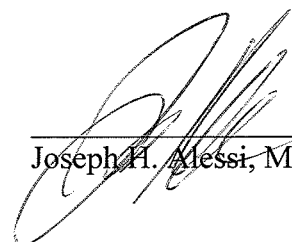
**ADOPTED: August 13, 2019**

Moved By: Council President Santomauro  
 Seconded By: Councilman Chiaia

COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT	COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT
ASTORINO				X	RAYMOND		X		
CHIAIA	X				REES			X	
KESSLER				X	SANTOMAURO	X			

**ATTEST:**

  
 Tami Michelotti, Borough Clerk

  
 Joseph H. Alessi, Mayor

**Burdick & Associates, Inc.**  
 10000 Old York Road  
 Suite 100  
 Charlotte, NC 28215  
 Phone: 704.531.1111  
 Fax: 704.531.1112  
 www.burdickandassociates.com

**Proposed Zoning  
 Amendment Map**



**Legend**

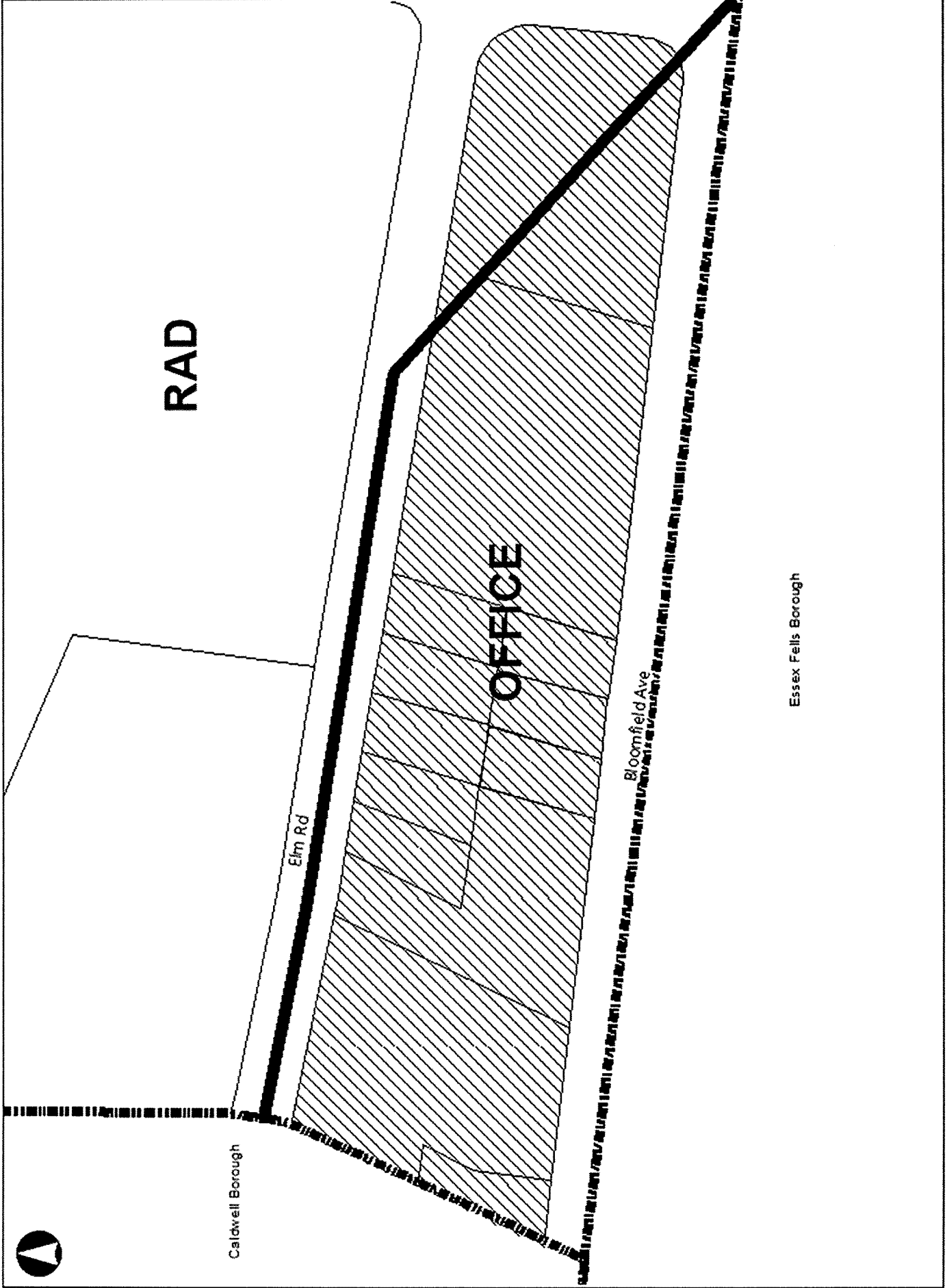
- Municipal Boundaries
- Parks
- SAC Bannockburn Avenue Overlay Zone
- Underlying Zoning District Boundaries

Map No.	Scale

**Proposed SAC Bannockburn Avenue Overlay Zone**

Map No. 2011-001  
 Date: 11/15/11  
 Scale: 1" = 100'

Project Name	Project No.	Project Date	Project Status



**RAD**

**OFFICE**

Elm Rd

Bloomfield Ave

Caldwell Borough

Essex Fells Borough

