



CALD-R0003

June 5, 2023

Borough of Caldwell Zoning Board of Adjustment
% Kim Conlon
Borough of Caldwell
24 Smull Avenue
Caldwell, NJ 07006

**Re: Zoning Board of Adjustment Application No. RED23-002
358 Bloomfield Avenue, LLC
Block 52, Lot 25.01: 358 Bloomfield Avenue
Subdistrict I (Downtown Core 1) - Redevelopment Plan
Bifurcated Application: "d(5)" Density Variance Approval
First Planning Review**

Dear Chairman Kurus and Members of the Caldwell Zoning Board:

We are in receipt of a bifurcated application for a "d(5)" density variance. The applicant also submitted plans prepared by Petry Engineering consisting of six (6) sheets, dated December 23, 2022 and revised through January 13, 2023. Additionally, we have reviewed the following materials submitted as part of this Application:

1. Borough of Caldwell Zoning Board of Adjustment Application, consisting of 9 pages, dated November 11, 2022;
2. Borough of Caldwell Resolution No. 10-233, consisting of 1 page, dated October 25, 2022;
3. Bifurcation Letter prepared by William La Tourette, Esq., consisting of 1 page, dated February 6, 2023;
4. Redevelopment Agreement for a Portion of the Redevelopment Area in the Borough of Caldwell, Essex County, New Jersey, consisting of 76 pages, undated;
5. Borough of Caldwell Redevelopment Plan prepared by Philip A. Abramson, AICP/PP, Leigh Ann Hindenland, AICP/PP, and Golda Speyer, AICP/PP of Topology LLC., consisting of 83 pages, adopted December 15, 2020, last amended November 2021;
6. Fire Official Review prepared by Mark Guiliano Fire Official for the Borough of Caldwell, consisting of 1 page, dated February 21, 2023;
7. Tax Documentation prepared by William La Tourette, consisting of 2 pages, dated February 6, 2023;
8. Approval of Site Plan: Affidavit of Service – Proof of Publication prepared by Arkadiusz Baginski, consisting of 26 pages, dated March 24, 2023;

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9. Municipal Police Department and Water Department review, consisting of 17 pages, dated February 21, 2023;
10. Completeness Review prepared by Glenn M. Beckmeyer, P.E., P.P., CME, CFM, of Beckmeyer Engineering, P.C., consisting of 6 pages, dated December 28, 2022;
11. Density review prepared by Glenn M. Beckmeyer, P.E., P.P., CME, CFM, of Beckmeyer Engineering, P.C., consisting of 5 pages, dated April 27, 2023;

The subject property is located within the Downtown Caldwell Redevelopment Area. The application involves the proposed development of a mixed-use building containing residential apartments and retail space. The applicant has requested to bifurcate the application so that only the d(5) density variance is considered at this time. Should the Board act favorably on the application, the applicant would then seek Site Plan approval with requests for deviations from the Redevelopment Plan, including for required parking.

We offer the following comments on the proposed development and submitted application materials.

Subject Property, Area Description and Prior Approval

The subject property is located at 358 Bloomfield Avenue and identified as Block 52, Lot 25.01, on the Borough of Caldwell Tax Map. Lot 25.01 consists of 2,838 SF (0.065 acres) and is located on Bloomfield Avenue, west of the Brookside Ave. intersection. The subject property is improved with a vacant one-story commercial building, which was previously used as a retail store.

Lot 25.01 is part of the Borough of Caldwell's Redevelopment Plan, adopted on December 15, 2020, by Ordinance #1394, as thereafter amended. The Redevelopment Plan divides the included properties into subdistricts. The subject property is placed in Subdistrict I, Downtown Core I, within the Redevelopment Plan. According to the Plan, *"Subdistrict I shall be redeveloped to create a more intense mixed-use area serving the heart of Caldwell's downtown. Residential uses are located above the ground floor and provide options for downtown living in a vibrant pedestrian-friendly environment. Two- to three-story buildings create a continuous street wall on Bloomfield Avenue with active ground-floor uses, such as retail and restaurants. Four- to five-story mixed-use buildings with integrated parking solutions are deemed*

appropriate on larger redevelopment sites within Subdistrict I. New developments make use of shared parking arrangements to take advantage of the different peak parking demands of each use."

All the lots that immediately surround the subject property also are located within Subdistrict I (Downtown Core 1) of the Redevelopment Plan. Opposite Bloomfield Avenue to the north of the subject

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property are retail and restaurant uses. Adjacent to the east are retail stores. Adjacent to the south is an auto body shop. Adjacent to the west is a medical center.

The Caldwell Borough Council adopted Resolution #10-233 on October 25, 2022. The Resolution designates the applicant as the redeveloper for a redevelopment project on the subject property and authorizes the execution of a redevelopment agreement between the applicant and the Borough. The Resolution references the proposed mixed use project, including both retail space and five residential units, of which one will be an affordable unit.

The subject property's location within the Subdistrict I (Downtown Core 1) of the Redevelopment Plan and a street view of the subject property are shown below.

Redevelopment Plan Map Outlining Subject Property - Block 52, Lot 25.01



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Google Street View of Subject Property - Block 52, Lot 25.01 (Image Captured August 2021)



Proposal

The applicant proposes to construct a three-story building including retail space, multi-family residential units, and an outdoor roof deck and roof area associated with the residential units. The three-story building consists of approximately 1,030 SF of retail space and one COAH (affordable unit) studio on the first level, two apartments on the second level and two apartments on the third level. The proposed residential units consist of four one-bedroom apartments and one studio apartment and range in size from 620 SF to 1,269 SF. One point of access for the retail space from Bloomfield Avenue and an exit on

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the south end of the retail space at the rear end of the building are proposed. One point of access for the residential units from the south end of the building is proposed. Finally, the applicant is proposing five bicycle parking spaces on the ground floor, as well as a refuse/recycling room and a mail and package storage area. The submitted plans indicate that the proposed building will have a building height of 47 ft. and three stories.

The project exceeds the maximum permitted density of 40 units/acre and requires a variance pursuant to N.J.S.A. 40:55D-70d(5). It appears that project will result in other deviations from the Redevelopment Plan, including required parking; however, the subject application has been bifurcated. The applicant has requested that the Board only consider the density variance at this time.

Redevelopment Plan

According to Caldwell's Redevelopment Plan, the Borough has determined that the use of redevelopment power is the most effective way to redevelop the properties contained within the redevelopment area. All of the properties that are contained in the Redevelopment Area were first declared an "Area in Need of Rehabilitation" pursuant to Resolution #9-205 which was adopted on September 17, 2019.

On December 15, 2020, the Caldwell Borough Council adopted the Caldwell Redevelopment Plan through Ordinance 1394-20. Subsequent amendments have been adopted to the Plan, with the most recent amendment adopted as Ordinance 1423-21, which the Governing Body adopted on December 28, 2021.

The goals of the Downtown Redevelopment Plan include: promoting economic development, creating expanded and appropriate housing options, promoting a development pattern that supports multiple modes of transportation, introducing high-quality architecture and design, and blight eradication.

Permitted Uses

The Borough's Downtown Redevelopment Plan states "In accordance with N.J.S.A. 40A:12A-7(c) and as further specified in the following paragraphs, this Redevelopment Plan shall be considered to both supersede the Borough Zoning Ordinance, in part, and to constitute an overlay district, in part." The Redevelopment Plan is adopted as an ordinance, and that ordinance designates permitted uses and bulk regulations, as well as other requirements, for the properties that are in the Redevelopment Plan. These uses, bulk standards, and other requirements are explained throughout this report.

Lot 25.01 is located within the Borough's Subdistrict I (Downtown Core 1) of the Redevelopment Plan. Pursuant to section 6.3.2, Subdistrict I of the Redevelopment Plan, permitted uses include:

- A. Governmental/Civic/Institutional:
1. Institutional Use
 2. Parking, Public

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3. Plaza, Square, or Piazza
4. Open Space
5. Cultural Uses

B. Commercial:

1. Bars and Taverns
2. Brewpub
3. Banks and Fiduciary Institutions
4. Convenience Store
5. Farmers' Market
6. Hotels
7. Pharmacy
8. Restaurant, Café or Carry Out
9. Restaurant, Full Service
10. Retail Services or Retail Stores
11. Supermarkets (Exclusively permitted on the properties designated on the Borough of Caldwell tax maps as Block 52)
12. Theaters

C. Business/Office/Professional:

1. Art Gallery or Studio
2. Artisanal Workshop
3. Business Services
4. Media Production
5. Office, General
6. Office, Medical
7. Professional Occupations
8. Live/Work

D. Multifamily Residential

E. Any combination of permitted uses

Multi-family residential and retail are both permitted uses within the Subdistrict I (Downtown Core 1) of the Redevelopment Plan. Additionally, the applicant is proposing a roof deck which is a permitted accessory use.

Master Plan

The Borough's 2017 Master Plan Reexamination Report references the potential for future redevelopment in areas near the Borough's downtown. Page 3 of the Report references challenges from

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the 1998 Master Plan and prior Reexamination Report, as follows, “A key challenge identified in prior documents is the continuing decline of ratables for the Borough, despite rising land values and a strengthening regional economy. Bloomfield Avenue’s traffic and parking issues are also highlighted in the Master Plan.”

Page 6 of the Report states that, “The Borough’s need to promote reinvestment in both the downtown and in the aging housing stock is a persistent issue in the Borough. As identified in the 1998 Master Plan, realizing the potential to increase ratables through multifamily development is one of the reaffirmed goals of this Reexamination. This goal has at times been at odds with the stated desire to maintain the suburban single-family character of the Borough. This Reexamination seeks to balance these two ideas so that any future development in the Borough does not adversely impact its historic character, smalltown scale and suburban charm.”

Finally, Page 7 includes the following, “Buffer areas and transition zones: Downtown Caldwell offers a walkable environment with a historic ‘Main Street’ development pattern. Some blocks that abut the downtown could serve as buffer zones that allow for attractive townhouse and/or multifamily developments that contribute to the vibrancy and walkability of the downtown, improve the municipality’s tax base and direct new development where it will serve as a reasonable transition from the more densely built downtown to the single-family residential neighborhoods. The report continues with the following goal, “Allow for moderate additional density in areas where it will enhance the character of Caldwell and serve as an appropriate transition between the downtown and the single-family neighborhoods.”

Affordable Housing

Section 6.14 of the Borough’s Redevelopment Plan addresses affordability. This section requires that all new multifamily residential developments of five (5) or more units include a twenty percent (20%) affordable set-aside, regardless of tenure. The affordable units shall be deed-restricted in accordance with the Uniform Housing Affordability Controls (UHAC).

The applicant is proposing five (5) one-bedroom residential units; Unit 1 is depicted on the plans as a one-bedroom “COAH” unit. The proposal satisfies the 20% set-aside requirement.

However, assuming that the development is a “family” rental development, the affordable unit does not conform to either the Uniform Housing Affordability Control (UHAC) requirements or Section 49-8A(4) of the Caldwell Ordinance for bedroom distribution. UHAC and the Borough’s Affordable Housing ordinances require that a minimum of 30% the affordable units are two-bedroom units, and a minimum of 20% the affordable units are three-bedroom units. In addition, Paragraph #20 on Page 6 the Borough’s July 30, 2020 Settlement Agreement with the Fair Share Housing Center includes the required bedroom distribution and conformance with UHAC. **The applicant should provide testimony confirming that the proposed affordable unit will be a “family” affordable rental unit.**

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Bulk, Area & Parking Requirements

The following tables illustrate the proposal's conformance with Sections 6.3.5, 6.8A, 6.8B & 6.12 of the Borough of Caldwell Redevelopment Plan.

Bulk and Area Requirements (Subdistrict I – Downtown Core 1) – 6.3.5 & 6.12				
Description	Permitted	Existing	Proposed	Conforming
Minimum Lot Area	3,000 sq. ft.	2,838 sq. ft. (0.065 acres) (ENC)	No Change	No (DV)
Minimum Lot Width	30 ft.	29.85 ft. (ENC)	No Change	No (DV)
Minimum Front Yard Setback (Bloomfield Avenue)	10 ft. – 20 ft. *	10 ft.	No Change	Yes
Minimum Side Yard Setback (Easternly)	0 ft.	0 ft.	No Change	Yes
Minimum Side Yard Setback (Westerly)	0 ft.	0 ft.	No Change	Yes
Minimum Rear Yard Setback	20 ft.	0 ft. (ENC)	No Change	No (DV)
Maximum Building Coverage	85%	100% (ENC)	No Change	No (DV)
Maximum Impervious Coverage	90%	100% (ENC)	No Change	No (DV)
Maximum Building Height	4 Stories / 50 ft.**	1 Story	3 Stories / 47 ft.	Yes
Maximum Residential Density (Site < 0.4 acre)	40 du/ac (2.6 Units)	0 du/ac	77 du/ac (5 Units) (DV)	No (“d(5)”)
Minimum Accessory Structure Distance from Adjacent Buildings	5 ft.	N/A	N/A	N/A
Minimum Floor to Floor Height – Ground Floor	13 ft.	N/A	15 ft.	Yes
Minimum Floor to Floor Height – Second Floor	9 ft.	N/A	11 ft.	Yes
Minimum Floor to Floor Height – Third Floor	9 ft.	N/A	11 ft.	Yes

(DV) = Deviation Required

(D5) = “d(5)” Density Variance

(ENC) = Existing Non-Conformity

* As measured from the face of the curb

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** Maximum building height may be increased up to 5 stories / 65 feet, so long as: (1) the structure shall be at least 65 feet in width as measured from the street; (2) no more than fifty percent (50%) of the street frontage along any block may contain a structure(s) greater than four (4) stories in height; (3) no facade of any structure containing five stories shall be closer than 50' to any parcel within the "R" residential zone; and (4) the Site consist of at least 0.4 acres. (Note: any portions of a private property located within a publicly traveled cartway shall be excluded from the distance calculation required in item #3 immediately above).

Off-Street Parking and Bicycle Parking Requirements – Redevelopment Plan Chapter 6.8A and 6.8B				
Description	Required*	Existing	Proposed	Conforming
Minimum 1/ Maximum 2 Parking Spaces Per Unit	Minimum 5 Spaces/ Maximum 10 Spaces	N/A	0 Spaces	No (DV)
Minimum 2.5 / Maximum 3.5 – Commercial Use Parking Spaces per 1,000 GFA	Minimum 3 Spaces/ Maximum 4 Spaces	0 Spaces (ENC)	0 Spaces	No (DV)
Minimum 1 Bicycle Parking Space Per Unit (Maximum of 50 Spaces)	5 Spaces	0 Spaces	5 Spaces	Yes

(DV) = Deviation Required

(ENC) = Existing Non-Conformity

***Required Parking Calculations:**

Residential Parking Space Calculations (Residential Units):

- Minimum Spaces Required: 5 Units * 1 Space = 5 Spaces
- Maximum Spaces Permitted: 5 Units * 2 Spaces = 10 Spaces

Commercial Use Parking Space Calculations:

- Minimum Commercial Use Spaces Required: 1,030 SF proposed/1,000 SF * 2.5 = 2.57 rounded to 3 Spaces
- Maximum Commercial Use Spaces Permitted: 1,030 SF/1,000 SF * 3.5 = 3.61 rounded to 4 Spaces

Bicycle Calculations Parking Space Calculations:

- Minimum Spaces Required: 5 Units * 1 Space = 5 Spaces

We note the following potential deviations from the Redevelopment Plan.

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1. Lot Area. A minimum lot area of 3,000 square feet is required, whereas a lot area of 2,838 square feet exists. This is considered an existing non-conformity. However, due to the proposed change and increased intensity of the use, a deviation is required.
2. Lot Width. A minimum lot width of 30 feet is required, whereas a Lot width of 29.85 exists. This is considered an existing non-conformity. However, due to the proposed change and increased intensity of the use, a deviation is required.
3. Rear Yard Setback. A minimum rear yard setback of 20 feet is required, whereas a rear yard setback of 0 feet is proposed. This is considered an existing non-conformity. However, due to the proposed change and increased intensity of the use, a deviation is required.
4. Building Coverage. A maximum building coverage of 85% is permitted, whereas a building coverage of 100% is proposed. This is considered an existing non-conformity. However, due to the proposed change and increased intensity of the use, a deviation is required.
5. Impervious Coverage. A maximum impervious coverage of 90% is permitted, whereas an impervious coverage of 100% is proposed. This is considered an existing non-conformity. However, due to the proposed change and increased intensity of the use, a deviation is required.
6. Parking. A minimum of eight parking spaces are required, whereas zero parking spaces are provided. A deviation is required.

Although the above sections of the Redevelopment Plan are not met, and deviations are required, they are not the subject of the current application. We note that should the applicant proceed with a future Site Plan application, there are other design guideline requirements of the Redevelopment Plan that need to be analyzed for conformance with the Redevelopment Plan.

The only variance included with the current bifurcated application is the density variance. A discussion on the variance follows.

“d(5)” Density Variance

The Municipal Land Use Law (MLUL) defines density as, “the permitted number of dwelling units per gross area of land that is the subject of the application for development, including noncontiguous land, if authorized by municipal ordinance or by a planned development.” Density limitations control intensity of use. The standard of relief is similar to what is applied to variance requests to exceed the permitted floor area ratio.

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The subject property has a lot area of 2,838 SF (0.065 acre). The Redevelopment Plan allows a density of 40 units/acre, which results in a permitted 2.6 units. The applicant is proposing five (5) residential units, which calculates to a density of 77 units/acre.

The Zoning Board of Adjustment has the power to grant variances to permit an increase in the permitted density pursuant to N.J.S.A. 40:55D-70d(5) "in particular cases" and "for special reasons." This is the positive criteria of a d(5) variance.

The Board's focus should be on whether the site will accommodate the problems associated with a density that is greater than what is permitted by ordinance. The Board should focus on the problems associated with the higher density that the applicant is seeking. The use is permitted; the deviation that the applicant is seeking is related to the permitted density of the development.

The applicant also must satisfy the negative criteria. This requires a demonstration by the applicant that the proposed variance can be granted "without substantial detriment to the public good and will not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance. The Board's focus on the negative criteria should be an analysis on whether conditions can be imposed so that the deviations from the density requirements do not cause substantial detriment to the public good and substantial impairment of the intent and purpose of the zone plan and zoning ordinance. With this variance request, the Board can view the public good as impacts on the surrounding area and neighborhood. Unlike a d(1) use variance, this standard does not require an enhanced quality of proof. The applicant in a d(5) density variance should provide testimony that the increased density would not have a more detrimental effect on the neighborhood than construction of the development in accordance with the zone's density restrictions.

General Planning Comments

1. The applicant has requested a bifurcated application for "d(5)" density variance approval.
2. Although the parking deviation is not part of the subject application, we note that no onsite parking is provided.
3. We defer to the Board Engineer regarding grading, drainage, and utilities.

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We trust that these comments will assist the Board members with their review of the application.

Sincerely,



CAROLINE Z. REITER, P.P., A.I.C.P.
CALDWELL BOARD PLANNER
T&M PLANNING GROUP MANAGER

Applicant's Team

1. Subject Property Owner and Applicant: 358 Bloomfield Avenue, LLC., 15 Fairfield Place, West Caldwell, NJ 07006; Telephone: 973-575-5200. Email: eric@arloroof.com.
2. Applicant's Attorney: William La Tourette, 15 Fairfield Place, West Caldwell, NJ 07006; Telephone: 973-521-5889. Email: william.latourette@outlook.com.
3. Applicant's Engineer and Planner: J. Michael Petry, P.E., P.P., RA, 155 Passaic Avenue, Fairfield, NJ 07004; Telephone: 973-227-7004. Email: mikepetry@petryengineering.com

CC. (via email): Kim Conlon, Borough Deputy Clerk (kconlon@caldwell-nj.com)
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