



CALD-R0002

May 8, 2023

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

**Re: Planning Board Application No. RED23-003
Block 22, Lot 7: 30 Smull Avenue
IH-5 (Inclusionary Housing) Zone
Planning Review: Preliminary and Final Site Plan Application**

Dear Chairman Byrne and Members of the Caldwell Planning Board:

We are in receipt of an application for Site Plan approval for the above property, as well as the following plans and reports:

1. Borough of Caldwell Planning Board Application, consisting of nine (9) pages, dated October 20, 2020;
2. 30 Smull Avenue Architectural Renderings, prepared by Mark Montalbano, A.I.A of Coppa Montalbano Architects, consisting of six (6) sheets, dated November 16, 2020, last revised May 5, 2023;
3. Preliminary and Final Site Plans for 30 Smull Avenue prepared by Daren J. Phil, P.E. of Suburban : Consulting Engineers, INC., consisting of ten (10) sheets, dated February 22, 2021, and last revised March 20, 2023;
4. Property Survey prepared by Stewart Associates, Inc., dated June 29, 2016.
5. Engineering Review and Response Letter, prepared by Glenn M. Beckmeyer P.E., P.P., CME, CFM, of Borough of Caldwell Borough Engineer, consisting of seven (7) sheets, dated July 22, 2022
6. Borough of Caldwell Housing Element and Fair Share Plan prepared by Philip A. Abramson, P.P., AICP & Golda F. Speyer P.P., AICP, of Topology LLC, consisting of 120 pages, adopted March 10, 2021;
7. Traffic Letter Report, prepared by John J. Jahr, PTP, TSOS, Principal of Bright View Engineering and Joseph A. Fishinger, Jr., P.E., P.P., PTOE Director of Traffic Engineering of Bright View Engineering, consisting of three (3) pages, dated April 19, 2023.

The application is for construction of a proposed townhouse development with associated parking and other improvements in the IH-5 (Inclusionary Housing) Zone. We offer the following comments on the proposed development and submitted application materials.

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Subject Property and Area Description

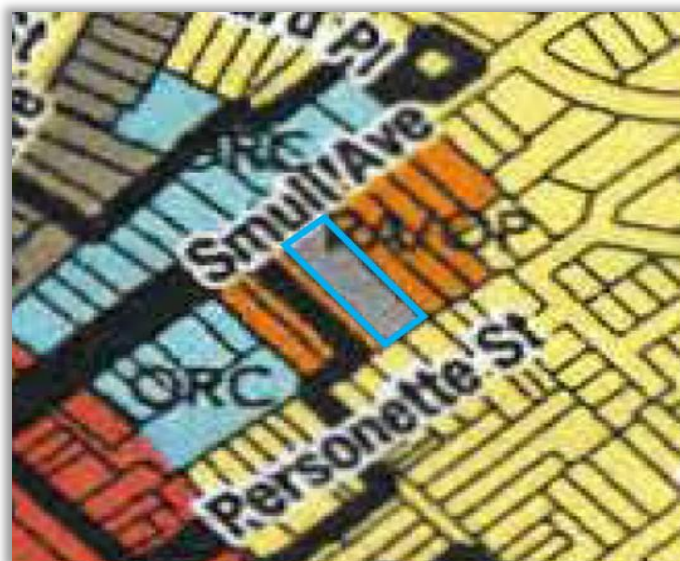
The subject property is located at 30 Smull Avenue and identified as Block 22, Lot 7, on the Borough of Caldwell Tax Map. Lot 7 consists of 26,501 SF (0.608 acres) and is located on the eastern side of Smull Avenue, north of the Bloomfield Ave. intersection. The property is rectangular in shape, with a depth of approximately 300 ft.

Both Sheet 3 of 10, Existing Conditions and Demolition Plan, of the submitted engineering plans and the submitted survey show that the subject property is improved with a single-family dwelling and an associated driveway and walkways. However, we note per recent Google Street View imagery from August 2019 to August 2021, the single-family home appears to be demolished and the lot appears to be vacant.

Block 22 Lot 7 is located within the IH-5 (Inclusionary Housing) Zone which is surrounded by the RA/OP (Residential/Home Professional Office) Zone, ORC (Office Residential Character) Zone, and RA (Residential) Zone. Across Smull Avenue to the north of the subject property on Block 23, Lots 19 and 20, are two (2) Class 4A commercial office uses located within the ORC (Office Residential Character) Zone. Adjacent to the east on Block 22, Lot 7.01 is a Class 2, single-family residential dwelling located within the RA/OP (Residential/Home Professional Office) Zone. Adjacent to the south on Block 22, Lot 25.01, is a Class 2 two-family residential dwelling located within the RA (Residential) Zone. To the west-adjacent on Block 22, Lot 8 is a Class 2, single-family residential dwelling located within the RA/OP (Residential/Home Professional Office) Zone.

The subject property's location within the IH-5 (Inclusionary Housing) Zone and a street view of the subject property are shown below.

Zoning Map Outlining Subject Property (Block 22, Lot 7)



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Google Street View of Subject Property (Block 22, Lot 7) dated August, 2021



Proposal

The applicant proposes to remove the existing improvements and construct a new building with associated parking and improvements. The proposed development consists of six (6) townhouse units that will be constructed in one building. Covered porches are located at the front and back of the building. The northern porch located at the front of the building measures approximately 500 SF, and the southern porch located at the back of the building consists of approximately 630 SF.

The building is proposed to be set back 25 ft. from the front property line and extend for a length of approximately 200 ft., including the two covered porches. A proposed porous pavement driveway will provide access to the new building from Smull Ave. The 22 ft. wide driveway is situated approximately 3 ft. from the eastern side property line with lot 7.01. The driveway runs the entire length of the building and contains three access drives to the new townhouses and a turnaround area at the end. The access drive entrances are each shared between two townhouse units. Additional parking, such as visitor parking, is not shown on the driveway or elsewhere onsite. A new sidewalk will connect the front of the building to Smull Ave.

The footprint of the proposed townhouse building contains approximately 9,300 SF. The architectural plans indicate that all six (6) townhouse units will be three-bedroom units. We note that the four (4) interior units (units B through E) include two (2) bedrooms on the second floor and a bonus bedroom on the attic floor. There is no indication that any of the proposed units will be affordable. A deck/patio is shown at the back of each townhouse unit. The building is located 10 ft., and the deck/patio improvements are located 5 ft., from the western side property line with Lot 8.

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The following Google Earth image outlines the approximate limits of the subject property and the proposed site improvements.

Google Earth Imagery – Approximate Outline of Subject Property and Site Changes (Block 22, Lot 7)



An underground detention system is proposed in the rear yard of the subject property. Additional plantings are proposed on the north and east sides of the proposed building. Two Eastern Redbud trees are proposed on the front yard of the property and two Japanese Snowbell trees are proposed on the eastern side yard of the subject property. Additionally, 58 shrubs are proposed, and 56 ground covers. No plantings are proposed in the rear yard and western side yard of the subject property. Finally, eight trees are proposed for removal.

The architectural plans for proposed interior units B, C, D, and E include a Basement Plan, a First Floor Plan, a Second Floor Plan, and an Attic Floor Plan. The basement level includes an open floor layout. The first floor includes a one-car garage, powder room, living room, dining room, outdoor patio, and a kitchen for each unit. The second floor includes two bedrooms, a laundry area, and two full baths for each unit. The attic level includes a “bonus room/bedroom” and an enclosed patio. The architectural plans are not drawn to scale therefore, which prohibits the calculation of exact square footages of each floor.

The architectural plans for proposed end units A and F include a First Floor Plan and a Second Floor Plan. The first floor includes a one-car garage, powder room, living room, dining room, three-season room, and a kitchen for each unit. The second floor includes three bedrooms, a laundry area, and two full baths for each unit. The architectural plans are not drawn to scale, which prohibits the calculation of exact square footages of each floor.

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Affordable Housing

Caldwell's Settlement Agreement with the Fair Share Housing Center, which was executed on July 28, 2020, includes the subject property as an affordable housing mechanism that provides one (1) affordable unit to address the Borough's Round 3 Realistic Development Potential (RDP). As required by the Settlement Agreement, Caldwell adopted Ordinance #1380-19 that rezoned the subject property to the IH-5 Zone District.

The Borough's 2021 Housing Element and Fair Share Plan include the subject property as a mechanism to meet Caldwell's RDP. Both the Settlement Agreement and the Housing Element & Fair Share Plan indicate that the property shall provide one affordable housing unit. In addition, Section 250-29B of the Ordinance requires the following in the IH-5 Zone, "The inclusionary development will, at the property owner's/developer's sole discretion, consist of either five market-rate units and one affordable family unit on site, or six market-rate units on site, and the owner shall develop and provide one affordable housing unit off site in conjunction with development of this property."

However, the submitted materials do not include any information on the one (1) proposed affordable unit.

Zone District : IH-5 Permitted & Accessory Uses

Permitted uses in the IH-5 (Inclusionary Housing) Zone are Stacked Townhouse Buildings and Multi-Family units. Both uses are defined within the IH-5 Zone District. The ordinance also allows for more than one principal building to be constructed on a single lot.

Permitted accessory uses within the IH-5 (Inclusionary Housing) Zone are as follows:

1. Parking areas and lots is required by Chapter 250;
2. Loading areas as required by Chapter 250;
3. Signage is permitted by Chapter 250;
4. Refuse and recycling enclosures as regulated by Chapter 250;
5. Satellite antennas as regulated by Chapter 250 and/or federal law;
6. Fences and walls as regulated by Chapter 250, except that fences in all yards may be a maximum of six feet in height;
7. Driveways and utilities as regulated by Chapter 250;
8. Private attached garages to be used by occupants of the inclusionary housing development in the zone;
9. Detached garage or storage units for use by the occupants of the inclusionary housing development in the zone;
10. Any other customarily incidental accessory use.

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The applicant is proposing to construct a stacked townhouse building containing six (6) townhouses and a parking area. The proposed townhouse development is a permitted use in the IH-5 Zone District.

Zone District: IH-5 Bulk, Area and Other Requirements

Pursuant to §250-29.F.; §250-29.G.; & §250-29.H. the proposal's compliance with the bulk and yard standards of the IH-5 (Inclusionary Housing) Zone is as follows:

Bulk and Area Requirements (IH-5) – §250-29.F.; §250-29.G.; & §250-29.H.				
Description	Permitted	Existing	Proposed	Conforming
Minimum Lot Area	10,500 sq. ft.	26,501 sq. ft.	No Change	Yes
Minimum Lot Width	75 ft.	90.08 ft.	No Change	Yes
Minimum Front Yard Setback	25 ft.	N/A (previous residential dwelling demolished)	25 ft.	Yes
Minimum Side Yard Setback (East)	5 ft.	N/A	32.50 ft.	Yes
Minimum Side Yard Setback (West)	5 ft.	N/A	5 ft.	Yes
Minimum Combined Side Yard Setback	15 ft.	N/A	37.50 ft.	Yes
Minimum Rear Yard Setback – Principal Building	50 ft.	N/A	62.45 ft.	Yes
Minimum Rear Yard Setback – Accessory Uses	5 ft.	N/A	N/A	Yes
Maximum Building Coverage	36%	N/A	36%	Yes
Maximum Impervious Coverage	68%	N/A	68%	Yes
Maximum Building Height	39 ft.	N/A	35 ft.	Yes
Maximum Building Length	210 ft.	N/A	205.2 ft.	Yes
Maximum Density (Dwelling Unit / Acre)	25 du/ac	N/A	9.9 du/ac	Yes
Maximum Market-Rate Dwelling Units	6	N/A	6	Yes
Minimum Affordable Dwelling Units	1	N/A	0	No*

* Information on the location of the affordable unit is required, both in the plans and via testimony.

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(ENC) = Existing Non-Conformity

1. Minimum Affordable Dwelling Units. Pursuant to §250-29.B., *“The purpose of this zone is to permit an inclusionary development on property located at 30 Smull Avenue and designated on the Borough of Caldwell tax maps as Block 22, Lot 7, which contains approximately 0.6 acre. The inclusionary development will, at the property owner's/developer's sole discretion, consist of either five market-rate units and one affordable family unit on site, or six market-rate units on site, and the owner shall develop and provide one affordable housing unit off site in conjunction with development of this property.”* **The applicant should provide testimony as to whether the affordable unit will be located on or off-site. If the affordable unit is proposed to be off-site, the applicant should provide the anticipated location and the developer's timeframe for construction.**

Additionally, the applicant should confirm that the one (1) required affordable dwelling unit will be in conformance with the requirements pursuant to §250-29.H.(3)., “The affordable housing unit for this development shall be a two-bedroom unit affordable to a low-income household. The affordable housing shall be subject to market-rate and affordable housing phasing requirements, low and moderate income split requirements, disability requirements, and other requirements, in accordance with Caldwell Borough ordinances and New Jersey State statutes and regulations.” While the townhouse development is a permitted use in the zone district, the ordinance also requires the inclusion of the affordable unit either on or off-site. Testimony must be provided to show compliance with the affordable housing requirement, and the submitted plans should be modified accordingly.

2. Maximum Building Height. Pursuant to §250-7.A., the building height is calculated from “the mean elevation of the finished grade adjacent to the building foundation to the mean level of the slope of the roof.” According to the architectural building elevations, the proposed total building height measures 35 feet from the adjacent grade elevation to the mean level of the slope of the roof. Therefore, the proposed building height conforms with the maximum height permitted.

However, the Zoning Requirements table on the site plan lists a total building height of 39 feet. **The site plans should be revised to show the correct building height (35 ft.) and include a note on the site plans stating, “Per §250-7.A: the building height is calculated from the mean elevation of the finished grade adjacent to the building foundation to the mean level of the slope of the roof.” The applicant shall provide testimony as to the height calculations, including but not limited to, the calculations of the mean elevation of the finished grade and the mean level of the slope of the roof.**

3. Pursuant to §250-29.I.(1) and N.J.A.C. 5:21-4.14 (RSIS) & §250-29.I., the required off-street parking and the proposal's conformance with same is outlined in the Table below:

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Off-Street Parking Requirements – N.J.A.C. Section 5:21-4.14 (RSIS)				
Description	Required	Existing	Proposed	Conforming
Townhouse: 2.4 spaces per 3-bedroom townhouse unit	14.4	N/A	12	No (W)
Total	15*			
EV Charging Stations – N.J.A.C. Section 40:55D-66.20				
Description	Required	Existing	Proposed	Conforming
15% of Total Parking Spaces to be Set Aside for EV Spaces	2**	N/A	0	No (V)

*Parking Calculations:

- RSIS minimum spaces required: six (6) 3-bedroom townhouse units * 2.4 = 14.4, rounded to 15 spaces
- N.J.A.C. Section 40:55D-66.20 Minimum EV Spaces Required: 12 spaces * 15% = 1.8, rounded to 2 EV spaces

- The Parking Table on Sheet 2 of the engineering plans indicates that 12 parking spaces are proposed. The submitted plans include a one-car garage and parking area for each unit; additional visitor parking is not indicated. The applicant should clarify whether the 12 proposed parking spaces include the 6 one-car garages and driveways. Pursuant to §250-8.D.(1).(a), *"In any residence zone, no private detached garage or other accessory building or parking area shall be within the required front yard nor within a required side yard, except that nothing shall prohibit an owner of a home from counting his driveway as a parking area."* **The applicant should provide testimony to show conformance with this requirement.**
- Pursuant to §250-29.I.(1)., *"The provisions of the Residential Site Improvements Standards, N.J.A.C. 5:21-4.14 and Table 4.4 shall apply, although the Borough of Caldwell recognizes that due to local conditions, alternate standards may be appropriate and that de minimus exceptions shall apply and be liberally granted."* **The applicant is proposing twelve (12) off-street parking spaces whereas, 15 off-street parking spaces are required. The Board should discuss whether an alternate off-street parking standard is appropriate for this subject property due to the local conditions. Pending the Boards discussion, a de minimus exception or a waiver may be required.**
- Pursuant to N.J.A.C. Section 40:55D-66.20, a total of two (2) EV charging stations are required whereas, none are proposed. The applicant should provide testimony on whether any EV stations are proposed, and the plans should be revised accordingly. **If no EV spaces are proposed, a "c" variance may be required.**
- The applicant should provide testimony regarding pedestrian accesses to Unit D; the proposed stairway appears to be impeded by the proposed parking spaces.**

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8. **The applicant should revise the Parking Table on the site plans to reflect the correct RSIS Townhouse Parking Requirements as shown in the table above.**
9. **The applicant should revise the site plans and architectural plans to clarify the location of the 12 proposed parking spaces.**
10. Pursuant to §250-20.B.(14)., *“Adequate lighting shall be provided if the off-street parking facilities are used at night. Lighting should provide a minimum of two footcandles at intersections and a total average illumination of one footcandle throughout the parking area. Such lighting shall be arranged and installed so as not to create a hazard or nuisance to adjoining properties or the traveling public due to reflection or glare.”* **The applicant shall provide testimony to show conformance with this requirement.**

Additional Planning Comments

1. The traffic report dated April 19, 2023, identified through the 11th Edition of the ITE Trip Generation Manual that approximately a total of 43 daily trips will be made for the proposed 6-unit townhouse development. The existing daily trips for the single-family dwelling are approximately 15 trips. This is an overall increase of 28 daily trips. **The applicant should provide testimony regarding the anticipated trip generation for the off-peak hours.**
2. We note that the proposed building coverage and impervious coverage are very close to the maximum permitted amount. **The applicant should provide testimony on the proposed coverages and provide calculations showing that they conform to ordinance requirements.**
3. The applicant should provide testimony to confirm the proposed bedroom count for each unit. The site plans show four 2-bedroom units and two 3-bedroom units. However, the architectural plans show Units B, C, D, and E with two bedrooms on the second floor and an additional *“bonus bedroom”* on the attic floor. **The applicant should clarify the bedroom counts and revise the site plans and architectural plans accordingly.**
4. The architectural plans suggest the floor plan for Unit A is the same as Unit F. However, the architectural plans indicate that the units have a different configuration. **The applicant should provide testimony regarding this discrepancy and the plans should be revised accordingly.**
5. **The architectural plans should be revised so that they are drawn to scale and include the square footage of each unit. Testimony on the square footage of each townhouse unit should be provided.**
6. **The applicant should provide testimony on the location of the required affordable unit. If one of the six townhouses will be the affordable unit, the plans should be updated to indicate this information.**

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7. **If the affordable unit is proposed off-site, the location of the affordable unit, construction timeline, anticipated completion date, and other pertinent information should be provided.**
8. The IH-5 Zone District states that, “The affordable housing unit for this development shall be a two-bedroom unit affordable to a low-income household. The affordable housing shall be subject to market-rate and affordable housing phasing requirements, low and moderate income split requirements, disability requirements, and other requirements, in accordance with Caldwell Borough ordinances and New Jersey State statutes and regulations.” **The applicant shall provide testimony on how these requirements will be met, and the plans shall be revised accordingly. The applicant should also provide testimony that the one required affordable unit will be a two-bedroom unit that is affordable to a low income household as required in Section 250-29(H)(3) of the Ordinance.**
9. **The applicant should provide testimony clarifying the tenure of the proposed units.**
10. **Testimony should be provided on how snow removal and garbage and recycling pickup will be addressed at the development.**
11. **Testimony should be provided on the location of the 12 parking spaces, and whether any visitor parking is provided.**
12. **The access driveways to the individual units are 18 ft. in length. Testimony should be provided on whether this length is sufficient for automobile parking, in particular larger SUVs.**
13. **The applicant should provide testimony and revise the site plans to include all interior and exterior building materials with the make, model, and color.**
14. **Testimony should be provided on architectural features utilized to minimize the impact of the mass and length of the proposed building.**
15. **The applicant provided a rendering of the front and eastern side of the building. We recommend that renderings of the other building sides be provided as well.**
16. **Testimony should be provided on all proposed lighting, and that the lighting will result in spillage onto adjacent properties.**
17. **The applicant shall provide testimony on all proposed landscaping and tree planting. We note that no plantings are shown along the western side property line.**
18. **The applicant shall provide testimony on all proposed buffering of adjacent neighbors.**
19. **The applicant should provide testimony on proposed signage.**

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20. **The applicant should provide testimony on how deliveries to the site will be handled.**
21. **Prior to final approval, evidence of all required outside agency approvals or letters of no interest should be submitted to the Board professionals, including, but not limited to:**
 - a. **Essex County Planning Board;**
 - b. **Borough Environmental Commission.**
 - c. **Borough Fire Official**
 - d. **Borough Traffic Safety Division; and,**
 - e. **Any and all agencies having jurisdiction over this application.**
22. **We defer to the Board Engineer regarding grading, drainage, and utilities.**
23. **Prior to final approval, the applicant shall address all required Borough fees, permits, and required approvals.**

Applicant's Team

1. Subject Property Owner: Francis X. and Lisa J. Garrity, 131 Brookside Avenue, Caldwell, NJ 07006; Telephone: 973-618-1635
2. Subject Property Applicant: Thomas P. Stille, 143 Smull Avenue, West Caldwell, NJ 07006; Telephone: 973-296-0518; Email: thomaspstille@gmail.com
3. Applicant's Attorney: Jeffrey Kantowitz, 195 Route 46 West, Suite 6, Totowa, NJ 07512; Telephone: 201-446-3148; Email: jeffrey.kantowitz@gmail.com
4. Applicant's Engineer: Charles Stewart, P.E., 2340 Highway 34, Building A, Suite 1R, Wall, NJ 08736; Telephone: 732-262-1776 X3315; Email: cstewart@suburbanconsulting.com
5. Applicant's Planning Consultant: Same as Applicant's Engineer above.

Should you have any questions, please do not hesitate to contact us.

Sincerely,



CAROLINE Z. REITER, PP, AICP
CALDWELL BOARD PLANNER
T&M PLANNING GROUP MANAGER

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

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