

**Before the Caldwell Hearing Examiner
City of Caldwell, Idaho
Public Hearing Held August 18, 2020**

Subject: Case No. VAR-20-01 reduce the minimum lot area (square footage)

The following Land Use Action is the primary feature of this application:

- **Variance request to reduce the minimum lot area (square feet) in the R-2 (Medium Density Residential) zone**

TABLE OF CONTENTS:

I	COURSE OF PROCEEDINGS
II	GENERAL FACTS
III	TESTIMONY
IV	APPLICABLE LEGAL STANDARDS
V	BACKGROUND
VI	VARIANCE CRITERIA
VII	COMPREHENSIVE PLAN ANALYSIS
VIII	FINDINGS OF FACT
IX	CONCLUSIONS OF LAW
X	ORDER OF DECISION

I COURSE OF PROCEEDINGS

- 1.1 The Caldwell Planning and Zoning Department issued a notice of Public Hearing on application VAR-20-01 to be held on August 18, 2020. Public notice requirements set forth in Idaho Code, Chapter 65, Local Planning Act, were met. On, or before, July 20, 2020 notice was published in the Idaho Press Tribune, and on, or before, July 31, 2020 notice was mailed to all political subdivisions providing services to the site and to all property owners within 300 feet of the project site; and on, or before, August 7, 2020 notice was posted on the site.
- 1.2 Files and exhibits relative to this application are available for review in the Planning and Zoning Department, 621 Cleveland Boulevard, Caldwell and at applicable public hearings.

II GENERAL FACTS

- 2.1 APPLICANT: Dennis Boyd, 1408 N. Middleton Road, Nampa, Idaho 83651
- 2.2 REQUEST: Dennis Boyd is requesting a variance to reduce the minimum lot area (square feet) in the R-2 (Medium Density Residential) zone for the purpose of dividing an existing duplex into two separate properties at the current common wall resulting in an approximate 4125 square foot lot where 6,000 sq. ft. is required and a 5,250 square foot corner lot where 7,500 sq. ft. is required. Frontage improvements including curb, gutter, sidewalks, street lights and separate municipal services required. The properties are located at 1119 Airport Road and 1121 Airport Road, Caldwell, ID on parcel R05349.
- 2.3 VARIANCE PROCEDURE: Section 10-03-05 of Caldwell City Code sets forth procedures for granting a variance. A variance can only be granted when all five listed criteria (1 through 5 of subsection 4) are verified by the Planning & Zoning Commission to be "true" (see variance criteria listed in Section 5 of this staff report).

2.4 **COMPREHENSIVE PLAN DESIGNATION:** The Caldwell Comprehensive Plan Map designation for the site is Medium Density Residential.

Medium Density Residential includes land that is suitable for infill development or a transitional district to include a mixture of dwelling choices (attached and detached), churches, schools, group day care facilities, public facilities and limited neighborhood commercial uses. The residential density range shall not exceed four (4) dwelling units per gross acre for a single-family residential subdivision and shall not exceed twelve (12) units per gross acre for a mixed use (planned unit development) site.

2.5 **COMPREHENSIVE PLAN COMPONENTS APPLICABLE TO THE REQUEST:**

Land Use: The subject property is zoned C-3 (Service Commercial) and is surrounded by:

<u>Direction</u>	<u>Zone</u>	<u>Comprehensive Map</u>	<u>Use</u>
Site	R-2	Medium Density	Residential
North	R-3	Medium Density	Residential
South	R-1	Low Density	Residential
East	R-1	Medium Density	Residential
West	R-2	Medium Density	Vacant

2.6 **Transportation/Connectivity:** The subject property has frontage onto Airport Road.

2.7 **Public Services, Utilities and Facilities:** The engineering department, fire marshal, building department, police department, Pioneer Irrigation District, Idaho Transportation Department, and the City Airport Manager were all sent a request for comment.

III PUBLIC TESTIMONY

3.1 BEFORE THE PLANNING & ZONING COMMISSION, August 18, 2020
Reserved for Hearing Examiner.

IV APPLICABLE LEGAL STANDARDS

4.1 City of Caldwell Zoning Ordinance No. 1451, as amended

4.2 City of Caldwell Comprehensive Plan, as amended

4.3 Idaho Code, Title 67, Chapter 65, Local Planning Act

V BACKGROUND

5.1 Dennis Boyd owns an existing duplex located at 1119-1121 Airport Road in Caldwell. The zoning ordinance requires that a duplex should have at total of 7,500 sq. ft. in an R-2 zone. The lot is 9,147.6 sq. ft. The property is on a corner lot. Mr. Boyd proposed to divide the existing duplex into two separate properties at the current common wall. The division would create an approximate 4,125 square foot lot where 6,000 sq. ft. is required and a 5,250 square foot corner lot where 7,500 sq. ft. is required.

Definitions:

DWELLING, SINGLE-FAMILY DETACHED: A one-family dwelling that is not attached to any other dwelling by any means and shall have only one address and one water meter.

DWELLING, TWO-FAMILY: A building containing two (2) single- family dwelling units

totally separated from each other by a nonpenetrated wall extending from basement to roof (2 units on 1 lot or parcel - duplex). Each unit shall have its own address and its own water meter.

Two issues discussed during the roundtable meeting with city staff. The building department notified Mr. Boyd that there would need for some code improvements. One of the issues included the need to build a fire wall between the two units. The building department will determine if any additional requirements would be needed. In addition, Mr. Boyd was notified that there was no existing sidewalk, curb or gutter along the right of way. It was stated that he would will have to meet current city code requirements.

VI VARIANCE CRITERIA

6.1 This variance request to reduce the minimum lot area (square footage) in the R-2 (Medium Density Residential) zone. The following five criteria, as set forth in Section 10-03-05(4)A.1-5 of Zoning Ordinance No. 1451 (as amended) all need to be found TRUE by the Caldwell Hearing Examiner in order to approve the variance request.

1. There has been a showing of undue hardship because of characteristics of the site which are size, location, configuration or dimensions of the site; or topographic or other physical site conditions, which render the site unique from adjoining properties. True/False (Staff finds that a variance to reduce the minimum lot area (square feet) in the R-2 (Medium Density Residential) zone meets the intent of the ordinance.
2. Granting of the variance does not constitute a right or special privilege by the applicant. True/False (Staff considers this to be true.)
3. Granting of the variance is not in conflict with the public interest. True/False (Staff considers this to be true and that it will benefit the public interest.)
4. Granting of the variance will not be injurious to the property or improvements of adjacent property owners or interfere with the enjoyment of such property or improvements thereon. True/False (Staff considers this to be true.)
5. Granting of the variance will not be materially detrimental to the public health, safety or welfare. True/False (Staff considers this to be true and that it will be beneficial to public safety.)

VII COMPREHENSIVE PLAN ANALYSIS

The Caldwell Planning & Zoning Commission accepts the Comprehensive Plan Components as listed below.

7.1 The proposed project is consistent with the following Comprehensive Plan Components:

GOALS AND POLICIES – Property Rights

Goal 1: Ensure that land use policies, restrictions, conditions and fees do not violate private property rights, adversely impact property values or create unnecessary technical limitations on the use of the property.

Policy 1-1: Establish a sound basis for land use and environmental regulations through comprehensive planning and adopted policies and ordinances.

GOALS AND POLICIES – Land Use

Goal 1: Establish land-use management policies that protect property rights and the environment, maintain a high quality of life, provide adequate land for all types of development, and adequately buffer non-compatible uses.

Policy 1-1: Guide the growth and development of land uses in such a way that the health, safety, and general welfare of residents will be protected.

7.2 The request was not found to be inconsistent with the Comprehensive Plan Components.

VIII FINDINGS OF FACT

8.1 The Caldwell Hearing Examiner accepts the facts outlined in the staff report, public testimony and the evidence list. All adopted city ordinances, standards and codes were used in evaluating the application. The proposed use is conditionally permitted by the terms of the ordinance and is subject to conditions of approval.

8.2 Findings on the Variance Criteria (Section 10-03-05(4) A.1-5):

1. True or False
2. True or False
3. True or False
4. True or False
5. True or False

IX CONCLUSIONS OF LAW

9.1 The Caldwell Hearing Examiner has the authority to hear this case and order that it be approved or denied. The public notice requirements were met and the hearing was conducted within the guidelines of applicable Idaho Code and City ordinances.

X ORDER OF DECISION

10.1 Based on the Findings of Fact and Conclusions of Law, the Caldwell Hearing Examiner hereby orders that Case No. VAR-20-01 a request by Dennis Boyd to reduce the minimum lot area (square feet) in the R-2 (Medium Density Residential) zone for the purpose of dividing an existing duplex into two separate properties at the current common wall resulting in an approximate 4125 square foot lot is required and a 5250 square foot corner lot is required located at 1119 Airport Road and 1121 Airport Road in Caldwell, Idaho is **approved/denied** with the following conditions of approval (if approved):

10.2 Meet building code requirements of the Caldwell Building Department.

10.3 Provide sidewalk, curb or gutter along the right of way.

10.4 Provide separate sewer and water connections for each building unit.

V A R - 2 0 - 0 1



- Legend**
- Streets
 - Subject Property
 - Taxlots
 - City Boundary
 - Impact Area



DISCLAIMER

The information represented on this map results from the compilation of a variety of source materials. Its intended use is as a resource for the City of Caldwell Staff. The City of Caldwell makes no representation or warranty as to the accuracy of this product, and in particular, its accuracy as to labeling, dimensions, property boundaries, or placement or location of any map features thereon. THE CITY OF CALDWELL DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR WARRANTY FOR FITNESS OF USE FOR A PARTICULAR PURPOSE, EXPRESS OR IMPLIED, WITH RESPECT TO THIS PRODUCT. Any user of this product accepts the same AS IS, WITH ALL FAULTS, and assumes a responsibility for the use thereof.

Reason for variance

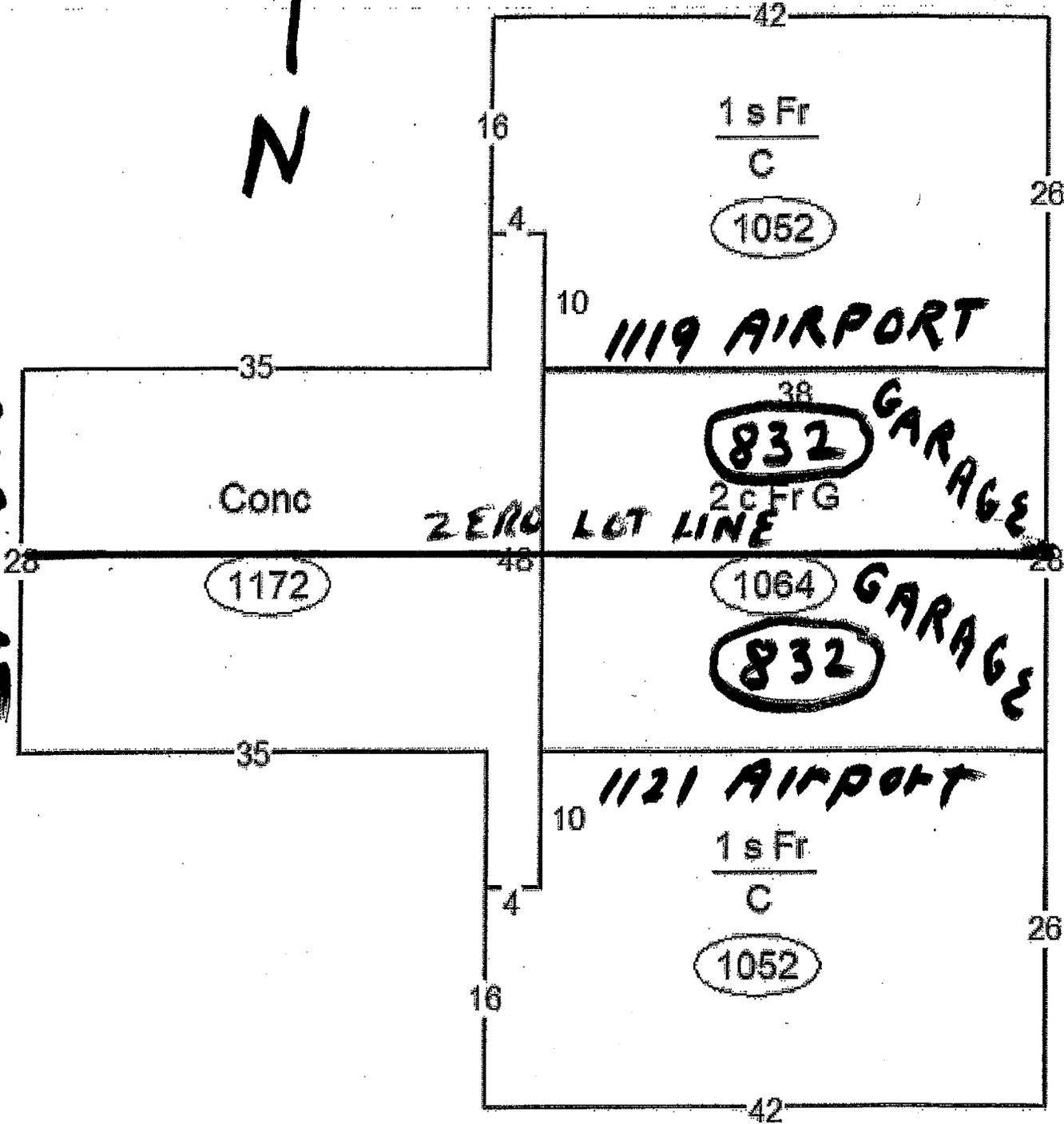
I am requesting a change from changing a duplex into two town homes. There will be no change in appearance other than things like fresh painting and sidewalks.

1. The structure already exists as a duplex (Not change of use, no additional impact to the neighborhood, that use permitted in the zone.
2. The zoning ordinance stating 7500 sq foot for a townhouse lot is larger than what townhouse dwellers want.
3. The proposed reduction of the lot split will in no way change the existing use of the property other than allow for two separate owners versus one owner of two units
4. The structure complies with other setbacks and dimensional standards.
5. The site will be improved to include curb, gutter, sidewalk, and separate sewer and water connections.
6. A multiple listing service search asking only for townhouses in the city of Caldwell brought up 282 listings. There were only 4 that had lots as big as what your zoning is asking of the airport property regarding lot size.
7. There are presently townhouse being built in Caldwell that are on lots less than 3,000 sq ft. They are part of a PUD but the point is they work well for consumers to live with that size lot.
8. There is presently no irrigation for the lawns at 1119 and 1121 Airport. When I had my meeting with the neighbor they said that area is described as a black hole regarding the irrigation. As far as hardship that fact may cause lawns to not be kept up.
9. The other hardship is affordable housing for families. A search at the time of this writing for 3 bedrooms in Caldwell under \$200,000 only brought up one listing and that was a mobile home.
10. The main benefit to City of Caldwell is increased taxes, sidewalks, and better maintained property.

A2



AIRPORT

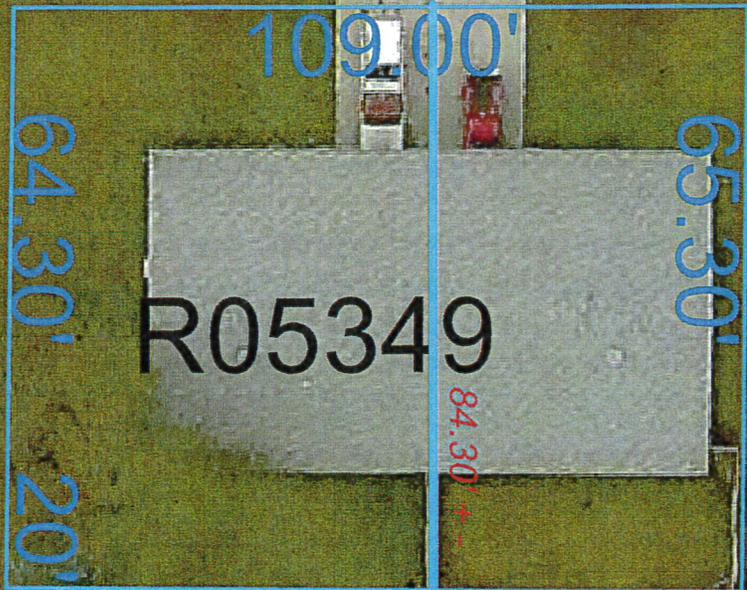


WOOD LAWN

A3

Woodlawn Dr

Airport Ave



A3

