Before the Caldwell Planning and Zoning Commission
City of Caldwell, Idaho
Public Hearing Held October 20, 2020

Subject: **Case No. SUP-20-09 (William and Madeline Buckendorf)**

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

- **Special-Use-Permit request to a convert a detached office to an ADU (Accessory Dwelling Unit) on property located at 1805 Everett Street, Caldwell, Parcel # R07305000. The subject property is zoned R-1 (Low-Density Residential) and is located within the Steunenberg Historic District.**

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I COURSE OF PROCEEDINGS

1.1 The Caldwell Planning and Zoning Department issued a notice of Public Hearing on application SUP-20-09 to be held before the Caldwell Planning and Zoning Commission on October 20, 2020. Public notice requirements set forth in Idaho Code, Chapter 65, Local Planning Act, were met. On, or before, October 4, 2020, notice was published in the Idaho Press Tribune, and on, or before, September 18, 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, October 8, 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 AND PROPERTY OWNER: William and Madeline Buckendorf, 1805 Everett Street, Caldwell 83605.

2.2 ZONE DESIGNATION: The subject property is zoned R-1 (Low-Density Residential) and is located within the Steunenberg Historic District.

2.4 REQUEST: The applicant is requesting special use permit to a convert a detached office to an ADU (Accessory Dwelling Unit) on property located at 1805 Everett Street, Caldwell, Parcel # R07305000. The subject property is zoned R-1 (Low-Density Residential) and is located within the Steunenberg Historic District.

2.5 COMPREHENSIVE PLAN COMPONENTS APPLICABLE TO THE REQUEST:

Land Use: The subject property is conditionally zoned M-1 (Industrial) and is surrounded by the following land uses:

Direction	Zone	Comprehensive Map	Use
Site	R-1	Low Density Residential	Single Family Residential
North	R-1	Low Density Residential	Single Family Residential
South	R-1	Low Density Residential	Single Family Residential
East	R-1	Low Density Residential	Single Family Residential
West	R-1	Low Density Residential	Single Family Residential

2.4 Transportation/Connectivity: The subject property has frontage onto Everett Street a local street.

2.5 Public Services, Utilities and Facilities: The engineering department, fire marshal, building department, police department, Canyon Highway District No. 4, Caldwell School District, Vallivue School District, and Pioneer Irrigation District were all sent a request for comment on September 18, 2020.

2.6 Background: A request to convert a study into an accessory dwelling unit (ADU) with an R-1 (Low-Density Residential) Zone and within the Steunenberg Historic District:

An Accessory Dwelling Unit (ADU) is defined in the Caldwell Zoning Ordinance as a secondary dwelling unit on the same lot of the principal residence that includes its own independent living facilities with provisions for sleeping, cooking, and sanitation.

This request was heard by the Caldwell Historic Preservation Commission on July 8, 2020, because the property is located within the Steunenberg Historic District and a Certificate of Appropriates was needed. The Caldwell Historic Preservation Commission recommended approval of the special use permit request. The staff report is attached to the staff report. The following are some of the highlights of the meeting:

- The home was built in 1931 and consisted of a dwelling and a detached garage.
- In 1982, the property owner received a building permit to add a 336 square foot study area to the existing garage.
- The current setback of the garage is 4 feet from the alley way and 3 feet from the property line. The existing garage was in place before zoning requirements. So current setbacks are not an issue.
- The study included a roughed-in plumbing for a restroom.
- In February 2020, the current property owner submitted a building permit to complete the bathroom and the previous Planning and Zoning Director approved in 2019. The approval the bathroom was based upon that the 1982 addition was plumbed.
- The current property owner contacted Planning & Zoning in May 2020 to inquire about the process to apply for a special use permit. They were informed that they would need to be obtained receive a Certificate of Appropriates before submitting for a special use permit to allow the accessory dwelling unit to be utilized legally.
- An issuance of a certificate of appropriateness was issued by the Caldwell Historic Preservation Commission.
- The property owner is required to live in the main house or the accessory dwelling unit
- 10-02-05 Parking, Loading, And Pedestrian Amenity Standards states that a single family dwelling unit requires two off street parking. Parking requirements are not identified

for an ADU, but mobile homes require one off street parking space. Residents of the area may park on the street.

- In addition, Ms. Buckendorf further expressed that she did not know why this structure was not grandfathered in at the time of the historic district.

The purpose of this request is to make a nonconforming use conforming with the proposed special use permit.

III PUBLIC TESTIMONY

3.1 Before the Planning and Zoning Commission, October 20, 2020

Reserved for the Planning and Zoning Commission

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 COMPREHENSIVE PLAN ANALYSIS

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

5.1 The request was found to be 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.

Policy 1-2: Identify potential takings of private property prior to a regulatory or administrative action on specific property.

5.2 The request was not found to be inconsistent with any of the Comprehensive Plan Components. All adopted city ordinances, standards and codes were used in evaluating the application.

VI FINDINGS OF FACT

6.1 The Caldwell Planning and Zoning Commission 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.

VII CONCLUSIONS OF LAW

7.1 The Caldwell Planning and Zoning Commission 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.

VIII ORDER OF DECISION

8.1 Based on the Findings of Fact and Conclusions of Law, the Caldwell Planning and Zoning Commission hereby orders that Case Number SUP-20-09, a request by William and Madeline Buckendorf for a special use permit to convert a detached office to an ADU (Accessory Dwelling Unit). The subject property is located at 1805 Everett Street, Caldwell, Parcel # R07305000. The subject property is zoned R-1 (Low-Density Residential) and is located within the Steunenberg Historic District. The Caldwell Historic Preservation Commission has made a recommendation for approval of the special use permit request, is **approved/denied** with the following conditions of approval (if approved):

8.2 Comply with the all applicable city codes, ordinances, policies, and standards.

ATTACHMENT A
Request, Property History of 1805 Everett Street, Caldwell, Idaho
Property Owners and Residents: William and Madeline Buckendorf

Request
William and Madeline Buckendorf, owners of the property at 1805 Everett Street, wish to change the use category of the existing Home Office/Study attached to the garage that is located on the northwest corner of the property. They will be applying for a Special Use Permit (SUP) to change the use to an Accessory Dwelling Unit. The Buckendorfs will use the Accessory Dwelling Unit as a part-time living space for extended family and friends. The Buckendorfs will continue to live in the main dwelling. No exterior alterations have been made to the proposed ADU since it was built in 1982, except to reroof it with architectural shingles. There will be no additions/alterations to the exterior of the proposed ADU. (For the Warranty Deed, See Attachment A.1.)

Property History
The property at 1805 Everett Street consists of three lots of 120' x 75' each, located on the northeast corner of South 18th Avenue and Everett streets in Caldwell, Idaho. It lies within the Steunenberg Historic District. A dwelling and unattached, single-car garage were constructed on the property in 1931.They are still located on their original footprint (see Attachment B, Site Sketch).

In 1982, property owner Professor LaMar Bollinger received a building permit to add a "study" onto the garages' south elevation (see Attachment C,1982 Building Permit). The addition was one story with a continuation of the gable roof over the garage. Its dimensions were 24' wide and 14' long, equaling 336 square feet. the addition's width and street setback conformed with the existing garage, which was built in 1931 The exterior was clad with stucco over wood framing, matching the garage's exterior. A small, gable-roofed open porch was built on to the entry. When the addition was completed in 1982, the interior included an open plan with a kitchen area with sink, shelves, and cupboards; a"study" or "studio" area, and a partially plumbed bathroom area. The bathroom area was separated by a single wall from the kitchen area. The kitchen sink and the roughed-in plumbing was also hooked up to the sewer line leading out to the alley connection. In the interior kitchen area, the builder added hook-ups for a refrigerator and stove in 1982 (see Attachment D, Floor Plan, Garage/Home Office).

When the property was purchased in 1997 by Bill and Madeline Buckendorf, no changes were made to the attached "study." Later, approved architectural shingle roofing was added. Madeline applied and received a permit to use the study as a home office, and it was used in that manner until 2016. In early 2020, the Buckendorfs decided to add the bathroom fixtures in the former home office to increase the property's value. A Building Permit was granted (Attachment E, 2020 Building Permit), and information was given to the Buckendorfs by the Planning and Zoning Department about a Special Use Permit for an Accessory Dwelling Unit. On July 8th, 2020, a Certificate of Appropriateness was granted by the Caldwell Historic Preservation Commission to the Buckendorfs concerning its proposed use as an Accessory Dwelling Unit (See Attachment F, CHPC Certificate).

Further Information: The residential properties across S. 18th Avenue were grandfathered in as rentals before the Steunenberg Historic District was created in 200?. They are presently being used as Airbnb's. The Buckendorfs own one vehicle, and it is parked in the garage over 95% of the time. There are open parking spaces in front of the property on Everett Street and on the east side of S. 18th Avenue adjacent to the 1805 Everett property. At present, people only temporarily park in these areas on a very limited basis.

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Everett St
Fillmore St
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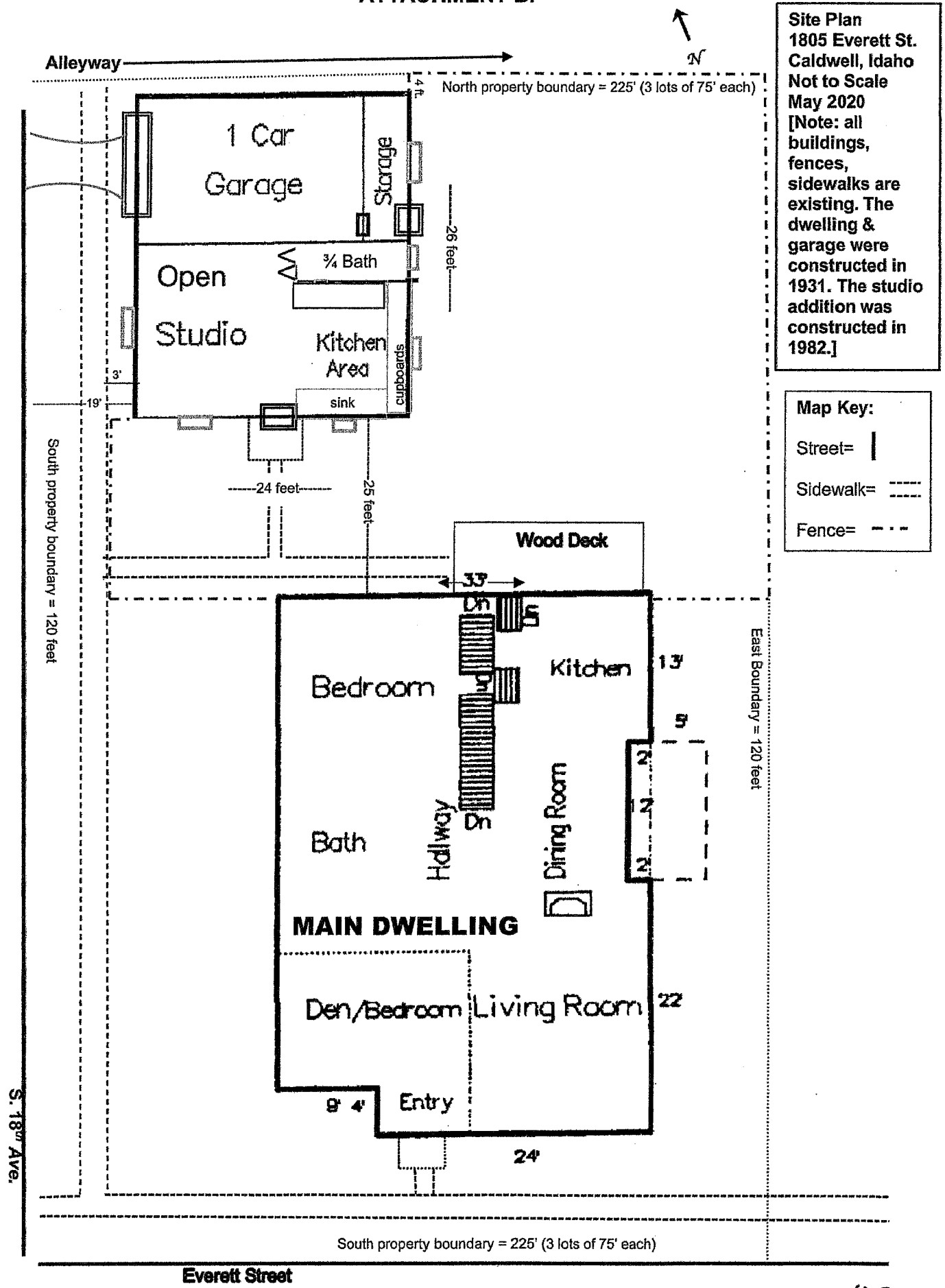
ATTACHMENT B.



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ATTACHMENT C.

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BUILDING PERMIT CALDWELL, IDAHO

DATE 9/17, 19 82

№ 14747

THE UNDERSIGNED HEREBY APPLIES FOR A PERMIT FOR THE WORK HEREIN INDICATED OR AS SHOWN AND APPROVED IN THE ACCOMPANYING PLANS AND SPECIFICATIONS:

OWNER La Mar Bollinger ADDRESS 1805 Everett PHONE

BUILDER Omar Crawford ARCHITECT DESIGNER

STRUCTURE: [X] RESIDENCE [ ] COMMERCIAL [ ] MULTI FAMILY [ ] MOBILE [ ] GOVM'T., CHURCH, SCHOOL [ ] MISC. [ ] REMODEL [X] ADDITION [ ] FIRE DAMAGE

FOOTINGS	FOUNDATION	BASEMENT	FLOORS	EXT. WALLS	INT. WALLS	CEILING	ROOF	HEAT	INSULATED
[X] CONCRETE	[X] CONCRETE	[ ] PARTIAL	[ ] WOOD	[X] WOOD	[ ] WOOD	[ ] WOOD	[ ] BUILT UP	[ ] GAS	[ ] WALLS
[ ] MASONRY	[ ] MASONRY	[ ] FULL	[X] CONCRETE	[ ] MASONRY	[ ] MASONRY	[X] DRYWALL	[ ] WOOD SH.	[ ] OIL	[ ] CEILING
		[X] NO	[ ] OTHER	[ ] CONCRETE	[ ] CONCRETE	[ ] PLASTER	[X] COMP. SH.	[ ] COAL	[ ] FLOORS
				[ ] VENEER	[X] DRYWALL	[ ] TILE	[ ] TILE	[ ] FIREPLACE	[X] PERIMETER
				[ ] METAL	[ ] PLASTER	[ ] ACOUSTIC	[ ] ROLL ROOF.	[X] ELECTRIC	
					[ ] TILE	[ ] OPEN	[ ] METAL	[ ] SOLAR	

FRONT PROPERTY LINE

SIDE PROPERTY LINE

INDICATE NORTH

OCCUPANCY: A E I H B (R) M — 1 2 (3) 4 5

ZONE: (R) C I T M — P 1 (2) 3 4

TYPE: I II III IV (V) N

REAR PROPERTY LINE

This permit is issued subject to the regulations contained in the Building Code and Zoning Regulations of Caldwell, Idaho, and it is hereby agreed that the work to be done as shown in the plans and specifications will be completed in accordance with the regulations pertaining and applicable thereto: The Building Official reserves the right to revoke any building permit that is issued in error or on the basis of incorrect information.

REMARKS: TO BUILD A 24'x14' ADDITION ONTO A GARAGE TO BE USED FOR A STUDY

LOT BLOCK SUBDIVISION

DEPARTMENT OF BUILDING	
SQUARE FEET — Living Area	
GARAGE CARPORT OR BASEMENT	
COMMERCIAL	
VALUE $14,000	
FEE PAID 86.85 [ ] CASH [X] CHECK	
DIRECTOR Dennis Davis BY	APPLICANT W. Lamar Bollinger
	ADDRESS

ATTACHMENT E.

City of Caldwell
DEPARTMENT OF BUILDING SAFETY
621 Cleveland Blvd.
Caldwell, ID 83605
Phone: (208) 455-3024
Fax: (208) 455-3050
Inspector Line: (208) 455-4605

BUILDING RESIDENTIAL PERMIT

PERMIT NUMBER	DATE ISSUED	VALUATION	FEE	PRINTED BY
BR20-000187	02/18/2020	6222.00	145.98	Kris Wallworth

PROPERTY DESCRIPTION

Project Name: **RESIDENTIAL ADDING BATHROOM IN STUDY ADDED TO DETACHED GARAGE(1982)**

Location: 1805 EVERETT

Use Zone: R-1 Low Density Residential

Subdivision: WASHINGTON HEIGHTS

Lot:

Block:

Owner: BUCKENDORF WILLIAM J
BUCKENDORF MADELINE J H/W
1805 EVERETT ST
CALDWELL, ID 83605

CONTRACTOR/DESIGNER

Applicant: BUCKENDORF WILLIAM J
BUCKENDORF MADELINE J H/W
1805 EVERETT
CALDWELL, ID 83605

Contractor:
(208) 454-3435
1805 EVERETT ST
CALDWELL, ID 83605

Registration No.: I am exempt from registration per ID State Code 54-5205

CHARACTERISTICS OF WORK

DESCRIPTION OF WORK:
RESIDENTIAL ADDING BATHROOM IN STUDY ADDED TO DETACHED GARAGE(1982)

BUILDING CODE: 0012 IRC

OCCUPANCY TYPE: R-3 Residential, single family

DIMENSIONS:
STORIES:
TOTAL SQ. FT:
GARAGE SQ. FT.:
PORCHES/DECKS:

NOTICE

This permit becomes null and void if work or construction authorized is not commenced within one hundred and eighty days (180), or if construction or work is suspended or abandoned for a period of one hundred and eighty days (180) at any time after work is started.

I hereby certify that I have read and examined this document and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. Granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulation construction or the performance of construction.

Signature of Owner or Authorized Agent

Date

Kris Wallworth

02/18/2020

Approved By

Date

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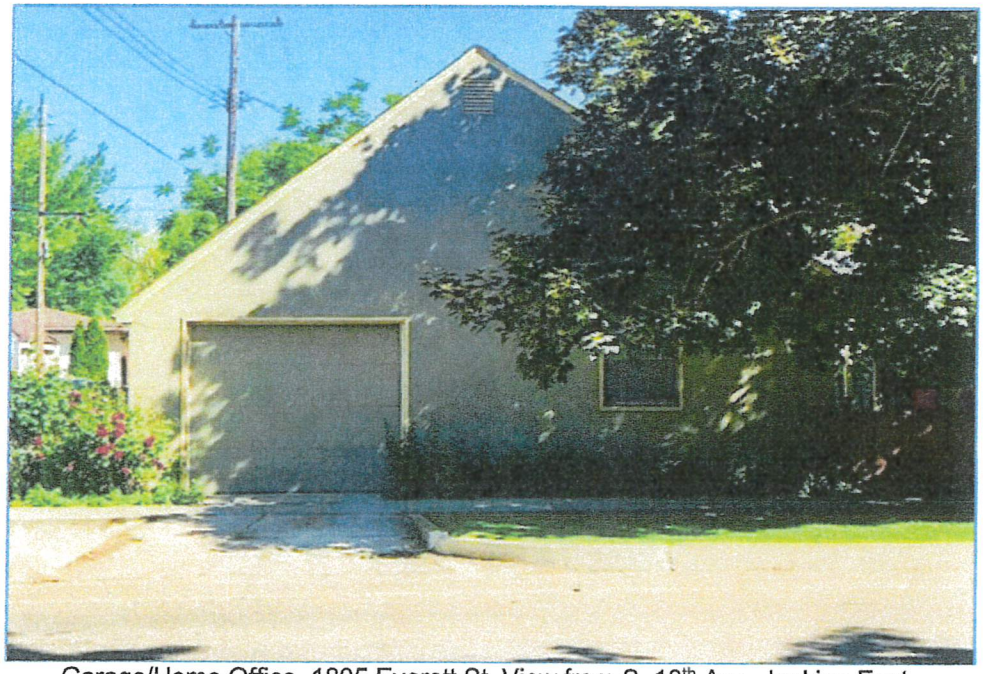
ATTACHMENT G. DIGITAL IMAGES OF 1805 EVERETT STREET

Main Dwelling, 1805 Everett Street. View from Everett St., looking N.

Main Dwelling, 1805 Everett Street. View from corner of S. 18th Ave & Everett St., looking NE.

Main Dwelling and Garage/Home Office. View from S. 18th Avenue, looking NE.

Home Office Portion of Garage, 1805 Everett St. View looking North.



Garage/Home Office, 1805 Everett St. View from S. 18th Ave., looking East.

Garage portion of Home Office, 1805 Everett St. View from Alley, looking South.

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Home Office/Garage. View from back yard, looking West.

Home Office/Garage, 1805 Everett Street. View looking Northwest.

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BEFORE THE HISTORIC PRESERVATION COMMISSION
CITY OF CALDWELL, IDAHO
PUBLIC HEARING HELD JULY 8, 2020

To: Caldwell Historic Preservation Commissioners

From: Jerome Mapp, Planning & Zoning Director
April Cabello, Planning Technician

Subject: **Order of Decision - Case No. CA-20-05 (1805 Everett Street) Accessory Dwelling Unit**

Date: June 30, 2020

THE FOLLOWING LAND USE ACTION IS THE PRIMARY FEATURE OF THIS APPLICATION:

- **TO CHANGE THE LAND USE CATERGORY OF THE EXISTING HOME OFFICE/STUDY ATTACHED TO THE EXISTING GARAGE TO AN ACCESSORY DWELLINIG UNIT.**
- **REQUESTING THE COMMISSION'S RECOMMENDATION OF APPROVAL FOR A SPECIAL USE PERMIT.**

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I COURSE OF PROCEEDINGS

1.1 The Caldwell Planning and Zoning Department posted a notice of a public hearing on application CA-20-05 to be held before the Caldwell Historic Preservation Commission July 8, 2020. On June 24, 2020 notices were mailed to property owners within 300 feet and on July 2, 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, Caldwell, and at applicable public hearings.

II GENERAL FACTS

2.1 OWNER /APPLICANT: William & Madeline Buckendorf, 1805 Everett Street, Caldwell, ID 83605.

2.2 REQUEST: The applicant desires to receive a Certificate of Appropriateness from the Historic Preservation Commission to change the land use category of the existing home office/study

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attached to the existing garage to an accessory dwelling unit, and requesting the commission's recommendation of approval for a special use permit.

2.3 BACKGROUND: The subject property 1805 Everett Street is located in the R-1 Zone and exists in the Steunenberg Residential Historic District. On August 19, 2002, the Steunenberg Historic District Overlay Zone was approved and adopted to protect its history, architecture, ecology and scenic attributes threatened by social and economic pressures that manifest through land use changes, the zoning at that time was R-2 (Medium Density Residential). The district was rezoned in 2008 to R-1 (Low Density Residential). Any non-conforming uses in the R-1 zone such as apartments, duplexes, etc. in existence prior to 2008 is deemed a legal non-conforming use and may continue its legal non-conforming use until it sits vacant for 365 days or is changed back to single-family residential. The site 1805 Everett Street built in 1931 consisted of a dwelling and detached garage. In 1982, the property owner received a building permit to add a 336 square foot study onto the existing garage with roughed-in plumbing for a restroom. In February 2020, the current property owner submitted for a building permit to complete the bathroom. The Planning and Zoning Director at that time was Brian Billingsley and he approved the bathroom based on the 1982 addition was plumbed for a bathroom. Planning and Zoning informed the current homeowner that the study was not to be used as living space because an accessory dwelling unit in the R-1 zone would require a special use permit. The current property owner contacted Planning and Zoning in May 2020 to inquire about the process to apply for a special use permit and was informed that a Certificate of Appropriateness must be obtained before submitting for a special use permit. 1805 Everett Street is listed on the National Register Recommendation as Individually Eligible, Contributing in a potential district and Significant Person.

2.4 LAND USE: The subject property is zoned R-1 (Low Density Residential) and is surrounded by the following:

Direction		Zone	Plan Map	Use
NorthEast	1802 Dearborn	R-1	Low Density Residential	Single Family Residential
East	1811 Everett	R-1	Low Density Residential	Single Family Residential
SouthWest	1804 Everett	R-1	Low Density Residential	Single Family Residential
West	1723 Everett/512 S. 18th	R-1	Low Density Residential	Single Family Residential

The property 1723 Everett/512 S 18th prior to 1998 the garage was converted to a single-family residence and addressed separately.

2.5 PARKING REQUIREMENT:
Single-family residential has a minimum of 2.0 parking spaces per dwelling unit.
Accessory Dwelling Unit has a minimum of 1.0 parking space per ADU.

2.6 SETBACK REQUIREMENT:
Single-family residential setbacks in the R-1 zone is: front 20', rear 20' side 6' street side 20'.
Accessory Dwelling Unit setbacks that is 200 to 600 square feet in the R-1 zone is:
rear 5', side 5', street side 20', and if it is 600 to 700 square feet it would be required to meet the single-family residential setbacks.

2.7 CERTIFICATE OF APPROPRIATENESS PROCEDURE: Section 02-17-09(3) and Section 02-17-11-03 of City Code set forth procedures for granting a Certificate of Appropriateness.

02-17-09: CERTIFICATE OF APPROPRIATENESS REQUIRED
(3) Change In Zoning Classification And/Or Change In Use In Designated Local Historic Districts: Any change in zoning classification as well as any change in use, preliminary plat, special use, temporary use, and/or home occupation within a local historic district shall first require approval

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and issuance of a certificate of appropriateness before an applicant can apply for or obtain any other permit or license that may be required. (Ord. 2905, 9-4-2012)

III TESTIMONY BEFORE THE HISTORIC PRESERVATION COMMISSION, JULY 8, 2020.

3.1 **CA-20-05** Applicant: William and Madeline Buckendorf, 1805 Everett Street, Caldwell, ID. Commission Level approval - approving the change to the land use category of the existing Home Office/Study attached to the existing garage to an Accessory Dwelling Unit, and recommending the Approval for a Special Use Permit.

3.2 Jerome Mapp, Planning & Zoning Director, 621 Cleveland Blvd., Caldwell, ID presented the staff report. Mr. Mapp shared with the commission that there are two parts to this application and the first motion would be for the approval or denial of the Accessory Dwelling unit and issuance of the Certificate of Appropriateness and the second motion would be for the recommendation of approval for the special use.

3.3 Mr. Mapp gave background on the application, the home was built in 1931and consisted of a dwelling and a detached garage. In 1982 the property owner received a building permit to add a 336 square foot study area to the existing garage, and the current setback of the garage is 4 feet from the alley way and 3 feet from the property line. The study was added to the garage with the same setback and under planning rules as long, they kept the same setback there is no issue with the side yard setback so the use is conforming to the code. The study included a roughed-in plumbing for a restroom. In February 2020 the current property owner submitted a building permit to complete the bathroom and the previous Planning and Zoning Director approved in 2019 approved the bathroom based upon the 1982 addition was plumbed. The Planning & Zoning staff informed the current owner that study would not be used as a living space as an accessory dwelling unit in the R-1 zone would require a special use permit. The current property owner contacted Planning & Zoning in May 2020 to inquire about the process to apply for a special use permit and was informed that a Certificate of Appropriates would need to be obtained before submitting for a special use permit to allow the accessory dwelling unit to be utilized legally.

3.4 Mr. Mapp shared that the property is surrounded by R-1 Low Density Residential land use and that a single-family dwelling unit requires 2 parking spaces off street and the accessory dwelling unit requires 1 parking space. The setbacks have been met and as far as this process, the code reads that any change in use with in the historic district shall first require approval and issuance of a Certificate of Appropriateness before the applicant can apply for or obtain any other permit or license that may be required.

3.5 Commissioner Maughan asked if there were any staff recommendations.

3.6 Commissioner Dixon stated that normally the reports include staff recommendations and application of the principles to the case and the commission is wondering where those are contained in the staff report.

3.7 Mr. Mapp responded that the commission needs to ask from the applicant is how this use is going to transpire. If they plan on moving in someone full time that could be an issue or if a family member was visiting town and were to use the space for a temporary purpose that is a different scenario. The commission needs to determine how the use will be used and what impact it will have.

3.8 Commissioner Dixon asked to clarify about the use, because presumably if a person in their own home invited a relative to stay for a period of time, no special use permit is required for that and

wondered if this special use permit is required at a further stage for the installation of the oven and the sink.

3.9 Commissioner Maughan stated that to his understanding all the construction is complete.

3.10 Mr. Mapp responded that everything is done.

3.11 Commissioner Dixon confirmed that installation of an appliance does not come before the commission.

3.12 Mr. Mapp stated that the applicant will explain next but, he will bring out some thoughts. The unit as far as he knows does not have a kitchen, in his years of planning that was the key issue but things have changed and now all you have to have is a microwave or a nutra-wave oven, or ninja cooker and it serves the same purpose.

3.13 Mr. Mapp shared that this use has been there since 1982 and has not affected the neighborhood at this time. Questions to ask are if it is a full time residence, what impact will it have? If it is an accessory use for family, members in short periods of time, what kind of impact will that have.

3.14 Commissioner Dixon shared they will have discussion later and her sense of the application at this point is that it is the use alone that comes before the commission because no visible changes will occur to the building.

3.15 Commissioner Maughan shared that the commission should consider if the use is compatible with the historic uses in the neighborhood, will this change the neighborhood. Given that this use is prevalent in the neighborhood, his first sense is it does not affect the neighborhood.

3.16 Mr. Mapp stated that the applicant needs to give their presentation, and the commission may add conditions to the approval. The commission can approve, deny or approve with conditions.

3.17 Commissioner Dixon shared that the commission talks a lot about precedent, the one thing she wondered about in terms of the character of the neighborhood and the kinds of actions that take place in the buildings, is whether a Special Use Permit is a **prerequisite** to collecting rent from a separate space.

3.18 Mr. Mapp responded no, we have no control one way or the other.

3.19 April Cabello, Planning Technician, 621 Cleveland Blvd. shared that for accessory dwelling units to be part of a property, it is required that the property owner has to live in the main house or the accessory dwelling unit.

3.20 Mr. Mapp shared that this is the question to ask the applicant: will they allow someone to live in the accessory dwelling unit on a permanent basis or part time.

3.21 Commissioner Maughan shared that anyone can buy a house in the district and turn the home into an Air-BNB or a rental, people can rent out rooms in their house and we have no say over that. The commission should approve or not approve the special use, and speculation about what people will do in the future is beside the point. The commission needs to decide if this is a compatible use with in the Steunenberg Residential Historic District.

3.22 Ms. Cabello shared that the decision would be for the Certificate of Appropriateness for the accessory dwelling unit and then the recommendation would be special use.

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3.23 Commissioner Lyons stated to clarify, to be approved with conditions, those conditions go on forward regardless of the ownership of the house.

3.24 Discussion was held between the commission and staff regarding the issuing of a separate address for an accessory dwelling unit. Staff reported that there are regulations from the fire department that bear on this issue.

3.25 Madeline Buckendorf, applicant, 1805 Everett Street gave supporting testimony stating she had a point of order that was submitted to staff on Tuesday after receiving the staff report adding some additional facts that she felt was important.

3.26 The Commission acknowledged receiving those additional comments from the applicant.

3.27 Ms. Buckendorf shared that the building in question includes the one car garage built in 1931 and the addition constructed in 1982. The addition received a building permit from the City of Caldwell for the 1982 addition; at that time it had a kitchen area with cupboards, counters, sink and electric outlets for a stove and a refrigerator. The previous owner had a stove and refrigerator, the unit had a wall separating the kitchen from the bathroom area with existing roughed-in plumbing for a toilet and sink already hooked up to the sewer and water. The only change since made to the addition was replacement of composition shingles with architectural style shingles approved by the Commission around 2014; no other changes have been made. There are no plans to alter it in the future. The previous owner used the office as a study, and the applicant and current owner, Madeline Buckendorf obtained a Home Occupation Permit to use the space as a home office.

3.28 Ms. Buckendorf shared that it is their opinion that changing the use of the 1982 addition from a study / home office to an accessory dwelling unit will not adversely affect the Steunenberg Residential Historic District. There will be no change the original setting or footprint of the addition. Only one or maybe two people could temporarily stay in the addition at a time.

3.29 Ms. Buckendorf shared that the additions west elevation is located on S 18th Street directly across from rental home and Air BNB home. The east elevation faces the backyard; the addition is attached to the garage, which faces north into the alleyway. The Buckendorf's own one car, which they keep in the garage. Only one street parking space would be used on part-time basis. Foot traffic would not be increased and the addition does not have a separate address and the property owners live on the same property.

3.30 Ms. Buckendorf stated that even though the setbacks may not be in the purview of the Caldwell Historic Preservation Commission, the setbacks for the garage were established back in 1931and we do not know what they were. The addition has had the same setbacks on its elevation facing south 18th. The original setbacks on the existing building should be considered as part of the historic character of the Steunenberg Historic District. She does not know how to answer the question about a separate address.

3.31 Ms. Cabello responded to the question about the address, for a home office stating that a home office would not have a separate address; the only time a separate address is issued is when the accessory dwelling unit is rented. When someone other than the homeowner is living in the accessory dwelling unit, it is required for emergency services to have a separate address.

3.32 Ms. Buckendorf further expressed that she did not know why this structure was not grandfathered in at the time of the historic district.

3.33 Commissioner Bradshaw confirmed that the garage/home office does not have access off 18th Avenue.

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3.34 Ms. Buckendorf responded that there is a sidewalk that goes from the house backdoor to the home office front door.

3.35 Commissioner Maughan stated that it is in the backyard and is not visible from the right-of-way.

3.36 Ms. Buckendorf shared that the only wall in the interior is the wall between the bathroom and kitchen area, the rest of the area is open.

3.37 Commissioner Dixon asked for clarification that currently there is no oven, sink or refrigerator but previously there had been.

3.38 Ms. Buckendorf responded that there is a refrigerator and oven now that they started to do the bathroom. The previous owner had a refrigerator and stove in the unit but took them with him when he sold the property. The unit was wired for a refrigerator and stove, originally.

3.39 Commissioner Maughan stated that issue before the commission is whether this is a compatible use in the neighborhood and they cannot control what is inside. The applicants use seems to him in keeping with the neighborhood and does not change the appearance. It is a straightforward approval from their perspective as a Historic Preservation Commission and that is his opinion but the commission can talk a lot more about it but if the commission feels that way then he would be happy to move forward.

3.40 Chairman King confirmed the one car garage parking, and street parking.

3.41 Ms. Buckendorf responded yes, they have only one car and there is parking on Everett Street. South 18th is a dangerous street to park on.

3.42 Commissioner Dixon shared as a resident of the district that adding one car from a person staying temporarily or visiting would be minimal.

3.43 Commissioner Bradshaw wondered why this was coming before the commission is this was already an approved use.

3.44 Commissioner Dixon stated it is formalizing this use.

3.45 Ms. Cabello stated when this was originally approved as a study it was not approved as a dwelling unit and the applicant is coming into compliance so the use can be appropriate and be approved through the proper special use process.

3.46 Chairman King closed the public hearing.

3.47 The commission discussed the reasons of why this would be appropriate.

3.48 Commissioner Maughan stated that he had stated his opinion in the previous section of the meeting and would like it to be known that he would like to say it again but take it from the record.

3.49 Chairman King stated that structure has been used in this manner since 1982 and makes sense in that end of the district is the college area and to have a study or secondary unit seems natural and feels comfortable with the use.

3.50 Chairman Lyons stated that is an established dwelling and is not in conflict as it was established prior to the district being established. There are no changes being done to the dwelling and agrees with Chairman King.

3.51 Commissioner Dixon shared that the use of someone living in the structure does not change the character of the district and does not think the concern for a parking space is material given existing practices and would be minimal compared to other dwellings on Dearborn. The current occupant's stated intention is to have close friends and family stay in the dwelling not persistently but temporarily and seems well within their rights. Given the configuration of the house and the accessory dwelling, it is unlikely to be established as a fully separate address or dwelling. If someone in the future wanted to do that they would need to create, an entrance onto 18th and that would come before the commission.

3.52 Commissioner Bradshaw stated that she understands the concern and the commission has to think about what this could like for the district in the future. Could this be turned into a rental that does not fit with the what the Historic Commission and district is trying to do but agrees with Commissioner Dixon that if this was a rental, there would need to be a front entrance off of 18th and that would have to come before the commission. Commissioner Bradshaw further stated that she did not feel it impacts the look of the district.

3.53 Commissioner Dixon would like to state on record that the applicant pointed out that the existing footprints of the building are part of the historic character and would support that statement.

3.54 Chairman King asked the commission if there were any other conditions regarding the use beyond as stated in the application for friends and family and extended stay.

3.55 Commissioner Dixon stated that no condition they could establish along those lines is in their purview. If the applicants do not plan to change the structure then that is the extent of the commission's responsibility.

3.56 Chairman King confirmed the conditions in the application as stated.

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
4.4 Idaho Code, Title 67, Chapter 46, Preservation of Historic Sites
4.5 Federal Fair Housing Act

V FINDINGS OF FACT

5.1 The Historic Preservation Commission accepts the staff report and the evidence list (consisting of the written and verbal staff report, public testimony, the case file, and the sign-up sheets) and facts brought forward during public testimony.

The Historic Preservation Commission further finds the following:

02-17-11-03: CHANGE IN USE; FINDINGS:
(1) The commission's decision in regard to certificates of appropriateness for a change in use, shall be based on the following findings:

AH

A. That the request supports the city of Caldwell's comprehensive plan goals, policies, and recommendations contained within section 11, special sites/historic areas, of said plan is True.

MOTION: Commissioner Maughan **SECOND**: Commissioner Bradshaw. Passed: Unanimous voice vote.

B. That the request will be congruous with the historical, architectural, archeological, educational, or cultural significance of the local district is True.

MOTION: Commissioner Maughan **SECOND**: Commissioner Dixon. Passed: Unanimous voice vote.

C. There will be no significant effect on the exterior of the site is True.

MOTION: Commissioner Maughan **SECOND**: Commissioner Dixon. Passed: Unanimous voice vote.

VI CONCLUSIONS OF LAW

6.1 The Historic Preservation Commission has the authority to hear this case and order that it be approved or denied.

VII ORDER OF DECISION

7.1 Based on the Findings of Fact and Conclusions of Law, the Caldwell Historic Preservation Commission hereby orders that Case No. CA-20-05, a request by William and Madeline Buckendorf to receive a Certificate of Appropriateness from the Historic Preservation Commission for an accessory dwelling unit, is **APPROVED** and **RECOMMENDS APPROVAL** of the Special Use Request with the following conditions:

ORDER FOR CA-20-05 (Certificate of Appropriateness) MOTION: Commissioner Maughan that Case Number CA-20-05 be approved **SECOND:** Commissioner Lyons. Passed: Unanimous roll call vote.

ORDER FOR CA-20-05 (Recommendation for Special Use) MOTION: Commissioner Bradshaw that Case Number CA-20-05 Recommendation for Special Use be approved. **SECOND:** Commissioner Maughan. Passed: Unanimous roll call vote.

Setbacks – as is, the current footprint of the structure is part of the historic character and trying to shoehorn old historic properties into new plat standards is inappropriate.

CASE NUMBER CA-20-05 WAS HEARD BY THE HISTORIC PRESERVATION COMMISSION AT A PUBLIC HEARING HELD JULY 8, 2020.

THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER OF DECISION WERE APPROVED ANS SIGNED BY THE HISTORIC PRESERVATION CHAIRPERSON ON THE DATE NOTED BELOW.

Jacob King, Chairperson

7-21-2020
Date

ATTEST:

Jerome Mapp, Planning Director
City of Caldwell

PAH

ATTACHMENT F.

City of Caldwell

Certificate of Appropriateness

William & Madeline Buckendorf owner of site property located at 1805 Everett Street, Caldwell, Idaho 83605, has been awarded a Certificate of Appropriateness in conjunction with Case No. CA-20-05— Commission Level Approval - 336 Square Foot Accessory Dwelling Unit (existing) and recommends approval for a Special Use Permit Any changes to the submitted application should be submitted to the Planning & Zoning Department for re-review.

approved on 7-8-2020 by _____

Caldwell Historic Preservation Commission Chairman

This Certificate of Appropriateness will expire on July 8, 2021