

BEFORE THE PLANNING AND ZONING COMMISSION  
GARDEN CITY, ADA COUNTY, IDAHO

In the Matter of: ) ) Density Reduction and Accessory ) Structure Size Waiver ) 403 E. 52 <sup>nd</sup> Street ) Garden City, Ada County, Idaho ) _____ )	CUPFY2019-3  FINDINGS OF FACT, CONCLUSIONS OF LAW; AND DECISION
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THIS MATTER, came before the Garden City Planning And Zoning Commission for consideration on March 20, 2019. The Planning and Zoning Commission reviewed the application and materials submitted. Based on the evidence presented, pursuant to Garden City Code Table 8-6A-1, the Planning and Zoning Commission makes the following Findings of Fact, Conclusions of Law and Decision:

**FINDINGS OF FACT**

1. The property owner of record and the applicant is Dyan Bevins.
2. The application is for a density reduction and an accessory structure size waiver.
3. The location of the project is 403 E. 52<sup>nd</sup> Street; Ada County Parcel R7334160660; Lot 3, Block 5, Randall Acres Sub No. 5.
4. The subject property is 0.344 acres.
5. The project is located in the R-3 Medium Density Zoning District.
6. The project is located in the Mixed Use Residential and Transit Oriented Development Node Buffer of the Garden City Comprehensive Plan Land Use Designation.
7. The existing use on the site is: none.
8. Current access to the site is from E. 52<sup>nd</sup> Street.
9. There are no sidewalks along or adjacent to the property.
10. The following sections of the Garden City Municipal Code apply to this proposal:

Standards	Compliant	Conclusions
<b>GCC 8-7A Definitions</b>	N/A	The scope of the requested permit is not for a use. The following definitions are noted for the purposes of review:  <u>Dwelling Unit, Single-Family or Two-Family Detached:</u> A structure consisting of one (1) or two (2) dwelling units and separated from other dwelling units by open space.  <u>Accessory Structure:</u> A detached structure that is incidental and subordinate to the principal structure and is located upon the same property. The term "accessory structure" shall include, but not be limited to, the following: private garage,

		<p>However, in the context of the property's location, the emerging development pattern in the area, and guidance from development elsewhere, the reduction appears consistent with focusing density at the TOD node center.</p> <p>The proposed density reduction waiver also consistent with Garden City Comprehensive Plan Goals and Objectives:</p> <p><b>Goal 1. Nurture the City</b>  <i>1.4 Objective: Create a premier destination place to live, work and recreate.</i></p> <p><b>Goal 2. Improve the City Image</b>  <i>2.1 Objective: Encourage new and distinctive neighborhoods.</i></p> <p><b>Goal 4. Emphasize the "Garden" in Garden City</b>  <i>4.3 Objective: Beautify sidewalks and gateways with landscaping and trees.</i></p> <p><b>Action Steps:</b>  <i>4.3.1 Continue to require sidewalks and landscaping in all new development, and in major alterations and re-use of existing commercial sites.</i></p> <p><b>Goal 6. Diversity in Housing</b>  <i>6.3 Objective: Maintain the diversity of housing.</i></p> <p>The proposed accessory structure waiver is not addressed by or appear to be in conflict with the Comprehensive Plan.</p>
State Street TOD Plan	Noted	The document was noted for the purposes of the Comprehensive Plan Analysis for determining density reductions away from Transit Oriented Development Node

## CONCLUSIONS OF LAW

The Planning and Zoning Commission reviewed the application with regard to Garden City Code Title 8, and based on the conditions required herein, concludes the application meet the standards of approval under **GCC 8-6B-2 Conditional Use**.

## DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law contained herein, the Planning and Zoning Commission hereby **APPROVES** of the application subject to the following conditions:

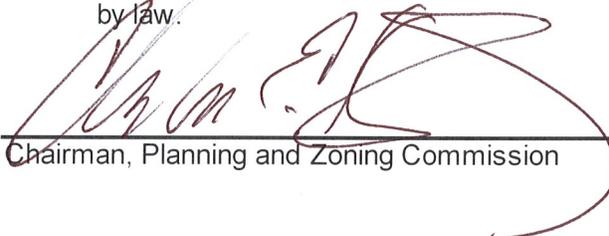
### Site Specific Conditions:

1. The scope of the permit is for the following:
  - a. A density reduction from 14 dwelling units per acre to 2.8 dwelling units per acre for the specific purpose of building a two-family dwelling unit.
  - b. A waiver of the requirement that accessory structures shall not exceed the size of the primary dwelling. The waiver is specific to the phased construction of a two-family dwelling unit.

### General Requirements

1. Any changes in the design, construction, operation or use shall be brought to the immediate attention of the Planning Official for determination if the changes are in substantial conformance with the City's action. Any changes to the plans and specifications upon which this approval is based, other than those required by the above conditions, will require submittal of an application for modification and approval of that application prior to commencing any change.
2. This Conditional Use Permit shall not be transferable from one parcel of land to another. Unless otherwise stated in the conditions attached to a permit, the permit shall be granted to the applicant and successors in interest to the premises for which it was approved.
3. This approval is only approval of the conditional use permit. All other applicable permits must be obtained and completed prior to a certificate of compliance or occupancy.
4. The approval is specific to the application provided and reviewed. Final approval is based on substantial conformance. Any changes to the plans and specifications upon which this approval is based, other than those required by the above conditions, will require submittal of an application for modification and approval of that application prior to commencing any change.
5. Final approval is subject to the approval of other reviewing agencies and City Departments. Any more restrictive standards adopted and made applicable by any Transportation Authority, Fire Authority or other Federal, State or Local regulatory agencies shall prevail.
6. All improvements and operations shall comply with applicable local, state and federal requirements and procedures whether specifically addressed in the analysis of this application or not. This shall include but not be limited to 8-4A General Provisions of Design and Development Regulations.
7. Unobstructed easements, including but not limited to, drainage, water, and sewer easements shall be provided as required by the City Public Works or Planning Official.
8. The property owner is responsible to maintain the site to edge of roadway asphalt.

28. A certificate of occupancy or an application for a building permit shall be considered commencement of the use.
29. All previous uses are null and void unless otherwise conditioned.
30. This approval shall become null and void if a building permit or certificate of occupancy has not been issued within one year of the approval. An extension may be granted by the Commission upon findings that the application and or the applicable City regulations have not changed. Such extension shall be applied for sixty (60) days prior to the expiration date for the original approval; only one extension of not more than three hundred sixty five (365) days shall be granted.
31. Should there be a change in use, there is a clear intent to cease the use, or the use is discontinued for more than one year without written documentation submitted to the City, legal noticing, and property posting indicating intent to continue the use, this approval shall become void.
32. There is a 10 day right to appeal to City Council. An appeal shall be made on the form provided by the City and filed with the City Clerk within ten (10) days after the action of the decision.
33. Final decisions are subject to judicial review pursuant to The Idaho Administrative Procedures Act, Chapter 65 Title 67 Idaho Code.
34. Pursuant to Idaho Code, a request for reconsideration must be submitted within 14 days of the final decision and prior to judicial review. The written request must identify specific deficiencies in the decision for which reconsideration is sought.
35. A takings analysis pursuant to Idaho Code may be requested on final decisions.
36. If any term or provision of this decision, to any extent, is held invalid or unenforceable, the remaining terms and provisions hereof shall not be affected thereby, but each such remaining term and provision shall be valid and enforced to the fullest extent permitted by law.

  
Chairman, Planning and Zoning Commission

*April 2019*

Date