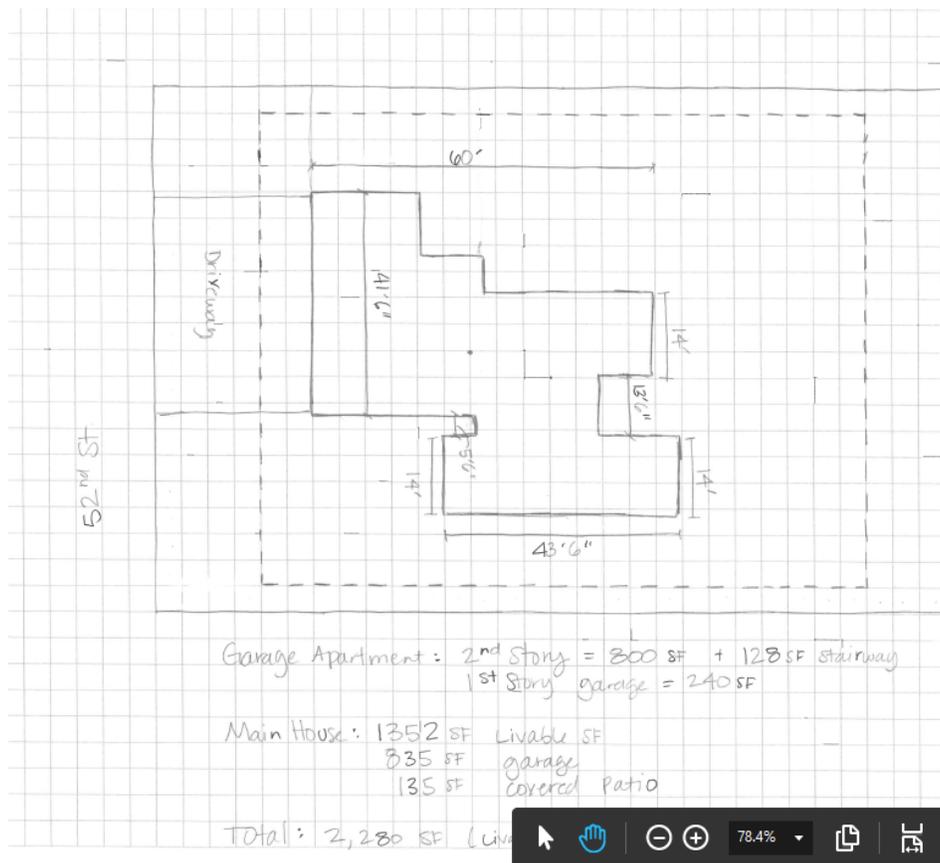




# CITY OF GARDEN CITY

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**CUPFY2019-3**  
**Conditional Use Permit**  
 For:  
**Use: Reduction in Density and Accessory Structure Size Waiver**  
**Location: 403 E. 52<sup>nd</sup> Street**  
**Applicant: Dyan Bevins**



**Staff Contact: Chris Samples (208) 472-2921; [planning@gardencityidaho.org](mailto:planning@gardencityidaho.org)**

**City of Garden City**  
**Planning and Zoning Commission Staff**  
**Report**

**Project Description:**

**Planning and Zoning Commission Public Hearing Date:** Wednesday March 18, 2019, at 6:30 p.m.

**Application File Number:** CUPFY2019-3

**Applicant:** The applicant is Dyan Bevins.

**Location:** 403 E. 52<sup>nd</sup> Street, Ada County Parcel R7334160660; Lot 3, Block 5, Randall Acres Sub No. 5

**Requested Use:** Reduction in required density and accessory structure size waiver

**Project Synopsis:** Dustin and Dyan Bevins are requesting Conditional Use Permit approval for a two unit residential structure at 403 E. 52<sup>nd</sup> Street; Ada County Parcel R7334160660. The 0.344 acre site is in the Medium Density Residential (R-3) zoning district, which requires a conditional use permit for less than 14 dwelling units per acre in Transit Oriented Development (TOD) locations of the Comprehensive Plan and required for accessory structures over 1,000 sq. ft. This property is located in the Mixed Use Residential and TOD designations of the Comprehensive Plan.

The applicant is proposing a two dwelling unit residential structure to be constructed in phases. The applicant's proposed density is below the required 14 units per acre within a TOD node located in the R-3 zoning district. The first phase is proposed to consist of a garage with an attached dwelling unit. The garage is proposed to exceed the size of the dwelling unit, triggering a conditional use permit and a design review. The applicant would live in this unit for 3 – 5 years before starting the second phase, consisting of the second dwelling unit. The applicant has indicated construction of the first phase would start this year.

**Existing Conditions:**

- The subject property is .344 acres
- The project is in the R-3 Medium Density Zoning District
- The project is located in the Transit Oriented Development Node and Mixed Use Residential Comprehensive Plan Land Use Designations
- The subject property is located within 100 year floodplain designation.
- Surrounding Uses: Dwelling Unit, Single Family Detached, Manufactured Home Park, C
- Existing Use: None
- There are no records on file with Garden City of existing easements
- Access to the site is from E. 52<sup>nd</sup> Street
- There are no sidewalks on or adjacent to the site.

**Standards for Review:** Standards for review of this application are as follows:

Note the code that was utilized to conduct review

<b>Standards</b>
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<b>8-7A Definitions of Uses</b>
<b>8-2B-1 Purpose</b>
<b>8-4B-3 Single Family and Two Family Attached and Detached Residential Dwelling Units</b>
<b>Comprehensive Plan Analysis</b>
<b>Other Plans and Approvals Analysis</b>
<b>Comments from Other Departments and Agencies</b>
<b>GCC 8-6B-2 Conditional Use</b>

**Staff Analysis:**

**8-7A Definitions of Uses:**

*Dwelling Unit,  
Single and Two  
Family, Detached:*

*A structure consisting of one (1) or two (2) dwelling units and separated from other dwelling units by open space.*

*Accessory  
Structure:*

*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, storage structure, workshop, and/or greenhouse. The term shall not include additional structures for approved public, commercial, or industrial uses or insurable structures.*

**8-2B-1 Purpose**

A. Residential Districts: The purpose of the four (4) residential districts is to provide a full range of housing products within the city in areas that are exclusively for residential uses. The four (4) districts are contrasted by the density and housing products that are allowed within each district:

Medium density residential (R-3)	35 du/acre	14 du/acre in TOD locations of the comprehensive plan or neighborhood commercial nodes unless successful obtainment of a conditional use permit	Single-family, two-family and multiple-family dwelling units
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The applicant has proposed a single dwelling unit on .344 acres or 2.8 dwelling units per acre, below the 14 unit threshold required when located within a TOD node Comprehensive Plan designation. The minimum amount of units required on a .344 acre property to meet the 14 unit threshold is 5. An analysis of the proposal against the required conditional use permit findings will follow below.

**Title 8, Chapter 4 Design and Development Regulations**

### **8-4B-3 Single Family and Two Family Attached and Detached Residential Dwelling Units:**

The applicant is requesting a conditional use permit to waive GCC 8-4B-3B-4, which states:

*4. Accessory structures and all portions of the principal structure, such as an attached garage, that are utilized for residential accessory uses over a combined one thousand (1,000) square feet may not exceed the combined square footage of the principal dwelling unit without a design review committee approval and approval of a conditional use permit.*

The applicant has proposed a structure consisting of a dwelling unit with an attached garage. The proposal is part of a phased approach to eventually completing a structure with two dwelling units. Attached garages are regulated as accessory structures under this subsection. Accessory structures cannot exceed the square footage of the dwelling unit without obtaining a conditional use permit and a design review. An analysis of the proposal against the required conditional use permit findings will follow below.

### **8-4E Transportation and Connectivity Provisions**

At times there is overlap between design and use. Code requires that whenever a new use commences at a site, that the property be compliant with transportation and connectivity provisions. There is no sidewalk along or adjacent to the property.

**Garden City Sidewalk Policy** notes that sidewalk or pathway shall be detached as required by **Garden City Code 8-4E-6 E** and provide for a 6' with root barrier/ 8' without root barrier landscape buffer prescribed by ACHD's policy for Class II or III trees. Although the use is permitted rather than conditional, a sidewalk is triggered due to the new use on the property. Enforcement of the sidewalk provisions and policy are usually handled administratively when the use is permitted. The scope of the conditional use permit request is not for the use, but waivers to standards. While a condition of approval requiring the sidewalk can be added to the permit by the Commission, it is not required.

### ***Other Plans and Approvals Analysis***

The State Street TOD Plan was analyzed as part of this report.

### ***Comments from Other Departments and Agencies***

#### **Idaho Transportation Department**

No objection.

#### **Flood Control District No. 10**

No additional conditions requested.

#### **Idaho Department of Environmental Quality**

Standard comments provided.

### ***Summary of Comments from Public***

There have been no written public comments received to date.

### **8-6B-2 D [Conditional Use] Required Findings**

In order to approve a conditional use permit the Planning and Zoning Commission must find:

1. The use is appropriate to the location, the lot, and the neighborhood, and is compatible with the uses permitted in the applicable zoning district;
2. The use will be supported by adequate public facilities or services to the surrounding area, or conditions can be established to mitigate adverse impacts;
3. The use will not unreasonably diminish either the health, safety or welfare of the community; and
4. The use is not in conflict with the comprehensive plan or other adopted plans, policies, or ordinances of the city.

#### Analysis of Finding 1

The nature of the proposed waivers does not appear to affect the appropriateness of the use or its compatibility with other uses in the R-3 zoning district. The waivers themselves affect the size, design, and density of the structure rather than impact specific uses or the ability of property owners to utilize their property. A phased approach to developing the property would not impact this finding, provided all applicable Garden City Code and agency requirements were met.

#### Analysis of Finding 2

There does not appear to be evidence on the record or comments from agencies that indicated the waivers are not able to be supported by public facilities or services. Agency comments did not reflect objection to the proposal. The applicant would be required to meet all applicable Garden City Code and agency requirements, including any required permits and additional reviews.

#### Analysis of Finding 3

There does not appear to be evidence on the record that the proposed waivers would negatively impact the health, safety and welfare of the community. The waivers are structural in nature rather than generated from a use. The construction of the proposal would require a building permit and have to adhere to applicable Garden City Code and agency requirements. A Design Review of the structure is also required by GCC 8-4B-3 when a waiver is requested, adding a further level of review.

#### Analysis of Finding 4

In and of itself, a Comprehensive Plan is not legally binding. However, a required Conclusion of Law for conditional use permits in Garden City is that the use is in compliance with the Comprehensive Plan. In this way the Garden City Zoning Code ensures that proposed uses are not only required to be compatible with existing neighborhoods, but are also progressing the vision that the community has for those neighborhoods.

The proposed use is located in the Mixed Use Residential and Transit Oriented Development Node Comprehensive Plan designations:

***MIXED USE RESIDENTIAL:*** *The mixed use residential area is north of Adams Street. This designation allows for residential and commercial uses in a form and scale that is residential in character and design. A mix of residential; small scale office and retail; and*

*public and semi-public uses are appropriate in this district. Regulations for this area should focus on form more than use, with a maximum height of two stories.*

**TRANSIT ORIENTED DEVELOPMENT NODE:** *The transit oriented development (TOD) nodes are identified within one quarter mile of locations where a transit station has been planned or could be located. It is not intended that all nodes could be developed within the twenty year period of the plan. A mix of uses including higher density residential, retail, office, research and public uses are included in the TOD area designation. A development to be considered for the TOD designation should include 50,000 square feet of non-residential uses and 60 – 80 dwelling units. The form of the development should be multi-story (three or more stories) along the boulevard corridor with lower height moving away from the street. Site design characteristics should include walkability, public spaces, and transit station design. Lower parking standards should be allowed.*

The following Comprehensive Plan goals, policies and actions steps are applicable to this proposal:

### **Goal 1. Nurture the City**

*1.4 Objective: Create a premier destination place to live, work and recreate.*

### **Goal 2. Improve the City Image**

*2.1 Objective: Encourage new and distinctive neighborhoods.*

### **Goal 4. Emphasize the “Garden” in Garden City**

*4.3 Objective: Beautify sidewalks and gateways with landscaping and trees.*

#### **Action Steps:**

*4.3.1 Continue to **require sidewalks and landscaping in all new development, and in major alterations and re-use of existing commercial sites.***

### **Goal 6. Diversity in Housing**

*6.3 Objective: Maintain the diversity of housing.*

#### Density Reduction:

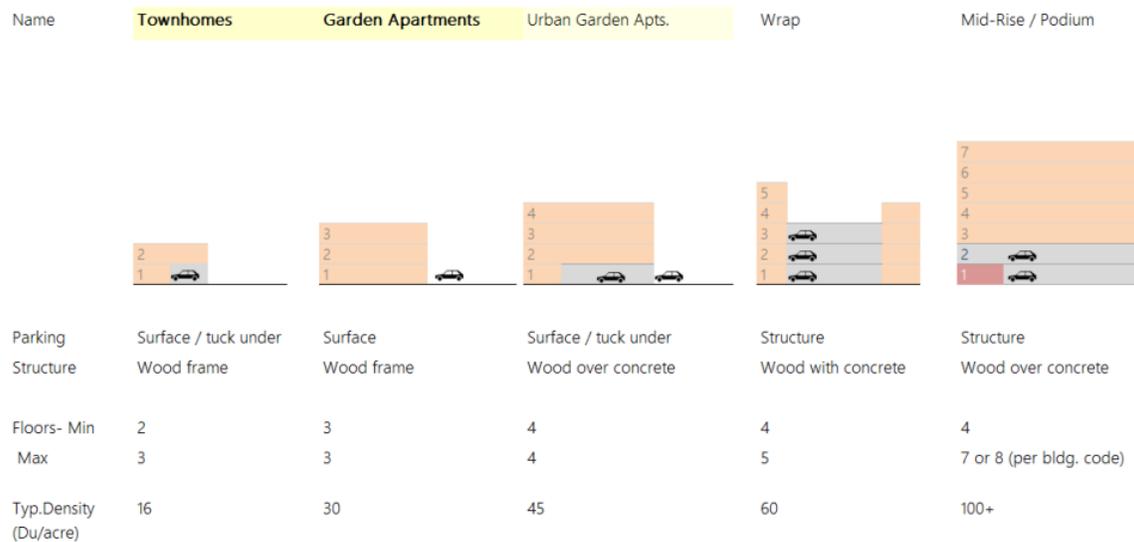
The center of the TOD node is intended by the Comprehensive Plan to contain the greatest density while the ¼ mile walkable areas appear intended by the Plan to contain lower density, but still reasonably accessible to the node center. Lowering density away from the TOD node center creates intensity toward the center of the node that radiates outward rather than an uneven development pattern within it. The TOD node designation recommends including 50,000 square feet of non-residential uses and 60 – 80 dwelling units in a development.

Development activity prior to the 2006 Comprehensive Plan and after its adoption has been implementing this pattern. In 1999, Mallard Point Senior Housing was developed at 506 E. 50<sup>th</sup> Street and was built to 158 dwelling units on 3.244 acres, creating a density of 48.77 units per acre. Design Review application DSRFY2015-12 was approved on July 27, 2015 for a multi-family dwelling development located at 485 E. 50<sup>th</sup> Street. The development was built to 108 units on 4.85 acres, creating a density of 22 units per acre. Both of these developments are located within the upper part of the center of the TOD node. The 14 dwelling units per acre requirement for R-3 zoned properties within TOD nodes implements this designation by creating

residential density that would enable future transit stations, such as bus stops, to be located. The two previous major developments are well in excess of this minimum requirement.

The designation is silent on how many dwelling units are required to make public transit viable at a TOD node location. However, guidance can be provided from technical reports and other documentation. The State Street TOD Plan is a regional plan providing guidance on developing TOD nodes along State Street. The report identifies five different housing types and recommended densities for each type:.

**Figure 11. Residential Transit-Oriented Development Types**



The report also references a developed TOD node, Orenco Station in the Portland Metropolitan Area. The development's configuration reflects a gradually declining density away from a dense center:



The images below show the timing of various phases of development at Orenco Station. Early phases in the 1990s and early 2000s "set the stage" with a well-thought out framework of streets and open spaces, and low- to medium-density development.

Orenco Station contains single family residential on the edges of the development while increasing intensity at differing tiers:



1990s  
Site planning  
Zoning  
Entitlements



1998  
Groundbreaking  
Single-family and attached housing  
One and two stories



2002  
Town Center  
Two and three stories



2008  
The Q  
Condominiums with  
below-grade parking  
Two to three stories



2008  
The Nexus  
Apartments, family  
friendly  
Three stories



2012  
Living Green at Orenco  
Apartments  
Four+ stories

The proposed reduction is located at the outer edge of the ¼ mile walkable area of the TOD node designation. A density of reduction from 14 to 2.8 dwelling units per acre is a significant reduction in density. 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.

Accessory structure square footage waiver:

The proposed accessory structure exceeding the square footage of the primary structure is not addressed by nor does it appear to be in conflict with the Comprehensive Plan.