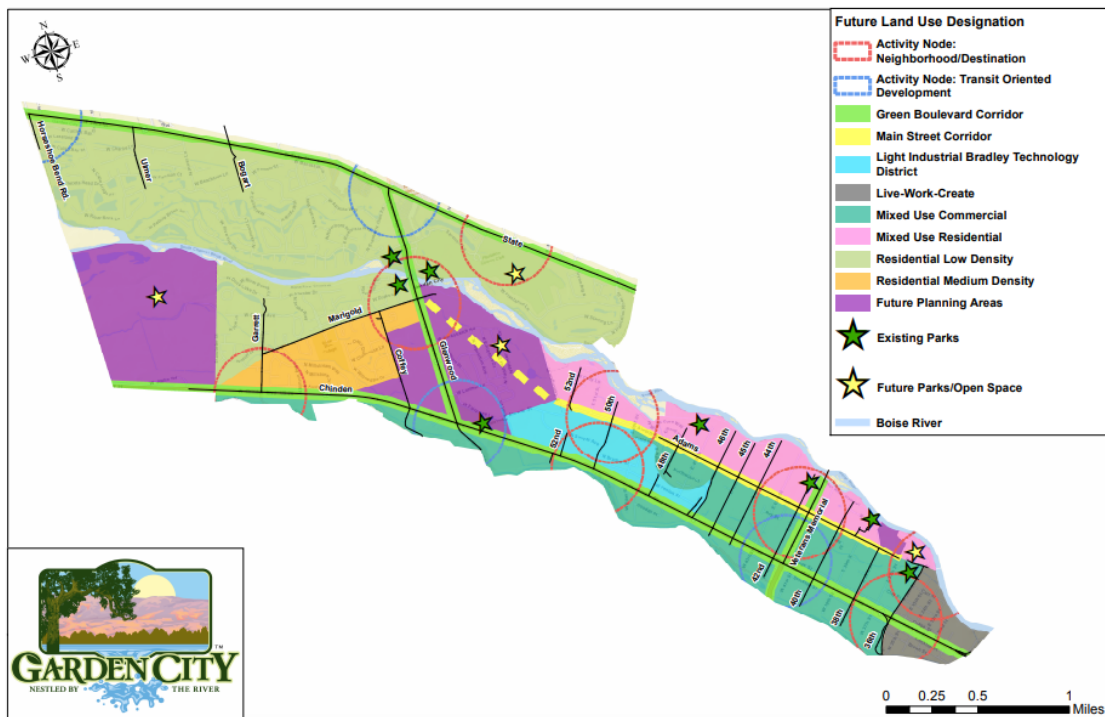




CITY OF GARDEN CITY

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File Number: CPAFY2022-0005
For: Development Code: Surel Mitchell Work-Live-Create & Design Review Findings
Applicant: City of Garden City
Report Date: May 19, 2022



Staff Report
 Report prepared by Jessica Steadman, Legal Intern

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A. Meeting Summary

Neighborhood Meeting on April 25, 2022

Introduced CPAFY20022-0005 LWC DR Ordinance.

Design Review Hearing on May 5, 2022

Design Review continued to a date certain June 6, 2022. Design Review's informal recommendation at this time is to revise rather than repeal the LWC district. Design Review also informally recommended that an ad hoc committee be formed to discuss the revisions.

Planning and Zoning Meeting on May 18, 2022

The Planning and Zoning Commission's recommendation is to repair the Surel Mitchell Work-Live-Create overlay district.

B. Record Documents ([link to all documents](#))

Individual links:

1. Application Materials
 - a) CPAFY2022-0005 [Compliance Statement](#)
2. Noticing Documents
 - a) [City Noticing](#)
3. Agency Comments: linked in [Section H](#)
4. Public Comments: linked in [Section I](#)
5. Recommendations¹
 - a) Design Review Committee ([draft](#))
 - b) Planning and Zoning Commission ([draft](#))
6. [Draft Potential Decision](#)²
7. [Proposed Ordinance 1024-22 Option A](#)
8. [Proposed Ordinance 1024-22 Option B](#)

C. Requested Action

Public Hearing and decision for proposed amendments to Garden City, Title 8, Development Code related to Surel Mitchell Live Work Create Overlay District and Design Review Findings.

D. Recommendation Summary

This section will be updated as recommendations are made.

E. Decision Process

General Provisions

¹ Due to the timing of the public hearings, the web will be updated with the recommendations after the City Council packet is sent out.

² Due to the timing of the public hearings, the draft potential decision document is drafted in approval and denial rather than conforming to the recommendations.

This application is processed per GCC 8-6A-7 Public Hearing.

Required Decisions: The following decision processes are required for the project as governed by GCC Table 8-6A-1:

Decision	Recommendation Authority/ Hearing Date	Decision Authority
Development Code Amendment	Design Review Committee: Hearing May 2, 2022 Planning and Zoning Commission: Hearing May 18, 2022	City Council: Hearing May 23, 2022

Required Findings:

For the approval of a Development Code Amendment, the City Council must find the application meets the following findings, found in [GCC 8-6B-5](#):

1. The text amendment complies with the applicable provisions of the comprehensive plan;
2. The text amendment shall not be materially detrimental to the public health, safety, and welfare; and
3. The text amendment shall not result in an adverse impact upon the delivery of services by any political subdivision providing public services within the city.

Decision:

After hearing the evidence and considering the application, the decision maker shall make their decision. The decision maker shall report the facts upon which it based its conclusion, the ordinance and standards used in evaluating the application, the actions, if any, that the applicant could take to obtain a permit, and whether a permit is granted, granted with conditions, or denied. The decision maker shall make its findings and decision no later than by the next regular scheduled meeting.

The Planning and Zoning Commission and Design Review Committee are recommending bodies for this application.

Recommendation

The Recommending Authority may take one of the following actions:

1. Recommend the City Council grant/ approve the application as applied;
2. Recommend the City Council grant/ approve the application with conditions as drafted or as amended to the City Council;
3. Recommend the City Council deny the application; or
4. Request the applicant return with revised materials for additional review.

The City Council is the final decision maker for this application.

Decision

The City Council may take one of the following actions:

1. Sustain the recommendation as presented to the City Council;
2. Modify the recommendation with conditions;
3. Reject the recommendations; or
4. Remand the application to a recommending body for additional proceedings and findings.

If there is a denial, state code requires that the decision maker identify what could be done to obtain approval.

Appeal of Decision:

Pursuant to Garden City Code [Table 8-6A-1 Authorities and Processes](#), the Planning and Zoning Commission and Design Review Committees are recommending authorities to City Council, the final decision maker for the requested application. The recommendations of the Design Committee and the Planning and Zoning Commission do not constitute a final decision on the application.

Every final decision rendered shall provide is accompanied by notice to the applicant regarding the applicant's right to request a regulatory taking analysis pursuant to section [67-8003](#), Idaho Code. An applicant denied an application or aggrieved by a final decision concerning matters identified in section [67-6521](#)(1)(a), Idaho Code, may within twenty-eight (28) days after all remedies have been exhausted under local ordinance seek judicial review under the procedures provided by [chapter 52, title 67](#), Idaho Code. Per Idaho Code 67-6511 (2)(a) this provision extends to an amendment of a zoning ordinances applicable to an owner's lands.

F. Objective

To repeal Garden City Code, 8-3C, Surel Mitchell Work-Live-Create, and amend Garden City Code 8-3A-1, Zoning Districts Established, 8-3A-3, Allowed Uses, 8-6B-3, Design Review Committee, 8-6B-8(C), Allowed Uses, and 8-7A-2, Definition of Terms, in order to provide clear and objective standards and increase uniformity in building regulation provisions as required by LLUPA (Idaho Code § 67-6511 and §67-6535).

G. Current Deficiencies

Certain Garden City Code provisions do not meet the necessary clear and objective standard as outlined in LLUPA. These code provisions include the Surel Mitchel Work-Live-Create zoning overlay district and select provisions pertaining to Design Review. Under the following changes, the Surel Mitchell zoning district will be removed to allow proposed projects more flexibility while still promoting creative and affordable spaces within Garden City. The proposed changes will also modify Design Review's required findings. Project proposals will now have clear expectations set forth, thereby giving Design Review clear and objective findings to assess.

H. Synopsis of Proposed Changes

OPTION A. REPEAL:

CHANGE A1:

8-3A-1 ZONING DISTRICTS ESTABLISHED:

The purpose of the overlay districts is to provide an incentive to implement the comprehensive plan and preserve the rights of property owners. The city hereby establishes the following overlay zoning districts:

~~Surel Mitchell work-live-create (WLC)~~
Neighborhood commercial node (NCN)
Transit oriented development (TOD)
Green Boulevard corridor (GBC)

CHANGE A2:

8-3A-3 ALLOWED USES- Remove WLC and associated uses from the table.

CHANGE A3:

The current 8-3C, Surel Mitchell Work-Live-Create would be repealed in its entirety.

CHANGE A4:

8-6B-3 DESIGN REVIEW COMMITTEE:

C. Procedures:

2. ~~Preapplication~~ Initial Design Conference Required: ~~An initial design preapplication~~ conference with the design committee is required. Applicants are encouraged to schedule ~~an initial design conference preapplication~~ meeting at the earliest point possible in the design of the project.

3. Purpose Of The Initial Design ~~Preapplication~~ Conference: The purpose of the initial design preapplication conference is threefold: to provide direction, determine the level of review process and what application materials will be required. The committee will provide direction on the design objectives set forth in chapter 4, article C of this title that are most relevant to the application. The committee will make a determination if the application should be filed as an administrative or design committee level review. Based on the scope of the project and the project location, the committee will decide what information, plans and designs will be required for review of the application and when the materials shall be submitted. The direction provided by the committee at the initial design conference preapplication meeting may be changed or reversed at any time during the process if the design or the scope of the projects changes. The design review committee may determine the application is ready for approval at the initial design preapplication conference.

4. Application Submittal: Based on the direction at the initial design preapplication conference, the application for design review will be made for either an administrative or design committee review. No application will be approved until the application materials required have been provided and fees have been paid.

D. Required Findings: In order to approve a design review application and based on the standards set forth in chapter 4, article C of this title, the design review committee shall make the following findings:

1. The proposed design and use are not illegal.

~~2.4. The proposed design is in conformance with the purpose and provisions of Chapters 1-4 and 6 of this Title, including but not limited to setbacks, design provisions, and overlay district provisions; of the zoning district and all dimensional regulations of that district;~~

~~3.2. The proposed design provides safety as defined herein; adheres to standards for the protection of health, safety, and general welfare;~~

~~4.3. The proposed design aligns with the plans adopted by Garden City by ordinance or resolution; creates a sense of place and contributes to the uniqueness of the different districts and neighborhoods within the city;~~

~~5.4. The proposed design provides safe, convenient, and functional bicycle and pedestrian access and movement to, from, within, and across the site improves the accessibility of development to nonmotorized and public modes of transportation;~~

~~6.5. The proposed design preserves and enhances the public's use and enjoyment of existing and planned public spaces, including but not limited to the greenbelt and pathways, sidewalks, parks, roadways, open space, public facilities, Boise river and waterways, and canals; supports a development pattern in nodes rather than strip commercial along arterial corridors;~~

~~7.6. The proposed design is consistent with the Garden City Comprehensive plan for the relevant neighborhood in scale, intensity, and character; supports a compact development pattern that enables intensification of development and changes over time; and~~

~~8.7. The proposed design is functional, in that the use of the property will not create a detrimental impact on the surrounding neighborhood. Such functionality may include but is not limited to features allowing a reasonable expectation of privacy for the neighborhood, adequate parking or loading, refuse placement and collection location, location of noise amplification devices, etc.; provides outdoor spaces and landscaping compatible with the southwest Idaho climatic conditions and that encourage pedestrian activity.~~

~~9. The proposed architecture and site improvements have facades, features, and other physical improvements that are similar to the visual character and quality of the surrounding area.~~

~~10. The outdoor common area(s) and landscaping improve the quality, value, and extent of the design and function of the site and is consistent with southwest Idaho climatic conditions; and~~

~~11. The proposed design and use preserves natural, scenic, and historic features, including but not limited to wetlands, the Boise River, waterways, historic structures, and archeological sites.~~

CHANGE A5:

8-6B-8(C) ALLOWED USES:

2. Uses allowed shall be: attached and detached single-family; townhouse, two-family duplex; or multiple-family dwelling units; cottages; co-housing development; or any combination of these housing uses. ~~Work-live units in compliance with the provisions set~~

forth in chapter 3, article C, "Surel Mitchell Work-Live-Create" overlay district, of this title and small scale commercial uses are also allowed in structures fronting on a public street.

CHANGE A6:

8-7A-2 **DEFINITIONS OF TERMS:**

ARCHEOLOGICAL SITE: A physical location in which evidence of prehistoric or historic activity is preserved as designated under Idaho Code § 67-4115.

BOISE RIVER: The portions of the large, natural moving body of water flowing in a channel which are located within the jurisdiction of Garden City as shown on FEMA's flood map.

MIXED USE: The use of a property, properties, or structure that include residential and other uses which are designed to intentionally interact.

SAFETY: Provides security from harm, danger, risk, injury, and loss.

WATERWAYS: Streams and watercourses within the jurisdiction of Garden City, including manmade waterways such as canals and irrigation ditches.

WETLANDS: Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include saturated swamps, marshes, bogs and similar areas.

~~WORK-LIVE-CREATE PROPERTY:~~ ~~The use of a structure and/or site that combines a commercial or manufacturing activity allowed in the overlay district with a residential living space. The spaces may be combined within one (1) space, attached to one another, or separated but located on the same property.~~

OPTION B. REPAIR:

CHANGE B1:

8-3C-3 **SUREL MITCHEL WORK-LIVE-CREATE:**

D. Combined Work-Live Space Requirements:

1. A Work-Live space shall contain both workspace and associated live space at a one (1) to one (1) ratio.

2. The live and workspaces may be combined within one (1) space, attached to one another, or separated but located on the same property.

3.1. The minimum interior floor area of a combined work-live space shall be five hundred (500) square feet.

4.2. The maximum interior floor area of a combined work-live space shall be five thousand (5,000) square feet.

5.3. Neither a living space nor a working space shall be less than twenty five percent (25%) of the combined floor area of the site.

6.4. A combined work-live space shall provide fire protection as required for a combined occupancy.

7.5. Combined work-live spaces over two thousand (2,000) square feet shall have two (2) exits as required for fire access.

8.6. Workspace activities that involve the use of hazardous materials or operations shall not be allowed in a combined work-live space without separation required under the international fire code.

E. Additional Requirements for Multiple Work-Live Spaces Requirements:

1. Each space shall contain both workspace and associated live space at a one (1) to one (1) ratio.

2.1. Multiple work-live spaces, either attached or detached, may be located on any lot subject to the other provisions of this title.

3.2. Each work-live space shall have a clearly defined separate access from other work-live units.

G. Parking:

1. One off street parking space shall be provided for each living space.

2. No off street parking is required for working spaces less than a cumulative of five hundred (500) square feet of interior floor area.

3. Cumulative wWorking spaces over five hundred (500) square feet ~~of interior floor area~~ shall be required to provide one parking space for every one thousand five hundred (1,500) square feet or portion thereof; ~~or the number of parking spaces needed to serve employees and patrons as determined by the planning and zoning commission.~~

4. Parking requirements may be fulfilled through any combination of the following:

a. Parking spaces on the development site in compliance with subsection G5 of this section;

b. One on street parallel parking space in front of the development site;

c. All diagonal or right angle parking in front of the development site consistent with a streetscape plan adopted by the city;

d. Parking in a shared parking lot within three hundred feet (300') of the development site; and/or

e. Payment to the city of the cost for construction of a surface parking space.

5. All off street parking spaces shall be located to the rear of the principal building or otherwise screened so as to not be visible from the public right of way. Development sites that have fifty feet (50') or less of street frontage are exempt from this standard.

6. Parking and driveways are encouraged to be constructed of permeable materials to the extent possible.

CHANGE B2:

The same changes to 8-6B-3 as in Option A are proposed.

CHANGE B3:

The same changes to 8-7A-2 Definitions of Terms as in Option A are proposed, with the exception of the definition of “Work-Live-Create Property,” which is amended as follows:

WORK-LIVE-CREATE
PROPERTY:

A mixed use property where the use of a structure and/or site that combines a commercial or manufacturing activity (business) allowed in the overlay district with an associated residential living space for the use of the owner or employee of the business. The spaces may be combined within one (1) space, attached to one another, or separated but located on the same property.

I. Evaluation of Proposed Changes

Staff has reviewed the whole of Title 8 and sees no conflicts that this amendment would create. There is no known conflict with any other regulation. To amend Title 8, the amendments must be consistent with the adopted Comprehensive Plan. The Live Work Create district is specifically discussed as a positive within the Comprehensive Plan. There is a stated desire to potentially expand the district in Action 2.5.1. The economic analysis starting on page 61 of the Comprehensive Plan discusses the success of the district. The [Code and Policy](#) discussion within this staff report identifies other potential goals and objectives that may be pertinent to this proposed ordinance amendment.

J. Agency Comments

There is a memorandum from the [City Attorney to the Mayor and Council dated April 25, 2022](#) that discusses this proposed amendment. At the drafting of this report no other agency comments have been received.

K. Public Comment

The following is a summary of the public comments and testimony that were provided in accordance with [Resolution 1053-18](#). All comments are included in their entirety as a part of the record.

Commenter	Comment Date	Summary
Greg Hahn	4/21 & 26 /2022 05/02/2022; 05/18/2022 - in person	In favor of keeping the overlay.
Jodi Eichelberger	4/25/2022; 05/18/2022- In Person	In favor of keeping the overlay.
Joe Jaszewski	5/5/2022	In favor of minimal parking regulations.
Nick Jezierny	5/6/2022	In favor of minimal to no parking regulations. In favor of keeping the overlay.

Jason Jones	05/02/2022; 05/18/2022 - in person	In favor of keeping the overlay
Hannah Ball	05/02/2022; 05/18/2022 - in person	In favor of keeping the overlay

L. Code/Policy Review

The below serves as an analysis of applicable provisions Garden City Code, Title 8, Development Code and identified applicable policies, plans, and previous approvals.

Garden City Title 8 Code Sections			
Code Section	Review Authority	Compliance Issues	Analysis/ Discussion
Title 8, Chapter 1: General Regulations			
Title 8, Chapter 6, Article A: Administration			
8-6A-3 General Application Process	PZ/ CC	No compliance issues noted	The application was reviewed and considered complete within 30 days of submittal, a notice of application acceptance was issued to the applicant, and staff started processing the application.
8-6A-4 Required Application Information	PZ/ CC	No concerns noted	A Compliance Statement was supplied as required.
8-6A-7 Public Hearing Process	PZ/DRC/CC	No compliance issues noted	The city provided a neighborhood meeting more than one month and less than three months prior to application submittal. The City provided notifications to agencies with jurisdiction and ran a 2"X 4" legal notice in the Idaho Statesman, at least 15 days prior to the first hearing, conspicuously posted notice at the Garden City Library, Garden City Hall, online, and Garden City Police Department, and provided notice to radio, newspaper, and television.

Other Items Reviewed	
Plan/Policy	Discussion/ Analysis
Idaho Code 67-6511	The Local Land Use Planning Act requires that code amendments be compliant with the Comprehensive Plan.
Idaho Code 67-6519	Garden City Code and procedures are consistent with The Local Land Use Planning Act Application Granting Process.
Garden City Comprehensive Plan	A zoning ordinance amendment must be supported by the Comprehensive Plan. This application is applicable to the following future land use designations of the Comprehensive Plan: <ul style="list-style-type: none"> a) Live-Work-Create: A mixed use property where the use of a structure and/or site combines a commercial or manufacturing

activity (business) allowed in the overlay district with an associated residential living space for the use of the owner or employee of the business.

The application may be supported by:

Comprehensive Plan's Goals:

6 Diversity in Housing,

8 Maintain a Safe City, and

9 Develop a Sustainable City, and

12 Evolve as a Destination.

As well as Objectives:

1.3 Consider the needs of all citizens, businesses, and the environment,

1.4 Create a premier destination place to live, work, and recreate,

2.3 Promote quality design and architecturally interesting buildings, and

10.2 The Old Town site is a live-work-create district.

Action Step: 2.1.5 Explore an amendment to the Development Code to expand the boundaries of the Surel Mitchell Live-Work-Create District.

And the Land Use Designation of Live-Work-Create.