



DEVELOPMENT SERVICES DEPARTMENT

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To: City Council
From: Jenah Thornborrow, Development Services Director
Subject: DSRFY2021-0011 Third Extension Request
Date: For April 22, 2024, City Council Meeting

Request

Extension of Design Review Approval: DSRFY2021-0011 for one year.

This is not a public hearing. If City Council determines that discussion is needed prior to acting on this request, the City Council may remove this item from the consent agenda. If this item is approved as part of the consent agenda, it is understood that the request for extension is to be approved as drafted in the affirmative in the potential decision document that is included in the City Council's packet.

Background

DSRFY2021-0011, is a Design Review application for a seven-unit Live-Work-Create development located at 208 E. 33rd St. Garden City, Idaho 83714; Lots 05 and 06, Block 34, Fairview Acres Sub No. 5; Ada County Assessor parcel number R2734541364. The Design Review Committee approved this application on April 5, 2021. The approval was appealed to City Council. The City Council upheld the Design Review Committee decision on May 10, 2021. The City Council has approved two previous requests for one-year extensions.

Noted Cause for Request

The City received a third one-year extension request in writing on March 26, 2024, noting:

- This application and two previous applications were in various phases of approval at different times because of legal action.
- There have been changes to the City Code, but none would prevent this application from being approved again today under the current code.
- There are no compliance issues with the subject property.
- The City is still promoting the Live-Work Neighborhood, and this project brings a true Live-Work project to the neighborhood in an exciting and unique design.

Staff Analysis

Upon review of the file materials, staff concludes that:

- This application was approved utilizing the Work-Live-Create overlay which has since been repealed; and
- There has been no major change in the plans or policies that would affect the compatibility of the project; and

- There have not been compliance violations identified at the subject property. It is presumed that the property is compliant and has been compliant, or actively pursuing compliance with all City, State, and Federal codes and laws since the date of application. It should be noted that there has been no formal investigation or inspection to validate this conclusion.

Analysis of Code Changes

The record staff report reviewed the Live-Work-Create code as well as the base code. The sections that were noted as being superseded are noted below. All other previous code concerns were conditioned to be found compliant. The parking code, GCC 8-4D Parking and Off-Street Loading Provisions was amended subsequent to the approval of this application by Ordinance 1034-22 June 12, 2023. The table below utilizes the current regulations.

	Live Work Create (Repealed Code)	Base Zoning M (Mixed Use) District
Setbacks- No Compliance Concerns identified	Front: 5'-15' Interior Side: 0'/5' Rear: 5' Street side: 5'	Front: 10" Max Side: 0/3' Rear: 5' Street side: 0'
	As the Live Work Create Code exceeds the Mixed-Use Zoning District setbacks, there are no compliance concerns noted.	
Parking Not compliant with current code	<p>The Live Work Create Code required that there be one off street parking space for each living space.</p> <p>Working 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. With 2,700 square feet of workspace, 3 additional spaces were required.</p> <p>Required = 10 consisting of 7 on-site + 3 off-site</p>	<p>Residential 6 units with 2 bedrooms= 12 spaces 1 unit with one bedroom= 1 space Total residential spaces = 13</p> <p>Guest 0.5 spaces per unit= 3.5 guest spaces</p> <p>Non-residential- use not known; 1 for 500 gross square feet; 2,700 square feet¹= 5 spaces</p> <p>Total = 21 spaces</p> <p>Parking is required to be off-street.</p>
	The application proposes 11 parking spaces for the 7 proposed units. Of the 11 spaces, 7 of the spaces are required to be on site. The remainder of the parking is proposed as on street parallel parking in front of the project.	

¹ Based on record staff report.

	Off-street motor vehicle parking deficiency based on current code= 14 spaces
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Please note that this application has been submitted for a building permit. If the permit is issued prior to expiration of the application, the need for an extension will be nullified.

Pertinent Code

Below are the current sections of pertinent code.

GCC 8-6A-8 Expiration of Approvals

A. All application approvals shall expire one (1) year from the date of approval, unless otherwise specified by this code or:

1. The city issues a building permit for the proposed improvement, development, or use prior to the expiration of the one (1) year period; or
2. By condition of approval or development agreement, a time period for completion of the application has been specified; or
3. A certificate of compliance has been issued; or
4. The final plat of a subdivision approval is recorded with Ada County; or otherwise defined by section [8-5B-6](#) of this title.

B. City council may allow for an extension of not more than one (1) year; provided:

1. Good cause for the request; and
2. The application and/or applicable city regulations have not changed; and
3. There has been no major change in the neighborhood, plans, or policies that would affect the compatibility of the project; and
4. The subject property is compliant and has been compliant, or actively pursuing compliance, with all city, state and federal codes and laws since the date of application; and
5. It is determined by the city council that it is in Garden City's best interest to grant the extension.

A request for an extension is no guarantee that the extension will be granted.

Linked Record Documents: [Linked record documents](#)

Attached Documents:

- Extension Request
- Draft potential City Council Decision