



## MEMORANDUM

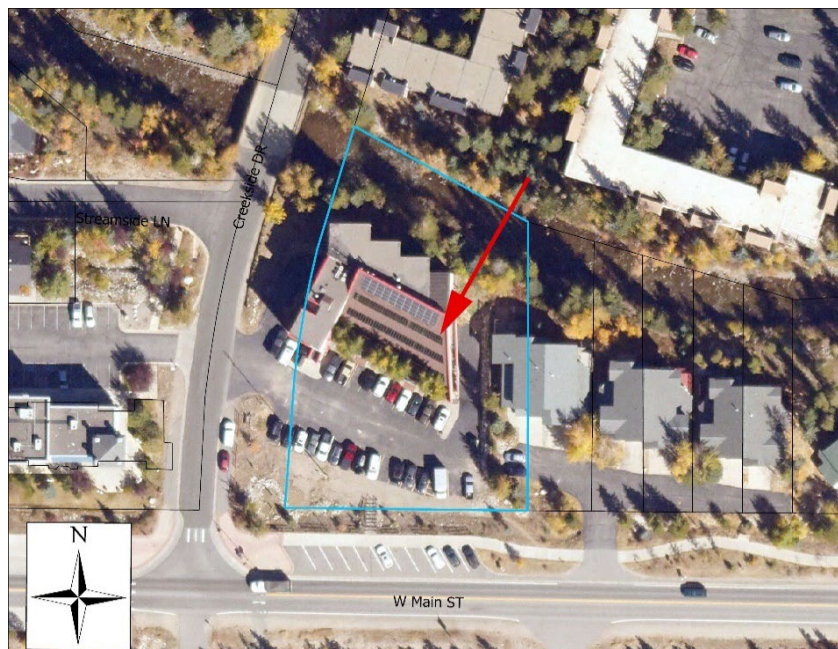
P.O. Box 4100 ♦ FRISCO, COLORADO 80443

**TO: MAYOR AND TOWN COUNCIL**  
**FROM: EMILY WEBER, PRINCIPAL PLANNER**  
**RE: A SECOND READING OF ORDINANCE 24-01, A PUBLIC HEARING TO CONSIDER PLANNING FILE NO. REZ-23-0002: A REZONING APPLICATION FOR A PLANNED UNIT DEVELOPMENT (PUD) LOCATED AT 101 WEST MAIN STREET / LOT B-1 WEST FRISCO 70 SUB # 2.**  
**DATE: FEBRUARY 27, 2024**

### **Summary and Background:**

The Town Council held a public hearing to consider Planning File No. REZ-23-0002, a rezoning application for a Planned Unit Development (PUD) located at 101 W Main Street, on January 23, 2024. Staff presented the proposed application to the Council, followed by a presentation from the applicant. The Town Council asked questions about the proposed PUD and provided comments. The Council also heard comments from the public. At the end of the discussion on January 23<sup>rd</sup>, the Council made a motion to continue the item to February 13, 2024 in order to take time to think about the scale of the project and have an additional opportunity for discussion.

On February 13<sup>th</sup>, the Council continued the discussion on the application and a motion was made to approve the rezoning request. The motion carried and the application is now before Council for a second reading.



The applicant, Andy Stabile, with Allen-Guerra Architecture on behalf of the owner of the property, is proposing that through the PUD designation, a minimum of 45 deed restricted residential units be required on the site.

The site is located on the northeast corner of Creekside Drive and West Main Street. The site contains the existing Westmain Professional Building, which will be demolished should the rezoning application be approved. Below is a vicinity map of the subject property with an aerial photography base layer. The location of the property lines shown on this map vary in accuracy and should only be used for reference purposes.

The applicant is proposing to rezone the site from Mixed-Use to Planned Unit Development (PUD). The purpose of the PUD designation is to encourage flexibility and innovation in the development of land and to provide relief from certain standards of the underlying zone district for projects that provide a community benefit in the form of usable open space or workforce housing in accordance with an overall development plan. The applicant is proposing to develop the site for deed-restricted rental housing. The proposed PUD states that a minimum of 45 deed restricted, affordable rental units are required on site, servicing households up to 80% of the Area Median Income (AMI), while allowing for minor deviations up to 100% AMI. In an effort to construct this type of development in the Town, it is recognized that factors such as high construction costs, high interest rates, and competitive state financing, are all barriers to providing rental units with the proposed Area Median Income (AMI) rental rates. To assist in alleviating these constraints, the applicant is utilizing the PUD rezoning as a method to provide the Town with a project that meets a high community need, while requesting certain relief from the Unified Development Code.

A PUD is a zoning document that outlines what uses and development standards are permitted on a property, which may differ from the underlying zone district. Where the PUD is silent, the underlying zoning comes into effect. After a PUD is approved and recorded, the Planning Commission reviews site plan applications based on conformance to the PUD and the Town Code.

Pursuant to Town Code §180-2.4.1, rezoning requests are subject to two public hearings at the Planning Commission where the Planning Commission makes a recommendation to the Town Council. After such recommendation, the Town Council shall consider the rezoning ordinance at a public hearing where Town Council shall approve, approve with conditions, or deny the application.

The Planning Commission held a [preliminary public hearing on November 16, 2023](#) to consider the proposed PUD plan in conjunction with a submitted sketch plan for the property. The applicant received feedback from the Planning Commission and revised the proposed PUD Plan. The Planning Commission held a [final public hearing on January 4, 2024](#) where the Planning Commission recommended conditional approval of the application to Town Council. Should the proposed rezoning request, and effectively the PUD plan, be approved by Town Council, the applicant shall return to Planning Commission for final review of the major site plan.

### **Analysis:**

As stated above, the purpose of the PUD designation is to encourage flexibility and innovation in the development of land and to provide relief from certain standards of the underlying zone district for projects that provide a community benefit in the form of usable open space or affordable/workforce housing in accordance with an overall development plan. A PUD is an overlay zoning district

allowable under Section 24-67-101 et seq. Colorado Revised Statutes 1973 (1977 Replacement Volume) in all zoning districts. Rezoning to a PUD requires a unified plan of development (the PUD plan) that outlines the development and design guidelines for the area designated at the PUD.

For further clarification, the PUD is a zoning document that outlines what uses and development standards, along with what is stated within the Town Code, may occur on the property. After a PUD is approved and recorded, the Planning Commission reviews the proposed site layout, design, and other applicable items related to a major site plan application to ensure that the proposed development conforms to the PUD and the Town Code.

For Town Council to approve the rezoning application and as required per UDC Section 180-2.4.2.D, the following criteria shall be met:

1. *That the project is beneficial or necessary for the economic development of Frisco; and*
2. *That the application preserves or contributes to usable open space, and natural and scenic features (when open space is provided as a community benefit); or the applicant provides affordable work-force housing when housing is provided as the community benefit; and*
3. *That the application achieves a compatibility of land uses with neighboring land uses; and*
4. *That the modifications to the underlying zoning district by the project are in the best interest of the Town, and neighborhood in which the development is planned; and*
5. *That the projected capacity to fully serve the project site(s) with water and sewer is available; and*
6. *That Town services shall be provided in the most efficient manner practicable; and*
7. *That more than one housing type, or housing price, or housing form of ownership (i.e. for sale and rental) to satisfy the needs of more than one segment of the community be provided (when residential uses are proposed); and*
8. *That the project contributes amenities to the development itself, and to the community at large; and*
9. *That an owners association is established to promote a sense of community and to ensure the continued existence of a viable entity responsible for maintenance of private open space and other similar duties; and*
10. *That the project meets all of the applicable requirements of this Chapter that are not expressly varied in the final PUD plan, contributes to design aesthetics and layout, and promotes efficient use of land.*

As their community benefit the applicant is proposing to construct and operate a minimum of 45 deed-restricted affordable units, servicing households up to 80% of the area median income, while allowing no maximum on number of units and minor deviations from the 80% AMI to 100% AMI. Because of their community benefit proposal, the applicant is eligible to receive relief from certain requirements within the UDC if allowed by the Town. Specifically, Section 180-4.3.1.D. states:

*D. Modification of Requirements*

*The Town Council may waive or modify specifications, standards, and requirements such as density, setbacks, height restrictions, land dedications, improvement standards, design standards, parking standards, right-of-way standards, and related requirements that would otherwise be applicable to a particular land use provided such waiver or modification is found to further the objectives of these PUD regulations and the community goals, policies, and objectives.*

The applicant is proposing the following exceptions to Frisco Town Code, Chapter 180, as written in the submitted PUD plan:

- **Ceiling Height (§180-3.17.8)**

The applicant is proposing that the first-floor building height for structure(s) shall be nine (9) feet in height, whereas the UDC states that ten (10) feet is required. Staff's understanding of this requirement is that it was established in the UDC to ensure adequate ceiling heights for various commercial uses. Nine (9) foot height ceilings are still adequate for commercial uses and more ideal for office space which usually provides nine-foot-high ceilings. With the ground floor being proposed for residential units and reduced commercial space, staff recommends support of this request as stated within the PUD.

- **Residential Uses in Central Core and Mixed-Use Districts (§180-5.2.8)**

The applicant is proposing that ground floor residential uses shall be permitted as a use by right within this PUD designation, where the UDC states that residential uses in the MU zone district are permitted through conditional use approval. Section 180-4.3.1.B. of the Frisco Town Code states that any use that is allowed by right or by conditional use permit within the underlying zone district may be allowed in a PUD. Therefore, the PUD may state that ground floor residential uses on the property shall be permitted by right. Staff supports this request as stated within the PUD recognizing that there is a strong community need for affordable rental units and that by utilizing the ground floor, there will be an increased number of affordable rental units provided.

- **Mixture of Uses in the Mixed-Use Districts (§180-5.2.13)**

The applicant is proposing that instead of the required minimum of 20% commercial space on the property, a minimum of 1,500 sq. ft (~3.7% of the floor space) is provided.

Staff supports this request as stated within the PUD recognizing that there is a strong community need for affordable rental units and that by reducing the commercial footprint, there will be an increased number of affordable rental units provided.

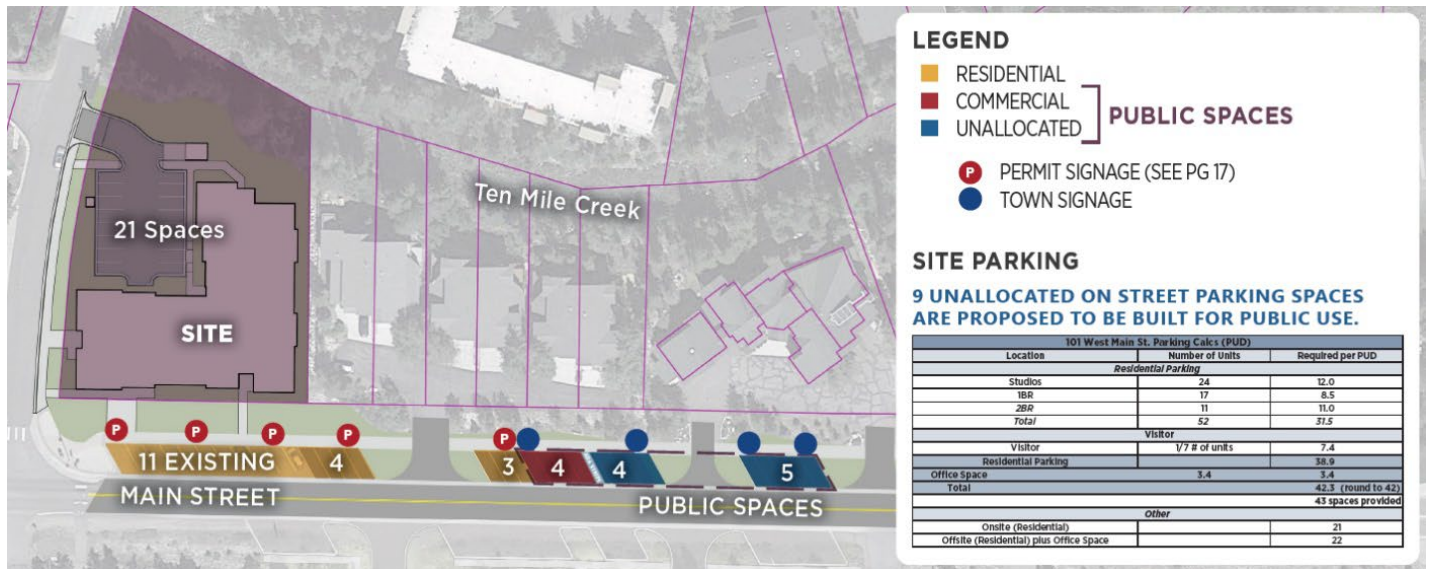
- **Parking and Loading Regulations (§180-6.13)**

As is written in the Affordable Housing Incentive Program (AHIP) of the UDC, the applicant is proposing the following parking quantities:

- a. One-half parking space per unit for studios and one-bedroom units, one parking space per unit for two-bedroom units, and two parking spaces per unit for three bedrooms or greater. One visitor parking space is required for every seven dwelling units in the development.
- b. On-street parking. Required parking, excluding ADA and handicap accessible spaces, may be accommodated on streets proximate to the property, on a one-for-one basis, subject to construction of any needed improvements, and Town approval of an acceptable agreement to ensure adequate maintenance and snow removal procedures and a permit system for resident use.
- c. Car-sharing service. Each car-sharing space provided shall count as four parking spaces, up to 20% of the parking requirement. The car-sharing program details and agreement shall be provided as part of the major site plan application and shall include provisions and alternative options to ensure operation for the duration of the project.

The AHIP allows up to 20 percent of the required overnight, residential parking spaces be accommodated through on-street parking spaces. The on-street spaces must be located on street frontages contiguous to the property, on a one for one basis, and subject to construction of any needed improvements. The applicant is proposing 51 percent of overall required parking spaces be located on-street. The applicant has worked with Public Works to ensure that the proposed on-street overnight parking spaces will function appropriately, and still allow the Town to maintain street operations, including snow removal. Below depicts the proposed parking layout of the PUD.

Frisco Public Works supports the proposed parking management plan and will continue to work with the applicant on proper signage to be in line with the Town's standards. Staff supports this request as stated within the PUD given there is an approved parking management plan between the Town and Applicant. This will be required to be recorded on the property in association with the PUD. If the Town finds modifications are needed to the parking management plan at a future date, the PUD is written to allow the parking management plan to be modified with approval by the Town, and re-recorded on the property, without the applicant needing to go through a rezoning application process.



- Landscaping and Revegetation Requirements (§180-6.14)**

The applicant is proposing that the landscaping for the site shall be in conformance with the Town Code, with the following exceptions:

1. Plant material quantities may be reduced by up to 20% from the requirement per §180-6.14.3.
2. Species mix may be increased to a 50% maximum for each species, and minimum tree caliper size may be reduced to 50% of the caliper size requirement in §180-6.14.4.

Staff recognizes that there is a large area on the north of the property where existing vegetation will not be disturbed due to floodplain, wetlands, and the Town's 25-foot non-disturbance line. In this area, the applicant is also providing a public access easement to Ten Mile Creek which will allow the Town to establish a trail in the future as noted in the Town's Master Trails Plan. Landscaping will still be provided as indicated in the PUD. Staff



supports the landscaping reduction request as stated within the PUD as existing landscaping will remain within the 25-foot floodplain setback area.

- **Snow Storage and Snow Shedding (§180-6.15)**

The applicant is proposing that snow storage shall be accommodated on the property at the rate identified in the UDC. The applicant had originally requested that snow storage be allowed off-site, however, that was not approved per Public Works requirements. The applicant has since worked with Public Works to allow snow storage within the proposed water quality infiltration area that is located between 15' and 25' of the 100-year floodplain. No snow storage or detentions facilities shall be allowed within 15' of the 100-year floodplain. Staff supports the applicant's snow storage request as is supported by the Town Engineer.

- **Non-Residential Development Standards (§180-6.21)**

The applicant is proposing that the PUD utilize the design guidelines per §180-6.22 Residential Development Standards rather than §180-6.21 Non-Residential Development Standards. While the design standards are the same as the Residential Development Standards in the UDC, the applicant has written all standards within the PUD to provide further clarification. The PUD states that a minimum of four building elements are required to provide articulation. This is an increase from the two that are required in the Affordable Housing Incentive Program.

Staff supports the request to follow the residential development standards despite there being 1500 sq. ft. of commercial space within the structure. The residential articulation standards still require significant building elements to be utilized to create articulation, but the criteria are not as rigid as outlined in the nonresidential articulation standards. Additionally, the proposed language requires an increase in articulation from the Affordable Housing Incentive Program.

- **Bulk Standards (§180-6.23)**

The applicant is proposing that bulk plane encroachments shall be allowed up to 1,000 cubic feet per 10,000 square feet of lot area. The Affordable Housing Incentive Program allows bulk plane encroachments of up to the ratio of 500 cubic feet per 10,000 square feet of lot area. The PUD also states that bulk plane encroachments may be allowed for livable spaces.

Based on comments by the Planning Commission at the preliminary public hearing on November 16, 2023, and at the final public hearing on January 4, 2024, staff recommends that the Town Council support the bulk plane encroachment request, allowing an increase in bulk plane encroachments and allowing bulk plane encroachments for livable space.

The full proposed PUD plan, including permitted uses and development standards, is provided as Attachment 3 to this memo.

<b>PUBLIC COMMENT</b>
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There were two public comments made at the January 4, 2024 Planning Commission meeting:

- Scott Holzer, 75B W Main St, lives directly next to the proposed building. Mr. Holzer asked what would happen to the trees and drainage ditch when constructing parking spaces on Main Street. Mr. Holzer appreciates the buffer that the trees provide for traffic on Main

Street and expressed concern about lowered quality of life if the trees were removed. Staff responded that the Planner working on the project will reach out to share more information.

- Chris Hermann, 333B Streamside Lane, expressed concern about the amount of proposed parking spaces, with many of them shared, and the number of concessions in the latest plan, including increased density from the original proposal. Mr. Hermann asked about the best avenue for sharing these concerns with the Town Council. Staff responded that the PUD rezoning proposal is tentatively scheduled to go to the Town Council on January 23, and Mr. Hermann may reach out to the project's Planner about the timing of Council's review and decision.

There were three public comments made at the January 23<sup>rd</sup> Town Council meeting:

- Scott Holzer, 75B W Main Street, stated that there are a lot of unknowns with the PUD and asked the Council to be careful. Mr. Holzer stated his concerns about the quality of life, property values, parking, size of building, and number of residents. He noted that it feels like too much and trying to make something fit that doesn't.
- Lina Lesmes, 120 N 7<sup>th</sup> Ave Unit 12, stated that she was not speaking on behalf of Summit County or the Frisco Planning Commission, but as a Frisco resident. Her concern is that if the project is funded through LIHTC, the PUD should reflect that, and that the PUD can always be amended in the future. The preference would be to remove flexibility from the PUD.
- Laura Danly, 203 Creekside Drive Unit 205, has concerns about how many residents would be housed within the square footage of the project. Frisco has already changed so much but the proposed project is outside of the Frisco character.

There were two public comments received via email:

- Tim O'Regan, 75B W Main Street, sent an email on January 23, 2024, distributed to the Town Council and included as an attachment to this memo.
- Thomas Castrigno, 60 Peak One Circle, Summit County, sent an email on January 29, 2024, distributed to the Town Council and included as an attachment to this memo.

## RECOMMENDATIONS

### Recommend Findings

The Community Development Department recommends the following findings pertaining to Planning File No. REZ-23-0002; a rezoning application for a Planned Unit Development (PUD) located at 101 W Main Street / LOT B-1 WEST FRISCO 70 SUB # 2:

*Based upon the review of the staff report dated February 27, 2024 and the evidence and testimony presented, the Town Council finds:*

1. *The rezoning is necessary to provide land for a community benefit that includes an increased density of affordable housing units and is in promotion of public health, safety, and welfare.*
2. *That the project is beneficial or necessary for the economic development of Frisco by supporting the development of housing that will be available to the local workforce and therefore supports local businesses, employees, and residents.*
3. *That the application is providing a community benefit in the form of workforce housing.*

4. *That the application achieves a compatibility of land uses with neighboring land uses by listing a variety of permitted uses within the PUD that are consistent with the underlying zoning of the site including residential and office uses.*
5. *That the modifications to the underlying zoning are in the best interest of the Town, and neighborhood in which the development is planned by furthering the goals within the guiding principles of the Frisco Community Plan. This includes providing opportunities for a balanced mix of housing and to maintain a diverse and vibrant community.*
6. *That the projected capacity to fully serve the project site with water and sewer is available, which has been reviewed and approved by the Town Engineer and will be furthered reviewed by the Public Works Department and Frisco Sanitation upon subsequent site plan submittal.*
7. *That Town services shall be provided in the most efficient manner practicable.*
8. *That more than one housing type and housing price is offered to satisfy the needs of more than one segment of the community and the PUD includes requirements for a range of pricing based on Average Median Income level.*
9. *That the project contributes amenities to the development itself and to the community at large by providing a 25-foot-wide non-exclusive public walkaway easement dedicated to the Town of Frisco that creates public access to Ten Mile Creek and by providing a car sharing program for residents.*
10. *That an owners association will be established with the development of the project which will promote a sense of community and ensure the continued existence of a viable entity responsible for maintenance of private open space and other similar duties.*
11. *That the project meets all the applicable requirements of this Chapter that are not expressly varied in the final PUD plan, contributes to design aesthetics and layout, and promotes efficient use of land by providing a PUD plan that is clear and consistent with the Frisco Community Plan.*

#### **Planning Commission Recommendation**

The Planning Commission reviewed the rezoning request and proposed PUD plan on January 4, 2024, and recommended conditional approval of the application. The Planning Commission's motion was as follows:

#### **MOTION MADE BY COMMISSIONER MEMBER FORSYTH:**

With respect to File No. REZ-23-0002, I move that the proposed rezoning to PUD request meets the criteria necessary for approval and that the Planning Commission hereby recommends APPROVAL to the Town Council for the rezoning application located at 101 W Main Street / LOT B-1 WEST FRISCO 70 SUB # 2, with the following condition:

The PUD Plan states that the average AMI shall not exceed 60% for the property.

#### **MOTION SECONDED BY PLANNING COMMISSION MEMBER TANE**

#### **VOTE:**

YEAS: CONNOLLY – YEA, FORSYTH – YEA, LESMES – YEA, TANE – YEA  
NOES: DE – NO

#### **MOTION: PASSED**



**Financial Impact:** There is no direct financial impact related to the rezoning request.

**Environmental Sustainability:** No direct significant impacts to environmental sustainability are anticipated.

**Alignment with Strategic Plan:** The 2023-2026 Frisco Strategic Plan was adopted on July 25, 2023, and includes the strategic objective, “We enhance Community Inclusivity.” Within this objective, the Town of Frisco is committed to making decisions and policies which welcome and support all, so they can pursue their full potential in our unique mountain town.

The proposed rezoning request is consistent with the Strategic Plan and the Town Council’s project goals. Additionally, Frisco Town Council aspires to double the number of deed restricted workforce housing units within the next 5 years and this PUD requiring a minimum of 45 affordable housing units with further that aspiration. The proposed PUD plan will assist in achieving these goals.

This proposed rezoning request is also consistent with the Frisco Community Plan, including the guiding principles:

Guiding Principle 1: Inclusive Community

- 1.1A Ensure new housing complements adjacent properties and neighborhoods through appropriate mass, scale, and design. See page 68 for Area Specific Policies/Design Principles to help encourage compatible neighborhood development.
- 1.1C Strive to create an appropriate balance of full-time residents, second homes, and short-term rentals to maintain a diverse and vibrant community.
- 1.4A Support the creation of an attractive community entrance along West Main Street to create a gateway that is inviting to visitors, highlights the Tenmile Creek, and is an extension of the history and vision of Frisco.
- 1.4C Ensure ground floor uses on Main Street create a balanced mix of uses that support a thriving commercial atmosphere. Housing may be located above the ground floor along Main Street, to help support the vitality of downtown.
- 1.4D Preserve Frisco’s historic street grid to retain the character and walkability of the town core.
- 1.4E Design and orient buildings to maintain historic development patterns along public rights of way.

Guiding Principle 2: Thriving Economy

- 2.1A Continue to attract and retain businesses that support and enhance Frisco’s tourism revenues, while also seeking to build upon entrepreneurship and new or emerging niches.
- 2.1B Provide opportunities for a balanced mix of housing and services to support local businesses, employees, residents and visitors.
- 2.1C As development and infill occurs, ensure that the Town’s overall mix of land uses remains aligned with community goals.

**Staff Recommendation:** During the February 13<sup>th</sup> meeting, the Council made a motion to approve the rezoning request with a condition. The motion passed. The Council did not recommend approval of the condition recommended by the Planning Commission, but

recommended approval with a different condition. Based on Council's motion at the previous Town Council meeting, staff recommends the following motion:

**MOTION:**

With respect to Ordinance 24-01, a Second Reading of Planning File REZ-23-0002, a rezoning application for a Planned Unit Development (PUD) located at 101 West Main Street, I move that the proposed rezoning to PUD request meets the findings and criteria for approval as outlined in the staff report dated February 15, 2023, and hereby approve the rezoning application located at 101 W Main Street / LOT B-1 WEST FRISCO 70 SUB # 2, with the following condition:

1. Prior to the Town's issuance of a building permit for the subject property, the Town Council shall consider and must approve, in its sole discretion, an on-street parking plan and agreement that shall include, but not limited to, provisions concerning the location(s) and hours of on-street parking, permit requirements, parking management, and the construction and maintenance of the parking spaces by the developer and future owners of the property.

**Reviews and Approvals:** This report has been reviewed and approved by:

Katie Kent, Community Development Director  
Diane McBride, Assistant Town Manager  
Tom Fisher, Town Manager  
Leslie Edwards, Finance Director

**Attachments:**

Attachment 1 – Public Comments  
Attachment 2 – Ordinance 24-01  
Attachment 3 – Application Materials submitted by the Applicant