



MEMORANDUM

P.O. Box 4100 ♦ FRISCO, COLORADO 80443

TO: MAYOR AND TOWN COUNCIL
FROM: KATIE KENT, COMMUNITY DEVELOPMENT DIRECTOR
**RE: A PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE UNIFIED
DEVELOPMENT CODE FOR AFFORDABLE HOUSING INCENTIVES, SECTION 180-5.5**
DATE: JANUARY 9, 2024

Summary and Background:

The purpose of the meeting with Town Council on January 9, 2024, is to review proposed amendments to the Unified Development Code (UDC) for affordable housing incentives. Pending Council direction, these proposed amendments may be brought back to Council in the form of an Ordinance at the January 23, 2024, Council meeting.

Pursuant to sub-section §180-2.4.3.D, an amendment to the text of the UDC is a legislative decision by the Town Council. Prior to the Town Council's consideration of an Ordinance to amend the text of the UDC, the Planning Commission must first review the proposed amendment and forward a recommendation to the Town Council. The Planning Commission reviewed the proposed modifications on December 7, 2023, and forwarded a recommendation to Town Council to not support the modifications. Details of this decision are presented below.

Although the Planning Commission did not support these proposed amendments, it is ultimately Town Council's decision. Staff is bringing forward these proposed amendments to Council because of the feedback staff has received from Town Council regarding the need for affordable housing incentives. Additionally, to increase the eligibility for upcoming grant funding opportunities, municipalities are strongly encouraged to have criteria and incentives in their regulations to promote affordable housing. On January 9th, Staff will present the proposed changes, review how we got here, review the concerns from the Planning Commission, and will ultimately seek feedback from Council regarding next steps.

Analysis:

In July 2023, the Town of Frisco entered into a commitment with the State Affordable Housing Fund known as Proposition 123. Through this program, the Town has committed to providing sixteen (16) affordable housing units, at an average of five (5) per year over the next three years. The Affordable Housing Financing Fund is administered by the Colorado Housing and Finance Authority (CHFA) and overseen by the Governor's Office of Economic Development and International Trade.

Frisko Town Code, Section 180-5.5 requires affordable housing units to be restricted for occupancy or for purchase to households earning up to a maximum 140% Area Median Income (AMI), or maximum 120% AMI for rental, with an average AMI not to exceed 100%. As the Town pursues affordable housing projects with lower AMIs that are not funded through the Lower

Income Housing Tax Credit (LIHTC), it is difficult to fill the gap funding to make the financial models work. This has led the Town to recognize that a slightly higher AMI for certain projects would allow the Town to be able to fund and move forward with development, meeting the goal of providing more housing units for locals.

In September 2023, it was announced that organizations applying for funding through the State Affordable Housing Fund may be eligible for policy flexibilities if their project is located in a municipality that is classified as a Rural Resort Community, which Frisco is. By filing a petition, these projects may serve households with higher incomes than would otherwise be allowed if the petition had not been filed and approved. The classification of a Rural Resort community makes a difference in four (4) laws:

1. House Bill 22-1304:

For Rural Resort communities, the household AMI guidelines change for the Transformational Affordable Housing Grant Program and the definition of “affordable housing” changes for the Strong Communities Infrastructure Grant Program.

- Transformational affordable housing grant program: rental housing in Urban counties must target households with an annual income $\leq 80\%$ of the area median income (AMI). In Rural counties it is $\leq 140\%$ of the AMI. *In Rural Resort Communities it is $\leq 170\%$ of the AMI.*
- Infrastructure and strong communities grant program: the term “affordable housing” changes if you are a Rural Resort Community. For rental households in all communities, it means an annual income $\leq 140\%$ AMI. For households owning their home in Rural or Urban counties, it also means $\leq 140\%$ AMI. *For households owning their home in a Rural Resort community, it changes to $\leq 160\%$ AMI.*

2. Senate Bill 22-159:

The target AMI guidelines for households change for Rural Resort communities.

- Revolving Loan Fund Invest Affordable Housing: rental and home-ownership housing in Urban and Rural counties must target households with an annual income $\leq 120\%$ of the AMI. *In Rural Resort communities, rental housing is $\leq 140\%$ AMI and home-ownership housing is $\leq 160\%$ AMI.*

3. Senate Bill 22-232:

The definition of “Middle-income individuals and families” changes for Rural Resort communities.

- Creation Of Colorado Workforce Housing Trust Authority: In Urban and Rural counties it means a household between 80% and 120% of the AMI. *For Rural Resort communities it means between 80% and 140% of the AMI.*

4. Proposition 123 and House Bill 23-1304:

Rural Resort communities can petition the Division of Housing to change AMI requirements based on specific criteria as listed in the bill.

The proposed amendments to the UDC are a reflection of the State allowing the Town of Frisco to petition for funding assistance at a higher AMI level. Petitions are based on individual projects, not town wide. The proposed amendments include:

1. Allowing the Community Development Director to approve an affordable housing project to have an average of 140% AMI as opposed to an average 100% AMI if she/he finds that the following criteria are met:
 - a) That granting the increase in AMI will meet a studied, and found, community need for rental and/or ownership; and
 - b) That the developer of the affordable housing project is applying for funding, and funding is ultimately received, which is administered by a recognized Colorado state agency or federal administrative department; and
 - c) That the Town will apply for petition, and approval is ultimately received, through the State Affordable Housing Fund to increase income limits for the project.

By approving these amendments, if a project is being petitioned to the State for a higher AMI through Proposition 123, this would allow the Town to also allow the project to qualify for the affordable housing incentives if the average AMI was 140%.

2. 180-5.5.B.b.: Removal of sale of bonus units being through the Summit Combined Housing Authority (SCHA). This modification is in response to the SCHA not having a real estate branch anymore.
3. 180-5.5.C.1.: Modification of the language stating that the entire property shall be applicable to the affordable housing regulations. Staff has had difficulty interpreting if this means that units within a mixed-use project do not qualify as it is not the entire property if commercial uses are proposed. Staff suggests stating "all residential dwelling units on the property" instead of "the entire property".
4. 180-5.5.C.4.c.i.: Staff suggests reducing visitor parking spaces from one space for every five dwelling units to one space for every seven dwelling units. This modification would allow a reduction in required visitor parking spaces for affordable housing.

As mentioned above, the Planning Commission reviewed the proposed modifications on December 7, 2023, and forwarded a recommendation to Town Council to not support the modifications. The Planning Commission's motion was as follows:

MOTION:

WITH RESPECT TO FILE NO. UDC-23-0005, COMMISSION MEMBER LESMES MOVED TO NOT SUPPORT THE RECOMMENDED FINDINGS SET FORTH IN THE DECEMBER 7, 2023 STAFF REPORT AND THAT THE PLANNING COMMISSION HEREBY DOES NOT RECOMMEND APPROVAL TO TOWN COUNCIL OF THE CODE TEXT AMENDMENTS TO CHAPTER 180 OF THE CODE OF ORDINANCES OF THE TOWN OF FRISCO, CONCERNING THE UNIFIED DEVELOPMENT CODE, DUE TO CONCERNS OVER THE PROPOSED LANGUAGE; PARTICULARLY GROUPING TOGETHER FOR-SALE AND RENTAL HOUSING AT 140% AMI, DESIRE TO REMOVE THE LANGUAGE FROM THE DENSITY SECTION OF THE AFFORDABLE HOUSING CODE, AND OTHER CONCERNS NOTED IN MEETING MINUTES.

MOTION SECONDED BY PLANNING COMMISSION MEMBER CONNOLLY.

VOTE:

*YEAS: CONNOLLY – YEA, DE – YEA, FORSYTH – yea, LESMES – YEA,
STABILE – yea, TANE – YEA, WITHROW – YEA
NOES: NONE*

MOTION: PASSED

The minutes from the December 7, 2023 Planning Commission meeting have been attached for full review of the discussion. Specific points made by the Planning Commission included:

1. The current rental rate for a 2-bedroom, 140% AMI unit is \$3,493.00.
 - a. Commissioners noted that this rate is not reasonable for affordable housing and therefore the Town should not pursue 140% AMI rental units.
 - b. Commissioners requested that the Town consider separating incentives for rental units vs. ownership units.
2. The decision of allowing an affordable housing project to be designated an average higher AMI should not be the Community Development Director's decision.
 - a. The Planning Commission stated they should make this decision, not the Director.
3. 140% AMI units should not receive a density bonus incentive.
 - a. Commissioners stated that they would like all proposed modifications removed from the bonus density section of affordable housing.
4. Affordable Housing Incentives may not be appropriate for higher AMI projects.
 - a. Commissioners discussed whether parking reduction incentives would be appropriate for projects serving a middle-income AMI, given that residents at that level may be more likely to have cars than low-income residents.
 - b. Commissioners agreed that further discussion is needed to determine whether projects targeting 140% AMI average should be eligible to utilize the incentives outlined in Section 180-5.5: Affordable Housing.
5. Allowing Town projects to be a higher average AMI does not set a good example for the community.
 - a. Commissioners expressed concern over only Town-sponsored projects qualifying for higher AMI, while developers would always be held to 100% AMI.

During the Council meeting, staff will present the proposed amendments to the UDC, review these concerns from the Planning Commission, and will ultimately seek feedback from Council regarding next steps.

Financial Impact: There is no direct financial impact related to these code amendments.

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 modifications are consistent with the Strategic Plan and the Town Council’s project goals. Additionally, Frisco Town Council aspires to double the amount of deed restricted workforce housing units within the next 5 years. The proposed Code Amendments provide incentives to developers, which also could be applied to Town projects, which will assist in achieving these goals.

These proposed code text amendments are also consistent with the Frisco Community Plan, including the guiding principles:

Guiding Principle 1: Inclusive Community,

- *1.5B. Stimulate the creation of workforce housing through town policies, incentives, and regulatory procedures.*

Guiding Principle 2: Thriving Economy

- *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.*
- *2.1E Support the creation of home-based businesses and remote workers.*
- *2.3C Expand workforce housing options to support small businesses, and local employees.*

Staff Recommendation: Staff recommends that the Town Council provide feedback on the proposed Code Amendments to Chapter 180, Section 5.5 regarding Affordable Housing. Any code amendments will be brought back to the Council in the form of an Ordinance.

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

Diane McBride, Assistant Town Manager
Tom Fisher, Town Manager
Leslie Edwards, Finance Director

Attachments:

Attachment 1 – Planning Commission minutes – December 7, 2023
Attachment 2 – Chapter 180, Section 5.5
Attachment 3 – SCHA 2023 Area Median Income (AMI)