

MEMORANDUM

P.O. BOX 4100 ♦ FRISCO, COLORADO 80443

TO: MAYOR AND TOWN COUNCIL

FROM: KATIE KENT, COMMUNITY DEVELOPMENT DIRECTOR

RE: PLANNING FILE NO. VAC-21-0001. A DISCUSSION REGARDING A DEVELOPMENT AGREEMENT AND APPLICABLE COMPONENTS INCLUDING QUANTITY OF RESIDENTIAL UNITS, CONSTRUCTION TIMELINES, AND OCCUPANCY RESTRICTIONS OF UNITS.

DATE: OCTOBER 22, 2024

Summary:

At the October 22, 2024 work session, Staff will review a right-of-way vacation application that would provide up to four (4) workforce housing units in exchange for the 10,500 sq. ft. parcel of South 6th Avenue right-of-way. This application was before the Town Council on June 27, 2023, and Council feedback from that meeting is presented below. Due to the length of time that has gone by, and the turnover of Council members, Staff is bringing the application forward for an updated discussion on the below stated questions. If Council supports the proposed public interest, then the Town Attorney will draft a development agreement to bring forward at the first reading of the right-of-way vacation. The development agreement would allow the Town to ensure that construction of units occur within stated timelines. Specific questions for Council include:

- 1) Pursuant to §142-1 of the Frisco Town Code, the Town Council finds and declares that the general policy of the Town is to prohibit the vacation or divesting of any right, title or interest of the Town in and to any land, including any roadway or easement. Any application for vacation pursuant to this chapter may be granted only in cases where the Town Council, in the exercise of its sole and exclusive discretion, first finds an overriding public interest favors the vacation. Does the Town Council find that the proposal provides an overriding public interest?
- 2) The application materials do not propose Area Median Income (AMI) limitations capping the resale value of the residential units. Will the Town Council require the applicant to follow the Planning Commission recommendation to have a portion of the residential units cap the sale price at 160% AMI?
- 3) The application materials include the construction of three residential units but do not propose a guarantee for the construction of a fourth residential unit. Will the Town Council require the applicant to construct each residential unit within a specific timeframe?
- 4) The appraisals submitted for the right-of-way and adjacent properties are dated 2021. Does the Town Council want an updated appraisal performed of the right-of-way and the adjacent properties? The benefit to getting an updated appraisal is if the Town wanted to see the most recent value of the ROW.

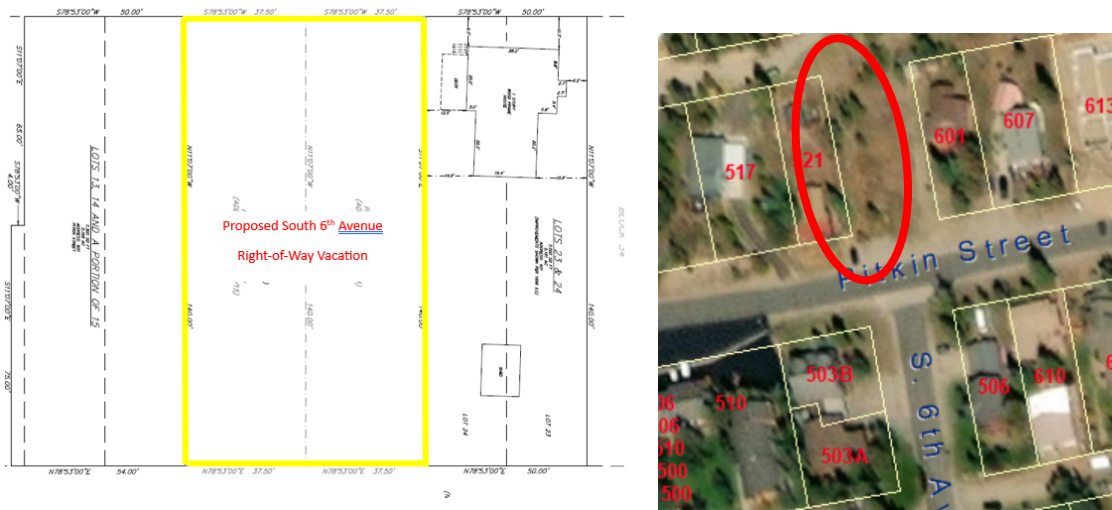
At the 2023 work session, comments from Council members included:

- This is a good use of land but need to hear more details including the construction timeline
- Supportive of live-work units without an AMI cap
- Concerns over the uncertainty of the construction of the fourth unit

Overall, the Council agreed that there was overriding public interest but wanted to see the applicant address the comments above. These comments and the questions above will be reviewed with the Council during the October 22, 2024 work session.

Background

Mr. Andy Richmond and Ms. Lauren Echevarria own a house at 521 Pitkin Street. Mrs. Marta Lindrose owns a house at 601 Pitkin Street. Mr. Richmond and Ms. Echevarria are representing both parties with this request of the vacation of a portion of the right-of-way.



The Applicants have submitted a right-of-way vacation application to the Town of Frisco (“Town”) requesting that the Town vacate a portion of a public right-of-way consisting of a 10,500 sq. ft. (0.24 acres) tract of the South 6th Avenue right-of-way. In exchange for this vacation, the Applicants would build 3-4 deed restricted units on the section of right-of-way and adjacent lots. Included in the proposal are:

- Proposed Lot 1: 3,500 sq. ft. lot with existing single-family residence. Live/Work restriction to be recorded on property.
- Proposed Lot 2: 3,500 sq. ft. lot with existing shed. Shed to be demolished and a new single-family residence to have a building permit submitted prior to December 31, 2027. Live/Work restriction to be recorded on property.
- Proposed Lot 3: 8,120 sq. ft. lot. New single-family residence to have a building permit submitted prior to December 31, 2027. Live/Work restriction to be recorded on property. Proposed request to allow for an ADU on property.

- Proposed Lot 4: 11,518 sq. ft. lot containing existing single-family structure. Proposed stipulation that an alteration to the existing structure, or property sale, shall require a new unit to be constructed within three years.

The first step in the application process for the vacation of the Town's right-of-way was a hearing by the Planning Commission, which took place on May 18, 2023. The Planning Commission approved this request with specific conditions listed below, and a recommendation that the applicant enter into a development agreement with the Town. A work session with Town Council took place on June 27, 2023, with the Council requesting additional details from the applicant at that time. These additional details and questions are before Council on October 22, 2024. The application also went on hold pending adjacent property owner written permission for the application. The Town has now received all required documents to continue the review of the application.

Analysis:

The first step in the application process for the vacation of the Town's right-of-way was a hearing by the Planning Commission, which took place on May 18, 2023. The Commission concluded that the request as presented was not an overriding public interest and offered suggested conditions to the Council. The following motion and associated conditions were recommended to the Town Council:

With respect to File No. VAC-21-0001, Commissioner Tane moves that the Planning Commission forwards a recommendation of approval to the Town Council for the vacation of a 10,500 sq.ft. (0.24 acres) tract of the South 6th Avenue Right-of-Way within Blocks 33 & 34, Frisco Townsite; generally located north of Pitkin Street, south of Pitkin Street Alley, adjacent to and east of 521 Pitkin Street / Lots 23-24, Block 34, Frisco Townsite and adjacent to and west of 601 Pitkin Street / Lots 13-14, Pt 15, Block 33, Frisco Townsite, subject to the following conditions:

- 1. The Applicant(s) shall enter into a development agreement with the Town of Frisco that outlines the requirements for guaranteeing construction completion of all four deed restricted workforce housing units and the residential housing restrictive covenants, including the terms and conditions for occupancy and ownership of the units as determined by the Town of Frisco including that a portion of the units contain a deed restriction that caps the sale price at 160% AMI, and that the applicants have obtained all necessary development approvals and permits.*
- 2. That the vacation ordinance shall not cause the South 6th Avenue right-of-way to be vacated until the ordinance is filed by the Town Clerk for recording in the Office of the Summit County Clerk and Recorder. The Town Clerk shall not file the ordinance for recording in said office until the conditions of the development agreement above have been satisfied.*

With the Planning Commission's recommendation that the applicant enter into a development agreement with the Town, a work session with Council was held on June 27, 2023. At the 2023 work session, comments from Council members included:

- This is a good use of land but need to hear more details including the construction timeline
- Supportive of live-work units without an AMI cap
- Concerns over the uncertainty of the construction of the fourth unit

Overall, the Council agreed that there was an overriding public benefit but wanted to see the applicant address the comments above. The table below outlines the applicant's proposal and the planning commission recommendations.

Table 1: Richmond Proposal and Planning Commission Recommendations

	Applicant's Proposal	Planning Commission Recommendation
AMI	No AMI cap	A portion of units to contain a deed restriction that caps sale price at 160% AMI
# of Units	3-4	4
Construction Timeline	No required timeline to complete work	Guarantee construction

Specific topics of discussion for the Town Council work session on October 22nd, are:

- 1) Vacation of a portion of a public right-of-way. Does the Town Council still find that the proposal provides an overriding public interest?

Pursuant to §142-1 of the Frisco Town Code, *the Town Council hereby finds and declares that the general policy of the Town is to prohibit the vacation or divesting of any right, title or interest of the Town in and to any land, including any roadway or easement. Any application for vacation pursuant to this chapter may be granted only in cases where the Town Council, in the exercise of its sole and exclusive discretion, first finds an overriding public interest favors the vacation.*

The general policy of the Town of Frisco is to not allow for the vacation or divesting of any right, title or interest of the Town in and to any land including any roadway unless there is a clear overriding public interest. As stewards of public property, the Town has taken a conservative interpretation of “an overriding public interest” and should continue to be conservative in their vacation of public right-of-ways including the subject property.

In this application, the “overriding public interest” is the creation of 3-4 for sale workforce housing units in the Town of Frisco.

- 2) If the Town Council finds that the proposal provides an overriding public interest, the next step is to define the details of a development agreement, specifically the proposed

occupancy/ownership requirements, number of units, and construction timeline for four units. The application materials do not propose Area Median Income (AMI) limitations capping the resale value of the residential units. During the Council meeting on June 27, 2023, the Council was supportive of live-work units without an AMI cap. The Planning Commission recommended a portion of the residential units have a sale price cap at 160% AMI. Does Council still support live-work units without an AMI cap or, does Council support the recommended AMI cap from Planning Commission?

The application materials guarantee three units restricted by a covenant limiting ownership to Primary Residents defined as:

- is a registered voter in the Frisco, Colorado;
 - who works an average of 30 hours or more per week at a business in Summit County, Colorado that holds a valid and current business license, or is otherwise generally recognized as a legitimate business, and earns at least 75% of their income from such business. Or is retired, was 60 years of age or older at the time of retirement; for the 5 years immediately prior to retirement, worked an average of 30 hours or more per week at a business in Summit County, Colorado that held a valid and current business license, or paid sales taxes, or was otherwise generally recognized as a legitimate business; and earned at least 75% of their income from such business during such 5-year period; and
 - whose Principal Place of Residence is a residence on the Property in the Snowfell Cabins Planned Unit Development. “Principal Place of Residence” means the home or place in which one's habitation is fixed and to which one has a present intention of returning after a departure or absence therefrom. To determine a person's Principal Place of Residence, the criteria set forth in C.R.S. § 31-10-201(3) shall apply.
- 3) The application materials include the construction of three residential units but do not propose a guarantee for the construction of a fourth residential unit. Will the Town Council require the applicant to construct each residential unit within a specific timeframe? Or, does the Council find that the overriding public interest does not exist without a fourth unit to be constructed within a certain timeframe?
- a) Construction Timeline. Does the Council want to establish timelines for covenants to be placed on the units? The applicant has stated that two of the proposed structures will be constructed prior to December 31, 2027 and would have a covenant recorded on them. One of the structures is future construction and a specific timeline is not provided for that unit.
- 4) The appraisals submitted for the right-of-way and adjacent properties are dated 2021. Does the Town Council want an updated appraisal performed of the right-of-way and the adjacent properties?

An appraisal of the property submitted on October 7, 2021, estimated the 10,500 sq. ft. right-of-way's "as-is" value at \$158,000. The "as-proposed" value of the portion of the right-of-way proposed for dedication to 521 Pitkin is estimated at \$210,000; and the portion of the right-of-way proposed for dedication to 601 Pitkin is \$175,000. This distribution of "as proposed" values is broken down based on the percentage of the lot sizes proposed for each unit.

Table 2: "As-Is" and "As-Proposed" Values

VALUE CONCLUSIONS					
"AS IS" VALUES			"AS PROPOSED" VALUES		
			<u>Property</u>	<u>Site Sizes SF</u>	<u>Value</u>
6th Ave. Right of Way	\$	158,000	West Right of Way Lot	7,000	\$ 210,000
521 Pitkin Street	\$	1,050,000	East Right of Way Lot	3,500	\$ 175,000
601 Pitkin Street	\$	1,125,000	Rear 521 Lot	3,500	\$ 210,000
			521 Pitkin with house	3,500	\$ 507,000
			601 Pitkin with house	7,300	\$ 1,125,000

Financial Impact: The application does not request an exchange of money for the right-of-way vacation; therefore, there is not a direct financial impact of this application to the Town.

Alignment with Strategic Plan: The project aligns with the Frisco Strategic Plan 2024-2028 through strategic objectives Enhance Community Inclusivity and Support a Thriving Economy. Adding additional live/work options to the Frisco housing market will allow more opportunities for local workers to live where they work. This project will also be built to the most current sustainability code and will be an example of what can be accomplished with the Town allowing more creative development involving smaller lots and increased density while still providing single-family residences.

Enhance Community Inclusivity

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.

Pillars:

- *Diverse Housing: Offering a variety of housing types to support the workforce and residents.*
- *Lasting Social Sustainability: Considering equity, inclusivity, and accessibility in decisions and policies*

Support a Thriving Economy

The Town of Frisco strives to create a thriving economy for our community by encouraging a variety of businesses which provide needed goods and services:

Pillars:

- *Infrastructure Development: This includes preserving and improving infrastructure that helps the business community, as well as making plans for and investing in Main Street and Summit Boulevard infrastructure.*

- *Workforce and Community Support: This pillar focuses on increasing workforce housing to appropriate levels, supporting increased access to childcare, and continuing to support regional transit and mobility improvements.*
- *Economic Growth and Regulation: This involves supporting business development and diversification, having a regulatory system that protects health, safety, and welfare while promoting customer service, funding programs, and regulations that support the visions for Main Street and Summit Boulevard.*

The proposed development of 3-4 live/work single-family units on smaller lots:

- Increases housing options for full time locals
- Provides a strategy to maintain current full-time residents

Environmental Sustainability: At this time, environmental sustainability is not addressed as part of this discussion. If the project is developed, structures will be required to meet the requirements of the Summit Sustainable Building Code.

Staff Recommendation: Staff recommends that the Town Council provide the applicant feedback regarding if the proposal provides an overriding public interest. If the Town Council does not find that the proposal provides an overriding public interest, then they should be clear why it does not.

If Town Council finds that the proposal provides an overriding public interest as presented, then the applicant will move forward with the following timeline:

- 1st Reading of Right-of-Way Vacation Ordinance with development agreement before Town Council
- 2nd Reading of Right-of-Way Vacation Ordinance with development agreement before Town Council
- Planning Commission recommendation of Planned Unit Development (PUD) rezoning application
- 1st Reading of Rezoning Ordinance to PUD before Town Council
- 2nd Reading of Rezoning Ordinance to PUD before Town Council
- Site Plan application review by Planning Division
- Building Permit Submittal

Approved By:

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

Attachments:

Attachment 1 - Application Materials
Attachment 2 - Town Code, Chapter 142, Vacation of Property
Attachment 3 – May 18, 2023 Planning Commission staff report and minutes