



## RECORD OF PROCEEDINGS

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### Meeting of the Planning Commission for the Town of Frisco Hybrid Meeting

<https://us06web.zoom.us/j/88363133072?pwd=c2FFWHRDYnIBRIJ0OTBXdlIFU1yUT09>

Town Hall, 1 East Main Street

Thursday, August 18, 2022 at 5:00 P.M.

#### **Call to Order:**

Kelsey Withrow, Chair, opened the meeting.

#### **Roll Call:**

Present: Robert Franken, Lina Lesmes, Jessica Potter, Andy Stabile, Ira Tane, Kelsey Withrow

Absent: Patrick Gleason

#### **Minutes:**

**A MOTION TO APPROVE THE MINUTES OF THE AUGUST 4, 2022 PLANNING COMMISSION MEETING WAS MADE BY COMMISSION MEMBER STABILE AND SECONDED BY COMMISSION MEMBER TANE. COMMISSION MEMBER FRANKEN ABSTAINED DUE TO HIS ABSENCE FROM THE AUGUST 4, 2022 MEETING AND THE MOTION PASSED UNANIMOUSLY.**

#### **Public Comment (non-agenda items):**

There were no public comments.

#### **Agenda Items:**

1. **Planning File No. ORD-22-0001:** A public hearing to consider Code Text Amendments to Chapter 180 of the Code of Ordinances of the Town of Frisco, concerning the Unified Development Code, to encourage property owners to provide affordable housing by amending Subsection 180-5.5.1.B Density Bonuses.

Chair Withrow, turned the presentation over to Danelle Cook, Housing Program Manager, to cover proposed code revisions to the Density Bonus Incentive. Cook continued with a presentation of the staff report included in the application materials. Staff is recommending approval with reference to the recommended findings and conditions in the staff report.

#### **COMMISSION QUESTIONS FOR STAFF:**

- Commissioners asked if the option D is an AMI cap but not a residency requirement and who the target would be and if they live here, would they qualify for the residency. Cook responded that the target will be lower AMI rentals. Director of Community Development Don Reimer, responded that this applies only to the Low-Income Housing Tax Credit (LIHTC) which is a federal program and it is for rentals only. Commissioners and staff discussed the qualifications of LIHTC. Reimer added that the tenant must qualify on an annual basis.

- Commissioners asked what the density is of other residential areas in Town and whether this could be applied to other zone districts. Staff responded that Residential Low (RL) is eight units per acre, Residential Medium (RM) is twelve units per acre and Residential High (RH) is sixteen units per acre. In the discussion, Commissioners asked if density could be expanded to residential high density where the density is essentially the same as the Central Core which is one street away. Staff noted that this is good feedback.
- Commissioners asked if in the staff report where it states “it also added a definition of off-site affordable housing to clarify that the Summit Combined Housing Authority (SCHA) would oversee the marketing and sale of all affordable housing established through the Town program” and whether the SCHA handles all resales. Staff responded yes, it is in the code language and it is also written into the covenant so they have to comply with those regulations.
- Commissioners asked if all the workforce housing is set up for people working a thirty-hour week, is there any consideration for people with disabilities who cannot work a thirty-hour week, but can work and what is being done to help that population in this program. Cook responded that currently we do not. Reimer added that this has been discussed with the Town Attorney, the Town has to provide reasonable accommodations and if the situation presents itself it will be addressed on a case-by-case basis. Commissioners expressed frustration that this is not being addressed proactively. Reimer further explained the Town’s position.
- Commissioners asked if instead of stipulating a thirty-hour work week if it could be 75% of your work time has to be in Summit County. Staff responded that this could not be regulated. The SCHA does a lot of deed monitoring and can work with individual jurisdictions to implement these types of policies. Reimer further stated the Town has a plan in place, to provide reasonable accommodations if and when this situation comes up so that we know how to address it.
- Commissioners referenced option B and noted that the wording of ‘the “Town of Frisco” is unnecessary.
- Commissioners questioned where in the Ten Mile Basin could you find property that is cheaper to build on. Staff responded with various subdivisions, Evergreen, Wiborg, Frisco Park, Frisco Terrace, Bills Ranch, possibly Copper Mountain.
- Commissioners asked if there is a square foot minimum. Staff responded that units would have to be within 15% of square footage of the market rate units.
- Commissioners asked what benefit there is in option C. Cook responded that option C is proposing the Housing Helps covenant be used. Commissioners asked what interest a developer would have in this. A discussion ensued on how deed restrictions may not keep units affordable but attainable, and there are different deed restrictions for different purposes. The discussion included possible abuse of the program. Staff noted that these programs take administration and enforcement. Commissioners asked if stipulations could be put in the code. Staff responded yes.
- Susan Lee, Senior Planner, asked if the wording ‘affordable housing’ needs to be replaced in options A and B with ‘workforce housing’. A discussion ensued and staff suggested that the Commission consider a resolution. Staff noted that the word ‘may’ was used for LIHTC because that is the occupancy restriction. Staff suggested that the word ‘may’ be dropped.
- Commissioners asked staff to explain further why we are using the Ten Mile Basin as opposed to the one-mile radius. Staff responded that the off-site option is for every one on-site market rate bonus unit, you can provide two off-site deed restricted units to exceed the maximum allowable density. Noting whether this accomplishes our inclusive and walkability goals in the Frisco community and how maybe the Ten Mile Basin is a compromise.
- Commissioners asked why we have opened the door to a very minimal deed restriction and if there was thought about tweaking the current density bonus program by possibly averaging it at 120%. Staff responded that there was a discussion with Town Council about that and Town Council did not want to increase the AMI. Commissioners questioned if implementing option C with no AMI, then no one will choose the 100% option. There was a discussion about the AMI housing in Frisco and if any

what consideration, if any, was given to various AMI percentages, how to incentivize something that is more restrictive, and the various deed restrictions that exist.

- Commissioners asked for confirmation that the LIHTC program is only for rentals. Staff responded yes. Commissioners then questioned if there is an inventory of rentals for that person who has arrived here for work. Staff responded by saying the inventory is very limited but that is what we are working on. Commissioners added that they would like to see a successful restriction program that will incentivize and that we need to look at that first step of your community impact map and that is where we fall short. Workforce housing has to be looking at rentals a lot.
- Commissioners asked if the LIHTC program requires the unit to be a primary residence or sole residency. Staff responded that it has to be their only residence.

#### PUBLIC COMMENTS:

- There were no public comments.

#### COMMISSION DISCUSSION:

- Commissioners believe everything is going in the right direction but it is too big of a jump. The full on Housing Helps deed restriction which takes a market rate existing unit that already has water, sewer and deed restricts it – it is a really light deed restriction. There is a lot you can do with the Housing Helps deed restriction – it is not appropriate for above and beyond density. You are going in the right direction by saying this is not working, what can we do that can work, but it is too far.
- Commissioners discussed the fact that it is a very open or loose deed restriction, not necessarily owner occupied but occupancy by a local person. Staff commented that some of the other deed restrictions will allow that as well. They will allow somebody to own it and rent it out to a local, creating long-term housing, and we need that. Commissioners asked if they capped what the rental rate has to be. Staff responded yes, it does set a limitation on some of those deed restrictions that do allow non-owner occupancy. Housing Helps does not but some of our other deed restrictions which have AMI caps will allow non-owner occupancy. Housing Helps has no AMI whatsoever so the investor can rent it out at whatever price they can get as long as the occupant is a Summit County employee, minimum of thirty hours per week.
- Commissioners expressed the need for a certain AMI and have an appreciation cap, details really do matter.
- Commissioners would like to propose a change in the language of option B and simply say not open to whole County.
- Commissioners asked if the Town of Frisco gets first priority on those rentals. Staff responded that it would be a Town of Frisco deed restriction so it would be under the Town's enforcement. Right now the Town's deed restrictions that people are opting into if they so choose does have a thirty day Frisco priority. Not all of our existing deed restrictions have that but the new one moving forward does have the thirty day Frisco priority for purchase, not for rental.
- Commissioners asked if you would you need an Intergovernmental Agreement to accept deed restrictions in another jurisdiction as the bonus units. Staff responded no, it would not be required; however, it would be a courtesy to work with them.
- Commissioners stated that we need to resolve the issue with use of the word 'may' where we can still do what we want to with the LIHTC program but not have it affect either options A or B.
- Commissioners noted that it is a step forward but worry that we are not doing even enough for workforce housing and density. Commissioners questioned if there are other properties that we can get more density out of.
- Commissioners noted that any additional density is costing the Town money.
- Commissioners agreed that the occupant needs to work a thirty-hour week and the services be in Summit County.

- Commissioners expressed a desire to explore expanding this to other zone districts.
- Commissioners expressed concern that in RH districts, parking could be an issue.
- Commissioners suggested that option C be changed by saying an average of a higher AMI, 160% or 170%, and something more restrictive. Staff responded that 160% AMI was proposed and Town Council felt that it was not attainable/not affordable. Commissioners asked how removing an appreciation cap is making it affordable. Staff responded that the discussion at 160% AMI was just still the 50% of the bonus units rather than 100% of the bonus units so option B was added so you are actually doubling the number of deed restricted units and that is where the 160% AMI on all four of these may make some sense.
- Commissioners noted that they would like to see a modification of the program that was already working and putting some guard rails on this really loose one.
- Commissioners noted that they struggle with no appreciation cap.
- Commissioners do not like our affordable units going to Copper when we have to deal with the additional density in Frisco and feel that it is out of line with the walkability goal in the community plan that we discussed.
- Commissioners noted that opening it up by going into the zoning districts is where a good overlay process would apply but would have to be on a case-by-case because many of the zone districts are not as clean-cut as others.

Reimer stated that the Planning Commission's role this evening is to make a recommendation on this proposed code amendment to the Town Council. A suggestion for process is to take these one by one and do a straw poll that will help one of you develop a motion on the various options.

- Commissioners discussed keeping the existing language about the extra units being in Frisco within one mile, noting that Copper has a different planning agenda for their dwelling units and we do not have any control over it and we lose a workforce housing that we are trying to accomplish in Frisco.
- Commissioners asked if when you build do you have a certain timeline. Staff responded that before any of the deed restricted units can be issued a certificate of occupancy, the deed restriction must be recorded.

Reimer suggested that the Commission go through the proposed code amendments and see how the Planning Commission would like to address these in their recommendation to Council.

Option A: Leave alone.

Option B: Commission is in agreement to leave it the way it reads.

Option C: The consensus would like to see an AMI cap. Staff is to look into the numbers, Planning Commission recommends an average of 160% AMI and no sunset.

Option D: The LIHTC option, for sale or for rent. Remove 'for sale'. To ensure 'may' doesn't roll over to Options A and B, drop the last sentence. There is no cap on the number of density bonus units you could use in a project.

Reimer asked if there was any interest in expanding the zoning district, now central core, gateway, and mixed use – there was some discussion about expanding to residential high. Commission recommends that staff looks into it.

**WITH RESPECT TO PLANNING FILE NO. UDC-22-0001, COMMISSION LESMES MOVED THAT THE RECOMMENDED FINDINGS SET FORTH IN THE AUGUST 18, 2022 STAFF REPORT BE MADE AND THAT THE PLANNING COMMISSION RECOMMENDS 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, TO ENCOURAGE PROPERTY OWNERS TO PROVIDE**

**AFFORDABLE AND WORKFORCE HOUSING BY AMENDING SUBSECTION 180-5.5.1.B DENSITY BONUSES AND SUBSECTION 180-9.3 'GENERAL DEFINITIONS.'**

1. SUBSECTION 1.B TO BE CHANGED TO MAINTAIN "BUT WITHIN THE TOWN OF FRISCO OR WITHIN ONE (1) MILE OF ANY CORPORATE LIMIT OF THE TOWN OF FRISCO."
2. SUBSECTION 1.C TO READ: A MINIMUM OF 100 PERCENT OF THE TOTAL NUMBER OF BONUS UNITS IS PROVIDED AS WORKFORCE HOUSING DEED RESTRICTED FOR SALE OR RENT TO PERSONS EARNING A LIVING WORKING FOR A BUSINESS IN SUMMIT COUNTY FOR A MINIMUM OF 30 HOURS PER WEEK, ON AVERAGE PER YEAR AND ALSO MEETING THE INCOME CAP OF 160 PERCENT AMI ON AVERAGE, AND THE STANDARD APPRECIATION CAP.
3. SUBSECTION 1.d TO STRIKE: FOR SALE

**COMMISSIONER FRANKEN SECONDED THE MOTION.**

**VOTE:**

**YEAS: FRANKEN – YEA, LESMES – YEA, POTTER – YEA, STABILE – YEA, TANE – YEA, WITHROW – YEA  
NOES: NONE**

**MOTION: PASSED**

**Staff and Commissioner Updates:**

- Reimer noted that there will be no Planning Commission meeting on September 1
- Reminder that there is a Town Council/Planning Commission joint meeting from 6pm-7pm on August 23
- CDOT lot project is going out to bid a second time
- Rainbow Court has footers
- 317 Granite had to redo the rock walls
- Grout issue. The approved plans did state drystack, no grout. Staff asked for an Administrative Site Plan verifying their materials meet the color standards in the code or remediate the grout.

**Adjournment:**

There being no further business, Commissioner Franken made a motion to adjourn, seconded by Commissioner Potter and was unanimous. The meeting adjourned at 6:30 p.m.

Respectfully submitted,

Cheryl Mattka  
Community Development Department