



MEMORANDUM

P.O. Box 4100 ♦ FRISCO, COLORADO 80443

TO: PLANNING COMMISSION

FROM: DANELLE COOK, HOUSING PROGRAM MANAGER

RE: PLANNING FILE NO. UDC-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 AND WORKFORCE HOUSING BY AMENDING SUBSECTION 180-5.5.1.B 'DENSITY BONUSES' AND SUBSECTION 180-9.3 'GENERAL DEFINITIONS.'

DATE: AUGUST 18, 2022

Summary and Background: Creating more affordable housing is not a new pursuit for the Town of Frisco. Over the past few decades, Frisco has implemented various different strategies to increase both the availability and affordability of housing. Among them is the density bonus incentive. In general terms, a density bonus is an incentive-based tool that permits a developer to exceed the maximum allowable density on a site in exchange for building workforce housing.

The Frisco density bonus incentive dates back to 1998 with the adoption of Ordinance 98-7. The original code provision was only applicable to the Central Core Zone District. It required that at least one unit, or a minimum of 25% of the total number of bonus units (whichever was greater), was deed-restricted. Additionally, at least one deed-restricted unit had to be a minimum of one-bedroom in size and all units had to be at least 500 square feet.

Later that year, the density bonus code was revised again under Ordinance 98-17, to specify that the 500 square-foot-minimum only applied to studios, and no more than half of the bonus units could be studios.

In 2005, the approval of Ordinance 05-28 expanded the density bonus incentive to the Accommodations Zone District, but the parameters were slightly different. A minimum of 50% of the total number of bonus units had to be deed restricted.

Shortly thereafter, the definition of '*Affordable Housing*' was revised with Ordinance 05-31 and required that deed-restricted units generated through the density bonus incentive were proportional in size to the corresponding bonus market-rate units.

In 2006, Town Council expanded the density bonus incentive to include a third zone district: the Mixed Use Zone District (refer to Ordinance 06-02). To qualify, at least 50% of the bonus units had to be deed restricted.

At the subsequent Town Council meeting two weeks later, the Central Core Zone District density bonus incentive, was revised to match that of the Mixed Use Zone District (refer to Ordinance 06-03). The revision increased the required number of deed-restricted units from 25% to 50% of the total number of bonus units, and the unit mix and square footage requirements were deleted from the code language. However, that language was added back into the code when a formal definition of '*density bonus*' was adopted with Ordinance 06-06. The density bonus definition required that a minimum of 50% of the total number of bonus units were deed restricted, at least one affordable unit was one-bedroom in size, and that any studio had to be at least 500 square feet.

Also in 2006, Ordinance 06-22 further revised the qualifications for a density bonus within the definition of '*Affordable Housing*.' The definition already stated that, to qualify for the density bonus, the required deed-restricted units had to be proportional in size to the additional bonus market-rate units. However, the revision further specified that the smallest deed-restricted unit could be no more than fifteen percent smaller in gross floor area than the largest bonus market-rate unit.

On February 26, 2008, Town Council approved Ordinance 07-14, amending the density bonus incentive to create an off-site option. The developer could either elect to provide 50% of the total number of bonus units as affordable deed-restricted units on-site, or the developer could instead choose to provide at least two affordable housing units for each corresponding bonus dwelling unit at an off-site location within a one-mile radius of the Town of Frisco boundaries. This amendment only applied to the Mixed Use and Central Core Zone Districts. 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 any Town program, in addition to having SCHA qualify individuals for the units.

On April 14, 2009, Town Council approved Ordinance 09-07 and Ordinance 09-08. The purpose of these two Ordinances was to make the density bonus incentive language uniform throughout the Town Code.

In 2017 with adoption of the new Unified Development Code (UDC), the Accommodations Zone District became the Gateway Zone District, which included the density bonus incentive.

Finally, the density bonus incentive was last revised on April 9, 2019, with the approval of Ordinance 19-04, which added the requirement that all affordable housing units generated by the density bonus incentive had to be deed-restricted at 100% of the area median income (AMI).

Since implementation of the density bonus incentive in 1998, 29 deed-restricted workforce housing units have been constructed across 7 different projects as a direct result of the density bonus incentive provided in the Town Code. In other words, the density bonus incentive has generated more than one deed restricted unit per year and accounts for 18% of all deed-restricted units within Frisco boundaries.

In Spring of 2022, Town Council established a Workforce Housing Development Committee, which consists of two Town Council members and Town staff. The purpose of the committee was to invite developers to discuss any obstacles preventing them from building affordable housing, and brainstorm possible solutions. After meeting with multiple development teams, the committee learned that the developers were trying to take advantage of the density bonus incentive, but it was no longer a financially feasible option for them, due to the rising cost of construction. As a

result, the developers requested to combine the density bonus with either Town-funded subsidies or allow for a higher AMI in the deed restriction. The committee concluded that the density bonus incentive is no longer working as originally intended.

Additionally, another developer recently came forward with a potential Low Income Housing Tax Credit (LIHTC) project, and expressed concerns that the LIHTC requirements conflicted with the Town's standard deed restriction. In response, Town staff proposes a code revision that would allow two more options, in addition to the two existing options, for a total of 4 options.

At the July 12, 2022 Town Council Work Session, Town staff presented these density bonus code revisions. Based on the Work Session feedback, Town Council directed staff to draft the proposed code language. Additionally, Town Council directed staff to consider expanding the allowable area where the affordable units could be provided and to consider parking reductions for affordable housing.

Analysis: The current version of the density bonus incentive is found in Town Code Section 180-5.5.1. 'Affordable Housing - Incentives'. It allows two density bonus options for new development in the CC, GW, and MU Zone Districts, as follows:

1. Central Core, Gateway, and Mixed-Use Districts

In the CC, GW, and MU Districts, a density bonus over the maximum allowable density is available if approved by Planning Commission, provided that:

- a. A minimum of 50 percent of the total number of bonus units is provided as affordable housing deed-restricted for sale or rent to persons earning a maximum of 100 percent of the area median income, at a rate established by the Summit Combined Housing Authority for that income level, and pursuant to the other criteria as established from time to time by the Town or the Summit Combined Housing Authority; or*
- b. For each bonus dwelling unit allowed, at least two affordable housing units are provided on property outside of the subject property, but within the Town of Frisco or within one (1) mile of any corporate limit of the Town of Frisco.*

At the July 12, 2022 Town Council Work Session, staff did not propose any revisions to these two existing density bonus options. However, Town Council directed staff to consider expanding the allowable area where off-site affordable units can be provided. Town Council discussed the possibility of expanding this area to include all of Summit County, but some members of Council felt that providing affordable units in adjacent communities may not meet the goals of creating an inclusive and walkable community which are outlined in the Town Council Strategic Plan. In response to the Work Session feedback, staff proposes to revise the last sentence of option 'b' to expand the allowable area where off-site affordable units can be provided to include the Ten Mile Basin. This proposed revision is noted in the 'Proposed Code Language' which is included as an attachment to this report.

In addition to these two options, Town staff proposes two more options. The third option would allow a development to exceed the maximum density, provided that 100% of the bonus units are restricted with the deed restriction that the Town is currently utilizing under the Housing Helps

program, which requires occupants to work a minimum of 30 hours per week in Summit County, but has no AMI limitation and no appreciation cap. This would create an option that is financially feasible for a developer, doubles the number of workforce housing units created, and requires no subsidy from the Town. The following code language is proposed for this option:

- c. 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 located in Summit County for a minimum of 30 hours per week, on average per year;*

While the two existing options require the development of 'affordable housing,' this option requires the development of 'workforce housing.' This distinction between affordable and workforce housing is made since the Housing Helps deed restriction does not meet the definition of 'Affordable Housing' provided in Chapter 180. As such, staff is also proposing the addition of a 'Workforce Housing' definition to Section 180-9.3, as follows:

WORKFORCE HOUSING – A dwelling unit that is deed restricted in perpetuity to occupancy by individuals meeting the employment and occupancy standards as established from time to time by the Town. Occupancy standards shall include requirements for primary residency and local employment.

The fourth option staff is proposing would allow a provision for Low Income Housing Tax Credit (LIHTC) projects. LIHTC projects require that the units are deed-restricted to average 60% AMI, but do not allow restrictions on where the occupants work. With this proposed option, the development would be allowed to exceed the maximum density, provided that a minimum of 50 percent of the total number of bonus units are deed restricted. In the event that LIHTC is combined with the density bonus incentive, a new deed-restriction template would be utilized, omitting the requirement that the occupant work in Summit County for 30 hours per week in order to comply with LIHTC requirements. The following code language is proposed for this option:

- d. A minimum of 50 percent of the total number of bonus units is provided as affordable housing deed-restricted for sale or rent in accordance with the Low Income Housing Tax Credits (LIHTC) program deed restriction requirements, and the units must be deed-restricted as affordable housing in perpetuity.*

Because LIHTC does not allow discrimination against the location of employment for deed-restricted occupants, staff is also proposing a slight revision to the existing definition of 'Affordable Housing,' to allow flexibility in the occupancy requirements, if approved by Council. This revision is noted in the 'Proposed Code Text Amendments,' which is provided as an attachment to this report.

The proposed code revisions are based on the premise that there is a wide range of affordable and workforce housing needs, and multiple options and programs could be used to address each segment of housing needs. When taxpayer dollars are spent on workforce housing, these projects should be focused on fulfilling the highest priority need, such as lower AMI rental units, while private development projects could address other areas of the housing spectrum.

Furthermore, staff has evaluated Town Council's request to consider including parking reductions for workforce housing. Town Code Section 180-6.13.3 requires a minimum of one parking space per bedroom and a maximum of two parking spaces per deed-restricted affordable unit be

provided on-site. Staff does not recommend reducing the minimum quantity of required parking spaces without providing a concurrent public transit solution. Instead, staff would like to further discussions with the Public Works Department to explore the possibility of allowing parking in the right-of-way. At this time, staff is not proposing any parking reductions.

Staff Recommendation: Staff is recommending support of the proposed code text amendments based on the following findings:

1. *The proposed code text amendments are consistent with and help support the goals of the Frisco Community Plan and the Town Council Strategic Plan.*
2. *The proposed code text amendments do not conflict with other provisions in the Town of Frisco Code and improve consistency between Chapter 180 and other provisions of the Town Code.*
3. *The proposed code text amendments address a demonstrated community need by implementing regulations that were identified as a community desire during master planning efforts.*
4. *The proposed code text amendments are necessary in order to respond to desired changes in the land use policy.*
5. *The proposed code text amendments are consistent with the general purpose and intent of this Chapter.*

Proposed Motion: Should the Planning Commission choose to RECOMMEND APPROVAL of the proposed text amendments, the Community Development Department recommends the following motion:

With respect to Planning File No. UDC-22-0001, I move 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.'

Attachments:

Proposed Code Text Amendments