



PLANNING COMMISSION
STAFF REPORT

May 18, 2023

AGENDA ITEM: Planning File No: VAC-21-0001: A request for the vacation of 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 within Blocks 33 & 34, Frisco Townsite

LOCATION: 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

APPLICANT: Andy Richmond and Lauren Echevarria
PO Box 92
Frisco, CO 80443

Albert and Marta Lindrose
1225 Gapter Road
Boulder, CO 80303

NOTICING: Mailed to adjacent property owners – May 4, 2023
Posted at site – May 4, 2023

TOWN STAFF: Susan Lee, Planning Manager
susanl@townoffrisco.com, 970-668-2566

PROJECT DESCRIPTION

The Applicants, Andy Richmond and Lauren Echevarria are the owners of the property located at 521 Pitkin Street and Albert and Marta Lindrose are the owners of the property located at 601 Pitkin Street. The Applicants are requesting that the Town of Frisco 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. The property is 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

If the Town of Frisco chooses to vacate this portion of street right-of-way, the applicant is proposing that ownership will be split between the properties located at 521 Pitkin Street and 601 Pitkin Street, with 7,000 sq. ft. being added to 521 Pitkin and 3,500 sq. ft. being added to 601 Pitkin as shown on the submitted site plan.

If the Town of Frisco chooses to vacate the subject street right-of-way, the applicants who own 521 Pitkin Street are proposing to encumber their current home at 521 Pitkin with a “local’s housing covenant”. Additionally, they are proposing a subdivision of their lot so as to sell the back half of the existing property and restrict the newly created vacant lot to having a “local’s housing covenant”.

The applicants who own 601 Pitkin Street would, in an undetermined timeframe, contribute one more local unit to the proposed area. This timeline would be dependent on when they, or their successors in interest, build a garage or an addition to the existing structure. At that time, they would build a mother-in-law apartment to the garage or build an additional local’s home within the 3,500 sq. ft. of South 6th Avenue vacated to them.

The owners of 521 Pitkin Street have submitted an application for a Planned Unit Development over the existing property and the portion of right-of-way property they wish to acquire. The PUD process is regulated by Frisco Town Code, Section 180-4.3. The PUD is not being evaluated at this time.

If the Town of Frisco chooses to vacate the right-of-way, approval may be granted contingent upon a development agreement outlining the conditions that must be met in order for the Town to vacate the right-of-way and transfer ownership to the applicant. The development agreement should outline the exact nature of the proposed deed restrictions, performance measures such as timing of completion, and recording of restrictions. The vacation request and development agreement could not assume quasi-judicial approvals by Planning Commission and Council on either the PUD or development application.

The applicants have stated that the covenants would not have a specific area median income (AMI) cap but would require the ownership of the home to be by a person(s) that work within Summit County with a preference to locals who work in Frisco specifically. Additionally, there would be a covenant restriction requiring the homes to be the primary residence of each owner.

The subject parcel, and adjacent properties, are zoned Residential Low Density (RL) District with an allowed density of eight (8) units per developable acre. When the right-of-way is combined with the adjacent parcels, the allowed density for each parcel will increase. 521 Pitkin would increase from 1 to 3 units, due to rounding, and 601 Pitkin would increase from 1 to 2 dwelling units.

Property Address	Existing Lot Size	Existing Density Permitted	Proposed Lot Size	Density with Proposed Vacation
521 Pitkin Street	7,000 sq. ft.	1	14,000 sq. ft.	3
601 Pitkin Street	7,300 sq. ft.	1	3,500 sq. ft.	2

Staff has analyzed the feasibility of converting this portion of the South 6th Avenue right-of-way into a lot for development of workforce housing. If converted into a lot for residential development, the subject parcel would need to be zoned and would be assigned to the Residential Low Density (RL) District the same as the neighboring lots. The allowed density on the 10,500 sq. ft. right-of-way parcel would be 2 dwelling units.

Requests of this nature are regulated by Chapter 142, Vacation of Property, Code of the Town of Frisco. Pursuant to this chapter, requests for the vacation of a public right-of-way require Planning

Commission review and a recommendation to the Town Council. The Town Council then reviews and takes final action on such a vacation request by ordinance.

If the Town of Frisco chooses to vacate this portion of right-of-way, the applicants will be required to submit a plat application to combine the ROW vacation with their existing lots.

No roads have been constructed and no public utilities have been installed in the South 6th Avenue right-of-way in the area requested to be vacated. Below is a vicinity map of the subject property.



Vicinity Map

REQUIRED ACTION

Planning Commission: Recommendation of approval, denial, or approval with conditions to the Town Council for the proposed vacation.

Town Council: Approval, denial, or approval with conditions of the proposed vacation by ordinance.

ANALYSIS – FRISCO COMMUNITY PLAN

The following elements of the Frisco Community Plan are applicable to the review of the proposed development:

Vision and Guiding Principles (excerpts)

The vision and guiding principles are a statement of community values. Together, they reflect characteristics that residents value about Frisco today, and the kind of community that residents would like to see Frisco become as it continues to grow and evolve over time. The vision and guiding principles serve as an organizing framework for subsequent chapters and policy guidance in the Community Plan, as well as for the Town Council's Strategic Plan.

Guiding Principle 1: Inclusive Community

Frisco cares about our neighbors, visitors, and the whole of our community. We are an inclusive community that welcomes people of all backgrounds and income levels. We support a balance of housing options to create opportunities for a diverse population to reside here. Our history is integral to our identity and it is also a guiding principle for our future. As the Town grows and changes, we need to be rooted in the values of our past. The Ten Mile Range mountain backdrop, historic structures, vibrant neighborhoods, and a lively Main Street characterize Frisco along with the friendly people and welcoming vibe. As Frisco grows, this character and identity should be preserved and enhanced throughout Town.

1.1: Protect the character and livability of Frisco's residential neighborhoods

- **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.*
- **1.1B** *Invest in targeted improvements (e.g., trail connections, bike paths, sidewalks, and drainage improvements) that enhance the safety and quality of life of residents.*
- **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.*

1.5: Promote a balanced community through support for diverse and equitable housing options

- **1.5A** *Develop a diverse portfolio of workforce housing programs to support a broad range of housing needs—type of unit, rental vs. ownership, and price points—at the community and neighborhood level.*
- **1.5B** *Stimulate the creation of workforce housing through town policies, incentives, and regulatory procedures.*
- **1.5C** *Collaborate with community partners and the private sector to expand the reach of Frisco's workforce housing efforts.*

Guiding Principle 2: Thriving Economy

The Frisco economy is built upon a unique balance of tourism and its role as a commercial-service hub for the region. Tourism, driven by recreational opportunities, and the small, mountain town appeal of Main Street, creates jobs and revenue. Locals and visitors utilize the large retailers, grocery stores, and services located along Summit Boulevard, and support the small businesses on Main Street. While the Frisco economy has seen steady growth in the past decade, diversification of the economy is important. More year-round opportunities will provide stability through the seasons and economic downturns. The Town should focus on small, incremental changes that preserve the town character and a healthy small business community that attracts residents and visitors.

2.1: Maintain a diverse and strong 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.*
- **2.1D** *Participate in regional and state economic development efforts that support a diverse economy.*
- **2.1E** *Support the creation of home-based businesses and remote workers.*

The subject parcel is 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. There is an existing mixture of residential building types, building designs, and dwelling unit densities in this neighborhood, generally consisting of one and two unit dwellings. The proposed right-of-way vacation application encourages infill and redevelopment on a parcel that is currently vacant.

This application facilitates the applicant's proposed construction of residential units under 1,500 sq. ft. that would add variety to the sizes and types of homes in this residential neighborhood. The addition of the proposed covenant restrictions aid in the creation of workforce housing and responds to a need that has been defined within the community.

The application appears to be in conformance with the purpose and recommendations of the Frisco Community Plan.

The proposed vacation of the undeveloped South 6th Avenue right-of-way in exchange for up to four (4) workforce housing units appears to be in conformance with the purpose and recommendations of the Frisco Community Plan.

ANALYSIS - CHAPTER 142, VACATION OF PROPERTY

Declaration of Policy: 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.

There is a demonstrated need for additional workforce housing in Frisco at multiple price points. The *2019 Summit County Housing Needs Update* was commissioned to assess the workforce housing needs within the county. This analysis was further refined to evaluate the county on a geographic basis based on the various drainage basins. The Town of Frisco is located in the Ten Mile drainage basin. The assessment analyzed and quantified the workforce housing needs by

AMI level in each basin. The following table is an excerpt from the *2019 Summit County Housing Needs Update*:

Net Inventory Gaps by Basin by Tenure by AMI

	2018					2023				
	Lower Blue	Snake River	Upper Blue	Ten Mile	Summit County	Lower Blue	Snake River	Upper Blue	Ten Mile	Summit County
Net Owner Gaps										
Less than 30% AMI	-91	-69	-74	-94	-329	-106	-74	-84	-99	-362
31% to 60% AMI	-198	-311	-462	-349	-1,321	-277	-336	-524	-361	-1,498
61% to 80% AMI	-13	11	-249	-240	-491	-86	19	-289	-248	-604
81% to 100% AMI	-21	27	-64	-133	-191	-31	37	-60	-136	-190
101% to 120% AMI	17	51	23	-54	37	64	75	15	-53	102
<u>Greater than 120% AMI</u>	<u>247</u>	<u>221</u>	<u>118</u>	<u>278</u>	<u>865</u>	<u>31</u>	<u>281</u>	<u>100</u>	<u>329</u>	<u>741</u>
Subtotal	-59	-70	-710	-592	-1,431	-405	2	-841	-568	-1,812
Net Renter Gaps										
Less than 30% AMI	-60	-42	-66	-41	-210	-68	-61	-74	-43	-246
31% to 60% AMI	-131	-28	-104	-143	-405	-153	-84	-97	-148	-482
61% to 80% AMI	17	-1	-74	-87	-145	-3	-46	-139	-69	-256
81% to 100% AMI	144	210	47	42	442	108	150	-40	49	267
101% to 120% AMI	158	85	62	64	370	125	27	-21	73	204
<u>Greater than 120% AMI</u>	<u>134</u>	<u>131</u>	<u>238</u>	<u>143</u>	<u>647</u>	<u>98</u>	<u>35</u>	<u>41</u>	<u>164</u>	<u>339</u>
Subtotal	262	355	103	-21	699	108	21	-330	27	-175
Net All Household										
Less than 30% AMI	-151	-112	-141	-135	-539	-174	-135	-158	-142	-608
31% to 60% AMI	-330	-339	-566	-492	-1,726	-430	-421	-621	-509	-1,981
61% to 80% AMI	4	10	-324	-327	-636	-89	-27	-427	-317	-860
81% to 100% AMI	123	237	-17	-92	251	77	187	-100	-87	77
101% to 120% AMI	175	137	84	11	407	189	102	-6	20	306
<u>Greater than 120% AMI</u>	<u>382</u>	<u>352</u>	<u>356</u>	<u>422</u>	<u>1,512</u>	<u>129</u>	<u>316</u>	<u>141</u>	<u>493</u>	<u>1,079</u>
Total	204	285	-607	-613	-731	-297	24	-1,171	-542	-1,987

Source: Economic & Planning Systems

As previously stated, this vacation request presents the Town of Frisco with a request 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. No AMI cap is being proposed for the deed restrictions. The units would therefore likely fall into the “Greater than 160% AMI category above.

This vacation request creates additional development opportunities and financial value for the Applicants. It is ultimately the responsibility of the Town Council to ensure that the terms and conditions (including covenant limitations) set forth in a development agreement, or other such an arrangement, will also return an appropriate level of value and benefit back to the community.

Vacation by Ordinance: Pursuant to §142-3 of the Frisco Town Code, *All right, title or interest of the town in and to any roadway or easement, shall be divested only upon adoption by the town council of an ordinance vacating such property or portion thereof located within the corporate limits of the town. If a roadway constitutes a boundary line of the town, it may be vacated only by a joint action of the board of county commissioners of the county and the town council. Any ordinance affecting a vacation is required to contain the following findings, if applicable:*

- *That no land adjoining any roadway to be vacated is left without an established public road connecting said land with another established public road.*

- *That the roadway or easement to be vacated is no longer necessary for present or prospective public use or convenience.*

If the subject portion of the South 2nd Avenue right-of-way is vacated, all properties in the area will continue to have a public road connecting to their properties. No land located adjacent to the proposed right-of-way vacation will be left without an established public road. The application meets this standard.

This right-of-way tract is located between 521 Pitkin Street and 601 Pitkin Street. There is no street physically constructed in this right-of-way, nor does the Town of Frisco have any plans to construct a future road in this location. The Town of Frisco Public Works Department was asked to comment on the proposed vacation from a street maintenance perspective and stated that they had no concerns with the proposal. Additionally, there are no existing public utilities located in this portion of street right-of-way and there are no future utilities planned for this area. The vacation of this portion of the South 6th Avenue right-of-way will have no negative impact on Emergency Services access to the neighborhood. The subject portion of street right-of-way is not necessary for any current or prospective public use or convenience. The application meets this standard.

Vacation Procedures: Pursuant to §142-4 of the Frisco Town Code, the following procedures shall be adhered to by person(s) requesting the vacation of any roadway or easement:

- A. *Attendance at a pre-application conference held in the manner described in section 180-19 (C)(5)(a) of the Town of Frisco Zoning Ordinance.*

The Applicants have had multiple pre-application meetings with the Planning Division of the Community Development Department and have also discussed the proposed vacation with the various referral agencies at a Development Review Committee (DRC) meeting.

- B. *Submission to the town manager of a written application that includes the required information.*

The formal written application has been submitted. The application meets this standard.

- C. *Review of the proposal by the town staff and preparation of a staff report, and in the case of the proposed vacation of an easement, other than an access easement, preparation of a proposed vacation ordinance.*

Community Development, Public Works, Town Engineer, Frisco Sanitation, Summit Fire, and Summit County Road & Bridge have reviewed this vacation application. The Planning Division has prepared the staff report and the associated ordinance will be prepared by the Town Attorney. The application meets this standard.

- D. *Vacations of roadways and access easements must be referred to the planning commission for a public hearing and recommendation to the town council. The director of the community development department or his/her designee may refer the vacation of an easement, other than an access easement, to the planning commission for a public hearing and recommendation to the town council, if he/she determines that such*

a referral would assist the town council in determining whether or not to grant the vacation request.

The application request to vacate a portion of South 6th Avenue right-of-way has been referred to the Planning Commission for a public hearing and recommendation to the Town Council. The application meets this standard.

- E. After a public hearing, the planning commission may either continue the matter for further information and study for not more than thirty (30) days or forward its recommendation to approve, disapprove or conditionally approve the application to the town council and the applicant(s). Any application forwarded to the town council will be in the form of an ordinance.*

The application will be heard by the Planning Commission at its May 18, 2023 public hearing. The application meets this standard.

- F. The town council will consider the proposed vacation ordinance and render its decision either to adopt or deny the ordinance on first reading in accordance with the requirements of the Charter with respect to the adoption of ordinances. Prior to adoption of the vacation ordinance on first reading, the town council shall find that an overriding public interest favors the vacation.*

The first reading of an ordinance vacating the subject portion of the South 6th Avenue right-of-way will be scheduled for review by the Town Council after a public hearing and recommendation have been completed by the Planning Commission.

Public Notice: Pursuant to §142-5 of the Frisco Town Code, *public notice will be given at least once prior to final adoption of the vacation ordinance in the manner provided for in subsection (1) through (3) of Section §180-46E of the Town of Frisco Zoning Ordinance.*

Public noticing was provided for the Planning Commission's May 18, 2023, meeting in accordance with the requirements of the Town Code. Public notice of the Town Council's review of an ordinance will be provided once the public hearing dates have been determined. The application meets this standard.

Valuation of Vacated Property: Pursuant to §142-6 of the Frisco Town Code, *if the town council adopts on first reading a vacation ordinance vacating a roadway or access easement, the town manager or his/her designee will cause an appraisal to be made at the expense of the applicant(s), unless the town manager or town council waives such appraisal. The appraisal will include the following information:*

- A. Valuation of the property being vacated;*
- B. Valuation of any property that may be benefitted by the vacation, valued prior to vacation;*
- C. Valuation of any property that may be benefitted by the vacation, valued after vacation; and*
- D. Any other determinations requested by the town council.*

Should the Town Council choose to adopt on first reading the vacation ordinance, Town Staff will cause an appraisal to be made at the expense of the applicants. The appraisal shall be performed meeting criteria as outlined in §142-6.

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.

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

Payment of Costs: Pursuant to §142-7 of the Frisco Town Code, *The applicant or primary applicant is responsible for the payment of any costs associated with the vacation including, without limitation, payment for administrative services performed by the community development department, appraisals, surveys, recording fees, documentary fees, legal services rendered to the town in connection with the application, and other customary costs in the following manner:*

A. A development review account shall be established at the time the vacation application is submitted to the town manager. Such development review account will be managed pursuant to section 180-31(D), excluding subsection 180-31(D) (4) (c).

B. If the town incurs costs beyond the amount deposited in the vacation review account and the applicant or primary applicant does not pay those costs within thirty (30) days after written notice from the town, the town shall be entitled to certification of the assessment for sale or a lien for those costs on the property owned by each applicant, which lien may be perfected and foreclosed in the manner provided in C.R.S. §§ 38-22-101 et seq., as amended.

The Applicants have been notified of their responsibility for payment. A \$1,500 Development Review Account (DRA) was established with submittal of the application.

Vacation of Portion of Request: Pursuant to §142-8 of the Frisco Town Code, *the town shall have the right, in its sole and exclusive discretion, to vacate only a portion of the total area requested for vacation.*

The Applicants are requesting a vacation of the entirety of the subject portion of the South 6th Avenue right-of-way. If the Town of Frisco chooses to vacate the subject street right-of-way, it may do so in whole or in part at its discretion.

Reservation of Rights-of-Way or Easements: Pursuant to §142-9 of the Frisco Town Code, *the town may reserve any right-of-way or easement for the continued use of existing or future sewer, gas, water or similar pipelines and appurtenances, for overland drainage, drainage facilities or canals and appurtenances, and for electric, cable television, telephone and similar lines and appurtenances, or any other public purpose. Notwithstanding the foregoing, the town is presumed to have reserved in any property vacated under this chapter all necessary, useful or common easements related to underground utilities or services.*

There are no existing or future roads, public parking spaces, street snow storage, utilities, drainage features, or other infrastructure being displaced or negatively impacted by this vacation request. If the Town of Frisco chooses to vacate the subject street right-of-way, it may do so in whole or in part at its discretion.

Conditions on Vacation: §142-10 states *the planning commission may recommend, and the town council in the ordinance effecting a vacation may impose, reasonable conditions on said vacation, to preserve and promote the public health, safety and welfare of the inhabitants of the town and the public generally. Such reasonable conditions may include the payment of money to the town as consideration for a vacation, when the vesting of title upon vacation may confer a benefit upon the new owner of the vacated roadway or easement, where the town has purchased or may purchase a roadway or easement to replace that being vacated, to avoid a windfall to the new owner, or for any other reason deemed by the town council to be in the public interest.*

In exchange for the Town's vacation of the subject portion of the South 6th Avenue right-of-way, the Applicants are proposing to construct up to three workforce units, along with encumbering the existing structure at 521 Pitkin Street with a workforce covenant.

Staff finds that the creation of workforce housing units is in the public interest. However, Staff has concerns as to whether or not the proposed deed restriction with no AMI cap meets the current goals for workforce housing, and whether or not this is equivalent to the development opportunities conveyed to the Applicant.

It is ultimately the responsibility of the Town Council to determine if proposed new deed restricted units and the associated terms and conditions (including terms within the covenant) set forth in such an arrangement return an appropriate level of value and benefit back to the community.

If Planning Commission finds that there is an overriding public interest associated with vacating the right-of-way in exchange for the creation of four deed restricted, work force housing units, staff recommends that a condition be placed upon the recommendation of Town Council approval that requires the creation of a development agreement with the Town that defines the proposed deed restrictions, performance measures such as timing of completion, and recording of restrictions. The vacation request and development agreement shall not assume quasi-judicial approvals by Planning Commission or Council.

Recordation of Vacation: Pursuant to §142-11 of the Frisco Town Code, *in the event of a vacation in accordance with this article, the documents vacating such property or interest in property, including but not necessarily limited to any resolution, ordinance, deed, conveyance document, plat or survey, shall be recorded in the office of the clerk and recorder of the county in which such property is located.*

All relevant documents pursuant to the vacation of the 0.24 acre tract of land will be recorded in the office of the Summit County Clerk and Recorder.

Preservation of Access: Pursuant to §142-12 of the Frisco Town Code, *no roadway or part thereof shall be vacated so as to leave any land adjoining said land with another established public road.*

No land adjoining the proposed right-of-way vacation will be left without an established public road.

Vesting of Title Upon Vacation: Pursuant to §142-13 of the Frisco Town Code, *any ordinance effecting a vacation under this article shall state to whom title to the vacated land shall vest upon vacation. Title to the lands included within a roadway or so much thereof as may be vacated shall vest in accordance with the provisions of C.R.S. § 43-2-302 or its successor statute.*

The ordinance in connection to the vacation shall state that title to the vacated land shall be vested to the Applicants, Andy Richmond and Lauren Echevarria, the owners of the property located at 521 Pitkin Street and Albert and Marta Lindrose, the owners of the property located at 601 Pitkin Street.

Adjacent Platted Lands: Pursuant to §142-14 of the Frisco Town Code, *where title to any vacated property vests with the owner of adjacent platted land, said owner shall, within 90 days of the adoption of the ordinance effecting such vacation, take all necessary steps to include said vacated property within the plat of the adjacent land.*

If the Planning Commission chooses to recommend approval, Staff recommends a condition of approval stating that the Applicants shall take all necessary steps to include said vacated property within the plat of their adjacent properties located at 521 Pitkin Street / Lots 23-24, Block 34, Frisco Townsite and 601 Pitkin Street / Lots 13-14, Pt 15, Block 33, Frisco Townsite within ninety (90) days of the adoption of the ordinance effecting vacation of the 0.24 acre right-of-way.

ANALYSIS – AGENCY REVIEWS

Town of Frisco Public Works Department & Water Department

No concerns.

Jeff Goble, Public Works Director

Frisco Sanitation District

No comments at this time.

Matt Smith, Manager

LAKE DILLON FIRE DISTRICT

No comments at this time.

Steven Skulski, Assistant Chief/Fire Marshal, Lake Dillon Fire District

Xcel Energy

No comments/issues.

Amy Lagace, Designer, Mountain Division

Summit County Road & Bridge

No concerns from Road & Bridge or Engineering.

Robert Jacobs, County Engineer/Road & Bridge Director

PUBLIC COMMENT

The Community Development Department has not received any written public comments as of May 12, 2023 concerning this current application.

STAFF RECOMMENDATIONS

Based on the property valuations and the Town's workforce housing needs, the Community Development Department supports a vacation of the subject portion of street right-of-way in exchange for the creation of up to four workforce housing units. However, staff is recommending that the approval be conditioned on the execution of a development agreement between the Town and the applicant that defines the proposed deed restrictions, performance measures such as timing of completion, and recording of restrictions. The vacation request and development agreement shall not assume quasi-judicial approvals by Planning Commission or Council.

Whether or not this vacation and the terms of this request constitute an overriding public interest will ultimately be a decision for the Town Council.

Recommended Findings, Action, and Motion for Approval

If the Planning Commission chooses to forward a recommendation of approval, the Community Development Department recommends the following findings pertaining to the proposed vacation request:

Based upon the review of the Staff Report dated May 18, 2023 and the evidence and testimony presented, the Planning Commission finds:

- 1. That the proposed vacation is in general conformance with the purpose and intent of the Frisco Community Plan, since it furthers several quality of life statements and criteria outlined in the plan and furthers the Town's efforts to address workforce housing demands.*
- 2. Pursuant to §142-1 of the Frisco Town Code, it is found that there is an overriding public interest favoring the vacation because the proposed vacation provides a unique opportunity that results in the construction of up to three deed restricted workforce housing units, along with encumbering the existing structure at 521 Pitkin Street with a workforce covenant. Also, the terms and conditions of the proposed deed restriction provide a value to the community that is commensurate with or exceeds the value of the vacated property.*
- 3. Pursuant to §142-3 of the Frisco Town Code, no land adjoining the roadway to be vacated is left without an established public road connecting said land with another established public road because the adjoining 421 Juniper Street will retain access to Juniper Drive, Pitkin Street, and Pine Drive.*
- 4. Pursuant to §142-3 of the Frisco Town Code, the roadway to be vacated is no longer necessary for present or prospective public use or convenience because this portion*

of the South 6th Avenue right-of-way has not been improved, used, or planned to be used for roads, public parking spaces, street snow storage, utilities, drainage features, or other infrastructure or uses.

5. *Pursuant to §142-13 of the Frisco Town Code, title to the lands vacated shall vest in accordance with the provisions of C.R.S. § 43-2-302 to the Applicants.*

Recommended Action:

The Community Development Department recommends 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 construction completion and residential housing restrictive covenants, including the terms and conditions for occupancy and ownership of the units as determined by the Town of Frisco, and 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.*

Recommended Motion:

Should the Planning Commission choose to recommend approval of this vacation request, Staff recommends the following motion and conditions:

With respect to File No. VAC-21-0001, I move that the recommended findings be made and that the recommended conditions set forth therein be taken and that the Planning Commission hereby 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.

Alternative Findings, Action, and Motion for Denial

If the Planning Commission chooses to forward a recommendation of denial, the Community Development Department recommends the following findings pertaining to the proposed vacation request:

Based upon the review of the Staff Report dated May 18, 2023 and the evidence and testimony presented, the Planning Commission finds:

1. Pursuant to §142-1 of the Frisco Town Code, it is found that there is not an overriding public interest favoring the vacation because the proposed vacation does not provide an adequate mechanism for creating deed restricted workforce housing units. The terms and conditions of the proposed deed restriction do not provide a value to the community that is commensurate with the value of the vacated property.

Recommended Action:

The Community Development Department recommends the Planning Commission forward a **RECOMMENDATION OF DENIAL** 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, based on the above finding.

Recommended Motion:

Should the Planning Commission choose to recommend denial of this vacation request, Staff recommends the following motion and conditions:

With respect to File No. VAC-21-0001, I move that the recommended findings be made and that the Planning Commission hereby forwards a RECOMMENDATION OF DENIAL 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.

ATTACHMENTS

Attachments:

Attachment 1 - Application Materials

Attachment 2 - Town Code, Chapter 142, Vacation of Property

cc: Andy Richmond and Lauren Echevarria
Albert and Maria Lindrose



RECORD OF PROCEEDINGS

Meeting of the Planning Commission for the Town of Frisco Town Hall, 1 East Main Street Thursday, May 18, 2023 at 5:00 P.M.

Call to Order: Lina Lesmes, Vice Chair, opened the meeting.

Roll Call: Present: Lina Lesmes, Andy Stabile, Ira Tane, Jessica Forsyth
Via Zoom: Kelsey Withrow
Absent: Patrick Gleason

Minutes: Approval of the May 4, 2023 Planning Commission meeting minutes (passed unanimously)

Public Comment (non-agenda items): There were no public comments.

Co-Chair Lesmes opened the meeting and briefly stated that if anyone present is here to speak on Agenda Item #3, it will be tabled to the June 1, 2023 meeting.

1. **Planning File No. VAC-21-0001:** A public hearing of a request for the vacation of a portion of a public right-of-way consisting of 1,260 sq. ft. of the South 6th Avenue right-of-way within Block 34, FRISCO TOWN SUB; generally located adjacent to and east of 521 Pitkin Street / Lot 24, Block 34 Frisco Town Sub. Applicants: Andy Richmond and Lauren Echevarria

Susan Lee, explained the project as outlined in the staff report. The project before us this evening is the South 6th Street right-of-way vacation. The Applicants, Andy Richmond and Lauren Echevarria are the owners of the property located at 521 Pitkin Street and they will also be representing Albert and Marta Lindrose, the owners of the property located at 601 Pitkin Street. The Applicants are requesting that the Town of Frisco 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.

Chapter 142 of the Frisco Town Code outlines the Town's Policy on property vacations. The Town Council must find that an overriding public interest favors the vacation. The Planning Commission's role in this process is to review the application in accordance with Chapter 180 and make a recommendation to the Town Council.

If the Town of Frisco chooses to vacate this portion of street right-of-way, the applicant is proposing that ownership will be split between the properties located at 521 Pitkin Street and 601 Pitkin Street, with 7,500 sq. ft. being added to 521 Pitkin and 3,000 sq. ft. being added to 601 Pitkin as shown on the submitted site plan. Based on the property valuations and the Town's workforce housing needs, the Community Development Department supports a vacation of the subject portion of street right-of-way in

exchange for the creation of up to four deed restricted dwelling units. However, staff is recommending that the approval be conditioned on the execution of a development agreement between the Town and the applicant that defines the proposed deed restrictions, performance measures, such as timing of completion, and recording of restrictions. The vacation request and development agreement shall not assume quasi-judicial approvals by Planning Commission or Council. Whether or not this vacation and the terms of this request constitute an overriding public interest will ultimately be a decision for the Town Council. For additional information please refer to the May 18, 2023 staff report packet.

Staff is recommending the Planning Commission forward 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 construction completion and residential housing restrictive covenants, including the terms and conditions for occupancy and ownership of the units as determined by the Town of Frisco, and 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.

COMMISSION QUESTIONS FOR STAFF INCLUDED:

- Commissioners asked if this Development Agreement is yet to be determined and if it is possible for any monetary compensation to the Town. Ms. Lee responded that the Commission could ask the applicant if they would consider that, but at this time they are not proposing to financially compensate the Town for the vacation. The only thing they are offering is the creation of up to four deed restricted units.
- Commissioners asked to be clear if the Planning Commission is the recommending body on this, but the Town Council is the final body on the vacation. Staff responded that is correct.
- Commissioners asked if we knew who would be developing those units, they are saying that if the lot size is now enlarged any additional dwelling unit that is constructed as well as the current unit would be restricted with a deed restriction yet to be determined. Staff replied, correct.
- Commissioners asked why it would need to be rezoned, does the underlying zoning not allow that density they are proposing. Ms. Lee responded that the underlying zoning would not allow the smaller lot sizes and the existing cabin is in the setback, so it is an existing non-conforming structure. The PUD could mitigate that issue as well.
- Commissions questioned if there is not a traditional Zone District that they could be zoned into and then a variance granted. Staff replied yes there are other ways to do it so we are trying to separate how it is done with whether, ideologically you agree that it is meeting Community Plan guidelines and it is meeting this overriding public interest, then we can shift into the mode of meshing out how they will develop the units in compliance with Town Code.
- Commissioners asked if Town has concern about the deed restrictions. Ms. Lee responded that it is best to stick with the deed restrictions we have.

- Commissioners asked how many units are being proposed after everything is built out and are they all deed restricted or is there also a market rate unit. Staff responded that today, two dwelling units exist, 521 Pitkin has a small cabin, and 601 Pitkin has a single-family residence. The applicant is proposing to deed restrict the cabin at 521 Pitkin, subdivide a lot at the rear portion of 521, convey that lot with a deed restriction or an affordable housing workforce unit, build another unit in Mr. Richmond's portion of the right-of-way, that would be deed restricted. Then there is some gray area for the owner of 601 Pitkin, because there is no specification for what kind of unit or when it will be built. So a unit is proposed but we do not know if it is an accessory dwelling unit or if it is a separate structure – that was not as well defined in the application..
- Commissioners asked if there are two market rate units. Staff responded that the new one would be deed restricted but the existing 601 residence would stay market rate.
- Commissioners questioned if subdivided they would be selling but with a deed restriction, they are proposing we vacate right-of-way, convey them land at no cost for *maybe* four units. Staff responded that this is why we have inserted the idea of the development agreement so that we have assurances that those units will be constructed.
- Commissioners asked if we could provide input or recommendation to Council to do additional restrictions related to the deed restriction. Staff responded that you could add that as a condition.
- Commissioners asked if the Town thought of developing the space ourselves and rezoning it to a PUD and building deed restricted units on the land. Staff responded that we could develop it ourselves and we have spoken with the Town attorney about that, and it is an option, but we have not taken any action on that to date.
- Commissioners asked if the Town were developing this space and put in housing what deed restrictions do you think we would put on it. Staff responded if the Town were developing it ourselves, likely we would choose an AMI deed restriction.

Applicant Andy Richmond introduced himself as being part of the application team along with his wife, Lauren Richmond Echevarria. Mr. Richmond provided the Planning Commission with a quick summary of the project, addressing the question of was there another way to do this, was there a code overlay. The applicant suggested several proposals that were discussed, including Cabin Housing with incentives for locals only. This project is a project for local development. This is definitely four local units with the way the PUD is drafted. Mr. Richmond continued to discuss the deed restriction requirements, noting that the language was taken from the "Vail Indeed Program" and made stricter. There are different types of deeds and Frisco needs all the tools it can get in this local housing. We are starting to see that there is a massive gap between the AMI homes and the market rate homes resulting in difficulties selling the home and moving up to a market rate house. This is another tool in Frisco's toolbox. We are getting a little above the AMI cap, but we are well below the market rate cap, which gives us that nice middle ground. We named it the Locals Housing Restrictions because it is for the locals.

We are proposing that we do not compensate the Town. With the Town's declaration of a local housing emergency, providing four local units on a lot that could just turn into another second home is an overriding public interest. The as is value of this right-of-way is \$158,000. If you break that out into the four local units that will be provided and compare that against other projects, you will see it compares favorably to Frisco's bottom line.

Mr. Richmond noted that what is being proposed is that we would develop the house in the middle of the newly vacated right-of-way. We are talking with Jessica Johns Ketteritz and her husband, owners of Range West, to build the back home. Whatever locals buy our home, they can keep it as it is or develop it according to the PUD as they see fit. Cabin housing zoning envisions this as basically small houses in keeping with the south side of Frisco's character. These are small houses designed to reflect the old miner's cabin aesthetic.

If we talk about 601 and 521, these are currently two market rate houses. Under this proposal this would result in four locals' houses and 601 would remain market rate. Two market rates into four locals and one market rate. The property at 601 is not changing, it will remain market rate and is owned by Al and Marta Lindrose. When the Lindroses build the garage or transfer the property that is when the mother-in-law apartment or additional unit gets built.

Mr. Richmond spoke to additional conditions on the deed. Vail has shown that this is a viable and profitable way for towns to get locals into houses and provide a range of options. A condition of AMIs would be difficult for us to live with. If this project works, this has the potential to set great precedence for the Town.

COMMISSION QUESTIONS FOR APPLICANTS:

- Commissioners asked if the PUD speaks to the size of the house to be renovated or the one being constructed. Mr. Richmond responded that there is only one existing house that could possibly be renovated, and they would have to be under the PUD and the PUD makes no allowances for expansion later on.
- Commissioners asked if there is a minimum home size. The applicant responded, no. In keeping with the cabin housing overlay there are provisions in it about maintaining the historic cabin characteristics.
- Commissioners asked if 521 can stay or go. Mr. Richmond said that he and his wife would sell that unit and would start construction on a new house in the right-of-way. Johnny and Jesse Ketteritz would develop at the back of the lot at 521 Pitkin. Whoever buys our current house at 521 Pitkin would have the option of either staying in it or developing it as they see fit. If someone wants to buy a lot and leave it vacant that is up to them, but the vacant land tax is enough of a deterrent that people will be building.
- Commissioners questioned if the applicant is guaranteeing housing or just the right for someone to construct housing. The applicant responded that he is guaranteeing that he and his wife will be building on the vacated lot if the project goes through.
- Commissioners asked where the Frisco registered voter thing comes in. The applicant responded that it is easier to check someone's registration, but it gives preference to Frisco first, then moves throughout the County.
- Commissioners recapped – no minimum sizes, lives in Frisco, no AMI cap. The Town would be giving you land, not develop housing but to subdivide and still no AMI caps. Mr. Richmond stated that he is volunteering to do this on his own property. If the Town believes local housing is an emergency, then that should be what the overriding consideration is.

Mr. Richmond stated that the Town attorney's interpretation of state law is incorrect. The town cannot develop this property for their own means, without going to the Supreme Court. The Town must offer it to adjacent landowners first.

- Commissioners asked if there would be a short-term rental allowed. Applicant responded, absolutely not, it is written in the PUD. The property must be the owner's primary residence.

- Commissioners asked why split the right-of-way with a neighbor. The applicant responded that under Colorado law, any vacation of the right-of-way must go to the adjacent landowners, that means both.
- Commissioners asked if the vacation gets approved and houses are built and occupied, what if one owner is rich and wants to rent. Mr. Richmond replied that under the PUD all four owners sign on the PUD, including the Town and each has the right to enforce under the PUD.

Public Comments:

- Chad Robinson 512 S 6th Avenue, Frisco – I would like to support the project. I think it is a really good use of a steep lot. I like the idea that it is restricted to locals only, non-AMI capped. Specifically, because it provides that next step for those moving up the housing ladder. It is a steppingstone in that chain.
- Dan McCrerey, 375 Belford Street, Frisco – I have been involved in the construction of deed restricted housing for the last twenty-five years. I built Peak One and other neighborhoods. I would like to see this non-AMI be given some serious consideration because what happens is when a person makes over the AMIs and they have no place to go, it is missing the middle class. The Richmond's creative approach to this deserves a yes vote to send it up to the Town Council and let them work out the specifics on the deed restrictions and on the PUD agreement. I am 100% in support of what I see tonight.
- Doug Bair – 1111 Rainbow Drive, Silverthorne – I believe this is essential to keep our community thriving. If not for this type of project, it would not be possible in today's economy and in the recreation environment.
- Mark Richmond – 400 Pitkin Street, Frisco – I am totally in support of this project. We have seen the south side change so much; investors buy every property for sale. We need other tools other than AMI. Locals belong in town. It would help if the Town worked with private investors. If vacated, the property should go to the adjacent landowners. Close the gap between Housing Helps and the market value. The property must be sold to someone else that is a resident and is locally employed. Will be restricted always. I would love to see you support this.
- Mark Sabatini, 312D Creekside, Frisco – It is difficult to out clever common sense. The right-of-way has limited real value. Better community to address the challenge we face and that is live here, work here, be here. I strongly suggest we take this as a community. We are doing more than talking about the problem.
- Jessica Ketteritz, 601 Pitkin Street, Frisco – My husband and I will be working to purchase one of the lots. There is a missing gap between the AMI and market rate. A lot of people in our age bracket do not qualify for deed restricted housing. There is a need for this housing development, and I hope that the Town sees this as a way forward and a model for the rest of the unused right-of-ways in the Town.

COMMISSION DISCUSSIONS:

- Commissioners noted that the project is an interesting concept; however, not convinced. For example, the size of the house is limited. Even at that limitation, the value in Frisco could still be substantial.
- Commissioners commented that it is a very creative idea, and the applicant has come up with an interesting solution. There is absolutely a place in Frisco for housing above current AMI. Commissioners asked staff what the current AMI cap is for Frisco. Ms. Lee responded that on the last vacation we had a deed restriction of 160% AMI. Commissioner commented not a fan of Vail Indeed because prices go so high, there is abuse. Commissioners do not have a problem increasing the density of a lot you own. But to go completely no AMI cap causes pause, maybe compromise and one unit is deeded to the Town of Frisco, or one unit has a max of 160% AMI. Commissioners feel more can be negotiated.

- Commissioners appreciate the ingenuity. Looking at the property, what else could be at this location, never a road, no parking, no bike path. We want locals housing. If the town is going to find value in that lot that is where you will find it. Our code says as stewards of public property the Town has taken a conservative interpretation of overriding public interest and should continue to be conservative in their vacation of public right-of-ways including the subject property. Looking at “a conservative interpretation of an overriding public interest”, we may not have gotten there yet. More comments followed on what might be considered “overriding”.
- Commissioners noted that the previous vacation included a deed restriction and the purchase at fair market value.
- Commissioners commented that it is nice to have long time locals giving opportunity to locals.
- Commissioners noted they do not want to lose open space; however, this is maybe not the appropriate space for open space.
- Commissioners want more security that these units are going to be built in a timely manner and there will be four or more. Too much of an uncertain question mark, “up to four units”.
- Commissioners noted that the Commission just did a lot of code incentives, but these are not applied here.
- Commissioners commented that if in the past the Town was reimbursed for the cost of the land and used 160% AMI, that is a likeable concept. Further, the Town is not getting enough in the deal, and we are not doing what we have done in the past.

The Commissioners discussed with staff possible action by the Commission. Ms. Lee noted that the idea behind conditional approval is to pass it on to Council to work through and give recommendations.

- Commissioners questioned why the PUD was not presented with this application. Staff responded that the PUD is a separate development application. They would need ownership permission to process an application on property they do not own, so they need some guarantee from the Town. The rezoning is a longer process so before they embark on that longer more expensive process, they need some reasonable assurances that at least the Town is going to entertain the idea of vacating the property.
- Commissioners asked if, once built, the development agreement would go away, and we would solely be relying on the PUD. Ms. Lee responded that would be up to the development agreement to determine and then also we cannot guarantee that they will get approval from the Planning Commission on their PUD or on any development application. Ms. Lee walked the Commission through the proper steps of review.
- Commissioners noted there would be a deed restriction that also governs the property. Ms. Lee responded yes, that is why Housing Helps takes some of the guesswork out of the questions that you are asking about how we will enforce these things, etc.
- Commissioners asked if, with an ADU, it can be separately deeded and sold. Ms. Lee replied that with an ADU if you have the allowed density on your property to subdivide and to create a condo plat for example, you could sell the ADU as a condo, but if you do not have the allowed density on your property, you must deed restrict that accessory dwelling unit to 100% AMI and it cannot be sold separately from the main property. Further, Ms. Lee responded that in the RL zone district, your density is based on your lot size. The existing 601 Pitkin property only has one unit of density, they could build an ADU but they could not sell it separately and it would have to be deed restricted at 100% AMI.
- Commissioners asked if there were bonus units of density in that zone. Staff responded that the code revision did not include the RL zone district.

- Commissioners commented that the details really matter. In general concept we would like to move forward but are not comfortable with recommending approval without more details.
- Commissioners agreed this is a great project if the details could be worked out and with more assurance that the fourth unit is going to get built and if the Town were to get more in return.
- Commissioners agreed that there is not enough to the proposal to respond to and maybe it should be tabled for more information. Commissioners asked the applicant for their response.

Mr. Richmond commented that this is not a one-way street and that the proposal made is the maximum of what they want to do. You ask if the Town is getting enough. This is Town getting more? Planning's purpose is to find ways to make this work, not find ways to not make it work. If this does not go through, we will build our driveway and then there is one local house, not restricted on anything instead of four. This was started in 2020, everything more is in the PUD. We believe the details are there. We understand the concerns. Frisco needs to take a leap of faith. We would prefer to move this along quicker than not.

- Commissioners would like to come to a resolution tonight maybe the applicant could create an ADU.
- Commissioners agree that this is the Town Council's job to make these agreements and they are creative.
- Commissioners were more concerned with the possibility of the property being bought and then not developed.
- Commissioners noted that even if we allowed an ADU at 100% AMI, there is no guarantee that the ADU would be built.
- Commissioners have expressed they want to make this work but were surprised by the applicant's resistance to a reasonable request.

Commissioners discussed possible conditions – deed restrictions, ADUs, the fourth unit being built, possible AMI caps – for a recommendation to the Town Council.

MOTION:

WITH RESPECT TO FILE NO. VAC-21-0001, COMMISSIONER TANE MOVED 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.

MOTION SECONDED BY PLANNING COMMISSION MEMBER STABILE.

VOTE:

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

MOTION: PASSED

Commissioner Lesmes called for a five-minute break before continuing to the next agenda item.

2. **Planning File No. CU-23-0001:** A Conditional Use application to allow Unsheltered in Summit use of the 602 Galena Street parking lot as a designated, secure location for members of the local workforce to sleep in their vehicles for the summer of 2023, 602 Galena ST, Lot 13,14,15,16,17,18,19,20,21 Block 3 Frisco Town Sub. Applicant: Diane Luellen, Unsheltered in Summit representing the Safe Parking Program

Emily Weber, Planner II, began by stating that the applicant, Unsheltered in Summit, is requesting a conditional use permit to allow the Summit Safe Parking Program (SSPP) to utilize a portion of the parking lot at 602 Galena Street as a Transitional Shelter Facility, which includes the overnight parking, from the end of May 2023 to October 2023. The proposal includes occupying eight parking spaces within the parking lot at 602 Galena Street that would allow overnight parking for members of the SSPP to sleep in their vehicles. The program also provides sanitation (port-a-lets) and trash collection for its members. Parking for members would be allowed between 6:00pm and 8:00am, seven days a week. Ms. Weber continued with background information included in the March 18, 2023 staff report, calling attention to an updated rendering from the property occupant, Colorado Department of Labor (CDLE), showing the locations on site where they would approve the eight parking locations. This rendering was not originally in the March 18, 2023 staff report.

Ms. Weber continued with staff's analysis of the conditional use and noted that staff recommends APPROVAL of the conditional use application to allow the Summit Safe Parking Program to utilize a portion of the parking lot at 602 Galena Street as a Transitional Shelter Facility, which includes the overnight parking, from end of May 19, 2023, to October 31, 2023.

COMMISSION QUESTIONS FOR STAFF INCLUDED:

- Commissioners asked where the trash and port-a-let will be located. Ms. Weber replied that these items would be located next to the parking spaces.
- Commissioners asked about security to which staff responded that the applicant could address.
- Commissioners noted that when previously discussed, this was not meeting the needs with only eight parking spaces and why not look at another location that accommodates more, for example the PRA. Ms. Weber replied that that is not the request that I have in front of me. Part of it is limited to the eight parking spaces because that is what CDLE is allowing on site. The applicant may have other sites in mind, and they may be working on other potential sites, but I do not know that.

- Commissioners asked if staff received any neighbors' complaints from the last conditional use that was granted. Staff responded that the previous conditional use was a pretty successful program, and the applicant can speak on any specifics.
- Commissioners asked why the parking spaces changed. Ms. Weber responded that they changed to provide more screening and privacy and that those spaces were provided by CDLE.
- Commissioners noted that there are already people living in their cars at this location. Ms. Weber responded that those currently parked there are not legal or approved and intended to be mitigated.
- Commissioners asked staff, when these spaces do become occupied, what will happen to those currently living in their cars. Staff responded they will be ticketed and towed as they are not in conjunction with this program. This is not something the applicant will deal with; it is up to the Police Department to handle.

Applicant Diane Luellen and Doug Bair who are part of the Unsheltered in Summit team took the podium to respond to the Commission's questions. Ms. Luellen spoke to how successful the program has been at the marina and quoted a Town council member to say, "we haven't heard a word and that must mean nothing has happened that was a bad thing", further commenting that the program has been enormously successful. Ms. Luellen commented that their members have really enjoyed being at the marina, with comments from participants that it is so comforting to know where you were going to sleep every night, to be there and know that you did not have to look for that knock on the window or drive around in the evening looking for a place to park. Mr. Bair stated that he handles 90% of the intakes and those are the comments he receives from almost every applicant, then and later after they have had the experience there.

Regarding the trash and port-a-potties, Ms. Luellen stated that there are always kinks to work out. The management team and "host" take care of these issues. The host gets to park free and at the marina location, Paul who is a musician, functioned as the host. Mr. Bair noted that he and Paul worked closely to address issues that arose. Mr. Bair stated that the host gets to know the participants. Also Mr. Bair stated that in the marina lot, some members were allowed to stay past 8am. At this point we do not have a place for anyone to sleep in. If anything can be done it would be appreciated.

COMMISSION QUESTIONS FOR APPLICANTS:

- Commissioners noted that there were twenty-five spots at the marina which was their sole spot. Mr. Bair responded that during the time at the marina there were also eight spots in the Frisco Library parking lot. Commissioners questioned if there are any other opportunities. Mr. Bair responded that we would have the spots at the Galena property and will still have the eight spots at the library parking lot and were told recently that that can be a permanent situation for us, and twelve spots at the Justice Center. There was a brief discussion regarding the size limitations.
- Commissioners noted that this location differs from the past locations because it is on the fringe of residential property. Commissioners asked if anything will be different in your operation because it is on the fringe of residential property. Mr. Bair questioned in what sense. Commissioners responded, for example, with security noting unauthorized vehicles parking there and any misdeeds could taint the image of the program. Mr. Bair stated that he has spoken with Maggie at Workforce, and they will talk to those unauthorized vehicles and ask them to join the program or move on. One vehicle will be towed.
- Commissioners asked what the program fees are. Mr. Bair responded that the participant fee is \$45 per month and those fees go to running the program. None of the staff is paid.

- Commissioners asked if the applicant has looked at the PRA. The applicant responded that that is one of the first properties we looked at and were told that all the spots were being used. Also, we considered the medical office building but that did not work out either, understanding was that the medical office building needs to be reserved in case of any all-County emergency. There is also a gravel parking lot across Highway 9 from the medical office building – there are wedding receptions at that location. Frisco Council came up with the marina and the Galena property and we are appreciative of that. The applicant also addressed the question on security, noting that we work closely with Chief Wickman and provide the Police Department and Sheriff's Department with a list of members and license plates. When an officer does a drive-by, they will know which are legal (windshield permits are provided for front and back of vehicles) and which are not, if parked elsewhere without windshield permit, they will know.
- Commissioners asked who the people in the program are. The applicant responded they are ski instructors, restaurant workers, teachers, nurses, an employee of a sled dog business, golf course greens keepers, about 20% of the participants fall into the category of van life as their intended lifestyle. Most are wanting to save up and move up. When we perform our intake, we ask for a plan. You must have a plan to advance yourself.
- Commissioners asked about Paul, the host who managed the marina site. Noting that that position sounds like an important role and asked if the applicant has trouble filling that role. The applicant responded that he is one of the first people in that role. The management team (Doug) is a fallback for the role.
- Commissioners asked if the program is unable to absorb those people currently living on the lot, into the eight spots, will you share the porta-potty. The applicant responded that there is one spot available at the Galena lot and two spots available at the library, and if needed, as we have in the Justice Center lot, put locks on the doors. We will monitor Galena and if need be, will lock up and give members the combinations.
- Commissioners asked if you have had to kick someone out of the program. The applicant responded only once and it was for emotional issues.
- Commissioners asked who set the hours of 6pm to 8am. The applicant responded that the Colorado Workforce Center established the hours. For sleeping purposes, we asked for two additional hours and were told no.

Public Comments:

- Demetri Molochev, Property Manager for 520-540 Galena – I was interested in coming here and hearing about the program and so far, I believe the folks have everything under control.
- Joan Scott, 601 Galena – We have a large parking lot and a large dumpster, we do have a concern that people parking and staying over here could spill over into our large parking lot. We have already experienced this.

Commissioner Lesmes commented that if anyone has problems, they can contact the Frisco Police Department.

Mr. Bair responded that we have not had anyone do that from our program. We are willing to be a contact for you or your association if someone stays in your lot. Ms. Weber asked for Ms. Scott to contact her at EmilyW@townoffrisco.com and she will pass the concern on to Mr. Bair.

COMMISSION DISCUSSIONS:

- Commissioners thanked the applicant for doing a great job and noted that Unsheltered in Summit cannot control those who do not belong to their program.
- Commissioners expressed appreciation for such a critical resource and further commented that when frequently walking by the program's marina location, it was always clean, and people take this privilege seriously and do not want to lose the opportunity. Further, noted we wish the program could get more spots and longer sleeping hours.
- Commissioners noted that initially they were doubtful, but it has really turned out to be very positive.

MOTION:

WITH RESPECT TO FILE NO. CU-23-0001, COMMISSIONER FORSYTH MOVED THAT THE RECOMMENDED FINDINGS SET FORTH IN THE MAY 18, 2023, STAFF REPORT BE MADE AND THAT THE PLANNING COMMISSION HEREBY APPROVES THE REQUEST FOR A CONDITIONAL USE FOR THIS APPLICATION SUBJECT TO THE FINDINGS AND CONDITIONS CONTAINED IN THE STAFF REPORT.

MOTION SECONDED BY PLANNING COMMISSION MEMBER STABILE.

VOTE:

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

MOTION: PASSED

3. **MAJ-23-0001:** A sketch plan review of the Major Site Plan application for a new mixed-use/affordable housing development, **CU-23-0002** a Conditional Use application to allow ground floor residential in the Mixed-Use Zone District, and **CU-23-0003** a Conditional Use application to allow for less than 20% mix of uses in the Mixed-Use Zone District; located at 101 W Main Street / Lot B-1 West Frisco 70 Sub # 2. Applicant: Andy Stabile, Allen-Guerra Architecture

Commissioner Stabile recused himself from this item noting that since there will not be any discussions, he will stay in the room but will abstain from any votes that might happen.

Ms. Lee noted that the item is being tabled due to a noticing error.

MOTION:

COMMISSIONER FORSYTH MOVED THAT THE PLANNING COMMISSION TABLE THE ABOVE AGENDA ITEM TO JUNE 1, 2023, THE MOTION WAS SECONDED BY COMMISSIONER WITHROW, AND PASSED BY A UNANIMOUS VOTE.

Staff updates:

- In the Town's RL-Zone district, particularly in the Pitkin and S 6th Avenue area, there are older cabins that were built in the setbacks and people have been asking about improving their roofs. As for the way our code is written, a variance is required if you are going to increase the non-conformity of the structure. It goes against some of our guiding principles and goals in the Community Plan. This is being mentioned tonight to determine whether you feel a code revision would be in order to try to allow

some of those existing cabins to remain as they are but have improved roofs so that they can be modernized so they are habitable. Commissioners asked if they wanted to rebuild the roof or replace the roof. Ms. Lee responded that a lot of these cabins were built with very old flat roofs, and they want to go up higher, so it is going to increase the cubic footage that is in the setback. Commissioners responded if fixing the roof, please go ahead and do that. If changing the pitch, dormer, loft, that is a variance. Commissioners noted that the variance should be attainable. Staff suggested that the fees be re-visited as currently a variance fee is \$1000. Commissioners would like to look at the whole variance process.

- Katie Kent has been selected as the new Community Development Director.

Ms. Lee announced that she has resigned, and her last day will be June 1, 2023.

Commissioners expressed their appreciation to Ms. Lee for filling in, in the interim.

Adjournment:

There being no further business, Commissioner Stabile made a motion to adjourn, seconded by Commissioner Tane and was unanimous. The meeting was adjourned at 7:25 p.m.

Respectfully submitted,

Cheryl Mattka
Community Development Department