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MEMORANDUM

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P.O. Box 4100 ♦ FRISCO, COLORADO 80443

**TO: MAYOR AND TOWN COUNCIL**  
**FROM: DANELLE COOK, HOUSING PROGRAM MANAGER**  
**RE: DENSITY BONUS INCENTIVE**  
**DATE: SEPTEMBER 27, 2022**

**Summary and Background:** At the July 12, 2022 Town Council Work Session, staff presented an overview of the Town of Frisco's density bonus incentive, which permits a developer to exceed the maximum allowable density on a project in exchange for workforce housing. Since implementation in 1998, 29 deed-restricted workforce housing units have been constructed across 7 different projects as a direct result of the density bonus incentive, which accounts for 18% of all deed-restricted units within Frisco boundaries.

The current version of the density bonus incentive allows two options for new development in the CC, GW, and MU Zone Districts: on-site and off-site workforce housing. The first option incentivizes the developer to build on-site workforce housing units by allowing multi-family projects to exceed the maximum density, provided that a minimum of 50 percent of the total number of bonus units is deed restricted at 100 percent of the area median income (AMI). To qualify, each deed-restricted unit must be no more than 15 percent smaller in gross floor area than the corresponding bonus market-rate unit. The second option allows the developer to exceed the maximum allowable density, provided that for each bonus unit, at least two deed-restricted units are provided (whether constructed or purchased) off-site within a one-mile radius of Town limits. For off-site deed-restricted units, the total combined floor area of every two off-site affordable units shall be equal to or greater than the floor area of the corresponding on-site density bonus unit, and at least 600 square feet per unit.

Staff also presented findings from the Workforce Housing Development Committee. 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. Consequently, 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 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.

As a result, at the July 12, 2022 work session, staff presented two additional options to be added to the density bonus incentive. The first addition would allow a developer to exceed the maximum density provided that 100% of the bonus units are deed-restricted with the covenant 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 requirement and no appreciation limit. This would create an option that is financially feasible for a developer, doubles the number of deed-restricted units created, and would require no subsidy from the Town.

The second additional option would allow a developer to combine the density bonus incentive with LIHTC. 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 to LIHTC requirements, but omitting the requirement that the occupant work in Summit County for 30 hours per week.

Council supported the addition of these two options in an effort to address a variety of different housing needs. While the addition of the LIHTC provision would address the lower end of the AMI spectrum by providing rentals for those who earn between 30-90% AMI, the application of the Housing Helps covenant would address housing needs at the higher end of the AMI spectrum, by creating a stepping stone from 160% AMI to a market-rate unit. Council also directed staff to research options for expanding the radius of off-site workforce housing provided by developers to meet the density bonus requirements, as well as revisiting parking requirements of new developments as they relate to workforce housing and density bonus units.

Following Council's direction, staff presented the proposed code revisions at the August 18, 2022 Planning Commission meeting (the staff memo is provided as an attachment). The Planning Commission's discussion and recommendation are summarized in detail in the following section of this report.

**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. 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 Frisco Community Plan. After considering Council's feedback, staff proposed the following code text revisions to this section at the August 18, 2022 Planning Commission meeting:

**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 ~~one (1) mile of any corporate limit of the Town of Frisco~~ the Ten Mile Basin;*

The Planning Commissioners opposed the idea of allowing Frisco's affordable units to be located in Copper, while still allowing increased density in Frisco and felt that it does not align with the walkability goal outlined in Frisco's Community Plan. Overall, the Planning Commission recommended leaving options 'a' and 'b' as they are currently written in the code.

In addition to the two existing density bonus options, Town staff proposed two more options. The following code language was proposed at the August 18, 2022 Planning Commission meeting for the third 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 also proposed 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 Planning Commissioners commended the Workforce Housing Development Committee for taking an in-depth look at the density bonus incentive, determining it is not functioning correctly, and proposing a solution. However, they were resistant to utilize a deed restriction that does not contain an AMI limitation or an appreciation cap. They noted that while a light deed restriction is appropriate for the Housing Helps program because it is applied to existing homes that already have water and sewer and makes them available to the local workforce in perpetuity, it is not appropriate for above and beyond density. Instead, the Planning Commissioners recommended revising option 'c' to require that 100% of the bonus units are deed-restricted at an average of 160% AMI with the standard 3% appreciation cap.

The fourth option staff proposed 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 was proposed to the Planning Commission 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 also proposed a slight revision to the existing definition of 'Affordable Housing,' to allow flexibility in the occupancy requirements, as follows:

*AFFORDABLE HOUSING - A dwelling unit that is deed restricted in perpetuity to occupancy by individuals meeting the income limitations and occupancy standards as established from time to time by the Town or the Summit Combined Housing Authority. Occupancy standards shall may include requirements for primary residency and local employment.*

The Planning Commissioners accurately pointed out that the words 'for sale' should be deleted from option 'd' since LIHTC projects are only applicable to rentals. Additionally, they recommended deleting the last sentence from the 'Affordable Housing' definition to ensure the word 'may' does not apply to options 'a' or 'b.' The Commissioners supported the addition of option 'd' to allow LIHTC to be combined with the density bonus, with these two revisions.

Furthermore, staff 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. At the August 18, 2022 Planning Commission meeting, staff recommended not 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. With this in mind, staff did not propose any parking reductions and the Planning Commission was in agreement with staff's parking recommendation.

The Planning Commission's discussion concluded with support for the code revisions recommended by staff, with conditions. The Commissioners questioned if there are other areas of Town where higher densities could be achieved and expressed a desire to expand the density bonus incentive to other zone districts. The full Planning Commission Recommendation on this topic is summarized as:

1. Subsection 1.B be left as currently written to maintain 'but within the Town of Frisco or within one (1) mile of any corporate limit of the Town of Frisco;' and that
2. Subsection 1.C 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 while also meeting the income limit of 160 percent AMI on average, and applying the standard appreciation cap;' and that
3. Subsection 1.D does not include the words 'for sale.'

After the meeting, staff evaluated the Planning Commission's recommendation from a financial feasibility standpoint. Staff used recent estimates received for the Granite Park project to estimate the cost of construction, data from Land Title to estimate the market-rate sales price, and the

numbers provided on the Summit Combined Housing Authority's AMI chart to calculate the following data:

Size	Sq Ft	Sales Price Per Sq Ft at 100% AMI	Sales Price Per Sq Ft at 160% AMI	Cost to Build 1 Unit	Market Sales Price	100% AMI Sales Price	160% AMI Sales Price
Studio	600	\$495	\$849	\$300,000	\$489,000	\$297,132	\$509,206
Studio	750	\$396	\$679	\$375,000	\$611,250	\$297,132	\$509,206
1-Bed	600	\$539	\$918	\$300,000	\$489,000	\$323,438	\$550,620
1-Bed	800	\$404	\$688	\$400,000	\$652,000	\$323,438	\$550,620
2-Bed	850	\$473	\$794	\$425,000	\$692,750	\$402,356	\$674,865
2-bed	935	\$430	\$722	\$467,500	\$762,025	\$402,356	\$674,865
2-Bed	1100	\$366	\$614	\$550,000	\$896,500	\$402,356	\$674,865
3-Bed	1000	\$476	\$790	\$500,000	\$815,000	\$475,512	\$790,038
3-Bed	1250	\$380	\$632	\$625,000	\$1,018,750	\$475,512	\$790,038
3-bed	1400	\$340	\$564	\$700,000	\$1,141,000	\$475,512	\$790,038

Note, the estimated cost of construction that was used to calculate the profit margins is \$500 per square foot and includes hard costs such as labor and materials only, but does not include soft costs such as design fees, marketing, or liability insurance. Therefore, the column titled '*Cost to Build 1 Unit*' was calculated without soft costs.

In some instances, 160% AMI exceeds the market-rate sales price in the above chart. For example, the 160% AMI sales price for a 600-square-foot studio exceeds market-rate by \$20,206. Keep in mind that the market-rate sales price received from Land Title is an average for all of Summit County, which is \$815. A recent MLS search indicated that residential real estate on or within two blocks of Frisco Main Street recently sold for as much as \$1,100 per square foot. If the density bonus incentive is applied to a new development near Main Street, the actual market-rate value far exceeds the sales price at 160% AMI. However, if the development is not located near Main Street, or if the market value were to decrease significantly, the market would dictate the price, rather than the AMI chart.

The following table contains estimated profit margins (excluding soft costs) if option 'a' were chosen, requiring that 50% of the units are deed-restricted at 100% AMI and 50% are sold at market-rate.

#### Option A – Estimated Profit Margins Excluding Soft Costs

Total # of Bonus Units	2	4	6	8	10
Studio / 600 sq ft	\$186,132	\$372,264	\$558,396	\$744,528	\$930,660
Studio / 750 sq ft	\$158,382	\$316,764	\$475,146	\$633,528	\$791,910
1-Bed / 600 sq ft	\$212,438	\$424,876	\$637,314	\$849,752	\$1,062,190
1-Bed / 800 sq ft	\$175,438	\$350,876	\$526,314	\$701,752	\$877,190
2-Bed / 850 sq ft	\$245,106	\$490,212	\$735,318	\$980,424	\$1,225,530

2-bed / 935 sq ft	\$229,381	\$458,762	\$688,143	\$917,524	\$1,146,905
2-Bed / 1100 sq ft	\$198,856	\$397,712	\$596,568	\$795,424	\$994,280
3-Bed / 1000 sq ft	\$290,512	\$581,024	\$871,536	\$1,162,048	\$1,452,560
3-Bed / 1250 sq ft	\$244,262	\$488,524	\$732,786	\$977,048	\$1,221,310
3-Bed 1400 sq ft	\$216,512	\$433,024	\$649,536	\$866,048	\$1,082,560

The following table contains estimated profit margins (excluding soft costs) if option 'c' were chosen, requiring that 100% of the units are deed-restricted at 160% AMI.

### Option C – Estimated Profit Margins Excluding Soft Costs

Total # of Bonus Units	2	4	6	8	10
Studio / 600 sq ft	\$418,412	\$836,824	\$1,255,236	\$1,673,648	\$2,092,060
Studio / 750 sq ft	\$268,412	\$536,824	\$805,236	\$1,073,648	\$1,342,060
1-Bed / 600 sq ft	\$501,240	\$1,002,480	\$1,503,720	\$2,004,960	\$2,506,200
1-Bed / 800 sq ft	\$301,240	\$602,480	\$903,720	\$1,204,960	\$1,506,200
2-Bed / 850 sq ft	\$499,730	\$999,460	\$1,499,190	\$1,998,920	\$2,498,650
2-bed / 935 sq ft	\$414,730	\$829,460	\$1,244,190	\$1,658,920	\$2,073,650
2-Bed / 1100 sq ft	\$249,730	\$499,460	\$749,190	\$998,920	\$1,248,650
3-Bed / 1000 sq ft	\$580,076	\$1,160,152	\$1,740,228	\$2,320,304	\$2,900,380
3-Bed / 1250 sq ft	\$330,076	\$660,152	\$990,228	\$1,320,304	\$1,650,380
3-Bed 1400 sq ft	\$180,076	\$360,152	\$540,228	\$720,304	\$900,380

Staff found that option 'c' yields a higher profit margin in comparison to option 'a' in most cases, but not all. If a developer were interested in constructing larger units such as 3-bedroom units with 1,400 square feet, as shown in the tables above, option 'a' would yield a higher profit. In all other cases, option 'c' yields a higher profit. If the proposed revisions are adopted, it is expected that all future density bonus projects would opt to deed restrict 100% of the bonus units at 160% AMI.

Furthermore, it is worth noting that the maximum sales prices on the AMI chart increase and decrease in accordance with the total bedroom count. In contrast, market-rate real estate prices are traditionally calculated per square foot. For example, the 2022 maximum sales price for a 160% AMI 1-bedroom unit is \$124,245 less than a 160% AMI 2-bedroom unit, regardless of square footage. If option 'c' is implemented as proposed, then developers would likely opt to build condos with the most amount of bedrooms in the smallest square footage possible to maximize the profit margin. With that in mind, the developer is also taking on the full risk of not being able to sell the unit. As such, they will have to compete with the units already available on the market, whether deed-restricted or market-rate. Therefore, staff does not believe minimum livable space requirements are needed in this case.

The following section includes the entire Density Bonus Section of the Code, with final proposed changes underlined and proposed deletions crossed out:

### 180-5.5 Affordable Housing

## **180-5.5.1. INCENTIVES**

### **A. Accessory Dwelling Units**

In the RL, RM, RH, GW, CC, and MU Districts, any accessory dwelling unit meeting the Town's requirements may be exempted from the density calculation as long as the unit is deed-restricted for 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 other criteria as established from time to time by the Town or the Summit Combined Housing Authority.

### **B. Density Bonuses**

#### **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; or
- 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 in Summit County for a minimum of 30 hours per week, on average per year while also meeting the income limit of 160 percent AMI on average, and applying the standard appreciation cap; or
- 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.

#### **2. Density Bonus Requirements**

- a. In order to qualify for the density bonus incentive of additional dwelling units in multi-family and/or mixed-use projects, each deed restricted affordable unit shall be no more than 15 percent smaller in gross floor area than the corresponding bonus market rate unit. Provided, however, that if the affordable housing units provided under any density bonus provision of this Chapter are located off of the site of the subject property, then the foregoing requirement shall not apply and, instead, for every two off-site affordable units provided, the total combined floor area of such units shall, at a minimum, be equal to the floor area of the associated one on-site density bonus unit. Further provided, however, that in no instance shall

an off-site affordable housing unit provided under any density bonus provision of this Chapter be less than 600 square feet in gross floor area.

- b. Every owner of an affordable housing unit shall ensure that each potential buyer of the unit is qualified for the purchase through the Summit Combined Housing Authority, and any affordable housing unit established pursuant to any density bonus provision of this Chapter shall be marketed and offered solely through the Summit Combined Housing Authority.
- c. For each affordable housing unit that is provided under any density bonus provision of this Chapter and that is to be located on or off the site of the subject property, the required deed or covenant restriction for such unit shall be established and legally enforceable prior to the Town's issuance of a certificate of completion or a certificate of occupancy for the corresponding bonus market rate dwelling unit in the development project.

### **3. Criteria For Approval**

Bonus units may be approved by the Planning Commission upon finding that the additional units, because of the structure's design, height, mass, and scale, do not detract from the character of the vicinity and small mountain town character.

## **180-9.3 General Definitions**

### **Affordable Housing**

A dwelling unit that is deed restricted in perpetuity to occupancy by individuals meeting the income limitations and occupancy standards as established from time to time by the Town or the Summit Combined Housing Authority. ~~Occupancy standards shall include requirements for primary residency and local employment.~~

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.

**Financial Impact:** Since 1998, the bonus density incentive was always intended to inspire developers to construct workforce housing units with zero financial contribution from the Town. If the Town were to subsidize deed-restricted units that were generated by the bonus density incentive, then then the Town would be contributing monetary value to the developer in two ways: density and dollars.

The Town of Frisco's annual budget includes funds for workforce housing. The 2022 budget allocates just over \$7M for workforce housing. These funds are spent on staff salaries, Town-owned employee rental units, Housing Helps, Frisco Housing Locals, the anticipated purchase of 602 Galena, and Granite Park. Zero dollars were budgeted for bonus density subsidies.

**Alignment with Strategic Plan:** In the 2020/21 Strategic Plan, Town Council identifies increasing full-time resident occupancy to 50% as a top priority, and a method to create an inclusive community. Additionally, Frisco Town Council aspires to double the amount of deed restricted

workforce housing units within the next 5 years. Building flexibility into the density bonus incentive will assist in achieving these goals.

**Staff Recommendation:** Staff recommends that Town Council review the Planning Commission recommendation and provide direction to staff to prepare an Ordinance for Town Council consideration containing 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*.'

**Approved By:**

Tom Fisher, Town Manager  
Diane McBride, Assistant Town Manager  
Don Reimer, Community Development Director  
Leslie Edwards, Finance Director

**Attachments:**

Attachment 1: July 12, 2022 Town Council Work Session Staff Memo  
Attachment 2: August 18, 2022 Planning Commission Staff Memo  
Attachment 3: Code Language Proposed at the August 18, 2022 Planning Commission Meeting