



PLANNING COMMISSION STAFF REPORT

February 1, 2018

AGENDA ITEM: Planning File No. 002-18-OR: A public hearing recommending amending Chapter 180 of the Code of Ordinances of the Town of Frisco, concerning the Unified Development Code, by amending subsections 2.2, Summary of Procedures; 2.3.4.F, Simultaneous Processing of Development Applications; 2.5.2.D, Major Site Plan Review Procedures; 2.7.2, Administrative Adjustments; 4.2.4, Procedures for Nominating and Designating Buildings, Properties, and Historic Districts for Historic Preservation; and 6.23.2, Bulk Plane Envelope

APPLICANT: Town of Frisco
1 East Main Street
PO Box 4100
Frisco, CO 80443

STAFF PLANNER: Bill Gibson, Assistant Community Development Director
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PROJECT DESCRIPTION

The Unified Development Code (UDC) was adopted through Ordinance 17-04 in June of 2017. The purpose of the UDC was to update, consolidate, and reformat the former subdivision and zoning regulations. It was acknowledged at that time that additional corrections and policy amendments to these regulations would be forthcoming in the future. Staff is proposing the following amendments to the UDC at this time:

- Clarifying that pre-application conferences are required for rezonings and variances
- Clarifying the procedures for the simultaneous processing of a Historic Overlay (HO) District rezoning application and site plan review applications
- Amending the expiration of sketch plan reviews
- Repealing allowances for administrative adjustments to the amount of required parking
- Clarifying the review criteria of the Historic Overlay (HO) District
- Repealing the side property line bulk plane requirement for properties on Main Street
- Amending the side bulk plane starting point to correspond to the side setback standards in the Mixed Use Zoning District
- Repealing a bulk plane height limit provision related to a previously repealed building height limit incentive

BACKGROUND

The Planning Commission discussed these proposed code text amendments at its January 18, 2018 work session and was generally supportive of the proposed changes.

REQUIRED ACTION

Planning Commission: Recommendation of approval, approval with conditions, or denial of the proposed code text amendments.

Town Council: Approval, approval with conditions, or denial of the proposed code text amendments

ANALYSIS – CODE TEXT AMENDMENTS [§180-2.4.3]

Pursuant to Sub-section §180-2.4.3.D, an amendment to the text of the Unified Development Code is a legislative decision by the Town Council. Prior to recommending approval or approving a proposed amendment, the Planning Commission and Council shall consider whether and to what extent the proposed amendment:

1. *Is consistent with the Master Plan and other Town policies;*
2. *Conflicts with other provisions of this Chapter or other provisions in the Frisco Town Code;*
3. *Is necessary to address a demonstrated community need;*
4. *Is necessary to respond to substantial changes in conditions and/or policy; and*
5. *Is consistent with the general purpose and intent of this Chapter.*

REVIEW PROCEDURES, REZONING AND VARIANCE PRE-APPLICATION CONFERENCES

Sub-sections §180-2.4.1.D and §180-2.7.3.C discuss pre-application conferences for rezoning and variance applications; however, Table 2-1 in Section 2.2, Summary of Procedures, lists a pre-application conference as optional rather than mandatory for these types of applications. A proposed rezoning and a proposed variance are both complicated applications and Staff believes a pre-application conference would be beneficial for applicants. For clarification and consistency within the code, Staff recommends the following amendment:

| TABLE ERROR! NO TEXT OF SPECIFIED STYLE IN DOCUMENT. -1: SUMMARY OF FRISCO REVIEW PROCEDURES | | | | | |
|---|----------------------------|--------------|---------------------|--------------|--|
| R = RECOMMENDATION D = DECISION A = APPEAL DECIDER <> = PUBLIC HEARING O = OPTIONAL M = MANDATORY | | | | | |
| Procedure | Pre-Application Conference | Staff Review | Planning Commission | Town Council | NOTICE REQUIRED M = Mailed N = published (newspaper) P = Posted |
| Amendments | | | | | |
| Rezoning | <u>OM</u> | R | <R> | <D> | M, N, P |
| Planned Unit Development | M | R | <R> | <D> | M, N, P |
| Code Text Amendment | O | R | <R> | <D> | N |
| Development Permits and Approvals | | | | | |
| Conditional Use Application | M | R | <D> | <A> | M, N, P |
| Site Plan Review, Administrative | O | D | <A> | <A> | |
| Site Plan Review, Minor | M | D | <A> | <A> | |
| Site Plan Review, Major | M | R | <D> | <A> | M, N, P |

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|--|---|-----------------------------|----------------------------------|--------------|--|
| Procedure | Pre-Application Conference | Staff Review | Planning Commission | Town Council | NOTICE REQUIRED M = Mailed N = published (newspaper) P = Posted |
| Major Modification to Approved Site Plan | O | R | <D> | <A> | |
| Minor Modification to Approved Site Plan | O | D | <A> | <A> | |
| Modification to Nonconformity | O | D less than 350 square feet | <D> greater than 350 square feet | <A> | |
| Subdivision Approvals | | | | | |
| Annexation | M | R | <R> | <D> | M, N, P |
| Preliminary Plat | M | R | <D> | <A> | M, N, P |
| Final Plat | M | D | <A> | <A> | M, P |
| Minor Subdivision or Resubdivision | M | D | O | O | M, P |
| Subdivision Waiver or Modification | M | R | <D> | <A> | |
| Flexibility and Relief Procedures | | | | | |
| Administrative Adjustment | Reviewed and decided by the body assigned the associated development application. | | | | |
| Variance from Zoning Regulations | OM | R | <D> | <A> | M, N, P |
| PUD Minor Amendment | M | D | <A> | <A> | |

SIMULTANEOUS PROCESSING OF DEVELOPMENT APPLICATIONS, HO REZONING

Because of the development incentives allowed through the HO, it may be more efficient and effective to review an HO rezoning application concurrently with the associated site plan review application than reviewing those applications separately. The intent of the HO regulations is to accommodate such an approach. For clarification and to eliminate conflicting language in the code, Staff recommends the following amendments to subsection §180-2.3.4.F, Simultaneous Processing of Development Applications:

F. Simultaneous Processing of Development Applications

Where possible without creating an undue administrative burden on the Town's decision-making bodies and staff, this Chapter intends to accommodate the simultaneous processing of applications for different permits and approvals that may be required for the same development project in order to expedite the overall review process. Review and decision-making bodies considering applications submitted simultaneously shall render separate reports, recommendations, and decisions on each application based on the specific standards applicable to each approval.

1. An example of a concurrent filing and processing of applications include, but are not limited to, a site plan, subdivision plan, and conditional use.

2. Generally, no rezoning application shall be accepted or processed while an application for any of the permits or approvals listed in this Chapter is pending for the same property, and vice versa. An exception to this rule is that a rezoning to a-an HO and/or PUD overlay may be considered concurrently with a site plan and/or subdivision plan.

3. Some forms of approval depend on the applicant having previously received another form of approval, or require the applicant to take particular action within some time period following the approval in order to avoid having the approval lapse. Therefore, even though this Chapter intends to accommodate

simultaneous processing, applicants should note that each of the permits and approvals set forth in this Chapter has its own timing and review sequence.

MAJOR SITE PLAN REVIEW PROCEDURES, SKETCH PLAN EXPIRATION

The Major Site Plan Review procedures include an expiration of a sketch plan review when the complete major site plan application is not submitted within three (3) months of the Planning Commission's review of the sketch plan. This provision is intended to ensure that complete major site plans are submitted in a timely manner after the sketch plan review to avoid long gaps in time between Planning Commission meetings on a specific subject. The expiration provisions are also intended to encourage sketch plan application by serious developers and to discourage speculative sketch plan applications that are submitted solely to "grandfather" a proposal under the current regulations while code amendments or zoning changes are being considered. The Community Development Department has received feedback from some applicants that a three (3) month expiration timeframe is too restrictive, so Staff is recommending the following amendment to provide additional flexibility while maintaining the original intent of the regulation:

2.5.2.D.3, Sketch Plan

c. The sketch plan presentation shall become null and void if a complete major site plan application is not submitted to the Community Development Department within ~~90~~ 180 days after the date of the Planning Commission's review of the sketch plan.

ADMINISTRATIVE ADJUSTMENTS, NUMBER OF REQUIRED PARKING SPACES

The Flexibility and Relief Procedures of the UDC include a new Administrative Adjustment process. As stated in the UDC:

The administrative adjustment procedure is intended to allow minor modifications or deviations from the dimensional or numeric standards of this Chapter with approval by the Director. Administrative adjustments are intended to provide greater flexibility when necessary, without requiring a formal zoning amendment or variance. The administrative adjustment procedure is not a waiver of Chapter standards and shall not be used to circumvent the variance procedure.

The allowable administrative adjustments are identified in Table 2-3 of the UDC; however, these procedures do not apply to modification or deviations that result in:

- a. An increase in the overall project density;*
- b. A change in permitted uses or mix of uses;*
- c. A deviation from the use-specific standards in Article 5;*
- d. A change to a development standard already modified through a separate administrative adjustment or variance;*
- e. Building materials or aesthetic elements; or*
- f. Requirements for public roadways, utilities, or other public infrastructure or facilities.*

Town Staff may only handle administrative adjustments that are associated with an administratively reviewed site plan or plat, but not those applications that proceed to the Planning Commission or Town Council. All administrative adjustment must meet the following criteria:

1. Is consistent with the purpose statement set forth in this Chapter for the applicable zoning district(s);
2. Meets all other applicable building and safety codes; and
3. The requested modification is necessary to either: (a) compensate for some practical difficulty or some unusual aspect of the site of the proposed development not shared by landowners in general; or (b) accommodate an alternative or innovative design practice that achieves to the same or better degree the objective of the existing design standard to be modified. In determining if “practical difficulty” exists, consideration shall be given to any unique circumstances of the property.

Recent discussions by the Town Council and the Planning Commission regarding parking acknowledge that at this time there is concern about the demand on current parking. Staff anticipates taking on a major parking study and feels it is prudent to remove this administrative adjustment option until such time as the parking study has been completed and evaluated.

The new administrative adjustment provisions of the UDC created an opportunity for developers to request a reduction in the amount of required parking. To date, no development project has obtained a reduction in required parking through this new code provision. Staff recommends Table 2-3 be amended as follows and repeal Administrative Adjustments for parking amounts: §180-2.7.2, Administrative Adjustments

| TABLE 2-3: ALLOWABLE ADMINISTRATIVE ADJUSTMENTS | |
|--|---|
| Chapter Standard | Allowable Administrative Adjustment (maximum percentage) |
| SITE STANDARDS | |
| Lot area, minimum | 10 |
| Lot coverage, maximum | 10 |
| LOT DIMENSIONAL STANDARDS | |
| Front yard setback, minimum | 10 |
| Side yard setback, minimum | 10 |
| Rear yard setback, minimum | 10 |
| Encroachment into setback, maximum | 10 |
| BUILDING STANDARDS | |
| Building height, maximum | 10 |
| DEVELOPMENT STANDARDS | |
| Number of required parking spaces, maximum or minimum | 30 |
| Lighting height, maximum | 10 |
| Sign height, maximum | 10 |
| Fence or wall height, maximum | 10 (1 foot maximum) |
| Minimum landscaping requirements | 10 |
| Maximum length of geometric plane | 10 |

HISTORIC OVERLAY (HO) DISTRICT, CRITERIA

The current language describing the proceedings for nominating and designating buildings, properties, and historic districts for historic preservation are confusing. Staff recommends the following clarifications to the HO procedures:

4.2.3. DESIGNATION OF HISTORIC OVERLAY DISTRICT

Pursuant to the procedures and criteria of this section, the Town Council may, by ordinance:

A. Designate properties that have special historical value as being within the Historic Overlay District. The designation must be accomplished through the amendment procedures as described in Section 2.4, Amendments, with the exception of Subsection 2.4.1.C, Area Required. Each ordinance shall designate a historic overlay, shall include a description of the characteristics of the historic site that justify its designation, and shall include a legal description of the location and boundaries of the historic site. Any designation shall be in compliance with the purposes and criteria of this section. The property included in any designation shall be subject to the controls and standards of this section.

B. The criteria for designating properties within the Historic Overlay District are as follows:

1. That the structure(s) is at least 50 years old; and
2. That the structure(s) or lot(s) has unique historical significance; and
3. That remodeling has not covered the original significant features of the structure(s), or that the structure(s) has been or is in the process of being rehabilitated to its original configuration and design.

4.2.4. PROCEDURES FOR NOMINATING AND DESIGNATING BUILDINGS, PROPERTIES, AND HISTORIC DISTRICTS FOR HISTORIC PRESERVATION

An application for designation may be made by the owner or by 100 percent of owners for a historic district, or the Town, at the owner's or owners' request(s). The Community Development Department shall review the proposal to ensure that the proposed designation conforms with Town policies and plans.

A. Proceedings by the Planning Commission

The Commission shall review the designation through the amendment procedures as listed in Section 2.4, Amendments, with the exception of Subsection 2.4.1.C, Area Required, and through the public notice procedures listed in Section 2.3.5.

1. Criterion for Designation

The Commission shall review the application for conformance with the following criterion/criteria in Section 4.2.3.B for designation, and shall recommend either approval, approval with conditions, or denial, and shall refer the proposal with a recommendation to the Town Council:

a. The application conforms to the purposes of the Town Code and the Master Plan.

B. Proceedings by the Town Council

Such designation must be accomplished by Town Council through amendment procedures as listed in Section 2.4, Amendments, with the exception of Subsection 2.4.1.C, Area Required, and through the public notice procedures listed in Section 2.3.5. The Council shall approve, approve with conditions, or deny the proposal for designation. Once a historic property or historic district has been designated by the Town Council as provided above, the Community Development Department shall reflect the designation on the Frisco Zoning Map. After approval, any structural alterations to the designated property(s) shall follow the procedure described in Section 4.2.6.

BULK PLANE STANDARDS, CENTRAL CORE DISTRICT AND MIXED USE DISTRICT

Side Bulk Planes in the Central Core Zoning District

In 2017, the Town of Frisco adopted the UDC. In part, the UDC repealed the former zoning overlay districts which were geographically based and consolidated the design standards of those various overlay districts into residential development standards and non-residential standards. The bulk plane standards from those various overlay districts were consolidated and reformatted into a separate subsection of the code and summarized in a table format (Table 6-K). The intent of Table 6-K was to consolidate the existing bulk plane standards into a more readable format.

In the previous zoning ordinance, the Central Core Zoning District was divided into two geographic overlay districts. Properties located between Main Street and the alleys were regulated by the Main Street Overlay District. Properties located between Granite Street and the Granite Street Alley and properties located between Galena Street and the Galena Street Alley were regulated by the Granite Street and Galena Street Overlay District.

Table 6-K accurately reflects the bulk plane standards previously found in the Granite Street and Galena Street Overlay District. However, Table 6-K does not accurately reflect that a side bulk plane was not required for properties located in the former Main Street Overlay District. This was an oversight in the drafting of Table 6-K and was not intended as a deliberate policy change. To correct this situation, Staff recommends adding a note in Table 6-K of the UDC that clarifies that the side bulk plane in the Central Core Zoning District does not apply to properties located on Main Street.

This issue was briefly discussed at the Planning Commission's January 4, 2018 meeting during the Sketch Plan review of the proposed renovations to the Rainbow Court Building. Staff has initiated this proposed amendment at this time to prevent the unintended impacts of the standards currently outlined in Table 6-K from affecting the final site plan review of that project. To date, no other development application has been impacted by this matter; however, Staff has had pre-application discussions with other developers and property owners concerning other development projects on Main Street that are anticipated in the near future.

Side Bulk Planes in the Mixed Use Zoning District

As noted above, the bulk plane standards from the various overlay districts were consolidated and reformatted into a separate subsection of the code and summarized in a table format (Table 6-K). The intent of Table 6-K was to consolidate the existing bulk plane standards into a more readable format. In the previous zoning ordinance there was an inconsistency between the front setback requirement and the front bulk plane starting point in the Mixed Use District. This inconsistency was corrected by Table 6-K; however, a new discrepancy appears to have been created between the side setback requirement for residential properties in the Mixed Use District and the bulk plane starting point of fifteen (15) from the side property line identified in Table 6-K. Staff proposes correcting Table 6-K to require that the side bulk plane start point begin at ten (10) feet from the side property line to be consistent with the required side setback.

Bulk Plane Height Limits

This proposed amendment to bulk plane height limits is intended to address what Staff has identified as a previous oversight in the zoning regulations. In 1995, the Town of Frisco adopted Ordinance 95-7. This ordinance established the following provision to subsection 180-23.C of the parking regulations:

4. To encourage parking under a structure, the height requirement within a District may be increased for a particular structure or portion thereof by 15% for commercial structures and 25% for multi-family residential structures that contain a bottom level that is used primarily (at least 80% of GFA) for parking. In the Central Core no parking under a structure shall be accessible or visible from Main Street. Technical specifications for underground or parking structures may be found in the Town of Frisco Street Design Criteria.

In 1997, the Town of Frisco adopted Ordinance 97-24 which amended the Main Street Overlay District. In part, the amendments to this overlay district included the following adjustment to the bulk plane heights to accommodate projects utilizing the increased building height incentive adopted in 1995:

The maximum height limit of the bulk plane may be increased, if provision 180-23.C.(4) is utilized.

In 2004, the Town of Frisco adopted Ordinance 04-01. In part, this ordinance established parking requirements specifically for the Central Core District. The ordinance adopted these new provisions as §180-23.C.2. This ordinance had the effect of renumbering the subsequent provisions of this chapter, so the existing multi-use shared parking provisions became §180-23.C.4 and the building height incentive associated with understructure parking became §180-23.C.5. The Main Street Overlay provision for increased bulk plane heights referencing 180-23.C.4 was not updated to reflect this renumber of the parking regulations and the overlay inadvertently began referencing the multi-use shared parking provisions. Staff believes this was an oversight at that time and not intended as a deliberate policy change.

In 2006, the Town of Frisco adopted Ordinance 06-19. This ordinance repealed the allowance for additional building height for projects with understructure parking. The Main Street Overlay District provision allowing an increased bulk plane height for projects utilizing this building height incentive was not repealed at the same time. Staff believes this was an oversight at that time and not intended as a deliberate action. To correct this situation, Staff recommends repealing the note in Table 6-K of the UDC that states: “The maximum height limit of the bulk plane may be increased by 10 feet, if provision 6.13.3.F is utilized”, which erroneously references the Multi-Use Shared Parking provisions.

To Staff’s knowledge, this bulk plane height provision has not been applied to any development projects since the repeal of the building height incentive in 2006.

Staff recommends the following amendments to the bulk plane standards:

§180-6.23.2, Bulk Plane Envelope

| TABLE 6-K BULK PLANE STANDARDS | | | | | | | | | | | |
|-----------------------------------|---|--------------------------|------------------------|-----------------------|---------------------------|---------------------------|--|-----------------|-----------------------------|----------------|------------------------------------|
| DIMENSION ON FIGURE 1-1 | Applicability (District or Development Type) | Central Core District | | Residential Districts | | | Residential Development in MU District | | Other Locations | | |
| | | Height ≤ 28' [1] | Height > 28' [1] | RS/RL | RM/RH, Height ≤ 28' | RM/RH, Height > 28' | Height ≤ 38' | Height > 38' | Summit Boulevard [12] | Marina [23] | West End of Main Street [34] |
| STREET / FRONT PROPERTY LINE | | | | | | | | | | | |
| A | Feet inside property line | 0 ft. | | 20 ft. | | | | | 10 ft. | 25 ft. | 5 ft. |
| B | Starting height above grade | 24 ft. | 20 ft. | | | | | 24 ft. | | | |

**TABLE 6-K
BULK PLANE STANDARDS**

| DIMENSION ON FIGURE 1-1 | Applicability (District or Development Type) | Central Core District | | Residential Districts | | | Residential Development in MU District | | Other Locations | | | |
|----------------------------|---|-----------------------|-------------------------------|-----------------------|---------------------|---------------------|--|--------------|-----------------------------|---------------------------------|---------------------------------|--------|
| | | Height ≤ 28' [1] | Height > 28' [1] | RS/RL | RM/RH, Height ≤ 28' | RM/RH, Height > 28' | Height ≤ 38' | Height > 38' | Summit Boulevard [12] | Marina [23] | West End of Main Street [34] | |
| C | Extend at angle | 45° | | | | | | | 22.5° | | | |
| SIDE PROPERTY LINE | | | | | | | | | | | | |
| A | Feet inside property line | 0 ft. | | 15 ft. | 10 ft. | | 15-10 ft. | | -- | 25 ft. | 5 ft. | |
| B | Starting height above grade | 24 ft. | 20 ft. | 25 ft. | | 20 ft. | 25 ft. | 20 ft. | -- | 24 ft. | | |
| C | Extend at angle | 45° | | | | | | | -- | 22.5° | | |
| REAR PROPERTY LINE | | | | | | | | | | | | |
| A | Feet inside property line | -- | | 10 ft. | | | | | | -- | 10 ft. | |
| B | Starting height above grade | -- | | 25 ft. | | | | | | 24 ft. | -- | 24 ft. |
| C | Extend at angle | -- | | 45° | | | | | | 45° | -- | 45° |
| MAXIMUM HEIGHT | | | | | | | | | | | | |
| D | Maximum height | 28 ft. | 35 ft. flat 40 ft. pitched | 30 ft. | 28 ft. | 35 ft. | 38 ft. | 45 ft. | Underlying District Maximum | Underlying District Maximum [4] | Underlying District Maximum [4] | |
| | <p>[1] Side Property Line Bulk Plane does not apply to properties located between Main Street and the Granite Street Alley and properties located between Main Street and the Galena Street Alley.</p> <p>[12] Applies to Mixed Use District properties fronting on Summit Boulevard.</p> <p>[23] Applies to properties within 100 feet of Main Street right-of-way, east of Summit Boulevard.</p> <p>[34] Applies to properties fronting on Main Street, west of Madison Avenue.</p> <p>[4] The maximum height limit of the bulk plane may be increased by 10 feet, if provision 6-13-3-F is utilized.</p> | | | | | | | | | | | |

STAFF RECOMMENDATION

Recommended Findings

The Community Development Department recommends the following findings pertaining to the proposed code text amendments:

Based upon the review of the Staff Report dated February 1, 2018 and the evidence and testimony presented, the Planning Commission finds:

- 1. The proposed code text amendments are consistent with the Master Plan and other Town policies, because the proposed amendments correct errors and inconsistencies in the code and clarify the standards of the code that are used to implement the policies of the Master Plan.*
- 2. The proposed code text amendments do not conflict with other provisions of the Unified Development Code or other provisions in the Frisco Town Code. Instead the proposed amendments correct errors and inconsistencies in the code.*
- 3. The proposed code text amendments are necessary to address a demonstrated community need by correct errors and inconsistencies in the code and clarifying administrative proceeds necessary for the effective implementation of the code.*

4. *The proposed code text amendments are necessary to respond to substantial changes in conditions and/or policy, because the proposed amendments include amendments that respond to evolving parking policies.*

5. *The proposed code text amendments are consistent with the general purpose and intent of this Chapter, because the proposed text amendments protect the public health, safety, and general welfare and implement the policies of the Master Plan.*

Recommended Motion

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

With respect to Planning File No. 002-18-OR, I move that the recommended findings set forth in the February 1, 2018 staff report be made and that the Planning Commission RECOMMENDS APPROVAL to Town Council of code text amendments to Chapter 180 of the Code of Ordinances of the Town of Frisco, concerning the Unified Development Code, by amending subsections 2.2, Summary of Procedures; 2.3.4.F, Simultaneous Processing of Development Applications; 2.5.2.D, Major Site Plan Review Procedures; 2.7.2, Administrative Adjustments; 4.2.4, Procedures for Nominating and Designating Buildings, Properties, and Historic Districts for Historic Preservation; and 6.23.2, Bulk Plane Envelope