



RECORD OF PROCEEDINGS

**Regular Meeting of the
Planning Commission for the Town of Frisco
Town Hall, 1 East Main Street
Thursday, March 21, 2019
5:00 P.M.**

Call to Order: Andy Stabile, Chair, opened the meeting.

Roll Call: Robert Anton Franken, Andy Held, Jason Lederer, Lina Lesmes, Donna Skupien, Andy Stabile, Kelsey Withrow

Minutes: The February 7, 2019 Planning Commission meeting minutes were approved unanimously.
The February 21, 2019 Planning Commission meeting minutes were approved unanimously.

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

Agenda Items:

1. **Planning File No. 238-18-MAJ:** A public hearing of the Major Site Plan Application for the proposed Rainbow Court East Building mixed-use project, located at 310 East Main Street / Lots 3-5, Block 9, Frisco Townsite. Applicant: Myra Mesko, MM Properties LLC

Planner Katie Kent presented an overview of the staff report noting that Myra Mesko, Applicant and Tom Connolly, Applicant's representative are present. Kent reviewed that at the December 28th sketch plan meeting, Commissioners requested changes to proposed arches, justification to how is compatible to other structures on the Main Street block and the applicant provide a sun study with the full site plan submittal. Kent noted the applicant's submitted narrative and plans address comments brought up at the sketch plan review. Kent referenced that the application conforms to the Community Plan and complies with Central Core District. Kent reviewed use standards including permitted uses, residential uses in the Central Core and the proposed roof mounted solar energy facilities. Staff has recommended a special condition that the dumpster agreement be approved and recorded prior to submittal of a building permit as it is pending revisions based on the Town Attorney's review. Kent reviewed the bulk plane encroachment with the roof deck guardrail and that the Planning Commission may permit a bulk plane encroachment if it does not exceed the maximum building height and provides substantial architectural relief. Non-Residential Development Standards, parking and landscaping were referenced in the staff report.

Commission questions for staff included:

- Now that this project will have four townhomes does it have to have an HOA? Staff responded owner that can rent or sell. If sold they would have to be platted and an HOA created.
- How did you make the decision that this meets the economy section of the Community Plan? Kent responded that there is still office space and restaurant/retail uses.
- Will there be a new mechanical room for all four residential units? Kent referred to Applicant.
- Is the footprint changing? Kent responded yes.
- Is the Dumpster Agreement Letter a binding Agreement? Kent replied it is a formal Agreement.
- The encroachment references “guardrail” but it appears to be a roof. Why the term “guardrail”? The roof is meeting the requirement of the roof deck. Kent stated that the Applicant would go into more detail.
- Would like to be clearer on the Staff’s parking analysis especially the part about the on-street parking credit. They’re getting credit for the alley where there is no on-street parking. Staff relooked at the definition and agreed with Planning Commission that the alley did not count towards on-street parking credits. The project still complies.
- How does the town regulate that a year from now someone is not living in the office space which has a shower? Kent replied there will not be a 220 volt outlet for a kitchen permitted and it would be up to town to enforce if illegal occupancy occurs.
- In the traffic study it still lists as a motel room.
- Back to the on-street parking discussion, is there a reason why you talk about medical office space. Kent replied there is no hidden message.

Applicant’s representative Tom Connolly of TC3 Architects introduced Myra Mesko, Owner/Applicant; Kent Willis, Attorney; Dede Dighero’tuso, Broadstroke Design; and Greg Hess, Contractor. Mr. Connolly addressed the restrooms, egress to alley, transformers, windows, and drainage and explained the existing meter locations. Mr. Connolly stated that the bulk plane encroachment is the guardrail for the roof deck and they can replace this with a metal guardrail if desired. Connolly discussed that in regards to the design issues of compatibility – they found diversity, funky to be compatible and the townhome/condo units are towards the back and are compatible with designs, eclecticism of Main St. Exterior materials and solar panels were discussed as was landscaping and the courtyard. The guardrail gives the appearance of a roof which was the intent. Connolly noted that the desired use for the residential units is Short Term Rentals (STR).

Kent Willis, Applicant’s Attorney addressed the commission regarding how the project meets the economy section of the Community Plan stating that there are only three businesses that will be lost on the east side and STR residential use will be shopping, eating up and down Main St. – and they view this as not an economic loss but an economic gain. Currently the use is determined to be STR, they’re not really looking at long term rentals for this property. Mr. Willis explained that Frisco Main St. does not have a lot of uniformity, there is huge diversity; it is unique and funky. Mr. Willis reminded everyone that this is, in fact, use by right. The units front the interior space of the property. The Dumpster Agreement was drafted and Frisco Hotel has signed the agreement and they will incorporate the town attorney’s comments and record the document.

Connolly followed-up by stating that the money maker for town is Summit Boulevard. The character is Main Street. Connolly mentioned other uses that are permitted in the Central Core including hotel. Connolly asked that the commission recognize the economic impact.

Commission questions for the Applicant included:

- Please describe in detail how the courtyard is changing. Connolly responded saying the courtyard is two feet narrower. Commissioner Lesmes noted that it appears five feet narrower.
- Looking at the architectural panel, what is the gray on the left? Connolly replied that it was Hardy board (not metal), and the reveal will be painted gray.

- There was discussion for clarification of the code as it pertains to shed roofs. Connolly described the roof as a primary pitched roof and is not a shed roof. A Commission member stated they do not think it is in compliance.
- What is the pervious planting? Connolly responded that is was the area in front.
- Does everything drain to a central sump? Connolly replied yes and described the drainage.
- What is the occupancy limit of the residential units? Connolly responded there are 6 residents per unit based on commercial building code.
- Clarification on colors proposed. The color/material board was passed around to commissioners.
- Do you believe this plan meets the spirit of the code? Connolly responded absolutely.
- Does this meet the master plan? Connolly replied yes. Commissioner noted that he might see it differently.
- The 3rd floor deck space is only accessible by the retail space, correct? Connolly responded yes.
- Are the two 2 restrooms handicap accessible? Connolly replied yes, they have to be.
- A discrepancy in a residential unit with a bathroom on the first floor was noted. Kent responded that a bathroom is not permitted on the 1st floor because it would be called a bedroom. Connolly's response was that it is drawn in error.
- The courtyard is technically a public space? Connolly responded it is for the public to access to businesses on the property.
- Questions on existing tenant's leases. Willis responded that this was confidential information between tenant and landlord. Vinny's has a favorable long term lease and a couple of options on their lease. Buyer's Resources lease expires toward the end of the year. Other parties have inquired about leasing that space if the lease is not renewed.

Joyce Allgaier reviewed the code as it pertained to a shed roof, stating that there are examples of the roofs at the Micro units at Base Camp and acknowledge the picture in the UDC needs to be adjusted. The roof is not attached to a gable but attached to a wall of a building. The only shed roof is the one that covers the stairway. It is the same code as these other projects.

Gibson noted that with regards to on-street parking, the alley would not give parking credits. Kent added that code still provides for three on-street credits.

- Are STR units addressed in code? Gibson responded that this is not addressed in zoning.

Public comments:

- Susanne Johnston, owns property in town and is owner of Frisco Wine Merchant located at 310 Main St Unit F in Rainbow Court. Ms. Johnson stated that the basis for all of this is just because we can, should we? Ms. Johnson referenced the UDC permitting residential uses in portions of a building and stated that it has started a very necessary conversation about what is special about Frisco's Main Street and how fragile the vibrant, local, small business community is. Ms. Johnson stated frustration with the applicant's comment that the economic driver is Walmart or Whole Foods; people come to Frisco because of Main Street. Agreement that Rainbow Court needs to be refurbished but this is wrong for the community. Ms. Johnston noted that the code is being changed right now and there are petitions signed by local business owners and residents stating, "Please do something else with this development." This does not create new business opportunities, does not create jobs, does not create affordable housing and does not do anything that will encourage locals to spend money on Main St. Ms. Johnson noted the Community Master Plan being updated is all over the Town's webpage and community involvement is encouraged because it is an important document. Ms. Johnston noted that most of the businesses in this town on Main Street have been in business for more than ten years. This is going to lose businesses. Johnston proposed other ideas for this space and that there are

so many cool things that can be done with this property. Ms. Johnston reiterated that “just because we can, should we”?

- Kelly Lecklitner, owner of Fine Fresh and Funky located at 310 Main St. Unit C&D in Rainbow Court stated that her business is very small so she has the pleasure of greeting and speaking with everyone who walks in the door and hears that the people coming to Frisco come here to experience something that they don't get anywhere else. Ms. Lecklitner noted that she believes that Frisco Main Street is the driving force behind Frisco's economy; they don't come here for Walmart, Target, etc. Ms. Lecklitner requested the Commission think about the real reason we all moved here, the real reason why people come here and bring their families and what a development like this might do to Frisco Main Street and to the small retailers here and to the people that have lived here and raised their families here and are trying to thrive here in Frisco and Summit County.
- Mary Elaine Moore, owner, Stork and Bear Co. and Around the World Toys, 610 E Main St. Ms. Moore noted that she opened in 1986 and has seen a lot of changes on Main Street including a lot of turnover in the old years. Now we have a good ten years of solid locally owned businesses that have continued to thrive and very little turnover. Believes that visitors and locals come here for what we've established and maintained. During the idea session of community plan outreach, the Town saw what people want, why they would like to be in Frisco – our Main Street restaurants, outdoor activities, historical aspects. People don't come here to ski every day anymore. People are skiing less and shopping more and that is showing in our sales tax throughout the county. Looking at what the Master Plan is and all the efforts that the Frisco Town Council has been doing over the past few months, why are we not continuing that same thought and holding our ground until we can really meet the needs and continue to grow in the way that the public is coming here and supporting us.

COMMISSIONER STABILE ESTABLISHED THERE WERE NO OTHER PUBLIC COMMENTS. COMMISSIONER LESMES REQUESTED A BREAK. COMMISSIONER STABILE BROKE AT 6:28 P.M. MEETING RESUMED AT 6:33 P.M.

Allgaier commented that the UDC does not discuss occupancy in the code; however, we now have STR ordinance that discusses occupancy.

- Is there anything that we can do to protect the existing businesses? Gibson responded that is a Landlord/tenant issue and is not addressed in Code.

Commissioner discussion included:

- Commissioners discussed the Community Plan and if the project encouraged economic growth and was compatible to Main Street.
- Commissioners stated that they did not believe this encourages economic growth and the project is not compatible with Main Street due to residential proposed on the ground floor.
- Commissioners noted that they thought this project takes away from Main Street which is the heart of the community.
- The Commission agreed that the entire buildings fronts on Main Street and so the residential units are a portion fronting Main Street and not in compliance with the UDC.
- Commissioners discussed the purpose statement of the Central Core District and noted residential is listed last.
- Commissioners agreed that they were not against residential on Main Street but they did not find it compatible on the ground floor.
- Commissioners discussed the short term rentals and their concerns over parking problems and no concierge service monitoring compliance with regulations.

- Commissioners agreed that the project is not in conformance with the community plan.
- Commissioners stated that the project is not compatible with the adjacent properties.

Community Development Director Joyce Allgaier informed the Commission that they could use the Community Plan in their findings; it is a guiding document but recommend that the Commission does not base their decision 100% on the Community Plan. Allgaier noted that the Commission should review the findings in the staff report and note if they find differently. Staff can amend based on the Commission’s finding and bring back to the Commission for a vote at the next meeting.

The Planning Commission began making revised findings from the Staff Report including:

- The proposed site plan application is not in general conformance with the principals and policies of the Frisco Community Plan, specifically: Art and Culture #2, Built Environment #3, Economy #2, Economy #3, Housing #1, and Housing #2 because the project does not enhance the cohesiveness of the community and associated criteria related to the built environment, community services, and housing.
- The proposed site plan application is not in general conformance with the Town of Frisco Unified Development Code, specifically Section 180-3.11, Central Core (CC) District, since it does not support the purpose of the Central Core District.
- The proposed site plan application is not in general compliance with the Town of Frisco Unified Development Code, specifically Section 180-5.2.8, Residential Uses in Central Core since the entire building and courtyard front on Main Street and therefore residential uses on the ground floor are proposed to be located in those portions of a building that front along Main Street.
- The proposed site plan application is not in general compliance with the Town of Frisco Unified Development Code, specifically Section 180-6.21, Non-Residential Development Standards because it is not compatible with the neighborhood.

Connolly requested he interject. Commissioner Stabile granted his request. Connolly stated that he would like to take all things said by Commissioners and come up with amendments to the application. Further, he stated that the Applicant does not want to withdraw or pull the application but continue it at a date certain, April 18, 2019.

WITH RESPECT TO FILE NO. 238-18-MAJ, COMMISSIONER FRANKEN MOVED THAT THE REQUEST FOR A MAJOR SITE PLAN APPLICATION FOR THE PROPOSED RAINBOW COURT EAST BUILDING, LOCATED AT 310 EAST MAIN STREET / TR 5-78, LOTS 3-5, BLOCK 9, FRISCO TOWNSITE BE CONTINUED TO DATE CERTAIN APRIL 18, 2019 AT THE REQUEST OF APPLICANT TO MAKE SOME REVISIONS BASED ON OUR COMMENTS TODAY.

SECONDED BY COMMISSIONER LEDERER.

Vote:

FRANKEN	YEA
HELD	YEA
LEDERER	YEA
LESMES	YEA
SKUPIEN	YEA
STABILE	YEA
WITHROW	YEA

MOTION CARRIED

Commissioner Stabile noted that the other item on the Agenda, had been cancelled – Planning File No. 062-18-MAJ.

Staff and Commissioner Updates:

Allgaier mentioned that the code amendments submitted by Planning Commission are going before the Town Council Tuesday, March 26th and they will be having a work session discussion with the town council about the historic overlay provisions. At the next Planning Commission meeting Staff would like to talk about the Community Plan.

Rob Philippe's letter regarding parking at the Mary Ruth property had been emailed previously and copies distributed to commissioners. The Town of Frisco is the owner of the Mary Ruth property and as such, has contacted the tenants of Mary Ruth to address what the lease says, what is appropriate and what's not. They've been asked to abide by those rules.

Commissioner Skupien asked if Foote's Rest is moving the 5 employee residential rooms off-site? Allgaier responded that Foote's Rest will have to come back and request that.

Adjournment:

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

Respectfully submitted,

Cheryl Mattka
Community Development Department