



TOWN OF JACKSON TOWN COUNCIL AGENDA DOCUMENTATION

PREPARATION DATE: SEPTEMBER 13, 2018
MEETING DATE: SEPTEMBER 17, 2018

SUBMITTING DEPARTMENT: PLANNING
DEPARTMENT DIRECTOR: TYLER SINCLAIR
PRESENTER: BRENDAN CONBOY

SUBJECT: **ITEM P18-205 & 206:** MINOR AMENDMENTS TO THE HIDDEN HOLLOW PLANNED UNIT DEVELOPMENT MASTER PLAN AND A DEVELOPMENT PLAN FOR PHASE 2 OF THE HIDDEN HOLLOW PUD TO ALLOW TWELVE TOWNHOMES AND TWO MULTIFAMILY BUILDINGS CONTAINING 83 TOTAL UNITS

APPLICANT: HANSEN & HANSEN, LLP

[STAFF NOTE: This staff report is for the continuation of the Council's meeting on September 4th, 2018, on these items. The applicant submitted a memorandum on September 10, 2018, (attached to this report) detailing affordable and workforce housing requirements and allowed uses within the Hidden Hollow Planned Unit Development as detailed in the Master Plan. The memorandum also records the applicant's proposal to the Town to voluntarily deed restrict an additional 6 affordable one-bedroom rental units and 14 workforce rental units beyond what is required, for a total of 73 deed restricted units. This staff report is largely unchanged from the previous staff report and the Planning Director's recommendation of approval remains the same, however changes and additions have been made to the sections labeled below in response to the proposed additional affordable and workforce rental units:

- Voluntary Affordable and Workforce Housing (section added to report, page 15)
- Recommendations/ Conditions of Approval
- Suggested Motions

Only minor changes have been made to other sections for consistency and clarity.]

REQUESTED ACTION

The applicant is requesting approval of two Minor Amendments to the Hidden Hollow Planned Unit Development Master Plan to consolidate and expedite the Phasing Plan and to amend the Housing Section to allow the multifamily housing units to be ownership or rental. In addition, the applicant is requesting approval of a Development Plan for physical development to allow the construction of twelve townhomes and two multifamily buildings containing 83 total units for the Hidden Hollow Planned Unit Development for the property located at 301 Hidden Hollow Drive, legally known as Hidden Hollow First Addition to the Town of Jackson.

APPLICABLE REGULATIONS

Section 2.3.4 Planned Unit Development

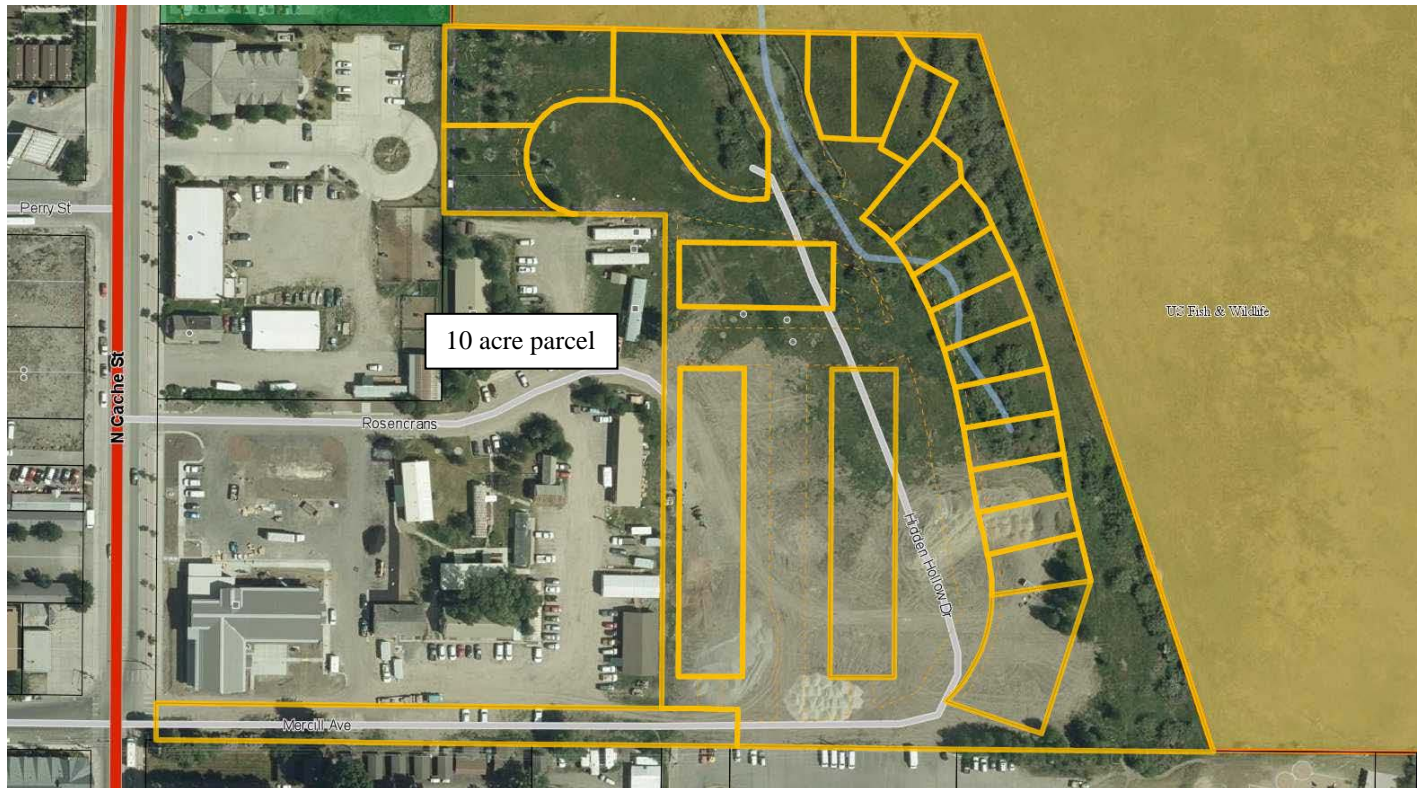
Section 7.4.2.D.13 Exemptions – Apartment Building (Deleted)

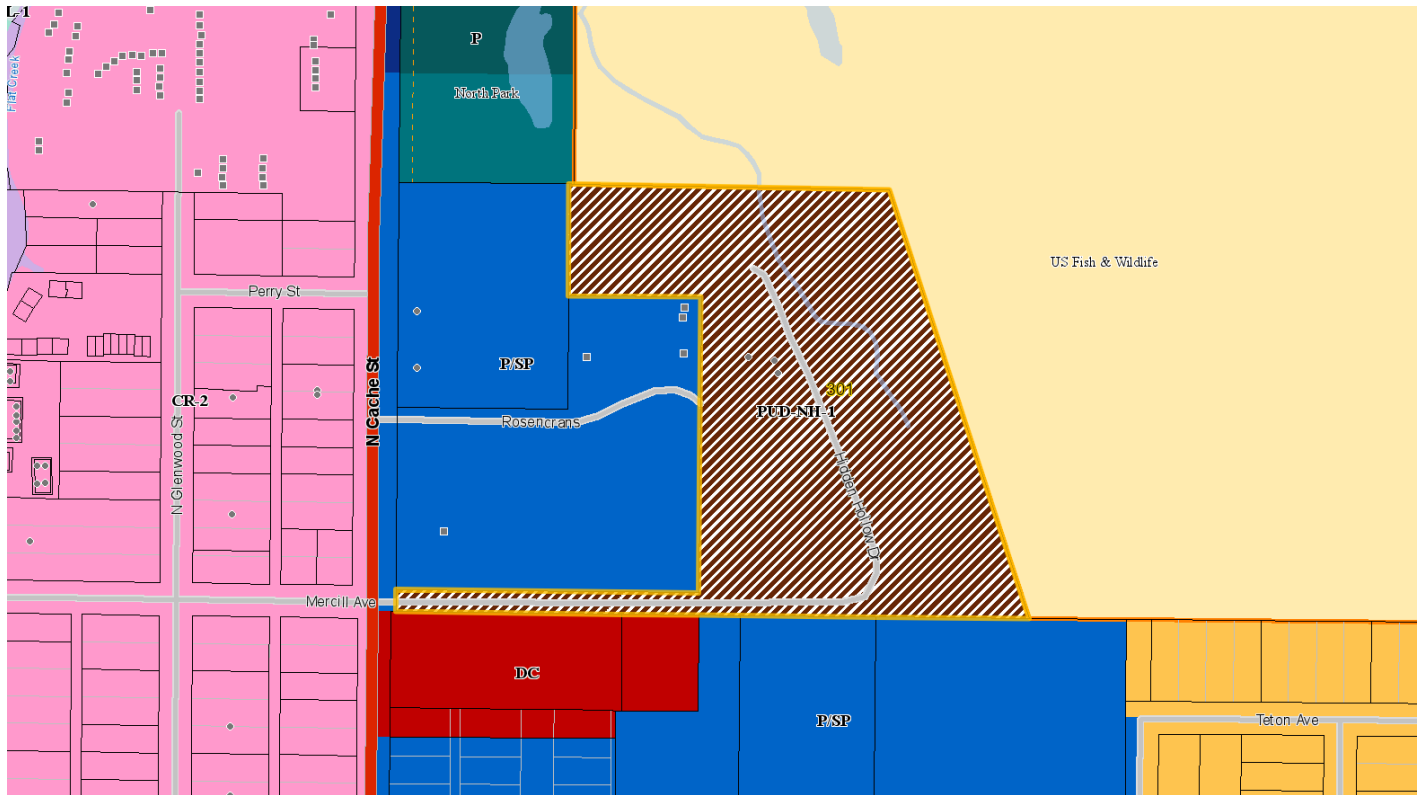
Section 1.5.B of HHPUD Master Plan Minor Amendments

Section 8.3.2 Development Plan

LOCATION

The property is located at 301 Hidden Hollow Drive, legally known as HIDDEN HOLLOW FIRST ADDITION to the Town of Jackson. An aerial photo and zoning map are shown below:





BACKGROUND

The subject property is 10 acres (approximately 435,600 square feet) previously owned by the United States Forest Service and sold to the current owner Hansen & Hansen LLP in 2015.

The Town of Jackson and Teton County approved a Comprehensive Plan amendment in July of 2014 to reclassify the 10-acre subject site from Character District 2 – Town Commercial Core, Subarea 2.4 – Public/Civic Campus to Character District 3 – Town Residential Core and Subarea 3.2 – Core Residential. Subarea 3.2 is a transitional subarea intended for high-density residential development, including multi-family development on larger lots.

In 2015, Town Council approved a rezone of the property from Public/Semi-Public (P/SP) to Rural (R) as required by the Land Development Regulations when land transfers from a Public to Private entity, then subsequently from Rural (R) to Urban Residential (UR). More recently, the parcel was zoned Neighborhood High Density – One (NH-1) as part of the Districts 3-6 zoning updates. Historically the site has been used for a variety of Forest Service uses including storage, employee housing and light industry, though the site is vacant now and construction of the Hidden Hollow development has commenced.

The subject property is currently zoned PUD-NH-1 (Neighborhood High Density - One - Planned Unit Development). On November 14th, 2016, Town Council voted to approve P16-079 & P16-080 Sketch Plan and PUD. In addition, on February 6th, 2017, Town Council approved required Ordinance 1167 and Ordinance 1168 for the associated Planned Unit Development establishing the Master Plan for the development. Future Development Plans shall be reviewed for compliance first with the approved Master Plan for Hidden Hollow and where the Master Plan is silent for compliance with the Town Land Development Regulations. The applicant's approved Sketch Plan and PUD consists of 13 detached single

family units, 20 attached single family units (townhomes) and 135 attached single family units (condominiums) or apartments within 5 buildings.

On May 15th, 2017, Town Council voted to approve P17-036 Development Plan, for Phase 1A for infrastructure on the site, which contained the following horizontal infrastructure:

- Sewer
- Storm Sewer
- Public and Private Roadways
- Water
- Pathways and Sidewalks
- Wetland Mitigation
- Private Utilities, including gas, cable, etc.

On June 5, 2017, Town Council approved the Development Agreement for the Hidden Hollow Phase 1A Development Plan to allow for physical development and the construction of infrastructure for the Hidden Hollow PUD. Since that time the applicant has executed the Development Agreement and provided the necessary bonding to the Town. A Grading and Erosion Control Permit B17-0378 was approved on August 7, 2017, to begin infrastructure work on the site.

On July 17, 2017, Town Council voted to approve P17-093 Development Plan, for Phase 1B which contained the following:

- Eight Townhome Units (Units 1-3, Units 16-20)
- Multifamily Building 4/5

Although the thirteen detached single family lots were part of Phase 1B, they were not required to complete a Development Plan per the PUD Master Plan. The applicant was approved for Building Permit B17-0622 on May 11, 2018, to construct multifamily building 4/5. The eight townhomes and thirteen single family units were not part of that building permit approval and will require a separate building permit application.

On June 13, 2018, the applicant completed a Pre-Application Conference for this application for the Minor Amendments and Development Plan.

On June 18, 2018, Town Council voted to approve a Subdivision Plat P18-072, Hidden Hollow First Addition. The Plat was recorded on July 26, 2018.

[PROJECT DESCRIPTION](#)

The applicant's approved Sketch Plan and PUD consists of 13 detached single family units, 20 attached single family units (townhomes) and 135 attached single family units (condominiums) or apartments within 5 buildings, for a total of 168 units. Since Sketch Plan and PUD approval, the applicant has redesigned the multifamily buildings to join Building 2 and 3 and Building 4 and 5 which has resulted in 3 additional units located on the first and second floors where the buildings connect, for a total of 171 units in the entire development. The proposed application for Phase 2 as amended contains twelve townhomes (Units 4-15), and two multifamily buildings (Building 1 and Building 2/3) containing 83 total units.

A summary of the approved PUD Master Plan dimensional limitations are shown below:

	PUD: Allowed/Required	Sketch Plan Proposal	Phase 1B and Phase 2 as proposed	Complies?
FAR	65% or 283,140 SF	49% or 203,029 SF*	62% or 269,056 SF	Yes
LSR	30% or 123,754 SF	44% or 182,278 SF	TBD at Building Permit	Yes
Plant Units	1 per unit & 1 per 12 parking spaces.	176 units	178 units	Yes
Maximum Lot Coverage	50% or 206,257 SF	23% or 94,778 SF	TBD at Building Permit	Yes
Minimum Lot Size	15,000 SF	9.46 acres	9.46 acres	Yes
Height	35' & 48'	Up to 48'	Up to 48'	Yes
Density	No limit	16.8 units per acre	17.1 units per acre	Yes
Parking	Area A and B: 2/DU Area C: 1 bed = 1 space 2 & 3 bed = 2 spaces (309 spaces required)	390 spaces**	353 spaces	Yes
Front Yard Setback	Flexible	12'	12'	Yes
Rear Yard Setback	Flexible	10'	10'	Yes
Side Yard Setback	Flexible	5'	5'	Yes

* The Sketch Plan FAR proposal had yet to determine what the floor area of the 4th floor bonus workforce housing units would be and were thus not included in the calculated FAR at that time.

**Sketch Plan anticipated a .25 guest parking space requirement per multi family unit which has since been done away with and replaced with a parking management plan. See parking section discussion in Staff Analysis below.

Minor Amendments to the HHPUD Master Plan

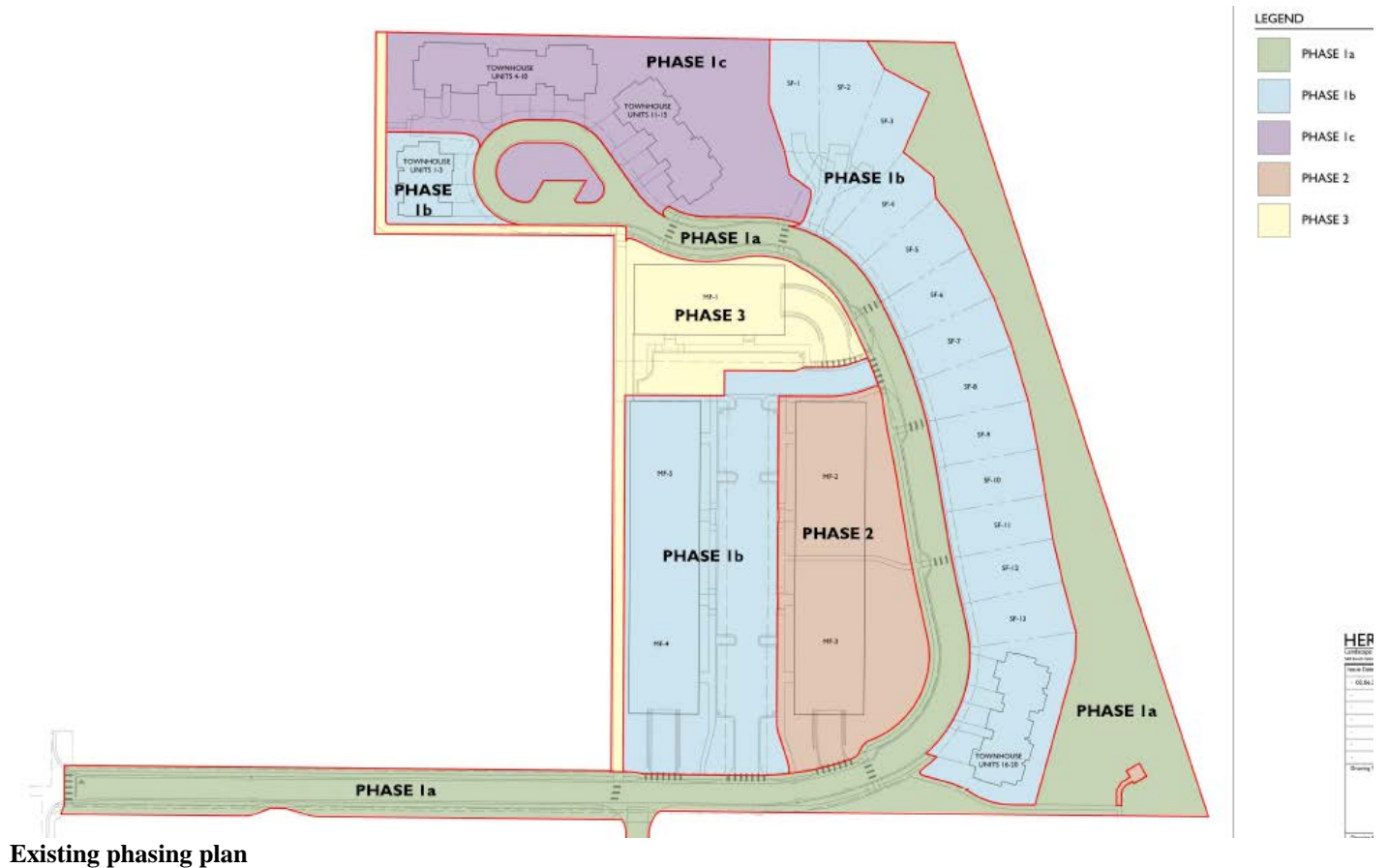
The means by which minor amendments are made to the Master Plan are spelled out in Section 1.5.B of the HHPUD Master Plan which contains a series of findings separate from the LDRs. Per the HHPUD Master Plan, Minor Amendments may be approved by the Planning Director pursuant to the procedures set forth in Section 8.5.2 Development Option Plan of the LDRs. The Planning Director has elected to elevate the threshold for review and approval of the Minor Amendments to the Master Plan to a public hearing before the Planning Commission and Town Council pursuant to Section 8.2.9. Planning Director and Town Engineer Decisions:

C. If an application that would generally be subject to a decision by a Town official will have significant local and community impacts that warrant public review, the Town official may require the application be reviewed by the appropriate advisory bodies and decided upon by the appropriate decision-making body.

Phasing Plan: The applicant is proposing to amend the Phasing Plan to combine the remaining phases: Phase 1C (Townhomes 4-15), Phase 2 (Multifamily Building 2/3), and Phase 3 (Multifamily Building 1) into one

final phase, “Phase 2”. The intention of accelerating the phasing plan is to respond to the community’s needs by delivering more units faster than previously anticipated by consolidating all of the remaining phases of the development with the goal of completing them in five years or less where the development was previously expected to take 5-7 years. Per the Master Plan, “Any and all revisions, amendments, and updates to the Phasing Plan” is explicitly listed as a Minor Amendment under Section 1.5.B, and as such would typically be dealt with administratively with a decision by the Planning Director. However, given that the purpose of the HHPUD Phasing Plan is to ensure that when free market development occurs that generates affordable housing or other development standard requirements, adequate assurances are provided by the Developer to ensure that these requirements have been, or will be, met, and since the Development Plan as proposed relies on the change, Staff has determined that the proposed amendment should still be decided by Council.

The existing approved Phasing Plan is indicated on the exhibit on the following page followed by the proposed Phasing Plan for this application:



Development Plan – Phase 2

The applicant is proposing to construct the remaining three of the five multi-family buildings approved as part of the Sketch Plan. Building 1 remains as approved at Sketch Plan, while Building 2/3 has been joined into one building which mirrors what was approved for Building 4/5 at Development Plan for Phase 1B.

Building 2/3: This structure resembles Building 4/5 with a connected underground parking garage with 59 spaces (included with Sketch Plan) and is connected on the second and third levels. The fourth level remains unconnected. The total building will include 55 units and a total floor area of 67,101 SF. This includes 12 (1)-bedroom units at 642 SF each, 31 (2)-bedroom units at 979 SF each, and 12 (3)-bedroom units at 1,166 SF each.

Building 1: This structure is smaller than Buildings 2/3 and 4/5 as it remains a single building as was approved at Sketch Plan. Building 1 has 28 units, and a total floor area of 25,838 SF. This includes 8 (1)-bedroom units at 642 SF each, 14 (2)-bedroom units at 979 SF each, and 8 (3)-bedroom units at 1,166 SF each. The building will have 30 below grade parking spaces with ingress and egress at both sides of the parking garage structure.

Of the 83 units in both proposed buildings, 27 will be Workforce Housing Units required to meet the 4th Floor (48') height allowance, the remaining 56 units will be market units. Pursuant to the approved Housing Mitigation Plan the applicant will locate all of the required affordable housing units to mitigate for the townhomes and detached single-family units in building 4/5. Please see the Staff Analysis section below regarding the applicant's proposal to amend the Housing Mitigation Plan for the affordable housing mitigation requirements. Storage is provided in each unit, with an additional 27 SF per unit within the garage in front of each unit's parking space. Additional storage areas are built into the common and corridor areas within the buildings, and will be assigned to residents. The required 146 parking spaces will be provided in both the underground parking area and the adjacent surface lot. The overall height of the structures will be 48'. Building materials include a mixture of vertical and horizontal wood siding, corten steel, and stone.

Area C (multi-family Buildings 1, 2/3, 4/5) exceeds the Floor Area Ratio for that Area by 6,641 SF. The maximum FAR in Area C is 160,000 SF and the applicant is proposing 166,641 SF. However, the dimensional limitations in the HHPUD Master Plan allow for limitations within each Area to shift to another Area as long as the limitations within the overall PUD are not exceeded. Under Sec 1.5.B. Minor Amendments:

3. Transfer of development rights from one Area of the HHPUD to another Area if such transfer does not include an increase in the overall density of the HHPUD.

The maximum FAR for the entire PUD is 283,140 SF and the total proposed FAR for the PUD is 269,056 SF which complies, therefore Staff is recommending as a condition of approval that the applicant submit an additional application for a Minor Amendment to transfer the additional 6,641 SF from Area B/Area D to Area C.

The applicant is proposing in the Housing Mitigation Plan for this phase that all proposed multifamily units be rentals and thus no Affordable housing requirements would apply. Staff notes that included in this request is an amendment to the Housing Mitigation Plan for Building 4/5 approved as Development Plan P17-093 to allow the switch from ownership to rentals.

Townhomes

The proposed remaining 12 townhomes (Units 4-15, formerly Phase 1C) are located in the northern portion of the site and are consistent with the approved Sketch Plan. The total floor area of the townhomes built for this phase is 9,707 SF. All townhomes will be market rate as approved with the Sketch Plan and range from 1,524 SF to 2,394 SF including both two and three bedroom units. Each unit will include a one car garage and one additional space on the adjacent driveway with on street parking in some areas. The proposed height of the structures range from 28' to 35'. Building materials include a mixture of vertical and horizontal wood siding, corten steel, and stone.

Detached Single-Family

The 13 detached single-family homes do not require Development Plan approval per the HHPUD Master Plan and thus were not included in Phase 1B or in this application. Building permit approval is required for the detached single-family homes, however.

All proposed building types will be able to be connected to the geo-thermal heating system being installed as part of Phase 1A of the development.

STAFF ANALYSIS

Staff's analysis of the proposed Amendments and Development Plan will be for compliance with the approved Hidden Hollow Planned Unit Development Master Plan and Sketch Plan. Where the Master Plan is silent the application shall be subject to the Land Development Regulations. The applicant's two requested minor amendments to the Hidden Hollow Planned Unit Development Master Plan have been elevated to Town Council by the Planning Director pursuant to Section 8.2.9 of the Land Development Regulations.

Minor Amendments

Phasing Plan: Staff finds that the proposed amendment to the Phasing Plan to accelerate development and get units built faster is an acceptable and welcome request to the Town of Jackson. The addition of 171 multifamily, townhome, and detached single family units to the housing stock is a net positive for the Town and the sooner the Hidden Hollow development can be built, the sooner the development will have an effect on the acute housing shortage in the region. Staff has reviewed the proposed Development Plan application against the proposed Phasing Plan shown above and found it to comply.

Housing Section: The applicant is requesting that Town Council approve a Minor Amendment to the HHPUD Master Plan in order to allow for all the multi-family units in Area C to be either attached single family units (condominiums) or rental apartment units. As a justification for the request the applicant notes that the change from ownership to rental will considerably benefit the community by increasing the supply of rentals available in the Downtown Core of the Town of Jackson. A change to all rental would provide an additional 65 free market units that could potentially be rented by members of the local workforce (though without workforce deed restrictions) that would otherwise be free market units that could be sold to second homeowners under the current ownership model. As a result of this change the previously approved Housing section of the Master Plan is proposed to be amended to include the Apartment exemption pursuant to Section 7.4.2.D.13 which will affect the Affordable Housing requirement but not the Workforce Housing requirement.

Affordable Housing Requirement

The two affordable housing requirements, one for rentals and one for ownership, is provided below:

	Approved	Proposed	Current Ownership Affordable Housing Requirement in persons	Proposed Rental Affordable Housing Requirement in persons
Single Family	13	13	7.8	7.8
Townhome	20	20	10.65	10.65
Multifamily				
- Condominiums - approved	138	0	42.55	0
- Apartments – proposed	0	138	0	0
Total	171	171	61	18.45

In either proposal the Affordable Housing requirement would be distributed evenly between Income Categories 1, 2, and 3. The applicant has not provided a breakout of Categories 1, 2, and 3 as part of this application.

The applicant has submitted a series of memos from the Wylie Baker Law firm which contends that the HHPUD Master Plan is silent as to the phasing and affordable housing mitigation requirements necessary if the multi-family buildings are utilized as Apartments as opposed to ownership Condominium Units (which the Master Plan is not silent on in regards to Section 2.3.C). The applicant states that because the HHPUD Master Plan is silent regarding the affordable housing mitigation requirements for Apartments, and because Section 1.4.A of the HHPUD Master Plan states that where the Master Plan is silent the LDRs applicable at the time a determination or interpretation is requested shall apply, that therefore the applicant may apply the apartment building exemption of Subsection 7.4.2.D.13 to exempt Apartments in Area C from affordable housing mitigation standards. Section 7.4.2.D.13 states:

D. Exemptions.

13. Apartment Building. An apartment building meeting the following standards is exempt from the standards of this Division.

- a. The apartment shall have 20 or more units.*
- b. No apartment shall exceed the maximum habitable floor area established below, except that a 10% adjustment may be approved.*
 - i. Studio: 450 SF*
 - ii. 1 bedroom: 675 SF*
 - iii. 2 bedroom: 975 SF*
 - iv. 3 bedroom: 1,175 SF*
 - v. Each additional bedroom: 200SF*
- c. By January 31 of each year following the issuance of a certificate of occupancy of the building, the owner of the apartment building shall provide the Housing Director with a report containing demographic information required by the Town that can be legally obtained and shared by the owner, including but not limited to:*

- i. Average rent charged by unit type;
 - ii. Average number of tenants by unit type; and
 - iii. Percentage of tenants employed in Teton County
- d. *If any apartment in the building is approved for another use (e.g. condominiumization to attached single family use or approval of short-term rental use) this exemption shall be voided for the entire building. At the time of such approval, the standards of this Division shall be applied to all previously exempted units as though they were being newly developed.*
- e. *This exemption shall expire May 15, 2022*

Staff notes that the applicant meets the requirements of Sec. 7.4.2.D.13 and the Planning Director approves of a slight adjustment (within the 10% range of *Subsection b.*) for the 2-Bedroom units which are just barely over the size requirement by 4 SF. In addition, staff notes that there is a potential complication for the applicant with *Subsection d.*, that if any apartment changes use to become a condominium, then the exemption is voided for the entire building. At such time that any attached single unit is converted to a condominium, which the applicant is proposing to have the flexibility to do, they would be required to provide the required affordable housing mitigation they are currently subject to under Div 7.4. The way the *Subsection d.* is worded it is on an individual building basis, however it is Staff's opinion that this requirement would apply to all of the multi-family buildings should any apartment change to an attached single family (condominium) unit. As a condition of approval, staff is recommending that a revision to the Housing Mitigation Plan shall be required to convert back to condos from rental and shall be decided by Town Council. In this sense, the housing mitigation requirement does not actually go away, instead its implementation is delayed based upon whether the multi-family buildings in Hidden Hollow are a rental or ownership product.

Staff notes that should the proposed Housing Section amendment be approved the applicant will be required to amend the Master Plan to reflect said changes including but not limited to Section 2.3.C Affordable and Workforce Housing Standards, Section 1.3.B.3 Phasing Requirements and Attachment 4 as described in the applicant's submission.

Town Council and the Planning Commission discussed and approved the Apartment Exemption Section 7.4.2.D.13 in 2017. As noted below, Planning Department staff was supportive of the exemption and Housing Department staff was not. This differing perspective on the issue continues to be reflected in the review of the proposed application with planning staff supporting the use of the apartment exemption while housing staff does not. Staff has provided below portions of the Staff Reports from this amendment outlining staff's analysis of this topic for consideration. In addition staff has attached the three staff reports related to this issue from 2017.

Staff supports exempting apartment buildings from the deed restriction requirements of Section 7.4.2 as long as "apartment building" is better defined in the context of the exemption in order to support the applicant's assertion that apartments are inherently occupied by the workforce. Staff agrees with the applicant's assertion that units in apartment buildings are overwhelmingly occupied by the workforce and that a deed restriction is not required to ensure such occupancy. Removing the affordable deed restriction requirement will mean that the units in the apartment building are not necessarily affordable, but it will enable the apartment building to be built. Market-rate apartments are a unit type that is needed to meet community housing goals, and the proposed exemption is the type of "removal of barriers" that the Comprehensive Plan and Housing Action Plan envision will make development of workforce housing easier. Additionally, clearly stating this exemption will avoid the type of PUD by PUD discussion that has been a part of recent apartment building applications.

Do market-rate apartments provide workforce housing without a deed restriction?

The primary issue with this application is evaluation of the applicant's rationale: that apartments in an apartment building are inherently occupied by the workforce and therefore should be exempt from affordable deed restriction requirements.

The Housing Department provided the rental price information in the table to the right. Grove rental prices meet the LDR definition of affordable and are targeted primarily at households making 80% of median income or less. Blair Place and Jackson Hole Apartment rates represent two examples of market rental rates for units in apartment buildings.

	<i>Blair Place</i>	<i>JH Apartments</i>	<i>Grove</i>
<i>Studio</i>	\$ 1,489	\$ 1,475	-
<i>1 Bed</i>	-	\$ 1,700	\$ 1,125 – 1,175
<i>2 Bed</i>	\$ 1,878	-	\$ 1,225 – 1,275
<i>3 Bed</i>	\$ 2,400	\$ 2,850	\$ 1,375 – 1,425

Market-rate rentals are not necessarily affordable, although the market rates at Blair and JH Apartments approximately equate to an affordable rent for a household making 120% of median income (Category III). If there were more, newer rental apartments on the market, rents might drop, but it cannot be assured that market apartments meet the definition of affordable.

However, the applicant's contention is that apartments are inherently occupied by the workforce and that Section 7.4.2 includes exemptions for other unit types (Accessory Residential Units and Live/Work Units) because they are inherently occupied by the workforce, regardless of their market affordability.

The Housing Department challenges the applicant's assertion, stating in its comments:

The applicant is proposing a text amendment to exempt apartments and multi-family buildings from having a housing requirement. They indicate that apartments, "by their nature are workforce housing". This may or may not be true depending on the type, design, location, and size of the apartment. At the very least, a text amendment exempting apartments or multi-family buildings should include a definition of the type, design, location, and size of the units that are allowed an exemption.

However, without some type of recorded covenant, there is never a guarantee that apartments will always or forever be used as workforce housing. For instance, there could be cases where individuals from out of town wish to rent long term so that they have a place for their family to stay on weekend ski trips or for non-local businesses to use for business trips. This has been seen in our community as well as other communities.

The Housing Department recommends that if an apartment or multi-family complex wishes to be exempt from a housing requirement, there should be a covenant recorded on the property requiring the tenants to be employed at least an average of 30 hours per week at a local business. This covenant will also serve to alert the public of the requirement in case the apartments are ever sold to a new owner.

Staff agrees with the Housing Department that the only way to ensure workforce occupancy is to require workforce occupancy, however staff does not recommend such a requirement in this case. Exempting one deed restriction but requiring another does not achieve the Comprehensive Plan and Housing Action Plan goal of "removing barriers" to the construction of workforce housing. Staff is confident that the vast majority of apartments in true apartment buildings are rented by the workforce. The Housing Action Plan also finds that there is a need for rental units at all income levels, and identifies "Rental Zoning" as an appropriate tool for the provision of higher income rental product. Removal of barriers is a theme of the Housing Action Plan. Mitigation requirements only produce units when projects are built; 20% of project that is not built

equals 0 affordable units. While apartments do not necessarily meet the LDR definition of affordable, they are part of the workforce housing solution not a part of the workforce housing problem.

The Housing Department has recommended denial of the proposed Minor Amendment to allow for use of the Apartment exemption. The Housing Department has provided the following comments:

“If the amendment to the Master Plan is approved, the development will create 84 market rentals with only 9 restricted Affordable rental units to mitigate for the townhomes and single family lots. The amendment will not affect the 45 workforce housing units; they will remain the same because they are a requirement of the 48' height allowance.

Implications of this change are as follows:

- Current requirement: 45 Workforce ownership units, 9 Affordable ownership units in each of the following income ranges: <80%, 80-100%, and 100-120% for a total of 27 Affordable ownership units. Total of 72 restricted units.*
- Proposed requirement: 45 Workforce rental units, 3 Affordable rental units in each of the following income ranges: <80%, 80-100%, 100-120% for a total of 9 Affordable rental units*. Total of 54 restricted units.*

According to the Housing Department's Intake Form data collected January-June 2018: 55% or 292 households seeking housing through Housing Department programs earn less than 80% of median income, 17% earn 80-100% of median income. 16% earn 100-120% of median income, and 12% earn more than 120% of median income.

The proposed change from ownership to rental will diminish the number of units guaranteed to serve households earning <120% of median income by 66% (27 Affordable units to 9 Affordable units). Twelve units guaranteed to serve households earning less than 100% of median income will be lost.

There is no requirement that the market rental units provide housing for the workforce and the rents charged will be market rates, which are generally affordable to households earning over 100% of median income.

52% of households in Teton County earn less than 80% of median income; 55% of all households seeking housing through the Housing Department programs earn less than 80% of median income.

The Housing Department recommends denial of this amendment to the Master Plan for Hidden Hollow.”

**Staff notes that the applicant's Rental Housing Mitigation sheet proposes a total of 8 units, not 9 units as the Housing Department states in the above comments. At the September 4, 2018 Town Council meeting the applicant proposed to voluntarily deed restrict an additional 6 affordable rental units and 14 workforce units. See the added section Voluntary Affordable and Workforce Housing below for staff's analysis.*

Workforce Housing Requirement

The applicant is required to meet two separate housing requirements. The first is the typical 25% affordable housing mitigation requirement discussed above in the proposed amendment, the second housing requirement is a result of the applicant choosing to take advantage of Section 2.3.4.E PUD-ToJ Height (removed from the UR zone) that allows the structural height to be increased to 48' with no limitation on number of levels above grade if the following standards have been met:

E. Additional Zone-specific Standards

1. *PUD-ToJ Height. For a PUD-ToJ proposed in the UR zoning district, structure height may be 48 feet provided the following criteria are met.*
 - a. *The following standards apply to the amount of additional floor area achieved through the increase in structure height; however, the actual floor area to which the following standards apply may be distributed throughout the structure.*
 - i. *It shall be deed restricted workforce, affordable, or employee housing with an occupancy restriction;*
 - ii. *It may have an employment and/or price restriction.*
 - iii. *It shall be exempt from the calculation of affordable housing required by Div. 7.4. but shall not be used to meet the affordable housing requirement for the project.*
 - b. *The project shall provide the affordable housing required by Div. 7.4. on site.*
 - c. *The site shall be at least 2 acres to provide opportunity for sufficient setback from, and building height step down to small scale development.*
 - d. *The site shall be served by transit within 1/4 mile.*
 - e. *The site shall be within 1/4 mile walking distance from numerous commercial services routinely needed by residents.*
 - f. *The additional building height shall not increase the floor area allowance or decrease the required open space.*

Staff finds that the applicant has satisfied all of the above requirements in the same manner as in the previously approved Development Plan. The required Workforce Housing will be provided as follows:

Workforce Units

The applicant is proposing to build the following 9 Workforce Housing Units in Building 1:

- 2, 1-bedroom
- 5, 2-bedroom
- 2, 3-bedroom

The applicant is proposing to build the following 18 Workforce Housing Units in Building 2/3:

- 4, 1-bedroom
- 10, 2-bedroom
- 4, 3-bedroom

This is a total of 9 units consisting of 8,607 SF in Building 1 and 18 units consisting of 17,214 square feet in Building 2/3, which meets the requirement to mitigate for the fourth story.

The applicant has proposed two types of workforce housing restrictions: Workforce Rental and Workforce Ownership should the owner wish to revert back to ownership. All workforce restricted units require that at least one occupant of the unit maintain an average of 30 hours per week employment on an annual basis, from a local business, and the entire household must earn at least 75% of their income from a local business. There are no income or asset limits for owners or occupants.

- The rental units may not be owner-occupied and will include a rental rate appreciation cap of 2% per year compounded annually. Lease terms must be for at least 3 months and for no longer than 3 years. Occupants may not own property within Teton County.

- The ownership units may be owner-occupied and will not have an initial sales price restriction on them, but will have an appreciation cap of 2.5% per year of ownership compounded annually. Owners may not own property within Teton County and must reside in the unit at least 10 months/year.

The workforce housing units will be rented by the applicant. This is consistent with the workforce housing restriction, however, the Housing Department will be involved to the extent of qualifying the buyer and/or the occupants of the unit depending on whether it is an ownership unit or a rental unit. Furthermore, the Housing Department will monitor the units to ensure compliance with the deed restriction.

Voluntary Affordable and Workforce Housing

At the September 4, 2018 Town Council meeting the applicant proposed to voluntarily deed restrict an additional 6 Affordable rental units and 14 Workforce units. The applicant provided a memorandum on September 10, 2018, outlining the required restricted Affordable housing mitigation and memorializing the proposal of an additional 6 one-bedroom deed restricted Affordable rental units, and 14 deed restricted Workforce rental units. This proposal is in addition to the required 8 income restricted Affordable rental units and 45 restricted Workforce housing units that the applicant must provide per the requirements of Division 7.4 Affordable Housing Standards for the townhomes and detached single family units, and Section 2.3.4.E.1 PUD-ToJ Height for the workforce housing height bonus of 48 feet. This brings the total to 14 restricted Affordable rental units, and 59 Workforce units for a total of 73 deed restricted rental units. The additional affordable units will be provided in Building 4/5 (currently under construction) as stated by the applicant at the Town Council meeting on September 4, 2018. The proposal is contrasted with the applicant's current requirement under an ownership model which results in 72 deed restricted units in the form of 27 Affordable ownership units and 45 Workforce ownership units. The current requirements and proposed changes are detailed in the chart on the following page:

	<i>Current Ownership Model: Housing Mitigation Requirements</i>	<i>Proposed Rental Model: Housing Mitigation Requirements and Proposed Voluntary Additional Units</i>
<i>Affordable Income Restricted Units</i>	<i>27 Units Required</i> <i>Category 1 (0-80% MFI): 9 Units</i> <i>Category 2 (80-100% MFI): 9 Units</i> <i>Category 3 (100-120% MFI): 9 Units</i>	<i>8 Units Required</i> <i>Category 1 (0-80% MFI): 3 Units</i> <i>Category 2 (80-100% MFI): 3 Units</i> <i>Category 3 (100-120% MFI): 2 Units</i> <i>6 Voluntary Units</i> <i>Should be split between income ranges</i> <i>0-50% MFI: 2 Units</i> <i>50-80% MFI: 2 Units</i> <i>80-120% MFI: 2 Units</i> <i>14 Total Units</i>
<i>Workforce Units</i>	<i>45 Units Required</i>	<i>45 Units Required</i> <ul style="list-style-type: none">○ <i>Includes 2% rent cap that is in the Workforce restriction that was approved with the original mitigation plan.</i> <i>14 Voluntary Units</i> <ul style="list-style-type: none">○ <i>Utilizes new Workforce restriction without rent cap</i> <i>59 Total</i>
<i>Total Deed Restricted Units</i>	<i>72 Units</i>	<i>73 Units</i>

The staff with the Housing and Planning Departments have provided the following comments related to this proposal for Council consideration:

- *“Unit Type. The applicant wishes to change the multifamily unit type from ownership to rental. According to the Workforce Housing Action Plan, Initiative 2B states that the Housing Supply Program should favor rental units over ownership units.*
- *Affordable Restriction Units. The applicant wishes to reduce the number of Affordable units provided while increasing the total number of deed-restricted units available to the public. The Workforce Housing Action Plan, Initiative 2A states that units for year-round households earning <120% of median income should be prioritized. In the mitigation plan, the applicant will provide 14 Affordable units that will serve households earning <120% of median income. This is a loss of 13 Affordable units from the approved mitigation plan. For the 6 “voluntary” Affordable units, the applicant is proposing that they all are 1-bedroom, but they are silent on the income ranges for each unit. Staff has provided a recommended condition of approval should Council accept the applicant's proposal that the 6 “voluntary” affordable units be divided equally between income ranges 0-50% MFI, 50-80% MFI, and 80-120% MFI.*
- *Workforce Restricted Units. In the proposed mitigation plan, the applicant is also proposing to provide 59 Workforce units that will serve households working full time locally and earning their*

money locally, but with no income or asset limit. This is a gain of 14 Workforce units and an overall gain of 1 deed-restricted unit. The applicant is requesting that the "voluntary" workforce units utilize the new deed restriction that removes rent caps, but that the required 45 workforce units would still be subject to the 2% rent cap.

- *Current Housing Need.* According to the most recent data from the Housing Department's Intake Form, over 50% of all households that have filled out the form earn less than 80% of median income and over 70% of all households are one or two people. While this data source is still new, it does track with the number of applicants the Housing Department sees relative to the income range and size of the unit.
- *Timing.* Under the applicants new proposal all multi-family rental units would be completed as part of next and final phase making more units available sooner. Should Council accept this proposal staff has provided a recommended condition of approval that building permits for both remaining multi-family buildings for vertical construction shall be submitted within 6 months of approval of this amendment, begin construction within 90 days of approval of the building permit and the applicant shall maintain continuous progress to completion. If these conditions are not met the issuance of building permits, inspections and Certificates of Occupancy for townhome and single family buildings may be withheld. The current phasing plan allows the applicant to complete the remaining two buildings in two additional phases with no required timeline."

The applicant has not provided a breakout of the location and unit sizes for the additional 14 workforce housing units, nor has the applicant provided the location of the Affordable one bedroom units within Building 4/5. Condition 4 for Item C requires that, "The applicant shall submit an addendum to Building Permit B17-0622 that updates the tracking worksheet for housing mitigation as well as demonstrate the changed location and integration of Affordable and Workforce units in the building". This condition covers the additional 6 Affordable units as these will be located within Building 4/5, however this does not address the location and unit sizes of the additional 14 Workforce housing units as the applicant has stated that the units will be integrated within the first and second floors of Buildings 2/3 and 4/5. As a result, staff has amended the condition to more broadly address the integration of Affordable and Workforce housing in the multifamily buildings as a whole. The revised condition now reads, "The applicant shall submit an addendum to Building Permit B17-0622 that updates the tracking worksheet for housing mitigation as well as demonstrate the changed location and unit type integration of all Affordable and Workforce units in the multifamily buildings, to be reviewed and approved by the Planning Director and the Housing Director prior to issuance of any Building Permit for Phase 2."

The Planning Director continues to recommend approval of the two requested Minor Amendments and Development Plan. The voluntary addition of 6 Affordable units and 14 Workforce housing units on the part of the applicant reinforces this opinion.

Development Plan

Site Design

Staff finds that the proposed roadways, site layout and building orientations are all consistent with the approved Sketch Plan for the project. All details of infrastructure design and roadway layout were reviewed and approved as part of the Development Plan for Phase 1A and the proposed plan incorporates all approved improvements.

Building Design

Multi-Family

The proposed buildings are in the exact location as approved in the approved Sketch Plan meeting all setback requirements. Like Building 4/5 in Phase 1B, the applicant is proposing connection of the two buildings above grade to make one building instead of two for Building 2/3. Although this will affect the overall bulk and scale of the building, staff finds the connection will bring efficiencies to the development including common elevators, parking access, common areas and interaction that is desirable. Staff finds that the openness of the elevation in the central lobby area of the structure is successful in breaking up the perceived bulk and scale. Overall staff, finds that the use of additive and subtractive massing and material selection has been successful in breaking up the overall bulk and scale of the building.

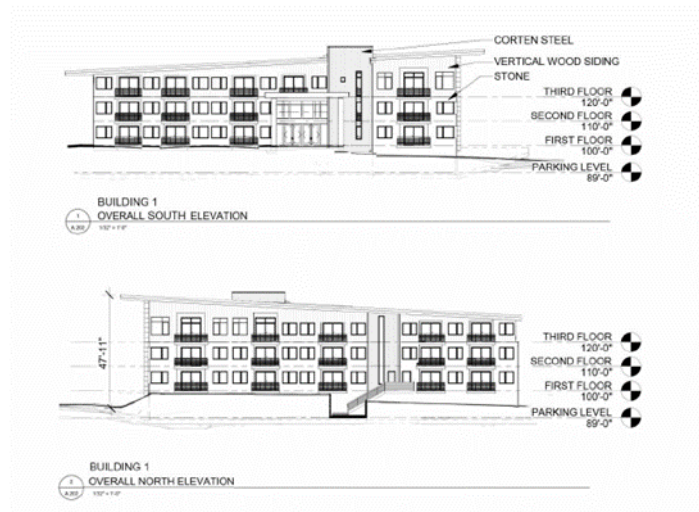


PERSPECTIVE LOOKING NORTHEAST

Perspective looking northeast



Building 2/3



MF Building 1

Townhomes

The proposed buildings are in the exact location as approved in the approved Sketch Plan meeting all setback requirements as well as not exceeding the allowable Floor Area Ratio. The proposed elevations are consistent with the elevations proposed in the Planned Unit Development (PUD) as amended.



Location of Restricted Units

The applicant is proposing to locate the 8 required Affordable Units to mitigate for the 13 Detached Single Family Homes and 20 Townhomes within Building 4/5 should their amended Housing Mitigation Plan be approved. The Housing Rules and Regulations require that the Affordable and Workforce Housing units be integrated among the market units. This protects social diversity and eliminates the potential of segregation of the unit types causing biased perceptions. A condition of approval for Phase 1B required that "Prior to the issuance of any building permits under the Development Plan the applicant shall revise the proposed location of Affordable and Workforce Housing units to be integrated among the 2nd and 3rd floor of the multifamily building." Staff recommends that as a condition of approval the applicant submit an addendum to Building Permit B17-0622 that demonstrates the changed location and integration of Affordable and Workforce units in the building.

Housing Mitigation Plan

As part of this Development Plan application the applicant is requesting to solely rent the multi-family units and thus no Affordable Housing Mitigation would be required subject to the approval of the proposed Minor Amendment to the Housing Section to include the Apartment Exemption. As noted above, an amendment to the Housing Mitigation Plan for Phase 1B is included in this application to allow all multi-family units to be solely rental thus requiring no Affordable Housing Mitigation. While the proposed amendments clarify in the Master Plan that either ownership or rental is an allowed use with quantified affordable housing mitigation requirements, staff has conditioned the request so that any conversion back to ownership will require an amendment to the housing mitigation plan to be decided by Council.

Livability

Design:

The applicant has addressed the interior finishes of the units in the application. Section 2-3 Livability Standards of the Housing Rules and Regulations requires that the Affordable and Workforce Units have design features comparable to the market units including but not limited to decks, patios, parking, fencing and landscaping. The proposed units meet this requirement.

Size:

The 1-bedroom units are 642 SF, 2-bedroom units are 979 SF, and the 3-bedroom units are 1,166 SF. All of these are within the Livability Standards in the newly adopted Housing Guidelines.

Storage:

The applicant is proposing 27 SF of storage space per unit located in front of each unit's parking space in the garage. Ten small storage closets are located in the corridors of Building 2/3 and five in Building 1 on each floor. Only thirty units in Building 2/3 and fifteen units in Building 1 will have use of these closets leaving thirty-eight without. It is not clear how these closets will be allocated. The applicant has indicated the closets will be managed by the property management company. The units themselves have little to no storage provided other than the bedroom closets. The 27 SF storage spaces will help, however, the Housing Department cannot stress enough how important storage is. Especially in a dense development such as Hidden Hollow.

In other dense developments such as The Grove where extra storage space was provided within the units along with an exterior 20 SF storage closet the Housing Department has seen problems. Many bikes, kayaks, paddle boards, other recreational and personal items are being stored outside on decks, patios and often sidewalks, which can cause it to look unsightly.

Access/ Circulation/Traffic

In review and as approved as part of Development Plan Phase 1A, all streets except the Mercill Avenue extension will be private. Upon completion of the Mercill Avenue extension it will be dedicated to the Town as a public street.

All pedestrian infrastructure including sidewalks and the public pathways approved as part of the Sketch Plan were reviewed and approved under the Grading and Erosion Control Permit.

Parking

Staff has reviewed the proposed parking requirements for compliance with the PUD master plan based upon the following parking schedule:

Unit Type	Unit Parking Ratio	Total HHPUD Requirement	Total HHPUD Proposed
AREA C 138 Attached Single Family (Condominiums) / Apartments	1 space per one bedroom 2 spaces per two/three bedroom	243 spaces	245 spaces
AREA B 20 Attached Single Family (Townhomes)	2 spaces per unit	40 spaces	56 spaces
AREA A 13 Detached Single Family	2 spaces per unit	26 spaces	52 spaces
Total	309 spaces	309 spaces	353 spaces

As proposed the applicant will be providing 245 spaces for Area C (all multi-family buildings) where 243 are required, resulting in a surplus of 2 spaces. Of these 245 spaces, 16 will be on-street spots on Hidden Hollow Road that are not part of the garage or surface parking for the multi-family buildings. In the Parking Management Plan provided with the application for Phase 2, the applicant states that unassigned spots from 2 and 3 bed multi-family units will enhance Area C guest parking. The applicant submitted a Parking Management Plan to the Town Council as part of Phase 1B with the following parking management strategies for the multi-family units in Area C:

Parking management will be provided by the sub-association created within the master HOA for the multi-family units. Occupants will have 24-hour contact information, and an onsite manager may be housed within the units. Warnings, violations, and towing of unauthorized vehicles will all be used to police and enforce parking.

- *As part of the sales process or lease of a unit, vehicles will be registered and issued a Hidden Hollow parking pass.*
- *Parking passes will not exceed the term of the lease.*
- *Maximum number of parking passes issued per unit will not exceed the parking requirement as provided in the Master Plan.*
- *Vehicle registration will be monitored and updated annually.*
- *Each unit will be assigned a covered parking space in the lower parking level. These spaces will be numbered. Parking pass will reflect this space number.*
- *“No Visitor Parking” signage will be clear and visible at each lower level entrance.*
- *A strict no warning towing policy will be adhered to for unauthorized vehicles in the lower parking levels.*
- *Each building will have two designated “visitor” spaces with signage near each front entrance.*
- *Remaining surface parking lot spaces will be open parking.*
- *If parking congestion occurs in surface parking lots, then surface parking spaces will be designated and assigned by parking pass.*
- *On street spaces may also be designated and assigned by parking pass if necessary.*

Bike Parking: The applicant has provided a site plan that includes a bike rack ratio of at least one per unit. However, the applicant has proposed using a “wave” style rack. The Pathways Director has provided detailed comments on the inadequacy of “wave” style racks and has specifically stated in this review and previously

that “wave, ribbon, and toaster style racks shall not be used.” As a condition of approval, staff is recommending that the style for short-term bike parking shall be “single inverted-U” racks such as the Dero Hoop Rack, Saris Bike Dock, or equivalent.

Environmental Analysis and Wetlands

The required environmental analysis and wetland delineation and mitigation was reviewed and approved as part of the Development Plan for Phase 1A. One issue identified during Town Council review for Phase 1B of was how pets would be managed on the site to limit impacts to wildlife and specifically the adjacent National Elk Refuge. Staff reviewed the applicant’s proposed pet restrictions and found them acceptable.

Development Exactions

Specific requirements will be determined based upon the regulations in place at time of subdivision. The applicant has already paid exaction fees for the 13 detached single family homes at the time of Subdivision Plat. The required exactions for the remaining 20 townhomes are estimated at this time to be approximately \$40,000 for Schools and \$47,925 for Parks. Should the applicant condominiumize the multi-family units they will be subject to Schools and Parks exactions at the time of plat approval. Apartments are not subject to park and school exactions.

Public Works

As stated above all horizontal infrastructure for the proposed development was reviewed and approved as part of the Development Plan for Phase 1A. The most significant change to preliminary designs included locating both the sewer and water lines in an easement from the United States Forest Service in the approximate location of the existing Rosencrans roadway. This change allowed for the elimination of the proposed sewer lift station desired by both the Town and the applicant.

Sketch Plan

Staff has reviewed the application for analysis with the 10 conditions of approval of the Sketch Plan and finds it complies or the condition has been discussed above or remains a condition or approval moving forward.

Planning Commission

The applicant appeared before the Planning Commission on August 15, 2018. Item A – Phasing Plan and Item B - Housing Section received unanimous approval, while Item C: Development Plan received approval by a vote of 4 to 2.

The Planning Commission discussed the nature of the change from an ownership model to a rental product and how that would affect the overall Hidden Hollow community in the future. Planning Commission Chair, David Vandenberg, and Commissioner Abigail Petri opposed the switch to all rental in the multifamily buildings on the basis that it would change the feeling that the community was comprised of permanent residents. Chair Vandenberg viewed the change to rental as changing the proposed development that he had reviewed over the past years. Commissioners Wilson and Schuler discussed the benefits of an influx of rental units that would be filled by the workforce and the opportunity for employers to rent units for their workers. Commissioner Smitts discussed his experience in the banking industry and the difficulty in obtaining financing for condominium units and the tendency for such units to be bought by cash buyers who are often second homeowners. In addition the Planning Commission discussed the required affordable housing

mitigation and the proposed requirements under the amendments to the HHPUD and the apartment exemption.

PUBLIC COMMENT

On July 31, 2018, Staff received a phone call from Mr. Jeff Daugherty, Assistant Superintendent for the Teton County School District. Mr. Daugherty expressed interest in any proposed connections from the Hidden Hollow development to E Gill Avenue through the Rec Center or a future connector at King Street. Mr. Daugherty said that TCSD hopes to exclude non-students from the grounds during the school day for security reasons and is interested if any fencing was proposed at Sketch Plan to delineate the boundary between the school and the development on Hidden Hollow's southern border. If so he would like to see some sort of student access in such a fence for students that live in Hidden Hollow and who are walking to school. Staff responded to Mr. Daugherty's concerns by researching the fence issue. According to the Applicant's Sketch Plan application on Page 24, "Southern Fence – Currently there is a dilapidated fence that separates the 10 acre parcel from the Rec Center and the School. The applicant will work with School District and the Town of Jackson to remove this fence. There are no plans to rebuild it."

LEGAL REVIEW

Complete.

STAFF FINDINGS

Item A: Minor Amendment - Phasing Plan. HHPUD Master Plan Section 1.5.B

A Minor Amendment shall only be approved upon meeting the following Findings:

1. It is consistent with the purposes and organization of the HHPUD;

Complies. The purpose of the HHPUD Phasing Plan is to ensure that when free market development occurs that generates affordable housing or other development standard requirements, adequate assurances are provided by the Developer to ensure that these requirements have been, or will be, met. The amended Phasing Plan is consistent with this purpose.

2. It improves the consistency of the HHPUD Master Plan with other provisions of the HHPUD or subsequent development approvals within the HHPUD;

Complies. The proposed amendment improves the consistency of the HHPUD Master Plan by consolidating the remaining Phases 1C, 2, and 3 into one final phase. In addition, the amendment is consistent with previous approved development plans for Phases 1A and 1B.

3. It provides flexibility for landowners within standards defined within Master Plan Section 1.2.C. Vision and Intent of the HHPUD Master Plan;

Complies. The proposed amendment provides flexibility for the applicant to respond to market forces and expedite development and reduce construction costs. The amendment is consistent with the Vision and Intent of the HHPUD Master Plan.

4. It is necessary to address changing conditions (e.g. market, sales or constructability), public necessity, and/or state or federal legislation;

Complies. The applicant is requesting the amendment in order to respond to changing market conditions. An accelerated phasing plan allows the applicant to expedite construction and deliver units faster.

5. It improves implementation of the Comprehensive Plan; and

Complies. The amendment to expedite construction conforms to the goal of achieving a dense variety of residential unit types in in Subarea 3.2, Core Residential Zone.

6. It is consistent with other adopted Town Ordinances.

Complies. The approval of this amendment is consistent with all Town Ordinances.

Item B: Minor Amendment - Occupancy Status. HHPUD Master Plan Section 1.5.B

A Minor Amendment shall only be approved upon meeting the following Findings:

1. It is consistent with the purposes and organization of the HHPUD;

Complies. The proposed amendment is consistent with the purposes of the HHPUD.

2. It improves the consistency of the HHPUD Master Plan with other provisions of the HHPUD or subsequent development approvals within the HHPUD;

Complies. The proposed amendment to change from ownership to rental improves consistency of the HHPUD by clearly specifying the affordable housing requirements if the multifamily units are all rental or all ownership.

3. It provides flexibility for landowners within standards defined within Master Plan Section 1.2.C. Vision and Intent of the HHPUD Master Plan;

Complies. The proposed amendment provides flexibility for landowners. The conversion from ownership to rental will create an abundance of rental units. If the owner decides to convert back to ownership the required affordable housing mitigation required for condominiums will still be required. The Vision and Intent of the HHPUD is for dense, residential development that provides market, workforce, and affordable housing in close proximity to Town commercial services and public amenities, which is compatible with surrounding commercial, public, and open space units. Both ownership and rental products achieve this vision.

4. It is necessary to address changing conditions (e.g. market, sales or constructability), public necessity, and/or state or federal legislation;

Complies. There is an equally high demand for rental units as there is for ownership units.

5. It improves implementation of the Comprehensive Plan; and

Complies. Both ownership and rental multifamily residential uses are encouraged in this area.

6. It is consistent with other adopted Town Ordinances.

Complies. The amendment is compatible with Town Ordinances and Sec. 7.4.2.D.13

Development Plan. All Development Plan proposals may be approved only if all of the following findings are made:

1. *The proposed project is consistent with the desired future character described for the site in the Jackson/Teton County Comprehensive Plan.*

The proposed application is located in Character District #3 Town Residential Core, specifically Subarea 3.2 Core Residential of the 2012 Comprehensive Plan. The following is the desired future character for Subarea 3.2:

This residential, TRANSITIONAL Subarea is currently made up of a variety of single family and multifamily residential types, with some existing larger residential developments and non-conforming commercial uses. Redevelopment, revitalization and reinvestment are highly desired in this subarea. Due to its central location in the core of Town near employment and Complete Neighborhood amenities, the future character of this subarea will include some increased density and larger buildings than in East Jackson (Subarea 3.1). In addition, to the development pattern described for East Jackson (Subarea 3.1), multifamily residential uses will be encouraged in order to replace existing commercial uses and to blend the borders of the Town Commercial Core (District 2) with the Town Residential Core (District 3). Multifamily structures will be predominantly found on larger residential lots and along mixed use corridors. The size and scale of multifamily structures will be predominantly two stories with three stories considered in specific cases with proper design. The density and intensity found in areas containing multifamily structures may be greater than what is generally allowable in other areas. For these larger structures, the dominant building mass should be located near the street and be broken into multiple smaller buildings when possible. Parking should be minimized and screened from view as much as possible. In areas where office uses currently exist, consideration should be given to allow a mix of office and residential uses. Future mixed use office development should be of the same bulk, scale and intensity of the residential uses.

Complies. Staff finds that the project is not only consistent with the above desired future character for Subarea 3.2, but also the location is ideal for a high density development adjacent to many of the components of a complete neighborhood including but not limited to schools, shopping, recreation, alternative transportation, and employment. As stated above, this area is transitional and is thought to be ideal for reinvestment and redevelopment. The applicant's proposal meets this intention by developing an underdeveloped site with a high density residential project, especially one providing both market and deed restricted housing. In addition, multi-family is encouraged as a use, with larger buildings considered appropriate. The density and intensity is consistent with nearby developments, making this an appropriate location for higher density and intensity with multi-family structures, where other areas in Town may not be as appropriate.

In addition, staff finds that the application should be reviewed for consistency specifically with the Policy Objectives for District 3:

Common Value 1: Ecosystem Stewardship

Not applicable.

Common Value 2: Growth Management

Policy 4.1.b: Emphasize a variety of housing types, including deed-restricted housing

Complies. Staff finds that by providing a mixture of housing types including 8 attached single family units (townhomes) and 55 attached single family units (condominiums) or apartments within this phase that this policy has been met. The applicant will mitigate for the required affordable housing requirement whether the multifamily units are all rental or all ownership units.

Policy 4.3.a: Preserve and enhance stable areas

Not applicable as this site is not located within a stable area.

Policy 4.3.b: Create and develop transitional areas

Complies. Staff finds that the proposed development is in line with the vision for this transitional area by creating a high density, multi-family development, mixed with market and deed restricted units. Development and investment is highly desired for this area, thus the proposal significantly meets Policy Objective 4.3.b.

Policy 4.4.d: Enhance natural features in the built environment

Complies. Staff finds that the wetland mitigation and restoration proposed with this development will significantly improve the natural features on the site.

Common Value 3: Quality of Life

Policy 5.2.d: Encourage deed-restricted rental units

Complies. The proposed project will provide 8 deed restricted affordable housing rental units and 45 deed restricted work force units utilizing the allowed 48' height bonus allowed for in the UR-PUD. Should the owner revert back to ownership units for the attached single family units (condominiums), the current affordable housing mitigation requirements will apply.

Policy 5.3.b: Preserve existing workforce housing stock

Not applicable.

Policy 7.1.c: Increase the capacity for use of alternative transportation modes

Complies. Staff finds that the proposed project does increase the capacity for use of alternative transportation modes as the site is located in a central location along the bus line and in close proximity to proposed and existing alternative transportation infrastructure. Similarly, the site is also within biking and walking distance from the Downtown Core and other amenities. Additional connectivity will be provided through the provision of the Merrell Avenue extension and a possible King Street connection in the future.

2. *The proposed project achieves the standards and objective of the Natural Resource Overlay (NRO) and Scenic Resources Overlay (SRO).*

Not applicable. Addressed during Sketch Plan, PUD and Development Plan for Phase 1A.

3. *The proposed project does not have a have a significant impact on public facilities and services, including transportation, portable water and wastewater facilities, parks, schools, police, fire, and EMS facilities.*

Complies. As previously approved in the Sketch Plan, PUD-Master Plan and Development Plan1A, and in this application staff finds that the proposed project is not anticipated to have adverse impacts on public facilities including Police, Fire and EMT.

4. *The proposed project complies with the Town of Jackson Design Guidelines, if applicable.*

Not applicable.

5. *The proposed project complies with all relevant standards of these LDRs and other Town Ordinances*

Complies. As conditioned, staff finds that the proposed project complies with the standards of these LDRs and the Hidden Hollow PUD Master Plan. In addition the project is in compliance with all other Town Ordinances.

6. *The proposed project is in substantial conformance with all standards or conditions of any prior applicable permits or approvals.*

Complies. As conditioned, Staff finds that the proposed project is in substantial conformance with the previously approved Development Plan 1B in regards to the Housing Mitigation Plan.

ATTACHMENTS

Memos 1, 2, and 3 from Wylie Baker LLC
Staff Reports for P16-131 Apartment Exemption
Department Reviews
Applicant Submittal

RECOMMENDATIONS/ CONDITIONS OF APPROVAL

Item A: The Planning Director and the Planning Commission recommend **approval** of a Minor Amendment to the Hidden Hollow Planned Unit Development Master Plan to the Phasing Plan.

Following the September 4, 2018, Town Council meeting, a condition of approval have been added to the item clarifying the requirements of the consolidated Phase 2.

1. *Building permits for both remaining multi-family buildings for vertical construction shall be submitted within 6 months of approval of this amendment, begin construction within 90 days of approval of the building permit and the applicant shall maintain continuous progress to completion. If these conditions are not met the issuance of building permits, inspections and Certificates of Occupancy for townhome and single family buildings may be withheld.*

Item B: The Planning Director and the Planning Commission recommend **approval** of a Minor Amendment to the Hidden Hollow Planned Unit Development Master Plan to the Housing Section, Section 2.3.C Affordable and Workforce Housing Standards, Section 1.3.B.3 Phasing Requirements and Attachment 4 to allow both rental and ownership for multifamily units.

Following the September 4, 2018, Town Council meeting, two conditions of approval have been added to the item clarifying the total number of affordable and workforce housing units as required by the applicant and a requirement that the units be divided equally among income categories.

- 1. The applicant shall provide 14 income restricted Affordable units and 59 Workforce restricted units subject to the Town of Jackson Land Development Regulations and Town Housing Department Rules and Regulations in place at the time of submission and as described .*
- 2. The 6 “voluntary” affordable units shall be divided equally between Categories 1, 2 and 3.*

Item C: The Planning Director and the Planning Commission recommend **approval** of a Development Plan to allow 12 townhomes and two multifamily buildings containing 83 total units and approving and amending the Housing Mitigation Plan for all multifamily units to be rental only, for the Hidden Hollow Planned Unit Development for the property located at 301 Hidden Hollow Drive, legally known as Hidden Hollow First Addition to the Town of Jackson subject to the department reviews and the following conditions:

1. Prior to issuance of a building permit the applicant shall submit an additional application for a Minor Amendment to transfer 6,641 square feet of development potential from Area B/Area D to Area C pursuant to Section 1.5.B. Minor Amendments of the Hidden Hollow Planned Unit Development Master Plan.
2. The applicant shall revise the Master Plan to state that a revision to the Housing Mitigation Plan shall be required for any future changes including but not limited to converting back to attached single family units (condominiums) from rental. All Housing Mitigation Plan amendments shall be approved by Town Council.
3. The applicant shall revise the proposed landscape plant to revise the style for short-term bike parking to “single inverted-U” racks such as the Dero Hoop Rack, Saris Bike Dock, or equivalent.
4. *The applicant shall submit an addendum to Building Permit B17-0622 that updates the tracking worksheet for housing mitigation as well as demonstrate the changed location and unit type integration of all affordable and workforce units in the multifamily buildings, to be reviewed and approved by the Planning Director and the Housing Director prior to issuance of any Building Permit for Phase 2.*

SUGGESTED MOTIONS

Item A - Phasing Plan: Based upon the findings as presented in the staff report and as made by the applicant for Item P18-206, I move to make findings 1-6 as set forth in Section 1.5.B. Minor Amendments of the Hidden Hollow Planned Unit Development Master Plan relating to 1) Consistency with the purposes and organization of the HHPUD; 2) Improves the consistency of the HHPUD Master Plan with other provisions of the HHPUD or subsequent development approvals within the HHPUD; 3) Provides flexibility for landowners within standards defined within Master Plan Section 1.2.C. Vision and Intent of the HHPUD Master Plan; 4) Necessary to address changing conditions (e.g. market, sales or constructability), public necessity, and/or state or federal legislation; 5) Improves implementation of the Comprehensive Plan; and 6) Consistency with other adopted Town Ordinances to approve the amendment to the Phasing Plan of the Hidden Hollow Planned Unit Development Master Plan subject to one condition of approval and the departmental reviews.:

- 1. Building permits for both remaining multi-family buildings for vertical construction shall be submitted within 6 months of approval of this amendment, begin construction within 90 days of approval of the building permit and the applicant shall maintain continuous progress to completion. If these conditions are not met the issuance of building permits, inspections and Certificates of Occupancy for townhome and single family buildings may be withheld.*

Item B – Housing Section Based upon the findings as presented in the staff report and as made by the applicant for Item P18-206, I move to make findings 1-6 as set forth in Section 1.5.B. Minor Amendments of the Hidden Hollow Planned Unit Development Master Plan relating to 1) Consistency with the purposes and organization of the HHPUD; 2) Improves the consistency of the HHPUD Master Plan with other provisions of the HHPUD or subsequent development approvals within the HHPUD; 3) Provides flexibility for landowners within standards defined within Master Plan Section 1.2.C. Vision and Intent of the HHPUD Master Plan; 4) Necessary to address changing conditions (e.g. market, sales or constructability), public necessity, and/or state or federal legislation; 5) Improves implementation of the Comprehensive Plan; and 6) Consistency with other adopted Town Ordinances to approve the amendments to the Housing Section of the Hidden Hollow Planned Unit Development Master Plan including but not limited to Section 2.3.C Affordable and Workforce Housing Standards, Section 1.3.B.3 Phasing Requirements and Attachment 4 as described in the applicant's submission, subject to the departmental reviews and the following two conditions of approval.

- 1. The applicant shall provide 14 income restricted Affordable units and 59 Workforce restricted units subject to the Town of Jackson Land Development Regulations and Town Housing Department Rules and Regulations in place at the time of submission and as described in this report.*
- 2. The 6 “voluntary” affordable units shall be divided equally between Categories 1, 2 and 3.*

Item C: Based upon the findings as presented in the staff report and as made by the applicant for Item P18-205, I move to make findings 1-6 as set forth in Section 8.3.2.C (Development Plan) of the Land Development Regulations relating to 1) Consistency with the Comprehensive Plan; 2) Achieves purpose of NRO & SRO overlays; 3) Impact of public facilities & services; 4) Complies with the Town’s Design Guidelines; 5) Compliance with LDRs & Town Ordinances; 6) Conformance with past permits & approvals to approve a Development Plan to allow 12 townhomes and two multifamily buildings containing 83 total units and approving and amending the Housing Mitigation Plan for all multifamily units to be rental only, for the Hidden Hollow Planned Unit Development for the property located at 301 Hidden Hollow Drive, subject to the departmental reviews and the following four conditions of approval:

1. Prior to issuance of a building permit the applicant shall submit an additional application for a Minor Amendment to transfer 6,641 square feet of development potential from Area B/Area D to Area C pursuant to Section 1.5.B. Minor Amendments of the Hidden Hollow Planned Unit Development Master Plan.
2. The applicant shall revise the Master Plan to state that a revision to the Housing Mitigation Plan shall be required for any future changes including but not limited to converting back to attached single family units (condominiums) from rental. All Housing Mitigation Plan amendments shall be approved by Town Council.
3. The applicant shall revise the proposed landscape plan to revise the style for short-term bike parking to “single inverted-U” racks such as the Dero Hoop Rack, Saris Bike Dock, or equivalent.
4. *The applicant shall submit an addendum to Building Permit B17-0622 that updates the tracking worksheet for housing mitigation as well as demonstrate the changed location and unit type integration of all affordable and workforce units in the multifamily buildings, to be reviewed and approved by the Planning Director and the Housing Director prior to issuance of any Building Permit for Phase 2.*

Memorandum

To: Tyler Sinclair and Brendan Conboy
From: Brenda Wylie
Cc: Zane Powell, Brendan Schulte, Audrey Cohen-Davis, April Norton and Town Council
Date: 9/10/2018
Re: HIDDEN HOLLOW MINOR AMENDMENT TO HHPUD

Issue: The purpose of this memorandum is to revisit the request of the developer of the Hidden Hollow Subdivision for a Minor Amendment to the Hidden Hollow Planned Unit Development (“HHPUD”). To clarify, the developer desires to change the use of the multi-family portion of the project from ownership units to rental units. Such desire is due to the developer’s attachment to the community and is also due to recent changes to Fannie Mae Regulations which impact the ability of the project to comply with Fannie Mae regulations in the future (see attached Memorandum attached hereto as **Exhibit “A”** which explains the recent changes to Fannie Mae regulations). Rental use will also allow the developer to complete the multi-family buildings years ahead of schedule due to more options for construction financing of rental projects.

Rental use of the multi-family buildings is permitted as a matter of right in the HHPUD. However, the HHPUD is silent regarding the mitigation required for such use. When the HHPUD was initially submitted to the Town of Jackson several years ago, the initial version of the HHPUD provided that if the HHPUD was silent regarding any issue, such concern would be interpreted based upon the Land Development Regulations in effect at the time the HHPUD was approved. The Town required that the HHPUD be modified to require that such interpretations be based upon the future Land Development Regulations that would be in place at the time of such interpretation. The developer agreed to make this change to the HHPUD and as a result the future Land Development Regulations control in this instance not the Land Development Regulations that were in effect at the time of the approval of the HHPUD. Historically, future Land Development Regulations have implemented more stringent housing mitigation as opposed to less but in this instance, the Land Development Regulations in effect at the time of the minor amendment submittal are less restrictive and require 8 affordable rental units as opposed to 27 affordable ownership units. It is also notable that the most recently adopted Land Development Regulations require even less mitigation (5 affordable rental units). To clarify, the minor amendment application does not impact the required 45 workforce rental housing units. In June, the developer submitted a Memorandum to the Town which is attached hereto as **Exhibit “B”** and such memorandum describes the allowed unconditional rental use, the silence regarding the

affordable housing mitigation for such unconditional rental use, the fact that the new Land Development Regulations control the interpretation of such mitigation and the authority of the Planning Director to approve the minor amendment. Since then, the Planning Director has requested that the minor amendment be considered by the Town Council.

Developer Proposal: It continues to be the position of the developer that the change is use of the multi-family units to rental use cannot be denied by the Town because rental use is permitted as a matter of right in the HHPUD within the multi-family buildings. However, the developer is sympathetic to the Town Council's frustration that originally 72 deed restricted units were required and now only 53 deed restricted units will be required by this change in use (8 affordable rental units and 45 workforce units). As such, at this time the developer has agreed to voluntarily deed restrict 18 additional rental units for a net amount of 73 deed restricted units, as follows:

Total Deed Restricted Units: 73 Deed Restricted Units

8 Required Affordable Rental Units

45 Required Workforce Rental Units

6 Voluntary Affordable Rental Units (one bedroom units)

14 Voluntary Workforce Rental Units (with deed restriction attached hereto as Exhibit "C")

EXHIBIT "A"

Wylie Law Firm LLC

Memorandum

To: Zane Powell
From: Brenda Wylie
Cc: Brendan Schulte, Brendan Conboy, Tyler Sinclair, Audrey Cohen-Davis and Town Council
Date: 8/31/2018
Re: HIDDEN HOLLOW – CHANGE IN FANNIE MAE COMPLIANCE REQUIREMENTS AND PERMITTED WORK-AROUND

History: In the past, Fannie Mae has disfavored multi-family projects that included both ownership and rental units (see below policy issued in the Fannie Mae Guide 8/18). Such Fannie Mae guidelines required all projects to meet certain rigorous restrictions in order for a project to be compliant and qualify for Fannie Mae financing for initial sales and resales. Such restrictions required that projects not include more than 25% commercial (rental) and in some circumstances projects would be permitted to have 50% commercial (rental). In addition, such restrictions prohibited an entity from owning more than 10% of each building (5 units). In years past, the work-around was to create separate plats for different phases to comply with the Fannie Mae restrictions. With respect to Hidden Hollow, the work-around plan for the multi-family portion of the project was to plat the affordable housing units (floor one) in a separate phase to guarantee that all of the affordable units complied with Fannie Mae financing for the initial sales and all future resales. The work-around plan for floors two and three was to apply strict ownership rules (to limit persons or entities from owning more than 5 units per building), to apply strict rental rules and to limit the number of required workforce rental units and market ownership units that would be available for rentals. The Homeowners Association would be delegated the difficult task of strictly monitoring rental percentages for floors 2 and 3. This has proven to be an ongoing administrative hurdle for other projects and often resales of units within similar projects would not qualify for Fannie Mae financing because rental percentages were exceeded or entities owned more than 10% of the units within such separately platted phase(s). Such work-around arrangement would, however, guarantee that the affordable units platted separately in floor 1 would continue to comply with Fannie Mae financing for both the initial and all future resales.

Changes in Fannie Mae Restrictions and Work-Around: As noted above, any time a project included mixture of ownership and rentals units in the same building, Fannie Mae compliance was difficult to obtain and maintain. In past years, the work-around for Fannie Mae compliance was to separately plat phases and floors of buildings. Below is a list of recent changes to Fannie Mae Guidelines that greatly impact the project:

- (1) For projects with 5 to 20 units, a single entity cannot own more than 2 units. For projects with 21 or more units, a single entity cannot own more than 20% (this restriction previously was 10%).
- (2) The total non-residential/commercial use (i.e. rental units) within the multi-family portion of the project may not exceed 35% (this restriction previously was 50%). We are confirming whether this means that 65% of each building must be owner-occupied by first and second homeowners and cannot be rented and the guidelines are unclear.
- (3) There may not be more than one legal phase per building. This means that Fannie Mae and FHA no longer permit developers to separately plat different floors and phases of projects to work-around the overly restrictive Fannie Mae guidelines and requirements.
- (4) At least 50% of the project or legal phase must be under contract or conveyed to principal residences or second home purchasers. There is a further clarification that once the entire building has been sold in compliance with the regulations, the foregoing requirement doesn't apply for principal residence or second home resales.
- (5) No more than 15% of the owners of each phase may be more than 60 days delinquent in paying HOA dues.

Conclusion: The prior work-around of separately platting floors would have guaranteed that the initial sales and all future resales of affordable deed restricted units within floor one would comply with and be eligible for Fannie Mae financing. The prior work-around plan was not perfect and still would have required that the Homeowners Association rigorously monitor floors 2 and 3 to continue to meet the rental and ownership requirements for the market and workforce deed restricted units. Now that Fannie Mae no longer allows the foregoing described work-around, the project may struggle to continue to meet the Fannie Mae initial and resale requirements (neither CPM nor PERS). The material issue is that even though some of the restrictions noted above have recently loosened, HUD added new restrictions and made some critical guidelines more restrictive. Essentially, we have no control over the Fannie Mae guidelines and HUD continues to change the regulations at a moment's notice – often being more restrictive after recently loosening the same guideline. The best case scenario would be that we would be able to successfully restrict the units to have all initial sales comply with Fannie Mae but there would always be the risk for the resales of affordable, workforce and/or market units would not be eligible for Fannie Mae financing given the continued changes to the requirements by HUD. While many market and workforce unit owners would have the option to work to find buyers for re-sales that would be all-cash buyers, the resales for affordable units would not have the same option. As such, the applicant/developer believes that utilizing rental use for 100% of the multi-family portion of the project will eliminate the Fannie Mae concerns and still will provide much-needed workforce housing for the community.

FANNIE MAE GUIDE 8/18:

The quality of mortgages secured by units in condo, co-op, and planned unit development (PUD) projects can be influenced by certain characteristics of the project or by the project as a whole.

Project eligibility risk is a risk that is distinct from the credit risk presented by individual borrowers. Units located in a project present risks that are also distinct from the risks associated with properties that are not part of a homeowners' association (HOA) or project. These risks include the following:

- the financial stability and viability of the project;
- the condition and marketability of the project;
- limitations on the unit owner's ability to control the decision-making for the project, occupy the unit, or utilize the project's amenities and common elements;
- dissolution of the project and the unit owner's resulting rights and responsibilities;
- project-level litigation;
- project-level misrepresentation and fraud;
- the inability to cure a mortgage default due to restrictions in the project documents such as, but not limited to, right of first refusal provisions; and
- insurance coverage that is inadequate to protect the project from unexpected losses.

Project eligibility and financial strength are key drivers of credit performance on individual unit mortgages and critical to the long-term success of the project. Fannie Mae's project eligibility and underwriting requirements seek to mitigate project level risks and to ensure that projects are demonstrably well-managed.

EXHIBIT "B"

Wylie Law Firm LLC

Memorandum

To: Zane Powell
From: Brenda Wylie
Cc: Brendan Schulte, Brendan Conboy, Tyler Sinclair and Audrey Cohen-Davis
Date: 6/26/2018
Re: HIDDEN HOLLOW - Apartment Use in Area C and Affordable Housing Mitigation

Issue:

The Hidden Hollow Planned Unit Development Master Plan (the "**HHPUD Master Plan**") provides in Section 2.2. Use Standards that Condominium Units and Apartments are each an unconditional allowed use within Area C. The Phasing Plan set forth in Section 1.3.B.3. Phasing Requirements and the Affordable Housing Standards set forth in Section 2.3.C. Affordable Housing and Workforce Housing Standards are silent as to the phasing and affordable housing mitigation requirements required if the multi-family buildings are utilized as Apartments as opposed to Condominium Units.

Analysis and Applicable Authority in HHPUD Master Plan:

1. The HHPUD Master Plan provides as follows in Section 1.4.A. Relationship to Land Development Regulations:

"Unless otherwise noted in this document, when this Master Plan refers to the LDRs, or where it is silent and the LDRs govern the development or use of properties within the HHPUD, the Town of Jackson LDRs applicable at the time a determination or interpretation is requested shall apply."

2. The HHPUD Master Plan provides in Section 1.5.B. Minor Amendments that minor amendments shall include *"any and all revisions, amendments, and updates to the Phasing Plan"* and *"any and all revisions and amendments to Attachment 4"*.

Conclusion:

Because the HHPUD Master Plan is silent regarding affordable housing mitigation requirements for Apartments, an unconditional allowed use within Area C, Section 1.4.A of the

HHPUD Master Plan provides the authority that the current LDRS shall control the interpretation regarding the affordable housing mitigation for such use. As such, we believe that the applicant may apply Subsection 7.4.2.D.13 of the current LDRs to exempt Apartments in Area C from affordable housing mitigation standards if the Apartments satisfy the requirements of Subsection 7.4.2.D.13 and comply with the maximum square footages required by this exemption.

The Phasing Plan and Attachment 4 will need to be amended to provide for the above interpretation and redline copies of such proposed amendments are set forth on **Attachment A** and **Attachment B**, attached hereto and incorporated herein. Section 1.5.B of the HHPUD Master provides the authority for these amendments to the HHPUD Master Plan to be processed as a Minor Amendments.

Attachment "A"

8. Provision of opportunity to conserve energy through a unified development and individual building designs.
9. Provision of opportunities for affordable and workforce housing.

1.3. Applicability

1.3.A. Applicability of Master Plan

This Master Plan applies only to lands within the HHPUD boundaries, as depicted on the Official Zoning District Map and shown within Attachment 1 to this Master Plan.

1.3.B. Expiration, Extension and Phasing

1.3.B.1. Expiration of Master Plan

Time Frame: The Master Plan shall expire five (5) years after its effective date unless a sufficient application for the improvements described below under the "Predevelopment Site and Infrastructure Improvements Phase" is submitted to the Planning Department. The Master Plan shall expire seven (7) years after its effective date unless there is commencement of construction of "Predevelopment Site and Infrastructure Improvements Phase" improvements.

Predevelopment Site and Infrastructure Improvements Phase: The Developer shall complete all underground infrastructure and rough grading of the entire site including roads, pursuant to the requirements of a Grading and Erosion Control Permit approved by the Town of Jackson. Upon completion of the improvements stated herein, the HHPUD shall be vested and shall not expire.

Effect: Upon expiration of the Master Plan, LDR Section 8.7.3.G.2. shall apply.

1.3.B.2. Extension

No extension to the expiration of the Master Plan shall be permitted. Please see Master Plan [Section B.1. Expiration of Master Plan](#) and Master Plan [Section B.3. Phasing Requirements](#) for additional information.

1.3.B.3. Phasing Requirements

The purpose of the HHPUD phasing plan is to ensure that when free market development occurs that generates affordable housing or other development standard requirements, adequate assurances are provided by the Developer to ensure these requirements have been, or will be, met.

Phase 1:

- ~~Development of 54 multi-family units in two Area C Buildings~~
- ~~Development of 20 townhome units in Area B~~
- Subdivision and sale or development of 13 single-family units in Area A
 - ~~o Provision of including provision for affordable housing ownership or rental units for at least 36-47.80 persons to be provided within Building 4/5~~
- Development of 8 townhome units in Area B
 - ~~o Including provision for affordable housing ownership or rental units for at least 4.05 persons to be provided within Building 4/5~~
- Development of 55 multi-family units in Building 4/5 within Area C
 - ~~o If the two multi-family buildings 55 multifamily units in Area C Building 4/5 are developed under Phase 1 as for sale, condominium units, provision for affordable housing ownership units for at least 16.95 persons will be provided.~~
 - ~~o If the 55 multifamily units in Building 4/5 are developed as for rent, apartment units, compliance with Section 7.4.2.D.13 of the Town of Jackson Land Development regulations shall apply to exempt the rental apartment units from the affordable housing mitigation standards.~~
- Provision of at least 18 workforce housing units within ~~two multi-family buildings~~ Building 4/5 in Area C developed under Phase 1
- Completion of all Mercill Avenue extension improvements
- Completion of all road ways and parking areas necessary to serve the development in Phase 1
- Completion of all wetland mitigation

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- Completion of all landscape requirements for all Phase 1 development in Area B and C

Phase 2:

- Development of ~~54 multi-family Units~~ 12 townhome units in two Area C buildings
 - o ~~Provision of Including provision for affordable housing ownership or rental units for at least 46-46.60 persons to be provided within the two multi-family buildings in Area C, developed under Phase 2~~
- Development of 55 multi-family units in Building 2/3 and 28 multifamily units in Building 1 within Area C.
 - o If the 55 multifamily units in Building 2/3 and/or the 28 multifamily units in building 1 are developed as for sale, condominium units, provision for affordable housing ownership units will be provided within Area C as follows:
 - Building 2/3 = 17.05 persons mitigated
 - Building 1 = 8.55 persons mitigated
 - o If the 55 multifamily units in Building 2/3 and/or the 28 multifamily units in Building 1 are developed as for rent, apartment units, compliance with Section 7.4.2.D.13 of the Town of Jackson Land Development regulations shall apply to exempt the rental apartment units within such Building from the affordable housing mitigation standards.
- Provision of at least 18 workforce housing units within ~~two multi-family buildings in Area C developed under Phase 2~~ Building 2/3 and 9 workforce housing units within Building 1.
- Completion of all landscape requirements for all Phase 2 development ~~in Area C.~~

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Phase 3:

- ~~Development of 27 multi-family Units in one Area C building~~
- ~~Provision of at least 9 workforce housing units within any building in Area C~~
- ~~Completion of all landscape requirements for all Phase 3 development~~
- ~~Completion of all remaining landscape requirements in Area D.~~

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Occupancy of Free Market Units: The above phasing plan is subject to the following requirements:

Certificates of Occupancy for free market residential units (Area A units, Area B units or Area C units) will not be issued by the Town of Jackson unless one of the following has occurred:

1. A framing inspection has been approved by the Town Building Official for the building permit application for the affordable housing within the phase in which such free market residential units are receiving a Certificate of Occupancy, and the Developer provides the Town with a bond in an amount equal to the in lieu fee requirement for the affordable housing units that are required by the number of free market units receiving Certificates of Occupancy; or
2. If the framing inspection has not been approved by the Town Building Official as provided above, the Developer shall be required to deed restrict the amount of free market units necessary to meet the total remaining housing requirement of the real property included in such applicable phase. Such deed restriction shall only go into effect if the affordable housing units within Area C that are intended for such remaining mitigation of the real property included in such applicable phase have not received a Certificate of Occupancy within twenty four (24) months of the recordation of the deed restriction required herein.

1.4. Relationship Between Regulations and Interpretation

1.4.A. Relationship to Land Development Regulations

Unless otherwise noted in this document, when this Master Plan refers to the LDRs, or where it is silent and the LDRs govern the development or use of properties within the HHPUD, the Town of Jackson LDRs applicable at the time a determination or interpretation is requested shall apply. In the event of a contradiction between this Master Plan and the LDRs this Master Plan shall govern and control.

1.4.B. Interpretation

The Town of Jackson Planning Director shall be responsible for interpreting this Master Plan and shall base his/her interpretation first, on the information contained within this Master Plan, and second, on the clear legislative intent of

Attachment "B"

Attachment 4

Examples of Maximum Sales Price Calculations for Affordable Housing Ownership Units and Maximum Rental Rate Calculations for Affordable Housing Rental Units:

Example of Maximum Sales Price Calculation

A. *Median Family Income.* Each year, HUD releases Median Family Income ("MFI") figures for Teton County, Wyoming, and the Housing Department uses this data to determine Household Incomes for the affordable housing units based on Household Size.

B. *Household Size.* The Household Size for determining Maximum Sales Price is based on number of bedrooms in the affordable housing unit as set forth below: a one bedroom unit would equal a one person household, a two bedroom unit would equal a two person household and a three bedroom unit would equal a three person household.

C. *Income Category.* The maximum Household Income for the Category assigned to the affordable housing unit shall be calculated as follows utilizing the Median Family Income published by HUD each year:

- Category 1 – 80% of the MFI [Less 10% pursuant to H. below]
- Category 2 – 100% of the MFI [Less 10% pursuant to H. below]
- Category 3 – 120% of the MFI [Less 10% pursuant to H. below]

The Median Family Incomes for 2016 as published by HUD are as follows:

Income Limit	1 person	2 person	3 person	4 person
FY2016	60,060	68,640	77,220	85,800

D. Affordable Housing Rental Units Maximum Rental Amount Calculation: The maximum Fair Market Rents published by HUD shall be utilized to establish Fair Market Rents.

- Category 1 Units – 80% of the Fair Market Rents from HUD for such year for applicable unit bedrooms
- Category 2 Units – 100% of the Fair Market Rents from HUD for such year for the applicable unit bedrooms
- Category 3 Units – 120% of the Fair Market Rent from HUD for such year for the applicable unit bedrooms

Final Fiscal Year 2018 Fair Market Rents by Unit Bedrooms (To be updated annually by HUD and utilized for FMR)					
Year	Studio	One-bedroom	Two-bedroom	Three-bedroom	Four-bedroom
Fiscal Year 2018	\$846	\$1,038	\$1,192	\$1,610	\$2,099

The above fair market rents are with utilities included.
Dorm rooms are 75% of Studio

E. Affordable Housing Ownership Units Maximum Sales Price Calculation:

Interest Rate. An interest rate of 7.5% shall be used to determine the Maximum Sales Price, based on the 8% average interest rate over the last twenty (20) years.

(i)

E. Down Payment. The Maximum Sales Price shall be calculated assuming a 5% down payment.

(ii) Down Payment. The Maximum Sales Price shall be calculated assuming a 5% down payment.

(iii) F. Percentage of Income. The national standard for household affordability is that a household does not pay more than 30% of its gross income toward housing costs. Therefore, monthly payments cannot exceed 30% of the Median Family Income for each Category.

(iv) G. Reduction for Household Expenses. Because housing costs include more than the mortgage payment, the percentage of income that can be spent on monthly payments will be reduced from 30% to 25% to account for HOA fees, property taxes and insurance.

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H. Ten Percent Reduction. To ensure that households in the lower range of the income in any given category are still able to afford a home, the middle of the income range is used. The middle of the income range is calculated by subtracting half of the percentage increase from the income limit for each category, which is effectively 10% for Category I, Category II and Category III.

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(v) The formula does not include an additional 10% reduction for a lack of an individual garage because each unit will have covered and designated parking and the designation of a storage unit. This is consistent with policy implemented on other projects.

Examples of Maximum Sales Price Calculations for 2 Bedroom Units utilizing the foregoing and parameters with 2016 MFI:

Assumptions for determining affordability for households in each category's income range:

- Using ~~the~~ MFI established by HUD each year, ~~less~~ ~~s ten percent~~ (10%) to account for range of incomes
- 2-bedroom unit equals 2-person household
- 5% down payment
- 30% of income towards housing costs (includes principal and interest)
- 5% of such 30% is for taxes, insurance and HOA dues
- 7.5% interest (20 year average to ensure affordability over time)

Category 1 – 80% of Median Income for Teton County – Maximum amount for 2 person household to qualify = \$54,912-10%=49,420.80
 \$49,420.80 x 25% = \$12,355.20
 \$12,355.20/ 12 months = \$1,029.60 (monthly payment that is affordable to a 2 person family earning Category 1 income)

A home selling for \$155,001.00 with a 5% down payment at 7.5% interest has a mortgage payment of \$1,029.60 not including taxes, insurance, and HOA dues.

Category 2 – 100% of Median Income for Teton County – Maximum amount for 2 person household to qualify = \$68,640-10%=\$61,776.00
 \$61,776.00 x 25% = \$15,444.00
 \$15,444 / 12 months = \$1,287.00 (monthly payment that is affordable to a 2 person family earning Category 2 income)

A home selling for \$193,751.25 with a 5% down payment at 7.5% interest has a mortgage payment of \$1,287/month not including taxes, insurance, and HOA dues.

Category 3 – 120% of Median Income for Teton County – Maximum amount for 2 person household to qualify = \$82,368-10%=\$74,131.20
 \$74,131.20 x 25% = \$18,532.80
 \$18,532.80 / 12 months = \$1,544.40 (monthly payment that is affordable to a 2 person family earning Category 3 income)

A home selling for \$232,501.50 with a 5% down payment at 7.5% interest has a mortgage payment of \$1,544.40/month not including taxes, insurance, and HOA dues.

Hidden Hollow Affordable Housing Maximum Sales Prices			
	Category I	Category II	Category III
1 Bedroom	\$133,518	\$166,898	\$200,274
2 Bedroom	\$155,001	\$193,751	\$232,502
3 Bedroom	\$171,666	\$214,583	\$257,498

*This chart reflects 2016 income calculations and current Housing Department guidelines and is therefore subject to change in years beyond 2016.

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EXHIBIT "C"
Special Restrictions
for Rental Workforce Housing
Located at
_____, **Town of Jackson**

These Special Restrictions for Rental Workforce Housing located at _____ Broadway, are made this ___ day of _____, 20____ (the "Effective Date"), by the undersigned Declarant ("Declarant" or "Owner").

WHEREAS, the Declarant holds fee ownership interest in that certain real property, located in Teton County, Wyoming, and more specifically described as follows:

See Exhibit A attached hereto

PIN: _____ (the "Residential Unit Complex" or "Complex");

WHEREAS, the Residential Unit Complex consists of _____ apartments (each a "Residential Unit").;

WHEREAS, as a condition of the Development Option Plan Approval dated _____ for the Residential Unit Complex to the Town of Jackson (the "DOP Approval"), the Declarant Agreed (was required) to Dedicate _____ Residential Units as Rental Workforce Housing Units to be rented to households who work in Teton county and will occupy the units as their sole primary residences (The "Restricted Units");

WHEREAS, in furtherance of the goals, objectives, requirements and conditions of the DOP Approval, and consistent with the Town of Jackson's goals of providing decent, safe, sanitary and affordable housing to qualified employees working in Teton County, Declarant has agreed to restrict the use and occupancy of the Restricted Units to "Qualified Households";

WHEREAS, a "Qualified Household" means natural persons meeting the employment, income and real estate ownership qualifications at the time of occupancy of the Restricted Unit and during the course of such occupation;

WHEREAS, the determination of whether a household is qualified to rent the Residential Unit shall initially be made by the Declarant, but such determination shall be subject to subsequent verification by the Jackson/Teton County Affordable Housing Department ("Housing Department") as discussed further below; and,

WHEREAS, consistent with the foregoing, Declarant agrees to adopt these Special Restrictions and declare that the Restricted Units shall be held, occupied and conveyed in perpetuity subject to these Special Restrictions, which Special Restrictions shall be in addition to all other covenants, conditions or restrictions of record affecting the Restricted Units, and shall be enforceable by the Housing Department, or by the Town of Jackson.

RESTRICTIONS:

NOW THEREFORE, in satisfaction of the conditions in the DOP Approval, and in consideration of such DOP Approval and the foregoing Recitals, which are by this reference incorporated herein, Declarant hereby declares, covenants and agrees for itself and each and every person acquiring ownership of the Residential Unit Complex, that the Restricted Units shall be owned, used, occupied, developed, transferred and conveyed subject to the following Special Restrictions in perpetuity.

SECTION 1. OCCUPANCY BY QUALIFIED HOUSEHOLD.

A. Qualified Household. The use and occupancy of the Restricted Units shall be limited to natural persons who meet the definition of a Qualified Household for Workforce Housing, as set forth below ("Qualified Household").

1. Employment Requirement. At least one member of the Qualified Household must maintain an average of thirty (30) hours per week employment on an annual basis, or a minimum of one thousand five hundred and sixty hours per year, from a local business, and the entire Qualified Household must earn at least seventy-five percent (75%) of the Household's income from a local business, all as may be further set forth in the current Housing Rules and Regulations. A "local business" shall mean a business or not for profit agency physically located within Teton County, Wyoming, holding a business license with the Town of Jackson or one that can provide other verification of business status physically located in Teton County, Wyoming.
2. Sole Residence Requirement. No member of the Qualified Household may own or have any interest (whether direct, indirect or beneficial) in whole or in part in any other residential real estate within 150 miles of Teton County, Wyoming.
3. Initial Determination by the Declarant. The Declarant shall require each prospective renter of a Restricted Unit to provide information sufficient to show eligibility as a Qualified Household under the Workforce Housing Program pursuant to the requirements of this restriction and the Housing Rules and Regulations. The determination shall be based upon written applications, representations, information and verifications, including *at a minimum*, a W-2 for each adult renter or other IRS filing showing source of earnings, a signed and sworn statement regarding ownership of other real estate and a list of current employer(s), hours worked as well as contact information for each employer(s) and other such information reasonably requested by the Housing Department to verify and

substantiate as a Qualified Household.

4. Continuing Obligation to Remain a Qualified Household. The occupants of the Restricted Unit shall satisfy the definition of a Qualified Household at all times during the occupancy of the Restricted Unit.
 5. Reporting Requirement – Housing Department Override. Declarant shall, by January 31 of each year, provide to the Housing Department a summary of the eligibility verification information contained above for each occupant of a Restricted Unit as set forth on the Housing Department Template that will be provided to Declarant. Upon written request by the Housing Department for supporting documentation, the Declarant shall provide the same within fifteen (15) business days of receipt of such written request. Additionally, the Declarant shall, by January 31 of each year, provide the Housing Department with its most current lease form for Restricted Units. Each Restricted Unit Lease must state, and it is a material consideration of this restriction, that the Housing Department has the ultimate and final authority to determine eligibility of households renting Restricted Units. If the Housing Department, upon review of supporting documentation determines that an occupant of a Restricted Unit does not qualify as a Qualified Household, the Housing Department shall have the authority to terminate the lease between the Declarant and the occupant of a Restricted Unit pursuant to Section 4 & 5 below.
- B. No Legal Action. No owner of the Residential Unit, prospective purchaser of the Residential Unit, renter or occupant, or other party shall have the right to sue or bring other legal process against the Housing Department, or any person affiliated with the Housing Department arising out of these Special Restrictions, and neither shall the Housing Department have any liability to any person aggrieved by the decision of the Housing Department regarding qualification of a Qualified Household or any other matter relating to these Special Restrictions.

SECTION 2. RESTRICTIONS ON OCCUPATION AND USE OF RESTRICTED RESIDENTIAL UNIT.

In addition to any restrictions included in the current Housing Rules and Regulations, Occupancy and use of the Restricted Unit shall be restricted as follows:

- A. Rental Unit. Except as provided herein, the Restricted Unit shall remain a rental unit for Qualified Households;
- B. Rental Term & Rent. The Restricted Unit shall be offered for rent in periods of not less than three (3) months and not more than three (3) years; the Declarant/Owner shall set the rents, there shall be no caps on rent or rent appreciation;
- C. Vacancies. The Restricted Unit may be vacant intermittently between tenancies to allow for proper verification, advertisement for Qualified Households and reasonable maintenance. However, a Restricted Unit shall not be vacant for a period greater than sixty (60) days, unless authorized by the Housing Department. If a Restricted Unit remains

vacant for more than sixty (60) days without approval, then the Housing Department shall have the right, but not the obligation, to identify a Qualified Household to rent the Unit. Notwithstanding the foregoing, the Owner of the Complex shall have the right to deny occupancy to any proposed tenant who in such Owner's reasonable discretion does not meet the Owner's standard for occupancy, so long as such denial does not violate Federal or state fair housing laws;

- D. Occupancy by Qualified Household. Restricted Units may only be occupied by Qualified Households and shall be such Qualified Household's sole and exclusive primary residence. A Qualified Household shall physically occupy it on a full-time basis, at least eighty percent (80%) of the Term;
- E. Business Activity. No business activities shall occur in a Restricted Unit, other than a home occupation use that is permitted by applicable zoning;
- F. Guests. No persons other than those comprising the Qualified Household shall be permitted to occupy the Restricted Unit for periods in excess of ten percent (10%) of the term in cumulative days per calendar year;
- G. Insurance. The occupant shall maintain renter's insurance for the Restricted Unit. The Declarant shall keep the Restricted Unit Complex continuously insured against "broad form coverage" or of physical loss for the full replacement value of the Restricted Unit Complex;
- H. Compliance with Laws, Declaration. The Restricted Unit shall be occupied in full compliance with all Laws, including without limitation, the Declaration, as amended; and
- I. Periodic Reporting, Inspection. In order to confirm compliance with these Special Restrictions, the Declarant shall comply, and shall cause all occupants of Restricted Units to comply, with any reporting or inspection requirements as set forth herein and as may be required by the Housing Department from time to time. Upon reasonable notice to the occupant of a Restricted Unit, the Housing Department shall have the right to inspect a Restricted Unit from time to time to determine compliance with these Special Restrictions and to review the written records required to be maintained by Declarant. The Declarant shall maintain such records for a period of two (2) years.

SECTION 3. SALE OF THE RESTRICTED UNIT COMPLEX. The Restricted Unit Complex may be bought and sold as the then Owner may determine except that all reporting and record-keeping required herein shall be continuous and any new Owner shall obtain the required records from the prior Owner. Within ten (10) days prior to the closing of the sale or other transfer of the Complex, the then Owner shall notify the Housing Department of the pending sale or transfer and, prior to closing, shall provide the Housing Department with contact information (including without limitation, mailing address, phone number and email) for the new owner.

SECTION 4. DEFAULT. The following shall be considered a default ("Default"):

- A. Failure at any time of the occupants of the Restricted Unit to qualify as a Qualified Household.
- B. A violation of any term of these Special Restrictions or any Laws affecting the Restricted Unit.

In the event the Housing Department believes there to be a Default, the Housing Department shall send written notice to the owner informing the owner of the Default and the required action to cure. The owner will be given forty-five (45) days from receipt of such notice to cure the default. If the owner disputes the Housing Department's decision, the Owner shall proceed in accordance with the Housing Rules and Regulations.

SECTION 5. DEFAULT REMEDIES. In addition to any other remedies the Housing Department may have at law or equity, in the event of a Default, after notice and opportunity to cure as set forth in the preceding section, the Housing Department's remedies shall include, without limitation, the following:

- A. Specific Performance. The Housing Department shall have the right of specific performance of these Special Restrictions and the right to obtain from any court of competent jurisdiction a temporary restraining order, preliminary injunction and permanent injunction to obtain such performance.
- B. Equitable Relief. In addition to subsection A, any equitable relief provided for herein may be sought singly or in combination with such other remedies as the Housing Department may be entitled to, either pursuant to these Special Restrictions or any other action authorized under the laws of the State of Wyoming.

SECTION 6. TERMINATION AND MODIFICATION OF SPECIAL RESTRICTIONS.

- A. Termination by the Town of Jackson. These Special Restrictions may be terminated after a determination by the Town of Jackson that these Special Restrictions are no longer consistent with the Town's goals for workforce housing and that they should therefore be terminated.
- B. Amendment. These Special Restrictions may be amended, in whole or in part, as follows:
 - 1. With the written consent of the then Owner of the Restricted Unit Complex, the Housing Manager for the Housing Department and the Planning Director for the Town of Jackson, Wyoming.
 - 2. The Housing Department, the Planning Director and the then Owner of the Restricted Unit Complex may modify these Special Restrictions by a signed, written amendment executed by all and recorded in the Teton County Clerk's Office

against the title to the land. Notwithstanding the foregoing, however, the parties shall not unreasonably withhold consent to amending these Special Restrictions to address such matters as scrivener's errors, legal descriptions or typographical errors.

SECTION 7. SPECIAL RESTRICTIONS AS COVENANT. These Special Restrictions shall constitute covenants running with the Restricted Units, as a burden thereon, and shall be binding on all parties having any right, title, or interest in the Restricted Units, or any part thereof, their heirs, devisees, successors and assigns, and shall inure to the benefit of and shall be enforceable by the Housing Department and the Town of Jackson. Where these Special Restrictions are silent, the Housing Rules and Regulations govern.

SECTION 8. NOTICES. All notices required to be served upon the parties to this Declaration shall be transmitted by one of the following methods: hand delivery; prepaid overnight courier; or by postage paid certified mail, return receipt requested, at the address set forth below for said party; or at such other address as one party notifies the other in writing pursuant to this paragraph. Notice shall be effective when hand delivered, one (1) day after being deposited with an overnight courier or five (5) business days after being placed in the mail. Either party may change its address in the manner provided for giving notice.

To Housing Department

Jackson/Teton County Affordable Housing Department
P.O. Box 714
Jackson, WY 83001

With a Copy to:

Town of Jackson
P.O. Box 1687
Jackson, WY 83001.

To Owner

SECTION 9. ATTORNEY'S FEES. In the event any party shall be required to retain counsel and file suit for the purpose of enforcing the terms and conditions of these Special Restrictions, the prevailing party shall be entitled to recover, in addition to any other relief recovered, a reasonable sum as determined by the court for attorney's fees and costs of litigation.

SECTION 10. CHOICE OF LAW, FORUM. These Special Restrictions and every related document, are to be governed by and construed in accordance with the laws of the State of Wyoming. The parties agree that the appropriate court in Teton County, Wyoming and/or the Ninth Judicial District for the State of Wyoming shall have sole and exclusive jurisdiction over any dispute, claim,

or controversy which may arise involving these Special Restrictions or their subject matter.

SECTION 11. SEVERABILITY. Each provision of these Special Restrictions and any other related document shall be interpreted in such a manner as to be valid under applicable law; but, if any provision, or any portion thereof, of any of the foregoing shall be invalid or prohibited under said applicable law, such provision shall be deemed modified to the extent necessary and possible to render it valid and enforceable, or if such modification is not possible, such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provision(s) of such document.

SECTION 12. SECTION HEADINGS. Paragraph or section headings within these Special Restrictions are inserted solely for convenience or reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

SECTION 13. WAIVER. No claim of waiver, consent or acquiescence with respect to any provision of these Special Restrictions shall be valid against any party hereto except on the basis of a written instrument executed by the parties to these Special Restrictions. However, the party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

SECTION 14. INDEMNIFICATION. The owner shall indemnify, defend, and hold, the Housing Department and/or the Town of Jackson, and its directors, officers, agents and employees harmless against any and all loss, liability, claim, or cost (including reasonable attorneys' fees and expenses) for damage or injury to persons or property from any cause whatsoever on or about the Restricted Unit, or for an owner's breach of any provision of these Special Restrictions. The owner waives any and all such claims against the Housing Department and/or the Town of Jackson.

SECTION 15. SUCCESSORS AND ASSIGNS. These Special Restrictions shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, devisees, administrators and assigns.

SECTION 16. SOVEREIGN IMMUNITY. Neither the Town of Jackson, nor the Housing Department (Teton County) waives sovereign immunity by executing these Special Restrictions and specifically retain immunity and all defenses available to them as sovereigns pursuant to Wyo. Stat. § 1-39-104(a) and any other applicable law.

IN WITNESS WHEREOF, the undersigned have executed this instrument as of the Effective Date.

Declarant:

STATE OF WYOMING)
) SS
COUNTY OF TETON)

On this _____ day of _____, 2018, before me, the undersigned Notary Public, personally appeared _____ for _____, LLC, a Wyoming limited liability company, and known to me, or proven by satisfactory evidence, to be the _____ of the company that executed the foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of the company, by authority of Statute, its articles of organization or its operating agreement, for the uses and purposes therein mentioned, and on oath stated that such person is authorized to execute said instrument on behalf of the limited liability company.

[SEAL]

Notary Public

Approved as to form:

JACKSON/TETON COUNTY AFFORDABLE HOUSING DEPARTMENT:

Stacy A. Stoker, Housing Manager

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

On the day _____ of _____, 2018, the foregoing instrument was acknowledged before me by Stacy A. Stoker, as Housing Manager of the Jackson/Teton County Affordable Housing Department.

Witness my hand and official seal.

(Seal)

Notary Public
My commission expires:

LEGAL DESCRIPTION - EXHIBIT A

PIN NUMBER _____



TOWN OF JACKSON

TOWN COUNCIL

AGENDA DOCUMENTATION

PREPARATION DATE: August 10, 2018
MEETING DATE: March 6, 2017

SUBMITTING DEPARTMENT: Planning
DEPARTMENT DIRECTOR: Tyler Sinclair
PRESENTER: Alex Norton

SUBJECT: **ITEM P16-131:** Amendment to the text of the Land Development Regulations, pursuant to Section 8.7.1, LDR Text Amendments, to revise Section 7.4.2.D regarding exemption of apartments from Affordable Housing Standards.

APPLICANT: Joe Rice / GOAL, LLC
AGENT: Christine Walker (Navigate, LLC)

REQUESTED ACTION

Amendment to the text of the Land Development Regulations, pursuant to Section 8.7.1, LDR Text Amendments, to revise Section 7.4.2.D regarding exemption of apartments from Affordable Housing Standards.

APPLICABLE REGULATIONS

Sec. 2.3.#.B.1. 25% Floor Area Bonus for Affordable Housing
Sec. 2.3.4.E.1. UR PUD Height Bonus
Sec. 7.4.2. Affordable Housing Standards
Sec. 8.7.1. LDR Text Amendment

BACKGROUND

Currently about 40% of the community's housing stock is rented. The Jackson/Teton County Housing Action Plan adopted in 2015 states that the community should increase its rental housing stock. By far the biggest gap in rental product type is for households making less than 50% of Area Median Income, however there is a deficit of rental product at all income levels, including for households making more than 150% of Area Median Income (p. A2-10 – A2-11, Housing Acton Plan).

While apartments are not the only type of units that are rented, more apartment buildings would certainly provide more rentals. Over the past 10 years, consistently about 17% of new units (27 units per year) have been apartments. The bulk of the apartments built have been in projects entitled prior to 1994 (e.g. Blair Place and Assisted Living Center), through the now-repealed PMD (e.g. Shervin's and Grove), or as part of a mixed-use development (e.g. Whole Grocer). Apartment buildings are allowed in the DC, CR-1, CR-2, OR, and UR zones and through a PUD (which is allowed in the UC, UR, AC, AR, and S zones). There have been no market apartment projects developed in the last 10 years using base zoning or the PUD.

Under the current LDRs, an apartment building is subject to the standard affordable housing requirement that for every 4 new market apartments created, 1 new apartment must be created that is deed restricted affordable (LDR Sec. 7.4.2.E.1).

LOCATION

The application would apply Townwide.

PROJECT DESCRIPTION

The application proposes that an apartment building be exempt from the affordable housing requirement of the LDRs (LDR Sec. 7.4.2) that for every 4 new market units developed, 1 new unit with an affordable deed restriction must be developed. The proposed exemption would only apply so long as the units remained owned and rented by a single entity. If the units were ever condominiumized in the future, the affordable housing requirement applicable at the time of condominiumization would apply.

The Section 7.4.2 affordable housing requirement applies to units built within the base height and FAR of a zone or PUD. The LDRs also include a number of bonuses (listed below) to the allowed floor area (FAR) or height allowed on a site, which are intended to incentivize the provision of housing.

- To get floor area that is exempt from FAR in a Character Zone (zones created since 2015, i.e. DC, CR-1, CR-2, OR), for every 2 sf of market floor area exempt from FAR, at least 1 sf of floor area with a workforce, employee, or affordable deed restriction must be provided (LDR Sec. 2.2.#.B.2 & Div. 7.8).
- To get a 25% floor area bonus in a Legacy Zone (zones that existed prior to 2015), 100% of the units occupying the bonus floor area must have an affordable or employee deed restriction (LDR Sec. 2.3.#.B.1.footnote).
- To get a 4th floor and 48' of height in the PUD-UR, 100% of the units occupying the additional floor area achieved by the height must have a workforce, employee, or affordable deed restriction (LDR Sec. 2.3.4.E.1).

The proposed amendment would not apply to these bonuses because the deed restriction requirement for each bonus is independent from the Section 7.4.2 affordable housing requirement. If this amendment is approved, an application utilizing one of the above bonuses would be exempt from deed restricting any of the units built in the base FAR and height, but would still be subject to the required deed restriction to entitle any bonus FAR or height. To illustrate, a hypothetical 100 unit apartment building is analyzed under different scenarios below.

	Built within Base FAR and Height		Built with FAR and Height Bonuses	
	<i>Current LDRs</i>	<i>Proposed AMD</i>	<i>Current LDRs</i>	<i>Proposed AMD</i>
<i>Total Units</i>	100	100	100	100
Market Units	80	100	64	80
Affordable Units	20	0	16	0
Affordable/Employee/ Workforce Units	0	0	20	20

The applicant has concurrently submitted Sketch Plan and PUD applications reliant on this amendment. However, this application is an LDR Text Amendment and not unique to the applicant's site. It would apply to any and all apartment building development and is reviewed for its broad applicability regardless of the applicant.

STAFF ANALYSIS

Staff supports exempting apartment buildings from the deed restriction requirements of Section 7.4.2 as long as "apartment building" is better defined in the context of the exemption in order to support the applicant's assertion that apartments are inherently occupied by the workforce. Staff agrees with the applicant's assertion that units in apartment buildings are overwhelmingly occupied by the workforce and that a deed restriction is not required to ensure such occupancy. Removing the affordable deed restriction requirement will mean that the

units in the apartment building are not necessarily affordable, but it will enable the apartment building to be built. Market-rate apartments are a unit type that is needed to meet community housing goals, and the proposed exemption is the type of “removal of barriers” that the Comprehensive Plan and Housing Action Plan envision will make development of workforce housing easier. Additionally, clearly stating this exemption will avoid the type of PUD by PUD discussion that has been a part of recent apartment building applications.

Do market-rate apartments provide workforce housing without a deed restriction?

The primary issue with this application is evaluation of the applicant’s rationale: that apartments in an apartment building are inherently occupied by the workforce and therefore should be exempt from affordable deed restriction requirements.

The Housing Department provided the rental price information in the table to the right. Grove rental prices meet the LDR definition of affordable and are targeted primarily at households making 80% of median income or less. Blair Place and Jackson Hole Apartment rates represent two examples of market rental rates for units in apartment buildings. Market-rate rentals are not necessarily affordable, although the market rates at Blair and JH Apartments approximately equate to an affordable rent for a household making 120% of median income (Category III). If there were more, newer rental apartments on the market, rents might drop, but it cannot be assured that market apartments meet the definition of affordable.

	Blair Place	JH Apartments	Grove
Studio	\$ 1,489	\$ 1,475	-
1 Bed	-	\$ 1,700	\$ 1,125 – 1,175
2 Bed	\$ 1,878	-	\$ 1,225 – 1,275
3 Bed	\$ 2,400	\$ 2,850	\$ 1,375 – 1,425

Market-rate rentals are not necessarily affordable, although the market rates at Blair and JH Apartments approximately equate to an affordable rent for a household making 120% of median income (Category III). If there were more, newer rental apartments on the market, rents might drop, but it cannot be assured that market apartments meet the definition of affordable.

However, the applicant’s contention is that apartments are inherently occupied by the workforce and that Section 7.4.2 includes exemptions for other unit types (Accessory Residential Units and Live/Work Units) because they are inherently occupied by the workforce, regardless of their market affordability.

The Housing Department challenges the applicant’s assertion, stating in its comments:

The applicant is proposing a text amendment to exempt apartments and multi-family buildings from having a housing requirement. They indicate that apartments, “by their nature are workforce housing”. This may or may not be true depending on the type, design, location, and size of the apartment. At the very least, a text amendment exempting apartments or multi-family buildings should include a definition of the type, design, location, and size of the units that are allowed an exemption.

However, without some type of recorded covenant, there is never a guarantee that apartments will always or forever be used as workforce housing. For instance, there could be cases where individuals from out of town wish to rent long term so that they have a place for their family to stay on weekend ski trips or for non-local businesses to use for business trips. This has been seen in our community as well as other communities.

The Housing Department recommends that if an apartment or multi-family complex wishes to be exempt from a housing requirement, there should be a covenant recorded on the property requiring the tenants to be employed at least an average of 30 hours per week at a local business. This covenant will also serve to alert the public of the requirement in case the apartments are ever sold to a new owner.

Staff agrees with the Housing Department that the only way to ensure workforce occupancy is to require workforce occupancy, however staff does not recommend such a requirement in this case. Exempting one deed restriction but requiring another does not achieve the Comprehensive Plan and Housing Action Plan goal of “removing barriers” to the construction of workforce housing. Staff is confident that the vast majority of apartments in true apartment buildings are rented by the workforce. The Housing Action Plan also finds that

there is a need for rental units at all income levels, and identifies “Rental Zoning” as an appropriate tool for the provision of higher income rental product. Removal of barriers is a theme of the Housing Action Plan. Mitigation requirements only produce units when projects are built; 20% of project that is not built equals 0 affordable units. While apartments do not necessarily meet the LDR definition of affordable, they are part of the workforce housing solution not a part of the workforce housing problem.

How do the recommended conditions of approval provide assurance that apartments will be occupied by the workforce?

Staff agrees with the Housing Department that not all apartments are created equal and there should be some limitation on the exemption to increase the probability that units built using the exemption will be occupied by the workforce. The only way to ensure the units are occupied by the workforce is through a deed restriction or occupancy LDR (e.g. ARUs are required to be occupied by a guest, family member, or rented to a member of the workforce). However, exchanging one restriction for another does not remove barriers to apartment development, which is the applicant’s intent. Occupancy requirements (even if not in the form of a restriction) take constant management, which is not only a barrier to development, but a fiscal/staff impact to enforce. They also make the financing of projects more difficult, because banks are less willing to lend money when occupancy is restricted.

Instead of a workforce restriction or requirement, staff recommends two design requirements that apartments must meet to be eligible for the proposed exemption from the affordable housing requirement. The intent of the design requirements is to make it more likely that the units will be occupied by the workforce. With design requirements being a simpler means of providing assurance because they are reviewed at the time of approval, but do not have to be constantly monitored.

First (Condition #1), staff recommends that only apartment buildings of 10 or more units be exempt from Section 7.4.2. Buildings with fewer units are more attractive to non-workforce renters who just want a place available when they are in town. Staff is recommending a 10 unit minimum consistent with current permit review thresholds and the applicant’s revised proposal in LDR Text Amendment P16-132. It should be noted that staff’s recommendation to the Planning Commission was a threshold of 5 or more units. However, since the Planning Commission meeting the applicant revised its proposed definition of an apartment building eligible for the proposed exemptions to 10 or more units. Staff supports the applicant’s revision.

Second (Condition #2), staff recommends that the maximum habitable floor area of an apartment comply with the Housing Department Rules and Regulations, which vary by number of bedrooms. Limiting the size of units will make them less attractive to non-workforce renters. The current maximums are tabulated to the right.

	Maximum
Studio	550 sf
1 Bed	750 sf
2 Bed	1,050 sf
3 Bed	1,350 sf

Is the proposed amendment consistent with recent past approvals?

In the recent past, the Town has reviewed 2 apartment complex applications – Westview and Redmond/Hall. (Hidden Hollow proposed the ability to condominiumize its multifamily buildings, so this application would not apply to it.) As part of the Westview PUD, the Town exempted the project from any affordable deed restrictions if 80% of the units had a workforce deed restriction. As part of the Redmond/Hall PUD, the Town exempted the project from the required affordable deed restrictions because 100% of the units would have Housing Trust deed restrictions. This project-by-project approach is allowed by the LDRs, but does not provide the predictability envisioned in Comprehensive Plan. In fact, project-by-project flexibility and discretion is exactly the approach the community stated it wanted to move away from in the Comprehensive Plan.

As proposed, the amendment would have exempted Westview and Redmond/Hall from any deed restriction requirement. With staff’s recommended conditions, each project would have had to include more units in each

building in order to qualify for the exemption. That this proposal is not exactly consistent with past decisions is less important than the fact that it provides predictability moving forward as to what type of project will be exempt from affordable housing requirements and what type will not.

In staff's ideal scenario the issues raised in this application would be addressed as part of the larger update to all of the housing mitigation requirements – a project scheduled to begin at the February 6 JIM. However, the applicant has the right to call this specific question at this time.

PLANNING COMMISSION REVIEW

On February 1, 2017, the Planning Commission recommend approval of the application to Town Council, by a 3-0 vote with Commissioner Janak absent and one seat vacant, subject to the following 2 conditions.

1. The approved exemption shall only apply to apartment buildings of 5 or more units
2. The approved exemption shall only apply to apartment buildings in which all units meet the maximum habitable floor area established in the Housing Department Rules and Regulations.

The majority of the Planning Commission discussion regarded the two conditions. The Commissioners were comfortable with the concept behind each of the conditions, but discussed whether the values proposed were appropriate. Ultimately, they were comfortable with the applicant definition of an apartment building as having 5 or more units (a definition which the applicant has subsequently altered) and comfortable that the Housing Department maximum unit sizes allowed for quality units and flexibility in design.

STAKEHOLDER ANALYSIS

To date no public comment has been received on this application.

Departmental reviews are attached.

STAFF FINDINGS

Pursuant to Section 8.7.1.C of the Town of Jackson Land Development Regulations, the advisability of amending the text of these LDRs is a matter committed to the legislative discretion of the Town Council and is not controlled by any one factor. In deciding to adopt or deny a proposed LDR text amendment the Town Council shall consider factors including, but not limited to, the extent to which the proposed amendment:

1. Is consistent with the purposes and organization of the LDRs;

Complies. The purpose of the LDRs is to predictably implement the Comprehensive Plan. The proposed amendment adds predictability by clarifying whether apartment buildings should be exempt from affordable housing standards, where such determinations were previously made on a project-by-project basis. Consistent with the organization of the LDRs, the proposed amendment adds a minimal amount of language in the form of a single exemption in Section 7.4.2.

2. Improves the consistency of the LDRs with other provisions of the LDRs;

Not Applicable. The proposed amendment is not intended to improve consistency within the LDRs and does not create any inconsistencies.

3. Provides flexibility for landowners within standards that clearly define desired character;

Complies as Conditioned. The proposed amendment removes barriers to the development of workforce housing. Exempting apartment buildings from affordable housing requirements will make it easier for private developers to provide rentals. Market rentals are a housing type that is needed to meet the community's housing goals and a housing type that contributes the community's housing solution, not the community's housing deficit. The recommended conditions are intended provide assurance that the apartments built pursuant to the proposed exemption will remain occupied by the workforce by virtue of their design.

4. *Is necessary to address changing conditions, public necessity, and/or state or federal legislation;*

Complies. The proposed amendment addresses the shift in policy direction from the affordable housing requirements adopted in 1995 to the community's future housing goals documented in the Comprehensive Plan and Housing Action Plan. Namely, the proposed amendment encourages the provision of rental units and removes barriers to the construction of workforce housing.

5. *Improves implementation of the Comprehensive Plan; and*

Complies as Conditioned. The community's housing goal is to house 65% of the workforce locally. To guide achievement of this goal the community adopted a Housing Action Plan in 2015. A specific initiative (5A) in the Housing Action Plan is to remove barriers (such as affordable housing requirements) to the development of workforce housing. Modestly sized apartments in apartment buildings with many units are extremely likely to be occupied by the workforce without restriction. Therefore, the proposed amendment will improve provision of workforce housing.

6. *Is consistent with other adopted Town Ordinances.*

Complies. The proposed amendment does not conflict with any other Town Ordinances.

ATTACHMENTS

1. Departmental Reviews
2. Application

LEGAL REVIEW

The Town Attorney has reviewed the application, but has not reviewed this staff report.

RECOMMENDATION

The Planning Director and Planning Commission recommend approval of P16-131 subject to 2 conditions:

1. The approved exemption shall only apply to apartment buildings of 10 or more units
2. The approved exemption shall only apply to apartment buildings in which all units meet the maximum habitable floor area established in the Housing Department Rules and Regulations.

At the time of the Planning Commission meeting the applicant's proposed definition of apartment building in P16-132 was a building of 5 or more units. Since the Planning Commission meeting the applicant has revised their proposal to define an apartment building as one with 10 or more units. Staff has revised the recommended first condition of approval accordingly, but notes that while the Planning Commission was supportive of the concept of the condition reflecting the applicant's preferred definition, the Planning Commission approved first condition was that the exemption only apply to apartment buildings of 5 or more units.

SUGGESTED MOTION

I move to recommend approval of P16-131, dated December 9, 2016, being able to find, based upon the findings as presented in the staff report and as made by the applicant, that pursuant to Section 8.7.1.C of the Land Development Regulations the application: 1) Is consistent with the purposes and organization of the LDRs; 2) Improves the consistency of the LDRs with other provisions of the LDRs; 3) Provides flexibility for landowners within standards that clearly define desired character; 4) Is necessary to address changing conditions, public necessity, and/or state or federal legislation; 5) Improves implementation of the Comprehensive Plan; and 6) Is consistent with other adopted Town Ordinances, subject to the following 2 conditions.

1. The approved exemption shall only apply to apartment buildings of 10 or more units
2. The approved exemption shall only apply to apartment buildings in which all units meet the maximum habitable floor area established in the Housing Department Rules and Regulations.



TOWN OF JACKSON

TOWN COUNCIL

AGENDA DOCUMENTATION

PREPARATION DATE: August 10, 2018
MEETING DATE: March 20, 2017

SUBMITTING DEPARTMENT: Planning
DEPARTMENT DIRECTOR: Tyler Sinclair
PRESENTER: Alex Norton

SUBJECT: **Supplemental Material for ITEM P16-131:** Amendment to the text of the Land Development Regulations, pursuant to Section 8.7.1, LDR Text Amendments, to revise Section 7.4.2.D regarding exemption of apartments from Affordable Housing Standards.

APPLICANT: Joe Rice / GOAL, LLC
AGENT: Christine Walker (Navigate, LLC)

REQUESTED ACTION

Amendment to the text of the Land Development Regulations, pursuant to Section 8.7.1, LDR Text Amendments, to revise Section 7.4.2.D regarding exemption of apartments from Affordable Housing Standards.

APPLICABLE REGULATIONS

Sec. 2.3.#.B.1. 25% Floor Area Bonus for Affordable Housing
Sec. 2.3.4.E.1. UR PUD Height Bonus
Sec. 7.4.2. Affordable Housing Standards
Sec. 8.7.1. LDR Text Amendment

BACKGROUND

At the March 6, 2017 regular Town Council meeting, staff and the applicant made presentation on this item, and public comment was taken. Following public comment the item was continued to the March 20 meeting. Please reference the attached staff report for the March 6 meeting for additional background. This is a supplement to that report.

LOCATION

The application would apply within the corporate boundaries of the Town.

PROJECT DESCRIPTION

The application proposes that an apartment building be exempt from the affordable housing requirement of the LDRs (LDR Sec. 7.4.2) that for every four (4) new market units developed, one (1) new unit with an affordable deed restriction must be developed.

- Proposed exemption would apply to:
 - Apartment buildings
 - Housing requirements from base FAR and height allowances

- Proposed exemption would NOT apply to:
 - Condominiums (housing requirements would be due at the time of condominiumization if an apartment building were ever converted)
 - Housing required in exchange for any of the following bonuses:
 - 25% FAR bonus in non-District 2 zones
 - 48' height allowance in UR-PUD
 - FAR exemption in District 2 zones

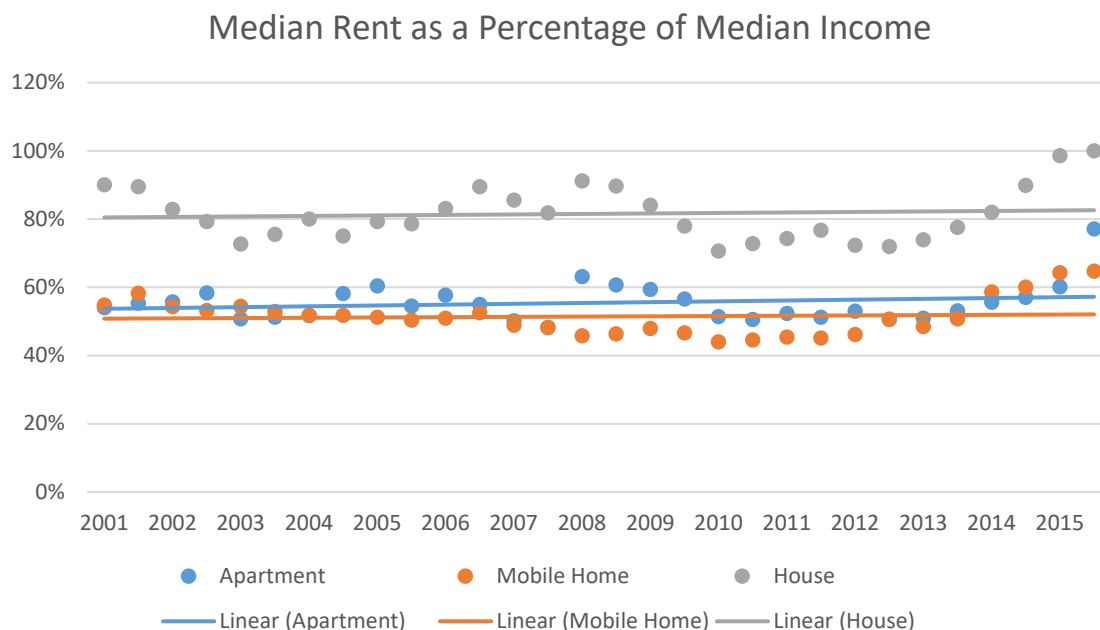
The applicant has submitted Sketch Plan and PUD applications reliant on this amendment. This application, however, is an LDR Text Amendment and not unique to the applicant's site. It would apply to any and all apartment building development and is reviewed for its broad applicability regardless of the applicant.

STAFF ANALYSIS

At the March 6, 2017 Town Council meeting, Council asked staff to follow up on a number of questions. To the extent that the applicant has provided answers or staff is able to answer Council's questions the answers are provided below. Please reference the staff report for the March 6 meeting for additional analysis. This is a supplement to that report.

Is it true that apartments are “inherently” affordable without a deed restriction, and/or “inherently” occupied by the workforce?

The below chart shows the median rent for various unit types as reported by the Wyoming Economic Analysis Division based on semiannual surveys within the Town of Jackson as it relates to family median income as reported by HUD. Median rent means 50% of rents are higher and 50% are lower, likewise median income means 50% of families make more and 50% make less.



As it relates to Council's discussion from March 6, there are two important pieces to this information. The first is that rents are becoming less affordable, but only at a very slow rate over the long-term. The trend line shows that rent is slowly becoming less affordable, but at an annual rate of less than 1%. However, the individual data points show that rents are less affordable than they have ever been. It is impossible to know whether the current high is the peak of a cycle that will be followed by a decline, or whether the current high represents a new paradigm coming out of the recession.

The second point to note is that the median rent is still affordable to the median family, even at the current high. If rents continue to get less affordable that will change, but the WCDA data confirms the anecdotal information from Blair Place and JH Apartments, that market rents are currently affordable. The WCDA data also indicates that apartments and mobile homes are more affordable than houses as rental product.

Occupancy by the workforce is much more difficult to determine. Staff cannot provide a current estimate or long term trend on workforce occupancy of rental units or apartments.

Staff continues to agree with the Housing Department that the only way to ensure occupancy or affordability is with a deed restriction. However, staff remains confident that the vast majority of apartments in true apartment buildings are rented by the workforce. The Housing Action Plan finds that there is a need for rental units at all income levels, and identifies “Rental Zoning” as an appropriate tool for the provision of higher income rental product. Removal of barriers is a theme of the Housing Action Plan. Mitigation requirements only produce units when projects are built; 20% of a project that is not built equals 0 affordable units. Even without the assurance of a deed restriction that the apartments in an apartment building will always be occupied by the workforce or affordable, staff continues to find that they are part of the workforce housing solution not a part of the workforce housing problem, and continues to find that the application implements the Housing Action Plan by removing barriers to the development of housing that is part of the solution.

How much subsidy do the required affordable housing units represent?

The data above would indicate that the maximum rents established by affordable deed restrictions would not be much different from median market rents. That comparison is typically how the Town would calculate the amount of subsidy represented by a restriction. Therefore the affordable housing requirement on apartment buildings does not represent much of a subsidy.

How many workforce units would represent an equivalent subsidy? Are there other methods than a deed-restriction, which are less impactful on the ability for an apartment developer to secure financing, but provide an equivalent assurance of workforce occupancy?

To answer these questions in the larger context, replacing one requirement with another is not the purpose of the application. As the applicant states in the supplemental information provided for this staff report, the question the application is asking is whether apartment buildings should be exempt from affordable housing. If Council is not interested in exempting apartments entirely, but is instead interested in an alternate requirement, the appropriate course of action is to:

1. Discuss an alternate for this applicant’s project through the consideration of the applicant’s PUD application as was done with Westview and Kelly/Millward.
2. Then, as part of the comprehensive update to the housing requirements, discuss alternative approaches to housing requirements on apartment buildings.

Neither the applicant, nor staff, is prepared at this time to analyze alternative housing requirements for apartment buildings as a general question. That analysis will be part of the overall update to the housing requirements, but requires a scope of study that cannot be completed as part of the review of this application. The question posed by this application is whether construction of new apartments should be encouraged by removing the affordable housing requirement because apartments are part of the housing solution not part of the housing problem. If Council does not believe market apartments are a long-term housing solution it should deny the application. Staff does not recommend Council try to develop a generally applicable alternate housing requirement for apartment buildings through review of this application. If Council is open to an alternate approach on the applicant’s project that should be considered as part of the PUD.

Staff continues to recommend that the design requirements in the conditions of approval, that the apartment building contain ten (10) units and that the size of each unit be limited, create assurance that the apartments will remain “inherently” occupied by the workforce.

What HUD program is the applicant using to finance the project and what are the deed-restriction limitations of that program? Is there a percentage of units that must remain unrestricted, or other rule of thumb, which applies to securing traditional financing for an apartment building?

The applicant provided answers to these questions in the supplemental information submitted for this staff report. That information supports the portrayal of the affordable housing requirement as a barrier to the construction of an apartment building. As discussed above, staff does not recommend developing a generally applicable alternate housing requirement for apartments through this process. This application is a request for exemption from that affordable housing standards based on two assertions:

- Units in apartment buildings are “inherently” occupied by the workforce and therefore part of the housing solution not the housing problem.
- The affordable housing requirement on apartment buildings is a barrier to financing apartment buildings and represents the type of barrier the Housing Action Plan and Comprehensive Plan direct should be removed.

Staff agrees with both assertions in recommending approval of the application. If Council does not agree with the assertions it should deny the application. The applicant can still propose an alternate approach through the PUD, which is how the Town has handled the issue in the past. Then Council can readdress the issue more comprehensively through the update of all of the housing requirements in the LDRs. An RFP for the consultant to help with that update was released March 13.

PLANNING COMMISSION REVIEW

On February 1, 2017, the Planning Commission recommend approval of the application to Town Council, by a 3-0 vote with Commissioner Janak absent and one seat vacant, subject to the following 2 conditions.

1. The approved exemption shall only apply to apartment buildings of 5 or more units.
2. The approved exemption shall only apply to apartment buildings in which all units meet the maximum habitable floor area established in the Housing Department Rules and Regulations.

The majority of the Planning Commission discussion regarded the two conditions. The Commissioners were comfortable with the concept behind each of the conditions, but discussed whether the values proposed were appropriate. Ultimately, they were comfortable with the applicant definition of an apartment building as having 5 or more units (a definition which the applicant has subsequently altered) and comfortable that the Housing Department maximum unit sizes allowed for quality units and flexibility in design.

STAKEHOLDER ANALYSIS

To date no public comment has been received on this application.

Departmental reviews are attached.

STAFF FINDINGS

Pursuant to Section 8.7.1.C of the Town of Jackson Land Development Regulations, the advisability of amending the text of these LDRs is a matter committed to the legislative discretion of the Town Council and is not controlled

by any one factor. In deciding to adopt or deny a proposed LDR text amendment the Town Council shall consider factors including, but not limited to, the extent to which the proposed amendment:

1. Is consistent with the purposes and organization of the LDRs;

Complies. The purpose of the LDRs is to predictably implement the Comprehensive Plan. The proposed amendment adds predictability by clarifying whether apartment buildings should be exempt from affordable housing standards, where such determinations were previously made on a project-by-project basis. Consistent with the organization of the LDRs, the proposed amendment adds a minimal amount of language in the form of a single exemption in Section 7.4.2.

2. Improves the consistency of the LDRs with other provisions of the LDRs;

Not Applicable. The proposed amendment is not intended to improve consistency within the LDRs and does not create any inconsistencies.

3. Provides flexibility for landowners within standards that clearly define desired character;

Complies as Conditioned. The proposed amendment removes barriers to the development of workforce housing. Exempting apartment buildings from affordable housing requirements will make it easier for private developers to provide rentals. Market rentals are a housing type that is needed to meet the community's housing goals and a housing type that contributes the community's housing solution, not the community's housing deficit. The recommended conditions are intended provide assurance that the apartments built pursuant to the proposed exemption will remain occupied by the workforce by virtue of their design.

4. Is necessary to address changing conditions, public necessity, and/or state or federal legislation;

Complies. The proposed amendment addresses the shift in policy direction from the affordable housing requirements adopted in 1995 to the community's future housing goals documented in the Comprehensive Plan and Housing Action Plan. Namely, the proposed amendment encourages the provision of rental units and removes barriers to the construction of workforce housing.

5. Improves implementation of the Comprehensive Plan; and

Complies as Conditioned. The community's housing goal is to house 65% of the workforce locally. To guide achievement of this goal the community adopted a Housing Action Plan in 2015. A specific initiative (5A) in the Housing Action Plan is to remove barriers (such as affordable housing requirements) to the development of workforce housing. Modestly sized apartments in apartment buildings with many units are extremely likely to be occupied by the workforce without restriction. Therefore, the proposed amendment will improve provision of workforce housing.

6. Is consistent with other adopted Town Ordinances.

Complies. The proposed amendment does not conflict with any other Town Ordinances.

ATTACHMENTS

1. Application Supplement dated March 12, 2017
2. March 6 Staff Report

LEGAL REVIEW

Complete.

RECOMMENDATION

The Planning Director and Planning Commission recommend approval of P16-131 subject to 2 conditions:

1. The approved exemption shall only apply to apartment buildings of ten (10) or more units.
2. The approved exemption shall only apply to apartment buildings in which no unit exceeds the maximum habitable floor area established in the Housing Department Rules and Regulations.

At the time of the Planning Commission meeting the applicant's proposed definition of apartment building in P16-132 was a building of 5 or more units. Since the Planning Commission meeting the applicant has revised their proposal to define an apartment building as one with ten (10) or more units. Staff has revised the recommended first condition of approval accordingly, but notes that while the Planning Commission was supportive of the concept of the condition reflecting the applicant's preferred definition, the Planning Commission approved first condition was that the exemption only apply to apartment buildings of five (5) or more units.

SUGGESTED MOTION

I move to recommend approval of P16-131, dated December 9, 2016, being able to find, based upon the findings as presented in the staff report and as made by the applicant, that pursuant to Section 8.7.1.C of the Land Development Regulations the application: 1) Is consistent with the purposes and organization of the LDRs; 2) Improves the consistency of the LDRs with other provisions of the LDRs; 3) Provides flexibility for landowners within standards that clearly define desired character; 4) Is necessary to address changing conditions, public necessity, and/or state or federal legislation; 5) Improves implementation of the Comprehensive Plan; and 6) Is consistent with other adopted Town Ordinances, subject to the following 2 conditions.

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TOWN OF JACKSON

TOWN COUNCIL

AGENDA DOCUMENTATION

PREPARATION DATE: August 10, 2018

MEETING DATE: March 20, 2017

SUBMITTING DEPARTMENT: Planning

DEPARTMENT DIRECTOR: Tyler Sinclair

PRESENTER: Alex Norton

SUBJECT: **Supplemental Material for ITEM P16-131:** Amendment to the text of the Land Development Regulations, pursuant to Section 8.7.1, LDR Text Amendments, to revise Section 7.4.2.D regarding exemption of apartments from Affordable Housing Standards.

APPLICANT: Joe Rice / GOAL, LLC

AGENT: Christine Walker (Navigate, LLC)

[This item was continued from the March 20 meeting. No new information is provided except that public comment received since March 16 is attached.]

REQUESTED ACTION

Amendment to the text of the Land Development Regulations, pursuant to Section 8.7.1, LDR Text Amendments, to revise Section 7.4.2.D regarding exemption of apartments from Affordable Housing Standards.

APPLICABLE REGULATIONS

Sec. 2.3.#.B.1. 25% Floor Area Bonus for Affordable Housing

Sec. 2.3.4.E.1. UR PUD Height Bonus

Sec. 7.4.2. Affordable Housing Standards

Sec. 8.7.1. LDR Text Amendment

BACKGROUND

At the March 6, 2017 regular Town Council meeting, staff and the applicant made presentation on this item, and public comment was taken. Following public comment the item was continued to the March 20 meeting. Please reference the attached staff report for the March 6 meeting for additional background. This is a supplement to that report.

LOCATION

The application would apply within the corporate boundaries of the Town.

PROJECT DESCRIPTION

The application proposes that an apartment building be exempt from the affordable housing requirement of the LDRs (LDR Sec. 7.4.2) that for every four (4) new market units developed, one (1) new unit with an affordable deed restriction must be developed.

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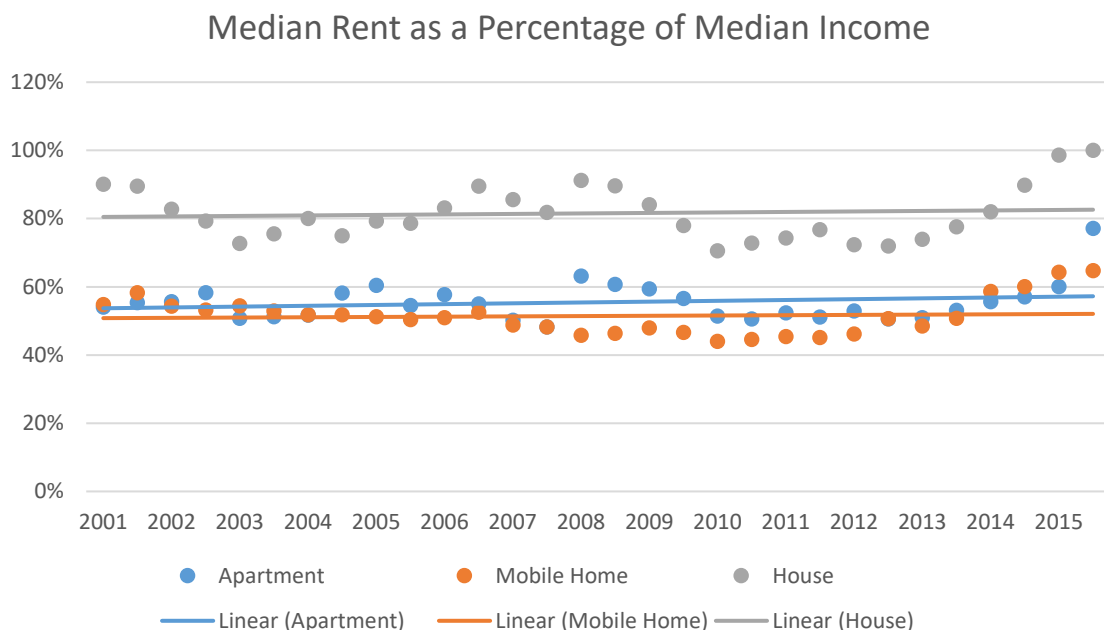
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STAKEHOLDER ANALYSIS

Public comment received is attached.

Departmental reviews are attached.

STAFF FINDINGS

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2. Improves the consistency of the LDRs with other provisions of the LDRs;

Not Applicable. The proposed amendment is not intended to improve consistency within the LDRs and does not create any inconsistencies.

3. Provides flexibility for landowners within standards that clearly define desired character;

Complies as Conditioned. The proposed amendment removes barriers to the development of workforce housing. Exempting apartment buildings from affordable housing requirements will make it easier for private developers to provide rentals. Market rentals are a housing type that is needed to meet the community's housing goals and a housing type that contributes the community's housing solution, not the community's housing deficit. The recommended conditions are intended provide assurance that the apartments built pursuant to the proposed exemption will remain occupied by the workforce by virtue of their design.

4. Is necessary to address changing conditions, public necessity, and/or state or federal legislation;

Complies. The proposed amendment addresses the shift in policy direction from the affordable housing requirements adopted in 1995 to the community's future housing goals documented in the Comprehensive Plan and Housing Action Plan. Namely, the proposed amendment encourages the provision of rental units and removes barriers to the construction of workforce housing.

5. Improves implementation of the Comprehensive Plan; and

Complies as Conditioned. The community's housing goal is to house 65% of the workforce locally. To guide achievement of this goal the community adopted a Housing Action Plan in 2015. A specific initiative (5A) in the Housing Action Plan is to remove barriers (such as affordable housing requirements) to the development of workforce housing. Modestly sized apartments in apartment buildings with many units are extremely likely to be occupied by the workforce without restriction. Therefore, the proposed amendment will improve provision of workforce housing.

6. Is consistent with other adopted Town Ordinances.

Complies. The proposed amendment does not conflict with any other Town Ordinances.

ATTACHMENTS

1. Application Supplement dated March 12, 2017
2. March 6 Staff Report
3. Public Comment

LEGAL REVIEW

Complete.

RECOMMENDATION

The Planning Director and Planning Commission recommend approval of P16-131 subject to 2 conditions:

1. The approved exemption shall only apply to apartment buildings of ten (10) or more units.
2. The approved exemption shall only apply to apartment buildings in which no unit exceeds the maximum habitable floor area established in the Housing Department Rules and Regulations.

At the time of the Planning Commission meeting the applicant's proposed definition of apartment building in P16-132 was a building of 5 or more units. Since the Planning Commission meeting the applicant has revised their proposal to define an apartment building as one with ten (10) or more units. Staff has revised the recommended first condition of approval accordingly, but notes that while the Planning Commission was supportive of the concept of the condition reflecting the applicant's preferred definition, the Planning Commission approved first condition was that the exemption only apply to apartment buildings of five (5) or more units.

SUGGESTED MOTION

I move to recommend approval of P16-131, dated December 9, 2016, being able to find, based upon the findings as presented in the staff report and as made by the applicant, that pursuant to Section 8.7.1.C of the Land Development Regulations the application: 1) Is consistent with the purposes and organization of the LDRs; 2) Improves the consistency of the LDRs with other provisions of the LDRs; 3) Provides flexibility for landowners within standards that clearly define desired character; 4) Is necessary to address changing conditions, public necessity, and/or state or federal legislation; 5) Improves implementation of the Comprehensive Plan; and 6) Is consistent with other adopted Town Ordinances, subject to the following 2 conditions.

1. The approved exemption shall only apply to apartment buildings of ten (10) or more units.
2. The approved exemption shall only apply to apartment buildings in which no unit exceeds the maximum habitable floor area established in the Housing Department Rules and Regulations.

PLANNING

Project Number	P18-205	Applied	6/27/2018	STOL
Project Name	Development Plan - Hidden Hollow		Approved	
Type	DEVPLAN	Closed		
Subtype	CONDO/TOWNHOUSE	Expired		
Status	STAFF REVIEW	Status		

Applicant	Jorgensen Associates, P.C.	Owner	HANSEN & HANSEN, LLP
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Site Address	City	State	Zip
301 HIDDEN HOLLOW DRIVE			

Subdivision	Parcel No	General Plan
	22411627300032	

Type of Review	Status	Dates			
		Sent	Due	Received	Remarks
Contact					
Notes					
Building		6/27/2018	7/18/2018		
Jim Green					

Fire	APPROVED W/CONDITI	6/27/2018	7/18/2018	7/9/2018	Please see notes!
Kathy Clay					

Type of Review	Status	Dates			
		Sent	Due	Received	Remarks
Contact					
Notes					
TO:	Brendan Conboy, Associate Planner				
FROM:	Kathy Clay, Fire Marshal				
DATE:	July 9, 2018				
SUBJECT:	Hidden Hollow, DEV Plan 60 Rosencrans P18-205, 206				

This office has received the request for a fire review for the development plan for Hidden Hollow, at the above location. The currently adopted version of the International Fire Code and the most current edition of the NEC shall be used. Comments include, but are not limited to:

1. Fire apparatus access shall be provided. (2015 IFC 503.1.1) The turnaround at the end of the Mercill extension shall show all dimensions and meet all fire department criteria and must be installed prior to construction of any buildings. Hydrants shall be no further than 500 feet from all structures and shall be in service prior to combustible building materials brought into site.
2. Visible address numbers, a minimum of 4 inches in height and 0.5 inch stroke width, shall be installed on all structures. (IFC 505.1) End of job fire final.
3. Portable fire extinguishers shall be placed in accordance with IFC 906. Provide fire extinguishers at all construction areas.
4. Interior finishes shall meet fire code requirements. (IFC Chapter 8)
5. Means of egress shall meet fire code requirements. (IFC Chapter 10)
6. The means of egress, including exit discharge, shall be illuminated at all times building space served by means of egress is occupied. (IFC 1008.1) Ensure emergency egress
7. Should any fuel-fired appliances be installed, requirements for carbon monoxide detection shall be followed. (IFC 908.7) Sprinklers
8. As determined by the Building Official, structure will have an automatic fire sprinkler system in accordance with appropriate NFPA standard for occupancy type. (IFC 903.2.7)
9. Fire Department Connection (FDC) location shall be determined by the AHJ and noted in the fire sprinkler plan review.
10. A Knox Box for each riser shall be installed in an approved location at each structure having a fire sprinkler system. (IFC 506.1)
11. Water main line shall be installed in accordance to NFPA 13 and NFPA 24 to provide for proper clearances, seismic requirements, flushing and hydro testing. (IFC 901.4.1)
12. Fire flow requirements shall meet Appendix B of the International Fire Code.
13. Pitot water flow test per NFPA 291 is required on all new fire sprinkler installations for NFPA 13R and NFPA 13 systems. Plans will not be approved without certified test.
14. A horn/strobe shall be installed above the fire department connection. (IFC 912.2.2.1)
15. Room which houses riser shall be no less than 5' x 7' dimensions.
16. Concealed spaces within NFPA 13 protected structures having combustible materials shall comply with NFPA 13 requirements and may require addition protection (IFC 903.3.1.1.1 and 903.3.1.1.2)
17. Exterior overhangs exceeding 4 feet shall be protected using fire sprinklers when combustible construction is used (NFPA 13).
18. Exterior egress stairways built of combustible construction shall be protected with fire sprinklers (NFPA 13).
19. Fire Hydrants (number and locations) shall be installed and operational prior to construction, must meet Appendix C of IFC) Alarms
20. Building shall have a complete alarm system per NFPA 72, (IFC Chapter 9). A full set of fire alarm plans from a fire alarm contractor shall be submitted with all calculations and cut sheets of all equipment.
21. Audible appliances provided for the sleeping areas to awaken occupants shall produce a low frequency alarm signal per most current edition of NFPA 72.
22. Any structure with Group R occupancy shall have required carbon monoxide detection as required. (IFC 915.1) Elevator, if provided
23. Elevator shall comply with ASME A17.1 with Phase I and Phase II of elevator emergency operations; subject to recall if required. (IFC Section 607)
24. hood and be placed to alert occupants in the dining area (IFC 904.3.4)

Please feel free to contact me if you have any further questions or concerns at 307-733-4732 or kclay@tetoncountywy.gov.

Type of Review Contact Notes	Status	Dates			
		Sent	Due	Received	Remarks
Legal A Cohen-Davis (8/3/2018 12:19 PM AC) Under the HHPUD (zoning), the applicant is allowed to apply for a minor amendment to its Master Plan. The Town Council may approve or deny a request to amendment to the Master Plan, which includes the Housing Mitigation components. Pursuant to Section 1.5B of the HHPUD, a minor amendment to the Master Plan shall only be approved upon meeting all findings 1-6 set forth therein.	APPROVED W/CONDITI	6/27/2018	7/18/2018	8/3/2018	Please see notes
Parks and Rec Steve Ashworth		6/27/2018	7/18/2018		
Pathways Brian Schilling (8/6/2018 11:21 AM STOL) P18-205, 206 – 301 Hidden Hollow Drive – Hidden Hollow Phase 2 Development Plan Comments from Teton County/TOJ Pathways Department Status: approved w/conditions		6/27/2018	7/18/2018		
<ul style="list-style-type: none"> • Sidewalk Alignments and Design <ul style="list-style-type: none"> o Continuous sidewalk ? Sidewalks shall be continuous when crossing access driveways. ? The concrete sidewalk surface and texture shall continue uninterrupted across the entire access driveway. The sidewalk shall be constructed so that it remains at a consistent vertical alignment with the sidewalk legs on either side of the driveway. I.e., the sidewalk shall not ramp down when crossing the driveway access, rather the driveway should rise to the elevation of the sidewalk. Any vertical change from the street elevation to the sidewalk elevation should be restricted to the driveway apron in the buffer space between the sidewalk and street. o Sidewalk Alignment <ul style="list-style-type: none"> ? The sidewalks on the south side of Apt Bldgs. 2-3 and 4-5 are shown as detached in Sheet A200a (p. 54 in the submittal packet), but are shown as attached in the grading plan sheets elsewhere in the submittal. Sidewalks should be detached to provide separation between the roadway and the pedestrian walking areas, with a concrete driveway apron and a continuous sidewalk across the driveway. The sidewalk along the south side of these buildings as it crosses the three driveways should be realigned to match the detached sidewalks on either side of the apartment buildings. Please contact the Pathways Coordinator for further description or details if this is unclear. ? The sidewalk north of Apt. Bldg. 1 should also be separated (even just a foot or two) from the back of curb to provide separation between the roadway and the pedestrian walking area. It appears there is 3' or so between the sidewalk and the face of the adjacent retaining wall, but the other edge of the sidewalk is directly at the back of curb. The sidewalk should be moved closer to the retaining wall to create a buffer of 1' to 1.5' between the sidewalk and the curb. The treatment for the buffer area could be pavers or exposed aggregate concrete (or some similar treatment to establish a visual and/or tactile difference between the walkway and the curb line). o Pathway Alignment <ul style="list-style-type: none"> ? The inside corners at the three locations where the pathway makes a 90-degree turn should have a rounded inner radius of at least 5'. • Parking <ul style="list-style-type: none"> o Wheelstops need to be provided for the vehicle parking areas that have adjacent attached sidewalks. This is generally applicable to the surface parking lots for Apt. Bldgs. 1, 2-3, and 4-5. Vehicles that are parked in head-in or diagonal parking spaces will encroach onto attached sidewalks (the bumpers overhang the sidewalk, reducing the usable width and creating an irregular walking corridor). To prevent this, wheelstops shall be installed in each space that abuts an attached sidewalk. o Bicycle Parking <ul style="list-style-type: none"> ? The detail on Sheet L2.0 shows a toaster-style rack. Prior rounds of comments have specifically stated that "wave, ribbon, and toaster style racks shall not be used." The style for short-term bike parking shall be "single inverted-U" racks such as the Dero Hoop Rack, Saris Bike Dock, or equivalent. ? Racks need to support the frame of the bicycle in two places. The toaster style racks proposed in the plans do not do this. o Staff supports credits for bike parking towards the development's overall parking requirement. o The rack locations noted on the Landscape plans are good locations for bike parking. o Staff supports including the bike parking towards the landscape surfacing requirement so that bike parking does not detract from the applicant's landscape requirements. Conversion of a car parking spot to bike parking would also be supported. o Jackson Hole Community Pathways will be happy to provide additional background information and guidance on site selection, layout, rack selection, and rack installation. • For any of these recommendations, JHCP staff will be happy to clarify the comments or provide assistance and design guidance. 					

Type of Review Contact Notes	Status	Dates			Remarks
		Sent	Due	Received	
Planning Brendan Conboy		6/27/2018	7/18/2018		See Staff Report P18-205
Police Todd Smith (7/30/2018 10:55 AM STOL) Tiffany,	APPROVED	6/27/2018	7/18/2018	7/30/2018	
Still no law enforcement concerns.					
Thank you, Todd					
Public Works Brian Lenz		6/27/2018	7/18/2018		
START Darren Bruggmann		6/27/2018	7/18/2018		
TC Housing Authority Stacy Stoker (7/19/2018 12:09 PM SAS)	DENIED	6/27/2018	7/18/2018	7/19/2018	Please see notes
The applicant is requesting the ability to make the units all rentals.					
If the amendment to the Master Plan is approved, the development will create 84 market rentals with only 9 restricted Affordable rental units to mitigate for the townhomes and single family lots. The amendment will not affect the 45 workforce housing units; they will remain the same because they are a requirement of the 48' height allowance.					
Implications of this change are as follows:					
- Current requirement: 45 Workforce ownership units, 9 Affordable ownership units in each of the following income ranges: <80%, 80-100%, and 100-120% for a total of 27 Affordable ownership units. Total of 72 restricted units.					
- Proposed requirement: 45 Workforce rental units, 3 Affordable rental units in each of the following income ranges: <80%, 80-100%, 100-120% for a total of 9 Affordable rental units. Total of 54 restricted units.					
According to the Housing Department's Intake Form data collected January-June 2018: 55% or 292 households seeking housing through Housing Department programs earn less than 80% of median income, 17% earn 80-100% of median income. 16% earn 100-120% of median income, and 12% earn more than 120% of median income.					
The proposed change from ownership to rental will diminish the number of units guaranteed to serve households earning <120% of median income by 66% (27 Affordable units to 9 Affordable units). Twelve units guaranteed to serve households earning less than 100% of median income will be lost.					
There is no requirement that the market rental units provide housing for the workforce and the rents charged will be market rates, which are generally affordable to households earning over 100% of median income.					
52% of households in Teton County earn less than 80% of median income; 55% of all households seeking housing through the Housing Department programs earn less than 80% of median income.					
The Housing Department recommends denial of this amendment to the Master Plan for Hidden Hollow.					

PLANNING

Project Number	P18-206	Applied	6/27/2018	STOL
Project Name	Development Plan - Hidden Hollow		Approved	
Type	MASTER PLAN		Closed	
Subtype			Expired	
Status	STAFF REVIEW		Status	

Applicant	Jorgensen Associates, P.C.	Owner	HANSEN & HANSEN, LLP
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Site Address	City	State	Zip
301 HIDDEN HOLLOW DRIVE			

Subdivision	Parcel No	General Plan
	22411627300032	

Type of Review	Status	Dates			
		Sent	Due	Received	Remarks
Legal A Cohen-Davis (8/3/2018 12:20 PM AC)	APPROVED	7/30/2018	8/3/2018	8/3/2018	Please see notes
The applicant is allowed to apply for a minor amendment to the approved Master Plan. The Town Council may approve or deny the request to amend the Master Plan, which includes a change to the the Housing Mitigation Component. Pursuant to Section 1.5B of the HHPUD, a minor amendment to the Master Plan shall only be approved upon meeting all findings 1-6 set forth therein.					
Other					
Parks and Rec					
Steve Ashworth					
Planning					
Tyler Sinclair					
TC Housing Authority					
Stacy Stoker					