



TOWN OF JACKSON

TOWN COUNCIL

AGENDA DOCUMENTATION

PREPARATION DATE: AUGUST 30, 2018
MEETING DATE: SEPTEMBER 4, 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

REQUESTED ACTION

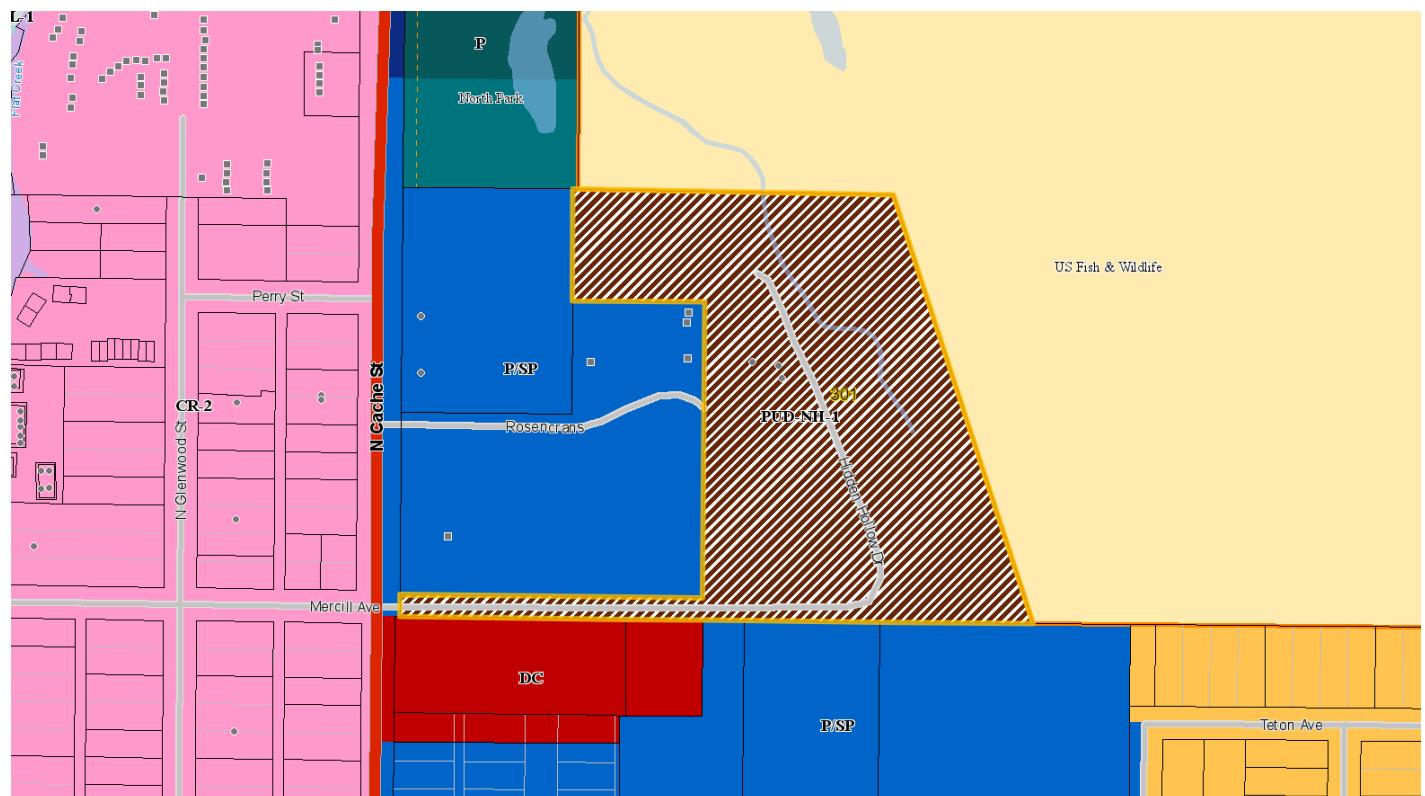
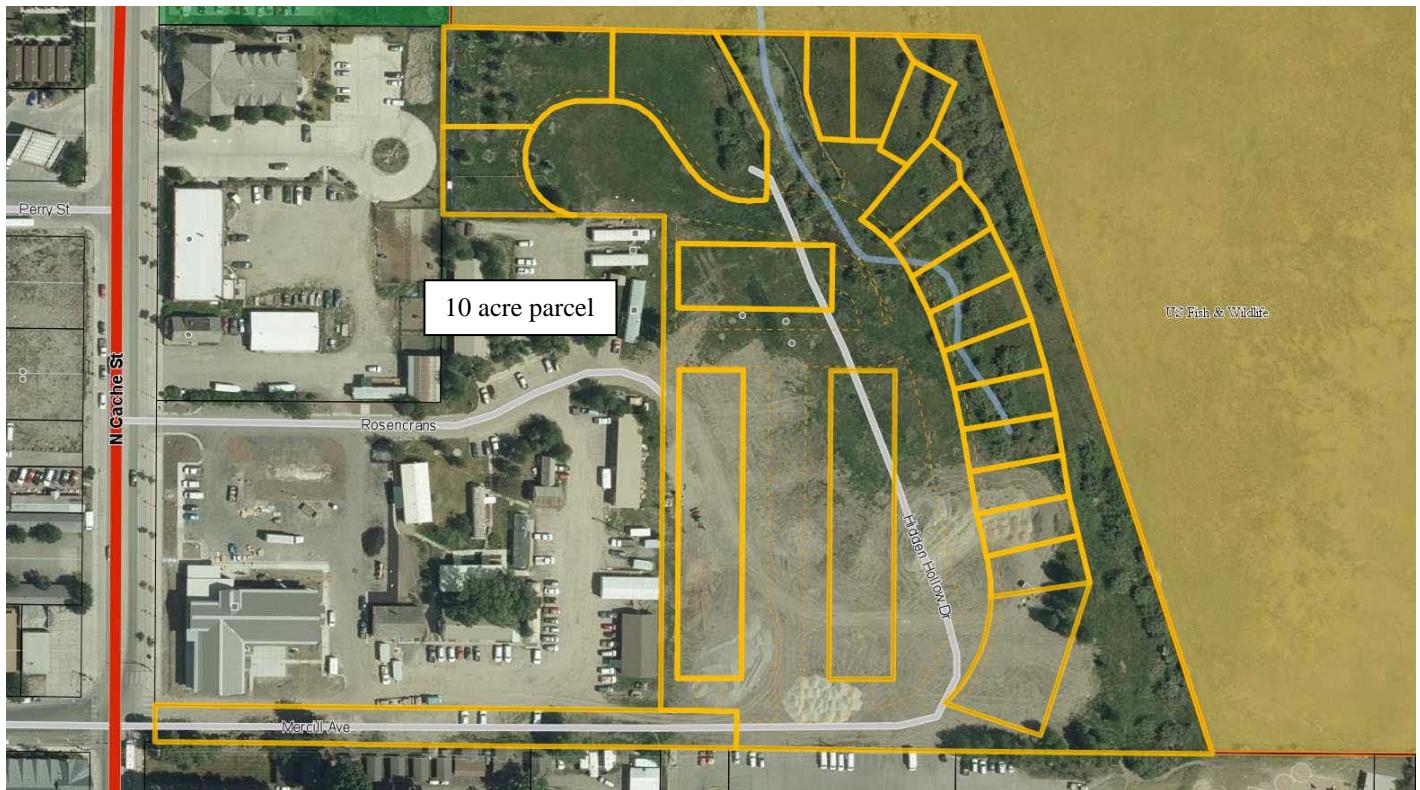
The applicant is requesting approval of two Minor Amendments to the Hidden Hollow Planned Unit Development Master Plan to consolidate and expedite the Phasing Plan and to amend the Housing Section to allow the multifamily housing units to be ownership or rental. In addition, the applicant is requesting 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
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* 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.

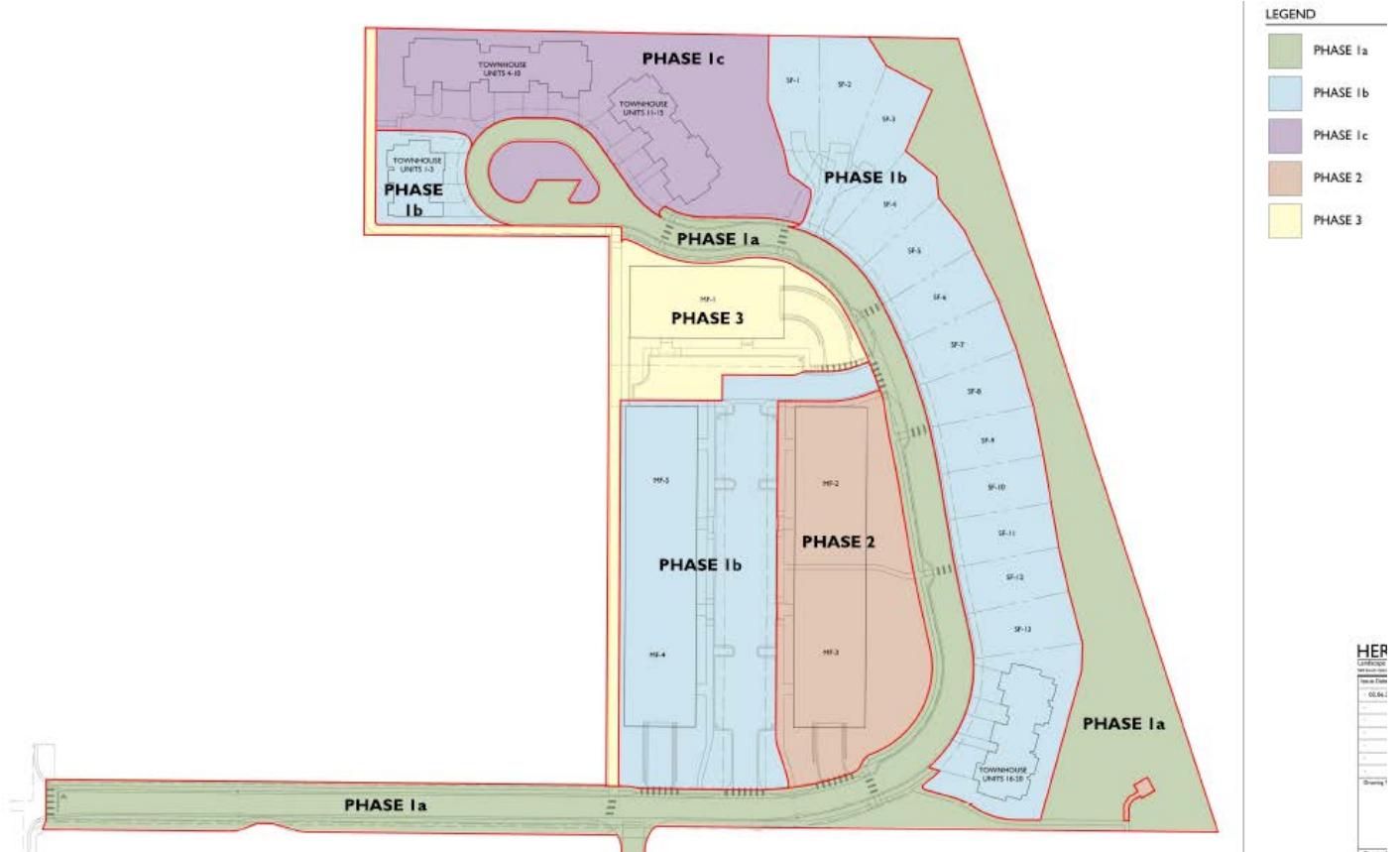
Minor Amendments to the HHPUD Master Plan

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:

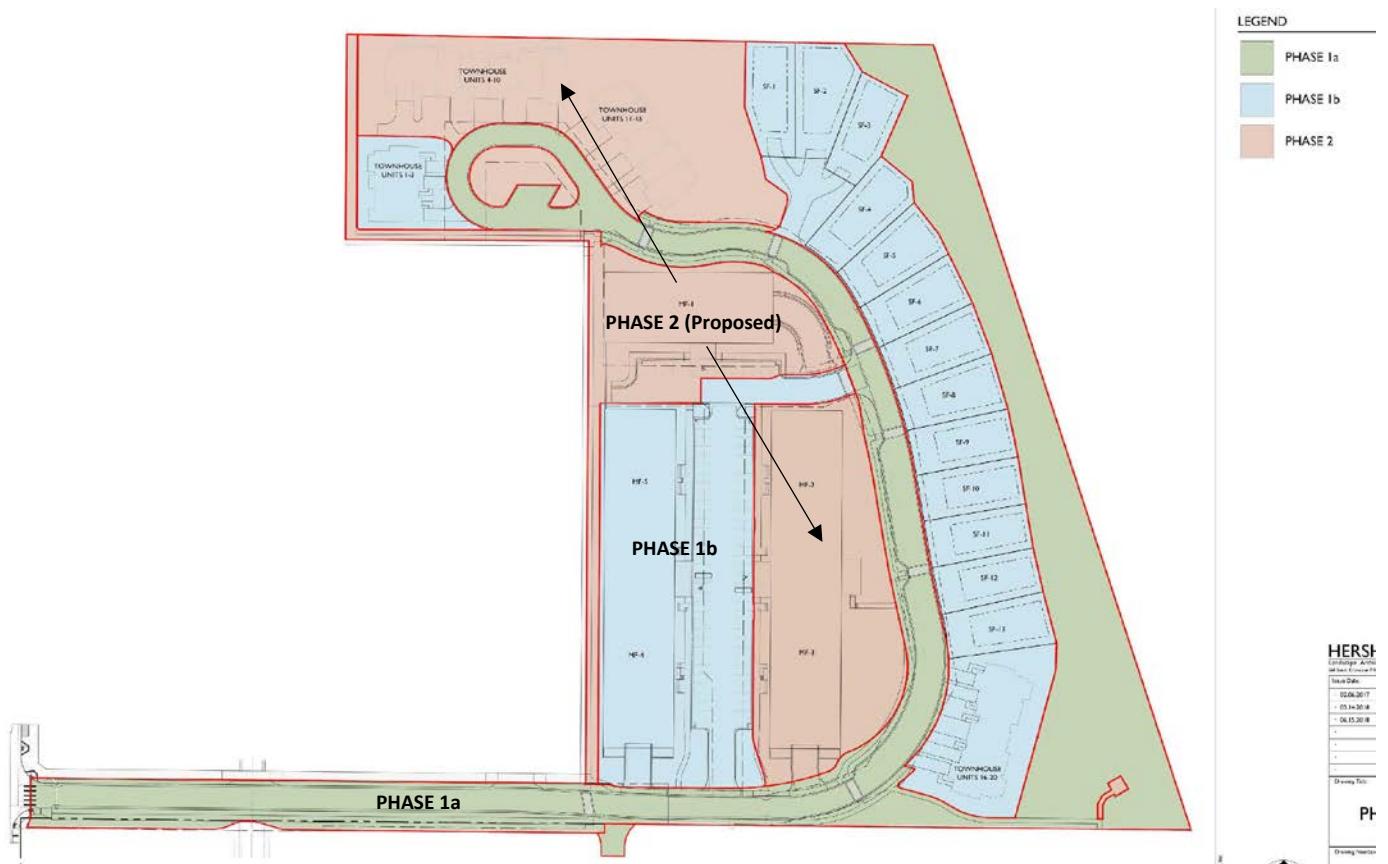
C. If an application that would generally be subject to a decision by a Town official will have significant local and community impacts that warrant public review, the Town official may require the application be reviewed by the appropriate advisory bodies and decided upon by the appropriate decision-making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



Existing phasing plan



Proposed phasing plan

Housing Section: The applicant has proposed amendments to the Master Plan to clarify that both ownership and rental is allowed for the multifamily units. The amendments clarify the differences in mitigation required for the affordable housing mitigation based on the type of use and by phase. Specifically, the amendments clarify that apartments (rentals) are exempt from an Affordable Housing requirement and that attached single family unit (condominiums) are not.

The applicant states that this change will better respond to the community's needs allowing the applicant to choose between rental or ownership at time of Development Plan. In addition, the applicant is proposing to amend the Housing section of the Master Plan to utilize Section 7.4.2.D.13 Exemption - Apartment Building, of the Land Development Regulations.

Division 7.4 Affordable Housing Standards was deleted from the LDRs and replaced by Division 6.3 Affordable Workforce Housing Standards with the adoption of the current LDRs on July 18, 2018. The apartment building exemption was removed from the LDRs as it was considered unnecessary given the now reduced mitigation rates for multi-family development under Division 6.3. However, the applicant submitted their application and was deemed sufficient on July 10, 2018, and therefore is subject to the LDRs in place at the time of sufficiency. In addition, Section 1.4.A. Relationship to Land Development Regulations of the HHPUD Master Plan states that:

“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.”

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 (condos) 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 66 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 own 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 memo 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. 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.

	<i>Blair Place</i>	<i>JH Apartments</i>	<i>Grove</i>
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

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. However at the Planning Commission hearing the applicant stated that they would be providing 9 units under this proposal.

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 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.

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.

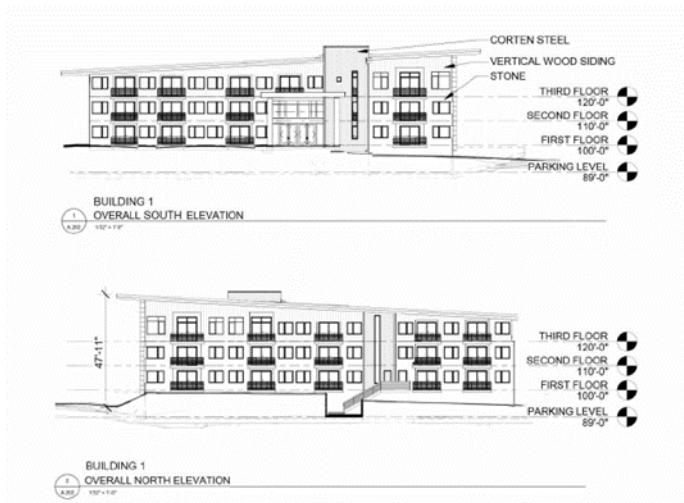


PERSPECTIVE LOOKING NORTHEAST

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 Mercell Avenue extension will be private. Upon completion of the Mercell 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 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 Sub-area 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 Mercell 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 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

Memo 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.

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.

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 integration of Affordable and Workforce units in the building.

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 the departmental reviews.

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.

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 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 integration of Affordable and Workforce units in the building.

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.

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	301 HIDDEN HOLLOW DRIVE	City	State	Zip
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Subdivision	Parcel No	General Plan
	22411627300032	

Type of Review	Status	Dates			Remarks
		Sent	Due	Received	
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			Remarks
		Sent	Due	Received	
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 and 903.3.1.2)
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	Status	Dates				Remarks
		Sent	Due	Received		
Contact						
Notes						
Legal	APPROVED W/CONDITI	6/27/2018	7/18/2018	8/3/2018		Please see notes
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.
Parks and Rec		6/27/2018	7/18/2018			
Steve Ashworth						
Pathways		6/27/2018	7/18/2018			
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
						<ul style="list-style-type: none"> • Sidewalk Alignments and Design 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 ? 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 ? 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 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 ? 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	Status	Dates			Remarks
		Sent	Due	Received	
Contact Notes					
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 Brugmann		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			Remarks
		Sent	Due	Received	
Contact					
Notes					
Legal	APPROVED	7/30/2018	8/3/2018	8/3/2018	Please see notes
A Cohen-Davis (8/3/2018 12:20 PM AC)					
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



TOWN OF JACKSON TOWN COUNCIL AGENDA DOCUMENTATION

PREPARATION DATE: March 2, 2017
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 Action 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

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 to the community's housing solution, not the community's housing deficit. The recommended conditions are intended to 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.



PLANNING PERMIT APPLICATION

Planning & Building Department Planning Division

150 E Pearl Ave. | ph: (307) 733-0440
P.O. Box 1687 | fax: (307) 734-3563
Jackson, WY 83001 | www.townofjackson.com

For Office Use Only

Fees Paid _____

Check # _____

Credit Card _____

Cash _____

Application #s _____

PROJECT.

Name/Description: _____

Physical Address: _____

Lot, Subdivision: _____ PIDN: _____

OWNER.

Name: _____ Phone: _____

Mailing Address: _____ ZIP: _____

E-mail: _____

APPLICANT/AGENT.

Name: _____ Phone: _____

Mailing Address: _____ ZIP: _____

E-mail: _____

DESIGNATED PRIMARY CONTACT.

____ Owner _____ Applicant/Agent

TYPE OF APPLICATION. Please check all that apply; see Fee Schedule for applicable fees.

Use Permit

Basic Use

Conditional Use

Special Use

Relief from the LDRs

Administrative Adjustment

Variance

Beneficial Use Determination

Appeal of an Admin. Decision

Physical Development

Sketch Plan

Development Plan

Development Option/Subdivision

Development Option Plan

Subdivision Plat

Boundary Adjustment (replat)

Boundary Adjustment (no plat)

Interpretations

Formal Interpretation

Zoning Compliance Verification

Amendments to the LDRs

LDR Text Amendment

Zoning Map Amendment

Planned Unit Development

PRE-SUBMITTAL STEPS. Pre-submittal steps, such as a pre-application conference, environmental analysis, or neighborhood meeting, are required before application submittal for some application types. See Section 8.1.5, Summary of Procedures, for requirements applicable to your application package. If a pre-submittal step is required, please provide the information below. If you need assistance locating the project number or other information related to a pre-submittal step, contact the Planning Department. If this application is amending a previous approval, indicate the original permit number.

Pre-application Conference #:	n/a	Environmental Analysis #:	n/a
Original Permit #:	n/a	Date of Neighborhood Meeting:	n/a

SUBMITTAL REQUIREMENTS. Twelve (12) hard copies and one (1) digital copy of the application package (this form, plus all applicable attachments) should be submitted to the Planning Department. Please ensure all submittal requirements are included. The Planning Department will not hold or process incomplete applications. Partial or incomplete applications will be returned to the applicant.

Have you attached the following?

- Application Fee.** Fees are cumulative. Applications for multiple types of permits, or for multiple permits of the same type, require multiple fees. See the currently adopted Fee Schedule in the Administrative Manual for more information.
- Notarized Letter of Authorization.** A notarized letter of consent from the landowner is required if the applicant is not the owner, or if an agent is applying on behalf of the landowner. If the owner is a partnership or corporation, proof that the owner can sign on behalf of the partnership or corporation is also required. Please see the Letter of Authorization template in the Administrative Manual for a sample.
- Response to Submittal Checklist.** All applications require response to applicable review standards. These standards are outlined on the Submittal Checklists for each application type. If a pre-application conference is held, the Submittal Checklists will be provided at the conference. If no pre-application conference is required, please see the Administrative Manual for the applicable Checklists. The checklist is intended as a reference to assist you in submitting a sufficient application; submitting a copy of the checklist itself is not required.

FORMAT.

The main component of any application is demonstration of compliance with all applicable Land Development Regulations (LDRs) and Resolutions. The submittal checklists are intended to identify applicable LDR standards and to outline the information that must be submitted to sufficiently address compliance with those standards.

For some submittal components, minimum standards and formatting requirements have been established. Those are referenced on the checklists where applicable. For all other submittal components, the applicant may choose to make use of narrative statements, maps, drawings, plans and specifications, tables and/or calculations to best demonstrate compliance with a particular standard.

Note: Information provided by the applicant or other review agencies during the planning process may identify other requirements that were not evident at the time of application submittal or a Pre-Application Conference, if held. Staff may request additional materials during review as needed to determine compliance with the LDRs.

Under penalty of perjury, I hereby certify that I have read this application and associated checklists and state that, to the best of my knowledge, all information submitted in this request is true and correct. I agree to comply with all county and state laws relating to the subject matter of this application, and hereby authorize representatives of Teton County to enter upon the above-mentioned property during normal business hours, after making a reasonable effort to contact the owner/applicant prior to entering.

Signature of Owner or Authorized Applicant/Agent
Christine Walker, Navigate, LLC

Name Printed

12/9/16

Date

Title

LETTER OF AUTHORIZATION

GOAL 11C, "Owner" whose address is: _____
6545 N. VISTA LN; JACKSON, WY 83001
(NAME OF ALL INDIVIDUALS OR ENTITY OWNING THE PROPERTY)

JOE RICE, as the owner of property
more specifically legally described as: PT NW 1/4 NE 1/4, SEC. 33, TWP. 41 RNG. 116 -
SEE ATTACHED.

PARCEL: 22-41-11-33-1-00-015
(If too lengthy, attach description)

Under penalty of perjury, the undersigned swears that the foregoing is true and, if signing on behalf of a corporation, partnership, limited liability company or other entity, the undersigned swears that this authorization is given with the appropriate approval of such entity, if required.

OWNER:

(SIGNATURE) (SIGNATURE OF CO-OWNER)

Title: Owen

(if signed by officer, partner or member of corporation, LLC (secretary or corporate owner) partnership or other non-individual Owner)

The foregoing instrument was acknowledged before me by Joseph N Rice this 3rd day of October 2016

WITNESS my hand and official seal.

WITNESS my hand and official seal.
Sheu C. Mallie

(Notary Public)

My commission expires:

(Seal)

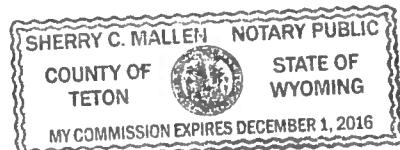


EXHIBIT "A"

File No.: **4559-1394735**

Policy No.: **1394735**

The Land referred to in this Policy is described as follows:

A Tract of Land located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 33, Township 41 North, Range 116 West, 6th P.M., Town of Jackson, Teton County, Wyoming, being that tract described in Book 464 of Photo, page 84-85, records of Teton County, and being more particularly described as follows:

Beginning at the intersection of the north-south midsection line of said Section 33 with the southerly right-of-way line of U.S. Highway 26, 89, 189, 191, which point is marked by a 2 1/2" steel pipe with brass cap set and inscribed by Wyoming PLS 164; thence along said right-of-way line, N46°59'09"E, 199.96 feet to a standard Wyoming Department of Transportation right-of-way marker; thence continuing along said right-of-way line, N47°00'52"E, 231.95 feet, more or less, to a point in the center of the channel of Flat Creek thence generally southerly along the center of the channel of Flat Creek through the following approximate courses and distances: S10°22'E, 51.5 feet, more or less; S20°30 3/4'E, 40.0 feet, more or less; thence S31°13 1/2'E, 82.5 feet, more or less; thence S20°43 1/2'E, 45.1 feet, more or less; thence S01°15'W, 43.1 feet, more or less; thence S17°59 1/2'W, 46.7 feet, more or less; thence S28°59 1/2'W, 67.1 feet, more or less; thence S24°44'W, 38.5 feet, more or less, to an intersection with the easterly prolongation of a north line of Lot 1 of the Stone Addition to the Town of Jackson, Plat No. 818 as recorded in the Office of the Teton County Clerk; thence departing said thread of the channel of Flat Creek and proceeding along said prolonged line of the Stone Addition, N88°47'08"W, 158.22 feet to the easternmost corner of Said Lot 1, Stone Addition, marked by a steel t-shaped stake with chromed cap set and inscribed by Wyoming PE & LS 2612; thence along said northerly line of Said Lot 1, N88°47'08"W, 50.55 feet to a point marked by a 2 1/2" steel pipe with brass cap set and inscribed by Wyoming PLS 164; thence continuing along said northerly line of Said Lot 1, N88°47'08"W, 126.26 feet to said north-south midsection line of Said Section 33, which point lies N00°47'12"E, 120.85 feet from the center-north one-sixteenth corner of said Section, the southwest corner of said NW $\frac{1}{4}$ NE $\frac{1}{4}$; thence along said midsection line, N00°47'12"E, 80.11 feet to the Point of Beginning.

Proposed Text Amendment

Exemption from Affordable Housing Standards

Narrative Description

The purpose of the proposed text amendment is to reduce regulatory barriers to the development, primarily by the private sector, of apartment buildings, or multi-family structures under single ownership rented long-term to individuals. Apartments, by their nature, are workforce housing and therefore should be exempt from the Affordable Housing Standards in the same way that mobile homes (LDR 7.4.1.D.2) and accessory residential units (LDR 7.4.1.D.5) are exempt.

Background

Apartment buildings, by their nature are housing for local workers. They are owned by one entity and rented long-term to individuals. Rental rates are not influenced as much by 2nd homeowners as ownership product; therefore, rents tend to track with local incomes.

Currently, there is a lack of safe, suitable, and adequate long-term rental units for locals in Jackson because of several things, including:

- 1) Few new apartments either constructed or entitled over the past few decades;
- 2) Gentrification of traditional workforce neighborhoods with redevelopment into high-end units targeting part-time residents; and
- 3) Limited locations and regulatory barriers to the development of multi-family apartments.

This lack of safe, suitable, and adequate housing places the public health, safety and welfare of local residents at risk.

To reduce the primary regulatory barrier to the production development of apartment buildings by the private sector, this amendment proposes exempting apartment buildings from the Affordable Housing Standards (LDR 7.4.2).

Existing Text to be Amended [Applicable Regulations]

LDR Section 7.4.2.D. Exemptions to add the following:

13. Apartment Building. Development of an apartment building is exempt from the standards of this Division.

Findings

Pursuant to Section 9.7.1, LDR Text Amendment of the LDRs, 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:

C.1: Is consistent with the purposes and organization of the LDRs

Complies. The proposed amendment is consistent with the purpose of the LDRs by implementing the Comprehensive Plan and incentivizing the creation of apartment buildings to help meet the goal of housing 65% of the workforce locally.

The recommended placement of the exemption for apartment buildings is consistent with the organization of the LDRs because it is located with other exemptions to the housing standards that create no impact on the community's ability to house its workforce locally.

C.2: Improves the consistency of the LDRs with other provisions of the LDRs

Complies. The proposed amendment resolves the legal nexus conflict with the current regulations. The justification for affordable housing mitigation is the nexus between the impacts of a development on the creation of jobs and the resulting need for workforce housing. Apartments, by their nature, are workforce housing and therefore apartment projects more than offset their impacts. As a result, apartment projects should be exempt from the affordable housing standards in the same way that mobile homes (LDR 7.4.2.D.2) and accessory residential units (LDR 7.4.2.D.5) are exempt.

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

Complies. The amendment is designed to create flexibility for landowners to produce apartment buildings by reducing regulatory barriers. The amendment does not provide unlimited flexibility because any proposed development requires compliance with all other applicable LDRs.

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

Complies. The amendment is proposed to encourage the creation of apartment buildings to provide much needed long-term rental units for local workers. The escalating housing market conditions create a public necessity to build safe, decent, and adequate housing options for rent by locals. This

amendment is necessary to encourage the development of apartment buildings, primarily by the private sector, to implement the community's comprehensive vision.

The affordable housing requirements, which currently cap the rent on a certain number of units in an apartment building, create challenges in securing long-term financing because there is increased risk for lending institutions. This also tends to raise the cost of securing long-term financing because the interest rate increases with risk. Additionally, operations and management becomes more expensive with lease complexity and compliance requirements.

The exemption allows for greater financing opportunities and a reduction in operating costs from the current standards, which incentivizes the development of apartment buildings.

C.5: Improves implementation of the Comprehensive Plan

Complies. The proposed amendment improves the implementation of the Comprehensive plan by reducing the barriers to the development of apartment buildings, which are long-term rental products targeting local workers. This encourages the creation of a product that is inherently 100% housing for local residents instead of only 25% as required by the housing standards.

Apartment buildings represent a critical component of our residential options to provide housing for the local workforce and to maintain a diverse population. Current regulations, however, disincentivize the market from developing apartment buildings because various characteristics of apartment buildings are unintentionally penalized. Reducing the regulatory barriers can encourage the private sector to provide a supply of quality housing opportunities for the local workforce to sustain the socioeconomic diversity and generational continuity that preserve our heritage and sense of community.

In particular, this incentive directly addresses Comp Plan Policy 5.2.a: Provide a variety of housing options:

The diversity of households that the community desires requires a variety of restricted and market housing options. The demand for detached single-family housing and duplex units is strong, but other housing options (condos, small lots, lofts and apartments) are also needed to meet the community's housing goal. In particular, multi-family units generally require less financial subsidy per unit and are more affordable for the local workforce. They also condense the development footprint and increase the viability of alternative modes of transportation.

C.6: Is consistent with other adopted Town Ordinances

Complies. The proposed amendment is consistent with other adopted Town Ordinances including the Housing Action Plan Initiative 5A. Allow for supply of workforce housing by removing barriers:

Well-meaning requirements enacted in isolation can result in unintended barriers to housing. Similarly, the planning approvals process can hinder housing through the quantity of community requirements placed on development, and the community's desire to publicly review individual projects. For example, rental units tend to be more affordable than ownership units; even if only restricted by a Planning Department use permit, rentals tend to provide workforce housing. Allowing rentals in more areas is important to workforce housing supply; however, the success of such allowances depends on protecting against short-term rentals.

Furthermore, the proposed amendment to the affordable housing standards will support the Council's strategic intent to "Support workforce housing". This amendment will provide an incentive for landowners to develop apartment buildings to provide long-term rental options for local employees.



TOWN OF JACKSON TOWN COUNCIL AGENDA DOCUMENTATION

PREPARATION DATE: March 16, 2017
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.

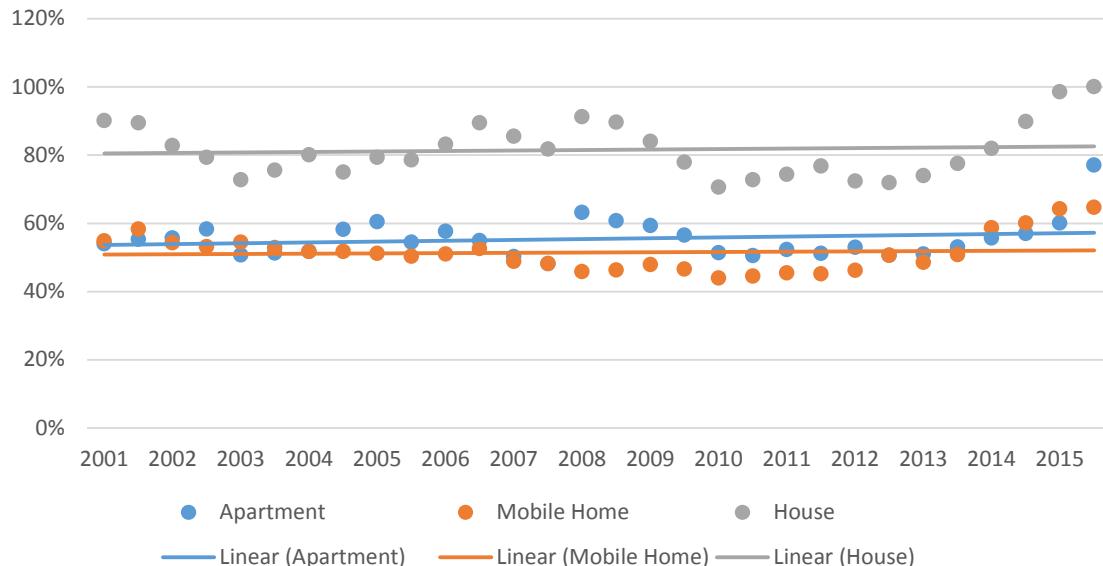
STAFF ANALYSIS

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.

Median Rent as a Percentage of Median Income



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.

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.

Supplemental Information

P16-131 – Text Amendment to exempt apartment buildings from the Affordable Housing

Standards

March 12, 2017

Response to Questions from Town Council:

- 1) How many workforce restricted units equal the same added project cost as the affordable requirement you are asking to be exempt from, and would you be willing to restrict that many units with workforce restrictions as an alternative to the affordability requirement? For example: if your requirement was 15 affordable units and each Cat I represented a \$300 monthly subsidy each Cat II represented a \$100 monthly subsidy and each Cat III represented \$0 monthly subsidy, but increased financing cost – how many units with a workforce restriction add an equivalent project cost to those 15 affordable units?**

This question seems to request that the applicant monetize the various types of deed restrictions and then compare the decreased revenue with increased costs of financing to reach a balance. This exercise differs from project to project because of the many variables associated with real estate development, such as unit sizes, current interest rates, and percentage of debt.

The applicant is requesting a text amendment to create an incentive for the private sector to develop long-term rental units in the form of apartment buildings. The incentive, to be effective, must offer enough of a reason to encourage a developer to use the tool. Swapping one deed restriction for another does not reduce regulatory complexity, and equalizing costs offers no monetary incentive.

This approach represented by the question eliminates any incentive and does not induce the private sector to construct long-term rentals, which would address the existing housing crisis and assist in meeting the community's goal of housing 65% of the workforce locally.

- 2) What HUD program are you using to finance the project and how do deed restrictions limit that financing? Is there a percentage of the units that must remain unrestricted in order to secure the financing?**

The proposed text amendment is not project specific. If this text amendment is approved, the applicant proposes utilizing this incentive tool to construct a 90-unit apartment building called Sagebrush Apartments.

The applicant proposes using HUD's Section 221(d)(4) program with Sagebrush Apartments. This program insures mortgage loans to facilitate the new construction of multifamily rental housing for moderate-income households. The purpose is to assist private industry in the construction of rental housing for moderate-income households by making capital more readily available.

Our team posed the deed restriction question to a HUD expert and former HUD executive. The response was that any deed restriction causes a challenge and must meet the Fair Housing Act. An occupancy restriction might be okay with HUD with 25%, at 35% the risk of denial increases, and a higher percentage is a stretch.

3) Is there a percentage of the units that must remain unrestricted, or other rule of thumb, in order to secure non-HUD financing?

Any restriction raises the cost of conventional (non-HUD) or HUD financing. This is because by limiting the potential tenants the risk of defaulting on the loan is increased. The lender takes the amount of risk into account when negotiating loan terms. A higher risk loan does a couple of things: it increases the cost of financing and often decreases the amount of debt that can be obtained. This results in more equity required, which is more expensive than debt, and therefore could result in project not being financially viable.

The difference between HUD and conventional financing is significant. The HUD 221(d)(4) program is designed to assist private industry in the construction of rental housing for moderate-income households by making capital more readily available. This is done through more favorable loan terms than conventional financing such as 40 year fixed rate term, higher loan to value percentages and non-recourse.

4) What assurance, other than an affordable, employee, or workforce deed-restriction can you provide that the units will remain occupied by the workforce?

An apartment building is a multifamily structure under single ownership rented long-term to individuals. This product type provides assurance that the majority if not all of the units will remain occupied by the workforce. This is similar to what we see at other local apartment complexes and with market apartment buildings in Rocky Mountain destination resorts.

As proposed, Sagebrush Apartments will have about 35% of the units occupancy restricted. This is because the text amendment does not apply to bonus floor area or to the exemption for interior corridors.

If at any time in the future the apartment building were converted to condominiums, the Affordable Housing Standards would apply. In the case of Sagebrush Apartments, this means that about 60% of the project would be deed restricted.

- 25% occupancy restricted (4th Floor and FAR bonus)
- 10% occupancy restricted (interior corridors)
- 25% income and occupancy restricted (base FAR as a result of condo conversion)

DATE	INVOICE NO.	COMMENT	AMOUNT	NET AMOUNT
06/06/2018	160161014	Development Plan Application Fee for Phase 2		2,500.00

45802



JORGENSEN

DATE	VENDOR	TOTAL
06/06/18	Town of Jackson	2,500.00

JORGENSEN
 WELLS FARGO, N.A. ⁹⁹⁻¹⁰⁹
 WYOMING ¹⁰²³

45802

PO BOX 9550 • JACKSON, WY 83002
 (307) 733-5150

Two Thousand Five Hundred and no/100

DATE
 06/06/18

AMOUNT
 \$2,500.00

TOWN OF JACKSON
 P.O. BOX 1687
 JACKSON WY 83001

PAY
 TO THE
 ORDER
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