



# TOWN OF JACKSON

## PLANNING & BUILDING DEPARTMENT

### TRANSMITTAL MEMO

**Town of Jackson**

- ☐ Public Works/Engineering
- ☐ Building
- ☐ Title Company
- ☒ Town Attorney
- ☐ Police
- ☐ Ecosystem Stewardship

**Joint Town/County**

- ☐ Parks & Recreation
- ☐ Pathways
- ☒ Joint Housing Dept.

**Teton County**

- ☐ Planning Division
- ☐ Engineer
- ☐ Surveyor
- ☐ Assessor
- ☐ Clerk & Recorder
- ☐ Road & Levee

**State of Wyoming**

- ☐ Teton Conservation
- ☐ WYDOT
- ☐ TC School District #1
- ☐ Game & Fish
- ☐ DEQ

**Federal Agencies**

- ☐ Army Corp of Engineers

**Utility Providers**

- ☐ Qwest
- ☐ Lower Valley Energy
- ☐ Bresnan Communications

**Special Districts**

- ☐ Start
- ☐ Jackson Hole Fire/EMS
- ☐ Regional Transportation

Date: July 1, 2025  Item: P25-031	<b>REQUEST:</b>  The Applicant is submitting a request for an LDR Text Amendment to amend the text of the Land Development Regulations pursuant to Section 8.7.1. to exempt non-profit organizations providing a mandated public service through a public-private partnership from Affordable Workforce Housing requirements.
Planner: Andrew Bowen Phone: 733.0440 ext. 1306 Email: <a href="mailto:abowen@jacksonwy.gov">abowen@jacksonwy.gov</a>	
<b>Owner:</b> Mental Health & Recovery Services PO Box 1868 Jackson, WY 83001	<b>PIDN:</b> 22-41-16-34-1-56-003
<b>Applicant:</b> Same	For questions, please call Andrew Bowen at 733-0440, x 1306, or email to the address shown below. Thank you.
<b>Please respond by: July 22, 2025</b>  For Departments not using SmartGov, please send responses via email to <a href="mailto:planning@jacksonwy.gov">planning@jacksonwy.gov</a>	



**PLANNING PERMIT APPLICATION**  
**Planning & Building Department**

150 E Pearl Ave. | ph: (307) 733-0440  
P.O. Box 1687 | [www.townofjackson.com](http://www.townofjackson.com)  
Jackson, WY 83001

**For Office Use Only**

Fees Paid \_\_\_\_\_ Date & Time Received \_\_\_\_\_  
Application #s \_\_\_\_\_

**Please note:** Applications received after 3 PM will be processed the next business day.

**PROJECT.**

Name/Description: \_\_\_\_\_  
Physical Address: \_\_\_\_\_  
Lot, Subdivision: \_\_\_\_\_ PIDN: \_\_\_\_\_

**PROPERTY OWNER.**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ ZIP: \_\_\_\_\_  
E-mail: \_\_\_\_\_

**APPLICANT/AGENT.**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ ZIP: \_\_\_\_\_  
E-mail: \_\_\_\_\_

**DESIGNATED PRIMARY CONTACT.**

\_\_\_\_\_ Property Owner \_\_\_\_\_ Applicant/Agent

**TYPE OF APPLICATION.** Please check all that apply; review the type of application at [www.townofjackson/200/Planning](http://www.townofjackson/200/Planning)

**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  
\_\_\_\_\_ Design Review

**Subdivision/Development Option**

\_\_\_\_\_ Subdivision Plat  
\_\_\_\_\_ Boundary Adjustment (replat)  
\_\_\_\_\_ Boundary Adjustment (no plat)  
\_\_\_\_\_ Development Option Plan

**Interpretations**

\_\_\_\_\_ Formal Interpretation  
\_\_\_\_\_ Zoning Compliance Verification

**Amendments to the LDRs**

\_\_\_\_\_ LDR Text Amendment  
\_\_\_\_\_ Map Amendment

**Miscellaneous**

\_\_\_\_\_ Other: \_\_\_\_\_  
\_\_\_\_\_ Environmental Analysis

**PRE-SUBMITTAL STEPS.** To see if pre-submittal steps apply to you, go to [www.townofjackson.com/200/Planning](http://www.townofjackson.com/200/Planning) and select the relevant application type for requirements. Please submit all required pre-submittal steps with application.

Pre-application Conference #: \_\_\_\_\_ Environmental Analysis #: \_\_\_\_\_

Original Permit #: \_\_\_\_\_ Date of Neighborhood Meeting: \_\_\_\_\_

**SUBMITTAL REQUIREMENTS.** 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. Go to [www.townofjackson.com/200/Planning](http://www.townofjackson.com/200/Planning) and select the relevant application type for submittal requirements.

Have you attached the following?

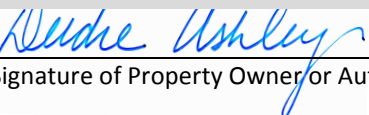
\_\_\_\_\_ **Application Fee.** Fees are cumulative. Go to [www.townofjackson.com/200/Planning](http://www.townofjackson.com/200/Planning) and select the relevant application type for the fees.

\_\_\_\_\_ **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. Please see the Letter of Authorization template at <http://www.townofjackson.com/DocumentCenter/View/845/LetterOfAuthorization-PDF>.

\_\_\_\_\_ **Response to Submittal Requirements.** The submittal requirements can be found on the TOJ website for the specific application. If a pre-application conference is required, the submittal requirements will be provided to applicant at the conference. The submittal requirements are at [www.townofjackson.com/200/Planning](http://www.townofjackson.com/200/Planning) under the relevant application type.

**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 Property Owner or Authorized Applicant/Agent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Title

June 20, 2025

Paul Anthony  
Planning Director  
Town of Jackson  
PO Box 1687  
Jackson WY 83001

To Whom it May Concern:

Mental Health & Recovery Services of Jackson Hole would like to apply an LDR Text Amendment under Section 6.3.2.C- uses exempt from housing mitigation fees for our project B24-0195.

## Semi-Public Housing Exemption

### Request

Amend the text of the Land Development Regulations pursuant to Section 8.7.1. to:

**Exempt non-profit organizations providing a mandated public service through a public-private partnership, from the Affordable Workforce Housing requirements.**

### Project Description

### Background

#### Affordable Workforce Housing Standards Background

In 2018, the Town of Jackson and Teton County adopted Div. 6.3: Affordable Workforce Standards to replace Div. 6.3: Employee Housing Standards and Div. 7.4: Affordable Housing Standards. The adoption was the culmination of an 18-month process that reviewed the existing housing mitigation standards and replaced them with a requirement that new development be mitigated for a portion of the year-round employees generated by the development, who cannot afford market housing. As part of that process, the Town and County reviewed the appropriate applicability of the requirement to public and semi-public uses.

After considering public comments and the Planning Commissions' recommendations, in October 2017, the Town and County directed staff to exempt public and semi-public development from the requirements. (see attached November 13, 2017 Policy Direction, Item 8) The rationale for this is that the public's desire to house its own employees does not have to be guaranteed at the time of public and semi-public development in the same way it has to be required for private development. The public can provide its own employee housing as needed without relying on regulatory concurrence to ensure its goals are met. In addition, some public projects are tied to funding sources that cannot be used for housing, and the



concurrency requirement would jeopardize that funding.

In the execution of that October 2017 direction, the Land Development Regulations that were approved exempted development in the P/SP (Public/Semi-Public) zone from the housing requirements. This exemption and the above rationale were affirmed through the adoption process in the summer of 2018 (see attached June 26, 2018, Council and Board Straw Poll Direction, Item 36). However, the P/SP zone exemption does not apply to public/semi-public development in other zones. The purpose of this amendment is to apply the intended public/semi-public exemption when public interest is being met in other zones.

## P/SP Zone Background

The purpose of the P/SP zone is to, “provide locations for new and existing uses and facilities of a public or semi-public nature. In particular, the P/SP zone is intended to allow flexibility for public and semi-public uses and facilities that often have unique functional needs, such as for height, floor area, setbacks, and impervious surface, which cannot be accommodated in other zoning districts. Land in the P/SP zone and/or facilities operated therein may be under the control of federal, state, or local governments, or other governmental entities such as a school district or hospital district.” (LDR Sec. 4.2.1.A)

The P/SP zone exists to relax bulk, scale, and intensity requirements for projects with unique needs and public necessity and is limited to public entities, although some semi-public organizations have also been granted P/SP zoning. In the applicant’s situation, there are no unique building character requirements, and retaining the underlying zoning maintains the community’s built character. However, the Affordable Workforce Housing Standards exemption applicable in the P/SP is also applicable to the applicant, even though P/SP zoning is not needed for their particular semi-public use.

## Applicant Background

Mental Health and Recovery Services of Jackson Hole (“MHRS”) has been serving Teton County’s mental health needs since 1974. Formerly Jackson Hole Community Counseling Center and Curran Seeley Foundation. The organizations decided to merge and rebrand in 2022 to integrate services, provide synergies and efficiency, and better serve the community. The building at 640 E. Broadway is currently under their ownership. The current space for the substance use programs and staff is located in another rented location within the town limits. MHRS is currently building an addition on the 670 E. Broadway location – in order to combine its programs under one roof, save \$150,000 per year in rent and. add meeting space and 6 more offices.

The agency is a 501(c)3 that is designated and certified by the State of Wyoming Department of Health and SAMHSA as a Community Mental Health Center. MHRS is also accredited by the Commission for Accreditation for Rehabilitation Facilities (CARF). There is a center in every county in WY that contracts with the state to provide essential mental health and substance use services. In several counties in Wyoming, the centers are situated in the local hospitals or within the county government. MHRS sees anyone, no matter the presenting issue, age, race, sexual orientation, or ability to pay and provides the services at a low/no fee for most. Government funding /contracts (Town, County, TCSD, WY Department of Health) makes up roughly 60% of their budget. Another 20% is provided through local philanthropic support for their mission and critical services for the community.

**Community Mental Health Center and Substance Use Disorder Center Definition:** *(In other states, these services would be provided by a government agency such as a Health and Human/Social Services Dept. Instead, Teton County has a public/private partnership relationship with the Town of Jackson and Teton County, WY.)* A Community Mental Health or Substance Use Disorder Treatment Center is an organization which is licensed to conduct business in the State of Wyoming; is nationally accredited; is governed by a citizen board; has a local identity; participates as a member of the community and is responsive to community needs; operates at least one (1) full-time office in each county served, staffed a minimum of forty (40) hours per week, Monday through Friday; provides affordable, accessible, and effective treatment services that address individual needs and are available to all persons who need services, regardless of the ability to pay for services; and provides a comprehensive range of services for persons with behavioral health disorders, including specialized services for the priority populations.

Services required by a Community Mental Health Center, either locally or through a regional Memorandum of Understanding, are:

- Case Management.
- Clinical Assessment.
- Crisis Clinical Response Services.
- Emergency Care Coordination (Crisis) and Gatekeeping Services.
- Medication Management Services.
- Peer Specialist Services.
- Specialty Services for adults with Severe Mental Illness, are:
  - Case Management,
  - Medication Management and Monitoring,
  - Community Living Environments,
  - Rehabilitative Services, and
  - Recreation/Socialization.

In addition to specialty services for adults with Serious Mental Illness (“SMI”), specialty services for children and adolescents with Serious Emotional Disturbance (SED) are provided according to the System of Care Principles.

- Agency-based Individual and Family Therapy.
- Community-based Individual and Family Therapy; and
- Group Therapy.

Services required by a Community Substance Use Disorder Center are:

- Case Management.
- Clinical Screening and Assessment.
- Intensive Outpatient Program: (We are the only organization that provides this level of care)
- Agency-based Individual and Family Therapy.
- Community-based Individual and Family Therapy.
- Group Therapy; and
- Peer Specialist Services.



Mental Health and Recovery Services of Jackson Hole contracts with the state, who also administers federal mental health and substance use block grant funds). In addition, MHRS also contracts with Teton County and the Town of Jackson to provide intensive outpatient mental health and substance use programs. MHRS contracts with Teton County to provide emergency services, provide 24/7 with walk-in, crisis line and Title 25 (Involuntary Hospitalization) assessments (our clinicians respond 24/7 and are credentialed through St. Johns Health). Title 25 is a required civil process for counties, and we partner with the Teton County Attorney's office. MHRS contracts with the schools and provides crisis assessment services for students in crisis. MHRS is required to have MOUs with the Town, County, hospital, law enforcement, the Wyoming State Hospital and Teton County School District. MHRS provides services for Teton County Court Treatment Program and participates in Child Protective and Adult Protective Teams as well as the Prevention Program. MHRS is a member of Volunteer Organizations Active in Disasters and works with the Emergency Management Office for services during community events and disasters.

## Proposed Allowance

The proposed amendment would apply the existing P/SP exemption from Division 6.3: Affordable Workforce Housing Standards, to semi-public use of a building outside of the P/SP zoning district. The proposed amendment includes criteria for determining whether an organization is semi-public - the organization shall be a non-profit responsible for providing a publicly mandated service through a public-private partnership.

This requirement ensures that the exemption will not apply to all non-profits or all government contractors. It is narrowly tailored to apply to organizations like the applicant that provide services mandated by the government with substantial government funding, augmented by philanthropic support. Other organizations that would qualify for the proposed exemption include organizations like Teton Youth & Family Services, Community Entry Services or the Senior Center if they were to expand existing office facilities.

The proposed allowance is consistent with the Town and County intent from 2018 that public provision of the housing needed to ensure public service provision does not have the same concurrency requirements as private development. In order to address the housing demand generated by private development, the cost must be incorporated into the private development by requiring the housing be provided with the development. Once the development is complete, there is no way to go back to the developer and address the generated housing demand. Dissimilarly, the public retains responsibility to staff its public facilities, including to provide the necessary housing, after the development is complete. As a result, public and semi-public development is exempt from the Affordable Workforce Housing Standards, because the public already has a responsibility to provide the housing it needs to provide public services and concurrency is not the issue.

The applicant and other semi-public organizations have the same ongoing public responsibilities as the public and thus the same rationale applies. They will continue to raise money to ensure they have staff to provide mandated community services. The Town and County recognize this relationship by providing preference to critical service providers through the public housing process. While the rationale applies to the applicant and similar organizations in the same way it applies to the Town, County, Hospital District, and School District, the existing exemption only applies to those governmental entities because of the intent of the P/SP zone.

The P/SP zone is intended to allow larger buildings than would be allowed in other zones in order to allow for institutional developments that are uncommon and have unique requirements. Applying the P/SP zone

to the applicant's property (as the County did for the TYFS property in Redtop) would sacrifice the built character protection of the existing zoning in order to meet the intent of the Affordable Workforce Housing exemption. The proposed amendment allows semi-public organizations such as the applicant to realize the intended Affordable Workforce Housing exemption, without sacrificing the built character constraints of the underlying zoning.

The recent amendment to the LDRs to exempt change of use from Affordable Workforce Housing Standards raises a question about the long-term implications of this proposal, but the implications are minimal for a few reasons.

- First, non-profit organizations providing public service through public-private partnership are not active real estate traders - they are looking for long-term stability and cost control. They need the exemption to build facilities where they have secured land. They are focused on service provision, flipping property and developing somewhere else. Land is scarce and securing a property or long-term lease on which a construction project is worth the investment is referred to in the non-profit world as a "forever solution".
- Second, in the overall analysis of the implications of the change of use amendment on housing provision, this situation is an outlier. There are few organizations who would qualify for this exemption and the potential loss of housing revenue from an (unlikely) future change of use by one of these organizations represents a small fraction of the lost revenue from the overall change of use exemption. The Town has already determined the benefits of the change of use exemption outweigh the costs; this proposed exemption does not add any new dimensions to that determination.
- Finally, as discussed above, the proposed amendment is consistent with the idea that the public's service and housing provision goals are better addressed holistically. While private development housing demand must be mitigated on a project-by-project basis in order to be incorporated into the economics of each development, the public does not have to allocate its social service and housing dollars concurrently in order to ensure each public need is met. The proposed exemption does not mean needed public service provider housing will not be built, it just uncouples the housing provision from the space for the service provision.

## Proposed Amendment

### 6.3.2. - Applicability

These affordable workforce housing standards apply to any employee generating development, unless exempted below.

C. **Exemptions.** The following are exempt from the standards of this division.

14. **Public/Semi-Public Zone.** Employee generating development in the public/semi-public zone; and use by a non-profit organization responsible for providing a publicly mandated community service through a public-private partnership, regardless of zone.

## Proposed Findings

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;**

The proposed amendment is consistent with the purpose of the LDRs to implement the community's vision by enabling the provision of public services. It is consistent with the organization of the LDRs by providing an exemption to only the standard in question without creating waterfall effects to throughout other aspects of the LDRs intended to protect the built character of the community.

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

The proposed amendment improves the consistency of the LDRs by creating a solution for properties that are providing semi-public services but do not qualify for P/SP zoning. The proposed amendment is a simple solution to address an inconsistency between the intent of the P/SP zone and the intent of the P/SP exemption from the Affordable Workforce Housing Standards (Div. 6.3).

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

The proposed amendment maintains character defining standards by proposing an Affordable Workforce Housing Standards exemption while maintaining the underlying zoning on semi-public properties that define the appropriate bulk, scale, and intensity of development that define our built character.

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

The proposed amendment implements the Town and County intent in adopting the Affordable Workforce Housing Standards in 2018 that public and semi-public organizations provide services that are a public necessity. While those services require employees, who need housing, the public's efforts to provide services and housing can be viewed holistically rather than project by project in a way that is unique from private development.

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

The proposed amendment does not conflict with any existing Town Ordinances.

In addition, we are also applying for a fee waiver for applicable review fees by all departments. The summary of fees is listed below (we have added the LDR Text Amendment):



Project number	Note	Amount
B24-0195	Building Review Fee – “remodel plan review”	\$10,183.55
B24-0195	Building Review Fee – “remodel and alterations”	\$15,667.00
P23-222	DRC review (Krikor Arch. Paid)	\$255.00
E24-0010	Grading Pre-Application (Y2 consultants paid)	\$192.00
TBD	Formal Interpretation – Similar Use	\$662.00
TBD	LDR Text Amendment	\$1986

#### **Fee**

#### **Waiver**

The town Council may reduce, defer, or waive application fees upon request if the proposed project advances significant community goals, which include but are not limited to the following:

1. A project that is sponsored by a governmental entity, or a project that receives public funding.
2. A project that provides extraordinary charitable, civic, educational, or similar benefits to the community

Thank you for all the work your department does for our community. Thank you also for your consideration for the LDR Text Amendment. Please feel free to contact us if you have questions or need additional information to make your determination.

Regards,

Deidre Ashley, MSW, LCSW  
Executive Director

MHRS Board of Directors

Paul Clementi – Co Chair  
Clay Moorhead – Co Chair  
Emmie Hill  
Pier Trudelle  
Shannon Hasenack  
Jeff Ward  
Meagan Murtagh  
Avi Kantor  
Hadyn Peery  
Judy Singleton  
Anne Schuler  
James Blackburn

The below list of proposed modifications is from Town Council, Board of County Commissioner, and Planning Commission proposals, as well as proposals from staff review, the April 12 public open house, and other public comment. All proposed modifications considered, including those denied are presented. The direction provided on approved modifications informed the June 27, 2018 Adoption Draft of the updated housing mitigation LDRs. The Adoption Draft, March 16 Public Review Draft, and all materials that informed and supplement the drafts are available at [www.engage2017.jacksontetonplan.com/housingrequirements](http://www.engage2017.jacksontetonplan.com/housingrequirements).

All proposed modifications in the table reference the March 16 Public Review Draft of the updated housing mitigation standards. However, to assist in referencing how the approved modifications informed the June 27 Adoption Draft, if an approved modification caused a change to the section numbering, the section number in the table was updated to reflect the June 27 Adoption Draft. To the right of the Proposed Modification is a column for Staff's Recommendation, the Planning Commissions' Recommendation, and the JIM Direction on the modification. These columns are populated with a simple abbreviation: A = Approve, D = Deny, T = Table for future consideration outside the scope of this project. Finally, is a discussion column. The discussion column includes both staff, Planning Commission, Town Council, and Board of County Commissioners analysis. Where discussion from the JIM meeting has been added, the modification number(s) is highlighted. Where the discussion column is merged for multiple modifications it is because the modifications are related and the discussion applies to all modifications. The discussion is most understandable after first reading the modification(s) and direction to which it applies. Throughout the discussion "November policy direction" refers to the final policy direction provided by the Town Council and Board of County Commissioners on November 13, 2017, which is available on the project webpage linked above. Staff and Planning Commission recommendations on that policy direction, provided in October 2017, are also available on the project webpage.

Proposed Modification			Rec/Direction			Discussion
#	Sec.	Proposed Modification	Staff	PC	JIM	
K1	6.3.1.A	Eliminate requirements to provide housing and free up more housing supply instead	D	D	D	<p>The November policy direction is to require development to include affordable housing for the year-round, full-time employees generated who cannot afford market housing. The community's housing goal is to balance a supply and demand imbalance that cannot be solved through purely supply or demand side approaches. The annual demand for workforce housing to house 65% of the workforce locally is 280 units. The annual supply of workforce housing by the market, mitigation requirements, and public funding is about 80 units. In fact, only 150 units total – workforce and non-workforce – are built each year. A supply side only solution is inconsistent with other goals of the community, which is why the Comprehensive Plan calls for housing mitigation requirements that ensure balance between the generation of demand and supply of workforce housing when new development occurs. But new development is not the only source of demand, which is why the Comprehensive Plan also calls for allowances and incentives for the market to provide workforce housing, and public funding for workforce housing as well.</p> <p><b>Council and the Board</b> discussed the supply side solutions that are a part of the puzzle, namely the District 3-6 zoning updates the Town is finalizing. They also identified that northern South Park may have a role in providing housing supply depending on the outcomes of the current projects.</p>

Proposed Modification			Rec/Direction			Discussion
#	Sec.	Proposed Modification	Staff	PC	JIM	
K2	6.3.1.B.2	Complete a new housing Nexus Study that considers the affordability of rental product	D	D	D	<p>Housing mitigation requirements address the affordable housing demand from new development. New employees need new housing, because existing housing is already occupied. How much a new employee will make is estimated based on looking at what other employees make. However who can afford a new home is based on how much it costs to build a new home, because a new home will not be built unless the cost can be recovered.</p> <p>Therefore, the Nexus Study calculates the cost of constructing a new home and then calculates what percentage of households can cover that cost. The Nexus Study uses an affordability calculation that a household can afford a home worth 333% of its income. You can think about that as a 30 year mortgage or the present value of 30 years of rent, but the factor is the same. Whether the project gets built as an ownership or rental project is then determined by whether the developer can get the sales price or the rent on the market.</p> <p>The 333% affordability factor is a standard affordability factor used and defended in housing affordability studies and requirements across the nation. The Nexus Study is not about ownership versus rental affordability it's about affordability of a new unit.</p> <p>Therefore, the Nexus Study does not need to be updated to study rents and rent trends on existing units. Such a rental study would benefit the community's understanding of the local housing stock, but is not necessary to implement these requirements.</p> <p>Staff recommends adopting updated regulations based on the completed Nexus Study, which is accurate, defensible, and the academic standard. If a "safety factor" is desired the requirement can be reduced (see next discussion) but history has shown that delaying adoption of updates to these requirements in order to further the study the issue does not reduce the requirement, it only increases the increment of the increase the next time it is discussed.</p>

Proposed Modification			Rec/Direction			Discussion
#	Sec.	Proposed Modification	Staff	PC	JIM	
K3	6.3.3.A	Reduce the mitigation amount to account for job growth that is not associated with physical development, ensure physical development is only paying its fair share	D	D	D	The demand for workforce housing comes from three sources: job growth, retirement, and an existing shortfall. Housing mitigation requirements can only address job growth, and furthermore can only address job growth from development – either physical development or change of use. Data show that since 2000 jobs have grown at an annual rate of 2.1%, while physical development has only grown at an annual rate of 1.6%. Housing mitigation can only address that 1.6% rate of growth, the rest of the job growth, retirement, and existing shortfall have to be addressed using other tools such as zoning allowances, incentives, and public funding.
K4	Beyond Scope	How do we mitigate for new jobs that do not need physical space?	T	T	T	The 2013 Nexus Study calculation of employees per square foot is based on a local survey, not a calculation of total employees divided by total floor area. There is no job growth unassociated with development to delete from the proposed requirements. The Planning Commissions recommend a reduction of the amount of housing required (see below), but their recommendation is not based on a finding that the proposed requirements attempt to mitigate for non-development job growth. The Housing Action Plan identifies a need for mitigation requirements, zoning allowances and incentives, and additional funding sources for workforce housing. This effort is focused on requirements and zoning. Future efforts could explore other methods for addressing housing need. If such efforts are a goal of the Council and Board they can be added to a future Comprehensive Plan Implementation Work Plan. The Planning Commissions are supportive of exploring other mechanisms to address job growth such as business licenses.  In developing alternatives last fall staff explored a business license approach. It would likely require some work at the State level, and the County cannot implement business licenses. It is something that staff can work on as an additional funding source for housing.
K5	Beyond Scope	Could employee generation by virtual businesses be addressed with Business Licenses?	T	T	T	
K6	6.3.3.A	Reduce mitigation so that the amount of housing built is not actually reduced	D	D	D	New development is only being asked to address its own impacts, and addressing housing demand does as much to address the lack of housing as providing housing supply. If the mitigation requirements cause less housing supply to be built it will be because less housing demand is generated. Given the current shortfall of workforce housing supply compared to workforce housing demand, reducing each will reduce the housing shortage not increase it.  That said, the proposed requirements would reduce the mitigation requirement on multi-unit residential development, which may actually result in more market workforce housing being built to offset a decrease in restricted housing being built, further reducing the workforce housing shortage. The Planning Commissions’ recommended reduction is below. While they did discuss the “Laffer Curve” idea that over-taxation can end up resulting in less revenue (in this case housing), they ultimately based their recommendation on other rationale.

Proposed Modification			Rec/Direction			Discussion
#	Sec.	Proposed Modification	Staff	PC	JIM	
K7	6.3.3.A	Reduce the requirement from 73% of year-round workers to 38%. If the goal is to house 65% of the workforce locally and 27% of employees generated can afford housing, that leaves 38% of year-round employees generated (65-27=38) in need of housing.	D	A	D	<p>The November policy direction is to mitigate for year-round, full-time employees who cannot afford housing. The proposed regulations implement that direction. The requirement cannot be legally increased, but it can be decreased. If the requirement feels too high, staff recommends a reduction of the requirement rather than a series of exemptions and workarounds that will be difficult to administer in the future. That said, staff does not recommend a reduction.</p> <p>The November policy direction also asked staff to provide analysis of what zoning, incentives, and funding would have to do if the requirement were lowered. Zoning, incentives, and funding are the workforce housing supply tools that have to address workforce housing demand from retirement, the existing shortfall of workforce housing, and job growth not associated with development. That demand equals about 130 units per year. Historically those tools have provided about 60 units per year. Updates to Town zoning include additional allowances and incentives that the market and public will use to provide more workforce housing, but it is unrealistic that those allowances and incentives will double the historic production of workforce housing by the market and public. Staff's analysis is that in order to meet the community's housing goal all tools – mitigation, zoning, incentives, and public funding – must be deployed to the maximum extent.</p> <p>The Planning Commissions find the requirement to be too onerous on developers, forcing them to take on risk in the form of increased cost without increased revenue. Their analysis focused on the impacts of the proposal on development. The Planning Commissions are concerned the draft requirement will be bad for business and have the impact of generating more home business in residential neighborhoods. They believe that businesses will provide housing out of necessity and are generally more supportive of supply-side solutions that allow and encourage more housing to be built. They discussed their recommendation as an approach that shifts to the employee mitigation based system in a small increment first, which always allows for an increase in the amount of the requirement once the initial shift is understood.</p> <p>The Planning Commissions' recommendation effectively cuts the proposed mitigation requirement in half for all development types except single-family homes over 4,500 sf. It would mean that the community's goal that at least 65% of the workforce live locally will shift from an "at least" to an "at most" aspiration. The math used by the Planning Commission to arrive at their recommendation does not take into account the overall lack of supply of housing, which is also an issue.</p> <p><b>Council and the Board</b> analyzed the various proposals by considering the Planning Commissions concerns in the context of the overall mitigation requirement which already removes any requirement to house seasonal employees generated. Modifications #K7, #K8, and #K9 would each reduce the overall community mitigation rate from what was found to be needed in 1994, when we know that need has more than doubled from 33% of the workforce needing housing assistance in 1994 to 73% today. Modification #K10 is intended to address the overall mitigation rate directly by supporting the</p>
K8	6.3.3.A	Reduce the requirement across the board to 65% of what is proposed	D	D	D	
K9	6.3.3.A	Reduce the requirement by 34% because households making less than 50% of median income should be housed by public funding	D	D	D	
K10	6.3.3.A	Reduce the requirement from 73% to 55% so that the overall mitigation rate is unchanged by the focus on year-round employees	D	-	A	
K11	6.3.3.A	Reduce the requirement from 73% to 61% to account for the 12% average vacancy rate of rental units in Town, which are affordable to median income	D	-	D	
K12	6.3.3.A	Reduce the requirement on nonresidential, but not lodging or residential	D*	D	A	

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K 13	6.3.3.A	Apply the reduction to all development except a single-family home over 4,500 sf	D	A	D	<p>programmatic shift to year-round employee mitigation, while minimizing the practical impact on mitigation requirement without reducing the overall mitigation rate. Modifications #K10 and #K11 were proposed following the Planning Commission meeting.</p> <p>*If a reduction is made because the nonresidential requirement feels too high, staff recommends that it only be made to nonresidential uses and not residential and lodging uses, especially if an exemption for small residential units is also approved. Multi-unit residential development is already seeing a significantly decreased requirement. Staff has already seen examples where the proposed lodging and residential requirements have incentivized residential over lodging. The Planning Commissions’ recommended reduction to all types of development, except large single-family homes is the type of very narrow application of the full requirement that undermines the defensibility of the entire housing mitigation requirement.</p> <p>The majority of the Council and Board discussion was on modifications #K7-K12 with the direction to approve the combination of #K10 and #K12 effectively creating a new column in the table below. About 75% of year-round employee generation is from nonresidential development, while 5% is from lodging and 20% is from residential. As a result, the weighted year-round mitigation rate for all uses is 60% after applying a 55% mitigation rate to nonresidential and 73% mitigation rate to lodging, and residential.</p> <table><tr><th colspan="10">Comparison of % Housing Demand Required by Proposed Modifications</th></tr><tr><th></th><th></th><th colspan="8">% of Housing Demand Required to be Supplied</th></tr><tr><th></th><th>Total</th><th>Current</th><th>Draft</th><th>JIM Dir</th><th>#K7 (PC)</th><th>#K8</th><th>#K9</th><th>#K10</th><th>#K11</th></tr><tr><td>Year-Round Employee Hsg. Demand</td><td>60%</td><td>33%</td><td>73%</td><td>60%</td><td>38%</td><td>47%</td><td>48%</td><td>55%</td><td>61%</td></tr><tr><td>- Nonresidential</td><td></td><td></td><td></td><td>55%</td><td></td><td></td><td></td><td></td><td></td></tr><tr><td>- Lodging</td><td></td><td></td><td></td><td>73%</td><td></td><td></td><td></td><td></td><td></td></tr><tr><td>- Residential</td><td></td><td></td><td></td><td>73%</td><td></td><td></td><td></td><td></td><td></td></tr><tr><td>Seasonal Employee Hsg. Demand</td><td>40%</td><td>33%</td><td>0%</td><td>0%</td><td>0%</td><td>0%</td><td>0%</td><td>0%</td><td>0%</td></tr><tr><td><b>Overall</b></td><td><b>100%</b></td><td><b>33%</b></td><td><b>43%</b></td><td><b>36%</b></td><td><b>23%</b></td><td><b>28%</b></td><td><b>29%</b></td><td><b>33%</b></td><td><b>37%</b></td></tr></table> <p>Council and the Board identified that while increased mitigation is difficult and unpopular so are supply side solutions. The Town is making a heavy lift on the supply side now, but there is a need to come close to breaking even through mitigation because it is the piece of demand where we can require that housing supply keep up with demand. The Council and Board also identified that exemptions from the mitigation requirements that are intended to encourage supply of market workforce housing are ineffective if the requirements are overly reduced. The Councilmember and Commissioners opposed to the direction identified the requirement as a large jump and pushed for additional supply side</p>	Comparison of % Housing Demand Required by Proposed Modifications												% of Housing Demand Required to be Supplied									Total	Current	Draft	JIM Dir	#K7 (PC)	#K8	#K9	#K10	#K11	Year-Round Employee Hsg. Demand	60%	33%	73%	60%	38%	47%	48%	55%	61%	- Nonresidential				55%						- Lodging				73%						- Residential				73%						Seasonal Employee Hsg. Demand	40%	33%	0%	0%	0%	0%	0%	0%	0%	<b>Overall</b>	<b>100%</b>	<b>33%</b>	<b>43%</b>	<b>36%</b>	<b>23%</b>	<b>28%</b>	<b>29%</b>	<b>33%</b>	<b>37%</b>
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		(continuation of #K7-K13 discussion)				<p>allowances and incentives. That said, the opposition was to the application of #K10 to nonresidential use, there was general support for #K12 that the reduction only apply to nonresidential uses. Below is a table the compares the practical effect of the current requirements, March 16 Public Review Draft, and June 27 Adoption Draft. The list of modifications released May 31 has the same table with the PC Recommendation instead of the JIM Direction, please refer to that table if you would like to compare the JIM Direction with the PC Recommendation.</p> <table> <tr> <th colspan="7">Current vs. Draft vs. JIM Direction Housing Requirement</th></tr> <tr> <th rowspan="2">Development Type</th><th colspan="2">Current</th><th colspan="2">March 16 Draft</th><th colspan="2">JIM Direction</th></tr> <tr> <th>Units</th><th>Fee-In-Lieu</th><th>Units</th><th>Fee-In-Lieu</th><th>Units</th><th>Fee-In-Lieu</th></tr> <tr> <td>3,000 sf restaurant</td><td>1.8</td><td>provide unit</td><td>4.768</td><td>provide units</td><td>3.592</td><td>provide units</td></tr> <tr> <td>5,000 sf retail</td><td>1.244</td><td>provide units</td><td>2.863</td><td>provide units</td><td>2.157</td><td>provide units</td></tr> <tr> <td>10,000 sf office</td><td>0.222</td><td>\$ 25,872</td><td>6.549</td><td>provide units</td><td>4.934</td><td>provide units</td></tr> <tr> <td>5,000 sf industrial</td><td>0.067</td><td>\$ 7,761</td><td>1.631</td><td>provide units</td><td>1.229</td><td>provide units</td></tr> <tr> <td>50,000 sf private school</td><td colspan="2">exempt</td><td>34.90</td><td>provide units</td><td colspan="2">independent calc.</td></tr> <tr> <td>20 – 2 bedroom short-term rentals</td><td>5</td><td>provide units</td><td>8.172</td><td>provide units</td><td>8.172</td><td>provide units</td></tr> <tr> <td>40 unit conventional hotel</td><td>3.378</td><td>provide units</td><td>8.172</td><td>provide units</td><td>8.172</td><td>provide units</td></tr> <tr> <td>1,500 sf single-family unit</td><td colspan="2">exempt</td><td colspan="2">exempt (County)</td><td colspan="2">exempt (County)</td></tr> <tr> <td>4,500 sf single family unit</td><td>-</td><td>\$ 14,789</td><td>0.126</td><td>\$ 29,251</td><td>0.132</td><td>\$ 27,544</td></tr> <tr> <td>8,000 sf single family unit</td><td>-</td><td>\$ 40,669</td><td>0.261</td><td>\$ 60,306</td><td>0.275</td><td>\$ 57,265</td></tr> <tr> <td>12 unit PRD subdivision</td><td>7.92</td><td>provide units</td><td>3.129</td><td>provide units</td><td>3.129</td><td>provide units</td></tr> <tr> <td>90 – 850 sf, 2 bedroom apartments</td><td>20</td><td>provide units</td><td>2.490</td><td>provide units</td><td>2.490</td><td>provide units</td></tr> <tr> <td>Replace 8 mobile homes w/ 12 apts.</td><td>0.889</td><td>\$ 359,092</td><td>0.332</td><td>\$ 76,789</td><td>0.350</td><td>\$ 79,912</td></tr> </table>	Current vs. Draft vs. JIM Direction Housing Requirement							Development Type	Current		March 16 Draft		JIM Direction		Units	Fee-In-Lieu	Units	Fee-In-Lieu	Units	Fee-In-Lieu	3,000 sf restaurant	1.8	provide unit	4.768	provide units	3.592	provide units	5,000 sf retail	1.244	provide units	2.863	provide units	2.157	provide units	10,000 sf office	0.222	\$ 25,872	6.549	provide units	4.934	provide units	5,000 sf industrial	0.067	\$ 7,761	1.631	provide units	1.229	provide units	50,000 sf private school	exempt		34.90	provide units	independent calc.		20 – 2 bedroom short-term rentals	5	provide units	8.172	provide units	8.172	provide units	40 unit conventional hotel	3.378	provide units	8.172	provide units	8.172	provide units	1,500 sf single-family unit	exempt		exempt (County)		exempt (County)		4,500 sf single family unit	-	\$ 14,789	0.126	\$ 29,251	0.132	\$ 27,544	8,000 sf single family unit	-	\$ 40,669	0.261	\$ 60,306	0.275	\$ 57,265	12 unit PRD subdivision	7.92	provide units	3.129	provide units	3.129	provide units	90 – 850 sf, 2 bedroom apartments	20	provide units	2.490	provide units	2.490	provide units	Replace 8 mobile homes w/ 12 apts.	0.889	\$ 359,092	0.332	\$ 76,789	0.350	\$ 79,912
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K 14	6.3.3.A	Phase the mitigation requirement in at 65% of the amount proposed now escalating to fully calculated need upon Nexus Study Update in 2020	D	D	D	<p>This proposed modification respects the November direction, but phases the requirement in to lessen the impact. Staff does not find the intent of the modification realistic for two reasons. First, the current Council and Board cannot bind the 2020 Council and Board. Second, even at 65% of the proposed requirement, the increase would be significant enough that it would take more than 2 years for the market to adjust to the new sideboards, only have them move again. It is also worth noting that there will be a “run-on-the-bank” at each step. Staff is aware that many architects have been offered “whatever it costs” to get a building permit in by July 2.</p> <p><b>Council and the Board</b> discussed the importance of the indicators in evaluating the impact of these updates. Discussion of triggers for future action was deferred to the discussion in #K61 of updates to the Nexus Study and in-lieu fees.</p>																																																																																																															

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15	General	Make content neutral editorial and clarifying changes as identified	A	A	A	<p>As the draft LDRs are reviewed and updated, edits beyond those explicitly identified will be needed. Staff will makes such edits when they do not affect the content of requirements. For example, confirm the correct name of the fund in which the in-lieu fees are placed.</p> <p>Edits made include addition of the Housing Directors roles to Division 8.10. Duties and Responsibilities, and renaming the fund into which in-lieu fees are paid to match the existing fund names.</p>
16	General	Make edits to implement the housing mitigation LDRs in the new Character District 3-6 zones.	A	A	A	<p>Concurrently with review of the housing mitigation requirements the Town is updating the zoning in Character Districts 3-6. Changes made to the District 3-6 zoning may affect where and how the housing mitigation regulations are cross-referenced. Such changes will not affect the housing requirements, only how they are implemented.</p> <p>The primary edit made to implement this modification direction is the exemption of apartment units in the NL-5 because they are subject to the same occupancy restriction as an ARU.</p>
17	General	Make any additional modifications required by legal review	A	A	A	While an initial legal review has been complete any additional, legally necessary modifications identified as the requirements are revised should be incorporated.
18	6.3.1.B	Add a finding related to job growth outpacing housing growth	A	A	A	The legislative findings focus on affordability as the primary factor impacting the availability of workforce housing but even without the affordability issue, the rate of job growth compared to housing growth would indicate a housing shortage.
19	6.3.2.B.2	Define “substantially amended”	D	D	D	The proposed modification is unnecessary. “Substantial amendment” is already defined in the text of 6.3.2.A.2. The definition is the last sentence prior to the example, “A substantial amendment is any amendment that would increase the amount of affordable workforce housing required. Staff does not recommend adding the definition to Article 9 because the definition is specific to 6.3.2.A.2 and should not be construed as intended to apply to other LDRs.
20	6.3.2.C	Delete all exemptions except those legally required.	D	D	D	The November policy direction included a specific list of exemptions. The March 16 draft reflects that direction. One of the policy alternatives (Alternative 8A) considered in November was to only include the exemptions that were legally required. That alternative had support in the online survey, but was not recommended by staff, the Planning Commissions, or the elected bodies.
21	6.3.2.C	Add an exemption for change of use within an historic structure and further incentivize historic preservation by exempting additional floor area equal to the floor area in the historic structure retained on-site	A	A	A	Council and the Board have each expressed interest in historic preservation incentives. The proposed affordable workforce housing requirements represent a potential barrier to historic preservation. The change of use exemption encourages the continued use of historic buildings. The exemption to keep historic structures on site is to encourage that historic structures not only be saved, but saved in their historic location. While the historic structure exemptions will increase the amount of housing required to be provided by other tools staff recommends the exemption as a necessary part of encouraging another community goal – historic preservation.

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22	6.3.2.C	Add an exemption for temporary uses	A	A	A	<p>By definition a temporary use only exists for a finite period of time and would not generate year-round, fulltime employees. Temporary uses should have been exempted in the draft requirements based on the November policy direction. The temporary use Section of the LDRs needs to be updated, but it's other shortcomings to not change the logic relative to the housing requirement.</p> <p><b>Council and the Board</b> also identified a need to update the temporary use standards.</p>
23	6.3.2.C	Add an exemption for entrepreneurial nonresidential development	D	D	D	<p>An exemption for entrepreneurial development already exists in the form of the home business and home occupation exemptions that are part of the accessory use exemption. Most entrepreneurial businesses start at home or in existing space where no requirement would apply. At the point that the business is buying commercial property and developing space it has grown to the point that provision of workforce housing is appropriate.</p>
24	6.3.2.C.6	Add an exemption for replacement of a unit destroyed by natural disaster that is similar to the equivalent exemption for nonconformities	A	A	A	<p>The standards governing nonconforming structure require that a nonconforming structure destroyed by natural disaster may be replaced if a sufficient application for the replacement is received within 18 months. An equivalent exemption for replacement of an existing employee generating development destroyed by natural disaster is appropriate.</p>
25	6.3.2.A.1	Give a landowner credit for any use existing prior to 1995 or legally established since 1995, but place the burden on the land owner to prove existence of a prior use.	A	A	A	<p>The November policy direction was for staff to explore applying the housing requirement to redevelopment. Because any development that has already provided mitigation must be exempt, staff proposed requirements for the redevelopment of employee generating development that had not previously provided mitigation, which is primarily development that existed prior to any housing requirements (1995).</p> <p>For nonresidential use staff recommended replacement of a preexisting uses abandoned for longer than 12 months be required to mitigate. The current regulations give a landowner credit for the use that existed in 1995 and any mitigation provided since. To maintain consistency in the regulations staff supports maintaining the credit allowance, but does recommend a landowner burden of proof standard similar to the standard proposed in the modification, which would mirror the standard for proving a nonconformity.</p>
26	6.3.2.A.1	Clarify that the 12 month abandonment rule does not apply to previously mitigated space.	A	A	A	
27	6.3.2.A.1	Exempt existing single-family floor area when replacing single-family with single family.	A	A	A	

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28	6.3.2.C.5	Delete the County exemption for a 2,000 sf single-family unit	A	D	D	<p>The November policy direction was to include an exemption for County single-family homes less than 2,500 square feet (or a lower threshold). In providing that direction Council and the Board considered staff's recommendation of no exemption for single-family homes and the Planning Commissions' recommendation of an exemption for Town and County single-family units under 2,500 sf. The proposed requirements exempt detached single family units in the County that are under 2,000 sf. Given the split direction from the Town and County in November, staff continues to recommend no exemption for any single-family home, unless a deed restriction is recorded on the unit. A landowner who places a workforce restriction on their property would be exempt. That restriction could be removed at the time the property is sold if housing mitigation is provided at that time.</p> <p>The Planning Commissions affirmed their recommendation from October that that single-family units under 2,500 sf are typically occupied by the workforce and should be exempt, just like a unit with a workforce deed-restriction would be. The Planning Commission finds that it is the larger units that are more likely to be second homes.</p> <p>*If the exemption is retained, staff would recommend clarifying how the exemption works. Staff's intent is that any unit proposed to remain under the threshold is exempt. Any unit that is proposed to be over the threshold is subject to the requirement of the proposed size minus the requirement that would apply to the existing size. For example, a 1,700 sf home being expanded to a 2,700 sf home would be required to mitigate for the 1,000 sf difference. A 4,500 square foot home on a vacant lot would be required to mitigate for the entire 4,500 sf.</p> <p><b>The Board</b> continues to support an exemption for small single family development because it provides workforce housing. The Board found that that reducing the current requirement to 2,000 sf would only cause confusion. <b>Council</b> continues to find that given the sliding scale on residential development, there should not be an exemption for smaller units.</p>
29	6.3.2.C.5	Increase the County exemption for a detached single family unit from the 2,000 sf proposed to the current 2,500 sf; and add exemption in Town	D	A	A <sup>C</sup> D <sup>T</sup>	
30	6.3.2.C.5	Reduce the single-family unit exemption to 1,500 sf	D	D	D	
31	6.3.2.C.5	Clarify how the single-family unit exemption applies in general and how it applies to an addition that pushes an existing unit over the threshold	D*	A	A	
32	6.3.2.C	Add an exemption for apartments if they remain apartments	D	D	D	<p>The November policy direction specifically addressed removing the apartment exemption due to the significant decrease in the requirement for large apartment buildings. The requirement on a 90 unit apartment building is currently that 18 of the units would have to be restricted. The proposed requirement is that 2 of the units would have to be restricted. The policy direction considered staff's October recommendation to remove the existing exemption in place for large apartment buildings and the Planning Commissions' October recommendation to retain the exemption.</p> <p>Modification #34, recommended by the Planning Commission, was proposed at the meeting as a more specific alternative to Modification #33. The Planning Commissions continue to support some exemption for small apartment units, but recommended a small unit exemption rather than the existing exemption that applies to an entire building. However, the unit sizes used in the Planning Commissions' recommendation are from the current Town exemption.</p> <p>As discussed above, staff recommends no exemption for any single-family unit.</p>
33	6.3.2.C	Reduce the requirement on smaller residential projects	D	-	D	
34	6.3.2.C	Expand the small unit exemption to attached single-family units and apartments under 450 sf for a studio, 675 sf for a 1-bed, 975 sf for a 2-bed, and 1,175 for a 3-bed.	D	A	D	

Proposed Modification			Rec/Direction			Discussion
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35	6.3.2.C.11	Exempt bed and breakfast with the rest of the accessory uses	A	A	A	The owner or operator of the bed and breakfast is already required to live on site by definition, and the size of a bed and breakfast is limited to 4 lodging units (which would have a housing requirement of less than 1 unit) so the requirement is unnecessary.
36	6.3.2.C.14	Delete the exemption for employee generating development in the public/semi-public zone.	D	A	D	The November policy direction specifically addresses the public/semi-public exemption. In providing that direction Council and the Board considered staff recommendation to exempt public/semi-public and the Planning Commissions' recommendation not to. The rationale for the exemption in November was to avoid a situation where a public service could not be provided because the housing could not be provided concurrently. The Town and County each have employee housing programs and have an adopted policy in the Housing Action Plan to lead by example. The direction does not preclude the Town and County from providing housing. The exemption would also apply to the School District, Hospital District, State, and other governmental entities.
36 A	6.3.2.C	Add an exemption for Daycare and early childhood education and make other education uses an independent calculation	-	-	A	<p>The Planning Commissions affirmed their recommendation from October that if private sector development is required to internalize its housing demand, public sector development should as well. The Planning Commissions also saw this modification as an offset for the recommended reduction in the amount of the requirement.</p> <p><b>Council and the Board</b> affirmed their November direction with regard to the P/SP exemption noting that they have to assume the public will act to benefit the public. The issue of exemptions for private schools did not arise until the JIM hearing. Council and the Board acknowledged the employee generation from private schools but discussed that the true employee generation may not be represented by the proposed requirement. The proposed requirement for private schools is based on the average employee generation of all institutional uses included schools, churches, museums, and conference centers. Council and the Board identified a wide variation in intensity of those uses and directed staff to utilize an independent calculation requirement instead of a set number for private schools because of the variation in institutional use average. Based on this rationale staff has also applied the independent calculation to the other institutional uses.</p> <p>Council and the Board identified private daycare and early childhood education as unique from other private institutional uses due to its need in the community and the lack of public provision for that need, which is why they directed staff to fully exempt that specific sub-use.</p>

Proposed Modification			Rec/Direction			Discussion
#	Sec.	Proposed Modification	Staff	PC	JIM	
37	6.3.2.C.15	Remove the Alta exemption.	D	D	D	<p>The Alta exemption was included in the draft for two reasons, first the generally applicable data on wages and home prices does not apply to Alta in the same way it applies generally in Teton County. Second, the community's goal is to provide housing in Jackson Hole for the workforce earning money in Jackson Hole. This goal has community character and environmental benefits, but it also limits the impact Teton County has on the affordability of housing in neighboring communities. While development in Alta does not generate Jackson Hole jobs that generate commuters, there is a land value difference between Alta and Teton County, Idaho that would indicate that development in Alta does impact housing affordability in our neighboring community.</p> <p>In fact our neighbors have asked that we refrain from exempting Alta as they establish their own housing programs. Until additional coordination can be completed, staff recommends that instead of a full exemption the Alta requirement be 25% of the Jackson Hole requirement. Targhee Resort is the significant employee generating development in Alta, because it is a Planned Resort subject to PUD approval, the Board still has the ability to evaluate the employee generation and the need for workforce housing at Targhee.</p> <p>Since 2009 about \$185,000 in in-lieu fees have been collected from Alta. The housing built with those fees has been in Jackson Hole. This is another issue our Teton County, Idaho neighbors would like to continue to discuss.</p>
38	6.3.2.C.15	Replace the Alta exemption with a requirement that the amount of housing required west of the Tetons is only 25% of the requirement calculated in Section 6.3.3.	A	A	A	
39	6.3.3.A	Increase nonresidential mitigation from 43% to 100%	D	D	D	The November policy direction is to mitigate for year-round, full-time employees who cannot afford housing. The proposed regulations implement that direction. The requirement cannot be legally increased.
40	6.3.3.A	Simplify the residential requirement calculations to not include an exponential equation.	D	D	D	<p>The residential requirement is an exponential equation because the relationship between the size of a unit and the employees generated is an exponential relationship. Breaking the exponential equation into a series of linear equations also results in a complex requirement. The reality is that most people use calculators or worksheets provided by staff to calculate their requirement, and never interface with the actual regulation. As a result, staff recommends using the actual equation identified in the Nexus Study rather than a proxy for the actual equation.</p> <p>The Planning Commissions agree with Staff's recommendation, but would like to see more examples included in the LDR language wherever possible.</p>
41	6.3.3.A	Amend the denominator in the second part of the residential calculation from 2.414 to 2.176 to correct error.	A	A	A	The second part of the residential equation represents the housing need for the employees generated who operate and maintain the residential unit once it is built, for example landscapers and housekeepers. The number in question accounts for the percent of such employees who can afford market housing and the presence of a second income in the household of such an employee. The draft errantly used the number for a Fire/EMS employee instead of an operations and maintenance employee.

Proposed Modification			Rec/Direction			Discussion
#	Sec.	Proposed Modification	Staff	PC	JIM	
42	6.3.3.A	Adopt a ministorage requirement that is based on Tim Bradley's employee generation numbers, but otherwise utilizes industrial data.	A	A	A	Mini-storage warehouse has different employment characteristics from other industrial type uses. Tim Bradley provided national standards and local data from a number of mini-storage warehouses, requesting that the independent calculation methodology be used to establish a mini-storage specific standard. Staff supports the request and finds the data provided to be a good example of how the independent calculation can work. Staff will calculate a mini-storage requirement based on Tim's data.
43	6.3.3.A	Make the Heavy Retail/Service requirement 0.000326, consistent with industrial uses	A	A	A	Heavy Retail/Service uses are more similar to industrial uses than other retail uses in many ways, especially in the density of employees needed. Heavy Retail/Service uses also primarily allowed in industrial zones so aligning the requirements would eliminate change of use concerns.
44	6.3.3.A	If office and retail are close enough just make them the same	D	-	D	The difference between the office requirement and retail requirement is 0.082 units per 1,000 square feet, meaning that it would take 12,000 square feet of office versus retail to generate a difference of 1 unit. While that sounds like a lot of floor area, it is the size of a typical office building. If other changes to the requirements make the office and retail requirements more similar staff would support a single requirement to avoid change of use complexity, but as proposed the difference represents a unit for a typical office development. The modification was proposed after the Planning Commissions' meeting.
45	6.3.3.A	Reduce the requirement for nonresidential development that includes housing on-site	D	D	D	The updates to the zoning in Town already create an incentive for providing the required housing on-site. Because the floor area to provide the housing does not count against the Floor Area Ratio (FAR) the land to build the units on-site is already paid for, land to build the units off-site is not. Staff finds that reducing the amount of housing provided to further incentivize on-site housing works against the purpose of the requirement for limited benefit.
46	6.3.3.A.3	Add examples to clarify how additions are calculated.	A	A	A	Examples will help clarify the expansion and change of use requirements. For the residential requirement it is important to clarify that because of the exponential relationship the requirement that would apply to a unit of the existing size must be subtracted from the requirement that would apply to a unit of the proposed size because an additional 500 sf on a bigger home generates more employees than an additional 500 sf on a smaller home.

Proposed Modification			Rec/Direction			Discussion
#	Sec.	Proposed Modification	Staff	PC	JIM	
47	6.3.3.A.5.a	Clarify that a previously unmitigated vacant lot must provide housing	A	A	A	<p>After reevaluating the types of single-family subdivision likely to occur, staff recommends that the requirement be implemented at the time of building permit for single-family development. The only types of single family subdivision allowed are County conservation subdivisions (PRDs) the community encourages, exempt subdivisions where the requirement cannot be collected at subdivision, and small subdivisions in the Town unlikely to have a housing requirement over 1 unit. After further analysis staff recommends that implementing the requirement at building permit is the most consistent approach with the community goals for predictability, simplicity, and conservation incentives.</p> <p>Implementing the requirement at building permit (Mod. #48) eliminates any confusion that a previously unmitigated lot must provide housing (Mod. #47). It also renders Modifications #49 and #50 moot, because each of those modifications was a proposal on how to amend a subdivision based approach. With the requirement being due at building permit there is no need for a rebate program or at-first-sale requirement.</p>
48	6.3.3.A.5.a	Require the housing at the time of single-family home construction rather than subdivision.	A	A	A	
49	6.3.3.A.5.a	In order to incentivize smaller buildings, when platting single family lots use the maximum but allow for rebate similar to Energy Mitigation Program if total sf per home comes in at least 20% lower than maximum	D	D	D	
50	6.3.3.A.5.a	Require the housing at sale of single-family lots.	D	D	D	
51	6.3.3.A.5	Require housing at the time a use is established not the time the space is built.	D	D	D	<p>The November policy direction is to implement the requirements consistent with the overall policy direction, which includes preference for construction of units. The best opportunity for construction of units is when the employee generating development is built, especially in the case of nonresidential development in Town, where the “fill-the-box” tool is available. The proposed requirement for proposed building without a defined use actually has little effect on commercial development of undefined use since commercial uses all have a similar requirement.</p>
52	6.3.3.A.5	Develop a single nonresidential requirement that is a weighted average of all uses in a zone.	D	D	D	<p>The Comprehensive Plan and 2013 Nexus Study look at employee generation by use. The November policy direction is to mitigate for the housing need from that understanding of employee generation. The benefit of a single standard by zone is that change of use issues would be eliminated, which would mean the requirement would be passed on to a new businesses as rent rather than an up-front, capital cost, placing the risk on the landowner/developer rather than the business. A single standard by zone would make tracking of exemption credits unnecessary and make implementation at physical development simple.</p> <p>However, a standard specific to the use is the most defensible requirement on a developer, and as discussed above the proposed requirement for development without a defined use almost achieves the same goal. (A new restaurant in an existing space is the exception.) Implementing this modification would require additional Nexus Study revision that staff does not find necessary.</p>

Proposed Modification			Rec/Direction			Discussion
#	Sec.	Proposed Modification	Staff	PC	JIM	
53	6.3.3.A.6	Exempt basements from the calculation of the amount of housing required	D	D	D	<p>In November, Council and the Board directed that all development include affordable workforce housing for the year-round, fulltime employees generated, who cannot afford market housing. Basement floor area generates employees, so a basement exemption would be contrary to the policy direction. For the same reason, basement floor area is not currently exempt from the calculation of required housing. If there is a desire to reduce the requirement, the appropriate mechanism is a modification of the amount of housing required, not the introduction of an exemption that is contrary to the rationale of the requirement.</p> <p>For comparison, basements are exempt from Floor Area Ratio (FAR) and maximum building size because those are bulk and scale regulations and basements do not affect bulk and scale.</p> <p>The Planning Commissions' recommended modification was proposed at the meeting. The Planning Commissions' believe basement floor area generates fewer employees than above grade floor area. In response to the Planning Commissions' recommendation, staff notes that the 2013 Nexus Study made no distinction between above grade floor area and basement floor area, therefore any difference in employee generation from basement floor area is already factored into the average employee generation calculated. Also, any non-habitable storage space in a basement is exempt from the housing calculation.</p>
54	6.3.3.A.6	Only require basements to mitigate at 50% of the requirement for above ground floor area	D	A	D	
55	6.3.3.A.6.c	Delete the application of the requirement to outdoor seating because it is only seasonal and the intent is to mitigate the housing need of year-round employees	A	A	A	<p>This requirement was a carry-over from the existing regulations that is inconsistent with the November policy direction to house year-round, full-time employees.</p>

Proposed Modification			Rec/Direction			Discussion
#	Sec.	Proposed Modification	Staff	PC	JIM	
56	6.3.3.A.8	Remove the local occupancy restriction provision, it is confusing and inconsequential	D	A	D	<p>The 2013 Nexus Study found 3 significant variables in determining employee generation from residential development: unit size, whether the unit was detached or attached, and whether the unit was locally occupied or not. The local occupancy restriction only requires that the unit be occupied as defined in the Rules and Regulations. That means that there are no income, asset, appreciation, or workforce requirements. It also means that occupancy has to be verified with the Housing Department annually. Making it available makes the regulations more defensible. Section 6.3.3.A.8 can be clarified with an example and better cross referencing to the requirements in the 6.3.3.A table.</p> <p>The Planning Commissions do not find the local occupancy option to be necessary. They find the financial incentive for a detached single-family home to be inconsequential when compared to the cost of clouding title with a deed restriction. However, staff notes that while the local occupancy restriction may be rarely used for detached single-family (it only represents a \$2/sf savings on an 8,000 sf house), it has a much more significant impact on condo, townhouse, and apartment development (nearly halving the requirement on larger units).</p> <p>The Planning Commissions also find the housing requirements defensible without the addition of a provision that is unlikely to be used. Their recommendation to approve Modification #56 dictated their recommendation on Modifications #57-#60.</p>
57	6.3.3.A.8	Add examples to clarify local occupancy standard	A	D	A	
58	6.3.3.A.8	Clarify the relationship between the local occupancy definition and the chart on page 5	A	D	A	
59	6.3.2.C.1	Clarify that the statement that a unit subject to only a local occupancy restriction is only meant to clarify the local occupancy standard.	A	D	A	<p>The intent of the parenthetical statement was to be clear that an occupancy only restriction, as required pursuant to Section 6.3.3.A.8 to achieve the lower residential requirement, did not meet the exemption. In order to clarify that it was not intended to modify the exemption for Housing Trust and Habitat projects it should be moved to its own subsection.</p>
60	9.5.L 9.5.N	Remove the definitions of local occupancy and non-local occupancy from the definitions article because the only apply to 6.3.3.A	A	A	A	<p>Local occupancy and non-local occupancy are terms specific to Section 6.3.3, which are defined in that section and do not need to be in the Definitions article where they might be applied to standards other than 6.3.3.</p>
61	6.3.3.A.10	Specify the intent and timing for regularly updating the underlying data and the methods to use.	D	D	D	<p>Section 6.3.3.A.9 already establishes an intent, method, and timing for updating the data underlying the requirements. The intent is to determine the need for affordable workforce housing. The methods are based on the Nexus Study. The timing is every five years. The 2013 Nexus Study is being revised to reflect changes to the calculations that resulted from the November policy direction and updated data. The revised Nexus Study that reflects the adopted regulations will be complete by adoption.</p> <p><b>Council and the Board</b> confirmed that while the Nexus Study is updated every 5 years to update the survey of employees per square foot and overall affordability, the in-lieu fee is updated every year (6.3.5.D.5.c) to reflect changes in the cost of construction and local median income.</p>

Proposed Modification			Rec/Direction			Discussion
#	Sec.	Proposed Modification	Staff	PC	JIM	
62	6.3.3.B	Clarify when and why the independent calculation can or should be used	A	A	A	Section 6.3.3.B.1 establishes when an applicant can provide an independent calculation and when the Planning Director can require an independent calculation. (The rest of Section 6.3.3.B establishes how the independent calculation shall be provided.) However, clarification can be added that the intent of the independent calculation is to ensure the numbers used to calculate a development's requirement are relevant and proportional to the proposed use.
63	6.3.3.B.1.b	Clarify the applicability of the independent calculation requirements to the calculation of a requirement for a Planned Resort (Sec. 4.3.1.F.6)	A	A	A	Section 4.3.1.F.6 of the LDRs requires an application for a Planned Resort to estimate its employee generation and housing need, then finalize its housing need calculation as development occurs. Especially as it relates to the outdoor recreation development associated with the Planned Resort, which may be on federal land, the independent calculation should be used.
64	6.3.3.B.3.b	Clarify that variation of "B" (the number of post-construction workers generated) should take into account dual seasonal full-time post-construction jobs.	A	A	A	Variable "B" in the independent calculation equation represents the number of post-construction employees generated by a development, such as the staff of a restaurant. For a building with multiple seasonal uses the year-round full-time occupancy of the building should be calculated. For example if an outdoor recreation space supports a rafting company with 20 full-time employees in the summer and snowmobile company with 17 full-time employees in the winter, that space generates 17 year-round, full-time, post-construction employees.
65	6.3.3.B.3.a	Allow variation of "X" (workers per household) and "Y" (worker households who can afford market housing) using industry specific, not business specific, data, if A or B is being varied	A	A	A	The purpose for not allowing variation of the workers per household per industry and wages per household per industry is to avoid calculations based on business models that can change over time. However, if the industry proposed is unique enough to warrant an independent calculation of the employee generation, it makes sense that the other factors may need variation as well. Staff is only in support of this modification if the varied data is still pulled for an entire local industry, not just a specific business. For example, an outdoor recreation business should still pull wage information on outdoor recreation employees in general not its own wages.
66	6.3.3.B.3.a	Do not allow an alternate value for "C".	A	A	A	Variables "C" and "D" in the independent calculation equation represent the number of Fire/EMS ("C") and law enforcement ("D") employees needed to protect each new square foot of development. The draft inconsistently allowed variation of "C" but not "D". The number of first responders per square foot of development is based on overall emergency responses and overall residential unit and nonresidential floor area counts. These are not numbers that can be unique to a certain type of development. They will be updated every 5 years as the Nexus Study is updated. Staff's recommendation is that neither be subject to independent calculation. There recommends deleting the allowance for variation of variable "C" from the draft (Mod. #65).
67	6.3.3.B.3.a	Allow an alternate value for "D".	D	D	D	

Proposed Modification			Rec/Direction			Discussion
#	Sec.	Proposed Modification	Staff	PC	JIM	
68	6.3.4.A	Allow more flexibility in the types of housing units allowed to meet the requirement	D	A	D	<p>The proposed requirements, the residential unit types not allowed as required workforce housing are Mobile Home, Dormitory, and Group Home. (Live-Work is being deleted as a separate use as part of the District 3-6 Zoning update.) Mobile Homes are not allowed because they are a use that is only allowed where they already exist. Unless that changes in the zoning it would be inconsistent to allow them to meet a mitigation requirement. Dormitories are typically a seasonal housing type and because the November policy direction is that required housing be for year-round employees they do not make sense as an allowed housing type for mitigation. Group Homes have a specific institutional component that is inconsistent with use as housing mitigation.</p>
69	6.3.4.A	Allow mobile homes to meet requirement	D	A	T	
70	6.3.4.A	Allow tiny homes to meet requirement	D	A	T	
71	6.3.4.A	Allow dormitories to meet requirement if requirement is over 8 units.	D	A	T	<p>The Planning Commissions find that preemptively allowing mobile homes as mitigation would enable their use as mitigation if they ever become allowed in more zones. The Planning Commissions also find that dormitories represent a viable year-round employee housing option, but would not want to see it be the only type of unit built so recommends limiting the ability to use dorms to only larger projects. Similarly, the Planning Commissions recommend that tiny homes should be enabled in anticipation that tiny home incentives will become a part of the LDRs in the future. Tiny homes in the context of the Planning Commission discussion refer to small units that meet the building code. Such units are already allowed as mitigation because they would be considered detached single-family units, but do not currently have any special allowances in the LDRs. Specific acknowledgment of small units would create confusion until an actual tiny home incentive exists.</p> <p>While <b>Council and the Board</b> agree with staff's recommendation related to these updates, Council is interested in coming back to the mobile home, tiny home, and dormitory standards when they revisit those zoning allowances, which they have already committed to do through the District 3-6 zoning update.</p>
72	6.3.4	Simplify the requirement for the types of housing units required	D	D	D	<p>The November policy direction is that the type of units provided should be based on actual income distribution and a minimum bedrooms per employee to ensure the required housing is provided. The combination of these two requirements has always been a complex part of the housing requirements. The proposed bedroom allocation ensures the generated employees are housed while avoiding case-by-case review of the bedroom mix. The calculator handles the distribution so that there is no ambiguity in the relationship between the two requirements. Staff's experience is that the proposed allocation requirements will be simpler to administer in the long-run even if they make for a longer LDR.</p>

Proposed Modification			Rec/Direction			Discussion
#	Sec.	Proposed Modification	Staff	PC	JIM	
73	6.3.4.B	Remove the income categories, just require a workforce restriction on required housing	D	D	D	<p>The November policy direction is to mitigate for the entire income range of households that cannot afford housing, but focus the requirements on the lower income households with a greater need. The allocation of affordability restrictions represents the distribution of households making less than 200% of median income. The allocation of income categories ensures the requirements focus on the lower income households. If the public is going to provide the lowest income units it means that it will take more public money for the public to provide its portion of supply.</p> <p>The Planning Commissions discussed the Grove development as an example of how hard it is to subsidize low income units. They believe that if the public sector cannot finance such projects without accessing state and federal funding, it is unrealistic to expect the private sector to finance such projects. The modification regarding distribution was proposed after the Planning Commissions' meeting. The proposed regulations utilize Census data to distribute the requirement across all households making less than 200% of median income. The Census data includes non-workforce households. The 2014 Needs Assessment was based on a survey of residents. It may be more representative of the workforce, but the survey was not limited to the workforce. It found more households to be in the 80-120% of median income range than the Census does. A third data point is the data from the Housing Department's application forms, which shows a distribution mostly concentrated in the 50-120% of median income range, but that is to be expected given that range accounts for the majority of Housing Department programs. Given the variability in the available data, staff recommends use of the Census distribution until a reliable method of looking at only workforce households is available.</p> <p><b>Council and the Board</b> find that the concept represented by #75, to use the best available data, is the right approach. In implementing #75, staff used Census household median income data compared to Census household data instead of HUD family median income data compared to Census household data. The result is a Census-based answer that matches 2014 Needs Assessment and is available without custom survey work.</p>
74	6.3.4.B.1	Remove the requirement that any of the units be for household earning less than 50% of median income – housing those households is the government's role	D	A	D	
75	6.3.4.B.2	Redistribute the allocation based on the 2014 Needs Assessment instead of the Census data in order to better represent workforce households.	D	-	A	
76	6.3.4.B.1	Remove requirement that units affordable to households making less than 80% of median income have to be rental	D	D	D	<p>The requirement that units affordable at less than 80% of median be rental has a number of purposes. First it addresses the Housing Action Plan identification of low income rental as one of the greatest needs in the community. It also provides incentive for households to move up to higher income units when they are able so that there is more turnover of the lower income units. The downside of the requirement is that it mandates a unit type within a development that may not be consistent with the rest of the development. The way the rental restrictions work is that the units cannot be owner occupied, but the owner selects the tenant from the applicants who have qualified with the Housing Department. Still, developers who are condominiumizing the rest of a project or do not want to be a residential landlord may be less inclined to build units onsite given the requirement. Staff believes that the downside will be addressed by clarifications to the rental deed restrictions and improvements to the qualification process. A developer who wants to sell a rental unit could still sell it to a business owner looking for employee housing or an investor looking for a rental property.</p>

Proposed Modification			Rec/Direction			Discussion
#	Sec.	Proposed Modification	Staff	PC	JIM	
77	6.3.4.C	Remove the bedroom allocation schedule and just require that the total employees housed equal 1.8 per required unit based on the employees per bedroom.	D	-	D	The purpose of the bedroom allocation schedule is to ensure a mix of unit types that represents the housing demand generated by development and the housing demand the Housing Department sees. It also makes for a simpler and more predictable requirement. Removing the schedule will mean the developer chooses the unit size and the distribution of deed restriction across the chosen unit types is evaluated on a case-by-case basis. The modification was proposed after the Planning Commissions' meeting.
78	6.3.4.C	Assume one employee per bedroom in every instance	D	D	D	The November policy direction is to require an employee per bedroom average that ensures the generated workforce is housed. For example, some 1-bedroom unit are occupied by a single person (1 employee), others are occupied by a couple with only 1 income (1 employee), and others are occupied by a couple with 2 incomes (2 employees). The result is that on average a 1-bedroom unit houses 1.45 employees. As another example, some 3-bedroom units are occupied by 3 unrelated employees, others by a family with one income (1 employee) others by the stereo typical 2 employee, 2 child 4 person household. The result is that on average a 3-bedroom unit has 2.1 employees. The employees per bedroom assumed are based on Census data of the number of employees per household by household size. The employees per bedroom were calculated by a weighted average of the employees per household for all households that would qualify for a unit based on the Rules and Regulations. However, there was a mistake in the 2-bedroom calculation because a couple without dependents does not qualify for a two bedroom unit, so that number should be amended as proposed. The Planning Commissions agreed with staff's discussion and recommendation with regard to 1 and 2 bedroom units. However, the Planning Commissions believe that an employer building a required 3 bedroom unit is likely to rent it to 3 employees not a family and therefore recommends 3 employees be assumed for a 3 bedroom unit.
79	6.3.4.C	Assume 2.0 employees per 2-bedroom unit to account for the fact that a couple without kids does not qualify for a 2-bedroom unit	A	A	A	
80	6.3.4.C	Assume 3.0 employees per 3-bedroom unit instead of 2.1	D	A	D	
81	6.3.4.C	Differentiate between a one bedroom and studio	D	D	D	The data does not exist for many of the inputs into the calculations to differentiate between studio and one bedroom units.
82	6.3.4.C	Increase the allocation of 1-bedroom units because 60% of households are single or couples without children, who do not qualify for a 2 bedroom unit under the new Rules and Regulations.	D	D	D	It is true that 60% of households would not qualify for a 2 or 3 bedroom unit; and Housing Department applications mirror household demographics. However, pursuant to November direction, the allocation of unit sizes (in bedrooms) is set to ensure housing supply is provided for the employees generated. As a result the allocation is based on Census data that establishes the number of employees per household, not the number of people per household. A shift to 60% 1-bedroom units would under supply housing for the number of employees generated. However, a shift to 40%-40%-20% would supply an adequate amount of housing for the employees generated, while providing more one-bedroom product, which is in highest demand.
83	6.3.4.C	Change the allocation to 40% 1 bed, 40% 2 bed, and 20% 3 bed.	A	A	A	The Planning Commissions support the staff recommended approach to amending the allocation, but note that their allocation will be weighted even more toward 1-bedroom and/or 2-bedroom units because of their recommendation to assume 3 employees per three bedroom unit (Mod. #80).

Proposed Modification			Rec/Direction			Discussion
#	Sec.	Proposed Modification	Staff	PC	JIM	
84	6.3.4.C	Include a minimum square footage requirement for each unit size	D	D	D	The November policy direction specifically provides that minimum square footages not be included in order to provide flexibility for good design. That direction was based on the Planning Commissions' recommendation. Minimum square footage requirements have been removed from the proposed Rules and Regulations as well.
85	6.3.4.E	Remove the ability of the Housing Department to fundamentally and materially revise rules over time.	D	A	D	The Housing Department Rules and Regulations are adopted by the Board of County Commissioners and Town Council through the same process as the LDRs (except that there is no Planning Commission review). Town first reading and notice of County review was approved April 11. Second reading was approved June 25, and Third reading and adoption is scheduled for July 2. The Housing Department has administrative authority to revise templates and otherwise administer the Rules and Regulations the same as any other agency of the Town and County, but cannot amend the Rules and Regulations. The Rules and Regulations include livability standards that the Housing Department enforces, but do not grant the Housing Department design review authority. The Rules and Regulations apply to any unit generated by the LDRs whether by requirement or incentive. The Planning Commissions find a deed restriction to be a contract, which is a 2-sided agreement, and do not support requiring a developer to be subject to a deed restriction for which the terms could change with a change in the Council and Board. With regard to Modification #86, the Planning Commissions clarified that the modification would be to delete subsections b and c.
86	6.3.4.E.2	Clarify that the Rules and Regulations are established by the Town Council and Board of County Commissioners.	A	A	A	
87	6.3.4.E.2	Clarify that the Rules and Regulations establish livability standards, but do not authorize the Housing Department to approve design and building materials	A	A	A	
88	6.3.5.B	Allow for market creativity in proposal of new methods for meeting the housing requirement.	D	D	D	The November policy direction is that any method of meeting the housing mitigation requirement that is not identified in the LDRs be prohibited. Adding that prohibition ensures that all methods equitably provide the required housing. Allowing proposal of new methods on a case-by-case basis erodes the consistency and defensibility of the requirements.
89	6.3.5.B	Allow an on-site ARU to count as mitigation for a residential unit, without requiring a deed restriction on the ARU	D	D	D	An ARU without a deed restriction must be rented to a member of the workforce if it is rented. But it can be also be used as a guest house and sit vacant most of the year, or be occupied by family member of the occupant of the principal unit. Unless the ARU is restricted it should not count as fulfilling the housing requirement. That said, an ARU that is restricted can fulfill the housing requirement.
90	6.3.5.B	Remove land conveyance as an option, it is unlikely to be used and complex	D	-	D	The November policy direction clearly defined the order of priority, consistent with the staff and Planning Commissions' October recommendations. Prioritizing construction represents the greatest opportunity to construct units at an economy of scale. Land conveyance, if it were ever feasible represents the next quickest path to new units to meet the new demand from development. The modifications were proposed after the Planning Commissions' meeting.
91	6.3.5.B	Incentivize banking of units by making it a higher priority	D	-	D	

Proposed Modification			Rec/Direction			Discussion
#	Sec.	Proposed Modification	Staff	PC	JIM	
92	6.3.5.B	Allow real estate transfer fee as a mitigation option	D	-	D	Transfer fees make the most sense for a large residential subdivision where a lot of small individual fees over time would produce more housing than a one-time fee up front. The zoning is not set up to allow large residential subdivisions and the long-term difficulties in managing existing transfer fees has outweighed many of the long-term benefits. The modification was proposed after the Planning Commissions' meeting.
93	6.3.5.B.1	Add a cross-referenced list of the housing tools that exist in the LDRs that could be used to provide the required housing.	A	A	A	A list of the tools available to meet the requirement such as the "fill-the-box" floor area exemption in Town and ARU allowances in the Town and County can be added to encourage developers to use the tools available in the LDRs for their intended purpose.
94	6.3.5.C	Make the findings for proving impracticality more strict.	D	D	D	The presence of findings increases the predictability and rigor of the requirements over the current requirements. It would be difficult to make the findings stricter and still account for the realities of development. Staff does not recommend making the findings stricter, but agrees that the
95	6.3.5.C.2.a	Delete reference to consistency with the Comprehensive Plan as that evaluation is overbroad	A	A	A	Comprehensive Plan reference in 6.3.5.C.2.a opens an overbroad evaluation at a higher policy level than should be discussed in evaluating a single application.
96	6.3.5.C.1	Allow any requirement under 2 units to go straight to fee-in-lieu	D	A	D	It would take about 2,000 sf of commercial or 3,000 sf of industrial to generate a requirement of over 1 unit, as the regulations are drafted. At that level of construction there may be opportunity to construct a unit, and if not the applicant can demonstrate why it is impractical through the findings. The November policy direction is to prioritize construction of units by the developer because that is the most efficient use of zoning allowances and construction resources, while also providing the housing supply concurrently with the housing demand. The Planning Commissions find that, given the cost of construction, it is unreasonable to expect construction until there is an economy of scale of at least a 2 unit requirement.
97	6.3.5.D.2	Require that the land conveyance utilize the Town/County deed template	A	A	A	Issues have arisen in the past when developers draft their own deeds to convey land to the Town/County. This requirement would make it clear that the conveyance must use the Town/County templated to avoid case-by-case negotiation as to the form of the conveyance.

Proposed Modification			Rec/Direction			Discussion
#	Sec.	Proposed Modification	Staff	PC	JIM	
98	6.3.5.D.4	Eliminate the requirement that existing units must be less than 15 years old	D	A	A	<p>The 15 year old requirement is in place as a simple way to ensure the existing unit is in relatively good shape. Restriction of existing units is not a preferred method for providing housing mitigation and staff does not recommend relaxing the standard because it is important that if an existing unit is restricted it is in relatively good condition.</p> <p>The Planning Commission finds age to be less important than functionality and livability. They cited many examples of well-maintained units and remodeled units originally built in the 70s that are more livable than cheaply built 15-year old units. They suggested looking into the Assessor's condition classification as an alternate metric to age.</p> <p><b>Council and the Board</b> find that looking to standards that ensure livability makes the more sense than a unit age requirement. In implementing the direction, staff utilized the Rules and Regulations livability standards to replace the age requirement.</p>
99	6.3.5.D.5.c	Utilize the middle of the current range of unit sizes in the Rules and Regulations when calculating the fee-in-lieu	A	A	A	<p>The middle of the current range of unit sizes is 650 sf for a 1 bedroom, 900 sf for a 2 bedroom, and 1,150 sf for a 3 bedroom. Those unit sizes are consistent with recent Housing Department developments and ultimately the purpose of the fee-in-lieu is to represent the cost of the Housing Department providing the required units.</p>
100	6.3.5.D.5.c	Update the fee-in-lieu to reflect cost to construct livable square footage so that it represents the actual cost	A	A	A	<p>The in-lieu fee calculation should represent the cost to the Housing Department of providing the required units. Simplistically that calculation is the cost to construct the unit (land + construction) minus the amount the unit can be sold or rented for.</p> <p>The biggest change proposed is #100. Cost to construct housing in the proposed regulations (and historically) is based on construction cost per square foot of gross floor area, but is then applied to a habitable floor area unit size. Because Housing Department projects typically have gross floor area that is about 1.4 times the habitable floor area, the construction cost used ends up being only about 2/3 what it will cost the Housing Department to construct the units.</p> <p>The increase from modification #100 is somewhat offset by modification #101, which acknowledges that the size of the household in a unit is almost always larger than the number of bedrooms in the unit and that the approved Rules and Regulations require that the occupancy meet or exceed 1 person per bedroom. Increasing the assumed household size per unit size increases the maximum sales/rental price of a unit.</p>
101	6.3.5.D.5.c	Update the fee-in-lieu to calculate the income for a unit based on HUD income values applied to the housing department applicant pool, instead of assuming only one person per bedroom	A	A	A	
102	6.3.5.D.5.c	Update the fee-in-lieu calculation to represent the rules and regulations for calculating maximum rental rate and maximum sales price	A	A	A	<p>Modification #102 has little effect but provides for consistency with the approved Rules and Regulations.</p> <p>The net impact of all of the modifications is an increase in the in-lieu amount of about \$90,000 per unit. Meaning that the fee on a 3,000 sf detached single-family unit would go from \$17,861 to \$25,529.</p>

Proposed Modification			Rec/Direction			Discussion
#	Sec.	Proposed Modification	Staff	PC	JIM	
103	6.3.5.D.5.g	Include allowance for a “claw-back” provision that lets a developer get a refund of the in-lieu fee if housing can be provided by a higher priority method within 2 years	A	A	A	The Town has recently begun agreeing to claw-back provisions. For example recent claw-back agreements allow for the refund of 97% of an in-lieu fee if a unit is provided within 1 year or 95% of an in-lieu fee if a unit is provided within 2 years. The upside of such an allowance is that it encourages developers to provide housing and can be used as a bonding program as well. The downside is that if the Housing Department spends the funds in the in-lieu fee account on a project, where does the refund come from. Ultimately, staff supports developers providing housing. Administration of the in-lieu fee fund and Town/County budget can be planned accordingly.
104	6.3.5.D.1.a	Allow developers to bond for construction of required housing to build it on their own timeline	A	A	A	The Planning Commissions clarified the terms of the recent claw-back agreements and recommend those terms moving forward.
105	6.3.6.B	Remove the requirement for a Housing Mitigation Agreement.	D	A	D	The Housing Mitigation Agreement provides an extra level of insurance that the Housing Mitigation Plan will be completed. It may not be necessary in all cases, but is another tool in the Town and County’s toolbox to ensure the required housing gets built.
106	6.3.6.B.2	Allow waiver of the Housing Mitigation Agreement if the requirement is met at the time of approval of the employee generating development.	A	-	A	The Housing Mitigation Agreement must include the terms of the Housing Mitigation Plan and any conditions of its approval, which would address all relevant provisions. The broad language proposed to be deleted is unnecessary. The Planning Commissions find the Housing Mitigation Agreement to be unnecessarily duplicative with the conditions of approval for the development. They also find it to be one more thing to enforce and ensure remains consistent throughout the years. Given their recommendation to remove the requirement for the Housing Mitigation Agreement, Modifications #106 and #107 are moot.
107	6.3.6.B	Remove the power for the decision-maker or Housing Department to include in the housing mitigation agreement, “any other provision deemed relevant.”	A	-	A	
108	6.3.6.A	Exempt projects allowed to go straight to fee-in-lieu (less than one unit required) from a Housing Mitigation Plan and Agreement	D	D	D	The Housing Mitigation Plan for a small project will be simple but a characterization of the proposal, calculation of the requirement, and description of the method of provision is still necessary. A printed version of the calculator will meet the requirements for a simple project that goes straight to fee-in-lieu. The Planning Commissions agrees with the staff recommendation with regard to a Housing Mitigation Plan, as long as it is clear that the calculator will suffice as a Housing Mitigation Plan for simple projects. The portion of the modification regarding Housing Mitigation Agreements is moot given the Planning Commissions’ direction above.

Proposed Modification			Rec/Direction			Discussion
#	Sec.	Proposed Modification	Staff	PC	JIM	
109	9.5.A 9.5.W	Add definitions for affordable housing, workforce housing, and affordable workforce housing to clarify which units require what type of deed restriction and ensure proper usage throughout the LDRs	A	A	A	“Affordable housing” has historically referred to a housing unit with an affordability deed-restriction. “Workforce housing” has historically been used with a variety of definitions, but in the context of the regulations now means a unit subject to a workforce deed-restriction. Unfortunately the term “workforce housing” in the Comprehensive Plan refers to any housing occupied by the workforce, whether restricted or market. The term “affordable workforce housing” is used in the regulations to refer to a required housing unit. All of this terminology needs to be clarified and synced between the LDRs and Rules and Regulations, which may mean introducing new terms with no historic meaning in order to eliminate confusion. Then, staff needs to verify that the appropriate term is being used in all cases.
110	9.5.E	Amend employee housing definition to identify it as a legacy term or to have meaning as housing the employees of the use	A	A	A	The term “employee housing” has two meanings in the LDRs. First it refers to the current housing required for seasonal employees generated by nonresidential development. That meaning will become a legacy meaning upon adoption of the updated standards, but is still used in describing existing Resort Master Plans in Division 4.3. The second meaning is housing provided for the employees of a business, which is used in reference to dude/guest ranches and campgrounds. The definition should be updated to clarify the two uses.
111	6.1.3.B (County)	Add a cross reference for housing exemption to 6.1.3.B in the County	A	A	A	6.1.3.B includes a list of standards from which Agriculture is exempt. It is missing reference to the housing exemption, which should be added.

Proposed Modification			Rec/Direction			Discussion
#	Sec.	Proposed Modification	Staff	PC	JIM	
1 1 2	6.3.5.D.1.a	Prohibit a multi-unit residential development from receiving Short-Term Rental approval unit-by-unit.	A	A	D	<p>There is a significant difference in the housing requirement for a residential unit not allowed to short-term rent and a residential unit also entitled for short-term rental. As a result, there is a significant loss of opportunity for the creation of affordable workforce housing units in a multi-unit building if it is originally approved as a residential unit and then short-term rental entitlement is added unit-by-unit at a later date because the housing requirement on each individual conversion would be less than 1 unit and therefore mitigated by in-lieu fee. Modification #112 would allow for a mix of residential and short-term rental units in a building, but would prohibit piece-meal entitlement. If short-term rental is the plan for a portion of the building the housing required to mitigate that plan should be calculated in a lump to ensure the housing is provided by the developer.</p> <p>The prohibition of unit-by-unit short-term rental conversion should not apply to existing units in the Lodging Overlay, because at the time they were built the residential and short-term rental requirements were the same.</p> <p>The Planning Commissions find that for new projects there should be some allowance for conversion, but recommend that the conversion must happen in blocks of units large enough to generate a housing requirement of at least a unit so that there is a greater chance a unit will be provided instead of an in-lieu fee. Staff's recommended approach is an alternative to the Planning Commissions', which was developed after the meeting. Staff recommends only allowing conversion of residential units in new projects to short-term rental if the method for mitigation is new construction, either on-site or off-site.</p> <p><b>Council and the Board</b> support allowing unit-by-unit conversion if mitigation is provided by construction as a way to ensure the difference in the amount of the requirement between the two uses is not manipulated through the approval process to avoid providing units.</p>
1 1 3	6.3.5.D.1.a	Only apply short-term rental conversion limits to new projects	A	A	A	
1 1 4	6.3.5.D.1.a	Allow conversion of a multi-unit residential development to Short-Term Rental if at least enough units come in at once to generate a requirement of one unit.	D	A	D	
1 1 5	6.3.5.D.1.a	Allow conversion of units to Short-Term Rental if the mitigation is provided by new construction.	A	-	A	
1 1 6	Beyond Scope	Development should also mitigate for transportation	T	T	T	<p>A communitywide travel demand management (TDM) program is an upcoming project for 2019. That program will address any transportation mitigation requirements and how development will have to incorporate travel demand management.</p>
1 1 7	Beyond Scope	Incentivize density over sprawl. All new development should be required to include a TDM	T	T	T	
1 1 8	Beyond Scope	Rezone Hog Island and Northern South Park	T	T	T	<p>Discussions about the vision for Northern South Park and Hog Island will be part of the Growth Management Program review, which is scheduled as a priority for 2019 in the adopted FY19 Work Plan. The adopted Work Plan identifies updating the zoning in those areas as the task to immediately follow the Growth Management Program review.</p> <p>The Planning Commissions discussed the need for more housing allowances in the County.</p>

Proposed Modification			Rec/Direction			Discussion
#	Sec.	Proposed Modification	Staff	PC	JIM	
1 1 9	Beyond Scope	Allow for a 4 <sup>th</sup> Floor for Workforce Housing	T	T	T	<p>The Town is currently discussing zoning and whether a 4<sup>th</sup> floor in some areas of Town is an appropriate incentive for workforce housing. Staff and the Town Planning Commission recommend not including a 4<sup>th</sup> floor as one of the incentives for workforce housing. Council will have provided direction on the issue by the meeting.</p> <p>The Town Planning Commission explained its recommendation on the 4<sup>th</sup> floor as an incentive.</p>
1 2 0	Beyond Scope	Relax parking requirements or provide overnight public parking in Town to make housing development possible	T	T	T	<p>The Town is currently discussing zoning and parking throughout the residential areas of Town. Staff is recommends keeping the residential parking requirements as proposed while the Town Planning Commission recommends reducing them. Council will have provided direction on the issue by the meeting.</p> <p>The Town Planning Commission explained its recommendation on parking.</p>

The Land Development Regulations (LDRs) include housing mitigation requirements that require development to include affordable housing. The intent of housing mitigation requirements is that when new jobs are created through development, housing that is affordable to the workforce is also created. In the Comprehensive Plan (2012) and Housing Action Plan (2015) the community commits to continuing to use housing mitigation LDRs as one tool to meet its goal of providing affordable housing opportunities so that 65% of the workforce lives locally.

This document is the Town and County direction on how to update the housing mitigation LDRs. This direction is informed by the Comprehensive Plan, Housing Action Plan and 5 months of community input.

- In late May and early June, the public identified issues regarding housing mitigation through an online survey (220 responses), open house (75 attendees, and in-person discussions (17 attendees in Spanish, 75 attendees in English).
- On July 10, Town Council and the Board of County Commissioners committed to answering 10 policy questions in order to inform an update of the housing mitigation LDRs.
- On September 13, alternative answers to those 10 policy questions were released for public analysis.
- From September 13 to October 12, the public analyzed the alternatives through an online survey (197 responses) and in-person discussions (40 attendees in Spanish, 80 in English).
- On October 13, staff's analysis and recommendation on the alternatives was released.
- On October 16 and 17, the joint Town/County Planning Commission analyzed and made a recommendation on the alternatives.
- On October 30 and November 1, Town Council and the Board of County Commissioners considered public, staff and Planning Commission analyses and recommendations and provided preliminary direction.
- On November 13, Town Council and the Board of County Commissioners finalized the direction below.

Based on the final direction below, consultant Clarion Associates, and staff, will draft updated housing mitigation LDRs. For a list of all documents, meetings, and workshops for this project please visit the project website at [www.engage2017.jacksontetonplan.com/housingrequirements](http://www.engage2017.jacksontetonplan.com/housingrequirements).

### 1. What segments of the workforce should housing mitigation be for?

**Direction: Mitigate for year-round, fulltime employees, whether they work in one job or many (Alternative 1.A)**

Year-round, fulltime employees will be the foundation of the housing mitigation requirement. Workers in the community can get to year-round, fulltime employment through a variety of job combinations. While there is a desire and intent to capture as many of the multi-job, year-round, fulltime employees as possible, current data will be used to update the housing mitigation LDRs. A known undercount in the 2013 Nexus Study are multi-job, year-round, fulltime employees, but the 2013 Nexus Study is the best available data. Future Nexus Study updates will include improved accounting for year-round, fulltime employees with many jobs.

Seasonal employees will only be calculated into the mitigation requirement as they relate to outdoor recreation and other job sectors that are not tied to square footage in a building. The housing needs of seasonal employees are an important part of the community's character but will be primarily addressed through incentives and

market allowances such as bonus floor area for on-site employee housing. The Town and County also acknowledge the need to look for other tools other than mitigation to address job growth not associated with development, because the rate of job growth has outpace the rate of development over the past 10 years.

## 2. What portion of the workforce generated by development should be housed through mitigation? (the rest will be housed through other tools, or commute)

Direction: Mitigate for the entire income range of households that cannot afford housing (about 0-200% of median income), but focus the requirements on the lower income households with greater need. (part of Alternative 2.A)

Requiring mitigation for the entire income range of households that cannot afford housing takes advantage of the opportunity presented by development to increase the variety in housing options available in the community. Homes at the higher end of the spectrum will create more opportunities for families in restricted housing to move up through the program and potentially make it into market housing. Homes at the higher end of the spectrum also require less subsidy because the households can pay nearly market value. While providing options at the higher end of the spectrum is an important expansion of the housing program, the focus should remain on the lower income households with the greatest need. Mitigation requirements should ensure that more housing is required for the lower end of the spectrum than the high end of the spectrum.

Direction: Mitigate to the maximum, legal extent to meet the community's housing goal. Include with the draft Housing Mitigation LDRs and draft Zoning for Character Districts 3-6, an analysis of how incentives would have to perform if the mitigation requirement were decreased. (part of Alternative 2.A)

Mitigating to the maximum, legal extent ensures that new development provides housing for the workforce generated who cannot afford housing. This ensures that growth through physical development does not add to the housing shortage in the community. While the maximum mitigation rate may dampen nonresidential development and redevelopment, ensuring that the needed workforce housing is provided with development is a higher priority than enabling development and redevelopment. The community's goal to house at least 65% of the workforce locally is a minimum, not a target.

All possible zoning allowances and incentives should still be pursued to provide the affordable workforce housing needed in the community. At this point that pursuit should be in addition to – rather than instead of – using mitigation to the maximum extent possible. The market cannot be unleashed to meet the community's housing demand, because the community also values growth management and has established neighborhood character goals that limit the location and amount of growth. As part of the supporting materials released with the draft updates to the Housing Mitigation LDRs and Zoning for Character Districts 3-6 (in Town) staff will provide an analysis of the incentives created through the zoning updates so that the Town and County can evaluate whether the amount of mitigation can be reduced. If there are not enough zoning and incentive options to achieve the community's housing goals, mitigation will need to be set to the maximum, legal extent.

### 3.4.5. How should the housing mitigation requirement be imposed?

Direction: Utilize an employee generation requirement (part of Alternative 3/4/5.C) with an implementation approach designed to be consistent with the overall policy direction.

An employee generation based requirement has been the direction the community has been headed for a number of years. The Comprehensive Plan (Policy 5.3.a) adopted in 2012, Employee Generation Nexus Study

completed in 2013, and Housing Action Plan (Initiative 5.C) adopted in 2015 all discuss moving toward a mitigation requirement that is distributed across residential and nonresidential development.

Everyone in the community generates employees, and everyone should contribute to housing those employees. An employee generation approach is the only way to distribute housing mitigation across all types of development. To ensure the mitigation is distributed to everyone, the requirements should include mitigation calculations based on something other than square footage for outdoor recreation and other businesses that do not really correlate to floor area.

The implication of this policy, in combination with the policy direction above, is that the mitigation required of nonresidential development will increase by about 4 times for industries such as lodging, retail, and food service that have a lower proportion of year-round employees. It will increase by about 20 times for industries such as office work that are mostly year-round employees. The mitigation required of a large single family home on an existing lot in the County will stay about the same. The mitigation required for a multi-unit residential development will be about a quarter of what it is today.

Estimated Subsidy Represented by Required Affordable Housing Mitigation		
Development	Current Requirement	Alt. 2.A + Alt. 3.C
8,000 sf single family home on an existing lot	(County) \$ 40,669 (Town) exempt	\$ 50,387
Apartment building with 10-1,000 sf market units	(County) \$ 1,107,007 (Town) \$ 847,122	\$ 115,747
50 room hotel	\$ 491,560	\$ 1,907,007
10,000 sf office	\$ 25,871	\$ 527,550
5,000 sf retail	\$ 144,881	\$ 653,400
2,000 sf restaurant	\$ 139,706	\$ 577,760

These implications are a function of two changes since 1994. First, housing has gotten less affordable since 1994. Second, these policy directions require nonresidential development to house its fulltime, year-round employees who cannot afford housing instead of just the seasonal employees who cannot afford housing. The multi-unit residential requirement is reduced because the nonresidential requirement is increased, and developers of multi-unit residential projects are no longer responsible for housing all new fulltime, year-round employees who cannot afford housing. This decrease in the requirement on multi-unit residential development and corresponding increase in the requirement on nonresidential development may serve to incentivize multi-unit residential development in mixed use areas of Town where a developer can choose between residential or nonresidential development.

In discussing when and how to fairly impose the requirement it is evident that the implementation approach needs to be informed by all of the policy questions. Details such as whether mitigation is due at subdivision or building permit and how requirements will apply to a change from one nonresidential use to another are informed, in part, by all of the policy questions. Rather than provide direction now, the details of the implementation approach will be reviewed against the overall policy direction once updated housing mitigation LDRs are drafted.

## 6. What type of housing should be provided through housing mitigation requirements?

Direction: Required housing shall be a residential unit with the following minimum design standards. (Alternative 6.A modified)

- A minimum number of bedrooms per person required to be housed.
- Minimum livability features such as kitchen, bathroom, bedroom, and storage.

In order for a housing mitigation requirement to function a minimum accounting of bedrooms per person required to be housed has to be included. A requirement for other minimum features is necessary to ensure livability. These two requirements are best reviewed at the time of development and so should be included in the LDRs.

Additional requirements, such as design maximums and details about finishes and other livability standards, either overregulate the provision of required housing or are more appropriately addressed in the Housing Department Rules and Regulations. Overregulation adds even more cost to the provision of required housing, without providing commensurate community benefit. Livability standards and maximums are more appropriately addressed in the Housing Department Rules and Regulations because they apply beyond initial construction to ongoing maintenance requirements and how improvements are credited toward resale. Those sorts of ongoing standards are enforced by the Housing Department over time and so they belong in the Rules and Regulations rather than the LDRs, but can be referenced in the LDRs as needed.

Minimum unit sizes are not necessary at this time. Removing that requirement will give designers more flexibility to provide quality, livable space at less cost. If the livability of designs becomes an issue because of their size, a minimum size can be reinstated. This direction to remove minimum unit sizes will also affect the update to the Housing Rules and Regulations.

## 7. What methods for providing required housing mitigation will be allowed and preferred?

Direction: Prioritize production of units by the developer through standards that clearly establish the following order of preference and prohibit any method of meeting the housing mitigation requirement that is not on the list. (Alternative 7.B modified)

- 1) Any new unit; then
- 2) land dedication; then
- 3) use of a banked credit; then
- 4) restriction of an existing unit; then
- 5) payment of a fee.

Taking advantage of the opportunity for the applicant to build a new, affordable unit is the priority. The location of the unit will be determined by zoning. In areas most appropriate for a certain housing type, the zoning will be updated to allow or incentivize the provision of that housing type. The prioritization is based on the likelihood that the method of mitigation will result in a new, affordable unit. The prioritization will be executed through objective standards that an applicant must meet in order to move to a lower priority.

New development generates the need for new affordable workforce housing. Restricting existing units to be affordable into the future is important, but restricting an existing unit to address new demand is the loss of an opportunity to build a new affordable unit, which is our community's greatest need. The best case scenario is that the developer builds a new affordable unit and the existing unit is restricted through other tools. If the developer restricts the existing unit, that opportunity is lost. However, restriction of an existing unit is still better

than payment of an in-lieu fee because in-lieu fees are diminished in value by the time it takes to use them and the administration cost of turning them into actual housing.

## 8. What types of development should be exempt from housing mitigation requirements and why?

Direction: Exempt the list of development types below, which include development that is legally required to be exempt, residential development that provides affordable workforce housing, and nonresidential development with minimal impact. (Alternative 8.D)

- a. Existing development, unless it is razed, at which point any rebuild will be considered new development
- b. Development that has already provided housing mitigation
- c. Development that does not generate employees
- d. Housing that is deed-restricted to provide affordable, workforce housing, even if the restriction does not meet the Rules and Regulations
- e. Housing provided as part of a workforce housing incentive (example: Town floor area bonus incentive)
- f. Mobile Home Unit
- g. Accessory Residential Unit
- h. Dormitory or Group Home
- i. [County Only] Single-family homes less than 2,500 square feet (or a lower threshold)
- j. Agriculture
- k. Public/Semi-Public
- l. Home uses

Exemptions a-c are legally required. The provision in exemption ‘a’ that a razed site should be treated as vacant when it is redeveloped is a provision that staff and Clarion Associates will have to explore further to understand the extent to which existing development has to be exempt. Council and the Board are interested in a draft of such a standard, but are not committed to it.

The residential exemptions (exemptions d-i) all currently exist, although some need clarification. Mobile Home Parks, Accessory Residential Units, and Dormitory/Group Home uses all provide workforce housing solutions. While they do not have deed restrictions, the standards in the LDRs provide some assurance they will provide workforce housing that is affordable. The implication of this list of exemptions is that following types of new residential development, which are currently exempt, would no longer be exempt.

- Construction of any single family home (Town)
- A single lot split (Town)
- Live/Work Unit (Town)
- Apartment Building (Town)

The rationale behind the Town’s exemption of apartment buildings in 2017 was to reduce the number of deed restricted units required to be in a large apartment building so that standard financing would be more readily available. The Town found that an apartment building with at least 20, small units would provide workforce housing solutions and was a desired type of development, so the Town removed the barrier represented by the

housing mitigation requirement. However, even without the current apartment building exemption, Alternative 3/4/5.C would reduce the housing mitigation requirement on a 100 unit apartment building in Town from 20 of the units having to be restricted to about 4 units having to be restricted. As a result, the exemption rationale from 2017 is no longer applicable.

The Town and County have provided different direction on whether to exempt small single family units (2,500 square feet, or a lesser amount) from the housing mitigation requirement. The Town, consistent with Alternative 3/4/5.C, finds that even a small unit has an impact and everyone should pull their weight. The fact that a small home has a small impact is reflected in the fact that the required housing mitigation would be small. The County finds that the exemption has been successful in removing a barrier to middle-class households who can get a toe into the market housing pool. The County is open to a discussion of reducing the exemption threshold to a square footage less than 2,500.

The nonresidential exemptions (exemptions j-l) all currently exist. Agricultural uses have land to provide housing and have a history of providing employee housing. The intent of a home use is to give businesses a place to start. Once they grow they have to move into a nonresidential building, and at that time will be required to provide mitigation.

The most significant implication of this list of exemptions is that private institutional and utility uses are no longer exempt. These uses were previously exempt because of their importance to the community. However, they also generate employees. Based on the employee generation numbers in the 2013 Nexus Study, public and private institutional development generated almost as much need for affordable workforce housing as commercial development from 2002 to 2014. While the exemption for private institutional and utility uses is removed, the exemption for Public/Semi-Public development is retained. The rationale for this is that the public does not have to require the public to provide workforce housing through regulations. If the public wants to ensure the public provides housing for its employees it can build it. The exemption does not preclude the public from doing the right thing and providing housing concurrent with public sector development. The exemption avoids a government entity getting held up in providing a public need because of the housing requirement.

## 9. What type of relief from the housing mitigation requirements should be allowed?

**Direction: Allow structured, independent calculation as the only method to seek relief from the housing mitigation requirements. (Alternative 9.A)**

Structured, independent calculation addresses the legal need to have a relief standard while also providing the greatest legal protection against gradual undermining of the regulation. All aspects of the housing mitigation requirements include relief provisions, there is no need for additional relief. There is an independent calculation to address relief from the calculation of the amount of the requirement, and the series of options for providing the required housing (Question 7) give relief from the requirement to build a new unit. Also, if an applicant believes the housing regulations deprive economically viable use of the site a Beneficial Use Determination can be requested.

10. How should the updated mitigation requirements be applied to approved, but not yet built, development?

Direction: A project with an existing approval should have to recalculate its housing mitigation requirement if a substantial amendment to the existing approval is proposed. Future approvals should require that housing mitigation requirements be calculated phase-by-phase based on the standard applicable at the time the phase is approved. (part of Alternative 10.B)

The Town and County should have an approach to update old approvals. However, the reality is that most of the significant old approvals, such as Resort master plans, are likely vested and can only be updated upon substantial amendment.

Legacy approvals that are silent on affordable housing mitigation would continue to be subject to updated regulations, as they are now. A recent example of this in the County was the development of “Lot 5” of the Jackson Hole Racquet Club (Teton Pines) Master Plan. That Master Plan predated affordable housing requirements and was silent on the issue of housing. When an application was submitted to subdivide “Lot 5” into the allowed density entitled by the Master Plan, it was subject to current affordable housing requirements. The implication of this policy is that it would modify the current standard, which is only the net change of a proposed amendment to an existing approval is subject to review. That standard would still apply to all other LDRs, but relative to the housing mitigation requirement the entire unbuilt portion of an approval would be subject to update to the current requirement if a substantial amendment is proposed to the original approval. “Substantial amendment” will be a well-defined threshold, that will be developed through the drafting the updated housing mitigation LDRs.

The biggest impact the Town and County can have on this topic is how future approvals are handled. Ensuring multi-phase projects are subject to updating housing requirements over the life of the approval is a topic that can be better addressed in future approvals to avoid having to re-answer this question for a new set of approvals.