

Alternative Policy Direction

Housing Mitigation LDRs Update

9/13/17

The Land Development Regulations (LDRs) include housing mitigation requirements that require development to provide affordable housing to mitigate for the generation of employees that cannot afford market housing. In the Comprehensive Plan (2012) and Housing Action Plan (2015) the community committed to continuing to use housing mitigation LDRs as one tool to meet its housing goals for providing affordable workforce housing.

On July 10, 2017, 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. Those 10 questions and alternative answers to each are presented below. (Questions 3, 4, and 5 have been combined.) In November, Town Council and the Board of County Commissioners will provide policy direction on each of the questions based on public, staff, and Planning Commission analysis of the alternatives. For a full schedule of the Alternatives Analysis, and/or to provide comment, please visit the project webpage at:

www.engage2017.jacksonetonplan.com/housingrequirements.

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

The workforce can be thought of in three segments based on the amount it works. The question is which of these segments should development be required to house.

- Year-round, fulltime employees (year-round residents working one job or a combination of jobs),
- Seasonal, fulltime employees (seasonal residents working fulltime when here)
- Part-time employees

Alternatives	Intent	Potential Drawbacks
1.A. Year-round, fulltime employees, whether they work in one job or many	<ul style="list-style-type: none"> • House the community members who invest the most in the community 	<ul style="list-style-type: none"> ○ Seasonal employee housing need not be addressed
1.B. Alternative 1.A + seasonal employees (<i>Status Quo</i>)	<ul style="list-style-type: none"> • House all fulltime and seasonal employees generated by development 	<ul style="list-style-type: none"> ○ Higher mitigation requirements may discourage development and redevelopment that is desired

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

The workforce is often presented on a spectrum of income related to median income (50% of households make less than the median income and 50% make more). At around 200% of median income the market begins providing housing opportunities. As a result, housing mitigation requirements can be used to house any portion of the workforce making up to about 200% of median income. Or, as a matter of policy, housing mitigation can be focused on a portion of the workforce making less than 200% of median income.

Housing mitigation requirements can be imposed to house the workforce generated by development. The workforce generated by development can also be housed by incentives, funding, and the market. However, in order to meet the community's housing goal, incentives, funding, and the market also need to house the workforce filling jobs vacated by retirement and the workforce that is currently commuting. Relying too little on mitigation and too heavily on incentives, funding, and the market may result in a lack of housing being provided

for some of the workforce generated by growth. Conversely, requiring too much mitigation might impede development and redevelopment desired by the community and actually result in less restricted housing being built as a result.

Alternatives	Intent	Potential Drawbacks
2.A. Mitigate for 100% of the workforce that cannot afford housing (households making about 200% or less of median income)	<ul style="list-style-type: none"> • Ensure development provides for the employees generated • Make mitigation applicable to all households in need • Consistency between Town and County requirements 	<ul style="list-style-type: none"> ○ Large increases in required mitigation may create a barrier to desired development
2.B. Mitigate for the lowest earning workforce households (for example, about 75% of workforce households make less than 120% of median income) <i>(Status Quo)</i>	<ul style="list-style-type: none"> • Utilize mitigation for the workforce households with the greatest need • Implement policy direction from Housing Summit • Consistency between Town and County requirements 	<ul style="list-style-type: none"> ○ Many workforce households will make over the limit, but less than what it takes to afford a home ○ Relies on incentives, funding, and the market
2.C. Calculate the mitigation using Alternative 2.A or 2.B, then reduce the requirement to avoid barriers to development	<ul style="list-style-type: none"> • Avoid precluding development, in order to get restricted housing built • Consistency between Town and County requirements 	<ul style="list-style-type: none"> ○ Relies on incentives, funding, and the market

3.4.5. How should the housing mitigation requirement be imposed?

There are two primary approaches to housing mitigation:

- *Inclusionary Requirements* impose all housing mitigation at the time of residential development, under the theory that the housing needed for the workforce will be built by a developer if demanded, and all that needs to be ensured is that the necessary proportion of that housing is affordable. This is how the community currently mitigates the need for affordable year-round employee housing.
- *Employee Generation Requirements* impose housing mitigation on all development (residential, lodging, commercial, government) proportionally with the need for affordable housing that development generates.

With either approach, the housing mitigation can be imposed early in the development process (subdivision or development plan) when the most options for mitigation are still viable, later in the process when the specifics are better defined (building permit or use permit), or progressively throughout the development process at each approval.

Alternatives	Intent	Potential Drawbacks
3/4/5.A. <i>Inclusionary requirement</i> for year-round employees and employee generation requirement for seasonal employees applied progressively through the approval process (<i>Status Quo</i>)	<ul style="list-style-type: none"> • Impose the housing mitigation requirement when the housing is built • Impose the housing mitigation requirement on the residents who directly and indirectly generate the growth • Consistency between Town and County requirements 	<ul style="list-style-type: none"> ○ Inclusionary housing often under-mitigates all employees generated by development ○ Requires update of 2013 Nexus Study to implement
3/4/5.B. Alternative 3/4/5.A. except that the <i>inclusionary requirement</i> would be applied to lodging development in addition to residential development	<ul style="list-style-type: none"> • Also impose the housing mitigation requirement on visitors who directly and indirectly generate the growth in addition to residents • Consistency between Town and County requirements 	<ul style="list-style-type: none"> ○ Requires never-before-used methodology ○ Inclusionary housing often under-mitigates all employees generated by development ○ Requires update of 2013 Nexus Study to implement
3/4/5.C. <i>Employee generation requirement</i> for year-round and seasonal employees applied progressively through the approval process	<ul style="list-style-type: none"> • Distribute housing mitigation across all residential and nonresidential development consistent with Comprehensive Plan and Housing Action Plan policy • Capture the most employee generation • Incentivize residential development • Consistency between Town and County requirements 	<ul style="list-style-type: none"> ○ Could significantly increase the mitigation requirement on nonresidential development from current, seasonal-employee-only requirement

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

When affordable housing is required, basic elements of the housing that ensure livability need to be specified; current requirements discuss how many people are credited per bedroom, the minimum features required (e.g. bedroom, bathroom, kitchen, storage), and the minimum size. The answer to this question may vary based on who the housing is for and how it is being provided, but one of the key issues is consistency. Too much variation complicates the standards for developers, reviewers, and enforcers.

Alternatives	Intent	Potential Drawbacks
6.A. Residential units with: <ul style="list-style-type: none"> – Occupancy limits (maximum people by number of bedrooms), – Minimum features (bedroom, kitchen, bathroom, storage, etc.), and – Minimum size (minimum square feet by number of bedrooms). 	<ul style="list-style-type: none"> • Consistency between requirements for year-round and seasonal employees • Ensure minimum level of livability • Consistency between Town and County requirements 	<ul style="list-style-type: none"> ○ Fewer options for the provision of required seasonal employee housing
6.B. Alternative 6.A + allow lodging units for seasonal employees with same limits and minimums as 6.A. <i>(closest to Status Quo)</i>	<ul style="list-style-type: none"> • Retain options for provision of required seasonal employee housing • Consistency between Town and County requirements 	<ul style="list-style-type: none"> ○ A lodging unit occupied for longer than 30 days (even with access to a kitchen and other basic livability requirements) is less livable than a residential unit and may not comply with building codes
6.C. Alternative 6.A or 6.B + maximum size and feature standards.	<ul style="list-style-type: none"> • Ensure that units provided are livable, but not luxurious in order to encourage households to move into market housing when able • Consistency between Town and County requirements 	<ul style="list-style-type: none"> ○ The protection provided is not typically an issue for required units

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

When evaluating the different methods for providing housing mitigation, there are two key considerations:

- Location (on-site or off-site)
- Production (build new, restrict existing, use credit, dedicate land, or pay a fee)

Some people think location is most important in order to ensure affordable workforce housing is integrated into market housing development. Others think production is most important to ensure new housing is built to meet the generation of new demand. Still others prefer to prioritize a list of all combination of options.

Alternatives	Intent	Potential Drawbacks
7.A. Prioritize location through clear preference for: <ol style="list-style-type: none"> 1. any on-site unit, 2. any off-site unit (new, existing, credit), 3. land dedication, 4. payment of a fee 	<ul style="list-style-type: none"> • Prioritize integration • Clearly define priority • Establish standards for moving from one priority to next, but streamline that series of steps • Consistency between Town and County requirements 	<ul style="list-style-type: none"> ○ Restriction of an existing on-site unit might not be a top priority, but the simplicity comes with trade-offs

Alternatives	Intent	Potential Drawbacks
7.B. Prioritize production through clear preference for: <ol style="list-style-type: none"> 1. any new unit, 2. any existing unit or credit, 3. land dedication, 4. payment of a fee 	<ul style="list-style-type: none"> • Prioritize developer construction over integration • Clearly define priority • Establish standards for moving from one priority to next, but streamline that series of steps • Consistency between Town and County requirements 	<ul style="list-style-type: none"> ○ A new, off-site unit might not be a top priority, but the simplicity comes with trade-offs
7.C. Clear preference for: <ol style="list-style-type: none"> 1. new on-site unit, 2. new off-site unit, 3. any existing units, 4. use of a banked unit, 5. land dedication, 6. payment of a fee <i>(closest to Status Quo)</i>	<ul style="list-style-type: none"> • Achieve integration and developer construction • Clearly define priority • Establish standards for moving from one priority to next • Consistency between Town and County requirements 	<ul style="list-style-type: none"> ○ Specificity may make implementation cumbersome
7.D. Define allowed methods without preference <ul style="list-style-type: none"> • new unit (on-site or off-site) • existing unit • banked unit • land dedication, • payment of a fee 	<ul style="list-style-type: none"> • Provide flexibility • Consistency between Town and County requirements 	<ul style="list-style-type: none"> ○ Unlikely to yield any method other than fee

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

Housing requirements can only apply to new development and must be equitably applied. As a result, existing development, development that has already been mitigated, and development that has no impact on the community's affordable workforce housing needs must be exempted. Conversely, exempting other types of development, that do not in some way limit impact on the community's housing shortage, undermines the legitimacy of the program. Identifying the proper exemptions is a balance of removing "barriers" from the types of development that help, while ensuring that development is equitably required to provide a fair share of housing.

Alternatives	Intent	Potential Drawbacks
8.A. Only exempt what legally has to be exempt (existing development, already mitigated development, development with no impact)	<ul style="list-style-type: none"> • Maximum applicability • Simplicity • Protection of program integrity • Consistency between Town and County requirements 	<ul style="list-style-type: none"> ○ Mitigation as a barrier to desired development that is part of the solution
8.B. Alternative 8.A + residential units restricted to be workforce housing, even if they are not restricted to be affordable	<ul style="list-style-type: none"> • Remove barriers to housing solutions • Protection of program integrity • Consistency between Town and County requirements 	<ul style="list-style-type: none"> ○ Potential for cumulative undermining of program ○ Must be monitored to ensure rationale continues to apply over time

Alternatives	Intent	Potential Drawbacks
8.C. Alternative 8.A + nonresidential development with minimal impact (agriculture, public/semi-public)	<ul style="list-style-type: none"> Remove barriers to uses the community needs/desires that have limited impact Protection of program integrity Consistency between Town and County requirements 	<ul style="list-style-type: none"> Potential for cumulative undermining of program Must be monitored to ensure rationale continues to apply over time
8.D. All of the above (<i>Status Quo</i>)	• See above	○ See above

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

Housing requirements must be equitably and proportionately applied to all development to be legal. As a result, relief provisions must be included so that all applicants have the ability to demonstrate that the generally applicable requirements do not apply to their unique circumstances. The balance that has to be achieved is that, while truly unique situations require relief, inconsistent application of the requirements to applications that are not unique also undermines the program.

Alternatives	Intent	Potential Drawbacks
9.A. Structured independent calculation relief (<i>County Status Quo</i>)	<ul style="list-style-type: none"> Protection of program integrity Update of current standard to reflect current data Consistency between Town and County requirements 	○ Lack of flexibility/discretion
9.B. Structured independent calculation plus variance relief	• Alternative 9.A intent with added flexibility/discretion	○ Potential for abuse of variance “hardship” finding resulting in cumulative undermining of program

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

There is a limit to the requirements that can be placed on developments that have already provided required housing, already exist, or have already been approved. Within those limits there are equity and fairness considerations of how new requirements should apply to projects that are approved, but not yet built.

Alternatives	Intent	Potential Drawbacks
10.A. The requirements applicable at the time of a project’s first approval apply until the project is complete or expires (<i>Status Quo</i>)	<ul style="list-style-type: none"> Predictable Respects existing approvals Consistency with other LDRs 	○ Specificity may make implementation cumbersome
10.B. A project is subject to updated requirements if the calculation of the requirement is older than 7 years or a substantial amendment is requested	<ul style="list-style-type: none"> Respect existing approval Move forward with updated requirements where fair 	<ul style="list-style-type: none"> Likely to have little applicability Likely to be contentious to implement where it does apply