



# Staff, PC, & Public Recommendation

## Housing Mitigation LDRs Update

10/23/17

The Land Development Regulations (LDRs) include housing mitigation requirements that require development to provide affordable housing to mitigate for its generation of employees that cannot afford market housing. 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 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. On September 13, 2017, alternative answers to those 10 policy questions were released for public analysis. Staff's recommended alternative for each of the 10 questions is 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.jackstontetonplan.com/housingrequirements](http://www.engage2017.jackstontetonplan.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

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

Staff Recommendation	PC Recommendation	Public Comment
1.A	1.A	In-Person Discussion: 1.B (52%) Online Survey: 1.A (63%)

#### Staff Recommendation: Alternative 1.A

Staff recommends that housing mitigation focus on year-round, fulltime employees consistent with the direction in the Comprehensive Plan (Policy 5.1.b) and Housing Action Plan (Initiative 5.C). It is the year-round, fulltime workforce that preserves our community character by reinvesting in the community and maintaining our cultural community memory. Preserving that character is why the community focuses on housing 65% of the workforce locally. Seasonal employees have always been a part of our character, but providing housing opportunities for them is not as high a priority as providing housing opportunities for the year-round, fulltime

workforce who maintain the community's "community first, resort second" character. Given the magnitude of the affordable housing issues the community is facing, prioritization is necessary. There are also more housing options available to seasonal employees than are available to the year-round, fulltime workforce because seasonal employees have more flexibility in their housing need than a year-round resident who is likely seeking a higher level of stability in housing. For example, seasonal employees can take advantage of campsites, lodging units, and residences that are only available for a few months, but are not available for longer-term lease.

The implication of staff's recommendation is that the rest of staff's recommendations throughout this document refer only to year-round, fulltime employees.

#### Planning Commissions' Recommendation: 1.A

The Town and County Planning Commissions recommend alternative 1.A because year-round, fulltime employees are the heart of our community character. The Commissions were sensitive to the important role of seasonal workers and the seasonal economy, but acknowledged that prioritization is needed in the housing conversation, and prioritized year-round, fulltime employees. The Commissions were concerned about ensuring employees with multiple jobs were not being counted multiple time and wanted to understand what percentage of the workforce is actually seasonal. Staff responded that, if anything, employees with multiple jobs are undercounted not double counted. The percentage of the summer fulltime workforce that is seasonal varies widely by industry, at right is a table from the 2013 Nexus Study that divides summer fulltime employees into year-round versus seasonal. Across all industries, the indicator report states that about 38% of the summer workforce and about 24% of the winter workforce is seasonal.

Summer Fulltime Employees per 1,000 sf or Room			
Land Use	Year-round	Summer Seasonal	Total Summer
Retail	1.20	2.67	3.84
Restaurant/Bar	3.91	2.42	6.33
Office	1.60	0.23	1.83
Industrial	0.71	0.20	0.91
Lodging	0.49	0.47	0.96
Other	1.15	1.01	2.16

#### Public Comment: In-Person: 1.B (52%), Online: 1.A (63%)

Please see *Documentation of Community Discussion and Online Survey* for breakdown of preference for each alternative and to read the actual public comment. When discussing this question the public considered: building community, housing cost, traffic, broader community needs, fairness, employer responsibility, incentives, need for more options, importance of the seasonal economy, unique needs of seasonal workers, role of government, development and growth, and rental versus ownership housing.

Town Council and Board of County Commissioners

Draft to be released November 3.

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 only be imposed to house the workforce generated by development. The workforce generated by development can also be housed by incentives (examples: bonus density or bonus floor area), funding (example: SPET tax), and the market (example: employer providing housing for its employees). 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.

Alternative	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"> <li>• Ensure development provides for the employees generated</li> <li>• Make mitigation applicable to all households in need</li> <li>• Consistency between Town and County requirements</li> </ul>	<ul style="list-style-type: none"> <li>○ Large increases in required mitigation may create a barrier to desired development</li> </ul>
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"> <li>• Utilize mitigation for the workforce households with the greatest need</li> <li>• Implement policy direction from Housing Summit</li> <li>• Consistency between Town and County requirements</li> </ul>	<ul style="list-style-type: none"> <li>○ Many workforce households will make over the limit, but less than what it takes to afford a home</li> <li>○ Relies on incentives, funding, and the market</li> </ul>
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"> <li>• Avoid precluding development, in order to get restricted housing built</li> <li>• Consistency between Town and County requirements</li> </ul>	<ul style="list-style-type: none"> <li>○ Relies on incentives, funding, and the market</li> </ul>

Staff Recommendation	PC Recommendation	Public Comment
2.A with more lower income units	2.C starting with a limit of 120% of median income and placing more emphasis on incentives	In-Person Discussion: 2.A (31%) Online Survey: 2.A (35%)

Staff Recommendation: Alternative 2.A with more lower income units

With regard to the income spectrum staff recommends the entire spectrum of workforce households that cannot afford housing be included in the housing mitigation program. The Housing Action Plan (Initiative 5C) supports mitigation as a tool for the entire income spectrum, but acknowledges that there is greater need for assistance in providing housing opportunities at the lower end of the income spectrum. Staff recommends that the housing mitigation program address, at least to some extent, all of the workforce that needs affordable housing. While incentives may be able to provide needed affordable housing at the higher end of the income spectrum, including the full spectrum of need will take advantage of the opportunity presented by development to get housing built. Staff also recommends that a greater percentage of required housing be provided at the lower end of the income spectrum based on a calculation of the distribution of need, but the specifics of that recommendation will be developed through the drafting of the updated LDRs over the winter.

Staff's recommended Alternative 2.A will increase the mitigation requirements.

(The types of development that bear the majority of that requirement is Question 3/4/5.) At right is a table of the added cost to a developer represented by housing mitigation under Alternative 2.A (and 3/4/5.C), compared to the current regulations. The table is presented in terms of development cost because it is the increased development cost represented by the mitigation requirement that can impact what type (if any) development occurs. Presentation of the comparison in dollars does not represent a recommendation that fee-in-lieu be used to provide housing mitigation. (Use of in-lieu fees is addressed in Question 7.)

Cost of Developing 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

Staff does not recommend reducing the requirement through Alternative 2.C because staff is not confident that employers, incentives, and funding can provide more housing units than they have been providing. Staff is therefore concerned that reducing the mitigation requirement will result in a shortfall of needed affordable housing. From 2007-2014 employers, incentives, and funding produced or restricted about 85 units of affordable workforce housing per year while mitigation produced about 25 units per year (Housing Action Plan, A2-6). Moving forward the Housing Action Plan projects a need of 80 workforce housing units per year to address housing need that results from retirement and current shortages (Housing Action Plan, A2-3). Housing to meet those needs can only be provided by the market, incentives, and funding. Mitigation needs to provide as much of the needed affordable housing generated by new development as possible to meet the community's housing goal.

To that end, even under Alternative 2.A, mitigation will not capture all of the affordable housing need generated by growth. It is impossible to ensure all job growth is mitigated through the LDRs, and the 2013 Nexus Study does not fully account for year-round, fulltime employees with multiple jobs. Staff recommends Alternative 2.A instead of Alternative 2.C because Alternative 2.A already relies on the market, incentives, and funding to provide the needed affordable housing for the year-round, fulltime employees not captured in the 2013 Nexus Study, plus any other job growth that is not captured by the housing mitigation LDRs. Staff does not recommend spending any additional resources to refine the Nexus Study at this time. Such an update would make the Nexus Study more comprehensive, but the incremental increase in precision will delay the update of these important,

but outdated, LDRs. When a Nexus Study update is completed in the future, year-round, fulltime employees with multiple jobs can be more precisely calculated.

Staff recommends that any reduction in the mitigation requirement be based primarily on a consideration of how many units the Town and County think can be provided through incentives and funding, rather than trying to precisely project the market impacts of these regulations. Providing the affordable workforce housing needed to meet the community's housing goal is a matter of combining mitigation with other tools, but if an unrealistically high amount of faith is placed in other tools, a reduction in the mitigation requirements will result in a shortfall in the amount of affordable housing provided.

**Planning Commissions' Recommendation:** 2.C starting with a limit of 120% of median income and placing more emphasis on incentives

The Town and County Planning Commissions' recommendation is based on the magnitude of the potential mitigation requirement and a finding that incentives are underutilized. The Commissions recommend relying entirely on incentives for workforce households making over 120% of median income and recommend reducing the mitigation requirement beyond the level represented by Alternative 2.B to rely more heavily on incentives for lower earning workforce households as well.

The Commissions were concerned by the significant increase in the mitigation requirement represented by Alternative 2.A. They discussed the impact it might have on small businesses and the local economy, paying particular attention to the increase in the requirement on office space. Commissioners discussed the impact the increase would have on non-resort industries and that those are the type of industries the community wants to encourage. However, the finding most often made in coming to their recommendation was the need for more and better incentives to allow the market to provide the housing needed by the community.

The implication of the Planning Commissions' recommendation is that the requirements discussed in Question 3/4/5 would all be reduced, regardless of the alternative for distributing the requirement.

**Public Comment:** In-Person: 2.A (31%), Online: 2.A (35%)

Please see *Documentation of Community Discussion and Online Survey* for breakdown of preference for each alternative and to read the actual public comment. When discussing this question the public considered: the role of government, employer responsibility, community building, fairness, cost of living, market forces and incentives, challenges with income-based strategies, land use, natural resources, and development.

Town Council and Board of County Commissioners

Draft to be released November 3.

### 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.

Alternative	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"> <li>• Impose the housing mitigation requirement when the housing is built</li> <li>• Impose the housing mitigation requirement on the residents who directly and indirectly generate the growth</li> <li>• Consistency between Town and County requirements</li> </ul>	<ul style="list-style-type: none"> <li>○ Inclusionary housing often under-mitigates all employees generated by development</li> <li>○ Requires update of 2013 Nexus Study to implement</li> </ul>
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"> <li>• Also impose the housing mitigation requirement on visitors who directly and indirectly generate the growth in addition to residents</li> <li>• Consistency between Town and County requirements</li> </ul>	<ul style="list-style-type: none"> <li>○ Requires never-before-used methodology</li> <li>○ Inclusionary housing often under-mitigates all employees generated by development</li> <li>○ Requires update of 2013 Nexus Study to implement</li> </ul>
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"> <li>• Distribute housing mitigation across all residential and nonresidential development consistent with Comprehensive Plan and Housing Action Plan policy</li> <li>• Capture the most employee generation</li> <li>• Incentivize residential development</li> <li>• Consistency between Town and County requirements</li> </ul>	<ul style="list-style-type: none"> <li>○ Could significantly increase the mitigation requirement on nonresidential development from current, seasonal-employee-only requirement</li> </ul>

Staff Recommendation	PC Recommendation	Public Comment
3/4/5.C	3/4/5.C applied at building permit	In-Person Discussion: 3/4/5.C (57%) Online Survey: 3/4/5.C (48%)

Staff Recommendation: Alternative 3/4/5.C

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. An employee generation approach is the only way to distribute housing mitigation across all types of development, especially given staff's recommendation to not include seasonal employees in the mitigation program (Alternative 1.A).

The table below compares the three alternatives for this question (assuming Alternative 1.A and 2.A are chosen) and illustrates how only Alternative 3/4/5.C distributes the requirement across all development types (the issue of how to mitigate the housing needed to support institutional development is addressed in Question 8).

Alternative 3/4/5.C is also the alternative that most directly addresses employee generation and ensures that affordable housing is provided for employees at the time the need is generated. Relying on residential development to provide housing opportunities through either of the other alternatives leaves a gap in time between when the workforce is generated and when the needed housing is provided, if it is ever provided. Alternative 3/4/5.C also has the indirect benefit of reducing the regulatory barriers to the type of residential development the community wants. By reducing the residential requirement for a multifamily building and increasing the nonresidential requirement, residential development may be more likely in mixed-use zones in Town where a developer has the option to develop residentially or non-residentially. Reducing the housing mitigation cost of multifamily development may increase the likelihood that needed, denser housing opportunities are provided.

Cost of Developing Required Affordable Housing Mitigation				
Development	Current Requirement	Alt. 3/4/5.A	Alt. 3/4/5.B	Alt. 3/4/5.C Recommended
8,000 sf single family home on an existing lot	(County) \$ 40,669 (Town) exempt	Significant increase over 3.B	Significant increase over current	\$ 50,387
Apartment building with 10-1,000 sf market units	(County) \$ 1,107,007 (Town) \$ 847,122	Significant increase over 3.B	Significant increase over current	\$ 115,747
50 room hotel	\$ 491,560	\$ 0	Significant increase over 3.C	\$ 1,907,007
10,000 sf office	\$ 25,871	\$ 0	\$ 0	\$ 527,550
5,000 sf retail	\$ 144,881	\$ 0	\$ 0	\$ 653,400
2,000 sf restaurant	\$ 139,706	\$ 0	\$ 0	\$ 577,760

The reality is that inclusionary zoning (Alternative 3/4/5.A) does not fit well for our land use pattern. Inclusionary zoning works well when the market is providing the needed housing, and all the government needs to do is ensure that some of it is affordable. Our market is not providing the needed housing because we also have ecosystem stewardship and growth management values that limit the location and amount of residential growth that can occur. We do not know exactly what the inclusionary housing requirement would be if 3/4/5.A was chosen; a Nexus Study update would be needed to calculate the number, and staff is uncomfortable estimating what it might be. However, we know that there would be no requirement on lodging, commercial, institutional, and all other nonresidential uses and that the requirement would significantly increase from the current 20-25% requirement.

The downside to Alternative 3/4/5.C is that it greatly increases the cost of nonresidential construction. This issue is discussed above in Question 2, but another approach to addressing the issue is Alternative 3/4/5.B. The difference between 3/4/5.B and 3/4/5.A is that the requirement to house the community's employees would be divided between residential and lodging growth. The idea behind 3/4/5.B is that it is not a restaurant owner that generates restaurant employees, it's the residents and visitors that demand a place to eat. Commercial, institutional, and other nonresidential, non-lodging development would have no requirement. Alternative 3/4/5.B addresses some of the concerns about 3/4/5.A by shifting some of the requirement onto lodging development. However, the reality is that lodging is our slowest growing sector. A big, new hotel is visually significant, but lodging growth is very cyclical and we have seen far less lodging growth over the past 15 years

than residential growth, even with the minimal housing mitigation requirements applicable to lodging. Alternative 3/4/5.B is also untested anywhere else in the country and would require significant time and resources to supplement the 2013 Nexus Study and develop the methodology.

Ultimately, staff recommends Alternative 3/4/5.C because it is the only alternative that is practical given the community's growth management values and growth trends, and because it removes regulatory barriers to the provision of housing opportunities.

#### Planning Commissions' Recommendation: 3/4/5.C applied at building permit

The Town and County Planning Commissions recommend 3/4/5.C to distribute the requirement across all sectors. The Commissions again discussed the impact on diversifying the economy and encouraging growth in the non-resort sectors of the economy. There was some concern over the decrease in the number of units that would be restricted in a large residential development, but that was ultimately outweighed by the assurance that restricted units would be provided at the time of nonresidential development.

The Commissions recommend that the requirement be applied at building permit. With the move to an employee generation based requirement the Commissions find that the impact is not generated until building permit because the employees are not generated at the early approval phases of the project.

#### Public Comment: In-Person: 3/4/5.C (57%), Online: 3/4/5.C (48%)

Please see *Documentation of Community Discussion and Online Survey* for breakdown of preference for each alternative and to read the actual public comment. When discussing this question the public considered: fairness, employer responsibility, employer needs, calculating employees, development and tourism, dissatisfaction with the status quo, that the question was wrong.

Town Council and Board of County Commissioners

Draft to be released November 3.

## 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.

Alternative	Intent	Potential Drawbacks
6.A. Residential units with: <ul style="list-style-type: none"><li>– Occupancy limits (maximum people by number of bedrooms),</li><li>– Minimum features (bedroom, kitchen, bathroom, storage, etc.), and</li><li>– Minimum size (minimum square feet by number of bedrooms).</li></ul>	<ul style="list-style-type: none"><li>• Consistency between requirements for year-round and seasonal employees</li><li>• Ensure minimum level of livability</li><li>• Consistency between Town and County requirements</li></ul>	<ul style="list-style-type: none"><li>○ Fewer options for the provision of required seasonal employee housing</li></ul>

Alternative	Intent	Potential Drawbacks
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"> <li>• Retain options for provision of required seasonal employee housing</li> <li>• Consistency between Town and County requirements</li> </ul>	<ul style="list-style-type: none"> <li>○ 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</li> </ul>
6.C. Alternative 6.A or 6.B + maximum size and feature standards.	<ul style="list-style-type: none"> <li>• Ensure that units provided are livable, but not luxurious in order to encourage households to move into market housing when able</li> <li>• Consistency between Town and County requirements</li> </ul>	<ul style="list-style-type: none"> <li>○ The protection provided is not typically an issue for required units</li> </ul>

Staff Recommendation	PC Recommendation	Public Comment
6.A	6.A without minimum size per bedroom	In-Person Discussion: 6.A (43%) Online Survey: 6.B (31%)

#### Staff Recommendation: Alternative 6.A

Staff recommends Alternative 6.A because occupancy limits, minimum features, and minimum size are necessary requirements to ensure livability in required units. They are also requirements that are best reviewed at the time of development and so should be included in the LDRs. The current requirements can be simplified and made more consistent, but are important. Additional requirements are either already addressed in the Housing Department Rules and Regulations, or over regulate the provision of required housing, adding even more cost to its provision.

Alternative 6.B is not applicable given staff's recommendation that seasonal employee generation not be included in the housing mitigation regulations. Alternative 6.C is better addressed in the Housing Department Rules and Regulations. Maximums are an important consideration, especially as developers utilize exemptions or incentives, but the Rules and Regulations will establish standards that can be referenced. The Rules and Regulations have to address maximums relative to credit given to homeowners who invest capital into their homes. This topic is a place where the current regulations can be significantly simplified by coordinating between the housing mitigation requirements in the LDRs and the Rules and Regulations. Simplification of the housing mitigation LDRs is one of the actions identified in Initiative 5.C of the Housing Action Plan.

#### Planning Commissions' Recommendation: 6.A without minimum size per bedroom

The Town and County Planning Commissions recommend Alternative 6.A, supporting minimum requirements for occupancy to ensure the required mitigation is achieved, and supporting minimum features such as a bedroom space, kitchen, bathroom, and storage space. However the Commissions recommend allowing for flexibility in design sighting numerous examples of smaller projects that work and bigger projects that are not necessarily better. The Commissions' recommendation is Alternative 6.A but the Commissions recommend removing the minimum size requirement for a unit of a certain number of bedrooms. For example a 2 bedroom unit provided by mitigation is currently required to be at least 850 square feet. The Commissions find that a livable 2 bedroom unit could be provided in less floor area, and want to provide the flexibility for good design.

Public Comment: In-Person: 6.A (43%), Online: 6.B (31%)

Please see *Documentation of Community Discussion and Online Survey* for breakdown of preference for each alternative and to read the actual public comment. When discussing this question the public considered: fairness, employer responsibility, employer needs, calculating employees, development and tourism, dissatisfaction with the status quo, that the question was wrong.

Town Council and Board of County Commissioners

Draft to be released November 3.

## 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.

Alternative	Intent	Potential Drawbacks
7.A. Prioritize location through clear preference for: 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"><li>• Prioritize integration</li><li>• Clearly define priority</li><li>• Establish standards for moving from one priority to next, but streamline that series of steps</li><li>• Consistency between Town and County requirements</li></ul>	<ul style="list-style-type: none"><li>○ Restriction of an existing on-site unit might not be a top priority, but the simplicity comes with trade-offs</li></ul>
7.B. Prioritize production through clear preference for: 1. any new unit, 2. any existing unit or credit, 3. land dedication, 4. payment of a fee	<ul style="list-style-type: none"><li>• Prioritize developer construction over integration</li><li>• Clearly define priority</li><li>• Establish standards for moving from one priority to next, but streamline that series of steps</li><li>• Consistency between Town and County requirements</li></ul>	<ul style="list-style-type: none"><li>○ A new, off-site unit might not be a top priority, but the simplicity comes with trade-offs</li></ul>
7.C. Clear preference for: 1. new on-site unit, 2. new off-site unit, 3. any existing units, 4. use of a banked credit, 5. land dedication, 6. payment of a fee <i>(closest to Status Quo)</i>	<ul style="list-style-type: none"><li>• Achieve integration and developer construction</li><li>• Clearly define priority</li><li>• Establish standards for moving from one priority to next</li><li>• Consistency between Town and County requirements</li></ul>	<ul style="list-style-type: none"><li>○ Specificity may make implementation cumbersome</li></ul>

Alternative	Intent	Potential Drawbacks
7.D. Define allowed methods without preference <ul style="list-style-type: none"> <li>• new unit (on-site or off-site)</li> <li>• existing unit</li> <li>• banked unit</li> <li>• land dedication,</li> <li>• payment of a fee</li> </ul>	<ul style="list-style-type: none"> <li>• Provide flexibility</li> <li>• Consistency between Town and County requirements</li> </ul>	<ul style="list-style-type: none"> <li>◦ Unlikely to yield any method other than fee</li> </ul>

Staff Recommendation	PC Recommendation	Public Comment
7.B with land dedication prioritized over restriction of an existing unit	Staff's 7.B with credit for a banked unit prioritized over restriction of an existing unit	In-Person Discussion: 7.A (31%) Online Survey: 7.C (36%)

Staff Recommendation: Alternative 7.B with land dedication prioritized over restriction of an existing unit.

Staff recommends 7.B because of the importance of taking advantage of the opportunity for the applicant to build a new, affordable unit. New development generates the need for new affordable workforce housing.

Restricting existing units to be affordable 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. The same reasoning leads staff to recommend reordering Alternative 7.B as follows.

1. Any new unit.
2. Land dedication.
3. Any existing unit or credit.
4. Payment of a fee.

Finding a location for housing development is the most difficult part of providing workforce housing. If a developer can dedicate land it gets the Town and County a long way toward getting new affordable housing built, much further than an in-lieu fee, and preserves the opportunity for the best case scenario discussed above.

Staff believes that integration of required housing into a market development is important, but is recommending Alternative 7.B over 7.A (which prioritizes integration by prioritizing on-site provision of housing) because of the importance of getting new affordable units whenever possible. Often times the most cost effective way for a developer to provide new affordable units will be on-site. In other instances it may provide a better living situation for the workforce to be separated from their place of work to avoid the pitfalls of a "company town" dynamic. An integration based approach is also more relevant to an inclusionary housing program (Alternative 3/4/5.A), which staff is not recommending. Staff recommends Alternative 7.B over 7.C to try to keep the requirements as simple as possible. Initiative 5.C in the Housing Action Plan identifies the need for as much simplicity as possible.

Planning Commissions' Recommendation: Staff's 7.B with credit for a banked unit prioritized over restriction of an existing unit

The Town and County Planning Commissions recommend Alternative 7.B. The Commissions support the prioritization of construction of new units by developers regardless of location. They also support a clearer and more streamlined process than is in the current LDRs. The Commissions understand the need to avoid loss of existing workforce housing, but find that restricting an existing unit to fulfill a mitigation requirement may actually result in a worsening of the workforce housing shortage because existing units that are bought and restricted are often being used as workforce housing already, meaning that the employee generation from the development doesn't actually result in more workforce housing. The Commissions recommend one change to staff's recommendation. The Planning Commissions' recommended prioritization is:

1. Any new unit.
2. Land dedication.
3. Use of a banked credit.
4. Restriction of an existing unit.
5. Payment of a fee.

Public Comment: In-Person: 7.A (31%), Online: 7.C (36%)

Please see *Documentation of Community Discussion and Online Survey* for breakdown of preference for each alternative and to read the actual public comment. When discussing this question the public considered: new development versus existing development, on-site versus off-site development, community, the free market, enforcement, in-lieu fees, lack of preference, workforce housing, and streamlining the process.

Town Council and Board of County Commissioners

Draft to be released November 3.

## 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.

Alternative	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"><li>• Maximum applicability</li><li>• Simplicity</li><li>• Protection of program integrity</li><li>• Consistency between Town and County requirements</li></ul>	<ul style="list-style-type: none"><li>○ Mitigation as a barrier to desired development that is part of the solution</li></ul>
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"><li>• Remove barriers to housing solutions</li><li>• Protection of program integrity</li><li>• Consistency between Town and County requirements</li></ul>	<ul style="list-style-type: none"><li>○ Potential for cumulative undermining of program</li><li>○ Must be monitored to ensure rationale continues to apply over time</li></ul>

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

Staff Recommendation	PC Recommendation	Public Comment
8.D with modifications to current exemption list	Staff's 8.D with additional residential exemptions and no public/semi-public exemption	In-Person Discussion: 8.B (36%) Online Survey: 8.A (41%)

Staff Recommendation: Alternative 8.D with modifications to current exemption list

Staff recommends Alternative 8.D with the following list of exemptions.

- Legally required
  - Existing development
  - Development that has already provided housing mitigation
  - Development that does not generate year-round, fulltime employees (example: temporary use)
- Residential development that provides affordable workforce housing
  - Housing that is deed-restricted to provide affordable workforce housing
  - Housing provided as part of a workforce housing incentive (example: Town floor area bonus incentive)
  - Mobile Home Park
  - Accessory Residential Unit
  - Dormitory or Group Home
  - Deed-restricted housing that may not meet the affordability standards of the LDRs and Rules and Regulations but works toward providing affordable workforce housing (example: Housing Trust developments)
- Nonresidential development with minimal impact or the ability to provide housing through other means
  - Agriculture
  - Public/Semi-Public
  - Home uses

Staff's recommended residential exemptions 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 staff's proposed list of residential exemptions is that the following types of new development, which are currently exempt, would no longer be exempt.

- Construction of a single family home under 2,500 square feet (County)
- Construction of any single family home (Town)
- A single lot split (Town)
- Live/Work Unit (Town)

- Apartment Building (Town)

Given staff's recommendation of Alternative 3/4/5.C, the residential requirement would be reduced from the current requirement to just address the employees generated by the residential development. Every single family home, live/work unit, and apartment building generates employees.

The County currently requires that all single family dwellings over 2,500 square feet pay a fee-in-lieu of providing affordable housing. The Town currently exempts all single family construction from any mitigation. Staff recommends that a fee apply to the construction of all homes in the Town and County. The nature of the requirement, given staff's other recommendations, is that the fee on a small home will not be significant and imposing the fee on all single family homes makes the requirement fairer. This is a bigger transition in Town where there has never been a fee on construction of a single family home. For reference, the fee on a 2,000 sf single family home would be \$6,870. At \$200 per square foot construction cost, the affordable housing fee would represent a 1.5% increase in the cost of construction.

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 development 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. 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, staff finds that the exemption rationale recently implemented by the Town is no longer applicable.

The nonresidential uses staff recommends exempting are currently exempt. 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 staff's proposed list of nonresidential	Development	Current Requirement	Staff's 8.D
	20,000 sf institutional	exempt	\$ 2,561,600

exemptions is on institutional and utility uses. These uses were previously exempt because of their importance to the community. However, they also generate an affordable housing need for the workforce that builds and operates the institutional uses. 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 staff recommends removal of the institutional and utility exemption, staff has recommended retention of the exemption for Public/Semi-Public development. 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. That rationale does not hold for the public ensuring private utilities, schools, churches, and other institutional uses provide housing. The Housing Department will continue to track the generation of Town and County employees through public institutional development and include those affordable housing needs in both project analysis and the annual Housing Supply Plan. A potential drawback to imposing the housing requirement on public development is the threat it poses to leveraging state and federal funds. For example, the START facility was built using federal funds, but the housing to support the

facility was not funded by the community. With a housing requirement on the START facility, the federal funds would have to have been forfeited.

Planning Commissions' Recommendation: 8.D

The Town and County Planning Commissions recommend Alternative 8.D with the following list of exemptions. Differences from staff's recommendation are underlined or struckthrough.

- Legally required
  - Existing development
  - Development that has already provided housing mitigation
  - Development that does not generate year-round, fulltime employees (example: temporary use)
- Residential development that provides affordable workforce housing
  - Housing that is deed-restricted to provide affordable workforce housing
  - Housing provided as part of a workforce housing incentive (example: Town floor area bonus incentive)
  - Mobile Home Unit
  - Accessory Residential Unit
  - Dormitory or Group Home
  - Deed-restricted housing that may not meet the affordability standards of the LDRs and Rules and Regulations but works toward providing affordable workforce housing
  - Single-family homes under 2,500 square feet
  - Large apartment buildings with the Town's current standards
  - Other high density, small unit development types
- Nonresidential development with minimal impact or the ability to provide housing through other means
  - Agriculture
  - ~~Public/Semi Public~~
  - Home uses

The Planning Commissions discussed all of the exemptions recommended by staff. The only staff recommended exemption the Planning Commission does not recommend is the exemption of public/semi-public development. The Planning Commissions find that public sector employees need housing, as evident by the impact from last winter's storms, and so that the public sector should force itself to provide that needed housing when new public sector employees are generated through public sector development.

The Planning Commissions also discussed a number of exemptions not recommended by staff. Two findings primarily informed the Planning Commissions' recommendations with regard to exemptions for residential development. First, that denser, smaller units have the opportunity to provide more of the housing the community needs and should be allowed and encouraged. Second, that the middle class gets squeezed out without exemptions. As a result of these findings, the Commissions recommend an exemption for single-family homes under 2,500 square feet that would apply in the Town and County. The Commissions support a requirement on single-family homes over 2,500 square feet in Town, which are currently exempt. The Commissions also recommend that the Town's current exemption for large apartment buildings, with its current standards, be retained. In addition the Commissions recommend an exemption for any development type that has smaller, denser units. The details of that exemption would have to be further developed through the drafting of the updated LDRs. Finally, in addition to exempting mobile home units, the Commissions discussed allowing them in more instances in more zones. The Commissions do not recommend allowing other unit types,

such as Recreational Park Trailers, for residential use, but do recommend allowing mobile home units, certified by HUD, as a residential unit type to allow for a lower cost option for providing housing.

The Planning Commissions also discussed exemptions for small businesses related to their earlier conversations about promotion of growth in the non-resort economy. Ultimately the Planning Commission found that the exemption for home businesses allows for entrepreneurial growth and that once a business gets to the size of needing nonresidential space it should do its part with regard to housing, acknowledging that the Commissions' recommendation of 2.C reduces the impact mitigation will have on new businesses.

Public Comment: In-Person: 8.B (36%), Online: 8.A (41%)

Please see *Documentation of Community Discussion and Online Survey* for breakdown of preference for each alternative and to read the actual public comment. When discussing this question the public considered: workforce housing, available housing, types of development, existing exemptions, the free market, incentives, business contributions, simplicity, community impacts, housing affordability, enforcement, employment-based housing, and development.

Town Council and Board of County Commissioners

Draft to be released November 3.

## 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.

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

Staff Recommendation	PC Recommendation	Public Comment
9.A	9.A	In-Person Discussion: 9.A (53%) Online Survey: 9.A (73%)

Staff Recommendation: Alternative 9.A

Staff strongly recommends Alternative 9.A. It addresses the legal need to have a relief standard while also providing the greatest legal protection against gradual undermining of the regulation. The additional relief option represented by Alternative 9.B is unnecessary. All aspects of the housing mitigation requirement already include relief provisions. 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. The potential drawbacks of instituting a “hardship” variance finding are too great and unnecessary.

#### Planning Commissions’ Recommendation: 9.A

The Town and County Planning Commissions recommend Alternative 9.A, agreeing with staff’s findings. The Planning Commissions discussed staff’s recommendation and how a Variance might work and protect against undermining of the housing mitigation program. Ultimately, the Planning Commissioners did not find a Variance to be an appropriate tool for addressing housing mitigation requirements, preferring instead a structured independent calculation and clear list of priorities for the method of providing housing (Question 7).

#### Public Comment: In-Person: 9.A (53%), Online: 9.A (73%)

Please see *Documentation of Community Discussion and Online Survey* for breakdown of preference for each alternative and to read the actual public comment. When discussing this question the public considered: consistency and transparency, variances and exemptions, program abuse, equal treatment, and flexibility.

Town Council and Board of County Commissioners

Draft to be released November 3.

#### 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.

Alternative	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"> <li>• Predictable</li> <li>• Respects existing approvals</li> <li>• Consistency with other LDRs</li> </ul>	<ul style="list-style-type: none"> <li>◦ Specificity may make implementation cumbersome</li> </ul>
10.B. A project is subject to updated requirements if the calculation of the requirement is older than 7 years and cannot demonstrate vested rights, or a substantial amendment is requested	<ul style="list-style-type: none"> <li>• Respect existing approval</li> <li>• Move forward with updated requirements where fair</li> </ul>	<ul style="list-style-type: none"> <li>◦ Likely to have little applicability</li> <li>◦ Likely to be contentious to implement where it does apply</li> </ul>

Staff Recommendation	PC Recommendation	Public Comment
10.B but only with the substantial amendment provision	10.A with a substantial amendment provision looking forward	In-Person Discussion: 10.B (57%) Online Survey: 10.B (53%)

Staff Recommendation: Alternative 10.B but only with the substantial amendment provision

Staff recommends that the Town and County give themselves 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. The 7 year standard in Alternative 10.B would likely have limited

applicability and is more likely to apply to a smaller legacy project that ran into some implementation difficulty, rather than a large project with a significant housing impact.

The implication of staff's recommendation is that 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 predicated 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. Recommended Alternative 10.B would modify the current standard that 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 affordable 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 staff will develop 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.

Planning Commissions' Recommendation: 10.A with a substantial amendment provision looking forward  
The Town and County Planning Commissions do not recommend imposing any requirement on existing approvals, but do find that future approvals should be subject to a substantial amendment provision that would put a future applicant on notice that substantial amendments to an approval will subject the approval to updated housing requirements. The Commissions were concerned about changing the rules on developers mid project and were not comfortable with setting a 7-year or other timeframe. The Commissions recommended a substantial amendment provision moving forward because it avoids the issue in the future, but puts a developer on notice as the developer is designing the phasing plan for the project. The Commissions also discussed that some developers may volunteer to have their housing requirement be subject to continuous update because that makes the most sense for their phasing plan.

Public Comment: In-Person: 10.B (57%), Online: 10.B (53%)

Please see *Documentation of Community Discussion and Online Survey* for breakdown of preference for each alternative and to read the actual public comment. When discussing this question the public considered: consistency and transparency, stalled projects, long-term projects, future versus completed projects, business, and development.

Town Council and Board of County Commissioners

Draft to be released November 3.



October 10, 2017

Jackson Town Council  
Teton County Board of Commissioners

**RE: Housing Mitigation Policies**

Dear Mayor Muldoon, Town Councilors, and County Commissioners:

Thank you for the opportunity to comment on your housing mitigation policies. ShelterJH is a membership organization that works to ensure that all who work in Jackson can have a home here.

As you know, our housing crisis is getting worse. We're losing affordable homes every year to rent increases, vacation rentals, and gentrification. Every day we lose more of our essential workers to surrounding communities. More teachers, nurses, cooks, dishwashers, and police (and everyone else) are commuting from places where they can afford the rent or, if they are lucky, buy their own homes. When people commute, we lose critical service providers on-site, and we lose volunteers and active members of our community. Therefore, as we consider changes to housing mitigation policies, we should always ask what the changes will do for our workers and community – especially our community members in the most vulnerable situations.

One of the main reasons we have a sizable stock of affordable/workforce housing is that developers have provided homes as part of their developments. Lacking this tool, we would be in a far worse situation. And, it has become increasingly clear that even our current requirements are too low - our housing need keeps increasing as our overheated tourism industry continues to create new low-paying jobs.

We believe the policy questions, as written, are difficult to understand – even for housing industry veterans – so we hope that you will forgive any misunderstandings as we attempt to answer them. **We recommend that you establish a housing expert task force – different from a “stakeholder’s group” – to provide clear guidance on these policies after you receive public input.**

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

→ **1B:** housing mitigation should cover both year-round and peak seasonal employees.

*Note:* existing residential *inclusionary zoning* is a completely different policy from *mitigation*, so the status quo is actually that commercial mitigation only covers peak seasonal employees. Lumping these

two separate and distinct policies together (inclusionary zoning and commercial mitigation) is confusing, and we should clearly distinguish their purposes and use. See questions 3/4/5 below.

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

→ **2A, with a caveat:** we should mitigate for 65% of all workers, because that is our housing goal. It is important to mitigate for workers of all income levels that can't find free market options, which includes people earning up to 200% area median income (AMI). We do not believe it is legal to require mitigation for more than 65% of our workers, as that is the level we need to "keep up" with our goal. The community will need to use other tools to "catch up" to our existing need, such as SPET measures and *incentive zoning*.

**3/4/5. How should the housing mitigation requirement be imposed?**

→ **3/4/5C:** All housing mitigation should be done through employee generation mitigation requirements. Inclusionary zoning is a different tool that exists to prevent *exclusionary zoning* (whether by policy or de facto) and should be used with any annexations or complete neighborhood expansions. *Mitigation* requires a nexus, which is what your Employee Generation Study provides. This is probably the most important aspect of your mitigation policies, and we offer the following recommendations:

*Require commercial mitigation for all employees generated.* Currently, commercial mitigation only applies to the peak seasonal employees generated. This leaves out all the year-round employees that the new business generates. All employees have an impact, not just peak summer and winter season employees. New commercial development should be mitigating for all of them. A mechanism to provide reductions from this standard for small businesses could be incorporated, such as the one used in Aspen that scales the requirement based on number of employees generated.

*Increase mitigation on commercial development with commensurate density bonus.* The current mitigation rate only requires a small portion of the employees generated to be housed, which transfers the burden to the community to create this housing. Requiring a higher mitigation rate in conjunction with an increase in FAR allows a developer to create the required housing on-site which can remain an asset for the success of the new business long-term and provides housing options for more of the employees generated.

*Reduce mitigation categories & use average rates.* Currently, there are many categories for commercial mitigation – office, retail, restaurant/bar, lodging, etc. We recommend combining and averaging some uses that currently trigger change of use fees. Categories may include: residential, lodging / short-term-rental, nonresidential, institutional/public/semi-public.

*Eliminate change of use mitigation with existing structures.* When a use changes within an existing structure, it may trigger a mitigation fee. This impacts existing businesses and discourages new restaurants, which have a much higher mitigation rate compared to office or retail use. It is also complex and resource-intensive to manage. Instead, average the mitigation rates and assess at time of development to eliminate the change of use fees.

*Require mitigation on market-rate residential development.* Market-rate ownership product is out of reach for all but a few local employees and more often provides an option for part-time or seasonal residents. These transient occupants generate more service employees than a home occupied by a full-

time resident. Mitigation rates should reflect the increased impacts from market rate residential development. A mechanism to provide reductions from this standard for local occupancy could be incorporated, such as a recorded document used in Summit County, Colorado.

*Require 1-for-1 replacement of any existing workforce housing units.* Our housing mitigation rules should require 1-for-1 replacement of any workforce units destroyed during development. This is different from, and additional to, mitigating the workforce generation of the new development. Some new development both knocks down existing affordable/workforce housing *and* builds new high-end homes or commercial use that require mitigation. For example, the Marriott hotel knocked down a number of de-facto-affordable mobile homes.

For easier explanation, imagine a simpler project: a developer buys a single lot with one mobile home. They knock down that home and build 4 new homes. One of the new units has to be affordable based on mitigation – but that just keeps up with the 3 new market-rate homes. But before this development, that parcel was net positive +1 workforce home. After the development, our community is *worse off than before*. As a result, we should require that developers replace any workforce units. The way to define which units count as workforce units is to use the same list as in the “exempt workforce housing uses” shown below in question #8.

	<b>What's on the site</b>	<b>Workforce units</b>	<b>Impact on workforce housing</b>
Existing conditions	1 mobile home	1 unit	--
After existing unit is knocked down	Nothing	0 units	-1 unit
After new development is built	3 market-rate condos and one affordable unit required by mitigation	1 unit to keep up with the 3 market-rate units	Still -1 unit
If we require 1-for-1 replacement	3 market-rate condos and one affordable unit (mitigation) <i>and</i> one workforce unit (replacement)	1 unit to keep up with the 3 market-rate units <i>and</i> 1 unit to replace the mobile home	Back to net zero

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

→ **6C:** All mitigation housing should have minimum and maximum standards. All units should have access to kitchens and bathrooms (even if shared such as in a dormitory building). Allow the developer flexibility in the provision of unit types and tenancy (ownership or rental) to enable the required units to better meet the needs of the business long-term.

The methodology to calculate the requirement and the resulting mitigation should be square footage based instead of bedroom/occupant based. To simplify the code for development professionals and the public, the town and county regulations should be the same.

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

→ **7C:** Prioritize new on-site units for developments in complete neighborhoods. Our biggest challenge in creating new housing options for local workers is the availability of land in complete neighborhoods. Allowing units to be built off-site results in fewer locations to meet our workforce housing goals. Fee-in lieu and the purchase of “credits” should be prioritized for developments outside of complete neighborhoods to enable construction of units in appropriate locations and consistent with comprehensive plan goals.

Establish a “credit” system which allows developers that are not accessing public funds to build additional workforce housing in their project and allows them to sell “credits” for these additional units to other developers to meet *their* housing requirements. This encourage developers to build more workforce housing in their projects similar to the program used with Powderhorn Employee Housing. Set stringent standards for the use of existing housing stock to ensure a net gain in the supply and quality of workforce housing inventory.

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

→ **8B:** Exemptions to encourage the private sector to produce workforce housing have been successful and should remain. This includes housing units restricted for the workforce in some way, even though they are not restricted for affordability, such as accessory residential units, any housing bonus incentive, mobile home parks, rental apartments of a certain size, and alternate restrictions used by non-profit housing organizations and businesses. These exemptions act as incentives to encourage the type of development that creates housing options for local workers. Unless an appropriate deed restriction is added, these alternative approaches should *not* be allowed to meet the housing requirements of the new development or another development.

*Please eliminate exemptions that do not provide workforce housing.* Current exemptions that should be eliminated include live-work, one lot split of a residential lot into two lots, and the first 2,500 square feet of single-family dwellings. A mechanism to provide relief from this standard for local occupancy could be incorporated, such as that used in Summit County, Colorado. Additionally, Institutional Uses should *not* be exempt from the housing standards as currently is the case.

*Please eliminate the “credit” in redevelopment for existing residential unless it can be shown that the new residential use will be similar to the old residential use.* Compliance with the “rough proportionality” standard is important. However, the exemption for existing uses prior to the adoption of the requirements should be amended to reflect the true impact of replacing existing residential (that houses local workers) with new residential (that targets part-time residents). This is to stop actions such as what happened with the Marriott knocking down affordable trailers and somehow counting those affordable trailers as “credits” against their housing requirements. The new residential built no longer houses local workers and instead 1-bedroom penthouse condominiums are listed between \$1,200,000 and \$1,602,000. These units are obviously not targeting local workers, and the employees generated from non-local tenancy condominiums is higher than local resident single-family. Therefore, impacts can be assessed and mitigated while preserving the “rough proportionality” standard.

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

→ **9A:** “Relief” should only be allowed inasmuch as it is legally required. Consultants can always provide an “independent calculation” showing that their project is unique and should provide less than normal mitigation. We should discourage this as much as possible and require some form of long-term

assurance that the actual impact is commensurate with the “independent calculation.” Also, the term “relief” makes it sound like housing mitigation is a bad thing, when in fact it is a positive policy that we need to keep Jackson the place we know and love.

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

→ **10B:** If a project has not been built after many years, new requirements should apply. Additionally, out-of-date masterplans should be updated with new housing requirements when possible (at any time of re-negotiation).

Thank you for your consideration on these extremely complex issues. Again, we respectfully recommend that you form a housing expert task force, and we offer our participation. Please be in touch with any questions.

Sincerely,



Christine Walker  
Policy Team Chair  
ShelterJH

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As always, thank you for your service to our town.

It is a pleasure to write to you. I have lived and worked in this community for 14 years. I have 4 beautiful girls who attend school in the valley. I am also an active member of a leadership group.

The housing situation presented by the majority of working families in this town is very hard, specially if they have kids, which are the most valuable and important of the family. However they are always the most vulnerable and affected ones by the economic situations that their parents have to face. In too many families both parents have to work 2-3 jobs to sustain their house. They leave aside the most important things, who are the their children and with it goes their education, values, and quality time that they have to provide to make them sensitive, compassionate, friendly, generous and integrated to serve the community. On the contrary the children learn that money is the most important thing in life and often forget the human side.

Without more preamble, the only thing that I want to ask you, is that you consider more, the families with a low income.

Please give them the opportunity to get their own house. I believe that is the way that they will be able to provide better life quality.

For these reasons I am writing to you hoping that you take into account these comments, that for me are heartbreaking. Thinking that those children are the future of this community. I thank you for the time you have given to this letter.

Sincerely,  
Cristina