Explanation of Draft LDRs

Housing Mitigation LDRs Update 3/16/18

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.

On March 16, 2018, draft updated housing mitigation LDRs were released for public review. The purpose of this document is to summarize the draft, explain why the updated housing mitigation LDRs were drafted the way they were, and identify the implications of the draft LDRs. The draft updated housing mitigation LDRs are available on the project website at www.engage2017.jacksontetonplan.com/housingrequirements.

Background

The draft LDRs are 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 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 provided preliminary direction on the 10 policy questions.
- On November 13, Town Council and the Board of County Commissioners finalized policy direction to inform the draft updated housing mitigation LDRs.

To see the adoption hearing schedule and/or for a list of all documents, meetings, and workshops for this project please visit the project website.

Summary

Our housing goal has not changed much since 1994. We are still trying to stem the migration of our workforce out of the community. We are still doing this, in part, by requiring developers to provide enough affordable workforce housing as part of their development so that the employees generated who cannot afford market housing have a local housing option. What is changing with the updated housing mitigation LDRs is how we attempt to meet those goals. The draft updated housing mitigation LDRs do 3 main things:

1. Account for the growth in the housing affordability gap since 1994.
2. Apply the requirements to all developers, proportionate to their employee generation.
3. Apply consistent criteria to all required housing.

Accounting for the growth in the housing affordability gap since 1994

Policy Direction: Mitigate for the entire income range of households that cannot afford housing, but focus the requirements on the lower income households with greater need. Mitigate to the maximum, legal extent to meet the community's housing goal. *(part of Alternative 2.A)*

The community's housing issue and approach has not changed much since 1994. In the early 1990s the community became worried about the migration of the workforce out of the community due to housing prices. As commuting increased, fewer of the people who were in the community each day to work stayed in the community when their job was done to shop, volunteer, vote, raise their kids, or steward the ecosystem. To combat this decline in character, in 1994, the community required that developers provide enough affordable workforce housing as part of their development so that the employees generated by the development who cannot afford market housing have a local housing option.

In 2012, when the Comp Plan was updated, the community reaffirmed the issue with a commuting workforce and recommitted to stopping the migration of the workforce out of the community. What was new in 2012 was a quantification of where the community was drawing the line - 65% of the workforce living locally - but the goal was the same. In November 2017, the Town and County recommitted to the approach of requiring developers to provide enough affordable workforce housing so that the employees generated who cannot afford market housing have a local housing option.

The reason the regulations are being updated is because, while the issue, goal, and approach are the same, housing is less affordable than it was in 1994. The median home price in 1993 ($235,000) was about 2 times the price the median family could afford ($123,000). In 2016 the median home price ($1,130,000) was about 4 times the price the median family could afford ($286,000). That growth in the affordability gap now means that at least 73% of households cannot afford market housing, with most of those households having incomes at the lowest end of the income spectrum.

About 73% of households make less than $125,000. A home affordable to a household making $125,000 would cost $416,000. How many homes are available on the market for $416,000?

How do the updated LDRs implement the policy direction?

The updated LDRs require developers to provide the amount affordable workforce housing equal to the housing needed for the employees generated by the development who cannot afford market housing. That number is calculated in a study of the local workforce (Nexus Study). The Nexus Study calculates the number of employees generated by new development including: the number of construction workers needed to build the development; the number of workers who are then employed within the development once it is built (the office workers, waiters, housekeepers, landscapers, etc. depending on the type of development); and the number of public safety officers needed to protect the development (Fire/EMS and law enforcement employees). The Nexus Study also calculates how many workers in that field can afford market housing, and how many other employees typically live in the household of a worker in that field so that housing need is not double counted. Accounting for these two factors, the Nexus Study calculates how many affordable housing units are needed to house the employees generated.

Example: Calculation of Employee Generation and Housing Need for Office Development					
	Construction	Office	Fire/EMS	Law Enforcement	Total
Workers per 1,000 sf	0.041	1.598	0.001	0.003	1.643
Years in Career	30	n/a	n/a	n/a	
% Who Can Afford	28.87%	33.14%	25.56%	27.09%	
Workers per Unit	1.774	1.678	1.797	1.797	
Units per 1,000sf	0.016	0.637	0.00042	0.0012	0.655

In addition to requiring a number of units to be provided by the developer, the LDRs ensure the units provided are affordable the spectrum of household incomes based on the Census reported distribution of household incomes for households making between 0 and 200% of median income.

- At least 34% must be affordable rentals for households making less than 50% of median income
- At least 27% must be affordable rentals for households making 50% - 80% of median income
- No more than 23% may be affordable (rental or ownership) for households making 80% - 120% of median income
- No more than 15% may be workforce restricted (rental or ownership)

What are the implications of the draft LDRs?

The amount of affordable housing needed to keep up with job growth from development has gone up, because the number of market units affordable to the workforce has gone down. A greater percentage of units are required to be affordable at lower incomes because a greater percentage of households have lower incomes.

Requiring more units to be built increases the cost of development. Building lower income units requires greater subsidy, which decreases the return on development costs. An increased cost of development and decreased return on cost would suggest less development will occur.

Our community's job growth, housing growth, and population growth have been twice the national average for at least the past 15 years. Over the same period the percentage of the workforce living locally has fallen from 75% to 58%. The updates to the housing mitigation regulations call the question on the balance between continued above average growth or local workforce character.

Applying the requirements to all developers proportionate to their employee generation

Policy Direction: Mitigate for year-round, fulltime employees, whether they work in one job or many *(Alternative 1.A)* Utilize an employee generation requirement *(part of Alternative 3/4/5.C)*.

When development occurs employees are generated to build, operate, and protect the development, as described above and calculated in the Nexus Study. The employees who stay year-round are the ones most likely to reinvest and volunteer in the community. They raise families and become stewards of the ecosystem. Seasonal employees have always been, and will continue to be, an important part of our character. But seasonal employees need less permanent housing solutions and therefore have more opportunities in the market. The year-round employees are the focus of the housing mitigation LDRs because they are in greater need of stable, affordable housing.

The premise of the current LDRs, adopted in 1994, is that residential developers will provide all of the subsidized housing needed for year-round workers, and nonresidential developers will provide the subsidized housing needed for seasonal workers. The logic behind the current LDRs is that the market will respond to job growth by building housing, so all the requirement has to do is ensure enough of the housing built is affordable. In reality job growth has far outpaced housing growth, dooming the current requirement from achieving the community goal. To stick with the current system we would either have to slow job growth or increase housing growth. Increasing housing growth is inconsistent with the ecosystem stewardship and growth management values of the community. In response, the draft LDRs move to a concurrency system where all developers (residential or nonresidential) are required to include the housing needed as a result of the development, as part of their development. The need for this shift was first identified in the Comprehensive Plan (2012), and affirmed in the Housing Action Plan (2015).

How do the draft LDRs implement the policy direction?

The draft LDRs require that all developers (residential or nonresidential) provide, as part of their development, enough affordable workforce housing so that the employees generated who cannot afford market housing have a local housing option. As discussed above, the Nexus Study calculates the housing needed for the employees generated. The Nexus Study actually calculates both the year-round and seasonal employees generated, but only the year-round employees are used in the calculation of the number of units required. The number of employees generated varies by industry because some industries have more employees per square foot and more employees in some industries can afford market housing. For industries like outdoor recreation that do not typically have floor area, required housing is calculated using the same method discussed above, but with inputs more relevant to the industry.

Employee Generation and Housing Requirement by Industry			
	Seasonal Employees	Year-round Employees	Required Units
Lodging (1 room)	0.471	0.528	0.204
Office (1,000 sf)	0.228	1.643	0.655
Retail (1,000 sf)	2.636	1.247	0.573
Restaurant (1,000 sf)	2.422	3.956	1.589
Industrial (1,000 sf)	0.198	0.731	0.326

What are the implications of the draft LDRs?

Because the draft LDRs require developers to house 73% of the year-round employees they generate and about 40% of summer employees are seasonal, the draft LDRs only require developers to provide about 43% of the housing needed during the summer for the employees generated by the development. The market and public will be relied upon to provide the other 67%.

The shift to employee generation decreases the cost of multi-unit residential development, especially development of small unit multi-family housing. This decrease in the cost of the types of development the community wants may increase the amount of multi-family and conservation development that occurs.

Current vs. Draft Housing Requirement: Residential					
	Year-round	Current		Draft	
Development Type	Employees	Units	Fee-In-Lieu	Units	Fee-In-Lieu
1,500 sf SFD (Town)	0.085	exempt		0.034	$ 7,913
1,500 sf SFD (County)	0.085	exempt		exempt	
4,500 sf SFD (Town)	0.312	exempt		0.126	$ 29,251
4,500 sf SFD (County)	0.312	-	$ 14,789	0.126	$ 29,251
8,000 sf SFD (Town)	0.641	exempt		0.261	$ 60,306
8,000 sf SFD (County)	0.641	-	$ 40,669	0.261	$ 60,306
12 unit PRD conservation subdivision	7.693	7.92	$ 2,605,144	3.129	$ 741,905
90 – 850 sf, 2 bedroom apartments	6.122	20	$ 7,320,450	2.490	$ 542,875
Replace 8 mobile homes with 12 apts.	0.816	0.889	$ 359,092	0.332	$ 76,789

The shift to employee generation will increase the cost of nonresidential development. The current requirement that developers provide housing for 33% of seasonal employees generated is being replaced by a requirement that developers provide housing for 73% of year-round employees. This shift has two components both of which have varying impacts by industry. First, the shift from 33% to 73% of employees is the quantification of the increasing affordability gap discussed above. While on average 73% of employees can afford housing, the actual percentage used in the calculations varies by industry because workers in some industries have higher incomes than workers in other industries. Second, the shift from seasonal to year-round employee generation has varying effect depending on an industry's reliance on seasonal employees. If an industry has about as many seasonal employees as year-round employees the effect of this shift is minimal (Lodging). If an industry has mostly year-round employees the effect of this shift is an increase in the amount of housing required (Office).

Employee Generation and Housing Requirement by Industry						
	% Cannot Afford 1994	% Cannot Afford 2016	Shift	Seasonal Employees	Year-round Employees	Shift
Lodging (1 room)	33%	77%	+ 44%	0.471	0.528	+ 0.057
Office (1,000 sf)	33%	67%	+ 34%	0.228	1.643	+ 1.415

The overall increase in the cost of nonresidential development is the combination of the two shifts.

Current vs. Draft Housing Requirement: Nonresidential						
	Year-round	Seasonal	Current		Draft	
Development Type	Employees	Employees	Units	Fee-In-Lieu	Units	Fee-In-Lieu
3,000 sf restaurant	11.868	7.266	1.8	$ 209,560	4.768	$ 1,099,449
5,000 sf retail	6.235	13.18	1.244	$ 144,881	2.863	$ 685,179
10,000 sf office	16.43	2.28	0.222	$ 25,872	6.549	$ 1,473,776
5,000 sf industrial	3.655	0.99	0.067	$ 7,761	1.631	$ 310,047
50,000 sf private school	81.65	?	exempt		34.90	$ 7,018,870
50,000 sf public school	81.65	?	exempt		exempt	
20 – 2 bedroom short-term rentals	21.120	18.840	5	$ 1,660,511	8.172	$ 1,590,744
40 unit conventional hotel	21.120	18.840	3.378	$ 393,249	8.172	$ 1,590,744

The decreased cost of multifamily development and the increased cost of nonresidential development may also incentivize more residential development in mixed-use zoning districts. The increased requirements on nonresidential developers may force them to utilize the new zoning proposed for Character Districts 3-6 to provide the required housing. This would have the effect of ensuring a greater portion of Character District 3-6 is affordable workforce housing. (For a description of the new zoning proposed for Character Districts 3-6, visit the project website at: https://www.engage2017.jacksontetonplan.com/townzoning.)

Policy Direction: 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)*

If developers do not provide the housing the community will have to.

	Requirements	Market	Public
New year-round employees	73%	27%	
New seasonal employees	0%	100%	n/a
New employees in vacated jobs	n/a	100%	
Existing employees w/o housing	n/a	100%	

The draft LDRs require developers to provide housing for 73% of the year-round workforce generated. Which means we are relying on the market to provide housing for 27% of the year-round workforce plus 100% of the seasonal workforce. We are also relying on the market and public to provide 100% of the housing for the new employees who will fill jobs vacated by retirement and 100% of the existing housing shortage to get back to 65% of the workforce living locally.

Based on the demand projections in the Housing Action Plan (which do not include seasonal employees), housing for 27% of new year-round jobs, 100% of jobs vacated by retirees, and 100% of the current shortage equals 134 market workforce housing units per year. Reducing the housing mitigation requirement from 73% of year-round employees to 65% of year-round employees would increase that number to 150 market workforce housing units per year.

Over the past 16 years the community has built a total of 150 units per year. Asking the market to provide more workforce housing is unrealistic. In last 5 years jobs have grown at 2.1%, housing units have grown at 1.1%. The Housing Action Plan projects a need of 280 workforce housing units per year to keep up with that job growth and other housing demand. Since 1994 the community has averaged 83 workforce housing units per year.

Speeding up our rate of workforce housing production by 3 times is not only unrealistic it is contrary to the community's other common values. Providing affordable workforce housing opportunities so 65% of the workforce lives locally is one of the community's goals, but the community also values ecosystem stewardship and growth management. Respecting all of our common values means that if developers do not factor provision of workforce housing into their cost calculation, the community will foot that bill instead.

The Town and County have already identified a number of efforts (allowances, incentives, funding) outside of these housing mitigation LDRs to increase the supply of affordable workforce housing. Those efforts are as needed as the housing mitigation LDRs. The size of the affordable housing shortage does not leave room for discussion about substituting one effort for another, all efforts are needed. What is not identified are any efforts outside of the housing mitigation LDRs to reduce the rate of job growth.

Applying consistent criteria for all required housing

Policy Direction: Required housing shall be a residential unit with: a minimum number of bedrooms per person required to be housed; and minimum livability features such as kitchen, bathroom, bedroom, and storage.

Policy Direction: Prioritize production of units by the developer through standards that clearly establish an order of preference and prohibit any method of meeting the housing mitigation requirement that is not on the list, *(Alternative 7.B modified)* with an implementation approach designed to be consistent with the overall policy direction.

Policy Direction: Exempt development types including development that is legally required to be exempt, residential development that provides affordable workforce housing, and nonresidential development with minimal impact. *(Alternative 8.D)*

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

Policy 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 rest of the policy direction provided in November had to do with ensuring the housing mitigation LDRs are as clear and consistent as possible to ensure predictability for developers and reviewers. The current regulations vary by jurisdiction and residential versus nonresidential development, which has produced many different products and decisions, which ultimately undermines the defensibility of the entire program.

How do the draft LDRs implement the policy direction?

The draft LDRs establish a schedule to determine how many bedrooms are required in each unit. A developer is allowed to provide more bedrooms per unit, less bedrooms per unit is not allowed. The draft LDRs reference the

Housing Department Rules and Regulations for livability standards, which are also being updated. (See the project website at: https://www.engage2017.jacksontetonplan.com/housingrulesandregulations.)

The draft LDRs prioritize construction of the required housing. If construction of the requirement is impractical, the draft LDRs allow land conveyance, then use of a banked affordable housing unit, then restriction of an existing unit, and finally payment of an in-lieu fee. A developer has to demonstrate the impracticality of development based on defined criteria. Proposal of an alternate method of providing the housing is prohibited.

In order to provide the highest likelihood that construction of the required housing is practical, the housing requirement is generally imposed at development plan, use permit, or building permit, whichever comes first. In the case of single-family subdivision the requirement is imposed at the time of subdivision. For subdivision in other zoning districts the requirement is imposed at the time of development of the vacant lots.

The exemptions from the draft housing mitigation LDRs are listed in Section 6.3.2.B. One of the major changes from the existing regulations that is a result of the shift to employee generation standards is that there is no longer a "first-unit-exempt" provision. Existing development is exempt, and development that has already been mitigated is exempt, but there is no longer credit for the first unit on a lot because all development has to provide housing mitigation when it occurs. Also new is exemption of Alta from the housing mitigation requirements. Imposing the requirement in Alta did not make sense given the rationale for the requirement and the community's housing goal to reduce commuters.

The draft LDRs include an independent calculation provision that is the only method for varying the amount of required housing. The draft LDRs also include specific criteria for varying the affordability mix and bedroom mix of the required units that ensure only bigger and/or more affordable units are provided. As mentioned above the draft LDRs also include findings for providing the housing via a method other than construction.

The draft LDRs include a provision related to substantial amendment and define substantial amendment as any amendment that would increase the housing requirement. Upon application for a substantial amendment, the entire unbuilt and unmitigated portion of the approval is subject to the updated housing requirements. In addition, the draft LDRs require the developer to enter into a Housing Mitigation Agreement with the Town or County to assure execution of the approved Housing Mitigation Plan.

What are the implications of the draft LDRs?

There is no longer an Affordable Housing Division applicable to residential subdivision and development and an Employee Housing Division applicable to nonresidential development. There is now one Affordable Workforce Housing Division applicable to all development.

The implications of the increased clarity and predictability is a reduction in flexibility. By adopting the draft LDRs the Town Council and Board of County Commissioners would be removing their authority to accept alternate methods of mitigation or deferral of mitigation.

Draft LDRs

An outline of the draft housing mitigation LDRs is below. The draft, adoption hearing schedule, and a calculator for the draft requirements are all available at: www.engage2017.jacksontetonplan.com/housingrequirements.