



Board of County Commissioners - Staff Report

Subject: AMD2020-0003: LDR Text Amendment for Housing Mitigation Reduction

Agent/Applicant: Teton County

Property Owner: n/a; County-wide

Presenter: Rian Rooney, Associate Long-Range Planner

REQUESTED ACTION

Proposal to amend the Teton County Land Development Regulations (LDRs), pursuant to Section 8.7.1, to amend Section 6.3.3., Amount of Affordable Workforce Housing Required, to reduce the housing mitigation requirements for nonresidential uses by fifty percent (50%). The amendment updates the calculations used to determine required affordable workforce housing by use and updates examples of required mitigation calculations in the text to reflect the proposed reduction.

BACKGROUND/DESCRIPTION

PROJECT DESCRIPTION

The FY 2021 Comprehensive Plan Work Plan includes a task to revisit the current structure and rates for Affordable Workforce Housing Mitigation required by Section 6.3.3. of the Land Development Regulations.

At the October 13, 2020 Joint Information Meeting (JIM), the Teton County Board of County Commissioners and the Town of Jackson Town Council directed staff to prepare an amendment to the Land Development Regulations that would decrease required affordable workforce housing requirements for nonresidential uses by fifty percent (50%). The proposed amendment reflects this direction and modifies the formulas for housing requirements in Section 6.3.3. of the LDRs to achieve this reduction. The intent of the reduction is to preserve and temporarily decrease the existing housing mitigation program while housing mitigation and requirements are reassessed with a new Nexus Study.

BACKGROUND

Staff has attached the Planning Commission staff report on this amendment proposal, dated November 23, 2020, which provides additional background on this item that was previously provided to the Board at the September 14, 2020 and October 13, 2020 Joint Information Meetings, including a history of the community affordable and workforce housing programs.

LOCATION

N/A; applies County-wide.

STAFF ANALYSIS

A draft of the proposed text amendment dated October 21, 2020 is included as an attachment to this report and was released pursuant to the LDRs and Wyoming Statute §16-3-103.

KEY ISSUES

KEY ISSUE 1: Effect of the Reduction

The below table summarizes the effects of a 50% reduction to the current mitigation requirements for nonresidential uses in Teton County. This reduction includes lodging uses such as hotels and short-term rentals, in addition to other nonresidential uses. For context, the table also includes the requirements under the pre-2018 housing mitigation program. The 50% decrease is in the number of units required by a proposed use. Staff notes that the fee-in-lieu values do not decrease perfectly with the unit decrease. This is due to the variation in cost of housing based on the number, size and affordability of units required by the regulations.

Staff has also included an analysis of the approximate value of the workforce housing demand generated by each example of development. This number reflects the fee-in-lieu value of housing units that would be required to house the full number of new, year-round workers who cannot afford market housing (i.e. it reflects the requirements of a 73% mitigation rate). Staff has also included two “Deficit to Subsidize” columns under the Current and 50% Proposed Reduction headers. These columns show the difference between the Approximate Value of Housing Demand Generated by a development and the value of the Associated Fee-in-Lieu under current and proposed mitigation rates. These deficits show the approximate dollar value that will have to be supplied by other funding sources, public, philanthropic or others, to house the generated workforce locally. All values are calculated using 2019 dollars for comparison.

To accomplish the identified policy change, the proposed amendments to Section 6.3.3. Amount of Affordable Workforce Housing Required update the equations used to calculate housing requirements by use.

Teton County Non-residential	2017		Approximate Value of Housing Demand Generated (2019 \$)	Current			50% Proposed Reduction		
Use	Units	Associated Fee-in-Lieu (2019 \$)		Units	Associated Fee-in-Lieu (2019 \$)	Deficit to Subsidize	50% Reduction (Units)	Associated Fee-in-Lieu (2019 \$)	Deficit to Subsidize
3,000 sf restaurant/bar	1.800	\$459,787	\$1,264,401	3.135	\$805,944	\$458,456	1.568	\$386,736	\$877,665
5,000 sf retail, service, nursery or amusement	1.244	\$285,015	\$742,398	1.883	\$485,757	\$256,642	0.942	\$196,090	\$546,309
10,000 sf office	0.222	\$46,246	\$1,684,200	4.306	\$1,114,766	\$569,434	2.153	\$594,453	\$1,089,747
5,000 sf industrial, heavy retail/service, or transportation/infrastructure	0.067	\$13,957	\$406,668	1.072	\$231,089	\$175,579	0.536	\$111,704	\$294,964
50,000 sf private school	exempt	exempt	n/a	exempt	exempt	n/a	exempt	exempt	n/a
20 – 2 bedroom short-term rentals	5.000	\$1,339,464	\$1,970,180	8.172	\$1,970,180	\$0	4.086	\$1,043,536	\$926,644
40 unit conventional hotel	3.378	\$868,861	\$1,970,180	8.172	\$1,970,180	\$0	4.086	\$1,043,536	\$926,644
10,000 sf mini-storage / warehouse	ind. calc.	ind. calc.	\$36,366	0.115	\$23,912	\$12,454	0.058	\$11,956	\$24,410

**Note that Associated Fees-in-Lieu will not necessarily reflect a perfect 50% reduction and will vary based on the number, size and affordability of units required.*

PLANNING COMMISSION ANALYSIS

The Planning Commission held a public hearing on November 23, 2020 to discuss this LDR text amendment proposal. All five Planning Commissioners were present. Following the staff presentation, Commissioner Muromcew raised the idea that the Town and County governments are also responsible for job growth and questioned whether they are also required to mitigate for their housing demand impacts. Commissioner Mateosky responded questioning whether taxpayer money would then be spent on housing mitigation under that scenario. Staff noted that any affordable housing units developed by the Jackson/Teton Housing Department are exempt from mitigation requirements and that one limitation of the housing mitigation program is that it is tied to physical development, not job creation in itself.

Commissioner Rockey noted that it appears that the change in housing requirements in 2018 significantly impacted mom-and-pop businesses. There was some discussion about the difficulties posed to small businesses wishing to expand into an existing space by the change-of-use requirements of the housing mitigation program. Commissioner Rockey asked what assumptions, information, and data would be sought in the development of the new Nexus Study. Staff explained that these studies are undertaken by professional firms that regularly produce these studies. Among the data examined are wages earned by employees in various industries, cost of construction, consideration of the number of jobs worked by an individual, and non-bricks-and-mortar businesses that contribute to employee generation but do not have a physical development footprint.

Chairman Esnard sought clarification that this change is intended to be temporary but has no expiration tied to it. There was discussion among the commissioners about the importance of getting new data and restructuring the program.

The Planning Commission voted 5-0 to recommend the amendment for approval as proposed.

STAKEHOLDER ANALYSIS

PUBLIC COMMENT

No public comment on this amendment has been received as of the completion of this staff report on December 7, 2020.

DEPARTMENTAL REVIEW

A draft of the proposed amendment was sent to the following departments for review. All comments and feedback have been incorporated in the October 21, 2020 draft.

- County Department of Planning & Building Services
- County Attorney

LEGAL REVIEW

Gingery

RECOMMENDATIONS

PLANNING DIRECTOR RECOMMENDATION

The Planning Director recommends **APPROVAL** of **AMD2020-0003**, as presented in the draft dated October 21, 2020, with no conditions based on the findings recommended below.

PLANNING COMMISSION RECOMMENDATION

At its November 23, 2020 meeting, the Planning Commission voted 5-0 to recommend **APPROVAL** of **AMD2020-0003**, as presented in the draft dated October 21, 2020, to amend the amount of affordable workforce housing requirements, as calculated in Section 6.3.3. of the LDRs, being able to make the findings of the Section 8.7.2. as recommended by the Planning Director.

PLANNING DIRECTOR & PLANNING COMMISSION RECOMMENDED FINDINGS

Pursuant to Section 8.7.1.C. of the Land Development Regulations, the advisability of amending the text of these LDRs is a matter committed to the legislative discretion of the Board of County Commissioners and is not controlled by any one factor. In deciding to adopt or deny a proposed LDR text amendment the Board of County Commissioners shall consider factors including, but not limited to, the extent to which the proposed amendment:

1. Is consistent with the purposes and organization of the LDRs;

Division 1.3: Purpose and Intent: Based on the legislative discretion of the Board of County Commissioners, these LDRs are in accordance with the Jackson/Teton County Comprehensive Plan. Their purpose is to implement the

Jackson/Teton County Comprehensive Plan and promote the health, safety, and general welfare of the present and future inhabitants of the community with the intent listed below.

1.3.1. Implement the Community Vision: Preserve and protect the area's ecosystem in order to ensure a healthy environment, community, and economy for current and future generations.

1.3.2. Implement the Common Values of Community Character

A. Ecosystem Stewardship

1. Maintain healthy populations of all native species and preserve the ability of future generations to enjoy the quality natural, scenic, and agricultural resources that largely define our community character.

2. Consume less nonrenewable energy as a community in the future than we do today.

B. Growth Management

1. Direct future growth into a series of connected, Complete Neighborhoods in order to preserve critical habitat, scenery and open space in our Rural Areas.

2. The Town of Jackson will continue to be the primary location for jobs, housing, shopping, educational, and cultural activities.

C. Quality of Life

1. Ensure a variety of workforce housing opportunities exist so that at least 65% of those employed locally also live locally.

2. Develop a sustainable, vibrant, stable and diversified local economy.

3. Residents and visitors will safely, efficiently, and economically move within our community and throughout the region using alternative modes of transportation.

4. Timely, efficiently, and safely deliver quality services and facilities in a fiscally responsible and coordinated manner.

1.3.3. Implement the Illustration of Our Vision

A. Achieve the desired future character identified for each Character District.

B. Implement the policy objectives for each Character District.

C. Achieve the character-defining features identified for each Subarea.

1.3.4. Predictable Regulations, Incentives, and Allowances

A. Ensure standards are consistently applied to similar applications and circumstances.

B. Ensure landowners, the public, and decision-makers know the amount, location, and type of growth to expect.

C. Use data analysis and best practices to inform standards and implement the adaptive management philosophy of the Growth Management Program.

1.3.5. Coordination Between Jurisdictions

A. Implement the joint Town/County Vision through coordinated, supportive actions.

B. Maintain a common structure, format, and definitions in Town and County LDRs.

Div. 1.4. Organization of the LDRs: *These LDRs constitute the County's zoning and subdivision regulations. They have two organizing principles. Primarily, they are organized by zone in order to implement and emphasize the community's character-based planning approach. Secondly, to provide ease of use, they are organized to answer three questions:*

- What can be built or physically developed?*
- What uses are allowed?*
- How can the land be developed or subdivided?*

Can Be Made. While a temporary reduction in the requirements of the housing mitigation program will challenge the community's ability to implement its workforce housing goals, the reduction will relieve pressure from the State Legislature that could eliminate the housing mitigation program altogether. It will also allow staff time to reassess the existing program and conduct a new Nexus Study to inform a revised set of housing requirements

and regulations that will aim to implement the common values of community character while providing predictable regulations and standards for landowners and the public.

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

Not applicable. The proposed amendments are not intended to improve consistency within the LDRs and do not create any new inconsistencies.

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

Can Be Made. The reduction of mitigation requirements by 50% for nonresidential development and change of use will increase flexibility for landowners and businesses by lowering development costs. The retention of half of the mitigation requirements will also continue to offset some of the housing demand generated by new development and help the community continue to pursue its workforce housing goals.

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

Can Be Made. This amendment responds to concerns from the business community that the current mitigation rates and requirements are too high and the understanding that the Wyoming State Legislature may consider introducing legislation to limit local control over the requirement of mitigation rates.

5. Improves implementation of the Comprehensive Plan; and

Can Be Made. One of the Comprehensive Plan's Common Values of Community Character is Quality of Life and includes a goal to house 65% of the local workforce within the community. The housing requirements and mitigation program are a key tool in achieving that goal. Even if the requirements are diminished by 50%, retaining this tool and mitigating for some percentage of development-produced housing demand better serves the Quality of Life common value than losing the housing mitigation program entirely. The proposed change is intended to be temporary and the housing program will be reevaluated with a new Nexus Study.

6. Is consistent with the other adopted County Resolutions.

Can Be Made. No apparent conflict or relationship to other County Resolutions was identified by staff in this review.

ATTACHMENTS

- Draft Amendment dated October 21, 2020
- Teton County Planning Commission Staff Report for AMD2020-003, dated November 23, 2020

SUGGESTED MOTION

I move to **APPROVE** of **AMD2020-0003**, as presented in the draft dated October 21, 2020, to amend the amount of affordable workforce housing requirements, as calculated in Section 6.3.3. of the LDRs., being able to make the findings of Section 8.7.2. as recommended by the Planning Director and Planning Commission.

DRAFT: October 21, 2020

7. **Replacement after Damage by Natural Disaster.** Replacement of an attached single-family unit (6.1.4.C.) or apartment (6.1.4.D.) that is demolished or destroyed by a natural disaster or through any manner not willfully accomplished by the owner, regardless of the extent of the demolition or destruction. The replacement shall be complete, or an application to complete shall be sufficient, within 18 months of the date of destruction.
8. **Mobile Home.** A mobile home (6.1.4.E.) or mobile home park (Sec. 7.1.4.).
9. **Dormitory.** A dormitory (6.1.4.F.).
10. **Group Home.** A group home (6.1.4.G.).
11. **Daycare.** A daycare or early childhood education use.
12. **Education.** A private school meeting the definition of Wyo. Stat. §21-4-101.
13. **Accessory Use.** An accessory use (Sec. 6.1.11.).
14. **Temporary Use.** A temporary use (Sec. 6.1.12.).
15. **Public/Semi-Public Zone.** Employee generating development in the public/semi-public zone.
16. **Alta Reduction.** Employee generating development west of the Tetons shall only be required to provide 25% of the amount of affordable workforce housing calculation pursuant to Sec. 6.3.3.

6.3.3. Amount of Affordable Workforce Housing Required

(AMD2020-0003) (7/18/18)

A. Requirement

Any employee generating development to which this Division applies shall provide at least the amount of affordable workforce housing determined by the following calculations. The calculations vary by the use being proposed and are the function of the size of the proposal. The calculations are based on the analysis found in the Teton County and Town of Jackson Employee Generation Land Use Study (August 22, 2013), as amended, and assume an affordable workforce housing unit houses 1.8 local employees.

Required Affordable Workforce Housing	
Use	Affordable Workforce Housing Units Required
Detached Single-Family Unit (6.1.4.B.) (Non-Local Occupancy, A.8.)	$0.000017 * sf + (Exp(-15.49 + 1.59*Ln(sf)))/2.176$
Detached Single-Family Unit (6.1.4.B.) (Local Occupancy, A.8.)	$0.000017 * sf + (Exp(-16.14 + 1.59*Ln(sf)))/2.176$
Attached Single-Family Unit (6.1.4.C.), Apartment (6.1.4.D.) (Non-Local Occupancy, A.8.)	$0.000017 * sf + (Exp(-14.17 + 1.59*Ln(sf)))/2.176$
Attached Single-Family Unit (6.1.4.C.), Apartment (6.1.4.D.) (Local Occupancy, A.8.)	$0.000017 * sf + (Exp(-14.82 + 1.59*Ln(sf)))/2.176$
Conventional Lodging (6.1.5.B.), Short-Term Rental Unit (6.1.5.C.)	0.102 0.204 * room
Office (6.1.6.B.)	0.0002150 0.000431 * sf
Retail (6.1.6.C.), Service (6.1.6.D.), Nursery (6.1.6.H.), Amusement (6.1.7.B.)	0.0001880 0.000377 * sf
Restaurant/Bar (6.1.6.E.)	0.0005230 0.001045 * sf
Mini-Storage Warehouse (6.1.6.G.)	0.0000060 0.000011 * sf
Heavy Retail/Service (6.1.6.F.), Industrial Uses (Sec. 6.1.9.), Transportation/Infrastructure Uses (Sec. 6.1.10.)	0.0001070 0.000214 * sf

- Schedule and Calculator Available.** A schedule of the requirement for employee generating development of various sizes and a calculator to use in determining the requirement are both available in the Administrative Manual. The residential requirement is a logarithmic equation because there is an exponential relationship between the size of a unit and the number of operations and maintenance employees generated.
- Use Not Listed.** For uses not listed, the Planning Director shall either find a use comparable to the proposed employee generating development and utilize the comparable calculation, or require the applicant to conduct an independent calculation pursuant to 6.3.3.B. to determine the requirement.
- Expansion.** In the case of an expansion to an existing building or use (6.3.2.A.1), the amount of affordable workforce housing required shall be calculated based on the difference between the requirement for the proposed and existing employee generating development.

EXAMPLE: A 5,000 sf office building proposing to add 1,500 sf would be required to provide ~~0.646~~ 0.323 affordable workforce housing units (~~0.0002150~~ ~~0.000431~~ * 6,500 - ~~0.000215~~ ~~0.000431~~ * 5,000 = ~~0.646~~ 0.323). A 3,000 sf detached single family home proposing to add 500 sf would be required to provide 0.017 affordable workforce housing units ((0.000017 * 3,500 + Exp(-15.49 + 1.59*Ln(3,500)))/2.176) - (0.000017 * 3,000 + Exp(-15.49 + 1.59*Ln(3,000)))/2.176) = 0.017).

- Change of Use.** In the case of a change of use, the amount of affordable workforce housing required shall be the difference between the requirement for the proposed use and the requirement for the existing use (6.3.2.A.1).

EXAMPLE: A proposal to use a 2,000 sf retail space as an office would be required to include 0.054 ~~0.108~~ affordable workforce housing units (0.000215 ~~0.000431~~ * 2,000 - 0.000188 ~~0.000377~~ * 2,000 = 0.054 ~~0.108~~).

5. **Unknown Use.** For the development of floor area with an unknown use, the allowed use in the zoning district with the greatest need for affordable workforce housing shall be used, except that Restaurant/Bar use shall only be required in association with a Restaurant/Bar use permit.
6. **Sf.** In the calculations “sf” is equal to the habitable floor area (in square feet), including basement, of each residential, lodging, or nonresidential unit.
 - a. The calculation for a multi-unit building shall be the sum of the calculation for each unit.
 - b. Common hallways, entryways, stairways, and other circulation areas in buildings with multiple residential or nonresidential units, that are not within any individual unit, shall not be included in the calculation.
7. **Room.** In the calculations “room” is equal to a single lodging room. In the case of a conventional lodging or short-term rental with multiple bedrooms per unit, the number of rooms used in the calculation shall be the number of bedrooms, not the number of units.
8. **Local Occupancy Restriction.** The calculation for non-local occupancy shall be applied to all residential uses. In order to utilize the local occupancy calculation, a restriction shall be placed on the unit that requires compliance with the occupancy qualification requirement of the Housing Department Rules and Regulations. Placement of an affordable restriction or workforce restriction on a unit, as defined in the Housing Department Rules and Regulations, shall exempt the unit from any requirement pursuant to 6.3.2.C.1. However, 6.3.2.C.1 does not apply to an occupancy restriction placed to utilize the local occupancy calculation.

EXAMPLE: An applicant proposing to build 3 – 1,000 square foot attached single-family units would be required to provide 0.108 affordable workforce housing units ($3 * (0.000017 * 1,000 + \text{Exp}(-14.17 + 1.59 * \ln(3,500)) / 2.176) = 0.108$). If a workforce restriction is placed on the units, they are exempt from the requirements of this Section. If an occupancy restriction is placed on the units, 0.081 affordable workforce housing units would be required ($3 * (0.000017 * 1,000 + \text{Exp}(-14.82 + 1.59 * \ln(3,500)) / 2.176) = 0.081$).

9. **Removal of a Voluntary Restriction.** An affordable, workforce, or occupancy restriction voluntarily placed on a unit may be removed. In order to remove such a restriction, the affordable workforce housing required on the date of the removal shall be provided. In the case of removal of an occupancy restriction the affordable workforce housing requirement shall be calculated as a change of use from local to non-local occupancy.

10. **Update Requirement Regularly.** The determination of need for affordable workforce housing shall be evaluated and updated at least every 5 years to account for changes in the economic and demographic trends in the community. Updates shall be based on update to The Teton County and Town of Jackson Employee Generation Land Use Study (August 22, 2013), as amended.

B. Independent Calculation

Where applicable, an independent calculation shall establish the amount of affordable workforce housing required. The intent of the independent calculation is to identify a requirement for an industry that is proportional to the demand for affordable workforce housing that industry generates, where the general circumstances surveyed in the Teton County and Town of Jackson Employee Generation Land Use Study (August 22, 2013), as amended, do not represent unique circumstances of the industry. The independent calculation is not intended to be business specific.

1. Applicability

- a. **Applicant option.** An applicant may elect to prepare an independent calculation of the required affordable workforce housing if the applicant believes the nature, timing, or location of the proposed employee generating development is likely to create less need for affordable workforce housing than otherwise required in this Section.
- b. **Unspecified use.** The Planning Director may require an independent calculation of the need created for required affordable workforce housing if:
 - i. A calculation for the proposed use is not established in Sec. 6.3.3.A.; or
 - ii. A proposed use does not rely on floor area; or
 - iii. The proposal is a Planned Resort estimating housing need pursuant to Sec. 4.3.1.F.6; or
 - iv. The Planning Director finds the employee generating development to be unique from the general circumstances surveyed in The Teton County and Town of Jackson Employee Generation Land Use Study (August 22, 2013), as amended.

2. **Calculation Methodology.** An independent calculation shall use the methodology used in the Teton County and Town of Jackson Employee Generation Land Use Study (August 22, 2013) to generate the calculations in 6.3.3.A. That methodology is represented by the following equation:

$$\text{Requirement (units per sf/room)} = [A/30/X*Y] + [B/X*Y] + [C/X*Y] + [D/X*Y]$$

- a. A = the number of construction workers needed to construct one sf or room of the use.



Planning Commission - Staff Report

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BACKGROUND/DESCRIPTION

PROJECT DESCRIPTION

The FY 2021 Comprehensive Plan Work Plan includes a task to revisit the current structure and rates for Affordable Workforce Housing Mitigation required by Section 6.3.3. of the Land Development Regulations.

At the October 13, 2020 Joint Information Meeting (JIM), the Teton County Board of County Commissioners and the Town of Jackson Town Council directed staff to prepare an amendment to the Land Development Regulations that would decrease required affordable workforce housing requirements for nonresidential uses by fifty percent (50%). The proposed amendment reflects this direction and modifies the formulas for housing requirements in Section 6.3.3. of the LDRs to achieve this reduction. The reduction in the housing mitigation rates was initiated by the Board of County Commissioners in response to concerns that statewide legislation would be enacted that threatened the use of these affordable housing tools and programs, if Teton County did not lower these rates. The intent of the reduction is to preserve and temporarily decrease the existing housing mitigation program while housing mitigation and requirements are reassessed with a new Nexus Study.

BACKGROUND

Staff has summarized the history of housing mitigation policy in the Town of Jackson and Teton County to provide relevant context and ensure understanding of the historical and current housing mitigation requirements in the community prior to discussion of the proposed amendments.

Housing Mitigation Standards 1995-2017

In 1995, community-wide employee and affordable housing standards were established as requirements on new development to address local affordable workforce housing issues. The regulations required residential developers to provide some affordable housing for year-round workers and nonresidential developers to provide some employee housing for seasonal workers. By 2017, the regulations in effect for residential development required that 25% of all new housing stock be made available at affordable prices. That is, 25% of all new residential units were required to be affordable through permanent deed-restriction, managed by the Jackson/Teton County Housing Department. For nonresidential development, the employee housing requirement was determined by calculating the number of peak seasonal employees in need of housing, accounting for those who may already live in the community, and accounting for average wages paid by various land uses. This seasonal employee generation requirement yielded an average employee mitigation rate of 13% across industries. The rate varied by industry, depending on an industry's reliance on seasonal vs. year-round workers. These standards were based on the Affordable Housing Needs Assessment and Seasonal Employee Housing Needs Assessment found in Appendix D of the 2012 Comprehensive Plan.

The intention of the 25% restriction on residential development was that new residential development would address the resulting permanent long-term housing needs generated by new development. However, this approach was limited because if housing growth is slower than job growth, then the gap between job generation and affordable workforce housing construction will grow. During the time these standards were in effect, job growth did exceed affordable housing growth, and the existing housing needs gap in the community expanded. Between 2007 and 2017, approximately two hundred (200) housing units were provided through housing requirements in the Land Development Regulations (LDRs), constituting about 25% of total housing units produced in that time. Between 1995 and 2017, the percentage of the workforce living locally continued to decline annually.

With the adoption of the Jackson/Teton County Comprehensive Plan in 2012, the community resolved to address its local workforce housing issue by setting a goal to house at least 65% of local employees within the community. The benefits of a locally-housed workforce on protecting community character and reducing impacts of growth are extensive and important. The 2012 Comprehensive Plan and the 2015 Housing Action Plan both commit to continue using housing provision requirements in the Land Development Regulations as a tool to meet the community's 65% local workforce target through the production of affordable workforce housing.

In 2017, the community reevaluated its affordable and employee housing regulations through Engage 2017, which produced significant input from the public on issues with the existing housing program. Subsequently, the Town Council and Board of County Commissioners provided policy direction on ten policy questions that would inform an update to the LDRs on housing requirement standards. The result of the update was adoption of Division 6.3., Affordable Workforce Housing Standards, in both the Town and County LDRs on July 18, 2018. The standards remain in effect today.

2018 Housing Mitigation Policy

While the goal of the 2018 housing mitigation requirements remains largely unchanged from the 1995 goal, the result of the Engage 2017 process includes changes in *how* and *what amount* of housing demand generated by development is required to be mitigated. The 2018 Affordable Workforce Housing Standards are a shift from the prior inclusionary zoning approach for residential development to a mitigation strategy, requiring developers to offset a percentage of the fulltime, year-round employees generated by the development and use. The intent of this shift was to ensure that housing is provided concurrently with the creation of new jobs, rather than waiting for residential development to produce the necessary affordable workforce housing. Through the Engage 2017 process, the community decided that the new development or change in use creating new jobs should be responsible for housing the new workers who cannot afford market rate housing. The decision reduced the affordable housing requirement on market rate residential development and was paired with updates to Town zoning allowances and incentives to encourage residential development in the community. Additionally, the update removed mitigation requirements for the generation of seasonal workers in nonresidential uses. This change reflected a policy decision to instead encourage market housing solutions for these seasonal workers and to focus mitigation efforts on housing the year-round workforce.

The updated LDRs require developers of both residential and nonresidential projects to provide affordable workforce housing to mitigate a portion of the housing demand generated by the development for year-round employees who cannot afford market rate housing. These data and resulting mitigation rates were calculated through the 2013 Teton County and Town of Jackson Employee Generation Land Use Study ("Nexus Study") of the local workforce. The result of these changes is that housing requirements for multi-unit residential development have decreased, housing requirements for single-family residential development have roughly stayed the same, and housing requirements for nonresidential uses have increased.

The current mitigation rates were based on this policy direction shift and analysis of the increasing gap in affordability. Staff initially proposed a new mitigation rate for all types of development that would require the provision of housing for 73% of all year-round workers generated by the development. 73% was determined to be the average percentage of local year-round workers who could not afford market housing. The number of

employees generated by a development varies by industry because some industries have more year-round employees per square foot, and more employees in certain industries can afford market housing. For instance, a restaurant use requires more employees per square foot than an industrial use because the Nexus Study shows that more employees are generated by development of a restaurant than an industrial business of the same size. This initial proposal represented an increase in affordable housing required overall for development throughout the community. The proposal also required that a greater percentage of required units serve lower-income residents, citing the needs identified in the 2013 Nexus Study.

Much of the discussion during consideration of staff's initial proposal weighed potential impacts of the update on physical and economic growth compared to the benefits to the Quality of Life and Growth Management common values of the Comprehensive Plan. Staff offered that this mitigation rate would allow affordable housing growth to begin to catch up with the rapid job growth and commensurate housing need that had occurred over the preceding years.

During joint review of the proposed Affordable Workforce Housing Standards in 2018, both the Board of County Commissioners and the Town Council elected to reduce the proposed mitigation rate for nonresidential, nonlodging uses from the proposed 73% of year-round employees generated. The Town Council reduced the mitigation rate to 55%, while the County ultimately reduced it to 48%. The County also added a mitigation exemption for private schools and for single-family houses of 2,500 sf or less.

REVISITING MITIGATION RATES

Upon adoption of these regulations in 2018, members of the Wyoming State Legislature became interested in the Jackson and Teton County housing mitigation program and expressed interest in prohibiting municipalities and counties from imposing affordable housing exactions. As a result, the Town and County committed to revisiting assessment of local mitigation rates. This item was listed on the FY21 Work Plan with a goal of completion prior to the 2021 Wyoming Legislative Session.

This item was introduced for discussion at the August 3, 2020 Joint Information Meeting (JIM) where the Board of County Commissioners and Town Council provided the following direction:

- Scope: Adjustment to current mitigation rates using available data. This would allow the boards to focus only on adjustments they may want to make based upon the current Housing Nexus Study and information from the Engage 2017 update process.
- Joint coordination and discussion, with mitigation rates amended individually if consistency cannot be achieved.
- Timeline: Complete by January 2021

And approved the following motion:

I move to direct staff to proceed with a review and update to the Town and County Affordable Workforce Housing Standards as discussed in this meeting and described below:

- *To review a short-term adjustment in nonresidential mitigation rates*
- *To review opportunities to increase mitigation for larger single-family residential under the current nexus study*
- *To bring back to the joint boards for consideration*

At the October 13, 2020 JIM, the Town and County elected officials directed staff to prepare an amendment to Section 6.3.3., Amount of Affordable Workforce Housing Required, of the LDRs to reduce the housing mitigation requirements for nonresidential uses by fifty percent (50%) of existing rates. Below staff has included the background information provided to the elected officials during the meeting and the subsequent direction that lead to the proposed amendment under consideration in this application.

Nonresidential Housing Mitigation Adjustments

At the October 13, 2020 JIM, staff recommended a uniform percentage reduction to the current housing mitigation rates as the primary method to amend the current regulations to achieve the desired goal. Staff recommended this approach to retain the current nexus justification while also retaining the policy direction and public support for the current program developed through the Engage 2017 effort. In addition, by keeping the current regulatory structure in place, implementation of the amendments can be completed in a timely manner and public understanding of the regulations will not be significantly affected. Staff provided the Board of County Commissioners the table below, indicating the effects of a 75% reduction (Option 1) and a 50% reduction (Option 2) on the current nonresidential rates.

Teton County Non-residential		2017		Current		Option 1		Option 2	
Use	Units	Associated Fee-In-Lieu (2019 \$)	Units	Associated Fee-In-Lieu (2019 \$)	75% Unit Reduction	Associated Fee-In-Lieu* (2019 \$)	50% Unit Reduction	Associated Fee-In-Lieu* (2019 \$)	
3,000 sf restaurant/bar	1.800	\$459,787	3.135	\$805,944	0.784	\$163,278	1.568	\$386,735	
5,000 sf retail, service, nursery or amusement	1.244	\$285,015	1.883	\$485,757	0.471	\$98,044	0.942	\$196,089	
10,000 sf office	0.222	\$46,246	4.306	\$1,114,766	1.077	\$232,354	2.153	\$594,452	
5,000 sf industrial, heavy retail/service, or transportation/infrastructure	0.067	\$13,957	1.072	\$231,089	0.268	\$55,852	0.536	\$111,704	
50,000 sf private school	exempt	exempt	exempt	exempt	exempt	exempt	exempt	exempt	
20 – 2 bedroom short-term rentals	5.000	\$1,339,464	8.172	\$1,970,180	2.043	\$571,534	4.086	\$1,043,536	
40 unit conventional hotel	3.378	\$868,861	8.172	\$1,970,180	2.043	\$571,534	4.086	\$1,043,536	
10,000 sf mini-storage / warehouse	ind. calc.	ind. calc.	0.115	\$23,912	0.029	\$5,977	0.058	\$11,955	
<i>*Note that Associated Fees-in-Lieu will not necessarily reflect a perfect 75% or 50% reduction and will vary based on the number, size and affordability of units required.</i>									

Staff notes that the fee-in-lieu values do not decrease perfectly proportionally with the unit decrease. This is due to the variation in cost of housing based on the number, size and affordability of units required by the regulations. In addition, staff notes that the shift in the program in 2018 from housing seasonal to full-time, year-round employees required large adjustments in housing mitigation requirements for some uses based on the differences in year-round vs. seasonal worker generation. The adjustments in requirements can also be attributed to the variation in wages and, by extension, affordability for workers across use types. Staff has provided both the unit requirement along with the associated fee-in-lieu value for ease of comparison, although the program would continue to require that units (not fee-in-lieu) be provided in instances where at least one full unit is required. In addition, staff has utilized the 2019 fee-in-lieu calculation for all years to allow for an equal comparison of values. Staff also noted that neither reduction considers the impact of non-brick-and-mortar businesses on the creation of jobs and their associated housing demand in the community. Determining this impact will require a new nexus study, scheduled to begin after the completion of this initial step, in the new year.

Town and County elected officials were asked to give direction on their preferred nonresidential housing mitigation rate reduction at the meeting. The Board of County Commissioners directed staff to proceed with a

text amendment to reduce the housing mitigation requirements for nonresidential uses by fifty percent (50%) of existing rates.

Residential Housing Mitigation Adjustments

Staff did not recommend any adjustments to the residential housing mitigation rates at the October 13, 2020 JIM. The effects of the 2018 policy shift on multi-family development requirements (they were lowered) and changes to Town zoning have had the desired effect of encouraging the construction of multi-family developments. The elected officials did provide direction in September to explore whether single family units could receive a higher housing mitigation rate. In researching this question, staff found that single family homes are mitigating at the highest level based upon the 2013 Nexus Study. The only amendment that could be considered by the County is the elimination of the 2,500 square foot exemption for single family homes, an exemption which the Town of Jackson does not currently allow. The below table compares the requirements of the 2017 program to the current program for the various residential unit types. The Board of County Commissioners directed staff to not adjust residential mitigation rates at this time.

Teton County Residential	2017		Current	
Use	Units	Associated Fee-In-Lieu (2019 \$)	Units	Associated Fee-In-Lieu (2019 \$)
1,500 sf single-family unit (unrestricted)	exempt	exempt	exempt	exempt
4,500 sf single-family unit (unrestricted)	n/a	\$10,154	0.132	\$27,544
8,000 sf single family unit (unrestricted)	n/a	\$27,924	0.275	\$57,265
90 -- 850 sf, 2-bedroom apartments or attached single family units (unrestricted)	20	\$4,367,099	2.625	\$692,801

Change of Use Requirements Affecting Small Businesses

At the October 13th JIM, staff also presented options to address the effect current mitigation rates, and specifically, “change of use” requirements have on small businesses. A change of use is when an existing space changes its existing use to another use in the Required Affordable Workforce Housing table in Section 6.3.3. of the LDRs. For example, a 5,000 square foot retail use changes to a 5,000 square foot restaurant use. If the new use’s affordable workforce housing requirement is higher than the requirement for the current use, the business owner and/or property owner must pay a fee-in-lieu and/or construct a restricted unit to satisfy the difference in the required affordable workforce housing. Staff notes that a change in use may also trigger other significant requirements including, but not limited to, Building and Fire Code, parking, and sewer capacity fees. The change of use requirement for housing mitigation was not a new policy in 2018. However, the increase in overall mitigation rates for nonresidential uses was introduced in 2018 and resulted in significantly larger fees for some new or relocating businesses. In considering this issue staff identified the following possible amendments for consideration by the elected officials:

- Exempt all existing nonresidential square footage from change of use requirements
- Allow for the payment of fee-in-lieu in all instances and no longer require the construction of units for change of use in existing buildings

The Board of County Commissioners directed staff to not adjust change of use requirements at this time, finding that the overall 50% reduction for nonresidential housing mitigation would decrease the change of use requirement.

Other Amendments

In addition to the larger policy decisions listed above, staff provided the elected officials the following additional amendments for consideration. Staff recommended deferral of these items as they require more time and consideration by staff, the public, planning commissions and elected officials than may be possible during this interim amendment process.

- Allow more flexibility in the type of restriction(s) and size of unit(s) to be provided for required mitigation
- Update Independent Calculation requirements to include what information needs to be provided to staff to complete the calculation

The Board of County Commissioners' direction was to defer consideration of these other amendments until a future date, allowing for the completion of a new nexus study and a comprehensive review of the overall housing mitigation program.

LOCATION

N/A; applies County-wide.

STAFF ANALYSIS

A draft of the proposed text amendment dated October 21, 2020 is included as an attachment to this report and was released pursuant to the LDRs and Wyoming Statue §16-3-103.

KEY ISSUES

KEY ISSUE 1: Effect of the Reduction

The below table summarizes the effects of a 50% reduction to the current mitigation requirements for nonresidential uses in Teton County. This reduction includes lodging uses like hotels and short-term rentals, in addition to other nonresidential uses. For context, the table also includes the requirements under the pre-2018 housing mitigation program. The 50% decrease is in the number of units required by a proposed use. Staff notes that the fee-in-lieu values do not decrease perfectly with the unit decrease. This is due to the variation in cost of housing based on the number, size and affordability of units required by the regulations.

Staff has also included an analysis of the approximate value of the workforce housing demand generated by each example of development. This number reflects the fee-in-lieu value of housing units that would be required to house the full number of new, year-round workers who cannot afford market housing (i.e. it reflects the requirements of a 73% mitigation rate). Staff has also included two "Deficit to Subsidize" columns under the Current and 50% Proposed Reduction headers. These columns show the difference between the Approximate Value of Housing Demand Generated by a development and the value of the Associated Fee-in-Lieu under current and proposed mitigation rates. These deficits show the approximate dollar value that will have to be supplied by other funding sources, public, philanthropic or others, to house the generated workforce locally. All values are calculated using 2019 dollars for comparison.

To accomplish the identified policy change, the proposed amendments to Section 6.3.3. Amount of Affordable Workforce Housing Required update the equations used to calculate housing requirements by use.

Teton County Non-residential	2017		Approximate Value of Housing Demand Generated (2019 \$)	Current			50% Proposed Reduction		
Use	Units	Associated Fee-in-Lieu (2019 \$)		Units	Associated Fee-in-Lieu (2019 \$)	Deficit to Subsidize	50% Reducti on (Units)	Associated Fee-in-Lieu (2019 \$)	Deficit to Subsidize
3,000 sf restaurant/bar	1.800	\$459,787	\$1,264,401	3.135	\$805,944	\$458,456	1.568	\$386,736	\$877,665
5,000 sf retail, service, nursery or amusement	1.244	\$285,015	\$742,398	1.883	\$485,757	\$256,642	0.942	\$196,090	\$546,309
10,000 sf office	0.222	\$46,246	\$1,684,200	4.306	\$1,114,766	\$569,434	2.153	\$594,453	\$1,089,747
5,000 sf industrial, heavy retail/service, or transportation/infrastructure	0.067	\$13,957	\$406,668	1.072	\$231,089	\$175,579	0.536	\$111,704	\$294,964
50,000 sf private school	exempt	exempt	n/a	exempt	exempt	n/a	exempt	exempt	n/a
20 – 2 bedroom short-term rentals	5.000	\$1,339,464	\$1,970,180	8.172	\$1,970,180	\$0	4.086	\$1,043,536	\$926,644
40 unit conventional hotel	3.378	\$868,861	\$1,970,180	8.172	\$1,970,180	\$0	4.086	\$1,043,536	\$926,644
10,000 sf mini-storage / warehouse	ind. calc.	ind. calc.	\$36,366	0.115	\$23,912	\$12,454	0.058	\$11,956	\$24,410
<i>*Note that Associated Fees-in-Lieu will not necessarily reflect a perfect 50% reduction and will vary based on the number, size and affordability of units required.</i>									

STAKEHOLDER ANALYSIS

PUBLIC COMMENT

No public comment on this amendment has been received as of the completion of this staff report on November 16, 2020.

DEPARTMENTAL REVIEW

A draft of the proposed amendment was sent to the following departments for review. All comments and feedback have been incorporated in the October 21, 2020 draft.

- County Department of Planning & Building Services
- County Attorney

LEGAL REVIEW

Gingery

RECOMMENDATIONS

PLANNING DIRECTOR RECOMMENDATION

The Planning Director recommends **APPROVAL** of **AMD2020-0003**, as presented in the draft dated October 21, 2020, with no conditions based on the findings recommended below.

PLANNING DIRECTOR RECOMMENDED FINDINGS

Pursuant to Section 8.7.1.C. of the Land Development Regulations, the advisability of amending the text of these LDRs is a matter committed to the legislative discretion of the Board of County Commissioners and is not

controlled by any one factor. In deciding to adopt or deny a proposed LDR text amendment the Board of County Commissioners shall consider factors including, but not limited to, the extent to which the proposed amendment:

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

Division 1.3: Purpose and Intent: Based on the legislative discretion of the Board of County Commissioners, these LDRs are in accordance with the Jackson/Teton County Comprehensive Plan. Their purpose is to implement the Jackson/Teton County Comprehensive Plan and promote the health, safety, and general welfare of the present and future inhabitants of the community with the intent listed below.

1.3.1. Implement the Community Vision: Preserve and protect the area's ecosystem in order to ensure a healthy environment, community, and economy for current and future generations.

1.3.2. Implement the Common Values of Community Character

A. Ecosystem Stewardship

1. Maintain healthy populations of all native species and preserve the ability of future generations to enjoy the quality natural, scenic, and agricultural resources that largely define our community character.

2. Consume less nonrenewable energy as a community in the future than we do today.

B. Growth Management

1. Direct future growth into a series of connected, Complete Neighborhoods in order to preserve critical habitat, scenery and open space in our Rural Areas.

2. The Town of Jackson will continue to be the primary location for jobs, housing, shopping, educational, and cultural activities.

C. Quality of Life

1. Ensure a variety of workforce housing opportunities exist so that at least 65% of those employed locally also live locally.

2. Develop a sustainable, vibrant, stable and diversified local economy.

3. Residents and visitors will safely, efficiently, and economically move within our community and throughout the region using alternative modes of transportation.

4. Timely, efficiently, and safely deliver quality services and facilities in a fiscally responsible and coordinated manner.

1.3.3. Implement the Illustration of Our Vision

A. Achieve the desired future character identified for each Character District.

B. Implement the policy objectives for each Character District.

C. Achieve the character-defining features identified for each Subarea.

1.3.4. Predictable Regulations, Incentives, and Allowances

A. Ensure standards are consistently applied to similar applications and circumstances.

B. Ensure landowners, the public, and decision-makers know the amount, location, and type of growth to expect.

C. Use data analysis and best practices to inform standards and implement the adaptive management philosophy of the Growth Management Program.

1.3.5. Coordination Between Jurisdictions

A. Implement the joint Town/County Vision through coordinated, supportive actions.

B. Maintain a common structure, format, and definitions in Town and County LDRs.

Div. 1.4. Organization of the LDRs: These LDRs constitute the County's zoning and subdivision regulations. They have two organizing principles. Primarily, they are organized by zone in order to implement and emphasize the community's character-based planning approach. Secondly, to provide ease of use, they are organized to answer three questions:

- What can be built or physically developed?*
- What uses are allowed?*

- *How can the land be developed or subdivided?*

Can Be Made. While a temporary reduction in the requirements of the housing mitigation program will challenge the community's ability to implement its workforce housing goals, the reduction will relieve pressure from the State Legislature that could eliminate the housing mitigation program altogether. It will also allow staff time to reassess the existing program and conduct a new Nexus Study to inform a revised set of housing requirements and regulations that will aim to implement the common values of community character while providing predictable regulations and standards for landowners and the public.

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

Not applicable. The proposed amendments are not intended to improve consistency within the LDRs and do not create any new inconsistencies.

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

Can Be Made. The reduction of mitigation requirements by 50% for nonresidential development and change of use will increase flexibility for landowners and businesses by lowering development costs. The retention of half of the mitigation requirements will also continue to offset some of the housing demand generated by new development and help the community continue to pursue its workforce housing goals.

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

Can Be Made. This amendment responds to concerns from the business community that the current mitigation rates and requirements are too high and the understanding that the Wyoming State Legislature may consider introducing legislation to limit local control over the requirement of mitigation rates.

5. Improves implementation of the Comprehensive Plan; and

Can Be Made. One of the Comprehensive Plan's Common Values of Community Character is Quality of Life and includes a goal to house 65% of the local workforce within the community. The housing requirements and mitigation program are a key tool in achieving that goal. Even if the requirements are diminished by 50%, retaining this tool and mitigating for some percentage of development-produced housing demand better serves the Quality of Life common value than losing the housing mitigation program entirely. The proposed change is intended to be temporary and the housing program will be reevaluated with a new Nexus Study.

6. Is consistent with the other adopted County Resolutions.

Can Be Made. No apparent conflict or relationship to other County Resolutions was identified by staff in this review.

ATTACHMENTS

- Draft Amendment dated October 21, 2020

SUGGESTED MOTION

I move to recommend **APPROVAL** of **AMD2020-0003**, as presented in the draft dated October 21, 2020, to amend the amount of affordable workforce housing requirements, as calculated in Section 6.3.3 of the LDRs., being able to make the findings of Section 8.7.2. as recommended by the Planning Director.