

**To:** Jackson Town Council and Teton County Board of Commissioners  
**From:** Jackson Hole Conservation Alliance  
**Date:** December 18, 2015

## **A Path Toward Implementing the Comprehensive Plan in District 2**

Since supporting adoption of the Jackson/Teton County Comprehensive Plan in 2012, the Jackson Hole Conservation Alliance (Alliance) has steadfastly supported implementing the Plan through updates to our Land Development Regulations (LDRs) and plans like the Integrated Transportation Plan and the Housing Action Plan.

Despite years of hard work from staff, the Town Planning Commission, and the Town Council, and significant attempts to craft a compromise between a diverse range of interests, the updates to the District 2 LDRs have stalled and face strong public opposition. Property owners, housing advocates, conservation organizations, and interested citizens have voiced a wide range of concerns about the existing proposal. Public opinion research indicates that only 15% of likely voters would support the current draft regulations if they were put to a referendum. Most of the dissatisfaction stems from concerns that the current proposal does not advance the vision and values in the Comprehensive Plan, specifically in regards to achieving our community's housing goal – and may in fact make things worse.

The Alliance believes we have a responsibility to write land use rules and adopt policies that align with our community's vision as articulated in the 2012 Jackson/Teton County Comprehensive Plan. If we do so, we're confident we can transform community opposition into support. This will take more than tinkering at the margins of the existing draft – it will take bold and courageous action. The following recommendations represent bold steps that would help align our policies with our vision and values and provide our community with an opportunity to move forward in a constructive fashion.

### **Step 1. Set development goals: how much we want, and where we want it.**

---

The first step in updating our District 2 zoning should involve agreeing upon our desired goals and outcomes: the amount of growth we want to allow by use – residential, lodging, and commercial. Lacking a quantifiable target, we cannot successfully measure the success of any policy tool we employ.

1. **Residential:** The community has established goals of at least 65% of our workforce living in Teton County and 60% of future development occurring in Town or other Complete Neighborhoods. The Rural LDRs update is "removing" approximately 2000 units from the rural zone, and we need to decide where they go. **Please analyze how many of those units should or could go in District 2, and how many of those should be workforce housing in order to meet our 65% goal.**
2. **Lodging and commercial:** As we have said throughout the recent debate over

build-out numbers in the Comprehensive Plan, we believe the plan clearly states that nonresidential growth should be limited to what was allowed in 1994. Additionally, the Jackson/Teton County Land Development Study showed that there are enough commercial entitlements for at least the next 20 years. In any case, the community overwhelmingly voiced support for “no new additional commercial” during the debate over build-out this summer, and we were heartened to hear a majority of elected representatives agree as well. **The target for new commercial and lodging development potential should be +/- 0 square feet.**

## **Step 2. Analyze how to achieve our goals**

---

Once we establish (rough) targets, we should do enough economic analysis to determine what tools will most effectively achieve those targets. Specifically, we should:

1. **Perform a vacant and redevelopable lands assessment** to identify where and how much of all housing types and particularly workforce housing can be built (in all character districts, starting with District 2).
2. **Perform economic analysis** to determine how to make workforce housing “pencil” for private developers: How much density is required? At what level should we set parking requirements? Do we need to provide direct cash subsidies in exchange for deed restrictions? Etc.
3. **Forecast and measure impacts of proposed changes to land use rules.** The Indicators Report is an excellent vehicle to measure impacts of planning decisions *after* they’re made. However, staff has not *forecasted* the impacts of implementing new District 2 rules. Staff took the first step of estimating utilization for various uses (housing, lodging, nonresidential). Now, we should estimate the impacts proposed changes to our land use rules would have on parks & recreation, our transportation system, infrastructure, wildlife and habitat, and emergency services, etc.

## **Step 3. Implement the policies that achieve our development goals**

---

Once we know our development goals and have analyzed what it will take to accomplish them, we can select a set of policy tools to best achieve them. While the tools we propose below would require additional work by staff and/or consultants to develop into full programs or draft code, they would allow our community to move forward in a constructive fashion because they would advance our community's vision as articulated in the 2012 Jackson/Teton County Comprehensive Plan.

### **3A. Do not increase commercial or lodging potential**

---

We are under no obligation to give away “free” upzones, and we should capture a portion of every private land value increase gained through changes to public land use rules for public benefit. We should use every change to our land use rules as an opportunity to provide incentives to property owners so they can make private profit while also providing public benefit. The community clearly and loudly rejected the

“massive free commercial upzone” policy option on the table since November 2014 for District 2. We recommend finding other policy tools to achieve the same goals of redevelopment, vibrancy, and community character.

1. **Do not increase any nonresidential base potential (FAR) in District 2.**

The last proposal we saw for District 2 would allow an additional ~850,000 square feet of commercial space on top of what’s already allowed. This significant upzone is due to a well-intentioned attempt to clean up the zoning code and equalize base zoning across properties that currently have very different floor area ratios (FARs). However, that is too much additional commercial growth. Please maintain base commercial and lodging potential *at or very near* current levels.

2. **Do not expand the Lodging Overlay.**

**3B. Do increase residential potential, specifically for deed-restricted workforce housing**

---

As presented in the 2015 Annual Indicator Report, we currently have too much commercial and lodging development and not nearly enough housing, especially housing affordable to people who work here. We need to update our policies and regulations to allow and incentivize deed-restricted workforce housing and “catch up” with our current housing deficit.

1. **Zone a large enough inventory of land** to meet our housing goals.

Locations worth considering include:

- a. Properties along Snow King Ave and S. Cache St.
- b. The TN-4 zone previously described as a residential neighborhood
- c. Vacant lands within the Snow King Resort Masterplan (through an update and amendments to the Masterplan)
- d. The Fairgrounds (although not in District 2 and currently used, this represents one of the largest town-owned opportunities)

2. **Zone adequate land for apartments** and other multifamily products that hard working people need.

3. **Allow one or two Accessory Residential Units (ARUs)** per residential property throughout District 2. Only allow them to be used for long-term rentals, even if in the Lodging Overlay.

4. **Incentivize the private market to provide workforce housing – and open space conservation** – with a “two-tier” zoning incentive system and other incentives.

- a. **Set up a “two-tier” system** to incentivize what we want with extra density and height, reduced parking requirements, and other streamlining of development requirements. Allow more development in this “second tier” than we expect will be built; then, remove the incentive once we reach the amount we want. (*See Appendix for more information on this system.*)

- b. **Allow developers to use the second tier if they provide what we have identified as our largest public needs:** more workforce housing than current housing mitigation requires (up to 100% deed-restricted) or open space conservation (see “Conservation Incentive Program” below)
  - c. **In addition to these zoning incentives, provide direct subsidies to developers so that workforce housing “pencils” for them.** We constantly hear that it’s too expensive to build workforce housing because it does not net a high enough return, especially compared to other products in the Jackson market, so let’s provide the gap funding or financing to make it pencil. This gap funding might be similar to the current in-lieu fee mitigation numbers (*e.g. \$145,000 for Category 1 units, etc. — more economic analysis is needed*) and is therefore a highly cost-efficient way to engage the private market in addressing our housing challenge.
5. **Establish a “Conservation Incentive Program”** to use developers’ contributions to purchase rural development rights. We hired a team of economists and policy analysts and received pro bono legal advice from a legal expert in this topic relative to our county. Transfer of Development Rights (TDR) is a tool that shifts development from rural lands to appropriate town or complete neighborhood sites. It is legal in Wyoming and Teton County. Our market and policy analysis suggests a traditional TDR program would not work due to local market economics, but a “fee in lieu of TDR” program could achieve significant conservation in exchange for additional development in town or complete neighborhoods.

**Consider other critical policy tools that are not technically part of the District 2 LDRs in parallel with District 2** because they would also advance our community's vision as articulated in the Comprehensive Plan:

### **3C. Update mitigation requirements**

---

In order to “keep up” as we grow, new development must adequately mitigate its impact on our community (in exchange for taking profit based on our unique natural resources and our community amenities). **Please update the Nexus Study in consultation with stakeholders and then amend the Housing LDRs so that commercial enterprise successfully mitigates its housing impact.** Important categories include:

1. Commercial development adequately mitigates year-round employees – not just “peak seasonal” employees – both at higher rates than the current 15-25%.
2. Lodging development fully mitigates new employee housing need, unlike current partial mitigation (as witnessed with the Marriott).
3. Second-home development fully mitigates new employee housing need.
4. Institutional development is a special case because these institutions provide critical community services; however, they do add to the employee housing

**Protecting the wildlife, wild places, and community character of Jackson Hole.**

685 S. Cache St. • P.O. Box 2728 • Jackson, WY 83001 • (307) 733-9417 • info@jhalliance.org • JHalliance.org

need impacting our community. Our community must grapple with funding this housing need, either with each new institutional project (e.g. include housing in the next START facility, Rec Center project, etc.) or through a general revenue stream like the sales tax. Perhaps not during this discussion, but **please decide soon on how to mitigate institutional development** and if it differs by sector (healthcare, faith community, nonprofit, etc.).

### **3D. Raise new, consistent, predictable revenue for our community priorities.**

---

The Comprehensive Plan calls for new revenue streams for “conservation easements and other measures that protect the wildlife habitat, habitat connections, open space, and scenery valued by our community”; to “help meet the community’s housing goal”; and to “fully implement the communitywide integrated transportation plan”.

A one-cent increase in the sales tax provides one feasible opportunity to secure new revenue for these priorities. This revenue can also be used to incent developers to build what we want and need. The special purpose excise tax (SPET) could provide one-time funding for projects that align with these priorities but not an ongoing revenue stream for ongoing operations – and we need the SPET for other priorities, such as protecting wildlife and investing in public safety.

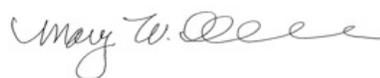
Also consider longer-term strategies like seeking legislative approval for a real estate transfer tax and changes to the lodging tax that would allow more of the funding to offset increasing visitor impacts – but don’t use those ideas as a way to delay immediately funding our priorities with our own money.

We hope these policy recommendations are received in the spirit in which they are offered: potential solutions aligned with our vision and values that help us move forward together and implement the Comprehensive Plan. Please use us as a resource to further develop these ideas into policy tools and programs.

Sincerely,



Craig M. Benjamin  
Executive Director



Mary Gibson  
Community Planning Director

## Appendix

### **Policy Option: Flexible Incentive Pool with Cap**

This option seeks to alleviate one “con” of simply allocating growth over all districts: we don’t know where the market would actually build housing, so we shouldn’t allocate it ahead of time. So, in this model, we put all build-out beyond what’s already zoned in a “pool” of potential entitlements that are used in a two-tier zoning system. Instead of upzoning now, we add a second tier of bonus incentives. Then, as we permit or build units of various types (housing, workforce housing, lodging units, etc.) we “remove” them from the pool. When the pool has no more units of a given type, we remove that type from the second-tier use list – and no more of it can be built. For this to work, incentives such as FAR and height should be high enough to make high-quality projects pencil – perhaps higher than currently proposed – and barriers such as high parking requirements should be analyzed and likely lifted. This will require in-depth market and economic analysis to structure correctly.

A policy like this would give predictability to both property owners and neighbors. Developers would get additional density or height, streamlined permitting, reduced parking, or other development incentives. Residents would have the peace of mind of a limit on projects once we reach our zoning limit. Property owners could develop “better” projects – more density, easier to “pencil” with the mix of uses that benefit the community – while the community knows that we will not see runaway development that harms community character.

Done right, this system can actually incentivize redevelopment where we want it. Developers will be able to build good projects that bring them profit and also benefit the community. Also, this will allow people concerned with the future of Jackson to rest easy, knowing that growth will not run rampant, but rather will be “shut off” when we reach our planned limits. Note that this requires continued community engagement so future elected representatives don’t change the cap against community wishes.