TOWN OF WARNER

P.O. Box 265, 5 East Main Street
Warner, New Hampshire 03278-0059
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Planning Board Notice of Decision

Date of Decision: Monday, October 19, 2026

Site Plan Review

Applicant: **CATCH Neighborhood Housing**
Owners: Comet, LLC
Address: Route 103, Warner, NH 03278
Map/Lot: Map 35, Lot 4-3
District: C-1 Intervale
Description: Proposed construction of a 34-unit affordable housing building.

On October 19, 2026, the Warner Planning Board voted to **APPROVE** the site plan for the applicant CATCH Neighborhood Housing on Map 35, Lot 4-30 with the conditions listed below. The findings and requirements for each condition are articulated in the attached documentation.

1. Winter Maintenance, Salt and Sand Management, Snow Storage, Runoff Protection, and Mandatory Annual Deicing Reporting.
2. Fire Safety, Emergency Vehicle Access, Apparatus Turning Radius, Building Height, and Required Written Determinations.
3. Ground-Floor Commercial Use Requirement.
4. Workforce Housing Income Eligibility, Annual Recertifications, Continued Occupancy, and Enforcement.

The vote tally was 4 to 3 in favor of approving the Site Plan.

The Planning Board's decision may be appealed to superior court pursuant to RSA 677:15 or, if it has jurisdiction, to the Housing Appeals Board pursuant to RSA Ch. 679.

Karen Coyne
Planning Board Chair

CATCH Conditions of Approval

CATCH CONDITION 1:

Winter Maintenance, Salt and Sand Management, Snow Storage, and Protection of Conservation Lands and the Warner River

FINDING

The Planning Board finds that the proposed development is located on property substantially affected by a conservation easement and situated adjacent to the Warner River, with associated conservation lands and wildlife habitat that warrant protection from potential environmental impacts resulting from development and ongoing property maintenance.

The Board further finds that winter maintenance activities associated with the proposed development, including snowplowing, sanding, salting, deicing, snow storage, and snowmelt runoff, have the potential to introduce chlorides, sediment, and other contaminants into adjacent conservation lands, wildlife habitat, groundwater, stormwater drainage systems, and the Warner River.

Pursuant to RSA 674:44, II(a), New Hampshire law authorizes municipalities, through duly adopted site plan review regulations, to establish requirements addressing inadequate drainage, groundwater protection, and preventable discharges of pollutants into the environment.

The Board finds that the proximity of the proposed development to environmentally sensitive conservation lands and the Warner River warrants site-specific winter maintenance practices designed to minimize the introduction and migration of road salt, sand, sediment, and other deicing materials into these protected areas.

The Board further finds that the Applicant's responsibility to protect these resources extends beyond initial construction and includes the ongoing operation, maintenance, and management of the developed property.

The Board finds that an approved winter maintenance plan, without corresponding documentation of actual deicing and material application practices, would provide insufficient means for the Town to verify continuing compliance with the environmental safeguards established as a condition of approval.

Accordingly, the Board finds that requiring a comprehensive Winter Maintenance, Salt and Sand Management, and Snow Storage Plan, together with mandatory application logs, annual reporting, record retention, and municipal compliance oversight, is necessary and appropriate to

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protect water quality, wildlife habitat, and conservation resources while allowing for safe winter access to the development.

CONDITION

Winter Maintenance, Salt and Sand Management, Snow Storage, Runoff Protection, and Mandatory Annual Deicing Reporting

1. Mandatory Winter Maintenance and Salt Management Plan

Prior to final site plan endorsement, the Applicant shall submit a comprehensive written Winter Maintenance, Salt and Sand Management, and Snow Storage Plan for review and approval by the Planning Board.

The Plan shall address all proposed roads, driveways, parking areas, sidewalks, pedestrian accessways, and other paved or maintained surfaces associated with the development.

The Plan shall establish procedures and safeguards designed to minimize the discharge or migration of salt, sand, sediment, deicing chemicals, and contaminated snowmelt into the conservation easement area, associated wildlife habitat, groundwater, stormwater drainage systems, and the Warner River.

2. Salt and Deicing Material Management

The Plan shall identify the types of salt, sand, and deicing materials proposed for use and establish best management practices designed to minimize their application while maintaining safe winter conditions.

At a minimum, the Plan shall address:

a. Use of calibrated application equipment and appropriate application rates.

b. Mechanical snow and ice removal before applying deicing materials whenever reasonably practicable.

c. Application practices appropriate to weather conditions, pavement temperatures, and anticipated freezing conditions.

d. Measures to prevent unnecessary or excessive application of salt and other chloride-based deicing materials.

e. Proper storage, handling, and containment of salt, sand, and deicing materials to prevent exposure to precipitation and uncontrolled runoff.

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f. Use of salt-reduction practices consistent with applicable New Hampshire Department of Environmental Services best management practices.

3. Snow Storage and Disposal Restrictions

The Applicant shall identify designated snow storage areas on the approved site plan.

Snow storage areas shall be located and designed to minimize the potential for contaminated snowmelt or accumulated sediment to enter the conservation easement area, protected wildlife habitat, stormwater conveyances, or the Warner River.

Snow collected from parking areas, driveways, sidewalks, or other maintained surfaces shall not be intentionally deposited directly into the Warner River, wetlands, or conservation easement areas unless expressly authorized under applicable law and the terms of the easement.

Snow shall not be stored in locations where melting snow would create an uncontrolled discharge of salt, sand, or sediment into environmentally sensitive areas.

Where adequate environmentally suitable snow storage cannot be provided on-site, the Plan shall establish procedures for removal and lawful off-site disposal.

4. Stormwater and Snowmelt Runoff Protection

The Plan shall identify measures to manage snowmelt and winter stormwater runoff in a manner that minimizes transport of chlorides, sediment, and other winter maintenance contaminants toward the Warner River and conservation lands.

The Applicant shall demonstrate how proposed snow storage locations, surface grading, drainage infrastructure, and applicable stormwater management measures will work together to minimize pollutant migration.

The Plan shall address the inspection and maintenance of drainage structures, sediment accumulation areas, and other relevant stormwater infrastructure.

5. Winter Maintenance Contractor Requirements

The Applicant and subsequent property owners or management agents shall ensure that all contractors and personnel responsible for winter maintenance receive the approved Plan and comply with its requirements.

The Plan shall identify the party responsible for implementation and oversight.

The Applicant shall incorporate the applicable requirements of the approved Plan into winter maintenance contracts.

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The Plan shall specify appropriate operator training and salt-reduction practices, including consideration of the New Hampshire Department of Environmental Services Green SnowPro program or equivalent recognized best management practices.

Failure by a contractor to comply with the approved Plan or maintain required records shall not relieve the property owner of its obligations under this condition.

6. Mandatory Deicing Application Logs

The Applicant, property owner, and any successor or authorized management agent shall maintain written deicing and winter maintenance application logs documenting the use of salt, sand, and other deicing materials throughout each winter maintenance season.

The logs shall be maintained contemporaneously with each application and shall include, at a minimum:

a. The date and approximate time of each application.

b. The location or area treated, including parking areas, driveways, access roads, sidewalks, and other maintained surfaces.

c. The type of deicing or traction material applied.

d. The quantity of each material applied, expressed in pounds, gallons, or another appropriate measurable unit.

e. The approximate weather conditions and pavement conditions at the time of application.

f. The identity of the contractor, employee, or other person responsible for the application.

g. Any unusual conditions requiring additional material application or deviation from the approved Winter Maintenance Plan.

h. Any observed runoff, improper material placement, or other condition presenting a potential risk of contamination to the conservation easement area, wildlife habitat, or Warner River, together with corrective action taken.

7. Mandatory Annual Reporting to the Town

On or before May 1 of each calendar year, the property owner or authorized management agent shall submit a complete annual Winter Maintenance and Deicing Compliance Report covering the preceding winter maintenance season to all three of the following:

- Town of Warner Planning Board
- Town of Warner Select Board

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- Town of Warner Compliance Officer,

The May 1 reporting deadline is mandatory and shall remain in effect throughout the duration of this condition.

A vacancy in the Compliance Officer position, a change in municipal personnel, or a change in property ownership or management shall not suspend, delay, or otherwise excuse the annual reporting obligation.

The annual report shall include:

a. Complete copies of all deicing application logs maintained during the reporting period.

b. The total quantity of each type of salt, sand, and deicing material applied during the winter maintenance season.

c. The total number of application events.

d. A summary of snow storage and off-site snow disposal activities, where applicable.

e. Any identified incidents involving improper material application, storage, snow disposal, or potentially contaminated runoff.

f. Corrective actions taken to address identified incidents or deficiencies.

g. Any proposed modifications to winter maintenance practices intended to reduce salt usage, improve runoff management, or strengthen environmental protection.

h. A signed certification by the property owner or authorized management agent attesting that the report and accompanying logs are accurate and complete to the best of the signer's knowledge.

The report shall be submitted annually regardless of whether the Town has requested it and regardless of whether any violations or environmental incidents have occurred.

If no deicing materials were applied during the reporting period, the owner shall submit a report affirmatively documenting that no such applications occurred.

8. Record Retention and Municipal Inspection

The property owner or authorized management agent shall retain all deicing application logs, annual compliance reports, and supporting winter maintenance records for a minimum of five (5) years.

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Such records shall be made available to the Planning Board, Select Board, Compliance Officer, or other duly authorized municipal representative upon reasonable written request, consistent with applicable law.

The owner shall ensure that all winter maintenance contractors maintain and provide the records necessary to satisfy these obligations.

The Town may review submitted records to evaluate compliance with the approved Plan, identify patterns of excessive or improper material application, and assess potential risks to the conservation easement area, associated wildlife habitat, groundwater, and Warner River.

9. Annual Review and Corrective Action

The property owner or authorized management agent shall review the approved Winter Maintenance Plan annually before the commencement of winter maintenance operations.

If the Town identifies documented noncompliance with the approved Plan or the reporting requirements of this condition, the owner shall submit a written corrective-action plan within thirty (30) calendar days following receipt of written notice, unless a different period is required by applicable law.

The corrective-action plan shall identify the nature of the deficiency, the measures proposed to correct it, and the anticipated completion date.

Material changes to designated snow storage areas, drainage arrangements, or winter maintenance practices that could affect the environmental safeguards required by this condition shall require prior review and approval by the Planning Board or other legally authorized municipal official.

10. Continuing Compliance and Enforcement

The approved Winter Maintenance, Salt and Sand Management, and Snow Storage Plan, including all mandatory deicing application logs, annual reporting requirements, record retention obligations, and environmental protection measures, shall become part of the approved site plan and shall remain applicable throughout the operation of the development.

The Applicant, property owner, successors, and authorized management agents shall be responsible for implementing and maintaining the approved Plan and complying with all applicable provisions of this condition.

The following shall constitute noncompliance with this approval:

a. Failure to implement or maintain the approved Winter Maintenance Plan.

b. Failure to maintain complete and accurate deicing application logs.

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c. Failure to submit the mandatory annual compliance report and supporting logs to the Town by May 1.

d. Failure to provide records for authorized municipal review.

e. Unauthorized snow storage or disposal within protected conservation areas, wetlands, or the Warner River.

f. Failure to undertake corrective actions lawfully required under the approved Plan or this condition.

g. Materially modifying approved winter maintenance or runoff protection measures without required municipal approval.

Such violations shall be subject to enforcement remedies lawfully available to the Town under New Hampshire law, the Warner Zoning Ordinance, applicable site plan review regulations, and the terms of the approved site plan.

The obligations established by this condition shall continue to apply notwithstanding changes in ownership, property management, winter maintenance contractors, or municipal personnel, to the extent authorized by applicable law.

CATCH CONDITION 2:

Fire Safety, Emergency Vehicle Access, Apparatus Turning Radius, Building Height, and Required Written Determinations

FINDING

The Planning Board finds that concerns regarding emergency vehicle access, fire apparatus maneuverability, and the ability to provide adequate fire protection services to the proposed development have been raised during the site plan review process by both the Town's independent consulting engineer and the Warner Fire Chief.

Specifically, concerns have been identified regarding the limited ability of emergency vehicles to access and maneuver around the front of the proposed building, the adequacy of fire apparatus turning radii, and the ability of responding emergency personnel to safely and effectively access the development during an emergency.

The Board further finds that the proposed building height presents additional fire protection and emergency response considerations because the Town of Warner does not own or operate an aerial ladder truck and would therefore require mutual aid assistance from a neighboring municipality for emergency operations requiring such equipment.

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The Board finds that reliance upon mutual aid resources warrants careful evaluation of emergency response capabilities, fire apparatus access, building height, fire protection systems, and the ability of responding departments to conduct safe and effective emergency operations.

Pursuant to RSA 674:44 and the Town of Warner's applicable Site Plan Review Regulations, the Planning Board has authority to consider site access, vehicular circulation, public safety, and the adequacy of improvements associated with proposed development, within the scope of its duly adopted regulations.

The Board finds that the concerns identified by the independent consulting engineer and the Warner Fire Chief are material to the safety of future residents, emergency responders, and surrounding properties and must be satisfactorily addressed before the proposed site plan is finalized.

Accordingly, the Board finds that written determinations from both the Warner Fire Chief and the New Hampshire State Fire Marshal, specifically addressing the identified fire safety and emergency access concerns, are necessary and appropriate prerequisites to final site plan endorsement.

CONDITION

Fire Safety Review, Emergency Vehicle Access, Apparatus Turning Radius, Building Height, and Mandatory Written Determinations

1. Mandatory Written Determinations

Prior to final site plan endorsement, the Applicant shall obtain and submit to the Warner Planning Board separate written determinations from both:

a. The Town of Warner Fire Chief, or the Fire Chief's duly authorized designee; and

b. The New Hampshire State Fire Marshal, or the State Fire Marshal's duly authorized representative acting within the scope of that office's jurisdiction.

Each written determination shall specifically address the fire safety and emergency access concerns identified during the site plan review process, to the extent within the reviewing authority's jurisdiction.

The written determinations shall identify the specific site plans, building plans, and revision dates reviewed and shall state whether the proposed development complies with applicable fire safety and emergency access requirements within the reviewing authority's jurisdiction.

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If either reviewing authority lacks jurisdiction over a particular issue or does not issue formal project-specific approvals, that authority's written determination shall identify the limitation and, where applicable, the authority responsible for the issue.

2. Required Scope of Fire Safety Review

The Applicant shall provide sufficient plans, documentation, and supporting information to allow both reviewing authorities to evaluate the following matters, as applicable to their respective jurisdictions:

a. Emergency vehicle access to the proposed building, including the limited ability of fire apparatus to access and maneuver around the front of the building.

b. The adequacy of fire apparatus turning radii, maneuvering areas, and the ability of responding emergency vehicles to safely enter, navigate, and exit the development.

c. Fire apparatus access road widths, vertical clearances, grades, load-bearing capacity, and other applicable access requirements.

d. The proposed building height and its implications for firefighting operations, rescue capabilities, and emergency access.

e. The Warner Fire Department's existing apparatus capabilities, including the absence of a municipally owned aerial ladder truck.

f. The anticipated reliance upon mutual aid assistance from neighboring municipalities for emergency operations requiring aerial apparatus, including the ability of such apparatus to access and maneuver within the proposed development.

g. The adequacy of proposed fire protection systems and other applicable life-safety measures necessary to address the building's configuration, height, and emergency access limitations.

h. Any design modifications, operational safeguards, or additional fire protection measures required by the reviewing authorities under applicable fire and life-safety requirements.

3. Required Written Findings and Identification of Reviewed Plans

Each written determination shall:

a. Identify the specific site plan and building plan sheets reviewed, including the applicable preparation and revision dates.

b. Specifically address the emergency vehicle access, apparatus turning radius, and building height concerns raised by the Town's independent consulting engineer and the Warner Fire Chief.

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c. Identify any deficiencies or limitations found to exist under applicable fire and life-safety requirements.

d. Identify any required corrective measures, design modifications, or additional fire protection provisions necessary to achieve compliance.

e. State whether the proposed development, as shown on the identified plans, satisfies the applicable fire safety and emergency access requirements within the reviewing authority's jurisdiction.

A general statement of approval that does not identify the plans reviewed or address the documented concerns shall not satisfy this condition.

4. Required Corrections and Planning Board Review

The Applicant shall address all deficiencies identified by either reviewing authority that require correction under applicable law before final site plan endorsement.

Where required corrections result in material modifications to building placement, building height, emergency access routes, fire apparatus maneuvering areas, parking configuration, circulation patterns, or other elements of the site plan, the Applicant shall submit revised plans to the Planning Board for review and approval.

Any required revised plans shall be consistent with the plans reviewed by the Warner Fire Chief and New Hampshire State Fire Marshal, or shall be submitted for additional written review by the appropriate authority where the revisions materially affect matters addressed in the original determination.

5. Mandatory Prerequisites to Final Site Plan Endorsement

Final site plan endorsement shall not occur until the Planning Board has received both required written determinations and all associated site plan modifications requiring Board approval have been satisfactorily addressed.

The written determinations shall be included in the official Planning Board application record.

Verbal assurances, preliminary comments, conditional statements that unresolved deficiencies will be addressed during subsequent permitting, or general correspondence that does not specifically address the identified concerns shall not satisfy this condition.

Where an authority's written determination identifies a matter outside its jurisdiction, the Planning Board shall determine, with advice from Town Counsel as necessary, whether further review by the legally responsible authority is required before final endorsement.

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6. Continuing Compliance and Enforcement

The Applicant, property owner, and successors shall maintain approved emergency access routes, fire apparatus maneuvering areas, required clearances, and applicable fire protection features in accordance with the final approved plans and governing fire and life-safety requirements.

No subsequent modification that materially reduces approved emergency vehicle access or fire apparatus maneuverability shall be made without obtaining all legally required municipal and fire safety approvals.

Failure to comply with the material requirements of this condition shall constitute noncompliance with the site plan approval, subject to enforcement remedies lawfully available to the Town under New Hampshire law and applicable municipal regulations.

CATCH CONDITION 3:

Ground-Floor Commercial Use Requirement

FINDING

The Planning Board finds that the proposed multifamily residential development is located within the Intervale Commercial District of the Town of Warner, a district established to accommodate commercial activity and uses consistent with the Town's zoning ordinance.

The Board further finds that preserving ground-floor space for retail or similar commercial uses is consistent with the commercial purpose and character of the district and supports the continued availability of commercial opportunities within the Town.

Pursuant to RSA 674:80, IV, New Hampshire law expressly authorizes municipalities to require all available ground-floor space, or a percentage thereof, to be dedicated to retail or similar uses in multifamily residential developments located on commercially zoned land.

The Board finds that requiring all available ground-floor space to be dedicated to retail or similar commercial uses is appropriate and necessary to preserve the commercial function of the property and the district, while accommodating multifamily residential development as authorized by RSA 674:80.

The Board further finds that the commercial-space requirement shall apply to the proposed development regardless of whether commercial space was included in the Applicant's originally submitted building plans. The absence of commercial space from the Applicant's proposed design shall not, by itself, establish that ground-floor space is unavailable for commercial use.

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The Board further finds that the authority granted to municipalities under RSA 674:80, IV became effective subsequent to Warner's most recent Town Meeting and prior to the Town's next regular opportunity to adopt corresponding zoning amendments. The Board has received guidance from New Hampshire Municipal Association legal counsel confirming that the statutory authority to require ground-floor space to be dedicated to retail or similar uses may be exercised through an individual condition of Planning Board approval without first adopting a corresponding zoning ordinance provision. Accordingly, the Board finds that the absence of an existing implementing ordinance does not preclude the exercise of this statutory authority in its review of the proposed development.

Accordingly, the Board finds that the dedication of all available ground-floor space to retail or similar commercial uses, subject only to documented physical or legal limitations and necessary building-support functions, is a reasonable exercise of the authority expressly granted to municipalities under RSA 674:80, IV.

CONDITION

Ground-Floor Commercial Space Dedication, Preservation, and Restrictions on Residential Conversion

1. Mandatory Ground-Floor Commercial Dedication

Pursuant to RSA 674:80, IV, the Applicant shall dedicate all available ground-floor space within the proposed development to retail or similar commercial uses permitted within the Intervale Commercial District.

Such uses may include retail establishments, professional or business offices, restaurants, personal service establishments, and other comparable commercial uses, provided that such uses are permitted by applicable zoning and are consistent with RSA 674:80, IV.

2. Determination of Available Ground-Floor Space

For purposes of this condition, available ground-floor space shall include ground-floor areas reasonably capable of accommodating retail or similar commercial occupancy in compliance with applicable building, fire, accessibility, and life-safety requirements.

The following areas may be excluded from the commercial-space requirement only to the extent reasonably necessary for the lawful and functional operation of the approved building:

a. Building entrances, exits, and required circulation areas.

b. Stairwells, elevators, and required accessibility infrastructure.

c. Mechanical, electrical, plumbing, utility, and fire-protection equipment rooms.

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d. Other areas demonstrated through supporting documentation to be unavailable for retail or similar commercial use because of applicable legal or physical constraints.

The Applicant's preferred building configuration, anticipated commercial leasing demand, or preference for additional residential floor area shall not, standing alone, establish that otherwise usable ground-floor space is unavailable for commercial use.

3. Prohibition on Unauthorized Residential Conversion

Ground-floor space designated for retail or similar commercial use on the approved site plan and architectural drawings shall not be converted to residential dwelling units or other uses inconsistent with this condition without prior approval of the Planning Board, following a determination that the proposed modification complies with RSA 674:80, IV and all applicable land use requirements.

No modification shall be permitted solely because the Applicant or subsequent property owner prefers residential use or has experienced difficulty leasing commercial space.

4. Revised Plans and Identification of Commercial Space

Prior to final plan endorsement, the Applicant shall submit revised ground-floor plans clearly identifying:

a. The total gross ground-floor area of each building.

b. The square footage designated for retail or similar commercial uses.

c. The location and square footage of areas proposed to be excluded from the commercial requirement.

d. The physical, building-code, or life-safety basis for each proposed exclusion.

e. The entrances, access points, and other features necessary to support the proposed commercial spaces.

The revised plans shall demonstrate compliance with this condition and shall be subject to Planning Board review and approval before final plan endorsement.

The approved plans shall identify the ground-floor commercial areas subject to this condition. Such designation shall remain effective unless modified through a legally authorized approval process.

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5. Continuing Commercial Use Restriction

Ground-floor areas approved and designated for retail or similar commercial uses shall remain reserved for such uses for the duration of the applicable approval, unless a modification is lawfully authorized.

Temporary commercial vacancy shall not, by itself, constitute a violation of this condition, provided the designated space remains available for lawful commercial occupancy and is not converted to an unauthorized use.

6. Compliance and Enforcement

Failure to construct the designated commercial areas in substantial conformity with the approved plans, unauthorized conversion of designated commercial space to residential use, or modification of the approved commercial allocation without required municipal approval shall constitute noncompliance with this approval.

Such violations shall be subject to enforcement through the remedies lawfully available to the Town under New Hampshire law and applicable municipal land use regulations.

7. Binding Effect

This condition shall apply to the Applicant and subsequent owners of the property to the extent enforceable under applicable law.

Any material modification to the approved ground-floor commercial allocation shall require Planning Board review and approval in accordance with applicable law.

CATCH CONDITION 4

Workforce Housing Income Eligibility, Annual Recertification, Continued Occupancy, and Enforcement

FINDING:

The Planning Board finds that the proposed development seeks approval as workforce housing pursuant to New Hampshire RSA 674:58–61 and Article XIV-A of the Town of Warner Zoning Ordinance.

The Board further finds that the purpose of workforce housing is to provide housing opportunities affordable to households meeting the applicable statutory income criteria and that the continued availability of designated workforce housing units to income-qualified households is a material consideration in the Board's review and approval of this development.

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Pursuant to RSA 674:60, IV, municipalities are expressly authorized to require recorded restrictive covenants prohibiting the rental or sale of workforce housing to households whose incomes exceed the applicable statutory income limits. The statute further authorizes municipalities to adopt regulations ensuring compliance with such covenants, including ongoing monitoring and annual income verification for rental households.

The Board finds that initial household income qualification, without subsequent verification and enforceable compliance procedures, is insufficient to demonstrate that designated workforce housing units continue to be occupied in accordance with applicable income eligibility restrictions.

The Board further finds that an annual recertification process must provide a meaningful means of identifying households whose incomes exceed applicable eligibility limits and establishing whether continued occupancy is permitted under the governing legal requirements.

The Board finds that the Applicant's voluntary property management practices, including any policy of permitting households to remain indefinitely following a determination that their incomes exceed applicable limits, do not independently establish compliance with the Town's duly adopted workforce housing requirements or the restrictive covenants imposed as a condition of approval.

The Board recognizes that household income changes occurring after lawful initial occupancy must be addressed in accordance with applicable state and federal law, including RSA Chapter 540 and any controlling occupancy requirements. Nevertheless, the Board finds that the Applicant must be obligated to identify, document, report, and take all legally authorized and required corrective actions concerning households that no longer satisfy applicable occupancy restrictions.

Accordingly, the Board finds that recorded affordability and occupancy covenants, annual household income recertification, mandatory reporting of over-income households, enforceable corrective-action procedures, and municipal compliance oversight are necessary to protect the integrity of the development's workforce housing designation and the continued availability of workforce housing to eligible households.

CONDITION

Workforce Housing Affordability Restrictions, Mandatory Annual Income Recertification, Over-Income Household Reporting, and Continued Occupancy Compliance

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1. Recorded Restrictive Covenant

Prior to issuance of the first certificate of occupancy, the Applicant shall execute and record at the Merrimack County Registry of Deeds a workforce housing restrictive covenant, in a form acceptable to the Planning Board following review by Town Counsel.

The covenant shall:

a. Identify that all dwelling units are designated and approved as workforce housing.

b. Establish the applicable income eligibility, rent affordability, and occupancy restrictions under RSA 674:58–61 and Article XIV-A of the Warner Zoning Ordinance.

c. Establish the duration of the restrictions as authorized by applicable law and duly adopted municipal regulations isIn perpetuity.

d. Bind the Applicant, property owner, management agents, successors, and assigns, as applicable.

e. Incorporate the annual verification, reporting, corrective-action, and compliance obligations established by this approval.

f. Grant the Town legally enforceable rights to monitor compliance and seek appropriate remedies for violations of the covenant.

2. Initial Household Income Qualification

Prior to the initial occupancy of any designated workforce housing unit, and prior to entering into a new lease with a replacement household, the owner or authorized management agent shall verify and document that the prospective household satisfies the applicable income eligibility requirements required by NH WFH laws.

No designated workforce housing unit shall be initially leased to a household exceeding the applicable income eligibility limits, except where expressly permitted by controlling law.

The owner shall maintain supporting income qualification documentation sufficient to substantiate compliance.

3. Mandatory Annual Household Income Recertification

The owner or authorized management agent shall conduct and document income recertification for every household occupying a designated workforce housing unit at least once during each consecutive twelve-month period, to the extent authorized by applicable law and duly adopted municipal regulations.

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Annual recertification shall include:

a. Verification of current household income using reasonably reliable documentation.

b. Verification of household composition where relevant to the current applicable eligibility standard.

c. Application of the income limits and calculation methodology legally applicable to the unit.

d. A written determination of whether the household continues to satisfy the applicable income eligibility requirements.

e. Identification of any household whose income exceeds the applicable threshold.

f. Documentation of any legally recognized exception, continued-occupancy entitlement, or required corrective action.

Failure or refusal by the owner to perform required annual recertification and requalification shall constitute noncompliance with this approval.

4. Mandatory Reporting of Over-Income Households

When annual recertification or other reliable information establishes that a household exceeds the applicable income eligibility limit, the owner shall provide written notice to the Town's compliance officer, Planning Board and Select Board within thirty (30) calendar days following that determination.

The notice shall include:

a. The unit identification number.

b. The date of the most recent income recertification.

c. The applicable income eligibility threshold and the verified household income, expressed in a manner consistent with applicable privacy requirements.

d. The amount or percentage by which the household exceeds the applicable threshold.

e. The owner's determination regarding the household's continued occupancy eligibility.

f. The specific statutory, regulatory, or recorded covenant provision relied upon if continued occupancy is asserted to be legally permitted.

g. The corrective action proposed or required, together with a written implementation schedule.

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The owner shall not treat a household's over-income status as automatically resolved solely because the household was income-qualified at the commencement of its tenancy.

5. Mandatory Corrective Action for Ineligible Occupancy and Termination of Ineligible Occupancy.

Continued satisfaction of the applicable household income eligibility requirements shall be an express and enforceable condition of occupancy for every dwelling unit designated and approved as workforce housing.

The Applicant, property owner, and any successor or authorized management agent shall ensure that designated workforce housing units remain occupied by households meeting the applicable income eligibility requirements throughout the legally established affordability restriction period.

Upon determining through annual income recertification or other reliable documentation that an occupying household exceeds the applicable income eligibility threshold, the owner shall:

a. Provide written notification to the Town's Planning Board and Select Board within thirty (30) calendar days of the determination.

b. Provide written notice to the affected household of its determination of income ineligibility, consistent with applicable law and lease requirements.

c. Initiate, within sixty (60) calendar days of the determination, all legally required notices and procedures necessary to terminate the ineligible occupancy at the earliest date permitted by applicable law.

d. Pursue such proceedings diligently and in good faith, including lawful nonrenewal or termination of tenancy and, where legally authorized and necessary, judicial proceedings to recover possession of the unit.

e. Upon lawful vacancy, make the designated workforce housing unit available for occupancy by an income-qualified household in accordance with the recorded restrictive covenant.

The owner shall not knowingly permit continued occupancy by a household determined to be income-ineligible beyond the date on which lawful termination of that occupancy can be accomplished, except where continued occupancy is expressly required or protected by controlling law.

The Applicant's internal management policies, financial arrangements, or voluntary practices concerning retention of over-income tenants shall not excuse compliance with this condition.

The owner shall provide written progress reports to the Town Planning and Select Boards every thirty (30) calendar days following identification of an over-income household until the matter has been resolved.

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Failure to initiate or diligently pursue legally available termination procedures, failure to provide required notices and reports, or knowingly permitting ineligible occupancy in violation of the recorded covenant shall constitute a violation of this approval, subject to applicable municipal enforcement remedies.

Nothing in this condition shall authorize self-help eviction, termination without legally required notice, or any action prohibited by applicable state or federal law.

The owner shall not adopt or rely upon a blanket policy of declining to pursue legally required corrective action for over-income households.

6. Continued Occupancy Exception Documentation

If the owner determines that an over-income household is legally permitted to remain in a designated workforce housing unit, the owner shall provide the Town with a written explanation identifying:

a. The specific legal authority permitting continued occupancy.

b. Whether the household continues to count toward applicable workforce housing compliance requirements.

c. Any additional restrictions or compliance obligations triggered by the household's over-income status.

d. The anticipated duration of the exception, if determinable.

e. Any required action to maintain the development's overall workforce housing compliance.

The owner's general property management policy or preference not to terminate tenancies shall not, standing alone, constitute sufficient justification for continued occupancy contrary to an otherwise enforceable income restriction.

7. Annual Workforce Housing Compliance Report

On or before February 1 of each year, the owner shall submit a written annual compliance report to the Warner Board of Selectmen or its designated compliance officer, with a copy to the Planning Board.

The report shall identify:

a. The total number of approved workforce housing units.

b. The number of occupied and vacant workforce housing units.

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c. The number of households recertified during the reporting year.

d. The number of households determined to remain income-qualified.

e. The number of households determined to exceed the applicable income limits.

f. Each over-income household's unit identification, applicable income threshold, and documented compliance disposition.

g. Corrective actions initiated, completed, or pending.

h. Units returned to occupancy by income-qualified households.

i. Any unresolved compliance violations and the schedule for correction.

j. Certification by an authorized representative of the owner, under penalty of perjury to the extent legally applicable, that the report is accurate and complete.

The owner shall provide supporting records reasonably necessary to verify the report, subject to applicable confidentiality and privacy requirements.

8. Municipal Compliance Monitoring and Audits

The Town, through its duly authorized officials, may review records and conduct periodic compliance audits as authorized by RSA 674:60, IV, applicable municipal regulations, and the recorded restrictive covenant.

The owner shall cooperate with lawful requests for verification records and provide documentation reasonably necessary to establish compliance.

Compliance monitoring shall be conducted in a manner that protects confidential tenant information and complies with applicable law.

9. Failure to Comply and Enforcement

The following shall constitute violations of this approval to the extent the underlying obligation is lawfully imposed:

a. Failure to perform required initial income qualification.

b. Failure to complete required annual household income recertification and requalification.

c. Failure to report identified over-income households.

d. Submission of materially false, incomplete, or misleading compliance certifications.

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e. Failure to implement corrective actions legally required under the recorded covenant and applicable law.

f. Failure to maintain required affordability restrictions.

g. Failure to provide records required for authorized compliance review.

h. Knowingly leasing a designated workforce housing unit to a household that does not meet applicable eligibility requirements, except as expressly permitted by controlling law.

Upon written notice of a violation, the owner shall submit a corrective-action plan within thirty (30) calendar days, unless a different period is required by law.

Failure to cure a violation within the applicable lawful period shall subject the owner to enforcement remedies available under New Hampshire law, the Warner Zoning Ordinance, applicable land use regulations, and the recorded restrictive covenant.

The Town may seek appropriate judicial relief, including enforcement of the recorded covenant, where legally authorized.

10. Continuing Obligation and Successor Responsibility

The obligations established by this condition and the recorded restrictive covenant shall remain binding for the legally authorized duration of the workforce housing restrictions.

Transfer of ownership, assignment of management responsibilities, or changes in the Applicant's financing arrangements shall not, by themselves, terminate or diminish otherwise enforceable municipal affordability and compliance obligations.

Any proposed modification of the recorded workforce housing restrictions shall require Planning Board review and approval in accordance with applicable law.

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