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Conditions for Housing Development:

An Intersection of Structural and Cultural
Opportunity in New Hampshire

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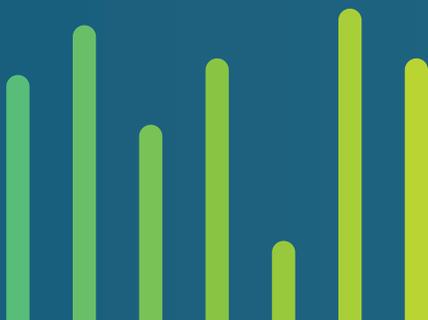


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Abstract

The need for housing for New Hampshire's workforce is ever growing as both employers and employees feel the impact of low vacancy rates and high living costs. Restrictive land use regulations have resulted in an inadequate supply of housing affordable to members of the workforce and are subsequently limiting New Hampshire's economic potential. Workers need to live close to their current or prospective job sites and want to participate in all that the community may offer, but a community's civic strengths cannot overcome the very real issue of housing unavailability. This study explores this issue by looking at the way housing development is both supported and hindered within the local approval process. Using a case study methodology, three communities, Dover, Exeter, and Hudson, were selected for analysis. In each community, a planning official and a developer of a Low Income Housing Tax Credit (LIHTC) supported project were interviewed about their experiences with the local approval process. Using a thematic analysis, themes were identified from each of the six interviews. The five identified themes – Land Use Regulations, NIMBYism/General Attitudes, Capacity, Cost, and Time – were analyzed for their relationship to one another. The results indicated that there exists structural and cultural opportunities and barriers within the local approval process, and the extent to which these are present impact the opportunity for workforce housing development.



Introduction

New Hampshire's current housing crisis is, in part, the product of land use regulations meant to accommodate the state's large population of older adults. Between 1990 and 2018, New Hampshire saw a 109% increase in its population of adults aged 55 and older, which is significantly more than the country's increase of 77% over this same period (Francese & Merrill, 2020). Given the extreme growth in older adults in New Hampshire, many municipalities enacted age-restricted zoning regulations that incentivized age restricted housing developments. These came in the form of density bonuses, which allowed greater density for new housing developments if the development was designated as age-restricted. While this regulation was able to create greater opportunity for older adults, greater density is not applied evenly across the demographic spectrum. Housing developments for lower-income people, although serving a vulnerable population similar to older adults, are not given the same leniency in terms of land use regulations. So while structural opportunity was given for one population, it was systemically prevented for another.

Age restricted zoning is just one example of how land use regulations helped create the current housing crisis. Restrictions in density requirements, land availability in residentially zoned areas, and types of housing allowed are some other examples of structural barriers to housing development. However, structural barriers are just one side of the coin. The other side is political will, which defines a community's perception of workforce housing and to what extent it should exist. A community's

political will can determine whether the land use regulations should allow or encourage the development of more diverse housing. It's here where the culture of a community impacts the structural outcomes and, ultimately, whether there are conditions for development. Negative cultural perceptions of workforce housing often result from a lack of understanding of the true meaning of workforce housing.

Workforce Housing

The story of workforce housing in New Hampshire begins with the 1991 New Hampshire Supreme Court case of *Britton v. Town of Chester*. In this case, low- to moderate-income (LMI) families and a developer of LMI homes challenged a zoning ordinance in the town of Chester which stated that multi-family housing could only be built as part of a planned residential development. This ordinance only made available 1.73% of the land of Chester, thus severely limiting the opportunity for low-income development (NH Supreme Court, 1991). As a result, the developer sued the town of Chester and the Supreme Court struck down the restrictive ordinance. The Supreme Court ruled that a municipality has to provide a "reasonable and realistic opportunity for the development of housing that is affordable to low- and moderate-income families" (Fougere et al., 2010). In addition, the Court ruled that every town has to provide a "fair share" of its region's affordable housing stock (Fougere et al., 2010); however, the term "fair share" was never defined and is often not enforced.



It wasn't until 2008 that the term "workforce housing" was explicitly defined in New Hampshire statute. In RSA 674:58-61, workforce housing refers to for-sale housing affordable to a family of 4 making no more than 100% of the area median income (AMI) or rental housing affordable to a family of 3 making no more than 60% of AMI. Moreover, the statute defines multi-family housing as a building containing 5 or more dwelling units (NH Housing, 2021). These definitions are crucial to allowing for a "reasonable and realistic opportunity" for workforce housing development as required in the Britton ruling. This opportunity is defined in RSA 674:58-61 as:

(1) the municipality's land use ordinances and regulations cannot facially discriminate against housing for families or in certain income ranges; (2) the collective impact of those ordinances and regulations must allow for the economic viability of a project to develop

workforce housing; (3) workforce housing of some type must be allowed on a majority of the residentially-zoned land in the community; and (4) multi-family housing with at least five units per structure must be allowed somewhere in the area.

The workforce housing statute defines reasonable and realistic opportunities as being the product of permissive land use regulations, ones that allow for opportunity. Yet, for the regulations that do not allow for opportunity, there exists minimal enforcement. Developers are given the responsibility of enforcing the workforce housing statute by choosing to sue municipalities over non-compliance. However, this process takes time and can be very costly for a developer, so engaging in a long and costly legal battle may not be worth it for them. Instead, they invest in towns with more permissive land use regulations, or better conditions for development.

Methodology

Purpose

The purpose of this research is to identify the cultural and structural conditions a community needs for housing development and analyze the outcome of both having and not having said conditions.

Selecting Communities

For the purpose of feasible assessment, three municipalities were selected within the Regional Economic Development Center's catchment area to focus on. Using a case study methodology, each community selected was the site of a development that received Low Income Housing Tax Credits (LIHTC) within the past 4 years. Developments that received LIHTC funding were chosen because LIHTC has income restrictions that match the definition of workforce housing. From there, the general variance between communities' composition, such as the town's population size,

location, housing stock, type of government, and median area income were assessed. The purpose of determining this was to establish some level of need for workforce housing within the community. Ultimately, the municipalities of Dover, Exeter, and Hudson were chosen as case study communities, and more information about each community is included under the *Community Backgrounds* section.

Interviews

Interviews with the planning officials of each community and a developer of a LIHTC supported housing development were conducted either face-to-face or virtually, using the video software program Zoom. Each meeting was about an hour long and included a general discussion, as well as focused questions. The questions asked were related to their experiences regarding the local approval process of housing developments.

Community Backgrounds

Dover

Dover is the fifth largest community in New Hampshire and is designated as a small city with a population size of 32,741 (U.S. Census Bureau, 2020). Its urban center is host to a vibrant downtown that has numerous shops and restaurants. Located in the southeast corner of the state, Dover is a residential and commercial hub for those who want to take advantage of its many opportunities. Dover has a significant working population with 35.6% of whom work in the community and 53.0% who commute to another New Hampshire community (U.S. Census Bureau, 2020). Dover's workforce opportunities and its central location in Strafford County make it an ideal place to live.

As a member of the Portsmouth-Rochester HUD Metropolitan Fair Market Rent Area (HMFA), Dover falls into a higher income range of what is considered affordable for housing. However, with a median household income of \$71,631 (U.S. Census Bureau, 2020), the city is home to a greater percentage of middle-income wage earners. Fortunately, the median gross rent (which includes utilities) is on par with the state's workforce housing purchase and rent limits. The table *Table 1a* shows the three communities' median gross rents.

Dover's population is slightly younger than much of the rest of the state. Those aged 20-34 makeup 28.6% of the population and those aged 35-54 makeup 24% of the population (U.S. Census Bureau, 2020). This points to the need for workforce housing for younger people just

beginning their careers, young families looking to buy their first home, and older people hoping to downsize.

Exeter

Exeter has a population of 15,313 (U.S. Census Bureau, 2020), making it a comfortably medium-sized town. Its downtown features brick buildings that house the town's municipal offices as well as the many local businesses that bolster its local economy. Located in Rockingham County, Exeter has established itself as a residential community amongst surrounding towns like Stratham and Hampton to the east or Epping to the northwest. Just over half of its residents (51%) travel to another New Hampshire community for work (U.S. Census Bureau, 2020).

Exeter is a more modest community in terms of its income distribution. Exeter's median household income of \$77,120 (U.S. Census Bureau,



2020) puts it at just above the state’s average. Although the town’s median household income is just above average, its housing stock is not affordable, both for 2-bedroom apartments (as evidenced in *Table 1a*) and for single-family homes (shown in *Table 1b*). At 100% of the AMI for Exeter’s region, the estimated affordable purchase price for a single-family home is \$423,000, which requires an annual income of \$106,600 (NH Housing, 2021). Thus, many of the homes and apartments are not affordable to much of the workforce.

In Exeter, those aged 20-34 only compose 15.2% of the population while those aged 35-64 compose 40.8% (US Census Bureau, 2020). Younger members of the workforce earn less, on average, than those who are older. When coupled with a vacancy rate of 0% in 2021 (NH Housing, 2021) their search for affordable housing in Exeter becomes extremely more difficult.

Hudson

Hudson is a large town of 25,394 residents (U.S Census Bureau, 2020) and shares a border with Massachusetts to the south. Because of its geographic proximity to the second largest city in New Hampshire and its 45-minute commute to

Boston, Hudson is a prime location for potential home buyers looking to start or continue their careers. This is reflected in Hudson’s commuter population: nearly 80% of working residents either travel to another New Hampshire community or out of state for work.

Over the years, Hudson has begun to attract higher-income people. With a 2015-2019 median household income of \$104,597 (U.S Census Bureau, 2020), Hudson is substantially higher than the state average of \$76,768 (U.S Census Bureau, 2020). Hudson’s population skews a bit older than Dover’s or Exeter’s. Those aged 20-34 make up 17% of the population in Hudson, while those aged 35-54 or 55 and older each make up 30% of the population (U.S Census Bureau, 2020). Younger people and older residents interested in downsizing looking for an opportunity to rent face challenges in Hudson due to the lack of diverse housing. Hudson’s housing stock is disproportionately slanted toward single family units, as indicated in *Table 1c* on page 7. This could leave little opportunity for low to moderate income people to obtain rental housing and, with a vacancy rate of 0% in 2021 (NH Housing, 2021), it is nearly impossible for lower-income, younger people to move into Hudson.



Table 1a: 2-Bedroom Median Gross Rent per Month

	Dover	Exeter	Hudson
Municipality	\$1,467	\$2,427	\$1,526
HMFA	\$1,554	\$1,554	\$1,699
State of New Hampshire	\$1,498	\$1,498	\$1,498

(NH Housing, 2021)

Table 1b: Median Purchase Price for a Single-Family Detached Home

	Dover	Exeter	Hudson
Municipality	\$340,000	\$465,000	\$380,566
HMFA	\$367,500	\$367,500	\$397,000
State of New Hampshire	\$333,866	\$333,866	\$333,866

(NH Housing, 2021)

Table 1c: Housing Diversity (Single Family, Multi-Family as %)

	Dover	Exeter	Hudson
Municipality	43%, 26%	44%, 26%	67%, 10%
County	56%, 15%	65%, 14%	57%, 21%
State of New Hampshire	63%, 15%	63%, 15%	63%, 15%

(DBEA, 2021)

Results

After interviewing the developer of a LIHTC-supported housing development and planning officials of the three New Hampshire communities – Dover, Exeter, and Hudson – a thematic analysis was conducted. The purpose of this thematic analysis was to identify common themes between interviewees. This was done by reviewing notes and assigning codes for themes. A summary of these themes and some of the anonymized responses are as follows.

Time

The time a project takes to move through the approval process proved to be a relevant theme when talking to planning officials and developers. Both groups recognized that because of various bureaucratic processes, the time a project takes to move through the approval process can be substantial. However, planning officials and developers differed on when the bureaucratic process began. Planning officials said that the process can take up to 65 days between application submission and a decision by the planning board. Developers, on the other hand, identified introducing the idea of a project to the planning board as the start of the process, which they identified as taking anywhere between five months to a year to be approved by the planning board.

Cost

How much a project costs depending on time, land use regulations, and municipal capacity was an identified theme. Impact fees were

specifically mentioned in interviews as driving up costs. Depending on the community, impact fees could be issued as residential, infrastructure, or recreation/school. In addition to impact fees, developers mentioned that initial planning costs can range from \$40-\$800k. Planning costs were identified by developers to be dependent on whether they had to contract out to a third-party consultant or if town staff assisted in the process. Another major topic mentioned by both developers and planning officials was land cost, which both groups said is dictated by market forces and is largely out of their control.

Capacity

The ability of planning staff to help developers with the application process was a major theme within the interviews. A component of capacity was coded as collaboration, which includes community input on a project, “issue expert” input, and timing of collaboration. Developer-community collaboration *prior* to an application was identified as being particularly helpful in the approval process. Another component was education. Education was defined as the ability for planning board members to engage with the community and teach them about workforce housing as well as the knowledge and time commitment of planning board members to address land use regulations. A final component of capacity was identified as land use, which encompassed the ability to update zoning ordinances, update the master plan, and actively encourage workforce housing development through land use regulations. All three components

of capacity – collaboration, education, and land use – were the collective outcomes of both groups.

NIMBYism/General Attitudes

The fourth theme, not-in-my-backyard sentiment, often referred to as NIMBYism, and general attitudes, spoke to the cultural perceptions of both community members and planning board members. The first subtheme was community engagement, which both planning officials and developers saw as an opportunity for dispelling misinformation about workforce housing. Collaboration and compromise also fell under community engagement, which both groups identified as being vital to the development process. The final component of community engagement that both groups identified was legal intervention. Developers and planning officials provided examples of local rulings that were appealed through the court system. Through the interview process, anti-development emerged as a second subtheme. Here, both groups identified negative community perceptions of the impact of workforce housing, like a perceived increase in residents’ property taxes and traffic. Both groups also identified community resistance to workforce housing in general – specifically its terminology

– as well as abutters’ resistance to development because of private property rights. In contrast, a final subtheme was pro-development attitudes. Pro-development attitudes were characterized by both groups as existing among planning boards and sometimes among the community members. A phrase that came up when discussing pro-development attitudes was “forward thinking.”

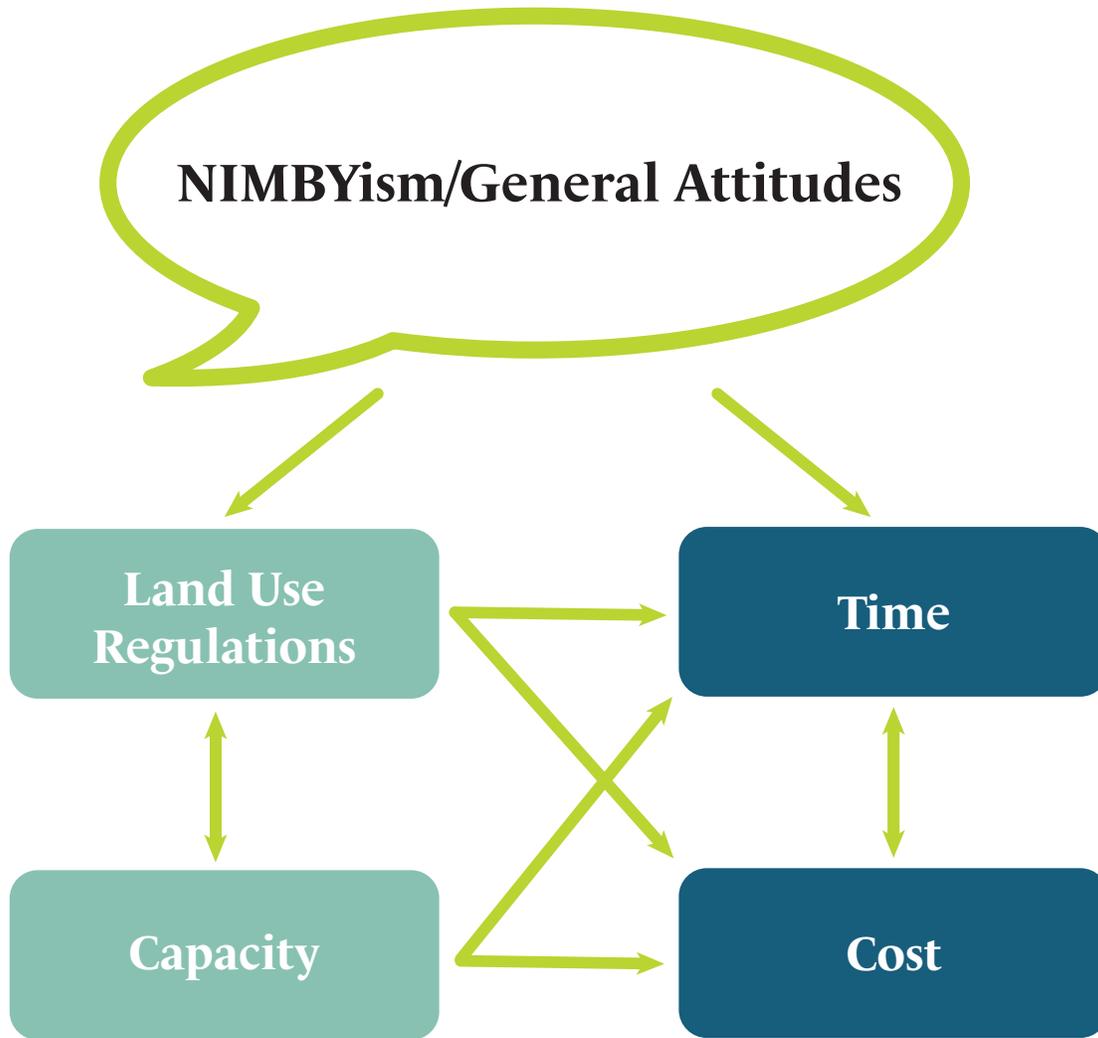
Land Use Regulations

The fifth and final theme to come out of interviewing town planners and developers is the impact of land use regulations on workforce housing. A subtheme to come out of this was to incentivize workforce housing. Both developers and planning officials agreed that having the regulatory infrastructure, or “setting the table,” allowed for workforce housing development. Both groups also pointed to specific regulations, like density bonuses, as incentivizing the development of high-density, workforce housing. A second subtheme to emerge from land use regulations was the idea of development-focused zoning, or that zoning ordinances should be digestible to those who have to work with them and should be targeted towards development.



Discussion

The five topics present in this research have a symbiotic relationship as each influences the other in some sort of way. This can be best illustrated in the following chart:



This discussion below utilizes a strengths-based approach, which describes how a client or client system identifies and capitalizes on their strengths to produce a benefit (Shulman, 2015). Using this strengths-based approach, this discussion will focus on how communities can use the themes identified to enhance housing development and create vibrant communities. However, it's important to acknowledge that the inverse is also

true – communities can use these themes to block development by creating barriers to development if that is their ultimate goal.

Community perception of workforce housing development has a great impact on the local approval process. These cultural attitudes can be characterized by either being pro-development or anti-development, the latter of which is referred to as not-in-my-backyard sentiment or NIMBYism.

NIMBYism can be the product of individualistic thinking, which was exemplified in the results. In all the municipalities, interviewees reported community members believing their property taxes would go up and traffic would increase because of workforce housing. In this way, the community members are expressing concern about their bottom line and want to protect it. Community members may also be generally against the terminology workforce housing. The term “workforce housing” is associated with low-income housing, which comes with additional stigma and unfounded fears. Property rights also come into play when talking about NIMBYism, where abutters to local developments argue that their private property rights cannot be infringed upon. Such attitudes have culminated in court cases, where abutters argue that they have a right to protect their property by preventing higher density housing developments from occurring near them. These sentiments create a hostile environment for workforce housing; however, that isn’t to say that there isn’t opportunity. Pro-development attitudes were framed as being mostly among planning boards, who want to advance community development in their towns. With a “forward thinking” attitude, planning boards can educate their communities about workforce housing and dispel common myths and misconceptions. Doing so successfully will create a supportive environment which, developers say, leads to a greater interest for development. The developers in this study want to invest in communities that are culturally open to workforce housing; they see this kind of environment as less risky for expending great amounts of time and money. However, developers must also look at structural opportunity, which presents itself in the form of land use regulations.

Opportunity for workforce housing development within local land regulations is central for community investment. This can be done by incentivizing development with specific regulations. Density bonuses, which allow for greater density in exchange for more affordable prices, is one example of an incentive for developers. Density bonuses allow for greater density with the condition that a certain number of units be dedicated to workforce or affordable housing. Having such incentives can increase the value of land for communities while also meeting a developer’s mission of creating affordable housing or mitigating financial risk. If zoning ordinances are digestible and manageable, the time a developer must spend looking for a usable piece of land can be significantly decreased. Additionally, if zoning laws are inclusionary or allow for mixed-use, a developer has a greater chance at meeting the community’s housing needs by looking at a wide array of design possibilities for their development. Such opportunity is going to be determined by the community’s attitudes towards workforce housing. Whether it be a planning board proposing an amendment to their zoning ordinance or a ballot vote at a town meeting, political will is going to impact the restrictiveness of land use regulations. Incentive-based zoning ordinances or workforce housing ordinances signal to a developer that the town wants workforce housing, both structurally and culturally. Despite the landmark case of *Britton v. Chester* and the subsequent passage of the workforce housing law, many communities still have very restrictive land use regulations. Developers tend to stay away from these communities. Empowering communities to amend their local land use regulations is critical to the development of workforce or affordable housing.

The capacity of a community to assess and amend its land use regulations is a critical factor and has a significant impact on a community's ability to create opportunities for the development of workforce housing. Dover, for example, can devote time to its Master Plan every year because it has four full-time planners. This kind of dedicated time means that they're able to practice community engagement, assess land availability, and update zoning ordinances to incentivize workforce housing. Hudson, however, does not have this capacity. With a town size of 25,000 and only one full time planner, its ability to update their Master Plan through community engagement, for example, is severely limited. Amending land use regulations is not the only thing impacted by a community's capacity; the level of project collaboration is also affected. For developers, having a municipal staff member available to assist in navigating regulations is immensely beneficial to a project's productivity. Having this input can save on the costs of a project since a developer doesn't have to contract out to a third-party consultant. In addition, if so-called "issue experts" (like a code enforcement officer or planner) can help give input on a project before application submission, they can work with the developer to identify changes or noncompliance through a collaborative process. This collaboration will ultimately reduce the time a project has to go through bureaucratic processes of design review and public input, especially if the community is involved in the initial planning process. However, both professional and community collaboration are contingent on if a community has the professional resources to engage in this work.

Projects, to be compliant with RSA 676:4, Administrative and Enforcement Procedures,

can only be before a planning board for 65 days starting when the formal application is submitted. This time does not reflect any time spent prior to the application submission, which is where a significant amount of work occurs. According to the developers interviewed for this report, the total time can be anywhere from five to twelve months. The level of technical assistance a community is able to provide to developers greatly affects the amount of time needed to move a project through the approval process. Of course, as mentioned before, a community can only help developers in the pre-application process when it has the capacity to do so, which many communities do not.

As the timeless saying goes, time is money, and this is certainly true for housing developers. Housing developments are incredibly costly, and time is one of the factors that contributes to increased cost and decreased affordability. Between the purchase of land, gathering of materials, and labor, developers bear the full weight of a massive – and risky – economic investment. Planning costs alone can make up a sizable portion of a developer's budget and are largely reliant on the capacity of a community to provide technical assistance. In addition, many towns have impact fees, which are charged based on whether the project will use municipal resources, such as schools, roads, and water and sewer capacity. While the direct cost of impact fees may not be terribly high (at least as reported by interviewees), they still add to the total cost for developers and may impact a developer's interest in a community. Ultimately, developers lean towards communities that are not going to greatly increase the cost of a development because of either a lack of capacity or regulations like impact fees.

Conclusion

Community engagement, collaboration, and compromise increase community receptivity and can dispel misconceptions about workforce housing. Having positive political will provides communities a greater chance of amending their land use regulations and setting the table for future development. These land use regulations are dependent, however, on the capacity of the local decision makers to amend them. This capacity can be gauged by the existence of collaboration between town officials and the community, the town officials and their ability to assist in the planning process, and if the project is discussed before the application is submitted. Capacity can also be measured by the town officials' ability to educate community members about the need for workforce housing.

Changing land use regulations to be more housing-friendly starts with first changing the way communities think about workforce housing. Continued education efforts like community listening sessions, surveys, and planning board workshops provide an opportunity to dispel misconceptions about workforce housing. Inviting the community to be actively involved in these efforts will also provide an opportunity for local officials to better understand the needs of their communities and work towards amending land use regulations to reflect those needs. Of course, local officials need to be able to engage in this work and don't always have the resources to do so. Although having paid staff like planners, engineers, or code enforcement officers significantly improves the development process, not every town in New Hampshire has the funding to support these

positions – and there are other resources available to communities including non-profits and regional organizations. For example, a regional planning commission (RPC) is able to assist a municipality with professional planning services. Further, if a municipality wanted to assess its land availability or current housing stock, an RPC would be able to do so. All of this is dependent on having adequate funding sources, and some towns may not have the time, staff, or knowledge to commit to these types of endeavors. Having housing-friendly land use regulations and a receptive community climate will vastly improve New Hampshire's supply of housing affordable to members of the workforce, but requires active collaboration between developers, community members, and decisionmakers.

Structural and cultural opportunity for workforce housing development is more than just building a house: it's rooted in people. There is no denying the human impact of workforce housing development. Whether it be a young couple looking to purchase their first home and start their careers or a older adults looking to downsize for retirement; educators looking to live in the communities in which they teach or laborers wanting to relax after a hard day of work, the people who meet our communities' needs deserve the opportunity to call it a home. The livelihoods of both our communities and neighbors are at risk; what are we willing to do to make a more inclusive New Hampshire?

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