

Report highlights challenges for apartment, condo builders in Greater Portland

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By Glenn Jordan

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A proposed apartment building behind the new village green in Cape Elizabeth would be the seaside town's first affordable rental housing in nearly half a century.

The project, which faces significant hurdles for approval, also shines a light on how difficult it is for developers to build much-needed multifamily housing in Greater Portland's overheated residential real estate market.

A new report on the region finds that only about 5 percent of land is designated for apartments and condominiums, and that local zoning restrictions meant to preserve community character and combat sprawl can have the opposite effect.

"Thoughtful multifamily development can contribute to the traditional New England feel of municipalities and also save them money in public infrastructure needs," reads the report. "If placed in growth areas, they will also provide transportation benefits by allowing residents to walk and bike to services."

Jeff Levine, who now teaches urban studies at the Massachusetts Institute of Technology in Cambridge after a seven-year stint as Portland's city planner, compiled the 31-page report for the Greater Portland Council of Governments by delving deep into the land-use regulations of Portland and surrounding communities of Falmouth, Westbrook, Gorham, Scarborough, South Portland and Cape Elizabeth.

Levine said greater cooperation among those seven municipalities – which make up the council's Metro Regional Coalition – can pave the way for denser development that both addresses affordable housing needs and aligns with other planning goals.

"I think the biggest surprise was that if you asked, 'Can you do housing with more than one unit in this part of your community?' the answer was often yes," Levine said. "But when you took it to the next layer and asked, 'What do I have to do to build it?' you find there are these practical impediments to doing so."



Justin Knudsen works on framing the first floor of a multifamily building on Main Street in Westbrook on Feb. 11. A new report on the region finds that only about 5 percent of land is designated for apartments and condominiums, and that local zoning restrictions meant to preserve community character and combat sprawl can have the opposite effect. *Brianna Soukup/Staff Photographer*

ZONED INTO OBLIVION

In Cape Elizabeth, for example, The Szanton Company is proposing construction of connected apartment buildings on adjacent lots next to Town Hall, set well back from Route 77. At a special workshop Tuesday night, Levine gave [a synopsis of his report](#) to the town's planning board, followed by Szanton President Nathan Szanton explaining his request for zoning amendments.

Szanton is proposing the creation of 49 one-bedroom apartments, with 10 rented at market rate and the other 39 earmarked for residents of low to moderate income, capped at 60 percent of the Portland area's median income. To make the project economically feasible, Szanton said, he needs zoning changes involving density, height, parking, building footprint and commercial space as well as a tax increment financing, or TIF, deal to bridge an estimated \$750,000 between resources and expenses.

"We know that we're making a large ask, and it's not at all a certain thing," Szanton said. "But we're encouraged that (town policymakers) are taking our proposal seriously and really giving it a lot of thought."

He unveiled the proposal earlier this month and listened in last week as the Town Council heard public comment – pro and con – before voting unanimously to send it to the Planning Board for further examination and potential zoning amendments.

Ultimately, the council will decide whether the project adheres to the town’s comprehensive plan and provides a substantial enough public benefit to justify the TIF and multiple zoning changes.

When asked about the possibility of two- and three-bedroom apartments, Szanton said he knows he can’t satisfy all needs in one development.

“But we know that there is tremendous need for what we are proposing, and we know it would fill up very quickly,” he said. “It takes a patchwork of different developments, and this is really just one.”

Many of the practical impediments described in Levine’s report are land-use regulations enacted when single-family housing was more affordable, and thus, more desirable. So communities created rules around minimum lot sizes and square footage per dwelling unit. Site plan review requirements are another impediment that add uncertainty for developers.

“I don’t think it’s been done maliciously or with any bad intention, but more along the lines of when ordinances were crafted, I think they put them in place to reflect the times,” said Matthew Sturgis, town manager of Cape Elizabeth. “It’s awfully tough to adjust those ordinances to what the demands are today.”

Town Planner Maureen O’Meara pointed out that Cape Elizabeth and Portland both have requirements that a percentage of major housing developments be designated as affordable. Even so, over the two decades that mandate has been on the books, Cape Elizabeth has added only 15 affordable single-family homes or condominiums.

Mary Ann Lynch, a member of the town planning board, listened to Levine’s presentation Tuesday night, which included both the regional overview as well as data specific to Cape Elizabeth, in addition to the mixed-income housing proposal by Szanton. When it comes to affordable multifamily housing, she concluded that, “We have de facto exclusionary zoning.”

The information in Levine’s report backs up Lynch’s conclusion, not just for Cape Elizabeth but for surrounding communities, as well. Similar findings emerged from a 2019 study by researcher Amy Dain on [the state of zoning in 100 cities and towns of Greater Boston](#), the inspiration for Levine’s report.



A crew works on framing the first floor of a multifamily building on Main Street in Westbrook on Feb. 11.
Brianna Soukup/Staff Photographer

FEAR DRIVES NIMBYISM

Last month, Massachusetts Gov. Charlie Baker signed into law an economic development bill that includes two provisions aimed at addressing the need for more housing options in the state. The first provision changes the requirement for success at the local board level for projects with multiple housing units from two-thirds approval to a simple majority. The second provision requires every community in the service area of the Massachusetts Bay Transportation Authority to create at least one multifamily zone near the local train station, so apartment dwellers don't need to rely on cars to get around.

“I wouldn't say there's a direct cause and effect between the Dain report and that legislation,” Levine said, “but it clearly influenced the debate.”

Levine's report already is having an influence in Greater Portland. Last week, the Metro Regional Coalition asked for \$350,000 in CARES Act relief funding through the Portland Area Comprehensive Transportation System to plan and align multifamily housing zones with transit corridors.

Also last week, the Greater Portland Council of Governments hired Levine to expand his study to include six more communities: Saco, Biddeford, Yarmouth, Cumberland, Freeport and Windham.

“We as a region have a housing shortage,” said Westbrook Mayor Michael Foley. “I think the report specifically showed that a lot of our communities don’t have the ability for dense development.”

In an effort to address the affordable housing shortage, Westbrook amended zoning regulations in its downtown area last year to allow for denser development. That change allowed Chris Wilson to double the number of apartments from three to six by adding a third floor to a mixed-used building under construction at 660 Main St.

Wilson said the original zoning required 2,500 square feet of land for every residential unit. The new overlay drops that requirement to 500 feet.

Foley said three projects with the new density allowances have been approved, adding a total of 68 residential units, but they have yet to be built. Moving too quickly, he said, can be problematic.

“If you all of a sudden make large parts of the city or the community available for dense development, it kind of creates community unrest,” he said. “Existing neighborhoods and neighbors get concerned. We’ve had difficulties simply with development occurring in areas where it’s allowed.”

Stringent zoning laws and land-use ordinances aren’t the only impediments to construction of affordable housing. Public perceptions of what affordable housing represents also result in pushback from local residents.

“We all want to be inclusive, and we want to have access and opportunity for all these people,” said Ryan Wallace, director of the Maine Center of Business and Economic Research at the University of Southern Maine, “but when it comes time for a big housing dwelling that is near our properties, people raise their arms about it and say it’s going to create traffic.

“They’re not going to come out and say directly what their real grievance is – fear – but people have a way to try to make an argument for why it shouldn’t be near them, but it should be somewhere else.”

The subjects of traffic and parking nearly always arise among objections to proposals for denser housing. Residents in less-urban areas also raise concerns about the changing nature of their town, the very nature that attracted them there in the first place.

“They’re worried about the investment in their house; they’re worried about the character of their community,” Levine said. “I think that needs to be counterbalanced with the goal to allow a variety of residents in a community and to grow sustainably.”

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