



Legalizing Residential Uses in Commercial Zones Can Strengthen N.H. Communities

Policy brief

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In many areas of New Hampshire it is literally illegal for shop owners, employees and customers to live in an apartment above or next to a business. Yet places that do allow such mixed uses are among the most vibrant and desired areas in the state, for both businesses and residents.

As state and local officials consider ways to create more housing and improve the economic and social life of New Hampshire communities, legalizing residential housing in existing commercial zones offers an easy and harmless way to do both.

Portsmouth regularly shows up on lists of New Hampshire's and America's most beautiful towns. In 2016, National Geographic speculated that it "might be America's greatest small town." It isn't just the colonial architecture. It's the vibrancy. In Portsmouth, living above or adjacent to shops, restaurants, taverns and coffee houses has been common for much of the community's four centuries.

Before the rise of automobiles and industrialization, towns and cities generally weren't separated into residential and commercial areas. Almost everyone worked within



walking distance of their homes, and many operated shops from their homes. Cities and towns as old as Portsmouth and Exeter offer a window into this pre-zoning past. And they offer insights into the value of allowing residential development in commercial zones.

No tourists, shoppers or diners come to Portsmouth or any other town to marvel at the residential subdivisions created by 20th century zoning ordinances. Strip malls in exclusively commercial zones attract shoppers who pop quickly in and out, but not tourists and residents seeking to experience the charm of an old New England town. People flock to mixed-use zones to enjoy a thriving community, a place brought alive by the mix of residential and commercial activity in one compact area.

Municipal bans on residential uses in commercial zones outlawed the creation of new communities like those found in downtown Portsmouth or Exeter. Only by lifting those bans can New Hampshire towns and cities recreate these lost places.

Instead of protecting homeowners from encroaching businesses, these bans “protect” businesses from encroaching residents. Yet this “protection” actually harms businesses,

residents and communities. Ending these misguided municipal bans would provide much-needed infill housing while reinvigorating communities.

Property values

A major misconception commonly used in defense of banning residences in commercial zones is that the strict separation increases property values. The opposite is true. Commercial real estate professionals have recognized for years that commercial properties close to residential properties tend to be more valuable, not less.

Residential properties also tend to command higher prices when located closer to economically active commercial areas. Contrary to popular belief, housing built near an economic activity center is significantly more valuable. (A 2022 study found a 26% price premium for housing built near activity centers in 2/3 of cities studied, and a 50% premium in a few high-growth cities.)

As a general rule, mixing residential uses into commercial zones increases the value of both types of properties. These higher values are a result of higher demand. Many people want to live close to shops, restaurants, nightlife and other “third places” where they can build social and economic connections.

Safety

Half a century ago, author Jane Jacobs noticed that crime in U.S. cities seemed to be lower in neighborhoods that enjoyed more activity in public spaces. Her “eyes on the street” theory held that more people on the streets, or watching from shops and homes, deterred crime.

This is a widely accepted view, though research is limited. But some researchers have found the theory to hold up under testing.

A 2013 study of crime in Los Angeles found that “single-use commercially zoned blocks in Los Angeles have crime rates that are 45 percent higher than similar blocks that include residential uses.”

A 2017 study of zoning and crime in Chicago found that commercial areas with higher-density housing were associated with lower crime rates. “Zoning which allows for mixed use structures may be preferable to more restrictive rules that aim for solely residential or commercial use,” the author concluded.

Opposition to legalizing housing in commercial zones often comes from the assumption that new residential units will be high density developments aimed at low-income renters, and will therefore reduce property values and increase crime. On the contrary, because this type of housing is in high demand, it is typically not targeted at low-income renters. That doesn't mean it will raise overall rents. Mid-range and higher-priced rentals attract people who leave lower-priced units, freeing those units for people with smaller budgets. This filtering effect is why the construction of additional housing units, even at the luxury end of the market, brings down overall rents over time. More supply lowers prices.

Community

The American Planning Association recommends mixed-use zoning as a way of improving community health and vibrancy. "Mixed-use development provides a variety of environmental, economic, social, and health benefits that can align with existing community priorities, including increasing physical activity," the association writes.

Far from harming communities, mixed-use development brings numerous benefits. Legalizing residential uses in commercial zones is a way to generate those benefits without imposing costs on existing residential neighborhoods. Because housing is being added to commercial areas, not vice versa, there are no concerns about bringing commercial activities into residential neighborhoods.

When the Ioka Theater in downtown Exeter closed, it left a void on Water Street. This year, the renovated building is back to life as a mixed-use space anchored by eight condominiums. With demand for office and commercial space still down after the pandemic, the housing portion of the redevelopment was important. All but one of condos sold before the coffee house opened in December, according to the Union Leader. The restaurant and retail space were unfilled at the start of this year. Had the town not allowed housing above the shop and restaurant space, the redevelopment might never have happened.

By giving property owners multiple streams of revenue, mixed-use zoning serves as a hedge against downturns in commercial and office markets. A building zoned exclusively commercial is at a higher risk of becoming completely vacant than one zoned for both commercial and residential uses. Vacant buildings bring down property values, increase crime rates and fracture communities. Mixed-use zones reduce the risk of building vacancies while bringing people closer together.

Mixing residential uses into commercial zones also creates more walkable places where businesses and customers mutually benefit from their close proximity to each other. It can reduce traffic congestion, commute times and feelings of isolation.

Conclusion

The colonial downtowns that make Portsmouth and Exeter iconic New England towns were once common throughout New Hampshire. Downtown Concord and Manchester also represent attractive, popular mixed-use districts that developed before zoning separated residential and commercial activities. These are the kinds of vibrant community centers that zoning made it difficult to recreate elsewhere.

A century after New Hampshire gave local governments the power to separate land by use, it's clear that municipalities took that authority too far. A power created to keep industrial activities out of residential neighborhoods has been used to keep neighborhoods from popping up in commercial areas. That makes no sense.

There simply is no public health or safety justification for creating commercial-only zones. As long as adequate infrastructure exists to support housing, its inclusion in commercial areas harms no one while creating numerous benefits.

The benefits of legalizing residential uses in commercial zones include strengthening property values, providing additional housing, increasing economic activity, lowering crime rates, creating a hedge against contractions in the commercial and office markets, and building stronger communities. These are all things elected officials say they want. If they really do, adding residential uses to commercial zones would help.