

# **LPAC/Town Council Joint Meeting**

## **Draft Minutes**

### **March 28, 2019**

#### **Attendees:**

Council: Councilors Svedlow, Asherman, King, Hemphill, Cahan and Ferrante.

Councilor Kuhn was absent.

LPAC: Rich Jordan, Sam Rudman, Becca Casey, Dimitri Balatsos, Sandra Lipsey and John Winslow.

The meeting was video recorded.

Facilitator Susan Gallant started the meeting around 7:00 PM and laid out the program for the evening.

Council Chair Caleb Hemphill welcomed everyone.

#### **Presentation:**

Becca Casey, vice-chair of LPAC, gave a presentation on LPAC and the work they have done to evaluate growth in Falmouth since the 2016 zoning amendments.

#### **Small Group Discussions:**

Attendees met in small groups to discuss their ideas and opinions and to answer the following four questions:

- 1) What questions for clarification do you have about what you just heard?
- 2) What did you like about what you heard?
- 3) What did you not like about what you heard?
- 4) What other ideas, suggestions, requests do you have on the proposed RA zone recommendations and/or other matters regarding growth and density in other zones; or topics related to growth and density (schools, taxes, traffic, etc.)?

Each group gave a summary of their discussion.

#### **Group 1:**

Michael Vance said there is a sense that the focus on the RA proposal was unexpected. They thought there would be a more comprehensive discussion on growth throughout the town. The format was also unexpected. It was difficult to fulfill the committee's expectations with the timing allowed. They had mixed opinions on current directions – some favored a total repeal of 2016 zoning amendments, some were more comfortable with a measured approach. Overall there was a desire for a more detailed and structured presentation, including history and a robust discussion of everything, including growth caps.

#### **Group 2:**

Bill McKenny from RA said his group focused on the recommendations for the RA zone. They wish there was more notice relative to these changes before they happened; they weren't sure what notice was provided. They recommend improved notice for changes in the future. They liked the ability to have an email blast, but in the past an individual in town got a hold of that information and used it to his benefit. The comp plan committee might want to consider option 2, creating sub-zones in RA relative to the character of each neighborhood. The group has spent a lot of time to go through this effort and they could implement a moratorium if timing is an issue. His group supported architectural design guidelines and widening the setbacks to something more like what they used to be. The town shouldn't allow multi-family dwellings

throughout the zones but should have higher density along Route 1 with apartments there, developers should pay impact fees, and the group supported accessory apartments.

**Group 3:**

Jamie Welch said the consensus was that the way the situation has been handled is a big issue, including the format of this meeting. They were not sure the vision of the town represents the wishes of the public. They were glad to know the unintended consequences are recognized, and they encouraged staff and committee to ensure that doesn't happen. They were encouraged that setbacks are going back, and lot sizes are getting bigger. They would rather go back to pre-2016 zoning.

**Group 4:**

Rich Bicknell said this is a huge task with lots of terms that needs to be digested; they would rather have plain English. They were unclear on the need to increase density in the town and the specific benefits of doing so. They asked: can we go back to the old standard and to consider environmental impacts of development in town?

**Group 5:**

Pete Doots reported that his group felt that infill lots should have public infrastructure to match the building, sidewalks, sewer, and should be compatible with density of the neighborhood. Planning needs to be involved on smaller scale to avoid stormwater issues and infrastructure impacts. They asked why this is happening now; it has only been a few years since the 2016 changes. Planning needs to be more strategic – why aren't we planning in 10-15-year increments instead of being reactionary.

**Group 6:**

John Heath said the group had differences of opinion – some wanted more stringent rules, some wanted to go back. They felt they needed a better explanation on how they arrived at these recommendations. They wanted to know where they could get the data that supported them. They didn't feel they had enough time before the new Council starts in July; they recommend they take more time to review this before decisions are made.

**Group 7:**

Tommy Johnson said a few people in the group weren't aware that the zoning was changed. They felt the town was making changes without hearing from residents and wondered where requests for zoning changes were coming from – residents or developers. They were grateful that members of public were willing to volunteer to work on the zoning. Glad to see the town was willing to listen. Town and LPAC are working together to find a solution. Glad for this forum to allow the citizens a voice instead of hearing just from developers. He pointed out that a flyer was put out by a citizen instead of just from the town. They didn't like that the previous communication didn't reach all of the stakeholders. They discussed a new, well-thought-out comp plan, an impact study on schools, traffic, etc. and spoke about slowing down development and listening to citizens. They asked: do we need to make Falmouth more appealing? The group felt that the town is already appealing. They suggested the town consider adding working rate housing for teachers, police etc. and consider that in development plans.

**Group 8:**

Scott Walker agreed with what has been said to date. General education and real-world examples instead of charts of numbers would be helpful. Keeping a lot of houses in a small area to conserve open space doesn't really work; they felt other development space should be set aside by developers to keep the town. They supported requiring developers to do more impact studies by impartial parties as part of the application process.

**Group 9:**

Kathy Nichols said her group had a lot of different opinions. They were confused why this is only about the RA district. What is the goal – trying to create more diversity in town? Creating more density in the more expensive side of town isn't going a great distance to embrace economic diversity in town. They asked why we can't have more organized development in the rural district without creating a tax impact. They wanted to develop to allow housing for elderly relatives. If we are going to increase density we need more impact studies first, and exempt housing should be included. Existing housing in RA should be grandfathered and receive more leniency with setbacks.

**Group 10:**

Michelle Sheldon said her group felt the amount of information was overwhelming and difficult to synthesize. They don't like the format and felt it silenced their voices instead. They wondered why this was only about RA; group members were concerned about West Falmouth. They felt they are turning more into a city; if they wanted to live in a city they would live in one. They want larger lot sizes in RA, closer to 2016 zoning. They wondered what other towns in the Route 88 corridor are doing like Cumberland and Yarmouth. Those towns have larger lot sizes. They wondered how the committee will process all this feedback and come back with a decision by Tuesday night. They were worried about the lack of impact studies – schools, traffic, infrastructure. They were worried about taxes going up and pricing out older residents. They were concerned about LPAC, how appointments are made, and how transparent they are. They wanted LPAC meetings televised. They didn't support multi-family housing and felt that accessory dwellings should be conditional. They wanted developers to pay impact fees and conduct impact studies. They wanted to preserve the character of the town and property values. They talked about other developments that are happening and had questions about the Habitat development and how it benefits the town other than raising taxes. They had concerns about councilors and their personal business. They were concerned about incentivizing growth when we already have the largest elementary school in Maine.

**Group 11:**

George Thebarg said if it weren't for the 2016 amendments he wouldn't be here. They allowed him to purchase a home and put an apartment in the basement; that's the only way he can afford to live in Falmouth. His group liked the increased setbacks, lot sizes and road frontage in the LPAC proposal. One member didn't like the constant changes; there is no predictability in zoning. They thought the zoning is too complex; the front setbacks are too small; and restrictions on existing home expansions should be looked at. They didn't like the lack of design controls on high density residential development; there are design controls on commercial development. They recommended 100-foot road frontage, increase front setbacks to 25 feet unless there is special design review, applying residential design guidelines and treating existing home expansions different than new subdivisions.

**Group 12:**

Tom McKeon said his group had members with existing building projects. They are not developers. This plan will make it impossible for them to do their projects. His group was concerned with growth in the schools and pollution. They had lots of ideas like impact fees to try and balance it out. They wanted to plan ahead for the impact on schools when there is development. Lots of people are open to the need for more affordable housing but acknowledged how hard that is to balance with tax impact.

**Group 13:**

Valentine Sheldon said his group felt the details were too much to handle in this format. People felt the format was unexpected and not helpful. They felt there was a need to prolong the decision process; felt it was rushed. They wanted more dialogue with residents; this is a huge change that will impact all taxpayers. They voiced a desire for a moratorium on building permits in RA to prevent a gold rush mentality in the district. All the members lived in RA and said developers were knocking on peoples' doors offering to split lots. They

had questions on whether this meeting was effective or whether this was a done deal. They wanted a definition of long-range planning; is it 5 years, or 10 years, or 100 years. They asked about Slide 13 in the presentation; they didn't understand why the impacts on schools, taxes and traffic, environment and infrastructure considered in LPAC's work. They asked why there was no mailer or town-wide announcements on changes to zoning. They felt communication was a huge concern. They question is what the optimal outcome is; what residents want and how do we get there. They suggested getting representatives from neighborhoods. They encouraged taking time and wondered why the rush. There is a lack of trust among the residents. The 2016 zoning has created a lack of trust in the government. They didn't feel the data was accurate. The focus on lot size doesn't take into account population size. This is more about the population size the lot allows for. The comprehensive plan included research into how many homes would be possible pre- and post-zoning, and the numbers show the town turning into a city.

**Group 14:**

Steve Dyer's group agreed with a lot that was said. The process now and back in 2016 is very abrupt and there isn't math and data behind the decisions. The numbers seem arbitrary and not evaluated based on impacts on the population. They wondered why this isn't hitting the other zones in town; the group included folks in RA and other zones. Other zones impact the schools too. They suggested a cost/benefit analysis on any development; including impacts on police, fire, and schools should be required. They supported impact fees. They wanted a comprehensive look at development in neighborhoods; multiple developments can go in side by side without measuring the impact of them together. They didn't like the response to the suggestion of rolling back to 2016; they felt that was a minimum step. It was never looked at reducing the building permit cap; that is something that can be looked at. Perhaps 65 is too big for a community of this size. There were no impact studies on that 65; maybe that is too big a number and could be reduced.

**Group 15:**

Jim Hauptmann said his group were all over the map. One of the concerns was that if they checked "no" on the survey that indicated that they were happy with the RA zone, which wasn't the case. It took several years for the committee and Council to develop the current plan, and the time since it has been revisited it was too short for them to make a recommendation of this kind. They supported a moratorium on further building until it could be studied further. They favor responsible development across town; they wanted the town to revisit the decisions that led to less density in rural Falmouth.

**Group 16:**

Amanda Henson's group had a good mix from all over town. A lot has already been said, but one point was that LPAC and the Council should go back to pre-2016 and do hard work on what it should be and not rush. To make decisions on growth they should look at impacts on schools, traffic and the environment of all development

**Group 17:**

Robert said his group agreed with the comments to date. They didn't feel there was transparency after 2016, nor do they understand the process used to come up with the decisions. They wanted to revert back to pre-2016.

**Group 18:**

Richard Frost wondered about fitting this into a general context. It reminded him about the development at Shaws where they needed impact studies and didn't have them. Schools, aging in place, and walkability need to be considered. The Council and LPAC are so immersed in this, they may not be aware how little communication the residents are getting. There was considerable surprise and confusion among group members on the format of this meeting and its focus on RA. Of the options presented, the group was divided between those who have property that is affected, and who wanted less growth. Some members have building

projects that would be prohibited if the zoning is changed. If changes are made, it would satisfy a vocal group of complainers and create a new group that is affected.

**Group 19:**

Rachel Sears said the group was pleased with the good faith effort of the committee to get feedback from the public but tonight doesn't go far enough. The proposal doesn't address the primary concerns of the group; they were unclear on the justification of 2016 changes. There is a need for more transparency. They requested more impact studies. The presentation didn't address the rationale for development changes and how those harmonize with the comp plan. There is a lack of communication. They were surprised on the focus on RA; they were asked to make micro decisions without a lot of macro information. They felt they need to do more impact studies and then reconvene to do more discussion when they have more information.

**Group 20:**

Steve appreciated what people have said so far. The group wanted to know the mechanisms for public input for crafting the comp plan and the 2016 zoning changes. Some liked that this the forum was designed to address concerns on high density growth, others felt this was intended to appease and/or distract. They moved to Falmouth because they like to have room and also be close to services. There was concern that more growth would wreck what they have.

**Group 21:**

Sarah Boudreau said her group all agreed that there was a willingness from LPAC and Council to listen. They felt it was important that there should be more discussion of issues that are a concern not just the zoning, but taxes, school crowding, traffic, environment, and infrastructure including police and fire. It is important that they don't understand why the town is making an assumption that growth is inevitable. They supported a moratorium. Zoning laws are intended to protect residents, but they felt the goalposts have been moved and it will possibly negatively affect residents.

**Group 22:**

Bart said his group wanted clarifications; it was assumed that there was basic knowledge on what is going on. They wanted to know why focus on RA and not overall growth. They wanted it more clear what areas are in RA. They liked LPAC acknowledging that the impacts might not be what was intended, the willingness to listen to listen, that the actual growth matches the intended growth. They didn't like the proposed changes were slanted toward multi-family instead of single family. That would drive up the costs of lots for single family homes. Proposed lots make existing lots worthless – grandfather clause. Single family does not seem to be the problem. The committees are too infatuated with density; this isn't Portland. They wanted to allow high single-family density but be more cautious with multi-family; the character of Falmouth is more single-family homes. Wanted impact studies for schools, environ, traffic, services.

**Roundtable discussion:**

The Council held a roundtable discussion and heard from members of the public.

Amanda Henson said this felt like deja-vu. It is a late night and it doesn't feel good to have this opportunity to speak this late. Lots of people have already left. She thought a lot of what has been put in place with zoning was well intended and based on the information you had at the time, but it's time to revisit it and make better decisions or clarify.

Councilor Ted Asherman asked if it is the comp plan or the zoning she meant. Ms. Henson said both things; the zoning came from the comp plan. The shopping center showed that there were a lot of things that should have been more spelled out, but she didn't know how it should have been done. Ted said they have had discussions and the Town is not far out from the 10-year comp plan process. They could look at moving that up to every 5 years, or 3 years.

Councilor Claudia King said development of a comp plan takes time; they get that there is policy and there is implementation and understand the pushback on implementation. The first thing they want to look at is the implementation. Changing policy is a lengthy policy; it doesn't happen overnight.

Jay Trickett serves on BZA and said he was concerned that there was no presentation that defends what the town did in 2013 and 2016 or provide the rationale. He has found the staff and board members to be people that are well intentioned and acting in good faith. If LPAC and Council are walking back what was done in 2016 that may be correct, but no one has said that what was done in 2016 was right, nor explained why it was done. A huge proportion of homes in RA were non-conforming; many remain so, but there are less than there were pre-2016. This has a huge impact on real people, and it is heartbreaking to see people come to BZA, who have lived in these older homes that are not up to code and they need to do something to make it functional, but due to non-conforming issues they can't do it. There have been people with serious medical conditions that can't put a ramp on due to setbacks. Based on what the town produced, the main reason of the 2016 changes was to alleviate that issue. His group didn't understand that. Not to say there shouldn't be changes now, but if people don't understand why the town did what it did, they have no way to evaluate what the town is doing now. He supported the neighborhood zoning approach. The 2016 changes actually helped a lot of people.

Councilor Aaron Svedlow asked if he felt the 2016 zoning was an effective tool to deal with the issues or was it a sledgehammer for a nail. Mr. Trickett said RA is not a neighborhood; it is a zone of neighborhoods. Each neighborhood has a different character. The idea that they are losing character with density - it is more nuanced than that.

Aaron said they wanted to focus on RA because they felt it could be addressed very quickly. The Council didn't feel it was a good zone the way it is structured. They acknowledge that it has a range of neighborhoods. The intention was to tweak this and then move on to a more comprehensive process to address growth in town.

Councilor Hope Cahan said they have had a lot of conversation on how this came about and that was not raised clearly here tonight. They need to remember that not everyone has listened to every meeting. They have talked about all the different pockets in RA and how one fix won't work for all of them, they have talked about the worry that change is happen very fast, and RA is where people were concerned that their neighborhoods were being chopped up very quickly. They didn't want it to get carried away before they could make change.

Mr. Trickett was grateful for the mailer he received. He wasn't aware that there was a proposed amendment to RA until a few days ago. He has spoken with people in the last few days and came tonight to register that, while the town has received a fair amount of feedback, it is always the case that people that are adversely impacted are easy to organize; there are a lot of people in town that don't share the consensus of this room. Those people are not coming to this meeting. They don't feel the need to come and say that they like things the way they are. It's hard to take the temperature of the town. This room was mostly full of people who are upset; he didn't feel that all the town is upset. It wasn't part of the discussion to keep the 2016 zoning.

Ted asked how they can reach out to the town to get people interested in meetings like this. Most people don't pay attention until a bulldozer shows up.

Bill McKenny felt the town should send a mailer for topics that are this important.

Lisa Joy said that it is hard to make broad conclusions. There was an incredible amount of information given tonight that was very detailed; one of the themes was how overwhelming that was. Many people came thinking they were going to talk about character of Falmouth and our trust in what was happening, not micro decision on RA. It was hard to determine what they wanted; the public wasn't going to be able to answer those micro questions. Also, she was expecting to hear response from Council and staff on the material that Valentine has submitted. It is difficult to decipher what is real from what is not. There has been no roundtable discussion with a comparison of facts to let people decide where they stand. That was what she was expecting. She didn't like the flipchart format. This is a passionate subject and people wanted to express their passion. She wanted the town to correct any misinformation that is out there and have their experts challenge that.

Claudia said the Council wants public input from all kinds of folks. They realize that presentations can be very lengthy and don't allow everyone to contribute. It was important based on the amount of feedback. They used this format to allow everyone to talk and get something down on paper. She felt LPAC and Council and staff accomplished what they set out to do this evening. She assumed there would be other meetings.

Councilor Andrea Ferrante is interested in being represented truthfully as a person, as a Councilor, and as a town. They didn't think they would hear from enough voices if they used the presentation format. The town is afraid to put anything out there because there has been so much attack, but it is their duty to put stuff out there. There should be another forum where they talk only about that. Staff and Council are so close to it, and see the information so much, they think it has been put out there adequately. She was concerned about making a change so quickly with the small lots that will be affected, but also concerned about the larger lots. This is on staffs' and Councilors' minds, especially what is happening at the school and the information from the residents isn't the whole story.

Lisa didn't like the language of nay-sayers and attack. She said Valentine has done some research; if it is wrong it needs to be called out, if it is right it should be acknowledged.

Andrea said there should be respect for what the town brings forward. She said there is only so much attacks the councilors can take. She would like to be treated humanely and treat the residents that way. She said more of this type of conversation is good. There is no conspiracy going on and the Council is working their butts off. They want collaboration and cooperation; the town works hard to be transparent. She liked the idea of sending out letters to everyone and she didn't care how much it costs.

Margery didn't think the Council is thinking outside the box. Growth is not inevitable. There were only three options available tonight. Would like to see the discussion opened to all Falmouth on zoning. Maybe some people would like more restriction than what was in effect before 2016.

Bill said committee members have a responsibility to the town and should be able to take comments without taking it personally. These are passionate property owners that want the town to be a comfortable place to live. He didn't buy that these are unintended consequences; he thought the 2016 zoning was well-thought out and they ran out of time and money and cut it short. He lived in Town Landing but wanted more space so moved to Carmichael Ave subdivision. Only one lot left in it when he bought it. Under the new zoning, a developer bought it and split it into 4 lots. There was a lot of upset in the neighborhood and they can't do anything about it. One more house would have matched the density of the neighborhood; now they will have 4 large houses, and those could be multi-family houses. The back lots have 50 feet of frontage at the 10-foot front setback but have created a sliver of frontage that narrows to 6 feet wide to serve the back-lot area; they put the two 6-foot areas together to install a driveway to serve both lots. He asked them to immediately implement a moratorium on all building permits in the RA until this is resolved.

Councilor Caleb Hemphill said they have seen these flagpole lots and shared Bill's concern. It is upsetting and disruptive.

Bill said his house is his investment and retirement and those lots impact his property's value. This is what the town has done consciously, to approve and initiate this.

Hope said this is why they are talking about RA tonight and working to escalate a decision on this district. They are not ignoring other parts of town, but this story is not alone.

Someone wondered if there was anything that can be done about Bill's situation. Claudia said the Council has discussed introducing a zoning amendment that is retroactive to the date of introduction.

One person said this is very emotional. He asked the Council to look at this from a technical standpoint; what they are doing has to be looking forward. People have already created lots. Mr. Trickett had an interesting standpoint. He wondered if they could institute a cutoff; everyone before this date gets this zoning, everything after this date gets this zoning. He echoed the observation that RA has many neighborhoods.

Bill said he is well-versed in zoning and has worked in development and on controversial projects. The only way to stop things in their tracks and think things out is with a moratorium.

The Council committed to having a conversation about a moratorium.

Adam asked what would happen to the people who have gone through the process and have a deed for a buildable lot. His lot has 25,000 sf with 100 feet of frontage.

Aaron has struggled with this issue – people who have made investments based on the rules in existence. They need to be thoughtful and careful. The Council and the community need to think how to address this and the impacts. Andrea agreed; they need to figure out how to protect Adam and Bill. They need to look at the whole zone and figure out a solution.

Valentine understood the comp plan was the main reason for the 2016 zoning. He felt that isn't a great reason to do a rezoning. He doesn't know of any town that has done it. You don't change the zoning because the BZA is overwhelmed. He understood that RA is massive range of lot sizes and neighborhoods and there is a way to deal with that. He supported the multi zone proposal. He thought that is where the town needs to get to. He thought the Council recognizes that. To get there takes a fair amount of time. The neighborhoods are pretty clear, you aren't going to get it 100 percent, but can get closer than using a huge broad brush. That brought the zoning down to the lowest common denominator.

Claudia said there was a knowledge that a significant majority of the lots in RA were nonconforming; that is not about load on staff but about residents being able to make adjustments/additions/renovations to their property without having to go to BZA. It was about being customer friendly. It was about character, and what was considered traditional, acceptable neighborhoods in RA. The first recommendations for lot sizes from LPAC were considered too small, and they doubled them.

Valentine asked, if one of the driving forces in the rezoning was to address nonconforming lots, what is the logic of doing a half-step now knowing they would have to change it again? The middle step would create the same situation that they are trying to fix in the first place.

Aaron said the task of dealing with the whole district is monumental. On the other hand, they have some acute issues that people want addressed. Another alternative, which he felt is more respectful of those that have made investments, is the path they are heading down now, with a minute change in RA and then multi zoning later.

George Theborge said there has been criticism of the process tonight, but he felt it was a good process and he liked it. There was good conversation and good comments. The venting was there but it was respectful. Everyone got a chance to participate. He felt something was being missed; the 2013 comp plan and 2016 amendment were not a sea change; this has been going on for 30 years. He was involved in 3 different comp plans and their implementation. They have always been moving toward this. There are some real gaps in understanding what is legal, especially the legal requirements for growth limits. This zoning supports Falmouth's growth limits. Changing the redirection of growth toward the growth areas would undermine the growth limits. There are legal requirements for moratoria too; there could be unintended consequences. He spoke about the development he did which couldn't have done without the 2016 amendments.



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It was pointed out that this is fluid and that people are encouraged to serve on Council if they want to make a change.

The meeting adjourned at 10:43 pm.

Respectfully submitted,

Melissa Tryon

Recording Secretary

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