

LPAC – GROWTH AREA IMPLEMENTATION - PROGRESS REPORT #1 - OCTOBER 2014

Draft: October 23, 2014

COUNCIL CHARGE

Excerpt from August 7, 2014 Council Work Plan:

21A	Study the growth areas to determine the historic growth patterns in established neighborhoods, such as The Flats, Foreside, Pleasant Hill, and Brookside, including density (lot size), dimensional requirements and pattern of development and compare the results to existing zoning requirements in these areas. Amend the Land Use Ordinance to reduce most of the non-conformities found.	2014/15 In process	LPAC
21B	Use the results to evaluate underdeveloped, undeveloped and currently developed parcels in the growth area and recommend new regulatory standards and incentives to promote compact, walkable neighborhood design and increase the development potential of growth areas, while respecting unique characteristics of neighborhoods	2014/15 In process	LPAC

LPAC has translated this into three related work components. It sees its task to recommend ordinance amendments and incentives for growth area to:

1. Re-align zoning requirements with existing building patterns in established neighborhoods,
2. Increase development potential of growth area, while respecting neighborhood character, and
3. Promote compact, walkable neighborhoods.

The overall goal of this effort is to locate significant majority of new residential development in growth area of Falmouth.

PROGRESS REPORT

Note: Three separate progress reports are presented below, but it is recognized that there are overlaps/connections between each of these parts.

1. Reduce non-conformity in established neighborhoods

BACKGROUND – It has been suspected that the current minimum lot size requirements in the R-A, R-B, and R-C districts in many cases are considerably larger than the lots in those areas that have existing homes on them. This results in so-called “non-conforming” lots and/or structures.

In the case of non-conforming vacant lots, this means that those lots can only be built upon under certain circumstances and, in some cases only with Board of Zoning Appeals approval, even though similarly-sized abutting lots may have homes on them. In the case of non-conforming built lots, this means that homeowners first need to seek approval as a conditional use by the Board of Zoning Appeals for any physical change that requires a building permit.

Besides adding time and expense for BZA applicants and a busy BZA review schedule, the current rules discourage improvements or expansions to be made to existing homes. This has led some homeowners to relocate to other locations in Falmouth or elsewhere. Not being able to build on certain vacant lots limits the capacity of the growth area to absorb new residential infill development. If non-conformities in the growth can be reduced, building in this area will be made easier, which will help encourage appropriate growth.

Secondly, conditional use permits are also required for all accessory dwelling units (ADU), requiring approval from the Board of Zoning Appeals. Accessory dwelling units are additional living quarters on single-family lots that are independent of the primary dwelling unit.¹ The separate living spaces are equipped with kitchen and bathroom facilities, and can be either attached or detached from the main residence. Two types of ADU's exist in Falmouth: apartments and cottages. Each property is allowed to have one ADU regardless of lot size. ADU's are typically quite small and must be subordinate in size to the main dwelling.

LPAC believes that ADU's, although currently relatively few in number, is a form of housing that may allow more people to age-in-place, or have family members live nearby, may help to increase the community's affordable and convenient housing supply, can blend in with surrounding architecture and be compatible with established neighborhoods,, and is efficient by accessing existing utilities. For these reasons LPAC believes that ADU's should be encouraged in an appropriate, stream-lined manner as it is an efficient way to use land in the growth area.

LPAC RESEARCH - LPAC has been investigating the extent of non-conformities in the R-A, R-B, and R-C districts. As there are lot variations within these areas, it identified and selected nine "sample" neighborhoods to study in more detail. It has found that in some of these neighborhoods non-conformities on lot size reach 79 to 94%. Lot width non-conformities range in some areas between 52 and 74%. Lot coverage non-conformities range from 39 to 97%. Non-conformities due to setbacks ranges from 86 to 100% of existing homes in the sample neighborhoods.

LPAC reviewed the current rules for ADU's and found that they were relatively restrictive, somewhat inconsistent, and not always clear to applicants. The BZA approval process seems to add a sometimes unnecessary additional step in the process. Research has been done on ADU studies and rules elsewhere.

Guidance based on past permit reviews was sought from the Board of Zoning Appeals and the Code Enforcement Officer in August-September. General guidance and advice on how to best grow in the growth area was obtained from other Town board and committee members on October 9.

CURRENT LPAC DIRECTION - LPAC is currently in process of examining possible, compatible reductions in minimum lot size requirements on a neighborhood basis. It has as a goal to limit non-conformities on lot size to a maximum of 25% in each sample neighborhood. New minimum lot sizes that are being explored in certain areas in the R-A district, which has a current minimum of 20,000 square feet, may range from 7,500 to 12,500 square feet. New minimum lot sizes that are being explored in certain areas in the R-B district, which has a current minimum of 40,000 square feet, may be around 25,000 square feet. Due to the wide variation in setbacks of existing buildings, LPAC is considering suggesting zoning ordinance language changes rather than suggesting across the

¹ HUD, Accessory Dwelling Units: Case Study, 2008: <http://www.huduser.org/portal/publications/adu.pdf>

board reductions in minimum setback requirements to achieve greater conformity. LPAC is exploring if those improvements/expansions that are unrelated to a specific non-conformity could follow a building permit process, rather than requiring a conditional use permit.

Regarding ADU's, LPAC is developing a proposal that simplifies the ADU rules and distinguishes between "large" and "small" ADU's. Small ADU's on conforming lots will be recommended to require only CEO approval. LPAC is exploring if small ADU's with nonconformities on lot width and setback could also follow a building permit process, rather than requiring a conditional use permit.

ORIGINAL WORK TASKS

- a. Review recent BZA application record in established neighborhoods (RA, RB, and RC districts) – Typ. lot size and setback issues? Typically approved? CEO/BZA considerations?
- b. Determine neighborhood character by examining existing lots and buildings – what are the prevailing lot sizes and setbacks in each "neighborhood"? Is there a particular "pattern?"
 - i. http://www.losaltosca.gov/sites/default/files/fileattachments/Building%20and%20Planning/page/430/neighborhoodcompatibilityworksheet_002.pdf
- c. Compare neighborhood patterns with current zoning requirements for each area.
- d. Assess in each neighborhood the number of vacant lots and acreage with development potential (lots with frontage on existing roads, absence of major environmental issues)
- e. Suggest ordinance modifications. These may include:
 - i. Requiring fewer future BZA applications for existing development
 - ii. Allowing development of any vacant lots that is currently not permitted

2. Increase growth area development potential

BACKGROUND - Appropriately-scaled, compatible infill development on vacant parcels will be one way to create residential units in the growth area. Another way is to reduce minimum lot size requirements, as described above, which may allow additional units to be built on already developed lots at densities already present in those neighborhoods.

LPAC RESEARCH – Not all vacant land in the growth area is suitable or cost-effective to be developed, nor do all owners of developable land have the inclination to do so. To get an idea of the development capacity of the growth area, LPAC is using GIS analysis to determine that using current zoning rules, as well as applying possible new densities. The idea behind this exercise is not to arrive at an absolute growth potential figure, but to have a sense of its magnitude. This can then be applied to anticipated growth projections.

CURRENT LPAC DIRECTION- LPAC has taken a, what can be considered conservative, approach by only taking into account built lots that are three times the minimum lot size (each of which could generate two or more additional units)and vacant lots that are five times the minimum lot size. A larger multiplier was used for vacant lots to allow for potential access and environmental limitations of those lots. Again, current and possible future minimum lot sizes are being applied so a comparison can be made. Outreach with real estate development professionals will be conducted on November 13. LPAC has started to make list of possible sites where, with property owner permission, these infill design ideas can be tested.

ORIGINAL WORK TASKS

- a. Do parcel inventory of all vacant land in growth, incl. proximity of existing utilities and presence of mapped environmental limitations (include areas in growth area that are not in “neighborhoods”)
- b. Do parcel inventory of residential properties in growth area that have lot sizes greater than X (X=5?) times the minimum lot size in their district (these may be defined as potentially “underdeveloped lots”).
- c. Meet with real estate community representatives to:
 - i. Understand market demand in growth area in Falmouth – what are today’s buyers looking for? What do tomorrow’s buyers want? (discuss physical parameters – lot size, building type/size, proximity needs)
 - ii. Identify specific ordinance requirements and other issues that inhibit appropriate development projects and suggest potential remedies
 - iii. Identify incentives necessary or desirable to enable appropriate growth area development
 - iv. Identify potential future development “pilot” sites in growth area
 - v. See also Chapter 4 starting on PDF page 57:
https://scholarsbank.uoregon.edu/xmlui/bitstream/handle/1794/8456/Portland_Infill_and_Redevelopment_Strategies.pdf?sequence=1
- d. Explore development possibilities (and road networks) for pilot sites through sketch plan exercises and test these against current ordinance
- e. Suggest ordinance modifications and incentives that will promote appropriate development

3. Promote good neighborhood design

BACKGROUND – Infill development requires that is compatible with what exists around it and acceptable to neighborhood residents. Besides appropriate densities and setbacks, new developments may need to include certain neighborhood features that will allow them to be embraced, rather than resisted.

LPAC RESEARCH – LPAC has started to investigate good neighborhood design characteristics by examining existing developments in Falmouth and the region, as well as researching “best practices” literature on the subject.

CURRENT LPAC DIRECTION – See above for possible application of design ideas in pilot test sites.

ORIGINAL WORK TASKS

- a. Review/visit recently-approved and built residential projects in growth area
- b. Review and visit built “example projects” in region
- c. Review “best practices” literature on neighborhood infill design
 - i. http://www.maine.gov/dacf/municipalplanning/docs/traditional_neighborhood_handbook.pdf
 - ii. http://www.nrdc.org/cities/smartgrowth/files/citizens_guide_LEED-ND.pdf
- d. Suggest ordinance modifications and incentives that will promote good neighborhood infill design

Prior Falmouth studies on this topic are:

- Compact Development Study, 2005:
http://www.town.falmouth.me.us/Pages/FalmouthME_BComm/LPAC/docs/2005_Compact_Development_Study_Report8.5X11.pdf
- Compact Development Study, Interim report, 2007:
http://www.town.falmouth.me.us/Pages/FalmouthME_BComm/LPAC/AppendicesFolder/Appendix10

ADU Examples

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	ADU size	Other
Santa Cruz, CA	500 sf max for lots between 5000 and 7500 sf. 640 sf max for lots between 7500 and 10,000 sf 800 sf for lots in excess of 10,000 sf	As part of its technical assistance program, the city of Santa Cruz published an ADU Plan Sets Book that contains design concepts developed by local and regional architects. Homeowners can select one of these designs and receive permits in an expedited manner. In addition, the city offers an ADU Manual, which provides homeowners with information on making their ADU architecturally compatible with their neighborhood, zoning regulations relevant to ADUs, and the permitting process.
Portland, OR	800 sf max	ADUs that meet all the standards are permitted by right and do not require a land use review.
Mercer Island, WA	900 sf max, excl. any garage area. 80 % of total square footage of primary dwelling, excl. garage area	
Lexington, MA	1,000 sf max	If a property owner cannot satisfy the criteria for by-right accessory apartments that are set forth, the property owner may apply for a special permit from the Board of Appeals.
Wellfleet, MA	1,200 sf max.	
Fauquier County, VA	1,400 sf max for family dwelling units (= detached accessory units for use by the homeowner's family members)	

ADU Resources

http://www.mass.gov/envir/smart_growth_toolkit/pages/mod-adu.html

http://www.mass.gov/envir/smart_growth_toolkit/bylaws/ADU-Bylaw.pdf

<https://www.planning.org/pas/quicknotes/pdf/QN19.pdf>

<http://www.mrsc.org/GovDocs/s42ADUrpt.pdf>

<http://accessorydwellings.org/>

<http://www.cityofsantacruz.com/home/showdocument?id=8875>

<http://www.mrsc.org/Publications/adu30.pdf>

http://assets.aarp.org/rgcenter/consume/d17158_dwell.pdf

<http://www.huduser.org/portal/publications/adu.pdf>

<https://www.portlandoregon.gov/bds/36676>

<http://www.seattle.gov/DPD/Publications/CAM/cam116b.pdf>

<http://www.mercergov.org/files/ADUapp.pdf>

http://www.per.saccounty.net/applicants/documents/housinginformation/adu_manual_0612.pdf

<http://www.adupdx.com/Resources.php>

http://www.cityofgolden.net/media/pdf_205.pdf

<http://www.cityofgolden.net/city-services/accessory-dwelling-units/>

http://www.cityofgolden.net/media/pdf_4.pdf

<https://accessorydwellings.files.wordpress.com/2014/06/adusurveyinterpret.pdf>