

Public Comments received for LPAC on 2/28/2019 RA proposal – Part 2

Last Update: April 2, 2019

April 1: From Anne Lively

I am hoping that you will consider rolling back the rezoning of 3 years ago. When my husband and I moved to W. Falmouth years ago, we never envisioned the character of our beautiful, leafy corner of Falmouth changing to something quite the opposite.

Sincerely, Anne

April 1: From Steve Grimshaw

Thank you for organizing the public forum on 3/28 regarding the RA zoning district. The residents of Falmouth are clearly interested in this subject, as evidenced by the hundreds of attendees. As I am sure you noticed, the feedback from almost everyone was some variation of the following: slow down, reconsider, rollback to pre-2016 rules, put in a moratorium, etc. **If the 2016 zoning is what the Council and LPAC came up with to “fix” some apparent problem, then I don't really understand what the “problem” was in the first place.**

Why I moved here

I live in the RA zone on Middle Road. I've lived in Maine my entire life, lived in Portland as a young adult, and moved to Falmouth in 1994 when my first child was born. I wanted what practically all Falmouth residents want and value about Falmouth: a safe community, great schools, fiscally responsible local government, easy access to the city but also easy access to nature, and some personal breathing space/elbow room. I like my neighbors, but I frankly don't want them to be “too close”. That's why I don't live in Portland anymore. Been there, done that.

My concern and the concern of hundreds of other people at the forum is this: **the new zoning is going to turn significant parts of Falmouth into “North Portland” if it isn't reconsidered.** Falmouth is a desirable community for all the reasons described above. I believe that could all be wrecked by the potential surge in growth that would be encouraged by the current zoning rules.

In the dark

I have to confess that I was oblivious to these zoning changes until last month. Like many people, my work demands most of my time and I don't actively seek out involvement with local government. Over the last few months, I have noticed several houses being built in my Pleasant Hill neighborhood. They seem to be popping out of nowhere, being built on unusually small carve outs of other properties. I still didn't figure out what was going on until an appraiser informed me that my 2.6 acre lot could yield some smaller house lots that could be sold off. Then a week later I got Theo's postcard. I guarantee you there are numerous other RA residents that are not aware of the impact of the zoning changes on their property, unless a developer has been knocking on their door. Judging by the activity in my area, I think that effort is in full swing. I may have been unaware of what was happening just a few short weeks ago, but I am paying attention now.

Growth

I'm an enthusiastic proponent of economic growth. New businesses, expanding business, higher wages, savings and investment: all these things are good for the individual and society as a whole. But you need to remember that capital, and to a lesser extent businesses, are either highly mobile or relatively

mobile. If a better job, a better investment, a better business location avails itself, individual workers, capital or business makes a moves to it's place of best use.

But from the standpoint of creating and maintaining a community as a great place to live, the growth of population and housing is different. Families move here and make a significant investment to make Falmouth their HOME. Most of them stick around for a long time. Falmouth does not have a high turnover of residents. And unlike capital or businesses, if conditions become undesirable, it is much more burdensome and disruptive for a family to sell their home and move away. So, I would assert that "growth" of the population and housing units should not be a goal of the town, nor should that ever be the goal of the town. We all expect organic and natural growth, and thoughtful zoning rules would manage that. By contrast, the 2016 zoning rules are rolling out the red carpet by actively encouraging accelerated growth. To be blunt, that is not your job.

What is the real impact?

Like the laws of physics, the economic laws of supply and demand are always at work. Higher density housing and smaller lots will increase the supply of housing in a given area, exerting downward pressure on the value of neighboring properties. Current residents who aren't interested in chopping up their lots will not appreciate that.

According to the LPAC February 2015 report, it appears that as many as 3,758 single-family housing units could be added to the RA zone. *By any metric, that is a staggering number.* It would be staggering even if it were half that figure. Furthermore, it is my understanding that no one has conducted an impact study to determine the potential increased costs for school enrollment, police and fire coverage, water and sewer service, road improvements and so forth. Please correct me if I am wrong, but if no impact study was done, that is breathtakingly irresponsible.

Who are the zoning rules supposed to benefit?

The town belongs to the taxpaying citizens that live here. We pay for it and we run it. By extension, the zoning laws ought to reflect our commonly shared desires for the community, inasmuch as our common goals can be agreed upon in an open and inclusive democratic process. Zoning laws are supposed to protect the interests and the property values of the residents and property owners that are already here.

Step back

The residents who are engaged in this issue are clearly aware of another law of economics: the law of unintended consequences. Clearly, the current RA zoning opens the door wide to a Pandora's Box of unintended consequences. At the very least, I would urge the Council and LPAC to adhere to the doctor's Hippocratic oath of "do no harm". **A rollback to pre-2016 zoning would be an excellent start.**

It is obvious that you understand these concerns or you wouldn't have organized the forum. Your decisions will directly impact our private property and the town we call home.

Sincerely, Steve Grimshaw, 52 Middle Rd.

April 1: From Lynn & Tony DiPietro

I would like to submit our view for the Zoning Recommendations for the RA District. We are in favor of leaving the 2016 ruling in place. We are one of many residents that have split our lots under this ruling. We have spent time and money having surveys completed and recorded. We have one lot left which

requires us to wait another 5 years before we can legally divide this under the Town specifications and you are deciding to have the rules changed back and we will loose this final lot?

Granted, we have been fortunate to have the other lots sold but how can you change guidelines only after 3 years in the making? I hope you are considering some type of "Grandfathering" for some us in this predicament that have spent time/money.

Alternately, leaving the 2016 guidelines in place would alleviate the back log of the Zoning Board having to grant variances for non-conforming lots.

We have lived here for over 55+ years and have never seen guidelines in place and then revert back because a select few have decided they don't like it. We are thinking of retiring in a few years and would like to count on the option that our asset is still there for us to either build or sell it.

Thank you for your consideration!

April 1: From Marjorie J. Getz

Pusuant to Title 1, Chapter 13, ss 400 *et seq*, I am requesting copies of all emails and/or other documents generated by or received by your office between March 27, 2019 and the time of your receipt of this request. This request encompasses any correspondence regarding the results of the March 28 public meeting, as well as planning for the LPAC meeting planned for April 2.

I've read everything from the March 28 meeting that you posted on the Town web site, so don't need that-----thank you. I'm specifically interested in any correspondence between the LPAC members or the Council, and your office . I apologize for the late request before the April 2 meeitng, but obviously things are moving swiftly.

Thank you in advance, Marjorie J. Getz, J.D., C.F.A., 33 Old Powerhouse Rd.

April 2: From Ken Bixby

Hello again, Caleb.

My thoughts on matters of the 2016 Zoning Revisions follows. Can you please forward my concerns to your fellow Council members -- and if you see fit, to anyone else.

Thanks much, Ken Bixby

Council Members --

It is high time that a concerned Councilor step up and propose an Ordinance Amendment --

in writing, under Section 213 of the Town Charter -- with the stated "purpose" of expeditiously reining in the undeniable and unmanageable growth that has resulted -- and will only get worse over time -- from the implementation of the 2016 Zoning Amendments. The "title that is descriptive of the wording of the

Ordinance" should be: All of the 2016 Amendments will be voided and be replaced with the pre-2016 Ordinance.

Please try to understand that taking this temporary measure will in no way undermine the goals of the 2013 Comprehensive Plan. Everyone in town knows that the most important new element of that Plan is to finally put some teeth into the directive to begin to move future growth to designated growth areas, in order to preserve as much of the open rural area as is practical. I am not aware of a single person who hopes to change that goal.

Hopefully all of us here thoroughly appreciate the State directive that our Ordinance must follow -- or be consistent with -- our Comprehensive Plan. This would include *all* of the goals that are included in our Plan.

If you have not done so in a while, perhaps it would be instructive to read through the Plan.

In it I am certain that you will be able to uncover for yourself language that requires Ordinance to limit development in a manner that will promote a prudent [affordable] rate of tax increases. You will also no doubt find language that demands that Ordinance protect the enjoyment of our residents at their properties -- which of course would tie directly into the demand that characters and characteristics of neighborhoods *be preserved*.

If you look closely, you also will find that our Comprehensive Plan *specifically* states that [in perfect harmony with State directives for CP's] there is *no directive whatsoever that in any way promotes growth* in this town.

What the State does say is that, *whenever possible* new, planned growth in growth districts should be *adjacent* to established dense neighborhoods -- which clearly demonstrates that even the State recognizes the need to preserve the nature of existing neighborhoods.

The State, and our Comprehensive Plan allow for breaking down growth caps by rural and growth districts -- so we're all good with that. But one has to ask -- if your main goal is to preserve rural open space -- *why on earth did you set the growth caps so unnecessarily high?*

Actually, I am very concerned as to whether all the members of this Council are even aware that there is a State of Maine Statute that must be taken into consideration if a town is to set growth caps. If you have never done so for yourself, *please* take a look at Subsection 4360 of the Maine State Statutes. There you will find that the growth caps back in 2016 could have been set at roughly half the rates than are in the books right now, and that are wreaking havoc with neighborhoods, and with school overcrowding that portends painful tax increases dead ahead.

With the huge percentage increase in dwelling unit permits that we have seen since enactment of the 2016 Zoning Amendments [as compared to the previous 10 years, exclusive of the Ocean View anomaly], the minimum growth cap will now be skewed higher than it would have needed to be if the minimum -- *or some figure that at least took it under advisement* -- had been made use of.

At the recent March 28th forum a presentation was delivered by the LPAC that contained *several* statements that were shockingly inaccurate. For example, after showing a line graph that laid out the number of dwelling permits over roughly the last ten years -- and explaining that the Senior Housing blast that occurred one year, was on the low end of the types of housing that were likely to burden services -- the presenter concluded: 'So you can see that the growth over this period has held steady.' This, even as the years 2016, 2017, and 2018 took off like the trajectory of an airplane, from what had in fact been a level line prior to that -- AND SIMPLE MATH SHOWS THE WORLD THAT GROWTH TOOK OFF APPROXIMATELY 80% DURING THE TIME THAT THE PRESENTER "INFORMED" CLOSE TO 200 CONCERNED RESIDENTS THAT IT WAS LEVEL!

The presenter at the forum also stated that impact studies -- that surely would have wisely informed all Planners and Legislators -- were not done [and will not be done]: 'because they are too complicated'. In my opinion? This is nothing short of "willful ignorance" on the part of every single person who claims to be a Planner, at any level, in the Town power structure.

So the presenter [and everyone else, across the Board] *knows* that dwellings that have families with children have a wildly skewed cost impact on our taxes, meaning that the higher the growth numbers of such houses the more money the rest of town will have to produce to "subsidize" their children's education.

That's fine. We get it. But do *something* about limiting it! You *can* lower the growth caps while you still have time. {Are you telling me that not one single person felt it was worth the effort, as a responsible Legislator or Planner, to do a simple forward analysis as to what the costs would be to the taxpayers if the majority of the new dwelling units were inhabited by families with an average of two or three children? Nor are they willing to look that reality in the face today, and inform the public with their results when they come in? I personally find this shameful.}

Virtually the only communication that residents were able to send directly at Council members last Thursday night was by way of written comment at the bottom of the survey sheets.

I scrolled through them. [Did you?] Of the roughly 50 people who wanted to write something, possibly 3 mentioned that they were in favor of the 2016 Zoning Revisions. The vast majority of the rest expressed deep dissatisfaction with ramifications that are hitting the town from so many directions -- with probably at least 30 calling for outright repeal of said zoning.

It seems that much is being said of the vast amount of work that went into finalizing the well-intentioned 2016 Zoning Amendments -- and it is asked that people respect, and perhaps even honor that herculean effort. Further, it is often stated that the majority of Falmouth residents enthusiastically supported the Amendments, because they recognized the critical timing of doing whatever is necessary to preserve open space in the rural districts.

Well I don't know for sure about any of that. What I do think I know is that other than that one goal, not a word was said about the pain our existing residential base was likely to experience shortly down the road.

In other words, conditions on the ground are no longer what they were back when everything was in the glorious stages of unencumbered imaginings.

Let's say that 100% of everybody in town back in the years from 2012 and into 2016 were in favor of the Comprehensive Plan and its resultant Zoning Amendments... *Could it be any more obvious that large numbers of those supporters, who are facing dire disruption in their home living space, have every right to ask you to stop the madness* -- and at the very least you put in a good faith effort to find sensible paths to meeting the goals of the 2013 Comprehensive Plan?

[paths that are *consistent* with its clear directives...]

If we really wanted to know what percentage of the town remain in support *today*, and what percentage would like to start over, we *could* do that. And while I am well aware that

[most?] who live in the rural districts may not at the moment be too exercised about the plight of the growth district residents, my sense it that if this Council were to commit above all else, to work on providing reasonable protections to existing dense neighborhoods -- while at the same time keeping the plan to protect open space in the rural districts in full tact -- we would all [each and every one of us] find ourselves on a happier and more peaceful path into our futures.

If one of you should see fit to move forward with proposing an Ordinance Amendment that would in effect repeal the 2016 Zoning Amendments -- which I understand may *feel* like we are all taking an embarrassing step backward -- this in reality would be the *first step* that needs to be taken to *move forward* with repairing the flaws in the original plan.

How many times have we lectured our children that experiencing failure is a necessary evil we all must face as we work our way along the path to success?

Good Lord, did anyone really think that a plan that was this complex would go forward without a hitch? *Everything* that has gone before can be made use of in very positive ways. I'm sorry to say it, but you are the ones that for better or for worse find yourselves in the position of having to take up this mantle.

I do not say this with even the slightest bit of meanness: *If any one of you do not feel up to taking on this defining, socially responsible task, you need to be honest with yourself, and think seriously about opening up your slot for someone who has the passion and the time to get our Ordinance in line with our Comprehensive Plan.*

When I hear that RA neighborhoods cannot be broken up individually -- on the basis of their unique characteristics -- because "it will take too much of our time", I understand the sentiment, but in this case it makes me cringe. I'm sorry, that is not a worthy excuse.

And it is the *only* way to stay consistent with the Comprehensive Plan [as described above].

Ken Bixby -- Farm and Forest District concerned resident.

April 2: From Ken Bixby

{Please forward to Caleb, to forward to Council members, and LPAC members if deemed appropriate... with accompanying letter.}

Fact correction to Ken Bixby's letter to the Council:

Residential growth in the years post 2016 zoning, on average -- as compared to residential growth, on average for the nine years previous to the 2016 zoning:

-- When comparing units subject to the growth cap, average growth was **40% higher**.

-- When comparing residential units that include exempted units, the average growth for the post 2016 zoning was **67% higher** than for the nine years previous.

The 80% figure I used in my letter was the average growth over the last three years, compared to the State and Town [Comprehensive Plan] "forecast" of a 50 unit average.

Either way you look at it, the growth since the 2016 Amendments shows clearly on the chart presented at the March 28th forum -- even though the presenter told everyone in attendance that growth was "LEVEL". { Why would she not present these facts accurately? -- simply stupefying! }

And while I'm documenting incredibly disturbing utterances from top Legislators and Planners in Falmouth, recent minutes of an LPAC meeting quote a current Council woman

as stating:

"We can't rework zoning because it would defeat the goals of the Comprehensive Plan."

This statement could not possibly be further from the truth, and is *highly* worrisome. Please *read* my letter, if you need further explanation.

April 2: From Michelle Sheldon

I am emailing to request that the 2016 Rezoning be rolled backed ASAP and that a building moratorium be implemented ASAP in the RA district.

One of the most impactful moments from Thursday night's forum was when Bill McKenney on Carmichael Ave spoke. His predicament is real and is a direct result of the policies you have all put in place. It was so upsetting to hear the council discount the severity of the situation by saying repeatedly this is just one of many similar situations you've heard about. Whether it's 1 or 100 residents whose financial livelihoods and quality of life are being threatened, it's your duty to help them. Remember, the residents of Falmouth are the stakeholders - NOT developers and real estate agents as you mistakenly identified while creating the comp plan and 2016 Rezoning.

The residents' mistrust of the counsel and town officials came across loud and clear on Thursday and in the countless emails you've all received. This is your chance to prove to us that residents' needs come first - that you, in fact, see US as the stakeholders.

Roll back the 2016 rezoning and implement a moratorium in RA immediately while you do the necessary work to create a plan that is right for the RESIDENTS of our town. This will go a long way towards rebuilding our trust and quite honestly, will help you all save face. If you act now to protect residents, the whole tone in the town will change. Other than George Theborge and Jay Trickett, you will not find one attendee of Thursday's forum who would disagree with this plan of action. And it needs to be said

that the likes of George Theborge and Jay Tricket are once again not your stakeholders. George's website says he works for municipalities and developers and is skilled at navigating politics – clearly something he was attempting to do on Thursday – and not to mention that he was left his post here in Falmouth under controversy! Jay Tricket works for the BZA – a conflict of interest. You need to take care of residents who are here to live, not to exploit our land for financial gain. What will be left after you allow those individuals to plunder our town? We need to instead refocus priorities on protecting our land and our people before what's special and sacred here is gone forever.

Also this needs to be mentioned – the 4 structures (1 old and 3 new) that are planned for Carmichael Ave are expected to be rentals. This is insane. Not only will that cluster of structures destroy the feel of that street, but it will completely change the character of RA. Falmouth was never intended to be a rental community. You need to STOP this immediately.

Do the RIGHT thing.

Please share this message with all LPAC and Town Council members.

Michelle Sheldon, 169 Foreside

April 2: From Valentine Sheldon

Dear LPAC Members,

I WANT YOU TO RECOMMEND A ROLL BACK TO PRE-2016 ZONING ORDINANCES.

There are many, many reasons this is the best option for our town:

1. FAITH MUST BE RESTORED IN THE PROCESS AND TOWN GOVERNMENT It is very clear from attending Thursday evening's forum, that there is a prevalent and pervasive mistrust of our current town government and specifically how land use policy's are, and have been developed and implemented. "Hitting the Pause Button" by rolling the zoning back would go a long way towards fixing this dangerous and divisive environment.

2. RESIDENTS HAVE BEEN DISENFRANCHISED AND WANT THEIR VOICES HEARD Another strong and recurring theme Thursday evening was most resident's feel disenfranchised and cut out of the decision making process in regards to land use policies. Rolling back the ordinances would acknowledge this mistake by the town, and change the conversation from adversarial to collaborative.

3. RESIDENTS ARE CONCERNED WITH UNINTENDED CONSEQUENCES There were no impact studies conducted before the 2016 rezoning and the town is suffering the consequences. It was clearly evident Thursday evening and in emails and published letters in local newspapers, that that is unacceptable.

Any "quick fix" interim recommendation will not be properly vetted with impact studies either. Residents are demanding they be done. Rolling back to pre-2106 rezoning will alleviate this glaring, large problem.

4. RESIDENTS DO NOT WANT A RUSHED FIX

It was clear from the Public Forum, resident's do not want hastily thrown together quick fixes. They do not want more unintended consequences. They want and deserve as much certainly as possible.

Rolling back to pre-2016 would provide that certainty and the time necessary to make thoughtful decisions on how their property is zoned.

5. AN INTERIM QUICK FIX IS ILLOGICAL

A quick fix is just wrong (see above) for our town. It is illogical as well:

The number one reason for dramatic 2016-rezoning in RA was to decrease the amount of non-conforming lots (that number was not high to begin with for a 300 year old town). Knowing that the final fix for RA is multiple zones, it is illogical to do an "interim fix" that will ultimately cause even more new non-conforming lots when it is changed. MEASURE TWICE or THREE TIMES. CUT ONCE.

6. THE TOWN COUNCIL HAS OFFICIALLY STATED THE 2013 COMP PLAN IS FLAWED AND NOT WORKING

The opening remarks by Council Chair Caleb Hemphill at the Public Forum acknowledged the 2013 Comp Plan is not working and needs to be revised.

LPAC's #1 recommendation for fixing RA (slide #22) - "Roll back to Pre-2016" is NO LONGER CONSTRAINED by the acknowledged flawed 2013 Comp Plan. Consequently, YOU CAN RECOMMEND YOUR #1 OPTION NOW!

Please share this with all LPAC and Town Council members and everyone else who will benefit from the information.

Sincerely, Valentine

April 2: From Valentine Sheldon

Dear LPAC Member and Town Council,

I WANT YOU TO RECOMMEND A ROLL BACK TO PRE-2016 ZONING ORDINANCES TO THE TOWN COUNCIL!

Please take the time to review my housing & population numbers:

Disclaimer: **The underlying data, like all data I use, is data provided by The town.** This set of data was gathered from pages 9 -10 of LPAC's "Comprehensive Plan Implementation Growth Area Recommendations – Year 1 LPAC - February 2015" which can be accessed here: https://www.falmouthme.org/sites/falmouthme/files/file/file/lpac_growth_area_recommendations_20150210.pdf

First: The number of potential single family homes (units) that could have been built before the 2016 rezoning, would have almost doubled the existing number of homes.

Single Family unit potential - Pre Rezoning - 1,232

Second: The number of potential single family homes (units) that could be built under the current zoning due to the 2016 rezoning is nothing but dramatic.

Single Family unit potential - Post Rezoning - 3,758

Third: The number of potential duplexes (2 units) that could be built under current zoning due to the 2016 rezoning is nothing less than hyperbolic:

Duplex unit potential - Post Rezoning - 7,516

Fourth: The pre-2016 rezoning potential population was -

2,464 (2 individuals/unit)

3,694 (3 individuals/unit)

4,928 (4 individuals/unit)

Assuming an average of 4 individuals/unit pre 2016 RA development would have increased Falmouth population to aprox 17,000

Fifth: The post 2016-rezoning potential population is **IF ONLY Single Family Homes are Built -**

7,516 (2 individuals /unit)

11,274 (3 individuals/unit)

15,032 (4 individuals/unit)

Assuming an average of 4 individual/unit the 2016 RA change would more that double the current total population of Falmouth to over 25,000

[Larger than Westbrook 17,494, Augusta 19,136, Biddeford 21,277 and Auburn 23,055]

Sixth: The post 2016-rezoning potential population is **IF ONLY Duplexes are Built -**

15,032 (2 individuals/unit)

22,548 (3 individuals/unit)

30,064 (4 individuals/unit).

At 4 individual/unit Falmouth would become one of the largest cities in Maine with a population of nearly 45,000

Falmouth is not prepared for - no impact studies were conducted on schools, town services, taxes etc. NONE - nor do the majority of residents want any of the post 2016-rezoning population numbers.

YOU NEED TO RECOMMEND A ROLL BACK TO PRE-2016 ZONING ORDINANCES TO THE TOWN COUNCIL TO STOP THE DAMAGE TO OUR TOWN AND TAKE AS MUCH TIME AS NEEDED TO RESEARCH AND DRAFT LAND USE POLICIES RESIDENTS ACTUALLY WANT AND THAT ARE GOOD FOR OUR TOWN.

Please share this with ALL LPAC members and Town Councilors and anyone else who would benefit from this knowledge.

Sincerely, Valentine Sheldon