

This is a memorandum I wrote the weekend of August 21 and 22, but did not distribute as I feared it might discourage a full discussion at the workshop on September 7th and as I have generally refrained from participating in debate over zoning issues. The recommendations at the conclusion of the memorandum are unchanged following the recent workshop.

Memorandum

To: Cape Elizabeth Town Council
From: Michael K. McGovern, Town Manager
Re: Comprehensive Plan
Date: August 22, 2010

This past weekend I took some time to read all of the minutes of the Comprehensive Planning Commission on the Town website. The Commission met 27 times between June of 2005 and February 2007. The minutes provide a great record of a citizen volunteer committee devoted to public process, to a full dialogue on issues and to a sincere and thoughtful decision making.

The Commission recommended a plan to the Town Council that was publicly debated and then unanimously adopted by the Council in October of 2007.

Within the Plan is this vision statement:

The vision represented by this Comprehensive Plan is to preserve Cape Elizabeth as a highly desirable community in which to live by the following: expanding open spaces and accessible trails; encouraging the preservation of working farms; continuing the current slow pace and pattern of development; maintaining excellent educational and municipal services; cultivating the Town Center as a mixed use commercial area; supporting the high levels of citizen involvement in town activities; and balancing services and costs.

The Plan has 25 goals and over 90 implementation steps. Some of the implementation steps have already been completed including adopting measures to assist the agricultural community, regulations governing business zones, and measures for the protection of the shore land zone.

The Commission studied applicable state laws, the results of a public opinion survey, demographic information, historic data on approval of subdivisions and issuance of building permits and met with representatives of local farms, with the Land Trust and with individuals who had developed land in Cape Elizabeth.

In addition to ordinance issues, the Commission recommended and the Town has implemented:

- Reconstruction of Spurwink Avenue
- A traffic light at the high school entrance
- A traffic calming policy
- A study for the potential of an off road path on Shore Road
- The appointment of a committee to study the library building
- Increased recycling
- Citizen education to reduce the amount of waste being generated
- Improvement of energy efficiency in town buildings
- A discussion of 911 and dispatching consolidation with abutting communities
- An expansion of the capital improvement plan to a 10-year horizon
- An evaluation of pay per bag
- Funding of trail improvements
- An exploration of outdoor lighting for recreational facilities
- A review of opportunities for regional consolidation of some services.

This list is not complete and some of these issues will continue to be examined. In addition, a few of the recommendations in the Plan have been rejected or no longer seem relevant such as a proposed traffic light at the Town center.

The Town Council, the Planning Board and some citizens are now focusing on the land use provisions within the Comprehensive Plan.

An underlying concern heard from many is that much has changed since 2005-2007 when the Comprehensive Plan was prepared, discussed and approved. In my view, this concern merits attention.

- The annual number of building permits has been 1/3rd the rate in the last three years compared to the previous 15 years.
- No major subdivision has been proposed in the last three years.
- Property values as measured by the average value of a sold home have shown a marked decline.
- The inventory of property on the market has expanded and anecdotal evidence is that more property would be on the market if there were a greater confidence of a successful sale.
- The Town has approved two multiplex housing projects and one of these had their permit later expire and the other remains fully unsold.
- The Town has an inventory of unsold approved subdivision lots on Eastman Road and off Spurwink Avenue near the South Portland line both of which

will need some significant sales before another major subdivision becomes viable.

Some, but not all of the land use implementation steps in the Comprehensive Plan are premised upon historic growth rates, a belief that multiplex housing is desired, and an intent to comply with Maine's growth management law. Some provisions are in keeping with over a decade of desire for "smart growth" principles. The focus of "smart growth" is that communities should avoid sprawl and cluster growth in order to preserve open space.

A few citizens have asked that the Comprehensive Plan be scrapped or that all work cease on the land use implementation steps. This position would have us stop work on the provision that would improve by 1/3rd, the benefit for active farms to sell development rights. It would stop work on reviewing potential open space provisions intended to maximize the amount of open space in a single contiguous parcel and to discourage narrow strips, except when strips are necessary for trail connections.

Growth is determined by availability of land, availability of capital, demand caused by job growth in the regional economy, in migration and local zoning provisions. Over the last three decades, Cape Elizabeth has seen growth but has seen it at a much lower level than most of our suburban neighbors.

Regardless of any new zoning provisions, Cape Elizabeth will not likely see new major subdivision proposals in the near term due to the poor economy and a resulting lack of capital for developers and for individuals who would buy the new lots. Any that would come forward would likely not be substantial enough that any significant benefit would accrue to the community if all of the recommended implementation steps had been adopted. I have not yet seen the new projections of housing need from Planning Decisions, but I cannot imagine that they would much exceed lots already approved and anticipated fill in growth.

I have always been a great believer in the principle that it is better to expend human capital on issues where there is a demonstrated need and/or on issues where there is a broad consensus. The multiplex related implementation steps do not meet the criteria of an immediate or even short-term demonstrated need, nor is there a consensus that this is the route to move forward. Similarly, the provisions to increase density for any purpose other than to preserve agricultural properties are not needed in the current economy.

Recommendations

These recommendations are offered prior to the upcoming workshop so that

interested parties will know in advance my recommendation and with the hope that the recommendations may assist with the discussions. I respect that others may hold different views and I look forward to the discussion. I do not anticipate that I will participate in the discussion at the workshop.

Recommendations

1. The Town Council should reaffirm the vision statement in the Comprehensive Plan.
2. The Town Council should ask the Planning Board to defer recommendations related to multiplex housing units.
3. The Town Council should ask the Planning Board to defer recommendations that would increase density bonuses.
4. The Town Council should ask the Planning Board to closely review the implementation steps which encourage the preservation of working farms and the Planning Board should consider additional measures to preserve working farms beyond the implementation steps developed in 2007.
5. The Town Council should ask the Planning Board to review provisions relating to the quality of open space acquired through the review process.
6. The land use implementation steps deferred at this time should be reviewed in 2012 or later initially as part of a review of the Comprehensive Plan without assuming at this time whether they will or will not remain in the Comprehensive Plan as implementation steps.
7. The Town Council should direct the Town Manager to re-focus staff resources on the non-regulatory implementation steps in the Comprehensive Plan.
8. The Town Council should review, as it organizes for 2011, its priorities for continuing work on the Comprehensive Plan. There are many proposed implementation steps aside from the ones that are currently in contention.

Afterward Written on September 8, 2010

Point 6 above is a recommendation I still support. One recommendation in the comprehensive plan is for several major plans such as the Fort Williams Park master plan to be reviewed every seven years. While this recommendation did not appear to apply directly to the comprehensive plan, I believe it is a good practice to do so. Waiting until 2012 will enable us to study the new census, as data continues to be released from the census until then, and we will have more locally generated data to consider.

I did not comment in the memorandum on public sewer issues in the RB district. It is a close call for me, but my recommendation is to defer this consideration until 2012. The Town could still consider any request for public sewer through existing policies.