

Recommendations

1. The Town Council should reaffirm the vision statement in the Comprehensive Plan.

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.

2. The Town Council should ask the Planning Board to begin work on the Recreation and Open Space Chapter of the Comprehensive Plan, before conducting any further work on the Land Use Chapter. Land Use work should follow adoption and implementation of an Open Space Plan for the following reasons:

- a. Since the ultimate goal of the Comprehensive Plan and of the citizens is to preserve open space and to control and manage development, Open Space planning should take precedence over Land Use planning. A thorough and complete response to the Open Space section will create exactly the right context to then address Land Use, since citizen's priorities regarding effective protection of Open Space will then have been fully addressed.
- b. Given the highest priority the citizens of Cape Elizabeth have assigned to the preservation of Open Space, it only makes sense that the Open Space and Recreational goals be discussed, prioritized, and implemented before the use and development of land is addressed.
- c. We've passed through a period of time when demands for development were occurring at a rapid fire pace, which may have supported an argument for addressing the Land Use chapter first. But now that the market has changed and development pressures have abated, the priority of the citizens can be reflected in an approach to planning that takes preservation of open space into consideration before planning for the development of this land. We now have the luxury of time to put the "horse before the cart", rather than the reverse, and deal with Open Space issues first.
- d. All indications are that whatever housing demand occur in the next ten years, our inventory of already-approved developments, infill building lots, and a robust backlog of homes for sale, can more than accommodate likely demand.

3. **All actions on the Land Use chapter should be deferred until after the Planning Board and Town Council have completed work on the Open Space recommendations.** Without doing this, the Council won't be in a position to make good decisions on Land Use, since decisions on Open Space would not yet have been made.
4. **The Planning Board should address all issues raised in the Open Space chapter of the Comprehensive Plan, but the following highest priority items seem to be the most critical and should be addressed first:**
 - a. **Designate the appropriate parts of town as Rural Areas,** with mandated protections, as required by state law. It is not clear from a non-expert's read of state law that by designating the RA Zone as Rural Area satisfies state law. More importantly however, it seems to contradict the objectives of residents for protecting rural areas. We've heard clearly from residents that they want the agricultural areas of town removed from the Growth Area designation. State law seems to support this desire. Below are some excerpts from state law which highlights the conflict, and suggest the need for a clear designation of Rural Areas.

According to the state: "Rural area" means a geographic area that is identified and designated in a community's comprehensive plan as an area that is deserving of some level of regulatory protection from unrestricted development for purposes that may include, but are not limited to, supporting agriculture, forestry, mining, open space, wildlife habitat, fisheries habitat, and scenic lands, and away from which most development projected over 10 years is diverted.

Further, state law indicates: that a community's Future Land Use Plan must designate as rural area or areas any portion of the community consistent with the following provisions:

1. *Rural areas must include agricultural, forest, open space, and coastal lands important to the local or regional natural resource-based economy, including:*
 - a. *working farms, wood lots, and properties enrolled in current-use tax programs related to forestry, farming, or open space; encourage owners of large agricultural, wood, or open space lots to take advantage of Current Use Farm, Tree Growth, or Open Space Current Use Tax Programs.*
 - b. *large, unfragmented, undeveloped areas of prime agricultural soils;*
 - c. *important areas for nature-based tourism and outdoor recreation; and*

d. *unfragmented habitat.*

2. *The Future Land Use Plan must identify current and proposed mechanisms, both regulatory. Regulatory mechanisms include creation of agricultural zoning district, mandatory open space zoning, or a limitation on the number of lots that can be built upon annually in a subdivision in rural areas.*
3. *Rural areas may not include land areas where the community actively encourages new residential, institutional, or commercial development.*
4. *Rural areas must be compatible with designations in adjacent communities or provide buffers or transitions to avoid land use conflicts with neighboring communities.*

- b. **Redefine the growth areas of town.** It seems that the present designation of the growth area adopted in 2000, conflicts with the objective of preserving farmland and open space. It seems that those areas of town which satisfy the state's definition of Rural Area (large contiguous tracts, current farmland, forests, agricultural lands, habitat, etc.) are included in the Growth Area. This seems to conflict with state law, as well as elements of the Comprehensive Plan. Since demand for housing is not likely to require "growth areas" beyond present infill lots and already-approved development, there is no need to include these rural areas as growth areas. Therefore, *these lands should be removed from the Growth Area, and re-designated Rural Areas*
- c. **Develop definitions of terms which are used to describe citizens' priorities related to "rural character" and "open space".** These terms have been used in the comprehensive plan, and are used throughout town, yet can have very broad range of meanings and mis-interpretations. Uniform definitions should be adopted, to ensure guidelines and objectives are understood by all constituents. We need to clearly define what we mean by: open space, rural character, scenic vistas, critical or significant habitat; marshland, farmland, woodlands, etc.
- d. **Identify specific key parcels of land in town** that are of the highest priority, in order that future planning for Land Use takes this into consideration. Once we define our terms, tying these definitions to specific parcels of land would ensure the Planning Board and Council are taking steps that don't compromise objectives of the Open Space chapter. A comprehensive review of vacant lands in Cape Elizabeth should be undertaken to determine which areas exhibit the most important habitat features, recreational opportunities and whose preservation would help to ensure the

town retains its rural character including large undeveloped areas, agricultural uses of the land and scenic vistas. This effort should be coordinated with the Cape Elizabeth Land Trust which has already undertaken a similar comprehensive review of undeveloped areas in Cape Elizabeth through the development of its Strategic Conservation Plan.

- e. **Define what is valuable open space; create a priority list of parcels.** Having defined our terms and identified parcels which fit these definitions, a priority listing of parcels should be developed using direct citizen input. Actually polling citizens in order to determine which specific parcels are deemed valuable, would further the work of the Council in responding to the highest priority that residents attach to open space preservation.
 - f. **Complete a Cost of Community Services analysis,** to determine the cost and benefits to taxpayers of housing growth, versus the preservation of undeveloped land. Without this information land use decisions will be made in an economic analysis vacuum.
 - g. **Develop a range of tools and approaches to preserve/protect/enhance critical parcels.** These tools should be expansive and include innovative approaches that have been successfully employed nationwide, including zoning, outright land purchases, elimination of incentives for development in critical parcels, methods by which land can be purchased in private/public partnerships, and any other creative approaches other towns have taken. At the same time, all of the approaches that are considered and recommended **have to avoid infringement on personal property rights.**
5. **Evaluate the financial resources necessary to achieve the strategic conservation goals to determine which costs can be accommodated (by taxpayers, individual donations (land or dollars), donations and grants through CELT as well as State and Federal conservation funding programs) and which costs are out of our reach.**
 6. **Having addressed the preceding five requirements, and all other issues in the Open Space chapter, the Planning Board should then develop an implementation plan recommendation to achieve the stated goals to be reviewed by the Council.**