

Draft
Growth Areas Review

Step 9 of the charge from the Town Council to the FOSP Committee is:

9. FOSP as part of its work shall include a thorough review of growth areas, including a review of the definition of growth areas, and the areas designated as growth areas within the context of expected growth, all within its review of open space. This review shall include a meeting or meetings where public comment is solicited at the determination of the Future Open Space Preservation Committee.

This charge was referred to FOSP after the committee had begun its work.

What is a growth area?

Growth areas is a term originating in the state Comprehensive Plan statutes and rule.

Growth Management Act (30-A M.R.S.A. §§ 4312 - 4350). **Chapter 208, Comprehensive Plan Rule Criteria**

Growth area: "Growth area" means an area that is designated in a community's comprehensive plan as suitable for orderly residential, commercial, or industrial development, or any combinations of those types of development and related infrastructure, and into which most development projected over 10 years is directed.

Growth areas are locations where expected development can best be accommodated by a town while still preserving community character. State law requires that a comprehensive plan must identify growth and rural areas. Failure to adopt a comprehensive plan that is consistent with state goals may jeopardize a municipality's authority to adopt land use regulations such as a zoning ordinance. FOSP noted areas where development had occurred outside of growth areas and that the development was not consistent with preserving community character.

Cape Elizabeth "growth areas"

In Cape Elizabeth, growth areas are zoned RB, RC and Town Center. The RC zone is designated an infill growth area. The Town Center is a designated growth area due to its function as the primary commercial area of town. Of the three districts, the RB District includes the greatest amount of vacant land, which is where most new development locates.

FOSP focused their review on the RB District. The committee reviewed aerial photos of all properties in the RB, and a map showing the RB zones and agricultural resources identified in the Comprehensive Plan. About 7% of the Cape Elizabeth is zoned RB. FOSP determined that very little agricultural land is located in the RB District.

Review of growth area changes

If land in the RB was rezoned to remove it from the growth area, then the land would likely be placed in the RA District. Development can and does occur in the RA District. FOSP compared the zoning requirements in the RA, RB and RC districts. The committee also reviewed how the same type of development changes depending on which zoning district it is located in and whether the development is designed to be compact or traditional. Compact development tends to save more public open space and save it in larger contiguous parcels. A majority of committee members expressed support for the clustering requirements mandatory in the RB district. They noted that one-third of the open space currently owned by the Town was obtained through development review and clustering.

FOSP discussed the option of eliminating or reducing the amount of RB zoned lands. The committee reviewed the state comprehensive plan law that requires that growth areas be designated to accommodate anticipated growth. It was noted that little growth is expected in Cape Elizabeth. Growth areas identified in the 1993 Comprehensive Plan continue to have capacity to accept anticipated growth through 2020, so no additional growth areas were designated in the 2007 Comprehensive Plan. The town could eliminate some RB areas as long as sufficient land remains to accommodate anticipated growth. FOSP members were concerned, however, that land owners in the RB would not support a rezoning. In addition, because the RB District includes mandatory open space requirements, leaving land zoned RB supports the town open space preservation goals.

Committee members generally agreed that agricultural land should be preserved, but that the private property rights of agricultural land owners must also be preserved. Committee members noted that if agricultural land is located in the RB District, it may have better odds of being preserved as open space due to the mandatory open space provisions in the RB District. The same open space provisions are optional in the RA District.

Solicitation of growth area comments

FOSP discussed growth areas in depth at the June 27, 2012 and August 15, 2012 meetings. Growth areas appeared as an item on the meeting agenda and the agenda and meeting materials for all meetings were posted on the town website. Following the June 27th meeting, the discussion was tabled in order to allow more public comment at the following meeting. In advance of the August 15th meeting, an invitation was emailed to all members of the Cape Farm Alliance and the Cape Elizabeth Land Trust, and an article was published in the Cape Courier and town website announcing the growth areas discussion on August 15th. Letters were received from one resident prior to the June meeting and two residents attended the August meeting but did not make any comments.

Recommendation: FOSP recommends that the review of growth areas be referred to the Planning Board as part of the resumption of the Planning Board's comprehensive plan implementation work. The Planning Board's comprehensive planning implementation work should include public outreach about the benefits of open space zoning. The Planning Board should also recommend ordinance amendments that make preservation of agricultural land a higher open space priority.