

I. 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.

II. 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. All actions on the Land Use chapter should be deferred until after the Town Council and other designated bodies have completed work on Open Space Chapter recommendations, as well as actions recommended herein.

III. Four steps should be initiated simultaneously, in order to get to the optimal recommendations on land use:

A) Conducted by Town Council:

1) Redefine the growth areas of town. 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 appears 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 as Rural Areas.

2) Town Council should request the assistance of the Conservation Commission, and CELT to define, identify, and prioritize Open Space in Cape Elizabeth.

a) 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.

b) Identify specific key parcels of land in town that are of the highest priority so 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 that the Planning Board and Town 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 and recreational opportunities. Preservation would help the town retain its rural character through 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.

c) 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 Town Council in responding to the highest priority that residents attach to open space preservation.

B) Conducted by Outside Group: Conduct analysis of the costs and benefits to the town budget of development versus retention of open space. This independent entity should draw on state and national resources to conduct this study. The objective is 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.

C) Request that CELT Conduct/Coordinate the following:

1) 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.

2) With the Town Council, 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.

D) Invite Farm Alliance and relevant Community Groups to undertake the following:

1) The Cape Farm Alliance should address key issues that will address farmers as zoning is reviewed and actions on Open Space are considered. The objective of this group is to insure that actions meant to foster the protection of open space, along with promoting sustainable farming, doesn't have the unintended consequence of constraining the farmers' opportunities and infringing on their personal property rights.

2) The Cape Farm Alliance, in conjunction with CELT and other interested parties, should evaluate the implications of altering the Rural Area designation. In this evaluation this group needs to: a) consider state law; b) consider impact on farmers' flexibility in using land on a long term basis; c) consider impact on other significant land owners; d) conduct the evaluation within the context of residents' stated priority of protecting rural areas. Below are some excerpts from state law relating to the Rural Area designation.

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.

IV. Once the Town Council and other involved bodies have addressed the preceding recommendations, and all other issues in the Open Space chapter, the Planning Board should then develop an implementation plan recommendation to achieve the stated goals.