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WE HAVE A CHOICE



Report to the
Joint Standing Committee on Natural Resources
to
Evaluate Maine's Growth Management Program

February 2003

It is the mission of the State Planning Office to provide the information, analyses, and guidance decision-makers need to make informed decisions about Maine's economy, resources, and governance.

The Maine State Planning Office is directed by the Legislature to develop state policies that promote a balance between economic growth and natural resource conservation. In keeping with this overarching goal, the Community Planning & Investment Program works to foster the health of Maine's service centers, downtowns, and traditional villages that encourage compact development, rather than sprawling development that impacts wetlands, wildlife habitat, water quality, farmlands, and working forests.

This report is provided to the joint standing committee of the Legislature having jurisdiction over natural resource matters in accordance with 30-A MRSA §4331.



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“There is no finer creation than the New England village. It is testament to the livable community — a community of neighborhoods, churches, shops and town hall. It is testament, too, to the countryside that surrounds it. The contrast between village and countryside in Maine is as crisp as a fresh apple, picked on a fine fall day. We savor both.”

Angus S. King, Jr., 1997

ACKNOWLEDGEMENTS

No one agency or level of government is solely responsible for land use planning. This report looks broadly at state, regional, and local actions that support smart growth in Maine. The accomplishments contained herein are not just those of the State Planning Office, but of many individuals and organizations in the public, private, and non-profit sectors who have invested countless hours advancing the goals contained herein. Their efforts have been critical to what success has been achieved.

For identifying the key strategies that are the basis for the State's approach to managing land use in Maine today, we would like to thank the Commissioners and designees of the ten state agencies that, along with the State Planning Office, comprised Governor King's Smart Growth Sub-cabinet. Their approach is strategic and seeks to assure a strong rate of return on public investment, a renewed commitment to environmental stewardship, and stepped up efforts to build and strengthen community.

Department of Administrative & Financial
Services
Department of Agriculture, Food & Rural
Resources
Department of Conservation
Department of Economic & Community
Development

Department of Education
Department of Environmental Protection
Maine State Housing Authority
Department of Inland Fisheries & Wildlife
Department of Marine Resources
Department of Transportation

In addition, we would like to recognize those members of the Smart Growth Coordinating Committee who reviewed and helped refine the recommendations in this report.

Finally, we would be remiss if we did not single out Evan Richert, former Director of the State Planning Office, without whom "sprawl" would be just another word.

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KEY FINDINGS

A. No one entity can achieve the State's goals. No one agency or level of government (or even government by itself) is able to achieve the goals of the Act alone. They are far reaching in scope and provide direction to the planning and regulatory actions of all state and municipal agencies affecting natural resource management, land use, and development. The State Planning Office's statutory role is to coordinate and facilitate these groups of diverse interests and resources. The Office administers the Community Planning & Investment Program and is the lead agency charged with implementing Maine's Smart Growth Initiative. The Office has found valuable partners in the public and nonprofit and even private sectors. Indeed recognizing the role that developers, homebuilders, and other private businesses have in influencing patterns of development, the State's smart growth strategies rely on the power of the marketplace for achieving its desired results. Whether exploring interconnections and unintended consequences of policy and investment decisions or in simply furnishing one good galvanizing idea, all partners need to be actively involved in Maine's smart growth efforts.

B. Sprawl is not linear. Addressing sprawl and encouraging more fiscally-efficient and environmentally-responsible community preservation is a complex and challenging effort. Over the years, leaders in the field have come to recognize that there is *no silver bullet* that will bring about smart growth. Success is far more likely to be achieved through a series of smaller, logically-coordinated efforts than by a single-purpose, simplistic strategy. This multifaceted response will require a change in the way we view the problem; from one that is linear to one that considers the entire, interconnected structure; a "systems thinking" approach. Imagine a water balloon. If one squeezes a water balloon in one place, the water does not disappear – the balloon simply bulges in another place. The same is true in land use. Consider what happens if a town designates specific rural areas where development is discouraged, then public policies (like tax policies or environmental regulations) or public investments (like an industrial park, a sewer line extension, or construction of a school) undermine that effort by encouraging development in the very area the community is trying to direct growth away from. Maine must approach this problem with coordination across disciplines and geographic and organizational boundaries, with an eye to multiple layers of impacts.

C. We lack data to measure success. There is a systemic lack of data and constraints on our ability to collect them. Over the past four years, SPO has worked with municipalities, regional entities, and other state agencies to revamp policies and programs but as yet is not been able to document the full impact of these decisions. The Smart Growth Coordinating Committee established livable community indicators and the Office identified outcome measures to track development and state investments. Yet, these are very broad measures and results will only emerge over a long period of time. Finding additional ways to gauge success in the interim is important to assure that the State's efforts are effective and to identify needed adjustments or changes in approach as efforts progress. If the State cannot measure the impacts of its decisions, agencies cannot respond effectively.

D. Resources are stretched. Over the years, reduction in financial support has limited what the Program could achieve. This is particularly true in regard to support for regional councils and other regional planning organizations, grants to communities, funding for program staff, and

research and technical assistance budgets. The State Planning Office's prominent focus on smart growth and on state investment policy over the past six years has increased the demands that are being made on the Program, taking resources from traditional tasks such as reviewing municipal plans and providing technical assistance. Delayed comprehensive plan reviews have provoked legitimate customer service complaints. The Program is finding it increasingly difficult to meet the expectations of its various partners. In addition, the other state departments and agencies that support smart growth also face resource limitations. And the State's fiscal situation will not permit new General Fund resources.

KEY ACTIONS AND RECOMMENDATIONS

The following are nine priority areas for action by the State Planning Office and its partners for the next four years. Each area alone represents a significant commitment of resources and staff time. In these times of diminishing resources, the State Planning Office is cognizant of the need to be strategic. It will work with the agencies and departments who help implement the State's Smart Growth Initiative to identify where the State can achieve the greatest impact for its investment.

1. Support collaborative forums of smart growth interests. Continue to work with public, private, and nonprofit groups to bring and keep multiple interests involved in the pursuit of smart growth principles and to continually refine strategies to achieve the goals. To this end, the State Planning Office will:

- staff and support the efforts of the Community Preservation Advisory Committee;
- staff and coordinate the Smart Growth Coordinating Committee; and
- involve groups that bring together people who represent multiple interests like GrowSmart Maine, Friends of Mid-coast Maine, and EcoEco.

2. Evaluate Tax Reform Options. Evaluate tax reform proposals to assess their impact on sprawl. To this end, the State Planning Office will use the following criteria to evaluate forthcoming proposals for restructuring Maine's taxation system and suggest ways to achieve desired ends.¹

Does the proposal...

- relieve service centers?
- encourage investment in service centers?
- protect at-risk properties from rapidly escalating values?
- encourage investment in locally-designated growth areas?
- provide incentives for regional tax base sharing and land use management²?
- allow towns to assess land differently in growth areas and rural areas to encourage appropriate uses in those areas?

¹ This may require changes to statute and/or the Maine Constitution.

² Land use management or land management includes planning, regulation, investment, and other strategies.

3. *Coordinate Planning and Investment.* Work with state, regional, and local partners to make service centers attractive and affordable places to live so they will be more likely to retain and attract residents. To this end, the State Planning Office will:

- foster integrated state agency capital and program planning that respects regional and local smart growth efforts as well as state programmatic needs;
- offer strategies for land management and capital investment that stimulate desired regional growth patterns and preserve community character; and
- encourage shared public and private planning and investment at the local level to create the quality of investment that neither sector, alone, can afford.

4. *Plan for Local Street and Infrastructure Investment.* The State Planning Office will work with the Maine Department of Transportation and other agencies to establish a framework and technical assistance for local street network planning and capital investment for infrastructure that supports livable, compact development patterns.

5. *Optimize School Construction Funds.* The State Planning Office will continue to work with the Board and Department of Education to invest state school construction funds in a way that they are an incentive for community preservation and smart growth.

The goal of these efforts is to help ensure that:

- schools in service centers are of a quality to retain and attract residents and businesses;
- before state funds are spent to provide new capacity in surrounding suburbanizing communities, the option to utilize any excess capacity in service center schools is seriously considered;³ and
- new schools in service centers are sited and constructed so as to maximize the option of students walking, bicycling, or using public transportation systems to get to school.

6. *Focus Environmental Regulation.* Assure that environmental regulations do not have the unintended consequence of driving development outward. To this end, the State Planning Office will continue to work with the state's natural resource agencies to enhance the current policy framework; moving from piecemeal regulation to one that considers multiple resources simultaneously.

7. *Provide Housing Choices.* Market studies show that many people want to live in traditional, compact neighborhoods within walking distance of services and facilities. What's more, many residents cannot afford suburban, large-lot subdivisions which prevail in many towns today. To that end, the State Planning Office will:

- continue to provide tools (including incentives) that Maine communities can use to support development of livable, affordable neighborhoods; and
- undertake further market research to evaluate housing options and mechanisms that not only meet the needs and demands of homebuyers, but also meet community goals for compact, efficient growth over the long term.

³ This may require changes to statute and/or the Maine Constitution.

8. *Build Capacity to Measure Outcomes of Smart Growth Efforts.* There are some promising initiatives that should be evaluated to determine whether to pursue them further. This requires good data. To that end, the State Planning will continue to design and build systems to measure the success of smart growth efforts so that the next evaluation can be more quantitative by:

- working with partner state agencies to build data collection methods necessary to update *Indicators of Livable Communities* every two years;
- completing pilots and developing systems to track the location of new development and state capital investment;
- establishing measures to evaluate the impact of smart growth efforts on regional growth patterns; and
- continuing to work with communities to build bolder plans that contain benchmarks to gauge interim success and to monitor progress towards desired outcomes.

9. *Set Priorities.* A tremendous amount of progress has been made over the last four years, yet significant effort lies before us. Given resource limitations, it is essential that the State Planning Office carefully selects where to invest its limited resources over the next four years to assure continued progress. Over the coming months, the State Planning Office will review the recommendations contained herein with its partners to establish short, intermediate, and long-term priorities. As part of its efforts to address resource limitations, the State Planning Office will also:

- work with the Smart Growth Coordinating Committee to create a new strategic plan that sets priorities for the actions and recommendations in this report;
- identify the most strategic efforts to attain desired outcomes and consider eliminating or setting aside those efforts that are less closely tied to achieving them or can be postponed;
- explore new systems for the delivery of services;
- find partners to take on a greater role in some areas; and
- secure additional non-General Fund resources to support important efforts.

For detailed recommendations, see the GOALS ASSESSMENT section of this report.

Watershed Events 1999-2002

Smart Growth Legislation: The 119th and 120th Legislatures enacted substantive pieces of legislation setting the stage for much of the State's effort to combat sprawl. Of particular note was 1) the legislative mandate to locate state office buildings and state growth-related capital investments in service centers and designated growth areas in towns with adopted comprehensive plans that are consistent with state goals; and 2) the establishment of preferences in grant and investment programs to assist municipalities with implementing their growth management programs.

Access Management: The Legislature endorsed and the Maine Department of Transportation implemented an access management strategy to control unlimited access to state highways, discourage development sprawl, and protect public investment in roadway capacity.

Beginning with Habitat: This initiative uses geographic information technology to integrate information about wildlife and other natural resources into land use planning and represents a sea-change in the way the State provides information on Maine's natural heritage to towns and other organizations. For the first time, large blocks of undeveloped lands, wildlife corridors, and significant habitat are mapped in relation to development patterns so that they may be incorporated into local planning decisions.

Community Preservation Advisory Committee: Three legislative task forces recommended that there be an ongoing entity to advise the Governor, the Legislature, and the State Planning Office on matters relating to sprawl. The 120th Legislature established the Community Preservation Advisory Committee, which began meeting in October 2002.

Consolidation of Local Services: As of the close of the evaluation period, a number of conversations around consolidation are taking place. The Maine Municipal Association has an incentive for regionalization in its citizen-initiated tax reform proposal. Legislators have introduced bills around the issue for consideration by the 121st Legislature. Local officials in Falmouth, Cumberland, North Yarmouth, Yarmouth, and Freeport are discussing how to consolidate public services such as police, dispatch, planning, recreation, legal, and risk management services. Towns in the Penobscot Valley are researching ways to more effectively combine services. The financial and land use impacts of these efforts could be significant.

Extended Communities: To set the stage for improved, integrated transportation and economic development, and natural resource planning by both regional and state agencies, the State Planning Office and the regional councils identified 36 extended communities that define the larger geographic areas within which today's residents live, work, shop, and play. Each extended community includes one or more "urban" service center, surrounded by several communities that are largely suburban in character, and a group of towns that still are predominantly rural in economy, character, and landscape. This typology offers a regional framework within which to explore and, potentially, manage land use, settlement patterns, transportation systems, infrastructure, and natural resource protection.

Governor's Sprawl Sub-cabinet: In 1999, Governor King formed a sub-cabinet working group, which included Commissioners and designees from 11 state agencies, to create a 3-year action plan, *Smart Growth: The Competitive Advantage*, that identifies how state agencies can support smart growth. The sub-cabinet was the impetus for creating the Smart Growth Coordinating Committee (see below).

GrowSmart Maine: More than 60 leaders, representing over 20 Maine conservation, business, and public organizations, as well as interested citizens, joined together in 2002 to create a new statewide organization to organize, challenge, and inspire Maine people to reverse costly sprawling growth trends.

Maine Downtown Center: In 2001, the Legislature created the Maine Downtown Center to provide funding, training, and technical assistance to help communities revitalize their downtowns and to prevent development sprawl by fostering economic development, business growth, job creation, housing revitalization, historic preservation, and cultural enhancement in downtowns. The Center also serves as a clearinghouse for information related to downtown development.

Municipal Investment Trust Fund: The Municipal Investment Trust Fund, which was created in 1993 but not capitalized until 2001, provides low interest loans to help municipalities build infrastructure to support compact patterns of growth. In 2001, the Legislature appropriated \$400,000 to the fund. Voters approved an economic development bond the following year that included an additional \$4 million for the fund.

Service Center Coalition: A statewide coalition of municipal leaders from 44 service center communities has come together to articulate the needs of Maine's traditional hub communities. The coalition promotes the needs of Maine's service center communities to state elected officials and educates citizens about the importance of healthy and thriving service centers.

Smart Growth Coordinating Committee: A standing committee of the Land and Water Resources Council was established in 2002 to coordinate the State's smart growth initiatives and shepherd them to fruition. The committee developed the *Indicators for Livable Communities* report card.

Smart Growth Institute: Approximately 50 professionals and private citizens attended the two-week residential Maine Smart Growth Institute in the fall of 2001 to share the best and most up-to-date information about smart growth. The Institute helped create an understanding of the problems caused by sprawl and establish a network of professionals with common goals to manage the nature of growth across Maine's landscape.

Statewide Geographic Information System (GIS) Library: The 120th Legislature created the Maine Library of Geographic Information to establish policies and standards for the type and form of data to be placed in it and to foster ongoing coordination among public and private GIS stakeholders statewide. Maine voters authorized the first \$2.3 million investment into the Geo-Library in November 2002 and the newly created Geo-Library Board began to meet the same month.

INTRODUCTION

Purpose of Report

In 1988, the Legislature envisioned a broad strategy for protecting Maine's natural resources with an emphasis on orderly growth and development in appropriate areas of each community. It created a framework for land use planning that would: protect the State's rural character, make efficient use of public services, and prevent development sprawl. It established 10 goals to provide overall direction and consistency to the planning and regulatory actions of all state and municipal agencies affecting natural resource management, land use, and development. It enacted the Planning and Land Use Regulation Act (P.L. 1989, Ch. 104; hereinafter referred to as the Act).

The 1994 amendment of the Act [30-A MRSA §4301 et seq] confirmed the State's commitment to and recognition of the importance of good, locally-driven planning and management of growth. In support of those efforts, the Legislature directed the Growth Management Program (now known as the Community Planning & Investment Program, hereinafter referred to as the Program⁴) to evaluate the State's effectiveness in achieving the goals of the Act and to support ongoing improvement of the Program (see APPENDIX A for the statutory requirements for the evaluation).

During 1999-2001, the Legislature established three task forces to review growth management laws with the goal of making them more responsive to sprawl:

- Task Force on State Office Building Location, Other State Growth-related Capital Investments, and Patterns of Development (1999)
- Task Force to Study Growth Management (2000)
- Joint Study Committee to Study Growth Management (2001)

Each of these task forces recommended legislation related to various aspects of the Program, specifically to focus on sprawl issues. In particular, each task force acknowledged three structural barriers to addressing sprawl: 1) Maine's taxation system, which drives individual and municipal decisions; 2) fragmentation of government and lack of effective regional mechanisms; and 3) the need for an ongoing interdisciplinary advisory committee.

Since 1999, the Legislature has amended the Act numerous times (see APPENDIX B for a summary of smart growth legislation). The result has been a greater emphasis on promoting orderly growth and development and a clarification of the State's role in ensuring that this occurs. In 2000, the Legislature provided \$1.7 million in one-time funding for the Smart Growth Initiative administered by the State Planning Office. In 2002, it established a standing body, the Community Preservation Advisory Committee, to advise the Legislature, Governor, State

⁴ The Program is housed at the State Planning Office, hereinafter referred to as SPO or the Office.

Planning Office, and other state agencies on issues related to land use, sprawl, and community preservation.

This report provides information so that legislators, state agencies, and citizens can assess the State's effectiveness in promoting orderly growth, preventing development sprawl, and achieving the Act's other goals as they relate to these.

Criteria

The Act calls for an objective and, where possible, quantitative focus on its goals. It directs the Office to establish criteria and a baseline of current conditions against which to measure future progress. For this evaluation, SPO relies on a combination of outcomes, indicators, and outputs.

The Office identified three outcome measures to evaluate the State's effectiveness in "promoting orderly growth and development:"

1. population growth of service centers
2. location of new development
3. location of state capital investment

SPO relies on census data for the first measure and has established a baseline for it. The Office is developing tracking systems for the second and third outcomes and will continue to work to establish baselines for use in future evaluations.

The evaluation also draws on the 22 indicators of livable communities developed by the Smart Growth Coordinating Committee. These indicators serve to define what *smart growth* is and to track and monitor the accomplishments of the Smart Growth Initiative.

Finally, a series of outputs quantify activities over the evaluation period – a measure of the State's level of effort over the four years.

Public Input

The Legislature also directs the Office to incorporate opportunities for public input and comment into the evaluation process. SPO solicited public input in two stages; first with assessing the effectiveness of the Program to date and determining how effectiveness should be measured, and second, with refining future strategies.

As part of this evaluation, SPO surveyed 1200 state, regional, local, private, and nonprofit representatives with a professional interest in the Program. The purpose of the survey was to solicit public input and comment into the evaluation process in two ways:

1. to seek public opinion on the effectiveness of the Program in achieving its purpose and statutory goals; and
2. to obtain public input on what criteria the Office should use to evaluate the effectiveness of the Program in achieving its purpose and statutory goals.

SPO received 149 responses with valuable suggestions (see APPENDIX C for a copy of the survey instrument and APPENDIX D for an analysis of results).

Aided by the survey responses, SPO compiled a series of recommendations to be included in the report. We asked the members of the Smart Growth Coordinating Committee to help refine them. In addition, SPO posted the recommendations on its web site for a 10-day period and asked for public input on where we should concentrate our efforts. Finally, SPO posted a draft of this report to its website and asked for general comments.

The input helped SPO frame this evaluation and will help those it conducts in the future. It also provided some excellent feedback on improvements that can be made in the program administration and service delivery.

The input does not stop with the submission of this report. SPO will continue to confer with its state agency partners, regional councils, and municipal customers in implementing the Community Planning & Investment Program and the Smart Growth Initiative.

Periodic Reports

Finally, the Act requires an evaluation every four years. In February 1999, the Office submitted *Continuing Challenges and Growing Opportunities* to the Legislature's Natural Resources Committee, which was the first evaluation under the Act, as amended. That report was the genesis for significant change in the Program and to state policies that affect the State's ability to achieve the goals of the Act. This report contains an analysis of the State's progress in implementing the 1999 recommendations.

Structure of the 2003 Report

This report evaluates progress made toward the goals of the Act based on specific evaluation criteria, provides an update on program activities, documents the accomplishments made since 1999, and offers recommendations for the future.

We have segmented the report in three main parts:

- 1) **Evaluation Criteria**: a description of the outcomes, indicators, and outputs that can be used to evaluate progress toward the goals;
- 2) **Program Update**: a review of program activities (grants, consistency of local comprehensive plans, and smart growth initiatives); and
- 3) **Progress on Goals**: a breakdown of accomplishments and recommendations by goal.

BACKGROUND

Impact of Growth

Maine is losing its rural character. Vacant downtown buildings are common in many Maine cities. Children can no longer walk to neighborhood schools. Once residential streets are clogged with commuter traffic. Community post offices and stores are being located in strip malls. Farms are being abandoned. Forestlands are changing hands and becoming fragmented. Coastal communities are bursting at the seams. We are losing much of what is good about Maine. We are losing it to suburban sprawl. And not just in southern Maine – it is happening in central, western, and coastal Maine, too, and even in areas of northern Maine around established centers.⁵ The facts speak for themselves.

- ◆ Portland is the 9th fastest growing metropolitan area in the nation.⁶
- ◆ Between 1970-1990, land development in Maine occurred at four times the rate that population increased.⁷
- ◆ Even in a period of relatively slow growth (compared with the pace of the 1980s), upwards of 4,000 new housing units and hundreds of thousands of square feet of commercial and industrial space are being added annually in Maine.⁸
- ◆ Over the past five years, more than 5 million acres of the State's commercial timberlands has changed hands representing almost 20% of the State's total land area.⁹
- ◆ The percent of Maine's population that lives in service center communities has declined to 44% of the State's population (down from 59% in 1960).¹⁰
- ◆ More than half of Mainers never walk to services or shops from their homes.¹¹
- ◆ Nearly one of every two Mainers lives near the coast, while over six million people visit each year.¹²

And the cost to service shifting populations with new roads, schools, and emergency services is enormous. In the state budget, ***sprawl costs more than \$50 million per year*** in duplicative services (school buses, new schools, roads) and it costs municipalities millions more.¹³

Many fear the inevitable. And the trends are not encouraging. As former SPO Director Evan Richert calculated,

“At the present rate, land consumed by development will double again by 2010 and by 2020 much of Maine south of Androscoggin and Sagadahoc counties will look and act like the ring roads around Boston.”

⁵ *Livable Communities*: A proposal for addressing suburban sprawl, Prepared by the Maine State Planning Office, fall 1998.

⁶ Land and Water Resources Council. *Indicators of Livable Communities: A report on smart growth and the impact of land use decisions on Maine's communities, environment, and countryside*, January 2002, p.i.

⁷ Ibid.

⁸ Maine State Planning Office, *2000 Strategic Plan*, p. 14.

⁹ Maine State Planning Office *2002 Strategic Plan*, p. 14.

¹⁰ *Indicators of Livable Communities*, p.2.

¹¹ *The Maine Survey: Recreational Site*. Prepared for the State Planning Office by Market Decisions, Inc., November 2002.

¹² Maine Coastal Program website, http://www.state.me.us/mcp/about_mcp.html.

¹³ *Indicators of Livable Communities*, p. i.

But unlike Rte 128 and the Massachusetts commuter corridor, *we have a choice*. We can accommodate growth and development while protecting our natural resources. We can protect what's good about Maine's towns –the village centers and the open space around them, the safe neighborhoods, the quiet streets – and still thrive economically.

But time is not on our side. According to experts, we have about 15 years left before we will be unable to reverse the trends of sprawling patterns of development. Ironically, experiences elsewhere, such as in Oregon, show that it takes about 15 years before strategies to combat sprawl begin to have their intended effect. We can avoid becoming a suburb of Boston, but we have to act swiftly and decisively. We must continue what we have started and more.

History of Growth Management Program

The Growth Management Program traditionally has been a local assistance program, assisting towns and cities with developing local comprehensive plans and land use ordinances and reviewing those plans for consistency with the 10 statutory goals.

Local growth management has achieved some notable successes such as:

- Preserving natural resources
- Identifying areas suitable for economic development
- Improving codes enforcement
- Preserving highway capacity
- Expanding waterfront access
- Helping frame local land use issues for community discussion
- Spawning a wide range of local, “grass roots” planning activities and working groups to implement various strategies in comprehensive plans

The voluntary approach to municipal participation has achieved positive results and should continue.

Nevertheless, in its 1999 evaluation, *Continuing Challenges and Growing Opportunities*, the State Planning Office concluded that local planning efforts alone were insufficient. Growth patterns and their impacts often occur and must be addressed on a regional basis. What's more state regulations, policies, and investments unwittingly discourage orderly growth and efficient use of municipal services. It was apparent that public investment (state, municipal, and federal) needed to support carefully planned growth rather than simply respond to the impacts of growth and development.

Over the past four years, SPO has continued assisting towns, but has also redirected staff resources to promote regional coordination and multi-town approaches to planning and to identify and change state policies that work against effective local planning or inadvertently contribute to sprawling patterns of development. Over that time it was guided by four principles.

Guiding Principles

1. That individuals be free to choose where to live.
2. That individuals bear the costs of their decisions.
3. That healthy places do not die.
4. That developers can be allies and partners in implementing public policy.

The Approach¹⁴

We already have a good deal of land use regulation in place. But sprawl, which by its nature spills development over municipal boundaries, is a regional phenomenon. Our land use and environmental laws were not designed to address it. These laws are either strictly local or they focus on specific sites or resources, not general patterns of development.

The path to smarter growth that Maine selected does not rely on more regulation. Maine isn't ready to embrace strict land use regulation that limits growth in one area over another. And the freedom to choose to live where one wishes is too dear to us all. But the twin to this principle is that we should be willing, individually, to bear the costs of our individual decisions. We should not be asking society to pay these costs. So a key component of Maine's approach is to turn to the marketplace where the costs can be properly allocated and individual decisions can be made with more complete knowledge of these costs.

The third principle is that healthy places don't die. If our villages, town centers, and cities are healthy, they will hold their own. Likewise if our rural places with their resource-based enterprises are healthy, they will be more resistant to the germs that are trying to invade them.

Lastly, we recognize that developers don't cause sprawl. They simply seek the path of least resistance in building and selling their products. If resistance in the path that leads to more traditional patterns of development (like the New England village) becomes less, and a market for them exists, they will be allies in the implementation of more responsible patterns of development.

The 5-point Strategy

From 1999-2002, SPO created and implemented a five-point approach to accomplish its statutory charge:

1. Get the State's house in order by reforming state policies, programs, and investments that encourage development sprawl;
2. Aid rural areas by bolstering the health and well-being of Maine's traditional natural resource-based industries;

¹⁴ *Livable Communities: A proposal for addressing suburban sprawl*, Prepared by the Maine State Planning Office, Fall 1998.

3. Strengthen service center communities;
4. Provide relief to suburbanizing communities; and
5. Support the development of traditional, compact, Great American Neighborhoods.

The 5-part package of policy and program initiatives, in more detail, looks like this:

Get the State's house in order by:

- ◆ using state capital investment to support “smart growth”
- ◆ identifying and removing hidden subsidies of sprawl in state funding formulas
- ◆ enhancing regulations so they don't push development outward

Aid rural areas by bolstering the health and well-being of Maine's traditional natural resource-based industries by:

- ◆ regarding them as businesses and assisting them accordingly
- ◆ buying or leasing development rights
- ◆ strengthening the right-to-farm law
- ◆ taxing these industries at current use and reimbursing towns for lost revenue
- ◆ supporting research and development for greater value added

Strengthen service centers by:

- ◆ supporting the “Downtown” initiative
- ◆ expanding home ownership in centers
- ◆ shifting a fair share of costs of providing regional services to the region
- ◆ allowing flexible taxation to spur development

Provide relief to suburbanizing communities by:

- ◆ emboldening local comprehensive plans to protect rural areas and direct most development to growth areas
- ◆ encouraging adoption of strategies that require new arrivals pay a fairer share of costs
- ◆ encouraging communities to use their local authority to direct growth in less expensive ways

Supporting the development of traditional, compact, Great American Neighborhoods by:

- ◆ identifying and educating markets for traditional neighborhood development
- ◆ preparing a design manual about details of traditional neighborhood development
- ◆ preparing a handbook of model ordinances to allow traditional neighborhood development
- ◆ providing incentives for sewer and water lines

Community Planning Principles for Smart Growth

Finally, SPO incorporated smart growth principles into its work tasks. SPO developed the following smart growth principles to help guide its staff in awarding grants and providing technical assistance. The principles are part of the grant program statement, for example, to assist applicants with incorporating smart growth considerations from the start of a grant application through the public vote on the resulting plan or ordinance, to their implementation of land use management strategies.

1. Maintain Maine's historic settlement pattern of compact villages and urban centers separated by rural countryside and sustain a unique sense of place in every community by respecting local cultural and natural features.
2. Target economic and residential growth to compact, mixed-use centers in areas with existing or planned infrastructure and services at a scale appropriate for the community and region.
3. Preserve and create mixed-use, pedestrian-friendly neighborhoods that incorporate open areas, landscaping and other amenities which enhance livability.
4. Invest public funds and provide incentives and disincentives consistent with these principles.
5. Provide choice in the mode of transportation and ensure that transportation options are integrated and consistent with land use objectives.
6. Protect environmental quality and important natural and historic features of the State and preserve large areas of unfragmented wildlife habitat and undeveloped land.
7. Encourage and strengthen agriculture, forestry, fishing, and other natural resource-based enterprises and minimize conflicts of development with these industries.
8. Reinvest in service centers and in downtowns and village areas and support a diversity of viable business enterprises and housing opportunities in these areas.
9. Establish and maintain coalitions with stakeholders and engage the public in the pursuit of smart growth solutions.
10. For municipalities without significant growth pressures and/or small rural communities without substantial infrastructure, smart growth involves consideration of the above principles to the extent that they are applicable. Ensure that the development that does occur is accomplished in a manner that enhances community values, avoids incremental negative impacts, and is consistent with a sustainable and fiscally sound growth pattern.

The nature and influences of how we grow in Maine are diverse, which makes carrying out the Program a challenging one. Yet, the face of Maine's landscape in 15 years will be the result of the decisions we make today. If we don't like what is happening in our communities –sprawling patterns of development, fragmented open spaces, loss of traditional village centers and residential neighborhoods –we must make our choice. We must act now.

PURPOSE AND GOALS

30-A MRSA §4331 directs the State Planning Office to determine the effectiveness of state and local efforts to achieve the purposes and legislated goals of the Act.

Legislative Purpose

The purposes of the Act are as follows:

- A:** Establish in each municipality, local comprehensive planning and land use management;
- B:** Encourage municipalities to identify the tools and resources to effectively plan for and manage future development within their jurisdictions with a maximum of local initiative and flexibility;
- C:** Encourage land use ordinances, tools, and policies based on local comprehensive plans;
- D:** Incorporate regional considerations into local planning and decision-making so as to ensure consideration of regional needs and the regional impact of development;
- E:** Provide for continued direct state regulation of development proposals that occur in areas of statewide concern, that directly impact natural resources of statewide significance or that by their scale or nature otherwise affect vital state interests;
- F:** Encourage the widest possible involvement by the citizens of each municipality in all aspects of the planning and implementation process, in order to ensure that the plans developed by municipalities have had the benefit of citizen input.

Statutory Goals

The Legislature established a set of state goals to provide overall direction and consistency to the planning and regulatory actions of all state and municipal agencies affecting natural resource management, land use, and development as follows:

- GOAL A: Development Sprawl and Public Facilities** - To encourage orderly growth and development in appropriate areas of each community, while protecting the State's rural character, making efficient use of public services and preventing development sprawl.
- GOAL B: Capital Investment Strategy** - To plan for, finance, and develop an efficient system of public facilities and services to accommodate anticipated growth and economic development;

- GOAL C: Economic Development** - To promote an economic climate which increases job opportunities and overall economic well-being;
- GOAL D: Affordable Housing** - To encourage and promote affordable housing opportunities for all Maine citizens;
- GOAL E: Water Resources** - To protect the quality and manage the quantity of the State's water resources, including lakes, aquifers, great ponds, estuaries, rivers and coastal areas;
- GOAL F: Critical Natural Resources** - To protect the State's other critical natural resources, including without limitation, wetlands, wildlife and fisheries habitat, sand dunes, shorelands, scenic vistas and unique natural areas;
- GOAL G: Marine Resources** - To protect the State's marine resources industry, ports, and harbors from incompatible development and to promote access to the shore for commercial fishermen and the public;
- GOAL H: Agricultural and Forest Resources** - To safeguard the State's agricultural and forest resources from development which threatens those resources;
- GOAL I: Historic and Archaeological Resources** - To preserve the State's historic and archaeological resources;
- GOAL J: Recreation and Access** - To promote and protect the availability of outdoor recreation opportunities for all Maine citizens, including access to surface waters.

Regional Coordination

Coordination between communities is important in order to achieve success in reaching the planning goals established in the Act. The Act requires a regional coordination strategy as follows:

- Strategy:** A regional coordination strategy must be developed with other municipalities to manage shared resources and facilities, such as rivers, aquifers, transportation facilities, and others. This program must provide for consistency with the comprehensive plans of other municipalities for these resources and facilities [30-A MRSA §4326 (4)]

Evaluation and Tracking Development

The Act contains directives for evaluating effectiveness as follows.

- Strategy:** The office shall conduct an ongoing evaluation process to determine the effectiveness of state and local efforts to achieve the purposes and goals of the

Act. The office shall seek the assistance of other state agencies. If requested, all state agencies shall render assistance to the office in this effort. In conducting the evaluation, the office shall develop criteria that are objective, verifiable, and quantifiable. [30-A MRSA §4331]

Coastal Policies

Finally, if the municipality is a coastal community, it must also specify what approaches it will take to address the following state coastal management policies:

1. To promote the maintenance, development, and revitalization of the State's ports and harbors for fishing, transportation, and recreation;
2. To manage the marine environment and its related resources to preserve and improve the ecological integrity and diversity of marine communities and habitats, to expand our understanding of the productivity of the Gulf of Maine and coastal waters, and to enhance the economic value of the State's renewable marine resources;
3. To support shoreline development that gives preference to water-dependent uses over other uses, that promotes public access to the shoreline, and that considers the cumulative effects of development on coastal resources;
4. To discourage growth and new development in coastal areas where, because of coastal storms, flooding, landslides, or sea-level rise, it is hazardous to human health and safety;
5. To encourage and support cooperative state and municipal management of coastal resources;
6. To protect and manage critical habitats and natural areas of state and national significance, and to maintain the scenic beauty and character of the coast, even in-areas where development occurs;
7. To expand the opportunities for outdoor recreation, and to encourage appropriate coastal tourist activities and development;
8. To restore and maintain the quality of our fresh, marine, and estuarine waters to allow for the broadest possible diversity of public and private uses; and
9. To restore and maintain coastal air quality to protect the health of citizens and visitors, and to protect enjoyment of the natural beauty and maritime character of the Maine coast.

EVALUATION CRITERIA

30-A MRSA §4331(1) directs SPO to establish criteria based on the statutory goals of the Act that are objective, verifiable, and, to the extent practicable, quantifiable and to establish baselines against which to evaluate progress. It further directs the Office to evaluate the Program generally at the regional and statewide level and to compare land use development trends at the local level, especially comparing towns that have participated in the Program to towns that have not.

SPO's first priority in evaluating the effectiveness of achieving the goals of the Act is to determine what has actually changed –to focus on the *outcomes* of state, regional, and local actions.

An outcome is the actual result of our efforts – the impact on the health of our environment or on the human condition. Outcomes can also be distinguished between long-term outcomes and intermediate outcomes. Long-term outcomes are most often associated with broad goals while intermediate outcomes measure incremental progress toward the goals. The day-to-day activities that help us accomplish our outcomes can also be measured in terms of outputs. Outputs are quantifiable and reflect the level of service we provide or products we produce.

Simply put, a group of people can drive to Bangor for dinner and a movie. Our effort to drive there is our activity. Measures of that activity are our outputs and might include the amount of time to get there, gallons of gas consumed, or cost per mile driven. Arriving in Bangor is our intermediate outcome. The true outcome is having an enjoyable evening with our friends.

In terms of Smart Growth, the progression might look like this:

Activities:

- Working with state agencies to change policies and programs that promote sprawl
- Providing grants and technical assistance to municipalities

Outputs:

- Number of state policies changed to remove hidden subsidies of sprawl
- Number of towns with consistent comprehensive plans and consistent ordinances

Intermediate Outcomes

- Improved efficiencies in use of state dollars
- Changes in the location of where growth occurs (less sprawl)
- Population shifting back to service centers (less sprawl)

Long-term Outcomes

- Preservation of natural resources
- Economic vitality of communities

Indicators are also useful when dealing with complex issues. Indicators do not measure outcomes directly, but provide information from which we can reasonably draw conclusions about our outcomes. Indicators are a way to assess long-term issues (environmental protection, human health, economic conditions); to demonstrate outcomes that are comprised of many and diverse factors (community vitality); or as a surrogate for outcomes that are difficult or costly to measure (such as success of fire prevention or impacts on dispersed populations like the homeless). Indicators are not perfect measures, but they can give us an understanding of circumstances in the absence of measuring the actual outcome. For example, the amount of tip left for the waitperson in the restaurant in Bangor is an indicator of the difficult-to-measure enjoyment of a dinner out.

For this evaluation, SPO relies on a combination of intermediate outcomes, indicators, and outputs.

Outcomes

SPO has selected three intermediate outcome measures to be used in the evaluation of the program effectiveness.

1. Percent of service center communities whose population growth is at or above the statewide rate
2. Percent of new development that occurs in locally-designated growth areas
3. Percent of state capital investment that is directed to locally-designated growth areas

1. Population Shift

Maine has 76 service centers. Service center communities are areas where people congregate to work, to play, to shop, or to receive services. The Legislature established four basic criteria to identify the municipalities in Maine that serve as centers:

- Jobs to workers ratio
- Volume of jobs
- Level of retail sales
- Amount of federally-assisted housing

Consideration is also given to the geographic distribution of municipalities. In addition to large urban places that serve as primary centers like Lewiston, Bangor, and Augusta, communities that serve as small (local) centers and include rural service hubs like Dexter, Jackman, and Eastport, as well as specialized centers like Millinocket, Fort Kent, Greenville, and Fairfield are also considered service centers.

Population growth (or lack thereof) is an indicator of the health of Maine's service centers and the extent of sprawl. This measure tracks the rate of population change in service center communities compared to the overall statewide rate of population change.

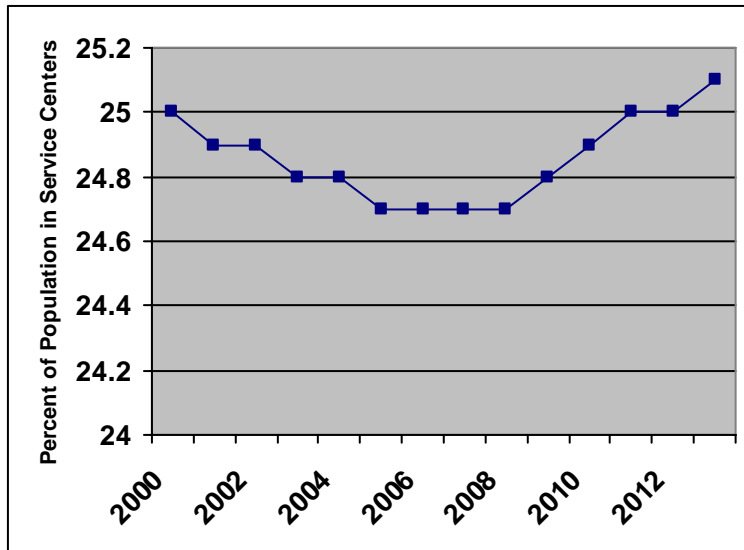


Figure 1: Population in Service Centers as a Percentage of Total Population – 2000 Baseline and Projected Trend

Since 1960, population has been moving out of service center communities, sapping the vitality of traditional downtowns and forcing the construction of new, costly infrastructure in rural areas.

From 1990-2000, Maine’s overall population grew by 3.7%. Yet, only 25% of the service center towns had population growth rates at or above the statewide rate over this same period. This means service center populations are growing slower than other communities (many are losing population).

Yet, in some areas of the State, in southern and coastal Maine, for example, some communities have population growth rates as high as 20-30% over the 10 years. With a statewide growth rate of barely 4%, these high growth rates cannot be the result of new population. We can conclude therefore that population is shifting. Our analysis shows it is shifting away from service center communities to rapidly suburbanizing and rural areas.

In the immediate future (2000-2005), SPO expects the population of service center hubs to continue to decline. In the near term, changes in state policies and local and regional land use decisions will not affect the status quo. Nevertheless, they will impact new development in the future. Beyond 2005, we hope that state and local efforts to curb sprawl will have the effect of slowing or stabilizing declining populations in service centers. As efforts continue, we hope that the rate of decline will reverse into the next decade.

2. Development Patterns

SPO intends to track where new development occurs to determine the effectiveness of local plans and ordinances and of state actions. Through the comprehensive planning process, municipalities identify the areas within their bounds best suited for growth (either due to the availability of infrastructure, access to services, or apart from natural resource and other areas that the town desires to protect). These areas are known as locally-designated growth areas. Implementation of

comprehensive plans through ordinances and permitting would steer new development to those areas the town has identified as where they want growth to occur. Implementation of state policies that give preference to locally-designated growth areas will do the same.

SPO's intent is to determine whether or not new development is actually located in those areas (and conversely whether it is *not* located in protected areas).

SPO and the Maine Office of Geographic Information Systems are currently developing a methodology to track development. The method being tested would identify new development based on the assignment of E911 addresses using geographic information system (GIS) technology. Municipalities will assign a GIS code to new addresses based on general categories of use for a structure (residential, commercial, public/civic, or specialized). This method will allow us to identify the construction of new principal structures warranting an address, regardless of whether a community has a building permit system or not. Addresses for new development can then be mapped and overlaid onto a map of local growth areas. New development can thus be readily tracked as in or out of designated growth areas.

Status of Mapping

Since it was recommended in 1999, SPO has worked to establish and fund a reliable system to track the location of development. A breakthrough occurred in 2002 when the Legislature codified a plan to create the Maine Geo-Library (a statewide geographic information system) and voters approved a \$2.3 million bond for its implementation. Concurrent with this larger project, SPO and the Maine Office of GIS developed and have begun piloting the methodology for tracking the location of new growth. As of year-end 2002, the software application was ready for beta testing. A steering committee to guide the pilot convened in January 2003. While participation in the tracking system will be voluntary, municipalities receiving community planning grants since 2001 have agreed to participate in the development tracking system to monitor the success of their local growth management programs. The E911 address data layer and the completion of the municipal growth area maps will enable evaluation of the efficacy of local growth management programs.

The launching of the development tracking system still depends on creation of the standards and framework of the Maine Geo-Library, which will be established during 2003, and for which bond funds will be used to match federal dollars for initial capital costs (largely a joint purchase of aerial photography with federal agencies).

3. State Capital Investment

State investments in capital projects such as roads and other transportation facilities, schools, sewer and water systems, transfer stations, fire stations, hospitals, and economic development infrastructure drive local development. Not only that, but we know that considerable state investment is spent, not to serve growing populations, but to accommodate shifting populations, often resulting in redundant capacity in schools, roads, or other infrastructure built with state funds. In 2000, the Legislature, recognizing the impact of state investments on local growth and intending to improve the efficiency with which state resources are used, directed state agencies

to give preference to projects that are in designated growth areas when providing funding, grants, or loans (30-A MRSA §4349-A).

This measure would track the location of state capital investments, again, using GIS technology. As they occur, the State would code investments and their location. It is intended that the State's accounting system would be used within a GIS module. Similar to the location of new development, a map of the location of state capital investments could be overlaid on GIS maps of locally-designated growth areas to determine whether state goals for investment are being met. SPO will work with the Department of Administrative and Financial Services and stakeholder agencies to test the feasibility of this approach.

Level of Analysis

As part of the Office's evaluation, the Legislature asked for an illustration of the impact of the Program by comparing land use development trends and patterns in a sample of municipalities that have participated in the Program with a sample of municipalities that have not.

As part of the 1999 evaluation, SPO collected data by hand for a sample of municipalities to attempt to compare 1990s development patterns in places where growth management policies had been instituted. Though the data demonstrated that little difference was discernible between municipalities that had and had not instituted growth planning measures (setting SPO on a course to stimulate "emboldening" of comprehensive plans), it also became extremely clear that a uniform, automated system needed to be created to perform such analysis in the future.

For this evaluation, SPO looked at the population growth rates of a sample of municipalities that have consistent comprehensive plans and consistent ordinances to see if there was a difference when compared to those municipalities that do not have an active growth management program. We compared two samples of 12 service center communities. There was no significant difference in population growth rates between the two sets of sample municipalities.

These are simple and unscientific comparisons and do not adequately make the kind of comparison desired. We need better data to achieve the evaluation requirements of the Act. The outcome measures that SPO identified above will meet this need when data become available.

Indicators of Livable Communities

In addition, SPO incorporates by reference the report of the Land and Water Resources Council, *Indicators of Livable Communities: A report on Smart Growth and the impact of land use decisions on Maine's communities, environment, and countryside* (see APPENDIX E for a full copy of the report).

According to the *Livable Communities* report, "We use indicators to understand the progress we are making – or failing to make – toward [Smart Growth]...The [livable communities] indicators ... allow us to make a statement about how well we are encouraging land-development patterns that stimulate vitality in our communities, support productive countrysides and natural resource-

based industries, and protect Maine's environment. They do not tell the whole story, but do condense a large amount of information into a manageable narrative. By monitoring...[these indicators], we can understand how well policies, programs, and individual decisions stimulate development...that sustain and restore our resources, communities, and land...This can allow us to understand if the decisions being made are good ones or if they need to be reassessed."¹⁵

The livable communities' indicators serve the purpose of helping to evaluate progress toward the 10 statutory goals of the Act (see APPENDIX F for a breakdown of the 22 indicators by goal).

So what is Smart Growth?

According to the indicators of livable communities, smart growth...

- ...is communities planning for growth;
- ...is the opportunity to live in vibrant service center communities;
- ...is building new homes in service center communities;
- ...is being able to walk to local services, places, and events;
- ...is having outdoor recreational opportunities within your community;
- ...results in vital downtown business districts and village centers;
- ...results in economically vital service center communities;
- ...is maintaining and improving the infrastructure of Maine's service center communities;
- ...is making service center communities attractive places to live;
- ...results in efficient use of roads and highways;
- ...provides alternative modes of transport for freight and cargo;
- ...provides citizens with choices for travel;
- ...results in cleaner air;
- ...results in clean and healthy lakes;
- ...protects groundwater quality;
- ...results in clean and healthy rivers;
- ...results in clean and healthy clam flats and ocean waters;
- ...protects important natural places and resources;
- ...results in species abundance and biological diversity;
- ...enhances the viability of Maine's working forests;
- ...maintains commercial access to marine resources;
- ...slows the loss of productive farmland; and
- ...maintains timberland that supports a vital forest and paper industry.

*Areas where we are doing well*¹⁶

- The number of municipalities with adopted consistent comprehensive plans (219 in 2002)
- The percent of people purchasing basic household goods in their downtown or local village (70% in 2002)

¹⁵*Indicators of Livable Communities*. p-ii-iii.

¹⁶ Indicators and data to assess them are from the *Livable Communities Indicators* report and reflect 2000 or 2001 data. For this evaluation, SPO has updated to 2002 data where they are available.

- The percent of people with outdoor recreational opportunities within walking/biking distance (59% in 2002)
- The percent of public water systems experiencing bacterial contamination (8.1%)
- The percent of Maine citizens saying it is important to them that the town they moved to have cultural and entertainment opportunities (68% in 2002)
- The average posted speed on arterial roads (45.53 mph)
- Number of passenger travel trips using alternative modes (increased by 4%)
- Percent of lakes suitable for swimming (96.2%)
- Number of public and private wells with petroleum contamination (35 down from 54 ten years ago)
- Percent of miles of rivers that support designated uses (96.4% in 2002)¹⁷
- Number of acres of flats closed to shellfish harvesting (157,000 down from 270,000 in 1993)
- Acres of land conserved (nearly 2 million)
- Acres of forest land certified as managed sustainably (4-fold increase)

Areas where improvements are needed¹⁸

- The percent of population in service center communities (44%)
- The number of new homes constructed in service center communities (25%)
- The percent of people able to walk to services or shops in their communities (27%)
- Stability of total taxable sales in primary service centers (fluctuated widely)
- Percent of freight shipped by alternative modes (10%)
- Number of berths and moorings (1,650)
- Acres of farmland (1.2 million down from 4.8 million in the 1950s)
- Loss of timberland due to development (13% decline since 1989)

The indicators of livable communities help us to assess the areas that need attention. Overall, Maine is making progress in community planning, water quality, access management, and land conservation. We have more work in strengthening service centers and downtowns, and protecting coastal resources, farms and timberlands.

Outputs

In addition to outcomes and indicators, we can assess the outputs of SPO and our partners. When taken together and sustained over time, these outputs will help the State make incremental progress towards the goals of the Act. Some of the outputs tracked for the period of this evaluation (1999-2002) are:

¹⁷ Department of Environmental Protection, miles of rivers/streams supporting fishing and swimming.

¹⁸ Indicators and data to assess them are from the *Livable Communities Indicators* report and reflect 2000 or 2001 data. For this evaluation, SPO has updated to 2002 data where they are available.

Grants: SPO awarded grants and funding totaling just over \$2 million including:

- 43 Comprehensive Planning Grants (\$602,077)
- 25 Implementation Grants (\$228,447)
- 30 Comprehensive Plan Update Grants (\$277,540)
- 11 Smart Growth Challenge Grants (\$332,666)¹⁹
- 4 Great American Neighborhood Partnership Grants (\$12,000)
- 3 Smart Growth Technical Assistance Grant (\$95,492)
- 6 Rural Investment Pilot Grants (\$84,255)²⁰
- 3 Brownfield Assessment Grants (\$120,000)²¹
- Funding for 11 regional councils (\$325,000 annually)²²

Comprehensive Plans: SPO conducted 72 reviews of comprehensive plans and zoning ordinances. Nine state departments actively participate in reviewing comprehensive plans.

Preferences and Targets: Seven state agencies modified 20 programs to incorporate Smart Growth preferences that resulted in, among others:

- 4 school districts choosing renovation over new construction
- 14 school districts siting new schools in residential growth areas
- 3 new state offices and two district courts locating in service center downtowns or growth areas

Technical Assistance Materials:

- *Making Schools Important to Neighborhoods Again* and *ABCs of School Site Selection*
- *Visioning Manual* to help a community conduct a successful visioning process
- *Smart Growth Toolbox* (sets of the best technical assistance materials available)
- Municipal technical assistance bulletins on a variety of development review topics
- Regional, web-based mapping service and computer generated build-out scenarios
- *Impact Fee Handbook*
- *Comprehensive Plan Update Manual*
- Electronic packages of state data to assist towns with comprehensive planning

Technical Assistance Workshops: SPO staff conducted more than 200 smart growth presentations and growth management meetings with community and civic groups, and private and professional organizations. In addition, a variety of workshops were conducted:

- (9) Community Visioning sessions
- Smart Growth Institute
- Great American Neighborhood charette
- Making Schools Important to Neighborhoods Again charette
- CEO training on smart growth
- Building Caps workshop

Management Systems: SPO staff created two databases to improve program management and enhance access to information:

- Municipal database that tracks nearly every aspect of the Program
- Searchable library database of over 4000 plans, ordinances, documents, and books

¹⁹ This includes \$40,000 in federal coastal funds

²⁰ This includes \$42,663 in federal coastal funds

²¹ These grants are federally funded.

²² This includes \$131,000 of federal coastal funds.

Measurement Issues and Data Limitations

Establishing the criteria and tracking systems to monitor them has not been easy. It has required considerable investment of resources. But ultimately it will tell us whether our policies and programs are having their intended effect – *is growth being managed in a way that meets the Legislature's goals?*

All three of the outcome measures meet the requirements of the law. They are quantifiable. They can be tracked over time. They will allow the Office to compare towns that have participated in the Program versus those that have not. But each has limitations.

Data Limitations for Outcome Measures

- Census data are collected decennially with annual estimates. These estimates are just that – *estimates*. They are almost always retrospectively corrected when the next decennial census data are collected. This is problematic for tracking shifts in population as we have to wait 10 years to know for sure what the growth rates are.
- The system envisioned for tracking where capital investment occurs is limited to state dollars and does not include federal funds (unless they pass through the State), nor does it record local funds, which are not inconsiderable.
- Tracking where growth occurs and where state capital investments go does not tell us whether there have been changes in the patterns of development. In the future, SPO will need to develop further evaluative techniques to determine if sprawling patterns of development are reversing.
- None of the measures help us evaluate cause and effect. They help us understand if change is occurring, but they do tell us why and whether it is due to any one particular growth management strategy or due to land use planning decisions at all.

Data Limitations for Indicators

The indicators of livable communities are valuable because of the collaborative process used to establish them. Selecting what to measure is as important as the actual measurement.²³ The interagency Smart Growth Coordinating Committee, consisting of representatives from over 15 state agencies, selected the indicators and provides the data to monitor them.

- In several cases in the report, survey data were collected in lieu of existing data sets, which simply were not available. In other cases, a proxy was developed with the recommendation that in the future a more targeted indicator be utilized.²⁴
- The report card is only valuable if it is maintained. It will require effort on the part of the agencies participating in the Smart Growth Coordinating Committee to collect data.

²³ *Indicators of Livable Communities*, p. iii.

²⁴ *Ibid.*

Conclusions

Are we making progress?

In 1999, the Office concluded that the State's traditional approach to land use planning, which relied exclusively on local planning, and a town-by-town approach at that, was not enough. As a result, it shifted resources to foster state and regional initiatives that would have far greater impact than local efforts alone. While it is too early to tell yet whether the program changes made over the past four years have improved land use patterns, there are promising signs:

- School children in 18 towns will have new schools in or nearby a neighborhood rather than miles from where they live.
- State workers located in three new office buildings and two district courts will contribute to the economies of the downtown areas where they are located.
- Service centers and locally-designated growth areas are now preferred locations for a score of state programs that provide funding, grants, and loans to communities.
- Strip development is diminishing through transportation access management rules that establish standards for entrances onto state arterials.
- Maine's service center communities are finding some relief for services like roads, emergency, and hospital services that they provide to visitors from surrounding towns from municipal revenue sharing funds distributed by the state under a new formula.
- Towns and cities in a number of different regions in the state are looking for ways to consolidate services as a way of reducing costs and gaining efficiencies.
- The local economies of five towns will be enhanced by their designation as Main Street Maine towns.
- Productive farmlands are being protected through targeted Land for Maine's Future program funds.
- Maine farmers have access to improved business planning and marketing assistance through the *Farms for the Future* and *Get Real Get Maine* campaigns.
- Towns and regional organizations are beginning to cooperatively develop open space and wildlife protection programs based on the Beginning with Habitat model.
- Maine now has a statewide Geo-Library that will make geographic information system mapping technology available to everyone who has access to the World Wide Web which will enhance the State's ability to track the location of state investments and the location of new development.
- Nearly 1500 residents in a number of Maine communities will have access to homes on smaller lots in traditional, walkable, mixed-use neighborhoods.

PROGRAM UPDATE

The Program has gone through many changes since its inception in 1988. The focus of the 1980s was on a town-by-town response to growth, easing of traffic congestion, preserving rural character, and land use regulation. This has evolved, both programmatically and legislatively in the 1990s to recognize key issues such as regional and state influences on growth patterns, the importance of stimulating sustainable local economies, including natural resource-based industries, and encouraging more interlocal cooperation. Nevertheless, the framework of the Planning and Land Use Regulation Act remains largely intact.

Today, the Act is administered by the State Planning Office. Six staff makes up the Community Planning & Investment Program that administers grants to municipalities to develop and implement local growth management programs. Staff provides planning technical assistance to towns and works with Maine's 11 regional councils who, with financial support from the Office, also assist communities. Finally, staff works to coordinate and foster the principles of the State's Smart Growth Initiative, develops new tools, assists towns with the designations of local growth and rural areas in their comprehensive plans, and supports state agencies with changing laws, policies, regulations, investments, and programs that subsidize sprawl.

A. Staffing Levels

Currently there are six positions in the Community Planning & Investment Program that administer grants and provide planning technical assistance to communities, administer contracts and provide support to the state's 11 regional councils, and coordinate SPO's smart growth initiatives.

Job Classifications

Program staff is classified as follows:

- (1) Public Service Manager
- (4) Senior Planners (3 funded by the Coastal Program)
- (1) Planner II

Funding Sources for Salaries

Three positions are funded through the General Fund dollars²⁵. The one-time smart growth money (General Fund) provided for a temporary staff person to help administer grants and contracts. That person worked with the staff for nearly two years in 2001-2002, but funds have since been exhausted.

The Maine Coastal Program, a federally funded program housed at SPO, funds the salaries of three Community Planning & Investment Program staff. To be true to our funding source, the federally funded positions provide assistance to coastal communities.

²⁵ Though this may be further reduced in FY 04-05.

Staff Workloads

Local assistance, both technical and financial, demands significant state staff time in the development and management of contracts with towns and regional councils, review of plans and growth management programs, and with specific planning guidance. A growing statewide focus on the costs of sprawl and smart growth has increased the demands that are being made on the Program. Over the past few years, SPO staff has worked extensively with other state agencies and the Legislature to identify programs, policies, and investments that subsidize sprawl; establish new systems to support growth in designated growth areas and conserve critical resources in designated rural areas; and research promising new methods to direct growth to desired locations throughout the State.

Our focus on smart growth and on state investment policy has consumed resources, redirecting some away from traditional tasks such as reviewing municipal plans and preparing new technical assistance materials. In a few cases, delayed comprehensive plan reviews have provoked legitimate customer service complaints. Work load was particularly burdensome when the Program faced a 20% reduction in staff for nearly a year (due to one staff person's extended family medical leave and an unfilled vacancy of six months, when replacement was delayed because of the hiring freeze). Though responsibilities were shifted temporarily to other reviewers, a few plans did fall through the cracks. Now that the Program is fully staffed once again, administrative procedures have been revamped and the Program has redoubled its efforts to complete reviews in a timely fashion.

Even without the unavoidable vacancies, the success of the State's Smart Growth Initiative, has made it increasingly difficult to meet the growing expectations of the various partners (local, regional, state, private, and nonprofit), particularly in the research and development of new tools and in providing technical assistance to all the communities that are interested in managing their growth and development. Recognizing the significance of this shortfall, SPO is working to identify new approaches to deliver services, make strategic adjustments in focus where appropriate, striving to moderate expectations of its partners, and find ways to leverage additional resources to maintain and improve the effectiveness of the Program.

Staff Recruitment and Retention

Program staff is extremely committed to their work and are highly motivated. Yet, as workloads increase and resources decrease, Program staff leaves. Between 1997-2001, the Program's turnover rate was 67%. In addition, the workforce is aging and more employees are eligible for retirement. At the same time, salaries for state government planners have not kept pace with the rest of the nation, or even with the municipal planning sector -- particularly for planners with five or more years of experience. SPO struggles to recruit and retain staff and delays in recruitment have added to the workload of the remaining staff. SPO has developed a workforce plan that identifies strategies to improve the quality of candidates and to facilitate the recruitment process, but it will be 6-12 months before these strategies are put into place.

B. Grants and Funding

Over the last four years the Office has offered eight types of grants to municipalities; some geared toward developing and implementing comprehensive plans and some that support smart growth initiatives, including some pilot grant programs (see APPENDIX G for a description of grants awarded over the evaluation period and APPENDIX H for a description of the projects funded with Smart Growth Challenge Grants).

Types of Community Planning & Investment Grants

- Comprehensive Planning Grants to develop comprehensive plans that are consistent with the Act.
- Implementation Grants to develop zoning or other regulatory tools that implement strategies in an adopted comprehensive plan found to be consistent with the Act.

Types of Smart Growth Grants

- Comprehensive Plan Update Grants to revise and update previously developed comprehensive plans to bring them up to date to reflect demographic and economic changes and to integrate smart growth principles to more effectively guide growth.
- Smart Growth Challenge Grants to support innovative projects that respect smart growth principles and can serve as models for other communities.
- Great American Neighborhood Partnership Grants to support joint efforts between a town and developer to explore the feasibility of developing Great American Neighborhoods.
- Smart Growth Technical Assistance Grants to prepare technical assistance materials to help address sprawl and engender smart growth.

Pilot Grants

- Rural Investment Grants to support local and regional efforts to strengthen natural resource-based industries.

Brownfields

- Federally-funded Brownfield Assessment Grants to support redevelopment of abandoned or contaminated commercial and industrial sites.

Distribution of Grant Funds, 1999-2002

Since 1999, SPO has awarded \$1.75 million in planning grant funds to over 120 municipalities and regions. Because of a one-time appropriation for Smart Growth, the Office was able to dedicate additional resources for grants over the past few years. Of the total dollars awarded, 63% was for local comprehensive planning and the rest was for smart growth-related and other types of grants.

Grant Type	Number of towns/regions receiving grants²⁶ 1999-2002	GF Dollars²⁷ awarded for grants 1999-2002	FF Dollars awarded for grants 1999-2002	Total
Comprehensive Planning Grants	43	\$602,077		\$602,077
Implementation Grants	25	\$228,447		\$228,447
Comprehensive Plan Update Grants	30	\$277,540		\$277,540
Smart Growth Challenge Grants	11	\$292,666	\$40,000	\$332,666
Great American Neighborhood Grants	4	\$12,000		\$12,000
Smart Growth Technical Assistance Grants	3	\$95,492		\$95,492
Rural Investment Pilot Grants	6	\$41,592	\$42,663	\$84,255
Brownfield Assessments	3		120,000	\$120,000
Total	125	\$1,549,814	\$202,663	\$1,752,477

Table 1: Distribution of Capital Planning and Investment Grants, 1999-2002, All Funding Sources

1. General Fund Grants

SPO expended the following General Fund dollars for comprehensive planning and implementation grants over the period of the evaluation.

Community Planning & Investment Program Grant Budget General Fund Summary FY 2000-2003

	2000	2001	2002	2003(budgeted)²⁸
Comprehensive Planning Grants	\$143,801	\$160,320	\$118,863	\$131,580
Implementation Grants	\$ 82,347	\$146,100	\$ 0	\$ 0
Comprehensive Plan Update Grants	\$ 0	\$ 0	\$ 0	\$100,000
TOTAL	\$226,148	\$306,420	\$118,863	\$231,580

Table 2: General Fund Summary of Community Planning & Investment Grant Program Budget

²⁶ Some grants were awarded to a regional entity or to support a multi-municipal project. In these awards, the grant is only counted as one town.

²⁷ Includes \$899,967 in funds from the one-time \$1.7 million Smart Growth Initiative.

²⁸ The allocation of funds between the grant lines may change, depending on the number of proposals received and their "readiness" for funding.

In FY03, due to revenue shortfalls, SPO was asked to curtail funding in all areas. As a result, \$75,000 was cut from the grant program. Given the approximate size of individual grants that would have been awarded, the curtailed funds would have supported 3-7 additional municipalities with community planning.

2. Smart Growth Initiative

In 2000, the Legislature made a one-time appropriation of \$1.7 million in General Funds to support the State's Smart Growth Initiative. Funding supported financial and technical assistance to municipalities and regional councils and pilot programs for downtowns and alternative growth management initiatives. Unfortunately approximately \$117,000 of this one-time appropriation was reclaimed to help address the state revenue shortfall.

SPO used the fund to support a variety of local and regional grants, including:

- Comprehensive Planning Grants
- Comprehensive Plan Update Grants
- Smart Growth Challenge Grants
- Smart Growth Technical Assistance Grants
- Downtown Revitalization Grants (through the Maine Downtown Center)
- regional initiatives

Funds were also used to:

- prepare technical assistance materials such as model ordinances and the Smart Growth ToolBox (a collection of documents and audiovisual materials that is housed at SPO and each of the 11 regional councils and is available for loan to the general public);
- develop strategies to guide state smart growth initiatives like farmland preservation, the Maine Geo-Library, and a model building code to encourage rehabilitation of downtown structures; and
- support development and operation of the Maine Downtown Center.
- provide training such as the Maine Smart Growth Institute and workshops on Great American Neighborhoods and their relationship to schools.

Funds were also directed to the State's 11 regional councils to provide additional support to communities in the development and adoption of emboldened comprehensive plans.

The Smart Growth Initiative also included implementing legislative changes to the Act; working with the Legislature, other state agencies, municipalities, regional councils, other regional entities, and various private and nonprofit constituents to explore smart growth policies and issues (described in other parts of this evaluation), the costs of which were absorbed by SPO.

Overall, funds were expended as follows:

Smart Growth Initiative Expenditure Categories	Expended
Project Position ²⁹	\$108,408
Municipal Grants	\$899,967
Regional Grants and Contracts	\$361,398
Technical Assistance Products and Initiatives	\$212,563
Budget Curtailment	\$117,664
Total	\$1,700,000

Table 3: Breakdown of Smart Growth Initiative Funding

3. Future Funding Needs

There is more demand for grants than the Program can provide. At current funding levels, all towns will not be offered both their planning and implementation grants until 2036. To fund every community would take approximately \$5 million.

Future Potential Local Financial Assistance Need (In Dollars)

Type of Community	Planning Grants	# of Towns³⁰	Implementation Grants	# of Towns	Total Funds Needed
Service Centers	\$69,210	3	\$372,581	30	\$441,791
Other Urban Places	\$22,894	1	\$108,169	9	\$131,063
Fast Growing Towns	\$681,773	41	\$1,115,625	132	\$1,797,398
Slow Growing Towns	\$1,174,240	64	\$1,434,375	109	\$2,608,615
Total Projected Need	\$1,948,117	109	\$3,030,750	280	\$4,978,867

Table 4: Funding Projections to Provide all Municipalities with planning and implementation grants

4. Regional Councils

The Office contracts with Maine's 11 regional councils to deliver land use technical assistance to municipal officials. These agencies help municipalities coordinate their role in regional growth patterns; prepare competitive grant applications for comprehensive planning, implementation, and pilot grants; and provide front-line resources to address basic planning needs.

Since the establishment of the regional council network in the 1970s, state support of the councils has been maintained in only a marginal manner. The State Planning Office and departments of Economic & Community Development and Transportation all provide annual funding for local outreach and technical assistance which, pieced together, is a small but important component of the regional councils' budgets. Flat funding, lessened in value by

²⁹ This was a 2-year temporary position within the Program to help administer grants.

³⁰ Since 1994, the Program has not offered the approximately 38 unorganized townships and plantations financial assistance.

inflation and a large number of state-required tasks, makes the councils' efforts less effective than they might otherwise be.

While three legislative task forces charged with examining the State's growth management efforts recognized the need to bolster the regional council network, no additional funds have been made available other than a portion of the one-time \$1.7 million Smart Growth allocation in FY01. Frequently, their funding is the first to be cut. For example, the regional councils are envisioned to perform a critical role in the development of Maine's new Geo-Library. However, when funds were insufficient, council funding was eliminated.

More detail on annual funding follows:

- Land Use Planning: The State Planning Office supports all 11 regional councils with an annual sum of \$194,000 in state funds, supplemented with \$131,000 in federal coastal funds, to deliver a part-time program of land use technical assistance and regional planning. The funding allows for approximately one-third of a planner's time on average per region. This is down from funding one full-time position when the Program started.
- Transportation: The Department of Transportation provides 9 of the 11 regional councils with funding to support the Regional Transportation Advisory Committees, spending about \$245,000 per year. This is insufficient to do the work that needs to be done.
- Community Development: The Department of Economic & Community Development provides 10 of the 11 regional councils with technical assistance grants to assist municipalities with applying for Community Development Block Grants.
- Consolidated Contract: The Office and the Department of Transportation coordinate their joint contract with the councils annually to maximize opportunity for shared funding of regional planning and technical assistance.
- Training: The Office paid for the regional council technical assistance coordinators to attend the two-week Smart Growth Institute in 2001. This effort was made possible by the one-time legislative appropriation for the Smart Growth Initiative, supplemented by some General and coastal funds. The Office continues to invest in the creation of manuals and publications to facilitate the councils' abilities to provide cost-effective, quality technical assistance to towns.

Lack of involvement of regional organizations in planning for protection of habitat and other resources and in the creation, expansion, and maintenance of infrastructure has severely limited the Program's effectiveness in planning for growth and protection of resources that cross municipal boundaries and in encouraging and supporting the development and use of multi-municipal and regional facilities and services. In addition, funding cutbacks have severely restricted the regional councils' abilities to provide continuing education about land use issues, which is necessary to implement the goals of the Act.

C. Consistency

In accordance with state statute (Title 30-A MRSA §4347-A), the Office reviews comprehensive plans and growth management programs for consistency with the goals and guidelines of the Act. Municipalities voluntarily submit their comprehensive plans and growth management programs to the Office for review. As the lead agency, the Office coordinates its findings with the input of nine other state agencies. Each agency, including the Office, reviews the comprehensive plan or growth management program for consistency with appropriate state and federal rules and regulations, as well as agency policies and programs. (The Office relies on two administrative rules: 1) Chapter 202 - Comprehensive Plan Review Criteria Rule and 2) Chapter 205 - Procedural Rule for Submittal and Review of Municipal Growth Management Programs for a Certificate of Consistency.) Municipalities are provided with detailed explanations for any portion of their plan or program that is found to be “inconsistent” with the Act. Many agencies provide additional suggestions for towns interested in strengthening their plans or programs.

From 1999-2002, SPO reviewed 72 local planning documents as follows:

	Number of Documents Reviewed	Documents Found to be Consistent	
		<i>Number</i>	<i>Percentage</i>
Comprehensive Plans	54	34	63%
Zoning Ordinances	18	13	73%

Table 5: Local Planning Documents Reviewed by SPO, 1999-2002

Nine departments and agencies participate in reviewing comprehensive plans submitted to the Office, including the departments of Agriculture Food and Rural Resources, Conservation (Maine Forest Service, Natural Areas Program, Maine Geological Survey, and Parks and Recreation divisions), Environmental Protection (Lakes and Shoreland Zoning divisions), Human Services (Drinking Water Program), Inland Fisheries & Wildlife, Marine Resources, and Transportation. The Maine Historic Preservation Commission and Maine State Housing Authority also review plans.

In 2001, the Office began to conduct start-up presentations with all grantees. The presentations allowed SPO to describe the State’s expectations, clarify issues, and provide the Office with an opportunity to connect the appropriate state agency with the local planning committee to facilitate the planning process. While resources are limited, most agencies have been very cooperative in working with the Office to improve service delivery to local planning committees.

Through the Maine Office of Geographic Information Systems and other agencies, the State can now provide digital data to municipalities and regions to support local comprehensive planning. Beginning in October 2002, municipalities are provided a compact disc containing a composite of state agency data. The agencies continue to work together to make this product as useful as possible, including making it web accessible. Improving the data accessibility and delivering technical assistance material to local planning committees are high priorities for 2003.

1. Consistency Status of Local Plans and Ordinances

The following table shows the consistency status of all Maine communities with regard to their comprehensive plans and zoning ordinances.

	Number Found Consistent	Number Found Inconsistent	Number Adopted
Comprehensive Plans	219	81	202
Zoning Ordinances ³¹	36	30	n/a

Table 6: Status of Municipalities' Comprehensive Plans and Zoning Ordinances

2. Certified Growth Management Programs

Towns with an adopted consistent comprehensive plan, a set of land use ordinances that are consistent with the Plan and with state law, and a 10-year capital improvement program can request certification. The Office reviews the town's program to determine whether it is consistent with the procedures, goals, and guidelines established in the law. Towns with Certified Local Growth Management Programs are rewarded for their effort with preferences for state grants and funding.

Currently, five Aroostook County towns have Certified Growth Management Programs. At least another 25 communities are eligible for certification, but have not applied to be certified.

The Office believes that more communities will seek certification as more state programs provide recognition and incentives. The Office continues to work with state agencies to create additional incentives and preferences in their programs for communities with Certified Growth Management Programs. Recent funding of the Municipal Investment Trust Fund should help provide a significant incentive since communities with Certified Growth Management Programs are eligible to receive grants from the Trust Fund, while other communities are eligible for loans only. Greater capitalization of this fund will increase the opportunity to offer grants and provide an incentive to have a certified program.

Under the terms of the Act, certification is good for ten years. However, it is unclear whether communities with certified programs have been using the annual Capital Improvement Plans submitted as part of their certification application. Without attention to this part of their program the effectiveness of their programs is doubtful. The Program is likely to review and propose revisions to the Act and its regulations to address this issue in upcoming years.

³¹ There is no reporting requirement for adoption; SPO gathers this data as it can. At this time the number of adopted zoning ordinances is not available.

D. Smart Growth: The Competitive Advantage

In 1999, Governor King formed a sub-cabinet working group to consider how state government could support smart growth. The goals of the effort were to assure a strong rate of return on public investment, to renew its commitment to environmental stewardship, and to step up efforts to build and strengthen communities.³²

The working group, which included Commissioners and designees from 11 agencies, created a 3-year action plan, *Smart Growth: The Competitive Advantage*, which identified changes to operations, policies, laws, regulations, and investment decisions which unintentionally promote sprawl (see APPENDIX I for a copy of *The Competitive Advantage* action plan and APPENDIX J for an update on implementation of the plan).

That strategy became the basis for SPO's 5-point approach to managing the Smart Growth Initiative:

1. Get the State's house in order by reforming state policies, programs, and investments that encourage development sprawl;
2. Aid rural areas by bolstering the health and well-being of Maine's traditional natural resource-based industries;
3. Strengthen service center communities;
4. Provide relief to suburbanizing communities; and
5. Support the development of traditional, compact, Great American Neighborhoods.

The sub-cabinet also charged the Land and Water Resources Council with maintaining a biennial report card on progress toward this initiative. The Land and Water Resources Council created the Smart Growth Coordinating Committee, a standing committee, which SPO staffs, to coordinate these efforts.

What follows is a summary of only some of the efforts undertaken by the Legislature, SPO, its partner agencies, and communities all across Maine to implement the Smart Growth Initiative (For more details, see the GOALS ASSESSMENT section of this report).

1. Getting the State's House in Order

Preferences for Service Centers and Growth Areas

The Act was amended in 2001 to direct state agencies to establish preferences³³ in grant and

³² Goals of *Smart Growth: The Competitive Advantage*, recommendations of Governor Angus King's Cabinet Committee on Smart Growth.

³³ In cases where state agencies believe that growth-related capital investments should be made outside of a designated growth area, the statute directs the LWRC to review and certify that there is no feasible investment or siting opportunity in one of the priority locations. SPO works closely with LWRC to provide guidance to state agencies that are affected by the legislative directive regarding growth-related capital investments.

investment programs to assist municipalities with preventing sprawl. As a result, seven state agencies have modified 20 programs to incorporate a town's comprehensive planning efforts into preferences for the award of grant and loan funds as follows:

- Department of Administrative and Financial Services: location of new state buildings
- Department of Conservation: Land and Water Conservation Fund and Urban and Community Forestry Grants
- Department of Environmental Protection: Non-point Source Pollution 319 Watershed Grant Program, "Patient" Sewer Extension Revolving Loan Fund, State Revolving Loan Fund for wastewater treatment plants and sewage improvements, Combined Sewer Overflow Fund
- Department of Economic & Community Development: Community Development Block Grants (including the Public Facilities Grants, Public Infrastructure Grants, Housing Assistance Grants, and Economic Development Programs)
- Department of Human Services: Source Water Protection Planning Grants and Revolving Loan Funds for community water systems
- State Planning Office: Community Planning grants and Land for Maine's Future funding
- Department of Transportation: Surface Water Quality Protection, Small Harbor Improvement Grants, Boat Infrastructure Grants, Scenic Byways and Transportation Enhancement Programs, Sidewalk Policy, and Dredging Prioritization Evaluation

State Office Location

Similar to school location, state office locations can be the hub around which downtowns and growth areas sprout or are sustained. For the last two years, all formal state *Requests for Proposals* for new building space have included bonus point preferences first for service center downtowns and second for growth areas. The Bureau of General Services in the state Department of Administrative and Financial Services has further modified its bid requirements to say that only a portion of total parking needs to be on-site parking (often a sticking point when locating offices in downtown areas). New state office buildings in Sanford and one that is pending in Calais will be located in downtowns, and a proposal has been awarded for a site in a designated growth area in Dover-Foxcroft.

District Court Buildings

SPO worked with the Judicial Branch, District Court Officials, and BGS to select sites for district courts in Lewiston and Sanford. The Lewiston District Court was housed in a renovated National Historic Register property in downtown Lewiston and is proving to be an anchor and impetus for renovating an entire city block. The Sanford District Court is sited on the former Nason College Campus in downtown Springvale and is the cornerstone of a redevelopment partnership between local public and private interests and the University of Maine.

Schools

For more than a century in America, the location of schools has been a powerful influence on how the rest of a community grows. Up until the 1960s schools were almost always placed within walking distance of the children they would serve. In fact, one of the unwritten rules of school-siting and neighborhood development was that a school would be at the heart of the

neighborhood, typically within ¼ to ½ mile of the homes from which the children would come. As a different pattern of development began to take hold in the late 1960's and 1970's, a different philosophy emerged. It became acceptable, in fact routine, to place schools outside of neighborhoods where space was ample and land less expensive and easy to assemble.

One of the side effects of this change in school siting practices was that for the last 30 years school construction has contributed to Maine's sprawling pattern of development and decline of established, compact neighborhoods.³⁴ Recent literature from the health community echoes this concern, raising the specter that our pattern of school construction and its relationship to residential construction contribute to concerns about the health of our children (i.e., obesity, sedentary lifestyle, and lack of routine physical exercise).

Since 1999, the Department and Board of Education have worked to better direct funds to service centers and designated growth areas. SPO and the Department of Education have worked with every school district that received school construction funds during this period, resulting in many new schools being sited in designated growth areas (see APPENDIX K for a summary of school construction projects).

Access Management

Vehicles entering/exiting a road cause congestion, slow traffic, and generally reduce the overall capacity of a road. Unlimited access onto arterials is an invitation for development sprawl. In 2001-02, the Legislature endorsed, and the Maine Department of Transportation implemented, an access management strategy that sets differential standards for access points on rural state highways (over 45 mph posted speed) according to their mobility characteristics. SPO participates in the Department's Access Management Program Implementation Team.

The Department is also working to link future investments in sidewalks, bike trails and other transportation improvements to priorities outlined in comprehensive plans and is facilitating innovative development designs. Currently, the Department is formulating additional approaches to encourage the siting of high-volume land use activities requiring a Traffic Movement Permit in growth areas and continues to look for improvements.

2. Aiding Rural Areas by Bolstering Traditional Natural Resource-based Industries

Incentive to Keep Rural Lands Productive

Under the auspices of the Land and Water Resources Council, SPO produced the *Report on the Use of Incentives to Keep Land in Productive Farming, Fishing and Forestry Use (February 2001)*, as directed by P.L. 1999, Ch. 776. The report concluded that the best ways to keep rural lands in productive farming, fishing, and forestry use are through policies and programs that support the economic viability of these rural industries while maintaining ecological productivity. This can be done in a number of ways, including but not limited to research and development, workforce training, labor standards policies, educational programming, land use policies, land and development rights acquisition strategies, taxation policies (numerous subsets

³⁴ Over the last four years, the Board and Department of Education have worked with the Legislature and SPO to address these concerns.

of these), financing programs, marketing assistance and state purchasing policies (see APPENDIX L for a full copy of the report). Specific recommendations included:

- reimburse municipalities and stabilize terms of the current use tax programs, particularly Tree Growth;
- improve outreach to landowners regarding use of the Land for Maine's Future Program and other incentives;
- support the \$1.5 million proposed in the November 2003 bond package for a new round of funding for MDOT's Small Harbor Improvement Program grants;
- adjust the Forest Management Tax Credit;
- improve links between comprehensive planning and farming, forestry, fishing and wildlife habitat issues;
- create a Farm Link Program;
- inventory rural resources and monitor impacts of development using GIS;
- enact a wildlife habitat tax incentive;
- support a current use tax program for commercial fishing property;
- address aquaculture application review issues; and
- enact a transferable state income tax credit for conservation.

Farmland Strategic Plan

Thanks to the one-time Smart Growth funding, SPO was able to join with the Department of Agriculture to hire the American Farmland Trust to assist with developing a strategic plan for Farmland Protection. The Plan is expected to be finished in early 2003. It emphasizes effective collaboration among farmers, agency service providers, local and regional planning committees, land trusts, and government agencies to facilitate a coordinated deployment of resources toward recognized local and regional priorities. Key stakeholders include the Maine Agricultural Center and Cooperative Extension Service at the University of Maine, Maine Municipal Association, Maine Farm Bureau, Maine Farmland Trust, Maine Coast Heritage Trust, Maine Organic Farmers and Gardeners Association, Natural Resource Conservation Service/USDA, and Land for Maine's Future Program.

Farmland Protection

As Maine loses acres of farmland each year, Land for Maine's Future (LMF) funds have been targeted to protect productive farmlands. In 1999, the Legislature directed the Land for Maine's Future Program to spend up to 10% of its bond funds for farmland protection. Representatives from the Land for Maine's Future Program are stakeholders in the farmland strategic planning process (see above) and works with the Community Planning & Investment Program to identify projects in communities that have identified farmland protection as a goal in their comprehensive plans. To date, the Land for Maine's Future Program has protected 2,744 acres of farmland in Maine and seven additional projects are underway.

Sales Tax Exemption

The Legislature removed the sales tax charged on electricity purchased by farmers for development of a wholesale product. Equivalent sales tax had been exempted by the industrial sector for years. This has provided significant tax relief to farms.

Farmland Tax Program

Because of large withdrawal penalties, many landowners would not use the Farm and Open Space tax program, designed to reduce the tax burden on landowners that keep their land in farm production. The Legislature amended the Farm and Open Tax Law to reduce the penalty levied for early withdrawal to the minimum required by the Constitution.

Farmland Land Trust

Through the collaboration of many active interest groups and supported by SPO, the Department of Agriculture, and the Maine Coast Heritage Trust, the Maine Farmland Trust (a land trust specializing in farmland protection) was created in 2000. The Trust works closely with the farming community and provides technical assistance in land conservation. Part-time staff funding has been made possible through private fundraising.

Protecting Recreation Lands

Using funds from the 1999 bond, the Land for Maine's Future Program has undertaken over 70 projects designed to protect existing and to create new opportunities for public outdoor recreation. Examples include water access projects specifically designed to create hand-carried and trailer launch sites for boaters, working forest conservation easements to protect access to hunting and hiking opportunities, and carefully targeted open-space acquisitions in rapidly growing towns to protect recreational opportunities.

Small Harbor Improvement Program

The Small Harbor Improvement Program (SHIP), funded through transportation bonds and administered by the Maine Department of Transportation, is a municipal grant program that has funded a variety of public infrastructure improvement projects along the Maine coast such as piers, floats, boat ramps and shore stabilization projects. In 2002, the Department awarded grants to 21 projects (\$1.5 million) that have resulted in improved public access to coastal areas and enhanced opportunities for commercial fishing activities. SPO works with the Department to market the program and to score the competitive applications. Preferences are given to municipalities with consistent comprehensive plans and certified growth management programs.

State Comprehensive Outdoor Recreation Plan

An approved plan is required by the U.S. Department of the Interior for states to be eligible for Land and Water Conservation funds for outdoor recreation planning, acquisition and development. Five broad topics of statewide importance are the focus of Maine's new plan:

- Availability of Outdoor Recreation Opportunities;
- Community Outdoor Recreation Needs and Smart Growth;
- Recreation/Public Access in the Northern Forest;
- Trail Recreation; and
- Tourism and Public Recreation Facilities.

SPO has been working with the Bureau of Parks and Lands to incorporate Smart Growth principles into the plan. In addition, when awarding funds, the Department of Conservation allocates bonus points to projects in communities with a consistent comprehensive plan.

Working Waterfronts

Legislation passed by the 120th Legislature directed the Land and Water Resources Council to review the effectiveness of the State's approved Coastal Management Plan in meeting the public access and working waterfront policy goals established in statute. In conducting the review, the Council was directed to 1) explore state and local jurisdictions and authority, 2) consider the development of incentives for municipalities to improve coastal access, 3) consider the development of incentives for municipalities to conserve working waterfronts for water-dependent uses, and 4) discuss the development of performance indicators to allow for ongoing measurement of progress. The report, submitted to the Legislature's natural resources and marine resources committees, offers a series of recommendations for improving and expanding the Maine Coastal Program to improve coastal access to assure the viability of working waterfronts (see APPENDIX M for a full copy of the report).

3. Strengthening Service Center Communities

Municipal Revenue Sharing

Service centers are physically and financially stressed, yet as a matter of course they provide services to residents and visitors from surrounding towns such as roads, emergency, hospital, educational and cultural services. The Legislature modified the way municipal revenue sharing is distributed to shift "new" funds to municipalities based on distress (measured by the full value tax rate). Service centers are generally favored under this formula.

Consolidation of Local Services

As of the close of the evaluation period, a number of conversations around consolidation are taking place. The Maine Municipal Association includes an incentive for regionalization in its citizen-initiated tax reform proposal. Legislators have introduced bills around the issue for consideration by the 121st Legislature. Local officials in Falmouth, Cumberland, North Yarmouth, Yarmouth, and Freeport are discussing how to consolidate public services such as police, dispatch, planning, recreation, legal, and risk management services. Towns in the Penobscot Valley are researching ways to more effectively combine services. The financial and land use impacts of these efforts could be significant.

Maine Downtown Center

In 2000, SPO, the Department of Economic & Community Development, and the Maine Development Foundation worked together to create the Maine Downtown Center. Several other state agencies played, and continue to play, a role in the Center's operation including the Maine Department of Transportation, Maine Historic Preservation Commission, and Maine State Housing Authority. The Center resides at the Maine Development Foundation. Since its creation, the Center has designated five Main Street Maine communities and has distributed approximately \$200,000 to them. The Center provides downtown revitalization assistance to hundreds of other Maine communities. SPO staff provides financial and technical assistance to the Center and coordinated ongoing financial support from other agencies for its first three years of operation. While only just getting off the ground, the Maine Downtown Center projects 260

new jobs and 70 new businesses will be added to Maine's economy in 10 years from local main street programs based on what is known of similar programs in other states.³⁵

Affordable Housing

The Maine State Housing Authority's New Neighbors Program offers reduced mortgage financing for first time homebuyers in eligible communities who wish to buy a multi-unit home and live in one of the units. The Maine State Housing Authority expanded the number of participating communities by 166% in the last four years, adding Augusta, Bath, Norway, Auburn, and Westbrook to the roster that already included Portland, Lewiston, and Bangor. The Housing Authority is encouraging even more community participation in the program by offering ongoing training and technical assistance and by eliminating the cap on the number of communities that can participate.

The Maine State Housing Authority also initiated a new program in 2002 called the Affordable Housing Subdivisions Financing Program offering grants and loans to support residential subdivisions that meet its guidelines and locate in designated growth areas. This program was initiated to support state efforts to curb sprawl by offering greater opportunities to build new neighborhoods closer to town centers and services. Due to its newness, it is too early to report on program participation.

Brownfields Redevelopment

Using Environmental Protection Agency funds, SPO and the Department of Environmental Protection established the Brownfield Site Assessment Services Grant Program to encourage potential redevelopment of abandoned or unused sites that previously hosted commercial or industrial uses. Three applicants were provided funds for a total of \$120,000. Following the assessments, two sites have been cleaned up and redeveloped, with local officials considering options for remediation and redevelopment on the other site. SPO, in partnership with the Department of Environmental Protection, has applied for additional federal funds to extend the grant program and anticipates hearing about the application in October 2003.

4. Providing relief to suburbanizing communities

Impact Fees

In 2000, the Legislature clarified that school facilities are among the types of facilities for which communities may establish impact fees and that communities that are part of a single or multi-community school district may deposit the proceeds of school impact fees in a trust fund to be used to pay their proportionate share of anticipated school capital costs. SPO developed an Impact Fee Handbook for municipalities considering implementing impact fees on new development. The Handbook addresses common questions about impact fees, provides examples of impact fee ordinances in Maine communities, and provides digital templates for calculating impact fees for transportation improvements, parks and open space, and school improvements.

³⁵ Maine Downtown Center website, *Main Street Results*, Average Results of Local Main Street Programs, by Number of Years of Operation.

Municipal Investment Trust Fund

SPO worked with the Department of Economic & Community Development, Maine Municipal Association, and other concerned individuals over the course of the past decade to capitalize the Municipal Investment Trust Fund. The 120th Legislature provided the first allocation to the fund in the amount of \$400,000. The following year, the Legislature put an economic development bond referendum to the voters, which included an additional \$4 million for the Fund. The Trust Fund will provide funds to municipalities for capital investments that are needed to implement their growth strategies. SPO expects that the Department of Economic & Community Development and the Maine Bond Bank, who are managers of the Trust Fund, will continue to be close allies in this effort.

5. Supporting the Development of Traditional Compact Neighborhoods

Maine's Smart Growth Initiative encourages the creation and restoration of traditional neighborhoods, what we call the "Great American Neighborhood." Great American Neighborhoods can be found in many older Maine villages and cities. They are the compact neighborhoods with six universal features:

- they are walkable;
- they have a civic core and a mix of neighborhood uses;
- they have an interconnected street network;
- they have recognizable boundaries that separate one neighborhood from another;
- they have a human scale; and
- they provide for both chance meetings and personal privacy through their street, sidewalk, and lot design.

Pilot Projects

Over the past four years, the State Planning Office has worked on five projects, each with a community and developer interested in creating or adding to, an existing Great American Neighborhood. The projects range in size from seven new "infill" homes in Camden Village, to 64 units proposed in phase one of "Topsham Crossing" adjacent to Topsham Village, to larger proposals envisaged in Scarborough, Westbrook, and West Rockport. The Camden project construction is underway. Phase one of Topsham Crossing received local approval. All the rest are at various stages in the planning and permitting process. Several other developers and communities have contacted the Office expressing interest in pursuing opportunities to create new neighborhoods, within walking distance of stores or a school.

Hometown Maine

The State Planning Office's "Hometown Maine" initiative is designed to provide guidance to homebuilders and communities on the design and creation of walkable, mixed-use neighborhoods that are close to existing services. The initiative, designed to address market demands for this type of housing, illustrates one of the market-based approaches to address sprawl through a non-regulatory approach. SPO is developing a *Guide to Livable Design* to help developers design traditional neighborhoods and a *Smart Growth Handbook* for municipalities to assist with amending lot size and road frontage requirements in their zoning ordinances if they want to allow compact development.

ASSESSMENT OF GOALS

In its 1999 evaluation, *Continuing Challenges and Growing Opportunities*, SPO made a number of recommendations to further the goals of the Planning and Land Use Regulation Act. The following is a goal-by-goal assessment of the activities undertaken in the past four years to accomplish those recommendations or otherwise advance the goals.

While SPO administers the Smart Growth Initiative, it by no means is responsible for all of the accomplishments contained herein. We hope that we have set the stage, communicated the principles, and helped foster activities across state and local government to accomplish the Legislature's goals. But it is only with the commitment of the Legislature, other state agencies, and communities across the State that we can document such success.

While this is a goal-by-goal assessment, it is important to not lose sight of the Program's overall approach that cuts across all 10 goals and supports multiple goals simultaneously.³⁶ We've tried to present the 2003 recommendations within the framework of the 5-point strategy, so some recommendations may appear under more than one goal. Wherever possible, cross-references among recommendations are provided. However, some of the redundancy is intentional to aid an individual who is interested in a particular goal and who might not find recommendation that is located in another related area or in a section that summarizes an effort that crosses several goals.

Nevertheless, we recognize that the list of recommendations is extensive. It is unlikely that all

³⁶ 1) Get the State's house in order

- ◆ Using state capital investment to support Smart Growth
- ◆ Identifying and removing hidden subsidies of sprawl in state funding formulas
- ◆ Enhancing regulations so they don't push development outward

2) Aid rural areas by bolstering traditional natural-resource-based industries

- ◆ Regarding them as businesses and assisting them accordingly
- ◆ Buying or leasing development rights
- ◆ Strengthening the right-to-farm law
- ◆ Taxing them at current use and reimbursing towns for lost revenue
- ◆ Supporting research and development for greater value added

3) Strengthen service centers

- ◆ Supporting the "Downtown" initiative
- ◆ Expanding home ownership in centers
- ◆ Shifting a fair share of costs of providing regional services to the region
- ◆ Allowing flexible taxation to spur development

4) Provide relief to suburbanizing communities

- ◆ Emboldening local comprehensive plans to protect rural areas and direct development to growth areas
- ◆ Encouraging adoption of strategies that require new arrivals to pay a fairer share of costs
- ◆ Encouraging communities to use their local authority to direct growth in less expensive ways

5) Support development of traditional Great American Neighborhoods

- ◆ Identifying and educating markets for traditional neighborhood development
- ◆ Preparing a design manual about details of traditional neighborhood development
- ◆ Preparing a handbook of model ordinances to allow traditional neighborhood development
- ◆ Providing incentives for sewer and water lines

that is outline in this report can be accomplished within the upcoming four years, particularly given resource constraints. SPO anticipates that two separate activities will occur to help identify the most important areas to pursue. Over the coming months, SPO will review the recommendations with its various partners and establish short, mid, and longer-term priorities. In addition, over the coming year, SPO expects to work with the Land and Water Resources Council and the Smart Growth Coordinating Committee to establish priorities for interagency efforts.

The following acronyms are used in this section:

BACTS -	Bangor Area Comprehensive Transportation Study	MREDA-	Maine Real Estate Development Association
BGS -	Bureau of General Services	MFT -	Maine Farmland Trust
BPL -	Bureau of Public Lands	MFB -	Maine Farm Bureau
CDBG -	Community Development Block Grants	MFS -	Maine Forest Service
DAFRR -	Department of Agriculture Food and Rural Resources	MHPC -	Maine Historic Preservation Commission
DAFS -	Department of Administrative and Financial Services	MMA -	Maine Municipal Association
DECD -	Department of Economic & Community Development	MMBB -	Maine Municipal Bond Bank
DEP -	Department of Environmental Protection	MREC -	Maine Real Estate Commission
DMR -	Department of Marine Resources	MRDC -	Maine Rural Development Council
DOC -	Department of Conservation	MRS -	Maine Revenue Service
DOE -	Department of Education	MSHA -	Maine State Housing Authority
EPA -	US Environmental Protection Agency	NAP -	Natural Areas Program (DOC)
FHA -	Federal Highway Administration	NOAA -	National Oceanic and Atmospheric Administration
GIS -	Geographic Information System	NEMO -	Nonpoint Education for Municipal Officials
HUD -	US Department of Housing and Urban Development	PACTS -	Portland Area Comprehensive Transportation Study
IF&W -	Department of Inland Fisheries & Wildlife	RTAC -	Regional Transportation Advisory Committee
LMF -	Land for Maine's Future	ROW -	Right-of-way Discovery Grants
LWRC -	Land and Water Resources Council	SCORP -	State Comprehensive Outdoor Recreation Plan
LWCF -	Land and Water Conservation Fund	SHIP -	Small Harbor Improvement Program
LURC -	Land Use Regulation Commission	SPO -	State Planning Office
MDF -	Maine Development Foundation	SWOAM-	Small Woodlot Owners Association of Maine
MDOT -	Maine Department of Transportation	USDA -	US Department of Agriculture
MAR -	Maine Association of Realtors	USM -	University of Southern Maine
MCHT -	Maine Coast Heritage Trust		
MEGIS -	Maine Office of Geographic Information Systems		

This section of the report is divided into the ten goals and two strategies (regional coordination and evaluation) in the Act. Each section contains the recommendations made in 1999 (that are printed in gray type to distinguish them from the 2003 recommendations), a list of accomplishments since that date, and a series of new recommendations for 2003. From the 2003 recommendations, SPO identified nine priority areas which can be found in the KEY ACTIONS AND RECOMMENDATIONS section of this report.

GOAL A: Development Sprawl and Public Facilities



To encourage orderly growth and development in appropriate areas of each community, while protecting the State's rural character, making efficient use of public services and preventing development sprawl.

1999 RECOMMENDATIONS

- Amend the Act to offer meaningful **incentives and rewards for communities with certified growth management programs** and expand preferential award of grants for expansion of sewer and water facilities consistent with a local comprehensive plan.
- Continue working to **eliminate policies that penalize service centers** or threaten rural natural resource-based economies.
- **Support MDOT's Urban Compact and Rural Road Initiatives.**
- Support MDOT's efforts to **establish access management policies** and regimes at the state, regional, and local level.
- Continue working with DOE to direct state funds toward **renovation and expansion of existing schools** in service centers and designated growth areas and to site new schools consistent with local comprehensive plans with consideration of impacts on regional growth patterns and sprawl.
- Build upon interagency working relationships begun in 1998 to identify strategies for mutually **reinforcing the productive use of rural lands** and deterring development sprawl. Priority areas include tax policy, land use planning, and business planning/marketing assistance for natural resource-based industries.

ACCOMPLISHMENTS 1999-2002

Offer Incentives for Communities with Certified Growth Management Programs

- **Preferences:** The Legislature amended the Act in 2001 to direct state agencies to establish preferences in grant and investment programs to assist municipalities with preventing sprawl. SPO worked with state agencies to implement these legislative requirements. Seven state agencies have modified 20 programs to incorporate a town's comprehensive planning efforts into the preferences for the award of funding, grants, and loans.

Eliminate Policies that Penalize Service Centers

- **Municipal Revenue Sharing**: The Legislature amended the municipal revenue sharing formula to shift new funds, generated by growth in revenue sharing dollars, to municipalities based on distress measured by full value tax rate.
- **Local Sales Tax**: SPO worked with partners to attain Governor King's support for enabling legislation to allow municipalities to enact a local option sales tax to fund regional infrastructure projects. This proposal was controversial, as any taxation plan would be, and was not enacted. The new Community Preservation Advisory Committee is charged with proposing solutions to help relieve the burden on service centers.
- **Local Roads Assistance**: MDOT worked with MMA to reformulate the Local Road Assistance Program into an Urban Compact and Rural Road Initiative that increased the amount that urban compact areas receive for maintaining state roads. MDOT is now exploring ways to improve the Traffic Movement Permit system to decrease incentives for moving development outward.
- **Impact Fees**: The Legislature clarified that school facilities are among the types of infrastructure facilities for which communities may establish impact fees and that communities that are part of a single or multi-community school district may deposit the proceeds of school impact fees in a trust fund to be used to pay their proportionate share of anticipated school capital costs.
- **Impact Fee Manual**: SPO developed an impact fee handbook for municipalities to address common questions about impact fees. It provides examples of impact fee ordinances in place in Maine communities and templates for calculating impact fees for transportation and school improvements and parks and open space.

Support MDOT's Urban Compact and Rural Road Initiatives

- The Urban and Rural Road Initiative in large part has corrected policies that penalize service centers or threaten rural natural resource-based economies.

Establish Access Management

- **Access Management Rules**: The Legislature endorsed and MDOT developed a new access management program for rural corridor highway management.
- **Strategic Passenger Plan**: MDOT advanced alternative transportation initiatives through the Strategic Passenger Plan resulting in the successful introduction of the Island Explorer Bus service at Acadia National Park and return of Amtrak passenger service to Portland.
- **Intergovernmental Planning**: MDOT made an integrated regional capital planning project possible in the Greater Bangor region, is active in the Hancock County *Planning for Prosperity* project, and is pursuing a new model of integrated planning in the Mid-Coast portion of the Route 1 corridor.
- **Transportation Improvements**: MDOT has begun to link future investments in sidewalks, bike trails and other transportation improvements to priorities outlined in comprehensive plans and is facilitating innovative development designs.
- **Integrate Transportation and Land Use Management**: SPO and MDOT worked and continue to work together to link land use and transportation planning, management, and investment.

Efforts range from coordination of public and private smart growth developments to support for linked regional transportation/land use plans. SPO and MDOT also cooperate in the preparation and delivery of data packages and reviews in support of local comprehensive planning as well as in the delivery of regional technical assistance.

Renovate and Expand Existing Schools

- **Publications:** SPO and DOE produced a nationally-recognized brochure called the *ABCs of School Site Selection* and distributed it to Maine school superintendents, construction committees, architects, land use planners, and municipal officials to help school districts and communities Avoid Sprawl, Be site savvy, and Consult the community in its process of addressing school facilities needs. SPO and DOE also produced a booklet called *Making Schools Important to Neighborhoods Again* to promote alternative approaches to siting schools that reinforce municipal efforts to direct their patterns of growth.
- **Workshops:** SPO and DOE conducted a one-day charette on school siting and sprawl, which was also called *Making Schools Important to Neighborhoods Again*. Nearly 50 school superintendents, finance directors, board members, designers, local planners, historic preservation, and smart growth advocates participated in the workshop.
- **State Guidelines:** SPO worked with DOE to revise state regulations guiding the siting of new schools to establish a hierarchy of site selection focusing first on sites within designated growth areas. Also revised school construction application forms for major construction funds to reflect the same.
- **Enrollment Projections:** SPO prepared town-by-town school enrollment projections for the Department.
- **Targeted Assistance:** SPO assisted each school district selected for construction funding (26 districts to date) resulting in 4 schools being renovated and expanded and 14 new schools being sited in residential growth areas.

Reinforce Productive Use of Rural Lands

(see GOAL E, F, and H for accomplishments related to natural resource-based economies)

2003 RECOMMENDATIONS

1. ***Target Capital Expenditures and Expand Preferences:*** State investment programs and policies contribute to sprawl by building infrastructure outside of urban and rural centers. The State can support the first goal of the Act by targeting capital expenditures and siting office and community facilities in designated growth areas. It can also provide grant preferences in support of local planning efforts that are consistent with the goals of the Act. Under the Act, local planning is consistent with the Act when the Program finds its comprehensive plan consistent and when the local growth management program is certified³⁷. We recommend that SPO

³⁷ A Certified Growth Management Program includes a comprehensive plan that is consistent with the Act, a set of land use ordinances that are consistent with the Plan and state law, and adoption of a 10-year capital improvement program.

continue to work with state agencies to build awareness and support for these strategies as follows:

- a. Retain some type of preference for certified Growth Management Programs in the award of Municipal Investment Trust funds.
- b. Continue to work with DECD, DEP, DMR, MDOT, MSHA, and other agencies to build preferences for service centers and designated growth areas into their funding criteria.

2. *Integrate Land Use and Transportation Management:* *The relationship between land use management³⁸ and transportation planning and investment has been widely documented. Over the past four years, SPO and MDOT have worked to bring these two disciplines closer together. We recommend that SPO continue to work with MDOT on implementing access management, integrating land use/transportation planning and investment, and strengthening ties with local growth management programs to encourage compact patterns of development and to protect state and local capital investment in transportation and other facilities as follows:*

- a. Continue to participate in MDOT's Access Management Program Implementation team, which includes efforts to provide education, technical assistance, and prudent investment partnership opportunities with municipal officials and the private sector.
- b. Support further development of MDOT's Access Acquisition Program.
- c. Support MDOT's efforts to amend Access Management Rules to allow the Department to adjust the default standards in approved corridor management master plans for those municipalities that have developed, adopted, and are implementing such a plan.
- d. Update SPO Access Management Technical Assistance Bulletin to reflect new MDOT Access Management Program. Require municipalities to develop, adopt, and implement land use management plans that protect the State's investment in transportation systems before investments are made that increase capacity or improve amenities within that municipality.
- e. Provide incentives for the creation and implementation of regional land use and transportation investment area compact. Support MDOT initiative to bring the Sensible Transportation Policy and Planning and Land Use Regulation acts into 100% alignment, including statutory amendments and rulemaking efforts as required.
- f. Continue to strengthen the opportunities to coordinate joint state and local planning during comprehensive planning and MDOT's Six- and Twenty-year plan development processes.

3. *Direct School Investment to Service Centers and Growth Areas:* *The location of a school is a powerful influence on how the rest of a community and the region grow. We recommend that SPO continue to work with the Board of Education, DOE, and local school officials to assure that state policies to fund new schools do not inadvertently subsidize the outward movement of residents from service centers to outlying towns and that siting decisions are consistent with local comprehensive plans as follows:*

- a. Remove minimum lot size requirements for new schools and require school districts to demonstrate what they believe is necessary acreage to support school facilities.

³⁸ Land use management includes planning, regulation, investment, and other strategies.

- b. Identify and remove other hidden incentives to sprawl in state standards and guidelines, excluding health and safety standards.
- c. Formalize SPO's involvement in evaluating new construction over renovation before approving state funds for new construction.
- d. Require school districts that seek new construction funding to factor in walking distance as a consideration for site selection.
- e. Require district capital planning for all school facilities, not just those for which they are seeking funding.
- f. Include a broader analysis of cost factors for site selection and location, including busing.
- g. Support MDOT's "Another Way to School" program which provides other ways of getting to school besides buses, parental chauffeuring, and students driving their own vehicles and includes sensitive siting and creative partnering to support the construction of sidewalks, bike paths, and trails.
- h. Review the effectiveness of state efforts to shift school capital investments to service center communities, including strategies to consolidate school districts, renovate existing facilities, utilize capacity within the region, and site new facilities.

4. Support the Community Preservation Advisory Committee (CPAC): *In 2002, the Legislature established a committee to advise it, the Governor, SPO, and other agencies and entities on matters relating to community preservation, growth management, and sprawl. SPO sits as a member and provides staff support to the Committee (see APPENDIX N for a copy of the "First Annual Report of the Community Preservation Advisory Committee.") We recommend that SPO continue to dedicate staff resources to support this Committee as follows:*

- a. Undertake research in current and emerging areas of importance to CPAC's efforts, including the unintended consequences of Maine's tax structure and the need for regionalization.
- b. Engage state agencies and key legislators on CPAC priorities, including fiscal, transportation, education funding, school-siting, and land use policies that affect service center communities, rural lands and sprawl, and streamlining local and state land use regulations to encourage efficient neighborhood and economic development in growth areas.
- c. Collaborate with state agencies to implement CPAC's non-statutory recommendations, such as outreach and communication on regionalization, affordable housing, and preservation of unique and natural resources.

5. Continue to Facilitate Administrative Responses to Sprawl, including Efforts of the Smart Growth Coordinating Committee: *In the summer of 1999, Governor King formed a sub-cabinet working group to consider how state government could support smart growth principles. He asked cabinet members to review their agency operations, policies, laws, regulations, and investment decision-making processes that may unintentionally erode the vitality of service centers, viability of rural enterprises and working waterfronts, and ability of developers and communities to build and maintain strong neighborhoods and communities. The sub-cabinet developed a 3-year action plan ("Smart Growth: The Competitive Advantage"), worked together to identify and change policies in accordance with its charge, and developed a smart growth report card, "Indicators of Livable Communities." We recommend that SPO continue working*

with the Smart Growth Coordinating Committee, which is now a sub-committee of the LWRC, to enhance and expand its efforts as follows:

- a. Update *The Competitive Advantage* to create a new five-year action plan that establishes priorities for interagency efforts.
- b. Expand participation in the Smart Growth Coordinating Committee to include other agencies whose mission and efforts have an impact on sprawl.
- c. Continue to collect data for and release two-year updates of the *Indicators of Livable Communities* smart growth report card.
- d. Work with members of the Smart Growth Coordinating Committee to address interagency interests and policies, including adjusting comprehensive plan submission and review criteria, legislative matters, and investment strategies.
- e. Continue to work with state agencies to clearly understand their needs and challenges, expand awareness of the impacts of their policy and investment decisions, and increase appreciation of how smart growth is in the interest of their missions.

6. Continue to Involve and Expand the Role of State Agencies in Comprehensive Planning: *The Planning and Land Use Regulation Act directs state agencies with responsibility for various aspects of land use planning to review and provide input into local comprehensive plans. SPO coordinates these reviews. We recommend that SPO continue to mobilize state agencies in the comprehensive plan process as follows:*

- a. Encourage state agencies and communities to work together both early and at critical points in their planning processes, rather than at the end when final reviews are conducted.
- b. Provide training and guidance to state agencies to help expand an understanding of the value of their role in the comprehensive planning process and to help find ways to streamline their participation in the process.
- c. Improve the content, coordination, and delivery of state data and technical assistance materials to community planning committees, including the development of a comprehensive digital data package of all relevant state geographical information
- d. Engage participating agencies in updating comprehensive plan submission and review criteria to reflect recent changes in policy and statutory direction.
- e. Work with state agencies to update the 1992 *Comprehensive Planning Manual*.

7. Provide Grants and Technical Assistance: *SPO provides land use planning assistance to communities. We recommend that SPO continue these efforts as follows:*

- a. Continue to work with the DEP to seek federal funds for and offer grants to towns for brownfield assessment and redevelopment.
- b. Continue adding to SPO's Smart Growth ToolBox; increase awareness of the ToolBox and its resources statewide.
- c. Work with USM and others to "institutionalize" the Smart Growth Institute and to provide other more concentrated, geographically-based, or professionally-targeted training (like CEO training).

- d. Work with the Legislature and state agencies to provide incentives and support to communities to adopt building rehabilitation codes.

8. *Keep Rural Lands Productive.* *Keeping rural lands productive will strengthen our rural economy and deter sprawl. We recommend that SPO continue working on tax policy reforms, long-term land production, “Buy Local” campaigns, research and development investment, and business planning/marketing assistance for natural resource-based industries (see also GOALS F, G, and H and APPENDIX L for the LWRC report “Incentives to Keep Rural Land in Productive Fishing, Farming, and Forestry Use.”) as follows:*

- a. Adopt an overall policy statement and implementation strategy to support natural resource-based industries and provide incentives for responsible rural land stewardship for mutually-reinforcing economic, social, and ecological benefits.
- b. Advocate for state reimbursement to municipalities for lost tax revenue from current use taxation programs.
- c. Engage federal partners such as the USDA and HUD in a review of grant and loan policies that facilitate development in rural areas.

9. *Shift Fair Share of Cost of Regional Services:* *Service center communities, in both urban and rural parts of the State, unfairly bear the burden of services for surrounding outlying communities including social services, emergency services, and infrastructure investments. We recommend that SPO continue to support legislation that allows local and regional taxation options and to work with partners as follows to:*

- a. Adopt criteria which CPAC and others can use to evaluate how various tax reform proposals are likely to impact development patterns.
- b. Develop financial support to explore promising initiatives and incentives to adopt regional delivery of services.
- c. Support successful models of sharing costs of regional services and develop technical assistance to document and share information about them.
- d. Explore state and regional fair share taxation policy partnerships to ease the burden on municipalities that host government offices and major nonprofit institutions providing regional services, such as schools and hospitals.
- e. Facilitate stakeholder conversations around the inherent tension between regional efficiencies and the need for core community infrastructure, especially in declining rural areas and service center neighborhoods; assist policymakers with identifying the right balance.

10. *Embolden Comprehensive Plans:* *Local plans that designate where the community wants and does not want growth to occur underlay all of the State’s other smart growth initiatives. It has become clear that communities struggle with making the hard political choices that are key to directing development patterns. Perceived landowner inequity and fear of density are two particular challenges. We recommend that SPO maintain efforts to help communities strengthen their comprehensive plans, including providing financial and technical assistance, especially to update existing comprehensive plans as follows:*

- a. Seek additional funding for Comprehensive Plan Update Grants, including dedication of a portion of existing funds.
- b. In some cases, increase local match requirements to ensure commitment and to stretch funding as far as possible.
- c. Continue to develop new tools for community visioning processes and visualization techniques, as keys to adopting bolder comprehensive plans.
- d. Explore techniques to address perceived landowner inequity and fear of density.
- e. Continue efforts to provide good, usable, interpretable data in a form that is most useful to towns and that will improve plans and reduce their overall cost to develop.

11. Promote Compact Development and Mixed Use: *Compact and mixed-use development offers general efficiencies in the movement of people and goods between the different types of uses. It creates a proximity and density of population that supports alternative transportation options (including biking and walking), cultural amenities, and shops and services and makes more efficient use of public investments. We recommend that SPO continue to facilitate interagency support for local land use and capital planning for the infrastructure necessary to support compact patterns of development, including general planning of growth areas, new and improved roadways, public sewer and water, streetscapes, recreation, and open space.*

(Note: This recommendation also supports efficient public investments under Goal B)

12. Promote Traditional Neighborhood Development: *SPO's research documents that nearly 40% of new homebuyers in Maine would prefer homes in traditional neighborhoods that are walkable and that have interconnected streets, mixed neighborhood uses, and well-designed open spaces. To help meet this demand and reduce sprawling patterns of development, we recommend that SPO continues working with developers and communities to create Great American Neighborhoods that provides choice in the housing market as follows:*

- a. Support the development of livable, compact development and share information about good examples as they are developed.
- b. Provide visual tools to redefine public images of "density;" provide technical assistance to regulators, developers, and town leaders which demonstrates that compact development supports the creation of safe and livable communities.
- c. Develop guidelines and technical assistance material about water and wastewater systems for new, compact development which is not served by public sewer and/or water systems.
- d. Require densities that are appropriate to justify public investment in infrastructure such as water, sewer, and sidewalks in all state grant and loan programs; encourage federal agencies to adopt similar requirements.

GOAL B: Capital Investment Strategy



To plan for, finance, and develop an efficient system of public facilities and services to accommodate anticipated growth and economic development.

1999 RECOMMENDATIONS

- The **Municipal Investment Trust Fund** should be funded to support local efforts to provide necessary infrastructure and services to attract and accommodate development in designated growth areas of communities with consistent growth management programs.
- State agencies should **review and modify existing programs supporting local infrastructure investments** to ensure that preference is given to communities whose projects are supported by consistent growth management programs.
- State agencies should encourage efforts to provide for infrastructure and public facilities needs that **provide benefits on a regional or multi-town basis** as long as these efforts do not encourage development sprawl.

ACCOMPLISHMENTS 1999-2002

Municipal Investment Trust Fund

- **MITE**: The Legislature appropriated \$400,000 and voters approved \$4 million to capitalize the Municipal Investment Trust Fund.

Add Preferences to Programs that Support Local Infrastructure Investments

- **Preferences**: The Legislature amended the Act in 2000 to direct state growth-related capital investments to service centers and growth areas.³⁹ In 2002, the Legislature added hospitals and other quasi-public facilities that use state or passed-through federal dollars in the definition of growth-related capital investments. SPO has worked with state agencies to implement the legislative requirements.
- **Court Buildings**: SPO worked with the Judicial Branch, District Court Officials, and BGS to select sites for two district courts in renovated buildings in the host communities' downtowns.
- **New State Buildings**: The BGS has modified its bid requirements to give preference to service centers, downtowns, and designated growth areas for new state buildings.
- **Community Development**: DECD now gives preferences to growth areas in its CDBG grants.

³⁹ Includes construction or extension of utility lines, development of industrial or business parks, public service infrastructure and public facilities, state office buildings, state courts and other state civic buildings, newly constructed multifamily rental housing.

- Sewer Loans: To be eligible to apply for loans under the patient sewer loan fund, projects must be in growth areas.
- Infrastructure Grants: State grant programs for infrastructure for sewers, water systems, harbor improvements, boating facilities, outdoor recreational facilities, and transportation enhancements all have preferences for growth areas.
- Housing: MSHA provides financing for residential subdivisions in locally-designated areas that meet their guidelines.

Provide Benefits on a Regional or Multi-town Basis

(See REGIONAL COORDINATION)

2003 RECOMMENDATIONS

*1. **Direct Regional and Municipal Infrastructure to Growth Areas:** Regional and local infrastructure and services are necessary to attract and accommodate development. We recommend that SPO continue to support regional and local efforts to provide infrastructure and services, but direct them to designated growth areas of communities with consistent comprehensive plans and certified growth management programs as follows:*

- a. Continue offering towns technical assistance to prepare capital plans and to make investments that address maintenance and new facilities outlined in comprehensive plans
- b. Encourage municipalities to adopt certified growth management programs with financial or other incentives that support ongoing capital planning.
- c. Support continued funding of the Municipal Investment Trust Fund and retain preferences for communities with consistent comprehensive plans and certified growth management programs.
- d. Work with state agencies to review and modify existing programs that support local infrastructure investments to ensure that preference is given to those communities and projects that are supported by consistent comprehensive plans and certified growth management programs.
- e. Work with state agencies to create incentives or threshold requirements for towns to develop and use ongoing capital planning and investment as a condition of receiving funds for big-ticket items like schools, roads, sewer, water, parks, recreation, and other infrastructure.
- f. Work with state agencies to support investments in infrastructure and public facilities that benefits a region or multiple towns as long as these efforts do not encourage development sprawl; use as a model the PACTS Planning Committee's recent proposal to link capital investment for improvement of arterial roadways to coordinated management of land use in affected communities.
- g. Work with MDOT, the Board and DOE, regional organizations, and municipalities to develop workable and sensitive approaches which ensure that investment in school and non-linear transportation systems are made in designated growth areas whenever possible and do not subsidize and encourage sprawl.

2. Enhance Capital Planning by State Government: *The timing and location of state infrastructure impacts regional and local capital planning efforts. We recommend that SPO work with state agencies to prepare capital plans that respect local growth management plans and encourage implementation of regional growth management efforts as follows:*

- a. Integrate all state capital investments (including school aid) into a statewide capital plan.
- b. Work with state agencies to clarify the appropriate applicability of local zoning jurisdiction over state agency activities.
- c. Improve efforts by state agencies to assist municipalities in implementing their consistent comprehensive plans and certified growth management programs by seeking opportunities to invest in accordance with such programs and complying with land use ordinance requirements. Build on improved state-local communication during the planning process to adequately foresee state interests and minimize discord.
- d. Work with the Smart Growth Coordinating Committee, CPAC, and MMA to address the growing problem of utilizing outdated comprehensive plans that do not comply with current state policy or relate to relevant investment decisions as a basis for state agency guidance.

3. Engage Federal Funding Agencies: *Federal funding for regional and municipal infrastructure and services also impacts sprawl. We recommend that SPO engage federal funding agencies and Maine's Congressional Delegation to redirect federal funds to locally-designated growth areas as follows:*

- a. Examine federal housing, community and economic development, transportation, and new homeland security infrastructure policies, programs, and needs and work with federal agencies to address issues and concerns about sprawl.
- b. Explore options for legislation, executive action, or administrative rule-making to direct federal funds in accordance with this goal.

GOAL C: Economic Development



To promote an economic climate which increases job opportunities and overall economic well-being.

1999 RECOMMENDATIONS

- State agencies should **establish common policies and grant award practices**.
- The Office should continue to **offer technical assistance to towns on capital improvement planning** to implement investments outlined in their comprehensive plans.
- The Office and Department of Economic and Community Development (DECD) should work together to provide municipal technical assistance to **integrate community planning and economic development**.
- The DECD should **target a portion of its Community Development Block Grants** for downtowns in service centers and designated growth areas of communities with consistent growth management programs.
- The DECD should establish a **set aside for grants to service centers** to address stagnant or declining populations, high proportion of low income and dependent populations, aged housing stock, and other symptoms of long term economic and social stress similar to that recognized by federally designated entitlement communities.
- The Office should continue to work with the Finance Authority of Maine (FAME), Maine State Housing Authority (MSHA), and DECD to **ensure that service centers and designated growth areas are “ready to serve” potential new and redevelopment projects** that might be inclined to locate in non-center communities and rural areas if they perceive there are no acceptable areas in existing downtowns.

ACCOMPLISHMENTS 1999-2002

Assist Towns with Capital Improvement Planning

- Technical Assistance: The Program continues to help communities develop capital improvement plans through technical assistance and reviewing local comprehensive plans.

Integrate Community Planning and Economic Development

- Maine Downtown Center: In 2000, SPO, DECD, and the MDF worked together to create the Maine Downtown Center as required in statute. Several other state agencies played, and continue to play, a role in the Center’s operation including MDOT, MHPC, and MSHA. The Center resides at MDF with a SPO staff member sitting on the Board of Advisors. SPO

provided approximately \$200,000 in financial support for grants to Maine communities and coordinated ongoing financial support from itself and six other agencies⁴⁰ for the Center's first three years of operation.

- FirstPark: The Kennebec Regional Development Authority is comprised of 24 communities that have committed to share costs and revenues for the FirstPark Business and Technology Center in Oakland. Working together, the towns can reduce development sprawl.
- Housing Analyses: SPO and DECD are considering coordinating SPO planning grants and DECD housing study funds to augment housing analyses in local comprehensive plans.

Target a Portion of Community Development Block Grants

- CDBG: DECD has incorporated preferences for service centers, as Maine's traditional centers of commerce, industry, and commerce, in CDBG scoring criteria.

Establish Set-asides for Grants to Service Centers

- CDBG: While DECD has preferences for service centers for CDBG funds, there is no set aside.

Ensure that Service Centers and Designated Growth Areas are "Ready to Serve"

- Redeveloping Brownfields: With EPA grant funding, SPO and DEP established the Brownfield Site Assessment Services Grant Program and has provided approximately \$120,000 in funds for site assessments in three communities. SPO and DEP have applied for additional federal funds to extend the program.
- Affordable Housing: See GOAL D – AFFORDABLE HOUSING
- Sewer Extensions: See GOAL D – AFFORDABLE HOUSING

2003 RECOMMENDATIONS

1. Direct Economic Development to Service Centers and Growth Areas: We recommend that SPO continue to work with various economic development entities such as DECD, FAME, MSHA, and others to assure that economic development investments are location sensitive and reflect smart growth principles as follows:

- a. Establish common state agency policies and practices in grant awards to recognize and reward local economic development initiatives based on consistent comprehensive plans and certified growth management programs.
- b. Work with DECD to provide technical assistance to municipalities to integrate land use planning and economic development investments.
- c. Continue to work with FAME, MSHA, and DECD to ensure that service centers and designated growth areas are "ready to serve" potential new and redevelopment projects that might be inclined to locate in non-center communities and rural areas if they perceive there are no acceptable areas in existing downtowns.

⁴⁰ DECD, DEP, FAME, MDOT, MHPC, and MSHA.

2. Enhance Preference in State and Federal Funding: *We recommend that SPO continue to work with state agencies to assure that policies and grant award practices give preference to economic development in service centers and locally-designated growth areas as follows:*

- a. Work with DECD to coordinate funding efforts, particularly CDBGs, for downtowns in service centers and designated growth areas of communities with consistent comprehensive plans and certified growth management programs. Work to strengthen and enhance the likelihood of and preference for grants to service centers to address stagnant or declining populations, high proportions of low income and dependent populations, aged housing stock, and other symptoms of long-term economic and social stress similar to that recognized by federally-designated entitlement communities.
- b. Support and expand efforts to link SPO's comprehensive planning grant funds with DECD's housing and planning funds to increase communities' ability to address housing and economic development issues. Work with other agencies to establish similar set-asides regarding comprehensive planning issues that relate to their missions. For example, MDOT may be able to set aside some funds to do transportation plans which would augment SPO comprehensive planning funds.
- c. Encourage federally-designated economic development districts to prepare Overall Economic Development Plans and allocate funds to projects that are consistent with local comprehensive plans.

3. Redevelop Downtowns: *We recommend that SPO continue to work with the Maine Downtown Center to encourage redevelopment of downtowns as follows:*

- a. Continue to work with DECD, MDOT, MHPC, MSHA and other agencies to provide direct technical and financial assistance to municipalities that are designated Main Street Maine communities and to assist other municipal downtown revitalization efforts.
- b. Continue to remove barriers to redevelopment in existing downtowns and remove state subsidy of development outside of downtowns and designated growth areas.
- c. Create fiscal and regulatory incentives for municipalities to adopt building rehabilitation codes.

4. Engage Private Sector: *We recommend that SPO support private sector development that enhances Smart Growth as follows:*

- a. Work with DECD and the Maine Downtown Center to engage the private sector in planning for affordable housing, transportation networks, attractive communities, and other smart growth principles.
- b. Engage the Maine Bond Bank and private lenders to provide greater access to capital for ventures that advance smart growth principles.
- c. Continue to build strong relationships with private and nonprofit groups like MERDA and MAR and with MREC.

GOAL D: Affordable Housing



To encourage and promote affordable housing opportunities for all Maine citizens.

1999 RECOMMENDATIONS

- The Office should continue to work with MSHA to **expand the availability of its New Neighbors Program** to other service centers.
- The Office and MSHA should work together to **establish a linkage between the State's affordable housing grant and loan programs and consistent local growth management strategies**.
- The Office should continue to **identify and promote traditional, compact development** using market research where appropriate, alternative design strategies, demonstration projects, and technical assistance.

ACCOMPLISHMENTS 1999-2002

Expand the New Neighbors Program

- Expansion: MSHA expanded the number of participating communities by 166% in the last four years.

Link Affordable Housing Funding and Community Planning

- Affordable Housing: To encourage construction of new neighborhoods closer to services, MSHA's Affordable Subdivisions Financing Program provides financing for residential subdivisions in growth areas that meet MSHA guidelines.

Promote Compact Development

- Public Outreach: SPO studies issues related to smart growth and living in compact neighborhoods and concluded that there are people in Maine who prefer to live on small lots in walkable, mixed-use neighborhoods, but finding a home in such a neighborhood is impossible. SPO will use the study results to create an education campaign about Great American Neighborhoods.
- Hometown Maine: SPO is preparing a design guide for developers and communities to promote the creation of quality, livable Great American Neighborhoods. In addition, where many town ordinances currently prohibit traditional neighborhoods due to lot size and road frontage requirements, SPO is preparing technical assistance materials to help towns revise their ordinances to allow mixed-use, compact neighborhoods.

- **Patient Sewer Loan Program:** SPO worked with DECD, DEP, MMBB, and the EPA to create a \$3 million Patient Sewer Loan Fund Program to provide low-interest loans covering the cost of sewer or sewer extensions to eligible areas with a graduated or “patient” payback provision that keeps payments low at the start of the project as an incentive for communities and developers to create new or add to existing Great American Neighborhoods.
- **Livable Affordable Neighborhood Bill:** The Legislature amended the statutory definition of affordable housing. The amended bill did not include the Joint Study Committee to Study Growth Management’s recommendations to create an Affordable Neighborhood Development Review Board and to support affordable housing development in municipalities where it is a particular challenge. The bill has been reintroduced in the 121st session in both its original form and, separately, linked to a series of incentives.

2003 RECOMMENDATIONS

1. Redirect Housing Assistance: *We recommend that SPO continue to establish links between state and federal housing policies and consistent local comprehensive plans and certified growth management programs as follows:*

- a. Continue to work with MSHA to coordinate the State’s affordable housing grant and loan programs with local comprehensive plans.
- b. Continue to work with MSHA to expand the availability of its New Neighbors Program to other service centers.
- c. Work with MSHA to identify federal housing investment policies and programs to support the creation of affordable housing.

2. Address Affordable Housing at the Regional and Local Level: *We recommend that SPO continue to work with municipalities to address affordable housing needs in comprehensive plans and land use ordinances and continue to encourage traditional neighborhood designs and compact development patterns like the Great American Neighborhood as follows:*

- a. Find funds for an education campaign about the importance of and pressures on affordable housing and strategies to increase it, including development of Great American Neighborhoods.
- b. Promote the rehabilitation and reuse of abandoned, vacant buildings.
- c. Work with MSHA to identify methods to encourage affordable housing, including Tax Increment Financing of affordable housing and other incentives, and to remove penalties where they are identified.
- d. Promote enactment of the livable, affordable neighborhood bill, with efforts to provide incentives for municipal support of these projects.

3. Conduct Market Research: *We recommend that SPO continue to conduct and use market research to inform housing development strategies as follows:*

- a. Conduct a study to determine the impact of affordable housing on property taxes.
- b. Conduct market research to update perceptions about housing and neighborhoods, density, and the effectiveness of the affordable housing education campaign.

GOAL E: Water Resources



To protect the quality and manage the quantity of the State's water resources, including lakes, aquifers, great ponds, estuaries, rivers, and coastal areas.

1999 RECOMMENDATIONS

- The Office should continue to **offer technical assistance to communities** and state agencies and focus on the undeniable connection between water quality and land use throughout the watershed. The State should continue to provide and expand the use of preferences for communities with consistent growth management programs in the award of watershed and water quality grants.
- The Office and DEP should study the watersheds of sensitive water bodies and develop protocols for their protection including using **regional models of watershed protection**.
- The State should attempt to map development that falls below current Stormwater Law review thresholds in selected lake watersheds to help identify opportunities for **regional management of impacts on the water body**. If the State identifies a higher rate of development than anticipated, it should alert towns in the watershed to the need for action to manage water quality impacts of development in watersheds of sensitive water bodies.
- The Office and other state agencies that seek to protect water quality or whose activities impact it should continue to **coordinate watershed wide management and protection efforts** using the China and Damariscotta Lake Watershed associations as models.
- The Office and other state agencies should continue to encourage municipalities to **incorporate aquifer and watershed protections in local ordinances** to minimize the negative impacts of development on community and district drinking water sources.

ACCOMPLISHMENTS 1999-2002

Assist Communities

- Nonpoint Education: In collaboration with DEP, SPO has supported the Maine Nonpoint Education for Municipal Officials (NEMO), an educational program for local land use officials that addresses the relationship of land use development to natural resource protection.

Use Regional models for Watershed Protection

- New Meadows River Watershed: The New Meadows River's 23 square mile watershed lies within the Casco Bay watershed that encompasses 44 towns, drains 985 square miles, and is

drained by a 12 river and lake system. The New Meadows River Watershed Project brings together state and municipal officials and citizens from West Bath, Brunswick, Harpswell, Phippsburg, DEP, DMR, SPO, Maine Coastal Program, EPA, Casco Bay Estuary Project, Friends of Casco Bay, New Meadows Lake Association, Bowdoin College, and MER Assessment Corporation to develop protection strategies and engage residents in issues affecting the water and sediment quality and the general health of the living resources of the river.

- Cove Brook: The Cove Brook Watershed Council is a grassroots organization founded in 2001. Winterport's Cove Brook (locally known as Maggie's Brook) is a 10-mile tributary of the Penobscot River. It has been identified by the federal government as one of the eight Maine watersheds with a distinct and endangered population of Atlantic salmon. In addition, the watershed is used for a variety of recreational activities such as snowmobiling, fishing, horseback riding, hiking, and cross-country skiing. One of the Council's goals is to help maintain and support these traditional uses.
- Casco Bay: SPO and DEP are partnering with the Casco Bay Estuary Project to support the Presumpscot River Watch project. The Presumpscot River Watch is dedicated to preserving and improving the health of the Presumpscot River and its watershed by scientific monitoring; sharing data to increase awareness; and serving as a steward for the river through participation in legislative, community, and individual efforts.

Regional Management of Water Bodies

- Stormwater Rules: SPO is working with DEP and stakeholders to revise Maine's Stormwater Rules to incorporate federal National Pollutant Discharge Elimination System Phase II requirements to address stream degradation. The agencies have been examining linkages between stormwater runoff, land use, and water quality degradation and are working to find ways to encourage smart patterns of development while protecting Maine's natural resources. SPO is also working with DEP to develop a handbook for communities interested in establishing and implementing a local or regional stormwater district to meet the development and maintenance needs of stormwater prevention and management.

Coordinate Watershed-wide Management and Protection Efforts

- Water Quality Grants and Loans: To be eligible for the DEP-administered 319(h) Nonpoint Source Pollution Grants and the Patient Sewer Loan Program, communities must have consistent comprehensive plans. The Combined Sewer Overflow Program (See GOAL D – AFFORDABLE HOUSING) and State Revolving Loan Fund for municipal wastewater treatment plans and other sewage improvements both prioritize growth areas designated in consistent comprehensive plans.

Incorporate Aquifer and Watershed Protections in Local Ordinances

- Wetlands Ordinance: SPO, DEP, MDOT, and a group of local and regional planners are developing a model wetlands ordinance to provide localities with the tools to inventory and evaluate their wetlands.

- Drinking Water Protection: Under the auspices of the LWRC, SPO prepared a *Report on an Education Strategy for Public Water Supply Protection Aimed at Municipalities and the General Public* under P.L.1999 Chapter 761. Working through a Drinking Water Education Strategy Advisory Committee, the report outlines a strategy for public drinking water supply protection.
- Drinking Water: DHS' Drinking Water Program now participates in the review of local comprehensive plans.

2003 RECOMMENDATIONS

1. *Land Use and Water Quality*: *There is an undeniable connection between water quality and land use. We recommend that SPO continue to support efforts to direct growth in a way that minimizes this impact as follows:*

- a. Work with DEP to coordinate watershed wide management and protection efforts using the China and Damariscotta Lake Watershed Associations as models.
- b. Work with DEP to continue to study the watersheds of sensitive water bodies and develop protocols for their protection including using regional models of watershed protection.
- c. Work with DEP to map development that falls below current Stormwater Law review thresholds in selected lake watersheds to help identify opportunities for regional management of impacts on the water body. If the State identifies a higher rate of development than anticipated, it should alert towns in the watershed to the need for action to manage water quality impacts of development in watersheds of sensitive water bodies.
- d. Work with DHS to continue to expand the involvement of the Drinking Water Program in smart growth efforts.

2. *Inadvertent Impact of Regulation*: *In an attempt to protect water and other natural resources, state regulations sometimes have the effect of pushing development outwards and contributing to sprawl rather than fostering compact development in areas where impacts can be managed and minimized. We recommend that SPO work with other state agencies in efforts to protect water and other natural resources to avoid single purpose, well-intentioned efforts that may encourage sprawl and have a greater overall environmental impact as follows:*

- a. Support research to understand the effect of regulations on pushing development outwards from traditional compact and designated growth areas, and the impact of compact patterns of growth on water quality.
- b. Work with DEP to develop alternative water quality protection programs that achieve the dual goals of water quality protection and compact development.
- c. Recognizing that railbeds and other trail opportunities are often located in riparian areas that fall within Resource Protection Districts or under other provisions of Shoreland Zoning, work with DEP and DOC to determine what uses should be permitted in these areas and what standards are needed to protect water quality.
- d. Work with DHS to address links between on-site wastewater treatment requirements and the resulting dispersed patterns of development; investigate alternatives such as

community systems and technological innovations to allow for more compact development.

3. Address Water Quality at the Local Level: *We recommend that SPO continue to work with municipalities to address water quality issues in comprehensive plans and land use ordinances as follows:*

- a. Work with DEP to expand the use of preferences for communities with consistent comprehensive plans and certified growth management programs in the award of watershed and water quality grants.
- b. Work with DEP and DHS to continue to secure federal funding for the Patient Sewer Loan Fund.
- c. Expand local technical assistance to address the nexus of water quality and compact development, including water and wastewater systems and stormwater utilities.
- d. Continue to encourage municipalities to incorporate aquifer and watershed protections in local ordinances to minimize the negative impacts of development on community and district drinking water sources.
- e. Continue to collaborate with the Maine NEMO program and integrate it more closely with local comprehensive planning efforts.
- f. Support expansion of the NEMO model to address nonpoint source pollution of coastal waters.

GOAL F: Critical Natural Resources



To protect the State's other critical natural resources, including without limitation, wetlands, wildlife and fisheries habitat, sand dunes, shorelands, scenic vistas and unique natural areas.

1999 RECOMMENDATIONS

- Continue to work with a broad coalition of environmental and natural resource agencies and nongovernmental organizations, including the NAP, IF&W, DMR, Maine Audubon, and Eco/Eco, among others, to **develop regional strategies to protect habitat** and address fragmentation that go beyond regulatory approaches.
- Develop **state funded incentives** (such as technical assistance and planning grants) for municipalities and conservation and recreation interests to cooperatively develop multi-town regional plans that provide for open space and wildlife protection.
- Develop **landowner incentives** (such as property tax relief) or disincentives to encourage land to remain undeveloped.
- Develop **model performance standards** to protect habitats of importance (through a cooperative effort of regional council and the DOC, IF&W, and the Office).
- Initiate **pilot projects** that seek to demonstrate and test the efficacy of planning and management tools and techniques.
- Establish **multi-objective management** (that encompasses habitat protection, but also groundwater and surface water protection, flood mitigation, recreation and open space, quality neighborhoods and community development, historic and archaeological preservation, forest land and agricultural land conservation) as the preferred method of planning for development and conservation by state agencies and municipalities.
- Favor land acquisition programs in areas which have **regional open space plans** (as part of the Public Land Acquisition Advisory Committee guidelines).
- **Amend Land for Maine Future Board criteria** to consider focal areas identified in the Beginning with Habitat program, parcels which connect land already in protected status, and the value of wildlife corridors on property being considered for state purchase.
- Direct **state policies and funds to revitalize city/village centers**.
- Initiate a **publicly funded bond issue to increase the amount of land in public ownership in Maine by 20%**, with special emphasis on protection of natural reserves that would conserve outstanding examples of Maine's native plant and animal habitats.

ACCOMPLISHMENTS 1999-2002

Develop Regional Strategies to Protect Habitat

- Beginning with Habitat: The Beginning with Habitat pilot created a framework for local and regional organizations to protect large blocks of undeveloped lands, wildlife corridors, and important plant and wildlife habitat and natural communities. Beginning with Habitat, a cooperative effort of agencies and organizations, has moved from a pilot stage and is now fully integrated into the comprehensive planning process. This program has forged new ground in three key areas: (1) collaboration among state, federal and non-profit agencies in partnership with private landowners; (2) practical application of Geographic Information System (GIS) technology; and (3) aggressive and effective outreach to and relationship building among comprehensive planning committees, land trusts, and regional councils.
- Wetlands Characterization: This wetlands initiative is a GIS-based planning tool developed to assess the functions of wetlands within a watershed. This project began as a pilot in 12 southern Maine towns and is now available to all of towns.

Incentives

- Land for Maine's Future: The LMF program statute was changed in the fall of 1999 to authorize acquiring land and easements on sites of local and regional significance.
- Coastal Funds: The Maine Coastal Program includes a modest amount of grant funding for habitat planning. The first grant was made to the Mid-Coast Council of Governments for work being done in the St. George River watershed in 2002.
- Habitat Restoration: With grant funds from the National Marine Fisheries Service, SPO, under the auspices of the Gulf of Maine Council, is drafting a regional habitat restoration plan and providing grants to protect and restore coastal and marine habitats.
- Landowner incentives for wildlife habitat protection: Governor King's smart growth sub-cabinet committee's action plan: *The Competitive Advantage* calls for developing both wildlife habitat and waterfront tax credits. LWRC reiterated this recommendation in its *Report on the Use of Incentives to Keep Land in Productive Farming, Fishing, and Forestry Use* (see APPENDIX L), prepared as directed by PL 1999, Ch. 776. To date, efforts to enact these tax credits have not been successful.

Develop Model Performance Standards

- Though efforts were made to prepare model performance standards to protect wildlife habitat, they were not finalized over the period of this evaluation.

Initiate Pilot Projects

- See Beginning with Habitat and Wetlands characterization pilots above

Establish Multi-objective Management

- See Beginning with Habitat above

Favor Land Acquisition in areas that have Regional Open Space Plans and Protect Wildlife Corridors

- **Land for Maine's Future**: The LMF Program has put more emphasis on coordinating its project development with regional and local comprehensive planning and implementation efforts. The LMF board is particularly interested in projects that create open space and habitat protection through corridors, general proximity, and other measures of critical mass.

Increase the Amount of Land in Public Ownership in Maine by 20%

- **Land for Maine's Future**: Using funds from the 1999 Bond issue, LMF has undertaken over 70 projects over the past several years (See GOAL J – RECREATION AND ACCESS).

Direct State Policies and Funds to Revitalize City/Village Centers

(See GOAL A – DEVELOPMENT SPRAWL AND PUBLIC FACILITIES)

2003 RECOMMENDATIONS

(Note: The recommendations for this goal area overlap with Goals G and H on Marine and Agricultural and Forest Resources. In 2001, the Legislature directed the LWRC to examine incentives for keeping rural lands productive. (See APPENDIX L for a full copy of the report, *Incentives to Keep Rural Land in Productive Fishing, Farming, and Forestry Use*.)

1. Strategies to Protect Habitat: *We recommend that SPO continue to work with a broad coalition of environmental and natural resource agencies and nongovernmental organizations, including NAP, IF&W, DMR, Maine Audubon, MCHT, EcoEco, and GrowSmart Maine, among others, to promote the importance of retaining large blocks of unfragmented habitat as follows:*

- a. Develop regional strategies to protect habitat and address fragmentation that go beyond regulatory approaches.
- b. Help establish performance standards, regulatory or otherwise, to monitor and protect areas of state significance. Strategies and standards should address habitats in service centers as well as in rural and growth areas of fast growing and rural communities.
- c. Work with state agencies and municipalities to use the Beginning with Habitat model, which integrates planning data from all available sources, to plan for development and conservation of other natural resources including groundwater, surface water, flood prevention and mitigation, recreation and open space, livable neighborhoods, community development, historic and archaeological resources, and forest and agricultural land conservation.
- d. Support integration of Beginning with Habitat project services into state conservation (IF&W and DOC) staffing and budget in order to ensure that communities continue to receive important habitat data for planning and technical support to effectively use the information.

2. Keep Rural Lands Productive: In 2001, the Legislature directed the LWRC examine incentives for keeping rural lands productive. We recommend that SPO continue to work with the DMR, DOC, MDOT, IF&W, DECD, and DAFRR, and the Governor's Office to implement the outstanding recommendations of the LWRC's Report on "Incentives to Keep Rural Land in Productive Fishing, Farming, and Forestry Use" (see APPENDIX L).

3. Improve Outreach for the Land for Maine's Future Program: Although the State has made a substantial investment in farmland preservation, the LMF Program has identified a need for more outreach to help solicit and assist in the development of proposals involving farmland preservation. We recommend that SPO continue to work with the LMF Program to identify staff resources to undertake this work. Options include funding positions at the state level, exploring whether USDA and/or University (e.g. Cooperative Extension) employee time might be able to be deployed in this area, contracting with another organization (e.g. the MFT), or establishing a program that would provide small grants to improve the staff capacity of local and regional land trusts and other nonprofits which rely heavily on volunteer labor.

4. Identify and Strengthen Tax Incentives: We recommend that SPO assist with the analysis of several tax incentives recommended in the LWRC report as follows:

- a. A wildlife habitat tax incentive for landowners who own important wildlife habitat identified by state or town planning efforts and who agree to enter into a management agreement.
- b. A state income tax credit for conservation that would provide an incentive beyond the current federal income tax deduction available for charitable gifts.
- c. Transfer of Development Rights (TDRs); how TDRs, which have been used successfully in other parts of the country, might be adapted for use in Maine.

5. Work with Private Land Owners: Large tracts of land in Maine are privately owned. It is clearly more cost-effective for private landowners to manage their lands in a way that protects the public interest than to attempt to address the problem solely through the acquisition of properties and easements. We recommend that SPO support private land owners as follows:

- a. Continue to look for funds to provide incentives for stewardship (through federal farm bill, MFS, IF&W, etc.).
- b. Work with local land trusts to identify state, regional and local priorities and partner on public/private resource development.
- c. Explore additional landowner incentives (such as property tax relief) or disincentives to encourage land to remain undeveloped.
- d. Continue to investigate mechanisms to effectively transfer equity to and from landowners disproportionately affected by growth management programs (e.g. transfer and purchase of development rights).

6. Address Habitat Protection at the Local Level: We recommend that SPO continue to work with municipalities to address habitat and open space protection in comprehensive plans and land use ordinances as follows:

- a. Strengthen support for municipal, conservation, and recreation interests to cooperatively develop multi-town regional plans that provide for open space and wildlife protection.
- b. Strengthen directives for state policies and funds to enhance and revitalize city/village centers.
- c. Provide assistance for municipal road network master planning, which clearly outlines areas for future development and conservation and facilitates efficient use of land in growth areas.
- d. Provide information and outreach on the model wetlands ordinance being developed by SPO, supporting municipalities that wish to integrate protection of their wetlands resources with local land use planning.
- e. Consider using Maine Coastal Program funds to develop model scenic resource protection ordinances for viewshed, ridgetop, harbor, and community character preservation.
- f. Ensure that communities continue to receive 1) plant and wildlife habitat information; and 2) technical support to effectively use this information by providing state support to integrate Beginning with Habitat into the budget and staff of IF&W, DOC, and NAP.

7. Acquire Lands of State, Regional, and Local Significance: *We recommend that SPO continue to coordinate with the LMF Program to support regional open space plans.*

GOAL G: Marine Resources



To protect the State's marine resources industry, ports and harbors from incompatible development and to promote access to the shore for commercial fishermen and the public.

1999 RECOMMENDATIONS

- The Office should continue to **help coastal communities use and adopt comprehensive plans and ordinances** that are consistent with the Act.
- The Office should continue to work with state and federal agencies to **coordinate programs and policies that support the Act's marine resources goal**, create programs that address marine resource needs identified in local comprehensive plans, and provide grant preferences for communities with consistent growth management programs.

ACCOMPLISHMENTS 1999-2002

Help Coastal Communities

- **Staffing:** Currently, the Maine Coastal Program funds three Program staff to assist coastal communities with land use planning. One member of the staff, who is funded by the General Fund, also assists coastal communities.
- **Comprehensive Planning Grants:** Of the Office's 43 comprehensive planning grants awarded between 1999-2002, more than 50% were awarded to coastal communities. The Office also awarded 30 Comprehensive Plan Update Grants, of which 43% were to coastal communities. 44% of the 25 implementation grants and 45% of the 11 Smart Growth Challenge grants went to coastal communities.
- **Technical Assistance:** Staff continued to assist coastal municipalities and, in making its rounds across the State promoting smart growth, SPO spent at least half its time in coastal communities to address their unique resources.

Coordinate Programs and Policies that Support the Act's Marine Resources Goal

- **Marine Resources:** DMR participates in local planning efforts. Data and expertise that the department has can improve the quality of coastal communities' decision-making with respect to marine resource concerns.
- **Working Waterfronts:** LWRC completed a report in 2002 for the Legislature's Marine Resources and Natural Resources committees that offers a series of recommendations for improving and expanding coastal access to assure the viability of working waterfronts (see APPENDIX M for "*A Review of the Effectiveness of the Maine Coastal Plan in Meeting the State's Public Access and Working Waterfront Policy Goals.*").

2003 RECOMMENDATIONS

1. Enhance Commercial Access/Working Waterfronts: *Maine's working waterfronts are threatened by competing market forces. Property traditionally used by fishing, lobstering, and other marine industries is rapidly disappearing to high-end housing, office, and nonmarine uses. We recommend that SPO support efforts to achieve the State's public access and working waterfront goals (see APPENDIX L for LWRC's report, "Incentives to Keep Rural Land in Productive Fishing, Farming, and Forestry Use") as follows:*

- a. Work with the Maine Coastal Program to educate municipal officials on how to harness public/private waterfront investment; access grant programs; use tools like tax increment financing, transfer of development rights, cooperative ownership, and revolving loan funds; and on using community planning to achieve waterfront development goals.
- b. The tax burden on coastal property and on waterfront land is a critical issue that negatively impacts the ability to sustain waterfront businesses and results in displacement of fishers and other long-time coastal residents from waterfront lands. One solution may be to propose a current use tax for fishing industry-related properties.
- c. Work with willing municipalities to ensure that traditional shellfish and worming locations remain accessible and unpolluted.
- d. Support the \$1.5 million proposed in the November 2003 bond package for a new round of funding for MDOT's Small Harbor Improvement Program grants.

2. Address Marine Resources at the Local Level: *The bulk of the State's population lives within the coastal zone and, in both national and state projections, the greatest population growth is anticipated to occur within this same area. We recommend that SPO work with municipalities during the comprehensive planning process to ensure that marine resources are inventoried and discussed. As threats to the health of the resource are identified, strategies to mitigate the threats should be implemented.*

- a. Encourage the use of growth management programs to protect working waterfronts, plan for necessary improvement and maintenance of port and harbor infrastructure, protect marine resources, and promote public access to the shore.
- b. Work with the Maine Coastal Program to update technical assistance resources and continue to offer modest Right-of-way Discovery grants to defray legal research expenses in asserting public access rights.
- c. Work with DMR to provide improved marine resource information to towns.
- d. Add a marine habitat component to Beginning with Habitat.
- e. Continue to work with state and federal agencies to improve awareness of programs and policies that support the Act's marine resources goal; create programs that address marine resource needs identified in local comprehensive plans and provide grant preferences for communities with consistent comprehensive plans and certified growth management programs.

GOAL H: Agricultural and Forest Resources



To safeguard the State's agricultural and forest resources from development which threatens those resources.

1999 RECOMMENDATIONS

- The Office should continue to explore options to **support natural resource-based industries** and make recommendations to the Legislature, including:
 - **Reimbursing municipalities for land classified in Farm and Open Space** as it does for land in Tree Growth. MRS should continue working with other departments, assessors, and landowners to make the current Farm and Open Space Tax Law more accessible and user-friendly.
 - **Strengthening the Farmland Adjacency Law** and establishing a list of registered farms at DAFRR.
- The Office, working with MFS, DAFRR, and DECD, should continue to **develop and provide tools to municipalities to help manage and preserve productive rural landscapes**.

ACCOMPLISHMENTS 1999-2002

Support Natural Resource-based Industries

- Marketing Assistance: *Food for Thought*, a report by the Agricultural Viability Task Force completed in 2000, contained a number of recommendations, some of which have been implemented. The *Farms for the Future* and *Get Real Maine* campaigns have improved business planning and marketing assistance efforts.
- Farms for Maine's Future: One-time funding was provided to DAFRR to develop a marketing campaign and to establish the *Farms for Maine's Future* Program, modeled on a successful Massachusetts program, that links land protection with business assistance to keep farms in business. The pilot funds for this program will soon run out.
- R&D for greater value added: Agriculture and forestry are two of the priority research and development cluster areas eligible for funding from the Maine Technology Institute.
- Farmland Protection Strategy: SPO, DAFRR, and other agencies are developing a strategic plan to help integrate available farmland protection resources. This strategy will help the LMF Program evaluate proposals to preserve farmland.
- Access Management: In the development of its access management rules, MDOT worked with the forestry industry and LURC to ensure that forest management roads were not burdened by the new rules.

Reimburse Municipalities for Land in Farm and Open Space

- **Farm and Open Space:** The Legislature amended the Farm and Open Tax Law to lessen the penalty for early withdrawal. The penalty, which now meets the constitutional minimum, requires users to pay five years of back taxes and interest to the municipality. DAFRR, MRS, and a team of municipal assessors are working to develop a viable approach to assign current use values to different types of farmland.
- **Sales Tax Exemption:** The Legislature removed the sales tax on electricity purchased by farmers for development of a wholesale product. Equivalent sales tax had been exempted by the industrial sector for years. This has provided tax relief to farms.
- **Municipal Reimbursement:** A bill to provide reimbursement to municipalities for revenues lost due to lands classified in Farm and Open Space was passed by both houses with Governor King's support, but ultimately was not funded.

Strengthen Farmland Adjacency Law

- SPO worked with DAFRR, MMA, MFB, MREC, and MAR to develop a viable way for this concept to proceed. The Agriculture, Conservation and Forestry Committee supported the concept but agreement over how the program would be administered was not achieved. There are several challenging aspects, which can pit neighbors against one another over competing rights to make full use of property. Until there is a working GIS that maps affected land parcels, there is no acceptable administrative mechanism. The development of a statewide cadastral layer as recommended in the Maine Geo-Library plan would alleviate administrative problems. Rather than standing alone, adjacency protections might be best considered in the context of an Agricultural District concept.

Assist municipalities with Preserving Productive Rural Landscapes

- **Farmland Protection Tools:** During the development of the Farmland Protection Strategy in 2001, a subcommittee began to develop Farmland Protection Tools. Also, SPO is developing an Exemplary Plans Clearinghouse, which will include model agriculture and forestry provisions among other topics.
- **Regional Efforts:** The MRDC has provided an interagency forum to promote smart growth concepts, rural-urban interdependency, and regionalism. Two successful regional organizing efforts (Penobscot Valley Prudent Investments Linking our Towns and Planning for Prosperity in Hancock County) were begun at a conference organized by the MRDC in 2000. SPO continues to support these efforts.
- **Farmland Land Trust:** Through the collaboration of many active interest groups and supported by SPO, DAFRR, and MCHT, the Maine Farmland Trust, a land trust specializing in farmland protection, was created in 2000. The Trust works with the farming community and provides technical assistance on land conservation. Part-time staff funding has been made possible through private fundraising.
- **What do Trees Have to Do with it?:** This well-written educational publication designed for comprehensive plan committees was produced by the MDF, assisted by SPO.

2003 RECOMMENDATIONS

(Note: These recommendations overlap with those for Goal A, F, and G)

1. Farmland Preservation: *We recommend that SPO continue to work with DAFRR and stakeholder groups like MFB to develop strategies to protect working farms and prevent the sale and development of farmlands (See APPENDIX L for a full copy of the report, Incentives to Keep Rural Land in Productive Fishing, Farming, and Forestry Use) as follows:*

- a. Finalize the Farmland Preservation Strategy and work with DAFRR, LMF, and others to use it to strategically target state efforts to protect farmland. Continue to work with DAFRR to engage all stakeholders in a partnership agreement to implement the Farmland Protection Strategy. The strategy emphasizes effective collaboration among farmers, agency service providers, local and regional planning committees, land trusts, and government agencies to facilitate coordinated resource deployment toward recognized local and regional priorities.
- b. Continue working with DAFRR and stakeholders to integrate assistance and outreach to landowner, municipal, and land trust constituents.
- c. Complete development of a Farmland Protection ToolBox and improve outreach to local comprehensive planning committees.
- d. Continue to work with the Legislature to develop a way to reimburse communities for lost tax revenue from current use taxation.
- e. Continue to identify and fund farmland preservation projects through the LMF Program; conduct outreach to help solicit and assist in the development of farmland proposals.
- f. Work with DAFRR and stakeholders to design an appropriate Agriculture Development District concept for Maine to provide additional integrated state support for farms in critical areas.
- g. Continue to support farms as businesses; support Farms for Maine's Future Program and continue state support for marketing of Maine products.
- h. Continue to support farmers' markets and other methods of buying local food products.

2. Preserving Forestlands: *We recommend that SPO work with the MFS, SWOAM, and other stakeholders to continue to recognize the relationship between development sprawl and the demise of productive forestland and seek creative solutions together as follows:*

- a. Advocate for stable terms for the Tree Growth Tax Program by fixing the terms under which newly enrolled lands are to be managed at the time of enrollment, essentially creating a binding contract between the State and enrolled landowners; alternatively, landowners could be offered a choice to move to the new conditions, but in either event be protected from changes in public policy during their term of enrollment.
- b. Advocate for adjustments to the Forest Management Tax Credit to keep up with inflation to encourage the development of forest management plans.
- c. Work with MFS, SWOAM, and other stakeholders to consider whether the State should develop more disincentives for liquidation harvesting.

3. *Keep Rural Lands Productive:* *We recommend that SPO continue to work with various partners to provide incentives to keep rural lands productive as follows:*

- a. Adopt an overall policy statement and implementation strategy to support resource-based enterprises and their importance, not only to the State's economy, but to the viability of Maine's rural communities, working landscapes, and cultural heritage.
- b. Review state purchasing policies to identify opportunities for and the extent to which state and related public and quasi-public institutions support the market for Maine-made products.
- c. Explore options for cooperative health care and retirement plans for those who are self-employed or employed in small natural resource-based businesses and are unable to offer/receive these benefits.
- d. Continue to work with the educational system, DECD, DAFRR, and MFS to coordinate the delivery of the State's education, research and economic development resources to Maine's natural resource-based industries, especially small businesses.
- e. Continue to seek opportunities to combine land conservation, economic development, and transportation tools (such as MDOT's Access Acquisition Program) for a common desired outcome.

GOAL I: Historic and Archaeological Resources



To preserve the State's historic and archaeological resources.

1999 RECOMMENDATIONS

Since the programs of both the Office and MHPC share common and complementary goals, they coordinate their programs to the greatest extent possible in a way that respects both state and federal National Park Service policies. Areas where greater coordination is possible include:

- **Develop a model ordinance** to assist communities interested in achieving Certified Local Government (CLG) designation under National Park Service guidelines. The heart of the CLG program is in meeting federal standards for establishing the legal framework for preservation, as well as municipal capacity for effective ordinance review.
- **Coordinate award of MHPC grants supporting the development of local historic preservation ordinances** with the Office's awarding of implementation grants.

ACCOMPLISHMENTS 1999-2002

While the above recommendations have not been accomplished, SPO has worked with MHPC on a number of efforts:

- **Building Rehabilitation Code**: Tied to the effort to revitalize downtowns and protect historic structures, the MHPC was an active participant in the study of a Maine Building Rehabilitation Code which would encourage developers to reuse existing structures rather than raze them or go to undeveloped sites for new construction. To date, efforts to adopt such a code have failed, but related language has been introduced in the 121st Legislature.
- **Downtowns**: The MHPC consistently promotes downtowns as historically important cultural features on the landscape; is an active participant on the Advisory Board of the Maine Downtown Center; and works with private organizations, including Maine Preservation, to increase the awareness of the importance of downtowns.
- **Comprehensive Plan Data/Reviews**: SPO continues to work with the MHPC to provide data regarding historic and archaeological resources to local comprehensive planning committees. MHPC data detail historic buildings and sites in addition to known or potential archaeological sites. Communities use this information to identify these resources for protection. MHPC is one of the most consistent reviewers of local comprehensive plans, provides insightful reviews, and has proven a strong ally in the fight against sprawl.

2003 RECOMMENDATIONS

1. Address Historic and Archaeological Resources at the Local Level: *We recommend that SPO and the MHPC continue to work with municipalities to protect historic and archaeological resources through comprehensive plans and land use ordinances as follows:*

- a. Develop minimum guidelines or performance standards, consistent with the Act, for use by municipalities interested in creating a local historic preservation ordinance and provide whatever technical or financial assistance is appropriate. This coordination will allow a community to receive focused attention and assistance from the two agencies at the time the community is developing its ordinances.
- b. Work closely with communities interested in achieving Certified Local Government (CLG) designation under the National Park Service to develop and implement comprehensive preservation programs through local regulation. The heart of the CLG program is in meeting federal standards for establishing the legal framework for preservation, as well as municipal capacity for effective ordinance review.

2. Protection and Rehabilitation: *We recommend that SPO continue to work with legislators, municipal officials, MHPC, the Maine Downtown Center, and others to ensure that historic structures in densely developed areas remain viable locations for commerce, industry, and residences, rather than being prime candidates for razing as follows:*

- a. Pursue development of a statewide building rehabilitation code; encourage the redevelopment/reuse of abandoned historic buildings.
- b. Continue to pursue enactment of an historic preservation tax credit that would keep existing historical buildings in place and encourage renovation and rehabilitation.

3. Identify and Protect Nontraditional Historic Resources: *Historic districts, as well as individual historic and archaeological resources that are listed in the National Register of Historic Places, are important resources worthy of preservation and protection through local regulation. In addition, the preservation of Maine's traditional village form of development, typically comprised of commercial cores with surrounding neighborhoods and cultural facilities, is critical to addressing sprawl and significant aspects of Maine's history and culture. We recommend that SPO and MHPC work to obtain recognition and protection of the value of these places as follows:*

- a. Promote awareness on the historic roles of schools in neighborhoods.
- b. Emphasize the significance of traditional compact village districts and the importance of protecting them through a variety of land use regulation and other tools.

GOAL J: Recreation and Access



To promote and protect the availability of outdoor recreation opportunities for all Maine citizens, including access to surface waters.

1999 RECOMMENDATIONS

- The Office should continue to work with other agencies to expand resources, both financial and technical assistance, available to **assist communities that seek to improve their recreation and access opportunities.**
- The Office should continue to work with state agencies to ensure that programs and project **funding for municipal projects are targeted to recreation and access needs** identified as a high priority in communities with consistent growth management programs.

ACCOMPLISHMENTS 1999-2002

Assist Communities with Recreation and Access Opportunities/Target funding

- Land for Maine's Future (LMF): Many of the 70 LMF projects since 1999 include water access for boaters, working forest conservation easements to protect access to hunting and hiking opportunities, and carefully targeted open-space acquisitions in rapidly growing towns to protect recreational opportunities.
- Small Harbor Improvement Program: SHIP, funded through transportation bonds and administered by MDOT, is a municipal grant program that funds piers, floats, boat ramps, and shore stabilization projects. MDOT funded 21 projects (\$1.5 million) in 2002. SPO works with MDOT to market and score applications. Preferences for municipalities with consistent comprehensive plans and certified growth management programs are given.
- Right-of-way Discovery Grants: Coastal-funded ROW Discovery Grants help municipalities research forgotten or overlooked public rights-of-way that provide shoreline access. Approximately \$12,000 is available in FY 03.
- Land and Water Conservation Fund: LWCF is an important source of funds for preserving open space in rural areas as well as providing recreation in growth areas and has a history of use in Maine for that purpose. DOC's Bureau of Public Lands and SPO have worked to revise LWCF project selection criteria for recreation grants to municipalities in accordance with smart growth principles.
- State Comprehensive Outdoor Recreation Plan: An approved outdoor recreation plan is required by the U.S. Department of the Interior for states to be eligible for Land and Water Conservation funds for outdoor recreation planning, acquisition and development. BPL has identified smart growth as an issue of statewide importance in the 2003-08 plan now being prepared. Anticipated strategies to support smart growth include: developing LWCF and

other grant selection criteria for local recreation facilities that support compact neighborhoods, community centers, trail connections, and protection of rural open space.

2003 RECOMMENDATIONS

1. *Expand Resources:* *We recommend that SPO work with other agencies to expand resources to assist communities that seek to improve local, regional, and statewide recreational access opportunities as follows:*

- a. Work with DOC to direct funding to compact areas to support parks and recreation, open space, tree planting, and general livability of these areas.
- b. Continue to favor land acquisition proposals through the LMF Program in areas that provide recreational opportunities and access to recreational lands.
- c. Continue to work with funding agencies to integrate smart growth principles into small harbor improvement, boating and other recreational infrastructure, and right-of-way discovery grants.

2. *Improve Public Access:* *We recommend that SPO support municipal efforts to protect, enhance, and improve public access to outdoor recreation as follows:*

- a. Support recommendations of the LWRC in its report, “*Review of the Maine Coastal Plan in Meeting the State’s Public Access and Working Waterfront Policy Goals*” (see APPENDIX M).
- b. Find balance between the need for access and the desire to protect the quality and character of the resources; work with natural resource agencies and the LWRC to develop a coordinated approach that factors in local needs.

Regional Coordination



A regional coordination strategy must be developed with other municipalities to manage shared resources and facilities, such as rivers, aquifers, transportation facilities, and others.

1999 RECOMMENDATIONS

- State agencies need to provide significant **incentives for communities to work together to address regional issues**, both through grants and technical assistance.
- **State recognition and support for Regional Councils** must be maintained and improved in order to provide Maine's 495 municipalities with a reliable source of assistance in developing coordinated local strategies that address regional issues.
- The Office should continue to work with state agencies and regional organizations that oversee major infrastructure investments to ensure that they **consider the regional impact of these investment decisions**.
- The Office should continue to work with municipalities, regional organizations, and state agencies to **encourage greater use of shared facilities and services**, where appropriate.

ACCOMPLISHMENTS 1999-2002

Provide Incentives for Communities to Work Together to Address Regional Issues

In general, state agencies have not had adequate resources to provide significant incentives for regionalization; but agencies have used federal dollars to provide such incentives as follows:

- Consolidation of Local Services: A number of conversations around consolidation are taking place. The Maine Municipal Association has an incentive for regionalization in its citizen-initiated tax reform proposal. Legislators have introduced bills around the issue for consideration by the 121st Legislature. Local officials in several areas looking at ways to more effectively combine services. The financial and land use impacts of these effort could be significant.
- Community Development Block Grant: DECD offered an effective \$1 million CDBG program for *SuperParks* which helped stimulate the successful *FirstPark* involving over 20 municipalities in the Kennebec Valley Region.
- Bangor Area Comprehensive Transportation Study: MDOT secured a \$150,000 grant from the FHA in 2001 which was awarded to the BACTS region to develop an integrated regional capital improvement plan.
- Hancock County: In 2002, SPO and the MRDC assisted the Hancock County Planning Commission in securing a \$20,000 grant from NOAA to develop a regional framework for

managing growth and conservation in the region. This effort is just getting under way. MDOT is actively engaged and SPO will be working to identify and secure other state agency support for this project.

- Department of Environmental Protection: DEP awards watershed-based, nonpoint source pollution grant funds, available annually from the EPA, with a preference for regional efforts.
- Department of Transportation: MDOT, supported by SPO, is working with the RTAC in the Mid-coast region to organize a regional transportation and land use study of the Route 1 corridor. Incentives are still being developed.
- Maine Coastal Program: Providing technical assistance and federal coastal dollars, SPO has supported several regional efforts including: Planning Alliance of the Damariscotta Estuary, Sunrise County Economic Council, Penobscot Bay Stewards, Southern Maine Beach Protection, Southern Maine Habitat Protection, Union River Watershed Coalition, and Penobscot Bay Stewards.
- Municipal Investment Trust Fund: Criteria for the award of MITF funds place multi-town projects on an even footing with service center projects as the highest priority for the fund.

Recognize and Support Regional Councils

State support of regional councils has been maintained in only a marginal manner (see PROGRAM UPDATE).

- Land Use Planning: SPO supports all 11 councils with an annual sum of \$194,000 in state funds, supplemented with \$131,000 in federal coastal funds, to perform a part-time program of land use technical assistance and regional planning. The \$194,000 has been flat funded for 30 years and today funds one-third of a planner's time in each region.
- Transportation: MDOT provides 9 of the 11 councils with funding to support the RTACs, spending about \$245,000 per year. This is insufficient to do the work that needs to be done.
- Community Development: DECD provides funding to 10 of the 11 councils to assist municipalities with preparing CDBG applications.
- Training and Assistance: SPO funded the regional council technical assistance coordinators to attend its two-week Smart Growth Institute in 2001. This was made possible by the one-time Legislative appropriation for the Smart Growth Initiative. SPO also continues to create manuals and publications to support the councils.

Consider the Regional Impact of State Investment Decisions

- Preferences: Since the Act was amended in 2000 to direct state growth-related capital investments to occur in downtowns, service centers and growth areas, SPO has worked with the DOE, BGS, and the Judicial Branch to implement this policy. (See GOAL A – DEVELOPMENT SPRAWL AND PUBLIC FACILITIES)

Encourage Greater Use of Shared Facilities and Services

- Planning Grants: The Act was amended in 2002 to clarify that SPO may award planning and technical assistance grants and review growth management programs jointly undertaken by two or more municipalities.

2003 RECOMMENDATIONS

1. Foster Regional Planning Capacity and Authority: *State recognition and support for regional councils must be maintained and improved in order to provide Maine's 495 municipalities with a reliable regional source of assistance in developing coordinated local strategies that address regional issues. We recommend that SPO strengthen the role of regional councils and other regional entities to effectively address regional land use issues as follows:*

- a. Create a regional planning and land management framework that posits some level of responsibility and authority for land use and capital investment decisions in a body whose jurisdiction effectively covers an extended community or labor market area in which habitat, housing, economic activity, transportation, and human services are considered and managed in an integrated fashion for the overall common good. Determine which decisions are appropriate at the municipal, regional, and state levels.
- b. Strengthen the role of regional entities in decision-making around state investments; provide funding and technical assistance for developing regional investment plans; establish regional investment authorities to prioritize/recommend investment awards in their regions; require regional guidance in state investments; consider block grant and metropolitan planning organization models to establish regional priorities.

2. Promote Multi-town Planning and Delivery of Services: *State agencies need to provide incentives for communities to work together to address regional issues, both through grants, technical assistance, and access to capital. We recommend that SPO continue to work with municipalities, regional organizations, and state agencies to encourage greater use of shared facilities and services, where appropriate, that will reduce municipal and state costs of providing services and take advantage of economies of scale as follows:*

- a. Continue to support emerging grass roots initiatives and, if and when statutory limitations are identified, work to remove those barriers.
- b. Promote alternative and new models for regional cooperation and governance; particularly sensitive to fiscal efficiency and citizen accountability.
- c. Research and publish analysis of the most effective geographies for various governmental functions to guide regional work.
- d. Develop fiscal mechanisms to promote regional efforts.
- e. Encourage multi-municipal land use management.

3. State Investments: *Beyond schools and state office buildings, more can be done to plan for or review the regional impacts of state investments, such as the State's effort to consolidate the prison system. Acting as a judicious private landowner would, the State decided to move the Maine State Prison from Thomaston to Warren, where it owned land and another facility. Yet, siting the new facility in Warren has introduced new pressures for growth in a relatively undeveloped area of the region. A framework needs to be established so that the State, when making investment decisions, looks at the regional implications for growth and development. We recommend that SPO continue to work with state agencies and regional organizations that oversee major infrastructure investments to ensure that they consider the regional impact of*

these investment decisions and that the State's investments continue to meet the overall policy objectives of the Act.

4. Understand the Interrelationship of Urban/Suburban/Rural Economies: *Growth-related problems faced by urban, suburban, and rural towns alike, including a lack of growth, are all symptoms of the same problem. The health of service centers is important to the health of suburban and rural areas and vice versa. We recommend that SPO work to enhance an appreciation and understanding of communities' common interests and relationships and provide incentives (eliminate disincentives) to working collectively.*

5. Explore New Forms of Intergovernmental Relations: *In 1997, SPO coordinated an intergovernmental restructuring initiative which identified options for relieving property taxes through more efficient delivery of local services; reducing duplication and fragmentation of services between levels and among units of government; matching the responsibility for providing governmental services with the responsibility for funding those services; and improving communications and consultations between levels of government. We recommend that SPO review and update the recommendations of the Task Force on Intergovernmental Structure.*

Evaluation and Tracking Development



The office shall conduct an ongoing evaluation process to determine the effectiveness of state and local efforts to achieve the purposes and goals of the Act. The office shall seek the assistance of other state agencies. If requested, all state agencies shall render assistance to the office in this effort. In conducting the evaluation, the office shall develop criteria that are objective, verifiable, and quantifiable.

1999 RECOMMENDATIONS

- Convene an interagency and interdisciplinary resource team to develop an efficient, **integrated system to track development** to help evaluate the Program's success in meeting this and other goals of the Act.

ACCOMPLISHMENTS 1999-2002

Develop an Integrated System to Track Development

- **Smart Growth Coordinating Committee:** The LWRC created this interagency committee to monitor the accomplishments of smart growth efforts in Maine. It published the *Indicators of Livable Communities* report card (see APPENDIX E).
- **Pilot Tracking System:** SPO is working with MEGIS to pilot a promising development tracking system based on E911 address-assignment reporting. A steering committee to guide this project convened in January 2003.
- **Funding Sources:** Since 1999, SPO has made regular commitments to further work on the State Geo-Library (which supports our development tracking system). \$10,000 in Maine Coastal Program funding was dedicated to this effort in FY01 and another \$15,000 in FY03. \$50,000 of the Smart Growth Initiative funds was committed in FY02, matched with equal commitments by the DAFS and MDOT. An additional \$10,000 was committed by SPO, earmarked for another component of the system.
- **Municipal Database:** SPO created a municipal database that tracks the consistency status of Maine communities, grants awarded, comprehensive plan and ordinance review processes, and technical assistance calls logged as well as regional geographies and local contacts, among a host of other pieces of information that aids program administration.

2003 RECOMMENDATIONS

1. Mapping Growth Areas: *In order to measure the effectiveness of investment in growth management, the State must implement and fund a cost-effective, coordinated development tracking system. We recommend that SPO continue efforts to establish such a system to track the type and location of growth, supported by the Maine Library of Geographic Information as follows:*

- a. Complete creation of and maintain GIS data layer of locally-designated growth areas.
- b. Identify and direct funds to incrementally create and maintain the new regionally-based Geo-Library; support recommendations of the *Strategic Plan to Develop the Maine Library of Geographic Information*, including funding the proposed plan of action to include provision of regional GeoCenter technical assistance to municipalities (see APPENDIX O for a copy of the *Strategic Plan to Develop the Maine Library of Geographic Information*).
- c. Continue funding of central staffing for the Maine Library of Geographic Information through the State Government Enterprise Fund.
- d. Continue to support efforts of MEGIS to identify opportunities for interagency collaboration and funding of data development.

2. Track State Investments in Growth and Rural Areas: *We recommend that SPO initiate discussion with the appropriate state bureaus in DAFS to develop a system to track the location of capital investments with respect to locally-designated growth area.*

3. Livable Communities Indicators: *We recommend that SPO continue to coordinate participating state agencies' data collection and release of two-year updates of the Indicators of Livable Communities Smart Growth report card (see APPENDIX E).*

4. Local Benchmarks: *We recommend that SPO continue to work with communities to build bolder plans that contain benchmarks to gauge interim success and to monitor progress towards desired outcomes.*

APPENDICES

Appendix A: Statutory Language for Evaluation

Title 30-A: MUNICIPALITIES AND COUNTIES (HEADING: PL 1987, c. 737, Pt. A, @2 (new))

Part 2: MUNICIPALITIES (HEADING: PL 1987, c. 737, Pt. A, @2 (new))

Subpart 6-A: PLANNING AND LAND USE REGULATION (HEADING: PL 1989, c. 104, Pt. A, @45 (new))

Chapter 187: PLANNING AND LAND USE REGULATION (HEADING: PL 1989, c. 104, Pt. A, @45 (new))

Subchapter 2: GROWTH MANAGEMENT PROGRAM (HEADING: PL 1989, c. 104, Pt. A, @45 (new))

Article 2-A: Evaluation (HEADING: PL 1993, c. 721, Pt. A, @5 (new))

§4331. Evaluation

The office shall conduct an ongoing evaluation process to determine the effectiveness of state and local efforts under this chapter to achieve the purposes and goals of this chapter. Working through the Land and Water Resources Council, the office shall seek the assistance of other state agencies. If requested, all state agencies shall render assistance to the office in this effort. [1993, c. 721, Pt. A, §5 (new); Pt. H, §1 (aff).]

1. Criteria. In conducting the evaluation, the office shall develop criteria based on the goals of this chapter. The criteria must be objective, verifiable and, to the extent practicable, quantifiable. [1993, c. 721, Pt. A, §5 (new); Pt. H, §1 (aff).]

2. Baseline conditions. The office shall establish a baseline of land use conditions at a level of detail sufficient to permit general comparison of state and regional trends in future land use development patterns. [1993, c. 721, Pt. A, §5 (new); Pt. H, §1 (aff).]

3. Public input. The office shall incorporate opportunities for public input and comment into the evaluation process. [1993, c. 721, Pt. A, §5 (new); Pt. H, §1 (aff).]

4. Level of analysis. The office shall evaluate the program generally at a regional and statewide level. To illustrate the impact of the program, the office shall compare land use development trends and patterns in a sample of towns that have participated in the program with a matched sample of towns that have not participated. [1993, c. 721, Pt. A, §5 (new); Pt. H, §1 (aff).]

5. Periodic reports. Beginning on January 1, 1995, the office shall report in writing on the results of its evaluation process every 4 years and more frequently if necessary. The office shall submit its report to the joint standing committee of the Legislature having jurisdiction over natural resource matters. [1993, c. 721, Pt. A, §5 (new); Pt. H, §1 (aff).]

Section History: PL 1993, Ch. 721, §A5 (NEW). PL 1993, Ch. 721, §H1 (AFF).

Appendix B: Summary of Growth Management and Sprawl Legislation

119th and 120th Legislatures

The following is a brief summary of the efforts of three state task forces⁴¹, the Governor's Sub-cabinet Committee on Smart Growth, and the 119th and 120th Legislatures in areas related to sprawl, growth management, and community preservation. For each of the last three years, a separate legislative task force or study committee was convened in the fall to explore smart growth issues and prepare a package of recommendations for legislative consideration and action the following spring. In addition to legislative efforts, the Governor convened a Sub-cabinet Committee, which prepared and adopted a three-year strategic plan called Smart Growth: The Competitive Advantage. The statutory outcome of these efforts is summarized below by topic and is arranged alphabetically under the broader headings of Land Use, Transportation, and Taxation issues. As the Community Preservation Advisory Committee moves forward, it is useful to note what has been accomplished in the past.

Land Use Issues

Affordable Housing: LD 2099⁴² amends the definition of affordable housing in the growth management laws. The amended bill does not include the Joint Study Committee to Study Growth Management's more extensive recommendation to create an Affordable Neighborhood Development Review Board and direction for direct affordable housing development in municipalities where affordable housing is a particular challenge.

Building Rehabilitation: The Task Force on State Office Building Location, Other State Growth-related Capital Investments, and Patterns of Development's recommendation that the State Fire Marshal convene stakeholders' group review state codes and federal regulations that restrict the reuse of existing structures to recommend revisions to encourage their renovation was not adopted.

LD 1331⁴³ directed the State Planning Office and the Maine Building Rehabilitation Code Advisory Council to develop a model building rehabilitation code for Maine, incentives for municipalities to adopt the model code, and, to the extent funding is available, technical assistance and training in the use of it. The Council discontinued its efforts when two things became clear. First, that a single statewide building code is a necessary precursor to development of an overlapping rehabilitation code. And second, that both of the national code organizations were in the process of creating rehabilitation codes to integrate with their model codes. The Council recommended that the Legislature reexamine the desirability of developing a model statewide building code for Maine and create incentives for municipalities to adopt it.

Downtowns: LD 2600⁴⁴ established the Maine Downtown Center to encourage downtown revitalization in Maine communities through advocacy, information, training, and technical

⁴¹ Task Force on State Office Building Location, Other State Growth-related Capital Investments and Patterns of Development in 1999; Task Force to Study Growth Management in 2000, Joint Study Committee to Study Growth Management in 2001.

⁴² Enacted as PL 2001, chapter 673, in second session of 120th Legislature in 2001.

⁴³ Enacted as Resolve 2001, chapter 29 in first session of 120th Legislature in 2001.

⁴⁴ Enacted as PL 1999, chapter 776, in second session of the 119th Legislature in 2000. Several errors in that law were corrected by LD 2334, Part R.

assistance to communities. It directed the State Planning Office, Department of Economic and Community Development, Maine Development Foundation, and other state agencies to work collaboratively to coordinate the programs of the Center and appropriated \$100,000 for grants to revitalize downtowns. Several state agencies also committed to raising three years of operating funds for the Center. LD 2600 also directed DECD to develop an investment policy to improve the condition of downtown properties and infrastructure to meet the multiple use needs of downtowns, review state codes and federal regulations that restrict the reuse of existing structures and recommend revisions to encourage renovation of existing buildings, and report its recommendations to the Legislature. The Legislature did not adopt the Task Force on State Office Building Location, Other State Growth-related Capital Investments and Patterns of Development's and the Governor's Sub-cabinet Committee on Smart Growth's recommendations to create a Downtown Leasehold Improvement Fund to help state agencies secure space in downtowns by providing for capital improvements to leased properties.

Geographic Information System: The Task Force on State Office Building Location, Other State Growth-related Capital Investments, and Patterns of Development recommended that funds be appropriated for the position of Statewide Geographic Information System Coordinator in the Office of Geographic Information Systems. This recommendation was not adopted by the 119th Legislature.

LD 578⁴⁵ directed the State Planning Office to convene a steering committee to study and design a statewide geographic information system that can be utilized for a variety of planning purposes. The steering committee made recommendations that resulted in LD 2116, which was adopted in the second session of the 120th Legislature as described below.

LD 2116⁴⁶ creates the Maine Library of Geographic Information and the Maine Library of Geographic Information Board. LD 2120⁴⁷ also resulted in inclusion of \$2.3 million in the November 2002 environmental bond issue. It was hoped that the bond would include \$4 million to assist municipalities with digitizing parcel maps.

Growth Management: The Task Force on State Office Building Location, Other State Growth-related Capital Investments, and Patterns of Development recommended that additional funds be appropriated for financial and technical assistance to municipalities, regional councils, and alternative growth management initiatives. This recommendation was not adopted by the 119th Legislature.

The Task Force to Study Growth Management was charged with studying the state's growth management laws with the goal of making them more responsive to the issues of sprawl. It investigated a significant shift in approach to growth management, known as the "outcome-based approach," that would establish measurable performance measures. Municipalities would be expected to plan for and manage their growth in accordance with those measures. Failure to meet those measures, without good cause, would result in assessment of penalties to that community. Under the proposal, two different levels of planning were explored – multi-municipal and single community planning regions. The Task Force concluded that continued discussion of the outcome-based approach was needed and warranted, but that certain changes to the Planning & Implementation Act were required without delay and made a recommendation for an intermediate proposal to amend the Act. Among other

⁴⁵ Enacted as Resolve 2001, chapter 23, in first session of 120th Legislature in 2001.

⁴⁶ Enacted as PL 2001, chapter 649, in second session of 120th Legislature in 2002.

⁴⁷ Enacted as Private and Special Law, chapter 71, in second session of the 120th Legislature in 2002.

recommendations, the Task Force proposed that the goals of the Act should be modified to include the three performance measures it had developed⁴⁸; current deadlines for towns to adopt a comprehensive plan and consistent ordinances should be staggered for high, moderate, and slow growing communities; and towns that enter into regionally based comprehensive plans should be exempt from established deadlines for enacting consistent comprehensive plans. The Task Force also recommended increased funding for financial and technical assistance for municipalities and regional councils.

The Governor's Sub-cabinet Committee on Smart Growth recommended speeding up funding of local comprehensive plans and implementation programs (from \$250,000 per year to \$500,000 per year) to assure full opportunity for local governments to designate and implement growth areas. It also recommended expanding support for regional technical assistance to provide assistance to local governments. The Committee also recommended that there be funding for the development of Capital Improvement Plans and development of a mechanism for their capitalization for regions that have been prospectively zoned by LURC. Unfortunately, funding for capital planning was later rejected by the Land Use Regulation Commission whose members indicated that the Commission is about land use not financial affairs.

LD 1693⁴⁹ amended the comprehensive planning and land use regulation laws in a number of ways, including adjustment in administration of the Community Planning & Investment Program, clarification and increased flexibility in the timing of the requirement for consistency between local land use regulations and comprehensive plans, reducing the requirement for consistency between local plans and land use ordinances to include only zoning, rate of growth ordinances, and impact fees; increased flexibility in the designation of growth areas for slow growing communities, and increased coordination among state agencies and support for local planning efforts.

LD 2510⁵⁰ appropriated \$1.6 million for financial and technical assistance to municipalities and regional councils and for pilot programs to support alternative growth management initiatives and updates of older comprehensive plans. Unfortunately approximately \$143,000 from this one-time appropriation was reclaimed to help address the State budget shortfall.

LD 2094⁵¹ amended the comprehensive planning and land use laws to adjust administration of the Program; and increase the flexibility in designating growth and rural areas by including a provision for critical rural areas, critical waterfront areas, and transitional areas, and by placing multi-municipal planning projects on an even footing with single town planning efforts. See Regionalism in Growth Management.

Growth-related Capital Investments: The Governor's Sub-cabinet Committee on Smart Growth recommended targeting growth-related capital investments⁵² to areas designated for growth by local governments and LURC in their comprehensive plans and ordinances. LD

⁴⁸ Three performance outcomes were proposed: a. At least 70% of new residential growth must occur in areas designated for growth; b. At least 10% of new housing must be affordable; c. Commercial development should be located in such a way that the capacity of arterial and major collector roadways is not exceeded.

⁴⁹ Enacted as PL 2001, chapter 406, in first session of 120th Legislature in 2001.

⁵⁰ Enacted as PL 2001, chapter 578, in first session of 120th Legislature in 2001.

⁵¹ Enacted as PL 2001, chapter 578, in second session of 120th Legislature in 2002.

⁵² Construction or extension of utility lines, development of industrial or business parks, public service infrastructure and public facilities, state office buildings, state courts and other state civic buildings, newly constructed multifamily rental housing.

2600⁵³ defines state growth-related capital investments and directs them to locally-designated growth areas as identified in comprehensive plans, or if there is no comprehensive plan, to areas with public sewers capable of handling the development, in areas identified as census-designated places or in compact areas of urban compact municipalities. There are exceptions to this requirement.⁵⁴

LD 2071⁵⁵ is intended to ensure that hospitals and other quasi-public facilities that use state or passed-through federal dollars are treated like other public entities regarding growth-related capital investments.

Impact Fees: LD 2600⁵⁶ clarified that school facilities are among the types of infrastructure facilities for which communities may establish impact fees and recommended further study by the Task Force to Study Growth Management in the first session of the 120th Legislature.

LD 346⁵⁷ clarified that communities that are part of a single or multi-community school district may deposit the proceeds of school impact fees in a trust fund to be used to pay their proportionate share of anticipated school capital costs.

Model Codes for Municipalities: LD 2600⁵⁸ called for the State Planning Office to develop model codes that accommodate smart growth design standards to allow for traditional, compact development in locally-designated growth areas and to preserve and revitalize existing neighborhoods.

Municipal Investments: The Task Force on State Office Building Location, Other State Growth-related Capital Investments, and Patterns of Development recommended that the Legislature appropriate \$5 million for the Maine Municipal Bond Bank to capitalize the Municipal Investment Trust Fund for downtown improvement loans to municipalities.⁵⁹ This proposal was not funded.

LD 669⁶⁰ amended the text of the Municipal Investment Trust Fund, a fund that was established in 1993 but never funded, to establish priorities for award of the fund⁶¹ and clarify eligible improvements. The Task Force to Study Growth Management's recommendation to capitalize the Municipal Investment Trust Fund in the amount of \$20 million was only partially successful, resulting in a first-time appropriation of \$300,000.

⁵³ Enacted as PL 1999, chapter 776, in second session of the 119th Legislature in 2000. Several errors in that law were corrected by LD 2334, Part R.

⁵⁴ For state investment required to remedy threats to public health and safety; mitigate nonpoint source pollution; purchase land for parks, open space, and conservation; assist natural resource-based industries; expand highways; support historic and cultural resources; and school construction or renovation.

⁵⁵ Enacted as PL 2001, chapter 613, in second session of 120th Legislature in 2002.

⁵⁶ Enacted as PL 2000, chapter 776 in second session of the 119th Legislature in 2000. Several errors in that law were corrected by LD 2334, Part R.

⁵⁷ Enacted as PL 2001, chapter 38, in first session of the 120th Legislature in 2001.

⁵⁸ Enacted as PL 2000, chapter 776, in second session of the 119th Legislature in 2000.

⁵⁹ Downtown improvements, historic preservation improvements, parking and road improvements, park and open space amenities, purchase of development rights, and streetscape improvements.

⁶⁰ Enacted as PL 2001, chapter __, in first session of 120th Legislature in 2001.

⁶¹ Service centers, communities with certified growth management programs and consistent comprehensive plans, and multicommunity projects with regional benefit.

LD 2061⁶² further amended the priorities for preferences for loans and grants from the Municipal Investment Trust fund to share highest priority for these funds with municipal projects undertaken by two or more municipalities.

LD 2130⁶³ authorized inclusion of \$4 million dollars in the Economic Development bond issue, which was approved by Maine voters in June 2002. The Joint Study Committee to Study Growth Management had recommended capitalization in the amount of \$8 million.

Rate of Growth Ordinances: LD 1643⁶⁴, which was an attempt to establish a framework for locally defined rate of growth or building caps, was carried over from the first to the second session of the 120th Legislature. The LD defined three types of caps – temporary, ongoing, and caps that apply only outside of locally-designated growth areas – and parameters within which each could be adopted. The Joint Study Committee to Study Growth Management recommended that the LD ought not to pass and recommended instead LD 2062, a variation on the original bill.

LD 2062⁶⁵ requires any municipality that enacts a rate of growth ordinance to review that ordinance at least every 3 years. The final version of the bill did not include the recommendations of the Joint Study Committee to Study Growth Management.

Regionalism in Growth Management: LD 2094⁶⁶ amends the Comprehensive Planning and Land Use Regulation Act to reinforce regional and municipal roles in growth management and encourage multi-municipal planning efforts by placing them on even footing with single town planning efforts.

See also Municipal Investments for description of modified priorities for award of Municipal Investment Trust Funds to place multi-town projects on an even footing with service center projects as the highest priority for the Fund.

Reports to the Legislature and Task Forces: The Task Force on State Office Building Location, Other State Growth-related Capital Investments and Patterns of Development was established to review and make recommendations on legislation carried over from the first session of the 119th Legislature, which focused on stimulating the health and well-being of service center communities and rural areas, including proposals to direct state investments to locally-designated growth areas and downtowns, value farmland at current use, and support farms and agricultural activities.

LD 2600⁶⁷ required the Land & Water Resources' Council to submit a report to the 120th Legislature evaluating the use of incentives to keep rural land undeveloped.

LD 2600 also directed the State Planning Office and Department of Environmental Protection to promote the Maine Municipal Brownfields Revolving Loan Fund and the Voluntary Response

⁶² Enacted as PL 2001, chapter 621, in second session of the 120th Legislature in 2002.

⁶³ Enacted as Private and Special Law, chapter 73, in second session of the 120th Legislature in 2002 and approved by voters in June 2002.

⁶⁴ Carried over from first to second session of the 120th Legislature in 2001-2002.

⁶⁵ Enacted as PL 2001, chapter 591, in second session of the 120th Legislature in 2002.

⁶⁶ Enacted as PL 2001, chapter 578, in second session of 120th Legislature in 2002.

⁶⁷ Enacted as PL 2000, chapter 776, in second session of the 119th Legislature in 2000. Several errors in that law were corrected by LD 2334, Part R.

Action Program and to submit a joint report to the 120th Legislature evaluating the initiative for expansion.

LD 2600 also established the Task Force to Study Growth Management and directed it to review Planning & Land Use Regulation Act, with the goal of making it more responsive to the issue of sprawl, as well as the state's enabling legislation for impact fees and the municipal subdivision law.

LD 2600 also directed the Maine State Housing Authority to submit a report to both the Natural Resources and Business and Economic Development Committees to describe efforts to design and implement a home ownership program for service centers that was modeled after the New Neighbors program.

Joint Order HP 1330 and Senate Amendment A (S-371)⁶⁸ established the Joint Study Committee to Study Growth Management to study the issues related to sprawl and growth management in Maine.

LD 2070⁶⁹ established the Community Preservation Advisory Committee as an ongoing entity to advise the Governor, the Legislature, and the State Planning Office on matters relating to community preservation.

School Siting: The Task Force on State Office Building Location, Other State Growth-related Capital Investments and Patterns of Development recommended that municipalities using state dollars to construct new schools site be required to site them in a community's locally-designated growth area or, if it does not have a comprehensive plan that designates a growth area, in an area that is either served by public sewer, is a census designated place or is an urban compact area. If a municipality doesn't select one of these locations, state funds were recommended to be used for the project only if the municipality's land use regulations do not prohibit denser residential development within ½ mile of the school property. LD 2600⁷⁰ took a somewhat different approach, requiring the State Board of Education to adopt rules regarding the siting of new state-funded schools and include consideration of priority locations, as detailed in the Task Force's recommendations.

This rule was subsequently adopted⁷¹ and applies to the siting of all new school construction projects that receive state funding. Under the rule, the Board of Education must consider school administrative units' requests for site approval with consideration for preferred locations, essentially defined as recommended by the Task Force. When a school administrative unit selects a site that is not within a preferred area, it must provide a written explanation of its site selection for State Board of Education consideration.

LD 2600 also directed the State Planning Office and the Department of Education to submit a joint report to the Natural Resources Committee on recommendations regarding land use and zoning ordinances near newly constructed schools.

⁶⁸ Enacted as PL 2001, chapter __, in first session of the 120th Legislature in 2001.

⁶⁹ Enacted as PL 2001, chapter 648, in second session of the 120th Legislature in 2002.

⁷⁰ Enacted as PL 2000, chapter 776, in second session of 119th Legislature in 2000.

⁷¹ Enacted as Resolve 2001, chapter 47, chapter 60, New School Siting Approval, in first session of 120th Legislature in 2001.

Service Center Communities: LD 2510⁷² provided for additional state-municipal revenue sharing for municipalities with a higher-than-average property tax burden. It appropriated \$3.6 million in one-time funds to be distributed in June 2001 to municipalities with disproportionate tax burdens.

The Legislature approved major substantive rules defining service centers in LD 2144.⁷³

State Facilities: LD 2600⁷⁴ directed the Bureau of General Services to develop site selection criteria for state office buildings and community facilities that give preference to priority locations in service centers, downtowns, and locally-designated growth areas. See Downtowns discussion above for description of Leasehold Improvement Fund, which was not authorized or funded.

LD 2059⁷⁵ clarified that site selection criteria for state facilities may require on-site parking only if it is necessary to meet critical program needs and to ensure reasonable access for agency clients and persons with disabilities. It also clarified that employee parking that is within reasonable walking distance may be located off site. Finally, it required the Department of Administrative and Financial Services to consult with the authorized bargaining agent of the employees if there is a change in employee parking at a state facility from on-site parking to off-site parking.

Subdivision Law: LD 1278⁷⁶ amended the definition of subdivision and provided that a municipality may not enact an ordinance that expands the definition of subdivision except as provided in the law.⁷⁷ LD 1278 also required the State Planning Office to study the status of municipal subdivision ordinances and report to the Joint Standing Committee on Natural Resources.

LD 2119⁷⁸ placed limits on the ability of municipalities to modify the definition of “subdivision” to modify and remove certain exemptions. It also provided that a municipality may not enact an ordinance that expands the definition of “subdivision” except as provide in state law. It also provided that if, at the time chapter 651 took effect, a municipality had a definition of “subdivision” that conflicts with the statutory definition of “subdivision,” that municipality must file its conflicting definition at the registry of deeds. LD 2119 also removed the 40-acre lot exemption from the definition of “subdivision,” except that a municipality may affirmatively elect not to count 40-acre lots as lots for purposes of subdivision review.

LD 2037⁷⁹ removed the retroactivity provision established in LD 1278.

LD 2082⁸⁰ amended the subdivision review criteria for traffic to require a determination that a proposed subdivision will not reduce the speed of a mobility arterial.

⁷² Enacted as PL 1999, chapter 731, in second session of 119th Legislature in 2000.

⁷³ Enacted as PL 2001, chapter ___, in second session of 120th Legislature in 2002.

⁷⁴ Enacted as PL 2000, chapter 776, in second session of 119th Legislature in 2000.

⁷⁵ Enacted as PL 2001, chapter 593, in second session of the 120th Legislature in 2002.

⁷⁶ Enacted as PL 2001, chapter 359, in first session of 120th Legislature in 2001.

⁷⁷ The provisions that would have repealed this provision as of October 2002 and apply them retroactively were eliminated in the second session of the 120th Legislature in 2002.

⁷⁸ Enacted as PL 2001, chapter 651, in second session of 120th Legislature in 2002.

⁷⁹ Enacted as PL 2000, chapter ___, in second session of 120th Legislature in 2002.

⁸⁰ Enacted as PL 2001, chapter ___, in second session of 120th Legislature in 2002.

Transfer of Development Rights: LD 2049⁸¹ clarified that a single municipality may enact a transfer of development rights program for the transfer of development rights within the municipality's boundaries. Two or more municipalities may only provide for the transfer of development rights between municipalities if the municipalities have entered into an interlocal agreement.

Transportation Issues

Access Management: The Governor's Sub-cabinet Committee on Smart Growth recommended that state highway investments be protected through access management, by a combination of acquisition/regulation of key rights-of-way in the corridors of the state's arterials, and standards in local ordinances and LURC regulations that minimize intrusions and conflicts associated with development sprawl on state highways.

LD 2550⁸² expanded the purposes of the access management law and established a process for permitting new driveways, entrances, and approaches on Maine's major highways.

LD 1774⁸³ authorized final adoption of Chapter 299: Highway Driveway and Entrance Rules, Parts A and B, a major substantive rule of the Department of Transportation.

See also Subdivision above for discussion of amendment of subdivision review criteria regarding access management.

Planning Assistance to Municipalities: LD 2550⁸⁴ required the Department of Transportation to work cooperatively with the State Planning Office and regional councils to provide training, technical assistance, and information to municipalities on road planning, maintenance, sidewalks and neighborhood involvement to assist them in addressing smart growth issues by preserving traditional downtowns, walkable communities and compact neighborhoods.

Transit Projects: The Governor's Sub-cabinet Committee on Smart Growth recommended MDOT continue its strategic planning and implementation of transit systems statewide. The Acadia Explorer transit system in Hancock County is a successful model of new transit thinking with supports tourism and econ development while reducing environmental impacts and providing mobility. In FY 01 MDOT secured Federal Transit Administration funds to continue the innovative operations of the Acadia Explorer. The FY02-03 bond package included \$1.65M to match \$8M in newly available Federal Transit Administration funds for transit vehicle replacements

LD 2550⁸⁵ required the Department of Transportation to begin a strategic planning process relating to transit, including marketing of transit, innovative financing of transit projects, connectivity to airports and rail and other issues. LD 2550 also requires MDOT to work with other agencies to identify funding sources for innovative transit and transportation projects that address sprawl and air quality issues.

⁸¹ Enacted as PL 2001, chapter 592, in second session of 120th Legislature in 2002.

⁸² Enacted as PL 1999, chapter 676, in second session of the 119th Legislature in 2000.

⁸³ Enacted as Resolve 2001, chapter 46, in first session of 120th Legislature in 2001.

⁸⁴ Enacted as PL 2000, chapter ___, in second session of the 119th Legislature in 2000.

⁸⁵ Enacted as PL 2000, chapter ___, in second session of 119th Legislature in 2000.

Taxation Issues

Current Use Taxation: LD 2510⁸⁶ amended provisions of the Farmland Tax Law to reduce the penalty for withdrawal to the minimum required by the State Constitution. The law also required the Department of Agriculture, Food and Rural Resources and the bureau of Revenue Services to update the guidelines for the valuation of farmland by December 31, 2000 and biennially thereafter with suggested values by region, as appropriate. A critical component of the Task Force on State Office Building Location, Other State Growth-related Capital Investments and Patterns of Development's recommendation was not funded. It would have offered 90% municipal reimbursement for enrolled farmland as is done for land enrolled in the tree growth tax program. LD 2669⁸⁷ provided a refund of sales tax paid on electricity purchased for use in commercial agricultural production, commercial fishing, and commercial aquaculture production.

LD 765, designed to increase the reimbursement to communities for lost revenue under the tree growth tax law, was not adopted by the legislature in the first session of the 120th Legislature. LD 1007⁸⁸, which prevented the use of current use tax programs (tree growth, farmland, and open space) was adopted by the Legislature.

A constitutional amendment to extend current use tax designation to the fishing industry was defeated in 2000.

Service Centers: The Task Force on State Office Building Location, Other State Growth-related Capital Investments and Patterns of Development recommended that a Service Center Relief Fund be established to provide relief to regional service center communities, which provide regional services which are generally not financially supported by area communities and many state funding formulas. LD 2510 established a second-tier of revenue sharing that transferred additional funds to service center and other communities with high tax burdens. A one-time appropriation of \$3.6 million was made in FY01 to seed the fund⁸⁹.

Sprawl Offset Tax: In the first session of the 120th Legislature, Representative Lamoine sponsored LD 1398, the sprawl offset tax. This bill, though unsuccessful, was the Legislature's first attempt to address the fact that development in locally-designated rural areas is often less expensive, or at least is perceived to be less expensive in the short term, than in locally-designated growth areas.

⁸⁶ Enacted as PL 1999, chapter 676, in second session of the 119th Legislature in 2000.

⁸⁷ Enacted as PL 1999, chapter 757, in second session of the 119th Legislature in 2000.

⁸⁸ Enacted as PL 2001, chapter 305, in the first session of the 120th Legislature in 2001.

⁸⁹ Enacted as PL 2000, chapter ___, by second session of 119th Legislature in 2000.

Appendix C: Survey to Assist with Evaluation of Maine's Growth Management Program

November 26, 2002

To those interested in growth management, sprawl, and smart growth:

Every four years, the State Planning Office is required to evaluate state and local efforts to achieve the purposes and goals of the Act. We are now in the process of conducting that evaluation and would like your opinion on the program's effectiveness. Please take **five to ten minutes to complete and return the attached survey** to help with this effort.

In 1988, the Legislature enacted the Planning and Land Use Planning Act (also known as the Act) to establish local comprehensive plans and land use management in each municipality that would, in turn, support 10 statewide goals (30-A MRSA §4312 (3)).⁹⁰

Changes to the law in the early 1990s narrowed the Program's original focus to a town-by-town response to managing growth. Indeed, most land use decisions are made at the local level and local growth management has achieved some notable successes.

Nevertheless, in the late 1990s, the State Planning Office began to recognize the importance of regional and state influences on local growth patterns. In its 1999 report *Continuing Challenges and Growing Opportunities*, the State Planning Office concluded that local planning efforts alone are insufficient. Growth patterns and their impacts often occur and must be addressed on a regional basis. What's more state regulations, policies, and investment unwittingly discourage orderly growth and efficient use of municipal services. It became apparent that public investment (state, municipal, and federal) is needed to support carefully planned growth rather than simply respond to the impacts of growth and development.

Today, while the framework of the original Act remains intact, the program recognizes that strategies to address its goals require a broader focus than local planning and zoning alone. In addition to its work with local decision-makers over the past four years, SPO has focused additional efforts on state and regional policies that affect land use patterns, including:

- ◆ reforming state policies, programs, and investments that encourage development sprawl,
- ◆ bolstering the health and well-being of both Maine's traditional natural resource-based industries and service center communities,
- ◆ providing relief to suburbanizing communities, and
- ◆ developing strategies to support markets for traditional, compact neighborhood development.

Instructions: The State Planning Office has used multiple mailing lists in order to share this survey with as many people as possible. We apologize if you receive more than one solicitation and ask that you respond only once in the format that is most convenient for you.

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- A. To encourage orderly growth and development in appropriate areas of each community, while protecting the State's rural character, making efficient use of public services and preventing development sprawl;
- B. To plan for, finance and develop an efficient system of public facilities and services to accommodate anticipated growth and economic development;
- C. To promote an economic climate which increases job opportunities and overall economic well-being;
- D. To encourage and promote affordable housing opportunities for all Maine citizens;
- E. To protect the quality and manage the quantity of the State's water resources, including lakes, aquifers, great ponds, estuaries, rivers and coastal areas;
- F. To protect the State's other critical natural resources, including without limitation, wetlands, wildlife and fisheries habitat, sand dunes, shorelands, scenic vistas and unique natural areas;
- G. To protect the State's marine resources industry, ports and harbors from incompatible development and to promote access to the shore for commercial fishermen and the public;
- H. To safeguard the State's agricultural and forest resources from development which threatens those resources;
- I. To preserve the State's historic and archaeological resources; and
- J. To promote and protect the availability of outdoor recreation opportunities for all Maine citizens, including access to surface waters.

The survey is designed to be quick and easy and, for most of you, is being electronically distributed. You may reply in any one of four ways.

- You may submit your response on-line at <http://www.state.me.us/spo/cpip/survey.htm>. If you received a copy of this survey in the mail, have Internet access, and would like to respond electronically, please feel free to follow this link and recycle the paper survey.
- If you prefer, you may fill out a paper copy of the survey, and mail it to us at State Planning Office, SHS 38, Augusta, ME 04333, or
- You may fax it to us at 287-6489, or
- You may e-mail your response to us: jody.harris@state.me.us

Regardless of how you choose to respond, **please send your response to the State Planning Office on or before December 18, 2002.**

All responses will be treated as anonymous and confidential.

SURVEY QUESTIONS

1. Do you believe that the State Planning Office's approach of supplementing local planning efforts with regional coordination and reform of state policies **has been effective** in making progress on the 10 statutory goals?

☐ Not at all ☐ Somewhat ☐ No Opinion ☐ A Good Deal ☐ Extremely ☐ Don't Know

2. Do you believe that the State Planning Office should **continue with this approach**?

☐ Absolutely Not ☐ Perhaps ☐ No Opinion ☐ Probably ☐ Definitely ☐ Don't Know

3. On a scale of 1 to 3, where 1 means not effective, 2 means somewhat effective, and 3 means highly effective, **how effective do you think each of the following strategies are:**

Getting the State's house in order by:

- ☐ using state capital investment to support "smart growth"
- ☐ identifying and removing hidden subsidies of sprawl in State funding formulas
- ☐ adjusting regulations so they don't push development outward

Supporting natural resource-based industries like farming, fishing, and forestry by:

- ☐ regarding them as businesses and assisting them accordingly
- ☐ buying or leasing development rights
- ☐ strengthen right-to-farm law
- ☐ taxing these industries at current use and reimbursing towns for lost revenue
- ☐ supporting research and development for greater value added

Strengthening service centers by:

- ☐ supporting the "Downtown" initiative
- ☐ expanding home ownership in centers
- ☐ shifting a fair share of costs of providing regional services to the region
- ☐ allowing flexible taxation to spur development

Provide relief to suburbs by:

- ☐ emboldening local comprehensive plans to protect rural areas and direct most development to growth areas
- ☐ encouraging adoption of strategies that require new arrivals pay a fairer share of costs
- ☐ encouraging communities to use their local authority to direct growth in less expensive ways

Supporting the development of traditional, compact, Great American Neighborhoods by:

- ☐ identifying and educating markets for traditional neighborhood development
- ☐ preparing a design manual about details of traditional neighborhood development
- ☐ preparing a handbook of model ordinances to allow traditional neighborhood development
- ☐ providing incentives for sewer and water lines

4. What other things do you think the State Planning Office should **consider in its evaluation** of the program's effectiveness in achieving the 10 statutory goals? _____

The following is demographic information that will allow us to understand who is responding.

5. Are you a (**check one** that represents your primary position):

- ☐ Local appointed official (including volunteer boards/committees)
- ☐ Local elected official
- ☐ Local planner
- ☐ Regional planner
- ☐ Member of private business/development organization
- ☐ Member of environmental organization
- ☐ Legislator
- ☐ State agency representative
- ☐ Other (please describe) _____

6. What is your involvement with the Growth Management Program (**check one** that best represents your area of involvement):

- ☐ Primarily involved with local comprehensive planning
- ☐ Primarily involved with ordinance development
- ☐ Primarily involved with providing local technical assistance
- ☐ Primarily involved with state agency policy or program
- ☐ Primarily involved with legislative initiatives
- ☐ Other (please specify) _____

7. Do you have any **additional comments** about the State Planning Office's responsibilities with regard to administering the Growth Management Program? _____

Thank you for taking the time to complete this survey.

Appendix D: Analysis of Survey Results

Conclusions

1. SPO generally appears to be headed in the right direction in terms of criteria used to evaluate the program's purpose and effectiveness. But, **in the future, SPO will need to expand its efforts** to document the real impact resulting from changes made at the state and local levels.
2. Most feel that **SPO's overall approach** of providing town-by-town land use planning assistance, bolstered by efforts to promote regional coordination and multi-town approaches to planning and to identify and change state policies that work against effective local planning or inadvertently contribute to sprawling patterns of development **is effective** and **believe SPO should continue with it**.
3. More respondents indicated that **individual strategies are effective** than the overall approach. This might mean that different respondents prefer different courses of action. Given the diversity of the state and the unique needs of towns in different regions, it makes sense that different respondents perceive effectiveness in different ways; a strategy that works in one region may not work in another. We might conclude therefore that SPO's multi-strategy approach, with the right strategy applied in the right area, is the best course of action.
4. There is wide disagreement on whether the state should take a more active role in directing towns in managing growth. SPO should continue its **balanced approach** that implements strategies that both respect local authority, but that also provide leadership on state, regional, and local policies to stem sprawl.
5. SPO should continue its leadership role in **advocating for reform of state policies** (including tax policies) to combat sprawl.
6. There is a need for **greater regional coordination and multi-town planning** for land use planning.
7. SPO should **expand its outreach and technical assistance** to local planning groups and, as resources allow, increase funding to towns and regions to promote effective local land use planning. It should be noted that SPO cannot do this without additional resources.

Statutory Charge

30-A MRSA §4331 (3) requires SPO to, "...incorporate opportunities for public input and comment into the evaluation process."

Survey Audience

SPO solicited public comment using e-mail and the Internet. SPO e-mailed the survey or the

survey web link to 623 people in Maine with interest in the Growth Management Program. These include: members of the Maine Association of Planners (120); members of the Northern New England Chapter of the American Planning Association (127); the regional planners in Maine's 11 regional planning organizations (16); and interested parties (360 unduplicated) as follows:

- ♦ Members, Community Preservation Advisory Committee and interested parties
- ♦ Members, Land and Water Resources Council
- ♦ State Smart Growth Coordinating Committee
- ♦ Maine Sustainable Development Working Group
- ♦ SPO's mailing list of planning consultants
- ♦ Maine Downtown Investment Group
- ♦ 2001-2002 attendees at SPO workshops related to land use planning, including the Smart Growth Institute

We know that the e-mail containing the survey link was, in turn, forwarded to other groups. The one that we know of is the Maine Affordable Housing Network (80 people).

To make the process as open as possible, SPO posted the survey to its web site for a four-week period (from December 2, 2002 through January 6, 2003).

Recognizing that some small towns and their officials do not have access to the Internet, we also mailed paper surveys to all of Maine's towns and cities using the Maine Municipal Association's mailing list for chief executive officers (496).

These targeted groups, which total 1200 state, regional, and local officials as well as businesspeople, economic developers, and environmentalists, provide a comprehensive list of people in Maine who are directly impacted by the Growth Management Program or who have professional interest in land use planning in Maine.

Response Rate

We are unable to calculate a definitive response rate because of the open-ended nature of the survey (web posting).

149 total responses were returned to SPO. We know that 496 paper copies were mailed to municipal officials and 62 hard copies were returned to us by e-mail, mail, or fax which, for the written survey only, is a 12.5% response rate. Of the known electronic surveys sent (703), 87 responses were received or 12.3%.

Breakdown of Respondents

Local officials comprise the majority of respondents (60%); including appointed officials (37%), elected officers (13%), and local planners (10%).

Most respondents are primarily involved in *local comprehensive planning* (38%).

Input into Evaluation Criteria

The purpose of the survey was to solicit public input and comment into the evaluation process in two ways:

1. to seek public opinion on the effectiveness of the Program in achieving its purpose and statutory goals; and
2. to obtain public input on what criteria the Office should use to evaluate the effectiveness of the Program in achieving its purpose and statutory goals.

Towards the latter, we asked, “*What other things do you think the State Planning Office should consider in its evaluation of the program’s effectiveness in achieving the 10 statutory goals.*”

A number of respondents advised SPO to look at the actual impact of the program; whether patterns of development and land use are being altered and, as one person said, “not how many comprehensive plans were updated in the last 2 years.” Another respondent said, “...*the proof is in the pudding...*” This advice to focus on results is consistent with SPO’s long-term approach to evaluating the effectiveness of the Growth Management Program, which will look at changes in the location of development.

A number of responses point to evaluation criteria that SPO is currently using in its evaluation:

- ♦ changes in the pattern of development (*SPO is developing data to measure the percentage of growth occurring in locally-designated growth areas*)
- ♦ barriers and opportunities that promote goals (*SPO conducted a goal-by-goal assessment of these issues*)
- ♦ measures of protection of natural resources, open space, and wildlife (*the Indicators of Livable Communities, which SPO uses as part of the criteria for this evaluation, includes measures on lake quality, groundwater quality, river quality, estuarine quality, land conserved, biological diversity, and sustainable forests*)
- ♦ a suggestion to poll local communities (*SPO surveyed local chief executive officers to solicit input into this evaluation*)

The following responses suggest criteria for the evaluation that are not being used at this time.

- ♦ Survey other targeted groups such as realtors and developers (*Some of these professionals are included in SPO’s list of interested parties by virtue of having participated in pilots or workshops. In addition, SPO has worked closely with groups such as the Maine Real Estate Development Association to develop its market-based strategies*)
- ♦ Ascertain how many Maine citizens agree with and support the smart growth concept (*SPO will consider fielding a question in the Maine Omnibus Survey; a public opinion survey of Maine citizens*)
- ♦ Look at how changes in the pattern of development impact sprawl (*Currently SPO is developing measurement systems to track where growth is occurring. Identifying whether changes in patterns of development have occurred would be the next step and appropriate for future evaluations*)

- ♦ Evaluate the impact of state decisions (transportation decisions, incentives, regulations) on growth, development, and sprawl (*Currently SPO is working with a number of state agencies to refine a variety of state policies that inadvertently cause sprawl. Identifying whether these policy changes impact where development occurs would be the next step and appropriate for future evaluations*)
- ♦ Consider impacts of public investments on development patterns (*Currently SPO is developing a measurement system to track where state investments go. Identifying whether changes in patterns of development have occurred would be the next step and appropriate for future evaluations*)
- ♦ Determine how smart growth initiatives have affected behavior at the local government level (i.e. the percent of towns that have taken some action; a measure of the percentage of smart growth or good growth; how much smart growth currently exists; towns' willingness to adopt and enforce state rules and regulations; the extent to which different models of land use regulation have been used; the number of or increase in regional efforts; the effectiveness of model ordinances. *(These are good output measures that SPO should track as part of its program status)*)
- ♦ Document vacancy rates in service center communities (*SPO will look at whether this indicator could be incorporated into the Indicators for Livable Communities*)
- ♦ Assess how well regional councils help in achieving the 10 goals (*SPO will look at adding this to the evaluation*)
- ♦ Calculate the overall cost of development vs. typical household income (*SPO will look at whether this indicator could be incorporated into the Indicators for Livable Communities*)
- ♦ Determine the degree to which communities are accomplishing affordable housing (*This should be part of the evaluation of Goal D for which little data exist at this time*)
- ♦ Use Social Capital as an indicator of potential economic growth (*SPO will look at whether this indicator could be incorporated into the Indicators for Livable Communities. There is currently a measure on the Maine Economic Growth Council's Measures of Growth regarding community service that might be applicable.*)
- ♦ Consider ways to measure each goal so that 2002 can be compared to 1992 (*Unfortunately data do not exist back to 1992*).

Analysis of Results

The Growth Management program traditionally has been a local assistance program, assisting towns and cities with developing local comprehensive plans and land use ordinances and reviewing those plans for consistency with the 10 statutory goals. Over the past four years, SPO has continued assisting towns, but has also redirected staff resources to promote regional coordination and multi-town approaches to planning and to identify and change state policies that work against effective local planning or inadvertently contribute to sprawling patterns of development. SPO implemented a five-point approach to accomplish its statutory charge:

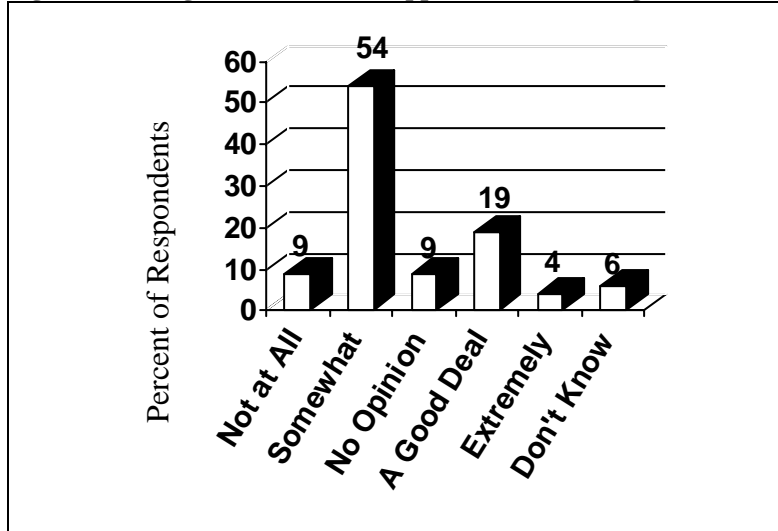
- ♦ reform state policies, programs, and investments that encourage development sprawl
- ♦ aid rural areas by bolstering the health and well-being of Maine's traditional natural resource-based industries
- ♦ provide relief to suburbanizing communities
- ♦ strengthen service center communities
- ♦ develop strategies to support markets for traditional, compact neighborhood development

With regard to public opinion on the effectiveness of the program in achieving its purpose and statutory goals, we asked a series of questions on the effectiveness of the overall 5-point approach as well as on 19 specific strategies.

Overall Approach

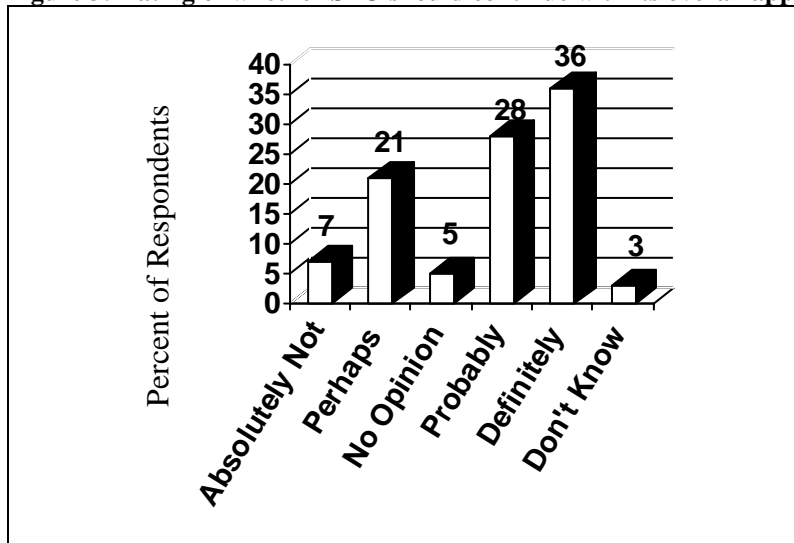
77% say SPO's overall approach is effective. 23% believe it is *extremely* effective or a *good deal* effective. Another 54% say it is *somewhat* effective (see Figure 1).

Figure 2: Rating of SPO's overall approach to achieving the Growth Management Program statutory goals



85% say we should continue with this approach. 64% say we should *definitely* or *probably* continue with this approach. Another 21% say *perhaps* we should continue with the approach (see Figure 2).

Figure 3: Rating of whether SPO should continue with its overall approach



Individual Strategies

We then asked respondents to rate a series of strategies on a scale of 1-3 with 1 being not effective, 2 being somewhat effective, and 3 being highly effective. The majority of respondents rated the 19 individual strategies effective (ranging from 67% to 81%). For even the lowest-rated strategy (*Encouraging adoption of strategies that require new arrivals to pay a fairer share of costs*), 67% of respondents believe that it is an effective strategy.

The 19 strategies and their effectiveness rating⁹¹ by respondents are:

Getting the State's house in order by:

78% using state capital investment to support "smart growth"

77% identifying and removing hidden subsidies of sprawl in State funding formulas

79% adjusting regulations so they don't push development outward

Supporting natural resource-based industries like farming, fishing, and forestry by:

82% regarding them as businesses and assisting them accordingly

72% buying or leasing development rights

68% strengthening right-to-farm law

74% taxing these industries at current use and reimbursing towns for lost revenue

75% supporting research and development for greater value added

Strengthening service centers by:

81% supporting the "Downtown" initiative

78% expanding home ownership in centers

71% shifting a fair share of costs of providing regional services to the region

69% allowing flexible taxation to spur development

Provide relief to suburbs by:

72% emboldening local comprehensive plans to protect rural areas and direct most development to growth areas

67% encouraging adoption of strategies that require new arrivals pay a fairer share of costs

74% encouraging communities to use their local authority to direct growth in less expensive ways

Supporting the development of traditional, compact, Great American Neighborhoods by:

77% identifying and educating markets for traditional neighborhood development

74% preparing a design manual about details of traditional neighborhood development

82% preparing a handbook of model ordinances to allow traditional neighborhood development

78% providing incentives for sewer and water lines

Of the 19 strategies listed, the following are the ***most effective*** with three-quarters or more of respondents ranking them as such⁹²:

⁹¹ The data reflects the combined percentage of respondents who rated the strategy as either *somewhat* effective or *highly* effective.

⁹² Ibid.

- ◆ Regarding natural resource industries as businesses and assisting them accordingly (82%)
- ◆ Preparing a handbook of model ordinances to allow traditional neighborhood development (82%)
- ◆ Supporting the Downtown Initiative (81%)
- ◆ Adjusting regulations so they don't push development outward (79%)
- ◆ Expanding homeownership in centers (78%)⁹³
- ◆ Using state capital investment to support smart growth (78%)
- ◆ Providing incentives for sewer and water lines (78%)
- ◆ Emboldening local comprehensive plans to protect rural areas and direct development to growth areas (72%)
- ◆ Supporting Research and Development for greater value added⁹⁴

Those rated *least effective*⁹⁵ are:

- ◆ Allowing flexible taxation to spur development (69%)
- ◆ Strengthening the Right-to-Farm law (68%)
- ◆ Encouraging adoption of strategies that require new arrivals to pay a fairer share of costs (67%)

⁹³ This strategy ranked 14th of those respondents ranking it *highly* effective (not combined with the respondents ranking it as *somewhat* effective).

⁹⁴ This was the second highest ranking strategy of those respondents ranking it *highly* effective (not combined with the respondents ranking it as *somewhat* effective).

⁹⁵ The data reflects the combined percentage of respondents who rated the strategy as either *somewhat* effective or *highly* effective.

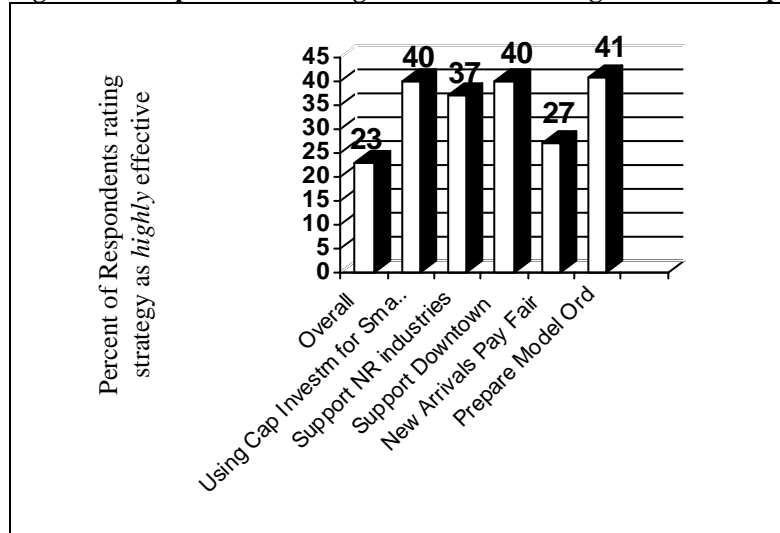
Table 1: Strategies Rated Highly and Somewhat Effective	
82	REGARDING NR INDUSTRIES AS BUSINESSES AND ASSISTING THEM ACCORDINGLY
82	PREPARING A HANDBOOK OF MODEL ORDINANCES TO ALLOW TRADITIONAL NEIGHBORHOOD DEVELOPMENT
81	SUPPORTING THE DOWNTOWN INITIATIVE
79	ADJUSTING REGULATIONS SO THEY DON'T PUSH DEVELOPMENT OUTWARD
78	EXPANDING HOME OWNERSHIP IN CENTERS
78	USING STATE CAPITAL INVESTMENT TO SUPPORT SMART GROWTH
78	PROVIDING INCENTIVES FOR SEWER AND WATER LINES
77	IDENTIFYING AND EDUCATING MARKETS FOR TRADITIONAL NEIGHBORHOOD DEVELOPMENT
77	IDENTIFYING AND REMOVING HIDDEN SUBSIDIES OF SPRAWL IN STATE FUNDING FORMULAS
75	SUPPORTING RESEARCH & DEVELOPMENT FOR GREATER VALUE ADDED
74	ENCOURAGING COMMUNITIES TO USE THEIR LOCAL AUTHORITY TO DIRECT GROWTH IN LESS EXPENSIVE WAYS
74	TAXING NR INDUSTRIES AT CURRENT USE AND REIMBURSING TOWNS FOR LOST REVENUES
74	PREPARING A DESIGN MANUAL ABOUT DETAILS OF TRADITIONAL NEIGHBORHOOD DEVELOPMENT
72	BUYING OR LEASING DEVELOPMENT RIGHTS
72	EMBOLDENING LOCAL COMPREHENSIVE PLANS TO PROTECT RURAL AREAS AND DIRECT DEVELOPMENT TO GROWTH AREAS
71	SHIFTING A FAIR SHARE OF COSTS OF PROVIDING REGIONAL SERVICES TO THE REGION
69	ALLOWING FLEXIBLE TAXATION TO SPUR DEVELOPMENT
68	STRENGTHEN RIGHT-TO-FARM LAW
67	ENCOURAGING ADOPTION OF STRATEGIES THAT REQUIRE NEW ARRIVALS TO PAY A FAIRER SHARE OF COSTS

Table 2: Strategies Rated Highly Effective	
43	PROVIDING INCENTIVES FOR SEWER AND WATER LINES
41	EMBOLDENING LOCAL COMPREHENSIVE PLANS TO PROTECT RURAL AREAS AND DIRECT DEVELOPMENT TO GROWTH AREAS
41	PREPARING A HANDBOOK OF MODEL ORDINANCES TO ALLOW TRADITIONAL NEIGHBORHOOD DEVELOPMENT
40	ADJUSTING REGULATIONS SO THEY DON'T PUSH DEVELOPMENT OUTWARD
40	SUPPORTING THE DOWNTOWN INITIATIVE
40	USING STATE CAPITAL INVESTMENT TO SUPPORT SMART GROWTH
40	IDENTIFYING AND REMOVING HIDDEN SUBSIDIES OF SPRAWL IN STATE FUNDING FORMULAS
39	TAXING NR INDUSTRIES AT CURRENT USE AND REIMBURSING TOWNS FOR LOST REVENUES
37	SUPPORTING RESEARCH & DEVELOPMENT FOR GREATER VALUE ADDED
37	REGARDING NR INDUSTRIES AS BUSINESSES AND ASSISTING THEM ACCORDINGLY
36	ENCOURAGING COMMUNITIES TO USE THEIR LOCAL AUTHORITY TO DIRECT GROWTH IN LESS EXPENSIVE WAYS
34	BUYING OR LEASING DEVELOPMENT RIGHTS
34	EXPANDING HOME OWNERSHIP IN CENTERS
33	SHIFTING A FAIR SHARE OF COSTS OF PROVIDING REGIONAL SERVICES TO THE REGION
31	IDENTIFYING AND EDUCATING MARKETS FOR TRADITIONAL NEIGHBORHOOD DEVELOPMENT
30	STRENGTHEN RIGHT-TO-FARM LAW
27	ENCOURAGING ADOPTION OF STRATEGIES THAT REQUIRE NEW ARRIVALS TO PAY A FAIRER SHARE OF COSTS
26	ALLOWING FLEXIBLE TAXATION TO SPUR DEVELOPMENT
26	PREPARING A DESIGN MANUAL ABOUT DETAILS OF TRADITIONAL NEIGHBORHOOD DEVELOPMENT

Comparison of Overall Approach to Individual Strategies

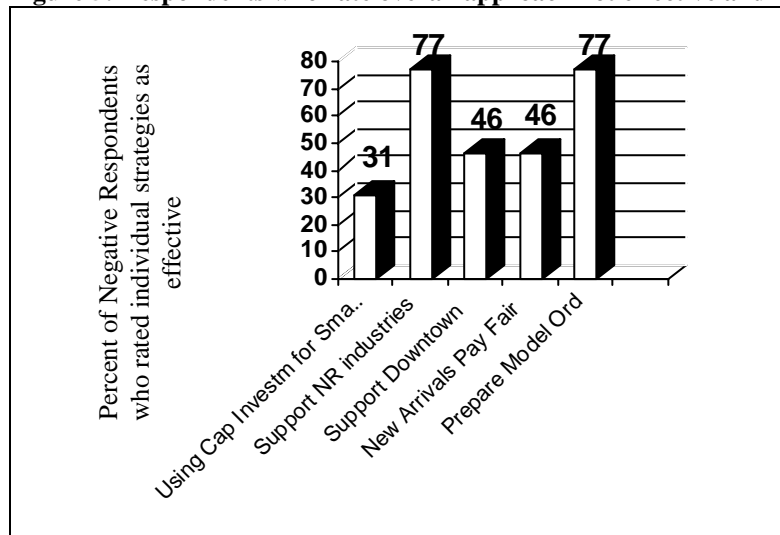
In fact, the individual strategies fair better than the rating of the overall approach. Of the 77% who say the overall approach is effective, 23% say it is *highly* effective.⁹⁶ For even the lowest ranking individual strategy, 27% of respondents say it is *highly* effective. Figure 3 is a comparison of responses for individual strategies to the overall approach (for selected strategies).

Figure 4: Comparison of rating of individual strategies to overall approach



The respondents who say the overall approach is *Not at All* effective (let's call these the negative respondents) still rate the individual strategies as effective. Figure 4 shows the response of only the negative respondents. It shows the percent of those negative respondents who rate the individual strategies as *highly* or *somewhat* effective.

Figure 5: Respondents who rate overall approach not effective and rate individual strategies as effective



⁹⁶ The represents the percentage of respondents that rated the overall approach *extremely* effective or a *good deal* effective.

Analysis by Respondent Position and Type of Involvement

There is some difference of opinion between the respondents based on their position.⁹⁷ Fewer local elected officials rate the approach as effective as the other respondents. 95% of regional planners rate it effective.

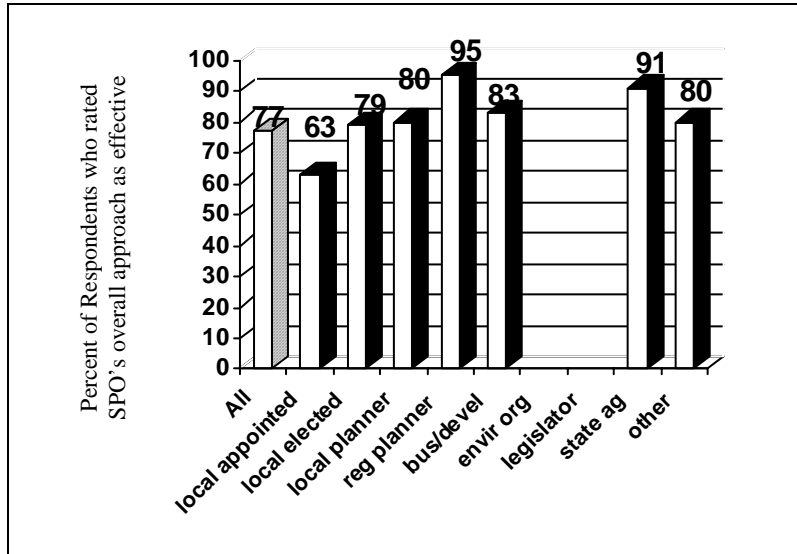


Figure 6: Responses by Position

There is some difference of opinion between the respondents based on type of involvement, with those involved in comprehensive planning and ordinance development at the local level rating the program as less effective than those involved at the regional or state level.⁹⁸

⁹⁷ There were not enough responses in the position categories of environmental organization and legislator to produce a valid response.

⁹⁸ There were not enough responses in the position category of legislative initiative to produce a valid response.

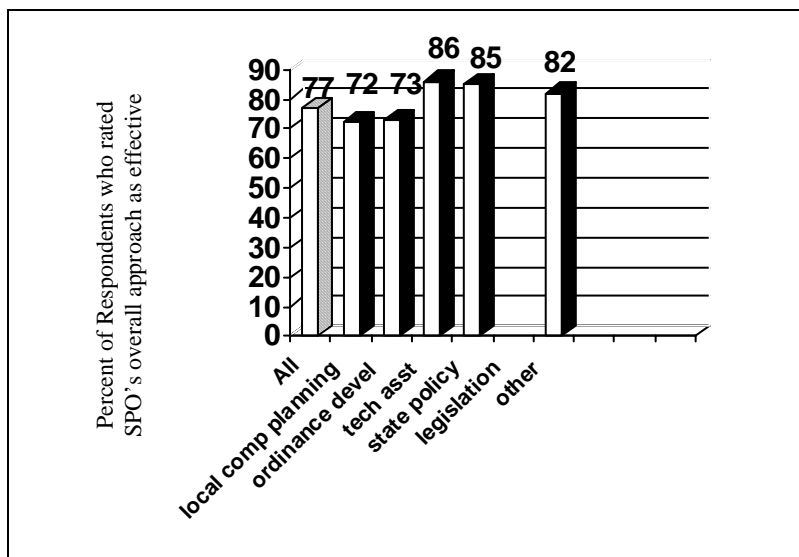


Figure 7: Responses by Type of Involvement

Analysis of Open-ended Comments

We asked two open-ended questions:

1. What other things do you think the State Planning Office should consider in its evaluation of the program's effectiveness in achieving the 10 statutory goals?
2. Do you have any additional comments about the State Planning Office's responsibilities with regard to administering the Growth Management Program?

The responses to the two open-ended questions were wide and varied. Even the first question, which was specific to the evaluation criteria, evoked general comments and valuable suggestions. The survey administrator grouped open-ended responses into general categories in order to capture similarities and to evaluate them. There appeared to be three general categories as follows:

- ♦ Comments related to SPO service
- ♦ Comments related to state policy
- ♦ Comments related to Growth Management Program generally

Within each category, there are also common themes:

Comments related to SPO service

- ♦ Need better understanding of local needs
- ♦ Better timeliness
- ♦ Better outreach
- ♦ More technical assistance
- ♦ Improve review process

Comments related to state policy:

- ♦ Tax reform/change in state tax policy

- ♦ Change in school construction aid
- ♦ Change in moratorium law
- ♦ Change in transportation planning/policy
- ♦ Change in subdivision/development rules
- ♦ Inadequate reimbursement for tree growth, etc

Comments related to Growth Management Program generally:

- ♦ Need to recognize differences among regions
- ♦ More proactive in directing town/growth (mandates)
- ♦ Less proactive (let towns decide)
- ♦ More education for citizens and local officials
- ♦ Greater regional coordination and planning
- ♦ Revisit home rule authority
- ♦ Policies do not respect home rule authority
- ♦ Affordable housing as a concern not being addressed
- ♦ Greater funding for towns

Service

44% of respondents encouraged SPO to provide more outreach and technical assistance.

“Towns need more help! Provide for forums for pooling knowledge on hot issues... provide model ordinances.”

“You need to understand how ‘in touch’ with communities you are. I feel we are going it alone and that Augusta is a million miles away.” We need advice, examples of what works, and [guidance] on how to get there.”

Policies

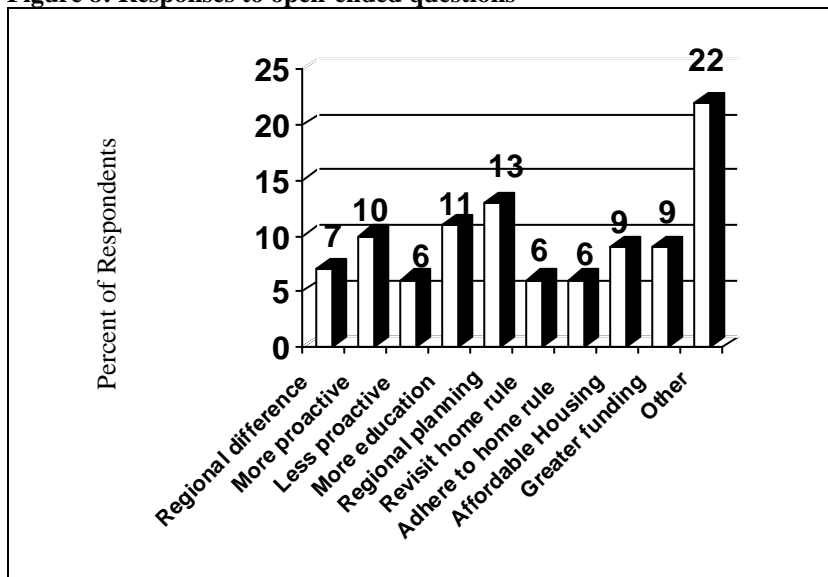
Tax reform including changes to tax policy was the single most oft-cited issue with 43% of respondents feeling it needs to be addressed in one way or another. If we include the comments related to the inadequate reimbursement for tree growth and other tax relief programs, this number jumps to 54%.

“It’s time for radical new ideas. SPO should take a leadership role...in tax reform. Current use is just a band aid. All taxes need to be reviewed with an eye to reducing the property tax burden and increasing consumption taxes.”

Growth Management

With regard to the Growth Management Program generally, respondents offered a variety of input.

Figure 8: Responses to open-ended questions



Greater capacity for regional coordination and regional-scale planning was the single issue cited by the largest number of respondents (13%).

“Please address the plethora of arbitrary grouping of geographical units throughout the state... I believe [redistricting by watershed boundaries] would be the most effective strategy for achieving the goals.”

“[You need to] either fully fund the various regional planning commissions or merge them into the State Planning Office.”

“We still lack an effective mechanism for creating regional plans. 13-15 growth areas within a SMSA continue to contribute to sprawl. Some stronger form of regional planning is needed...”

“The state needs to foster sub-regional planning for trafficsheds or similar multi-municipal areas.”

The second area of concern involves issues related to who controls growth and how and how much the State should be involved. The combined total of respondents on a number of related issues in this vein was 25%.

10% of respondents feel the State should be more directive in its policies and programs to manage growth. Half of the respondents who felt this way are local appointed officials. Some, but not all, suggested this should be done through legislation.

“I think the Planning Office should play a larger role in controlling growth, rather than simply responding to it.”

“The State needs to be more proactive in directing towns with regards to sprawl.”

“[You should] propose legislation requiring municipalities designate or somehow allow for Great American neighborhood zones.”

“I wonder if the State will have to mandate local adherence to a model growth plan in the absence of any locally developed one.”

6% said the State should let towns make their own decisions regarding land use issues.

“Let local governments decide how to regulate growth. The state should play no role whatsoever.”

“Help towns with ideas, not mandates.”

Some believe the State’s tradition of local control gets in the way of effective land use planning.

“It’s not the goals that are the issue, but the lack of any meaningful mechanism to counteract the impact of the state’s strong tradition of home rule.”

The real issue here is how to respect Maine’s tradition of home rule while...supporting local officials as they come to grips with how we really can’t afford it anymore.”

“I think our desire for local control is getting in the way of good state growth management policy...it’s a trade off that we have made.

Others feel equally as strong that the Growth Management program and policies do not adequately respect local rights.

“Philosophically, many Maine people oppose the management of growth by these methods.

Mainers are stubborn and independent and feel these laws are infractions of their rights by an over controlling government.

“Many still believe we do not need government to protect us from ourselves...”

The percent of respondents who said that home rule should be reevaluated (6%) equals the percent who said it is not adequately acknowledged (6%).

In a state with the contrasts that Maine has (urban vs. rural, coastal vs. inland, north vs. south), it is not surprising that a number of comments reflect the need for an approach that is adaptable (7%).

“SPO needs to recognize the uniqueness of different towns/cities in identifying sprawl (a cookie cutter approach will not work).”

“...[tailor] state rules and regulations to meet the needs of a particular geographic or economic situation. Often what works or is needed in southern Maine does not fit rural Maine.”

“...a one-size-fits-all approach will never suit a state as diverse as Maine.”

The need for resources to help towns deal with their problems was a recurring one (9%).

“Show me the money.”

Other suggestions go beyond the scope of the Growth Management program (22%).

“You should do more to prevent a National Park in our forest areas.”

“Encourage other aspects and areas of tourism.”

“You should do a study and develop a plan for siting wind power projects in the State so they don’t develop willy-nilly and destroy precious mountaintops.”

Finally, some counsel for program administrators to not to try to do it all.

“The smart growth agenda is so very broad. The SPO should revise its focus to address the very highest priorities that have the best chance of succeeding and making smart growth impact. Trying to resolve urban, suburban, and rural issues all at once is not reasonable.”

Use of Survey Responses

This is not a statistically-valid survey. It was not a random sample, nor is the sample size large enough to make it conclusive. As a result, we cannot extrapolate the results to make assumptions about the survey populations as wholes. We cannot specifically say, for example, that *local officials* believe the program is effective or that *regional planners* think the program is effective. We can say that 77% of the *survey respondents* believe the program is effective.

Nevertheless, the Office's intent was to provide an opportunity for public comment and to solicit the opinions of people responding. We feel that the survey provided greater opportunity for comment than public meetings, which traditionally have limited participation. The survey results and comments will help SPO better frame this evaluation and those we conduct in the future. They also provide some excellent feedback on improvements that can be made in program administration and service delivery.

Data Issues

There may have been some confusion about how respondents interpreted the questions. Two respondents stated so. One said, *"I didn't answer the questions above. It's confusing whether you're asking if I agree with the potential efficacy of the strategy or the actual efficacy of the strategy."* Another said, *"I find it impossible to answer the above questions, since it's not clear to me whether they refer to the perceived effectiveness of strategies already employed or whether I think it would be a good idea to try these strategies in the future."*

3% of the respondents returning paper survey, rather than rating the effectiveness of a strategy (high to low), either checked off strategies, ranked all strategies from highest to lowest, or left the section blank. These types of errors only appeared on the paper surveys since the on-line survey had a fixed format for entering responses. This problem in answering these questions points further to some misunderstanding of the survey questions.

There may be an issue with respondent's lack of awareness/knowledge of program and strategies. One person declining to respond to the survey said, *"I do not know enough to start to answer the survey."* This might also have been the reason that a number of questions were left blank (see above). We are hopeful that the majority of respondents were able to express their opinions without having detailed knowledge of the program.

It is difficult to judge the strength of respondents' opinions on the effectiveness of the 19 individual strategies using a simple 3-point scale. In the future, SPO should consider using the same 5-point scale that it used when asking people to evaluate the overall approach.

Appendix E: Indicators of Livable Communities Report

http://www.mdf.org/megc/pubs/livable_communities.htm

Bob's Farm

A photograph of a person in a white t-shirt on a boat, holding a red paddle. The background shows a calm lake and a forested shoreline. The image is partially obscured by a large, faded, blue-tinted graphic of a person's head and shoulders in the foreground.

PREPARED BY THE
MAINE DEVELOPMENT FOUNDATION

Goal of the Land and Water Resources Council Smart Growth Action Plan:

*Maintaining Maine's Competitive Advantage as One of the Most
Livable Places In The United States – A Place of Growing, Vital Cities and Towns,
A Revered Natural Environment, and A Productive Countryside*

Introduction	i
Land & Water Resources Council/Smart Growth Coordinating Committee	v

THE INDICATORS

Vital Cities and Towns

Local Land Use Planning	1
Population Clusters	2
New Home Location	3
Walk-Ability	4
Outdoor Recreational Access	5
Downtown Vitality	6
Economic Vitality	7
Reliable Infrastructure	8
Cultural Assets	9
Highway Congestion	10
Freight Transport	11
Passenger Travel	12

Revered Natural Environment

Air Quality	13
Lake Quality	14
Groundwater Quality	15
River Quality	16
Estuarine Quality	17
Lands Conserved	18
Biological Diversity	19
Sustainable Forests	20

Productive Countryside

Commercial Fishing Access	21
Farmland Vitality	22
Timberland Vitality	23

smart growth – a primer

Will Maine be able to sustain its high quality of life into the future? Can we find a way to balance growth with responsible use of our natural resources? The answers to these questions are inextricably linked to the decisions we make today about land-use development: they will determine the Maine we know tomorrow.

Imagine Maine fifty years from now. You might picture a community where businesses and residences are interspersed with parks and walking paths. In the center of town there might be a thriving commercial district, where businesses prosper and workers run lunch errands on foot, walking down the street to get a haircut or mail a letter. You might also imagine thick forests, and farms where potatoes grow in long rows as they have for several generations.

Or you might picture strip malls, empty downtowns or sprawling housing developments that stretch across what was once open space. You might envision endless, tangled roadways and traffic jams.

Which vision will be realized? The reality that our grandchildren experience fifty years from now depends in large part on the individual and collective decisions we make today.

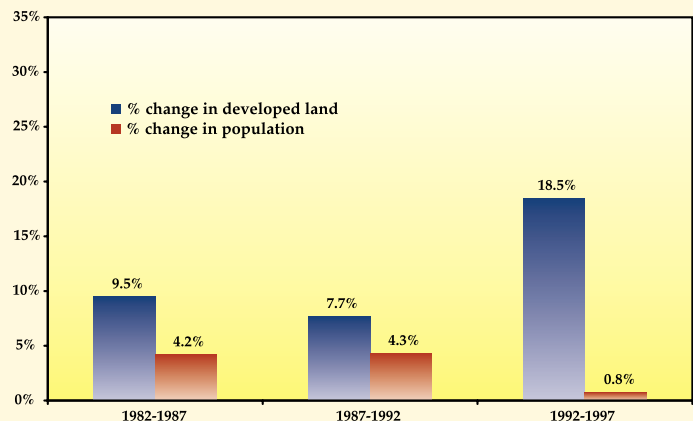
Our recent history is not encouraging. Over the past twenty years, Maine has experienced vast spreading development away from village and city centers into the farthest rural countryside. In July 2001 a report released by the Brookings Institution listed Portland as the 9th fastest growing metropolitan area in the nation. Between 1982 and 1997, the amount of farmland and forestland converted to urban uses in Portland increased by 108 percent, but the population of Maine's largest city increased only 17 percent.

The state has experienced similar trends. The State Planning Office estimates that between 1970 and 1990, land development occurred at *four* times the rate that population increased. In addition, data from the National Resources Inventory, which tracks the amount of non-federal land (95 percent of Maine is non-federal) that has been developed every five years, illustrate the same disturbing trend: declining population and increasing consumption of rural lands for residential or commercial development.

As people spread outwards, we lose what is vital about Maine's towns - and what is good for the open lands around them. And it is costing us a fortune: sprawling development compromises Maine's high quality of life, the state's primary competitive advantage.

Sprawl is difficult to define, but easily recognizable. Characterized by low-density development that is center-less and sporadic, strip malls, and traffic congestion, sprawl is a national epidemic. In just 15 years, between 1982 and 1997, the amount of urban and built-up land in the United States grew by almost 40 percent – two and a half times the rate of population growth. The costs of sprawl are registered on our fiscal health, our environment, our communities and our productive countryside. In Maine alone, sprawl costs more than \$50 million per year in duplicative services (school buses, new schools, roads), and municipalities millions more. It weakens traditional-center towns, which are threatened by a fleeing middle-class population, high tax rates, as well as isolated dependent populations like the elderly and poor. Sprawl also hurts the environment. It degrades local air quality, eats away open space and productive natural lands, and harms Maine's lakes. Sprawl compromises the habitat of many plants and animals. It strains the vitality of traditional indus-

Percentage Change in Population vs. Land Developed in Maine 1987-1997



tries that rely on natural resources. Fishers, loggers and farmers watch helplessly as the land and places they relied on for a living are swallowed by residential development.

Lately, a counter-concept to sprawl has emerged. Smart Growth focuses on, and invests in, developing in a wiser, more sustainable manner. It encourages development patterns that enhance and maximize the purpose and functions of Maine's cities, towns and countryside.

The features that distinguish Smart Growth vary from place to place, but in general Smart Growth invests time, attention and resources in restoring community spirit and vitality to older cities and suburbs. Smart Growth is town-centered, is transit and pedestrian oriented, and has a mix of housing, commercial and retail space that encourages community vitality. It preserves open spaces and the productive countryside.

Employing strategies that facilitate Smart Growth is an important part of promoting the best in Maine for future generations. This report invites us all to think about the future of Maine, and, about the impact of the decisions we make today on that future.

the purposes of this report

This report has two primary, and equally important, purposes. Both are derived from the goal of the Land and Water Resources Smart Growth Action Plan: "... to maintain Maine's competitive advantage as one of the most livable places in the United States – a place of growing, vital cities and towns, a productive countryside, and a revered natural environment."

This report's first objective is to define what Smart Growth is - how would we know it if we saw it? The 23 indicators contained in this document, when viewed together, provide a definition of Smart Growth. If each of these indicators were to achieve its stated objective, Smart Growth would be a reality. Accomplishing the goal requires positive performance by the entire suite of indicators.

The report's second purpose is to track and monitor the accomplishment of Smart Growth. It examines the impact of our land-use decisions on Maine's communities, countryside and environment using several indicators. The chosen indicators offer a baseline of information against which to judge the impacts of future development and land-use decisions.

the value of indicators

We use indicators to understand the progress we are making – or failing to make – toward a stated objective. They are essentially data that show the workings of a larger, more complex system, without trying to categorize each part of the system. Dashboard lights, for instance, or body temperature give us an idea about the workings of our cars or our bodies, but do not take the place of a mechanical checkup or a physician's visit.

In the same way, the indicators for Smart Growth allow us to make a statement about how well we are encouraging land-development patterns that stimulate vitality in our communities, support productive countrysides and natural-resource-based industries, and protect Maine's environment. They do not tell the whole story, but do condense a large amount of information into a manageable narrative.

This report is about the impact of land-use decisions on Maine's communities, environment and productive countryside. Several of the indicators are used in a similar report, the Maine Economic Growth Council's annual Measures of Growth report, which tracks economic development in Maine.

By monitoring the health of our lakes, the ability of people to travel within their communities, and the acres of productive farmland in the state, we can understand how well policies, programs and individual decisions are stimulating development decisions that sustain and restore our resources, communities and land. Using those indicators as a *baseline* of information against which to judge the impacts of future development and land-use decisions. This can allow us to understand if the decisions being made are good ones or if they need to be reassessed.

using the report

Organization

The indicators contained in the report are grouped within three areas: *Vital Cities and Towns*; *Revered Natural Environment*; and *Productive Countryside*. They were identified by the Land and Water Resources Council as the basis for Maine's competitive advantage of being one of the best places to live in the United States. The indicators selected serve the purpose of measuring goals within each of those identified areas: that Maine has *vital* cities and towns, a *revered* natural environment and a *productive* countryside.

Each indicator occupies a separate page. Each page succinctly states what Smart Growth is relative to that specific indicator, as well as provides a graph of the related data. It also has a statement about the overall significance of the indicator, the trends that the data illustrate and details about the specific indicator. Information about the data – the source and in some cases how it was derived – is also provided.

Work in Progress

It is important to recognize that this report is a **work in progress**. This first edition is designed to stimulate discussion about what Smart Growth in Maine would look like, how we can best measure achievement of the stated goal and what ways we might stimulate its development, whether through policy or private action. The report is the result of many months of conversations and research by the state's interagency Smart Growth Coordinating Committee, but is by no means a definitive statement.

Lack of Data

With the two inter-related purposes of the report in mind – to define Smart Growth and measure the achievement of Smart Growth in Maine - the interagency Smart Growth Coordinating Committee developed a list of criteria that guided the selection of indicators. The eight criteria were chosen deliberately to ensure that the indicators were relevant and representative of Smart Growth in Maine.

The fourth criteria – that indicators be '*courageous*' – is especially important, given that, in several cases, finding data for the selected indicators proved difficult.

Indeed, there is a lack of data related to Smart Growth, which is one of the problems we face in planning for the future. If we cannot measure the impacts of our land-use patterns we cannot respond effectively.

Selecting what to measure is as important as the actual measurement, especially in an exercise where the measurements define as diverse a topic as Smart Growth. By not limiting the selection process to data availability, the committee can better accomplish the purposes of this report. In several cases in the report, survey data was collected in lieu of existing data sets, which simply were not available. In other cases, a proxy was developed with the recommendation that in the future a more targeted indicator be utilized.

INDICATOR CRITERIA

1. *Easily Understandable*
2. *Relevant*
3. *Outcome-Based*
4. *Courageous*
5. *Interrelated*
6. *Technically Accurate*
7. *Long Term*
8. *Future Data Accessible*

future steps

An important future step of this report is to refine the indicators to further our understanding and improve decision-making. This report challenges the public, the academic community, and government officials to create the policies, programs and decisions about land-use that will facilitate Smart Growth. And, because measurement and understanding guide our policies and actions, part of this refinement and challenge includes determining better ways to assess the impact of our choices and actions.

We also would like to gain public feedback about the indicators and the definition of Smart Growth that has been provided in this report. Please take a moment to fill out the feedback form at the back of this report and provide us with advice on how to make future editions an even better report card on Smart Growth in Maine.

genesis of report

In the summer of 1999, Governor King formed a sub-cabinet and working group from the Land and Water Resources Council to consider how state government can support Smart Growth for Maine. Governor King challenged the working group to devise an action plan that would assure a strong rate of return on public investment, a renewed commitment to environmental stewardship and increased efforts to strengthen and build the state's communities. Four principles were presented to the working group to guide the strategic planning process:

- *That individuals be free to choose where to live*
- *That individuals bear the costs of their decisions*
- *That healthy places do not die – supporting the vitality of Maine's service-center communities and natural resource based economies will help sustain their existence.*
- *That developers can be allies and partners in implementing public policy, when given the right signals and avenues for choice.*

The governor suggested that the cabinet members review their agency's policies, laws, regulations and operations and investment-decision making processes searching for any that may unintentionally erode the vitality of Maine's communities, rural enterprises and working waterfronts, as well as the health of Maine's natural environment.

The working group developed a Three-Year Smart Growth Action Plan. The goal of the plan is to "...maintain Maine's competitive advantage as one of the most livable places in the United States — a place of growing vital cities and towns, a productive countryside, and a revered natural environment" The group established measurable objectives and provided recommendations for achieving these goals. The concluding recommendation was the development of a biennial "report card" on progress made towards the measurable objectives within the state that will track how well the state is faring in achieving the stated goal.

An interagency Smart Growth Coordinating Committee was established in January 2001 to facilitate achievement of the goals set forth in the three year Smart Growth Action Plan, consisting of representatives from over 15 state agencies (see next page). The report was developed at monthly meetings held between March and November of 2001. The Smart Growth Coordinating Committee contracted with the Maine Development Foundation to develop and publish the Smart Growth Report Card. Darcy Rollins, program officer, served as primary staff from the Maine Development Foundation, providing data collection, and analysis and writing the body of the report. The assistance of individuals at various state agencies was invaluable to this effort, particularly in regard to data collection.

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Department of Environmental Protection

George Lapointe, Commissioner,
Department of Marine Resources

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Kathy Fuller, Department Of Transportation

Alan Stearns, Department of Transportation

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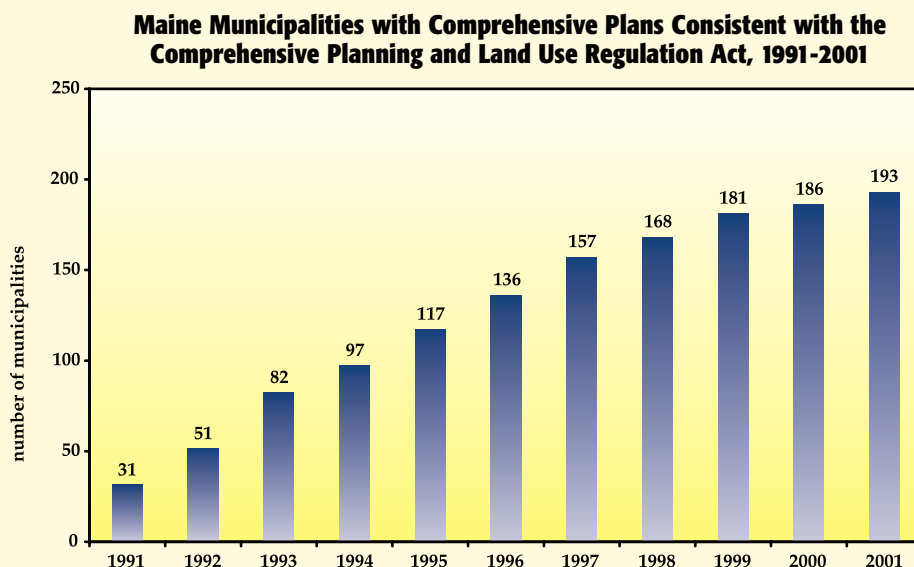
1. local land use planning

Significance

Community-based comprehensive planning is the foundation for Smart Growth. Good planning facilitates efficient and appropriate use of land in a manner that enhances the vitality of towns and countryside, and protects the environment.

Trends

As of December 31, 2001, 193 of Maine's 457 organized non-LURC (*Land Use Regulation Commission*) municipalities had adopted consistent comprehensive plans, according to the Maine State Planning Office. There are currently dozens of municipalities actively working on new Comprehensive Plans. We would like to see an increase in the number of municipalities enacting comprehensive plans consistent with the state's Comprehensive Planning and Land Use Regulation Act.



Maine State Planning Office, November 2001

Details and Data

Comprehensive planning refers to the process whereby a community develops a plan to guide development and land-use into the future. In 1989, in an effort to control sprawl, Maine developed a Growth Management Program that provided guidance and incentive for towns to develop comprehensive plans. The Comprehensive Planning and Land Use Regulation Act mandated that towns develop plans consistent with a set of ten goals, principles and guidelines developed by the state. The first goal is "to encourage orderly growth and development and prevent sprawl" which is then followed by, among others, goals related to water quality, forest and agricultural lands, as well as transportation and housing.

Comprehensive plans at the municipal level can encourage orderly growth and prevent sprawl *within* a municipality, but they do not address all the problems associated with regional sprawl. Many components of smart growth, such as transportation planning or watershed management, can be addressed only at a regional or state level.

Comprehensive plans do not in themselves create Smart Growth of course. But given that they are exercises in democracy, they encourage citizens to carefully consider how they want their towns to grow. When coupled with effective and committed long-term leadership, then, comprehensive plans are an effective blueprint for Smart Growth.



2. population clusters

Significance

In 1996 the Maine State Planning Office identified 69 service-center communities in Maine. While they vary in size and appearance, they share three attributes: they are job centers; they are retail centers; and they offer an array of social, cultural, health, and financial services to the surrounding region. Service-center communities are equipped with the social and physical infrastructure to support growth.

Trend

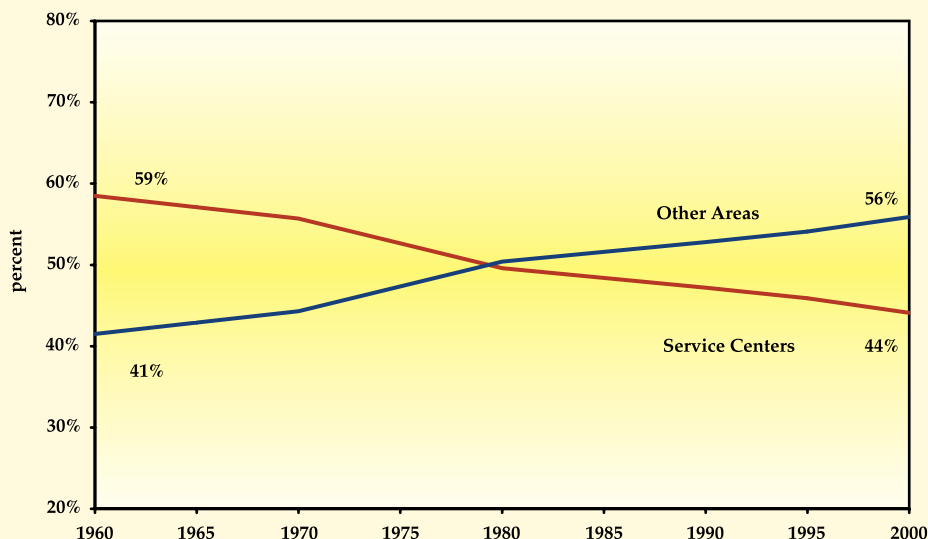
Maine's population is slowly, but steadily, leaving service-center communities for other places. In 2000, 44 percent of people in Maine lived in Maine's 69 service-centers as opposed to 58 percent in 1960. We would like to see the percentage of Maine people living in service-center communities increase relative to other areas.

Details and Data

The Maine State Planning Office identified specific service-center communities according to the following criteria: level of retail sales; jobs to workers ratio; amount of federally assisted housing; and volume of service-center jobs. By these criteria, 69 regional service-center communities – primary, secondary and small - are identified. Further, 26 specialized service-center communities that historically served as service-centers were identified. (The methodology and the list of service-center communities can be found in Appendix A of this report.)

People choose to live outside of service-center communities for multiple reasons. Increased privacy, more living space and proximity to nature are a few of the perceived or legitimate benefits of living in such outside or rural areas. While the individual decision to move to rural areas is not in itself harmful, the accumulation of those decisions results in increased costs. In 1997, the Maine State Planning Office released a report called *The Cost of Sprawl* that outlined the costs sprawl inflicts on taxpayers, and the environment, as well as to community character. These include increased air, land, and water pollution; increased costs associated with redundant infrastructure; loss of productive farmland and timberland; and even the loss of quality time with family and friends.

**Percent of Maine's Population Living in Regional Service Centers
(Compared to Other Municipalities), 1960-2000**



Maine State Planning Office, 2001



3. new home location

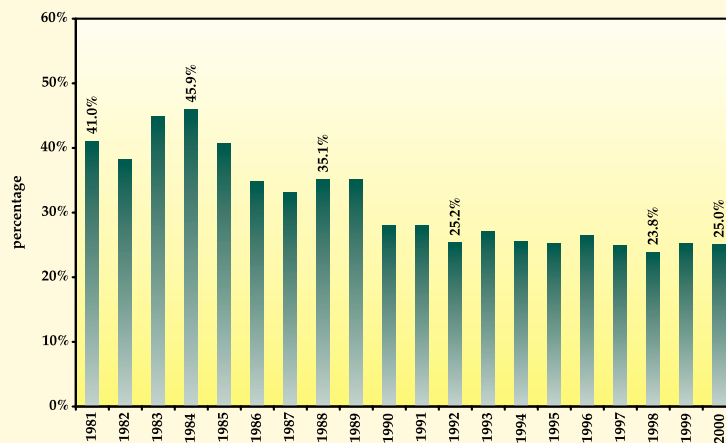
Significance

Encouraging people to build their homes in areas designated for growth is an important component of Smart Growth because it decreases development in rural areas. New roads and services must be added when homes are constructed in rural areas, compromising the vitality and health of Maine's environment and productive countryside.

Trends

Since 1984, the percentage of new homes and residence buildings constructed (as reported by municipalities) in Maine's 69 service-center communities has declined or remained stagnant. In 1984, almost 46 percent of new residences were constructed in these communities. During the past three years 25 percent or less of new home construction has been in service-center communities. We would like to see an increase in the percentage new homes built in Maine's service-center communities.

Percentage of All New Homes Built in Maine That Are Constructed in Service Center Communities, 1981-2000



Maine State Housing Authority Database, 1981-2000

Details and Data

Tracking the number of homes constructed in service-center communities serves as a proxy for a measurable objective of Smart Growth identified by the Land and Water Resources Council. The Council's objective is that: *"The number of new homes in locally designated growth areas as identified in the comprehensive plans will account for 65 percent of all new homes in the state."* A locally designated growth area is established by a community's comprehensive plan, and serves as the area where new development in the community is targeted.

Service-center communities can encompass locally designated growth areas, but the regions are not identical. Designated growth areas are also found in non-service-center communities and parts of designated service-center communities are not contained within a designated growth area. Ideally, new homes would be constructed in Maine's service-center community's designated growth areas, but construction in service-center communities and in designated growth areas in other communities is also part of Smart Growth.

Data about home construction in locally designated growth areas will eventually be mapped digitally through a statewide Geographic Information System but is currently not available. In the future, that information will provide a map of where new development actually occurs in a community, which will serve as a powerful monitoring and planning tool.

The affordability of housing in Maine plays a large role in the extent to which people build or settle in service center communities and growth areas. The Committee recommends that future editions of this report track the affordability of houses in Maine's service center communities as an indicator of livability, once such an index becomes available.



4. walk-ability

Significance

Many people no longer have the option of walking in their communities, because the physical layout of their towns and cities makes it difficult to walk to shops and services. Smart Growth makes it possible and enjoyable for people to walk to local shops and services - the local post office, their school or to get an ice-cream cone - by incorporating pedestrian access into community design.

Trends

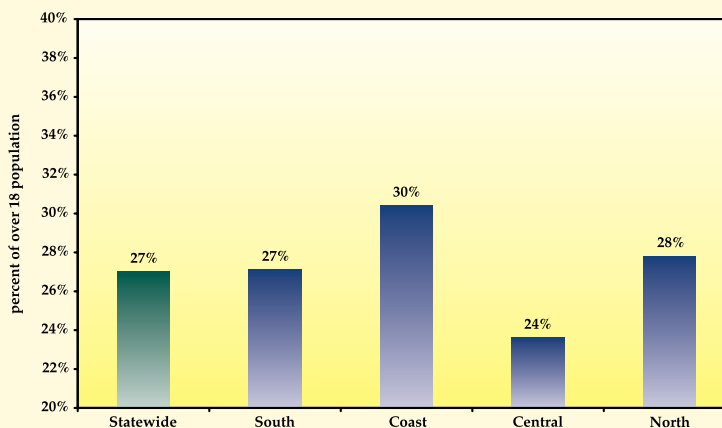
In 2001, 27 percent of all Maine people reported they had walked to services or shops in their communities. We would like to see the number of people reporting that they had walked to shops and services in their community increase.

Details and Data

Walking is beneficial to people's health, to community vitality, and for the environment. It improves community interaction. People are more likely to talk with neighbors and shop in local stores when they are walking through a community. It also provides easy, inexpensive and low-impact exercise that can improve overall health. Walking instead of driving also protects environmental quality. Vehicular emissions are a primary source of air pollution, which affects plants, watersheds, and the health of wildlife and people alike.

This year, Maine citizens were surveyed about the extent to which they walk within their communities to services and shops. The survey question was: "In the past year, how often have you walked from your home to services or shops (for example a post office, general store or school)? " The graph represents the total number of people responding that they walk to services and shops "always", "often" or "about half the time".

Percentage of Maine People Who Walk to Services and Shops in their Communities, 2001



Maine Development Foundation
Annual Survey of Maine Citizens, 2001



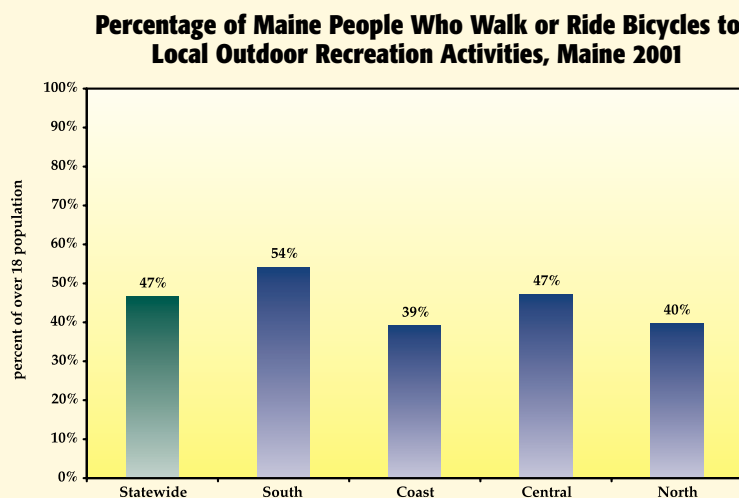
5. outdoor recreational access

Significance

Many people feel that access to outdoor recreational sites in or near their communities is important to a high quality of life. Smart Growth incorporates outdoor recreation sites into community design, providing easily accessible opportunities for activities such as softball games, picnics, and boating, as well as just bird watching or walking through a peaceful, natural place.

Trends

In 2001, the only year for which those data have been collected, 46.6 percent of Maine people reported that they had local outdoor recreational opportunities – places they could walk or bike to. We would like to see an increase in the percentage of Maine people who report being able to walk or bike to an outdoor recreational activity in their community.



Maine Development Foundation
Survey of Maine Citizens, 2001

Details and Data

Parks and recreation areas serve to make a community a more enjoyable place to live and can even attract residents. Providing access to the outdoors within a community can help people living in more developed areas feel close to nature without building a home in undeveloped areas.

Maine's hiking, skiing, biking, snowmobiling and all-terrain vehicles trails are important outdoor recreational opportunities that cross community boundaries. These trails are utilized by hundreds of people each year and, provide both leisure activities and economic benefits for communities. Walking and bike trails improve the vitality of the community in which they are located. Furthermore, outdoor recreational sites can provide a place for passive recreation opportunities, such as bird watching, strolling or meditation.

In 2001 the Maine Development Foundation surveyed Maine citizens about the extent to which they could walk or bike to an outdoor recreation site. The following question was asked: "In the last year, did you walk or bike to an outdoor recreational site (such as a park, ball field, golf course or boat launch?" The graph represents the number of people responding "yes".



6. downtown vitality

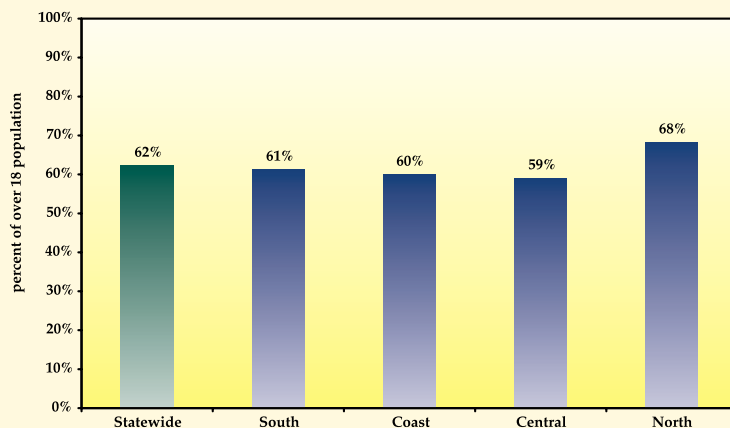
Significance

Smart Growth revitalizes downtown business districts, and supports their traditional roles as service and retail centers of a community and region. Healthy downtown business districts are important to Smart Growth because they stimulate community vitality, and draw residents and businesses into communities.

Trends

The percentage of Maine people who reported choosing to purchase basic household goods in their downtown or local villages was 62.2 percent in 2001. We would like to see the percentage of people who choose to purchase basic goods and services in their local downtowns increase.

Percentage of Maine People Purchasing Basic Household Goods in Downtown Areas or Village Centers, 2001



Maine Development Foundation
Annual Survey of Maine Citizens, 2001

Details and Data

“Downtown” generally refers to the central business district of a community that serves as the center for business interaction and is characterized by a cohesive core of commercial, mixed-use buildings and higher density, compact living arrangements. Businesses in a downtown are typically arranged along a main street, which makes downtowns walkable. Vital downtowns can attract development within established communities rather than in undeveloped areas.

In the past it was possible to buy local household goods and services within many of Maine’s local downtown areas. Today many Maine businesses have left those areas because of a desire for large, adjacent parking lots and because they have followed commercial anchors – big box retail stores – to undeveloped areas. In addition, archaic building codes in downtown areas often discourage downtown re-development. Thus, many of Maine’s downtown areas are in decline.

This year, Maine citizens were surveyed for the first time about the extent to which they were able to purchase common household goods in their downtowns. The survey question asked was: “In the last year, when you have purchased basic household goods, such as socks, milk and toothpaste, how often did you purchase these items in a downtown area or village?” The graph represents the number of people responding “about half the time”, “often” or “always”.



7. economic vitality

Significance

An economically vital community is one where jobs are increasing, businesses are investing in expansion, and retail sales are flourishing. Smart Growth means promoting Maine's service-center communities as the state's primary business and economic centers in order to retain and draw development to these areas, and to relieve the pressure of development on major roadways and rural places.

Trends

The percent change in taxable sales made in Maine's primary service-center communities has fluctuated widely. We would like to see a stable increase in taxable sales in the primary service-center communities, ideally at a faster rate than in the rest of the state as a whole.

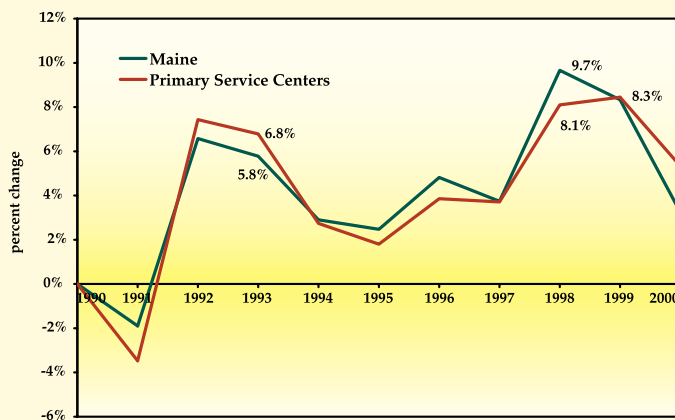
Details and Data

Promoting economic vitality in service-center communities strengthens them and makes them more attractive to potential residents and businesses. And, these communities are already equipped with the services and infrastructure that businesses need to thrive. Because of this, it is still possible to positively state that economic vitality in service-center communities is preferable to other areas. The report tracks only the percentage of change in taxes in Maine's 29 primary service-center communities as a proxy, with the understanding that a high level of economic vitality is desired in all 69 identified service-center communities.

It is important to note that the change in sales tax revenue represented in the figure above does not delineate between sales in traditional downtown business districts and what is considered by many to be a hallmark of sprawl – the strip mall. For example, total taxable sales in the service-center community of Brunswick encompasses not only those sales generated on Maine Street, but also sales tax from businesses located in outlying areas. Ideally, future reports will be able to delineate between the two.

Economic vitality can also be stimulated by a community's physical composition, specifically its ability to support multiple uses within its downtown business district and even within individual commercial buildings. Towns and cities that effectively mix business, retail, commercial, and residential space can stimulate positive economic development. The effective use of space can bring people, businesses, and employment together in one productive place.

**Percent Change in Total Taxable Sales,
Primary Service Center Communities Compared
to All of Maine, 1990-2000**



Maine State Revenue Service, May 2001

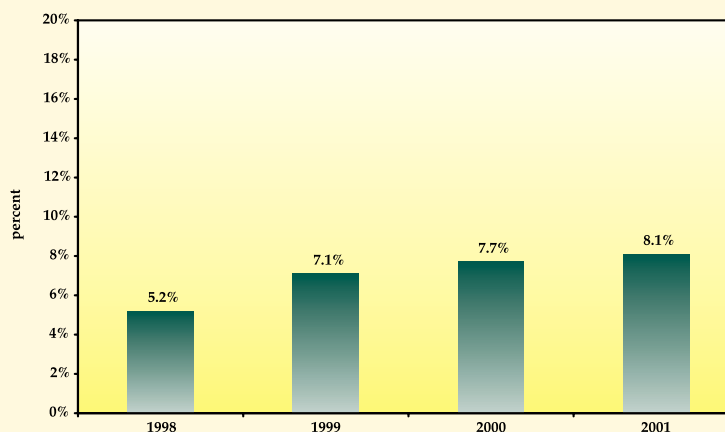


8. reliable infrastructure

Significance

A healthy infrastructure provides the foundation for sound development and stable growth. Smart Growth invests in and improves the physical infrastructure—water systems, electricity, roads and other physical systems - of Maine's service-center communities and designated growth areas in other communities so that they will be able to support growth into the future. As a proxy, this report is measuring the health of Maine's public drinking water systems, which are a critical infrastructure system that people rely on daily.

Percent of Maine Public Water Systems Experiencing Non-Acute Bacterial Contamination, 1998-2001



Maine Drinking Water Program
Department of Human Services, August 2001

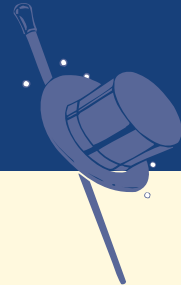
Trends

In 2001, 8.1 percent of public water systems had experienced non-acute bacterial contamination. This percentage has slowly but steadily increased since 1998 when only 5.2 percent of public water systems experienced contamination. We would like to see a decline in the percent of public water systems experiencing non-acute bacterial contamination.

Details and Data

More than 75 percent of Maine households get their drinking water from Maine's 2,139 public water systems. Reducing the percentage of Maine's public water systems contaminated by bacteria would indicate an improvement in the infrastructure supporting Maine's communities. This is because bacterial contamination of public water supplies may occur throughout a system as the result of a break on a water main or a problem with the water distribution system itself. Common bacteria contamination can occur when piping becomes pitted through age or through cross-connections with non-potable water sources. Bacterial contamination is also related to inadequate source water protection or well contamination.

Bacterial contamination of public water systems is either acute, or non-acute. Acute bacterial contamination means that the presence of *E. coli* bacteria has been confirmed in the water supply. Non-acute bacterial contamination means that a coliform bacterium is present in the water supply, but does not contain *E. coli* bacteria. The presence of *E. coli* is considered acute contamination because of the potential health hazards of the bacteria. Disinfection by chlorine eradicates the bacteria from the system.



9. cultural assets

Significance

Smart Growth is promoted when people choose to live in service-center communities; many people report that access to cultural events and entertainment opportunities makes a place more attractive. Determining what makes a community a desirable place to live, and developing these items in service-center communities encourages development in those areas, removing development pressure from Maine's countryside and environment.

Trends

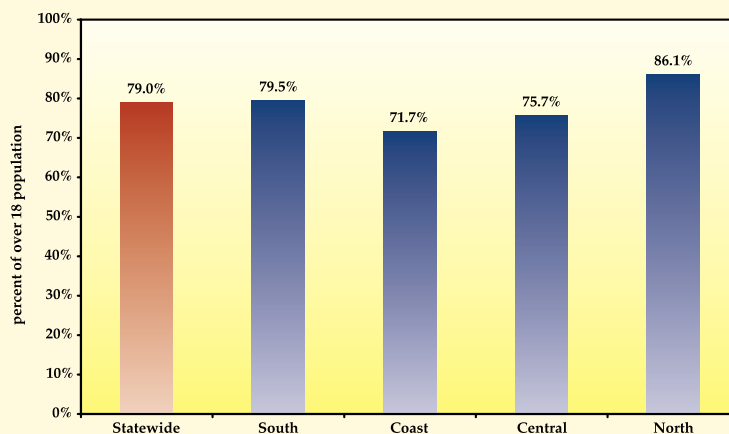
2001 was the first year that Maine citizens were surveyed about the extent to which cultural access is important in their decision of where to live: 79 percent of Maine residents responded that it would be important to them that the town they moved to have cultural and entertainment opportunities. We would like to see an increase in the number of people responding that access to cultural events and entertainment was an important or very important part of their decisions about where to live.

Details and Data

People moving into the country generally have a negative view of the places they left behind. Noise, lack of privacy, and living too far away from nature are common complaints. Listening to, and then responding to these complaints as much as is possible, is important to achieving Smart Growth. People report that access to cultural events, lower taxes, affordable housing and nicer neighborhoods could prompt consideration of moving back into towns and cities.

People surveyed were asked, "If you were to move tomorrow, how important would it be for the town you move to, to have cultural events and entertainment opportunities locally?" The graph reflects the percent of Maine people responding "very important" and "somewhat important."

Percent of Maine People Who Report That Local Cultural Opportunities Are Important in Choosing Where to Live, 2001



Maine Development Foundation
Annual Survey of Maine Citizens, 2001



10. highway congestion

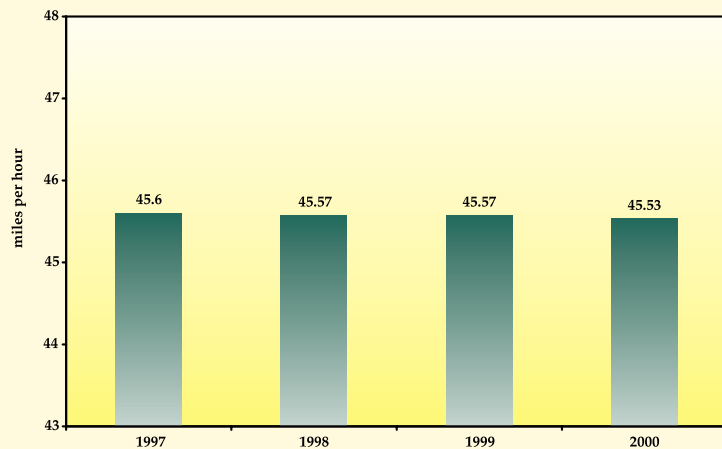
Significance

Maine communities are developing outward along Maine's arterials, rather than using these roads for their intended purpose, which is to provide a high degree of mobility for relatively long road trips. Development along these roads increases the number of access points, slowing traffic and creating hazardous driving conditions. Smart Growth encourages development that facilitates efficient transport along roadways.

Trends

In 1998 almost 15 percent of Maine's arterial roadways were posted at 45 mph or less, with approximately three miles of rural arterials converted to urban designation. From 1997 to 2000, the average posted speed on arterial roads has decreased slightly – from 45.6 miles per hour to 45.53 miles per hour. We would like to see the average posted speed on arterial roadways be maintained or increased.

**Average Speed Posted on Arterial Highways,
Maine 1997-2000**



Maine Department of Transportation, Bureau of Planning,
Research and Community Services, 2001

Details and Data

Development along arterial roadways creates more access points, increasing the danger of driving at high speeds and resulting in decreased posted speed limits. The resulting highway congestion and noise from traffic compromises commercial productivity and efficiency, and is a source of stress and frustration for commuters and businesses alike. Increased congestion also results in increased vehicular emissions, which harms the environment. Mobile sources, or cars and trucks, are a primary source of pollutants that negatively affect air and water quality.

Furthermore, as the purpose of these arterials is undermined, roads have to be widened or new roads created to facilitate mobility. This added expense costs taxpayers money and perpetuates a cycle of construction, development and more construction to by-pass even more clogged arteries.



11. freight transport

Significance

Smart Growth provides options for transporting freight, including trucks, trains, ships and airplanes. Increasing the amount of freight shipped by rail, ship and air proportionally faster than freight shipped by truck can reduce highway congestion, and can also decrease expenditures for new road construction.

Trends

In 2000, the percent of freight shipped by alternative modes was 10 percent. The percent of freight that is shipped using alternative modes has remained below 20 percent of the total freight transported since 1991, the first year data are available on the subject. We would like to see an increase in the percentage of freight shipped by alternative modes such as rail, ship and airplane, relative to that shipped by truck.

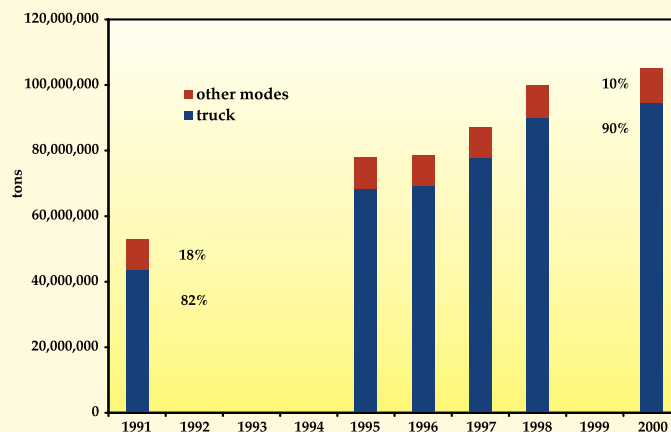
Details and Data

Traditionally, Maine has relied on trucks to ship freight throughout the state and beyond. Reducing reliance on trucks and increasing the use more fuel-efficient modes of transport can positively impact the health of Maine's environment. In addition, improving the balance among transport modes will result in increased modal choice.

The use of rail and ships to transport freight can reduce the amount of stress trucks place on the state's major highways and bridges. More heavy truck traffic on Maine's highways and bridges increases the rate of pavement consumption and bridge stress, which translates into more bridge and highway funding needs. It also increases traffic congestion on major highway corridors, and degrades the safety of these corridors. Trucks also compete for space with passenger cars on Maine's highways, stimulating the widening and expansion of the highway system.

It is important to note that increasing the use of air, water and rail as modes of freight transport demands that those modes transportation be efficient, accessible and flexible. Ideally, service-center communities would serve as nodes where alternative modes of freight transport intersect, facilitating the effective and efficient transport of goods and movement from one mode to another.

Manufacturing Freight Shipped by Truck & Alternative Modes, Maine 1991-2000



Maine Department of Transportation
Maine Integrated Freight Plan, 1998 – 2001



12. passenger travel

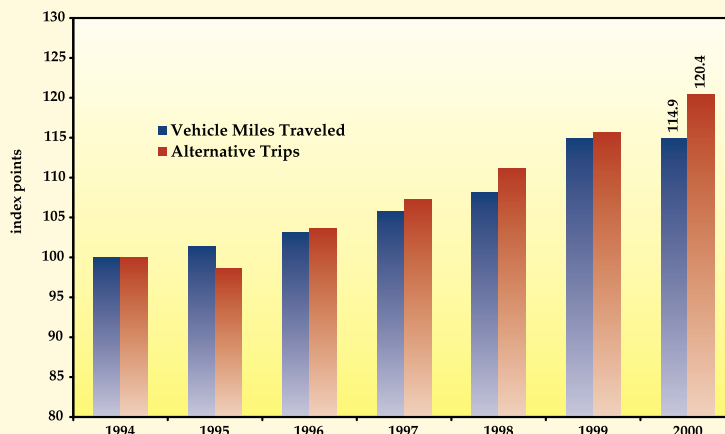
Significance

Smart Growth provides people with options for travel that are integrated and consistent with land-use objectives. Smart Growth allows people to ride a bus, rail system or ferry to errands, events and work, which helps to improve overall environmental quality, and to increase the vitality of Maine's cities and towns.

Trends

In 2000, the number of trips made using alternative modes increased by 4.0 percent while the total vehicle miles traveled actually declined by .03 percent. We would like the trend to continue, and for the number of alternative trips increase relative to personal and low-occupancy vehicle travel.

**Vehicle Miles Traveled and Alternative Mode Trips
(indexed from 1994), Maine 1994-2000**



Maine Department of Transportation's 1997 Strategic Plan
Strategic Passenger Transportation Plan

Details and Data

Because sprawl increases the distance that must be traveled between residences, services and schools, cars become essential. Increased use of automobiles increases the vehicle miles traveled, increases ozone, reduces environmental quality and affects the quality of people's lives while increasing the number of cars on the roads. More cars on the road create congestion and frustrating traffic delays. Use of alternative modes of transport can alleviate these problems. (Although not represented in the graph above, alternative modes of passenger transport also include non-vehicular types – such as bikes and walking.)

Increasing the use of alternative modes of transport by the public requires that they exist and are easily accessible. The patterns of land-use have evolved to favor just one mode of transportation, usually the car. Smart Growth creates transit-oriented development and creates "modal shift" centers, places where travelers and goods arrive by one of several possible transit modes and can switch to another of several possible modes that best meet their needs. These modes might include buses, rail, park and ride lots and bike paths. Residences and services can be grouped around these transport centers, further increasing their functionality as "one stop" centers. Such centers reduce driving distances and support the businesses and transport systems they contain.

Offering alternative modes of transport is not a panacea, and should be balanced with public needs and within dense areas. Creating new bus lines and ferry options for areas without the demand for these services can actually contribute to sprawl by subsidizing transport to new areas. There needs to be a direct relationship between density and transportation – ensuring that these services are self-supporting, and serving the needs of a wide number of people.



13. air quality

Significance

Smart Growth can enhance air quality, an important component of Maine's high quality of life. While Maine's geographic location affects the state's air quality, our air is also affected by local factors, such as the use of vehicles that emit harmful pollutants. By planning communities in a manner that relies less on automobiles and supports the use of clean modes of transport, Smart Growth promotes healthier local air quality, which can assist in achieving better air quality for the entire state.

Trends

Maine's air quality is heavily affected by the fact that it is downwind of both major energy production plants in the Midwest, as well as from the urban transportation corridors of Boston, New York City, and even Washington D.C.. Unfortunately, land-use and planning decisions within Maine cannot affect the amount and type of pollutants emitted from those sources, and most air quality data measure the effect of these sources rather than local emissions. Data on the amount of local emissions and their contribution to poor air quality in those areas and the state are not available at this time. Thus, we can discuss no trends. We do, however, recommend that the amount of 1,3 Butadiene present be used as a proxy for the quality of Maine's air.

Details and Data

The Bureau of Air Quality has begun to measuring the presence of 1,3 Butadiene, a chemical released when gas is burned. Because it is highly reactive and quickly evaporates, the amount present in any given area can provide information about local automobile emissions, one of the elements that Smart Growth seeks to control.

Air quality is important for the health of the environment, animals and humans. Specifically, 1,3 Butadiene can cause central nervous system damage, blurred vision, headaches, as well as eye and throat irritation. It is also a known carcinogen.

By planning communities in a manner that reduces the distance that is driven between residences and goods, services and work and facilitates cleaner types of transport, Smart Growth reduces use of automobiles. The built environment can encourage the use of alternative modes of transport and reduce the use of automobiles, the primary source for emissions that compromise air quality. By creating a built environment that promotes walking, biking and the use of buses, emissions of pollutants such as 1,3 Butadiene are reduced and local air quality is improved.



14. lake quality

Significance

Maine's lakes are important ecological zones, recreational sites, and, for sixty Maine communities, the source of community drinking water. Development increases the amount of pollution entering a lake, increasing the filtration and treatment costs for those lakes that provide drinking water and compromising their natural as well as recreational value.

Trends

Of Maine's 5788 lakes, 2,314 are deemed significant by Maine's Department of Environmental Protection. These lakes make up 97 percent of the state's total lake area and amount to 959,193 acres. Of the significant lakes, 96.2 percent of the acreage of significant lakes were considered fully suitable for swimming. This is an increase from 1998 when 94.7 percent of Maine's significant lake area was deemed suitable for swimming. We would like to see the percentage of Maine's lakes that are suitable for swimming remain very high.

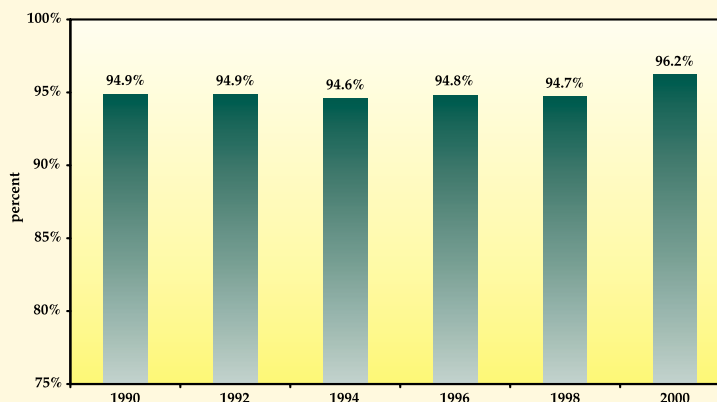
Details and Data

Development increases the amount of nonpoint source pollution in Maine's lakes. Nonpoint pollution is so-named because it occurs anywhere in a watershed, as opposed to a single discharge point. A watershed is the land area in which water is collected. Water flows by gravity downhill, first forming small streams that flow into larger streams into lakes, rivers and eventually the ocean. Every time it rains, the rainwater washes off unnatural surfaces, often called impervious surfaces, carrying with it contaminants to Maine's waters. The amount of impervious surface and pollutants increases as new homes and parking lots are built in watersheds, which ultimately deposits more pollution in Maine's waters and lakes.

Increased pollution has multiple consequences on lake water, including compromising its quality as drinking water. Pollutants stimulate algal blooms, increase water temperature and decrease the visibility in lakes.

Tracking the consequences of increased development and pollution loads in lakes relative to increased development within a lake's watershed could provide a better indicator of the health of Maine's lakes relative to the impact of sprawl. Unfortunately, this combination of data is not currently available for analysis. In the future, this report recommends establishing a baseline suite of lakes in Maine to monitor the water quality of lakes against increased development within their watersheds.

Percent of Maine Lakes Deemed Suitable for Swimming, Maine 1990-2000



Maine Department of Environmental Protection
State of Maine Water Quality Assessment, 2000



15. groundwater quality

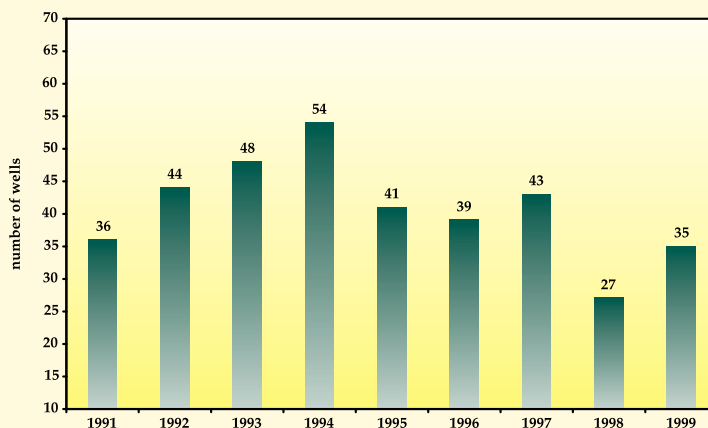
Significance

Groundwater is Maine's primary source of drinking water and protecting its quality is critically important to the health of Maine citizens. Smart Growth builds communities in a manner that helps protect groundwater from pollution by planning development that does not degrade groundwater resources.

Trends

In 1994, 54 public and private wells were replaced due to petroleum contamination of their water source. Since that peak, the number has declined somewhat, with only 35 public and/or private wells replaced due to contamination in 1999. We would like to see the number of wells replaced due to petroleum contamination continue to decrease.

Public and Private Wells in Maine Replaced Due To Petroleum Contamination, 1991-1999



Maine Department of Environmental Protection
Bureau of Remediation and Waste Management, May 2001

Details and Data

Groundwater is water contained within open spaces that exist between soil, sand and gravel and within rock fractures. The water comes from rain or melting snow that seeps through the ground and is stored in geologic structures called aquifers. Groundwater moves slowly downhill and ultimately discharges into a surface water body.

More than 60 percent of Maine households get their drinking water from groundwater supplied by private or public wells or springs that rely on natural aquifers—and sometimes that water is polluted. In most cases, the pollution is a result of contaminated snowmelt or rain entering the aquifers, which is called nonpoint-source pollution. But development is at fault as well: petroleum leaks from gas stations and houses also contaminate groundwater, and that risk increases when development occurs on or near Maine's primary aquifers.

It is quite difficult to develop a proxy for groundwater quality, because it is subject to so many forces, but, while narrow, petroleum contamination does indicate pollution levels. We do, however, recommend that further research and data collection be performed on the impact of development on our critical aquifers.



16. river quality

Significance

Maine's rivers are diverse ecological zones, important to the state's history and economy. They serve as transportation arteries, public water supplies, and recreational areas. Smart Growth protects the quality of Maine's rivers, allowing them to successfully support fishing, aquatic life, and swimming.

Trends

In 2000, 749 miles of the estimated 31,752 total miles of rivers, streams and brooks in Maine were estimated to not fully support one or more of their designated uses – which include fishing, aquatic life and swimming. Of those, 427 miles of river did not support fishing, 331 miles were unfit to support aquatic life, and 176 miles could not support swimming, and several rivers were unable to support more than one type of use. Although we

have only one year of data for this indicator (because of difficulty in comparing information collected in 2000 with previous data sets) we would like to see a decrease in the number of miles of Maine's rivers not supporting one or more of their designated uses.

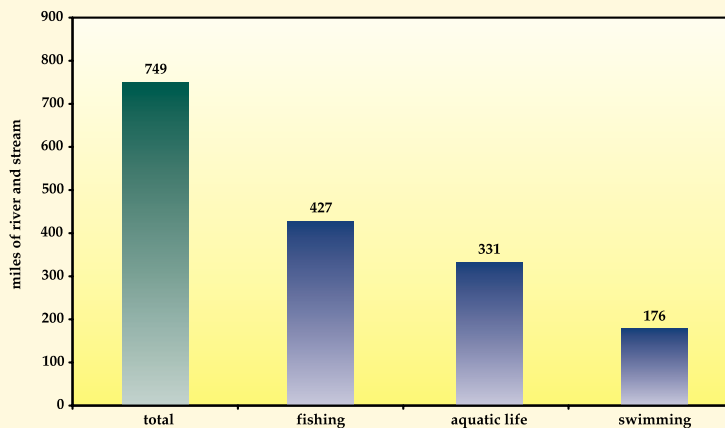
Details and Data

Historically the primary contaminant of Maine's rivers has been point source pollution that comes from identifiable, concentrated sources such as sewer overflows or dioxins discharged from paper mills. Detection and removal of these waste sources has greatly improved the quality of Maine's rivers in recent years.

However, Maine's rivers are still at risk and threatened by nonpoint source pollution that accompanies development. As it does to groundwater and lake water, runoff carrying pollutants can compromise river water quality. Increased development also decreases the forest cover around streams, which increases water temperatures by allowing more sunlight in the area. That harms the quality and ability of a stream to support aquatic life.

The graph reflects the miles of river in Maine that are not in attainment of all the uses and with the water quality standards in sections 305(b) of the Federal Water Pollution Control Act. (The 305(b) report is issued bi-annually and provides details about the water quality of Maine's rivers, streams, lakes, ponds, drinking water and estuarine areas.)

Miles of Rivers and Streams in Maine Not Supporting Designated Uses, Maine 2000



Maine Department of Environmental Protection
Bureau of Land and Water Quality, June 2001



17. estuarine quality

Significance

Maine's estuarine areas are important ecological zones that support a vast array of species and are an important resource for the commercial fishing industry. Closing shellfish beds and ocean waters can be a consequence of many things, but development around or near sensitive marine areas is one factor that accounts for such closures. Smart Growth allows development in a manner that does not impact the health of these areas.

Trends

As of June 2001, 156,758 acres of flats and waters were closed to shellfish harvesting, a slight decrease from October 2000, when 166,555 acres of flats and waters were closed. We would like to see the acres of flats and waters closed to shellfish harvesting continue to decline.

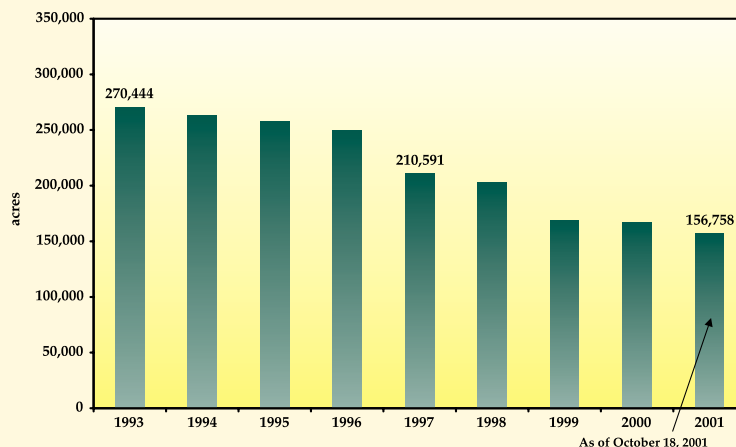
Details and Data

Monitoring the area of shellfish beds and clam flats closed to harvesting is important because it provides an indicator of overall marine and estuarine water quality. This is important to the commercial fishing industry, as well as to the myriad species that these ecological zones support. Further, although not included in this data set, marine and estuarine water quality is important to the health and proliferations of fish stocks in Maine generally.

A primary factor for a closing is direct discharge of sewage from boats and residences, which has largely been controlled. It is thus increasingly important to monitor flats and waters closings relative to development pressures. An increase in the number of flats and waters closed to shellfish harvesting would signal that development near these areas is having a detrimental effect on their quality.

For Smart Growth, the question of *how* to build or develop is as important as *where* to build. The design of what is built is a central theme of Smart Growth. The design, structure and efficiency of a structure can impact the environment and influence personal choice of where to live. Extending sewer lines to remove previous direct sewer discharges is occurring already and is one example of how to build to support Smart Growth. Building new sewers in more compact development areas is an example that marries consideration of where to build with how. Yet another example of choices on how to build is constructing affordable and attractive housing that supports and draws growth into service-center communities.

Acres of Clam Flats and Ocean Waters Closed to Shellfish Harvesting, Maine 1993-2001



Maine Department of Marine Resources, June 2001



18. lands conserved

Significance

A primary component of Maine's competitive advantage is its beautiful and unique natural places. Conserving those lands will ensure that Maine's natural beauty remains in perpetuity despite encroaching development. Smart Growth preserves open space, scenic vistas, wildlife habitat and environmentally sensitive areas. It recognizes their inherent value, and guides development with the preservation of important landscapes in mind.

Trends

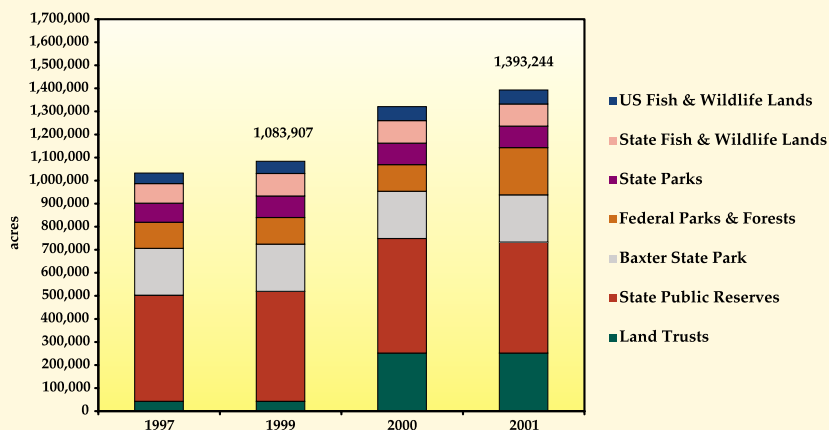
In 2001, over one million acres of land were conserved and over 800,000 acres of land had been protected through conservation easements held by local land trusts or state entities, including nonprofit organizations. We would like to see an increase in the amount of important natural land conserved in Maine.

Details and Data

Maine has an abundance of beautiful natural spaces, but many are threatened by housing development and private road construction. Those places are being protected from such pressures in several ways. One is donation or purchase of property for conservation purposes. The majority of land conserved in Maine is held in public ownership and a very small percentage is protected through private conservation.

Recently, conservation easements have also played a large role in protecting Maine's important lands, including farmlands, timberlands and open space. Conservation easements benefit landowners financially while simultaneously protecting their property from development. By placing an easement on land, a landowner formally agrees to certain permanent restrictions on the property's uses and potential development, and gains tax benefits from enacting those restrictions.

**Acres of Land Conserved in Maine,
1997-2001**



Maine Department of Conservation, Bureau of Parks and Lands; Maine Department of Inland Fisheries and Wildlife; Baxter State Park Authority; Acadia National Park; White Mountain National Forest; Appalachian Trail Commission; US Fish and Wildlife Service and Maine Land Trust Network



19. biological diversity

Significance

Maine enjoys a diversity and abundance of wildlife and plant life. The state's multitude of species is supported by healthy and diverse ecosystems and habitat. Perhaps the most significant threat to these ecosystems – and the animals and plants they support – is the development of open space for low-density human habitat and commercial consumption. Smart Growth creates land-use patterns that incorporate the protection of ecosystems and that support a diversity and abundance of species by directing growth to areas prepared to support more compact development.

Trends

Is there a problem with biodiversity in Maine? Unfortunately, there are no statewide data that would be able to shed light on the status of biological diversity. Present information does not indicate a biodiversity crisis in Maine in terms of outright loss of species. But considering the number of rare species, the number of species for which we have no information, and the lack of land management for biodiversity, neither does it support complacency.

Details and Data

As human development increases in rural areas, natural habitat is altered and its critical function is often destroyed. Native vegetation is replaced by asphalt and lawns, while natural water drainage patterns are altered to accommodate roads and building sites. Fragmented land can no longer support as many animal species. Understanding the habitat needs of Maine's native plants and animals is critical to planning development that supports these needs and is an important component of Smart Growth.

A group of wildlife experts was asked to determine what species, if any, could serve as an indicator species in this report. It was unanimously advised that using one species as an indicator of abundance and/or diversity would be problematic. Using a suite of species to represent the state of Maine's diverse ecosystems would be more appropriate. Several species were suggested as possible members of the suite of indicators, including the red backed salamander, spotted and blundings turtles, the new England cottontail, the bobolink, and the fisher. The habitat of each of these native species is threatened by development; unfortunately none of them have sufficient data to render them an effective and credible indicator of species abundance generally.

There is an opportunity to avoid a crisis in Maine, but it calls for action and greater understanding. The report highly recommends supporting existing research and projects, such as the efforts of the Maine Department of Inland Fisheries and Wildlife (among several other agencies and private partners), to develop a habitat-based approach for conservation needs in southern Maine. This information could help development plans in that region incorporate habitat needs and could serve as a model for other areas of the state.



20. sustainable forests

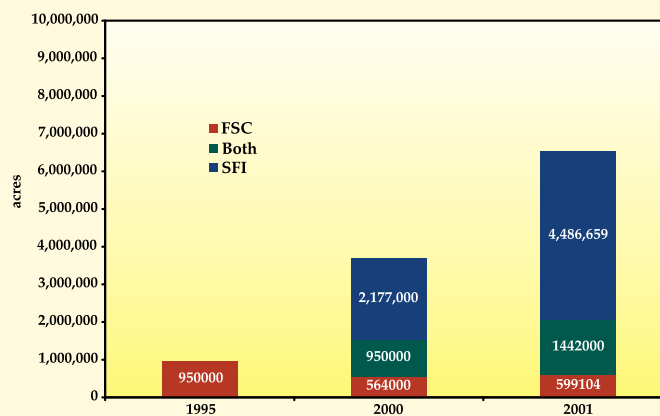
Significance

Smart Growth places importance on the long-term vitality and integrity of natural resources. When a landowner's forest management is certified as sustainable it indicates a commitment to manage the forest in a manner that supports the quality and character of the forest for future generations.

Trends

From 1995 to 2001, the acres of forest land certified as well as managed as sustainable in Maine increased dramatically, and the number of certification programs grew from one to two. We would like to see the acres of forest land certified as well as managed as sustainable continue to increase.

Acres of Forest Land Certified as Sustainable, Forest Stewardship Council (FSC) & Sustainable Forestry Initiative (SFI), 1995-2001



Maine Department of Conservation
Forest Service, May 2001

Details and Data

Sustainable refers to the use of a resource in a manner that ensures that it will be available for future generations to enjoy. Forests certified and managed as sustainable are protected for the long-term, which benefits the industry, the environment and the species within the forest. Increasing the acres of forest certified as well as managed as sustainable can help protect Maine's forests from some destructive logging practices and promote the health of the forest ecosystem and the viability of the industry, which in turn can help protect Maine's forests from suburbanization.

A major challenge is to encourage participation of small, nonindustrial private land owners, despite the high administrative costs associated with sustainable management practices and certification. Many small woodlot owners manage forests in southern Maine, the area most intensely threatened by sprawl, and certification of these lands could help protect Maine's woodlands from development.

The two certification programs represented in the figure above – the Forest Stewardship Council (FSC) and the American Forest Product's Association Sustainable Forestry Initiative (SFI) - differ somewhat in their certification process and goals. FSC is an international, nonprofit organization with the goal of providing market-based incentives for sustainable forestry, specifically the "green labeling" of forest products. SFI's guidelines were developed by the American Forestry and Paper Association and are more focused on the overall process of forest management than on a specific outcome.



21. commercial fishing access

Significance

Maine's coast and commercial fishing access points are under intense pressure from development. Conversion of traditional commercial fishing sites and structures to commercial, residential or retail space compromises the ability of fishermen to access the resource their livelihoods depend on. Smart Growth incorporates the needs of the commercial fishing industry into development, and maintains these commercial resource access points.

Trends

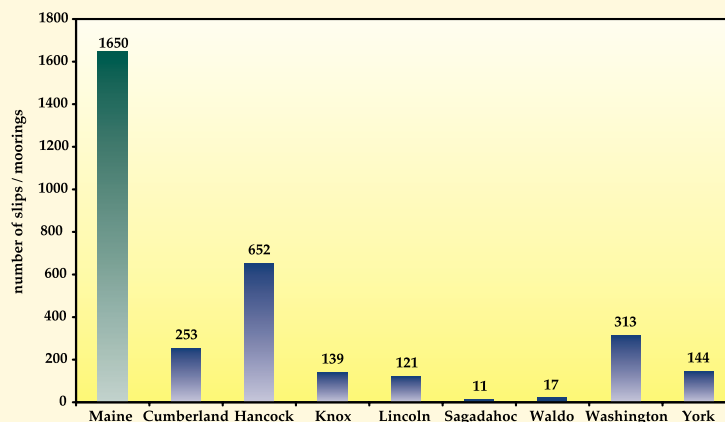
We would like to see that the number of berths and moorings in Maine not decline below the number reported in 2000: 1,650 slips and moorings. The data comes from a survey of Maine's coastal communities that was completed in 1999 and provides a baseline for this objective.

Details and Data

Maine's coastal communities are shifting from commercial fishing to tourism and related services. Private residences and tourist facilities such as restaurants, hotels and marinas now dominate the waterfront in many coastal towns, often usurping commercial fishing areas for these businesses. In addition, these new businesses and residents often complain about the smells and sounds associated with fishing and fish processing at commercial piers.

Data on the number of commercial fishing access points comes from a comprehensive 1999 inventory of about 600-marine related facilities in Maine's coastal communities. The project was a collaborative effort of the Maine Departments of Marine Resources and Transportation; the Economic Development Administration, the Southern Maine Economic Development District and the Eastern Maine Development Corporation. This report is recommending that the same survey be conducted in the future.

Number of Commercial Slips & Moorings in Select Maine Counties, 2000



Maine Coastal Port Facilities Database, 1999



22. farmland vitality

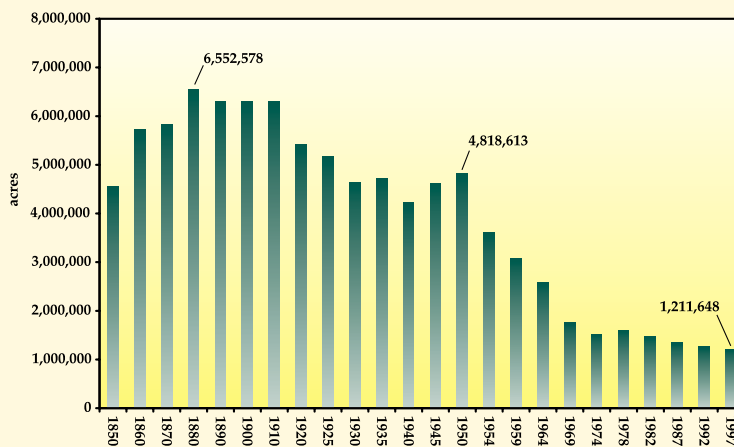
Significance

Land traditionally used for crops and livestock production is being converted into housing, commercial, and industrial development, and to other nonagricultural uses. Supporting the economic vitality of Maine farmers, reducing costs associated with maintaining farmland, and directing development away from farmlands is a major part of Smart Growth.

Trends

In 1950 there were more than 4.8 million acres of farmland in Maine, compared to 1.2 million acres in 1997, the last year for which data are available from the USDA Census of Agriculture. We would like to see no further decline in the acres of farmland in Maine.

**Acres in Productive Farmland,
Maine 1850-1997**



USDA Census of Agriculture

Details and Data

Farmland represents a key resource for open space, recreation and the food security of Maine people. Unfortunately, farmland is an easy target for sprawl. It is already cleared, relatively well drained and level, rendering it easy to develop. Several types of farmland are especially at risk to development, including feed crops (hay and other grains) and orchards, which have become fashionable locations for new housing developments. Between 1978 and 1997, Maine lost almost 70,000 acres of feed crops alone to development, for example.

Several programs have already been developed to help preserve agricultural land for farming purposes, though more strategies are needed. Conservation of farmland through a conservation easement is one; a study conducted by the Maine Farmland Trust determined that 6,128 acres of Maine's farmland had been protected through conservation easements in 2000. A second is application of the Farm and Open Space Tax Law, which allows farmland to be assessed based on its productive value rather than on its market value, which is inflated by the potential for development. Valuing farm property in this manner helps farmers maintain ownership and keep their lands in agricultural production. In 1999, there were 150,334 acres of farmland valued by the Farm and Open Space Tax Law.

Despite these programs, it is clear that more needs to be done to protect Maine farmland from development. One suggestion is developing a Farm Link database, which would link established and/or retiring farmers with younger farmers interested in apprenticeships or ownership of farms. Another is developing an agricultural internship to allow foreign students to learn about the importance of agriculture while providing critical labor on small farms.



23. timberland vitality

Significance

Maine's forest and paper industry is an important part of the state's economy and cultural identity. The industry's vitality is threatened by sprawling development, which reduces the amount of viable timberland available, and affects loggers access to the resource. Smart Growth plans development in a manner that protects Maine's timberland, and supports the continued vitality of the industry.

Trends

While the entire state faces loss of timberland due to development, this problem is most severe in southern Maine. Southern Maine (York and Cumberland Counties) had 977,000 acres of timberland in 1989. By 1995 that amount had declined to 846,000 acres, a loss of over 13 percent. We would like to see the rate of timberland lost in Maine slow and then stabilize in Maine's southern counties.

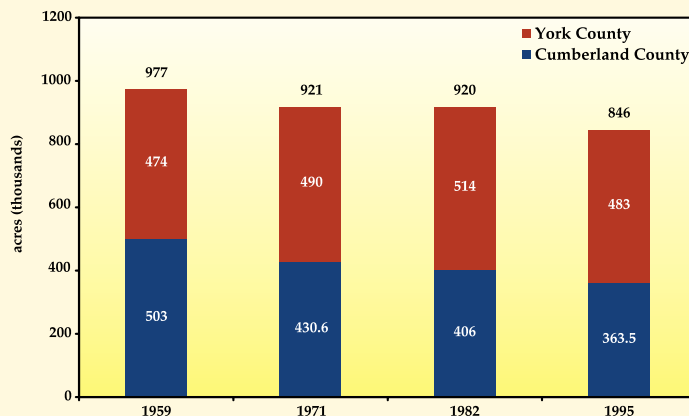
Details and Data

Timberland is defined as at least one acre of forestland capable of producing at least 20 cubic feet of timber per year. While the total amount of timberland in the entire state has remained fairly stable, the amount that can be used for timber *harvesting* has actually declined, due primarily to suburbanization and land conversion. Sprawl removes timberland from production — wood lots are cleared for houses and lawns and commercial strips. Sprawl fragments timberland holdings, increasing the costs of logging those areas. Loggers also find it difficult to operate in residential areas where they often meet resistance to their logging practices from neighbors, which reduces access to the resource.

The forest and paper industry's vitality depends on maintaining both ownership and access to timberland. One program designed to support this is Maine's Tree Growth Tax Law, which provides for timberland to be valued at its current use rather than at market value. That supports ownership of timberland by working foresters rather than developers. In 2000 there were 3,725,778 acres assessed through the Tree Growth law in Maine's municipalities and 7,509,676 acres in the unorganized territories.

Protecting Maine timberland from development will take more than tax incentives. Educating the Maine forest industry companies about how to compete in global markets will help promote the industry's viability. Developing a comprehensive forest policy to provide direction on current and emerging issues and communicating this policy throughout the state could also protect timberland in southern and northern regions.

Acres of Timberland in York & Cumberland Counties, Maine, 1959-1995



United States Department of Agriculture,
Forest Service Forest Statistics for Maine, 1959-1995.
Maine Department of Conservation, Forest Service

SERVICE-CENTER COMMUNITIES – Definition, Methodology and Lists

The Maine State Planning Office has identified 69 regional service-centers throughout Maine. Of these, 29 are considered primary centers, 21 are secondary centers, and 19 are small centers. Four basic criteria were used to identify the municipalities in Maine that serve as centers: the level of retail sales; the jobs to workers ratio; the amount of federally assisted housing; and the volume of jobs. Consideration was also given to the geographic distribution of municipalities. Communities were identified that serve as small (local) centers as well as large urban places that serve as primary (major) centers. Factors such as trade were weighted to regional/local figures to help identify small centers.

Indexes were created for each of the criteria so that standardized comparisons could be made:

- The 29 primary centers had a score of at least 1.0 on all four criteria measured.
- Secondary centers had a score of 1.0 on three of the four criteria and scored above 0 on the fourth criteria.
- Small centers scored above 1.0 on two of the four criteria and above 0.5 on the other two criteria.

In addition, the State Planning Office identified 26 Specialized Centers that are characteristically urban in nature, but that do not meet the criteria to be classified as a regional center. They have been included, bringing the total number of centers to 95, because of their history, their urban character and their proximity to regional center communities. Supporting and promoting development within the identified service-center communities, as well as within the specialized centers, is Smart Growth.

Regional Centers and Specialized Centers

29 Primary Centers

Auburn
Augusta
Bangor
Bar Harbor
Belfast
Blue Hill
Boothbay Harbor
Brunswick
Calais
Camden
Caribou
Damariscotta
Dover-Foxcroft
Ellsworth
Farmington
Fort Kent
Gardiner
Greenville
Houlton
Lewiston
Lincoln
Machias
Milbridge
Paris
Portland
Presque Isle
Rockland
Skowhegan
Waterville

21 Secondary Centers

Bath
Biddeford
Bingham
Dexter
Falmouth
Jackman
Lubec
Madawaska
Mars Hill
Newport
Norway
Orono
Pittsfield
Rangeley
Sanford
South Portland
Thomaston
Unity
Van Buren
Westbrook
Wiscasset

19 Small Centers

Ashland
Bethel
Brewer
Bridgton
Bucksport
Eastport
Freeport
Guilford
Hallowell
Island Falls
Kennebunk
Kingfield
Kittery
Millinocket
Milo
Princeton
Rumford
Saco
Winthrop

26 Specialized Centers

Baileyville
Berwick
Castine
Cherryfield
Dixfield
East Millinocket
Easton
Fairfield
Fryeburg
Hartland
Jay
Jonesport
Kennebunkport
Livermore Falls
Madison
North Berwick
Ogunquit
Old Town
Rockport
Searsport
Southwest Harbor
Stonington
Waldoboro
Wilton
Winter Harbor
York

appendix b

SURVEY METHODOLOGY AND RESOURCES

Several of the indicators in the Indicators of Livable Communities report required that a survey of Maine Citizens be conducted. These measures include *Walk-ability, Recreational Access, Downtown Vitality and Cultural Assets*.

In September of 2001, the Maine Development Foundation Conducted a Survey of Maine Citizens. This survey was used to generate data for the four indicators above. The Citizen Survey was conducted among a statewide sample of 601 Maine households. A sample of this size yields a sampling error of +/- 4.00 percentage points with 95 percent confidence at the total sample level.

RESOURCES

Many of the resources consulted are noted in the details and data section of each indicator.

RELATED DOCUMENTS

Smart Growth: the Competitive Advantage. Recommendations of Governor Angus S. King's Cabinet Committee on Smart Growth.

A Response to Sprawl: Designing Communities to Protect Wildlife Habitat and Accommodate Development. Report to the Patterns of Development Task Force, Maine Environmental Priorities Project, July 1997

Challenging Sprawl: Organizational Responses to a National Problem. National Trust for Historic Preservation. 1999

Smart States, Better Communities. Beaumont, Constance. National Trust for Historic Preservation.

Reviving Service-Center Communities. Report of the Task Force on Regional Service-center Communities. September 1998.

The Cost of Sprawl. Maine State Planning Office, May 1997.

"Who Sprawls the Most? How Growth Patterns Differ Across the U.S." Fulton, William, et al. The Brookings Institution Survey Series, July 2001.

Markets for Traditional Neighborhoods, Maine State Planning Office, August 1999

Why Households Move. Maine State Planning Office, August 1999

Fishing, Farming and Forestry: Resources for the Future. Maine State Planning Office, January 2001.

The 2001 Biennial Report on the State of the Forest and Progress Report on Sustainability Standards. Report to the Joint Standing Committee of the 120th Legislature on Agriculture, Conservation and Forestry. May 2001.

Report on the Use of Incentives to Keep Land in Productive Farming, Fishing and Forestry Use. Presented to the Joint Standing Committee on Natural resource, Taxation, and Agriculture, Conservation and Forestry of the 120th Maine Legislature. Prepared by the Land and Water Resources Council. February 2001.

Measures of Growth. Maine Economic Growth Council. February 2001.

Maine's Transportation System: Status and Trend Indicators of Economic Growth and Quality of Life. Maine Department of Transportation. October 1999.

An Assessment of the Quality of Maine's Environment 1998. Maine Environmental Priorities Council

Comprehensive Planning: A Manual for Maine's Communities. Maine State Planning Office. November 1992.

Travel and the Built Environment. Ewing, Reid and Cervero, Robert. Rutgers University, 2001.

WEB RESOURCES:

Maine State Planning Office:
<http://www.state.me.us/spo/>

Maine Downtown Center
<http://www.mdf.org/downtown/>

Sierra Club
<http://www.sierraclub.org/sprawl/>

National Historic Trust for Preservation
<http://www.nthp.org/>

Communities by Choice
<http://www.communitiesbychoice.org/>

Smart Growth Network
<http://www.smartgrowth.org/index2.html>

The Vermont Forum on Sprawl
<http://www.vtsprawl.org/index3.htm>

Coalition for Healthier Cities & Communities
<http://www.healthycommunities.org>

feedback form

The Land and Water Resources Council invites your comments. Please tear out this form and send it to the address below.

General comments about the report:

Please comment on how well you feel the slate of indicators defines Smart Growth for Maine:

How could the report be improved? What changes should we make if we publish a similar report in the future?

Are there specific actions that should be taken as a result of some of the findings of this report?

If you would like someone to contact you, please provide your name and contact information:

Please return to:
Maine State Planning Office
184 State Street
38 State House Station
Augusta, ME 04330
Fax: 207-287-6489



Acknowledgments

The Maine Development Foundation and the Smart Growth Coordinating Committee would like to express sincere appreciation to all those people and organizations who generously provided data and guidance.

Darcy Rollins and Craig Freshley of the Maine Development Foundation produced this report. Darcy researched and authored this report and Craig provided editorial support and facilitated meetings. Judy East served as staff for the Smart Growth Coordinating Committee. The photographs on the cover were provided by Terry DeWan, Beth DellaValle and Judy East. J.S. McCarthy Printers printed the report.



Appendix F: Breakdown of Livable Communities Indicators by Goal

Goal A: To encourage orderly growth and development in appropriate areas of each community, while protecting the State's rural character, making efficient use of public services and preventing development sprawl.

Can be assessed by:

Livable Communities Indicator 1: Local Land Use Planning

Livable Communities Indicator 2: Population Clusters

Livable Communities Indicator 3: New Home Location

Livable Communities Indicator 4: Walk-ability

Livable Communities Indicator 5: Outdoor Recreational Access

Goal B: To plan for, finance and develop an efficient system of public facilities and services to accommodate anticipated growth and economic development;

Can be assessed by:

Livable Communities Indicator 1: Local Land Use Planning

Livable Communities Indicator 2: Population Clusters

Livable Communities Indicator 3: New Home Location

Goal C: To promote an economic climate which increases job opportunities and overall economic well-being;

Can be assessed by:

Livable Communities Indicator 1: Local Land Use Planning

Livable Communities Indicator 2: Population Clusters

Livable Communities Indicator 3: New Home Location

Livable Communities Indicator 6: Downtown Vitality

Livable Communities Indicator 7: Economic Vitality

Livable Communities Indicator 8: Reliable Infrastructure

Livable Communities Indicator 9: Cultural Assets

Livable Communities Indicator 10: Highway Congestion

Livable Communities Indicator 11: Passenger Travel

Goal D: To encourage and promote affordable housing opportunities for all Maine citizens;

Can be assessed by:

Livable Communities Indicator 1: Local Land Use Planning

Goal E: To protect the quality and manage the quantity of the State's water resources, including lakes, aquifers, great ponds, estuaries, rivers and coastal areas;

Can be assessed by:

Livable Communities Indicator 1: Local Land Use Planning
Livable Communities Indicator 13: Lake Quality
Livable Communities Indicator 14: Groundwater Quality
Livable Communities Indicator 15: River Quality
Livable Communities Indicator 17: Lands Conserved

Goal F: To protect the State's other critical natural resources, including without limitation, wetlands, wildlife and fisheries habitat, sand dunes, shorelands, scenic vistas and unique natural areas;

Can be assessed by:
Livable Communities Indicator 1: Local Land Use Planning
Livable Communities Indicator 13: Lake Quality
Livable Communities Indicator 14: Groundwater Quality
Livable Communities Indicator 15: River Quality
Livable Communities Indicator 18: Biological Diversity

Goal G: To protect the State's marine resources industry, ports and harbors from incompatible development and to promote access to the shore for commercial fishermen and the public;

Can be assessed by:
Livable Communities Indicator 1: Local Land Use Planning
Livable Communities Indicator 20: Commercial Fishing Access

Goal H: To safeguard the State's agricultural and forest resources from development that threatens those resources;

Can be assessed by:
Livable Communities Indicator 17: Lands Conserved
Livable Communities Indicator 19: Sustainable Forests
Livable Communities Indicator 21: Farmland Vitality
Livable Communities Indicator 22: Timberland Vitality

Goal I: To preserve the State's historic and archaeological resources;

Can be assessed by:
Livable Communities Indicator 1: Local Land Use Planning

Goal J: To promote and protect the availability of outdoor recreation opportunities for all Maine citizens, including access to surface waters.

Can be assessed by:
Livable Communities Indicator 1: Local Land Use Planning
Livable Communities Indicator 5: Outdoor Recreational Access
Livable Communities Indicator 17: Lands Conserved

Appendix G: Summary of Local Grants

SPO has awarded a number of grants over the period of this evaluation which should result in new comprehensive plans in communities that have never had them, updated plans in communities who developed plans in the early 1990's, new ordinances to implement plans, and innovative smart growth implementation projects.

Since January 1, 1999, SPO awarded 43 Comprehensive Plan Grants, 25 Implementation Grants, 30 Update Grants, 11 Smart Growth Challenge Grants, four Great American Neighborhood Grants, three Smart Growth Technical Assistance Grants, six Rural Investment Pilot Grants, and three Brownfield Assessment Grants.

Comprehensive Planning Grants

SPO awarded 43 Comprehensive Planning Grants to towns as large as South Portland and as small as Weston and Frye Island for a total grant amount of \$602,077. The average grant size was \$14,000. These grants were first-time comprehensive planning grants, meaning that the communities had not previously received a planning grant from SPO. These grant funds have allowed an additional 43 towns their first opportunity to deal with unique local concerns within the framework of the state law, in preparation and adoption of their comprehensive plans.

Implementation Grants

25 towns from Swans Island to Biddeford and Saco were awarded Implementation Grants, totaling \$228,447. The average grant size was \$9,100. Each of these towns undertook new or updated zoning and other regulatory efforts to implement their local plans. They recognized that regulation is a tool to direct and influence growth. It is the hammer, screwdriver, and pliers, all rolled into one, in the smart growth toolbox.

Comprehensive Plan Update Grants

SPO also awarded 30 Comprehensive Plan Update Grants to communities as large as Sanford and as small as Newry, totaling \$277,540. The average grant size was \$9,250. The common theme for the Update Grants was not just that the communities were on their second or third comprehensive plan, but that they are all communities with significant issues who are committed to developing and adopting emboldened comprehensive plans to manage their patterns of growth. These are not quiet towns where little new development is occurring. They are generally rapidly growing or rapidly declining places that recognize the need to plan.

Smart Growth Challenge Grants

SPO awarded 11 Smart Growth Challenge Grants, totaling \$332,666 to support innovative projects that implement smart growth principles and that could serve as examples statewide (see APPENDIX H for a full description of these grants). Projects covered a variety of subjects such as managing traffic and roadway issues on a multi-town major arterial, designing a town center in a centerless town (with and without public sewer), providing affordable access to the upper floors of downtown buildings, redeveloping an abandoned brownfield site, preserving farmland, making growth/rural distinctions in phosphorous control regulations, and examining the feasibility of sewer extensions to protect a sensitive lake.

Great American Neighborhood Partnership Grants

SPO awarded \$12,000 in Great American Neighborhood Partnership Grants to South Portland, Topsham, Scarborough, and Westbrook. These small grants, ranging from \$2,400 to \$5,000 in size, were matched by equal amounts from each community and from each developer interested in creating a Great American Neighborhood. The grants supported efforts to study the feasibility of designing additions to existing neighborhoods or brand new neighborhoods in areas suitable for growth in the town. Planning continues on neighborhoods in each of the towns except South Portland, where the city and developer decided that an alternative use of the site was preferable.

Smart Growth Technical Assistance Grants

SPO also awarded three Smart Growth Technical Assistance Grants, totaling \$95,492, to prepare various technical assistance materials to address sprawl and smart growth as follows:

- The **Northern Maine Development Commission** will prepare a booklet called *Living in a Rural Community* which will highlight issues facing those living in rural areas and strive to make potential rural property owners aware of the independent nature of rural life; “what rural living is all about.” It will address housing issues, agricultural issues, forestry issues, and social/economic issues.
- The **Southern Maine Regional Planning Commission** will explore the use of a new software product, “What If” to produce a mapped scenario of how Kennebunk, Kennebunkport, and Arundel might look in the year 2030, if the existing pattern of zoning were maintained. In addition, the project proposed to demonstrate how changes to existing zoning might affect projected development patterns.
- The **Greater Portland Council of Governments** will work with communities in its region to create a web-based, interactive map service for municipal planners to compile regional and local GIS data layers to analyze development patterns. The value to the region is enormous and there is great value to the rest of the state as a model.

Rural Investment Pilot Grants

SPO awarded \$84,255 of Rural Investment Grants to six towns as part of a pilot project to support local and regional efforts to strengthen natural resource-based industries. Projects ranged from support of farmers markets and marketing programs to farm composting operations and aquaculture diversification.

Brownfield Assessment Grants

Brownfields are abandoned, idle, or under-used industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination. SPO and DEP awarded \$120,000 in federally-funded Brownfield Assessment Grants, the first step towards remediation and redevelopment, for three projects as follows:

- **River Valley Growth Council** in Rumford to redevelop a former manufacturing building into a metal trades incubator;
- **Waterville** to build a "Festival Park" for local events on a 12.5-acre site known as Head of Falls on the waterfront in downtown; and
- **Town of Lubec and Lubec Shipyards Inc.** to assess a 3.5 acre site that Lubec Shipyards Inc. wants to use as a boat building facility, with plans to develop a full service boatyard.

Appendix H: Summary of Smart Growth Challenge Grants

The following is a description of the 11 Smart Growth Challenge Grants to 11 Maine communities who developed innovative projects that support smart growth principles and that can be used as models by other municipalities.

Arundel – The community, a fast growing town without a traditional center and devoid of public sewer and water, is trying to define a location for and characteristics of its own center.

Boothbay Harbor Region – Edgecomb, Boothbay, and Boothbay Harbor worked a joint project designed to deal with traffic and roadway issues along Route 27, from its intersection with Route 1. In Edgecomb, they discussed alternatives for the Route 1/Route 27 intersection, access management techniques, intersection realignments, modifications of a number of high volume driveways, signage, and landscaping. Similar issues were discussed in Boothbay with the main issue there being traffic flow in the village and conflicts at a major intersection. A roundabout was recommended to address concerns. In Boothbay Harbor, gateway concerns dominated discussion, along with pedestrian access to both sides of the street, traffic calming techniques, additional landscaping, and reducing the number of driveways along this section of Route 27. Overall, this was one of the most successful corridor plans to have been created in Maine and will serve as a template for local and state improvements along the corridor, with possible modification to some of the recommendations, after additional public input.

Gardiner – Gardiner is one of Maine's service centers that has made a significant effort over the past two years to improve its downtown. The City not only received a Smart Growth Challenge Grant from SPO, but used it to leverage \$400,000 of Community Development Block Grant (CDBG) funds as well as a Main Street Maine designation, which amounts to about \$30,000 worth of technical and financial assistance. Gardiner used SPO funds to explore making access to the second floor of buildings in the downtown more feasible. This project is now being implemented with CDBG funds and additional downtown revitalization activities are being initiated through the Maine Downtown Center.

Lewiston – The Lewiston Gas Works Redevelopment Project will create a redevelopment plan for a 27-acre site located on the City's canal. The plan will include landscaping, parking space, an historic interpretive site for the Gas Light Company and links to multi-modal transportation and recreational systems. It is intended to create a southern Gateway to Lewiston's Downtown. Utilizing Smart Growth Challenge Grant funds from SPO, the City is in the process of selecting a contractor to prepare the redevelopment plan. Additional information concerning this project can be found on the city's web site: <http://ci.lewiston.me.us/development/gasworks/index.htm>

Monmouth's Smart Growth Challenge Grant focuses on creative approaches to managing phosphorous runoff, while permitting a village-like density within the town center. In 1999, the Monmouth Water Association placed a moratorium on new connections to its distribution system. This affected Monmouth's only commercial growth area serviced by both public water and sewer. Monmouth is working to develop a Phosphorous Allocation Program to address these concerns. In addition, it is pursuing a strategy for farmland preservation to keep its

working rural lands productive, while concentrating development in its growth areas.

Piscataquis County – Piscataquis County is focusing its Smart Growth Challenge Grant to identify and implement innovative means to fund, encourage, and target future commercial and industrial development in locally-designated growth areas. The Piscataquis County Economic Development Council (PCEDC) is working to target areas in need of investment and engineer risk-revenue-sharing agreements among Piscataquis County communities.

St. Agatha – The Town of St. Agatha is using its Smart Growth Challenge Grant to evaluate the possibility of extending its public wastewater collection system. Further extension of the public system will aid in the protection of the sensitive Long Lake watershed. Additionally, the soils in the study area are poor and unsuitable to sustain onsite disposal systems without risk of pollution. Groundwater quality will be improved by the extension of the system and the Town's comprehensive plan designates the study area as a growth area for the town.

Trenton – Trenton, which serves as the Gateway to Acadia National Park on Route 3, is undertaking the creation of both a village master plan and corridor development plan befitting a Scenic Byway. The possibilities of a multi-modal facility and/or Visitors' Center for Acadia National Park as anchors for the village are being explored. Critical partners in this effort include MDOT, Acadia National Park, and the Hancock County Planning Commission.

Unity – Working closely with the Town, the Unity Barn Raisers are implementing this Smart Growth Challenge Grant. The Town intends to develop and implement strategies that will direct 100% of all retail growth to Unity's downtown and 90% of all non-agricultural commercial growth and 70% of all residential growth into Unity's locally-designated growth area. Strategies under consideration include: incentives for developers, farm vitality enhancements, transferable development credits, and understanding raceway impacts and mitigation. The Town will investigate and implement promising strategies, evaluate their impact on growth, document project results, including what worked and what didn't, and adjust its strategies as appropriate.

Wells – This fast growing community is refining the boundaries of the area it has identified for a Town Center and is developing standards to guide its development.

Westbrook – The City of Westbrook received a Smart Growth Challenge grant to create a new Great American Neighborhood in a rapidly growing region of the Route 302 corridor, between Portland and Windham. The project is in its early stages, but the City has hired a consultant, is exploring the feasibility of extending public sewer to the area, and is setting up public meetings. The grant anticipates the completion of the design phase with significant public outreach.

Appendix I: Smart Growth: The Competitive Advantage

SMART GROWTH
THE COMPETITIVE ADVANTAGE

**Recommendations of
Governor Angus S. King's
Cabinet Committee on Smart Growth**

Background

In the summer of 1999, Governor King formed a sub-cabinet working group to consider how State government can support the kind of growth Mainers are speaking out about. Led by Transportation Commissioner John Melrose, Governor King challenged the working group to devise an action plan that would assure a strong rate of return on public investment, renewed commitment to environmental stewardship and stepped up efforts to build and strengthen community. Four principles were presented to the working group to guide the strategic planning process:

- *That individuals be free to choose where to live*
- *That individuals bear the costs of their decisions*
- *That healthy places don't die*
- *That developers are allies in implementing public policy*

In developing proposed actions, he suggested that cabinet members review their agency operations, policies, laws and regulations and investment decision making processes which may unintentionally serve to erode the vitality of service centers, the viability of rural enterprises and working waterfronts and the ability of developers and communities to build and maintain strong neighborhoods.

The working group included Commissioners or their designees from 11 agencies. The members of the working group were:

John Melrose, Commissioner of MDOT
Evan Richert, Director SPO
Martha Kirkpatrick, Commissioner MDEP
Steve Levesque, Commissioner DECD
Lee Perry, Commissioner MIF&W
George Lapointe, Commissioner MDMR
Duke Albanese, Commissioner MDE
David Lakari, Commissioner MSHA
Robert Spear, Commissioner MDAFRR
Janet Waldron, Commissioner MDAFS
Ron Lovaglio, Commissioner MDOC

Kathy Fuller, Policy Specialist, MDOT
John DeVecchio, Program Manager, SPO
John VanWie, Dir. Land Bureau, MDEP
James Nimon, Development Program Manager, DECD
Kenneth Elowe, Dir. Resource Management, MIF&W
Sue Inches, Dir. Industry Development, MDMR
Scott Brown, Dir. School Facilities, MDE
Peter Merrill, Dir. Planning/Government Affairs, MSHA
Linda Smith-Dyer, Deputy Commissioner, MDAFRR
Elaine Clark, Dir. Bureau General Services, MDAFS
John Williams, Dir. LURC, MDOC
Edna Cayford, Special Assistant to the Director, SPO

The Goal of the Smart Growth Action Plan

is to maintain Maine's competitive advantage as one of the most livable places in the United States -- a place with growing, vital cities and towns, a productive countryside, and a revered natural environment.

9 Measurable Objectives:

By 2010:

- ✧ The population of Maine's regional hub communities -- our job centers -- in both urban and rural regions will grow, reversing 30 years of stagnation or decline, and thus contribute to overall growth in the state.
- ✧ In each county, the amount of commercial marine infrastructure on coastal waterfronts (as measured by the area of commercial piers, and the number of commercial boat launches and moorings) will be no less than in the year 2000. Along the Maine coast, fewer than 100,000 acres of estuarine areas will be closed to harvesting of shellfish.
- ✧ In all regions, the acres of cropland harvested (as tracked in the Agricultural Census), and net farm income (in real dollars) will stabilize with a possible increase and the proportion of processed potatoes to raw potato exported will increase from the year 2000.
- ✧ Improve the growth and productivity of the forest and the subsequent balance between growth and harvest in all regions.
- ✧ Seventy percent of Maine's organized towns will have projects, land trusts, and/or state agencies working cooperatively with landowners to protect the value of designated high value aquatic and terrestrial habitats within the context of municipal comprehensive plans that incorporate blocks of open space for landscape wildlife habitat. Impairment of Maine's lakes due to development will be slowed.
- ✧ There will be no net loss in the posted speed on rural portions of arterial roads that run between urban compact boundaries.
- ✧ A reduction in highway congestion and improved air quality will be realized by proportionally faster increases in use of passenger transportation opportunities over use of single occupancy vehicles and by proportionally faster increases in use of air, rail, and marine freight transportation over the use of highway freight transportation.
- ✧ A decrease in vacant floor space will occur in downtown buildings.
- ✧ The number of new homes in locally-designated growth areas as identified in Comprehensive Plans will account for 65% of all new homes in the state.

3-Year Action Plan:

A. State Capital Investments: Enhancing Public Benefits

1. Limit state growth-related capital investments to areas designated for growth by local governments and LURC in their comprehensive plans and ordinances (preferably through legislation such as LD 1080 introduced in the 119th Legislature). Include language in LD 1080 that creates a downtown leasehold improvement fund capitalized by a one-time, nonlapsing allocation. *(Legislation submit year FY 00; One time allocation)*

2. Speed up funding of local comprehensive plans and implementation programs (from \$250,000 per year to \$500,000 per year) to assure full opportunity for local governments to designate and implement growth areas (as of 1999, 165, or about 33% of organized municipalities, have “consistent” comprehensive plans with designated growth areas.) Expand regional technical assistance to provide assistance to local governments. *(One time non-lapsing allocation)*

a. Provide funding for the development of Capital Improvement Plans and develop a mechanism for their capitalization for regions that have been prospectively zoned by LURC. *(Estimate unknown at this time)*

3. Protect state highway investments through access management, by a combination of acquisition/regulation of key rights-of-way in the corridors of the state’s arterials, and standards in local ordinances and LURC regulations that minimize intrusions and conflicts associated with development sprawl on state highways. *(Legislation submit year FY 00)*

4. Implement the Maine Department of Transportation’s “Explore Maine” initiative, creating a viable alternative transportation network to support Maine tourism. *(Reallocate existing funds begin year FY 02)*

5. Provide incentives for regional collaboration between K-12 education, higher education, and economic development to make the most effective and efficient use of school capacity and human resources and to encourage well planned growth and development. *(Reallocate existing funds begin year FY 02)*

B. Keep Rural Lands Ecologically and Economically Productive

1. Property Tax reform:

a. Farm & Open Space Tax Act:

- reduce the penalty for withdrawal to the minimum required in the Constitution *(Legislation submit year FY 00)*
- reimburse municipalities for reduced tax base due to farmland classification at equivalent level as done for tree growth classification and provide updated guidelines for assessors to use for valuing farmland in each region of the state. *(Ongoing allocation)*

b. Wildlife Habitat and Waterfront Tax benefit:

- include tax benefits for landowners entering into cooperative

agreements with IF&W and DMR for designated high value wildlife habitats and waterfronts. (*Legislation submit year FY 01*)

- reimburse municipalities for reduced tax base due to habitat and waterfront classification at equivalent level as done for tree growth classification and provide updated guidelines for assessors to use for valuing habitats and waterfronts in each region of the state. (*Ongoing allocation begin year FY 01*)

c. Study the feasibility and cost of changing the Maine Constitution to permit “current use” taxation. (*Administration Study begin year FY 00*)

2. Through a Strategic Plan for Land for Maine’s Future, target substantial portions of land acquisition funds for purchase of:

a. threatened rural lands around spreading urban areas, including the purchase of development rights from willing farmers; (Note: \$50 million LMF bond issue sets aside 10% for purchase of development rights from farms.)

b. marine waterfronts which can be used for shellfish harvesting

c. fresh and marine waterfronts which can be used for public access, recreational use and wildlife habitat

d. highway access rights in partnership with MDOT as a cost effective approach to highway access management and corridor preservation.

(*Reallocation of funding provided through General Fund Bonding begin year FY 00*)

3. Strengthen the right-to-farm law for areas located outside of locally-designated growth areas and LURC development zones. (*Legislation submit year FY 00*)

4. Eliminate the sales tax on electricity used in agriculture production, commercial fishing and commercial aquaculture productions. (*Legislation submit year FY 00*)

C. Resurgent Service Centers

1. Implement the ‘Main Street Maine’ downtown initiative involving at least the following key elements:

a. multi-modal transportation investments program; (*Reallocate existing funds begin year FY 02*)

b. joint investment program by DECD/FAME/MSHA to support existing infrastructure improvements that serve high density mixed uses in downtowns; (*Administrative implementation begin year FY 02*)

2. Create and capitalize a Downtown Fund with a one time allocation from the State surplus and distribute to municipalities with “designated downtowns” through a low interest revolving loan program to facilitate investment in downtown infrastructure and related amenities (parking improvements, building code compliance, utility upgrades, lighting, facade improvements, parks, gathering places and other improvements). Municipalities apply for downtown designation; an interagency “Main Street Maine” Commission reviews the application based on eligibility criteria. The maximum loan amount to any municipality would range from \$500,000 to \$1,000,000. No less than 1% of the available balance in the “Downtown Fund” shall be set aside annually as seed funding for communities who wish to hire downtown managers. No less than \$1,000,000 of the Downtown Fund shall be set aside & reserved (\$250,000 annually for four years) to create a grassroots marketing and management program called the “Downtown Center”, styled after the National Historic Trust’s Main Street Program, housed at DECD. Amend existing law or create new statute. *(One time allocation begin year FY 00)*

3. Institute a state income tax credit, augmenting the federal tax credit, for brownfields redevelopment. The tax write off would cover the cost of investigation and clean up. *(Legislation submit year FY 01; Ongoing allocation begin year FY 02)*

4. Develop site selection criteria for leased and owned State office space and state civic buildings that creates a priority for, and gives a scoring advantage to, locations in downtowns first, then in designated growth areas and/or service centers while providing safe, healthy appropriate work space for employees and clients, healthy appropriate work space for employees and supporting agency program requirements. *(Administrative implementation begin FY 00) (Relates to Section A.1)*

5. Establish a stakeholder review of codes that may inhibit redevelopment of historic buildings and other downtown properties (ADA, Life Safety, Parking standards, etc.) and make recommendations for appropriate remedies. *(Administrative implementation begin FY 00)*

6. Create a homeownership program for service center downtown areas that is similar to MSHA’s New Neighbors program. This will encourage owner-occupied 3-4 unit buildings in high rental, low-income areas. *(Reallocate existing funds begin year FY 00)*

7. Help protect the fiscal condition of service centers that are losing population to out-migration by reducing the impact of population loss in the school funding and community revenue sharing formulas. *(Reallocate existing funds begin year FY 00)*

D. The Great American Neighborhood

1. Reform local land use ordinances to allow the development of traditional neighborhoods -- that is, compact, walkable, mixed-use neighborhoods -- that are designed for contemporary conditions, including accommodating auto

travel, but that preserve the heritage of the New England town and livable city neighborhoods. Do so by:

- a. preparing a model ordinance for traditional neighborhood development that can be incorporated into local land use ordinances;
- b. preparing a design manual for towns and home builders; including case studies of locations in Maine which approach this concept; and
- c. requiring, either through administrative or legislative action, municipalities to allow the development of traditional neighborhoods (that meet the standards of the model ordinance) in sewer service areas of communities where the state has helped fund sewer systems and treatment plants. (*Administrative implementation begin year FY 00*)

2. Revise LURC zoning districts to encourage development around designated settlement areas and development zones. Simultaneously, in more remote areas, discourage development, except that which can accommodate backcountry recreation or which is resource dependent. Revise performance standards, permitted uses, and densities to reinforce the LURC-version of the Great American Neighborhood and the special character of the jurisdiction. (*Administrative implementation begin year FY 00*)

3. Amend the Site Location of Development Law so that towns with populations greater than 5,000 would be “presumed to have capacity in 2003” only in locally-designated growth areas. (*Legislation submit year FY 00*)

4. Fund a “patient” sewer and water extension loan program (in which municipalities and sewer and water districts can finance extensions but are not required to repay the loans until development is on line and appropriate charges made to developers), provided that residential development locates in designated growth areas and is allowed in the service areas of the extensions at 3 or more units per acre. (*Ongoing allocation begin year FY 02*)

5. Issue an executive order that requires state agencies to review their regulations for secondary impacts that may tend to discourage the development of traditional neighborhoods and commercial centers, or that tend to encourage development sprawl throughout the state (See related section C5). (*Administrative implementation begin year FY 00*)

6. Through the State Planning Office’s community planning and investment program, establish a competitive pilot program to fund:

- a. the restoration of the physical landscapes of older urban neighborhoods consistent with the principles of the Great American Neighborhood; (*Ongoing allocation begin year FY 02*)
- b. the restoration of commercial areas through the concept of “downtowning the strip” . (*Ongoing allocation begin year FY 02*)

E. Report Card

1. Charge the Land and Water Resources Council with maintaining a biennial “report card” on progress toward this initiative’s measurable objectives within each of the state’s “extended communities” -- that is, areas defined by the State Planning Office that consist of one or more service centers and surrounding suburbs and rural towns that are bound together economically.

The report card will include measures undertaken to foster local leadership and capacity-building necessary to support the objectives and strategies for A-D above, as well as identify any unmet local needs. (*Administrative implementation begin year FY 00*)

Appendix J: Status of Smart Growth Competitive Advantage Strategic Plan

Goal 1: State Capital Investments - Enhancing Public Benefits	
Strategy (Projected Timetable)	Accomplishments
1. Limit state growth-related capital investments to areas designated for growth by local governments and LURC in their comprehensive plans and ordinances (preferably through legislation such as LD 1080 introduced in the 119th Legislature). Include language in LD 1080 that creates a downtown leasehold improvement fund capitalized by a one-time, non-lapsing allocation. (Legislation submit FY00; One time allocation)	<ul style="list-style-type: none"> P.L. 1999 c. 776, section 10, enacted 30-A MRSA §4349-A, limits the geographic areas where State "growth-related capital investment" may be made or a State facility sited.⁹⁹ With enumerated exceptions, 30-A MRSA §4349-A, sub-§1 requires that State agencies make "growth-related capital investments" only in one of the following areas: <ol style="list-style-type: none"> Service center downtowns, service center growth areas, or downtowns or growth areas in non-service centers (see also C.1); "Growth areas" locally-designated in an adopted, consistent comprehensive plan; or In communities with no "growth area" designated in an adopted, consistent comprehensive plan, in: a) an area with adequate existing public sewer service; b) an area that the Census lists as a "census-designated place" , or; c) a "compact area" as defined by 23 MRSA §754. Several exceptions are noted in the law. LWRC distributing procedure for review/certification of exemptions to MRSA §4349-A and schematic describing decision making process Circulated to regional councils for distribution to Municipalities: a) Tabular summary of State Investment and Grant Programs noting Municipal eligibility requirements and preferences, b) procedure for review/certification of exemptions to MRSA §4349-A and schematic describing decision making process DECD guidance memo distributed to municipalities (July '00) regarding impact of growth-related capital investments on eligibility for CDBG funding
2. Speed up funding of local comprehensive plans and implementation programs (from \$250,000 per year to \$500,000 per year) to assure full opportunity for local governments to designate and implement growth areas (as of 1999, 165, or about 33% of organized municipalities, have "consistent" comprehensive plans with designated growth areas). Expand regional technical assistance to provide assistance to local governments. (One time non-lapsing allocation)	<ul style="list-style-type: none"> P.L. 1999 c. 776 appropriated \$1.7 million for grants for financial and technical assistance to municipalities, grants to regional councils and smart growth initiatives; Program Statement and Application Materials circulating; application deadline Jan 5, 2001; Regional Technical Assistance funding increased by \$445,000 over FY01, FY02 time period; CIP project was rejected by Commission whose members said that LURC is about land use not financial affairs

⁹⁹30-A MRSA §4301, sub-§5-B, enacted by Section 7 of P.L. 1999 c. 776, defines "growth-related capital investment." The definition covers State expenditure of State, federal, or other public funds using the full range of State financial assistance tools for a limited range of projects, including specified public infrastructure investments, State office buildings, business or industrial parks, and multi-family rental housing.

<p>a. Provide funding for the development of Capital Improvement Plans and develop a mechanism for their capitalization for regions that have been prospectively zoned by LURC. <i>(Estimate unknown at this time)</i></p>	
<p>3. Protect state highway investments through access management, by a combination of acquisition/regulation of key rights-of-way in the corridors of the state's arterials, and standards in local ordinances and LURC regulations that minimize intrusions and conflicts associated with development sprawl on state highways. <i>(Legislation submit year FY00)</i></p>	<ul style="list-style-type: none"> • P.L 1999 c. 676 expands the purposes of the access management law and clarifies that the Maine Department of Transportation is directed and municipalities are authorized to make rules that establish priorities that assure avoidance, minimization and mitigation of the negative impacts of access on highway operations consistent with functional classifications. • MDOT has published the final Access Management Rules for driveways and entrances in August 2002. • MDOT continues its strategic planning and implementation of transit systems statewide. The Acadia Explorer transit system in Hancock County is a successful model of new transit thinking with supports tourism and econ development while reducing environmental impacts and providing mobility. • MDOT recently secured Federal Transit Administration funds to continue the innovative operations of the Acadia Explorer. • Gov King's FY02-03 bond package proposes \$1.65M to match \$8M in newly available Federal Transit Administration funds for transit vehicle replacements. • MDOT directed to begin a strategic planning process to address challenges such as administrative streamlining of transit funding, marketing and redesign of transit, innovative financing of transit projects, connectivity to airports and rail. • MDOT directed to work with DHS and DEP to identify funding sources for innovative transit and transportation projects that address sprawl and air quality issues (no deadline designated)
<p>4. Implement the Maine Department of Transportation's "Explore Maine" initiative, creating a viable alternative transportation network to support Maine tourism. <i>(Reallocate existing funds begin FY02)</i></p>	<ul style="list-style-type: none"> • Recently completed projects (partial list): Amtrak service to Portland in April of 2001. Continued success of high speed and traditional ferry service between Portland, Bar Harbor, and Nova Scotia. Charter bus and intercity bus public and private investments statewide. \$1M in state funds leveraging additional private and federal funds for airport marketing. New bike paths in Topsham, Portland, and elsewhere. MDOT's first statewide bike map. Rapid growth of the Acadia Explorer transit system allowing car-free vacations and commuting in Hancock County. • Funded Projects (partial list): Intermodal passenger facility development in Auburn, Trenton, Rockland. Portland OceanGate new ferry and cruise terminal. New bike trails in Augusta, Ellsworth, Fryeburg, elsewhere. Passenger rail track upgrades from Portland to Rockland and from Portland to Auburn. Passenger rail feasibility studies from Bangor to Trenton. • FY02-03 proposed funding: \$4M to match \$6.1M for

	intermodal facility development in Freeport, Brunswick, Bath, Boothbay Harbor, Newcastle, Rockland, Bangor-Brewer. \$5M in federal enhancement funds matching as much in local/state funds for trails and bike/pedestrian paths, including development of Eastern (East Coast) Trail, Mountain Division Trail, and Downeast Trail. \$1M for improvements to rail lines between Brunswick and Augusta. \$3M for recreational enhancements to bridges to improve snowmobiling and fishing access statewide.
5. Provide incentives for regional collaboration between K-12 education, higher education, and economic development to make the most effective and efficient use of school capacity and human resources and to encourage well planned growth and development. (Reallocate existing funds begin FY02)	

Goal 2: Keep Rural Lands Ecologically and Economically Productive	
Strategy (Projected Timetable)	Accomplishments
<p>1a. Property Tax reform: Farm & Open Space Tax Act:</p> <ul style="list-style-type: none"> • reduce the penalty for withdrawal to the minimum required in the Constitution (Legislation submit FY00) • reimburse municipalities for reduced tax base due to farmland classification at equivalent level as done for tree growth classification and provide updated guidelines for assessors to use for valuing farmland in each region of the state. (Ongoing allocation) <p>b. Property Tax reform: Wildlife Habitat and Waterfront Tax benefit:</p> <p>a.include tax benefits for landowners entering into cooperative agreements with IF&W and DMR for designated high value wildlife habitats and waterfronts. (Legislation submit FY01)</p> <p>b.reimburse municipalities for reduced tax base due to habitat and waterfront classification at equivalent level as done for tree growth classification and provide updated guidelines for assessors to use for valuing habitats and waterfronts in each region of the state. (Ongoing allocation begin FY01)</p> <p>c. Study the feasibility and cost of changing the Maine Constitution to permit "current use" taxation. (Administration Study begin FY00)</p>	<ul style="list-style-type: none"> • Done. Recapture penalty for withdrawal of farmland from the farm and open space tax program is reduced to the minimum penalty required by the State Constitution • Municipal reimbursement passed legislation but not funded at appropriations; • LWRC report (1/11/01) to Legislature recommends continued support for municipal reimbursement and to seek funding sources to fund it • Voters rejected constitutional amendment with respect to waterfront tax benefits Nov '00; • LWRC report (1/11/01) to Legislature recommends proposing waterfront tax benefits again and providing municipal reimbursement for this, tree growth and wildlife habitat land based on cooperative agreements between I/o and IF&W • LWRC report (1/11/01) to Legislature recommends providing municipal reimbursement for the above, tree growth and wildlife habitat cooperative agreements • LWRC report (1/11/01) to Legislature also recommends stabilizing terms of tree growth program by fixing the terms under which newly enrolled lands are to be managed • Rural Lands Working Group discussed and agreed that changing the Constitution from FMV basis to current use was impractical. • Instead, LWRC report (1/11/01) to Legislature recommends providing municipal reimbursement for current use programs as noted above
2. Through a Strategic Plan for Land for	

<p>Maine's Future, target substantial portions of land acquisition funds for purchase of:</p> <ol style="list-style-type: none"> threatened rural lands around spreading urban areas, including the purchase of development rights from willing farmers; (Note: \$50 million LMF bond issue sets aside 10% for purchase of development rights from farms.) marine waterfronts which can be used for shellfish harvesting fresh and marine waterfronts which can be used for public access, recreational use and wildlife habitat highway access rights in partnership with MDOT as a cost effective approach to highway access management and corridor preservation. <p>(Reallocation of funding provided through General Fund Bonding begin FY00)</p>	<ul style="list-style-type: none"> LMF has done its strategic plan in the form of its new policy and program statement and was successful in getting \$50 million bond approved. \$5 million is targeted for farm PDR's and local/regional significance in the new statement. Grant from \$1.7 million Smart Growth funds provided for a strategic study of farmland resources and acquisition needs and targets \$5 million is also set aside for public access. MDOT FY02-03 bond proposes \$1.5M to match \$1.5M in local funds for the Small Harbor Improvement Program to improve piers and wharves which provide public commercial access to marine waters. FY02-03 bond also proposes \$3M for recreational enhancements to bridges to improve snowmobiling and fishing access statewide. The objectives of corridor preservation and LMF are distinct. However, each project scores higher when other areas of public interest are advanced.
<p>3. Strengthen the right-to-farm law for areas located outside of locally-designated growth areas and LURC development zones. (Legislation submit FY00)</p>	<ul style="list-style-type: none"> Right to farm law strengthened, though growth areas not exempted.
<p>4. Eliminate the sales tax on electricity used in agriculture production, commercial fishing and commercial aquaculture productions. (Legislation submit FY00)</p>	<ul style="list-style-type: none"> Sales tax on electricity used in ag, fishing & aquaculture production eliminated.

Goal 3: Resurgent Service Centers

Strategy (Projected Timetable)	Accomplishments
<p>1. Implement the 'Main Street Maine' downtown initiative involving at least the following key elements:</p> <ol style="list-style-type: none"> a multi-modal transportation investments program; (Reallocate existing funds begin FY02) a joint investment program by DECD/FAME/MSHA to support existing infrastructure improvements that serve high density mixed uses in downtowns; (Administrative implementation begin FY02) 	<ul style="list-style-type: none"> P.L. 1999 c. 776 establishes the Maine Downtown Center to encourage downtown revitalization in Maine communities through advocacy, information, training and technical assistance to communities. Coordinator hired. Established an Advisory Board Begun the early stages of implementing the National Maine Street Program See also A4 Explore Maine. The State Planning Office worked collaboratively with DECD, MDF and other state agencies to coordinate the programs of the Center (\$100,000 appropriation). Directed to develop an investment policy to assist municipalities and private property owners in the redevelopment of downtowns. Report submitted to the Legislature (BEC) 1-15-01.
<p>2. Create and capitalize a Downtown Fund with a one time allocation from the State surplus and distribute to municipalities with "designated downtowns" through a low interest revolving loan program to facilitate investment in downtown infrastructure and related amenities (parking improvements,</p>	<ul style="list-style-type: none"> P.L. 1999 c. 776 authorizes the Maine Municipal Bond Bank to make loans to municipalities from the Municipal Investment Trust Fund for downtown improvements, including façade improvements, utility relocation improvements, elevator installation, historic preservation improvements, sprinkler system installation, parking improvements, roads, traffic control devices, parks and

<p>building code compliance, utility upgrades, lighting, facade improvements, parks, gathering places and other improvements). Municipalities apply for downtown designation; an interagency "Main Street Maine" Commission reviews the application based on eligibility criteria. The maximum loan amount to any municipality would range from \$500,000 to \$1,000,000. No less than 1% of the available balance in the "Downtown Fund" shall be set aside annually as seed funding for communities who wish to hire downtown managers. No less than \$1,000,000 of the Downtown Fund shall be set aside & reserved (\$250,000 annually for four years) to create a grassroots marketing and management program called the "Downtown Center", styled after the National Historic Trust's Main Street Program, housed at DECD. Amend existing law or create new statute. (One time allocation begin FY00)</p>	<p>open space amenities, purchase of development rights for parks and open space, streetscape, sidewalks and curbs and utility upgrade and extensions.</p> <ul style="list-style-type: none"> • NOT FUNDED by 119th Legislature • Maximum loans and criteria to be established through Municipal Investment Trust Fund administration (if funded) • Created Downtown Center as noted above; municipalities can apply for Maine Street USA downtown designation; • Governor's Bond Packages that have been approved by the voters include \$2,300,000 to acquire the technology and services required to establish an Internet-based Maine library of geographic data, to improve citizens' access to public geographic data, to make grants to municipalities for voluntary automation of parcel and zoning maps to uniform standards, to provide the state match for at least \$1,600,000 in federal funds and to participate in intergovernmental data development agreements; and \$4,000,000 for the Municipal Investment Trust Fund to provide loans and grants to municipalities for public infrastructure to support economic development and other purposes of the fund.
<p>3. Institute a state income tax credit, augmenting the federal tax credit, for brownfields redevelopment. The tax write off would cover the cost of investigation and clean up. (Legislation submit FY01; Ongoing allocation begin FY02)</p>	<ul style="list-style-type: none"> • Report evaluating and making recommendations on Brownfields initiatives presented to for Legislature in January, 2001.
<p>4. Develop site selection criteria for leased and owned State office space and state civic buildings that creates a priority for, and gives a scoring advantage to, locations in downtowns first, then in designated growth areas and/or service centers while providing safe, healthy appropriate work space for employees and clients, healthy appropriate work space for employees and supporting agency program requirements. (Administrative implementation begin FY00) (Relates to Section A.1)</p>	<ul style="list-style-type: none"> • P.L. 1999 c. 776 requires the Bureau of General Services to develop site selection criteria for state facilities that give preference and a scoring advantage to priority locations, identified as service center downtowns, service center growth areas and downtowns and growth areas in other communities. This policy must be effective by January 1, 2001. • Distribute policy to all affected agencies • PL 776 requires the State Board of Education to develop rules regarding the siting of new schools. Priority locations to be considered are locally-designated growth areas identified in a comprehensive plan or, in the absence of a comprehensive plan, areas served by a public sewer system, areas identified as census designated places or compact areas of urban compact communities. • Rules adopted are major substantive rules and must be submitted to the Legislature by 2-1-01 for review by NAT and EDU. • MDOT and Education initiated discussions to streamline the traffic permitting of school projects while encouraging school siting and design which support compact development and bicycle and pedestrian access.
<p>5. Establish a stakeholder review of codes that may inhibit redevelopment of historic buildings and other downtown properties (ADA, Life Safety, Parking standards, etc.)</p>	<ul style="list-style-type: none"> • DECD held a Smart Codes seminar with experts from two states that have adopted "smart codes", New Jersey and Maryland (November 2000). Recommendations to create a rehab building code similar to NJ and MD were

and make recommendations for appropriate remedies. (Administrative implementation begin FY00)	<p>included in the report to the legislature on a Downtown Investment Policy.</p> <ul style="list-style-type: none"> A bill was been submitted by Representative Koffman to create an advisory committee to oversee the development of a building rehab code through Major Substantive Rule Making by December of 2001. Which agency will develop the rule and which agency will oversee the implementation is still under discussion.
6. Create a homeownership program for service center downtown areas that is similar to MSHA's New Neighbors program. This will encourage owner-occupied 3-4 unit buildings in high rental, low-income areas. (Reallocate existing funds begin FY00)	<ul style="list-style-type: none"> Directed to prepare a status report on MSHA's efforts to design and implement a home ownership program for service center downtowns that is designed to encourage owner-occupied 3-to-4-unit buildings in low-income areas. Also to include recommendations for making MSHA's programs for newly constructed single-family homes consistent with the purposes of 30-A MRSA §4349-A (restricts the state to making growth-related capital investments only in locally-designated growth areas, areas served by public sewer systems, or other areas for specially designated projects). Report submitted to the Legislature (Natural Resources and Business and Economic Development). The New Lease program provides subsidized loans to promote the acquisition and rehabilitation of small rental properties (4-19 units). The program is currently active in 8 towns: Auburn, Augusta, Bath, Bangor, Lewiston, Portland, Norway, and Westbrook. MSHA recently invited the other 61 service center towns to participate and has set aside \$16,000,000 for the program.
7. Help protect the fiscal condition of service centers that are losing population to out-migration by reducing the impact of population loss in the school funding and community revenue sharing formulas. (Reallocate existing funds begin FY00)	<ul style="list-style-type: none"> The budget establishes a second-tier of revenue sharing that will cap the amount that the Local Government Fund can grow beyond the Consumer Price Index and transfer additional funds raised from the 5.1% of state income and sales tax revenues dedicated to local governments to the Disproportionate Tax Burden Fund. These funds will be distributed to according to a formula that reflects relative tax burden and should provide relief primarily to service center communities. A one-time appropriation of \$3.6 million was made in FY01 to seed the fund.

Goal 4: The Great American Neighborhood (also collectively know as: Home Town Maine Initiative)	
Strategy (Projected Timetable)	Accomplishments
1. Reform local land use ordinances to allow the development of traditional neighborhoods -- that is, compact, walkable, mixed-use neighborhoods -- that are designed for contemporary conditions, including accommodating auto travel, but that preserve the heritage of the New England town and livable city neighborhoods. Do so by: a. preparing a model ordinance for traditional neighborhood development that can be incorporated into local land use ordinances;	<ul style="list-style-type: none"> SPO solicited proposals and selected a consultant to develop a municipal smart growth handbook. Preliminary meetings were held with the consultant and project advisors. Consultant working on Design Manual (street widths, lot sizes, visual dimensions, "how-to" build plans) Consultant hired to design education campaign to target primarily homebuyers and the general public -- championing the benefits of "Great American Neighborhoods". Final report submitted. Directed to make recommendations regarding land use

<p>(Administrative implementation begin FY00)</p> <p>b. preparing a design manual for towns and home builders; including case studies of locations in Maine which approach this concept; and</p> <p>c. requiring, either through administrative or legislative action, municipalities to allow the development of traditional neighborhoods (that meet the standards of the model ordinance) in sewer service areas of communities where the state has helped fund sewer systems and treatment plants.</p>	<p>ordinances and zoning ordinances near newly constructed schools.</p> <ul style="list-style-type: none"> Report submitted to the Legislature (NAT) (completed by 2-1-01). Work on this task will be coordinated with work to develop Model Ordinances
<p>2. Revise LURC zoning districts to encourage development around designated settlement areas and development zones. Simultaneously, in more remote areas, discourage development, except that which can accommodate backcountry recreation or which is resource dependent. Revise performance standards, permitted uses, and densities to reinforce the LURC-version of the Great American Neighborhood and the special character of the jurisdiction.</p> <p>(Administrative implementation begin FY00)</p>	<ul style="list-style-type: none"> The "Rangeley Plan" does not discourage growth to the extent recommended in the Strategy; Districts encourage development in Growth Areas rather than specifically discouraging growth in more remote areas; LURC monitoring system to collect and assess data on permits, etc. to determine if growth occurs in the way the plan stipulates
<p>3. Amend the Site Location of Development Law so that towns with populations greater than 5,000 would be "presumed to have capacity in 2003" only in locally-designated growth areas. (Legislation submit FY00)</p>	<ul style="list-style-type: none"> P.L. 1999 c. 776 amended 38 M.R.S.A.. S 488 §19 so that municipal capacity (and exemption for Site Law Review) is granted if project meets criteria already in the law, <u>and</u> if it is located within a designated growth area of an adopted, consistent comprehensive plan.
<p>4. Fund a "patient" sewer and water extension loan program (in which municipalities and sewer and water districts can finance extensions but are not required to repay the loans until development is on line and appropriate charges made to developers), provided that residential development locates in designated growth areas and is allowed in the service areas of the extensions at 3 or more units per acre. (Ongoing allocation begin FY02)</p>	<ul style="list-style-type: none"> EPA approval received for DEP and SPO to design a pilot \$3 million "patient" server extension loan fund. Fund will be part of DEP's sewer revolving loan fund, which has the money available; Project in place.
<p>5. Issue an executive order that requires state agencies to review their regulations for secondary impacts that may tend to discourage the development of traditional neighborhoods and commercial centers, or that tend to encourage development sprawl throughout the state (See related section C5). (Administrative implementation FY00)</p>	<ul style="list-style-type: none"> SGCC discussed/decided: <ol style="list-style-type: none"> develop <i>checklist</i> that asks whether proposed/revised rules induce sprawl; invite public to comment on how the proposed/revised rule induces sprawl; invite developers to help forge the discussion MDOT amended 23 MRSA 704-A and its implementing rules to provide incentives to locate major developments within growth areas and urban compact areas.
<p>6. Through the State Planning Office's</p>	

<p>community planning and investment program, establish a competitive pilot program to fund:</p> <p>a. the restoration of the physical landscapes of older urban neighborhoods consistent with the principles of the Great American Neighborhood; (Ongoing allocation begin FY02)</p> <p>b. the restoration of commercial areas through the concept of "downtowning the strip" . (Ongoing allocation begin FY02)</p>	<ul style="list-style-type: none"> • P.L. 1999 c. 776 appropriated \$1.7 million for grants for financial and technical assistance to municipalities, grants to regional councils and smart growth initiatives; • Program Statement and Application Materials circulating; application deadline Jan 5, 2001; • Includes Smart Growth Challenge Grant Program and Great American Neighborhood Partnership Grant Program • Not funded • No action proposed.
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Goal 5: Report Card

Strategy (<i>Projected Timetable</i>)	Accomplishments
<p>1. Charge the Land and Water Resources Council with maintaining a biennial "report card" on progress toward this initiative's measurable objectives within each of the state's "extended communities" -- that is, areas defined by the State Planning Office that consist of one or more service centers and surrounding suburbs and rural towns that are bound together economically. The report card will include measures undertaken to foster local leadership and capacity-building necessary to support the objectives and strategies for A-D above, as well as identify any unmet local needs. (Administrative implementation begin F 00)</p>	

Appendix K: Summary of Major School Construction Projects

This chart shows the outcome of twenty-six¹⁰⁰ school construction projects on which SPO has provided siting advice, 1999-2002. The shaded columns show those projects that were successful in siting new schools in a way that advances smart growth. Four communities chose to renovate an existing school building. Communities chose to site 17 new schools in locally-designated growth areas; 14 of which are located in a new or existing neighborhood.

School and District	Renovation Option			New Construction Option				
	Renovate	Renovate and Replace	Renovate and Expand	In Growth Area			In Rural Area	
				Existing Site, Neighborhood or Village	New Neighborhood	Nonresidential Area	Planning for Growth	Not Planning for Growth
Lake Street Elementary School in Auburn			X					
Calais Middle School ¹⁰¹								
Robertson Elementary School in Belfast (SAD 34)					X			
Biddeford Middle School					X			
Bowdoin Elementary School								X
Bucksport Middle School					X			
Cumberland/North Yarmouth Middle School (SAD 51)				X				
Dexter ¹⁰²								
Edgecomb Elementary School					X			
Gorham Middle School				X				
Hebron Elementary School (SAD 17)								X
Kennebunk Middle School (SAD 71)					X			
Kennebunk Elementary School (SAD 71)						X ¹⁰³		
Lincolntonville Elementary School				X				
Lisbon Elementary School							X	
Madison Elementary School							X	
North Anson Elementary School				X				

¹⁰⁰ SPO also assisted the City of Augusta with Cony High School and SAD 31 with the Penobscot Valley High School, however, the Department of Education has not yet finalized these projects, so they do not appear in the chart.

¹⁰¹ Information was not available at the time of printing

¹⁰² Information was not available at the time of printing

¹⁰³ The District will be closing two village elementary schools.

School and District	Renovation Option			New Construction Option				
	Renovate	Renovate and Replace	Renovate and Expand	In Growth Area			In Rural Area	
				Existing Site, Neighborhood or Village	New Neighborhood	Nonresidential Area	Planning for Growth	Not Planning for Growth
(SAD 74)								
Messalonskee Elementary School (SAD 47)			X					
Messalonskee Middle School (SAD 47)	X							
Old Town Elementary School				Nearby				
Sabattus Elementary School								X
Searsport High and Middle Schools			X					
Vinalhaven Elementary School (SAD 8)				X				
Waterboro Middle School (SAD 57)					X			
Windham High School				X				
Winthrop High School					X			
TOTAL	1		3	7	7	1	2	3

Description of Projects

The Lake Street Elementary School in Auburn was a renovation/expansion proposal which will play a significant role in support of traditional in-town residential neighborhood in which it is located.

The new Robertson Elementary School in Belfast is within the growth area and is designed to provide access to new residential neighborhoods and act as a cornerstone of a bike and pedestrian trail that will also link across Route 1 to the Troy Howard Middle School. Some people in Belfast would have preferred that the Anderson and Pierce elementary schools be renovated, retaining four separate neighborhood elementary schools in Belfast but consolidation of all three west side elementary schools resulted, due to many factors, including the condition of the existing structure, cost of renovation, and safety of the sites.

Biddeford selected a site for its new middle school on the campus of its existing elementary and middle schools, which are adjacent to established residential areas.

One of the first school siting projects on which SPO worked, the process of selecting a site for the new elementary school in Bowdoin was nearly complete when SPO got involved. Because of this, the site selection committee's work was nearly completed, limiting SPO's opportunity to work with the committee to explore school sites in the Town's growth area. Bowdoin has no established central village area and the growth area designated by the Town did not have any

available school sites, so a site was selected in a rural area about two miles from the existing school.

The new Bucksport Middle School is within the growth area, adjacent to the existing elementary and high schools and designed to provide ready access to new residential neighborhoods adjacent. A town-owned parcel on the outskirts of town was considered but rejected in favor of this site. The town very actively implements its comprehensive plan and works very closely with the school district to advance mutually supportive goals. The new school will host a community performing arts center paid for with local funds.

The new middle school for Cumberland and North Yarmouth will be located on the existing campus in Cumberland Center.

The 135-year old Edgecomb Elementary School, constructed on a very difficult site, was closed and a new school constructed approximately three quarters of a mile from the Route 27/Route 1 intersection. The old school was located in North Edgecomb, which is little more than a collection of a half dozen residences and a church, but is the closest thing Edgecomb has to an historic village. The new school is located directly across Route 27 from a designated growth area and is within walking distance of a number of residences, the post office, and a number of businesses. Edgecomb is one of Maine's "centerless" towns, but the new school is located in an area of town that residents have identified as a possible future center. Hopefully it will act as a magnet for additional development in the area.

Gorham's new middle school will be located in the heart of its existing village within walking distance to many in town. A great success story!

Hebron was challenged by existing site limitations and needed to identify a new site for its elementary school. Hebron's 1991 comprehensive plan was never adopted and SPO was not contacted about the site selection process until after the preferred site had been acquired for the new elementary school.

The mold-contaminated Lincolnville Elementary School will be rebuilt on the site of the existing school in the village area and adjacent to the town office rather than on one of two outlying sites that were considered.

The new Lisbon Elementary School is sited on a parcel near town water in an emerging village area in Lisbon Center. SPO advised the Town to update its comprehensive plan, which was adopted nearly ten years ago, to incorporate the school site and adjacent lands into a new Village Extension area to enable a compact neighborhood to develop around the new school. Existing and proposed trails will integrate the site into a town-wide trail system. Additional infrastructure improvements may be required to facilitate compact residential development.

The Madison Elementary School was a new construction project in a designated rural area, adjacent to the Village District that could be redefined as a Village Extension area. The site is within 200 feet of existing sewer and water and three phase power.

In the North Anson Elementary School (SAD 74), an existing two-story building received new vs. renovation analysis and is to be renovated on its existing site in the village. An attached wood frame structure built in the early 1900s and previously closed by the District as unsafe is being replaced. There are two other old, multi-story, wood frame buildings on the site, neither of which meets building code safety standards. Both are to be razed.

SAD 47 addressed severe capacity problems in the Messalonskee School District by proposing to renovate the existing middle school on the Oakland campus into an elementary school and renovating and expanding an existing off-campus elementary school.

Guided by its comprehensive plan and input at public meetings, Old Town settled on a site in the Town's designated growth area, which is centrally located near existing neighborhoods, and abutting a YMCA and bike trail, for its new elementary school. While the site is not ideal in the sense that it will be difficult for new neighborhoods to grow up around it because of extensive university land holdings, it is within walking distance of some existing neighborhoods. Appropriately designed pedestrian and bicycle sidewalks and trails were recommended by SPO to help strengthen ties to these neighborhoods.

The Sabattus Middle School was sited on a parcel that is near town water, which may help support development of a new residential neighborhood adjacent to the new school site. Since the Town's comprehensive plan was prepared in the early 1990's, SPO encouraged the Town to initiate renewed planning activity to accommodate anticipated development spurred by construction of the new school and a new Maine Turnpike interchange nearby.

The Vinalhaven Elementary School is being rebuilt on the same site as the existing school, within the village, rather than on one of two outlying sites that were considered.

The existing Winthrop High School is being replaced with a new school built on the same site as the existing middle school. Winthrop did an extensive search to identify sites in its town that would meet the criteria for a new site. The middle school site, while not as central to the growth area and village of Winthrop, is within the growth area and can be walked to from downtown.

Appendix L: Use of Incentives to Keep Rural Lands Productive

<http://www.state.me.us/spo/lwrc/pdf/Rural%20Land%20Incentives%20Report.pdf>

REPORT ON THE USE OF INCENTIVES TO KEEP LAND IN PRODUCTIVE FARMING, FISHING AND FORESTRY USE

**Presented to the Joint Standing Committees on
Natural Resources,
Taxation, and
Agriculture, Conservation and Forestry
of the
120th Maine Legislature**
pursuant to 1999 PL chapter 776, section 17

Prepared by
LAND AND WATER RESOURCES COUNCIL
February 15, 2001

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I. EXECUTIVE SUMMARY

Project Background

Introduction

In 1999, the Maine State Legislature enacted L.D. 2600, “An Act to Implement the Land Use Recommendations of the Task Force on State Office Building Location, Other State Growth-related Capital Investments and Patterns of Development.” Section 17 of this bill, now 1999 PL chapter 776, charges the Land and Water Resources Council (*hereinafter LWRC or Council*) to submit a report to the joint standing committees of the Legislature having jurisdiction over natural resource matters, agriculture, conservation and forestry matters and taxation matters by January 15, 2001 *with an evaluation of and recommendations on the use of incentives to keep land in productive farming, fishing and forestry use.*

This report is limited in scope due to the fact that it had to be prepared within existing resources at a time when state agency staff were extraordinarily busy. In order to keep the project at a manageable level within resource and time constraints, attention was focused on (1) existing programs with which state staff are familiar and (2) approaches that either have been discussed during recent years or are known to be extremely effective in other states. This report should not be construed to represent an exhaustive consideration of the incentive options available to the State of Maine.

As the Council believes that its recommendations concerning new and existing incentives are the most important aspect of this report, these recommendations are highlighted in this executive summary together with a synopsis of background information. The summary also includes several ideas that the Council believes warrant additional study. The main body of the report provides additional information on each recommendation, including projected costs and possible funding sources.

Relationship to 1999 Resolves chapter 99 Study (based on LD 1665)

It should be noted that a related study evaluating business support for these same natural resource based industries was assigned to the State Planning Office pursuant to Resolve 99. This effort involved additional parties and the report provides an in-depth analysis of labor, education and general business support programs for the farming, fishing and forestry industries. The analysis and findings of the LD 1665 report, entitled “Fishing, Farming and Forestry: Resources for the Future,” are directly relevant and should be considered in tandem with this Rural Land Incentives Report. For ease of reference, a copy of the Rural Lands Incentive Study is being included as Appendix H of the “Fishing, Farming and Forestry: Resources for the Future” report.

Given the limited time available, the Land and Water Resources Council (LWRC) assigned a Rural Lands Working Group (*see Appendix B*) to the project, which in turn delegated research of industry-specific incentives to the department of jurisdiction. The working group met once to review an initial inventory and evaluation of existing incentives and develop recommendations regarding new ones. The working group met a second time to winnow the proposals and agree upon recommendations before a draft of this report was presented to the LWRC on December 21, 2000. Time did not allow for a public input process in developing this report, though many of the proposals have been discussed by interest groups in the past. It is expected that the Legislature will organize one or more opportunities for public input as it determines what direction this important policy matter might take. It is hoped that this report can serve as a starting point for further research and deliberation by interested parties who will provide additional valuable contributions.

Relationship to Administration Policy

As this evaluation sought to explore some new territory and consider long-term possibilities, there are options presented for the Legislature to consider within this report that are not necessarily Administration policy. Many of the incentives would require new funding that is not contained within Governor King’s budget but are offered to be responsive to the Legislative charge. *Thus, the contents of this report should be characterized as recommendations for further consideration but are not Administration proposals except where specifically noted.*

Guiding Philosophy

The orientation of the Executive Branch (and it would seem the 119th Legislature) is that the best ways to keep rural lands in productive farming, fishing and forestry use are through policies and programs that support the economic viability of these rural industries while maintaining ecological productivity. This can be done in a number of ways, including but not limited to research and development, workforce training, labor standards policies, educational programming, land use policies, land and development rights acquisition strategies, taxation policies (numerous subsets of these), financing programs, marketing assistance and state purchasing policies.

Recommendations at a Glance

A. Strengthening Existing Incentives

The LWRC finds that the State has a number of programs that are designed to be incentives for productive farming, fishing and forestry. Of the three industries, fishing has received the least assistance in terms of either industry support or land use policy protection. The first set of recommendations proposes actions that would strengthen Maine's existing incentives.

A.1. Provide Reimbursements for Current Use Programs

Of the state's current use tax programs designed to promote conservation of forestlands, farmlands, wildlife habitat and open space, only the Tree Growth Program provides a reimbursement to municipalities for tax revenues shifted to other local property taxpayers as landowners enroll in the program. Not surprisingly, this is the only program that has been widely used. By ensuring reimbursement for all current use tax programs, the state could promote the use of these programs and ensure that municipal taxpayers do not have to bear the entire cost of land conservation efforts.

In addition, the Legislature should be aware of the position of the Maine Municipal Association, which argues that the current methodology of averaging of tree growth land values on a county-wide basis severely under-reimburses municipalities with high land values, typically coastal communities. Maine Revenue Services believes that the education funding formula more than compensates for this under-reimbursement. Whether real or perceived, the municipal viewpoint interferes with a positive partnering relationship between the state and local governments in discouraging premature conversion of forested land. While this issue is raised concerning the Tree Growth Program, the only current use program that offers any reimbursement whatsoever, the protocol for state reimbursement should be consistent across the current use programs.

Funding to reimburse municipalities for land enrolled in the Farm and Open Space Tax Program is modest (\$290,000) and was both included within the Governor's FY01 supplemental budget and passed by both houses of the Legislature. Unfortunately, this line item did not survive the Appropriations Committee process. The failure to fund farmland reimbursement undoubtedly influenced Maine Municipal Association's position and resultant active lobbying to defeat Question 4 (Constitutional amendment to allow current use program for commercial fishing land) in November. Municipalities need evidence that state government is willing to consistently share in the tax shifts caused by current use programs. *Funding: \$290,000 in FY02, slight increases annually to likely maximum of \$1,000,000, compared to \$5.4 million in Tree Growth reimbursement program. Good value for the dollars spent.*

A.2. Stabilize Terms of Current Use (particularly Tree Growth) Programs

Although the Tree Growth Tax program is considered to be very effective in keeping forestland undeveloped and in productive use, proposed changes in the law – whether from legislative proposals or referenda – have the effect of undermining landowner confidence in the program, and may have the dual unintended consequences of (1) encouraging premature timber liquidation, and (2) discouraging new enrollments. The state could improve program stability by fixing the terms under which newly enrolled lands are to be managed at the time of enrollment, essentially creating a binding contract between the state and enrolled landowners. How this might be offered to current enrollees would have to be explored but could easily be introduced for future enrollees. *No substantial fiscal note.*

A.3. Close LURC Subdivision Loophole

The LURC law currently contains a provision that allows 10 lots to be created every 5 years if these lots are 40 acres or more in size and located outside at least ¼ mile from a shoreland area. This loophole creates a disincentive to maintaining forestland in productive forest use. It has been used primarily to create lots in forestry and agricultural areas that are used for seasonal or year-round home development. (Note: This amendment is proposed as part of a Department bill.) *No substantial fiscal note.*

A.4. Improve Outreach for Land for Maine's Future Program

Although the state has made a substantial investment in farmland preservation, the Land for Maine's Future (LMF) Program has identified a need for more outreach to help solicit and assist in the development of proposals involving the areas of special need that have legislated set-asides within the bond money -- preservation of farmland (*see Section III*) and water (including but not limited to coastal) access sites, for which commercial fishermen are one type of beneficiary. There are several possible solutions to this problem (see also Farm Link Program, with which farm outreach should be paired, and SHIP refunding recommendations below):

- Fund two positions at the state level, probably within the respective state natural resource agency (DAFRR and DMR);
- Explore whether USDA and/or University (e.g. Extension) employee time might be able to be deployed in this area.
- Contract with another organization (e.g. the Maine Farmland Trust) to provide this service; or
- Establish a program that would provide small grants to improve the staff capacity of local and regional land trusts and other nonprofits, which rely heavily on volunteer labor.

Funding for the preferred choice among these program/staff responses could be combined with Farm Link Program. Given the critical timing with so much land in transition, at least two full-time people statewide should be working on these combined strategies for perhaps a 5-year time period.

A.5. Support Refunding of Small Harbor Improvement Program (SHIP)

This recommendation is characterized as an existing program but needs another round of funding. The Small Harbor Improvement Program (SHIP), administered by the Maine Department of Transportation (MDOT), is a municipal matching grant program that has funded a variety of public infrastructure improvement projects along the Maine coast – mostly piers, floats, boat ramps and shore stabilization projects. The program, funded through transportation bond, awarded grants to over 40 projects in 1995 and 1998, totaling nearly \$3 million. Most of these projects have resulted in improved public access to coastal areas, and many have enhanced opportunities for those engaged in commercial fishing activities. As part of a new transportation bond that is being proposed for 2001, MDOT is planning to seek additional funding to fund another round of the SHIP program. *Funds to come from Transportation Bond, if approved by Legislature and voters, with a \$1.5 million component dedicated to the SHIP program.*

A.6. Adjust Forest Management Tax Credit

This existing program allows forest landowners to take a modest tax credit of up to \$200 every 10 years to offset the cost of forest management plans. The relative share of this credit against the cost of a forest management plan has decreased over the years with inflation; the program would be improved by recalculating the credit every 5-10 years based on inflation rates. *Assuming an initial 20% adjustment in the credit, the credit is likely to cost an additional \$10,000 annually for the first 5-10 year period.*

A.7. Improve Linkage of Comprehensive Planning to Farming, Forestry, Fishing and Wildlife Habitat Issues

The link between comprehensive planning and farming, forestry, fishing and wildlife habitat issues could be strengthened through more aggressive technical assistance but is limited by strained staffing resources and the lack of a working GIS. As part of its Comprehensive Planning and Investment Program, the State Planning Office (SPO), with the assistance of other agencies, could provide communities with better information regarding local resource-based activities, especially once a coordinated geographic information system such as outlined in Recommendation B.5. is operational. State agencies could also provide communities with more information about strategies to promote the health of rural based industries, sustain wildlife habitat and encourage open space protection and provide more technical assistance during the planning process. Given staff workloads, this effort needs to be strategically and efficiently deployed. *This work needs to be incorporated into coordinated agency workplans, starting in FY02 and can be done to a significant degree within existing resources given sufficient time. With a full set of working current use tax programs, cooperative arrangements will be easier to achieve in concert with the municipal comprehensive planning process.*

B. New Incentives: Highly Effective and Readily Achievable

B.1. Create Farm Link Program

This program, patterned after a successful program in Massachusetts, would match retiring Maine farmers who want to sell their farms with young farmers who want to buy one. It would facilitate the transition of farms into the hands of farmers rather than others who might not maintain the agricultural activities on the properties. This program is needed now due to the high number of retirement-aged farmers. It is an important companion piece to a farmland protection program. *Staffing outreach for this program could be combined with LMF farmland outreach. Given the critical timing with so much land in transition, at least two full-time people statewide should be working on these combined strategies for perhaps a 5-year time period.*

B.2. Inventory Rural Resources and Monitor Impacts of Development using Coordinated Geographical Information System

The State Planning Office, working with the Office of Geographic Information Systems, has proposed the development of a regionally based coordinated geographic information system. The development of such a system is also a recommendation of the Growth Management Task Force that convened in the fall of 2000. The primary purpose of this project is to track patterns of development, but the project would also provide a variety of information regarding productive rural lands, including mapping of high-priority areas for protection, site selection for rural industries and technical assistance. It would make real estate disclosure for commercial farming, fishing and forestry activities possible. LD 449, "An Act to Require Real Estate Disclosure for Purchasers of Land Abutting Agricultural Land," failed in the 2nd session of the 119th Legislature due to lack of an administrative mechanism to identify and efficiently notify affected landowners. A working Geographical Information System would enable implementation of a viable disclosure provision that would alert residential buyers to the existence of an adjacent farming, fishing, forestry or mining operation.

Based on the findings of the Sprawl Task Force in early 2000, the 2nd session of the 119th Legislature approved establishment of a GIS Coordinator position in LD 2600 but the funding was not made available. The Growth Management Task Force has recommended establishment of the program, including a coordinator, with general fund revenues. It is recognized that funding is a serious challenge this year. *Funding as described in LD 578 is under consideration by the 120th Legislature -- a \$15 surcharge on the recording of deeds subject to the real estate transfer tax modeled on how Wisconsin funds its Land Management Information System. The governor is also proposing that the system be capitalized with a \$2 million bond to be presented to the voters in November of 2001 if approved by the Legislature. Capitalization would include municipal assistance for digitizing parcel data.*

B.3. Enact Wildlife Habitat Tax Incentive

This new program would provide a financial incentive to landowners to work with the Department of Inland Fisheries and Wildlife (IF&W) in protecting significant wildlife habitat areas, with the goal of preserving special habitats and large contiguous blocks of land adequate to provide habitat for the full range of Maine's wildlife species. It would involve the adoption of legislation that would provide a tax reduction to landowners who own important wildlife habitat areas as identified by town planning efforts or IF&W and who agree to enter into a management agreement with that agency. The program would be run similar to the Tree Growth Tax program, and would provide for a reimbursement to municipalities that lose tax revenues as a result of the law. The program could be fit within the existing Farmland and Open Space law, or be set up as a new program. Such a program would make it much easier for landowners and municipalities to develop more aggressive land use policies at the local level. *This would require modest funding and would return great dividends in terms of land protected and a healthy public/private partnering attitude. The program could be phased-in over 3-4 years with funding increasing as enrollment in the program by landowners increases. There may be one-time federal funds available (CJS/CARA and Coastal) that could be used to fund a 2 year pilot to explore the rate of enrollment and effectiveness working with landowners.*

B.4. Support Current Use Program for Commercial Fishing Property

Coastal properties used for commercial fishing activities are currently taxed at their "best and highest use," putting them in the same category as multi-million dollar waterfront homes in the same area. As a result, high real estate taxes can create a significant disincentive for such properties to be retained for commercial fishing uses.

A referendum question to amend the Maine Constitution to allow for current use taxation on properties used for commercial fishing failed in November 2000 by .09% of the vote. An analysis of the vote suggests that people, particularly in inland areas, were not aware of the issue and voted against the referendum. The Administration took no position on the amendment. The fishing industry was not well financed to carry out an education campaign. Maine Municipal Association (MMA) lobbied effectively against its passage, with the likely lack of state reimbursement being one of the significant factors influencing MMA's negative position. Another difficulty is that the nature of a vague enabling clause, with future legislation to determine the details, essentially renders the debate about outcomes to a great deal of conjecture. A coalition could develop and agree upon the program to be presented if the amendment were to pass. A guarantee of state reimbursement in the Constitutional amendment might be necessary to gain municipal trust, given the State's spotty track record in funding municipal reimbursements.

Depending on industry support and other factors, a new referendum question could be in front of the voters in the fall of 2002. If this occurs, the state should consider putting more resources into educating the public about the need for this change and making a commitment for state reimbursement (difficult without inclusion in the amendment, as future legislatures cannot be bound). *Fiscal note unknown at this time, one of the difficulties in solidifying support.*

B.5. Enact Freedom to Fish Law

Maine currently has a Right to Farm law that strengthens the position of farms when faced with nuisance complaints and ordinances that unreasonably restrict farming operations. A Freedom to Fish Law could help to address use conflicts between fishing/aquaculture operations and other uses, and notify new or prospective landowners about existing commercial fishing operations in an area. *No substantial fiscal note.*

B.6. Address Aquaculture Application Review Issues

DMR's process for reviewing aquaculture leases is identified by the aquaculture industry as one of the disincentives for aquaculture development in Maine. The ability of DMR to process applications in a timely matter is a function both of available staffing and the nature of the application and review process. DMR is in the process of submitting a report to the legislature that will offer some possible solutions to the staffing and administrative constraints that affect aquaculture. *Possible funds source: Increase in license fee or use of review escrow account for \$100,000 annually for additional staff to assist in administration of aquaculture licensing program.*

B.7. Adopt Overall Policy Statement and Implementation Strategy

Currently, the state has no official statement of support for resource-based enterprises, and their importance not only to the state's economy but to the viability of Maine's rural communities, working landscapes and cultural heritage. Such a statement, ideally supported by specific policy directives and a monitoring mechanism, would provide strength and momentum for efforts by the state and other entities to achieve these objectives. It could also provide a framework to integrate strategies such as state purchasing policy, educational curricula, tax policy, value added research and development, Maine-made marketing promotion, workforce training, health care and human service policy, business support, stewardship technical assistance programs, etc. The Maine Rural Development Council would be a logical forum for such policy formulation and the LWRC suggests tasking them with this assignment.

B.8. Enact Transferable State Income Tax Credit for Conservation

This credit would provide an additional incentive beyond the current federal income tax deduction available for charitable gifts. The credit would be available to individuals and corporate landowners for donation of land or easements to public agencies or qualified charitable organizations with the purpose of protecting prime coastal or agricultural lands, important forest areas, historic sites, critical open spaces, watersheds and wildlife habitats. The credits could be carried over a number of years, which would benefit individuals who are land rich but do not have large income tax bills, and would be transferable.

C. Promising Ideas Requiring Further Study

C.1. Cooperative Health Care and Retirement Plans

Two of the modern day benefits provided by successful employers are health insurance and retirement benefits. Aside from those employed by the paper industry, most of Maine's employees employed in natural resource based industries are self-employed or in small businesses that are unable to offer these critical benefits. Farmers, wood harvesters and fishermen unable to set a price for their products cannot pass along the true costs of production to the marketplace and often survive on subsistence wages. Often through inheritance, they have their land as their only asset and are extremely reliant on liquidating that asset in order to retire on other than the lowest levels of social security. The State should seriously explore options such as trading pensions for development rights and providing a cooperative option for more affordable health insurance plans than are currently available through organizations such as Maine Farm Bureau.

C.2. Sprawl Offset / Environmental Impact Fee or Tax

The Legislature, with support from the Administration, could best advance exploration of fiscal disincentives by authorizing a study of mechanisms that warrant serious consideration between the first and second sessions. Members of the Committees on Natural Resources, Taxation, Appropriations and Agriculture, Conservation and Forestry would be critical participants to such a study panel. The Maine Coastal Program will seek authorization from NOAA to dedicate a portion of Maine's FY02 program funding to support consultant services for the study.

C.3. State purchasing policies

Although perhaps unsuccessful in the past, it may be worth again reviewing the State's purchasing policies to determine the extent to which the state and related public and quasi-public institutions support Maine made products, particularly those related to fishing, farming and forestry. Arguments can be made in favor of energy savings and freshness of food in addition to supporting local industries, rural communities and quality of life.

C.4. Maine-oriented Transfer of Development Rights Model

Transfer of Development Rights programs (TDRs) provide for a system of compensation to address the potential loss of land value that occurs when one area is zoned for no or limited development in order to preserve farmland or other rural values. Under the system, owners of restricted lands are able to "sell" development rights to allow higher density development in areas deemed more appropriate for growth.

Although this concept is used successfully in other parts of the country, there are a number of serious constraints to its use in Maine that need to be satisfactorily addressed before it can be feasibly administered. Maine's local government system, as well as its land market and

population base, all differ from places where TDR's have been typically utilized. A concentrated analysis of how TDRs might be adapted for use in Maine would help move this concept from idea to reality.

C.5. Incentives for use of Agriculture Zoning

Zoning that creates agriculture-only zones has the potential to protect active farms from new incompatible land uses. However, agricultural zones can also be opposed by farmers and other landowners in the area proposed for such zones who do not want to give up the option of developing their land in the future, especially when the future viability of farming is uncertain. Agricultural zoning has been used effectively in other parts of the country, typically used in conjunction with other pro-active strategies such as adjacency protection, purchase or transfer of development rights, business support programs, etc. Unlike some other states, Maine's agriculture is prevalent across much of the state, rendering Agricultural District models such as New York's inappropriate. Maine's home rule system requires unique treatment in each municipality, based on the comprehensive planning process. DAFRR, SPO and regional council staff should bolster technical assistance in this area.

C.6. Incentives for commercial fishing

Most of the current state program incentives that apply to natural resource based enterprises are focused on farming and forestry. There are relatively few state programs that target the commercial fishing industry. The existing incentives for farming and forestry should be studied to see if there are opportunities for applying some of them to the commercial fishing industry.

C.7. Research incentives used in other places

This report did not explore incentives used in many places in and out of the United States. For example, Canada and several European countries assign social values to natural resource based industries and recognize their value for tourism. A more thorough research effort would certainly be of benefit to Maine's policy makers in evaluating a full range of options.

II. INTRODUCTION

A. Background

In 1999, the Maine State Legislature enacted L.D. 2600, “An Act to Implement the Land Use Recommendations of the Task Force on State Office Building Location, Other State Growth-related Capital Investments and Patterns of Development.” Section 17 of this bill, now 1999 PL chapter 776, charges the Land and Water Resources Council to submit a report to the joint standing committees of the Legislature having jurisdiction over natural resource matters, agriculture, conservation and forestry matters and taxation matters by January 15, 2001 *with an evaluation of and recommendations on the use of incentives to keep land in productive farming, fishing and forestry use.*

The Legislative and Executive branches of Maine state government are clearly and rightly concerned about the impact that development sprawl is having on Maine’s ecology, fiscal health and community character. LD 2600 embodies the principle that healthy places, namely Maine’s traditional downtowns and rural communities, don’t die, but that as a society we need to invest in them to keep them healthy. The state’s new capital investment policy will ensure that state government will act more as a supporter of, rather than detractor from, quality downtowns and locally designated growth areas. The inclusion of Section 17 in the bill demonstrated recognition that the rural side of the equation is yet to be fully addressed.

For purposes of understanding Maine’s patterns of development and for preparing this report, “rural” lands shall indicate areas organized primarily for the societal production of food and fiber. Productive use stands in contrast to suburban use, which is typically residential, and oriented around the personal, rather than societal, and consumption rather than production. Productive and consumptive uses tend to conflict, and farming, fishing and forestry uses are at a relative disadvantage when competing for land within the residential housing market. In areas within an hour’s drive to employment centers, the residential housing market is providing an incentive to sell productive rural land for development, generally offering a higher rate of return than non-developed uses can provide. As the Legislature considers policies to enhance keeping rural places healthy, it is sensible to understand incentives a landowner might have for keeping land in productive use as a counter-balance to the development option.

B. Related Legislative Activity

LD 2600 was developed by a Task Force representative of seven standing legislative committees, but was primarily assigned to the Committee on Natural Resources. Meanwhile, other committees took a number of actions related to enhancing productive rural industries during the second session of the 119th Legislature.

1. A closely related report is being prepared by the Farming, Forestry and Fishing Advisory Council led by State Economist Laurie Lachance pursuant to Resolve 99 (LD 1665), "A Resolve to Promote Natural Resource-based Industries." This report will be presented to the Committee on Business and Economic Development and address the following areas:
 - a. Identifying the percentage of business development resources that are being invested in farming, fishing and forestry;
 - b. Examining the status of labor availability, average age of current workforce, and wages and benefits in these industries as well as existing educational programs aimed directly at supplying labor to these three industries;
 - c. Developing a proposal for secondary and post-secondary educational programs to supply labor to the industries under examination; and
 - d. Identifying both barriers to and opportunities for enhancing the growth and sustainability of the State's natural resource based industries.

Although the charges given to the advisory committee preparing the report and to LWRC regarding its report are somewhat different, there will be considerable overlap in the subject matter of the two reports. Some of the Advisory Council's preliminary findings regarding business support are reflected in these recommendations, but due to the concurrent time frame of these efforts, it was not possible to consider all the preliminary findings of the Advisory Council's report. A reading of both reports should provide a comprehensive view of this issue.

2. LD 2532, implementing the recommendations of the Agricultural Vitality Task Force, which included a number of steps for improving research, marketing, resources and agricultural viability. Some of these recommendations have now been passed into law; others are in various stages of development and implementation.
3. LD 2086, "An Act to Preserve the State's Farm Economy and Heritage," was passed unanimously by the Committee on Agriculture, Conservation and Forestry in May 1999. A one-time appropriation of \$200,000 is enabling the Maine Farms for the Future Program to be launched on a pilot basis. Modeled on a highly successful program in Massachusetts, this program offers targeted business plan development and implementation assistance to farmers. The farmer guarantees to protect his or her farmland from development for at least 5 years for each portion of assistance received. This program is just beginning.

4. LD 2669, implementing the taxation recommendations of the Sprawl Task Force, contained provisions virtually identical to the Governor's budget bill, LD 2510, with regard to amendments to the Farm and Open Space Tax Law. There were two primary provisions to the amendments, both found to be barriers to program enrollment: (1) removal of the 20% of assessed value penalty for early withdrawal, and (2) funding municipal reimbursement at the same level as is done for land enrolled in the Tree Growth Tax Program. While the amendments passed both houses, the municipal reimbursement was not viewed as a priority by the Appropriations Committee and this provision was stripped from the bill. Lack of municipal reimbursement acts as a disincentive for enrollment for both the municipality and the landowner, hampering the effectiveness of this program and further straining state-municipal relations related to implementing state fiscal and growth management policies. On a happier note, the State did fund, after numerous failures at the Appropriations table, the exemption of sales tax on electricity used in agriculture, fishing and aquaculture, as has been customarily done for other industries. The sales tax exemption went into effect on January 1, 2001.
5. LD 449, "An Act to Require Real Estate Disclosure for Purchasers of Land Abutting Agricultural Land," attempted to provide affirmative action for farmland activities that compete with suburban residential uses. Members of the Committee on Agriculture, Conservation and Forestry very much wished for this effort to succeed and extended many extra work sessions on the bill in hopes that a solution would be crafted but the bill was ultimately defeated for lack of an acceptable administrative mechanism. A working Geographical Information System, such as proposed both by the Growth Management Task Force and the governor, would enable such a policy to be implemented as affected areas could be readily identified and tracked.
6. The voters' approval of the \$50 million bond issue with up to \$5 million reserved for farmland protection and up to \$5 million reserved for public access to water bodies demonstrated public commitment to this effort. The Legislature, as urged by the Agricultural Vitality Task Force in recognition of the importance of the business side of farmland preservation, amended the LMF law to allow for some bond funds to be used for farm business planning as development rights are purchased.

In addition to these efforts, on November 7, 2000, Maine citizens voted on two measures that related directly to forestry and fishing.

1. **Question Two**, "An Act Regarding Forest Practices" was soundly defeated. It was the third citizen's initiative on forest practices that has gone before the voters in the last five years. Maine's people have been challenged repeatedly in recent years to reconcile their concern for the health of the forest with their respect for private land ownership and mistrust of government. Unfortunately the path toward reconciliation has been muddled with uncertain science, questionable economics and divisive referendum politics. The result of constant turmoil leaves Maine's forest policy unstable, environmental groups frustrated and forest landowners effectively discouraged from properly investing in the long-term health of their land.

2. **Question Four**, a constitutional amendment to allow for current use taxation on properties used for commercial fishing activities was defeated by the slimmest of margins. The lack of an organized campaign makes it difficult to know whether the voters were educated regarding the problems faced by rising coastal property values, whether they were aware but unsympathetic or whether they specifically rejected the remedy offered. There were many questions left unanswered as to how such a program, if authorized, might be set up. Given the Legislature's recent failure to appropriate even \$300,000 for municipal reimbursement for enrolled farmland during the best of economic times, the Maine Municipal Association vocally opposed the amendment, fearing another tax shift to protect an interest of statewide concern would be absorbed entirely at the local level by other property taxpayers.

C. Citizen Survey

The Maine Development Foundation retained Market Decisions, Inc. to conduct a statewide random sample of 601 Maine households on behalf of public policy questions presented by the Maine Economic Growth Council, state agencies and non-profit organizations. One segment of questions related to Maine food products. ***Sixty-seven percent of respondents agreed or strongly agreed with the following statement: "More state funds should be allocated to promote the availability of and access to Maine food and farm products."*** A full 90% indicated that it is very (48%) or somewhat (42%) important that a product is grown, raised or harvested in Maine when selecting food to purchase. Eighty-one percent felt somewhat (55%) or very (26%) confident that commercial fishing will continue to be an important and viable industry in Maine in the future. In a related question, 65% strongly agreed and 22% agreed with the statement that "I feel that I have a personal responsibility to help preserve the health of Maine's marine resources, including keeping waters clean and ensuring the continued health of fish, mammals and shellfish."

D. Process

This report seeks to be responsive to the Legislative charge, yet is by necessity cursory in nature. A complete, thorough analysis of incentives was not possible to accomplish within the allowed timeframe given staffing constraints. To accomplish its task, the Land and Water Resources Council assembled a "Rural Lands Working Group" composed of representatives from the State Planning Office, and the Departments of Conservation, Agriculture, Marine Resources, Economic and Community Development, Inland Fisheries and Wildlife, Environmental Protection, Transportation and Administrative and Financial Services. The working group met twice to clarify the scope of the project and review draft material submitted by individual departments. The first draft of the report was submitted to the LWRC at its December meeting. The report was finalized on January 11, 2001.

E. Defining the Scope of the Review

It was necessary to determine the scope of the review in the following four areas:

1. Defining “productive farming, fishing and forestry use;”
2. Defining “incentive;”
3. Determining whether to go beyond incentives offered by Maine state government to include those offered by the federal government and/or the private sector; and
4. Determining whether to limit recommendations to those deemed practical and affordable for implementation in the foreseeable future, or to include ideas for further consideration.

1. Defining “Productive Farming, Fishing and Forestry Use”

It is the policy of the Administration to look at productive rural lands from a combined ecological and economic perspective. Sustainable production and harvesting practices in farming, fishing and forestry can maintain strong ecosystem health for plants and animals. It is especially important to maintain large blocks of undeveloped area so that a diversity of wildlife may thrive. Since (a) most land is privately owned and (b) many, if not most landowners need to derive sufficient economic return to justify the costs of land ownership, productive economic activity such as farming and forestry is critical not only in its own right but also to the effort to prevent rampant development sprawl.

In addition, especially within the organized half of the state’s land area, large parcels are often a mix of woodland, wetland, farmland and miscellaneous open space, suggesting that an approach which considers such land in common rather than divided according to specific functions might be more applicable both to Maine’s landscape and ownership patterns. Hence, though LD 2600 called for an evaluation of incentives to keep land in productive farming, fishing and forestry use, it was determined that incentives to hold land in open space were relevant to and supportive of this objective and should therefore be included.

2. Defining Incentives

It was next necessary to interpret the meaning of the word “incentive.” This report considers an “incentive” to be a conscious policy decision by Maine state government to accomplish one of more of the following objectives:

- a. Provide a tax benefit to those engaged in farming, fishing or forestry or owning assets used in those industries;
- b. Offer business support to those engaged in farming, fishing or forestry;
- c. Provide a public investment that supports these industries;
- d. Offer technical assistance to keep land in productive rural use; or
- e. Establish proactive land use policy that supports these industries.

The Council recognizes that some state programs may actually constitute *disincentives* for keeping land in productive farming, fishing and forestry use. While a comprehensive review of such disincentives was not the charge given the Council, the report does identify several significant disincentives that might be addressed.

3. Defining Relevant Source of Incentives

It is assumed that the Legislature is most interested in reviewing incentives offered by the State of Maine. The scope of review is limited to these incentives, though some offered by the federal government or private sources might be mentioned to supply relevant information or indicate that a need is addressed through those sources. In identifying existing incentives, the Council also relied heavily on the input from the agencies involved in the Rural Lands Working Group. Therefore, the majority of the incentives pertain to programs administered by the Departments of Conservation, Agriculture, Marine Resources, Inland Fisheries and Wildlife, Transportation and Administrative and Financial Services, and by the State Planning Office.

4. Scope of Recommendations

It is felt that the Legislature would benefit most from a three-tiered set of recommendations:

- Strengthening existing incentives;
- New incentives: highly effective and readily achievable; and
- Promising ideas requiring further study.

Any incentives that were considered and rejected are also reported with an explanation provided to acknowledge that an idea was explored.

As several of the incentives would require the harnessing of resources to implement, a list of potential funding sources that might be explored or tapped is included in the report.

III. EVALUATION OF EXISTING INCENTIVES

This section includes an evaluation of existing incentives that help to keep land in productive forestry, farming, and fishing use. Eight incentives are highlighted, either because of their deemed importance in achieving this objective and/or because their evaluation has indicated that revisions or enhancements might improve their effectiveness. A more comprehensive inventory of incentives identified by the working group follows in tabular form. The section concludes with a listing of other needs relating to forestry, farming and fishing that may warrant the development of new incentives.

A. Highlighted Programs

1. Tree Growth Law

Type of Incentive: Taxation Policy

The Tree Growth Tax Law program provides for the valuation of enrolled forestland at the present value of its capacity to grow timber instead of at generally higher *ad valorem* values. The purpose of the law is to keep forestland in productive management by reducing the annual property tax burden to one that can be borne over the long life of a forestland investment. By keeping forestland in productive management, several benefits accrue to the public, including but not limited to:

- 1 - direct and indirect employment supported by the forest products sector;
- 2 - wildlife habitat;
- 3 - recreational opportunities on land open to public use;
- 4 - watershed protection;
- 5 - carbon sequestration; and,
- 4 - aesthetics.

About 11.8 million acres are currently enrolled in the Tree Growth Program statewide, 8.2 million acres in the LURC jurisdiction and 3.6 million acres in the organized towns. New enrollments and withdrawals, both very small in total acreage terms, have roughly balanced over the last decade, although the average parcel size has reportedly dropped. Any wooded parcel of 10 acres or more is eligible for enrollment in the program. The program's major requirement is that landowners have a forest management plan prepared or approved by a Licensed Professional Forester, and that every 10 years a forester must approve the management for the previous 10 years and develop a new management plan.

The Tree Growth Tax Law program has by most accounts been very effective in keeping forest land undeveloped and in productive forest management. The program can often mean the difference between land staying undeveloped and its conversion to developed uses, particularly in the organized towns.

Program stability has posed the key challenge to the program over the last decade. A number of interests, ranging from municipal officials to some conservation groups, have submitted numerous legislative proposals to make significant changes in program eligibility and forest management requirements. In November Maine people defeated a citizen's initiative that would have imposed significant management and oversight requirements on Tree Growth lands. All of these proposed changes tend to reduce landowner confidence in the program and may have the unintended consequence of discouraging new enrollments, particularly among small woodlot owners in southern and central Maine, where the program has its greatest value in keeping land from being converted to a non-forest use.

The state could improve program stability by fixing the terms under which enrolled lands must be managed at the time of enrollment, essentially creating a binding contract between the state and enrolled landowners. If the state elected to change the requirements for enrolled lands, the changes would only apply to new enrollments unless a simple re-enrollment option was created to allow a locking in of the current program rules. New York used this approach several years ago when it substantially revamped its original current use program (the Fisher program) to one with more significant management requirements (the 480-A program).

In addition, the Legislature might consider the position of the Maine Municipal Association, which argues that the current methodology of averaging of tree growth land values on a county-wide basis severely under-reimburses municipalities with high land values, typically coastal communities. While the bottom line is muddled by the complexity of the educational funding formula, this dynamic (based on reality or perception) interferes with a positive partnering relationship between the state and local governments in discouraging premature conversion of forested land. While raised concerning the Tree Growth Program, the only current use program that offers any reimbursement whatsoever, the protocol for state reimbursement should be consistent across the current use programs. There are landowners enrolled in Tree Growth who more properly belong in Open Space but with no reimbursement available both the landowner and municipal assessor are encouraged to leave the land in the tree growth program.

2. Farm and Open Space Law

Type of Incentive: Taxation Policy

The Maine Legislature enacted the **Farm and Open Space Tax Law** in 1971 in response to a trend of rising property values that were driving up local property taxes and forcing landowners to sell or develop their fields and farms. The purpose of the law was, and still is, to encourage the preservation of farmland and open space for future productive use by allowing a lower valuation for tax purposes than is applied to other real property. Farmland enrolled in this program is assessed at its current use rather than its potential fair market value for more intensive uses other than agricultural. Property tax relief of this kind exists in all 50 states today, and it represents an important strategy in sustaining a working rural landscapes and controlling development sprawl.

Over the years, the program has suffered from low participation levels. Currently, there are approximately 150,000 acres of land enrolled in the program as farmland, and 41,922 acres as open space. The enrollment figure for agricultural lands represents a small percentage of the land in the state that is actively farmed.

The 119th legislature amended the farmland provisions of the law in an effort to improve its overall effectiveness and attractiveness to farmers. The most significant change was the elimination of the 20% penalty (of the assessed value of the land) for withdrawal from the program prior to 5 full years. The revised statute leaves the penalty for withdrawal at the value of the taxes which would have been assessed upon the land if it had not been classified under this program, less any taxes paid during those five years, plus interest.

The approach to determining current use values for farmland was also revised. The current use values used by municipal assessors must now be guided by the Department of Agriculture, Food and Rural Resources working with the Bureau of Revenue Services, municipal assessors and farmers. Guidelines must be delivered biennially, beginning December 31, 2000, to the joint standing committee of the Legislature having jurisdiction over taxation matters.

These guidelines must include recommended values for cropland, orchard land, pastureland, horticultural land and blueberry land, differentiated by region where justified. The local assessor must substantiate any variation in assessment of farmland from the recommended values. DAFRR staff is left with the task of developing good base line information and collecting these data on an ongoing basis if current use values are going to be determined on a biennial basis.

However, a major obstacle to widespread use of the program remains the current lack of reimbursement to municipalities for tax revenues lost from lands enrolled in the program. Without such a reimbursement, there is little incentive for towns to encourage participation in the program.

3. Purchase of Development Rights

Type of Incentive: Public Investment

The Land for Maine's Future (LMF) Program is the state's primary vehicle for the purchase of lands and conservation easements to protect areas of statewide significance. Since the program was established in 1987, nearly 65,000 acres have been acquired entirely from willing sellers, including about 3,800 acres in conservation easements. Although important farmland is one of the areas eligible for LMF consideration, to date a relatively small amount of farmland has been protected under the program.

In the fall of 1999, the program received a \$50 million bond. The goal is to spend up to \$1 million on farmland conservation each year for the next five years. The main mechanism that will be used for farmland preservation is the purchase of development rights using conservation easements.

In the past, funding of farmland protection projects has been hampered by several constraints. First, while it is recognized that the purchase of development rights using the conservation easements is probably the most effective way to protect farmland, this mechanism has its shortcomings in many parts of the state. The value of development rights is directly related to the economic activity/development pressures present today in the area where a farm is being considered. Providing the farm has good soils/productive assets, the next hurdle it must pass in order for the sale of development rights to be financially feasible for the farmer, is for those development rights to appraise at a high enough level. If development pressures are not present,

as is the case in many parts of agricultural Maine, there simply is not enough value to make the sale feasible. This renders this particular farmland protection mechanism being unusable in these regions. On the other hand, such as in York County, development pressures are intense and development values likewise make up a significant percentage of the land's total value. In these situations, this mechanism works well.

Also, the Land for Maine's Future Program, with its limited staffing, is essentially a foundation. As an LMF outreach arm, the Department of Agriculture, also with limited staffing, is constrained in its ability to conduct the necessary landowner interactions to develop and bring conservation transactions to closure. Particularly with farmland, where negotiations are with entire families and their family businesses, it can take several years of such interactions to reach agreement on the structure of the deal. These interactions range from education about the purchase of development rights program to negotiations about how to structure the deal. They take place within the context of intergenerational transfers of the most significant family asset, the land base, and the family business. The LMF staff is able to order appraisals, prepare for the real estate closing and complete the description of the resource that is protected. **But additional capacity is needed to meet with and build relationships with farmers and provide assistance with financial, estate, land management and limited development planning, if necessary, in order to bring the deals before the LMF Board. This gap must be addressed in order for Maine's significant public investment in farmland protection to come to fruition.**

Finally, The Land for Maine's Future Program is required by statute to leverage a 1/3 match of any funds it spends. Farmers often have their life's equity tied up in their farm and as a result are often not in a position to donate value as match. There are few land trusts that specialize in farmland protection, though the Maine Farmland Trust has recently formed and holds great promise to provide leadership in brokering private/public partnerships. There are few foundations that support farmland protection (this is beginning to change) and federal dollars, at least in the short term, appear to be drying up. **The conclusion here is that there needs to be more action/encouragement/focus on creating more of a private support system for this type of work.** *In Department of Agriculture, with support of Smart Growth Initiative funds appropriated in FY01 to the State Planning Office, is contracting with the American Farmland Trust to assist the state in developing a comprehensive strategic plan for agricultural preservation in 2001.*

4. Right to Farm Law

Type of Incentive: Business Support (Anti-Nuisance Provision)

The Right to Farm Law is intended to protect farmers from nuisance complaints or local restrictions that could hamper their operations. Specifically the law is aimed at strengthening the legal position of farmers when neighbors sue them for private nuisance, and to protect farmers from anti-nuisance ordinances and unreasonable controls placed on farming operations. The law allows the Department of Agriculture to intervene in complaint situations against farmers, and sets forth criteria by which a nuisance is determined.

The law is considered to be an effective means of discouraging nuisance lawsuits, helping farmers who use good management practices to prevail in nuisance complaint situations and informing non-farm rural residents that well-run agricultural activities are reasonable activities.

While there may be a need to adjust provisions of the law in the future, the law seems to be working reasonably well at this time. More immediate efforts should concentrate on improving education and outreach to communities where development is encroaching on farms.

5. Farmland Registration Act

Type of Incentive: Business Support

The Farmland Registration (a.k.a. Adjacency) Act (7 MRSA §52-59) was intended help protect existing farms from encroaching residential and other possibly incompatible uses. Changes in the law since its initial adoption have rendered it virtually defunct, but an effort was made to revive the law in the 119th Legislature.

State agencies, Maine Farm Bureau, Maine Municipal Association, Maine Association of Realtors and Maine Association of Assessing Officers worked hard to develop a viable disclosure provision that would alert residential buyers to the existence of an adjacent farming operation. They were unable, however, to craft a provision that avoided placing an unreasonable administrative burden on municipalities, landowners, real estate agents or the state. Members of the Committee on Agriculture, Conservation and Forestry very much wished for this effort to succeed and extended many extra work sessions on the bill in hopes that a solution would be found, but the bill was ultimately defeated for lack of an acceptable administrative mechanism. **A working Geographical Information System such as proposed for this session would enable such a policy to be implemented as affected areas could be readily identified and tracked.**

6. Farms for the Future Program

Type of Incentive: Business Support

This is a new program (not to be confused with a federal program with the same name), passed into law in the spring of 2000, and modeled after a successful program in Massachusetts. Although it is too early to evaluate its effectiveness, it represents a significant business support initiative aimed at improving and protecting the viability of farms.

The program offers financial assistance to farmers for the writing of a business plan and for receiving classroom instruction in economics and the business operations of the farm. Once the farm has completed a business plan, it is eligible to apply for funding to implement the plan. As a condition of participation in this program the farmer must enter into to a farmland protection agreement with the Department assuring that no non-agricultural development will take place on the land until the agreement expires or the farmer repays the loan. The total funds for this program are \$200,000. This money is anticipated to be quickly distributed and may only partially meet demand. If the program is successful, additional funds will be sought in future years.

7. LURC Law

Type of Incentive: Land Use Policy

The Land Use Regulatory Commission (LURC) does not administer any direct financial incentive programs. However, its regulatory structure affects 50% of the area of the state, much of which is in active productive forestry or agricultural use, and some of its regulations provide indirect incentives and disincentives.

The principal incentive is the "General Management" zone, which covers 80% of the Commission's jurisdiction. Under this zone, agricultural and forest management activities, construction of buildings related to these uses, and, mineral extraction up to five acres are allowed without a permit.

In addition, the General Management zone prohibits residential and commercial subdivisions. Requests for subdivision in the General Management zone require the area to first be rezoned to a development subdistrict. This requires a finding that there is an existing area of development within one road mile of the area proposed to be rezoned. This review standard is termed the "adjacency" standard and it seeks to control sprawling or leapfrog development in the Management zone.

LURC also has a "Maritime Development" zoning subdistrict that seeks to protect the working waterfront by either prohibiting residential uses or making them a special exception. This zone has been applied only twice in the Commission's jurisdiction at the request of local landowners who wished to prevent incompatible development.

LURC's current regulatory authority also contains a disincentive to maintaining forest land in productive use. While subdivision is prohibited in the General Management zone, a statutory exemption exists for the creation of up to ten 40-acre lots in any 5 year period beyond 1/4 mile of a great pond or river. This loophole encourages the creation of large lots in agriculture and forestry areas that are generally used principally for seasonal recreation or permanent year-round residences, and acts as a disincentive to maintaining forest land in productive forest use. As a result of this loophole over 217,000 acres has been subdivided into large-lots in the Commission's jurisdiction since 1971. Only 7,400 acres were in subdivisions reviewed and approved by the Commission. A 1994 analysis¹ done for the Commission – and reviewed by Lloyd Irland, Robert Seymour, and Charlie Colgan -- estimated that between 56,000 and 105,000 acres of forest land has been removed from commercial forest management as a result of large lot exemptions.

In 1994 numbers, had this acreage been kept in long-term forest management it would directly and indirectly support 200 jobs and \$7.7 million dollars in total personal income. LURC's Comprehensive Land Use Plan recommends eliminating this exemption, but past efforts to do so have been unsuccessful in the legislature. The Department is again proposing this change in the current legislative session.

¹ Land & Water Associates. 1994. "Impacts of Development in the LURC Jurisdiction on Timber Production and the State's Forest Manufacturing Economy." (Hallowell, Me)

8. Growth Management Act

Type of Incentive: Land Use Policy

The Growth Management Act, administered under the State Planning Office's Community Planning and Investment Program, provides communities with funds and technical assistance to develop comprehensive plans and implementation programs pursuant to these plans. Among the topics plans are required to address are agriculture, forestry, commercial fishing and wildlife habitat/open space.

While comprehensive planning provides an excellent tool for communities to address the issue of keeping rural lands productive, many of the plans that have been reviewed by SPO have fallen short in providing an accurate inventory of the town's rural resources and effective strategies for enhancing these resources. The problem is partially the result of limited resources: town-by-town information on rural-based enterprises is often not readily available. In addition, municipalities have few tools available to them beyond land use regulation to support natural resource based industries, and landowners are often resistant to having restrictions placed on their land. For strict regulatory schemes to work, measures to address equity issues must become more available such as transfer of development rights.

B. INVENTORY OF SIGNIFICANT INCENTIVES

Incentive	Description	Lead Agency	Applicability				Evaluation
			Farming	Fishing	Forestry	Open Space	
I. TAXATION POLICIES							
A. Tree Growth Law	Provides a tax reduction for owners of forestlands that meet criteria set in law. Land valuation based on current use rather than fair market value.	MFS			x		Judged to be a very effective program in keeping forest lands undeveloped and in productive management. (see narrative)
B. Farm and Open Space Law	Provides a tax reduction for owners of farmlands and open space that meet criteria set in law. Land valuation based on current use rather than fair market value.	DAFRR	x			x	Not used extensively. Lack of reimbursement to towns give them little incentive to encourage use of the program, and existing law lacks clear guidelines on use. (See narrative)
C. Forest Management Planning Tax Credit (52 MRSA 5219-C)	Up to \$200 tax credit every 10 years to offset cost of forest management plan for small woodlot owners	MFS			x		Used by a relatively small number of landowners (<250), but has been effective in making forest management plan more affordable for small woodlot owners (and cost to state is small).
D. Sales tax exemptions for recognition as wholesale businesses	Recognition inputs to businesses should not be subject to retail sales tax	MRS	x	x	x		Recent addition of electricity for farming and aquaculture helpful
E. Boat Excise tax	Valuation policy	MRS		x			Current policy regarding length factor favors fishing boats
II. BUSINESS SUPPORT							
A. Right to Farm Law	Establishes presumption of agricultural activities not being a nuisance if conducted according to best management practices.	DAFRR	x				Right to Farm Law revised in 119 th , working well. BMP rules being drafted by Dept. (see narrative)
B. Farmland Registration Law	Provides real estate disclosure and adjacency setback protection around registered farms but registration is closed and records are lost.	DAFRR	x				Virtually defunct. Attempt to revise in 119 th unsuccessful. (see narrative)
C. Farms for the Future Program	Financial assistance offered for farms to write business plans and receiving academic training in farm operation and economics.	DAFRR	x				Promising pilot program just beginning (see narrative)
D. Agricultural Marketing Loan Fund	This loan program provides funds to construct or improve agricultural facilities and to provide grants for market research.	DAFRR	x				Program has generally been successful. Total program activity from 1997-1999 included 18 projects totally \$1,384,383 in financing.
E. Agricultural Development Grant Program	This competitive grant program is aimed at encouraging innovative efforts by farmers, aquaculturists and food processors to expand their markets, promote their products and test new innovative equipment and processes.	DAFRR	x				Program has generally been successful. To date, the program has funded 63 projects totalling \$500,000.

F. Agricultural Vitality Task Force Recommendations re in-state purchasing of food products	Plan for increasing consumption of locally grown products, providing baseline data, supporting farmer's markets & strengthening existing programs.	DAFRR	x				Implementation of some recommendations in progress; others require additional study and research.
G. Economic Action Program (USDA)	Matching grants to forestry related businesses, organizations & individuals	MFS			x		Program has generally been successful, but state discretionary funding available has decreased in recent years.
H. Green Certification	This private and non-profit sector program allows landowners and forest product dealers to communicate to consumers that their products originate from well-managed lands.	Private sector			x		Expensive; few clear rewards as yet (private sector initiative)
III. TECHNICAL ASSISTANCE							
A. Maine Forest Stewardship Program	Cost-share for developing natural resource management plans, conducting non-commercial stand improvements & ice storm related woodlot improvements	MFS			x		Programs appear effective. Based on future federal funding.
B. Service Forestry Program	9 MFS field foresters provide educational and technical assistance to forest landowners, loggers and the general public to help them make informed decisions about Maine's forest	MFS			x		Good service delivered within resources available
IV. PUBLIC INVESTMENT POLICIES							
A. Coastal access infrastructure	Public purchase of piers, wharves, loading areas and parking	MDOT DOC		x			Through MDOT's Small Harbor Improvement Program and DOC's boat access programs, access has been improved, but new and improved access is needed. (see narrative)
B. Purchase of Development Rights	Primary mechanism for protecting farmland.	LMF	x				Use constrained by lack of matching funds, staff outreach and market forces. (see narrative)
V. LAND USE POLICIES							
A. LURC Subdivision Law	40 acre exemption of LURC review (see narrative)	LURC	x		x	x	Certain exemptions in LURC law allow the creation of lots that evolve into residential subdivisions. (see narrative)
B. LURC General Management District	Agriculture and forestry are supported uses.	LURC	x	x	x	x	Works well except for exemption above. (see narrative)
C. LURC Maritime District	Maritime Development Zone available for working waterfront protection	LURC		x			Applied only twice at request of island landowners. (see narrative)
D. Growth Management Program	Municipalities must address agriculture, forestry, commercial fishing and wildlife habitat/open space	SPO	x	x	x	x	Technical assistance should be strengthened during municipal planning process; limited by insufficient state resources. (see narrative)
E. State agency review of local forest and agricultural management ordinances	Mandates dialogue between municipality and state agency responsible for resource; reduces burdensome local regulations on farming and forestry. (see narrative)	MFS & DAFRR	x		x		Generally improves dialogue; can create state/local authority conflicts. More technical assistance needed.

C. Other Identified Needs

Beside some of the needs highlighted in the evaluation of existing programs, the Council identified a number of other needs that, if addressed, could promote the health of rural-based enterprises. These include:

- The need for a program that provides incentives for landowners and towns who work with the Department of Inland Fisheries and Wildlife on cooperative wildlife management agreements.
- The need for an ongoing program or incentives focused on facilitating the development and improvement of the infrastructure and facilities that serve the commercial fishing industry;
- The need for more resources and improved strategies for addressing some of the land use conflicts that exist between commercial fishing uses and other adjacent waterfront uses;
- The need for a current use program for properties used for commercial fishing similar to the other current use laws;
- The need for more technical assistance to communities on farmland protection techniques, and business support for farmers;
- The need for improved product marketing, and for more value to be added to products before they leave the state; and
- The need for an alternative to the General Fund for the funding of programs that enhance rural resources and rural-based industries.

IV. COUNCIL RECOMMENDATIONS

The Council's recommendations regarding incentives involve both the adoption of new incentives and the strengthening of existing ones. The new and revised incentives that the Council feels are most promising are listed first under the subheading of *Strengthening Existing Recommendations*. Other incentives that the Council believes have substantial merit are listed next as *New Incentives Considered to be Highly Effective and Readily Achievable*. The Council discussed several ideas for incentives that it feels are not ready for implementation but which deserve additional study. These were placed under the subheading of *Promising Ideas Requiring Further Study*. Finally, the last section identifies several possible incentives that were considered, but ultimately rejected as viable incentives.

A. Strengthening Existing Recommendations

A.1. Reimburse Current Use Programs

New or Existing Program: New

Incentive Type: Tax Policy

Lead Agency: Maine Revenue Services

Description: Of the state's current use tax programs designed to promote conservation of forestlands, farmlands, wildlife habitat and open space, only the Tree Growth Program provides a reimbursement to municipalities for tax revenues lost as landowners enrolling in the program. Not surprisingly, this is the only program that has been widely used. By ensuring reimbursement for all current use tax programs, the state could promote the use of these programs and ensure that municipalities do not have to bear the cost of land conservation efforts.

Projected Cost: Annual cost of reimbursing current land in farmland category would be approximately \$250,000. Cost of reimbursing current land in open space category would be under \$50,000.

Possible Funding Source: See potential funding sources listed in Section V.

Implementation Step: Appropriate funds to allow for municipal reimbursements for these programs.

Time Frame: 2002 session.

A.2. Stabilize Terms of Tree Growth Program

New or Existing Program: Existing

Incentive Type: Taxation Policy

Lead Agency: Maine Forest Service

Description: Although this program is considered to very effective in keeping forestland undeveloped and in productive use, proposed changes in the law -- whether from legislative proposals or referendum -- have the effect of undermining landowner confidence in the program, and may have the unintended consequence of discouraging new enrollments. The state could improve program stability by fixing the terms under which newly enrolled lands are to be managed at the time of enrollment, essentially creating a binding contract between the state and enrolled landowners.

Projected Cost: Minor costs absorbed.

Implementation Step: Enact legislative changes to Tree Growth law that would fix terms of new enrollees to requirements in place at the time of enrollment.

Time Frame: Submit legislation for 2002 session.

A.3. Close LURC Subdivision Loophole

New or Existing Program: New

Incentive Type: Land Use Policy (removal of disincentive)

Lead Agency: Land Use Regulation Commission (LURC)

Description: The LURC law currently contains a provision that allows 10 lots to be created every 5 years if these lots are 40 acres or more in size and located outside at least ¼ mile from a shoreland area. This loophole creates a disincentive to maintaining forest land in productive forest use. It has been used primarily to create lots in forestry and agricultural areas that are used for seasonal or year-round home development.

Projected Cost: Minor costs absorbed.

Implementation Step: Enact amendment to LURC law as proposed in Department bill.

Time Frame: 2001 session.

A.4. Improve Outreach for Land for Maine's Future Program

New or Existing Program: New

Incentive Type: Technical Assistance

Lead Agency: SPO, DAFRR, DMR

Description: LMF has identified a need for more outreach to help solicit and assist in the development of proposals related to farmland and coastal access sites designed to serve the needs of commercial fishermen. There are several possible solutions to this problem.

- Fund at least 1 outreach position each at DAFRR (could use 2 for next 5 years) and DMR;
- Explore whether USDA and/or University (e.g. Extension) employee time might be able to be deployed in this area;
- Contract with another organization (e.g. the Maine Farmland Trust) to provide this service;
- Establish a program that would provide small grants to improve the staff capacity of local and regional land trusts and other nonprofits, which rely heavily on volunteer labor.

Projected Cost: Assuming two full-time positions (or a grant program that might fund a number of part-time positions) the annual program cost would be in \$200,000 range.

Possible Funding Source: See potential funding sources listed in Section V.

Implementation Step: Develop strategic plan for agricultural protection (underway). Examine all options and report back to 2nd session of 120th Legislature.

Time Frame: 2001 - 2002 session.

A.5. Support Refunding of Small Harbor Improvement Program (SHIP)

New or Existing Program: Refunding of established grant program

Incentive Type: Public Investment

Lead Agency: Maine Department of Transportation. The Department of Marine Resources (DMR) and the State Planning Office (SPO) would provide support

Description: The Small Harbor Improvement Program (SHIP), administered by the Maine Department of Transportation, is a municipal matching grant program that has funded a variety of public infrastructure improvement projects along the Maine coast – mostly piers, floats, boat ramps and shore stabilization projects. The program, funded through transportation bonds, awarded grants to over 40 projects in 1995 and 1998, totaling nearly \$3 million. Most of these projects have resulted in improved public access to coastal areas, and many have enhanced opportunities for those engaged in commercial fishing activities. As part of a new transportation bond that is being proposed for 2001, MDOT is seeking additional funding to fund another round of the SHIP program.

Projected Cost/Funding Source: Variable. The Department of Transportation is proposing \$1.5 million for the SHIP program as part of a transportation bond.

Implementation Step/Time Frame: Obtain approval for transportation bond in first session of 120th. Support approval of this bond issue by voters in November 2001.

A.6. Adjust Forest Management Tax Credit

New or Existing Program: Existing

Incentive Type: Tax Policy

Lead Agency: Maine Forest Service

Description: This existing program allows forest landowners to take a modest tax credit of up to \$200 every 10 years to offset the cost of forest management plans. The relative share of this credit against the cost of a forest management plan has decreased over the years with inflation, the program would be improved by recalculating the credit every 5-10 years based on inflation rates.

Projected Cost: Assuming an initial 20% adjustment in the credit, it would cost an additional \$10,000 annually for first 5-10 year period.

Possible Funding Source: See potential funding sources listed in Section V.

Implementation Step: Amend the law to reflect this change.

Time Frame: As soon as budget can absorb.

A.7. Improve Linkage of Comprehensive Planning with Farming, Forestry and Fishing Issues

New or Existing Program: Existing

Incentive Type: Land Use Policy and Technical Assistance

Lead Agency: State Planning Office with assistance from DAFRR, DOC and DMR.

Description: The link between comprehensive planning and farming, forestry and fishing issues could be strengthened in several ways. As part of its Growth Management Program, the State Planning Office (SPO), with the assistance of other agencies, could provide communities with better information regarding local resource-based activities, including GIS mapping resources. SPO and the other agencies should improve the front-end technical assistance conversations that occur at local planning committees. And SPO could provide communities with more information about strategies to promote the health of rural based industries and encourage open space protection.

Projected Cost: Additional agency time for providing additional information would be absorbed. GIS-related expenses would be funded as described under recommendation #4.

Implementation Steps: Have natural resource agencies include added resources for comprehensive planning in respective workplans. Have SPO focus on strategies for promoting rural-based industries in land use “tool box,” and develop ways of promulgating information to regional councils and communities.

B. New Incentives: Highly Effective and Readily Achievable

B.1. Create Farm Link Program

New or Existing Program: New

Incentive Type: Technical Assistance

Lead Agency: Department of Agricultural, Food and Rural Resources (DAFRR)

Description: This program would match retiring Maine farmers who want to sell their farms with young farmers who want to buy one. It would facilitate the transition of farms into the hands of farmers rather than others who might not maintain the agricultural activities on the properties. This program is needed now due to the high number of retirement-aged farmers. This program would be an important companion piece to a farmland protection program.

Projected Cost: Assuming one new staff member and other expenses to run the program, the program would cost approximately \$100,000 per year.

Possible Funding Source: See potential funding sources listed in Section V.

Implementation Step/Time Frame: Seek funding of new position, develop and implement program in 2002 session.

B.2. Inventory Rural Resources and Monitor Impacts of Development

New or Existing Program: New

Incentive Type: Better Information for decision-making

Lead Agency: The State Planning Office (SPO) and Office of Geographic Information Systems (OGIS)

Description: SPO, working with the Office of Geographic Information Systems, has proposed the development of a regionally based coordinated geographic information system.

The development of such a system was recommended by the Sprawl Task Force in LD 2600 in spring of 2000 (passed but not funded) and is currently being proposed both by the Growth Management Task Force that convened in the fall of 2000 and the governor. A primary purpose of this project is to track patterns of development, but the coordinated system would also provide a variety of information regarding productive rural lands, including mapping of high-priority areas for protection, site selection for rural industries and technical assistance. Such a system would also enable the use of land use tools such as real estate disclosure and adjacency protection.

Projected Cost: A one-time investment of \$2,200,000 and \$500,000 - \$900,000 annually for establishment and maintenance of coordinated system. Hiring of GIS Coordinator would facilitate use of federal resources such as U.S.D.A. to get active farmland mapped.

Possible Funding Source: The governor proposes to capitalize the system with a \$2 million bond issue that would, if approved by the Legislature, go to the voters in November 2001. For a

system maintenance funding source, the governor has proposed \$15 surcharge on the recording of deeds subject to the real estate transfer tax, modeled on the highly successful Wisconsin Land Management Information System. The Growth Management Task Force proposes use of the General Fund.

Implementation Step: Adoption of GIS bill – LD 578 (or commitment of General Fund resources) and advocating voter approval of \$2 million bond issue.

Time Frame: GIS bill (LD 578) and bond package under consideration this session. GIS Coordinator could be hired during summer of 2001 if funding source were approved. Bond issue goes to voters in November 2001. System established in 2002.

B.3. Enact Wildlife Habitat Tax Incentive

New or Existing Program: New

Incentive Type: Taxation Policy

Lead Agency: Department of Inland Fisheries and Wildlife (IF&W)

Description: This new program would provide a financial incentive to landowners to work with IF&W in protecting significant wildlife habitat areas, with the goal of preservation of large contiguous blocks of land adequate to provide habitat for species with larger spatial needs. It would involve the adoption of legislation that would provide a tax reduction to landowners who own important wildlife habitat areas as identified by IF&W and who agree to enter into a management agreement with that agency. IF&W is now working in partnership with a number of other entities in producing a series of maps using GIS to identify riparian areas, habitats of management concern, and large undeveloped blocks of land. The recommended tax incentive program would provide an important non-regulatory approach for protecting these areas. The program would be run similar to the Tree Growth Tax program, and would provide for a reimbursement to municipalities that lose tax revenues as a result of the law. The program could be fit within the existing Farmland and Open Space law, or be set up as a new program.

Projected Cost: Would depend on levels of enrollment, which would determine the amount of municipal reimbursement. Once the program is enacted, it would probably take some time to reach a significant level of enrollment. At modest enrollment levels, the program might cost \$1 million annually. Eventually, with higher enrollment levels, it could cost up to \$4.5 million annually. The amount of reimbursements could also be capped, with monies distributed according to the level of funding available. Some funds might also be allocated to the ongoing inventory/mapping process.

Possible Funding Source: See potential funding sources listed in Section V.

Implementation Step/Time Frame: Submit legislation for 2001 legislative session.

B.4. Support Current Use Program for Commercial Fishing Property

New or Existing Program: New

Incentive Type: Taxation Policy

Lead Agency: Department of Marine Resources (DMR)

Description: Coastal properties used for commercial fishing activities are currently taxed at their “best and highest use,” putting them in the same category as multi-million dollar waterfront homes in the same area. As a result, high real estate taxes can create a significant disincentive for such properties to be retained for commercial fishing uses.

A referendum question to amend the Maine Constitution to allow for current use taxation on properties used for commercial fishing failed in November 2000 by .09% of the vote. An analysis of the vote suggests that people, particularly in inland areas, were not aware of the issue and voted against the referendum.

Several steps are planned. A group called “Citizens to Preserve” will test the fishing industry’s willingness to support a new referendum campaign. If industry is willing to give its financial support, a new referendum question could be in front of the voters in the fall of 2002.

Projected Cost: Minor costs absorbed.

Possible Funding Source: Private sector funds. Minor agency costs absorbed.

Implementation Step: Provide support if another referendum is likely to go forward.

Time Frame: 2002.

B.5. Enact Freedom to Fish Law

New or Existing Program: New

Incentive Type: Business Support Program

Lead Agency: Department of Marine Resources (DMR)

Description: Maine currently has a Right to Farm law that strengthens the position of farms when faced with nuisance complaints and ordinances that unreasonably restrict farming operations. A Freedom to Fish Law could help to address use conflicts between fishing/aquaculture operations and other uses, and notify new or prospective landowners about existing commercial fishing operations in an area.

Projected Cost: Minor costs absorbed.

Implementation Step: Enact a new law. It is likely that some sort of freedom to fish law may be independently submitted in the 2001 session. DMR will need to study the bill to determine whether it merits its support.

Time Frame: 2001 or 2002 session.

B.6. Address Aquaculture Application Review Issues

New or Existing Program: New

Incentive Type: Land Use (removal of disincentive)

Lead Agency: Department of Marine Resources (DMR)

Description: DMR's process for reviewing aquaculture leases is identified by the aquaculture industry as one of the disincentives for aquaculture development in Maine. The ability of DMR to process applications in a timely matter is a function both of available staffing and the nature of the application and review process. DMR is in the process of submitting a report to the legislature that will offer some possible solutions to the staffing and administrative constraints that affect aquaculture.

Projected Cost: \$100,000 annually to fund additional staff to assist in administration of aquaculture licensing program.

Possible Funding Source: Increase in license fee or use of review escrow account

Implementation Step: Secure funding source, hire additional staff, enhance program administration.

B.7. Adopt Overall Policy Statement

New or Existing Program: New

Incentive Type: General Policy Statement

Lead Agency: State Planning Office (SPO), with Maine Rural Development Council (MRDC)

Description: Currently, the state has no official statement of support for resource-based enterprises, and their importance not only to the state's economy but the crucial role they provide in sustaining rural communities and helping to keep rural lands rural. Such a statement would provide support and momentum for efforts by the state and other entities.

Projected Cost: Absorbed by participating state and federal agencies and MRDC staff

Implementation Step: Direct that policy statement and implementation measures be developed and report back to Legislature and governor.

Time Frame: FY 2002

B.8. Enact Transferable State Income Tax Credit for Conservation

New or Existing Program: New

Incentive Type: Tax Policy

Lead Agency: None currently. Bill likely to be submitted by Conservation Organizations.

Description: This credit would provide an additional incentive beyond the current federal income tax deduction available for charitable gifts. The credit would be available to individuals and corporate landowners for donate land or easements to public agencies or qualified charitable organizations with the purpose of protecting prime coastal or agricultural lands, important forest areas, historic sites, and critical open spaces, watersheds and wildlife habitats. The credit could be capped a specific percentage of the fair market value of the gift (typically 50%) up to a maximum amount (\$100,000 in a number of state). **The credits could be carried over a number of years (5-20), which would benefit individuals who are land rich but do not have large income tax bills, and would be transferable.**

Projected Cost: \$150,000 annually to start

Possible Funding Source: See potential funding sources listed in Section V.

Implementation Step: Enact change in tax law allowing this mechanism.

Time Frame: Bill likely to be submitted in 2001 Session. LWRC should assess its support.

C. Promising Ideas Requiring Further Study

C.1. Cooperative Health Care and Retirement Plans

Two of the modern day benefits provided by successful employers are health insurance and retirement benefits. Aside from those employed by the paper industry, most of Maine's employees employed in natural resource based industries are self-employed or in small businesses that are unable to offer these critical benefits. Farmers, wood harvesters and fishermen unable to set a price for their products cannot pass along the true costs of production to the marketplace and often survive on subsistence wages. Often through inheritance, they have their land as their only asset and are extremely reliant on liquidating that asset in order to retire on other than the lowest levels of social security. The State should seriously explore options such as trading pensions for development rights and providing a cooperative option for more affordable health insurance plans than are currently available through organizations such as Maine Farm Bureau.

C.2. Sprawl Offset / Environmental Impact Fee or Tax

The Legislature, with support from the Administration, could best advance exploration of fiscal disincentives by authorizing a study of mechanisms that warrant serious consideration between the first and second sessions. Members of the Committees on Natural Resources, Taxation, Appropriations and Agriculture, Conservation and Forestry would be critical participants to such a study panel. The Maine Coastal Program will seek authorization from NOAA to dedicate a portion of Maine's FY02 program funding to support consultant services for the study.

C.3. Review State purchasing policies

Although perhaps unsuccessful in the past, it may be worth again reviewing the State's purchasing policies to determine the extent to which the state and related public and quasi-public institutions support Maine made products, particularly those related to fishing, farming and forestry. Arguments can be made in favor of energy savings and freshness of food in addition to supporting local industries, rural communities and quality of life.

C.4. Create a Maine-oriented Transfer of Development Rights Model

Transfer of Development Rights programs (TDRs) provide for a system of compensation to address the potential loss of land value that occurs when one area is zoned for no or limited development in order to preserve farmland or other rural values. Under the system, owners of restricted lands are able to "sell" development rights to allow higher density development in areas deemed more appropriate for growth.

Although this concept is used successfully in other parts of the country, there are a number of serious constraints to its use in Maine that need to be satisfactorily addressed before it can be feasibly administered. Maine's local government system, as well land market and population base, all differ from where TDR's have been typically utilized. A concentrated analysis of how TDRs might be adapted for use in Maine would help move this concept from idea to reality.

C.5. Develop incentives for Agriculture Zoning

Zoning that creates agriculture-only zones has the potential to protect active farms from new incompatible land uses. However, agricultural zones can also be opposed by farmers and other landowners in the area proposed for such zones who do not want to give up the option of developing their land in the future, especially when the future viability of farming is uncertain. Agricultural zoning has been used effectively in other parts of the country, typically used in conjunction with other pro-active strategies such as adjacency protection, purchase or transfer of development rights, business support programs, etc. Unlike some other states, Maine's agriculture is prevalent across much of the state, rendering Agricultural District models such as New York's inappropriate. Maine's home rule system requires unique treatment in each municipality, based on the comprehensive planning process. DAFRR, SPO and regional council staff should bolster technical assistance in this area.

C.6. Explore incentives for commercial fishing

Many of the current state program incentives that apply to natural resource based enterprises are focused on the farming and forestry. There are relatively few state programs that target the commercial fishing industry. The existing incentives for farming and forestry should be studied to see if there are opportunities for applying some of them to the commercial fishing industry.

C.7. Research incentives used in other places

This report did not explore incentives used in many places in and out of the United States. For example, Canada and several European countries assign social values to natural resource based industries and recognize their value for tourism.

D. Incentive Ideas Rejected

The following ideas for incentives were discussed by the Council, but were ultimately rejected for various reasons.

- D.1. Reducing Tree Growth Penalty.** There was a discussion of whether a reduction in the penalty for withdrawing from the Tree Growth Program might encourage further participation. In light of the current high enrollment in the program, it was decided that such a change might actually encourage withdrawals from the program.
- D.2. Funding Assistance for Green Certification Program.** With the costs of obtaining a green certification relatively high, the idea of providing some financial support to assist in the certification process was forwarded. It was decided that at least for the time being, this private, non-profit initiative should remain just that. However, the State as a purchaser could give preference to Green Certified Products.
- D.3. Changing to Current Use Property Taxation Basis.** The idea of amending the Constitution to direct that Maine's system of property taxation be based on current use (rather than best and highest use) was determined to be unworkable.
- D.4. Changing to Social Value Property Taxation Basis.** The concept of moving to establishing social values for property, which may or not be related to fair market value, was considered beyond the likelihood of implementation.
- D.5. Modifying Estate Tax Provisions.** It was felt that most farming operations in Maine are exempt from federal estate tax provisions because they fall under the net worth threshold.

V. POTENTIAL FUNDING SOURCE

Given the structural budget deficit, it is the presumption of this report that recommended incentives that involve additional expenditures should not compete with existing programs dependent upon current General Fund resources. Therefore, an effort has been made to identify potential alternative sources of funding for the Legislature to consider if desired. Except for the GIS and SHIP bond issues, and the Surcharge on Real Estate Transfers to support the GIS system, recommendations with a fiscal note are not current Administration proposals put before the Legislature.

V.1. Conservation and Reinvestment Act (CARA)

This federal legislation resulted in significant increases for key conservation programs for FY 2001 and beyond. Because the Act that was eventually passed was far less sweeping than the comprehensive bill originally proposed and supported by a coalition of environmental organizations, the legislation has been dubbed *CARA-Lite*.

CARA-Lite provides increased funding for a number of programs including the Forestry Legacy Program, the Land and Water Conservation Fund, and grants for wetland protection and restoration. It also provides \$160 million per year for the next five years for a wide array of conservation programs, which will have to compete against each other for these extra funds.

V.2. Surcharge on Recording Fee

This source of revenue, which is proposed as a funding source for the GIS Tracking proposal, would involve a \$15 surcharge on deeds subject to the real estate transfer tax. It would provide an estimated annual revenue of \$450,000 annually.

V.3. Coastal Zone Management Funds

Much of the Coastal Zone Management money that the state receives for FY2002 and beyond will be used to support ongoing programs. However, at least some increase upcoming fiscal year is anticipated. The Coastal Program will be developing its work plan in the early spring, and the Council should investigate whether any coastal funds might be available to fund some of the recommendations of this report.

V.6. Second Home Tax

A luxury tax might be considered for second homes. This might be especially appropriate as a source of funding in coastal areas for support of working waterfronts.

V.4. Sprawl Offset Tax

There has been at least preliminary discussion of proposing a “sprawl offset tax” which would be aimed at making those who develop or buy new homes in outlying areas help pay for some of the costs that such locational decisions incur on the community and society as a whole. One way of instituting such a fee would be to place a surcharge on permits for the siting of new septic systems. New septic systems located within designated growth areas would be exempt from this tax. No calculations have been conducted to date on how much revenue such a tax would generate. It is appropriately targeted at the point of development (better than the transfer tax in this regard) and can be easily administered once a GIS is in place as a piggy-back to the existing subsurface wastewater disposal system inspection fee.

V.5. Shore and Harbor Management Fund

Starting in calendar year 2002, the Bureau of Parks and Land’s Submerged Lands Program may have limited funding available for waterfront planning and improvement projects as part of its Shore and Harbor Management Program. The program is still in the process of being developed, but under a permanent trust fund arrangement, roughly \$80,000 per year may be available for such projects.

V.6. Second Home Tax

A luxury tax might be considered for second homes. This might be especially appropriate as a source of funding in coastal areas for support of working waterfronts.

V.7. Speculation/Capital Gains Tax

A speculation tax, such as Vermont’s declining capital gains taxes on land and timber, could be considered. Such a tax is paid when land or timber held for less than 7 years is sold at a profit. It declines in rate each year for 7 years. Proceeds could be applied to strategies in this report.

V.8. Food Security Tax

Though Maine has consciously left food as non-taxable and is still recovering from the unpopular snack tax, it is not illogical for each morsel of food to contribute in a small way towards future food security in the state in the form of a viable agricultural industry. A wholesale tax on food retailers related to volume could be substituted for a retail sales tax on food. Exempting Maine products would likely violate interstate commerce law but might be explored.

V.9. Broadening Sales Tax Base

In general, an obvious and not new idea is to broaden the applicability of the sales tax to services, etc. There is no special nexus here to this set of public interest programming.

V.10 Bond Issues

For capital costs such as public access and the GIS system infrastructure, bonding is an appropriate mechanism. It does not address ongoing maintenance costs.

APPENDIX A

LEGISLATIVE CHARGE

Exerpted from LD 2600, “An Act to Implement the Land Use Recommendations of The Task Force on State Office Building Location, Other State Growth-related Capital Investments and Patterns of Development.”

Sec. 17. Report on productive farming, fishing and forestry. The Land and Water Resources Council shall submit a report to the joint standing committees of the Legislature having jurisdiction over natural resources matters, agriculture, conservation and forestry matters and taxation matters by January 15, 2001 with an evaluation of and recommendations on the use of incentives to keep land in productive farming, fishing and forestry use.

APPENDIX B

MEMBERS OF RURAL LANDS WORKING GROUP

Appointed by the Land and Water Resources Council on September 14, 2000

Department of Agriculture, Food and Rural Resources
Department of Conservation

Department of Marine Resources
Department of Inland Fisheries and Wildlife
Department of Economic and Community Development
Department of Administrative and Financial Services
Department of Environmental Protection
Maine Department of Transportation
State Planning Office

Mary Ellen Johnston
Tom Doak
Don Mansius
Sue Inches
Ken Elowe
Peggy Schaffer
David Ledew
David Van Wie
Kathy Fuller
Mary Ann Hayes*
Judy Cooper
Will Johnston
Mark Des Meules

* Project Coordinator

Appendix M: Effectiveness of Meeting Working Waterfront and Public Access Goals

http://www.state.me.us/mcp/downloads/access_and_ww_report/access_and_ww_report.pdf

**A REVIEW OF THE EFFECTIVENESS OF THE
MAINE COASTAL PLAN IN MEETING THE
STATE'S PUBLIC ACCESS AND WORKING WATERFRONT
POLICY GOALS**

A Report from the
Land and Water Resources Council

to the
Joint Standing Committee on Marine Resources
and
Joint Standing Committee on Natural Resources
of the
121st Maine Legislature,
First Regular Session

Maine State Planning Office
December 2002

EXECUTIVE SUMMARY

Introduction

Legislation passed by the 120th Legislature (PL2001 c.595) directed the Land and Water Resources Council (LWRC) to review the effectiveness of the State's approved Coastal Management Plan in meeting the State's public access and working waterfront policy goals as established in the Maine Revised Statutes. In conducting this review, the Council was directed to (1) "explore state and local jurisdiction and authority", (2) consider the "development of incentives for municipalities to improve coastal access", (3) consider the "development of incentives for municipalities to conserve working waterfront lands for water-dependent uses", and (4) discuss the "development of performance indicators to allow for ongoing measurement of progress".

Findings

1. The State's Coastal Plan is implemented through a well-established program, the Maine Coastal Program at the State Planning Office. Implementation of the Coastal Plan is carried out by a network of participating state agencies and other partners through laws and regulations, partnerships and funding assistance. The Coastal Program's efforts to conserve public access and working waterfronts are dependent on cooperative relationships with state and federal agencies, regional organizations, municipalities, and various non-profit groups and organizations. Most importantly, however, the success of the Maine Coastal Program in meeting state access and waterfront policy goals depends on sound state/municipal relationships, and a balancing of state objectives with the particular needs of Maine's coastal communities.
2. Municipal efforts to protect, enhance, and improve public access to the coast are supported by the Coastal Program and partner agencies through a variety of outreach efforts, educational programs, technical assistance services and materials, and grants and other financial assistance. The LWRC finds that implementation of the Maine Coastal Plan should be further strengthened and targeted to help municipalities address public access and working waterfront issues. More vigorous implementation of the current Coastal Program strategies is needed and should be provided through public information and educational programs and materials, municipal outreach efforts to encourage good projects, coordination of access programs, grants, and financial assistance to support local projects. Additional targeting of state efforts, linked with municipal comprehensive planning or waterfront/harbor planning processes, will increase the effectiveness of the coastal program at the municipal level.
3. The Council finds that the major issue (within the control of state and local governments) confronting commercial fishermen and water-dependent users is the problem of rising property taxes that increase the financial difficulty of retaining and maintaining working waterfront facilities. This is a critical issue that needs to be

addressed by the Maine Legislature, and should be included as an important element of any discussion of property tax reforms. This is an issue outside the purview of the State's Coastal Management Program, but critical to the future of Maine's working waterfronts.

4. The threat of loss of access for commercial fisheries is a widespread and persistent problem, driven by broad economic and demographic influences related to development pressures that increase the competition for choice waterfront property. The loss of commercial access takes several forms, and varies from community to community, which adds to the complexity of tracking changes and formulating effective public policy. Coastal fishing communities are well aware of the problem, generally expecting it to worsen, and are working to combat the trends, while accommodating a variety of community needs.
5. Coastal communities are vitally interested in learning more about the tools and techniques that can be used to help maintain and enhance their working waterfronts. Effective responses at the local level may include municipal ownership of existing facilities, support for commercial businesses providing commercial fishing services, and appropriate support for owners of private facilities used by commercial fishermen.
6. Coastal fishing communities have a variety of needs in maintaining and enhancing their working waterfronts. Needs that range from repair and upkeep of marine facilities, to managing waterfront activities, to expanding existing facilities and providing new sites and facilities. Municipalities have come to depend on the State's Small Harbor Improvement Program (SHIP) and other grant programs to help provide crucial financial support for local projects.
7. Incentives to help municipalities meet state policy goals are best provided in the form of technical and financial assistance that helps communities respond to access problems and needs at the local level where actions can be crafted to fit local conditions.
8. Availability of data on the coast-wide status and trends in commercial fishing facilities and usage continues to be problematic, but improvements in the way information is collected are planned by the newly formed interagency Coastal Water Access Working Group.

Recommendations

A series of recommendations for improving and expanding the Maine Coastal Program to improve coastal access to assure the viability of working waterfronts is presented in this report to the Legislature.

1. Create a new **working waterfront initiative at the Maine Coastal Program** to provide better support for municipal waterfront conservation and infrastructure development. This initiative should including the following components:

- An **information and education program for municipalities** including workshops and website resources on: harnessing public and private waterfront investment; accessing grant programs; using tools like Tax Increment Financing (TIF); transfer of development rights (TDR), cooperative ownership, and revolving loan funds; and using community planning to achieve waterfront development goals.
 - A **new delivery system for municipal technical assistance** using field-based staff from other organizations such as the University of Maine Sea Grant Marine Extension Team (along with other partners). Field staff would be trained to assist coastal communities with issues concerning land use planning, environmental protection and management, coastal access, recreational tourism, and use conflicts.
 - **Proactive support for local (water access) project development.** Working in close cooperation with the Land for Maine's Future staff, and other state and federal funding programs, provide a single point of contact at the Maine Coastal Program for coastal towns to obtain information on the boating access fund and other opportunities for recreational and commercial access projects.
2. Use the newly formed, interagency **Coastal Water Access Working Group** to improve the coordination of state investment programs for water access and coastal infrastructure.
- Integrate grant programs and other sources of financial assistance for municipal projects to **develop multi-use sites** that serve a range of coastal needs.
 - Charge the Coastal Water Access Working Group with the task of **documenting the health of working waterfronts and tracking changes** over time.
3. Provide financial and in-kind staff support (federal Coastal Zone Management funds and staff) for the **development of new ideas** for waterfront investment and conservation.
- Along with a coalition of interested parties, support the work of Coastal Enterprises Inc. to **expand the Portland Working Waterfront Loan Program** to additional harbors along the coast.
 - **Support the formation of a new non-profit corporation, a *Commercial Fishing Heritage Trust***, charged with purchasing development rights on key waterfront parcels to assure continued use of the land for commercial fisheries and water-dependent uses.

In addition to the recommendations suggested above concerning the modification of programs administered through the Maine Coastal Program, the Land and Water Resources Council also recommended other public policy responses to address the problems associated with diminishing access for water-dependent uses.

- The tax burden on coastal property and on waterfront land is a critical issue that negatively impacts the ability to sustain waterfront businesses and results in displacement of fishermen and other long-time coastal residents from waterfront lands. This issue that needs to be addressed by the Maine Legislature, and should be included as an important element of any discussion of property tax reforms.
- A coalition of political leaders, commercial fishing interests, municipalities, and others concerned with finding effective solutions to preserve and enhance working waterfronts should be encouraged to form a working waterfront group to work on creating effective public and private sector actions.

A REVIEW OF THE EFFECTIVENESS OF THE MAINE COASTAL PLAN IN MEETING THE STATE'S PUBLIC ACCESS AND WORKING WATERFRONT POLICY GOALS

I. Introduction

Legislation passed by the 120th Legislature (PL2001 c.595) directed the Land and Water Resources Council¹ (LWRC) to review the effectiveness of the State's approved coastal management plan in meeting the State's public access and working waterfront policy goals as established in the Maine Revised Statutes. In conducting this review, the Council was specifically directed to (1) "explore state and local jurisdiction and authority", (2) consider the "development of incentives for municipalities to improve coastal access", (3) consider the "development of incentives for municipalities to conserve working waterfront lands for water dependent uses", and (4) discuss the "development of performance indicators to allow for ongoing measurement of progress". This document fulfills the obligation of the LWRC to report back to the Legislature by December 15, 2002 on its findings and recommendations. No new legislation is being introduced or recommended as part of this report.

In evaluating working waterfront and public access efforts, the Council considered two areas of state policy and related programs that are often interrelated, but tend to be treated separately in government programs. "Public access" can refer to a wide variety of public access needs to coastal resources for scenic, conservation, recreational, and boating purposes. Since the impetus for this report grew from a broad concern for the loss of access to waterfront lands and conversion of facilities required for commercial fishing, greater emphasis in the report is placed on issues related to commercial water access.

II. Background

The charge to review the effectiveness of the state's coastal plan is a direct outcome of a 2001 Legislative study committee that explored the loss of commercial waterfront access and other economic development issues affecting commercial fishing. This committee's report² was delivered to the Legislature in December of 2001, and included an extensive list of

¹ The Maine Legislature established the Council in 1993 to advise the Governor, the Legislature, and State agencies in the formulation of State policy regarding natural resources management to achieve State environmental, social, and economic objectives. The Legislature has conferred on the Council, originally established by Executive Order, broad authority to consider natural resources issues of statewide significance and to counsel the Governor and Legislature on policy options for management and protection of natural resources. See 5 M.R.S.A. §3331, sub-§2.

² *Final Report of the Committee to Study the Loss of Commercial Fishing Waterfront Access and Other Economic Development Issues Affecting Commercial Fishing*, December 2001. Can also be downloaded from the web at <http://www.maine.gov/legis/opla/comfish.PDF>

potential actions and activities that could be undertaken to protect and enhance commercial fisheries.

During its tenure, the Legislative study committee documented an array of state requirements, guidance, policy direction, model programs, funding assistance, and incentives managed by several state agencies intended to affect the preservation of working waterfronts and provision of public access. Yet due to the complexities of land valuation and property taxation, gentrification along some waterfronts, development pressure, market prices for waterfront lands, decline in fisheries, difficulty in maintaining waterfront infrastructure, and other factors, state programs seemed to not be resulting in success on the ground.

The Legislative directive acknowledged that Maine's Coastal Plan is implemented by the Maine Coastal Program (at the State Planning Office) through a variety of partnerships and shared authority with local municipalities, and that much of the success in meeting coastwide public policy goals ultimately depends on the quality of municipal decision-making. Thus, the Legislature asked the Council to explore whether the existing balance of state and local jurisdiction and authority, particularly in the area of land use authority, was adequate to achieve state policy goals. Understanding that additional state regulations are not always the best approach to achieving success at the local level, the Legislature also asked the Council to consider ways to encourage or provide incentives to municipalities to help them improve coastal access and conserve working waterfronts lands for water-dependent uses.

Lastly, the Legislature recognized the need for additional data to measure development trends along the coastline and to better measure the success of the Coastal Plan in fulfilling the State's policy goals and directed the Council to look at the development of performance indicators. With multiple state agencies responsible for various programs intended to affect the provision of coastal access and conservation of working waterfronts, joint performance indicators could help managers refine programs and direct public resources for optimum results.

In general, this evaluation by the LWRC was intended to provide more specific information about additional ways that state programs could more effectively increase the amount of coastal access available to the public and to effectively preserve the extent and nature of Maine's working waterfronts.

III. Methodology

The development of this report involved two phases described below:

Phase 1 – Since the success of efforts to conserve working waterfronts and provide public access is largely dependent on municipal efforts, a field survey of coastal communities was commissioned. The Maine Coastal Program (MCP) at the State Planning Office (SPO) engaged the services of Coastal Enterprises Inc. (CEI), a non-profit economic development corporation headquartered in Wiscasset, Maine, to conduct a survey of coastal fishing

communities in Maine.³ The 25 communities chosen for the survey were considered to be representative of the array of commercial fishing centers found along the coast from Kittery to Eastport. The purposes of the survey were to: (1) document the status of working waterfronts and the present and future threats of change or loss; (2) identify municipal and technical needs for dealing with problems; and (3) make recommendations regarding the best ways of monitoring changes and trends in the future. The study was conducted by interviewing knowledgeable people in each selected community.

Phase 2 – The findings of the CEI report were used to inform the next part of the analysis, a determination of the effectiveness of the implementation of the Coastal Plan. In the absence of established performance indicators, the LWRC’s evaluation was based a review of certain key interim (or output) measures of the program’s effectiveness. While output measures are not direct measures of increased waterfront access or increased conservation of miles of working waterfront shoreline, they are a valid measure of the program’s efforts towards these outcomes. An “effectiveness rating” (a “✓” for “effective”, and a “✓-“ for “improvement needed”) was established for each of the following criteria listed below. Where needed, suggestions were made to increase program effectiveness.

- Availability of data to track problems and measure success along the waterfront
- Effectiveness of inter-agency coordination for water access
- Staffing available for liaison with towns on water access projects
- Funding available and funding secured for local coastal access projects
- Effectiveness of local comprehensive planning and local land use regulations in conserving working waterfronts
- Availability of technical assistance to towns for community planning. Quality and availability of guidance, educational materials and programs for waterfront conservation
- Regulatory environment for working waterfronts

The determination of the effectiveness of the program and the recommendations for improved programming were developed through MCP/SPO staff discussions with other agencies, program partners, and towns, and meetings with the Land and Water Resources Council. Additionally, feedback was sought from a small advisory group convened by Coastal Enterprises, Inc. A list of advisory committee members is included in Appendix C of this report.

IV. Findings

These findings are presented in two parts. The first part provides an overview of the results of the field survey of fishing communities. The full results of the CEI survey are included in Appendix A. The second part presents findings related to the effectiveness of the Maine Coastal Program.

³ *Preserving Commercial Fishing Access: A Study of Working Waterfronts in 25 Maine Communities*. Can also be downloaded from the web at http://www.maine.gov/mcp/online_resources/ftp.html

1. Field Survey of Working Waterfronts in 25 Maine Towns

a. Ownership of commercial access areas

Commercial fishing access in Maine is provided in a variety of ways – at publicly owned facilities, privately-owned commercial piers and through arrangements at other privately-owned wharves. Sites that are publicly owned are the most protected from conversion to non water-dependent uses, yet only 25% of commercial fishing access in the towns surveyed is provided at publicly owned facilities (municipal piers, fish piers, and public boat ramps). Seventy-five percent (75%) of commercial access occurs at privately-owned facilities, thirty-five percent (35%) of commercial access is provided by privately-owned businesses (cooperatives, commercial piers, etc.), and forty percent (40%) of commercial access via other is private property, where the property owner makes access available to other fishermen by lease or other arrangement.

In 2002 at the time of the field survey, there were 11,462 berthing spaces, mooring, slips, and tie-ups available in the harbors of the 25 towns surveyed. Of this number, 42% were used by commercial boats and 58% by recreational boats. For individual towns the percentage of commercial vs. recreational use varies. In the majority of the surveyed towns (15 out of 25) there were more recreational boats than commercial boats. In 10 of the 25 towns, commercial fishing boats comprised 50% of the boats in the harbor.

b. Status of commercial access

Sixty-four percent (64%) of the 25 towns surveyed indicated that commercial fishing access is a problem now, and 80% of the towns surveyed are planning to address this issue. The loss of commercial fishing access is due to many factors, which adds to the complexity of tracking changes and formulating effective public policy. The survey identified a number of ways that commercial access is diminishing:

- ❖ Landowners have posted and closed off private lands and contested the public rights to access traditionally used walkways. This type of loss has impacted clam and worm diggers.
- ❖ Fishermen rely on often-tenuous lease or use arrangements with private pier and wharf owners.
- ❖ Fishermen often compete for use of public facilities, especially those with limited parking and equipment storage space.
- ❖ Working wharves have been converted to “more desirable” residential and recreational uses or to other commercial uses.

c. Anticipated trends in the availability of commercial access

Threats to established commercial access facilities and sites are real, persistent, and pervasive. The surveyed communities identified a list of problems:

- ❖ There is intense development pressure to convert waterfront lands and facilities for non-water dependent uses.
- ❖ As fishing families sell waterfront facilities, more commercial operators use public piers, increasing pressure on these facilities.
- ❖ The use of public wharves must balance and serve both commercial and recreational use, which can lead to conflicts.
- ❖ Limited parking, combined with increased use by tourists, can intensify potential conflicts.
- ❖ In some areas with heavy recreational boating use, only limited numbers of moorings are available.
- ❖ Boats are getting larger (both commercial and recreational), and these vessels require more berthing and mooring space.
- ❖ Coastal towns face increased costs for legal challenges over access rights.
- ❖ Sales of higher value properties trigger revaluation of all properties which often leads to higher taxes on waterfront land.
- ❖ Wharves require costly upkeep; the struggle to keep pace with maintenance is often a challenge to running a viable business operation.
- ❖ Individual fishermen often cannot afford inflated market price for waterfront property to retain it in commercial use. Municipalities cannot find affordable waterfront properties to create additional public use areas.

d. Vulnerability rating for communities surveyed

A vulnerability index was constructed to indicate the municipalities' susceptibility to change and loss of commercial fishing access on the communities' working waterfronts. The index postulates that towns with the following characteristics are less vulnerable to losing access sites and facilities:

- ❖ Commercial fishing access is a priority among town officials,
- ❖ Strong ordinances & regulations are in place to protect waterfronts from conversion to non water-dependent uses,
- ❖ Less than average development pressure exists, as measured by population and housing increases, lower tax values per acre, and lower tax cost per acre,
- ❖ A dedicated fish pier exists for commercial use,
- ❖ A significant number of community members are employed in the fishing industry.
- ❖ Eight communities out of the 25 are considered highly vulnerable to conversion of water-dependent uses, twelve communities are considered moderately vulnerable and five towns are considered to less vulnerable to property conversions.

e. Needs expressed by municipalities surveyed

The surveyed communities consistently identified property tax relief, availability of funding, and planning assistance as the top actions needed to help relieve pressures on working waterfronts.

2. Effectiveness of the Maine Coastal Plan in Achieving State Policy Goals

The Maine Coastal Plan guides a variety of activities in Maine's coastal zone aimed at fulfilling the State's coastal policy goals, including the improvement of public access to the coast and the maintenance and enhancement of working waterfronts.

The Coastal Plan is implemented through a well established program, the Maine Coastal Program (housed in the State Planning Office). This "networked program" relies on relationships with state and federal agencies, regional organizations, municipalities, and various groups and organizations. The effectiveness of the Coastal Plan in achieving coastal access policy goals depends in great measure on these working relationships.

As described in the section of methodology, the following aspects of the program's effectiveness are discussed in this evaluation, and an "effectiveness rating" and suggestions for improvement are provided:

- Availability of data to track problems and measure success along the waterfront
- Effectiveness of inter-agency coordination for water access
- Staffing available for liaison with towns on water access projects
- Funding available and funding secured for local coastal access projects
- Effectiveness of local comprehensive planning and local land use regulations in conserving working waterfronts
- Availability of technical assistance to towns for community planning
- Quality and availability of guidance, educational materials and programs for waterfront conservation
- Regulatory environment for working waterfronts



a. Availability of data to track problems and measure success along the waterfront

The ability of agencies to measure the success (over time) of public programs and policies aimed at conserving working waterfronts is hampered by a continued lack of comprehensive, comparable data on coast-wide status and trends in the number of commercial access facilities and their use. Existing inventories of coastal facilities sponsored by the Maine Department of Transportation provide good information about the existence of marine facilities and changes over time, but they do not provide a complete picture of the use of facilities for commercial fisheries.

Measures to Improve Effectiveness –

- ☐ **Institute Regular Reporting on Progress in Meeting Access Goals.** In 2002, the Maine Legislature directed the State Planning Office and the Maine Department of Marine Resources to establish and provide staff support to an interagency Coastal Water Access Working Group, for the purposes of addressing data needs, coordinating water access programs, and reporting to the Legislature on the status of coastal water access. The establishment of the Coastal Water Access Working Group provides an opportunity to update and refine coastal facility and commercial access use data, and provides a mechanism to report on the status of working waterfronts to the Legislature and public.
- ☐ **Include Additional Parameters in Inventories of Marine Facilities.** CEI recommends tracking the number of berthing, mooring, slips, and tie-ups available in harbors, and determining the percentage of use by commercial vs. recreational boats. To track how water access is provided for commercial fishermen, CEI recommends tracking the amount of access provided by public facilities, that provided by commercial facilities and access provided at other privately-owned (frequently residential) facilities. The interagency Water Access Group discussed above will update the coastal facilities inventory, adding new data categories that will provide a measure of change in commercial and recreational capacity and usage over time.
- ☐ **Increase Communication with Harbormasters.** Harbormasters have the most up to date and detailed knowledge about the community waterfronts. Opportunities for interaction for Harbormasters are available through the Maine Association of Harbormasters and their annual meeting.
- ☐ **Establish Formal Performance Measures for Coastal Access and Conservation of Working Waterfronts.** NOAA is currently developing a framework for result-based management using performance indicators. This framework will be an effective tool to help provide information on local, regional, and national trends and issues affecting the coast. It will assist coastal managers in improving the internal management of their programs and showcase the accomplishments and the potential needs for specific state programs. In 2003, the SPO will begin the design of performance measures for the Maine Coastal Program.

☒ **b. Effectiveness of inter-agency coordination for water access**

State agencies that fund water access projects and those that have an interest in water access have a new vehicle for collaboration in the new Coastal Water Access Working Group mentioned above. The group provides a mechanism to continue to leverage grants and other financial resources to support local access projects. The Group is already working to improve and formalize cooperation by sharing information, enhancing lines of communication, developing a program data base, coordinating activities, and working together to assist with grant proposal review and project selection. The Maine Coastal Program provides staff support to the Working Group and will continue to provide federal resources for the group's needs.

Measures to Improve Effectiveness –

None suggested at this time.



c. Staffing available for liaison with towns on water access projects

During the summer of 2002, the Maine Coastal Program redesigned and filled a staff position that had remained vacant for approximately a year and a half. This full-time position assists the Land for Maine's Future program with coastal water access projects, leads the working waterfront initiative and manages a new outreach program to work directly with coastal towns and non profit corporations to secure funding for coastal access projects. This position also provides staff support to the interagency Water Access Working Group.

Another staff planner at the Coastal Program manages the Right-of-Way Discovery Grant program mentioned in the next section of this report.

While this level of staffing might seem meager given the size of the Maine coastline and the need for assistance expressed by municipalities, this level of effort is sustainable given current levels of federal funding available through federal Coastal Zone Management funds. The position at the State Planning Office also complements positions in other agencies that attend to public access on a statewide basis (DOC and IF&W) and on marine infrastructure projects (MDOT). Although this concerted effort at the Maine Coastal Program is fairly new, it is expected to result in the development of new and improved water access sites and facilities that will accommodate both recreational and commercial users.

Measures to Improve Effectiveness –

None suggested at this time.



d. Funding available and funding secured for local coastal access projects

While the Maine Coastal Program devoted significant federal funds during the 1980's for public access through the Waterfront Action Grant Program, resources were diverted beginning in the early 1990's to help bridge a gap created by budget cuts at other state agencies with responsibilities for management of coastal resources. Currently, any funding provided for coastal acquisition or access development comes from the Coastal Program's base funding, which also supports the core activities of the program. During the three years from 2000 to 2002, MCP supported only three local coastal access projects – in Stonington, Calais and Gardiner. Another project in Calais is planned in 2003. In each case, MCP was able to provide only a small grant to assist the town in meeting their matching requirement for larger grants.

In addition to the occasional projects using discretionary funds, the Coastal Program runs a mini-grant program that helps municipalities document legal interests in historic rights of way to the coast. This program, although small, has helped many towns secure public rights to important coastal access points.

In the field survey conducted by Coastal Enterprises Inc., municipal representatives identified expanded parking, repairs to piers and float systems, dredging, expansion of existing piers and wharves, new parking areas, and land acquisition for new access sites as their top needs for public waterfront improvements. While supply of available funding cannot keep pace with the need for assistance with public access and improvements to access facilities, there are existing programs operated by partner state agencies that address each of the priority needs expressed by municipalities.

Of the various funding programs for acquisition and access improvements, the Small Harbor Improvement Program (SHIP) is of particular importance to municipalities with significant commercial fisheries. CEI's field work documented that 92% of the towns surveyed have taken advantage of SHIP funds. To date, \$2.5 million dollars in SHIP funding was approved as part of the 1995 general transportation bond, and \$1.5 million was approved in the 2001 transportation bond package. Coastal Program staff has assisted the Department of Transportation with the publicity for SHIP grants, recruitment for projects, and review and selection of projects.

Measures to Improve Effectiveness –

- ☐ Continue SHIP funding and rethink the state's approach to small harbors. The 2001 Legislative Study Committee to Study the Loss of Commercial Fishing Access cited the demand for SHIP funds and recommended that the Small Harbor Improvement Program be included in the bond package as a standard item in each biennial budget at the level of \$3 million. At the time of submittal of this report, MDOT was still finalizing its request for the 2004-2005 biennial budget. While the SHIP program represents significant support for the state's small harbors, the state's primary area of focus has been on investment in Maine's three primary ports at Portland, Searsport and Eastport, according to the "three-port strategy." The Department of Transportation has signaled its intentions to revisit the twenty-five year old "three port" policy during the tenure of the next administration.
- ☐ Assist in the Development of New Funding Sources. When opportunities arise for municipalities to act on a waterfront land or facility acquisition opportunity, towns may be hamstrung by the lack of immediate funds to take timely action. Grant programs are usually offered on an annual or periodic basis and may be out of phase with the immediate opportunity, or the project may not fit well with the purposes of the available funding source. Facing these circumstances, municipalities have expressed an interest in the availability of a revolving fund or other short-term, quick turn-around financing option. Two ideas to meet this need are discussed below.
 - *Municipal Access Fund.* Several island and coastal communities recently identified the need for a coastal "credit union" that could provide the short-term "bridge" financing towns might need from time to time to take advantage of opportunities to meet waterfront access needs.
 - *Working Waterfront Loan Fund.* Currently a working waterfront loan fund is operating on Portland's waterfront. Capitalized with funds from Bath Iron Works, and managed by Coastal Enterprises Inc., loan funds are available to credit-worthy

private pier and wharf operators and long-term leaseholders that service cargo and marine service operations, commercial fishing, aquaculture, boat repair and boat building. The funds can be used for dredging, pier maintenance and expansion, including repair of pilings, bulkheads and environmental improvements. The current fund is limited to businesses located on piers along the City of Portland's working waterfront, but with additional funding, the program could be expanded to other coastal communities. In the survey of coastal communities, CEI found a large number of towns expressed an interest in learning more about a low interest loan fund. When asked to identify improvements that would assist and support privately-owned facilities, the towns listed tax relief and low interest loans, followed by investments in repairing wharves and floats, dredging, and land acquisition.

To expand the revolving loan fund to other coastal communities the fund will need additional capitalization. One potential source of funds to capitalize an expanded program is funding through the Economic Development Administration (EDA). The Maine Department of Marine Resources reported that in a currently pending EDA grant application, funds are included for CEI to provide information/education, technical business planning advice, and access to funding resources to commercial fishing enterprises. Expansion of the existing loan fund would extend these services to a broader business base.

- ☐ Provide Technical Assistance to Towns to Establish Waterfront Tax Increment Financing Districts. Tax Increment Financing (TIF) can be applied to working waterfronts. It is a tool available to towns for creatively focusing public infrastructure investments to improve the operation and success of local participating businesses in the district. The City of Portland currently has a TIF district in place that provides public infrastructure needed to maintain the operation of commercial piers and wharfs along the waterfront.

☒ **e. Effectiveness of local comprehensive planning and local land use regulations in conserving working waterfronts**

The existence of an approved municipal comprehensive plan deemed to be consistent with the goals established in Maine's Comprehensive Planning and Land Use Regulation Act does not, by itself, guarantee the existence of waterfront access, nor does it guarantee the implementation of a sound strategy for conservation of a town's working waterfront. Eighty-four percent (84%) of the towns surveyed by CEI have a comprehensive plan in place, and 72% employ the use of zoning to control and regulate land uses. Only 24% of the surveyed towns have created an exclusive or "water dependent use only zone." Exclusive zones, by prohibiting land uses other than those that are water-dependent limit, the conversion of waterfront properties to residential and other non water-dependent uses. This scheme of zoning is perhaps best suited to waterfronts where a critical mass of healthy businesses are present and where there is a positive future outlook for water-dependent commerce. Exclusive zoning in smaller communities with less stable waterfronts could limit flexibility needed by waterfront landowners to respond to changing conditions in the marine-related economy.

While there are mechanisms available to the state legislature to amend the Mandatory Shoreland Zoning Law (one of the NOAA-approved enforceable policies of Maine's Coastal Program) to mandate more restrictive zoning along working waterfronts, this approach is not considered politically feasible at this time. Likewise, the Legislature could consider adoption of a new statute to designate prime sites for water-dependent uses as state areas of critical concern with associated additional planning and regulatory requirements, but again, this approach is not considered feasible at this time.

Municipal efforts to protect, enhance, and improve public access to the coast are supported through a variety of outreach efforts, educational programs, technical assistance services and materials, and grants and other financial assistance. More vigorous implementation of the current Coastal Program strategies through public information and educational programs and materials, municipal outreach efforts to encourage good projects, coordination of access programs, grants, and financial assistance to support local projects will go a long way towards encouraging and supporting local actions to improve public access goals.

The Council also noted that the interests of state water access programs sometimes conflict with local interests, making it difficult to site boat access facilities. In cases where local opposition to a proposed boat launch site develops, the locally approved, "state-certified", consistent comprehensive plans and land use ordinances are sometimes used in attempts to block a State project. The Council noted that it might be desirable to seek additional clarification and exemption for highway and boat access projects. No action is planned, but the conflict between state and local objectives was noted.

The Land and Water Resources Council recommends an expanded program of planning assistance to coastal municipalities in lieu of changes to state regulations. Most of the communities surveyed for this report listed planning assistance as one of their top needs for responding to the threats of loss of public and commercial waterfront access.

Measures to Improve Effectiveness –

- ❑ **Improve Assistance to Coastal Towns for Comprehensive Planning.** Under the requirements of the Comprehensive Planning and Land Use Regulation Act, coastal towns must consider marine and coastal resources and water access issues during the development of local comprehensive plans, and develop implementation strategies to meet local and state goals.

The Coastal Program provides a variety of planning guides and technical assistance to communities, often delivered through the comprehensive planning process. Over the years the Coastal Program has produced or supported the production of planning materials and informational documents designed to help communities deal with a variety water access and working waterfront issues, including model ordinances, harbor planning guidance and model plans, pier and dock ordinances, etc. However, guidance documents available to towns for coastal planning are in need of revision and additional training assistance for agency partners and local/regional planners is needed. Marine resource data provided to towns for the marine resource section of local plans should be continually updated.

Technical assistance to towns during the comprehensive planning process is currently provided by the State Planning Office, Regional Planning Commissions, local planners and planning consultants. Specific technical assistance on working waterfront and coastal access should be provided to communities at appropriate points in the planning process. To further this objective, a new partnership is being formed with the University of Maine Sea Grant Marine Extension Team to assemble a field assistance team to respond directly on an “as-needed basis” to coastal communities’ needs for assistance with coastal protection and management, coastal access, recreational tourism, and use conflicts.

Targeting of help to those communities that are developing comprehensive plans and/or waterfront/harbor plans, and to towns with current coastal access opportunities will increase the effectiveness of the Coastal Program’s technical assistance efforts.

- ❑ **Provide Additional Incentives to Improve Comprehensive Plans.** While many towns produce good comprehensive plans, they often do not include a cohesive waterfront plan for conservation of deep water access for marine-dependent businesses and often do not identify specific short and long term needs for coastal public access sites. State law already requires many state financial assistance programs to offer preferences (for the award of grants and funding) to communities that have consistent, locally adopted comprehensive plans. At the suggestion of the 2001 Legislative Study Committee, a system of bonus points was used for scoring the last round of proposals for SHIP grants. Continued use of this practice is under review for its effectiveness and use in the next round of grants. A similar system has also been worked into the Department of Conservation’s award of Shore and Harbor Management Grants. Strengthening preferences for award of grants to towns that have a sound, specific and action-oriented waterfront plan will ensure that the state grants work to maximize the realization of state policy goals.
- ❑ **Encourage Towns to Use Non-regulatory Approaches to Conservation of Working Waterfronts.** The dilemmas associated with conservation of working waterfronts share some commonalities with attempts conserve farmland. In both cases the resource is in limited supply (deep water access in the case of waterfronts, and prime agricultural soil in the case of farmland), and the property owner may not be in favor of additional regulations which limit the use of the land (to marine-dependent uses or farming). In both scenarios, the shorefront parcel or the acreage of rolling fields in many cases represents the owners’ opportunity for retirement. Two tools commonly used to conserve high value natural resources and farmland hold promise for use in conserving working waterfronts in Maine. As described below, both tools provide incentives for landowner participation, since they afford the landowner the opportunity to get monetary compensation in exchange for preservation of properties in water-dependent use.
 - *Purchase of Development Rights.* Purchasing development rights is a way to assure long-term conservation of shorefront lands. Using this tool, rights to develop waterfront property are assigned a value and the property owner is provided monetary compensation in exchange for the right to further develop the property. Purchase of development rights, which is less than full fee ownership, also allows the buyer to prohibit the development of land and facilities and to maintain existing uses. In this

case, purchase of development rights from a working waterfront business could protect the availability of the property for commercial fishing access, and an arrangement could be made to allow the continued operation of a water-dependent business on the property.

A Commercial Fishing Heritage Trust, modeled on farmland preservation trusts, organized as a private non-profit land trust, could be formed to purchase vulnerable waterfront lands and facilities and/or development rights, hold title to property and development rights, and lease back use rights to towns or businesses. A next step for possible creation of this type of entity would be development of a business plan and research into capitalization issues.

- *Transfer of Development Rights.* Transfer of Development Rights (TDR), while not widely used in Maine, offers the opportunity for a coastal community to set up a mechanism for trading development rights away from waterfront parcels to lots in the town's inland growth areas. The development of a statewide TDR program is one of several items on the agenda of the Community Preservation Advisory Committee established by the Legislature in 2002. This is a broad-based group assembled to help guide the implementation of Smart Growth programs. The work of this committee may provide a good forum for the discussion of TDR programs, including tailoring any new program to meet coastal community and waterfront needs. The Maine Coastal Program should support this work.

- ☐ Increase educational programs for towns and property owners. Communities surveyed during preparation of this report were interested in learning about an array of planning tools and techniques, including the purchase of access rights or deeded access, a water access tools, and transfer of development rights. The Coastal Program should deliver these educational sessions through community dialogues and other local forums and develop working waterfront and coastal access resource information for the Maine Coastal Program website.

☒ **f. State regulatory environment for working waterfronts**

Commercial fishermen have expressed frustration about the expense associated with construction of new piers and wharves, and questioned whether Maine's regulatory process unreasonably increases this cost. New docks and major repairs to existing piers and wharves are subject to review and approval by the Department of Environmental Protection under the terms of the Natural Resources Protection Act (NRPA). Smaller facilities are considered in the streamlined Permit-by-Rule process and larger facilities must undergo full review under the NRPA. State licensing staff and the Board of Environmental Protection generally consider that sites with all-tide access are needed for most working waterfront operations and that such sites are limited along Maine's coast. The fact that proposed new commercial piers and wharves often service multiple commercial operators is also viewed as favorable. Siting of new docks and expansion of existing docks has sometimes been controversial in recent years and objections have focused on scenic and aesthetic issues. At the time of submittal of this report, DEP staff had drafted new rules for evaluating scenic and aesthetic impacts under the NRPA that should minimize appeals by neighboring property owners, while minimizing impacts to views.

While the Submerged Lands Program is not technically a regulatory program, in leasing publicly-owned submerged lands for private use, the statute provides for reduced rental fees for commercial fishing uses and other facilities offering berthing and slip space for commercial fishing interests. In addition, the approval criteria require that new projects be reviewed to insure that they will not unreasonably diminish the availability of existing services, facilities, and access necessary for commercial marine activities.

Given that effective administration of sound coastal environmental laws is a foundation of Maine's approved coastal management program and public concern with the nature and pace of development on Maine's coast is increasing, no further streamlining of regulatory processes is suggested at this time.

Measures to Improve Effectiveness –

None suggested at this time.

V. Other Public Policy Issues

A number of factors outside the purview of the Coastal Plan have a significant impact on the problems and issues confronting coastal communities. The future viability of the fishing industry, and economic and demographic trends in coastal communities are two such influences. This section of the report presents discussion on one additional factor beyond the control of state environmental protection and land use planning efforts, that ultimately influences the effectiveness of the Coastal Plan – property taxation.

Property taxation is a critical factor influencing the ability of fishermen and commercial fishing related businesses, and water dependent users to retain a presence on the waterfront. Driven by market conditions and unrelenting development pressures, the demand for limited waterfront property and facilities increases property values, which in turn factors through the property tax system resulting in significantly increasing property tax bills. Concerns about property taxation are widespread across the state, are the focus of several referendum campaigns, and will most likely be taken up in the new legislative session. A number of proposals and ideas are being debated, and may well provide the basis for legislative actions. It is important that commercial fishermen's concerns and needs be taken into account in fashioning any changes to the states taxation system.

From the survey of coastal communities, CEI reports that taking action to relieve the pressures of rising property taxes is the number one action identified by communities that would assist them in retain commercial fishing enterprises and facilities. Coastal municipalities see property tax relief as the number one effort that needs to be taken to help keep working waterfronts viable. Controlling or limiting the rapid increases in waterfront property values is seen as a positive measure in maintaining the affordability of waterfront properties for commercial fisheries uses.

In November 2002, Maine voters narrowly turned down a constitutional amendment that would have allowed the Legislature to create a preferential tax category for land used for

commercial fishing activities based on the current use of that property. The issues and concerns surrounding rising property values and taxes have not abated over the ensuing two years. Renewed efforts to impose a tax cap, the creation of a select advisory committee to study ways to reform the state's tax structure to take pressure off of the property tax and new proposals such as the Land Bank idea put forward by Chebeague islanders to create a long term ownership category are aimed at helping coastal property owners retain their land and preserve existing uses and conditions.

It is expected that the next Legislature will take a hard look at the state's tax structure with an eye to relieving over-reliance on the property tax at the local level. The costs and benefits of current use treatment of waterfront commercial fishing lands needs to be factored into any proposal to maintain preferential tax categories.

As in the past, The State Planning Office/Coastal Program will work to provide the information and perspective needed to understand the pros and cons of property tax proposals designed to maintain and enhance working waterfronts. In its information and analysis role, the SPO/MCP can provide information about the impacts of specific proposals, can host discussion forums, and can assure that a coastal perspective is provided during discussions.

VI. Conclusions

Loss of access for commercial fisheries is a widespread and persistent problem, driven by broad economic and demographic influences that increase the competition for choice waterfront property. The loss of commercial access takes several forms, and varies from community to community, which adds to the complexity of tracking changes and formulating effective public policy. Coastal fishing communities are well aware of the problem, generally expect it to worsen, and are working to combat the trends, while accommodating a variety of community needs. In short, most coastal towns are extremely interested in this issue, would welcome additional help in the form of technical and financial assistance from the state, and are vitally interested in learning more about the tools and techniques that can be used to help maintain and enhance their working waterfronts.

The State's Coastal Plan is implemented through a mixture of mandates, partnerships, and assistance programs that attempt to balance local "home rule" authority with the State's policy objectives. Although it is not desirable to increase the state's regulatory authority over waterfront land use, technical assistance, incentives and funding programs offered to municipalities by the state should be further refined and targeted to help municipalities address public access and working waterfront issues. Assistance to help municipalities meet state policy goals is best provided in the form of technical and financial assistance that helps communities respond to access problems and needs at the local level where actions can be crafted to fit local conditions.

The incentives identified in this report, both to encourage communities to do better planning for waterfronts, and to encourage property owners to participate in non-regulatory approaches to conservation, will require additional financial resources. State grant programs

such as the Small Harbor Improvement Program are vitally important to fishing communities. Given the current condition of the state's budget, new sources of funding and new mechanisms for raising funds for purchase of water access will be needed. Ideas for municipal use of Tax Increment Financing districts along the waterfront, expansion of revolving loan funds and creation of a Commercial Fishing Heritage Trust are discussed in the report.

Due to the lack of established performance goals and measures, it proved difficult to evaluate the effectiveness of the implementation of Maine's Coastal Plan in providing public access and conserving working waterfronts. Instead an evaluation of "output" or level of effort for several aspects of the Coastal Program revealed that some efforts are adequate, while changes and improvements in other areas would no doubt make the program more effective in meeting state policy goals. These recommendations are detailed in the body of this report.

It is desirable to establish performance indicators for public access, waterfront vitality and other topics that comprise effective coastal management. Several state agencies are involved in both public access and waterfront operations and could partner with the State Planning Office to jointly set goals, establish measures and evaluate performance over time. Maine can mirror federal efforts to develop performance measures and the new inter-agency work group on coastal access would be well suited to track progress over time.

The Council finds that the major issue confronting commercial fishermen and water dependent users is outside the purview of state environmental protection and land use planning programs – the problem of rising property taxes that increase the financial difficulty of retaining and maintaining working waterfront facilities. This is a critical issue that needs to be addressed by the Maine Legislature, and should be included as an important element of any discussion of property tax reforms.

In addition to policy responses and new programming at the state level, conservation of Maine's remaining working waterfronts will require the participation the attention of the private sector. A coalition of political leaders, commercial fishing interests, municipalities, and others concerned with finding effective solutions to preserve and enhance working waterfronts should be encouraged to form a working waterfront group to work on creating effective public and private sector actions.

APPENDICES

Appendix A (attached) –

Preserving Commercial Fishing Access: A Study of Working Waterfronts in 25 Maine Communities, prepared by Coastal Enterprises Inc. for the State Planning Office, Maine Coastal Program, December 2002. If Appendix A is not attached, a copy can be downloaded from the Maine Coastal Program web site:
http://www.maine.gov/mcp/online_resources/ftp.html

Appendix B –

Coastal Water Access Working Group Legislative Charge and Membership

Appendix C –

Municipal Participants

Appendix D –

Advisory Group

APPENDIX B

Coastal Water Access Working Group Legislative Charge and Membership

In legislation passed by the 120th Legislature (PL 2001, c.595) the State Planning Office and the Department of Marine Resources, within existing budgeted resources, are directed to convene a working group of staff from all state agencies that deal with coastal water access issues to share data, program activities and areas for collaboration on coastal water access issues. Each agency is to identify the coastal water access data that the agency has, the coastal water access data that the agency needs and potential funding sources for the collection of the needed data. Other stakeholders may be included as appropriate.

The State Planning Office and the Department of Marine Resources are further directed to submit a report of the working group's activities, including how the agencies can work cooperatively to make creative use of available funds to address both recreational and commercial access needs and to optimize projects that are multi-use in nature to the joint standing committee of the Legislature having jurisdiction over marine resources matters by January 15th of every odd-numbered year (beginning in 2003).

Membership

Membership is comprised of agencies with direct coastal access programs and water access related responsibilities, including:

- Maine Department of Conservation, Boat Facilities Program - George Powell
- Maine Department of Conservation, Bureau of Parks and Lands - Herb Hartman
- Maine Department of Conservation, Submerged Lands Program - Dan Prichard
- Maine Department of Economic & Community Development, Community Development Programs - Orman Whitcomb
- Maine Department of Inland Fisheries & Wildlife, Access Acquisition and Facilities Program - Bob Williams
- Maine Department of Marine Resources, commercial access concerns and issues - Sue Inches
- Maine Department of Transportation, Harbors and Port Facilities program - Kevin Rousseau
- Maine Department of Transportation, Planning Division - Carl Croce
- Maine State Planning Office, Maine Coastal Program and Land for Maine's Future Program - Jim Connors

APPENDIX C

Towns Involved in CEI Survey

Addison
Bath
Biddeford
Boothbay Harbor
Bremen
Bristol
Eastport
Freeport
Friendship

Harpswell
Islesboro
Jonesport
Kennebunkport
Kittery
Machiasport
Phippsburg
Portland

Rockland
Searsport
Saint George
Southwest Harbor
Stonington
Swans Island
Vinalhaven
Winter Harbor

APPENDIX D

Advisory Group

Advisors for this project include:

- Yvette Alexander, Maine Fishermen's Wives Association
- Jim Connors, SPO/Maine Coastal Program and Land for Maine's Future Program
- David Etnier, Maine State Legislature
- Sue Inches, Maine Department of Marine Resources
- Kathleen Leyden, SPO/Maine Coastal Program
- Benjamin Neal, Island Institute
- Steve Train, Commercial fisherman

Appendix N: First Annual Report of the Community Preservation Advisory Committee

STATE OF MAINE
121ST LEGISLATURE
FIRST REGULAR SESSION

First Annual Report
of the
COMMUNITY PRESERVATION
ADVISORY COMMITTEE

February 2003

Members:

Sen. Peter Mills (Chair)
Rep. Ted Koffman (Chair)
Sen. Lynn Bromley
Rep. Sue Hawes, Standish
Rep. David Tobin, Windham
Rep. Janet McLaughlin, Cape Elizabeth
Ed Suslovic, community development consultant
and former Realtor

Peter Judkins, Maine State Housing Authority
(Board)
Jeff Sosnaud, Maine Audubon (Board)
Jim Brown, Director, Economic and Community
Development, City of Presque Isle
David Holt, Town of Norway
Beth DellaValle, Maine State Planning Office
Mike Johnson, Maine Historic Preservation
Commission

Staff:

Liz Rettenmaier, Senior Planner
State Planning Office
38 State House Station
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Susan Johannesman, Legislative Analyst
Office of Policy and Legal Analysis
13 State House Station
Augusta, Maine 04333
(207) 287-1670

Executive Summary

The Community Preservation Advisory Committee (CPAC) was established by the 120th Legislature and charged with advising the Governor, the Legislature, state agencies, and entities on matters relating to community preservation. During its first year, the Committee was co-chaired by Senator Peter Mills and Representative Ted Koffman. The Senate President and Speaker of the House appointed eleven members to the Committee, including six legislators, and five representatives of key interests. The Director of the State Planning Office and the Commissioner of the Maine Historic Preservation Commission, designated as members in statute, directed agency staff to serve in their places.

Unlike three previous legislative task forces convened to address issues related to sprawl, growth management, and land use, the Community Preservation Advisory Committee has been authorized for a five-year lifecycle, through June 2008. The duration of this committee stems from the first recommendation of the Joint Study Committee to Study Growth Management (2001), to establish an ongoing committee that can, on a more consistent basis, confront issues dealing with planning for growth and preserving the character of Maine communities.

The Committee held its first meeting in October 2002. The members were presented with information from several state agencies on current activities and initiatives impacting community livability and preservation, as well as proposals for future committee consideration. At the second meeting, the Committee identified six priority areas affecting community preservation and growth: 1) tax policy; 2) livable, affordable housing; 3) growth caps, "NIMBYism" (an acronym standing for "Not In My Back Yard"), and infill development; 4) how transportation policies and investments affect communities; 5) building rehabilitation codes; and 6) rural preservation surrounding growing communities.

By the end of the third meeting in December, the Committee agreed to forward eight legislative proposals to the 121st Legislature (First Session) and four recommendations to state agencies. The legislative proposals included bills to address:

1. Encouraging local development of affordable housing;
 - a. Establish a fund known as "Affordable Neighborhood Development Fund." MSHA will create rules and administer incentive funding (grants) based on review of a statewide Board to assure the projects meet certain minimum standards that assure their livability (or just delete from "that assure" on). Both the developer(s) and the town(s) would submit applications to the Board. Grants would be used to compensate municipalities for expenses related to the project's impacts on transportation (roads, sidewalks, streetscapes), sewer and water, schools, and/or open space preservation. Money would be released based on certificate of occupancy; funds would be related to the number of units.
2. Providing tax increment financing as a tool to support the development of affordable housing;
 - a. Create a bill to establish a municipal affordable housing development district program at the Maine State Housing Authority (MSHA).
3. Clarifying state expectations for rate of growth ordinances ("growth caps");

- a. Submit original language proposed to the 2001 Growth Management Task Force regarding local rate of growth ordinances (growth caps)
4. Addressing referenda that retroactively reverse local decisions.
 - a. Submit original language of LD 796 from the 120th Legislature, “Limitation on Ordinance Power” to address retroactive moratoria on building (and other reversed local decisions) that are a result of citizen-initiated referenda.
5. Integrating transportation and land use planning;
 - a. Create a bill to direct the Maine Department of Transportation (MDOT) to promulgate rules to give preference in funding programs to communities that allow increased density (transit sufficient density) in their growth areas.
 - b. Create a bill to direct MDOT to incorporate regionalism in the Transit Bonus Payment Program rules, if they are unable to modify the rules before they are finalized.
6. Providing increased options for encouraging transit or public transportation systems;
 - a. Submit resolve to amend Article IX, Section 19 of the Maine Constitution to permit funding transit from motor vehicle and motor vehicle fuel revenues.
7. Encouraging the adoption of local building rehabilitation codes;
 - a. Create a bill to offer incentives to communities for adopting both a building code that includes a rehabilitation component based on *either* of the two national codes (International Code Council or the National Fire Protection Association), for example preferences for Department of Economic and Community Development (DECD)-administered economic development grants

During the 121st Legislative Session, the legislative members of the Committee will divide sponsorship and co-sponsorship of the bills. It is expected that the Committee and interested parties will reconvene during session to discuss strategy for advancing the bills. In addition to the seven areas where legislation is being moved forward, the Committee identified the following mid- and long-term goals and strategies:

1. Bills critical to the mandate of the Committee should not be held until the 122nd Legislature, but should be forwarded when timely (e.g., even in the Legislature’s Second Session) because of the finite tenure of the Committee;
2. The complex issues that impact the development of affordable communities will not be shaped by legislation alone; Maine State Housing Authority, the State Planning Office, and other supporters of affordable housing opportunities must continue to reach out and educate decision makers and communities;
3. A regional approach is critical to realizing the efficiencies of coordinated land use, transportation, and fiscal planning, and the Committee will continue to increase its understanding of the issues surrounding regionalism and advocate for regional approaches;
4. The Committee will continue to investigate and support opportunities to encourage rural preservation and development in growth areas;

5. The Committee will also continue to investigate and support other CPAC priorities in the 121st Legislature; and
6. To advance the dialogue and build on the committee's shared experiences, the Committee encourages Legislative leadership to reappoint standing Legislative members to the Committee whenever possible.

Introduction

The Community Preservation Advisory Committee (CPAC) was established by the 120th Legislature in PL 2001, Chapter 648 (Title 30-A, Section 4350). The Committee is charged with advising the Governor, the Legislature, state agencies, and other entities on matters relating to community preservation. Specifically, the Committee is directed to:

- Provide assessment, advice and recommendations on emerging policy concerns or on adjustments to existing programs related to growth management;
- Review and make recommendations on the State's fiscal, transportation, education funding, school-siting and land use policies that affect service center communities, rural lands and development sprawl;
- Review tax policy as it affects land use decisions;
- Provide assessment, advice and recommendations on the role of state office buildings in the continued viability of downtown service centers within the State and the impact of growth-related capital investments and location decisions by the State;
- Provide assessment, advice and recommendations on the coordination of state and local urban transportation planning and streamlining of local and state land use rules and regulations to permit and encourage efficient neighborhood and economic development in growth areas; and
- Review and make recommendations regarding options for establishing a state transferable development rights bank.

The Committee was co-chaired by Senator Peter Mills and Representative Ted Koffman. The Senate President and Speaker of the House appointed eleven members to the Committee, including six legislators and five representatives of key interests. The Senate President appointed two senators and representatives of rural municipal interests, service center interests, and the Maine State Housing Authority. The Speaker of the House appointed four Representatives and representatives from the environmental community and real estate and development community. The Directors of the Maine State Planning Office and Maine Historic Preservation Commission, or their designees, are also members. A complete list of committee members is included as Appendix B.

The Committee met four times in the fall / winter 2002: October 21; November 25; December 9; and January 14. In addition, a subgroup of Committee members and interested parties met once in December to address issues surrounding the affordable housing agenda, and members interested in further discussing the legislative agenda met in February. Committee meeting summaries are included as Appendix C.

In addition to the 13 members of the Community Preservation Advisory Committee, 99 individuals are currently included in an email distribution list of “interested parties,” receiving regular updates on meetings and Committee activities. Several state agencies and public groups have been closely involved in the CPAC’s activities, and regular participation in Committee dialogue by the Department of Transportation, Department of Economic and Community Development, Department of Education, Maine State Housing Authority, Bureau of General Services, Maine Revenue Services, and State Planning Office has encouraged collaboration across agencies and with the Committee. The participation of the Maine Chamber of Commerce, Maine Municipal Association, Maine Real Estate and Development Association, Maine Association of Realtors, and Maine Audubon Society has brought additional perspective to the Committee.

To facilitate communication, a website developed for the Committee is hosted on the State Planning Office’s website, <http://www.maine.gov/spo/landuse/tfandcomm/cpac>. The website includes meeting agendas, meeting summaries, electronic copies of many of the handouts, as well as additional background information on priority topics.

The Community Preservation Advisory Committee is charged with submitting an annual report of the Committee's activities to the Legislature and the joint standing committee of the Legislature having jurisdiction over natural resources matters by December 1st of each year. However, the Committee requested and received authorization from the Legislative Council to extend the reporting date to February 28, 2003.

Based on its first four meetings, the Committee has submitted legislative proposals for the 121st Legislature in seven areas. Due to the ongoing nature of the Committee’s charge, both Legislative and public Committee members are planning to be heavily engaged in the 121st Legislative Session for the eight bills that have been proposed by the Committee. In addition, the Committee will monitor over 100 bills in the state legislature that overlap with the Committee’s priority areas of interest. Committee members expect to continue their legislative agenda in the 2nd Session of the 121st Legislature, as appropriate.

Background Information

Recognizing that community preservation and growth management are not new issues to the Legislature or state agencies, the Committee first sought to recognize what has already been accomplished, in order to determine where they should place their short-term and long-term priorities. Based on legislative summaries compiled by the Office of Policy and Legal Analysis, the State Planning Office drafted a summary of the efforts of three state task forces (the Task Force on State Office Building Location, Other State Growth-related Capital Investments and Patterns of Development in 1999; Task Force to Study Growth Management in 2000; and Joint Study Committee to Study Growth Management in 2001), the Governor’s Sub-Cabinet Committee on Smart Growth, and the 119th and 120th Legislatures in areas related to sprawl, growth management, and community preservation. For each of the last three years, a separate legislative task force or study committee was convened in the fall to explore smart growth issues

and prepare a package of recommendations for legislative consideration and action the following spring. In addition to legislative efforts, the Governor convened a Sub-Cabinet Committee, the “Smart Growth Coordinating Committee,” which prepared and adopted a three-year strategic plan called Smart Growth: The Competitive Advantage. The complete summary of activity is included in Appendix D.

Overview of Topics Addressed in 2002

The charge given to the Committee requires members to focus on interconnected issues of community health, land use, economic development, tax policy, rural preservation, and natural resource conservation. Although four of the thirteen members of the Committee had participated on one of the three previous state task forces focusing on growth management issues, and several of the Committee members were well-versed in some of the issues brought before the Committee, the Committee invited experts from several state agencies and interested organizations to come forward to present their concerns and observations to the Committee during their first two meetings. This served as a springboard for the third and fourth meetings.

Department of Economic and Community Development (DECD):

Peggy Schaffer provided the Committee with background information on DECD and its current priorities. DECD includes three divisions, covering the areas of Business Development, Tourism, and Community Development (administering the Community Development Block Grant (CDBG) program). Ms. Schaffer noted that the CDBG program is one of the State’s largest sources of funds for municipal grants; the funding is passed through from the federal government. CDBG funds approximately \$17 million in grants, although the use of those funds is limited to those specified by federal guidelines and priorities. For example, at least 51% of the benefit has to go to “low and moderate income” people, or to “relieve slum and blight.” Even with those restrictions, however, DECD has found ways to encourage good planning in conjunction with the funding program. For example, DECD only funds capital projects within a locally designated growth area (or similar areas described in the rules), in towns with a local comprehensive plan (or towns that have not received a grant for a comprehensive planning effort).

While there has been some encouragement of regionalism, it is a difficult fit for the CDBG program because of its focus on paying for *local* infrastructure, such as sewer and water. The program was primarily designed for large urban areas, so DECD has worked to find a good fit for Maine towns. Approximately \$1.4 million of the CDBG funds are used for downtown grants.

DECD also administers the Municipal Investment Trust Fund (MITF), which Ms. Schaffer characterized as similar to the CDBG grants, but without the federal strings. The MITF was authorized in 1993, although no funding was available for it until the summer of 2001. Currently, the Fund has \$4.3 million available from an appropriation

from a state budget surplus and a bond package. DECD is currently developing rules for administration of the Fund. Working closely with the Maine Bond Bank, DECD foresees that it will be able to double the amount of funds available to municipalities by offering low-interest loans instead of concentrating on grant funding.

In addition, DECD is working closely with the Department of Human Services (Drinking Water Program), the Department of Environmental Protection, and the federal Rural Development program when new projects are proposed to maximize the funding matching opportunities and ensure the “biggest bang” for the local buck.

State Board of Education: Jim Rier provided the Committee with a summary of Recent Accomplishments that Support Effective Growth Planning. The State’s Renovation Fund of \$100 million has impacted over 100 school units, involving nearly 150 school buildings. The Department of Education (DOE) received applications from 375 – 400 projects, although not every application represented a single school. Renovation projects have, until this point, focused on health and safety issues, although Mr. Rier expressed the hope that upgrades and focusing on quality “learning space” will soon play a larger role in the funding. In two rounds of funding, the Renovation Fund has funded 35 schools; the capital value of the projects is approximately \$375 million, including local match and Department funding.

Particular concerns of the Department include the rapidly changing school-age population. School enrollment projections released the day before the CPAC meeting showed that in 500 municipalities, 412 expect declining enrollments, some with declines as much as 20 – 40 percent. There is a lively discussion of whether or not building (or renovating) high schools for a small number of students (e.g., less than 300) is a good use of funding. The Department also recognizes, however, the difference between elementary, middle, and high schools in this discussion.

Mr. Rier was asked if there have been any changes to the rules regarding campus size of schools, which can make siting a school in already developed areas very difficult. He responded that the rules had not changed to reduce the minimum campus size, although the Department will allow exemptions for noncontiguous sites to count toward the required minimum campus size (e.g., off-site playing fields).

Mr. Rier was asked about the opportunity for changing the scoring of projects to reflect the proximity of schools with excess capacity in close proximity to the proposed project. He responded that the scoring is based on the needs of the students and that the solutions proposed do not play a role in the prioritization of projects.

In response to a question about greater integration of school siting and planning with broader community development activities, Mr. Rier noted that districts and communities have frequently begun their project planning prematurely, before the Department has had an opportunity to lay the groundwork for the process. There has been some success in increasing community involvement and getting the State Planning Office involved early

in the process, however communities generally begin to move ahead as soon as their names appear on the funding list.

Mr. Rier noted that incentives for regionalism would work toward addressing issues of the large number of school boards and superintendents in the current system.

Department of Transportation (MDOT): Kathy Fuller highlighted the Department's Access Management Program. The program, although on the books since the 1950s, really started in 1999. New rules were released in 2002, which include greater focus on planning, corridors, and a regional approach to planning. The Department is currently collecting information in an inventory to examine the impacts of the new rules.

One aspect of corridor planning the Department is investigating is the opportunity for conservation of significant resources adjacent to corridors. For example, MDOT could purchase the access rights, while another agency or group could purchase the development rights.

Two emerging programs at MDOT were described. The Department is looking at integrating transportation planning with Urban, Service Center, and Village policy and investments. The current Biennial Transportation Improvement Program (BTIP) plan for Fiscal Years 2002-2003 will identify these investments, while the next Six Year Plan will begin to integrate these areas. On a related topic, MDOT is also investigating the implementation of last year's legislative changes allowing Local Road funds to be channeled into transit incentives. The Department is also interested in introducing rules or guidance for the transportation elements of a comprehensive plan. The Planning and Land Use Regulation Act does not specify recent changes to state law, including the Sensible Transportation Policy Act of 1991.

When asked about linking density and land use planning to transportation investments, Ms. Fuller responded that the Department is starting to do this in some areas. For example, MDOT has a new sidewalk policy where they will pay for sidewalks in dense neighborhoods with appropriate setbacks, proximity to schools, and other features.

Maine State Housing Authority: Working through a series of handouts, Peter Merrill noted the forces of supply and demand of affordable housing units are not balanced at the local level. It is generally in a town's best interest to limit the supply of additional housing units because of the additional costs involved, and some towns are actively discouraging residential development through growth caps, zoning, and cumbersome local approval processes. This is impacting growth because homebuyers are being pushed out into rural areas because they cannot afford to purchase a property in town, and pulled out of developed areas because property taxes are so much lower outside of the cities. The tax policy discussion is a good opportunity to get at school funding and tax policy's impacts on affordable housing issues.

Bureau of General Services: Jerry Nault shared information developed for the recent Downtown Conference, including a list of selected leased spaces in service center

downtowns and growth areas. The Bureau provides a monthly report to the Governor that includes new leases. Rep. Koffman asked if it included variables such as where the space was located (in a service center, growth area, downtown), and if it is taxable.

State Planning Office: Reviewing an open letter to the Committee, Beth Della Valle highlighted significant accomplishments by the past growth management task forces, and encouraged the Committee to consider the linkages between patterns of development and tax policies, smart growth and affordable housing, and options for inducing growth and redevelopment in service centers and downtowns in the short-term.

CPAC Priorities Established for the 121st Legislature

The Community Preservation Advisory Committee has chosen, in the short-term, to pursue both a legislative and programmatic strategy for implementing its charge. Where a legislative approach has been chosen, the six legislative members of the Committee have agreed to sponsor legislation and shepherd the proposals through the State Legislature. The Committee members identified several short-term priorities to pursue during the 121st Legislature; members approved the following bills proposed to the legislature and sponsored by CPAC members:

1. Encourage Integration of Transportation and Land Use Policies

The CPAC recognizes the close connection between transportation investments and patterns of development. Historically, where transportation infrastructure has been built or significantly improved, a dispersed pattern of development has followed if the municipality has not put in place coordinated planning goals and ordinances.

In order to improve the coordination between land use and transportation planning, the legislative members of the Committee are sponsoring legislation that would direct MDOT to promulgate a major substantive rule in cooperation with the State Planning Office that establishes linkage between the planning processes outlined in the Sensible Transportation Policy Act (23 MRSA §73) and those promoted by the Planning and Land Use Regulation Act (30-A MRSA Chapter 187).

2. Encourage Enhancement of Local Public Transportation Options

Addressing areas related to community preservation requires an integration of many policy and programmatic areas, including transportation, land use, and housing issues. The Committee focused on availability of public transportation options as an important component for communities to address economic development, affordable housing, livability, and transportation infrastructure concerns.

The legislative members of the CPAC are sponsoring legislation this session that would direct MDOT to incorporate regionalism into the Transit Bonus Payment Program rules. The Transit Bonus Payment Program builds on the URIP (Urban-Rural Initiative Program, formerly known as the Local Road Assistance Program), and allows a bonus to municipalities' annual disbursements. The bonus, which must be used for highway purposes, is awarded if the municipality increases their transit spending on operational expenses and capital above a base year's amount (Fiscal Year 2000). The last section of this law (Chapter 681; LD507) requires MDOT to create rules for the program; those are nearly complete. MDOT is planning on taking applications to this program in 2003. The bill submitted would direct MDOT to modify the Program rules to incorporate priorities or preferences to towns that operate a transit service that has a regional component.

3. Support mechanisms to encourage local adoption of a building rehabilitation code

Local community and economic redevelopment efforts in existing village centers or downtowns are frequently hampered because of the real or perceived financial differences between rehabilitation and new development. Home and business owners who wish to rehabilitate and upgrade existing buildings may encounter building code requirements that make rehabilitation financially impossible, effectively pushing development toward undeveloped areas. Similarly, communities faced with burgeoning costs of rehabilitating neighborhood schools to bring them up to modern code may choose to abandon the existing site for a new site outside of the village center. The Committee recognizes that the lack of a statewide rehabilitation code adds a degree of uncertainty and confusion to local projects and developers, hampering opportunities to build, and maintain, community vitality.

In February 2002, the Maine State Planning Office and Building Rehabilitation Code Advisory Council reported its findings that a single statewide building code is a necessary precursor to development of an overlapping rehabilitation code. It also found that many different codes are in use throughout Maine communities, most based on models from one of two national code organizations (International Code Council or the National Fire Protection Association). Last year, both of those organizations created rehabilitation codes to integrate with their model codes. Few Maine municipalities have adopted them. The Building Rehabilitation Council recommended that the Legislature reexamine the desirability of developing a model statewide building code for Maine and create incentives for municipalities to adopt it. The Committee recognizes the value of a statewide code while acknowledging that it can still encourage communities to adopt rehabilitation codes until the State sees fit to adopt one. To that end, the legislative members of the Committee are sponsoring a bill that provides incentives for municipalities to adopt the rehabilitation component of one of the two national building codes. The bill envisions a preference for DECD-

administered economic development grants if a municipality adopts the rehab component of a code.

Because of its potential creation of statewide building and rehabilitation licensing guidelines, the Committee will track Representative Cowger's proposed bill to license building contractors.

4. Encourage rural preservation and direct growth toward locally designated growth areas; encourage regionalism to increase local efficiency and strengthen Service Center communities

The Committee has engaged the Department of Education, Department of Transportation, Bureau of General Services, State Planning Office, and Maine State Housing Authority in seeking to understand the complex interplay of strengthening service center communities, managing growth in Maine's sprawling communities, and preserving working rural landscapes and critical natural resources. The Committee will watch legislation in the 121st Legislature, lending its support to those bills which members feel support these goals. Conversely, members will speak out against bills that provide incentives, hidden or otherwise, that encourage sprawl or undermine Maine's service center communities.

Although not a part of its legislative agenda, the Committee is supporting the State Planning Office's plans to revisit its guidelines for comprehensive planning, to encourage regionalism, strengthen service center communities, and encourage strategies that result in preservation of critical natural resources and working rural areas.

In addition, the Committee will look to the results of State Planning Office research regarding "transfer of development rights" and "density transfer fee" approaches that use fiscal incentives to direct growth toward desired areas and away from areas desired to be protected. These programs, if applicable to Maine communities, can provide an additional tool for municipalities and regions to plan for and control their patterns of development.

5. Ensure that tax reform and changes to tax policies do not undermine the health of Maine's Service Center communities nor subsidize sprawl

There are over forty tax-related bills being proposed in the 121st Legislature which the CPAC believes impact the vitality of Maine's communities and influence public and private investment decisions. One of these bills (see #6, below) will direct the Maine State Housing Authority to develop a tax increment financing (TIF)-like program that will permit municipalities to recapture a portion of the taxes from affordable housing developments to pay for certain capital improvements and other development costs.

As in other topic areas, The Committee will watch legislation in the 121st Legislature, lending its support to those bills which members feel support these goals. Conversely, members will speak out against tax bills that provide incentives, hidden or otherwise, that encourage sprawl or undermine Maine's Service Center communities. For example, the Committee will consider criteria by which all tax reform measures should be examined in terms of impact on community preservation issues, e.g.:

- Relieve service centers from the burden of nontaxable governmental, non-profit, and institutional facilities that provide regional benefits;
- Encourages investment in service centers;
- Protects year-round and/or long-term property from escalating values;
- Encourages investment in growth areas;
- Provides incentives for regional tax base sharing and land use management (planning, adoption of ordinances, investment and other strategies; and
- Authorizes differential application of local tax assessment based on consideration appropriate uses for growth and rural designations.

6. Increase opportunities for housing affordable to all of Maine's residents

Throughout southern and coastal Maine, including nine housing market regions that encompass about a third of the state's towns and 44% of its families, the problem of housing that is within reach of families of average means has become intractable. Many of our communities' valued occupations - including teaching and policing - do not pay enough to afford the median priced home. In fact, many dual-working households do not earn enough. The Maine State Housing Authority has documented the problem, but even without official studies, the anecdotal evidence - from classified ads to conversations with first-time homebuyers - is overwhelming. The effects present themselves in three ways:

- First, many young families must now either forego home ownership or move farther away to rural edges, 20 or more miles from job centers, in search of land and housing they can afford. In the trade of distance for housing, these families now spend 20% of their incomes on transportation, more than they pay for food;
- Second, the cost of housing has become a deterrent to the location and expansion of business in need of employees with average wages; and
- And, third, among the lowest income, working households, there is growing homelessness. As of July 2001, nearly a third of persons in homeless shelters had jobs.

The problem has reached a point that not even recession or low mortgage rates have corrected the market.

To address this disconnect, the CPAC has proposed two bills. The first, mentioned in #5, above, would direct the Maine State Housing Authority to create a TIF-like program that will permit municipalities to recapture a portion

of the taxes from affordable housing developments to pay for certain development costs associated with the impacts of that development.

The second bill being proposed by CPAC legislative members to the 121st Legislature builds on the broadly supported LD 2099 from the 120th Legislature. The bill proposed to the 121st Legislature builds on the framework of LD 2099 in its definition of affordable, livable neighborhood development, the establishment of a review board, and use of guidelines in the review. However, it makes review by the board voluntary. Towns and developers interested in certifying a development would present a joint application to the review board. Certification by the board would qualify the municipality for compensation for increased capital costs such as school expansion, transportation/road/sidewalk infrastructure, sewer and water provision, and open space acquisition. The Maine State Housing Authority would develop the rules for the review board and oversee implementation of the program.

7. Address local uncertainty created by the ability of local referenda to change local policies retroactively

Real estate developers that have proposed projects with compact development patterns or an affordable housing component have, anecdotally, met with significant resistance from local interests. Investment, funding, and development decisions are based on local decisions, and when those decisions can be rescinded retroactively by local citizen referenda, a great deal of uncertainty is introduced — for the developer, the finance community, and the municipality. To address this uncertainty, the Committee is supporting a bill that would prohibit municipal ordinances or bylaws enacted by citizen initiative or referendum from containing retroactivity provisions that have the effect of invalidating, repealing, revoking or modifying building permits, land use approvals, or other action having the effect of permitting development if that permit or approval was issued or that action was taken prior to enactment of the ordinance or bylaw.

8. Provide guidance to municipalities regarding implementation of growth ordinances

Many Maine communities, especially in southern and coastal Maine but rapidly extending beyond its fringes in all directions where signs of sprawls are becoming evident, are adopting rate or growth ordinances, or growth caps, in an attempt to stem the rapid pace of development they are experiencing. Unfortunately, many of these towns have are not planning for those growth caps or the patterns of development they are encouraging, and the effect is encouraging a dispersed, leap-frogged and expensive pattern of sprawling development across the State. The Committee has submitted a bill that would outline the parameters within which a municipality may adopt a rate of growth ordinance. The proposed bill includes options for a community faced with unexpected growth pressures, which feels it must limit growth in order to step

back and preserve and plan for that growth. It also recognizes caps as a tool; towns can use to direct growth to designated growth areas and away from important rural areas. In addition, the Committee encourages the State Planning Office to create a new rule (Rate of Growth Ordinance Review Criteria Rule) that would evaluate local growth caps against comprehensive plans that have been found consistent with the Planning and Land Use Regulation Act.

Mid-Term and Long-Term Committee Recommendations

In addition to supporting the legislative agenda outlined in the Section above, the Community Preservation Advisory Committee recommends the following:

1. Bills critical to the mandate of the Committee should not be held until the 122nd Legislature.

Although the legislative members of the Committee introduced eight bills on behalf of the Committee in the 121st Legislature, 1st Session, the Committee will continue to meet and develop strategies to meet its legislative charge throughout 2003 and 2004. To that end, the Committee predicts that it will have additional legislative proposals to present before the close of the 121st Legislature. The Committee will likely request a waiver from the Legislative Council to permit introduction of legislation in the 2nd Session in 2004.

2. The complex issues that impact the development of affordable communities will not be shaped by legislation alone; Maine State Housing Authority, the State Planning Office, and other supporters of affordable housing opportunities must continue to reach out and educate decision makers and communities.

The Committee will support work on outreach and communication on its affordable housing agenda (TIF approaches supporting affordable housing development and the board certification/compensation program providing incentives for livable, affordable neighborhood development), especially in those Labor Market Areas with demonstrated gaps in affordability. Examples of this outreach include holding forums sponsored by the Maine State Housing Authority, re-convening the group of public and private supporters of the Livable, Affordable Neighborhoods bill, and supporting legislation that forwards the affordable housing agenda. Building rehabilitation should be recognized as a viable approach to increasing local stocks of affordable housing units, available for both rental and ownership.

3. The integration of transportation and land use planning at the local, regional, and state level is critical in realizing shared visions of Maine's future.

It has been well documented that transportation infrastructure investment is one the most significant drivers of local development (along with educational investment). Recognizing this close connection, MDOT and SPO have been working to encourage local and regional planning that integrates transportation and land use. The Community Preservation Advisory Committee supports this integration as well as other programs under development, including MDOT's consideration of strategies to address the sprawling patterns of development along Maine's arterials roads such as developing adjacent service roads.

Transportation planning includes not only roads and intersections, but also providing alternative modes and means of transportation to the single-occupancy-vehicle trip. The Committee supports increased education and outreach around areas of transportation and land use impacts, including advocating for increased transit opportunities that provide an attractive alternative to single occupancy vehicle commuting trips. The Committee will continue to consider proposals to amend Article IX, section 19 of the Maine Constitution to permit funding public transportation from motor vehicle and motor vehicle fuel revenues.

4. A regional approach is critical to realizing the efficiencies of coordinated land use, transportation, education, and fiscal planning.

In addition to supporting the State Planning Office and Department of Transportation in addressing regionalism in their rules and programs, the Committee recognizes that regional approaches to planning go beyond the short-term financial gain to be had by sharing resources. Just as labor markets, housing markets, and ecosystems do not recognize municipal boundaries, our leaders and planners should recognize that local decisions and planning have an impact far beyond the town line. The Committee will support legislation and non-legislative programs that strengthen regional approaches in Maine; the Committee will continue to focus on this issue in 2003 and 2004.

In supporting a regional approach, the Committee will consider means for creating incentives for programs that cross municipal boundaries, as well as incentives for thinking and acting regionally, in areas such as infrastructure, economic development, school siting, housing, transportation planning, and natural resource management.

5. Investigate and support opportunities to encourage rural preservation and development in growth areas.

In 2003, the Committee plans to identify specific legislative changes, if required, that would enable the creation of density transfer fees or similar programs that would permit towns to protect their priority natural resources or working rural lands, and direct growth toward their locally designated growth areas.

The Committee supports the Land for Maine's Future program, and recognizes its role as a critical tool in shaping growth by acquiring public lands for conservation, water access, outdoor recreation, wildlife and fish habitat and farmland conservation. With its goals of preserving Maine's unique natural resources and farmland, the LMF program is very closely tied with smart growth efforts across Maine. The LMF Board has taken care to ensure that resources accepted into the program are not being unduly pulled out of the development stream, and that the conservation efforts are compatible with local land use planning and development.

6. Continue to investigate and support other CPAC priorities in the 121st Legislature.

Several critical areas central to the Committee's charge will likely be addressed in the upcoming Legislative Session. The Committee will continue to meet and discuss these issues, as well as support bills that coincide with the CPAC mandate. Issues of special consideration include: *School Construction Rules*, related to community preservation and walkable neighborhoods; *Storm Water Rules*, related to unintended consequences and discouraging density; *Contractor Certification*, related to building and rehabilitation code; and *Access Management*, if MDOT's new rules are challenged.

7. To advance the dialogue and build on the committee's shared experiences, Legislative members of the Committee should be reappointed to the Committee, whenever possible.

Although the non-legislative members of the Committee are appointed for three-year terms, legislators' terms end at the end of each Legislature. Continuity and trust are critical for a group addressing the complex issues of growth management, fiscal, transportation, education funding, school siting, and land use policies. Whenever possible, the Committee recommends that legislative members, who are re-elected, be reappointed to the Committee at the beginning of each Legislature.

***Appendix O: Strategic Plan to Develop the Maine Library of
Geographic Information***

S T A T E O F M A I N E

GIS Needs Assessment & Requirements Analysis

And

Strategic Plan to Develop The Maine Public Library of Geographic Information



In association with



And

GIS Mapping & Analysis, Inc.

A Program for Building The Maine Public Library of Geographic Information

In recognition of these immediate challenges and opportunities the Legislature mandated a strategic GIS planning study aimed at providing a blueprint for further, coordinated development of a strong statewide GIS. This study has confirmed that further actions are required to help Maine realize a maximum return on its existing GIS investments and to position the State to better address issues of **sensible growth, environmental protection, homeland security** and **economic development**. Importantly, the plan is designed so that these actions will help the state obtain required data sets while at the same time providing significant support to the *local* GIS efforts of the cities and towns of Maine. The Legislature has already recognized the importance of moving Maine's GIS forward and developing a plan. A plan has been developed that remedies weaknesses, augments identified strengths, and leverages potentially available federal funds to the maximum extent possible. It is now time to act.

Historically, maps have been a vital tool for effectively depicting complex information. The human brain has a powerful ability to see patterns and understand relationships when large quantities of data are depicted cartographically. Maps help people to better understand their immediate environments and the world. Geographic Information Systems, known as GIS, are computer databases and software that store cartographic information and provide powerful map display and analysis capabilities.

Due to the power of this type of query capability, as well as robust map editing functionality, during the 1990's GIS became *the primary tool* large organizations, and increasingly small organizations, use to create, manage, and use maps. Whether in private firms such as DeLorme or Rand McNally, federal agencies like the USGS or US Forest Service, state agencies, regional councils or municipal governments, GIS is now employed as a common and indispensable productivity tool.

History of GIS Use in Maine and an Overview of the Proposed Program

Maine's GIS programs have evolved with the technology over time. Initially and by technical necessity, these were isolated and independent systems, serving *individual* application needs. Later these independent systems were loosely coupled and confederated, and GIS grew to serve and satisfy *departmental* requirements. As explicit coordination between agencies and departments has emerged and become established, and as hardware, software and network capabilities have reached a sufficient user base, *multi-departmental* GIS have begun to appear.

At present, there is increasing GIS activity both within state agencies and within municipal and regional governments. This increase in participants has enlarged the need for, and value of coordination and it has also highlighted a few important data and technology gaps in Maine. Based on the research conducted through this study, it is time for a further, natural evolution of GIS throughout the state. It is time for Maine to take the technology to the next level, and move toward a true *enterprise* GIS for state government and a strong *statewide* GIS for the entire population of users.

The question is whether this evolution proceeds disconnectedly from independent sites with the inherent risk of duplication of effort and crippling inefficiencies, or whether it is executed according to a well-coordinated plan involving Maine's many GIS stakeholders.

This study documents how several targeted GIS investments will help Maine realize a greater return on a decade's worth GIS investments while solving several operational problems that GIS users in Maine currently face. In addition, as Maine grapples with important regional issues such as sensible growth and economic development, GIS offers rich possibilities for supporting policy development and implementation, *provided that* the appropriate data sets are available. At present, there are key gaps in several of these data sets and there is an overall lack of standards that hinders collaborative data development.

Perhaps most importantly this proposed program intends to create an explicit coordination mechanism between the state and numerous regional and local GIS efforts. While there are good examples of coordination between state agencies, there is room for significant improvement; furthermore, intra-governmental GIS coordination between the state and regional/local efforts is lacking. Filling this void is increasingly important as local efforts continue to accelerate.

Achieving this level of coordination will create an important “win-win” for Mainers. First, local governments will greatly benefit from state support during the critical startup phases of GIS development. Seed money for data development as well as technical support will go far in helping new communities become involved with GIS. Second, the state and federal governments will greatly benefit by having increased electronic access to important locally controlled GIS data sets such as parcels and zoning. Activities such as sensible growth and economic development *require* access to these types of local data.

History of the Resolve 23 Process and Genesis of this Study

Recognizing opportunities to capitalize on new technology and to advance Maine's statewide GIS program to include new data sets and further coordination, both MeGIS and the interdepartmental GIS Executive Council began planning for a more robust statewide GIS initiative in 1999-2000. Based on this planning, during 2001 a proposal emerged to fund statewide parcel automation partially as a means of expanding the statewide GIS to better handle ongoing sensible growth and development tracking efforts.

During consideration of this proposal there was agreement that given the magnitude of the initiative there was a need to better understand statewide GIS capabilities and to craft a more detailed and specific implementation strategy. Rather than passing the initial proposal, the Legislature authored Resolve 23 and initiated a specific planning process aimed at determining the best course of action for further developing Maine's statewide

GIS. The Legislature created a Steering Committee composed of representatives of state, regional and local governments as well as members of the private sector and academic communities to oversee this planning process. The Legislature charged the Steering Committee with reporting their findings and recommendations during January, 2002.

During the Summer of 2001, the Steering Committee issued a request for proposal to obtain professional consulting assistance in developing this plan. Applied Geographics, Inc, teamed with CDM and GIS Mapping & Analysis, Inc., won the contract to perform the planning by working in close association with both the Steering Committee and the MeGIS staff. This study is the result of that planning effort.

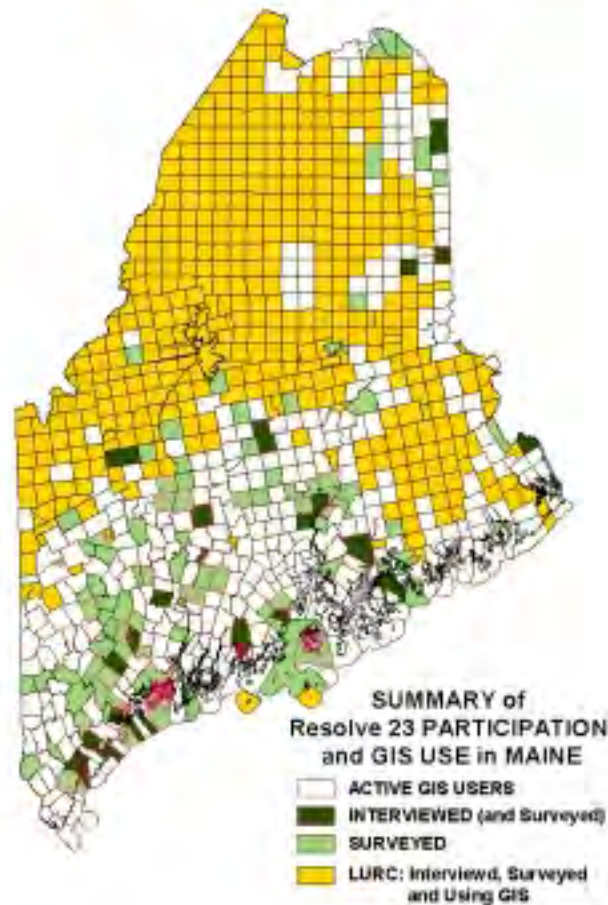
Major Findings from the Needs Assessment

During the Needs Assessment, exhaustive and concerted effort was directed at contacting and querying as many GIS stakeholders in Maine as possible. Over 65 individual parties were directly contacted and interviewed in an attempt to fully understand the needs for an expanded statewide GIS program in Maine. Interviewees included 22 individual municipalities, 14 regional governmental entities, 18 state agencies, 5 utilities, 9 federal agencies as well as members of the academic and private sector communities. Within municipalities, the team spoke with various Assessors, Planners, Town Managers/Executives and staff from Public Works and Engineering Departments.

In addition, the Needs Assessment phase of this project created and disseminated a “GIS status” survey. This survey was actively distributed at the Maine Municipal Association (MMA) annual conference and an “on-line” version was placed on the web. Over 225 survey responses have been tabulated into a database and these responses were evaluated in determining the overall needs. The figure to the right indicates the broad participation in the Needs Assessment process.

From the interviews and surveys, several major findings of need emerged. These included:

- ***Wide Interest in GIS:***
There was an incredibly high degree of interest in GIS and in an expanded statewide GIS program from almost all entities interviewed. The figure to the right identifies communities that were contacted through this study as well as many of the municipalities in



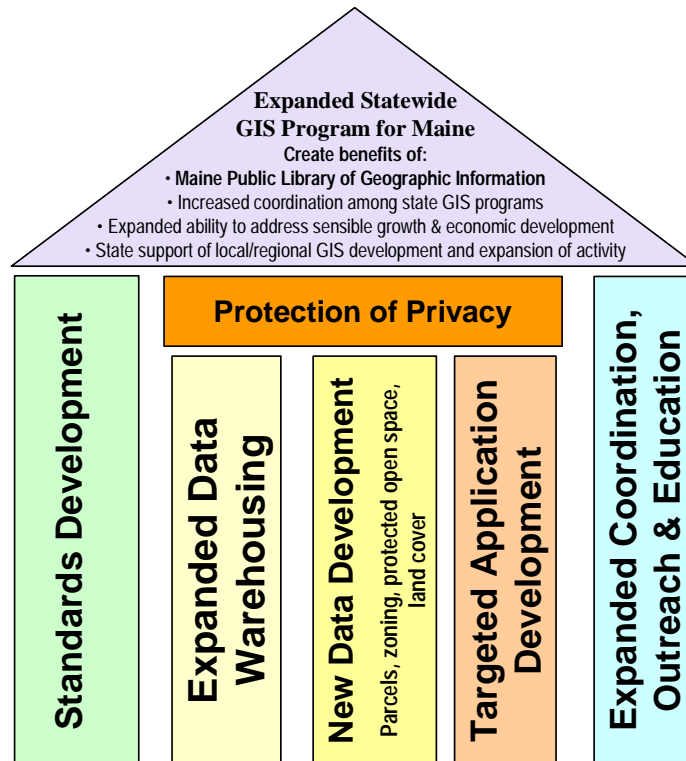
Maine that are currently pursuing GIS. People were aware of what the technology offered and were eager to become more involved. Most parties strongly believed that statewide efforts would greatly assist local and regional entities in becoming more involved with GIS.

- ***Multiple Statewide Initiatives:*** There are several state government agencies aggressively pursuing GIS on a statewide basis. While there are explicit efforts at coordination, there remains some duplication of effort and room for further, better coordination among these programs. For instance, there is no single location where all of the best state-produced GIS data for Maine currently exists. If an entity needed to collect all of the data for Maine, they would need to visit multiple state agencies.
- ***Large Need for Education & Technical Assistance:*** Although there is a high degree of GIS activity within local and regional governments, many of these efforts are hindered by a lack of technical assistance, and basic problems can prove difficult to overcome. Similarly, there are many nascent GIS efforts at the local level that could be greatly aided by outreach and education from the State. Disseminating information on topics such as costs/benefits of GIS, application examples for municipal government and the development process for constructing a GIS would be extremely valuable.
- ***Requirements for New Data:*** While Maine has made an excellent start at developing statewide data sets, there remain several important gaps that hinder the ability of the state and other entities to tackle problems such as sensible growth, economic development and environmental protection. Notable gaps include: **parcels, zoning, protected open space and land cover**. In addition, the availability of a high-quality, statewide aerial-photo base map would be very helpful for catalyzing and improving the quality of local data development efforts (e.g. parcels and zoning).
- ***Incremental Improvements in Operational Efficiency of MeGIS:*** There was a high degree of praise for MeGIS and the data sets it distributes, but several suggestions were made for operational improvements. These centered on desired enhancements to the current data distribution system, issues with existing data formats, and difficulties with metadata and technical support. These types of efficiencies could be added relatively easily with some targeted investments in newer technology and associated applications.
- ***Requirement for Statewide Standards:*** There were numerous state agencies that described difficulties in collecting useful map information from municipal governments, even when state funding was supporting local mapping (e.g. through SPO's Comprehensive Planning studies). These difficulties implied a need for an overall statewide framework for housing important data sets created with state funds. Further, data standards are required to ensure that all local participants are aware of the state's expectations for map data delivery. It is critical that the state develop an ethic of "no wasted data development with state dollars". This ethic would extend to local municipalities receiving state funding as well as to the state's own contractors. Such a framework, and a good set of

standards are necessary for the creation of useful regional and statewide data sets (e.g. parcel and zoning) based on the combined efforts of multiple parties.

Major Recommendations and a Proposed Plan of Action

In light of the major findings described above, the Steering Committee has prepared a series of recommendations aimed at addressing these needs. The figure below shows that these recommendations can be viewed as five pillars upon which an expanded GIS program for Maine will be built. Further detail on each pillar is provided below.



- ***Standards:*** Maine should develop a comprehensive set of standards describing the format and content of all data sets to be developed with state dollars. Such standards are necessary to guarantee good data content in an environment where there will be data contributions from multiple levels of government. In some cases, this will be codifying existing standards and in other cases it will mean developing new standards (e.g. for parcels). Importantly, Maine must also consider a program for standards *enforcement*. Absent enforcement, standards have much less value.
- ***Expanded Data Warehousing:*** A key goal of the overall expansion of Maine's statewide GIS is to create a **Maine Public Library of Geographic Information** (also referred to as the GeoLibrary). All of the state's geographic data will be collected and made available through this library. Creation and management of individual data components will remain decentralized at individual state, regional and local governmental entities, but the GeoLibrary will be the clearinghouse for standardized data. Creating the library will provide efficient one-stop shopping

for gaining access to Maine's *spatial data infrastructure*. Making access easier and more efficient will lead to increased use of data for multiple purposes, and produce a greater return on investment. A series of targeted technology investments can expand the existing data warehousing capacity to act as a robust public library.

- ***New Data Development:*** As described above, there is wide need for several important data sets that are currently unavailable, including: parcels, zoning, protected open space and land cover. Many of these data are created and managed at the local level, but they can be very important for understanding statewide and regional issues such as economic development, sensible growth and protection of the environment. Effectively building these data sets will require significant time as well as the cooperation of local governments. As such, this plan proposes a series of voluntary grants that would be provided to cities and towns to support their development of these data in conformance to the statewide standards. In addition, if a community chose to participate in the grant program, the terms of the grant would include a commitment to provide these data for use within the public library and to update the data over time.

Also, recognizing that developing high-quality local data sets requires access to consistent, high-quality base mapping, this plan proposes that the state actively work with the USGS by providing matching funds for the National Aerial Photo Program and National Digital Orthophoto Program (NAPP/NDOP). Providing these funds would allow Maine to access up to \$1.6M of potentially available USGS funding for creating an improved, statewide base map that would underpin much of the new parcel and zoning data development that will take place in the coming years.

- ***Targeted Application Development:*** Investment in a finite set of applications is a necessary complement to the aforementioned investments in standards, technology infrastructure and data. Just as a library needs a card catalog and indexing system, the geographic information library needs a set of tools that will help people find what they are looking for and begin putting the information to basic use. Application development areas are proposed to include: standards validation routines, basic cartographic browsing capabilities, and robust on-demand data extraction (i.e. check-out) routines. In addition, the library should be constructed so that there is an open *application development platform* whereby third-party developers can use data housed within the library for their own purposes. That is, third parties can use their own resources to build tools that can access information in the library. These third-parties may be state agencies that have their own mandate-specific application requirements (e.g. providing school bus routing assistance) or potentially private sector entities providing tools for a specific constituency (e.g. the real estate and appraisal community).
- ***Expanded Coordination, Outreach & Education:*** Research indicated that there are large opportunities for increased GIS coordination, both between state agencies and among different levels of government (i.e. between the state and municipalities). To address this issue, the plan proposes an explicit investment of resources aimed at fostering improvements in coordination. This plan envisions creating up to three new staff positions to provide this explicit coordination. In

addition, this plan recommends the creation of Regional Geographic Service Centers (aka Regional GeoCenters), likely via modest funding provided to Regional Councils and/or Counties, which can help provide education and outreach as well as important technical assistance to municipalities that are getting started with GIS. These activities will both help to catalyze further GIS effort at the local level and also help to support, manage and coordinate these local efforts in order to increase the likelihood of success.

Benefits of the Proposed Plan of Action

There are a wide variety of benefits that Maine can realize by investing in an enhanced statewide GIS program. Benefits types include: task efficiencies, avoided costs, improvements and additions to service, intangible benefits and leveraged investments. The aggregation of all these types of benefits across all GIS stakeholders in Maine can result in millions of dollars of value for the state.

The Maine Public Library of Geographic Information will provide a mechanism for *standardizing* and *centralizing* data sharing efforts in Maine. Not only will this result in a savings of state and local government staff time, but also it will leverage the investments made in data development across the state to a much wider group of potential end users. Thus, data will be shared more efficiently and the value of those data – for improved planning, decision-making and mapping - will be distributed across a wider base.

Examples of benefits from these types of GIS investments that have been realized elsewhere and could benefit Maine include:

- Hundreds of thousands of dollars per annum in task efficiencies for areas such as creating abutter's notification lists, conducting site assessments, providing permit review and spatial data maintenance
- Enhanced planning for homeland security, providing public safety, disaster response and recovery as well as emergency preparedness through maintenance of accurate and accessible infrastructure and demographic data
- Improvements in strategic targeting of economic development and new business attraction through private-public data integration partnerships
- Millions of dollars of avoided cost for such things as potential reductions in vehicle miles traveled after pursuing automated routing for school buses and other vehicle fleets
- Augmenting the ability to appropriately plan for environmental and natural resource protection for present and future generations
- Leveraging over one million dollars of available federal funding to the benefit of Maine's GIS program and users of all levels

Use of GIS in the public sector will grow in Maine over the coming years as individual organizations make investments in data, training and GIS infrastructure. Now is the time for the state to invest in efforts to coordinate these activities before opportunities for maximizing the collective return on investment of public funds are missed. *It is not a question of whether GIS will be used in Maine; it is a question of how effectively limited resources will be applied and optimized.* The programs presented in this report will

provide the coordinating mechanisms to maximize the return on the State's expenditures for GIS.

Funding the Proposed Plan of Action

There are a handful of approaches in place across the country to fund GIS. These include mechanisms such as dedicated general funding, mission driven funding, assessments on agencies and cost recovery. States typically employ more than one of these approaches to fund a suite of statewide GIS functions and services. Observations of the current environment and components of the recommended funding scenario for Maine include the following:

- Particular challenges exist for addressing the funding of the ongoing, operational and maintenance costs associated with sustaining a system once it is in place. Maine will need to pursue a combination of funding approaches to support ongoing GIS in the state.
- Leveraging federal funds is an important element of the recommended funding approach. Maine should actively identify all appropriate opportunities and work to secure these funds. The proposed funding approach includes use of up to \$1.6 million of available USGS funding.
- Initial operating funds for the first two years are proposed to come from an increase in the Enterprise Network Services Rate. Funding derived from this source could be utilized in FY03 and amount to approximately \$300,000. This funding source will be re-examined after two years with an eye toward obtaining additional funding from non-state agency beneficiaries of the GIS system at that time.
- The majority of Maine funding in the recommended funding scenario relies on developing and passing a \$6 million component of the Environmental Bond issue for 2002 measure to cover the capital investment costs over five years.
- The total program cost over a 5-year period is anticipated to be \$14.4 million. This includes \$6 million in new bond moneys with up to \$4.5 million coming from external sources including Federal grants and municipal matching funds. The State is anticipated to invest \$9.9 million over the entire 5-year period. Of those monies, \$3.9 million is to cover ongoing and recurring operational expenditures, including the funding of Regional Geographic Service Centers.

Proposed Governance Structure for the Maine Public Library of Geographic Information

Recognizing that an ongoing governance structure is vital to the successful implementation of these recommendations, the Steering Committee collaboratively developed draft statutory language to establish the Maine Public Library of Geographic Information as well as a governing Board. The Board's 15 members represent stakeholders from State agencies, counties, regional councils, municipalities, public utilities, and private sector GIS vendors. In addition, the University of Maine, environmental, real estate and development interests, and the public are also represented on the Board. The President of the Senate, the Speaker of the House and the Governor will appoint members to three-year terms.

The Board will oversee GeoLibrary operations and procurements; establish and maintain standards, rules and policies regarding data to be placed in the GeoLibrary; foster ongoing coordination among GIS stakeholders; set priorities; approve expenditures of funds; seek partnerships; resolve disputes; conduct studies; and report annually to the Legislature. While the Board may develop some appropriate internal services to facilitate generalized access and use of Library data, it is the expressed intent of the legislation that the Board will not compete directly with services provided by private enterprise.

Addressing Privacy Concerns

With increasing adoption of the World Wide Web and in light of security concerns raised in the aftermath of September 11th there is legitimate, increased attention on preserving privacy in the digital age. More information is more readily available than ever before. Pursuing an expanded statewide GIS and the development of the Geographic Library raises important questions of whether privacy is compromised by creating and facilitating the distribution of further spatial data layers.

After careful consideration, the Resolve 23 Steering Committee concluded that the proposed plan of action doesn't raise any new or unmanageable privacy issues that cannot be appropriately addressed by the GeoLibrary Board. The following summarizes key points:

- Maine's spatial data are clearly in the "Public Record"
- Spatial data describing Maine, including aerial photographs, is already widely available at no user cost via sites such as MapQuest.Com, Microsoft TerraServer and a growing array of web-based data providers
- Technologies exist to provide potential privacy safeguards such as voluntary "opt-out" provisions or the suppression of sensitive information such as names
- The new Public Library of Geographic Information Board will work to determine a specific ***privacy protection policy*** for the GeoLibrary and a plan for implementing that policy

Conclusions

Maine has long understood the need for investments in state infrastructure such as roads and bridges. Increasingly, ***information infrastructure*** is being viewed as an important area for government investment at both the federal and state levels. The proposed plan of action laid out in this study represents a series of targeted investments in Maine's *spatial data infrastructure*. These investments are necessary to both help Maine gain the maximum return on investment from its previous GIS expenditures and also to enable fullest possible application of geographic data to critical issues of statewide importance such as ***sensible growth, economic development, environmental protection*** and ***homeland security***.

Maine has recognized the importance of GIS investments for over a decade. The Steering Committee has meticulously put together a plan of action that will result in an effective, expanded statewide GIS capability and broad, tangible benefits. It is clear that Maine and the MeGIS program have the ability to manage this expanded statewide resource. It is time to begin developing this resource in earnest.

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