

Four-year Growth Management Program Evaluation



A Report to the Joint Standing Committee on Environment and Natural Resources



Augusta



Mt Katahdin

Executive Summary

Revitalization of the Maine economy will rely upon the integration of economic development and land use planning that supports growth while protecting our State's heritage of clean water, natural resources, and livable communities. In its evaluation of the effectiveness of the State's Growth Management Act, SPO finds that:

- Despite the economic downturn, or perhaps because of it, communities continue to craft comprehensive plans to guide future growth, even in the face of less state funding to help them.
- SPO streamlining of the state review of comprehensive plans has eased local requirements and allowed communities to focus on what's most important to them. Since adoption of new rules, SPO has issued no findings of inconsistency for local plans.
- Despite cutbacks, SPO maintains a core of professional planning staff, funded with federal dollars, to promote sound land use planning in coastal areas, especially at a regional scale, and to ensure land use planning furthers legislated goals.

The State Planning Office submits this report in accordance with 30-A MRSA §4431 to evaluate the state, regional, and local success in achieving the purpose of the Growth Management Act.

State Goals

- A. To encourage orderly growth and development in appropriate areas of each community and region 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, decent 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 archeological resources; and
- J. To promote and protect the availability of outdoor recreation opportunities for all Maine citizens, including access to surface waters.

The Growth Management Act includes ten 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.” (30-A MRSA §4312)

State Coastal 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.

In addition to the state goals, nine coastal policies to guide development in coastal communities. (38 MRSA §1801)

Introduction

The Community Planning and Land Use Regulation Act {30-A, 4301 et seq}, also known as the Growth Management Act, requires an evaluation every four years of state, regional and local efforts to achieve the purposes and goals of the Act. This report provides that evaluation. It does so by looking at three criteria: the location of growth, the level of local and regional planning, and the state financial commitment to growth management. It also summarizes progress made on recommendations contained in the evaluation submitted four years ago.

The economy during the last four years has had enormous impacts on Maine communities. Downtown businesses have closed and companies have scaled back. Jobs have been lost and property values have declined. Revenues have fallen and state,

county and municipal services have been cut. While these challenges reverberate throughout Maine, growth management efforts at the local and regional levels point the way through the current recession and beyond. Towns looking for ways to weather the economic storm are reviving their downtowns and creating more compact development. Regional approaches to transportation and land use planning are being pursued and regional open space initiatives are being built. These efforts strengthen a community's economic health by maximizing its native natural and built assets.

The Office's 1999 program evaluation laid the foundation for the State's smart growth initiative. The 2003 evaluation called for additional reforms to prevent sprawl, including measures to address growth on a

regional basis and to make public investments that support carefully-planned growth. The 2007 evaluation summarized improvements to the Office's' review of comprehensive plans.

As we prepare this report, the State Planning Office again calls for regional approaches to land use planning and for more of the State's diminishing investments to be made in support of growth and development patterns that insure economic vibrancy and environmental quality for generations to come.



Sabbathday Lake Shaker Village

History of Program

In 1988, through the Community Planning and Land Use Regulation Act, the Legislature established the Growth Management Program and set out a broad strategy to promote Maine's overall economic well-being through orderly growth and development, and the protection of its natural and cultural resources. It also created a framework for local land use planning that would make efficient use of public services and protect Maine's rural character by preventing development sprawl. Local planning, which was initially mandated by the Act, has been voluntary since 1992.

In 1995, administration of the program was moved from the Department of Economic and Community Development to the State Planning Office. SPO's focus has been on reducing sprawling development and its frequently unacknowledged costs by helping towns and regional organizations integrate Smart Growth principles into their plans.

SPO worked with the Legislature as it created the Community Preservation Advisory Committee and enacted key pieces of legislation to coordinate state investments with local growth plans and give grant funding preference to programs and projects that discourage sprawl.

A 2006 legislatively-directed review of the Growth Management Act led the Office to undertake two important changes to the program. The first is to streamline the rules by which local comprehensive plans are written and reviewed. The second is to focus the state review of local plans on issues of statewide significance. Significant progress has been made on both initiatives since the 2007 adoption of the new Comprehensive Plan Review Criteria Rule (Chapter 208).

By simplifying the planning and review process, the new rule has freed up both local and state resources. With fewer volunteer hours needed to write a plan, there is more

interest and energy available to work for adoption and implementation of the plan locally. The simpler planning process also allows towns to reduce or eliminate the cost of planning consultants while demanding fewer staff hours at the state level. These benefits of Chapter 208 have been crucial during the evaluation period as SPO adjusts to program staffing cuts and towns adjust to the elimination of state planning grants.

As resources and capacity contract at all levels, the ground becomes more fertile for regional planning efforts. The Office continues to support and participate in regional planning initiatives, principally in the areas of transportation, affordable housing and natural resources. Currently proposed additional changes to the Comprehensive Plan Review Criteria Rule are expected to encourage more regional planning as more neighboring towns realize the economic efficiencies and superior outcomes attainable through working together.

Since 2007 – Status of Recommendations

The State Planning Office presented a series of recommendations to the Legislature's Joint Standing Committee on Natural Resources in response to Resolve 2004, Chapter 73 designed to enhance the local planning process and streamline state review. Recommendations fall into two general categories: local planning and regional planning.

Enhance local planning

→ *Focus consistency review on Future Land Use Plan (FLUP) chapter and provide clear state policy guidelines for FLUP*

Since the last evaluation SPO has changed the way it reviews comprehensive plans. Changes focus on making the review process more transparent, timely, and meaningful. Now, the first step in the review process checks for completeness of the submission. Communities with incomplete plans have the opportunity to furnish the missing information without being subject to a finding of inconsistency. Once the plan is found complete, the Office deems all sections of the plan, except for the Future Land Use Plan, as consistent with the Growth Management Act. The Office focuses its review on issues of statewide significance in the Future Land Use Plan. Findings of inconsistency are no longer made for issues not related to land use.

→ *Provide towns and regional agencies with better tools, data and assistance.*

SPO continues to develop model ordinances and guidance documents as new issues emerge. Since the last evaluation, the following technical assistance documents have been developed: Maine Model Wind Energy Ordinance and Guidebook, Low Impact Development Guidance Manual for Maine Communities, Community-based Performance Standards for Protecting Local Scenic Resources, Creating Traditional Walkable Neighborhoods Handbook for Maine Communities, and Guidance on Promoting Quality Outdoor Lighting, as well as a density visualization tool and web resources on form-based codes and climate change planning.

A series of SPO planning webinars examines available planning tools, presents examples of successful local programs and policies and addresses emerging issues. Webinars have also been utilized as virtual meetings with regional planning agencies.

→ *Fostering regional data collection*

SPO continues to promote regional efforts through funding and staff time. Federal funds supplied through the National Oceanographic and Atmospheric Administration (NOAA) grant to the Maine Coastal Program have been used to encourage regional projects in coastal areas. General funds contracted to the regional planning organizations have also been used to promote regional approaches to data analysis and planning. Through Beginning with Habitat, SPO supports regional data collection and presentation to watershed groups, land trusts and other regional organizations (www.beginningwithhabitat.org). Other regional work included the Gateway 1 transportation/land use project; Hancock and Washington counties scenic assessments, regional shellfish ordinance in Frenchman's Bay, and regional analysis for shoreland zoning in Washington County.

→ *Track growth and monitor progress*

This is also one of the legislated evaluation criteria, see page 7.

Shift Focus to Issues of Regional and Statewide Significance

→ *Improve state level planning and coordination of investments*

In 2008, the Office substantially reformed the local comprehensive planning process by providing a template for local plans and narrowing the Office's consistency review to those elements that are of state significance. The new rule still requires that a community decide how and where it

SPO now posts comprehensive planning data sets on-line. Upon request from a community, SPO collects all needed state data from various agencies and shares the data online for communities undertaking local comprehensive planning efforts. If state data is not available, a community is not obligated to address

A Regional Challenge Grant from SPO was awarded to the Southern Maine Regional Planning Commission to collect and analyze regional data and prepare a sea level rise vulnerability assessment.

wants to grow by designating growth and rural areas. This is the heart of the plan and provides the basis for the community's land use regulations. Local comprehensive plans also inform decisions about state-funded, growth-related, capital investments, many of which are targeted into locally-designated growth areas.

SPO has coordinated with DECD on rulemaking for the Riverfront Community Development and Communities for Maine's Future bond programs. Eligibility for the Riverfront Community Development bond program (2008) is contingent on communities having a consistent comprehensive plan. Proposed rules for the Communities for Maine's Future bond program (2011) include the same criterion.

→ ***Engage the public in regional development projects***

The Gateway 1 Action Plan (2009) was developed through a collaborative process between state and local governments to protect state transportation investments and maintain the level of service along Route 1 between Brunswick and Stockton Springs. At the heart of the plan is a regional pattern of development centered on core growth areas along the corridor.

In 2009, SPO and the Greater Portland Council of Governments (GPCOG) entered into a Memorandum of Understanding which covers their respective roles and responsibilities in working with communities to develop a multi-municipal comprehensive plan within the GPCOG jurisdiction.

In addition to these two pilot projects, SPO aided successful applications from southern and northern Maine for Regional Sustainable Communities Planning Grants from the US Department of Housing and Urban Development. The grant awards provide a unique opportunity for each region to come together around a set of common sustainability principles supporting economic vitality and quality of life. SPO's responsibilities include conducting an analysis of state programs, policies and statutes to uncover impediments to regional planning approaches.

→ ***Address how the state reviews large capital projects with regional impacts***

In 2008-2010 efforts were made to amend Site Location of Development Law Rule (38 M.R.S.A. § 481) that would have facilitated progress towards the Growth Management Act's goals. Among other things, the amendments would have required that future site law projects be located in locally-designated growth areas, compact urban areas, or census designated places. Had these changes been implemented, the rural nature of much of Maine's more remote areas would have been relieved of large-scale development pressures while allowing individual communities the local control they desire. In designating their own growth areas, communities would have been given control of where large projects play out on their landscape. This specific amendment never gained the necessary legislative support.

→ ***Create an affordable housing study group***

SPO was one of several partners in a multi-year partnership among the Kennebec Valley Council of Governments, Androscoggin Valley Council of Governments and Eastern Maine Development Corporation to develop an Affordable Workforce Housing Toolkit (2009).

**Implementation of local comprehensive plans:
A study of 14 coastal communities**

SPO completed a two-year study of the implementation of local comprehensive plans in 14 coastal Maine towns in 2008. The case studies suggest that even at their best, current zoning schemes are limited in their ability to steer growth. Good local land use ordinances are often undercut by lack of infrastructure investment, tax structure, aversion to residential density, and market pressures.

Three recommendations were made for program-level efforts to enhance local planning :

- The State Planning Office should further explore and make recommendations on the factors other than regulatory land use controls that affect development sprawl.
- The State Planning Office should continue working with state agency partners to facilitate better technical assistance and information sharing.
- The State Planning Office should strategically provide direct assistance to individual communities and regions.

SPO partnered with MaineDOT on a regional planning summit which presented tools for regional transportation and land use planning in Maine in 2008.



Presque Isle

2011 Evaluation Criteria

The Growth Management Act requires an evaluation every four years to determine how well state, regional, and local efforts are achieving the purposes and goals of the Act (30-A MRSA §4331). It requires public input opportunities and calls specifically for objective, quantifiable criteria to evaluate the program. It also requires that the evaluation analyze the state's financial commitment to growth management.

Three criteria are used in this evaluation:

1. Development tracking;
2. Local and regional planning activity; and
3. State financial commitment for the growth management program.

Public Participation in Evaluation

30-A MRSA §4331, the law under which this report is prepared, requires SPO to seek public input in its evaluation of the growth management program. Over the course of the last four years, SPO has:

- Conducted a survey to gauge opinions regarding the usefulness of each of the evaluation criteria.
- Conducted an intense study of the effectiveness of comprehensive planning in 14 coastal communities.
- Held more than a dozen public input sessions in 2007 and 2008 relating to the streamlining, clarification, and development of the Comprehensive Planning Review Criteria Rule (Chapter 208).
- Met with interested groups including: Maine Municipal Association, Intergovernmental Advisory Commission, Community Preservation Advisory Committee, regional planning councils, and the state's natural resource agencies.
- Considered public comments from interested parties on the further reduction and streamlining of Maine's Comprehensive Planning Review Criteria Rule.



Bangor



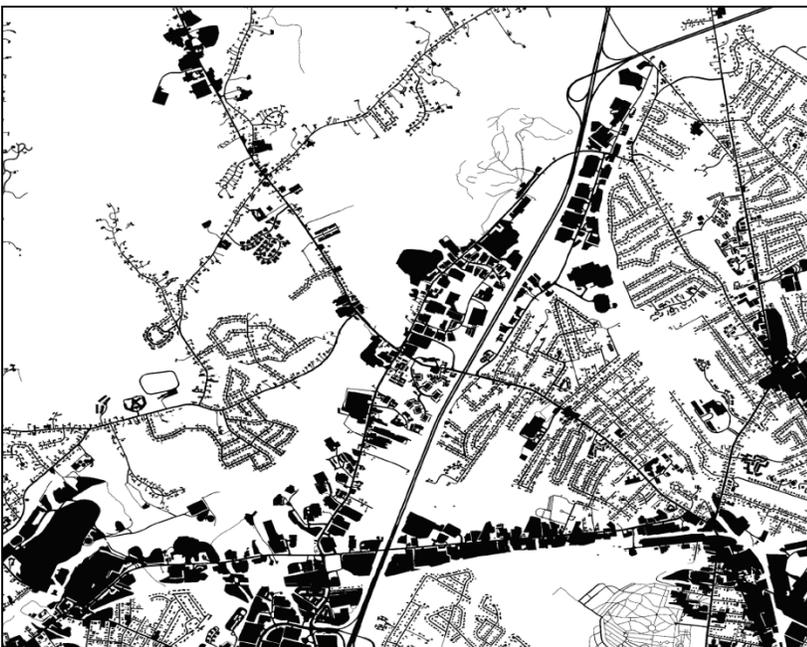
Allagash Wilderness Waterway

2011 Evaluation Criteria: Development Tracking

Development tracking represents one way to assess the success of municipal growth management strategies locally and the effectiveness of the Act overall. Development is a key element affecting many, if not all of the goals of the Act (i.e. encouragement of orderly growth and development, support of a vibrant economy with job opportunities, protection of water quality and quantity, protection of critical natural resources, provision of affordable housing, protection of the State's rural character, and the efficient use of public services). The Office has supported several methods of tracking development during the reporting period and continues to look for ways to make this process more accessible and meaningful at the local and regional levels. During this evaluation period, the Office supported the following:

Change detection of impervious surfaces and building locations. This project, undertaken in partnership with Maine Department of Inland Fisheries and Wildlife, will offer perhaps the most detailed look at patterns of development statewide and will allow analysis at local and regional levels. Final data for this project will be available in late summer, 2011.

GIS representation of new electrical service connections. Data provided by Maine electrical utilities, updated annually, distinguishes between residential and commercial hook-ups and creates a data layer available through the Maine Geolibrary Portal and currently housed in the Maine Office of Geographic Information Systems data catalogue.



Impervious surface data displays the location of development. Evaluation of the changes in impervious surface between 2004-2009 is currently underway and scheduled for completion in late summer 2011.



Maine foliage

Tracking development gives communities a visual depiction of where growth occurs and assists them make decisions about future growth.

2011 Evaluation Criteria: Local and Regional Planning Activity

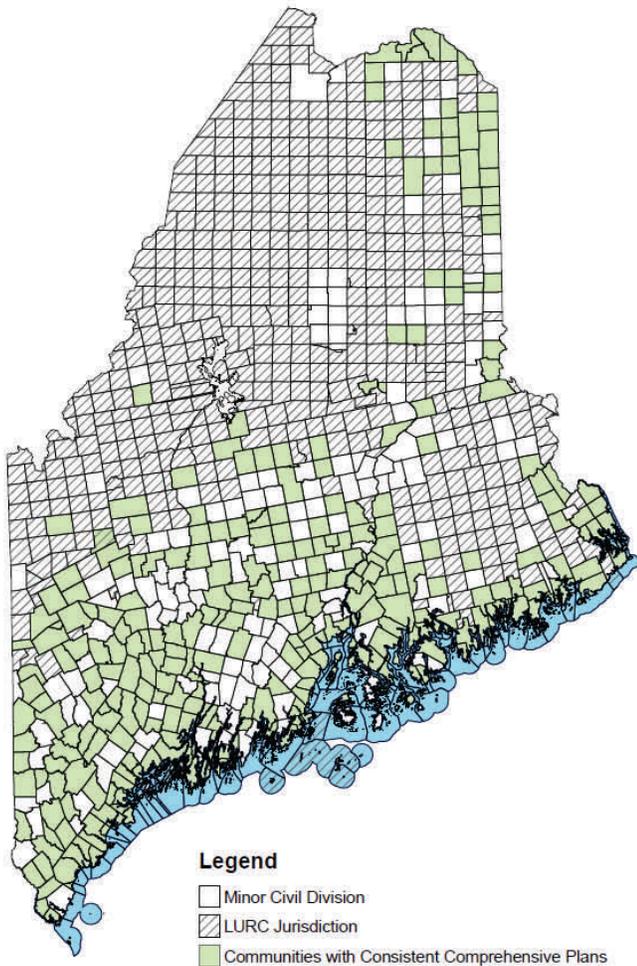
Since 1988:

- 301 communities have consistent comprehensive plans.
- 231 communities have locally adopted comprehensive plans.
- Dozens of communities engage in regional planning activities.
- Thousands of volunteer hours have been dedicated to the development of local comprehensive plans and ordinances across Maine.

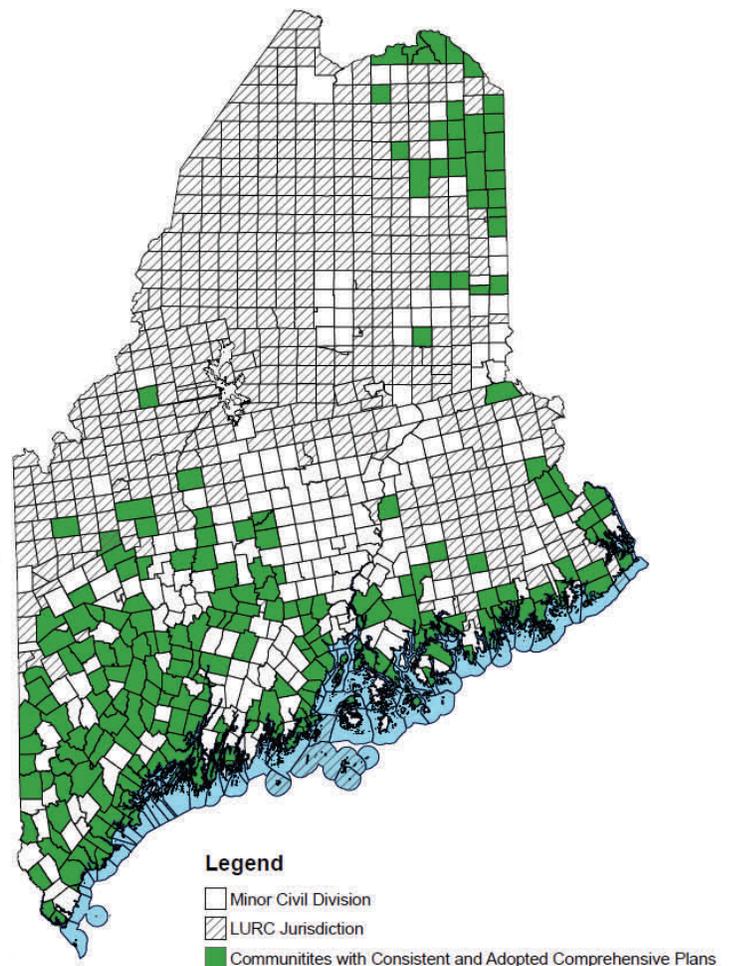
Today:

- Communities continue to support comprehensive planning even with the elimination of comprehensive planning and implementation grants in 2007.
- Proposed changes to the comprehensive plan review criteria rule allow a regional plan to replace a comprehensive plan topic area.
- Municipal interest in land use tools has increased as evidenced by the number of communities working on and adopting land use ordinances, bonds for land conservation and form-based codes.

Consistent Comprehensive Plans



Consistent and Locally Adopted Comprehensive Plans



Once a comprehensive plan is found consistent with the Growth Management Act, the next step is for it to be adopted locally by the community. A comprehensive plan does not carry weight until it is adopted locally. SPO tracks both consistent and consistent-adopted plans as a measure of success.

2011 Evaluation Criteria: State Financial Commitment to Growth Management

There are a number of measures of the State’s commitment to growth management, and financial investment is a main indicator. Historically, since the adoption of the Growth Management Act, there have been four main conduits for state investment: 1) a land use program at the State Planning Office, 2) general fund municipal grants to develop and implement comprehensive plans; 3) general fund grants to regional planning commissions; and 4) state investment in local infrastructure.

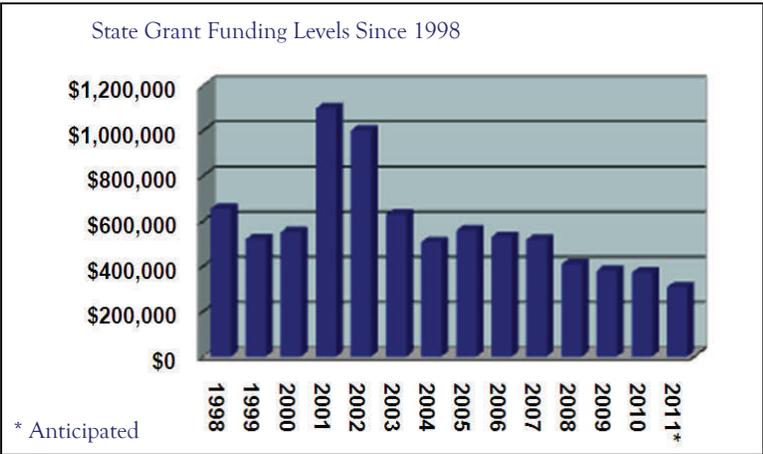
Each gubernatorial administration has its own planning priorities, such as redeveloping downtowns or encouraging alternative energy development. Throughout all administrations since the late 1980s, some General Funds have been used to staff a state land use

program, whose main responsibility is to ensure the implementation of the Growth Management Act. Similarly, various state grant programs are developed, expanded or reduced, depending upon the priorities of the governor. The economic downturn and resulting state budget cuts eliminated general fund grants to towns for comprehensive planning and the equivalent of two land use positions at the State Planning Office. General fund grants to regional councils were also reduced during this evaluation period.

The State maintains a core staff primarily funded with federal dollars to promote sound land use planning, especially at a regional scale in coastal areas.



Moxie Falls



Other state investments—in schools, roads, wastewater treatment, community development, land conservation, and other local infrastructure—have ties to growth and development. Each year, the State invests nearly \$400,000,000 in this growth-related infrastructure (see page 10).

Reaching the goals of the Growth Management Act requires actions and initiatives undertaken by a variety of partners. The following sections highlight some of the other work done that supports orderly growth and development.

Focus: Streamlining State Review of Local Plans

Key recommendations of the 2006 evaluation were to enhance local planning by improving SPO's process for reviewing comprehensive plans for consistency with the Growth Management Act. Pursuant to those recommendations, and after a six-month stakeholder process, the Office streamlined its rules covering the comprehensive planning process. The changes to Chapter 208 became effective 2007 and include provisions to:

- Provide clearer minimum state standards for local comprehensive plans;
- Streamline data and inventory requirements;
- Focus the state's review on the future land use plan;
- Prevent many findings of inconsistency by prohibiting the Office from reviewing a plan for consistency until it has first found the plan to be complete.

As of January 2011, SPO has reviewed 34 comprehensive plans or plan amendments under Chapter 208. Of those, 32 (94%) were found to be consistent with the GMA, while two (6%) were found to be incomplete. To date, SPO has issued no finding of inconsistency under the new rule.

This streamlined review has eased the local process and allowed communities to focus on what's important to them.

Focus: State Investment and Growth Management

The Growth Management Act envisions orderly growth, in part, through coordinated state investment that prevents duplicative infrastructure and minimizes sprawl. Specifically, it directs state agencies to give preference in scoring grant applications to communities with consistent comprehensive plans (30-A MRSA §4349-A).

To examine the extent to which agencies consider good planning when awarding state grants, SPO contacted the grant managers for 52 grant programs with links to land use. Results of this research indicated that:

- While only 21 of those programs (40%) favors projects proposed in municipalities that have consistent comprehensive plans,

- Those 21 programs award over 80% of the total funds available through all 52 state programs.

One of the recommendations of the 2006 review was to improve planning and coordination of state investments. Since 2007, the State has maintained and somewhat enhanced its efforts to

direct land-use related state investments into well-planned communities. Still, there appear to be opportunities for improvement. SPO will continue to monitor the grant program preference criteria used by other agencies and advocate for consideration of local and regional comprehensive plans where appropriate.



Belfast

Community Preservation Advisory Committee

The Community Preservation Advisory Committee (CPAC) was established in 2002 and charged with advising the Governor, the Legislature, and state agencies on matters relating to community preservation. Committee members include six legislators, five representatives of key interests, the Director of the State Planning Office, and the Commissioner of the Maine Historic Preservation Commission. Since its formation, the CPAC has provided leadership on many issues, including downtown redevelopment, regional planning, affordable housing, and creation of a statewide building and energy code. CPAC was originally authorized through 2008, but the 123rd Legislature extended its authority through 2012.



Quoddy Light

Regional Planning

Maine is a home rule state with a strong history of independent thinking that makes regional planning difficult. Without regional planning, however, it is all but impossible to effectively manage growth in Maine. Developers frequently move to the next town where regulations are less cumbersome, towns compete with each other for scarce development dollars, and local land use decisions are most often made from the view of a single municipality even when those decisions have impacts on surrounding towns. Economic development, protection of the unique natural qualities of the Maine landscape, affordable housing, and transportation planning are the four issues that have generated the most regional momentum and collaboration. Changing the pattern of planning from a town-by-town basis requires strong leadership, a serious commitment to planning, incentives that encourage regional approaches and cooperation, and appreciation that regional planning does not automatically reduce or eliminate local control. The economic downturn has provided an unexpected incentive that has yielded some movement toward regional planning as towns look for ways to provide services with dwindling resources. Beyond interlocal agreements for the purchase of materials, communities are taking the next steps toward regional planning. Gateway 1, the land use and transportation project along Route 1 in midcoast Maine, has reached the point where municipalities are taking steps to sign interlocal agreements to formalize regional partnerships. Regional open space planning and conservation blueprints have been developed in several different regions of the state. These regional plans are being used by individual towns in their comprehensive plan process, by conservation commissions and land trusts in their strategic planning, and in grant applications for conservation. SPO will continue to provide leadership to foster regional planning to achieve the purposes of the Growth Management Act.

New Planning Tools

In 2009, the 124th Maine Legislature enacted language that authorizes municipalities to create a special type of tax increment financing (“TIF”) district called a “transit-oriented TIF district.” TIF revenues generated in these districts may be used on general economic development projects as well as transit related projects, including some limited transit operational costs. The basic concept is that successful economic development is inextricably linked with successful transit services, particularly in communities that contain dense residential and commercial areas. The transit-oriented TIF district legislation was supported by a coalition of planners, transit providers, chamber and business representatives, environmentalists, GrowSmart and others. South Portland has adopted the state’s first transit TIF district.



Portland

Conclusion

The pace of growth in Maine has slowed substantially over the last few years as a result of the economic downturn. Budget cuts have reduced planning staff capacity at all levels, eliminated state grants for local planning and reduced grants for regional councils. Nevertheless, the rate of comprehensive plan submissions to the Office has not declined. Towns continue to plan and, through that process, take control of their future—what they will look like and how they will function as the economy recovers and grows.

Using new technologies to deliver technical assistance and connect planners, the State Planning Office will work to fill the gap produced by the budget cuts.

Adoption of Chapter 208 is helping towns move out of the planning process and into implementation more quickly.

Acknowledgements

The State Planning Office submits this report to the Joint Standing Committee on Natural Resources in accordance with 30-A MRSA §4331.

We would like to thank the hundreds of individuals and organizations in public, private, and non-profit groups who helped the Office over the last six years to review the comprehensive

This should help end multi-year planning processes (which frequently resulted in a plan that sat on the shelf) and usher in a process that leads to a living document that is acted upon more quickly and updated more frequently.

Regional approaches to planning are increasing and will most likely continue to do so especially in the areas of transportation and open space planning. Finding ways to encourage regional approaches while assuring continued local control will be essential to foster this new outlook.

Revitalization of the Maine economy will rely upon the integration of economic development and land use planning that supports growth and protects our State's heritage of clean water, natural resources, and livable communities.

planning process and make the changes described in this report.

Thanks to the following State Planning Office staff in the preparation of this report: Jody Harris, Elizabeth Hertz, Tom Miragliuolo, MacGregor Stocco, Ruta Dzenis, Phil Carey, and Janet Parker. Thanks to the Maine Office of Tourism for use of their photos.



SS Katahdin

State Planning Office
38 State House Station
Augusta ME 04333
(207) 624-7660
www.maine.gov/spo
March 2011

Printed under appropriation:
#010 07B 2907