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January 31, 2003

William Benner, Comprehensive Plan Committee Chair  
Municipal Office  
Town of Bristol  
P.O. Box 147  
Bristol, ME 04539

Dear Mr. Benner:

First, please allow me to apologize for the lateness of this response to Bristol's request for a review of their comprehensive plan. Due to the many efforts we at SPO are working on, circumstances have been such that completing this review on time has been quite difficult. I sincerely regret any inconvenience this has caused you, the comprehensive plan committee, or the town. I thank you for your patience.

Congratulations on the completion of Bristol's Comprehensive Plan. The community has clearly worked very hard to finalize the comprehensive plan. Bristol has done a good job inventorying, analyzing, and strategizing about the various issues and elements in town. The plan not only covers many important issues in town, but does so in a thoughtful manner that is easy to read. I hope this fact makes the plan more useful to community members and leaders continue to use the plan after it's adopted. The planning committee has made a tremendous effort completing this plan and should be very proud of the information presented and the policies that flow from it. Planning the future of your community is a difficult task, often fraught with pitfalls, however the committee has done particularly good work that will benefit the community.

Unfortunately, while the plan will provide good guidance to community leaders on many topics, the State Planning Office has found the Town of Bristol Comprehensive Plan, Draft July 2002 to be *inconsistent* with Maine's Growth Management Act (the Act). There are five specific objections listed below, some of which will be relatively easier to address than others. Addressing these 5 objections will result in the plan being consistent with the Act. In addition to the findings developed by this Office, you will also find, on blue paper, comments submitted to this Office by other state agencies and interested parties.

## CONCLUSIONS

As stated above, Bristol has completed a very difficult effort resulting in a plan that should be useful to the community regardless of whether or not the Town chooses to address the objections noted below. Your effort to bring citizens together to discuss the future of their community is to

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be commended. However, while many sections of the plan meet the letter of the Act, we are concerned that the plan does not outline a smart growth strategy for the town nor does it make clear and specific recommendations about the desired pattern of growth in the community. We fear that the pattern that is most likely to result from the policies and strategies of the plan is a suburban pattern, generally diffused across the town. If a suburban growth pattern is the goal of the community, that goal should be clearly stated in the plan, to avoid confusion and unrealistic expectations.

The plan does not create growth areas even in or around the existing villages, emphasizes the inability of the town to accommodate new development in growth areas, but does not make recommendations about protecting the rural areas. This raises the concerns that ten years from now, when the community looks back at its plan and examines what actually resulted, the community may consider the planning effort a failure. That, of course, is not what anyone wants for Bristol. The plan and the process of implementing the plan should be a success for the Town and foster pride in the community. I hope this is the case, whether or not the plan is found consistent with the Act.

## **OBJECTIONS AND RECOMMENDATIONS**

### **Objection 1**

The inventory analysis and accompanying goals for natural resources does not demonstrate a clear understanding of the resources in Bristol. Soils, wetlands, groundwater, surface water, and floodplains are discussed only very briefly and in general terms. Very little data specific to the nature of these resources in Bristol is provided, and since this data is missing, there is very little analysis and goals or strategies.

### **Recommendation 1**

With respect to soils, the town has access to the County Soil Survey. Typically communities use the survey to identify prime farmland soils, hydric soils, and soil suitability for development in their community and see how that relates to development pressures. Communities often use them to determine which sections of town are most likely to develop, based on soils suitability. This then becomes one of many factors the community uses to determine where to focus their energy for growth areas or conservation efforts. With a little additional analysis soils maps can also be used to determine steep sloped areas and hydric soils, or areas likely to be wetlands.

Soils constraints are also typically used as one of the significant concerns, with respect to ability to treat septage and recharge groundwater supplies, used in the argument that a town has significant physical constraints that prevent the siting of growth areas. However, there must be a careful inventory and clear analysis that leads to the conclusion that soils are a factor preventing the creation or extension of a growth area.

Bristol needs to clearly inventory wetlands in the town using one or more of the potential sources for identification of planning level data on wetlands. These sources include the

National Wetlands Inventory (NWI), which is the most commonly used source, hydric soils as shown on the county soil surveys, and/or landsat images. Map 2, located at the back of the Natural Resources chapter shows wetlands and water bodies, but the source of the data is unknown, and there is no analysis of how wetlands specifically affect development potential in certain parts of town. For example, Bristol village is fairly hemmed in by wetlands to the south east, but there are some large sections of Upper Round Pond Road that might allow additional development that approaches the density of Bristol Village. The northern section of town along state Route 130 would be fairly difficult to develop, due to a large wetland and numerous small wetlands in the area, so it probably isn't a good area to put a growth area, unless sewer is extended to the area from Damariscotta, which may be viable sometime in the future. Finally, depending on the town's interest in wildlife and waterfowl habitat, and some of the other functions of wetlands, the town may set as a goal the desire to evaluate the wetlands in town to determine which are high value and which are not. This will help conservationists and developers know which wetlands to protect and which might be less important to the town.

Groundwater is generally one of the factors limiting development in coastal communities, however, Bristol is fairly large and undoubtedly has varying groundwater issues. The groundwater section of the plan mentions a private water system in the New Harbor area serving 70 seasonal residential units, but there is no information regarding the quality, quantity, or impact of that system on the surrounding groundwater levels. There is also no mention of the 21 other public water supply sources in Bristol, their condition, and their potential impact on neighboring developments. Enclosed is a copy of a print out from the State's Drinking Water program web site that identifies all 22 public water supplies. The plan must at least mention these, and include some level of analysis on where they are located and how that might affect or speak to the availability of water in town. Public water supply wells have known yields, depth, and other pertinent information that can be of assistance to anyone trying to locate a growth area, or they may contribute to the data necessary to show that it is impossible to locate a growth area in town.

If groundwater issues are largely unknown because of there is a limited amount of data available, the community could insert a goal that creates a growth area, but requires a hydrological study for new wells determining their expected cone of influence and impact on groundwater quantity.

Surface water discussions in the plan do not discuss local resources in much detail. The names of surface water bodies and how they are connected is mentioned, and Duckpuddle Pond is specifically mentioned because of an algal bloom that occurred in 1994 and 1995. But beyond these fairly general pieces of data, the rest of the page on surface water is general academic information about how lakes can be polluted. There is no specific information about development along any of the lakes or streams, specific information about the work being conducted by the Pemaquid Watershed Association to reduce phosphorous loading into Duckpuddle and other ponds in town, or data that they may have collected in their efforts to protect the lakes. If there is no additional information, from the Association, or if they are unwilling to share their data and specific information about their efforts, the plan should state this.

The last sentence of the Surface Water section of the Natural Resources chapter states:

Protecting the gems of our town – the streams, lakes, and ocean – means educating and regulating ourselves about proper land use.

But without inventory regarding the current quality of the lakes and streams, the development that has occurred around them, or an analysis of the efforts to protect them, both by the Watershed Association and the town's regulations, it is difficult to know how the town might protect them. The only goal associated with this issue states that the town should continue to enforce the state plumbing code and the local shoreland protection ordinance. Are these adequate to protect the lakes and streams? After the 1994 and 1995 algal blooms in Duckpuddle Pond, did the town make changes to its enforcement efforts or regulatory scheme to decrease the possibility of new blooms or to reduce phosphorous loading in general? Are these things necessary to ensure that the water quality in the lakes remains adequate?

Finally, floodplains are given only cursory mention. The town needs to include details about the number of policies that exist in town, the number of recent claims, the location of flood hazard areas and the development pressure they are under. Specifically, the town must identify areas of high hazard, both for flood and coastal storm potential, as indicated on the Federal Flood Insurance Rate Maps. Areas of high hazard should be protected from significant development as one of the goals in the plan with specifics as to how that protection will occur (ie, what language will be added to local regulations to limit risk).

## Objection 2

The Future Land Use section of the Comprehensive Plan does not create growth and rural areas within Bristol, as required by Section 6 of Chapter 202 (Comprehensive Plan Review Criteria Rule). Bristol asserts that the exemption to designating growth and rural areas, allowed under Title 30-A, Section 4327, applies because:

1. "...the division into growth areas and rural areas would be quite arbitrary because of the Town's physical limitations." p. 9-7.
2. "Bristol's soils have severe limitations for subsurface sewage disposal systems." p. 9-7.
3. "The Town has no public water supply system, other than a privately owned, seasonal water system, and because of distance and cost, it would be impractical to extend such services from Damariscotta into Bristol." p. 9-7.
4. "Bristol has no commercial agricultural or forest activities to protect." p. 9-7.
5. "There is no compelling justification for... concentrated development." p. 9-7.
6. "...the soils around [the villages] have severe limitations for subsurface sewage disposal." p. 9-7.
7. "There is no 'town center' in Bristol, around which most new residential development could naturally be grouped." p. 9-7.
8. "There are no town facilities to speak of that could be more efficiently used if new residential construction were more tightly grouped." p. 9-7.

9. "...grouping new construction in this way would only tend to increase the pressure on groundwater, as well as to increase the risk of groundwater pollution by concentrating septic waste disposal systems in a limited area." p. 9-7.

The assertion that the exemption to designating growth and rural areas is valid in a municipality compelling evidence has shown through a thorough inventory and analysis that designating growth areas is not possible. Items 1, 2, and 6 above are potentially valid reasons for exempting a community from designating growth areas. However they are not supported by the inventory and analysis. Items 3, 4, 5, 7, 8, and 9 express financial concerns about providing services, a disagreement with state law requiring the designation of growth areas, and other concerns that do not speak to the physical limitation of the community. These concerns, while valid ones for the town, do not for a bases on which the State Planning Office has the authority to grant an exemption from designating growth areas.

There are numerous places in the comprehensive plan that refute the claims above. The plan states:

1. "...new technology and the use of septic areas common to a number of houses (clustering) now somewhat reduces the impact of these former limitations [shallow soils]." p 2-2
2. "...[the town has] a number of compact villages and locations with distinct names and identities." p. 9-2
3. "There is sufficient land to accommodate growth in these villages, although soil type may limit the extent to which lot sizes can be decreased." p. 9-4
4. Based on the table on page 9-5 there are 1,370 acres of land in tree growth and 135 acres in Farmland. By definition, these areas are commercial forestry and agricultural areas. Additionally, the plan states that the town is 75-80% forested and roughly 13% of the soils in town are prime agricultural soils. Each of these is a resource that, to some extent, could be developed for forestry or agricultural purposes in the future.

## Recommendation 2

At a minimum, identify growth and rural areas, or show inventory and analysis evidence that the entire town has physical constraints that cannot be overcome, qualifying it for the exemption from designating growth areas.

If the town chooses to try to prove that the entire town has physical limitations that prevent it from designating growth areas, SPO will expect the town to take strong measures to designate rural areas and protect the limiting characteristics. For example, if the availability of water is a limiting factor, preventing growth areas from being designated, the town needs to take strong measures to protect the water resources. Please note that if the town qualifies for the exemption, it is not exempt from designating rural areas and protecting those for sprawling development.

If the town chooses to identify growth and rural areas they must be well thought out, and of a reasonable size to accommodate the growth expected to occur over the next 10 years. One of

the implementation strategies must be the proposed creation of a zoning ordinance that has meaningful distinctions between growth and rural areas, both in the pattern of development and the uses allowed in growth areas as opposed to rural areas. Of course the town is not limited to creating just a growth area and a rural area, but can also create transitional areas between the two ends of the spectrum.

Unfortunately a more specific recommendation is not possible without significant local knowledge and public input, or specific data indicating that growth areas are not possible.

### **Objection 3**

Section 7(B) of the Comprehensive Plan Review Criteria Rule specifically requires that:

The implementation strategies must incorporate a "capital investment plan" (as referred to in 30-A MRSA §4326, sub-§3, Paragraph B). The capital investment plan must establish a framework for programming and financing those new or expanded public service facilities that are needed to accommodate projected growth and development and that constitute major capital improvements for which the municipality has fiscal responsibility. It must set forth general funding priorities among the needed municipal capital improvements. It must also identify potential funding sources and financing mechanisms.

There is no clear Capital Investment Plan (CInP) in Bristol's Plan. The index provided with the plan indicated that the Capital Investment Plan could be found on page 12-7. Page 12-7 includes a generalized goal statement indicating that the town should annually develop a Capital Improvements Program (CIP). There is no CInP on page 12-7.

### **Recommendation 3**

Bristol must create a Capital Investment Plan (CInP). Enclosed is a copy of the Town of Kittery's CInP, which provides a minimum level of detail for a CInP. Kittery's CInP is quite a bit more complex than Bristol's would be because they have significantly more services than Bristol, but their plan shows you the level of detail necessary regarding a specific topic. The CInP must outline the capital costs that the town expects to incur during the next ten years, or so, in order to accommodate anticipated growth. It need not be overly detailed, but it must be present.

### **Objection 4**

The plan does not adequately discuss affordable housing in Bristol. The plan does not describe income levels in the community as they relate to affordability, nor does it describe the price of a home or amount of rent that could be afforded by those that might need such housing.

#### Recommendation 4

At a minimum the plan needs to clearly describe the income levels of groups that require affordable housing. The plan then needs to provide an analysis of the existing housing stock in Bristol, and how much of it qualifies as affordable. Finally the plan must explicitly state, or infer by way of other policies, that the town will strive to ensure through local policies and regulations that at least 10% of new construction over the next 5 years will be affordable. Please refer to the attached definition of "affordable housing".

Enclosed is a copy of the US Department of Housing and Urban Development's Income limits for Maine. Language similar to the following paragraph must be included, as a minimum. Certainly a more detailed analysis would be better. I left a couple of holes, identified by xxxx, that you would need to fill in yourself, but the basic structure of an analysis is provided.

The median family income published by the US Department of Housing and Urban Development on March 29, 2001, for Lincoln County was \$39,500. A lower income household is one that has a gross income of \$31,600 or less and a moderate income household makes between \$31,601 and \$59,250.

The maximum range affordable by a lower income family for an owner occupied unit is \$737 to \$869 in anticipated monthly housing costs. The maximum amount affordable by a lower income family for a renter occupied unit is \$789 in anticipated monthly housing costs. The maximum range affordable by a moderate income family for an owner occupied unit is \$1383 to \$1629 in anticipated monthly housing costs. The maximum amount affordable by a moderate income family for a renter occupied unit is \$1481 in anticipated monthly housing costs.

Based on the income levels above, a lower income family can afford a home costing \$xxxx or less. A moderate income family can afford a home costing \$xxxx or less. Sale prices of homes in Bristol in 1997, 1998, and part of 1999, in 2001 dollars, show that xxxx% of home sales were affordable to lower income families and xxxx% were affordable to moderate income families. Overall, xxxx% of sales were considered owner occupied affordable housing. There are currently xxxx houses for sale in Bristol that are considered affordable.

As a goal, Bristol will strive to ensure that at least 10% of all new residential construction is affordable by working closely with the Maine State Housing Authority, adding incentives for creating affordable housing to the zoning and subdivision regulations (incentives might include increased density allowances, an expedited approval process, financial assistance with road construction, etc), and working closely with developers to encourage affordable housing.

In addition to the language above the town must adopt some specific goals that include clear direction regarding ordinance language to be implemented. A suggestion might be that a developer is granted a density bonus for providing affordable housing. Perhaps certain

sections of town are zoned in such a way as to require the development of an affordable dwelling unit for every 10 units the developer desires, or perhaps the entire town is zoned to require at least one affordable unit in every development.

### **Objection 5**

The plan does not call for the protection of historic and archeological sites through clear language in the site plan review and subdivision ordinances. The plan also does not identify potential archeological sites as mapped by the Maine Historic Preservation Commission (MHPC). The goal included, requiring the local conservation commission to work with landowners, is important but it is unlikely to catch potential archeological sites on land that come before the planning board for review, if the requirement for review of this issue is not in the local ordinances.

### **Recommendation 5**

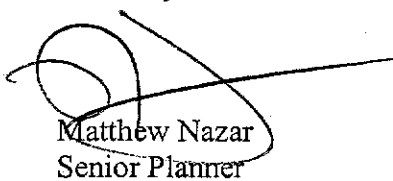
Bristol must update the inventory and analysis sections of the plan on page 1-5 to include the historic and archeological potential maps provided by MHPC, which I will forward within the next week. The plan must also include a goal that states the following or other similar language:

Include language in the subdivision and site plan review ordinances that requires a developer or applicant to determine if their property is within a known or suspected archeological potential area. If the site is within one of those areas, the developer or applicant shall have the area being developed or divided surveyed for historic or archeological sites. If such sites are found they shall be protected from both development and construction activity.

We sincerely regret that we cannot find the plan consistent and that the review to determine this finding is late. The effort that Bristol has made should not be diminished by this finding, nor should the fact that even a plan that is not consistent with state law has significant local value.

I am willing to meet with the comprehensive planning committee at their convenience to discuss these findings, and provide whatever assistance I can. Please feel free to call me at 287-4818 or email me at [matthew.nazar@maine.gov](mailto:matthew.nazar@maine.gov).

Sincerely,



Matthew Nazar  
Senior Planner

cc: Rich Rothe, Consultant  
Bob Faunce, Lincoln County Planner