



# VILLAGE OF KEY BISCAINE

## Office of the Village Manager

*Village Council*  
Robert L. Vernon, *Mayor*  
Jorge E. Mendia, *Vice Mayor*  
Michael Davey  
Enrique Garcia  
Steve Liedman  
Thomas Thornton  
Patricia Weinman

*Village Manager*  
Jacqueline R. Menendez

**DT:** February 6, 2007

**TO:** Honorable Mayor and Village Council

**FR:** Jacqueline R. Menendez, Village Manager

**RE:** Evaluation and Appraisal Report: Proposed Recreation and Open Space Responses to Comments from the South Florida Regional Planning Council

### RECOMMENDATION

That the Village Council select the method(s) to address the 6.2 acre deficiency in Recreation and Open Space as determined in the Evaluation and Appraisal Report (EAR). On December 6, 2006, the Village Council approved the responses for all of the other findings as determined by the South Florida Regional Planning Council (SFRPC).

### NEXT STEPS

Once the Council selects the method(s) to address the Recreation and Open Space deficiency, an amended EAR will be submitted to the Council for adoption and transmittal to the SFRPC. The Village will then have 18 months to amend the Master Plan including all of the EAR based amendments.

### CHRONOLOGY

- June 13, 2006 Village Council adopts the EAR (Resolution 2006-23) and forwards to the SFRPC for review and comment.
- Sept 1 and 8, 2006 South Florida Regional Planning Council submits a 60 day preliminary sufficiency review of our EAR.
- Nov 17, 2006 SFRPC comments on the Village's draft responses to the insufficiencies that were listed in the SFRPC September 1 and 8, 2007 memorandums.
- Dec 6, 2006 With the exception of the responses dealing with Recreation and Open Space, the Village Council approves the draft responses. The Council directs staff to schedule a discussion on the responses to Recreation and Open Space issues at the February 13, 2007 meeting.

## **RECREATION AND OPEN SPACE**

Staff is requesting that the Village Council provide direction on how the EAR should be amended to address the 6.2 acre deficiency in Recreation and Open Space. As the population of the Village continues to increase, there will be a need to obtain additional recreation and open space land in order to keep pace with the 2.5 acres of 1000 residents as set forth in the Master Plan. Below are five (5) methods to address the deficiency:

On December 6, 2006, WRT presented the following:

1. count all or a portion of the public beach between the high water mark and the Erosion Control Line (ECL) which is the property line.
2. reduce the 2.5 acres per 1000 residents standard to 1.95 acres per 1000 population.
3. change the method to calculate the amount of Recreation and Open Space land that is desired by the Village. For example, the Village Green could receive a higher or weighted score than smaller parkland.

At the December 6 meeting, several Council members were not satisfied with the above methods as they do not actually result in additional Recreation and Open Space. Staff was requested to search for other options. Since that time, Staff has identified the following additional options:

1. enter into an agreement with the City of Miami and/or the County to permit the Village to include land on Virginia Key and/or Crandon Park as part of the Village's Recreation and Open Space.
2. the attached January 29 and February 5, 2007 e mails indicate that the SFRPC will approve the Community Center land in the Recreation and Open Space calculation. The land area measures 2.34 acres and the building has 38,200 sq. ft.

## **CONCURRENCY**

The Village regulates concurrency through the Zoning and Land Development Regulations and the Master Plan. These regulations are attached to this memorandum

**RESOLUTION NO. 2006-23**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, ADOPTING THE EVALUATION AND APPRAISAL REPORT FOR THE VILLAGE OF KEY BISCAYNE MASTER PLAN; STATING THE INTENT OF THE VILLAGE COUNCIL TO AMEND THE MASTER PLAN BASED UPON RECOMMENDATIONS CONTAINED IN THE REPORT; APPROVING TRANSMITTAL OF THE REPORT TO THE DEPARTMENT OF COMMUNITY AFFAIRS IN ACCORDANCE WITH SECTION 163.3191, FLORIDA STATUTES; PROVIDING FOR EFFECTIVE DATE.**

WHEREAS, pursuant to Chapter 163, Part 2, Florida Statutes and Chapters 9J-5, 9J-11 and 9J-12, Florida Administrative Code (F.A.C.), the Village of Key Biscayne Master Plan (the "Plan") was adopted via Ordinance No. 95-8 on September 12, 1995; and

WHEREAS, the Florida Legislature intends that local planning be a continuous and ongoing process; and

WHEREAS, Section 163.3191, Florida Statutes, directs local governments to periodically assess the success or failure of their adopted comprehensive plans to adequately address changing conditions and state policies and rules; and

WHEREAS, Section 163.3191, Florida Statutes, directs local governments to adopt an evaluation and appraisal report once every seven (7) years assessing the progress in implementing the local government's comprehensive plan; and

WHEREAS, the Village Council, in its capacity as the Local Planning Agency (the "LPA") has prepared and completed an Evaluation and Appraisal Report (the "EAR") for the Plan as provided for in Exhibit "A"; and

**WHEREAS**, on April 25, 2006, the LPA held an advertised public hearing on the proposed EAR, provided for participation by the public in the process and rendered its recommendations to the Village Council; and

**WHEREAS**, the Village Council has reviewed the EAR, held an advertised public hearing, and provided for comments and public participation in the process in accordance with the requirements of state law and the procedures adopted for public participation in the planning process.

**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAWAYNE, FLORIDA, AS FOLLOWS:**

**Section 1.**     **Recitals Adopted.** That each of the recitals stated above is hereby adopted and confirmed.

**Section 2.**     **Adoption.** That the Evaluation and Appraisal Report, attached as Exhibit "A", is hereby adopted and approved for transmittal to the Department of Community Affairs for the purpose of a sufficiency review in accordance with Section 163.3191, Florida Statutes.

**Section 3.**     **Intent to Amend Master Plan.** That the Village Council does hereby state its intention to amend the Village of Key Biscayne Master Plan in accordance with the recommendations contained in the Evaluation and Appraisal Report.

**Section 4.**     **Transmittal.** That the Village Clerk or his or her designee is hereby directed to make the appropriate transmittals as required by law.

**Section 5.**     **Effective Date.** That this Resolution shall be effective immediately upon adoption hereof.

PASSED AND ADOPTED this 13th day of June, 2006.

*Robert Oldakowski*

MAYOR ROBERT OLDAKOWSKI

ATTEST:

*Conchita H. Alvarez*

CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

*Robert M. [unclear]*

VILLAGE ATTORNEY



South  
Florida  
Regional  
Planning  
Council



September 8, 2006

Mr. Jud Kurlanchek, Director  
Department of Building, Planning and Zoning  
Village of Key Biscayne  
88 West McIntyre Street  
Key Biscayne, FL 33399-2100

RE: Sufficiency Determination Village of Key Biscayne Comprehensive Plan  
Evaluation and Appraisal Report (EAR)

Dear Mr. Kurlanchek:

The South Florida Regional Planning Council has completed its 60-day preliminary sufficiency review of the Evaluation and Appraisal Report (EAR) for the Village of Key Biscayne Comprehensive Plan, adopted by Resolution Number 2006-23 on June 13, 2006. The Council has determined the adopted EAR to be insufficient because it does not adequately address the requirements in Sections 163.3191(2)(e) and (h), Florida Statutes (F.S.), including as they relate to the financial feasibility of the Village's Comprehensive Plan. See the Council's attached analysis, with recommendations for remedying the identified insufficiencies. In addition, please see the attached comments from the Florida Department of Community Affairs.

The Council's staff is available should you require assistance in responding to this preliminary determination.

Please note that the Council will make a final 90-day sufficiency determination on October 6, 2006. If you have any questions, please do not hesitate to call David Dahlstrom, or me, at (954) 985-4416.

Sincerely,

Terry Manning  
Senior Planner

TM/kal

Attachments

cc: Ray Eubanks, Department of Community Affairs, Plan Processing Team  
Roger Wilburn, Department of Community Affairs, Regional Planning Administrator  
Lindsey Withrow, Wallace Roberts & Todd  
Silvia Vargas, Wallace Roberts & Todd

South  
Florida  
Regional  
Planning  
Council



September 1, 2006

Jud Kurlanchek, Director  
Department of Building, Planning and Zoning  
Village of Key Biscayne  
88 West McIntyre Street  
Key Biscayne, FL 33399-2100

RE: Sufficiency Determination Village of Key Biscayne Comprehensive Plan Evaluation and Appraisal Report

Dear Mr. Riel:

The South Florida Regional Planning Council has completed its 60-day preliminary sufficiency review of the Evaluation and Appraisal Report (EAR) for the Village of Key Biscayne Comprehensive Plan, adopted by Resolution Number 2006-23 on June 13, 2006. The Council has determined the adopted EAR to be insufficient because it does not adequately address the requirements in Sections 163.3191(2)(e) and (h), Florida Statutes (F.S.), including as they relate to the financial feasibility of the Village's Comprehensive Plan. See the Council's attached analysis, with recommendations for remedying the identified insufficiencies. In addition, please see the attached comments from the Florida Department of Community Affairs.

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Sincerely,

Terry Manning  
Senior Planner

Attachments

cc: Ray Eubanks, Department of Community Affairs, Plan Processing Team  
Roger Wilburn, Department of Community Affairs, Regional Planning Administrator  
Lindsey Withrow, Wallace Roberts & Todd  
Silvia Vargas, Wallace Roberts & Todd

## ADVISORY REPORT

### for the Adopted Evaluation and Appraisal Report of the Village of Key Biscayne Comprehensive Plan

August 2006

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#### INTRODUCTION

This report has been prepared to provide Village of Key Biscayne staff with the results of the review of the adopted Evaluation and Appraisal Report (EAR) for the Village of Key Biscayne Comprehensive Plan. Pursuant to Section 163.3191(8), Florida Statutes (F.S.), the Florida Department of Community Affairs (DCA) has delegated review of the EAR to the South Florida Regional Planning Council (SFRPC).

The review of the Village of Key Biscayne EAR is being conducted in accordance with Section 163.3191, F.S., and is focused on EAR content requirements as contained in Subsections 163.3191(2)(a)-(m), F.S., and the major issues identified by the Village.

#### Comprehensive Plan Status

The Village of Key Biscayne adopted its current Comprehensive Plan on September 12, 1995. This is the first EAR analysis to be undertaken by the Village since its Comprehensive Plan was adopted. The EAR was prepared with the assistance of a Village Council-appointed committee and is referred to locally as the "2020 Vision Plan".

#### Letter of Understanding

DCA approved the City's EAR scope of work in a letter of understanding dated on March 7, 2005.

#### Adopted Evaluation and Appraisal Report Review Findings and Recommendations

A proposed EAR was not transmitted by the Village for review or comment. The EAR was submitted for review as an adopted EAR. The adopted EAR was also submitted in July 2006 after new legislation was put into effect that changes the evaluation requirements for EARs. Regional water supply planning; mechanisms to increase the supply of affordable housing; and the financial feasibility of Comprehensive Plans have received increased levels of scrutiny. Greater emphasis is now being placed on the effectiveness of local efforts to address these local and larger than local issues.

Review of the Village of Key Biscayne adopted EAR by Council staff and the reviewing agencies has determined that the EAR does not provide sufficient information needed to evaluate the performance of the City's Comprehensive Plan or address all amendments to the plan that may be necessary to address major issues and needed updates to the original 1995 Comprehensive Plan. Council staff review of the adopted EAR finds that the EAR is not sufficient at this time.

The Village EAR Committee has identified local issue areas of "Key Areas of Community Consensus"; however, it not clearly documented in the EAR how the existing Comprehensive Plan addresses these issue areas or what policy changes are being recommended at this time to address these issues.

It is recommended that the Village consider the issues detailed below and amend the EAR to address the issues as noted.

## EAR CONTENT REQUIREMENTS

A summary of the adopted EAR review is included below. Specific needs for additional information or clarification are discussed in the analysis of each major issue.

### I. EAR INTRODUCTION SECTION

For this requirement the EAR has been reviewed for a description of the EAR preparation and adoption process (163.3191(2) (j), F.S.).

*Sufficient*

### II. CONDITION OF EACH ELEMENT AT THE DATE OF THE REPORT

For this analysis the EAR has been reviewed for the following:

#### A. Current Conditions for Major Issues - 163.3191(2) (e)

Additional Information Needed: Chapter 163.3191, F.S., requires that the EAR evaluate the financial feasibility of implementing the comprehensive plan and of providing needed infrastructure to achieve and maintain adopted level-of-service standards and sustain concurrency management systems through the Capital Improvements Element, as well as the ability to address infrastructure backlogs and meet demands on public services and facilities. The parks, recreation and open space level of service standard adopted by the Village is 2.5 acres per 1,000 in population. In the assessment of implementing the Comprehensive Master Plan for parks, recreation and open space, Table 8 (page 78), identifies that despite an increase in park acreage since 1997, the Village continues to have a shortfall of 0.2 acres of recreational open space. While the analysis appears to indicate that this shortfall can be attributed to limitations on counting certain recreational areas towards the measure of level of service, deficiencies in the amount and maintenance of recreational facilities are identified by the 2020 Vision Committee as a key weakness in the Village in the "Key Areas of Community Consensus". It appears that even with these additional facilities, there is a perceived local need for additional park acreage within the Village. The Village currently does not meet its adopted LOS for parks and there does not appear to be a measurable response to address this deficiency. The 5-year Capital Improvements Program was not provided as a means to evaluate the provision of additional recreational improvements to meet the adopted LOS standard. It is recommended that the Village amend the adopted EAR to include data and analysis pertaining to:

1. A financially feasible Capital Improvement Element/Program delineating all infrastructure facilities needed, particularly related to recreation, storm drainage problems, and poor road maintenance identified on page 23, projected costs and funding sources for the 5 to 10 year planning horizon or City's comprehensive planning period, or consider adopting a LOS standard for parks and recreation that the Village can maintain during the planning horizon.
2. Further identify the successes, shortcomings and failures of past goals, objectives and policies of the Capital Improvements Element specifically relating to levels of service and major issues. Pages 22-24 of the EAR identify many areas of the Village in need of improvement that would appear benefit from updates to the Comprehensive Plan.
3. It should also be noted that the EAR utilizes 2003 Miami-Dade County EAR data to conduct the analysis of public water supply. In the past year, the changes in statute and South Florida Water Management District (SFWMD) policies have changed the way water supply capacity has been

calculated. While the Village is not the service provider for potable water, the Village should increase its intergovernmental coordination with the Miami-Dade County Water and Sewer Department to ensure that water is available to serve any future development.

4. See also DCA comments pertaining to these issues.

B. Population Growth, Changes In Land Area, Vacant Land And The Location Of Existing Development As Compared To The Location Anticipated In The Plan - 163.3191(2) (a) (b) and (c)

Sufficient.

C. Assessment of Successes and Shortcomings of Each Element -163.3191(2) (h)

Additional Information Needed: There are many Goals, Objectives, and Policies that include specific target years that are prior to 2006 and are now outdated. There are few recommendations in the adopted EAR to have these specific policies updated.

See also DCA comments pertaining to this issue.

**III. COMPARISON OF PLAN'S ADOPTED OBJECTIVES WITH ACTUAL RESULTS TO DETERMINE WHETHER THE OBJECTIVES HAVE BEEN ACHIEVED - 163.3191(2) (g)**

The focus of the EAR review is on those objectives that are related to the major issues and minimum EAR content requirements

Sufficient

**IV. MAJOR PROBLEMS OF DEVELOPMENT, PHYSICAL DETERIORATION, LOCATION OF LAND USES AND THE SOCIAL AND ECONOMIC EFFECTS OF THE MAJOR PROBLEMS IDENTIFIED - 163.3191(2) (e)**

The EAR has been reviewed to determine if a description of the social, economic and environmental impacts of each major issue has been included.

Sufficient

**V. UNANTICIPATED AND UNFORSEEN PROBLEMS AND OPPORTUNITIES THAT OCCURRED SINCE ADOPTION, INCLUDING A DESCRIPTION OF UNFORSEEN PROBLEMS/OPPORTUNITIES AND THEIR IMPACT ON THE PLAN - 163.3191(2) (f)**

The EAR has been reviewed to determine if a discussion of whether unforeseen changes in circumstances have created problems or opportunities related to each major issue has been included.

Sufficient

**VI. EFFECT ON THE LOCAL COMPREHENSIVE PLAN; CONSISTENCY OF THE PLAN WITH THE STATE COMPREHENSIVE PLAN (CHAPTER 189, F.S.), STRATEGIC REGIONAL POLICY PLAN, RULE 9J-5 (F.A.C.) AND CHAPTER 163, F.S. - 163.3191(2) (f)**

The EAR has been reviewed to determine if this analysis has been included as stated in the title of this section

Additional Information Needed: The adopted EAR does not include an analysis of consistency with the all the goals and policies of the *Strategic Regional Policy Plan for South Florida (SRPP)* or what amendments are needed to be adopted to be consistent with the revised *SRPP*. The adopted EAR provides an analysis for Goals 1-13 of the *SRPP* but does not include and analysis of the remaining Goals 14-22. The review should include an identification of any amendments that are needed in the City's Comprehensive Plan to ensure that it is compatible with the *SRPP*.

The adopted EAR includes a table (pp. 121-170) of the changes in the statutes and needed amendments by element; however, the analysis does not identify one amendment that is needed to address the changes in statute.

The Village recommends that Intergovernmental Policy 1.1.3 to utilize the informal mediation process of the SFRPC should be deleted. While annexation issues are not considered to be an issue, there may be other conflicts with other governmental agencies that could utilize the mediation services of the SFRPC. The policy should be retained but could be amended to delete reference to annexation.

See also DCA comments related to this issue. As for references to working waterfronts, the Village may want to specifically state that there are no working waterfronts, as defined by statute, within the Village.

**VII. IDENTIFICATION OF ANY NEEDED ACTIONS TO ADDRESS THE PLANNING ISSUES RAISED IN THE REPORT -163.3191(2) (i)**

The EAR has been reviewed to determine if this analysis has been included for the major issues.

Sufficient

**VIII. IDENTIFICATION OF PROPOSED OR ANTICIPATED PLAN AMENDMENTS TO ADDRESS OR IMPLEMENT THE IDENTIFIED CHANGES -163.3191(2) (i)**

The EAR has been reviewed to determine if plan amendments have been identified to address needed changes for the major issues.

Sufficient

**IX. IDENTIFICATION OF CONCURRENCY MANAGEMENT AREA ACHIEVING ITS PURPOSE -163.3191(2) (o)**

The EAR has been reviewed to determine if this analysis has been included as stated in the title of this section.

Sufficient

**X. ESTABLISHING A COMMON METHODOLOGY FOR MEASURING TRANSPORTATION IMPACTS - 163.3191) (o)**

The EAR has been reviewed to determine if this analysis has been included as stated in the title of this section.

Sufficient

**IX. MAJOR ISSUES**

The Village of Key Biscayne adopted EAR has Identified the Following Major Planning Issues:

- A. Definition, Preservation and Enhancement of Key Biscayne's Unique Village Character and Quality of Life.
- B. The Need for Additional Local Parks, Recreation and Open Space.
- C. Calusa Park, Crandon Park, Bill Baggs Cape Florida State Park and Virginia Key - Interlocal Cooperation Relative to Village Issues.
- D. D. Traffic Volume, Operations and Safety.
- E. Implications of Redevelopment.
- F. Sustainability of Local Retail Services.
- G. Vulnerability to Damage from Tropical Storms and Hurricanes.
- H. Need to Improve or Replace Infrastructure.
- I. Implications of Debt Cap.
- J. Conservation, Coastal Management and Environmental Protection.
- K. Land Development in Context of Master Plan Goals, Objectives, and Policies.
- L. Historic, Cultural and Educational Resources and Needs.

Comment: The adopted EAR contains an analysis for each of these issue areas and several plan objectives are recommended for updating; however, there are few policies identified that would link specific actions the Village intends to undertake to address the major issues and identified deficiencies. For example, Housing Element Objective 1.6 is amended to develop ongoing interlocal coordination with other jurisdictions to provide affordable housing; however, there are no implementing policies identified to describe how the Village will achieve this objective. It is not clear how the proposed changes to the Housing Element will be coordinated with adjacent local governments or agencies. Specific policies should be identified as to how the Village will address need.

There is a brief discussion of the ½ cent transportation sales to be used to support a trolley service for seniors. The conclusion appears to be that the trolley system is not financially feasible; however, there does not appear to be any other types of transit services, such as, "on-call" to serve the needs of Village residents.

## **APPENDIX A**

### **REVIEW AGENCY COMMENTS**

In addition to the review by the South Florida Regional Planning Council, the adopted EAR was distributed to seven review agencies and adjacent local governments. Comments received from the DCA have been attached.



STATE OF FLORIDA  
**DEPARTMENT OF COMMUNITY AFFAIRS**

"Dedicated to making Florida a better place to call home"

JEB BUSH  
Governor

THADDEUS L. COHEN, AIA  
Secretary

August 9, 2006



CAO, BO, TM, DO

*original  
Attachment*

*Village of  
Key Biscayne  
EAR*

Ms. Terry Manning  
South Florida Regional Planning Council  
3440 Hollywood Blvd., Suite 140  
Hollywood, FL 33021

Re: Village of Key Biscayne Adopted EAR – Delegated Review

Dear Ms. Manning:

The Department of Community Affairs has conducted a preliminary sufficiency review of the City of Coral Gables' Adopted Evaluation and Appraisal Report (EAR), adopted under Resolution No. 2006-92 on May 9, 2006. Department staff identified the following potential sufficiency issues, comments, and recommendations for your consideration:

**1. Items with Potential Sufficiency Issues**

- A. Section 163.3191 (2) (c) The financial feasibility of implementing the comprehensive plan and of providing needed infrastructure to achieve and maintain adopted level-of-service standards and sustain concurrency management systems through the capital improvements element, as well as the ability to address infrastructure backlogs and meet the demands of growth on public services and facilities.

**Comment**

The Village identifies, in general terms, several demands on infrastructure Levels of Service (LOS) and their efforts at sustaining LOS through their Concurrency Management System (CMS) and Capital Improvement Program (CIP). The Village identifies several projects accomplished and several proposed along with some projected costs. The Village indicates it maintains a five-year Capital Improvements Program, which is updated each year, though it did not present any portion of the CIP as data for review. The Village presents insufficient data and analysis identifying the capital projects anticipated over the required five-year and ten-year planning periods that will specifically address the achievement and maintenance of adopted LOS and does not identify the sources of funding for anticipated projects to demonstrate financial feasibility.

## Recommendation

This is a critical portion of the EAR Report as it allows the local government to assess past financial management and capital budgeting practices that enabled or prevented the community from meeting its public facility needs. It provides an opportunity to assess and amend the policies and objectives guiding the community into the future to better enable the local government to provide its future infrastructure needs at the adopted LOS. To these ends the report is both retrospective and prospective and should include the following data and analysis:

1. The public facility needs that were projected for the past planning period (for roads, potable water, sewer, drainage, solid waste, recreation and open space) and included in the plan during EAR-based amendment. For roads, the EAR should list all the deficient roadways at the time of the previous EAR-based amendment;
2. A discussion of the extent to which the identified needs of the community were met in terms of achieving and maintaining the adopted LOS standard and whether the deficiencies were corrected or not corrected. If deficiencies occurred, and especially if they were prolonged, that would provide a good indication that the comprehensive plan was NOT financially feasible. The EAR should analyze and discuss why the deficiencies occurred (e.g. insufficient funding, inefficient growth pattern that fails to deliver resources efficiently, unexpected growth, or a catastrophic event that caused local government to divert funds to other needs), then make recommendations to help ensure that financial feasibility is achieved and maintained during the next five and ten year planning horizon.
3. A discussion of the current condition of all public facilities in terms of capacity (including roadway LOS of all major roadways as provided in the current EAR);
4. A discussion of the City's ability to fund the identified infrastructure needs of the community during the past planning period, particularly for those facilities subject to concurrency. The discussion should describe the financial management and capital budgeting programs implemented during the planning period that enabled the community to achieve and maintain the adopted level of service standards;
5. A discussion of the hardships if any, that the City encountered, which hampered its' ability to address the infrastructure needs of the community;
6. A projection of the capital facility needs for the next planning period for all facilities that concurrency is required. This projection should include the projected LOS standards for all major roadways in the community;
7. A discussion of the financial planning and budgeting schedules that will enable the City to meet its projected capital facility needs for the five and ten year planning period. The discussion should include the identification of the sources

Ms. Terry Manning  
Re: Village of Key Biscayne -- EAR - Delegated  
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of funding as well as the City's revenues and expenditures that will support the City's capital projects during the planning period. Please note: SB 360 adopted in 2005, has changed the requirements of the Capital Improvement Element. As an example, the CIE should identify a Capital Improvement Plan covering five years, with the first three years of projects having funds committed and years four and five having funds planned. The City must identify revenues or funding sources sufficient to support the projects identified and these projects should result from the objectives identified within the various elements of the Comprehensive Plan. The City should carefully review the changes to this critical element of the Comprehensive Plan for additional amendments to existing policies and objectives.

163.3191 (2) (f) Relevant changes to the state comprehensive plan, the requirements of this part, the minimum criteria contained in Chapter 9J-5, Florida Administrative Code, and the appropriate strategic regional policy plan since the adoption of the original plan or the most recent evaluation and appraisal report update amendments.

#### **Comment**

The EAR presents a table of the changes to the statutes and the actions the Village needs to take in response to the changes.

The EAR failed to identify a single amendment to any of the Elements that will be required under the changes to the statutes as these changes bear on each element, such as school concurrency, which involves more than just an interlocal agreement as indicated in the evaluation matrix.

The evaluation matrix failed to present required actions on the part of the City with respect to HB 955 (Chapter 2005-157, Laws of Florida ) adopted in 2005, but rather indicated they were not applicable. The citation is mislabeled as adding requirements for Coastal Counties to encourage and preserve working waterfronts. However, the statute pertains to counties and municipalities and refers to more than preserving working waterfronts. It includes other issues, such as public access to waterway areas, which the EAR discusses briefly as one of the major local issues.

The evaluation matrix failed to discuss the required amendments to the Traffic Circulation Element.

The evaluation matrix should include a reference to the five-year and ten-year planning time frames within the CIE and the Future Land Use Element for population projections (163.3177(5)(a) F.S.).

Ms. Terry Manning  
Re: Village of Key Biscayne – EAR - Delegated  
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### **Recommendation**

The EAR should be amended to identify all applicable amendments to each Goal, Objective, and Policy required by changes to the statutes since the adoption of the Comprehensive Plan in 1995 and list these in the evaluation matrix. In addition, the EAR should acknowledge those changes that have yet to take effect and agree to implement the necessary changes in the future time frames or as the Statutes require

The EAR-based amendments should comply with Chapter 2005-157, Laws of Florida (under House Bill 955) relating to waterfront property; amending s. 163.3177, F.S.; requiring the future land use plan element of a local comprehensive plan for a coastal county or municipality to include criteria to encourage the preservation of recreational and commercial working waterfronts; including public access to waterways within those items indicated in a recreation and open space element.

The EAR-based amendments should include an amended Traffic Circulation Element updated to meet the standards of Rule 9J-5.019, F.A.C.

The EAR-based amendments should include specific reference to the five-year and ten-year (or greater) planning time frames within the CIE. The anticipated improvements scheduled for the five-year and ten-year period in the Capital Improvement Plan (with financial feasibility demonstrated for the five-year projects) should be identified based on population projections over the planning periods and based on currently adopted LOS standards in the Plan (163.3177(5)(a) F.S.).

163.3191 (2) (h) A brief assessment of successes and shortcomings related to each element of the plan.

### **Comment**

There are a number of Goals, Objectives, and Policies identified as "in progress" or "ongoing," which have dates prior to 2006. As a general comment, the EAR should identify necessary amendments to outmoded dates within the Elements or to amending the policies that have been achieved and can thus be deleted.

### **Recommendation**

The EAR should be amended with the Goals, Objectives and Policies being made current with appropriate dates and planning horizon language inserted. Obsolete items should be deleted or revised for continued relevancy.

Ms. Terry Manning  
Re: Village of Key Biscayne – EAR - Delegated  
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163.3191 (2) (p) An assessment of the extent to which changes are needed to develop a common methodology for measuring impacts on transportation facilities for the purpose of implementing its concurrency management system in coordination with the municipalities and counties, as appropriate pursuant to §163.3180(10).

**Comment**

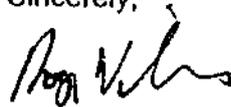
The evaluation matrix indicates this item was addressed in the EAR. The EAR contained no discussion of this issue specifically, though regional coordination of transit was identified and discussed as the Village attempted to implement a local trolley service without success.

**Recommendation**

The EAR should be amended to provide the requested analysis.

Should you have any questions regarding the Department's comments, please call Phil Shafer, Planner, at 850-921-3762

Sincerely,



Roger Wilburn  
Regional Planning Administrator

RW/ps

Cc: Carolyn A. Dekle, Executive Director, South Florida Regional Planning Council

## ADVISORY REPORT

### for the Adopted Evaluation and Appraisal Report of the Village of Key Biscayne Comprehensive Plan

August 2006

---

#### INTRODUCTION

This report has been prepared to provide the Village of Key Biscayne staff with the results of the review of the adopted Evaluation and Appraisal Report (EAR) for the Village of Key Biscayne Comprehensive Plan. Pursuant to Section 163.3191(8), Florida Statutes (F.S.), the Florida Department of Community Affairs (DCA) has delegated review of the EAR to the South Florida Regional Planning Council (SFRPC).

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#### Comprehensive Plan Status

The Village of Key Biscayne adopted its current Comprehensive Plan on September 12, 1995. This is the first EAR analysis to be undertaken by the Village since its Comprehensive Plan was adopted. The EAR was prepared with the assistance of a Village Council-appointed committee and is referred to locally as the "2020 Vision Plan".

#### Letter of Understanding

DCA approved the City's EAR scope of work in a letter of understanding dated on March 7, 2005.

#### Adopted Evaluation and Appraisal Report Review Findings and Recommendations

A proposed EAR was not transmitted by the Village for review or comment. The EAR was submitted for review as an adopted EAR. The adopted EAR was also submitted in July 2006 after new legislation was put into effect that changes the evaluation requirements for EARs. Regional water supply planning; mechanisms to increase the supply of affordable housing; and the financial feasibility of Comprehensive Plans have received increased levels of scrutiny. Greater emphasis is now being placed on the effectiveness of local efforts to address these local and larger than local issues.

Review of the Village of Key Biscayne adopted EAR by Council staff and the reviewing agencies has determined that the EAR does not provide sufficient information needed to evaluate the performance of the City's Comprehensive Plan or address all amendments to the plan that may be necessary to address major issues and needed updates to the original 1995 Comprehensive Plan. Council staff review of the adopted EAR finds that the EAR is not sufficient at this time.

The Village EAR Committee has identified local issue areas of "Key Areas of Community Consensus"; however, it was not clearly documented in the EAR how the existing Comprehensive Plan addresses these issue areas or what policy changes are being recommended at this time to address these issues.

It is recommended that the Village consider the issues detailed below and amend the EAR to address the issues as noted.

## EAR CONTENT REQUIREMENTS

A summary of the adopted EAR review is included below. Specific needs for additional information or clarification are discussed in the analysis of each major issue.

### I. EAR INTRODUCTION SECTION

For this requirement the EAR has been reviewed for a description of the EAR preparation and adoption process (163.3191(2) (j), F.S.).

*Sufficient*

### II. CONDITION OF EACH ELEMENT AT THE DATE OF THE REPORT

For this analysis the EAR has been reviewed for the following:

#### A. Current Conditions for Major Issues - 163.3191(2) (e)

*Additional Information Needed:* Chapter 163.3191, F.S., requires that the EAR evaluate the financial feasibility of implementing the comprehensive plan and of providing needed infrastructure to achieve and maintain adopted level-of-service (LOS) standards and sustain concurrency management systems through the Capital Improvements Element, as well as the ability to address infrastructure backlogs and meet demands on public services and facilities. The parks, recreation and open space level of service standard adopted by the Village is 2.5 acres per 1,000 in population. In the assessment of implementing the Comprehensive Master Plan for parks, recreation and open space, Table 8 (page 78), identifies that despite an increase in park acreage since 1995, the Village continues to have a shortfall of 0.2 acres of recreational open space. While the analysis appears to indicate that this shortfall can be attributed to limitations on counting certain recreational areas towards the measure of level of service, deficiencies in the amount and maintenance of recreational facilities are identified by the 2020 Vision Committee as a key weakness in the Village in the "Key Areas of Community Consensus". It appears that even with these additional facilities, there is a perceived local need for additional park acreage within the Village. The Village currently does not meet its adopted LOS for parks and there does not appear to be a measurable response to address this deficiency. The 5-Year Capital Improvements Program was not provided as a means to evaluate the provision of additional recreational improvements to meet the adopted LOS standard. It is recommended that the Village amend the adopted EAR to include data and analysis pertaining to:

1. A financially feasible Capital Improvement Element/Program delineating all infrastructure facilities needed, particularly related to recreation, storm drainage problems, and poor road maintenance identified on page 23, projected costs and funding sources for the 5 to 10 year planning horizon or City's comprehensive planning period, or consider adopting a LOS standard for parks and recreation that the Village can maintain during the planning horizon.
2. Further identify the successes, shortcomings and failures of past goals, objectives and policies of the Capital Improvements Element specifically relating to levels of service and major issues. Pages 22-24 of the EAR identifies many areas of the Village in need of improvement that would appear benefit from updates to the Comprehensive Plan.
3. It should also be noted that the EAR utilizes 2003 Miami-Dade County EAR data to conduct the analysis of public water supply. In the past year, the changes in statute and the South Florida

Water Management District (SFWMD) policies have changed the way water supply capacity has been calculated. While the Village is not the service provider for potable water, the Village should increase its intergovernmental coordination with the Miami-Dade County Water and Sewer Department to ensure that water is available to serve any future development.

4. See also DCA comments pertaining to these issues.

B. Population Growth, Changes In Land Area, Vacant Land And The Location Of Existing Development As Compared To The Location Anticipated In The Plan - 163.3191(2) (a) (b) and (c)

Sufficient.

C. Assessment of Successes and Shortcomings of Each Element -163.3191(2) (h)

Additional Information Needed: There are many Goals, Objectives, and Policies that include specific target years that are prior to 2006 and are now outdated. There are few recommendations in the adopted EAR to have these specific policies updated.

See also DCA comments pertaining to this issue.

### III. COMPARISON OF PLAN'S ADOPTED OBJECTIVES WITH ACTUAL RESULTS TO DETERMINE WHETHER THE OBJECTIVES HAVE BEEN ACHIEVED - 163.3191(2) (g)

The focus of the EAR review is on those objectives that are related to the major issues and minimum EAR content requirements.

Sufficient

### IV. MAJOR PROBLEMS OF DEVELOPMENT, PHYSICAL DETERIORATION, LOCATION OF LAND USES AND THE SOCIAL AND ECONOMIC EFFECTS OF THE MAJOR PROBLEMS IDENTIFIED - 163.3191(2) (e)

The EAR has been reviewed to determine if a description of the social, economic and environmental impacts of each major issue has been included.

Sufficient

### V. UNANTICIPATED AND UNFORSEEN PROBLEMS AND OPPORTUNITIES THAT OCCURRED SINCE ADOPTION, INCLUDING A DESCRIPTION OF UNFORSEEN PROBLEMS/OPPORTUNITIES AND THEIR IMPACT ON THE PLAN - 163.3191(2) (f)

The EAR has been reviewed to determine if a discussion of whether unforeseen changes in circumstances have created problems or opportunities related to each major issue has been included.

Sufficient

**VI. EFFECT ON THE LOCAL COMPREHENSIVE PLAN; CONSISTENCY OF THE PLAN WITH THE STATE COMPREHENSIVE PLAN (CHAPTER 189, F.S.), STRATEGIC REGIONAL POLICY PLAN, RULE 9J-5 (F.A.C.) AND CHAPTER 163, F.S. - 163.3191(2) (f)**

The EAR has been reviewed to determine if this analysis has been included as stated in the title of this section.

Additional Information Needed: The adopted EAR does not include an analysis of consistency with the all the goals and policies of the *Strategic Regional Policy Plan for South Florida (SRPP)* or what amendments are needed to be adopted to be consistent with the revised *SRPP*. The adopted EAR provides an analysis for Goals 1-13 of the *SRPP* but does not include an analysis of the remaining Goals 14-22. The review should include an identification of any amendments that are needed in the City's Comprehensive Plan to ensure that it is compatible with the *SRPP*.

The adopted EAR includes a table (pp. 121-170) of the changes in the statutes and needed amendments by element; however, the analysis does not identify one amendment that is needed to address the changes in statute.

The Village recommends that Intergovernmental Policy 1.1.3 to utilize the informal mediation process of the SFRPC should be deleted. While annexation issues are not considered to be an issue, there may be other conflicts with other governmental agencies that could utilize the mediation services of the SFRPC. The policy should be retained but could be amended to delete reference to annexation.

See also DCA comments related to this issue. As for references to working waterfronts, the Village may want to specifically state that there are no working waterfronts, as defined by statute, within the Village.

**VII. IDENTIFICATION OF ANY NEEDED ACTIONS TO ADDRESS THE PLANNING ISSUES RAISED IN THE REPORT -163.3191(2) (i)**

The EAR has been reviewed to determine if this analysis has been included for the major issues.

Sufficient

**VIII. IDENTIFICATION OF PROPOSED OR ANTICIPATED PLAN AMENDMENTS TO ADDRESS OR IMPLEMENT THE IDENTIFIED CHANGES -163.3191(2) (i)**

The EAR has been reviewed to determine if plan amendments have been identified to address needed changes for the major issues.

Sufficient

**IX. IDENTIFICATION OF CONCURRENCY MANAGEMENT AREA ACHIEVING ITS PURPOSE -163.3191(2) (o)**

The EAR has been reviewed to determine if this analysis has been included as stated in the title of this section.

Sufficient

**X. ESTABLISHING A COMMON METHODOLOGY FOR MEASURING TRANSPORTATION IMPACTS - 163.3191) (o)**

The EAR has been reviewed to determine if this analysis has been included as stated in the title of this section.

Sufficient

**IX. MAJOR ISSUES**

The Village of Key Biscayne adopted EAR has identified the following major planning issues:

- A. Definition, Preservation and Enhancement of Key Biscayne's Unique Village Character and Quality of Life.
- B. The Need for Additional Local Parks, Recreation and Open Space.
- C. Calusa Park, Crandon Park, Bill Baggs Cape Florida State Park and Virginia Key - Interlocal Cooperation Relative to Village Issues.
- D. Traffic Volume, Operations and Safety.
- E. Implications of Redevelopment.
- F. Sustainability of Local Retail Services.
- G. Vulnerability to Damage from Tropical Storms and Hurricanes.
- H. Need to Improve or Replace Infrastructure.
- I. Implications of Debt Cap.
- J. Conservation, Coastal Management and Environmental Protection.
- K. Land Development in Context of Master Plan Goals, Objectives, and Policies.
- L. Historic, Cultural and Educational Resources and Needs.

Comment: The adopted EAR contains an analysis for each of these issue areas and several plan objectives are recommended for updating; however, there are few policies identified that would link specific actions the Village intends to undertake to address the major issues and identified deficiencies. For example, Housing Element Objective 1.6 is amended to develop ongoing interlocal coordination with other jurisdictions to provide affordable housing; however, there are no implementing policies identified to describe how the Village will achieve this objective. It is not clear how the proposed changes to the Housing Element will be coordinated with adjacent local governments or agencies. Specific policies should be identified as to how the Village will address these needs.

There is a brief discussion of the ½ cent transportation sales to be used to support a trolley service for seniors. The conclusion appears to be that the trolley system is not financially feasible; however, there does not appear to be any other types of transit services, such as, "on-call" to serve the needs of Village residents.

## **APPENDIX A**

### **REVIEW AGENCY COMMENTS**

In addition to the review by the South Florida Regional Planning Council, the adopted EAR was distributed to seven review agencies and adjacent local governments. Comments received from the DCA have been attached.



STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

JEB BUSH  
Governor

THADDEUS L. COHEN, AIA  
Secretary

August 9, 2006



CAO, BO, TM, DO

*original  
Attachment*

*Village of  
Key Biscayne  
EAR*

Ms. Terry Manning  
South Florida Regional Planning Council  
3440 Hollywood Blvd., Suite 140  
Hollywood, FL 33021

Re: Village of Key Biscayne Adopted EAR – Delegated Review

Dear Ms. Manning:

The Department of Community Affairs has conducted a preliminary sufficiency review of the City of Coral Gables' Adopted Evaluation and Appraisal Report (EAR), adopted under Resolution No. 2006-92 on May 9, 2006. Department staff identified the following potential sufficiency issues, comments, and recommendations for your consideration:

**1. Items with Potential Sufficiency Issues**

- A. Section 163.3191 (2) (c) The financial feasibility of implementing the comprehensive plan and of providing needed infrastructure to achieve and maintain adopted level-of-service standards and sustain concurrency management systems through the capital improvements element, as well as the ability to address infrastructure backlogs and meet the demands of growth on public services and facilities.

**Comment**

The Village identifies, in general terms, several demands on infrastructure Levels of Service (LOS) and their efforts at sustaining LOS through their Concurrency Management System (CMS) and Capital Improvement Program (CIP). The Village identifies several projects accomplished and several proposed along with some projected costs. The Village indicates it maintains a five-year Capital Improvements Program, which is updated each year, though it did not present any portion of the CIE as data for review. The Village presents insufficient data and analysis identifying the capital projects anticipated over the required five-year and ten-year planning periods that will specifically address the achievement and maintenance of adopted LOS and does not identify the sources of funding for anticipated projects to demonstrate financial feasibility.

## **Recommendation**

This is a critical portion of the EAR Report as it allows the local government to assess past financial management and capital budgeting practices that enabled or prevented the community from meeting its public facility needs. It provides an opportunity to assess and amend the policies and objectives guiding the community into the future to better enable the local government to provide its future infrastructure needs at the adopted LOS. To these ends the report is both retrospective and prospective and should include the following data and analysis:

1. The public facility needs that were projected for the past planning period (for roads, potable water, sewer, drainage, solid waste, recreation and open space) and included in the plan during EAR-based amendment. For roads, the EAR should list all the deficient roadways at the time of the previous EAR-based amendment;
2. A discussion of the extent to which the identified needs of the community were met in terms of achieving and maintaining the adopted LOS standard and whether the deficiencies were corrected or not corrected. If deficiencies occurred, and especially if they were prolonged, that would provide a good indication that the comprehensive plan was NOT financially feasible. The EAR should analyze and discuss why the deficiencies occurred (e.g. insufficient funding, inefficient growth pattern that fails to deliver resources efficiently, unexpected growth, or a catastrophic event that caused local government to divert funds to other needs), then make recommendations to help ensure that financial feasibility is achieved and maintained during the next five and ten year planning horizon.
3. A discussion of the current condition of all public facilities in terms of capacity (including roadway LOS of all major roadways as provided in the current EAR);
4. A discussion of the City's ability to fund the identified infrastructure needs of the community during the past planning period, particularly for those facilities subject to concurrency. The discussion should describe the financial management and capital budgeting programs implemented during the planning period that enabled the community to achieve and maintain the adopted level of service standards;
5. A discussion of the hardships if any, that the City encountered, which hampered its' ability to address the infrastructure needs of the community;
6. A projection of the capital facility needs for the next planning period for all facilities that concurrency is required. This projection should include the projected LOS standards for all major roadways in the community;
7. A discussion of the financial planning and budgeting schedules that will enable the City to meet its projected capital facility needs for the five and ten year planning period. The discussion should include the identification of the sources

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of funding as well as the City's revenues and expenditures that will support the City's capital projects during the planning period. Please note: SB 360 adopted in 2005, has changed the requirements of the Capital Improvement Element. As an example, the CIE should identify a Capital Improvement Plan covering five years, with the first three years of projects having funds committed and years four and five having funds planned. The City must identify revenues or funding sources sufficient to support the projects identified and these projects should result from the objectives identified within the various elements of the Comprehensive Plan. The City should carefully review the changes to this critical element of the Comprehensive Plan for additional amendments to existing policies and objectives.

163.3191 (2) (f) Relevant changes to the state comprehensive plan, the requirements of this part, the minimum criteria contained in Chapter 9J-5, Florida Administrative Code, and the appropriate strategic regional policy plan since the adoption of the original plan or the most recent evaluation and appraisal report update amendments.

#### **Comment**

The EAR presents a table of the changes to the statutes and the actions the Village needs to take in response to the changes.

The EAR failed to identify a single amendment to any of the Elements that will be required under the changes to the statutes as these changes bear on each element, such as school concurrency, which involves more than just an interlocal agreement as indicated in the evaluation matrix.

The evaluation matrix failed to present required actions on the part of the City with respect to HB 955 (Chapter 2005-157, Laws of Florida ) adopted in 2005, but rather indicated they were not applicable. The citation is mislabeled as adding requirements for Coastal Counties to encourage and preserve working waterfronts. However, the statute pertains to counties and municipalities and refers to more than preserving working waterfronts. It includes other issues, such as public access to waterway areas, which the EAR discusses briefly as one of the major local issues.

The evaluation matrix failed to discuss the required amendments to the Traffic Circulation Element.

The evaluation matrix should include a reference to the five-year and ten-year planning time frames within the CIE and the Future Land Use Element for population projections (163.3177(5)(a) F.S.).

### **Recommendation**

The EAR should be amended to identify all applicable amendments to each Goal, Objective, and Policy required by changes to the statutes since the adoption of the Comprehensive Plan in 1995 and list these in the evaluation matrix. In addition, the EAR should acknowledge those changes that have yet to take effect and agree to implement the necessary changes in the future time frames or as the Statutes require

The EAR-based amendments should comply with Chapter 2005-157, Laws of Florida (under House Bill 955) relating to waterfront property; amending s. 163.3177, F.S.; requiring the future land use plan element of a local comprehensive plan for a coastal county or municipality to include criteria to encourage the preservation of recreational and commercial working waterfronts; including public access to waterways within those items indicated in a recreation and open space element.

The EAR-based amendments should include an amended Traffic Circulation Element updated to meet the standards of Rule 9J-5.019, F.A.C.

The EAR-based amendments should include specific reference to the five-year and ten-year (or greater) planning time frames within the CIE. The anticipated improvements scheduled for the five-year and ten-year period in the Capital Improvement Plan (with financial feasibility demonstrated for the five-year projects) should be identified based on population projections over the planning periods and based on currently adopted LOS standards in the Plan (163.3177(5)(a) F.S.).

163.3191 (2) (h) A brief assessment of successes and shortcomings related to each element of the plan.

### **Comment**

There are a number of Goals, Objectives, and Policies identified as "in progress" or "ongoing," which have dates prior to 2006. As a general comment, the EAR should identify necessary amendments to outmoded dates within the Elements or to amending the policies that have been achieved and can thus be deleted.

### **Recommendation**

The EAR should be amended with the Goals, Objectives and Policies being made current with appropriate dates and planning horizon language inserted. Obsolete items should be deleted or revised for continued relevancy.

Ms. Terry Manning  
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163.3191 (2) (p) An assessment of the extent to which changes are needed to develop a common methodology for measuring impacts on transportation facilities for the purpose of implementing its concurrency management system in coordination with the municipalities and counties, as appropriate pursuant to §163.3180(10).

**Comment**

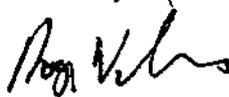
The evaluation matrix indicates this item was addressed in the EAR. The EAR contained no discussion of this issue specifically, though regional coordination of transit was identified and discussed as the Village attempted to implement a local trolley service without success.

**Recommendation**

The EAR should be amended to provide the requested analysis.

Should you have any questions regarding the Department's comments, please call Phil Shafer, Planner, at 850-921-3762

Sincerely,



Roger Wilburn  
Regional Planning Administrator

RW/ps

Cc: Carolyn A. Dekle, Executive Director, South Florida Regional Planning Council



## MEMORANDUM

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DATE: November 17, 2006

TO: Lindsey Withrow, Wallace Roberts & Todd  
Silvia E. Vargas, Wallace Roberts & Todd

FROM: Terry Manning

SUBJECT: Comments on Key Biscayne EAR Insufficiency Response

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Please find below comments on the Village's proposed responses to resolve EAR Insufficiency issues. So there is no confusion, I have included your response then followed it with our comment on each issue. In general, I believe that because the Village is small, essentially built-out, and is entirely within a coastal high hazard area the approaches outlined below to respond to the insufficiency comments will address the issues. You may want to contact Phil Shafer at the Florida Department of Community Affairs to see if he has any additional concerns or comments.

If you have any questions or need additional information, please let me know.

### I. Recreation and Open Space Level of Service

**A. WRT Recommendation:** Address the current deficiency of 6.2 acres, required to meet the needs of the existing Village population of approximately 11,160, with one of two options:

- The Village may choose to add the public beach, or a portion thereof, to the calculation of LOS in order to meet the adopted threshold. There are roughly 20 acres of public beach along the Village's east coast. A strip adding up to 6.2 acres would be needed to reach the current 2.5 ac/1000 person LOS. On the other hand, including the entire extent would double the current LOS from 1.96 ac/1000 to 3.7 ac/1000, far exceeding the future demand based on a projected build-out population of 11,425 in 2025.
- Instead of trying to meet the current LOS, the Village may also choose to lower the adopted threshold to a level that satisfies today's need (about 1.95 ac/1000), or to adopt a different method to calculate LOS based on facility types, as shown in Table 1.

**SFRPC Response:** Either of the two recommendations to address the Recreation and Open Space Level of Service (LOS) deficiency would resolve the issue.

**B. WRT Recommendation:** To maintain concurrency over the 10-year planning horizon, the Village, in addition to one of the above-described options, should consider adopting the following policies:

- Require any future development proposed in the Village that generates additional population – and therefore demand for open space and recreation – to provide public open space on- or off-site in the amount necessary to serve the demand created by the projected population increase; or require a fee-in-lieu in an equivalent amount to offset the additional projected demand.

- Continue to pursue a formal joint-use agreement with the Presbyterian Church, similar to its present agreement with Saint Agnes Catholic Church, for the use of recreational facilities by residents. The acreage covered by the agreement on the Presbyterian Church property would then be eligible for inclusion in the Village's calculation of LOS.

**SFRPC Response:** The recommendations would strengthen the Recreation LOS and resolve the issue

## II. Affordable Housing

**WRT Recommendation:** The Village should consider adding the following policies to the Comprehensive Plan:

- The Village shall recognize federal, state, and local housing subsidy programs as means to provide housing opportunities for low-income persons and families, where appropriate.
- The Village Director of Building, Zoning and Planning, or other Village representative directed by the Village Manager, shall meet with Miami-Dade County and the City of Miami to draft a program for annual evaluation of affordable housing needs within the incorporated and unincorporated areas. The program shall include annual assessments and recommended actions for the ensuing year.
- The Village shall participate in South Florida Regional Planning Council's initiatives directed toward educating local governments of new techniques, especially programs applicable to the region and/or the county, for promoting affordable housing.

Additional actions that the Village may wish to consider include: (a) evaluating the establishment of an affordable housing fee that could be deposited into some type of affordable housing trust fund, and used in partnership with Miami-Dade County or the City of Miami (via interlocal agreements) to fund affordable housing programs and projects in Miami-Dade or the City of Miami; and (b) strengthening policies in the Housing and Land Use elements to provide land use designations and zoning districts such that they ensure the development of diverse housing types to serve the needs of the local population, including single family, duplex, and multi-family units.

**SFRPC Response:** The recommendations would resolve the issue.

## III. Changes in Florida Growth Management Laws

**WRT Recommendation:** The EAR will be updated based on feedback from the Village Council regarding the following recommendations made by WRT.

### **A. Water Supply Planning**

**WRT Recommendation:** WRT recommends that the Village further clarify its proposed approach to maintaining an adequate supply of potable water to serve the 2025 build-out population and beyond. This includes both coordination methods with other government agencies and exploration of alternative water supply sources. In order to satisfy new water supply concurrency standards instituted by DCA, SFWMD, and Miami-Dade County, the Village should consider adopting policies that accomplish the following:

- Update the Village Comprehensive Plan within 18 months of the South Florida Water Management District updating its regional water supply plan, highlighting the alternative water supply projects that the Village plans to adopt. These changes will constitute the Village's "Work Plan Amendment," a requirement for all local governments that are subject to a regional water supply plan. The Work Plan Amendment will address both MDWASA plans as well as Key Biscayne's own water infrastructure needs.

- Seek and obtain from MDWASA a written statement regarding the availability of water to serve all proposed development projects. MDWASA shall provide information about current demand, including capacity for approved projects not yet built; the amount of water necessary to meet the growth projections for the year; the amount of water withdrawals allowed and remaining through the consumptive use permit issued by the water management district; the capacity of available facilities; and any capital improvement projects scheduled to come online during the development frame of the project.
- Set benchmarks to measure the Village's progress engaging in water supply intergovernmental coordination. Add policies to establish a single-point-of-contact at the SFWMD and MDWASA, and the extent to which the Village will be involved in the planning, financing, construction and operation of the water supply facilities that will serve the community (regardless of ownership).
- Verify with MDWASA the availability of water before making changes to the Future Land Use Map.

To complement these policies, WRT also recommends that the Village adopt policies geared toward achieving water conservation, such as using graywater water for irrigation of the Village Green and other publicly landscaped areas; and amending the land development regulations to allow and incentivize the use of water conservation design and technologies in new development, including low-flow plumbing fixtures, green roofs and cisterns, and the use of rain sensors and graywater for landscape irrigation systems.

**SFRPC Response:** The recommendations would resolve the issue.

#### B. Traffic Circulation Element

**WRT Recommendation:** WRT has recommended that the Village consider adopting an amendment to change the Traffic Circulation Element to the Transportation Element and adding the following policies to this new Element.

- Transportation maps shall be updated every three years to depict the road system in accordance with the specifications in 9j-5.019.
- Coordinate the transportation system with the future land use map to ensure existing and proposed densities, housing patterns, and employment patterns, and land uses are consistent with the transportation modes and services in the Village.
- Establish numerical indicators against which the achievement of the mobility goals of the community can be measured.
- Conduct a study to determine the feasibility of providing public transit such as a Village tram, including identification of potential routes, users, and annual operating costs.

**SFRPC Response:** The recommendations would resolve the issue.

#### C. Working Waterfronts

**WRT Recommendation:** The EAR will be updated to clarify that the Village has no "working waterfronts" as defined in HB 955 (Chapter 2005-157). Concerning the issue of public access to waterfront and waterway areas, the previously described list of capital improvement projects generated during the Vision Plan process (see Recreation and Open Space Level of Service section) includes several that are specifically intended to enhance access and waterfront recreation throughout the Village, including: a new view corridor to Biscayne Bay, an overlook to Pines Canal, new waterfront neighborhood parks, and beach walkway improvements. These projects will be reviewed by the Village Council at a November 2006 workshop and added to the Comprehensive Plan as amendments, as appropriate.

**SFRPC Response:** The recommendations would resolve the issue.

#### **IV. Capital Improvements Planning**

##### **A. Past Capital Improvements Planning**

**WRT Recommendation:** Public facility needs projections for the past planning period will be added to the report in section 2f, *Infrastructure Levels of Service*. In all cases, except Parks and Recreation, the Village met its adopted LOS in 1995 and continues to meet it today. Recommendations to the Village to remedy the deficiency in Parks and Recreation LOS have been addressed earlier in this memorandum, in the Recreation and Open Space Level of Service.

In regard to transportation LOS, there were no deficient roadways at the time the plan was adopted in 1995; there were no previous EAR reviews and consequently no previous EAR-based amendments.

Potential solutions to the “weaknesses” and “threats” identified during the SWOT Analysis (the results of which are displayed on pages 22 through 24) were proposed and examined during subsequent steps of the Visioning Process. Several of these projects are included in the Vision Plan as part of the proposed capital projects list.

- **Pedestrian, bike, and golf cart provisions:** The proposed capital projects include provision of golf cart access and parking at the Village Green. The consultants working on the Landscape Master Plan have incorporated this element into their design. In addition, the proposed Landscape Master Plan will recommend golf cart access and parking at the Village Beach Park and additional bike parking at the Village Green to enhance the alternative transportation network and create opportunities for reducing automobile trips.
- **Traffic calming:** When the Vision Plan process was conducted, the Village was in the midst of the first phase of the Crandon Park Master Plan Project, which included the refurbishment of sidewalks, pedestrian signalization, a traffic roundabout, and the addition of street trees, bus shelters, bike lanes, and on-street parking adjacent to the Village Green.
- **Infrastructure:** The Vision Plan proposes to bury overhead utilities to reduce the chance of outages due to weather events, and to fix drainage problems on Buttonwood Drive, Woodcrest Lane, and Glenridge Drive.

In September 2006, the Village Council approved the FY07 budget with a line item for Vision Projects of \$1,110,764 and will discuss how to allocate this money to a prioritized list of projects at a workshop in November 2006. Following this workshop, the Village Council will be requested to formally adopt the 2020 Vision Plan.

**SFRPC Response:** The recommendations would resolve the issue.

##### **B. Future Capital Improvements Planning**

**WRT Recommendation:** Following the advice of David Dahlstrom of the SFRPC, WRT has recommended that the Village:

- Provide and include its most recently adopted Annual Capital Improvements Plan (CIP) in the EAR.
- Adopt a policy with a specific timeline (e.g., by FY 07-08) for shifting from its current yearly CIP to a 5-year CIP, as well as policies establishing the criteria for updating and prioritizing projects within the CIP tied to concurrency requirements

- Consider establishing policies for implementing Vision Plan projects that, once approved, will address residents' concerns raised during the SWOT exercise (recounted on pages 22-24 of the EAR) of the Vision Plan process.

When the Vision Plan was presented to Council last year and it was "embraced," staff were requested to schedule a workshop to review each project. The workshop will be held after the election in November 2006. The Director of Planning and Zoning anticipates that the workshop will result in a Five-Year Capital Improvement Plan with projects and funding sources listed for each year. In the past, the Village planned projects on a year-to-year basis with funds that were not spent from the previous year. This year, due to an unexpected high increase in property assessments, the Council was able to fund projects for this year from the FY 06-07 budget. This is the first step in moving towards a Five-Year Capital Improvement Budget.

Several of the items in the Village Capital Improvements Plan were generated during the Visioning Process and directly relate to concerns raised about recreation, storm drainage problems, and poor road maintenance. Proposed recreational projects include the development of the baseball/soccer field, parking lot, and tennis courts in Calusa Park; nature trails that connect the north portion of the Village with Calusa Park; four neighborhood parks; additional lighting for the Village Green; an outdoor seating deck on the Village Green, enhanced landscaping throughout the Village; view corridors with seating areas, enhanced landscaping, and a plaza on Pines Canal and Hacienda Canal; and Bayfront Park on Harbor Drive. The Village plans to make stormwater drainage improvements to the 100 block of Button wood Drive, Woodcrest Lane from Heather Drive to West McIntyre Street, and on Glenridge Road from Heather Drive to West McIntyre Street. Key Biscayne is planning road improvements such as a street lighting master plan, enhanced landscaping throughout the Village, landscaped buffers from sidewalk to wall on portions of Fernwood Road, new sidewalks on portions of West McIntyre Street, Glenridge Road, and Ridgewood Drive, and new stop signs "

**SFRPC Response:** The recommendations would resolve the issue.

#### V. Outmoded Dates

**WRT Recommendation:** The EAR will be updated to recommend amending *all* objectives and policies that have outmoded dates and whose status is either "in progress" or "implemented: *ongoing*."

**SFRPC Response:** The recommendations would resolve the issue.

#### VI. SFRPC's Strategic Regional Plan Goals Evaluation

**WRT Recommendation:** This was an inadvertent omission from the text of the document. The document has been updated to include the complete analysis of the South Florida Regional Planning Council's Strategic Regional Policy Plan, including Goals 14-22.

**SFRPC Response:** The recommendations would resolve the issue.

#### VII. SFRPC Mediation

**WRT Recommendation:** Rather than recommending that the Intergovernmental Policy 1.1.3 be deleted entirely, the EAR will suggest that Policy 1.1.3 be amended to read "[u]se information mediation process of SFRPC to resolve conflicts with other governmental entities"

**SFRPC Response:** The recommendations would resolve the issue.



## Memorandum

To: Terry Manning  
South Florida Regional Planning Council  
  
3440 Hollywood Boulevard  
Suite 140  
Hollywood, FL 33021  
  
(954) 985-4416

Date: November, 10, 2006  
From: Village of Key Biscayne c/o Wallace  
Roberts Todd  
Ref. No: 4079  
Project: Key Biscayne EAR  
Pages: 13  
Re: Evaluation and Appraisal Report  
Insufficiency Response

CC: Jud Kurlanchek, Steven Helfman, Yunior Piniero

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Upon completing a joint, 60-day preliminary sufficiency review, the South Florida Regional Planning Council and the Department of Community Affairs deemed Key Biscayne's Evaluation and Appraisal Report insufficient on the grounds that it does not adequately address the requirements in Sections 163.3191(2)(e) and (h), Florida Statutes (F.S.). The agencies' chief concerns are:

- The absence of proposed actions directed to meet the Village's established Recreation and Open Space Level of Service (LOS), based on current and future needs.
- The lack of specific policies proposed to address affordable housing needs.
- The inadequate discussion of changes to Florida Growth Management Laws regarding water supply, the Transportation Element, and working waterfronts.
- The Village's non-submittal of a 5-Year Capital Improvements Plan demonstrating the financial feasibility of the Village's proposed projects.

Comments were also proffered concerning the Village's purported failure to submit a proposed EAR (which we contest); the incidence of, and need to update, outmoded dates in existing Comprehensive Plan policies; the absence of a complete review of the goals of the SFRPC's Strategic Regional Policy Plan; and the suggested deletion of a policy regarding SFRPC's mediation assistance.

After thoroughly reviewing these comments and identifying potential responses and solutions, WRT has presented the following recommendations to the Village's Building, Planning, and Zoning Director, with a suggestion that they be shared and discussed with the SFRPC prior to proceeding with an amendment to the EAR. The purpose of this exploratory discussion is to ensure that our proposed responses (or modifications thereof) are acceptable to the SFRPC in its capacity as sufficiency reviewer. With your assistance, our recommendations will be presented to the Village Council for approval in December 2006.

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## Recreation and Open Space Level of Service

**SFRPC Comment:** *"The parks, recreation and open space level of service standard adopted by the Village is 2.5 acres per 1,000 in population. In the assessment of implementing the Comprehensive Master Plan for parks, recreation and open space, Table 8 (page 69), identifies that despite an increase in park acreage since 1995, the Village continues to have a shortfall of 6.2 acres of recreational open space. While the analysis appears to indicate that this shortfall can be attributed to limitations on counting certain recreational areas towards the measure of level of service, deficiencies in the amount and maintenance of recreational facilities are identified by the 2020 Vision Committee as a key weakness in the Village in the "Key Areas of Community Consensus". It appears that even with these additional facilities, there is a perceived local need for additional park acreage within the Village. The Village currently does not meet its adopted LOS for parks and there does not appear to be a measurable response to address this deficiency. The 5-year Capital Improvements Program was not provided as a means to evaluate the provision of additional recreational improvements to meet the adopted LOS standard."*

**Response:** In tandem with the preparation of its EAR, the Village of Key Biscayne engaged residents in a community-wide visioning process that began by identifying the Village's strengths, opportunities, weaknesses, and threats and concluded with the adoption of a long term Vision Statement and the compilation of a list of strategic capital improvement projects and actions selected by the Council as the first step toward implementation of the Vision Plan and achievement of the aspirations expressed in the Vision Statement. After identifying a need for improved parks, recreation, and open space, several projects were proposed to improve the situation. These include:

- 1) The development of the baseball/soccer field, parking lot, and tennis courts in Calusa Park
- 2) Nature trails that connect the north portion of the Village with Calusa Park
- 3) Neighborhood parks throughout the residential areas of the community
- 4) Additional lighting for the Village Green
- 5) An outdoor seating deck on the Village Green
- 6) Enhanced landscaping throughout the Village
- 7) Waterfront lookouts with seating areas, enhanced landscaping, and a plaza on Pines Canal, Hacienda Canal, and Bayfront Park on Harbor Drive.

The Village has estimated cost ranges for these open space and waterfront access enhancement, creation, and maintenance projects and is in the process of incorporating them into the Capital Improvements Plan that will be included in the EAR and become part of the Comprehensive Plan.



Notwithstanding the aforementioned projects, land limitations and the soaring value of land on the Key continue to hamper the Village's ability to provide enough additional recreational space to meet the existing Parks and Recreation LOS. The Village is built out; of 86 acres of private, vacant land that were available in 1995, all have since been developed or have permits to be developed. In addition, with Miami-Dade County's Crandon Park to the north, Bill Baggs State Park to the south, Biscayne Bay to the west, and the Atlantic Ocean to the east, there is no possibility for annexation. Further, while these nearby state and county facilities cannot be tallied toward the local LOS calculation, the reality is that they do offer residents of Key Biscayne a vast array of recreational opportunities not likely enjoyed by many communities with larger inventories of parks and recreation facilities.

To enhance Key Biscayne residents' access to these nearby facilities, the Village will continue to engage in "master plan impact and implementation coordination" (Intergovernmental Coordination Element Objective 1.2) with neighboring jurisdictions, as well as local private entities that provide recreational facilities within the Village. For instance, the Village will continue its ongoing active participation in the Virginia Key Master Plan Committee to ensure that the proposed master plan is one that helps to serve the needs and adds to the quality of life of Village residents. In addition, the Village will continue to explore with Key Biscayne's Presbyterian Church, the mutual feasibility of entering into a joint use agreement for planned recreation facilities on the Church's property. In September 2006, the Church met with the Village Planning and Zoning Department and submitted a draft site master plan for review. The Village has additionally received written confirmation that the Church intends to construct a skateboard park on its property. This facility will relieve the pressure to place a skateboard park on a Village-owned site located at 530 Crandon Blvd. This site can be now more carefully planned for other public uses—including, potentially, open space.

WRT's recommendations to address the current deficiency of 6.2 acres, required to meet the needs of the existing Village population of approximately 11,160 include two options:

- The Village may choose to add the public beach, or a portion thereof, to the calculation of LOS in order to meet the adopted threshold. There are roughly 20 acres of public beach along the Village's east coast. A strip adding up to 6.2 acres would be needed to reach the current 2.5 ac/1000 person LOS. On the other hand, including the entire extent would double the current LOS from 1.96 ac/1000 to 3.7 ac/1000, far exceeding the future demand based on a projected build-out population of 11,425 in 2025.
- Instead of trying to meet the current LOS, the Village may also choose to lower the adopted threshold to a level that satisfies today's need (about 1.95 ac/1000), or to adopt a different method to calculate LOS based on facility types, as shown in Table 1.

According to anecdotal information referred to WRT, the 2.5 ac/1000 may have been adopted in 1995 mirroring the Miami-Dade County standard, which applied to Key Biscayne prior to incorporation. However, research indicates the Village could reduce



its standard to a more achievable level without compromising the quality of life for its residents—particularly given the abundant and diverse recreational opportunities that surround the Village. For example, the Municipal Research and Service Center of Washington<sup>1</sup> recommends 0.25-0.5 ac/1000 people for mini-parks and 1.0-2.0 ac/1000 people for neighborhood parks. Several other premier communities in Florida have parks, recreation, and open spaces levels of service lower than 2.5 ac/1000 people.

City	Standards	Population
Boca Raton	District Parks: 2.12 ac/1000	74,764
	Community Parks: 2.40 ac/1000	
	Neighborhood Parks: 1.34 ac/1000	
Belleair	Open Space: 1 ac/1000	1,751
Coral Gables	Neighborhood Parks: .75 ac/1000	42,765
	Special Purpose: 3.0 ac/1000	
	Mini-Park: .04 ac/1000	
	Open Space: .1 ac/1000	
	Active: .3ac/1000	
St. Augustine	Passive: .3ac/1000	11,592
	Neighborhood Parks: .8 ac/1000	
	Community Parks: 1 ac/1000	

Table 1: Examples of Parks and Recreation Space LOS Standards in Florida Communities

The two options described above only serve to bring the village into concurrency for parks, recreation and open space demand based on *current* population. To *maintain* concurrency over the 10-year planning horizon, the Village, in addition to one of the above-described options, should consider adopting the following policies:

- Require any future development proposed in the Village that generates additional population—and therefore demand for open space and recreation—to provide public open space on- or off-site in the amount necessary to serve the demand created by the projected population increase; or require a fee-in-lieu in an equivalent amount to offset the additional projected demand.
- Continue to pursue a formal joint-use agreement with the Presbyterian Church, similar to its present agreement with Saint Agnes Catholic Church, for the use of recreational facilities by residents. The acreage covered by the agreement on the Presbyterian Church property would then be eligible for inclusion in the Village's calculation of LOS.

<sup>1</sup> <http://www.mrsc.org/Subjects/Parks/parkplanpg.aspx>

Level of Service Standards - Measures for Maintaining the Quality of Community Life, by Sue Enger, Report No. 31. Municipal Research and Services Center of Washington. September 1994.

Guidelines for Developing Public Recreation Facility Standards, Ministry of Culture and Recreation, Sports and Fitness Division, Ontario, Canada



As a complement to any actions taken to address the deficiencies in the number/size of park and recreation facilities, the Village is in the process of addressing the quality of its public open spaces through a Landscape Master Plan, preparation of which is ongoing. In addition, the Village Council commissioned Village-wide Landscape Management Guidelines to establish a maintenance schedule and specification program for all planting and irrigation in public places.

### **Affordable Housing**

**SFRPC Comment:** *"The adopted EAR contains an analysis for each of these issue areas and several plan objectives are recommended for updating; however, there are few policies identified that would link specific actions the Village intends to undertake to address the major issues and identified deficiencies. For example, Housing element Objective 1.6 is amended to develop ongoing interlocal coordination with other jurisdictions to provide for affordable housing; however, there are no implementing policies identified to describe how the Village will achieve this objective. It is not clear how the proposed changes to the Housing Element will be coordinated with adjacent local governments or agencies. Specific policies should be identified as to how the Village will address need."*

**Response:** WRT has recommended that the Village consider adding the following policies to the Comprehensive Plan:

- The Village shall recognize federal, state, and local housing subsidy programs as means to provide housing opportunities for low-income persons and families, where appropriate.
- The Village Director of Building, Zoning and Planning, or other Village representative directed by the Village Manager, shall meet with Miami-Dade County and the City of Miami to draft a program for annual evaluation of affordable housing needs within the incorporated and unincorporated areas. The program shall include annual assessments and recommended actions for the ensuing year.
- The Village shall participate in South Florida Regional Planning Council's initiatives directed toward educating local governments of new techniques, especially programs applicable to the region and/or the county, for promoting affordable housing.

Additional actions that the Village may wish to consider include: (a) evaluating the establishment of an affordable housing fee that could be deposited into some type of affordable housing trust fund, and used in partnership with Miami-Dade County or the City of Miami (via interlocal agreements) to fund affordable housing programs and projects in Miami-Dade or the City of Miami; and (b) strengthening policies in the Housing and Land Use elements to provide land use designations and zoning districts such that they ensure the



development of diverse housing types to serve the needs of the local population, including single family, duplex, and multi-family units.

### **Changes in Florida Growth Management Laws**

**SFRPC Comment:** *"The adopted EAR includes a table (pp.121-170) of the changes in the statutes and needed amendments by element; however, the analysis does not identify one amendment that is needed to address the changes in statute."*

**DCA Comment:** *"In addition, the EAR should acknowledge those changes that have yet to take effect and agree to implement the necessary changes in the future time frames or as the Statutes require. The EAR failed to identify a single amendment to any of the Elements that will be required under the changes to the statutes as these changes bear on each element, such as school concurrency, which involves more than just an interlocal agreement as indicated in the evaluation matrix."*

**Response:** The EAR will be updated based on feedback from the Village Council regarding the following recommendations made by WRT.

#### **1. Water Supply Planning**

**SFRPC Comment:** *"It should also be noted that the EAR utilizes 2003 Miami-Dade County EAR data to conduct the analysis of public water supply. In the past year, the changes in statute and South Florida Water Management District (SFWMD) policies have changed the way water supply capacity has been calculated. While the Village is not the service provider for portable water, the Village should increase its intergovernmental coordination with the Miami-Dade County Water and Sewer Department to ensure that water is available to serve any future development."*

**DCA Comment:** *"A brief assessment of successes and shortcomings related to each element of the plan."*

**Recommendation:** WRT recommends that the Village further clarify its proposed approach to maintaining an adequate supply of potable water to serve the 2025 build-out population and beyond. This includes both coordination methods with other government agencies and exploration of alternative water supply sources. In order to satisfy new water supply concurrency standards instituted by DCA, SFWMD, and Miami-Dade County, the Village should consider adopting policies that accomplish the following:

- Update the Village Comprehensive Plan within 18 months of the South Florida Water Management District updating its regional water supply plan, highlighting the alternative water supply projects that the Village plans to adopt. These changes will



constitute the Village's "Work Plan Amendment," a requirement for all local governments that are subject to a regional water supply plan. The Work Plan Amendment will address both MDWASA plans as well as Key Biscayne's own water infrastructure needs.

- Seek and obtain from MDWASA a written statement regarding the availability of water to serve all proposed development projects. MDWASA shall provide information about current demand, including capacity for approved projects not yet built; the amount of water necessary to meet the growth projections for the year; the amount of water withdrawals allowed and remaining through the consumptive use permit issued by the water management district; the capacity of available facilities; and any capital improvement projects scheduled to come online during the development frame of the project.
- Set benchmarks to measure the Village's progress engaging in water supply intergovernmental coordination. Add policies to establish a single-point-of-contact at the SFWMD and MDWASA, and the extent to which the Village will be involved in the planning, financing, construction and operation of the water supply facilities that will serve the community (regardless of ownership).
- Verify, with MDWASA, the availability of water before making changes to the Future Land Use Map.

To complement these policies, WRT also recommends that the Village adopt policies geared toward achieving water conservation, such as using graywater water for irrigation of the Village Green and other publicly landscaped areas; and amending the land development regulations to allow and incentivize the use of water conservation design and technologies in new development, including low-flow plumbing fixtures, green roofs and cisterns, and the use of rain sensors and graywater for landscape irrigation systems.

## 2. Traffic Circulation Element

**SFRPC:** *"There is a brief discussion of the 1/2 cent transportation sales to be used to support a trolley service for seniors. The conclusion appears to be that the trolley system is not financially feasible; however, there does not appear to be any other types of transit services, such as, "on-call" to serve the needs of Village residents."*

**DCA Comment:** *"The EAR-based amendments should include an amended Traffic Circulation Element updated to meet the standards of Rule 9J-5.019, F.A.C. The evaluation matrix failed to discuss the required amendments to the Traffic Circulation Element. The evaluation matrix indicates this item was addressed in the EAR. The EAR contained no discussion of this issue specifically, though regional coordination of transit was identified and*



*discussed as the Village attempted to implement a local trolley service without success. The EAR should be amended to provide the requested analysis."*

**Response:** WRT has recommended that the Village consider adopting an amendment to change the Traffic Circulation Element to the Transportation Element and adding the following policies to this new Element.

- Transportation maps shall be updated every three years to depict the road system in accordance with the specifications in 9J-5.019.
- Coordinate the transportation system with the future land use map to ensure existing and proposed densities, housing patterns, and employment patterns, and land uses are consistent with the transportation modes and services in the Village.
- Establish numerical indicators against which the achievement of the mobility goals of the community can be measured.
- Conduct a study to determine the feasibility of providing public transit such as a Village tram, including identification of potential routes, users, and annual operating costs.

### 3. Working Waterfronts

**SFRPC Comment:** *"See also DCA comments related to this issue. As for references to working waterfronts, the Village may want to specifically state that there are no working waterfronts, as defined by the statute, within the Village."*

**DCA Comment:** *"The evaluation matrix failed to present required actions on the part of the City with respect to HB 955 (Chapter 2005-157, Laws of Florida) adopted in 2005, but rather indicated they were not applicable. The EAR-based amendments should comply with Chapter 2005-157, Laws of Florida (under House Bill 955) relating to waterfront property; amending s. 163.3177, F.S.; requiring the future land use plan element of a local comprehensive plan for coastal county or municipality to include criteria to encourage the preservation of recreational and commercial working waterfronts; including public access to waterways within those items indicated in a recreation and open space element. The citation is mislabeled as adding requirements for Coastal Counties to encourage and preserve working waterfronts. However, the statute pertains to counties and municipalities and refers to more than preserving working waterfronts. It includes other issues, such as public access to waterway areas, which the EAR discusses briefly as one of the major local issues."*

**Recommendation:** The EAR will be updated to clarify that the Village has no "working waterfronts" as defined in HB 955 (Chapter 2005-157). Concerning the issue of public access to waterfront and waterway areas, the previously described list of capital improvement projects generated during the Vision Plan process (see Recreation and Open Space Level of Service



section) includes several that are specifically intended to enhance access and waterfront recreation throughout the Village, including: a new view corridor to Biscayne Bay, an overlook to Pines Canal, new waterfront neighborhood parks, and beach walkway improvements. These projects will be reviewed by the Village Council at a November 2006 workshop and added to the Comprehensive Plan as amendments, as appropriate.

## **Capital Improvements Planning**

### **1. Past Capital Improvements Planning**

**SFRPC Comment:** *"Further identify the successes, shortcomings and failures of past goals, objectives and policies of the Capital Improvements Element specifically relating to levels of service and major issues. Pages 22-24 of the EAR identify many areas of the Village in need of improvement that would appear benefit from updates to the Comprehensive Plan."*

**DCA Comment:** *"The report should include:*

- 1) The public facility needs that were projected for the past planning period (for roads, potable water, sewer, drainage, solid-waste, recreation and open space) and included in the plan during EAR-based amendment. For roads, the EAR should list all the deficient roadways at the time of the previous EAR-based amendment.*
- 2) A discussion of the extent to which the identified needs of the community were met in terms of achieving and maintaining the adopted LOS standard and occurred, and especially if they were prolonged, that would provide a good indication that the comprehensive plan was NOT financially feasible. The EAR should analyze and discuss why the deficiencies occurred (e.g. insufficient funding, inefficient growth pattern that fails to deliver resources efficiently, unexpected growth, or a catastrophic event that caused local government to divert funds to other needs).*
- 3) A discussion of the hardships if any, that the City encountered, which hampered its ability to address the infrastructure needs of the community.*
- 4) A discussion of the current condition of all public facilities in terms of capacity (including roadway LOS of all major roadways as provided in the current EAR);*
- 5) A discussion of the City's ability to fund the identified infrastructure needs of the community during the past planning period, particularly of those facilities subject to concurrency. The discussion should describe the financial management and capital budgeting programs implemented during the planning period that enabled the community to achieve and maintain the adopted level of service standards."*

**Response:** Public facility needs projections for the past planning period will be added to the report in section 2f, *Infrastructure Levels of Service*. In all cases, except Parks and Recreation, the Village met its adopted LOS in 1995 and continues to meet it today. Recommendations to the Village to remedy the deficiency in Parks and Recreation LOS have



been addressed earlier in this memorandum, in the Recreation and Open Space Level of Service.

In regard to transportation LOS, there were no deficient roadways at the time the plan was adopted in 1995; there were no previous EAR reviews and consequently no previous EAR-based amendments.

Potential solutions to the "weaknesses" and "threats" identified during the SWOT Analysis (the results of which are displayed on pages 22 through 24) were proposed and examined during subsequent steps of the Visioning Process. Several of these projects are included in the Vision Plan as part of the proposed capital projects list.

- **Pedestrian, bike, and golf cart provisions:** The proposed capital projects include provision of golf cart access and parking at the Village Green. The consultants working on the Landscape Master Plan have incorporated this element into their design. In addition, the proposed Landscape Master Plan will recommend golf cart access and parking at the Village Beach Park and additional bike parking at the Village Green to enhance the alternative transportation network and create opportunities for reducing automobile trips.
- **Traffic calming** When the Vision Plan process was conducted, the Village was in the midst of the first phase of the Crandon Park Master Plan Project, which included the refurbishment of sidewalks, pedestrian signalization, a traffic roundabout, and the addition of street trees, bus shelters, bike lanes, and on-street parking adjacent to the Village Green.
- **Infrastructure:** The Vision Plan proposes to bury overhead utilities to reduce the chance of outages due to weather events, and to fix drainage problems on Buttonwood Drive, Woodcrest Lane, and Glenridge Drive.

In September 2006, the Village Council approved the FY07 budget with a line item for Vision Projects of \$1,110,764 and will discuss how to allocate this money to a prioritized list of projects at a workshop in November 2006. Following this workshop, the Village Council will be requested to formally adopt the 2020 Vision Plan.

## 2. Future Capital Improvements Planning

**SFRPC Comment:** *"A financially feasible Capital Improvement Element/Program delineating all infrastructure facilities needed, particularly related to recreation, storm drainage problems, and poor road maintenance identified on page 23, projected costs and funding sources for the 5 to 10 year planning horizon or City's comprehensive planning period, or consider adopting a LOS standard for parks and recreation that the Village can maintain during the planning horizon."*



**DCA Comment:** *"The report should include:*

*1) A projection of the capital facility needs for the next planning period for all facilities that concurrency is required. This projection should include the projected LOS standards for all major roadways in the community.*

*2) A discussion of the financial planning and budgeting schedules that will enable the City to meet its projected capital facility needs for the five and ten year planning period. The discussion should include the identification of the sources of funding as well as the City's revenues and expenditures that will support the City's capital projects during the planning period. Please note: SB 360 adopted in 2005, has changed the requirements of the Capital Improvement Element. As an example, the CIE should identify a Capital Improvement Plan covering five years, with the first three years of projects having funds committed and years four and five having funds planned. The City must identify revenues or funding sources sufficient to support the projects identified and these projects should result from the objectives identified within the various elements of the Comprehensive Plan. The City should carefully review the changes to this critical element of the Comprehensive Plan for additional amendments to existing policies and objectives."*

**Response:** Following the advice of David Dahlstrom of the SFRPC, WRT has recommended that the Village:

- Provide and include its most recently adopted Annual Capital Improvements Plan (CIP) in the EAR.
- Adopt a policy with a specific timeline (e.g., by FY 07-08) for shifting from its current yearly CIP to a 5-year CIP, as well as policies establishing the criteria for updating and prioritizing projects within the CIP tied to concurrency requirements.
- Consider establishing policies for implementing Vision Plan projects that, once approved, will address residents' concerns raised during the SWOT exercise (recounted on pages 22-24 of the EAR) of the Vision Plan process.

When the Vision Plan was presented to Council last year and it was "embraced," staff were requested to schedule a workshop to review each project. The workshop will be held after the election in November 2006. The Director of Planning and Zoning anticipates that the workshop will result in a Five-Year Capital Improvement Plan with projects and funding sources listed for each year. In the past, the Village planned projects on a year-to-year basis with funds that were not spent from the previous year. This year, due to an unexpected high increase in property assessments, the Council was able to fund projects for this year from the FY 06-07 budget. This is the first step in moving towards a Five-Year Capital Improvement Budget.



Several of the items in the Village Capital Improvements Plan were generated during the Visioning Process and directly relate to concerns raised about recreation, storm drainage problems, and poor road maintenance. Proposed recreational projects include the development of the baseball/soccer field, parking lot, and tennis courts in Calusa Park; nature trails that connect the north portion of the Village with Calusa Park; four neighborhood parks; additional lighting for the Village Green; an outdoor seating deck on the Village Green, enhanced landscaping throughout the Village; view corridors with seating areas, enhanced landscaping, and a plaza on Pines Canal and Hacienda Canal; and Bayfront Park on Harbor Drive. The Village plans to make stormwater drainage improvements to the 100 block of Button wood Drive, Woodcrest Lane from Heather Drive to West McIntyre Street, and on Glenridge Road from Heather Drive to West McIntyre Street. Key Biscayne is planning road improvements such as a street lighting master plan, enhanced landscaping throughout the Village, landscaped buffers from sidewalk to wall on portions of Fernwood Road, new sidewalks on portions of West McIntyre Street, Glenridge Road, and Ridgewood Drive, and new stop signs."

### **Proposed EAR**

SFRPC Comment: *"A proposed EAR was not transmitted by the village for review or comment."*

**Response:** A draft of the Key Biscayne EAR was submitted to the Department of Community Affairs, South Florida Regional Planning Council, Department of Environmental Protection, State Department of Transportation, South Florida Water Management District, Miami-Dade County Office of Planning and Zoning, City of Miami Planning Department on May 9<sup>th</sup>, 2006 in the quantity and format (hard copy, CD-Rom, link to ftp site) specified by each recipient. A draft copy was not sent to the Department of State Office of Historic Preservation because this agency did not respond to attempts to contact it.

Each recipient was contacted by email or phone on May 26<sup>th</sup>, 2006 to confirm receipt of the package. Ray Eubanks of DCA confirmed on 5/30; Chris Stahl of DEP on 6/8; Karen McGuire of FDOT on 5/30; Mark Woerner of MDCP&Z on 5/26; and Harold Ruck of the City of Miami on 5/30. The South Florida Regional Planning Council and South Florida Water Management District did not respond.

Due to previous delays in the schedule and the need to complete the adoption process, Key Biscayne requested a response to the proposed EAR within 30 days of receipt. Only two agencies responded. The Department of Environmental Protection stated in a letter dated June 8, 2006: "Based on our review of the proposed amendment, the Department has found no provision that requires comment, recommendation or objection under the laws that form the basis of the Department's jurisdiction and authority." The Florida Department of Transportation



forwarded their comments directly to DCA on May 30, 2006. Having received no other feedback on the proposed EAR, on June 13<sup>th</sup> 2006 Key Biscayne proceeded to adopt the Evaluation and Appraisal Report via resolution, so as not to fall farther behind schedule.

### **Outmoded Dates**

**SFRPC Comment:** *"There are many Goals, Objectives, and Policies that include specific target years that are prior to 2006 and are now outdated. There are a few recommendations in the adopted EAR to have these specific policies updated."*

**DCA Comment:** *"There are a number of Goals, Objectives, and Policies identified as "in progress" or "ongoing", which have dates prior to 2006. As a general comment, the EAR should identify necessary amendments to outmoded dates within the Elements or to amending the policies that have been achieved and can thus be deleted. The EAR should be amended with the Goals, Objectives, and Policies being made current with the appropriate dates and planning horizon language inserted. Obsolete items should be deleted or revised for continued relevancy."*

**Response:** The EAR will be updated to recommend amending *all* objectives and policies that have outmoded dates and whose status is either "in progress" or "implemented: ongoing."

### **SFRPC's Strategic Regional Plan Goals Evaluation**

**SFRPC Comment:** *"The Adopted EAR does not include an analysis of consistency with the all the goals and policies of the Strategic Regional Policy Plan for South Florida (SRPP) or what amendments are needed to be adopted to be consistent with the revised SRPP. The adopted EAR provides an analysis for Goals 1-13 of the SRPP but does not include and analysis of the remaining Goals 14-22. The review should include an identification of any amendments that are needed in the City's Comprehensive Plan to ensure that it is compatible with the SRPP."*

**DCA Comment:** *(The EAR should address) "relevant changes to the state comprehensive plan, the requirements of this part, the minimum criteria contained in Chapter 9J-5, Florida Administrative Code, and the appropriate strategic regional policy plan since the adoption of the original plan or the most recent evaluation and appraisal report update amendments. The EAR should be amended to identify all applicable amendments to each Goal, Objective, and Policy required by changes to the statues since the adoption of the Comprehensive Plan in 1995 and list these in the evaluation matrix."*

**Response:** This was an inadvertent omission from the text of the document. The document has been updated to include the complete analysis of the South Florida Regional Planning Council's Strategic Regional Policy Plan, including Goals 14-22.



### **SFRPC Mediation**

**SFRPC Comment:** *"The Village recommends that Intergovernmental Policy 1.1.3 to utilize the informal mediation process of the SFRPC should be deleted. While annexation issues are not considered to be an issue, there may be other conflicts with other governmental agencies that could utilize the mediation services of SFRPC. The policy should be retained but could be amended to delete reference to annexation."*

**Response:** Rather than recommending that the Intergovernmental Policy 1.1.3 be deleted entirely, the EAR will suggest that Policy 1.1.3 be amended to read "[u]se information mediation process of SFRPC to resolve conflicts with other governmental entities"



# VILLAGE OF KEY BISCAYNE

## Office of the Village Manager

*Village Council*  
Robert Oldakowski, *Mayor*  
Robert L. Vernon, *Vice Mayor*  
Enrique Garcia  
Steve Liedman  
Jorge E. Mendia  
Thomas Thornton  
Patricia Weinman

*Village Manager*  
Jacqueline R. Menendez

**DT:** November 22, 2006  
**TO:** Honorable Mayor and Village Council  
**FR:** Jacqueline R. Menendez, Village Manager  
**RE:** Evaluation and Appraisal Report: Proposed Responses to Comments from the South Florida Regional Planning Council

### RECOMMENDATION

It is recommended that the Village Council approve the proposed responses to the South Florida Regional Planning Agency's (SFRPC) findings with regard to the Evaluation and Appraisal Report (EAR). The SFRPC's findings and Wallace, Roberts, and Todd's (WRT) responses are provided in the attached November 17, 2006 memorandum.

### NEXT STEPS

Once the Council determines how to address each of the SFRPC's comments, WRT will redraft the EAR. Staff will then prepare a resolution for consideration by the Council which approves the changes to the EAR. This resolution and the approved amendments will be sent to the SFRPC. Following approval by the SFRPC, staff will then prepare amendments to the Master Plan for consideration by the Council. It is expected this process will span 9-12 months.

### ANALYSIS

The below chronology outlines the progress the Village has made towards obtaining the approval of our Evaluation and Appraisal Report.

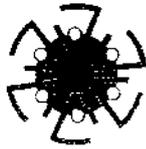
Sept 8, 2006	The Village received comments from the SFRPC regarding the EAR.
Nov 10, 2006	WRT submits a draft of proposed responses for consideration by the SFRPC.
Nov 17, 2006	The SFRPC approves each of the draft responses.

The SFRPC'S most significant comment relates to the 6.2 acre shortfall in Recreation and Open Space. Based on our Master Plan standard of 1 acre for every 2500 residents, the Village has a deficit of 6.2 acres of Recreation and Open Space land. As our permanent

population increases, the deficit in Recreation and Open Space land will continue to grow. We are required to provide this land or amend the Master Plan in a manner that will result in the Village meeting a locally adopted standard. Pursuant to State Law, the Village cannot issue a building permit for any building that adds residential units. If the Village does not address this issue, then the Village will be in violation of State Law.

WRT has recommended two approaches to the deficit in Recreation and Open Space. The first is to lower the standard to approximately 1.95 acres per 1000 residents. The second approach is to change the method to calculate the amount of Recreation and Open Space land that is desired by the Village. For example, the Village Green could receive a higher or weighted score than smaller parkland or the beach could be counted as parkland. Whichever approach the Council selects, our Master Plan must be amended.

The SFRPC also commented on the following subjects: Affordable Housing, Water Supply Planning, Traffic Circulation, Access to Waterfronts and Waterways, Capital Improvement Planning, and consistency with the SFRPC's Strategic Plan Goals. WRT's draft responses to these comments were found to be satisfactory by the SFRPC.



## MEMORANDUM

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DATE: November 17, 2006

TO: Lindsey Withrow, Wallace Roberts & Todd  
Silvia E. Vargas, Wallace Roberts & Todd

FROM: Terry Manning

SUBJECT: Comments on Key Biscayne EAR Insufficiency Response

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Please find below comments on the Village's proposed responses to resolve EAR Insufficiency issues. So there is no confusion, I have included your response then followed it with our comment on each issue. In general, I believe that because the Village is small, essentially built-out, and is entirely within a coastal high hazard area the approaches outlined below to respond to the insufficiency comments will address the issues. You may want to contact Phil Shafer at the Florida Department of Community Affairs to see if he has any additional concerns or comments.

If you have any questions or need additional information, please let me know.

### I. Recreation and Open Space Level of Service

A. **WRT Recommendation:** Address the current deficiency of 6.2 acres, required to meet the needs of the existing Village population of approximately 11,160, with one of two options:

- The Village may choose to add the public beach, or a portion thereof, to the calculation of LOS in order to meet the adopted threshold. There are roughly 20 acres of public beach along the Village's east coast. A strip adding up to 6.2 acres would be needed to reach the current 2.5 ac/1000 person LOS. On the other hand, including the entire extent would double the current LOS from 1.96 ac/1000 to 3.7 ac/1000, far exceeding the future demand based on a projected build-out population of 11,425 in 2025.
- Instead of trying to meet the current LOS, the Village may also choose to lower the adopted threshold to a level that satisfies today's need (about 1.95 ac/1000), or to adopt a different method to calculate LOS based on facility types, as shown in Table 1.

**SFRPC Response:** Either of the two recommendations to address the Recreation and Open Space Level of Service (LOS) deficiency would resolve the issue.

B. **WRT Recommendation:** To *maintain* concurrency over the 10-year planning horizon, the Village, in addition to one of the above-described options, should consider adopting the following policies:

- Require any future development proposed in the Village that generates additional population—and therefore demand for open space and recreation—to provide public open space on- or off-site in the amount necessary to serve the demand created by the projected population increase; or require a fee-in-lieu in an equivalent amount to offset the additional projected demand.

- Continue to pursue a formal joint-use agreement with the Presbyterian Church, similar to its present agreement with Saint Agnes Catholic Church, for the use of recreational facilities by residents. The acreage covered by the agreement on the Presbyterian Church property would then be eligible for inclusion in the Village's calculation of LOS.

SFRPC Response: The recommendations would strengthen the Recreation LOS and resolve the issue.

## II. Affordable Housing

WRT Recommendation: The Village should consider adding the following policies to the Comprehensive Plan:

- The Village shall recognize federal, state, and local housing subsidy programs as means to provide housing opportunities for low-income persons and families, where appropriate.
- The Village Director of Building, Zoning and Planning, or other Village representative directed by the Village Manager, shall meet with Miami-Dade County and the City of Miami to draft a program for annual evaluation of affordable housing needs within the incorporated and unincorporated areas. The program shall include annual assessments and recommended actions for the ensuing year.
- The Village shall participate in South Florida Regional Planning Council's initiatives directed toward educating local governments of new techniques, especially programs applicable to the region and/or the county, for promoting affordable housing.

Additional actions that the Village may wish to consider include: (a) evaluating the establishment of an affordable housing fee that could be deposited into some type of affordable housing trust fund, and used in partnership with Miami-Dade County or the City of Miami (via interlocal agreements) to fund affordable housing programs and projects in Miami-Dade or the City of Miami; and (b) strengthening policies in the Housing and Land Use elements to provide land use designations and zoning districts such that they ensure the development of diverse housing types to serve the needs of the local population, including single family, duplex, and multi-family units.

SFRPC Response: The recommendations would resolve the issue.

## III. Changes in Florida Growth Management Laws

WRT Recommendation: The EAR will be updated based on feedback from the Village Council regarding the following recommendations made by WRT.

### **A. Water Supply Planning**

WRT Recommendation: WRT recommends that the Village further clarify its proposed approach to maintaining an adequate supply of potable water to serve the 2025 build-out population and beyond. This includes both coordination methods with other government agencies and exploration of alternative water supply sources. In order to satisfy new water supply concurrency standards instituted by DCA, SFWMD, and Miami-Dade County, the Village should consider adopting policies that accomplish the following:

- Update the Village Comprehensive Plan within 18 months of the South Florida Water Management District updating its regional water supply plan, highlighting the alternative water supply projects that the Village plans to adopt. These changes will constitute the Village's "Work Plan Amendment," a requirement for all local governments that are subject to a regional water supply plan. The Work Plan Amendment will address both MDWASA plans as well as Key Biscayne's own water infrastructure needs.

- Seek and obtain from MDWASA a written statement regarding the availability of water to serve all proposed development projects. MDWASA shall provide information about current demand, including capacity for approved projects not yet built; the amount of water necessary to meet the growth projections for the year; the amount of water withdrawals allowed and remaining through the consumptive use permit issued by the water management district; the capacity of available facilities; and any capital improvement projects scheduled to come online during the development frame of the project.
- Set benchmarks to measure the Village's progress engaging in water supply intergovernmental coordination. Add policies to establish a single-point-of-contact at the SFWMD and MDWASA, and the extent to which the Village will be involved in the planning, financing, construction and operation of the water supply facilities that will serve the community (regardless of ownership).
- Verify with MDWASA the availability of water before making changes to the Future Land Use Map.

To complement these policies, WRT also recommends that the Village adopt policies geared toward achieving water conservation, such as using graywater water for irrigation of the Village Green and other publicly landscaped areas; and amending the land development regulations to allow and incentivize the use of water conservation design and technologies in new development, including low-flow plumbing fixtures, green roofs and cisterns, and the use of rain sensors and graywater for landscape irrigation systems.

**SFRPC Response:** The recommendations would resolve the issue.

#### B. Traffic Circulation Element

**WRT Recommendation:** WRT has recommended that the Village consider adopting an amendment to change the Traffic Circulation Element to the Transportation Element and adding the following policies to this new Element.

- Transportation maps shall be updated every three years to depict the road system in accordance with the specifications in 9J-5.019.
- Coordinate the transportation system with the future land use map to ensure existing and proposed densities, housing patterns, and employment patterns, and land uses are consistent with the transportation modes and services in the Village.
- Establish numerical indicators against which the achievement of the mobility goals of the community can be measured.
- Conduct a study to determine the feasibility of providing public transit such as a Village tram, including identification of potential routes, users, and annual operating costs.

**SFRPC Response:** The recommendations would resolve the issue.

#### C. Working Waterfronts

**WRT Recommendation:** The EAR will be updated to clarify that the Village has no "working waterfronts" as defined in HB 955 (Chapter 2005-157). Concerning the issue of public access to waterfront and waterway areas, the previously described list of capital improvement projects generated during the Vision Plan process (see Recreation and Open Space Level of Service section) includes several that are specifically intended to enhance access and waterfront recreation throughout the Village, including: a new view corridor to Biscayne Bay, an overlook to Pines Canal, new waterfront neighborhood parks, and beach walkway improvements. These projects will be reviewed by the Village Council at a November 2006 workshop and added to the Comprehensive Plan as amendments, as appropriate.

**SFRPC Response:** The recommendations would resolve the issue.

#### **IV. Capital Improvements Planning**

##### **A. Past Capital Improvements Planning**

**WRT Recommendation:** Public facility needs projections for the past planning period will be added to the report in section 2f, *Infrastructure Levels of Service*. In all cases, except Parks and Recreation, the Village met its adopted LOS in 1995 and continues to meet it today. Recommendations to the Village to remedy the deficiency in Parks and Recreation LOS have been addressed earlier in this memorandum, in the Recreation and Open Space Level of Service.

In regard to transportation LOS, there were no deficient roadways at the time the plan was adopted in 1995; there were no previous EAR reviews and consequently no previous EAR-based amendments.

Potential solutions to the “weaknesses” and “threats” identified during the SWOT Analysis (the results of which are displayed on pages 22 through 24) were proposed and examined during subsequent steps of the Visioning Process. Several of these projects are included in the Vision Plan as part of the proposed capital projects list.

- **Pedestrian, bike, and golf cart provisions:** The proposed capital projects include provision of golf cart access and parking at the Village Green. The consultants working on the Landscape Master Plan have incorporated this element into their design. In addition, the proposed Landscape Master Plan will recommend golf cart access and parking at the Village Beach Park and additional bike parking at the Village Green to enhance the alternative transportation network and create opportunities for reducing automobile trips.
- **Traffic calming.** When the Vision Plan process was conducted, the Village was in the midst of the first phase of the Crandon Park Master Plan Project, which included the refurbishment of sidewalks, pedestrian signalization, a traffic roundabout, and the addition of street trees, bus shelters, bike lanes, and on-street parking adjacent to the Village Green.
- **Infrastructure:** The Vision Plan proposes to bury overhead utilities to reduce the chance of outages due to weather events, and to fix drainage problems on Buttonwood Drive, Woodcrest Lane, and Glenridge Drive.

In September 2006, the Village Council approved the FY07 budget with a line item for Vision Projects of \$1,110,764 and will discuss how to allocate this money to a prioritized list of projects at a workshop in November 2006. Following this workshop, the Village Council will be requested to formally adopt the 2020 Vision Plan.

**SFRPC Response:** The recommendations would resolve the issue.

##### **B. Future Capital Improvements Planning**

**WRT Recommendation:** Following the advice of David Dahlstrom of the SFRPC, WRT has recommended that the Village:

- Provide and include its most recently adopted Annual Capital Improvements Plan (CIP) in the EAR.
- Adopt a policy with a specific timeline (e.g., by FY 07-08) for shifting from its current yearly CIP to a 5-year CIP, as well as policies establishing the criteria for updating and prioritizing projects within the CIP tied to concurrency requirements.

- Consider establishing policies for implementing Vision Plan projects that, once approved, will address residents' concerns raised during the SWOT exercise (recounted on pages 22-24 of the EAR) of the Vision Plan process.

When the Vision Plan was presented to Council last year and it was "embraced," staff were requested to schedule a workshop to review each project. The workshop will be held after the election in November 2006. The Director of Planning and Zoning anticipates that the workshop will result in a Five-Year Capital Improvement Plan with projects and funding sources listed for each year. In the past, the Village planned projects on a year-to-year basis with funds that were not spent from the previous year. This year, due to an unexpected high increase in property assessments, the Council was able to fund projects for this year from the FY 06-07 budget. This is the first step in moving towards a Five-Year Capital Improvement Budget.

Several of the items in the Village Capital Improvements Plan were generated during the Visioning Process and directly relate to concerns raised about recreation, storm drainage problems, and poor road maintenance. Proposed recreational projects include the development of the baseball/soccer field, parking lot, and tennis courts in Calusa Park; nature trails that connect the north portion of the Village with Calusa Park; four neighborhood parks; additional lighting for the Village Green; an outdoor seating deck on the Village Green, enhanced landscaping throughout the Village; view corridors with seating areas, enhanced landscaping, and a plaza on Pines Canal and Hacienda Canal; and Bayfront Park on Harbor Drive. The Village plans to make stormwater drainage improvements to the 100 block of Button wood Drive, Woodcrest Lane from Heather Drive to West McIntyre Street, and on Glenridge Road from Heather Drive to West McIntyre Street. Key Biscayne is planning road improvements such as a street lighting master plan, enhanced landscaping throughout the Village, landscaped buffers from sidewalk to wall on portions of Fernwood Road, new sidewalks on portions of West McIntyre Street, Glenridge Road, and Ridgewood Drive, and new stop signs."

**SFRPC Response:** The recommendations would resolve the issue.

#### V. Outmoded Dates

**WRT Recommendation:** The EAR will be updated to recommend amending *all* objectives and policies that have outmoded dates and whose status is either "in progress" or "implemented: *ongoing*."

**SFRPC Response:** The recommendations would resolve the issue.

#### VI. SFRPC's Strategic Regional Plan Goals Evaluation

**WRT Recommendation:** This was an inadvertent omission from the text of the document. The document has been updated to include the complete analysis of the South Florida Regional Planning Council's Strategic Regional Policy Plan, including Goals 14-22.

**SFRPC Response:** The recommendations would resolve the issue.

#### VII. SFRPC Mediation

**WRT Recommendation:** Rather than recommending that the Intergovernmental Policy 1.1.3 be deleted entirely, the EAR will suggest that Policy 1.1.3 be amended to read "[u]se information mediation process of SFRPC to resolve conflicts with other governmental entities"

**SFRPC Response:** The recommendations would resolve the issue.

Subj: **RE: KB EAR-Parks and Recreation LOS**  
Date: 2/5/2007 2:54:54 P.M. Eastern Standard Time  
From: SVargas@cg.wrtdesign.com  
To: VKBBZP@aol.com

OK. Thanks.

**From:** VKBBZP@aol.com [mailto:VKBBZP@aol.com]  
**Sent:** Monday, February 05, 2007 2:50 PM  
**To:** Silvia Vargas  
**Cc:** VKBBZP@aol.com; SHelfman@wsh-flalaw.com  
**Subject:** KB EAR-Parks and Recreation LOS

In a message dated 1/29/2007 6:08:46 P.M. Eastern Standard Time, SVargas@cg.wrtdesign.com writes:

Jud,

We have reviewed the issue of the community center with Terry Adams of SFRPC and concluded that it would be possible to count it as part of Open Space and Rec LOS using the following sections of the Florida Statutes and Florida Administrative Code:

**9J-5.003**

Definitions:

(102) "Recreation" means the pursuit of leisure time activities occurring in an indoor or outdoor setting.

(103) "Recreation facility" means a component of a recreation site used by the public such as a trail, court, athletic field or swimming pool.

(104) "Recreational uses" means activities within areas where recreation occurs.

**Chap. 163.3177(6)(e)**

"A recreation and open space element indicating a comprehensive system of public and private sites for recreation, including, but not limited to, natural reservations, parks and playgrounds, parkways, beaches and public access to beaches, open spaces, waterways, and other recreational facilities."

We could not get more specific guidance as to whether only that portion (sq. ft.) of the facility dedicated to recreational uses is countable (as opposed to that portion devoted to cultural or other activities) or if we can include the entire parcel into the LOS square footage. I think it may be possible to justify including the entire acreage.

You should consider re-designating this parcel to Public Recreation & Open Space, or at a minimum to Public & Institutional use. Right now, the Master Plan FLUM shows it as commercial, and the zoning map as low intensity commercial.

-----wrtmail--%3423wrt%-----

The Site Plan for the Community Center shows a total land area of 2.34 acres. The building contains 38,200 sq. ft.

-----wrtmail--%3423wrt%-----



# Village of Key Biscayne

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## *Village Council*

John F. Festa, *Mayor*

John Waid, *Vice Mayor*

Raul Llorente

Hugh T. O'Reilly

Michele Padovan

Betty Sime

Raymond P. Sullivan

C. Samuel Kissinger

*Village Manager*

Guido H. Inguanzo, Jr., CMC

*Village Clerk*

Weiss, Serota & Helfman, P.A.

*Village Attorney*

John P. Little, Jr., *Director*

*Building, Zoning and Planning Department*

Michael J. Flaherty, *Director and Chief of Police*

William C. Huddleston, *Chief of Fire Rescue*

*Emergency Services Department*

Jack Neustadt, *Director*

*Finance and Administrative Services Department*

Michael Bain, *Sports Coordinator*

Loren Matthews, *Program Coordinator*

*Recreation Department*

**Objective 1.3 Infrastructure in Coastal High Hazard Area** 9J-5.016 (3) (b) 2

*Spend no Village funds on infrastructure within the Village (all of which is within the coastal high-hazard area) that would have the effect of directly subsidizing development which is significantly more intensive than authorized by this Plan.*

**Policy 1.3.1**

The Village's capital improvement program schedule shall not include any infrastructure projects that would have the effect of directly causing developer applications for Land Use Plan or zoning map amendments to achieve significantly more intensive development than authorized by this plan.

**Objective 1.4 Concurrency** 9J-5.016 (3) (b) 4

*Assure the provision of public facilities concurrent with the impacts of development through a concurrency management system to be included in the 1994 land development code.*

**Policy 1.4.1**

9J-5.016 (3) (c) 6

By the date required by state statute or sooner, the Village shall enact and enforce as part of the land development code a concurrency management system which meets the requirements of 9J-5.0055. The concurrency management system shall specify that no development permit shall be issued unless the public facilities necessitated by a development (in order to meet level of service standards specified in the Traffic Circulation, Recreation and Open Space, and Infrastructure Policies) will be in place concurrent with the impacts of the development or the permit is conditional to assure that they will be in place. The requirement that no development permit shall be issued unless public facilities necessitated by the project are in place concurrent with the impacts of development shall be effective immediately and shall be interpreted pursuant to the following:

1. *Measuring Conformance with the Level-of-Service*

Public facility capacity availability shall be determined by a set of formulas that reflect the following:

Adding together:

- The total design capacity of existing facilities; plus
- The total design capacity of any new facilities that will become available concurrent with the impact of the development. The capacity of new facilities may be counted only if one or more of the following can be demonstrated:

(A) For water, sewer, solid waste and drainage:

- (1) The necessary facilities are in place and available at the time a certificate of occupancy is issued, or

(2) Such approval is issued subject to the condition that the necessary facilities will be in place and available when the impacts of development occur, or

(3) The new facilities are guaranteed in an enforceable development agreement to be in place when the impacts of development occur. An enforceable development agreement may include, but is not limited to, development agreements pursuant to Section 163.3220, Florida Statutes, or an agreement or development order pursuant to Chapter 380, Florida Statutes (the Development of Regional Impact authorization).

(B) For recreation:

(1) Paragraphs (1)-(3) under (A) above except that construction may begin up to one year after issuance of a certificate of occupancy.

(2) The new facilities are the subject of a binding executed contract for the construction of facilities to be completed within one year of the time the certificate of occupancy is issued, or

(3) A development agreement as outlined in (4) above but requiring construction to begin within one year of certificate of occupancy issuance.

(C) For traffic.

(1) Paragraphs (A) (1) through (4) or (B) (2) above except that construction can begin up to three years after the approval date.

(2) No modification of public facility level-of-service standards established by this plan shall be made except by a duly enacted amendment to this plan.

Subtracting from that number the sum of:

- Existing volumes or flows; plus
- "Committed" volumes or flows from approved projects that are not yet constructed; plus
- The demand that will be created by the proposed project, i.e., site plan, plat or other development order.

In the case of water, sewers, solid waste and recreation, the formulas must reflect the latest population vis a vis flows or park acreage.

Design capacity shall be determined as follows:

Sewage: the capacity of the County sewage treatment system.

**Water:** the capacity of the County water treatment and storage system.

**Solid Waste:** the capacity of the County disposal system.

**Drainage:** The on-site detention capability and/or storm sewer capacity.

**Roadways:** The standard for measuring highway capacities shall be the Florida DOT Table of Generalized Two-Way Peak Hour Volumes for Urbanized Areas or other techniques that are compatible to the maximum extent feasible with FDOT standards and guidelines. The measurement of capacity may also be determined by engineering studies provided that analysis techniques are technically sound and acceptable to the Village engineer.

**Recreation:** Measurement shall be based on recreation data in the Comprehensive Plan plus the latest Village population estimate with any necessary interpretation provided by the Village manager or designee thereof.

**Transit:** The County Transit Agency bus schedules for routes within the Village.

2. *Concurrency Monitoring System*

The manager or designee thereof shall be responsible for monitoring facility capacities and development activity to ensure that the concurrency management system data base is kept current, i.e., includes all existing and committed development. This data base shall be used to systematically update the formulas used to assess projects. An annual report shall be prepared.

3. *Capacity Reservation*

Any development permit application which includes a specific plan for development, including densities and intensities, shall require a concurrency review. Compliance will be finally calculated and capacity reserved at time of final action of an approved final Design Review approval or building permit if no Design Review is required or enforceable developers agreement. Phasing of development is authorized in accordance with Rule 9J-5.0055. Applications for development permits shall be chronologically logged upon approval to determine rights to available capacity. A capacity reservation shall be valid for a time to be specified in the land development code; if construction is not initiated during this period, the reservation shall be terminated.

4. *Administration*

The Village manager (or designee thereof) shall be responsible for concurrency management. The land development code shall specify administrative procedures, including an appeals mechanism, exemptions, plan modifications, burden of proof, etc.

5. *Project Impact or Demand Measurement*

The concurrency management user's procedural guide (a supplement to the land development code) will contain the formulas for calculating compliance plus tables which provide generation rates for water use, sewer use, solid waste and traffic, by land use category. Alternative methods acceptable to the Village manager or designee thereof may also be used by the applicant. For example, traffic generation may be based upon the Institute of Transportation Engineer's "Trip Generation" manual.

Objective 1.5 **Funding Capital Improvements**

9J-5.016 (3) (b) 5

*The land development code concurrency management system shall reflect both the existing approved Development of Regional Impact development orders; this system shall operate in concert with the capital improvement program, recreation impact fee and drainage utility to assure the funding and provision of needed capital improvements. See policies for measurability.*

**Policy 1.5.1**

9J-5.016 (3) (c) 5

The concurrency management system formulas shall include the public facility demands to be created by the two DRI projects (Continental, and Key Biscayne Hotel and Villas) as "committed" and the capital improvement schedule shall include the project implications of this committed demand to assure concurrency, so long as either of these development orders is in effect.

**Policy 1.5.2**

9J-5.016 (3) (c) 8

No later than December 31, 1994, the Village shall explore a recreation impact fee that would apply to all new development in order to help fund acquisition and improvements.

**Policy 1.5.3**

9J-5.017 (3) (b) 4 and (c) 8

The Village shall not give development approval to any new construction, redevelopment or renovation project which creates a need for new or expanded public capital improvement unless the project pays a proportional share of the costs of these improvements following legally prescribed criteria for such fees.

**ZONING  
AND  
LAND DEVELOPMENT REGULATIONS**

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**VILLAGE OF  
KEY BISCAIYNE, FLORIDA**

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This pamphlet is a reprint of Chapter 30, Zoning and Land Development Regulations, of the Village of Key Biscayne, Florida, published by order of the Village Council.

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**M  
C** Municipal Code Corporation

Tallahassee, Florida 2001  
Reprinted 2006

(n) *Vending Machines*. Permitted as an Accessory Use if the machine(s) is located inside a Building at least ten feet from a window that faces a Street or in a courtyard when the machine(s) cannot be seen from a Street.

(Ord. No. 2000-5, § 2, 5-9-00; Ord. No. 2000-13, § 6, 10-24-00; Ord. No. 2004-9, § 2, 8-31-04; Ord. No. 2005-19, § 5, 11-22-05)

**Sec. 30-113. Prohibited Uses.**

<i>Prohibited Uses</i>	If a Use is not specifically listed as a Main Permitted Use, Conditional Use, or Accessory Use, then such Use is considered as a Prohibited Use and not permitted anywhere in the Village. Specifically listed prohibited Uses include the following:
	(a) Any type of Adult Entertainment Establishment.
	(b) Any Use that involves the sale of secondhand merchandise, except the resale of Antique furniture that is at least 50 yrs. old and the resale of jewelry, art, or furs is permitted. Those Uses which have merchandise that is at least 50 yrs. old may offer for sale other secondhand merchandise if the inventory of said merchandise occupies less than 25 percent of the floor space Occupied by the entire Use.
	(c) Outdoor sale or storage of any merchandise except outdoor and Sidewalk Cafes as permitted in section 30-111.
	(d) Psychic Help Uses.
	(e) Video arcade, pinball and similar mechanical and/or electrical game machines as a Main Permitted Use.
	(f) The overnight outdoor Parking or storage of any vehicle with signage indicating a commercial business within 125 feet of any Street. Further, overnight outdoor Parking or storage of Commercial Vehicles for businesses not located on the property, is prohibited in any outdoor lot.
	(g) Any other Use that the Building, Zoning, and Planning Director has determined to be inconsistent with the master plan or the district in which such Use is intended to be located. An appeal of the Director's decision shall be considered as an appeal of an administrative decision. Such appeals shall follow the procedures set forth in section 30-70 "Appeals of Administrative Decisions".
	(h) Drive through facilities, except when associated with a bank.

(Ord. No. 2000-5, § 2, 5-9-00)

**Secs. 30-114—30-159. Reserved.**

**ARTICLE VI. CONCURRENCY MANAGEMENT**

**Sec. 30-160. Purpose.**

The purpose of this article is to ensure that the infrastructure necessary to serve new Development is Available concurrently with the impacts of that new Development. Impact is

measured against the adopted minimum acceptable levels of service with respect to: (a) roads, (b) sanitary sewer, (c) solid waste, (d) drainage, (e) potable water and (f) parks and open space. (Ord. No. 2000-5, § 2, 5-9-00)

**Sec. 30-161. Application for Concurrency Determination.**

(a) *Concurrency application.* All building permit applications shall also be treated as applications for a Concurrency Determination under this article.

(b) In the course of reviewing the application, the Building, Zoning, and Planning Director or designee, shall determine the following:

- (1) Whether the necessary facilities are in place and the Village's level of service standards are met at the time that a Development permit is issued, or that such permit will be conditioned upon the necessary facilities being in place and the level of service standards being met prior to the issuance of a certificate of occupancy; or
- (2) Whether the necessary facilities are under construction at the time a permit is issued or that there is a binding contract for the construction of such facilities at the time of permit issuance; or
- (3) Whether the necessary facilities are included in the Village's approved annual budget at the time of permit issuance; or
- (4) Whether the Development has vested rights determined pursuant to the provisions of this article.

(Ord. No. 2000-5, § 2, 5-9-00)

**Sec. 30-162. Determination of vested rights.**

(a) The following procedures are established for the request for a determination of vested rights as to the need to meet the Concurrency requirements of this article.

- (1) A request for exemption from the Concurrency requirements of this article based upon vested rights shall be submitted to the Village Council in a form provided by the Department. The request shall be accompanied by copies of any contracts, letters, appraisals, reports or other documents or items upon which the claim is based.
- (2) The following criteria shall be used in connection with a request for determination of vested rights:
  - a. Is there a valid, unexpired act of the Village that authorized Development and have expenditures or obligations been made or incurred in reliance thereon?
  - b. Has the property owner dedicated Right-of-Way and/or constructed and/or funded roadway improvements directly related to the Development for which the claim of vested rights is requested?
  - c. Has the property owner made on-site infrastructure improvements (e.g., water or sewer systems) directly related to the Development for which the claim of vested rights is requested?

(b) The Village Council shall determine whether the project has vested rights. The Village Council or Manager may require the submission of additional information that will assist in the determination of Concurrency.

(Ord. No. 2000-5, § 2, 5-9-00)

**Sec. 30-163. Level of service standards.**

For the purpose of Concurrency Determinations, the Village has adopted a master plan that provides the Level of Service Standards (LOS) for public facilities and services: roads, sanitary sewer, solid waste, drainage, potable water, and parks and recreation. All Developments that are subject to a finding of Concurrency must be consistent with these standards.

(Ord. No. 2000-5, § 2, 5-9-00)

**Sec. 30-164. Exemptions.**

(a) *Exemptions.* The following shall be exempt from the provisions of this article:

- (1) Construction, rehabilitation or expansion of a Single Family Dwelling or Two-Family Dwelling on one parcel;
- (2) Permits for Accessory Structures to existing residential Structures;
- (3) Maintenance, renewal, improvement or alteration of any Structure where the work affects only the interior or color of the Structure or the decoration of the exterior of the Structure;
- (4) Change in the Use of Land or Structures to another Use permitted within the same zoning district that is consistent with the master plan, and within the same group occupancy categories as defined by the South Florida Building Code, only if there is no expansion of the Structure; and
- (5) Any Development order consistent with an approved Development of Regional Impact (DRI) pursuant to Florida Statutes.

(Ord. No. 2000-5, § 2, 5-9-00)

**Sec. 30-165. Failure to establish Concurrency.**

No building permit shall be issued unless:

- (1) The Building, Zoning, and Planning Director or designee determines, pursuant to section 30-161, that all LOS have been met;
- (2) The Village Council has made a vested rights determination pursuant to section 30-162; or
- (3) The Development is subject to one of the exemptions listed in section 30-164.

(Ord. No. 2000-5, § 2, 5-9-00)

**Sec. 30-166. Appeal.**

An appeal of any determination made with regard to this article shall be considered as an appeal of an administrative decision.

(Ord. No. 2000-5, § 2, 5-9-00)

**Secs. 30-167—30-179. Reserved.**