VILLAGE OF KEY BISCAYNE

Office of the Village Manager

MEMORANDUM

Village Council
Franklin H. Caplan, *Mayor*
Michael E. Kelly, *Vice Mayor*
Michael W. Davey
Enrique Garcia
Robert Gusman
Mayra P. Lindsay
James S. Taintor

Village Manager
Genaro "Chip" Iglesias

DATE: November 8th, 2011

TO: Honorable Mayor and Members of the Village Council

FROM: John C. Gilbert, Interim Village Manager

RE: State of Florida Department of Community Affairs (DCA) Objections, Recommendations, and Comments (ORC) Pertaining to the Evaluation and Appraisal Report (EAR) Based Amendments

RECOMMENDATION

It is recommended that the Village Council set a workshop to discuss the State of Florida Department of Community Affairs (DCA) Objections, Recommendations, and Comments (ORC) pertaining to the Evaluation and Appraisal Report (EAR) based amendments.

BACKGROUND

The Local Government Comprehensive Planning Act requires each municipality to complete an Evaluation and Appraisal Report (EAR) of their Master Plan and to amend it pursuant to state comments. Our Master Plan was approved in 1995 and first reading of the amendments occurred on February 9th, 2010.

Adoption of the Ordinance on second reading is required by December 28th, 2011. Staff has requested an extension of time to comply with that requirement due to the substantial changes to the Local Government Comprehensive Planning Act that occurred on June 2nd, 2011 and recent determinations by DCA on how to proceed with an EAR that was written under more rigid regulations. Second reading of the ordinance could not proceed until these issues were resolved by DCA. After several discussions with DCA, we have been advised on how to proceed with the EAR based amendments and their comments which are attached in a report entitled "Objections, Recommendations, and Comments" (ORC).

Staff is recommending that the Council set a workshop date to discuss the changes to the Local Government Comprehensive Planning Act and how these changes affect the EAR based amendments and the ORC report. Part of the discussion will focus on how the Village is to address the Recreation and Open Space concurrency shortfall of 6.28

acres. The 2010 U.S. Census resulted in an increase in population from the 2000 U.S. Census of 1,144 residents or 10.25% (11,160 to 12,304 residents). This resulted in an increase in the shortfall of Recreation and Open Space land from 3.23 to 6.28 acres. As set forth in our Master Plan, our Recreation and Open Space standard is 2.5 acres per 1,000 residents.

EAR CHRONOLOGY

July 2006	The Village Council approved the EAR which was then submitted to state agencies for review and comments.
July 2007	After several workshops and meetings, the Council amends the EAR based on their deliberations and comments from state agencies.
Oct 24, 2007	South Florida Regional Planning Council finds the EAR meets the "sufficiency standard".
2008-2010	The 2020 Vision/EAR subcommittee initiates and completes a planning process that resulted in the EAR based amendments to the Master Plan.
Feb 9, 2010	After several workshops and meetings, the Council approves on first reading the EAR based amendments.
March 5, 2010	Staff forwards the EAR based amendments to the DCA.
May 21, 2011	DCA forwards their evaluation of the EAR based amendments in a document that is called Objections, Recommendations, and Comments (ORC). The ORC is attached to this memorandum.
June 2, 2011	The Local Government Comprehensive Planning Act legislation is substantially changed removing many of the requirements.
June 15, 2011	DCA notifies the Village that we have until December 28, 2011 to approve on second reading the EAR based amendments. Staff discusses with DCA how the changes to the growth management legislation affect the requirements.
Oct 19, 2011	DCA staff notifies the Village that we have until December 28, 2011 to approve the EAR based amendments or submit a new EAR.
Oct 19-25, 2011	DCA and Staff discussions conclude with the agency determining that the Village may submit a request for an extension of time. A 180 day extension of time was subsequently requested.

Nov 8, 2011	Staff requests the Village Council to set a workshop date to discuss the EAR based amendments to the Master Plan and the ORC report.

STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

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

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

May 21, 2010

The Honorable Robert L. Vernon, Mayor
Village Hall, Village of Key Biscayne
88 West McIntyre Street, Suite 210
Key Biscayne, Florida 33149

Dear Mayor Vernon:

The Department has completed its review of the Village of Key Biscayne proposed Comprehensive Plan Amendment (DCA No. 10-1ER), which was received on March 19, 2010. Copies of the proposed amendment have been distributed to appropriate state, regional, and local agencies for their review and their comments are enclosed.

The Department has reviewed the comprehensive plan amendment for consistency with Rule 9J-5, Florida Administrative Code, and Chapter 163, Part II, Florida Statutes, and has prepared the attached Objections, Recommendations, and Comments Report which outlines our findings concerning the comprehensive plan amendment.

The Department has identified objections and comments related to lack of required maps, lack of a long term planning timeframe, lack of a 5-year schedule of capital improvements and failure to address hurricane evacuation times and coastal high hazard areas. My staff and I are available to assist the Village in addressing the issues identified in our report. If you have any questions, please contact Sevini Guffey, AICP, Community Planner, at sevini.guffey@dca.state.fl.us or at (850) 922-5315.

Sincerely,

Mike McDaniel

Mike McDaniel, Chief
Office of Comprehensive Planning

MM/skg

Enclosures: Objections, Recommendations and Comments Report
Review Agency Comments

cc: Carolyn A. Dekle, Executive Director, South Florida Regional Planning Council
Jud Kurlancheek, AICP, Director, Key Biscayne Building, Zoning & Planning Department
Genaro Iglesias, Village Manager, Village of Key Biscayne

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DEPARTMENT OF COMMUNITY AFFAIRS

OBJECTIONS, RECOMMENDATIONS AND COMMENTS REPORT

FOR THE

VILLAGE OF KEY BISCAYNE

PROPOSED AMENDMENT #10-1ER

May 21, 1010
Division of Community Planning

This report is prepared pursuant to Rule 9J-11.010, F.A.C.

INTRODUCTION

The following objections, recommendations and comments are based upon the Department's review of the Village of Key Biscayne #10-1ER proposed amendment to its Comprehensive Plan pursuant to s. 163.3184, Florida Statutes (F.S.).

The objections relate to specific requirements of relevant portions of Chapter 9J-5, Florida Administrative Code (F.A.C.), and Chapter 163, Part II, F.S. Each objection includes a recommendation of one approach that might be taken to address the cited objection. Other approaches may be more suitable in specific situations. Some of these objections may have initially been raised by one or more of the other external review agencies. If there is a difference between the Department's objection and the external agency advisory objection or comment, the Department's objection would take precedence.

Each of these objections must be addressed by the Village and corrected when the amendment is resubmitted for our compliance review. Objections that are not addressed may result in a determination that the amendment is not in compliance. The Department may have raised an objection regarding missing data and analysis items, which the local government considers not applicable to its amendment. If that is the case, a statement justifying its non-applicability pursuant to Rule 9J-5.002(2), F.A.C., must be submitted. The Department will make a determination on the non-applicability of the requirement, and if the justification is sufficient, the objection will be considered addressed.

The comments that follow the objections and recommendations section are advisory in nature. Comments will not form a basis for a determination of non-compliance. They are included to call attention to items raised by our reviewers. The comments can be substantive, concerning planning principles, methodology or logic, as well as editorial in nature dealing with grammar, organization, mapping, and reader comprehension.

Appended at the end of the Department's ORC Report are the comment letters from the other state review agencies and other agencies, organizations and individuals. These comments are advisory to the Department and may not form the basis of Departmental objections unless they appear under the "Objections" heading in this report.

TRANSMITTAL PROCEDURES

Upon receipt of this letter, the Village of Key Biscayne has 120 days in which to adopt, adopt with changes, or determine that the Village will not adopt the proposed amendment. The process for adoption of local government comprehensive plan amendments is outlined in s. 163.3184, F. S., and Rule 9J-11.011, F.A.C. The Village must ensure that all ordinances adopting comprehensive plan amendments are consistent with the provisions of Chapter 163.3189(2)(a), F.S.

Within ten working days of the date of adoption, the Village must submit the following to the Department:

Three copies of the adopted comprehensive plan amendments;

A listing of additional changes not previously reviewed;

A listing of findings by the local governing body, if any, which were not included in the ordinance; and

A statement indicating the relationship of the additional changes to the Department's Objections, Recommendations and Comments Report.

The above amendment and documentation are required for the Department to conduct a compliance review, make a compliance determination and issue the appropriate notice of intent.

In order to expedite the regional planning council's review of the amendments, and pursuant to Rule 9J-11.011(5), F.A.C., please provide a copy of the adopted amendment directly to the Executive Director of the South Florida Regional Planning Council.

Please be advised that Section 163.3184(8)(c), F.S., requires the Department to provide a courtesy information statement regarding the Department's Notice of Intent to citizens who furnish their names and addresses at the local government's plan amendment transmittal (proposed) or adoption hearings. In order to provide this courtesy information statement, local governments are required by law to furnish the names and addresses of the citizens requesting this information to the Department. **Please provide these required names and addresses to the Department when you transmit your adopted amendment package for compliance review. In the event there are no citizens requesting this information, please inform us of this as well.** For efficiency, we encourage that the information sheet be provided in electronic format.

OBJECTIONS, RECOMMENDATIONS AND COMMENTS REPORT

VILLAGE OF KEY BISCAYNE

PROPOSED COMPREHENSIVE PLAN AMENDMENT #10-1ER

I. CONSISTENCY WITH CHAPTER 163, F.S., AND RULE 9J-5, F.A.C.

Village of Key Biscayne proposed Evaluation and Appraisal Report (EAR) based amendment, DCA #10-1ER, was received on March 19, 2010. This EAR-based amendment contains seven (7) Future Land Use Map amendments, Capital Improvements Element annual update, the Village's 10 Year Water Supply Facilities Work Plan and text amendments to seven (7) elements: 1) Future Land Use, 2) Transportation, 3) Housing, 4) Conservation and Coastal Management, 5) Recreation and Open Space, 6) Intergovernmental Coordination, and 7) Capital Improvements Elements.

The Department has identified the following objections, recommendations and comments to the proposed comprehensive plan amendments as they do not meet all of the requirements in Chapter 163, F.S., and Rule 9J-5, F.A.C.

OBJECTIONS AND RECOMMENDATIONS

Future Land Use Element

Objection 1: The Village has not submitted updated Existing and Future Land Use maps and has not updated the Village's future planning timeframe. The Future Land Use Map in the adopted EAR has a planning timeframe of 1994-2004 which is now outdated.

Citations: Sections 163.3177(5)(a) and (6)(a), F.S., and Rules 9J-5.005(1)(e), (4), 9J-5.006(1) and 9J-5.006(4), F.A.C.

Recommendation: Revise the Future Land Use Element to include the Village's Existing Land Use Map and a Future Land Use Map for the year 2025 as the long range planning timeframe consistent with the long range planning timeframe established for this comprehensive plan update.

Objection 2: The Village has not included Existing and Future Land Use Maps or map series showing natural resources located within the Village, such as beaches and shores, including estuarine systems; bays; flood plains; soils; areas subject to coastal flooding; wildlife habitat; vegetative cover; living marine resources; and the coastal high hazard area. The Village has not identified historic district boundaries, transportation concurrency management areas, and multimodal transportation district boundaries, if any such areas have been designated.

Citations: Sections 163.3177(1), (5)(a), (6)(a), (6)(d), (6)(g), 163.3178(2)(a), F.S., and Rules 9J-5.006(4), and 9J-5.012(2)(b), (3)(b)1, 2, 3, (3)(c)1, 2, 9J-5.013(2)(b)2, 3, 4, (2)(c)1, 2, 3, 5, 6, (3), F.A.C.

Recommendation: The Future Land Use Element should be revised to include the following natural resources on the Existing and Future Land Use Maps or map series: beaches and shores, including estuarine systems; bays; flood plains; wetlands; soils; areas subject to coastal flooding; wildlife habitat; vegetative cover; and living marine resources. If any of these natural resources are not applicable to the Village, then the Village should indicated that these natural resources are not located

in the Village. Identify historic district boundaries, transportation concurrency management areas, and multimodal transportation district boundaries, if any such areas have been designated.

Include new or revised objectives and policies, if needed, to ensure the protection and conservation of any natural resources located in the Village and as identified on the maps or map series.

Transportation Element

Objection 1: The Village has not provided Existing and Future Transportation Maps or map series showing the general location of any public transit system serving the Village, including the public transit routes and service areas, and public transit rights-of-way; the number of through lanes for each roadway; designated local and regional transportation facilities critical to the evacuation of the coastal population; and existing peak hour, peak direction level of service for roads and mass transit facilities and corridors or routes that are applicable to the Village. Additionally, the current Future Traffic Circulation Plan (Figure 2) has a planning period of 1994-2004 which is now outdated.

Citations: Sections 163.3177(1), (5)(a), (6)(a), (b), (6)(j), and (8), 163.3178(2)(d), F.S., and Rules 9J-5.005(1)(e), (2), (4), 9J-5.019(2)(a), (b), (5)(a), and (b), F.A.C.

Recommendation: Provide Existing and Future Transportation Maps or map series, indicating the applicable items stated above. Include the year 2025 on the Future Transportation Map as the long range planning timeframe consistent with the long range planning timeframe established for this comprehensive plan update.

Conservation and Coastal Management Element

Objection 1: The Village's Conservation and Coastal Management Element does not have a policy adopting the definition of the Coastal High Hazard Area as defined in Section 163.3178(2)(h), F.S. Additionally, the Village has not depicted the Coastal High Hazard Area on the Future Land Use Map or map series, consistent with the statutory definition.

Citations: Sections 163.3177(6)(a), (g), and 3178(2)(d), (2)(h), (9), F.S., and Rules 9J-5.006(4)(b)6, 9J-5.012(2)(e)3, F.A.C

Recommendation: Revise the Conservation and Coastal Management Element to include a policy with the statutory definition of the Coastal High Hazard Area (CHHA) as: "the area below the elevation of the category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model." Additionally, revise the Future Land Use Map or map series to depict the Coastal High Hazard Area based on the statutory definition. For Miami-Dade County and its municipalities, the most current data for the coastal high hazard area is available in the August 2001 "Hurricane Storm Tide Atlas, Miami-Dade County, Florida" prepared by the U.S. Army Corps of Engineers, Jacksonville District. This atlas should be available from the Miami-Dade County Emergency Operations Director and the South Florida Regional Planning Council.

The Statewide Regional Evacuation Study Program (SRESP), is scheduled for completion in June 2010 by which time, new CHHA boundaries will become available to the South Florida region. The Village is advised that if it adopts this amendment after the SRESP has been published, the new Coastal High Hazard Area map proposed with this amendment should reflect the updated coastal high hazard area. If the amendment is adopted prior to the publication of the SRESP, a new policy should be incorporated into the Future Land Use and Conservation and Coastal Management Elements that indicates the Village will update the Coastal High Hazard Area map in coordination with the new CHHA boundaries as defined by the SRESP at the next available opportunity.

Objection 2: Objective 3.2 of the Conservation and Coastal Management Element states: "Maintain the current estimated 13 hour hurricane evacuation clearance time which is based on both pre Hurricane Andrew planning and post Hurricane Andrew experience". It is unclear if the Village intends to apply the hurricane evacuation clearance time to meet the out of county evacuation time or the time to shelter requirements established in Section 163.3128(9), F.S. This statute establishes a 12 hour evacuation time to reach a shelter in the event of a category 5 storm event where shelter space is reasonably expected to be available and 16 hours as an evacuation time for out of county evacuation. If the 13 hour hurricane evacuation time is intended to apply to the time to shelter option, then it is inconsistent with the statute.

Citations: Sections 163.3177(6)(a), (g), and 163.3178(2)(d), (2)(h) and (9), F.S., and Rules 9J-5.005(6), and 9J-5.012(2)(e)3, (3)(b)6 and 7, F.A.C.

Recommendation: Revise Objective 3.2 of the Conservation and Coastal Management Element to be consistent with Section 163.3178(9)(a), F.S. The Objective could be revised to specify that the 13 hour hurricane evacuation clearance time is for out of county evacuation or revise the evacuation clearance time to 12 hours and specify it is for evacuating to a shelter with shelter space reasonably expected to be available.

Capital Improvements Element and its Annual Update

Objection 1: The Village of Key Biscayne has not provided a 5-Year Schedule of Capital Improvements to ensure adopted level of service standards are achieved and maintained.

Citations: Sections163.3177(3)(a)1, 2, and 5,F.S., and, Rule 9J-5.016(1)(c), Rule 9J-5.016(2)(b), (f), 9J-5.016(4)(a)1a, b, and 9J-5.016(4)(a)2, F.A.C.

Recommendation: Revise the Capital Improvements Element to include a 5-Year Schedule of Capital Improvements which identifies the Village's capital projects, costs, and funding sources for achieving and maintaining level of service standards for public facilities. The schedule's 5 year time horizon should range from 2009/2010 to 2013/2014.

Objection 2: The Village's Capital Improvements Element Policy 1.5.6 has not been revised to incorporate the 2009/2010 through 2013/2014 Miami-Dade County Public Schools Facilities Work Plan by reference. In addition, the Village's Public School Facilities Element Policy 1.2.6 has not been revised to incorporate by reference the current Public Schools Facilities Work Plan. If the Village adopts this amendment after September 2010, then the Village should adopt the 2010/2011 through 2014/2015 Miami-Dade County Public Schools Facilities Work Plan, which becomes effective on October 1, 2010.

Citations: Section 163.3177(6)(a), (12)(c), F.S., and Rule 9J-5.016(3), (4), F.A.C.

Recommendation: Revise the Capital Improvements Element Policy 1.5.6 and the Public Schools Element Policy 1.2.6 to adopt the Miami-Dade County Public Schools Facilities Work Plan 2009/2010 through 2013/2014 by reference by indicating the author, date and title of the Work Plan.

Objection 3: Proposed Conservation and Coastal Management Element Policy 1.8.2 establishes a level of service standard for potable water of 155 gallons of water per person per day for residential and nonresidential users. This policy is inconsistent with the Capital Improvement Element's revised Policy 1.2.1 that establishes a potable water level of service standard of 280 gallons per capita per day.

Citations: Sections 163.3177(2), (6)(a), (6)(c), (10)(f), F.S., and Rules 9J-5.005(3), (5), 9J-5.006(3)(b)1, (3)(c)3, 9J-5.011(2)(c)2, 9J-5.015(3)(b)3, (3)(c)1, and 9J-5.016(3)(c)4, F.A.C.

Recommendation: Revise the Capital Improvement Element Policy 1.2.1 to establish a potable water level of service standard of 155 gpcd to be consistent with Conservation and Coastal Management Element Policy 1.8.2 and with the adopted Miami-Dade County 20-Year Water Supply Facilities Work Plan.

10-Year Water Supply Facilities Work Plan

Objection: The Village of Key Biscayne has not prepared its 10 Year Water Supply Facilities Work Plan nor has the Village proposed a policy to adopt the Miami-Dade County 20-Year Water Supply Facilities Work Plan by reference as a support document. Without this information, the Village's proposed goals, objectives and policies regarding water supply planning are not supported by relevant and appropriate data and analysis.

Citations: Sections 163.3167(13), 163.3177(4)(a), (6)(a), (c), (d), and (8), F.S., Rules 9J-5.005(2), 9J-5.006(2)(a), (3)(b)1, (3)(c)3, 9J-5.011(1), (2)(b)1, 2, 4, (2)(c)1, 2, 3, 9J-5.013(1)(c), 9J-5.015(1), (2), (3)(b)1, 3, (3)(c)1, 3, 11, and 9J-5.016(1), (2), (3)(b)1, 3, 4, 5, (3)(c)6, 8, and (4), F.A.C.

Recommendation: Prior to adoption, the Village should coordinate with Miami-Dade County Water and Sewer Department to prepare the Village's 10-Year Water Supply Facilities Work Plan to address water supply demand and projections, bulk sales agreements, conservation, and reuse programs that are consistent with the Miami-Dade County 20 Year Water Supply Facilities Work Plan (2008). Revise the water supply planning goals, objectives and policies, as appropriate, to be consistent with the water supply planning data and analysis. The Village should also provide a policy to adopt the Miami-Dade County 20-Year Water Supply Facilities Work Plan by reference.

COMMENTS

Future Land Use Element
Revise references of Dade County to Miami-Dade County throughout the Future Land Use Element.

Transportation Element
The EAR analysis indicated traffic congestion has worsened and a traffic study is needed to assess the impact of internally generated traffic congestion and the adopted level of service standards of collector and local streets. The Evaluation and Appraisal Report recommended adding a new policy to undertake a traffic study to address the congestion; however, such a policy has not been included in the proposed amendment. The adopted amendment should include a policy to schedule and complete the recommended study.

Housing Element
The reference to HRS in Housing Element Policy 1.2.1 on page 20 should be revised to reflect the Department of Health (DOH) as the licensing agency of group homes.

Infrastructure Element
In Objective 1.2, delete the reference to Policy 1.2.2 as the policy number has been changed to 1.2.1. Policy 1.2.1 is referenced in the objective.

Revise references to Miami-Dade Water and Sewer Authority to Miami-Dade Water and Sewer Department (WASD) throughout the Infrastructure Element.

II. CONSISTENCY WITH CHAPTER 187, F.S.

The proposed amendment is inconsistent with the following provisions of Chapter 187, F.S., the State Comprehensive Plan:

Section 187.201(6), Public Safety, Policies (b) 22 and 23: Local governments, in cooperation with regional and state agencies, should prepare advance plans for the safe evacuation of coastal residents, and adopt plans and policies to protect public and private property and human lives from the effects of natural disasters. This provision is related to Future Land Use Element Objection 1 and Conservation and Coastal Management Element Objections 1 and 2.

Section 187.201(7), Water Resources, Policies (b) 3, 5, 8, 9, 11, 13, and 14: Ensure that new development is compatible with existing local and regional water supplies, protect aquifers, promote water conservation, and preserve flood plains and wetlands. This provision is related to the 10-Year Water Supply Facilities Work Plan Objection and Future Land Use Element Objection 2.

Section 187.201(8), Coastal and Marine Resources, Policies (b) 4, 5, 6, and 9: Protect coastal resources, marine resources, and dune systems from the adverse effects of development, develop and implement a comprehensive system of coordinated planning, management, and land acquisition to ensure the integrity and continued attractive image of coastal areas and encourage land and water uses which are compatible with the protection of sensitive coastal resources. This provision is related to Future Land Use Element Objection 2.

Section 187.201(9), Natural Systems and Recreational Lands, Policies (b) 1, 3, 4, and 7: Conserve forests, wetlands, fish, marine life, and wildlife to maintain their environmental, economic, aesthetic, and recreational values and protect and restore the ecological functions of wetlands systems to ensure their long-term environmental, economic, and recreational value. This provision is related to Future Land Use Element Objection 2.

Section 187.201(15), Land Use, Policies (b) 2 and 6: Consider land use planning and its impacts on water quality, the availability of land, water, and other natural resources to meet demand; and the potential for flooding. This provision relates to Future Land Use Element Objection 2 and the 10-Year Water Supply Facilities Work Plan Objection.

Section 187.201(16), Urban and Downtown Revitalization, Policy 8: Coordinate and cooperate with the school board regarding educational facilities. This provision is related to Capital Improvements Element Objection 2.

Section 187.201(17), Public Facilities, Policies (b) 1-9: Protect existing public facilities and plan for and finance new facilities to serve residents in a timely, orderly and efficient manner. This provision is related to Capital Improvements Element Objections 1, 2, and 3.

Section 187.201(19), Transportation, Policies (b) 3, 7, 8, 9, 10, 12, 13, and 15: Ensure an efficient, coordinated transportation system, including mass transit and multi-modal systems. This provision relates to Transportation Element Objection and Future Land Use Element Objection 2.

Section 187.201(25), Plan Implementation, Policies (b) 2, 3, 5, 7, and 8: Ensure that local plans implement and accurately reflect State goals and policies. This provision relates to all the objections.

By addressing the concerns noted in Section I., these inconsistencies with Chapter 187, Florida Statutes, can be addressed.

NOTICE OF REVISIONS TO PROCESSING PROCEDURES

Effective Date of Revisions to Rule 9J-11 Florida Administrative Code

The Department has revised the procedures for submitting comprehensive plan amendments. These new procedures became effective May 12, 2010.

Reason for Revisions

The revisions implement statutory changes to Chapter 163, Part II, Florida Statutes, related to allowable exemptions from the twice per calendar year limitations and prohibitions that may affect adoption of comprehensive plan amendments. In addition, changes were made to clarify plan amendment submittal requirements based on the Department's recent experience.

Highlight of Revisions

The revised procedures relate to the submittal of proposed and adopted comprehensive plan amendments, including small scale amendments, and a revised RPM-BSP-EXEMPT REVIEW Form used when submitting exempt and small scale amendments. The major revisions to Rule 9J-11, include 1) the deletion of the requirements to submit replacement pages and a revised table of contents to the comprehensive plan; 2) an update to the allowable exemptions to the twice per calendar year limitation; 3) an update to the statutory prohibitions that may affect adoption of comprehensive plan amendments; 4) clarification on the submittal of the de minimis impact report associated with the capital improvement annual update amendment; 5) a requirement that all future land use map amendments be submitted in color format; and 6) the revised RPM-BSP-EXEMPT REVIEW Form to address affordable housing and Areas of Critical State Concern.

Effect of Revisions

The revisions improve the overall comprehensive plan amendment process by helping local governments prepare and submit complete plan amendment packages. The rule provides the local government with a complete list of statutory exemptions and a complete list of possible prohibitions to the amendment process. In addition, the revised rule clarifies submittal requirements and this increases the likelihood that a submittal package will be initially determined complete.

Location of Revisions

The revisions are located on the Division of Community Planning's website to assist local governments with the submittal of their comprehensive plan amendment packages and may be viewed at **"Submitting Comprehensive Plan Amendments and Developments of Regional Impact"** http://www.dca.state.fl.us/fdcp/dcp/Procedures/index.cfm .

Additional Information

Ray Eubanks, Plan Processing Administrator

(850) 922-1767

ray.eubanks@dca.state.fl.us

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

APR 14 2010

April 9, 2010

Mr. Ray Eubanks, Administrator
Plan Review and Processing
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

Dear Mr. Eubanks:

Subject: Village of Key Biscayne, DCA #10-1ER
Comments on Proposed Comprehensive Plan Amendment Package

The South Florida Water Management District (District) has completed its review of the proposed Evaluation and Appraisal Report (EAR) based amendments from the Village of Key Biscayne (Village). The Village's potable water supplier is Miami-Dade County.

The District offers the following recommendation, which we request that you include in your review comments to the Village, to assist them in fully meeting the statutory requirements for water supply and related capital improvements planning:

- Adopt a Water Supply Facilities Work Plan (Work Plan) and include policies within the comprehensive plan that require the Village to adopt a Work Plan that reflects coordination with the District's *Lower East Coast Water Supply Plan Update* within 18 months after updates or amendments to it are approved by the District. Work Plan related amendments were due by August 2008.

We look forward to collaborating with the Village, its water supplier, and the Department of Community Affairs in developing sound, sustainable solutions to meet the Village's future water needs. For assistance or additional information, please contact Jim Golden, Lead Planner, Intergovernmental Policy and Planning, at (561) 682-6862 or jgolden@sfwmd.gov.

Sincerely,

Rod Braun
Director
Intergovernmental Policy and Planning Division

c: Bob Dennis, Department of Community Affairs
Jim Golden, South Florida Water Management District
Rachel Kalin, South Florida Regional Planning Council
Jud Kurlancheek, Village of Key Biscayne
Marc LaFerrier, Miami-Dade County
Maria Valdez, Miami-Dade County

Received via e mail
4/12/2010

FLORIDA DEPARTMENT OF STATE
Kurt S. Browning
Secretary of State
DIVISION OF HISTORICAL RESOURCES

Mr. Ray Eubanks
Department of Community Affairs
Bureau of State Planning
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

April 9, 2010

Re: Historic Preservation Review of the Key Biscayne 10-1ER Comprehensive Plan Amendment (Miami-Dade County)

Dear Mr. Eubanks:

According to this agency's responsibilities under Section 163, *Florida Statutes*, and Chapter 9J-5, *Florida Administrative Code*, we reviewed the above document to determine if data regarding historic resources were given sufficient consideration in the request to amend the Key Biscayne Comprehensive Plan.

We reviewed proposed Evaluation and Appraisal Report based text amendments to various elements of the Key Biscayne Comprehensive Plan to consider the potential effects of these actions on historic resources. Historic Preservation is addressed in Objective 2.6 of the Future Land Use Element. The village made a date change to 2011 for preparing a list of properties potential eligible for listing on the National Register. Policy 2.6.1 also states that by 2011 the village will have an inventory and significance evaluation of all properties at are at least 50 years of age. Historically significant housing is addressed in the Housing Element, Objective 1.5 and implementing Policy 1.5.1. The objective is to identify historically significant properties within the village. Policy 1.5.1 considers the potential for a local historic district, and also National Register designation of significant properties. The Conservation and Coastal Management Element addresses historic preservation in Objective 2.4, a list of potentially significant historic structures by 2011, and Policy 2.4.1, the identification of National Register eligible properties.

While our cursory review suggests that the proposed changes may have no adverse effects on historic resources, it is the village's responsibility to ensure that the proposed revisions will not have an adverse effect on significant archaeological or historic resources.

If you have any questions regarding our comments, please feel free to contact Susan M. Harp of the Division's Compliance Review staff at 850.245.6333.

Sincerely,

Laura A. Kammerer

Laura A. Kammerer, Historic Preservationist Supervisor
Compliance Review Section
Bureau of Historic Preservation

xc: Mr. Bob Dennis

SG

South
Florida
Regional
Planning
Council

Received 4/13/2010

MEMORANDUM

AGENDA ITEM #6c

DATE: APRIL 5, 2010

TO: COUNCIL MEMBERS

FROM: STAFF

SUBJECT: VILLAGE OF KEY BISCAYNE PROPOSED COMPREHENSIVE PLAN AMENDMENT DCA #10-1ER

Community Profile

Bounded by Crandon Park to the north and Bill Baggs Cape Florida State Park to the south, the Village of Key Biscayne occupies approximately 1.5 square miles on Key Biscayne. Incorporated on June 23, 1991, its first Comprehensive Plan was adopted in 1995. Known for its quiet natural beauty and small-town character, the Village was estimated to have 11,411 residents in 2009, an 8.6 percent increase since 2000. The population growth rate is projected to trend toward zero after 2010 as the Village approaches build-out. Key Biscayne is in a high-risk flood zone due to its relatively low elevation and direct exposure to the Atlantic Ocean. It is often one of the first areas in Miami-Dade County to be evacuated in a storm emergency. The general location of the Village is shown in Attachment 1.

Amendment Review

The South Florida Regional Planning Council (SFRPC) review of proposed Comprehensive Plan amendments for consistency with the *Strategic Regional Policy Plan for South Florida (SRPP)* primarily addresses effects on regional resources or facilities identified in the *SRPP* and extra jurisdictional impacts that would be inconsistent with the Comprehensive Plan of the affected local government (§163.3184(5), Fla. Stat.). The Council's review of amendments is conducted in two stages: (1) proposed or transmittal and (2) adoption. Council staff reviews the contents of the amendment package once the Department of Community Affairs certifies its completeness.

Objections and Comments relate to specific inconsistencies with relevant portions of the *SRPP*, which was adopted pursuant to Rule 29J-2.009, Fla. Administrative Code. Council staff will work with local governments to address Objections and Comments identified during the review of a proposed amendment between the transmittal and the adoption of the amendment.

The SFRPC did not prepare the amendment package and, therefore, is not precluded from commenting on the proposed Plan or Element pursuant to Section 163.3184(5), Florida Statutes (F.S.), or Rule 9J-11.0084, Florida Administrative Code (F.A.C.); or commenting on the adopted amendment pursuant to Section 163.32465(4)(b), F.S.

The Florida Department of Community Affairs (DCA) notified SFRPC that the amendment package was complete on: March 22, 2010.

The amendment review must be transmitted to DCA on: April 21, 2010.

The amendment review will be transmitted to DCA on: April 9, 2010.

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Staff Analysis

Proposed Amendment #10-1ER contains the Evaluation and Appraisal Report (EAR)-based text and map amendments to the Village of Key Biscayne Comprehensive Plan. The Village's EAR was found sufficient on October 30, 2007, by the South Florida Regional Planning Council, who was delegated the Village's EAR review by the Florida Department of Community Affairs (DCA).

EAR-Based Comprehensive Plan Amendments

In 1998, the State of Florida revised the statutory requirements for EARs to allow local governments to base their analysis on the key local issues they are facing to further the community's goals consistent with statewide, minimum standards. The Report is not intended to require a comprehensive rewrite of the Elements within the local plan, unless a local government chooses to do so. The Village's EAR identified the following specific issues to be addressed through EAR-based amendments:

1. Definition, Preservation and Enhancement of Key Biscayne's Unique Village Character and Quality of Life.
2. The Need for Additional Local Parks, Recreation Space and Open Space.
3. Interlocal Cooperation regarding Calusa Park, Crandon Park, Bill Baggs Cape Florida State Park and Virginia Key.
4. Implications of Redevelopment.
5. Traffic Volume, Operations and Safety.
6. Sustainability of Local Retail and Services.
7. Vulnerability to Damage from Tropical Storms and Hurricanes.
8. Need to improve or Replace Infrastructure.
9. Implications of Debt Capacity.
10. Conservation, Coastal Management and Environmental Protection.
11. Land Development in the Context of Master Plan Goals, Objectives, and Policies.
12. Historic, Cultural and Educational Resources and Needs.

Eight (8) Elements of the Village of Key Biscayne Comprehensive Plan would be amended and updated in accordance with the EAR recommendations, including a response to changes to State Statutes, the Florida Administrative Code, and the *Strategic Regional Policy Plan for South Florida (SRPP)*.

Seven (7) changes in land use are proposed in this amendment package.

<u>Future Land Use Element</u>

Key proposed changes to the Future Land Use Element include new or revised Policies that direct the Village to:

- Complete construction for the extension and implementation of sewer service;
- Continue to upgrade the drainage system;
- Prepare a list of properties eligible for designation on the National Register of Historical Places;
- Coordinate with Miami-Dade County Water and Sewer Department (MDWASD) to ensure sufficient water supply for existing and new development in the Village;
- Coordinate land uses and future land use amendments with the availability of water supplies and water supply facilities;
- Implement greenhouse gas reduction strategies, including alternate and renewable sources of energy; supporting mixed use development; and maintaining an interconnected network of bicycle lanes and pedestrian facilities and ensuring such in new development and redevelopment;
- Implement a resident education program to educate the community on green infrastructure and greenhouse gas emission reduction; and
- Amend the land development regulations to adopt specific standards and strategies that address greenhouse gas emissions, energy efficient housing, and overall energy conservation by 2011.

Transportation Element

Key proposed changes to the Element include new or revised Policies that direct the Village to:

- Update its Future Traffic Circulation Plan when necessary in coordination with its Future Land Use Map;
- Encourage the appropriate government entities to place and operate electric message signs for Bill Baggs Park's capacity as a way to control associated traffic flow; and
- Explore transportation strategies, including, resident education programs and improvements to pedestrian facilities, bikeways, and the golf cart system to reduce greenhouse gases.

Comment
The EAR analysis indicated traffic congestion has worsened and a traffic study is needed to assess the impact of internally generated traffic congestion and the Level of Service (LOS) Standards of collector and local streets. The EAR recommended adding a new policy to schedule a traffic study to address the congestion; however, such a policy has not been proposed in this amendment package.

Council staff recommends that prior to adoption, the Village include a policy with a date by which to schedule and complete a traffic study to address any potential traffic congestion issues and incorporate the results of the study into future traffic circulation planning efforts.

Housing Element

Key proposed changes to the Element include new or revised Policies that direct the Village to:

- Define and seek opportunities to promote affordable housing based on the Village's market and general market conditions, including the exploration of federal, state, and local housing subsidy programs and innovative solutions that increase the affordability and diversity of the housing stock;
- Facilitate the provision of affordable housing through interlocal coordination with Miami-Dade County and the City of Miami to create an annual needs evaluation and participate in the South Florida Regional Planning Council's education program on regional solutions on affordable housing;
- Evaluate the feasibility of establishing an Affordable Housing Fee Trust Fund in partnership with Miami-Dade County and the City of Miami;
- Establish standards to improve energy efficiency through affordable housing programs;
- Coordinate future land use planning to ensure land use designations and zoning districts provide adequate areas to foster diverse housing types; and
- Support energy efficiency and the use of renewable resources in existing housing and new housing stocks.

Infrastructure and Conservation and Coastal Management Elements

Key proposed changes to the Infrastructure Element and Conservation and Coastal Management Elements include new Policies related to water supply planning, energy conservation and greenhouse gas reduction strategies. New Policies would direct the Village to update its Comprehensive Plan within eighteen (18) months of the South Florida Water Management District (SFWMD) update to its Regional Water Supply Plan. Since the Village's potable water is provided by Miami-Dade County, new Policies would direct the Village to:

- Coordinate with the County and MDWASD to ensure sufficient water supply for existing and new development in the Village;
- Protect water quality of traditional and through new alternative water supply sources;
- Support reuse programs; and
- Implement water conservation measures.

Additional Policies would also direct the Village to integrate energy conservation technologies in new construction and redevelopment, as well as in the Village's municipal programs and services.

Comment
Although proposed Policies would direct the Village to coordinate with Miami-Dade County to ensure sufficient water supply for existing and new development and implement water reuse programs and conservation measures, there is no indication of intent to adopt and maintain a 10-year Water Supply Facilities Work Plan (Work Plan) for the Village. As required by Florida Statutes, Chapter 163.3177(6)(c), local governments must adopt a Work Plan into their Comprehensive Plans within 18 months after the jurisdictional Water Management District approves a Regional Water Supply Plan or its update. The *Lower East Coast Water Supply Plan Update* was approved by the SFWMD on February 15, 2007. Therefore, the deadline for local governments within the Lower East Coast jurisdiction to adopt a Work Plan was August 15, 2008.

Council staff is aware that the Village does not own any water facilities; they obtain water from MDWASD. The Village has proposed some relevant Goals, Objectives, and Policies to address the water supply planning; however, the Village did not provide any analysis of current and projected population, water supply, and demand through the creation and adoption of a Work Plan. Council staff recommends that prior to adoption, the Village coordinate with Miami-Dade County to adopt its Village Work Plan that will addresses water supply demand and projections, bulk sales agreements, conservation, and reuse programs that are consistent with the Miami-Dade County Work Plan (2008).

Recreation and Open Space Element

An inventory of Parks and Recreation Space properties would be included in this Element (currently a total of 25.10 acres). A proposed new policy directs the Village to update the inventory when any additional recreational and open space properties are acquired or utilized via a lease.

Intergovernmental Coordination Element

Key proposed changes to this Element include new or revised Policies that direct the Village to consider or implement interlocal agreements or leases on various parks and recreation facilities; coordinate with Miami-Dade County, the City of Miami, and the South Florida Regional Planning Council on affordable housing issues; and coordinate with the County and the South Florida Water Management District on water supply planning issues.

Capital Improvements Element

Key proposed changes to the this Element include revised Level of Service (LOS) Standards for Crandon Boulevard, from "E" to "D"; coordination with MDWASD on water supply planning and monitoring efforts; and a provision to update a financially feasible five-year Capital Improvement Plan.

Objection
As required by Florida Statutes, Chapter 163.3177(3)(b)1, local governments must update their Capital Improvements Element (CIE) on an annual basis, including the Five-Year Schedule of Capital Improvements (Schedule). The purpose of the CIE and the Schedule is to identify the capital improvements that are needed to implement the Comprehensive Plan and ensure that adopted LOS Standards are achieved and maintained for concurrency-related facilities (sanitary sewer; solid waste; drainage; potable water; parks and recreation; public schools; and transportation facilities).

The Village has not proposed a 5-year Schedule of Capital Improvements to ensure adopted LOS Standards are achieved and maintained. In fact, as identified in the EAR, the Village currently does not meet its adopted LOS for Recreation and Open Space (2.5 acres per 1,000 permanent populations) and requires a new program for acquiring parks and recreation space.

Staff analysis confirms that the proposed amendments to the Capital Improvements Element are generally inconsistent with Goals 4 and 10, Policies 4.1, 4.9, and 10.3 of the *Strategic Regional Policy*

Plan for South Florida, relating to the failure to adopt a Schedule that includes projects aimed to correct its LOS deficiency related to Recreation and Open Space.

Goal 4 Enhance the economic and environmental sustainability of the Region by ensuring the adequacy of its public facilities and services.

Policy 4.1 Public facility and service providers should give priority to the construction, maintenance, or reconstruction of public facilities needed to serve existing development most effectively and to the elimination of any infrastructure deficiencies which would impede redevelopment.

Policy 4.9 Ensure that local governments establish as wide a range of financing methods for the provision of public facilities as possible. Where impact fees are assessed, procedures, schedules, and programs for the expenditure of these fees in a timely and equitable manner shall be developed.

Goal 10 Increase awareness of the Region's green infrastructure, its significance to the Region's economy, and the public's role in access and use that is compatible with long-term sustainability.

Policy 10.3 Encourage interagency cooperation and co-location of parks and other public facilities where appropriate for use and access.

Recommendation

Council staff recommends that prior to adoption, the Village incorporate a financially feasible 5-year Capital Improvements Schedule into the CIE to address its concurrency issue on Recreation and Open Space.

The Village of Key Biscayne Council unanimously (7-0) approved the proposed EAR-based text amendments at its February 9, 2010 meeting.

Land Use Map Amendments

Seven (7) Land Use Map amendments have been included as recommended in the Village EAR. The table below identifies the current and proposed land use designations. These amendments would not increase residential density and, therefore, have no adverse impacts on the Village's current Level of Service (LOS) Standards. Attachment 2 provides the locations of the map amendments.

Area	Name/Address	Current Land Use	Proposed Land Use	Vote
A	Pankey Institute 1 Crandon Blvd.	Medium Density Multi-family Residential	Public and Institutional	7-0
B	Public Library	Medium Density Multi-family Residential	Public and Institutional	7-0
C	Key Biscayne K-8 Center	Public Recreation and Open Space -building portion of site	Public and Institutional	7-0
D	701-798 Fernwood Rd	Two Family Residential	Single Family Residential	5-2
E	Village Lake Park	Low Density Multiple Family Residential	Single Family Residential	7-0
F	Village Beach Park	Multiple Family Residential and Hotel Resort	Public Recreation and Open Space	7-0
G	L' Esplanade 971 Crandon Blvd.	Low Density Multiple Family Residential	Commercial	4-3

By the votes indicated in the Table above, the Village Council approved the proposed map amendments at its February 9, 2010 meeting.

Impact Analysis

Staff analysis confirms that aside from the Objection for the Village's failure to adopt a Schedule that would address Recreation and Open Space LOS Standards into the Capital Improvements Element (as noted on page 4 of this staff report; citing *SRPP* Goals 4, 10, and Policies 4.1, 4.9, and 10.3) the Village of Key Biscayne proposed amendment package #10-1ER would not result in compatibility, extra-jurisdictional, or affordable housing issues; or impact significant regional resources and facilities, natural resources, transportation systems, emergency preparedness plans, and local mitigation strategies.

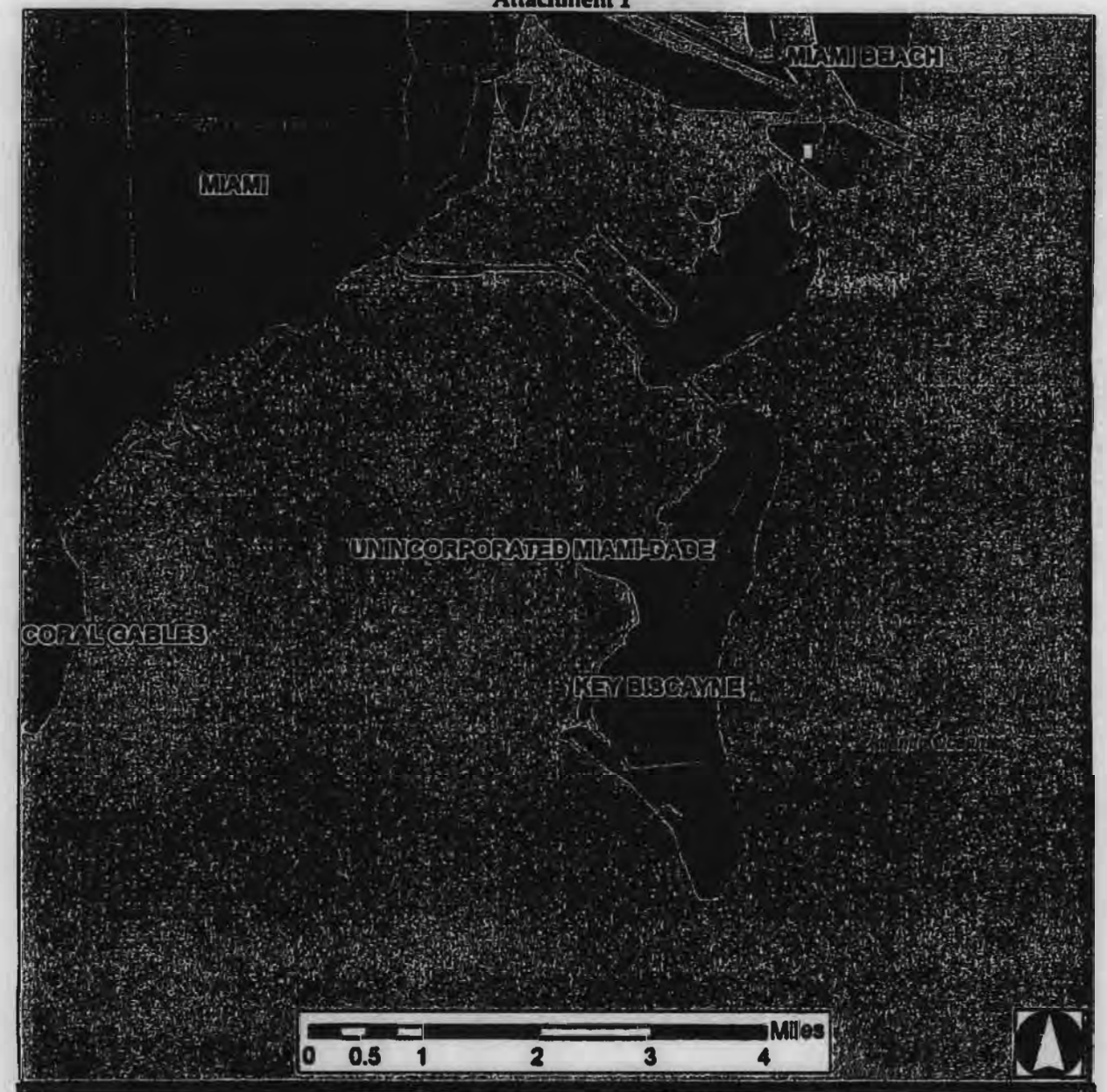
Since a further detailed impact analysis is not applicable to the review of the proposed amendments, the related analysis sections found in the Department of Community Affairs (DCA) Amendment Review Form C-7 (Sections 9 through 18) have not been included in this staff report.

Recommendation of Consistency with Strategic Regional Policy Plan (*SRPP*)

Find the amendments to the Capital Improvements Element of the Village of Key Biscayne proposed amendment #10-1ER generally inconsistent with the *Strategic Regional Policy Plan for South Florida (SRPP)*, particularly with Goals 4, 10, and Policies 4.1, 4.9, and 10.3; and

Find the remainder of the text and map amendments in proposed amendment #10-1ER generally consistent with the *SRPP*. Approve this staff report for transmittal to the Florida Department of Community Affairs.

Attachment 1



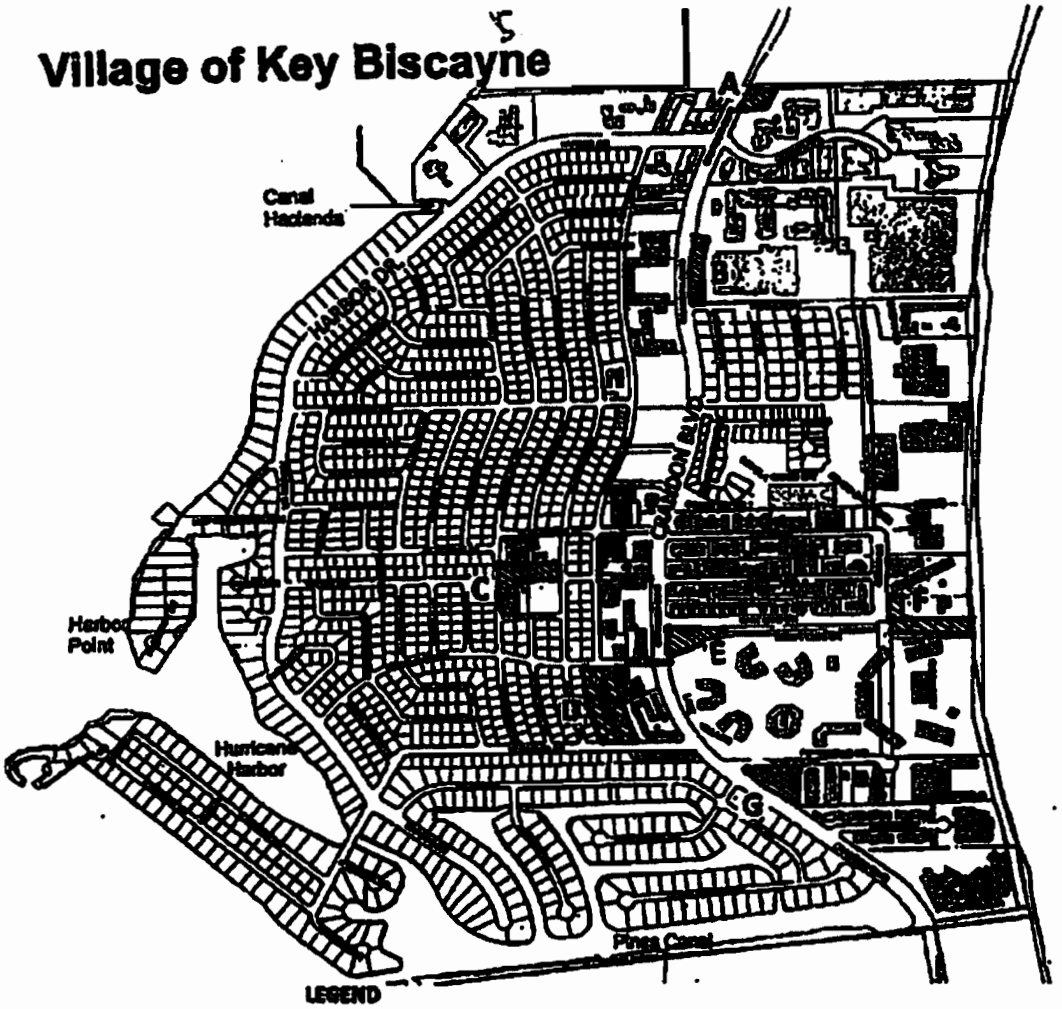
COMPREHENSIVE PLAN AMENDMENTS

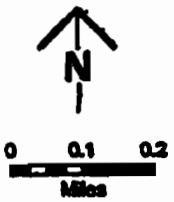
Location Map

Village of Key Biscayne
Proposed Amendment #10-1ER

Sources: FDEP, SFWMD, Miami-Dade County, SFRPC.
Note: For planning purposes only. All distances are approximate.

Attachment 2





A 1 CRANDON BOULEVARD – PANKEY INSTITUTE
(MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL TO PUBLIC & INSTITUTIONAL)

B 299 CRANDON BOULEVARD - LIBRARY
(MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL TO PUBLIC & INSTITUTIONAL)

C 150 WEST MC INTYRE STREET & 601 WEST END DRIVE – KEY BISCAYNE K-8 CENTER
(PUBLIC RECREATION & OPEN SPACE TO PUBLIC & INSTITUTIONAL)

D 701-758 FERNWOOD DRIVE
(TWO FAMILY RESIDENTIAL TO SINGLE FAMILY RESIDENTIAL)

E VILLAGE LAKE PARK
(LOW DENSITY MULTI-FAMILY RESIDENTIAL TO PUBLIC RECREATION & OPEN SPACE)

F VILLAGE BEACH PARK
(MULTIFAMILY RESIDENTIAL AND HOTEL RESORT TO PUBLIC RECREATION & OPEN SPACE)

G 973 CRANDON BOULEVARD – L'ESPLANADE
(LOW DENSITY MULTI-FAMILY RESIDENTIAL TO COMMERCIAL)

COMPREHENSIVE PLAN AMENDMENTS

Proposed Land Use Map Amendments

Village of Key Biscayne
Proposed Amendment #10-1ER

Source: Village of Key Biscayne proposed amendment package #10-1ER.
Note: For planning purposes only. All distances are approximate.

"Suber, Tracy"
<Tracy.Suber@fldoe.org>
05/06/2010 08:31 AM

To <Sevini.Guffey@dca.state.fl.us>
cc
bcc
Subject Key Biscayne 10-1ER

History: This message has been replied to.

Hi Sevini –

I saw this one listed on the compliance agenda for yesterday's meeting. The city didn't send the amendment package to FDOE, so I pulled it up in PAPERs. I did a very quick read and didn't identify anything of significant concern, but I do question whether the city intends for the amendment to include the annual CIE update. If it does, then it should revise CIE policy 1.5.6 to adopt the current Miami-Dade School Board's 2009-10 through 2013-14 district facilities work plan (which became effective October 1, 2009) by reference as required by the city's CIE policy 1.5.5 and Section 163.3180(13), F.S. As a reminder, if the city intends the amendment to include the annual CIE update but doesn't adopt the amendment until after September 2010, it should adopt the Miami-Dade School Board's 2010-11 through 2014-15 district facilities work plan, which becomes effective October 1, 2010.

Sorry this comment is late. Knowing you, you'd already included a comment on this, but I thought I should at least document my files.

Tracy

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