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**Strategy for
Conservation
and Development
of the Southeast
Peninsula of
St. Kitts**

DESFIL

Development Strategies for Fragile Lands
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**STRATEGY FOR CONSERVATION AND
DEVELOPMENT OF THE
SOUTHEAST PENINSULA OF ST. KITTS**

A Report to the Southeast Peninsula
Land Development and Conservation Board

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1.0 EXECUTIVE SUMMARY

1.1 Priorities

The Board should establish more clearly its priorities for the future of the Peninsula. It should publicize and build support for those priorities within the government, among landowners, among the general public in St. Kitts, and among prospective visitors and investors overseas.

1.1.1 Publicize Highlights of the Proposed Land Use Management Plan (PLUMP) and Handbook of Development Guidelines and Considerations for the Southeast Peninsula (HDGCSP)

Necessary steps in publicizing highlights of the PLUMP and HDGCSP are:

- * A brief document explaining highlights;
- * Maps at a sufficiently large scale to permit identification of regulatory districts;
- * Speeches by Board members or staff; and if possible,
- * A summary of the principal resource inventories and analyses underlying the PLUMP.

1.1.2 Issues

To stimulate discussion, a few key issues with which the Board will be grappling should be publicized.

1.1.3 Marketing Plan

Ideally, a marketing plan for the future SEP, one that includes desired development as well as conservation, should be prepared and publicized.

1.2 Processing

Establish efficient, comprehensible procedures for processing development applications.

1.2.1 Handbook for Simple Projects

Prepare a separate Developers' Handbook for minor projects (i.e. projects not requiring "Development Approval").

1.2.2 "Intermediate" Review Process

Establish an "intermediate" review process for modest projects subject to Development Approval.

1.2.3 Public Participation

Consider inviting members of the public to participate in the review of major projects. Ideally, the initial presentation of major developments might be made at a regular meeting of the SEP Board, but a meeting that is open to the public. As an initial step, invite specially interested citizens (e.g., neighboring landowners) and specially qualified citizens (e.g., architects, hotel operators) to attend the meetings.

1.2.4 Coordinated Agency Review

Establish a streamlined process that will coordinate review by SEP staff with review by other government staff.

1.3 Institutional Support

Enlist the technical and policy support needed to work effectively.

1.3.1 Professional Assistance

Be prepared to obtain the professional assistance needed, particularly in reviewing major projects.

- * Urge that a government employee be trained or hired to serve as an Environmental Management Specialist.
- * Utilize a process, as already recommended, which enables local architects and other professionals to participate in the review of important projects.
- * Informal understandings with major developers that sometimes require a "second opinion" (at the developer's cost) from a professional consultant considered acceptable both to the Board and to the developer.
- * Establish a budget and process to hire technical consultants not otherwise available.

1.3.2 Ministry of Tourism

Develop the closest possible working relationships with the Ministry of Tourism and the Investment Promotion Agency.

1.3.3 Attorney General

Enlist active participation by the Attorney General in Board deliberations, particularly in preparing for enforcement actions.

1.3.4 Conservation Commission

Enlist cooperation by the newly-formed Conservation Commission.

1.3.5 Land Trust

Explore opportunities for creation of a charitable land trust or other separate institutional base for obtaining voluntary donations of lands on the Peninsula.

Invite owners to donate critical areas. Explore with them whether a land trust, special tax treatment, or other arrangements would enhance their interest.

1.4 Housekeeping and Appearance of the Peninsula

Take initiative to protect the appearance of the Peninsula and its natural purity.

1.4.1 Housekeeping Service

Work with housekeeping and utility agencies to encourage provision of service as soon as the road opens.

1.4.2 Appearance of Small Projects

Assist and encourage developers of small projects to create appearance compatible with the environment. Include in the Developer's Handbook, already recommended, some very simple appearance suggestions for structures on the Peninsula. These should include suggestions for signage and landscaping.

1.4.3 Sign

Erect a sign, near the entrance to the Peninsula, which announces the existence of the PLUMP and HDGCSP and tells the public how to get in touch with the Board.

1.5 Miscellaneous

After one year of experience administering present laws and guidelines, evaluate and revise if necessary.

1.5.1 PLUMP and HDGCSP

Continually prepare for future revision of the PLUMP and the HDGCSP.

1.5.2 Statutes

Determine later the need for statutory change.

2.0 STRATEGY FOR CONSERVATION AND DEVELOPMENT OF THE SOUTHEAST PENINSULA, OF ST. KITTS

It is a good time to take stock. The access road to the Peninsula is scheduled to open in October 1989. The land market is hot. The Board has received its first application for approval of a major hotel, and developers are drafting plans for others. Owners of smaller lots are actively discussing development.

Two statutes as well as the PLUMP and HDGCSP have been approved. The A.I.D.-financed Southeast Peninsula Project is to end in less than two months. It is timely to identify the Board's opportunities.

2.1 Legal and Institutional Base for the Board

Government actions, some of them very recent, provide much of the legal and institutional support that the Board needs to oversee conservation and development of the Peninsula:

2.1.1 Statutes

Two significant statutes are now in effect. One is the SEP Conservation and Development Act, 1986, which established the Board. The second is the National Conservation and Environment Protection Act, 1987, which establishes the Conservation Commission; action by the Minister put this law into effect in July 1989.

The Attorney General's Office has put final touches on proposed amendments to the 1987 act. These amendments clarify key provisions requiring developers to provide access to beaches. The draft amendments are expected to emerge in August 1989.

PLUMP and regulations. In June, the Board approved the PLUMP and the HDGCSP. The Minister approved them in principle as well as formally.

Institutional structure. The Board will shortly have its own secretariat. Mr. Patrick Williams, a Project Officer in the Planning Unit who has served as counterpart to Ralph Field in the TRD project, has been designated Secretary of the SEP Board. Aiding Mr. Williams, according to the current government proposal, will be two professional staff members and a secretary.

2.2 The Need for Leadership by the Board -- and the Difficult of Leading

2.2.1 Leadership by the Board can make an important difference in the quality of development on the Peninsula.

Within the next few months, the Board can establish itself as a leader in the

conservation and development of the Peninsula. Alternatively, it can be a passive administrator of rules and guidelines. In the latter case, initiative will come only from other parts of the government or from private developers.

The Board should use every opportunity to lead, for the character of development on the Peninsula will be determined soon. Actions within the next few months will make clear, for example, how seriously the Board will defend the environment of the Peninsula. They will make clear whether major hotels will be walled enclaves like those in some other parts of the Caribbean. They will make clear how Kittitians will share the beaches with visitors.

2.2.2 The Board is not in a strong position to lead. The Board is not in a strong position to provide the needed leadership:

The development pressures unleashed by the new road are without precedent in St. Kitts. Neither the government nor the general public, let alone the newly-formed Board, has experience in guiding such pressures.

One result of this newness is that St. Kitts has not yet achieved consensus on its priority objectives for the Peninsula. Broad objectives are clear enough: investment, jobs, quality development, and so on. Also, there appears to be virtually unanimous insistence that all beaches be accessible to the public. There has been little occasion, however, to reconcile objectives that conflict with each other.

The recently adopted PLUMP and HDGCSP do not give a clear sense of priorities: they paint no memorable picture of the future that the Board intends to achieve. Although they do establish needed constraints on development, a compendium of constraints will neither lead developers nor rally support for the Board. Without a history of intense development pressures, the island also lacks a strong constituency for conservation and quality development. Institutions that can help build such a constituency, such as the Conservation Commission, are brand new. Key decisions will be made before such a constituency forms and puts down roots.

Another result of this newness is that St. Kitts has no established procedures to thrash out its land-use objectives, incorporate them in plans and regulations, and assure that they are achieved.

The island has enjoyed an informality in land use matters that strikes an outsider as remarkable. The government obtained land for the new road by acquiescence, without the formality of deeds. There has been little need for land-use regulations and little experience with them.

There is no history of opening government meetings to the public, of giving notice to neighbors and the public, or of holding public hearings before major

governmental actions. The PLUMP and HDGCSP, for example, represent a consultant's work based on extensive review of the Peninsula's resources. The Board reviewed the documents before adopting them, of course, and some landowners had an opportunity to review drafts informally as they evolved. The documents were adopted, however, without formal notice or public participation.

Legally, the PLUMP and HDGCSP appear sufficient to guide development. The Board needs more than the law on its side, however. Like all land use controllers, it will face complex technical questions, and it will face pressures to favor some applicants more than others. Public discussion, even if it were sometimes heated, could help the Board address these challenges wisely. To obtain public support, the PLUMP and HDGCSP now need a kind of public scrutiny and debate that are as unprecedented in St. Kitts as the development pressures which make them necessary.

Finally, the Board is not the only government agency concerned about development of the Peninsula. It must operate within the context of overall government concerns, and these are represented by a number of agencies. The Ministry of Tourism appears to be among the most important of these other agencies.

- 2.2.3 If the Board does not exert leadership now, it will shortly lose the opportunity to do so. Now that development applications have begun coming in, they will increasingly distract the Board's attention from overall priorities. If the Board does not have a "short list" of top priorities, it will probably start making a series of ad hoc decisions on individual projects. Over time, as experience is gained in processing applications, priorities will develop. By then, however, the opportunity for early leadership will be gone.
- 2.2.4 If the Board does not lead, it is likely to be judged in the short run on the applicants' terms. As development applications come in, pressure will mount to process them without delay. In the absence of broad support, the Board may be judged principally by how rapidly it processes the applications. Rather than a leader, the Board could be regarded as a bureaucratic obstacle.
- 2.2.5 If the Board does not lead, St. Kitts will lose a great opportunity to assure quality development of the Peninsula. When a major proposal is reviewed, the PLUMP, the HDGCSP, and some very thorough background studies should be used to the Board's benefit. The unique development opportunities and limitations of each major site will need to be considered. Some tough judgment calls will have to be made.

The developer is likely to be represented by experienced professionals who will likely call these judgment decisions into question. The professionals who prepared the studies, however, will no longer be present to defend them. The staff will be

less experienced than the developer's professionals, and the Board will have a limited budget to hire consultants. Even under the best of circumstances, a lot of weight is likely to be given to the judgments of the developers' professionals. In some cases, this will produce fine results, but not in others. And it can be difficult to sort out the differences.

2.3 A Strategy for Leadership

The following strategy is intended to help the Board lead future development and conservation of the Peninsula. The strategy is intended to maximize the Board's chance to:

Attract and protect the high-quality, environmentally sensitive development for which the Peninsula is well-suited;

Mobilize a constituency to support the Board's efforts on the Peninsula, including support for resource protection;

Shape the expectations of land buyers and investors, Kittitians and visitors, for the future of the Peninsula.

The strategy has five elements: 1) Priorities, 2) Processing, 3) Institutional Support, 4) Housekeeping, and 5) Miscellaneous. The most urgently needed steps are starred (***)

2.3.1 Priorities

The Board should establish more clearly its priorities for the future of the Peninsula. It should publicize and build support for those priorities within the government, among landowners, among the general public in St. Kitts, and among prospective visitors and investors overseas.

To lead effectively, the Board needs a clear sense of its priorities, and it needs broad general support for those priorities from leaders of both the public and private sectors. Ideally, it should incorporate the priorities into a vision that reflects not only the conservation needs of the Peninsula but also its intended niche within the Caribbean tourism market. To this end, the vision should contemplate a desired quantity, quality, and type of development. It should give a sense of how the Peninsula will be enjoyed by Kittitians and others. It should provide for protection of the most critical resources.

Needed Steps:

1. Publicize highlights of the PLUMP and HDGCSP.***

The first step should be to publicize highlights of the PLUMP and HDGCSP. Both documents are sophisticated and complex; no one will read them for fun. Because the documents must address so many needs, it is hard to tell which elements are critical. For the same reason, it is hard to understand which elements the Board views as fundamental and which are negotiable.

Publicizing highlights of the PLUMP and HDGCSP will help the public understand the documents themselves. They will also help people understand what benefits they can expect from the Board's work. That understanding is essential to obtain public support.

Needed to get this job done are:

A brief document explaining highlights. When possible, this document should explain the reasoning behind the documents.

Maps at a sufficiently large scale to permit identification of regulatory districts.

Speeches by Board members or staff, to familiarize the public with what the plan is about.

If possible, a summary of the principal resource inventories and analyses supporting the plan. In the form adopted, the PLUMP and the HDGCSP do not explain the reasoning that underlies them. The background inventories and analyses are too lengthy for widespread distribution and convenient consultation, so a summary will make them more useful. The Synopsis in Volume II Constraints and Opportunities: A Synthesis of the Planning Process for the Southeast Peninsula, St. Kitts/Nevis is a good beginning.

2. To stimulate discussion, publicize a few key issues with which the Board will be grappling.

In addition to summarizing highlights, identify and publicize a few of the key issues that may arise in future deliberations. This can provide feedback from the public that may be useful in preparing future revisions of the PLUMP and the HDGCSP.

Needed are:

A brief document setting forth a few key issues; and

Inclusion of some of these issues in the speeches already recommended.

3. Ideally, a marketing plan for the future SEP that includes desired development as well as conservation should be prepared and publicized.

If it is possible, work with other public and private interests to formulate a marketing plan for the Peninsula. Going beyond conservation, the marketing plan should present the unique attractions of the Peninsula in a manner intended to increase St. Kitts's share of the Caribbean tourism market. If used to engender broad public support, the plan can have great influence in shaping the Peninsula's future.

Ideally, marketing specialists should help prepare the plan. The specialists should be familiar with profitable, environmentally sensitive Caribbean tourism. They should be respected by -- and thus likely to influence -- the leaders of both public and private sectors in St. Kitts. Not only government staff but also the designers hired by prospective developers should be encouraged to cooperate in preparing the marketing plan.

Needed are:

Willingness to proceed with preparation of the marketing plan even at this time when development applications will require much of the Board's time;

A decision by interested persons to cooperate with the Board in plan preparation. These should include the Ministry of Tourism and representatives of landowners and developers.

An acceptable source of marketing expertise. This could include a consultant, hired by the Board or by others, or a volunteer.

2.3.2 Processing

Establish efficient, comprehensible procedures for processing development applications. One of the first orders of business should be to establish efficient, comprehensible procedures for processing development applications. In establishing the procedures, seek several objectives:

Focus energies where they can make the most difference. Of the 4,000 acres in the Peninsula, a single parcel accounts for more than 1,000, and the eight parcels of 100+ acres together account for more than 3,000. Of the total of 69 parcels on the Peninsula, 39 contain one acre or less. As a general rule, the opportunity to make a difference is greater on the larger parcels, so these are the ones upon which procedures should focus effort.

Adjust the amount of administrative effort (the Board's and the developers') to the importance of the issues being resolved. As a practical matter, this means the Board should establish relatively simple requirements for small parcels.

Avoid needless delays in processing, especially for small parcels. Delays will generate ill will and undercut public support for the Board's efforts.

Needed steps:

1. Prepare a Developer's Handbook for minor projects (i.e. projects not requiring "Development Approval"). ***

The HDGCSP requires in-depth review ("Development Approval") of proposed development "involving parcels greater than 10 acres, involving the subdivision of a parcel into more than two parcels, or the construction of two or more dwelling units on a single parcel."

For all other development, the Board should prepare a simplified Developer's Handbook. The Handbook should:

Set forth the highlights of the requirements in section 3.3 of the HDGCSP;

Help the developer meet requirements of other government agencies, including coordination with other agencies' procedures;

2. Establish an "intermediate" review process for modest projects subject to Development Approval.

The HDGCSP requires Development Approval not only for the largest projects but also for some that are relatively modest (e.g., two dwelling units on one parcel no matter how small). This results from a proper desire to prevent important projects from "slipping between cracks."

Nevertheless, administrative requirements that make sense for a major project become burdensome when applied to a modest one. Both for the benefit of the Board as well as for that of applicants, establish an abbreviated, less expensive process for these intermediate projects.

To get this done:

Make clear to the staff that they may, in dealing with "intermediate" developments, propose to the Board that it waive some submissions that it deems unnecessary in the particular case. (Make clear also that there will be no waiver for any parcel of more than, say, 20 acres.)

Encourage the staff to prepare modifications of the HDGCSP, on the basis of administrative experience during the next few months.

3. Consider inviting members of the public to participate in the review of major projects.

A mechanism is necessary to bring interested persons into the process of reviewing important projects. Such a mechanism can benefit St. Kitts in several ways. First, it can inform the Board of the full spectrum of interests. Second, it can provide some free technical advice if local architects and other professionals participate. Third, it can help build public experience and awareness that are vital in building support for quality development.

Needed are:

A decision to open-up review of major projects beyond the Board and government staff. Ideally, the initial presentation of major developments might be made at a regular SEP Board meeting, but one that is open to the public. As an initial step, invite specially interested citizens (e.g., neighboring landowners) and specially qualified citizens (e.g., architects, hotel operators) to attend the meeting.

Clear distinction between major projects, subject to this open review, and minor ones to be handled in simplified ways.

Within the next year or so, the procedures should be incorporated into regulations as they are defined.

4. Establish a streamlined process that will coordinate review by SEP staff with review by other government staff.***

Small developments as well as large ones require technical advice and approval from several government agencies. To save everyone's time and effort, all participants should act in concert.

Coordinated participation by other government officials can also bring important matters to the attention of the SEP Board and its staff. If those matters are not discovered until later in the process, time and effort are likely to be wasted.

To get coordinated review:

An understanding is needed with other government agencies specifying ways in which development on the Peninsula will be coordinated. Regular meetings among affected agencies will almost surely prove desirable for this

purpose. The Board's Secretary might be authorized to convene such meetings at appropriate times.

2.3.3 Institutional Support

Enlist the technical and policy support needed to work effectively. To do the job well, technical assistance and the support of other agencies is critical. Many professions and points of view have contributions to make in shaping the Peninsula's future, and ways to obtain them aid the process.

Needed steps:

1. Be prepared to obtain the professional assistance needed, particularly in reviewing major projects.***

The Board, its staff, other government staff, perhaps with the aid of local professionals, should be able to process nearly all simple and "intermediate" projects without outside help. The environmental expertise currently available within the government is very limited, however, and needs to be strengthened.

For the complex issues raised by major projects, additional professional help will be needed. The Board is particularly likely to need help when a developer's assertion that proposed action will not harm the environment is cast in doubt. For example, is the proposed marina really compatible with protection of near-shore marine life? And will it really not increase beach erosion?

Needed to get this professional assistance are:

A capable staff. The present staff appears to be functioning well, but the Board would benefit from more local environmental expertise. Accordingly, the Board should urge that a government employee be trained or hired to serve as an Environmental Management Specialist. This employee should not be expected to identify and evaluate the full range of environmental issues that will arise in guiding and monitoring development of the Peninsula. The employee should, however, be able to interpret environmental studies, to identify the need for additional studies (typically to be provided by or at the expense of developers), and to deal as a professional with the specialists engaged to conduct such studies.

A process, as already recommended, to enable local architects and other professionals to participate in the review of important projects.

Informal understandings with major developers that sometimes require a "second opinion", at the developer's cost, from a professional consultant acceptable both to the Board and to the developer. These understandings

should be established before a developer begins preparing an Environmental Impact Assessment.

A budget to hire technical consultants not otherwise available. (The government is currently seeking short-term technical assistance for this purpose from the U.S. Agency for International Development.)

2. Develop the closest possible working relationships with the Ministry of Tourism and the Investment Promotion Agency.

Prospective foreign investors and developers will usually negotiate with other agencies before they come to the Board. They need assurances about tariffs, taxes, immigration, and so on. Only later are they likely to prepare a submission to the Board. Thus, the Ministry of Tourism and perhaps the Investment Promotion Agency of the Ministry of Trade are likely to be in discussions before the Board is consulted.

To maximize its effectiveness, the Board should participate in negotiations as early as possible. If it has no voice until after a particular type and scale of project have been discussed with other agencies, it may experience needless difficulty applying the HDGCSP. The Board can experience this difficulty even if the other agencies have stressed that projects will require Board approval.

To get this done:

Reach an understanding with the Ministry of Tourism about the timing of participation by the Board and its staff. It is fortunate that the Permanent Secretary of the Ministry is a member of the Board.

Exert early influence by establishing and communicating priorities, as already recommended. Other agencies will then understand the bottom line requirements, and this understanding can inform even the earliest negotiations.

3. Enlist active participation by the Attorney General in Board deliberations, particularly in preparing for enforcement actions.

Especially during its first months of operation, the Board will face legal uncertainties that cannot now be foreseen. To take firm and timely action, the Board will need a continuing source of legal advice.

For example, illegal construction on the Peninsula could soon challenge the Board's authority. If the Board fails to ensure vigorous enforcement, its authority could erode rapidly. This will harm the Peninsula and divert the Board's time from its main mission.

The key need is to prepare now for future legal challenges. To do this:

Make arrangements with the Attorney General. He recognizes the Board's need for his help and has expressed willingness even to attend some Board meetings.

4. Enlist cooperation by the newly-formed Conservation Commission.

The National Conservation and Environment Protection Act establishes an advisory Conservation Commission. Now that that law has gone into effect, the Board should enlist cooperation from the new Commission.

The Commission should probably play a special role in managing future parks and protected areas on the Peninsula. Management will be critical to protection and enjoyment of both land and marine parks. (See TR&D Volume III Park and Recreation Plans.)

In addition, the Commission might serve as a conservation advocate. As such, it might participate in Board deliberations when the Board revises its regulations and reviews important development proposals.

To get this done:

Discuss with the Conservation Commission what role(s) it is willing to play on the Peninsula. (See also the next recommendation.)

5. Explore opportunities for creation of a charitable land trust or other separate institutional base for obtaining voluntary donations of lands on the Peninsula

Even though the SEP Act designates the entire Peninsula as a "conservation area," specially protected areas are needed as well. No one, for example, seems to doubt the importance of protecting the frigate bird and pelican nesting area at the tip of the Nag's Head Peninsula.

At present, except for beaches and the road, land on the Peninsula is privately owned. In most districts, the new development guidelines require developers to set aside 10 percent of development sites for public parks. This should meet some of the Peninsula's needs for open space and recreation lands.

Mandatory dedication will not do the whole job, however. More than one major landowner has expressed willingness to consider voluntary donation of some areas. Opportunities to obtain voluntary donations of critical lands should be actively explored.

Ad valorem real estate taxes are now being imposed on the Peninsula for the first time. Tax bills have just been sent out. These may enlarge the opportunity to secure voluntary donations, particularly of steep slopes and other clearly unbuildable areas. Some critical areas are of just this kind.

To increase the chances of securing voluntary donations, explore ways to provide assurance that donated land will be wisely managed. As already suggested, the Conservation Commission may have a role to play here.

The possibility of management by a private, nonprofit institution should also be considered. A Southeast Peninsula Land Trust could play a role analogous to that played by the Brimstone Hill Society. Such a private institution might, if supported by one or more major developers, might also prove uniquely effective in mounting a campaign to obtain voluntary land donations.

Needed steps:

Invite owners to donate critical areas. Explore with them whether a land trust, special tax treatment, or other arrangements would enhance their interest.

2.3.4 Housekeeping and Appearance of the Peninsula

Take initiative to protect the appearance of the Peninsula.

As soon as the road opens, the public will explore the Peninsula as never before. As development proceeds, there will be more workers and visitors. In time there will be residents as well. They will bring with them the same sorts of needs as the rest of St. Kitts.

Although the Board does not have housekeeping responsibilities, it should take an interest in such problems as trash collection, car parking, and sanitary facilities. These will affect the public's enjoyment and perception of the Peninsula and will thus affect the Board's ability to do its job. It is in everyone's interest that the Peninsula continue to be regarded as an exciting, largely pristine environment.

Needed steps:

1. Work with housekeeping and utility agencies to encourage provision of service as soon as the road opens.

Excessive staff time should not be diverted into housekeeping matters. From time to time, affected agencies might usefully convene to help each other identify problems on the Peninsula and prepare appropriate responses.

2. Assist and encourage developers of small projects to create appearance compatible with the environment.

Even very small projects could rapidly create a tacky atmosphere incompatible with the quality development desired in major projects. The HDGCSP contains general provisions governing appearance. These general guidelines will not be of much use unless they are further explained to the developers so that they understand the goal and how they can help.

To get this done:

- * Include in the Developer's Handbook, already recommended, some very simple appearance suggestions for structures on the Peninsula. These should include suggestions for signage and landscaping.
- 3. Erect a sign, near the entrance to the Peninsula, announcing the existence of the PLUMP and the HDGCSP and telling the public how to get in touch with the Board.

2.3.5 Miscellaneous

After a year of experience administering present laws and guidelines, evaluate and revise as needed.

Steps needed:

1. Continually prepare for future revision of the PLUMP and the HDGCSP. As the Board and the staff administer the new PLUMP and HDGCSP, provisions that need to be changed, deleted, or added will be encountered. Revision should be expected in a year or so, perhaps sooner. In the meantime, the staff should keep in mind the need for revision and make continuing notations of points at which changes should be considered.

In any revision of the plan document, a short summary of the underlying rationale should be included.

2. Determine later the need for statutory change. Present statutory authority to control development, although rudimentary, appears sufficient to authorize adoption of zoning, subdivision regulations, and several other kinds of development controls for the SEP. The additional statutes that have been most urgently needed are now in force.

With many other needs pressing, no new legislation is recommended now. (As noted, clarifying amendments governing beach access are already being drafted in the Attorney General's office.)

In a year or so, the Board should ask itself whether statutory change would be beneficial. In particular, it will be worth asking:

- * **Are there specific ways in which new or strengthened legislation would help the Board carry out its mission? For example, would specific legislation help the Board in:**
 - **Levying impact fees, service charges, or other charges intended to assure that SEP land bears the costs of providing services?**
 - **Preventing later development of open space remaining after large sites are developed?**
 - **Requiring dedication of parks and open spaces, or managing those spaces after dedication?**

- * **Is it time for comprehensive revision of statutory authority to control development in St. Kitts? Officials are aware that the present statutes are out of date and that other jurisdictions, notably Barbados, have strengthened their statutes. At some point, comprehensive revision will probably be useful.**

APPENDIX 1 **PRINCIPAL LEGAL AUTHORITIES**

1. Southeast Peninsula Land Development and Conservation Act, 1986.

Board. The Southeast Peninsula Land Development and Conservation Board ("Board") comprises five members, each appointment for periods not exceeding three years, each appointment subject to revocation by the Minister at any time.

Powers and functions. The Board's powers and functions include evaluating development schemes; making recommendations concerning land allotment, zoning, an environmental protection plan, etc.; planning; monitoring development.

Board to prepare plan. The Board "shall prepare" a Southeast Peninsula Development and Land Use Management Plan to include:

- * the "guidelines to be used in determining the suitability of particular developmental activities in the Peninsula;"
- * "proposals" dealing with: land use; transport facilities; preservation and management of the scenic and other natural resources; recreation and tourism; waste disposal facilities and power plants; living resources; human settlements; agriculture and industry; coastal conservation; and "any other developmental matter submitted by the Minister."

Effect of plan. The Board "shall submit the Plan and any schemes evaluated by it to the Minister in accordance with the provisions of the Land Development (Control) Act."

Upon approval of the Plan by the Minister, the Plan "shall regulate developmental activity in the Southeast Peninsula."

Criminal penalties are established for failure to comply with the plan.

SEP a conservation area. The SEP "is hereby designated a conservation area" within which activities such as killing wild animals and birds are a criminal offense.

Regulations authorized. The minister may "in consultation with the Board," make regulations to give effect to the principles and provisions of the Act.

Moreover, the Minister "may [no mention of Board consultation] make Regulations relating to the laying out, maintenance and improvement of roads, the laying out and sub-division of land for building purposes, the erection, construction, and alteration of buildings and structures the class and design of buildings or structures to be erected in any specified part of the Southeast Peninsula and for zoning any area or the use to which any land may be put."

2. Land Development Control Act (originally Ordinance), 1966.

No person shall commence or carry out the development of any land without the prior written permission of the Minister. If the Minister declines to approve an application, he must give reasons in writing. Applicant may, within 30 days, appeal to the Cabinet.

Noncompliance is an offense. (An unusual provision requires that development be in only 90 percent compliance.)

The Act refers to a First Schedule containing such elements as Hotel Development.

(According to Patrick Williams report, available regulations and forms include and E.I.A. checklist and guide to assessment procedure for proposed development; general development guidelines; road construction specifications, and septic tank requirements.

3. National Conservation and Environment Protection Act, 1987.

This is comprehensive legislation, applicable to the entire state, with parts addressing establishment and administration of Protected Areas; establishing a national park (Brimstone Hill Fortress) and an historical site (Bath Hotel); coast conservation and beach protection; forestry, soil and water conservation; protection of wild animals and birds, antiquities and historic buildings. Only a few of these provisions are described here.

Establishment of protected areas. The Act establishes several purposes for which the Minister in consultation with the Conservation Commission may, by published notice, designate "any land or marine area" as a national park, nature reserve, botanic garden, marine reserve historic site, scenic site or an area of special concern. The purposes include preserving biological diversity, sustaining natural areas important for protection of life-support systems, and so on. Before designation, there must be a hearing on any "claims or objections relating to such area." The notice must be laid before the National Assembly.

Where the Minister determines to acquire private land for a protected area, acquisition procedures under the Land Acquisition Act shall apply. The Minister "may without acquiring private land enter into written agreements with owners of that land for the right of access to and the right to control such land as a protected area under this Act."

Administration of Protected Areas.

Coast Conservation and Beach Protection.

"All rights in and over the beach are vested in the Crown and the public shall have the right of access and the right to use or enjoy the beach...." "Beach" is defined to extend landward from the mean high water mark as much as 20 metres in some instances "and in all cases shall include the primary sand dune."

"There shall be at least one public access to every beach in Saint Christopher and Nevis and, where the only existing access is a private road, the owner of that road shall give an unimpeded beach right of way to the public at all times without charge."

(The Minister of Development recently put this act into operation. A few proposed amendments are under consideration by the Attorney General. The proposed amendments are expected to make the beach access provisions clearer without changing their basic thrust.)

4. Town and Country Planning [Act], Cap. 264, 1949, is the principal planning legislation. According to Barbara Lausche's 1986 inventory, there are no regulations for implementing the Act. The act is apparently of importance principally as a source of statutory authority for certain powers exercised by the Housing Ministry.

For a fuller description of statutory authorities, see:

Organization of Eastern Caribbean States, St. Christopher and Nevis, National Legislation Related to Natural Resource Management, Country Legal Report No. 1 -- based on country visit July 18-23, 1986 prepared by Barbara J. Lausche.

Williams, P.I., LEGAL AND INSTITUTIONAL FRAMEWORK AS IT MAY AFFECT THE S.E.P. DEVELOPMENT PROCESS, November 1988.

APPENDIX 2 BASIC INSTITUTIONAL FRAMEWORK

A basic institutional framework for conservation and development of the South-East Peninsula was recommended in a 1986 plan prepared by Island Resources Foundation. Today, three years later, some of the recommended framework is in place, and other parts seem unlikely to be put in place. Because the 1986 plan identified critical institutional needs, however, it remains a useful starting point for analysis.

The Minister of Agriculture, Lands, Housing and Development is at the pinnacle of the institutional framework. Below the Minister, the recommended framework included four other elements:

- (1) The Southeast Peninsula Land Development and Conservation Board ("SEP Board"). As noted in the text, the act establishing the board came into effect in 1986, and the Board is in operation.
- (2) Planning Unit. The Planning Unit, among its several roles, currently reviews proposals for most development in St. Kitts. Since October, the unit's small staff has functioned without a chief.

For the Peninsula, too, the Planning Unit should receive and review proposals, as recommended by the 1986 plan. Given the anticipated scale of operation and the limited availability of administrative expertise, this is preferable to establishing a separate administrative unit for the Peninsula alone.

It is nonetheless important to provide a single bureaucratic focal point for planning and development of the Peninsula. This focal point is needed to coordinate the activities of numerous government agencies and also to serve as an initial contact point for prospective developers.

As noted in the text, Mr. Patrick Williams, a project officer in the Planning Unit, will also serve as secretary of the SEP Board.

- (3) Environmental Management Unit. The government needs access to environmental expertise when it evaluates development proposals and monitors compliance with the HDGCSP. The 1986 plan proposed that this expertise be provided by an Environmental Management Unit attached to the Planning Unit.

No such unit currently exists. The need for expertise, however, remains. Accordingly, as recommended in the text, a government employee should be trained or hired to serve as an Environmental Management Specialist.

- (4) Technical Review Committee. Development proposals typically affect several government agencies. To assure compliance with the plan and with other public policies, the principal agencies affected should be consulted before development is

approved. As an institutional mechanism to facilitate this review, the 1986 report recommended creation of a Technical Review Council.

A Technical Review Committee is in operation, but its role on the Peninsula has not yet been finally determined. As recommended in the text, some mechanism to coordinate relevant agencies should now be established.