

M E M O R A N D U M

Date: May 29, 2013

TO: Town Commission

FROM: Anne Ross, Assistant Town Manager

SUBJECT: Resolution 2013-17, Declaring the Buildings and Structures of 1620 Gulf of Mexico Drive, Outparcel B (Maintenance Area) per Town Code Section 150.22(H) are no longer a Public Nuisance

The Building Official has determined that the buildings and structures at 1620 Gulf of Mexico Drive, Outparcel B are public nuisances per Town Code Section 150.22. At the May 20, 2013 Special Meeting, the Town Commission began a public hearing to determine whether the buildings and structures at 1620 Gulf of Mexico Drive, Outparcel B do in fact constitute a public nuisance. The Town Commission heard an update on the maintenance status of Outparcel B based on the Building Official's inspection that morning. At the time of the May 20, 2013 inspection, the Outparcel B structures and buildings had not been secured. During public comment, Katie Moulton informed the Commission that plans for abatement of the maintenance issues was imminent. In consideration of this information the Town Commission continued the public hearing until the June 3, 2013 Regular Meeting.

Town Code Section 150.22 (H) requires the Town Commission to adopt a resolution at the conclusion of the public hearing. The resolution can declare one or more of the following:

1. That the conditions alleged to exist in the buildings or structures do not exist.
2. That the conditions existing in the buildings or structures do not constitute a public nuisance.
3. That the conditions alleged to exist in the buildings or structures have been remedied and that the building or structure does not now constitute a public nuisance.
4. That the conditions existing in the buildings or structures constitute the building or structure a public nuisance, and it is hereby condemned.
5. Any other provisions that will appropriately decide and determine the issues.
6. A description of the conditions existing which constitute the buildings or structures a public nuisance, if any.
7. That upon the failure of the owner to correct and abate the conditions constituting the buildings or structures a public nuisance within a reasonable period of time, which shall be stated in the resolution and shall be not less than three days from the date thereof, the town will abate the conditions constituting the buildings or structures a public nuisance or by appropriate pleadings, institute suit in a court having jurisdiction over the property for a mandatory injunction and any other relief as the town deems necessary and proper, or both.

The Building Official inspected the Outparcel B structures and buildings on May 29, 2013. At that time, the maintenance items related to securing the openings, doors, windows, and greenhouse have been abated. Based on the Building Official's inspection, Staff recommends the Town Commission adopt the attached Resolution 2013-17 determining that the property owner has remedied the situation and the Outparcel B buildings and structures do not constitute a public nuisance.

Pending Town Commission discussion, adopt Resolution 2013-17. Please do not hesitate to contact me if you have any questions or need additional information.

DRAFT RESOLUTION 2013-17

**FINDING
OUTPARCEL B BUILDINGS AND STRUCTURES
DO NOT CONSTITUTE A PUBLIC NUISANCE**

RESOLUTION 2013-17

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, FLORIDA, IDENTIFYING THE BUILDING AND STRUCTURE DEFICIENCIES AT 1620 GULF OF MEXICO DRIVE, OUTPARCEL B; FINDING THE PROPERTY OWNER HAS REMEDIED THE DEFICIENCIES; FINDING THE BUILDING AND STRUCTURES DO NOT CONSTITUTE A PUBLIC NUISANCE; PROVIDING DIRECTION FOR NOTICING THIS RESOLUTION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Building Official of the Town of Longboat Key (the "Town") examined the buildings and structures at 1620 Gulf of Mexico Drive, Outparcel B, Longboat Key, Florida 34228 ("Outparcel B") and determined that there are unsecured openings that pose a threat to public property, private property, and safety of the public; and

WHEREAS, pursuant to Section 150.22 of the Town Land Development Code (the "Town Code"), the Building Official issued a report to the Town Commission detailing the condition of the Outparcel B buildings and structures and finding them to be a public nuisance; and

WHEREAS, on May 6, 2013, the Town Commission considered the Building Official's report and adopted Resolution 2013-16, finding the Outparcel B buildings and structures may constitute a public nuisance and setting a public hearing for May 20, 2013 to determine whether the buildings and structures are in fact a public nuisance; and

WHEREAS, the Town has duly noticed the public hearing pursuant to Section 150.22 (E) & (F) of the Town Code; and

WHEREAS, the Town Commission has heard and read the full report of the Town Manager, or designee, and heard and received all evidence relevant to its determination.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, THAT:

SECTION 1. The buildings and structures located at 1620 Gulf of Mexico Drive, Outparcel B, Longboat Key, Florida 34228 ("Outparcel B") exhibited deficiencies.

SECTION 2. The deficient conditions alleged by the Town to have existed in Outparcel B in Resolution 2013-16 have been remedied by the property owner, and the Outparcel B buildings and structures are declared to not be a public nuisance.

SECTION 3. The Town Clerk, or designee, shall post a copy of this Resolution on or by the Outparcel B buildings and structures and shall mail a copy to the owner of the premises on which the buildings and structures are located, if the address of the owner is known to the Town Clerk.

SECTION 4. If any section, subsection, sentence, clause or provision of this Resolution is held invalid, the remainder of the Resolution shall not be affected.

SECTION 5. This Resolution shall become effective immediately upon adoption.

Passed by the Town Commission of the Town of Longboat Key at a meeting this _____ day of _____, 2013.

James L. Brown, Mayor

ATTEST:

Trish Granger, Town Clerk



**PUBLIC HEARING AND
RESOLUTION 2013-17
OUTPARCEL B
PUBLIC NUISANCE STATUS**

**TOWN COMMISSION REGULAR MEETING
JUNE 3, 2013**



Legend

Outparcel Parcel Boundaries

Aerial Date: May 2012
Boundaries Approximate, Informational Purposes Only



“OUT PARCELS” OWNERSHIP

- 1) **Colony Beach & Tennis Club, Inc.**
 - **Registered Agent: Murray J. Klauber**
- 2) **Colony Beach, Inc.**
 - **Registered Agent: Dr. Murray J. Klauber**
- 3) **Colony Lender, LLC**
 - **Registered Agent: David M. Siegal**
- 4) **Breakpointe, LLC**
 - **Registered Agent: Neal A Sivyer**



OUTPARCEL B CODE VIOLATIONS AND DEFICIENCIES TIMELINE

- Identified to Property Owners on March 19, 2013
- Deficiency compliance deadline of April 12, 2013 not achieved
- Building Official report to Town Commission on May 6, 2013 (Town Code 150.22 (D) & (E))
- May 6, 2013 Town Commission adopted Resolution 2013-16 setting Public Hearing (Town Code 150.22 (E))



NONCOMPLIANCE ISSUES AS OF MAY 6, 2013

- **Outparcel B**
 - **Securing Doors, Windows, and Openings of Maintenance Area**
 - **Securing or Removing Plastic Greenhouse Panels**





BUILDING OFFICIAL INSPECTION UPDATE

- **Inspected May 29, 2013**
- **Maintenance Issues Abated**
- **Outparcel B Buildings & Structures No Longer
Constitute Public Nuisance**



TOWN COMMISSION ACTION

- **Review Evidence**
- **Adopt Resolution 2013-17 Finding
Buildings & Structures of Outparcel B
are Not a Public Nuisance**



End of Agenda Item