

## MEMORANDUM

DATE: August 7, 2015

TO: Planning and Zoning Board

FROM: Maika Arnold, Planner  
Planning, Zoning & Building Department

THROUGH: Alaina Ray, AICP, Director  
Planning, Zoning & Building Department

SUBJECT: Special Exception Application: 3100 Gulf of Mexico Dr.

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APPLICANT: 555 Triton, LLC

AGENT: Michael Furen, Esq.

LOCATION: 3100 Gulf of Mexico Dr.  
Longboat Key, Florida 34228

ZONING DISTRICT: R-4SF

REQUEST: The applicant has requested a Special Exception, under Section 158.126 of the Town Zoning Code, to use the property as a private park and recreation area.

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### **STAFF SUMMARY**

The property owner, 555 Triton LLC, has submitted the above referenced application and proposes to use the property in its current condition as a low intensity private park and recreation area.

The subject property, which is zoned R-4SF, contains a paved circular drive with a gate at the entrance. As proposed, the applicant would like to use the property in its current condition as a park and recreational area. In accordance with Section 158.125, a park and recreation area is a permitted special exception use. The standards for the granting of a Special Exception are outlined in Section 158.126 of the Town Code, and evaluated in staff's report.

### **STAFF ASSESSMENT**

As per Town Code Section 158.126(A), before any Special Exception shall be granted, the Planning and Zoning Board shall make a written finding that the granting of the special exception will not adversely affect the public interest and certifying that the specific requirements governing the individual special exception, if any, have been met

by the petitioner and that, further, satisfactory provision and arrangement has been made concerning the following matters, where applicable.

To facilitate discussions by the Board, the following findings and conclusions have been prepared by staff for your review and consideration:

1. The proposed use is in compliance with all elements of the Comprehensive Plan.
2. The proposed use is a special exception use as set forth in the Schedule of Use Regulations.
3. Safe and convenient ingress and egress to the property is provided by the existing gated access off of Gulf of Mexico Drive.
4. The proposed recreation area does not include any buildings or facilities; therefore, off-street parking is not required. However, the site includes an existing shell drive shown on the site plan that currently provides onsite parking, and meets the setback requirements.
5. No refuse or service areas are required for the proposed land use.
6. New utility service is not proposed.
7. Screening of the proposed use shall be provided by a 6 ft. buffer hedge along Triton Bend. The hedge material must be a minimum height of 4 ft. at planting.
8. Signage is not proposed.
9. The site plan shows that all required yard setbacks are met.
10. The proposed use conforms to all applicable regulations governing the district. The applicant proposes the following recreational uses for the property: picnicking, bird watching, walking/jogging, lawn croquet, and bocci ball.
11. The proposed use is generally compatible with adjacent properties and other properties in the district. The compatibility of the proposed use is specifically evaluated through the following criteria:
  - a. **Whether the proposed use would be contrary to the land use plan and would have an adverse effect on the Comprehensive Plan.** As a permitted land use, the proposed use will not be contrary to the land use plan and will not have an adverse effect on the Comprehensive Plan.
  - b. **Whether the proposed use would be compatible with the established land use pattern.** The proposed use does not affect the established land use pattern in the vicinity. Adequate and sufficient buffering shall be required of the proposed use.
  - c. **Whether the proposed use would materially alter the population density pattern and thereby increase or overtax the load on public facilities such as schools, utilities and streets.** The proposed use will

not alter the population density pattern and therefore does not increase or overtax the load on public facilities such as schools, utilities and streets.

- d. **Whether changed or changing conditions find the proposed use to be advantageous to the community and the neighborhood.** The proposed park will be advantageous to the community, as it will not create additional intensity or traffic.
- e. **Whether the proposed use would adversely influence living conditions in the neighborhood.** The proposed park would not change the existing uses and would not adversely influence the living conditions in the neighborhood. The property will be screened from adjacent properties and will be relatively isolated from the neighborhood.
- f. **Whether the proposed use would create or excessively increase traffic congestion or otherwise affect public safety.** The proposed use should not create or excessively increase traffic congestion or otherwise affect public safety.
- g. **Whether the proposed use would create a drainage problem.**  
The property will remain as is, and will not have any additional building or lot coverage. The proposed use would not create any drainage problems.
- h. **Whether the proposed use would seriously reduce the flows of light and air to adjacent areas.** The proposed use will not reduce the flows of light and air to adjacent areas.
- i. **Whether the proposed use would affect property values in the adjacent area.** No evidence has been produced demonstrating that the proposed use will adversely affect property values in the adjacent area.
- j. **Whether the proposed use would be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.** The proposed expansion of use should not be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.
- k. **Whether the proposed use would be out of scale with the needs of the neighborhood or the town.** The proposed use will not be out of scale with the needs of the neighborhood or the Town.

### **STAFF RECOMMENDATIONS**

Staff recommends that the Board APPROVE Special Exception Order #2015-01, with the following condition:

1. Exotic tree and/or invasive exotic vegetation removal and hedge planting of the site shall be completed within 90 days of final approval of Special Exception Order #2015-01. Screening of the proposed use shall be provided by a 6 ft. buffer hedge along Triton Bend. The hedge material must be a minimum height of 4 ft. at planting.

Pursuant to Section 158.126 of the Town Code, a special exception shall expire 24 months from the date of the grant, unless appealed and extended, if by that date the use for which the special exception was granted has not been commenced. Additionally, pursuant to Town Code, any special exception shall expire 12 months following the discontinuance of the use for which the special exception was granted.

### **ATTACHMENTS**

Attached, please find a copy of the Special Exception petition and support documentation. If you should have any questions, or desire any additional information, please do not hesitate to contact the Planning, Zoning & Building Department.

xc: Maggie Mooney-Portale, Town Attorney  
Alaina Ray, AICP, Director – Planning, Building & Zoning Department



**PLANNING AND ZONING BOARD  
SPECIAL EXCEPTION ORDER #2015-01**

**AN ORDER OF THE PLANNING AND ZONING BOARD OF THE TOWN OF LONGBOAT KEY, FLORIDA, APPROVING A SPECIAL EXCEPTION APPLICATION FOR 3100 GULF OF MEXICO DRIVE, TO ALLOW FOR USE OF THE PROPERTY IN ITS CURRENT CONDITION AS A LOW INTENSITY PRIVATE PARK AND RECREATION AREA; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, 555 Triton, LLC (hereinafter the "Owner") owns certain real property located at 3100 Gulf of Mexico Drive; and

**WHEREAS**, a private park and recreation area is an allowed use at 3100 Gulf of Mexico Drive, as permitted in the Town of Longboat Key Zoning Code; and

**WHEREAS**, the Owner has submitted a Special Exception application requesting to use the property in its current condition as a low intensity private park and recreation area; and

**WHEREAS**, the Planning and Zoning Official has, in a timely fashion, accepted the Owner's application and referred the same to the Planning and Zoning Board along with the supporting documentation and staff recommendations; and

**WHEREAS**, on September 15, 2015, the Planning and Zoning Board heard testimony and evidence presented at a duly noticed public hearing relating to the Owner's Special Exception request and approved the Owner's request subject to certain enumerated conditions; and **NOW, THEREFORE, BE IT ORDERED BY THE PLANNING AND ZONING BOARD, THAT:**

Section 1. The above recitals are true and correct and are hereby fully incorporated herein by reference.

Section 2. After considering all of the testimony and evidence presented at the public hearing, the Planning and Zoning Board hereby makes the following findings:

1. The proposed use is in compliance with all elements of the Comprehensive Plan.
2. The proposed use is a special exception use as set forth in the Schedule of Use Regulations.
3. Safe and convenient ingress and egress to the subject property is provided by the existing gated access off of Gulf of Mexico Drive.
4. The proposed recreation area does not include any buildings or facilities; therefore, off-street parking is not required. The site includes an existing shell drive shown on the Owner's site plan that currently provides onsite parking, and meets the setback requirements.
5. No refuse or service areas are required for the proposed land use on the

- subject property.
6. New utility service is not proposed on the subject property.
  7. Screening of the proposed use shall be provided by a 6 ft. buffer hedge along Triton Bend. The hedge material must be a minimum height of 4 ft. at the time of planting.
  8. Signage is not proposed for the subject property.
  9. The Owner's proposed site plan shows that all required yard setbacks are met.
  10. The Owner's proposed uses conform to all applicable regulations governing the zoning district. The Owner's proposed uses for the property includes: picnicking, bird watching, walking/jogging, lawn croquet, and bocci ball.
  11. The Owner's proposed use is generally compatible with adjacent properties and other properties in the zoning district.

Section 3. The Special Exception Use application for a private park and recreation area at 3100 Gulf of Mexico Drive, Longboat Key, Florida 34228 is hereby approved subject to the following condition:

- Exotic tree and/or invasive exotic vegetation removal and hedge planting of the site shall be completed within 90 days of final approval of Special Exception Order #2015-01. Screening of the proposed use shall be provided by a 6 ft. buffer hedge along Triton Bend. The hedge material must be a minimum height of 4 ft. at planting.

Section 4. Pursuant to Section 158.126 of the Town Code, a special exception shall expire 24 months from the date of the grant, unless appealed and extended, if by that date the use for which the special exception was granted has not been commenced. Additionally, pursuant to Town Code, any special exception shall expire 12 months following the discontinuance of the use for which the special exception was granted.

Section 5. This Order allowing for use of the property in its current condition as a low intensity private park and recreation area shall become effective immediately upon adoption by the Planning and Zoning Board. A copy of this Order shall be recorded in the Sarasota County public records.

Section 6. If any section, subsection, sentence, clause or provision of this Ordinance is held to be invalid or ineffective, the validity of the remaining portions of this Ordinance shall not be affected.

ADOPTED at a meeting of the Planning and Zoning Board of the Town of Longboat Key, on the 15<sup>th</sup> day of September 2015.

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Jim Brown, Chair

ATTEST:

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Kenneth Schneier, Secretary

# ICARD MERRILL

ATTORNEYS & COUNSELORS

Michael J. Furen

2033 Main Street  
Suite 600  
Sarasota, FL 34237  
Direct: 941.953.8105  
941.366.8100  
Fax: 941.366.6384  
mfuren@icardmerrill.com

July 23, 2015

icardmerrill.com

**VIA HAND DELIVERY**

Donna Chipman, CPS/CAP  
Planning, Zoning and Building Department  
Town of Longboat Key  
501 Bay Isles Road  
Longboat Key, FL 34228

**Re: Special Exception Petition for 3100 Gulf of Mexico Drive**

Dear Donna:

Enclosed please find fifteen (15) copies of the following:

1. Petition for Special Exception and Exhibits
2. Property Owner Affidavit
3. Verified Statement and Certificate of Ownership

Please note that, at the Town Staff's request, the Survey/Site Plan (Exhibit C to the Petition for Special Exception) was revised. We also prepared a Memorandum in Support of Petition for Special Exception for Private Park and Recreation Area Located at 3100 Gulf of Mexico Drive, and it is attached as new Exhibit D to the Petition for Special Exception.

A check for the \$1,000 filing fee payable to the Town of Longboat Key is also enclosed.

Sincerely,

ICARD, MERRILL, CULLIS, TIMM,  
FUREN & GINSBURG, P.A.



Michael J. Furen

MJF/lmb  
Enclosures

cc: Alaina Ray, Director of Planning, Zoning & Building (without enclosures)  
Steve Schield, ASLA, AICP, CFM, Town Planner (without enclosures)  
Maika Arnold, Town Planner (without enclosures)  
Mr. Ben Price (with enclosures)

00317592-1

Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A. - Established 1953  
Offices in Sarasota, Manatee and Charlotte Counties



**Planning, Zoning & Building Department** (941) 316-1966  
**501 Bay Isles Road**  
**Longboat Key, Florida 34228**  
**Fax Number: (941) 373-7938**  
**Web: <http://www.longboatkey.org>**

**PETITION FOR SPECIAL EXCEPTION**

**THE APPLICANT IS REQUIRED TO SUBMIT TWENTY-FIVE (25) COLLATED SETS (ONE BEING AN ORIGINAL) OF THIS APPLICATION, SUPPORTING PLANS AND DOCUMENTS**

(I) (We) 555 Triton, LLC \_\_\_\_\_ of  
 \_\_\_\_\_ Name  
7519 Pennsylvania Avenue, Suite 102, Sarasota, Florida 34243  
 \_\_\_\_\_  
 (Mailing address)

request a Special Exception pursuant to the Ordinances of the Town of Longboat Key.

This petition concerns Section(s) 158.125 (R-4SF / Special Exception), Paragraph(s) 2 of the Town of Longboat Key Zoning Ordinance for the reason that it is a request for a special exception, as provided in the section of the Ordinance above referred to.

**PROPERTY DESCRIPTION**

Property is located at 3100 Gulf of Mexico Drive, Longboat Key, Florida 34228.

The legal description (if applicable) is as follows: \_\_\_\_\_  
 \_\_\_\_\_ Lot(s)  
 \_\_\_\_\_  
 \_\_\_\_\_ Block \_\_\_\_\_ Subdivision or Plat  
 or See Exhibit A Attached  
 \_\_\_\_\_  
 (if otherwise legally described)

Lot Size 38,750 square feet Present Zoning Classification R-4SF

Present Use Vacant, except for shell driveway, privacy gate, shell/grass parking area and landscaping.  
 \_\_\_\_\_  
 \_\_\_\_\_

Present structures (type) and improvements upon the land Same as described in preceding paragraph. Please see aerial attached as Exhibit B and survey attached as Exhibit C.  
 \_\_\_\_\_  
 \_\_\_\_\_

PETITION FOR SPECIAL EXCEPTION  
Page 2

The proposed use will be A private park and recreation area with related grass/shell parking areas.

If this petition is granted, the effect will be to Allow the site to be used as a private park and recreation area.

(brief description, i.e. to reduce side yard from 7.5 ft. to 2 ft.)

Has any previous application or appeal been filed within the last year in connection with these premises?  yes  no If so, briefly state the nature of the application or appeal:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What is the Applicant's interest in the premises affect? Owner

(Owner, agent, lessee, etc.)

**LISTS AND LABELS OF ALL PROPERTY OWNERS WITHIN 500 FT. OF SUBJECT PROPERTY THAT ARE TO BE NOTIFIED WILL BE PROVIDED BY THE TOWN.**

**FOR STAFF USE ONLY**

Application Fee: \$ 1000.00 deposit\* \_\_\_\_\_ Receipt # \_\_\_\_\_  
(Application fee will be deducted from deposit)

Application and Plans Accepted By: \_\_\_\_\_ Date: \_\_\_\_\_

File Code/Number: \_\_\_\_\_

*\*Deposit required at time of formal submission*

At the conclusion of your plan review by the Town, you will be billed for additional staff time, Town Attorney cost, cost of advertising, and any other miscellaneous costs incurred with the processing of your application(s). Costs will be deducted from initial deposit. If costs exceed the initial deposit, you will be billed for the remaining costs incurred; or you will be refunded the unused portion of the deposit.

PETITION FOR SPECIAL EXCEPTION  
Page 3

(I) (We) understand that this Petition becomes a part of the permanent records of the Town of Longboat Key. (I) (We) certify that the above statements and the statements or showing made in any paper or plans submitted herewith are true to the best of (my) (our) knowledge and belief.

By: [Signature]  
Signature of Owner

Ben E. Price, Manager  
Print or type Owner Name

Mailing address you wish  
information sent to and telephone  
number:

2033 Main Street  
Suite 600  
Sarasota, Florida 34237

Phone # (941) 366-8100

Fax # (941) 366-6384

[Signature]

The Owner has hereby designated the  
above signed person to act as his  
agent in regard to this Petition. (To be  
executed when Owner designates  
another to act on his behalf)

Michael J. Furen, Esq.  
Print or type Agent Name

**Notarization of Agent's Signature:**

State of Florida

County of Sarasota

The foregoing instrument was acknowledged before me this 15 day of May, 2015

by Michael J. Furen

as Agent for 555 Triton, LLC

(type of authority)

(name of party acting on behalf of)

[Signature]  
Notary Public

Lauren M. Bray  
Name of Notary (print, typed or stamped)

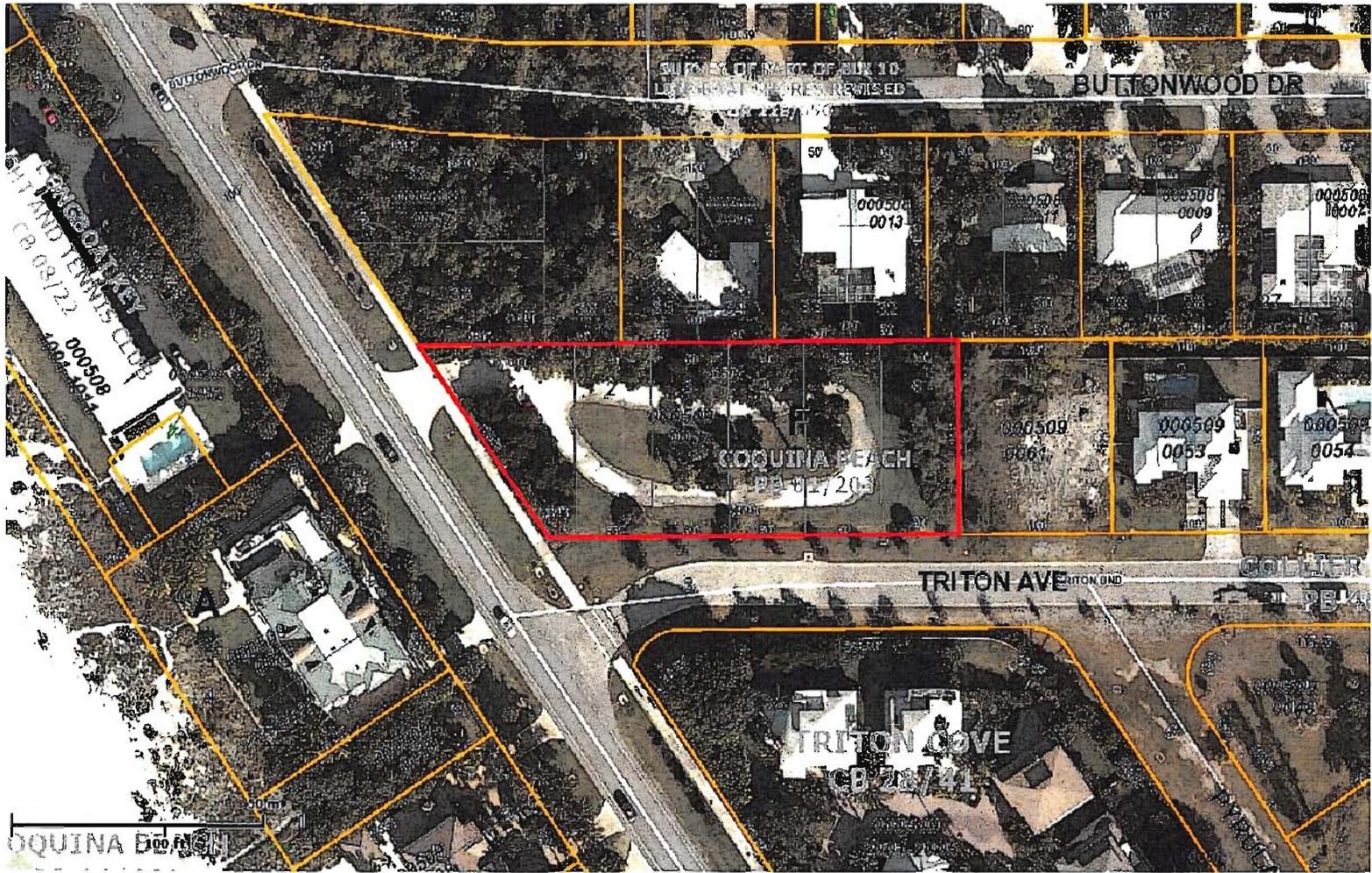
Personally know  OR produced identification

Type of Identification \_\_\_\_\_



**EXHIBIT "A"**

Lot 1, less the Southwesterly 10 feet for right-of-way, and Lots 2, 3, 4, 5 and 6, Block F, Coquina Beach, according to the map or plat thereof as recorded in Plat Book 1, Page 203, Public Records of Sarasota County, Florida.



**Bill Furst**  
 Sarasota County Property Appraiser



This map is a product of, and prepared for use by the  
 Sarasota County Property Appraiser Office.  
 No warranties are expressed or implied.

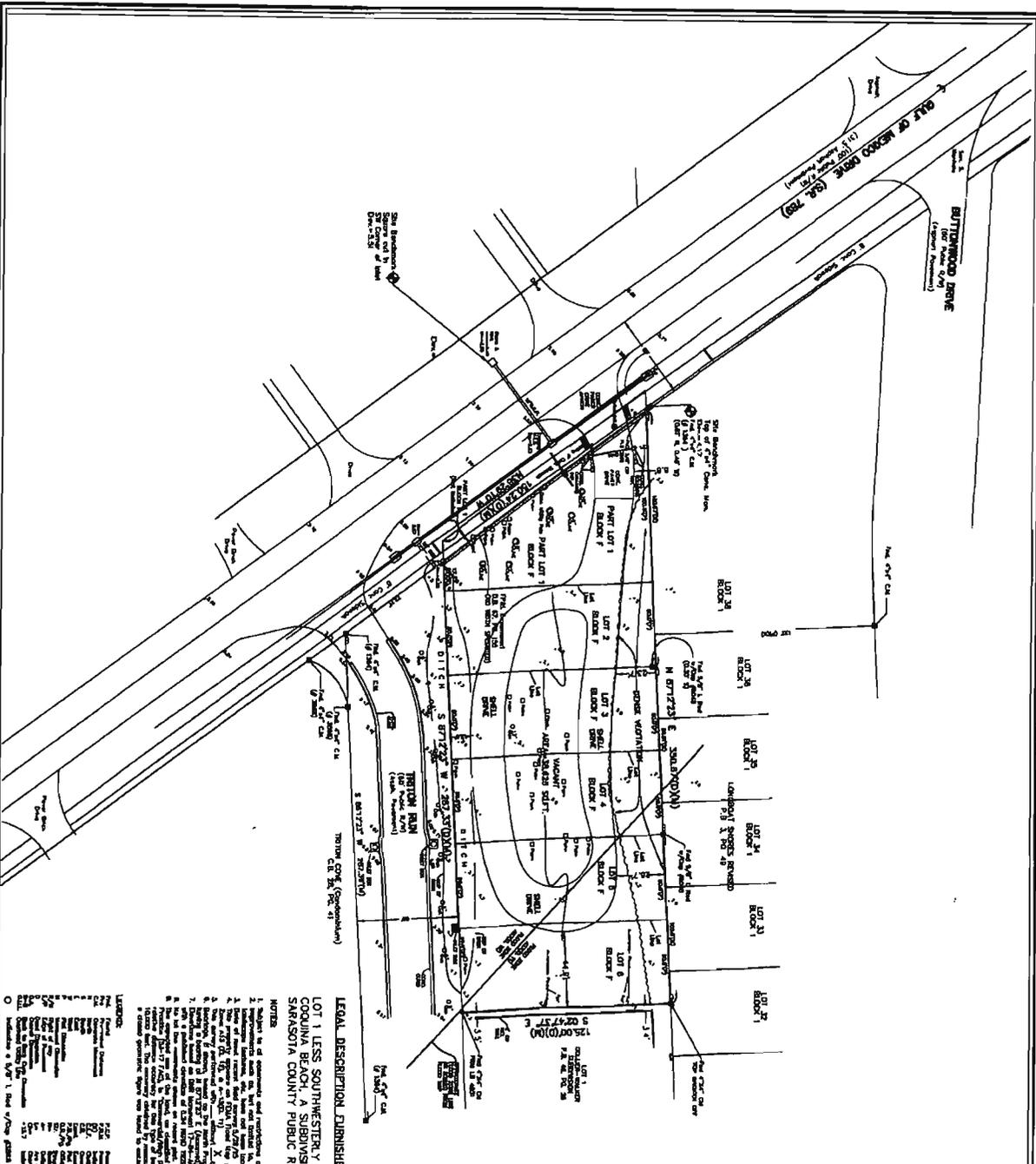


 **Parcels**  **?**  
 **Lots**

Disclaimer The information appearing on this website was extracted from the records of the Sarasota County Property Appraiser's Office. Our goal is to provide the most accurate information available. However, no warranties, expressed or implied, are provided for the data, its use or interpretation. The property values relate to the last valuation date. The data is subject to change. Copyright @ 2001 - 2010 Sarasota County Property Appraiser. All rights reserved. Printed on Wed Jul 22 2015 11:40:54 AM.

**EXHIBIT "B"**

EXHIBIT "C"



**SITE DATA:**

PARCEL AREA	=	38,625 S.F.	100.0%
CONCRETE PAVEMENT DRIVE	=	856 S.F.	2.2%
SHELL DRIVE	=	9,973 S.F.	25.8%
CAST COLUMNS	=	24 S.F.	0.06%

**LEGAL DESCRIPTION FURNISHED:**  
 LOT 1 LESS SOUTHWESTERLY 10 FEET & LOTS 2, 3, 4, 5 & 6, BLOCK "F",  
 COQUINA BEACH, A SUBDIVISION RECORDED IN PLAT BOOK 1, PAGE 203,  
 SARASOTA COUNTY PUBLIC RECORDS

- NOTES:**
1. Subject to all easements and restrictions of record.
  2. All easements shown on this plat are shown for informational purposes only. The owner of the land is responsible for obtaining all necessary easements.
  3. The plat is subject to all recorded easements and restrictions.
  4. The plat is subject to all recorded easements and restrictions.
  5. The plat is subject to all recorded easements and restrictions.
  6. The plat is subject to all recorded easements and restrictions.
  7. The plat is subject to all recorded easements and restrictions.
  8. The plat is subject to all recorded easements and restrictions.
  9. The plat is subject to all recorded easements and restrictions.
  10. The plat is subject to all recorded easements and restrictions.

**LEGEND:**

Symbol	Description
—	Property Boundary
—	Right-of-Way Boundary
—	Utility Easement
—	Other Easement
—	Other

**DATE:** 11/11/2011  
**BY:** [Signature]  
**FOR:** [Signature]

 NORTH	<b>BOUNDARY &amp; TOPOGRAPHIC SURVEY</b> LOTS 1 THRU 6, BLOCK "F" COQUINA BEACH SUBDIVISION Section 7, Township 36 South, Range 17 East Sarasota County Florida	<b>WEBER ENGINEERING &amp; SURVEYING, INC.</b> 4596 Adcock Road - Sarasota, Florida 34235 Telephone: (941) 921-5714 - Fax: (941) 924-3094 www.weberengineering.com Surveying & Mapping Products Authorized by the State of Florida
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## EXHIBIT "D"

### **APPLICANT'S MEMORANDUM IN SUPPORT OF PETITION FOR SPECIAL EXCEPTION FOR PRIVATE PARK AND RECREATION AREA LOCATED AT 3100 GULF OF MEXICO DRIVE**

#### **I. APPLICANT'S PETITION FOR SPECIAL EXCEPTION IS SUPPORTED BY ZONING DETERMINATION LETTER FROM THE TOWN DATED APRIL 28, 2015**

On April 15, 2015, the Applicant requested a Zoning Determination Letter concerning the Parcel from the Town. The Town responded to the Applicant's request on April 28, 2015. Copies of the Applicant's request and the Town's Zoning Determination Letter are attached as Exhibit 1 and 2, respectively.

Two (2) relevant determinations requested by the Applicant and the Town's response to them are set forth below:

→Applicant's Request: Confirmation that "A private Park and recreation area is an authorized special exception use in the R-4SF zone district."

Town's Determination: "The R-4SF zoning district allows 'Parks and recreation areas' as a Special Exception Use, if the land is designated, used, or intended to be used for recreational activities. The code does not distinguish between public or private parks and recreation areas, so a private park and recreation area approved by Special Exception is an allowable use in the R-4F zoning district."

→Applicant's Request: "The Site may be used in its present condition as a private park and recreation area in the event the Town's Planning and Zoning Board approves a special exception for this use on the Site." (emphasis supplied)

Town's Determination: "The Planning and Zoning Board may approve the site as a private park and recreation area in its present condition by Special Exception. The Board may also place additional conditions on the site to ensure its use as a private park and recreation area." (emphasis supplied)

#### **II. APPLICANT'S PETITION FOR SPECIAL EXCEPTION COMPLIES WITH THE TOWN'S COMPREHENSIVE PLAN AND THE CRITERIA FOR APPROVALS OF SPECIAL EXCEPTIONS SET FORTH IN THE TOWN'S LAND DEVELOPMENT CODE**

A. Compliance with Town's Comprehensive Plan

On June 30, 2015, Maika Arnold, Town Planner, requested the Applicant to provide additional information concerning compliance of the Applicant's Petition with the Town's Comprehensive Plan. The information requested is provided below.

It is obvious that the Town would not have issued a Zoning Determination Letter confirming that the use of the Parcel as a private park and recreation area was permitted in the R-4SF Zone District and the RM-4 Future Land Use Classification as a Special Exception, unless the use was consistent and in compliance with the Town's Comprehensive Plan. The same would be true of the Town's Zoning Determination that the Planning and Zoning Board may approve the Parcel as a private park and recreation area in its present condition by Special Exception.

Additionally, in response to the request from Town Staff for additional information concerning compliance and consistency of the Applicant's Petition with the Town's Comprehensive Plan, the Applicant offers the following comments.

- (a) GOAL 1 of the Future Land Use Element of the Town's Comprehensive Plan provides: "To preserve and enhance the character of the Town of Longboat Key by the following: 1) ensuring that the location, density, intensity, and character of land uses are responsive to the social and economic needs of the community and are consistent with the support capabilities of the natural and manmade systems; and (2) maintaining an environment that is conducive to the health, safety, welfare, and property values of the community."

*The low intensity private park and recreation use proposed by the Applicant will promote and further this Goal to a greater degree than the several dwelling units that could be developed and constructed by the Applicant on the parcel as a matter of right. The Applicant's proposed low intensity private park and recreation use is consistent with the support capabilities of the natural and manmade systems of the Town and maintains the required conducive environment.*

- (b) OBJECTIVE 1.1 of the Future Land Use Element of the Town's Comprehensive Plan provides: "The Town will manage land development through the preparation, adoption, implementation, and enforcement of land development regulations."

*The low intensity private park and recreation area use proposed by the Applicant is in compliance with the Town's Land Development Regulations.*

(c) Policy 1.1.1 of the Future Land Use Element of the Town's Comprehensive Plan provides: "The Town has adopted land development Regulations, which address the location and extent of land uses, in accordance with the Future Land Use Map and the policies and descriptions of types, densities, and intensities of land uses contained in this element."

*The location and intensity of the private park and recreation area use proposed by the Applicant is consistent with the adopted Land Development Regulations of the Town and, therefore, furthers this policy.*

(d) Policy 1.1.7 of the Future Land Use Element of the Town's Comprehensive Plan provides: "In development planning efforts, emphasis will be placed upon the protection of the visual and aesthetic character of neighborhoods, including open space."

*The low intensity private park and recreation use proposed by the Applicant provides greater protection of the visual and aesthetic character of the neighborhood, including open space, compared to the residential development allowed by the Comprehensive Plan and the zoning district of the Parcel.*

(e) The Parcel is designated RM-4 (Medium Density Single-Family/Mixed Residential) under Policy 1.1.10 of the Future Land Use Element of the Town's Comprehensive Plan.

*This land use designation permits the Parcel to be used for the low intensity private park and recreation area proposed by the Applicant. The Applicant's proposed use is, therefore, in compliance with and consistent with Policy 1.1.10.*

(f) OBJECTIVE 1.3 of the Town's Comprehensive provides: "All development orders and permits will be issued only if public or private facilities necessary to meet level of service (LOS) standards (which are adopted as part of the Capital Improvements Element of this Plan) are available concurrent with the impacts of the development."

*Public facilities meeting the adopted level of service standards adopted by the Town presently exist to serve the Applicant's proposed low intensity private park and recreation use. The Applicant's proposed use, therefore, meets and furthers this Objective.*

(g) GOAL 1 of the Recreation and Open Space Element of the Town's Comprehensive Plan provides: "The Town will ensure the provision of appropriate recreational facilities and open space areas to satisfy the health, safety, and welfare of the Town."

*The low intensity private park and recreation area use proposed by the Applicant furthers this Goal by providing an appropriate recreational facility and open space area.*

(h) OBJECTIVE 1.1 of the Recreation and Open Space Element of the Town's Comprehensive Plan provides: "The Town will adopt a level of service (LOS) and coordinate efforts with the private sector to assure the continued provision of appropriate recreational opportunities."

*The Town, by approving the Applicant's Petition for Special Exception, to allow the Applicant's property to be used as a private park and recreation area, will be coordinating efforts with the private sector to assure the continued provision of appropriate recreational opportunities. The Applicant's proposed low intensity use is consistent with this Objective.*

(i) Policy 1.2.3 of the Recreation and Open Space Element of the Town's Comprehensive Plan provides: "The Town will strongly encourage the preservation and expansion of open space through both public purchase and private cooperation."

*The Applicant's proposed low intensity private park and recreation area use will preserve the large areas of open space located on the Parcel and, therefore, the Town, by cooperating with the Applicant and approving the Applicant's Petition for Special Exception, will be furthering this Policy.*

(j) Policy 1.1.3 of the Transportation Element of the Town's Comprehensive Plan provides: "The Town will monitor traffic growth to ensure that the adopted LOS standards are not exceeded before the approval of future additional development."

*The minimal amount of traffic generated by the Applicant's proposed low intensity private park and recreation area use ensures that the adopted LOS standards of the town are not exceeded and the Town's approval of the Applicant's Petition for Special Exception would be consistent with this Policy.*

(k) Policy 1.10.1 of the Transportation Element of the Town's Comprehensive Plan provides: "Coordinate the transportation system with the Future Land Use Map

to ensure that existing and proposed population densities, housing and employment patterns, and land uses are consistent with the transportation modes and services proposed to serve these areas.”

*The Applicant's proposed low intensity private park and recreation area land use is consistent with the transportation modes and services proposed to serve the area in which the Applicant's parcel is located.*

(l) GOAL 1 of the Conservation and Coastal Management Element of the Town's Comprehensive Plan provides: “The Town will maintain the quality of its environmental features.”

*The Applicant's proposed low intensity private park and recreation use for the Parcel will maintain the quality of the present environmental features located on the Parcel and, thus, furthers this Goal.*

**B. Compliance with Criteria for Approval of Special Exceptions**

**158.126 - Special exception uses.**

As per Town Code Section 158.126(A), before any special exception shall be granted, the Planning and Zoning Board shall make a written finding that the granting of the special exception will not adversely affect the public interest and certifying that the specific requirements governing the individual special exception, if any, have been met by the petitioner and that, further, satisfactory provision and arrangement has been made concerning the following matters, where applicable. The applicant shall address, and provide answers where necessary: (emphasis supplied)

(1) Compliance with all elements of the Comprehensive Plan.

*See II.A. above.*

(2) That the use is a permitted special exception use as set forth in the Schedule of Use Regulations.

*Section 158.125, the Schedule of use regulations of the Town's Zoning Code provides that "Parks and recreation areas" are an allowable Special Exception Use in the R-4SF (Single-Family Medium-Density Residential District).*

- (3) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

*Ingress and egress to the Parcel is by a single driveway from Gulf of Mexico Drive as reflected on the survey/site plan. The driveway has a security/privacy gate. This driveway will be the only access to the Parcel.*

- (4) Off-street parking and loading areas, where required, with particular attention to the items in (3) above and the economic, noise, glare, or other effects of the special exception on adjoining properties and properties generally in the district.

*Parking for the Parcel will be located along the existing shell drive located on the Parcel and reflected on the survey/site plan.*

*As no buildings are proposed on the Parcel, there will be no loading areas.*

- (5) Refuse and service areas, with particular reference to items in (3) and (4) above.

*As there will be no buildings located on the Parcel, there is no need for any refuse and service areas. All trash generated by each user of the private park and recreation area will be required to remove all trash the user generates on-site when he/she exits the Parcel.*

- (6) Utilities, with reference to locations, availability, and compatibility.

*No additional utilities are proposed for the Parcel.*

- (7) Screening and buffering with reference to type, dimensions and character.

*No parking areas will be located adjacent to any adjoining residential uses. A buffer with a hedge will be provided along Triton Bend. There is existing foliage providing buffering along the north, west and east property lines of the Parcel.*

- (8) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effects, and compatibility and harmony with properties in the district.

*No signage is being proposed, except for small "Private Property" and "No Trespassing" signs complying with the Town's Sign Code.*

- (9) Required yards and other open space.

*There are no existing buildings on the parcel and no new buildings are proposed on the Parcel. The survey/site plan reflects the distances from the northeast and south property lines to the shell drive where parking will be allowed.*

- (10) That the use conforms to all applicable regulations governing the district where located.

*As indicated by the Town's Zoning Determination Letter, the proposed use conforms with the RM-4 future land use classification and the R-4SF zoning district of the Parcel.*

*The following recreational uses are proposed for the Parcel: (a) picnicking; (b) bird watching; (c) walking/jogging; (d) lawn croquet; and (e) bocci ball.*

- (11) Considerations relating to general compatibility with adjacent properties and other property in the district, including but not being limited to:

- (a) Whether the proposed use would be contrary to the land use plan and would have an adverse effect on the Comprehensive Plan.

*As indicated in Item I above and II.A. above, the Applicant's proposed use is not contrary to the land use plan and would not have an adverse affect on the Comprehensive Plan.*

- (b) Whether the proposed use would be compatible with the established land use pattern.

*The established land use pattern in the area is primarily residential. A private park and recreation area such as that proposed by the Applicant would be and is compatible with the established land use pattern in the area. As previously indicated, the proposed private park and recreation area use is less intensive than the residential development permitted on the Parcel.*

- (c) Whether the proposed use would materially alter the population density pattern and thereby increase or overtax the load on public facilities such as schools, utilities and streets.

*The proposed private park and recreation area use will not alter in any way the population density pattern by the Town and will not in any way increase or overtax the load on public facilities such as schools, utilities and streets.*

- (d) Whether changed or changing conditions find the proposed use to be advantageous to the community and the neighborhood.

*The proposed private park and recreation use will be advantageous to the community and the neighborhood and is less intense than the residential development permitted on the Parcel.*

- (e) Whether the proposed use would adversely influence living conditions in the neighborhood.

*The Parcel is a corner lot fronting on Gulf of Mexico Drive and is relatively isolated from the rest of the neighborhood. The low intensity use proposed by the Applicant would actually have a positive impact on living conditions in the neighborhood.*

- (f) Whether the proposed use would create or excessively increase traffic congestion or otherwise affect public safety.

*The proposed use will generate only minimal traffic besides traffic that will already be on the roadway system. There is only one access to the Parcel from Gulf of Mexico Drive and there will be no access from any local or neighborhood roads. The proposed low intensity use will not create or excessively increase traffic congestion or otherwise affect public safety.*

- (g) Whether the proposed use would create a drainage problem.

*The existing drainage system and drainage flows for the area will remain as no additional buildings or impervious surfaces are proposed. The proposed use, therefore, will not create a drainage problem.*

- (h) Whether the proposed use would seriously reduce the flows of light and air to adjacent areas.

*As no buildings or other vertical structures are proposed by the Applicant, the proposed use will not reduce the flows of light and air to adjacent areas.*

- (i) Whether the proposed use would adversely affect property values in the adjacent area.

*The proposed private park and recreation area use proposed by the Applicant will have no adverse affect on property values in the adjacent area and may positively affect those property values.*

- (j) Whether the proposed use would be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.

*The Applicant's proposed use will have no impact on the improvement or development of adjacent property in accordance with the Town's existing regulations.*

- (k) Whether the proposed use would be out of scale with the needs of the neighborhood or the Town.

*The low intensity private park and recreation area use proposed by the Applicant is not out of scale with the needs of the neighborhood or the Town. No new residential development is proposed.*

**EXHIBIT 1**

**TO**

**APPLICANT'S MEMORANDUM IN SUPPORT OF PETITION FOR SPECIAL  
EXCEPTION FOR PRIVATE PARK AND RECREATION AREA  
LOCATED AT 3100 GULF OF MEXICO DRIVE**

# ICARD MERRILL

ATTORNEYS & COUNSELORS

Michael J. Furen



2033 Main Street  
Suite 600  
Sarasota, FL 34237  
Direct: 941.953.8105  
941.366.8100  
Fax: 941.366.6384  
mfuren@icardmerrill.com

icardmerrill.com

April 15, 2015

**VIA HAND DELIVERY**

Alaina Ray, AICP  
Director of Planning, Zoning & Building  
Planning, Zoning and Building Department  
Town of Longboat Key  
501 Bay Isles Road  
Longboat Key, FL 34228

**Re: Request for a Zoning Determination Letter Concerning Parcel Located at 3100 Gulf of Mexico Drive, Longboat Key, Florida 34228 (Parcel ID: 0005-09-0017)**

Dear Ms. Ray:

Our firm and I represent 555 Triton LLC, a Florida limited liability company and the owner of the above-described parcel (the "Site").

The Site consists of approximately 38,750 square feet, appears to have a Future Land Use Classification of RM-4 (Medium Density SF/Mixed Residential) under the Town's Future Land Use Map and appears to be zoned R-4SF (Single-Family Medium-Density Residential) under the Town's Zoning Code.

We are enclosing a map and two (2) aerials photographs from the Sarasota County Property Appraiser's website reflecting the location of the Site and the adjacent areas. You will note, after reviewing the aerial photographs, that the Site is essentially vacant with only a shelled circular driveway located on it.

Section 158.125 of the Town's Zoning Code provides that: "Parks and recreation areas" are an authorized special exception use in the R-4SF zoning district. Parks and recreation areas were added as an authorized special exception use in all residential zoning districts by Ordinance 93-13 adopted by the Town Commission on June 24, 1993. A copy of this Ordinance is enclosed for your convenience.

00259378-1

Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A. - Established 1953  
Offices in Sarasota, Manatee and Charlotte Counties

Section 158.006 of the Town Zoning Code defines "Parks and recreation areas" as: "*Parks and recreation areas.* Land designed, used, or intended to be used for recreational activities by residents and visitors with on-site improvements, structures, or other active, player-oriented facilities such as playgrounds, ball fields, tennis courts, and associated accessory facilities."

There is nothing in the Town Zoning Code that limits parks and recreation areas to publically owned parks and recreation areas and private parks and recreation areas are authorized as permitted special exception uses in all residential zone districts.

On behalf of our client, therefore, we would appreciate it if you would issue a zoning determination letter confirming:

1. The Future Land Use Classification of the Site under the Town's Comprehensive Plan and Future Land Use Map.
2. The zoning of the Site under the Town's Zoning Code and Zoning Map.
3. The Site is a buildable, conforming lot and may be developed with a single family residence, subject to the applicable maximum building coverage, height and setback criteria and standards of the R-4SF zone district in which it is located, the Town's Daylight Plane Regulations, applicable building, safety, mechanical, plumbing and electrical codes and FEMA and State coastal construction line regulations.
4. A private park and recreation area is an authorized special exception use in the R-4SF zone district.
5. The Site may be used in its present condition as a private park and recreation area in the event the Town's Planning and Zoning Board approves a special exception for this use on the Site.
6. In the event the Town's Planning and Zoning Board approves a special exception for the Site to be used as a private park and recreation area, this approved special exception could be subsequently be abandoned by the property owner and the Site could then be developed with a code compliant, single family residence and allowable accessory uses and structures.

Alaina Ray, AICP  
April 15, 2015  
Page 3

We are enclosing our check in the amount of \$75.00 for the required filing fee for the zoning determination letter.

As always, thank you for your prompt attention to this request. Please call me at (941) 953-8105 if you should have any questions or require any additional information concerning this request.

Very truly yours,

ICARD, MERRILL, CULLIS, TIMM,  
FUREN & GINSBURG, P.A.



Michael J. Furen

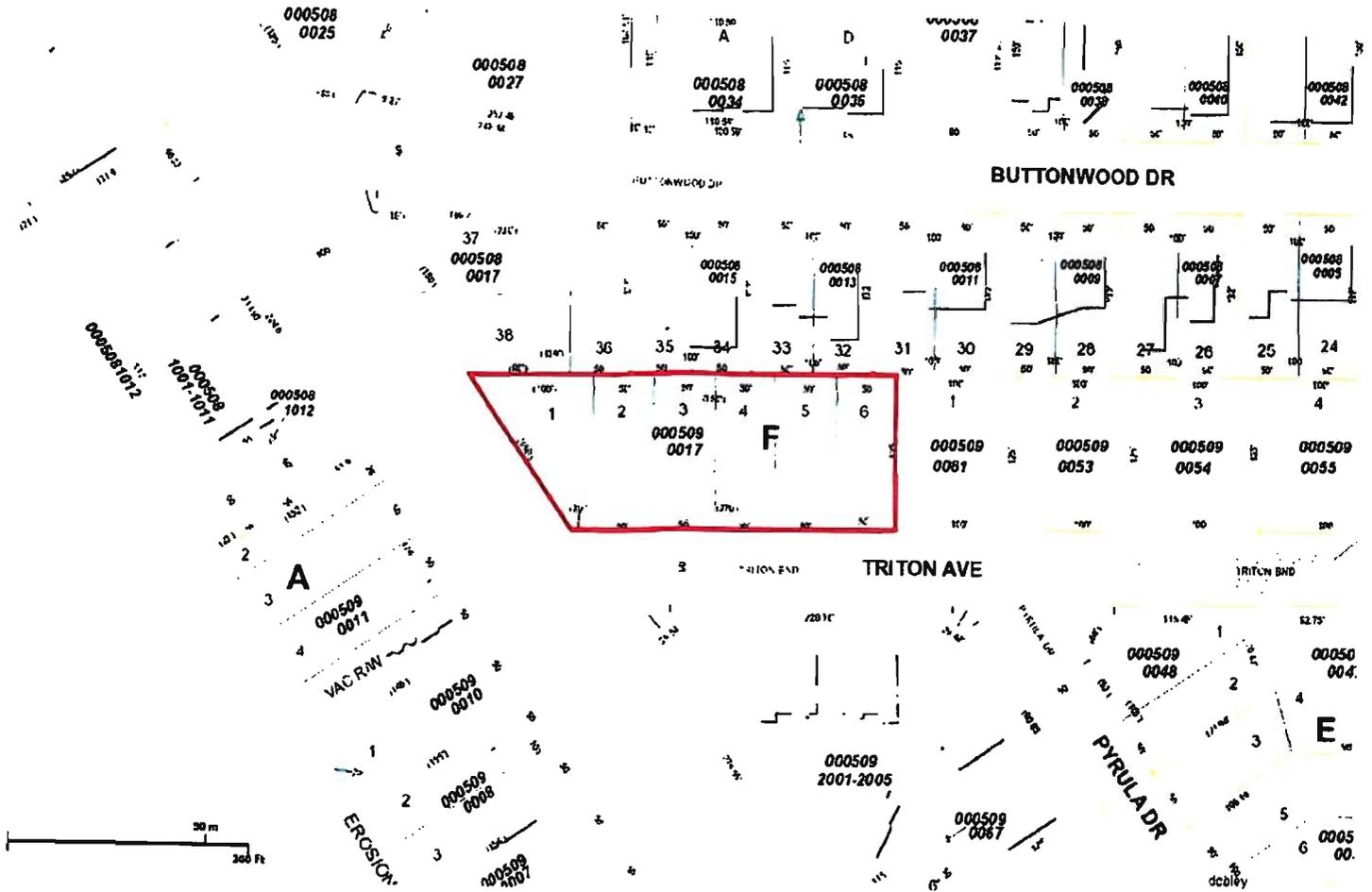
MJF/lmb

Enclosures

cc: Steve Schield, ASLA, AICP, CFM, Town Planner

00259378-1

Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A.  
Offices in Sarasota, Manatee and Charlotte Counties  
Established 1953



Bill Furst  
Sarasota County Property Appraiser

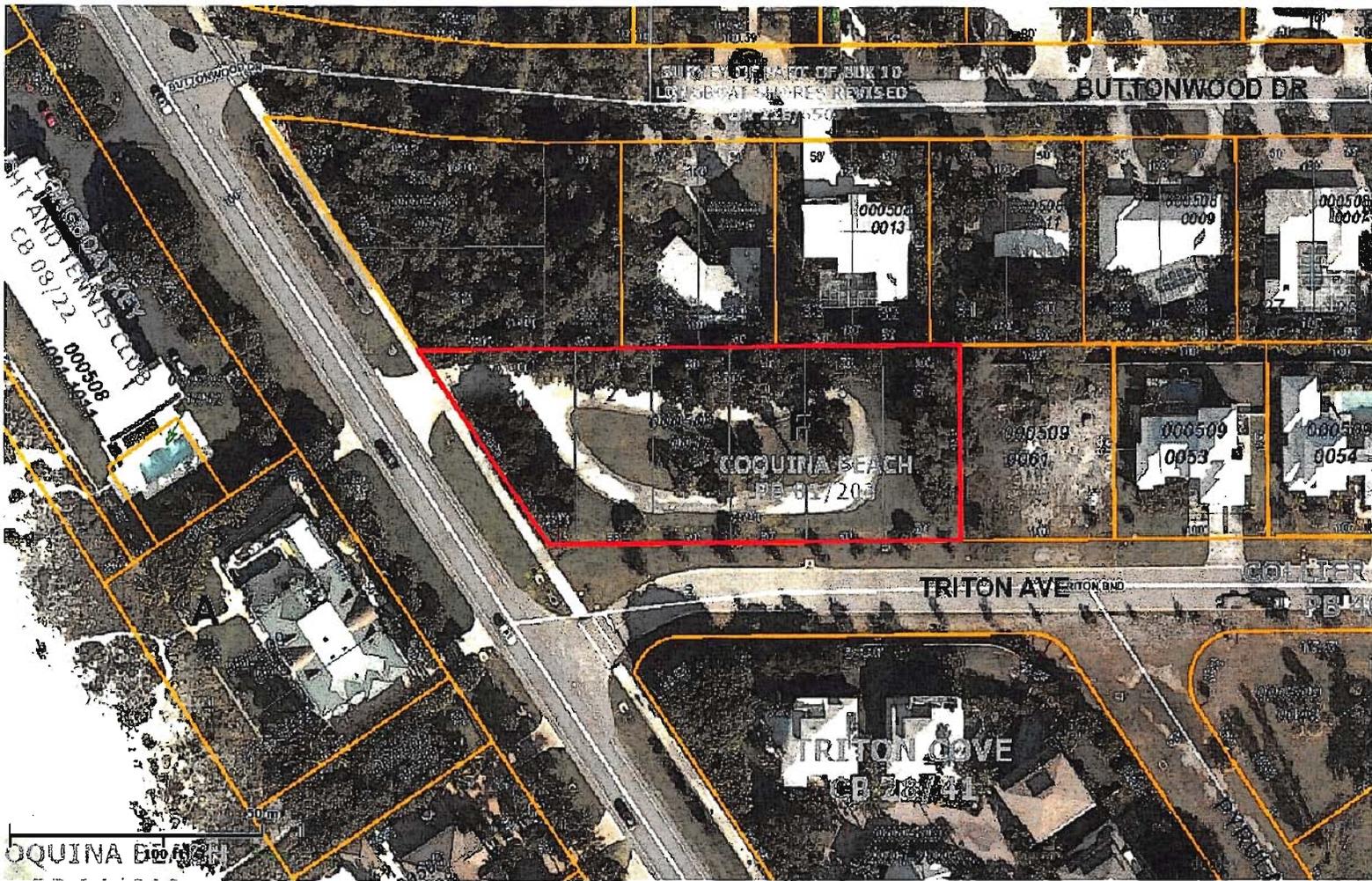


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Parcels Plat Boundaries  
Lots STR Data

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**Bill Furst**  
Sarasota County Property Appraiser



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 **Parcels**   
 **Lots**

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**Bill Furst**  
 Sarasota County Property Appraiser



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 **Parcels**   
 **Lots**

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ORDINANCE 93-13

AN ORDINANCE OF THE TOWN OF LONGBOAT KEY AMENDING CHAPTER 158: ZONING CODE OF THE CODE OF ORDINANCES OF THE TOWN OF LONGBOAT KEY PROVIDING FOR AN AMENDMENT TO SECTION 158.125, SCHEDULE OF USE REGULATIONS, TO INCLUDE PARKS AND RECREATION AREAS AS A SPECIAL EXCEPTION USE IN ALL RESIDENTIAL DISTRICTS, INCLUDING R-1IP, R-1SF, R-2SF, R-3SF, R-4SF, R-6SF, R-3MX, R-4MX AND R-6MX DISTRICTS; PROVIDING SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act ("the Act") as set forth in Part II, Chapter 163, Florida Statutes, the Town of Longboat Key amended its Comprehensive Plan on March 7, 1989; and

WHEREAS, the Act requires that the Town must adopt or amend and enforce land development regulations which are consistent with and implement their adopted comprehensive plan; and

WHEREAS, the local planning agency has reviewed these zoning regulations and made recommendations to the Town Commission as to the consistency of their recommendations with the adopted comprehensive plan; and

WHEREAS, the Town Commission has carefully considered the recommendations of the local planning agency and has conducted the necessary public hearings and received public input;

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

Section 1. Section 158.125, Schedule of Use Regulations, of Chapter 158: Zoning Code of the Town of Longboat Key, is hereby amended to include parks and recreation areas as a special exception use in all Residential Districts, including R-1IP, R-1SF, R-2SF, R-3SF, R-4SF, R-6SF, R-3MX, R-4MX and R-6MX Districts, and all tables within Section 158.125 shall be amended to reflect this change.

Section 2. If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

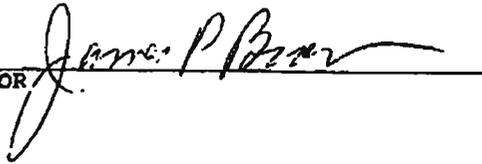
ORDINANCE 9. 13 (cont)

Section 3. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

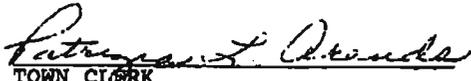
Section 4. This Ordinance shall take effect upon second reading and adoption.

PASSED on first reading and public hearing this 7th day of JUNE, 1993.

PASSED AND ADOPTED on second reading and public hearing this 24th day of JUNE, 1993.

  
MAYOR

ATTEST:

  
TOWN CLERK

**EXHIBIT 2**

**TO**

**APPLICANT'S MEMORANDUM IN SUPPORT OF PETITION FOR SPECIAL  
EXCEPTION FOR PRIVATE PARK AND RECREATION AREA  
LOCATED AT 3100 GULF OF MEXICO DRIVE**



# TOWN OF LONGBOAT KEY

*Incorporated November 14, 1955*

501 Bay Isles Road  
Longboat Key, FL 34228  
(941) 316-1999  
FAX (941) 316-1656  
[www.longboatkey.org](http://www.longboatkey.org)

April 28, 2015

Michael J. Furen  
ICARD, MERRILL, CULLIS, TIMM, FUREN & GINSBURG, P.A.  
2033 Main Street, Suite 600  
Sarasota, Florida 34237

RE: 3100 Gulf of Mexico Drive  
Zoning Determination Letter

In accordance with the Town of Longboat Key Zoning Code, the following zoning regulations are applicable to the above referenced property. The regulations within this correspondence pertain specifically to lot dimensions and setback requirements, as prescribed in Section 158.145, *Schedule of Lot, Yard and Bulk Regulations*, of the zoning code. The Zoning Code requirements for the subject property, including setback and dimensional regulations, are set forth below:

<b>Zoning Classification:</b>	R-4SF, Single Family Medium Density
<b>Future Land Use:</b>	RM-4, Medium Density
<b>Minimum Lot Area:</b>	Single-family: 10,000 sq. ft.
<b>Minimum Lot Width:</b>	Single-family: 100 ft.
<b>Minimum Lot Depth:</b>	Single-family: 100 ft.
<b>Maximum Density:</b>	4 DU/acre
<b>Minimum Street Yard:</b>	Single-family: 20 ft.
<b>Minimum Side Yard:</b>	Single-family: 29/8 ft.
<b>Minimum Rear Yard:</b>	Single-family: 20 ft.
<b>Minimum Floor Area:</b>	Single-family: 1,600 sq. ft./d.u.

**Maximum Height:** 2 stories/30 ft.

**Maximum Building Coverage:** Single-family: 30%

**Maximum Non-Open Space:** 50%

The following are staff's responses to the itemized determinations requested in your letter dated April 15, 2015, (attached) regarding the subject property:

1. The Town would allow the construction of a single-family residence as a permitted principle use and a swimming pool or other permitted accessory uses on the lot.
2. The R-4SF zoning district allows 'Parks and recreation areas' as a Special Exception Use, if the land is designed, used, or intended to be used for recreational activities. The code does not distinguish between public or private parks and recreation areas, so a private park and recreation area approved by Special Exception is an allowable use in the R-4SF zoning district.
3. The Planning and Zoning Board may approve the site as a private park and recreation area in its present condition by Special Exception. The Board may also place additional conditions on the site to ensure its use as a private park and recreation area.
4. The Special Exception Use could be abandoned on the site and the underlining R-4SF zoning would allow the construction of a single family residence and allowable accessory uses and structures.

An error or omission in this correspondence does not authorize or justify violation of the Town of Longboat Key Zoning Code. If you should have any questions, please contact me at 941-316-1966.

Sincerely,



Steve Schield, ASLA, AICP, CFM  
Town Planner

Enclosures

Cc: Alaina Ray, AICP, Director of Planning, Zoning and Building

Reading File





**Planning, Zoning & Building Department** (941) 316-1966  
**501 Bay Isles Road**  
**Longboat Key, Florida 34228**  
**Fax Number: (941) 373-7938**  
**Web: <http://www.longboatkey.org>**

**VERIFIED STATEMENT AND CERTIFICATE OF OWNERSHIP**

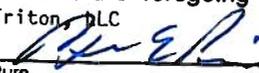
Pursuant to Sections 158.095 and 158.097(C), Town of Longboat Key Town Code, I am submitting the following Verified Statement and Certificate of Ownership. This Verified Statement and Certificate of Ownership reflects each and every individual person having a legal ownership, interest in the subject property except publicly held corporations whose stock is traded on a nationally recognized stock exchange, in which case the name and address of the corporation and principal executive officers will be sufficient.

I hereby verify and certify that as of May 19, 2015, the following are all  
(date)  
 persons and/or entities having a legal ownership interest in the real property located at  
3100 Gulf of Mexico Drive, Longboat Key, FL 34228 (See legal description attached)  
(legal address)

Property Owners and/or shareholders:

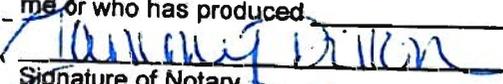
- |   |                        |
|---|------------------------|
| 1. <u>555 Triton, LLC, a Florida limited liability company</u>                              | 2. <u>Ben E. Price</u> |
| 3. <u>Barbara J. Price</u><br><small>(Please attach additional sheets if necessary)</small> | 4. _____               |

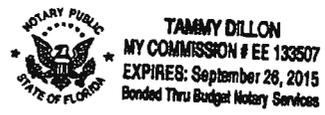
The undersigned does hereby state under oath that the foregoing information is true and correct.

555 Triton, LLC  
  
 Signature  
Ben E. Price  
 Print Name  
Manager / Member  
 Title

State of Florida  
 County of Manatee

The foregoing instrument was acknowledged before me this May 19, 2015, by Ben E. Price, Manager/Member of 555 Triton, LLC (name and title), who is personally known to me or who has produced \_\_\_\_\_ as identification.

  
 Signature of Notary  
Tammy Dillon  
 Print Name of Notary



**LEGAL DESCRIPTION**

Lot 1, less the Southwesterly 10 feet for right-of-way, and Lots 2, 3, 4, 5 and 6, Block F, Coquina Beach, according to the map or plat thereof as recorded in Plat Book 1, Page 203, Public Records of Sarasota County, Florida.