

Regular Workshop – April 18, 2016  
Agenda Item 9

Agenda Item: Request for Referendum from Mr. Charles H. Ball, Esq., for Property Located at 4134 Gulf of Mexico Drive (Harbour Square)

Presenter: Town Manager and Staff

Summary: Mr. Charles H. Ball, Esq., representing Mr. Oscar R. Parsons, Trustee and Owner of Harbour Square Office Complex located at 4134 Gulf of Mexico Drive, has submitted a request for a referendum to allow the Town to consider conversion of property to allow residential density not to exceed three (3) units per acre. Mr. Ball requests that the Commission place the item before the electors and waive the requirement for signatures as provided for in the Town Charter.

The intent of the request is to rezone the property to a mixed-use Planned Unit Development and reestablish one (1) residential penthouse unit that was previously lost when the third floor was converted from a nonconforming residential unit to commercial/office space.

Attachments: 4-7-16 Memo, Planning, Zoning and Building Director to Manager; PowerPoint Presentation; 4-4-2016 Letter, Mr. Charles H. Ball, Esq., to Mayor Jack Duncan; Town Charter, Article II, Section 22; Town Code Chapter 160.04; Town Charter, Article VII, Section 2.

Recommended

Action: Pending discussion, provide direction to Manager.

## M E M O R A N D U M

**DATE:** April 7, 2016

**TO:** David Bullock, Town Manager

**FROM:** Alaina Ray, AICP  
Director – Planning, Zoning and Building Department

**SUBJECT:** Request for Referendum from Mr. Charles H. Ball, Esq., for Property Located at 4134 Gulf of Mexico Drive

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The Town has received a letter from Mr. Charles H. Ball, Esq., representing Mr. Oscar R. Parsons, Trustee and Owner of the Harbour Square Office Complex located at 4134 Gulf of Mexico Drive, requesting a referendum to allow the Town to consider conversion of property to allow residential density not to exceed three (3) units per acre. Mr. Ball requests that the Commission place the item before the electors and waive the requirement for signatures as provided for in the Town Charter.

The Harbour Square Site Plan was approved in 1981, under the 1978 Comprehensive Plan, with a Future Land Use (FLU) Category of Limited Commercial. The complex was built in 1984. The development originally consisted of Commercial/Office space, a dock for the sole use of the owner and/or tenants of the building, and one (1) Residential Unit on the third floor. When the 1984 Comprehensive Plan was adopted, the property became nonconforming for density.

In 1998, the Town received and approved a request from Mr. Parsons to eliminate the Accessory Residential Unit and convert the third floor to Commercial/Office Use. Because the residential density was nonconforming under the 1984 Comprehensive Plan, once it was discontinued it could not be reinstated without a density referendum.

Mr. Parsons has attempted to market the property for sale, to no avail. Most of the interested potential purchasers desire to reestablish the Residential Unit as a penthouse dwelling. Therefore, Mr. Parson's seeks approval to request an increase in density with a maximum of three (3) units per acre. If approved, Mr. Parson's would seek a rezoning for the property, likely to a Planned Unit Development, which would allow a mix of Commercial/Office and Residential uses.

xc: Maggie Mooney-Portale, Town Attorney



## HARBOUR SQUARE REFERENDUM REQUEST

- Property location: 4134 Gulf of Mexico Drive
- Total Acreage: .874 acres (38,074 square feet)
- Current Future Land Use Designation: Limited Commercial
- Current Zoning District: C-1 Limited Commercial
- No Existing Density on the Properties
- Requested Density: 3 units per acre (could result in a maximum of 2 units, based on square footage of the property; intent is to reestablish 1 penthouse unit)



# HARBOUR SQUARE LOCATION MAP





# HARBOUR SQUARE AERIAL



# CHARLES H. BALL & ASSOCIATES, PA

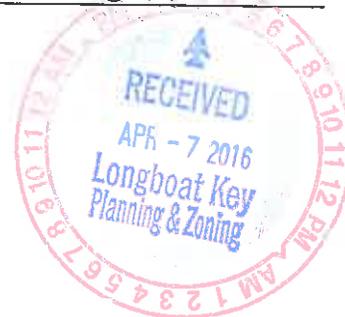
1444 First Street, Suite B  
Sarasota, Florida 34236  
www.CharlesHBall.com

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Phone 941-952-1500  
Fax 941-761-6777  
Info@CharlesHBall.com

April 4, 2016

Hon. Jack Duncan, Mayor  
Town of Longboat Key  
501 Bay Isles Road  
Longboat Key, FL 34228



RE: Oscar R. Parsons – 4134 Gulf of Mexico Drive, Longboat Key

Dear Mayor Duncan:

I represent Oscar R. Parsons, Trustee, as owner of Harbour Square Office Complex located at 4134 Gulf of Mexico Drive, Longboat Key, Florida, Manatee County Parcel ID #8023800809 and Sarasota County Parcel ID#0002040007.

Mr. Parsons desires to seek approval to rezone this property to a mixed use office, residential and marina under a new zoning classification to be enacted by the Town.

Article II, Section 22(b) of the Town Charter requires the approval of the electors of the Town be obtained through a referendum before adding residential and/or tourism uses in excess of the density limitations specified in the Comprehensive Plan. The referendum for this project would seek to allow the Town Commission to consider conversion of the property from office use to mixed use, with a maximum density not to exceed three (3) units per acre.

We would like to request that the Town Commission adopt an ordinance setting forth the full text of the proposed matter for vote by referendum, rather than proceeding by gathering petitions, per Town Code Section 160.04 and Town Charter Article VII, Section 1.(a). We understand and agree that the cost of the referendum will be at my client's expense.

We ask that this request be processed and a proposed ordinance be brought before the Town Commission as soon as practicable.

Thank you in advance for your consideration of our request and if you have any questions, please do not hesitate to contact me at 941-952-1500.

Respectfully,

A handwritten signature in black ink that reads "CHBall".

CHB/km

Charles H. Ball, Esq.  
CHARLES H. BALL & ASSOCIATES. P.A.

Oscar R. Parsons  
1100 Ben Franklin Drive  
Unit 802  
Sarasota FL 34236



April 5, 2016

Hon. Jack Duncan, Mayor  
Town of Longboat Key  
501 Bay Isles Road  
Longboat Key, FL 34228

RE: Rezone of 4134 Gulf of Mexico Drive, Longboat Key

Greetings:

Please accept this letter as authorization for my attorney, Charles H. Ball, to act as my representative in the rezoning of my property located at 4134 Gulf of Mexico Drive, Longboat Key, Florida, to a mixed use for office, residential and marine uses.

Respectfully,

  
Oscar R. Parsons, Trustee

(d) Codes, including the building code and other codes of the Town of Longboat Key, which are in printed form and are on file and available for public inspection at the office of the town clerk, need not be published in a newspaper in order to become effective, but may by reference be made a part of any town ordinance now or hereafter adopted.

#### **Sec. 17. Emergency measures.**

(a) An emergency ordinance is one which, in the opinion of the town commission, is required to be passed for the immediate protection and preservation of the peace and safety, health or property of the town or its inhabitants, or providing for the usual daily operations of the municipality or any of its departments; and the emergency requiring its passage shall be set forth in a preamble to the ordinance.

(b) Appropriations of money may be made by an emergency ordinance, but no ordinance making a grant, renewal or extension for a franchise or other special privilege or establishing or regulating the rates to be charged by any public utility for its services shall be passed as an emergency ordinance. Emergency ordinances shall be effective upon the date specified in the ordinance itself.

#### **Sec. 18. Codification of ordinances.**

(a) The town commission shall provide for the continuing revision and codification of all of the general and permanent ordinances of the town to be published in book form, with sufficient copies available to the general public at a reasonable cost.

(b) Every such revision or codification, after adoption by the town commission, shall be received in any of the courts of this state as prima facie evidence of the existence and contents of the laws and ordinances therein contained.

#### **Sec. 19. Oath of office.**

Every officer of the town shall, before entering upon the duties of his office, take and subscribe to an oath or affirmation to be filed and kept in the

office of the town clerk. Such oath shall be in the form prescribed for state officers by the Constitution of the state.

#### **Sec. 20. Appointment of advisory boards.**

(a) The town commission shall establish permanent boards by ordinance and ad hoc committees by resolution. Members of such boards or committees shall serve without compensation at the pleasure of the town commission for such terms as it deems necessary and desirable. At a minimum, the permanent boards of the town shall be the Planning and Zoning Board, the Zoning Board of Adjustment and the Code Enforcement Board, the duties and responsibilities of which shall be established by ordinance.

(b) The town commission, at its discretion, shall appoint a Charter Review Committee to review the Charter but in no event shall such review be less than once in a ten (10) year period from the date of adoption of this Charter.

#### **Sec. 21. Duty to impose and levy taxes.**

The town commission shall levy and impose such ad valorem and other taxes as authorized by law as, in its judgment, are necessary to provide sufficient revenues to carry on the government of the town; provided, unless levied to pay debt service including sinking fund reserves for approved bonded indebtedness of the town, no more than five (5) mills on the dollar of assessed valuation shall be levied or collected as a tax on real property unless previously approved by a majority of electors voting in a regular or special election or referendum.

#### **\*Sec. 22. Comprehensive plan for town.**

(a) The town commission shall cause plans to be developed on a continuing basis for the future development and maintenance of the town, considering the health, safety, morals, environmental protection, aesthetics, convenience and general welfare of the town and its residents.

(b) The present density limitations provided in the existing comprehensive plan as adopted March 12, 1984 shall not be increased without the referendum approval of the electors of Longboat Key.

## Chapter 160 - COMPREHENSIVE PLAN

### Sections:

#### 160.01 - Elements.

The Town of Longboat Key 2007 Comprehensive Plan includes the following elements:

- Future Land Use Element
- Housing Element
- Transportation Element
- Infrastructure Element
- Sanitary Sewer Subelement
- Potable Water Subelement
- Solid Waste Subelement
- Drainage Subelement
- Recreation and Open Space Element
- Conservation and Coastal Management Element
- Intergovernmental Coordination Element
- Capital Improvement Element
- Public School Facilities Element

(Ord. 98-24, passed 7-16-98; Amd. Ord. 07-37, passed 12-3-07; Amd. Ord. 08-13, passed 7-7-08; Ord. 02014-06, § 2, passed 4-7-14)

#### 160.02 - Implementation.

Pursuant to F.S. §§ 163.3167, 163.3194 and 163.3201, the Town of Longboat Key 2007 Comprehensive Plan, as amended shall be implemented.

(Ord. 98-24, passed 7-16-98; Amd. Ord. 07-37, passed 12-3-07)

#### 160.03 - Amendments.

In accordance with F.S. §§ 163.3184, 163.3187 and 163.3289, the Town of Longboat Key 2007 Comprehensive Plan may be amended. Application to amend the Town of Longboat Key Comprehensive Plan shall be submitted to the planning, zoning and building department. The application shall include full payment of an application fee as set forth by resolution of the town commission.

(Ord. 98-24, passed 7-16-98; Amd. Ord. 07-37, passed 12-3-07)

160.04 - Process for referendum.

\* The process for referendum as required by article II, section 22(b) of the Charter regarding consideration of density increases shall be by the same methods and in the same manner as set forth in article VII of the Charter.

(Ord. 07-15, passed 4-9-07)

Sec. 1. - Proposal of amendments.

Amendments to this Charter may be framed and proposed:

- (a) By ordinance adopted by the town commission setting forth the full text of the proposed amendment; or
- (b) By written petition or petitions to the town commission initiated by the electors setting forth the full text of the proposed amendment and signed in person by qualified electors of the town equal to at least ten percent (10%) of the total number of qualified electors registered to vote at the preceding general town election. All required signatures to petitions initiated by the electors must bear the dates on which each signature is affixed and all required signatures must be affixed within a period of ninety (90) days prior to the date such petition is submitted to the town commission.
- (c) Electors initiating a written petition or petitions to the town commission to amend the charter may, at their discretion, obtain review of the proposed text by the town attorney for legal correctness.



Sec. 2. - Methods of referendum.

Upon adoption of an ordinance by the town commission as provided in Section 1(a) of this Article or upon delivery to the town commission of a written petition as provided in Section 1(b) of this Article, the town commission shall, within six (6) months, cause a referendum to be held on the question of adoption of such proposed amendment in the manner provided by law and this Charter.

Sec. 3. - Referendum on charter amendments.

- (a) Any proposed amendment to the Charter shall be submitted to a referendum of the electors of the town and may be presented by title, which may differ from its legal title but which shall contain a clear and concise statement describing the substance of the proposed amendment. Below the ballot title shall appear:

For	
Against	

- (b) Before any proposed amendment to this Charter shall be submitted to the electors, the entire text of the same shall first be published not less than seven (7) nor more than sixty (60) days prior to the date of the referendum in a newspaper of general circulation in the town.



**End of Agenda Item**