

M E M O R A N D U M

DATE: September 27, 2016

TO: David Bullock, Town Manager

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

SUBJECT: Ordinance 2016-25: Request for Referendum from Mr. Bruce E. Franklin, Land Resource Strategies, LLC., for Property Located at 5630 Gulf of Mexico Drive

Mr. Bruce E. Franklin, representing Brista Homes, Inc., purchaser of property located at 5630 Gulf of Mexico Drive, has submitted a request for a referendum to allow the Town to consider an increase in density of six (6) residential units per acre for a maximum of 10 residential units on the property. Mr. Franklin requests that the Commission place the item before the electors and waive the requirement for signatures as provided for in the Town Charter.

The property is currently owned by the Mote Scientific Foundation, Inc. and is under purchase contract to Brista Homes, Inc. The property consists of approximately 1.82 acres of land. The property currently carries a Future Land Use of Limited Commercial (CL) and is in a Limited Commercial (C-1) Zoning District. The property is bordered on the west by Gulf of Mexico Drive, on the north by Jungle Queen Way, on the south by Tarawitt Drive, and on the east by single-family residential properties and a canal. The property has Bay access via the canal on the east side of the property.

Mr. Franklin's stated intent for the property is development of a 10-unit residential development.

The Town Commission considered the request at their Regular Meeting on September 12, 2016, and directed Staff to work with the applicant to develop an ordinance to forward to the October 4, 2016, Regular Meeting for first reading.

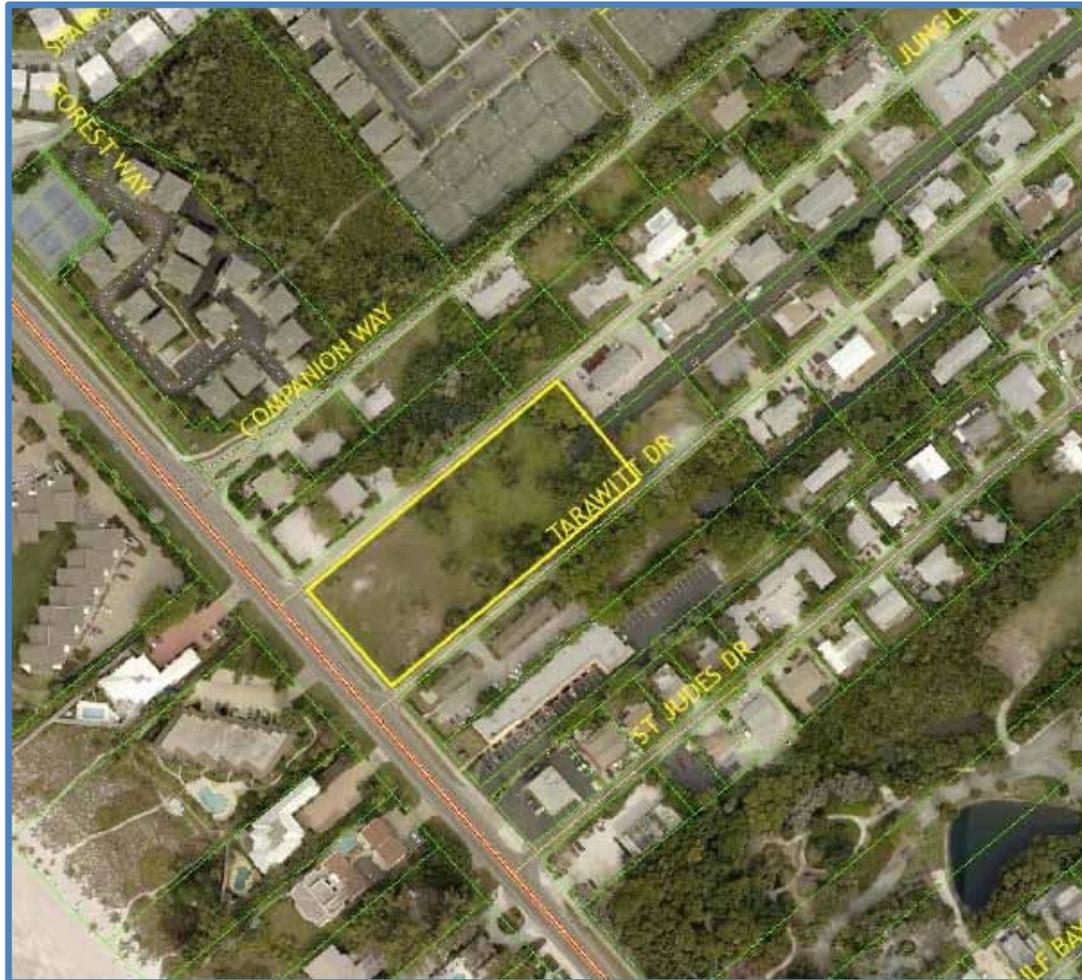


**ORD 2016-25
REFERENDUM REQUEST:
MOTE SCIENTIFIC FOUNDATION
5630 GULF OF MEXICO DRIVE**

**TOWN COMMISSION
REGULAR MEETING
OCTOBER 4, 2016**



PROPERTY LOCATION





PROPERTY AERIAL





REFERENDUM REQUEST

- Property: 5630 Gulf of Mexico Drive
- Total Acreage: 1.82 acres
- Current Future Land Use Designation: Limited Commercial (CL)
- Current Zoning District: Limited Commercial (C-1)
- No existing density
- Requested Density: 6 Residential Units per acre, for a maximum of 10 Residential Units on the property

ORDINANCE 2016-25

AN ORDINANCE OF THE TOWN OF LONGBOAT KEY, FLORIDA, PROVIDING AND CALLING FOR A REFERENDUM TO BE PLACED BEFORE THE QUALIFIED ELECTORS OF THE TOWN OF LONGBOAT KEY ON THE PRIMARY ELECTION BALLOT OF MARCH 14, 2017, FOR THE PURPOSES OF DETERMINING WHETHER THE TOWN OF LONGBOAT KEY'S COMPREHENSIVE PLAN AND RELATED DOCUMENTS MAY BE AMENDED TO ALLOW FOR A CHANGE IN DENSITY AND INTENSITIES TO ALLOW FOR RESIDENTIAL USE WITH A TOTAL MAXIMUM DENSITY OF SIX (6) UNITS PER ACRE AT PROPERTY OWNED BY MOTE SCIENTIFIC FOUNDATION, INC., WHICH IS LOCATED AT 5630 GULF OF MEXICO DRIVE; PROVIDING FOR AN OFFICIAL BALLOT; PROVIDING FOR THE READING OF THIS ORDINANCE BY TITLE ONLY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 22(b), of the Town Charter, does not permit an increase in the allowable density, as established by the March 12, 1984, Comprehensive Plan, without the referendum approval of the electors of Longboat Key; and

WHEREAS, the property located 5630 Gulf of Mexico Drive (hereinafter "Property") and owned by Mote Scientific Foundation, Inc., (hereinafter "Property Owner"), is currently zoned C-1, Limited Commercial; and

WHEREAS, the C-1, Limited Commercial, zoning district designation does not have assigned residential density; and

WHEREAS, Mr. Bruce E. Franklin, an authorized representative for the Property Owner has indicated to the Town that the Property Owner is interested in rezoning the Property to allow residential uses; and

WHEREAS, the Property Owner has indicated to the Town a desire to pursue a request to add residential density to the Property not to exceed six (6) units per acre; and

WHEREAS, as a condition precedent to being able to apply for an amendment to the Town's Comprehensive Plan and file a rezone application for the Property, to comply with Section 22(b) of the Town's Charter, the Property Owner must obtain referendum approval for such a density increase; and

WHEREAS, the Property Owner's representative appeared before the Town Commission at the September 12, 2016, Regular Meeting, requesting that the Town Commission place a referendum question to the Town's electors asking whether the Town Commission may consider a change in density to allow residential density on the Property to increase from the current zero (0) units per acre to a maximum of six (6) units per acre; and

WHEREAS, at the above referenced Regular Meeting, the Town Commission directed Staff to work with the Property Owner to develop referendum language for the request; and

WHEREAS, the Property Owner requests that the proposed referendum question be placed on the March 14, 2017 ballot; and

WHEREAS, approval by the qualified electors of such a referendum question would enable the Town Commission to consider a proposal by the Property Owner to amend the Town's Comprehensive Plan and rezone the Property to allow Residential uses not to exceed six (6) units per acre; however, such referendum does not require that the Town Commission grant approval of the Property Owner's requests; and

WHEREAS, the Town Commission's willingness to accommodate the Property Owner's request to place the requested referendum question before the Town's electors relating to the density increase sought by the Property Owner for the Property is not an endorsement by the Town Commission of the Property Owner's proposed future site plan application, potential rezoning request, nor of its ability to redevelop the Property for the Property Owner's intended use.

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

SECTION 1. The above Whereas clauses are hereby ratified and confirmed as true and correct.

SECTION 2. The request for authorization to propose a change in density shall be submitted to a vote of the qualified electors of the Town for approval. The referendum shall be held on March 14, 2017, or at such other time for the General Election of the Town of Longboat Key or in conjunction with any County administered election as established by law.

SECTION 3. A ballot question shall be placed before the qualified electors substantially in the following form, which shall be printed on the ballot:

(Remainder of page intentionally left blank.)

OFFICIAL BALLOT
TOWN OF LONGBOAT KEY, FLORIDA
DENSITY REFERENDUM
March 14, 2017
REFERENDUM QUESTION:

May the Town allow the property located at 5630 Gulf of Mexico Drive and comprising approximately 1.82 acres, to increase density from C-1 commercial uses (which allows no density) to R-6MX residential use (which allows a maximum of six (6) residential units per acre), for a maximum total of 10 residential units on the property?

_____ **YES – IN FAVOR OF**
_____ **NO – AGAINST**

SECTION 4. If a majority of the qualified electors of the Town of Longboat Key actually voting on the referendum shall vote to grant authority to the Town to consider the proposed modification to the Town's density, said authority shall become effective at 12:01 a.m. on the day following the day of the Commission's canvass of the referendum results. If a majority of the qualified electors of the Town of Longboat Key actually voting on said question vote against granting the Town the authority to consider the proposed modification, then it shall not be effective or operative, and the same shall be void and of no effect, and the present density and Comprehensive Plan of the Town of Longboat Key shall remain in full force and effect.

SECTION 5. The laws and ordinances in effect in the Town of Longboat Key at the time of this referendum governing election procedures, including the laws and ordinances governing the voting and counting of absentee ballots, shall apply to and govern the referendum provided for herein and all matters pertaining thereto, except as otherwise provided for in this Charter.

SECTION 6. This Ordinance shall take effect upon second reading and adoption.

Passed on the first reading the _____ day of _____, 2016.

Adopted on second reading and public hearing the _____ day of _____,
2016.

Jack G. Duncan, Mayor

ATTEST:

Trish Granger, Town Clerk



August 30, 2016

Town of Longboat Key
Honorable Mayor Jack Duncan
501 Bay Isles Road
Longboat Key, Florida 34228

RE: Referendum- Mote Scientific Foundation, Inc.

Dear Mayor Duncan:

My firm, Land Resource Strategies, LLC and John Patterson of Shutts & Bowen, LLP represent Brista Homes, Inc., ("Purchaser") in connection with the contract for the purchase of real property located at 5630 Gulf of Mexico Drive, Longboat Key, Florida 34228 (Manatee County Parcel ID Number 79384-0000-4) from Mote Scientific Foundation, Inc. The property consists of 1.8152 acres, net. It is currently classified as Limited Commercial (CL) on the Future Land Use Map of the Comprehensive Plan and is zoned C-1, Limited Commercial. It was originally listed for sale in 2003. Until now, it was unmarketable due to lack of viability for commercial use and has remained vacant as an underperforming asset in the community.

The Town Charter requires that the approval of the electors of the Town be obtained through a referendum before adding residential use in excess of the density limitations specified in the Comprehensive Plan. Purchaser wishes to redevelop the property. The referendum will be to allow the Town to consider residential use, with a maximum density not to exceed six (6) units per acre. Assuming the referendum passes, an application to amend the Comprehensive Plan Land Use classification to RH-6 High Density SF - Mixed Residential (6 units/acre) and a Rezoning petition to the R-6MX High Density Mixed Residential (6 units/acre) District and a Site Plan depicting a maximum of 10 residential units will be filed. Clearly, this proposed use would be compatible with the residential neighborhood to the north and east and would yield substantially less traffic than commercial uses permitted in the existing C-1 Zoning District.

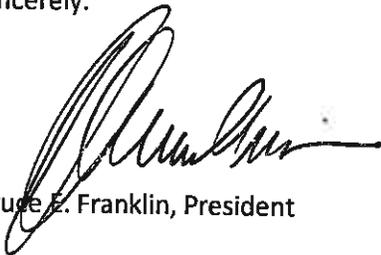
We wish for this referendum to be held at the March 21, 2017 election in accordance with the applicable provisions set forth in the Town Code and Town Charter. Purchaser acknowledges and agrees that it will be responsible for all costs associated with the referendum. We request that the Town Commission place the referendum question before voters, rather than obtaining the requisite number of signatures. In the event that there will not be a Town election on March 21, 2017, we will discuss with the Town Clerk and County Supervisors of Elections a mail-in referendum procedure.

Town of Longboat Key

August 30, 2016 - Page 2

Should you have any questions, please feel free to contact me. Thank you for your assistance with this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce E. Franklin". The signature is fluid and cursive, with a long horizontal stroke at the end.

Bruce E. Franklin, President

LAND RESOURCE STRATEGIES, LLC

cc: Town Commissioners

Ms. Alaina Ray, AICP, Director, Planning, Zoning and Building

Ms. Trish Granger, Town Clerk



Dear Commissioners,

I would like to take this opportunity to introduce myself and my company, Brista Homes. I am the builder and developer on the application for the upcoming referendum for the Mote Scientific Foundation Property.

I started visiting Longboat Key back in the early 1980's and in 1993 my wife Gina and I moved our family from Connecticut. Our first home was at Sutton Place on Longboat Key. It was a great location to begin raising our family. Our daughters, Brittany and Christa, enjoyed countless days on the beach and fishing on the Sarasota Bay. We were members of St. Mary Star of the Sea Church where my daughters received their first communion with Reverend Father Pick.

After serving as Vice President of construction for a local developer, I started Brista Homes in 2000. My daughters are the inspiration behind the company name and reflect the company's commitment to family values. Since the founding, we have been committed to building homes that meet clients' needs and exceed their expectations. We have built hundreds of homes in the surrounding communities. In recent years, Brista Homes has flourished in the remodel and renovation sector, particularly in Longboat Key condominiums. We have completed numerous projects in the Pierre, Islander Club, L'Ambiance, Promenade, Privateer, and Aquarius, as well as many single family residences on Longboat Key. I encourage you to contact any family or friends that may live in these condominiums about any experiences they may have had with Brista Homes.

Brista Homes is also the preferred builder in the Triton Bend subdivision located on Longboat Key. Currently, we have two upscale homes under construction. Residents in the subdivision can attest to our commitment to showing respect for the surrounding community and maintaining a clean and presentable construction site. I also encourage you to speak with Tony Sapuppo, Billy Perry or Marie Cordasco in the building department, as they have firsthand experiences with the quality of work and the people we employ at Brista Homes.

We are very excited about our project and feel it is a great opportunity to build a wonderful community that exemplifies the Longboat Key lifestyle. The community will have open spaces and beautiful landscaping, a community outdoor amenity with pool, cabana, fire pit, grilling station, boat docks and quality built homes.

Please feel free to contact me directly if you have any questions about Brista Homes or our Project. We look forward to working with you to bring this beautiful project to life.

Regards,

Mark A. Ursini, President
License # CBC059465
Cell: (941) 232-1948
Email: mursini@bristahomes.com

MOTE SCIENTIFIC FOUNDATION, INC. PROPERTY

Project Concepts

An enclave of Coastal Contemporary homes that exemplify the Longboat Key lifestyle featuring open spaces, beautiful landscaping, a community outdoor amenity area with pool, cabana, fire pit, grilling station, boat docks, and quality built homes.



(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