

Malabar, FL

Planning and Zoning Board Meeting

Monday, June 10, 2019 at 7:00 pm

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. CONSENT AGENDA

APPROVAL OF MINUTES

a. Approval of Minutes

Planning and Zoning Board Meeting 05/22/2019

Exhibit: Agenda Report Number 1

Recommendation: Request Approval

Attachments:

- Agenda Report Number 1 (pz_agenda_item_1_minutes.pdf)

5. PUBLIC COMMENTS

6. ACTION ITEMS

a. Vacate the Right-of-Way Adjacent to East Railroad Ave.

Resolution 09-2019

Exhibit: Agenda Report Number 2

Recommendation: Action to Council

Attachments:

- Agenda Report Number 2 (pz_agenda_item_2_.pdf)

7. PUBLIC HEARING

a. Land Use Map and Zoning Map Change for three(3) Vacant Parcels 28-38-31-54-D-1; 28-38-31-54-D-12; 28-38-31-54-D-2, Malabar FL 32950

Request Change from Residential/Limited Commercial (R/LC) to Commercial General (CG)

Applicant: Kellwill LLC, Represented by Mr. William Carmine

Exhibit: Agenda Report Number 3

Recommendation: Action to Council

Attachments:

- Agenda Report Number 3 (pz_agenda_item_3_.pdf)

8. DISCUSSION/POSSIBLE ACTION ITEMS

9. ADDITIONAL ITEMS FOR FUTURE MEETING

10. PUBLIC COMMENTS

11. OLD BUSINESS/NEW BUSINESS

a. Old Business

b. New Business

Board Member Comments

Next regular Meeting - June 26th, 2019

12. ADJOURNMENT

Contact: Denine Sherear (dsherear@townofmalabar.org 13217277764)

TOWN OF MALABAR
PLANNING AND ZONING
AGENDA ITEM REPORT

AGENDA ITEM NO: 1
Meeting Date: June 10, 2019

Prepared By: Denine M. Sherear, Planning and Zoning Board Secretary

SUBJECT: Approval of Minutes

BACKGROUND/HISTORY:

The minutes must reflect the actions taken by the Board:

- Who made the Motion
- What is the motion
- Who seconded the motion
- What was the vote

Malabar has historically included discussion to provide the reader the understanding of how the Board came to their vote. It is not verbatim, and some editing is done to convey the thought. People do not speak the way they write.

ATTACHMENTS:

Draft minutes of P&Z Board Meeting of 05/22/2019

ACTION OPTIONS:

Secretary requests approval of the minutes.

"The following draft minutes are subject to changes and/or revisions by the Planning and Zoning Board and shall not be considered the official minutes until approved by the P&Z Board."

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING
MAY 22, 2019 7:00 PM**

This meeting of the Malabar Planning and Zoning was held at Town Hall at 2725 Malabar Road.

A. CALL TO ORDER, PRAYER AND PLEDGE:

Meeting called to order at 7:00 P.M. Prayer and Pledge led by Chair Wayne Abare

B. ROLL CALL:

CHAIR:	WAYNE ABARE
VICE-CHAIR:	LIZ RITTER
BOARD MEMBERS:	GEORGE FOSTER
	DOUG DIAL
	MARY HOFMEISTER
ALTERNATE:	ALLEN RICE
ALTERNATE:	DOUG HOYT, ABSENT
BOARD SECRETARY:	DENINE SHEREAR

ADDITIONAL ATTENDEES:

COUNCIL MEMBER: none

C. ADDITIONS/DELETIONS/CHANGE:

D. CONSENT AGENDA:

- 1. Approval of Minutes** Planning and Zoning Meeting – 04/24/2019
Exhibit: Agenda Report No. 1
Recommendation: Request Approval

**Motion: Ritter/Hofmeister Recommend Approval of Minutes of 04/24/2019 as presented All
Vote: Aye**

E PUBLIC: 0

F. ACTION: 0

G. DISCUSSION: 0

H. ADDITIONAL ITEMS FOR FUTURE MEETING

Dial, update on Malabar Road project for widening
Board discussed Fern Creek Park maintenance, Sherear offered some information concerning FDOT but will provide information at a future meeting.

Abare asked about any articles for the "Mail Boat".

I. PUBLIC:

Informal presentation of Potential Business in Commercial General Zoning:

Bill Buckman explained potential septic and sewer business. He owned SOS till 2005, gave history of his business background. Mr. Buckman is now partnering with ASAP sewer & septic. They are looking for potential business site in Malabar at 2715 Garden Street.

Mr. Buckman did come into Building Department inquiring about zoning and researching this potential site on Garden Street to locate his business. Sherear suggested to go before PZ Board for an informal questions & answers concerning location.

Abare discussed zoning, the Commercial Zoning (CG) doesn't go the complete length of the property in question. Abare said the drainage ditch is splitting the properties. Ritter said the ditch drains to the river.

Abare/Ritter discussed the ingress/egress using West Railroad Ave or Garden Street/Pine Street. Abare looked at Table 1-3.2 Land Use By Districts under "Trades and Skilled Services" it is listed as Conditional Use with an asterisk, the PZ Board is just an advisory Board, the Council has the ultimate decision. The Board discussed the abutting of the appropriate road.

Dial asked the purpose of the use of the Land could and it could be used as not so restrictive services.

Mr. Buckman explained that potentially could be a service business, nothing manufactured at business location, product is delivered to job site. Trucks would be stored, everything is done for the state of Florida Department of Health contractor, everything goes to the County sewer/septic. This property was once a well drilling company (Advance Well Drilling).

A suggestion was made by the Board to pass this Land Use/Zoning for this potential business to the Town Planner for a quick assessment.

J. OLD BUSINESS/NEW BUSINESS:

Old Business:

Abare asked Board about changing June 12th Meeting to Monday June 10th

Rice unable to attend, out of Town.

Abare explained about Public Hearing presentation for Route 1 Motor Sports for June 10th, 2019 @ 7:00PM.

New Business:

- Board Member Comments - none
- Next Regular Meeting- Monday - June 10, 2019

Dial suggested focusing on the Planning side of Malabar- to plan 30 years ahead, Foster said that the nature of our Town is changing with FDOT placing a big fine road on SR-514. Foster said the Board needs to look at a vision for the future of Malabar Road.

The Board discussed Planning in the Town, spoke about 30 years down the road 4 lane Malabar and sidewalks, etc.

Ritter explained about looking at planning for corridors in the Town. Abare said the Mayor is pro-growth. Foster/Dial talked about connecting main arteries of roads and water/sewer, to discuss growth.

Hofmeister/Rice spoke to Board about car break ins, in Malabar. Hofmeister said they broke into their vehicles.

K. ADJOURN

There being no further business to discuss

MOTION: Hofmeister/Ritter adjourn this meeting. Vote: All Ayes. The meeting adjourned 8:40 P.M.

BY:

Wayne Abare Chair

Denine Sherear, Board Secretary

Date Approved: as presented/corrected:

DRAFT

TOWN OF MALABAR
PLANNING AND ZONING BOARD

AGENDA ITEM NO: 2
Meeting Date: June 10, 2019

Prepared By: Denine Sherear, Planning and Zoning Board Secretary

SUBJECT: Vacate the platted ROW adjacent to E. Railroad Ave (Reso 09-2019)

BACKGROUND/HISTORY:

The request is to vacate the stem of a platted ROW running east from the platted but unimproved ROW running north/south on the eastside of the Florida East Coast railroad. (see map) The size of this "stem" is approximately 20 feet by 60 feet.

The Town Engineer has submitted a memo offering why the ROW was initially created by the subdivision owner.

The applicant owns the parcels on the other three sides of the right-of-way to be vacated. The north/south ROW along the east side of the Florida East Coast railroad, would not be affected by this request. Although it has not been improved, it shows on the survey as being 33 feet in width.

This is on the Council agenda for June 17, 2019. The Malabar Land Development Regulations require a Public Hearing at the Council meeting to consider the request and the recommendation from the P&Z Board.

FINANCIAL IMPACT: Adds 1,200sf onto the tax roll.

ATTACHMENTS:

Resolution 09-2019

Application packet for Vacate Request

ACTION OPTIONS: Recommendation to Council to Approve Vacate and adoption of Resolution 09-2019.

TOWN OF MALABAR

MAY 16 2019

RECEIVED



TOWN OF MALABAR
2725 MALABAR ROAD
MALABAR, FLORIDA 32950-4427
3321-727-7764

PETITION FOR VACATING OF RIGHT-OF-WAY

Before completing this application, please refer to the attached.
-Petition for vacating right-of-way procedure
-Ordinance 01-06

This application must be completed, with required attachments, and returned to the Town Clerk's Office.

Name of Applicant(s) Kellwill LLC Telephone # 321-626-1835

Mailing Address 1300 US Hwy 1 Malabar FL 32950

Reason for Request The 20' wide section of East RR Ave that runs East & West between our properties has no use to the town for any access rights. We would like to vacate this right of way to clean up the lot lines and would offer to clear 200' of East RR ave coming from the N. side of Malabar Rd. for town access upon clearing of property once developed.

Fees: \$425.00, which includes advertising, administrative time, mailing and initial review by staff, Town Engineer and Town Attorney. Any additional costs shall be paid by the applicant.

William J. Lammie

Signature of Applicant(s)

5/14/19

Date

TOWN OF MALABAR
PETITION TO VACATE

MAY 16 2019

RECEIVED

Where the property is not owned by the applicant, a letter/letters must be attached giving the notarized consent of the owner/owners to the applicant to request a rezoning review of the property.

Please complete only one of the following:

I, _____, being first duly sworn, depose and say that I, _____, am the legal representative of the Owner or Lessee of the property described, which is the subject matter of this application; that all of the answers to the questions in said application, and all data and matter attached to and made a part of said application are honest and true to the best of my knowledge and belief.

Applicant Date

Applicant Date

Sworn and subscribed before me this _____ day of _____, 20____.

NOTARY PUBLIC
STATE OF FLORIDA

Commission No.: _____ My Commission Expires: _____

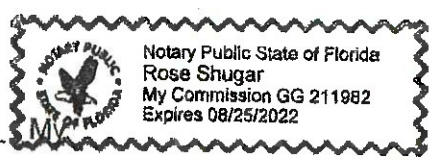
I, William James Carmine, being first duly sworn, depose and say that I, William James Carmine, am the Owner of the property described, which is the subject matter of this application; that all of the answers to the questions in said application, and all data and matter attached to and made a part of said application are honest and true to the best of my knowledge and belief.

William J. Carmine
Applicant Date
5/16/19
Date

Sworn and subscribed before me this 14 day of MAY, 2019.

NOTARY PUBLIC
STATE OF FLORIDA Rose Shugar

Commission No.: GG 211982



TOWN OF MALABAR
MEMORANDUM

Date:	May 29, 2019	Memo: 19-CE-02
To:	Debby K. Franklin, Town Clerk	Project No.
From:	Morris Smith, Town Engineer	Variance No.:
Ref:	East Railroad Avenue – Vacating Right-of-Way Request	

I held a meeting at Town Hall with Mr. Willy Carmine, one of the managers of KELLWILL, LLC about his future plans for three (3) parcels of land that KELLWILL, LLC has purchased at the northeast corner of Malabar Road and the FECRR Right-of-Way.

Mr. Carmine stated that he was proposing to add a new driveway connection from his Route One Motor Sports facility to Malabar Road. He also stated that there is a desire to add office spaces for future use by KELLWILL, LLC.

I suggested to Mr. Carmine that he should petition the Town to Vacate the Platted Right-of-Way for East Railroad Avenue, that has an East-West alignment. Since KELLWILL, LLC is the fee simple owner of the adjacent property to the north and to the south of this Platted Right-of-Way, there would be a benefit increasing the area he could utilize for site planning activities.

I checked the plat of record and it is labeled as "*Map of Snedeker's Subdivision of the Town of Malabar*", recorded in the public records in the office of the Brevard County Clerk of the Court in Plat Book 1 at Page 97, recorded July 9th, 1912.

Based upon the plat dimensions this east-west alignment of East Railroad Avenue is approximately 116.77 feet long in the east-west measure, approximately 19 feet wide on the west end and 16 feet wide on the east end.

I thought this an odd "appendage" grafted onto the predominately north-south alignment of East Railroad Avenue.

TOWN OF MALABAR
MEMORANDUM

Mr. Carmine thanked me for this suggestion and said he would follow-up with the Request to Vacate this portion of the platted right-of-way.

After Mr. Carmine left, I spoke with the Town Clerk about my meeting with Mr. Carmine and showed her a copy of the boundary survey that had been performed on the three (3) parcels.

I stated to the Clerk that there must have been some reason unknown to us as to why the Right-of-Way would have been extended in such an unusual manner. She concurred that we may never know.

I investigated the 1943 aerial photographs that I have in my GIS archives and I feel I have found the reason. It appears, based on the building roof line and the shadow being cast to the north, there once was a very large building that this right-of-way served. Visually it appears to be at least twice the size of the depot building.

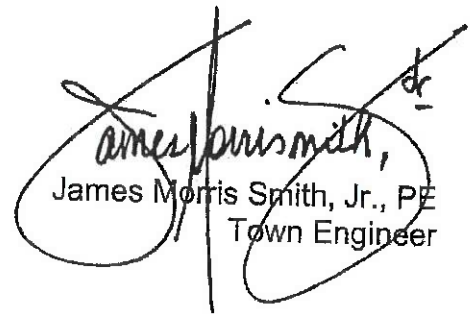
I have included an annotated view of that image.



TOWN OF MALABAR
MEMORANDUM

It is my recommendation that the Town approve Vacating the Right-of-Way of the East-West configuration of East Railroad Avenue as shown on the 1912 Plat "Map of Snedeker's Subdivision of the Town of Malabar".

Very Truly Yours,



James Morris Smith, Jr., PE
Town Engineer

Route 1 Motorsports Unlimited Inc.
1300 S US Hwy 1
Malabar, FL 32950

329.1000

TD BANK
63-1462670

12474

DATE 05/16/2019

PAY TO THE ORDER OF Town of Malabar

\$ 425.00

*** Four Hundred Twenty-Five Dollars and 00 Cents ***

DOLLARS

Town of Malabar
2725 Malabar Road
Malabar, FL 32950

Willy Louis

MEMO

⑈012474⑈ ⑆067014822⑆ 4254123634⑈

RECEIPT		No. 496692	
DATE	5/16/19		
FROM	Route 1 Motorsports, Inc		\$ 425.00
	1300 Hwy		DOLLARS
<input type="radio"/> FOR RENT	VACATE Request		
<input type="radio"/> FOR	# 12474		
ACCT.	<input type="radio"/> CASH	FROM	TO
PAID	<input checked="" type="radio"/> CHECK	BY DKZ	
DUE	<input type="radio"/> MONEY ORDER		
	<input type="radio"/> CREDIT CARD		
		A-1152 T-4161	

Portion to be
VACATED

EAST
RAILROAD
AVE
200.69'

T
NOT
OPEN

CLP

8" FIRE
WELL

6" CC

N71°

N21°00'57"W
18.56'(M)
118.76'(M)
40'(P)

R/W LINE

R/W LINE

P.O.B.

1 1/2" IRC
5383"

EAST
N68°26'59"E

LOT 12

LOT 13

LOT 1

37.00'

EAST

SET 5/8" IR
FND ID 191N, 0.02'E

196.8'(M)

33.5' PUBLIC
R/W
NOT OPEN

10" PLM

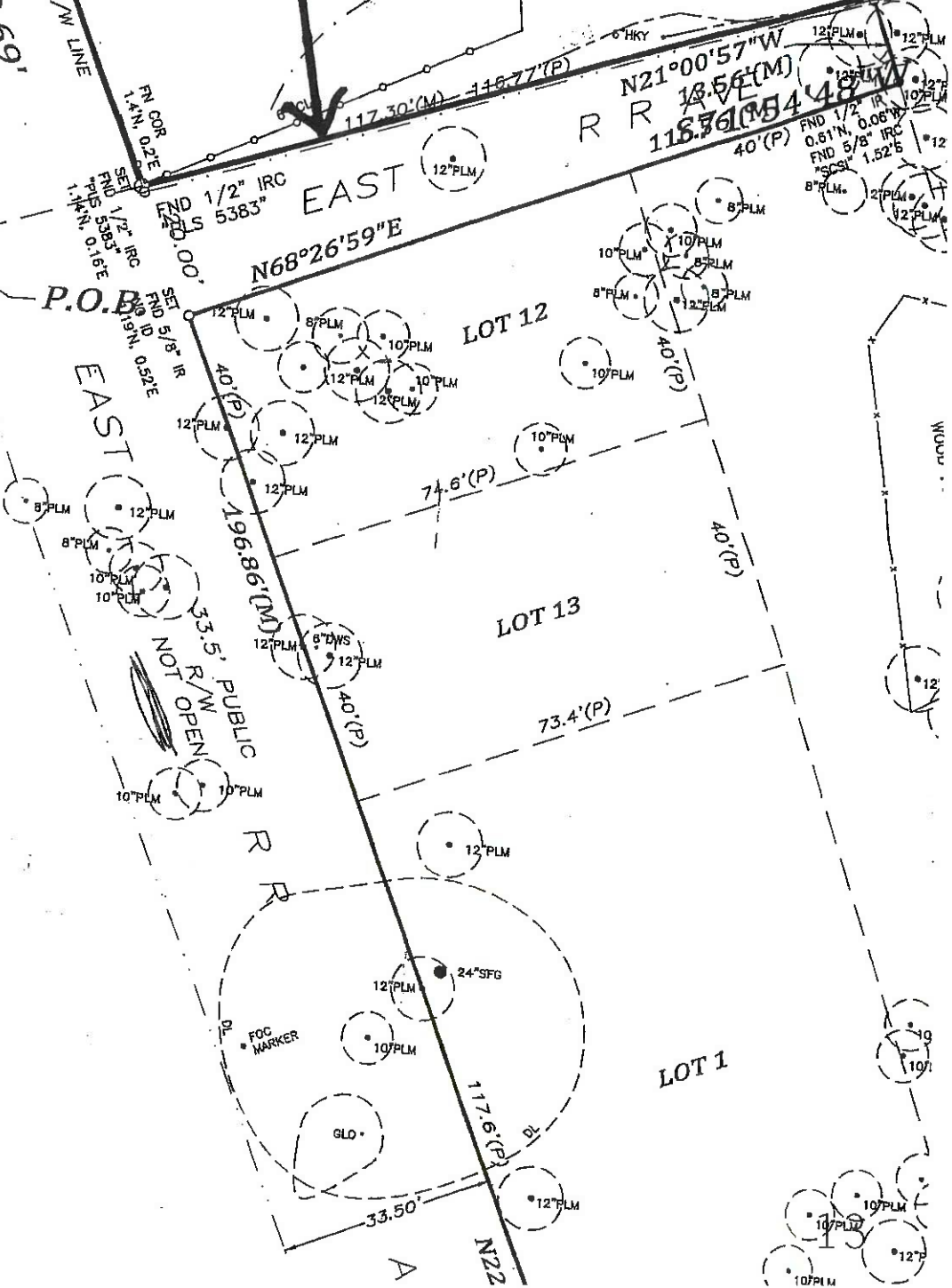
FOC MARKER

24" SFG

117.6'(P)

33.50'

N22



RESOLUTION 9-2019

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA VACATING AND ABANDONING 20-FOOT WIDE UNIMPROVED RIGHT-OF-WAY KNOWN AS EAST RAILROAD AVENUE LYING PERPENDICULAR TO THE REMAINING EAST RAILROAD AVENUE IN SECTION 31, TWSP 28, RNG 38 WITHIN MALABAR A DISTANCE OF 60+/- FEET; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Malabar has determined to partially vacate and abandon a certain right-of-way located in the Town corporate limits. The portion of the right-of-way being abandoned is described in Section 1 of this Resolution and is hereinafter referred to as the "Right of Way"; and,

WHEREAS, the Town Council of the Town of Malabar has considered the petition to vacate as the applicants own the parcels to the north, south and east and wish to join them with their other parcel; and,

WHEREAS, the Town Council deems the unimproved section of right-of-way *does not serve any public need* and that it is in the best interest of the Town to vacate and abandon the said Right-of-Way; and,

WHEREAS, the Town desires to vacate and abandon to the adjacent property owners the 600+/- foot right-of-way more particularly described in Section 1 of this Resolution.

NOW THEREFORE, be it resolved by the Town Council of the Town of Malabar, Brevard County, Florida as follows:

Section 1. Right-of-Way Abandoned. The Town hereby vacates and abandons the following property:

The 20' wide right-of-way perpendicular to East Railroad Avenue in Section 31, Township 28, Range 38 for a distance of 60+/- feet.

Section 2. A map showing the area vacated is attached hereto as Exhibit "A."

Section 3. Conflict. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. Effective Date. This resolution shall take effect upon the recording at the Clerk of Courts.

This Resolution was moved for adoption by Council Member _____ and was seconded by Council Member _____ and, upon being put to a vote, the vote was as follow:

Council Member Grant Ball	_____
Council Member Brian Vail	_____
Council Member Steve Rivet	_____
Council Member Dick Korn	_____
Council Member Danny White	_____

This Resolution was declared duly passed and adopted this 17th day of June 2019.

TOWN OF MALABAR

By:

Mayor Patrick T. Reilly, Council Chair

ATTEST:

Debby K. Franklin, C.M.C.
Town Clerk/Treasure

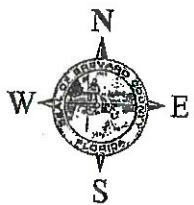
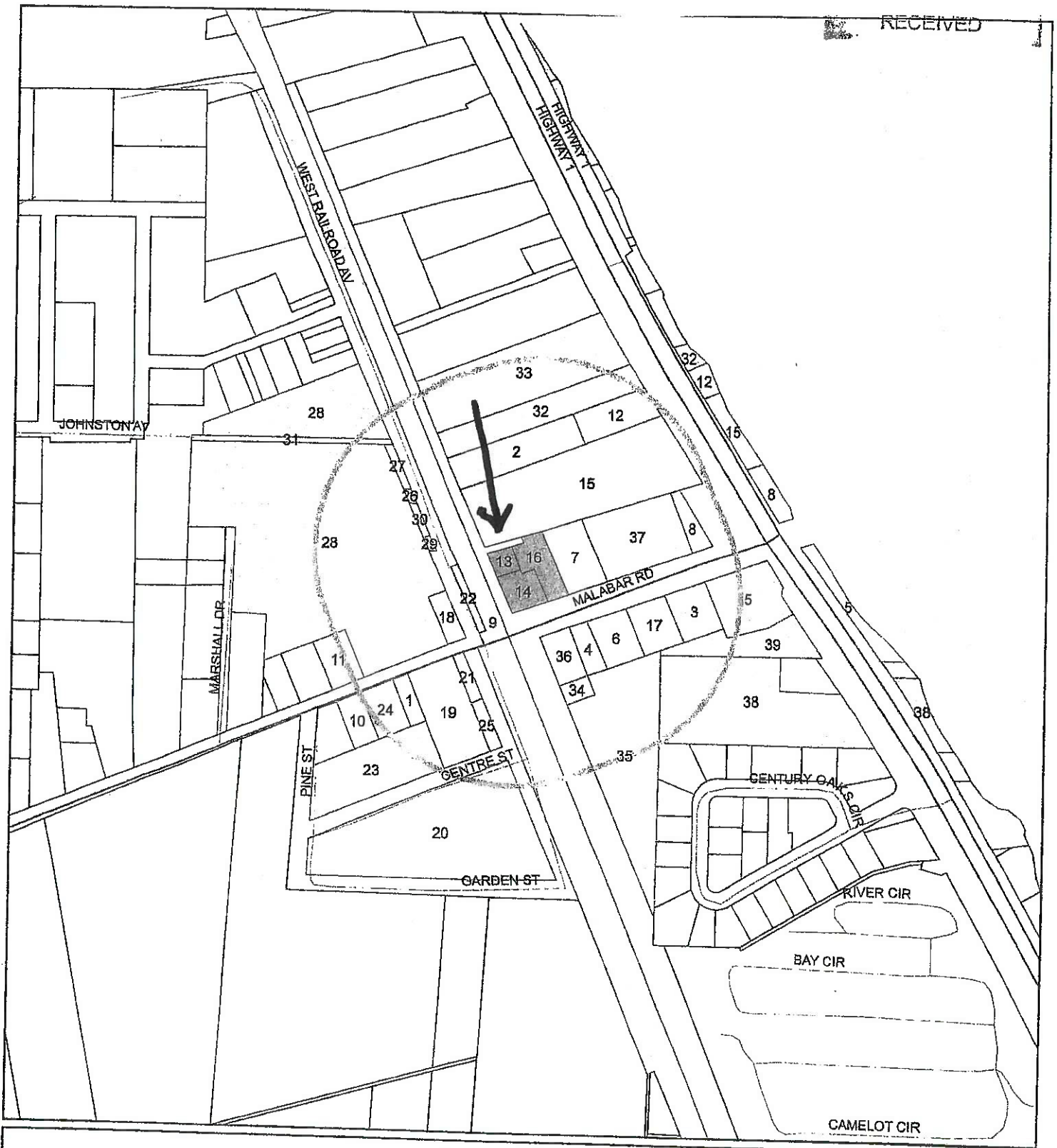


Approved as to Form and Content:

Karl W. Bohne, Jr.
Town Attorney

Exhibit "A" of Resolution 09-2019

RECEIVED







1:4,800 or 1 inch = 400 feet

Buffer Distance: 500 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 3/27/2019

-  Buffer
-  Subject Property
-  Notify Property
-  Parcels



Town of Malabar, 2725 Malabar Road, Malabar, FL 32950
321-727-7764 (Office) 321-727-9997 (Fax) www.townofmalabar.org
townclerk@townofmalabar.org

**TOWN OF MALABAR
NOTICE OF
PUBLIC HEARING**

The Malabar Town Council will convene at the Council Chambers, 2725 Malabar Road, Malabar, Florida at 7:30PM to hold a Public Hearing and consider a request for a vacate of platted right-of-way at their June 17, 2019 meeting. The request involves a stem showing on the plat as 20' wide and approximately 60' long running perpendicular to the East Railroad Avenue unimproved right-of-way. This stem is surrounded on the north, south and east by the applicant's property and the unimproved East Railroad Avenue on the east. The vacate will have no effect on the right-of-way running parallel to the Florida East Coast railroad's east side.

Case 2019-0617-2: Applicant is Kellwill LLC, represented by Mr. William Carmine. The Planning and Zoning Board will hear the request for vacate at their meeting on Monday, June 10, 2019 at 7:00PM and make a recommendation to Council. The vacate involves a piece of property less than 1,200 square feet in size.

If you received this notice then you are listed as an owner of property, as shown in the records of Brevard County Property Appraiser's office, within 500' of the applicant's requested location. This Notice is provided as required by Malabar Code, Article XII, Section 1-12.9.C. You are welcome to attend this meeting.

Town of Malabar, 2725 Malabar Road, Malabar, FL 32950
321-727-7764 (Office) 321-727-9997 (Fax) www.townofmalabar.org

To: brelegals@gannett.com

From: Debby Franklin, Town Clerk, Town of Malabar

May 29, 2019
Acct # 126287

Please place the following legal ads one time on Friday May 31, 2019. Please put the heading in **BOLD** font. Please send proof via email to: townclerk@townofmalabar.org and mail ONE affidavit to 2725 Malabar Road, Malabar, FL 32950.

**TOWN OF MALABAR
TOWN COUNCIL
NOTICE OF PUBLIC HEARING
FOR RESOLUTION VACATING RIGHT-OF-WAY**

The Town Council of the Town of Malabar, Brevard County, Florida will convene in the Town Hall, 2725 Malabar Road, Malabar, Florida on Monday, June 17, 2019 at 7:30 pm for a public hearing on Resolution 09-2019, a request from property owner to vacate the 20-foot wide unimproved right-of-way known as east railroad avenue lying perpendicular to the remaining east railroad avenue in Section 31, Township 28, Range 38 within Malabar a distance of 60+/- feet

Copies of this request are available in the Clerk's office for review, 2725 Malabar Road, Malabar, Florida, during regular business hours. All interested parties may appear and be heard at this meeting of the Town Council with respect to this request.
Debby Franklin, CMC
Town Clerk/Treasurer



TOWN OF MALABAR
JUN 03 2019
RECEIVED

TOWN OF MALABAR
2725 MALABAR RD

MALABAR, FL, 32950

AD#3598743, 5/31/2019
TOWN OF MALABAR
TOWN COUNCIL
NOTICE OF PUBLIC HEARING
FOR RESOLUTION VACATING
RIGHT-OF-WAY

The Town Council of the Town of Malabar, Brevard County, Florida will convene in the Town Hall, 2725 Malabar Road, Malabar, Florida on Monday, June 17, 2019 at 7:30 pm for a public hearing on Resolution 09-2019, a request from property owner to vacate the 20-foot wide unimproved right-of-way known as east railroad avenue lying perpendicular to the remaining east railroad avenue in Section 31, Township 25, Range 38 within Malabar a distance of 60+/- feet. Copies of this request are available in the Clerk's office for review, 2725 Malabar Road, Malabar, Florida, during regular business hours. All interested parties may appear and be heard at this meeting of the Town Council with respect to this request.
Debby Franklin, CMC
Town Clerk/Treasurer

STATE OF NEW JERSEY COUNTY OF MONMOUTH:
Before the undersigned authority personally appeared Debbie Davis, who on oath says that he or she is a Legal Advertising Representative of the FLORIDA TODAY, a daily newspaper published in Brevard County, Florida that the attached copy of advertisement, being a Legal Ad in the matter of

Notice Public Hearing

as published in FLORIDA TODAY in the issue(s) of:

05/31/19

Affiant further says that the said FLORIDA TODAY is a newspaper in said Brevard County, Florida and that the said newspaper has heretofore been continuously published in said Brevard County, Florida each day and has been entered as periodicals matter at the post office in MELBOURNE in said Brevard County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has never paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and Subscribed before me this 31th of May 2019,
by Debbie Davis who is personally known to me

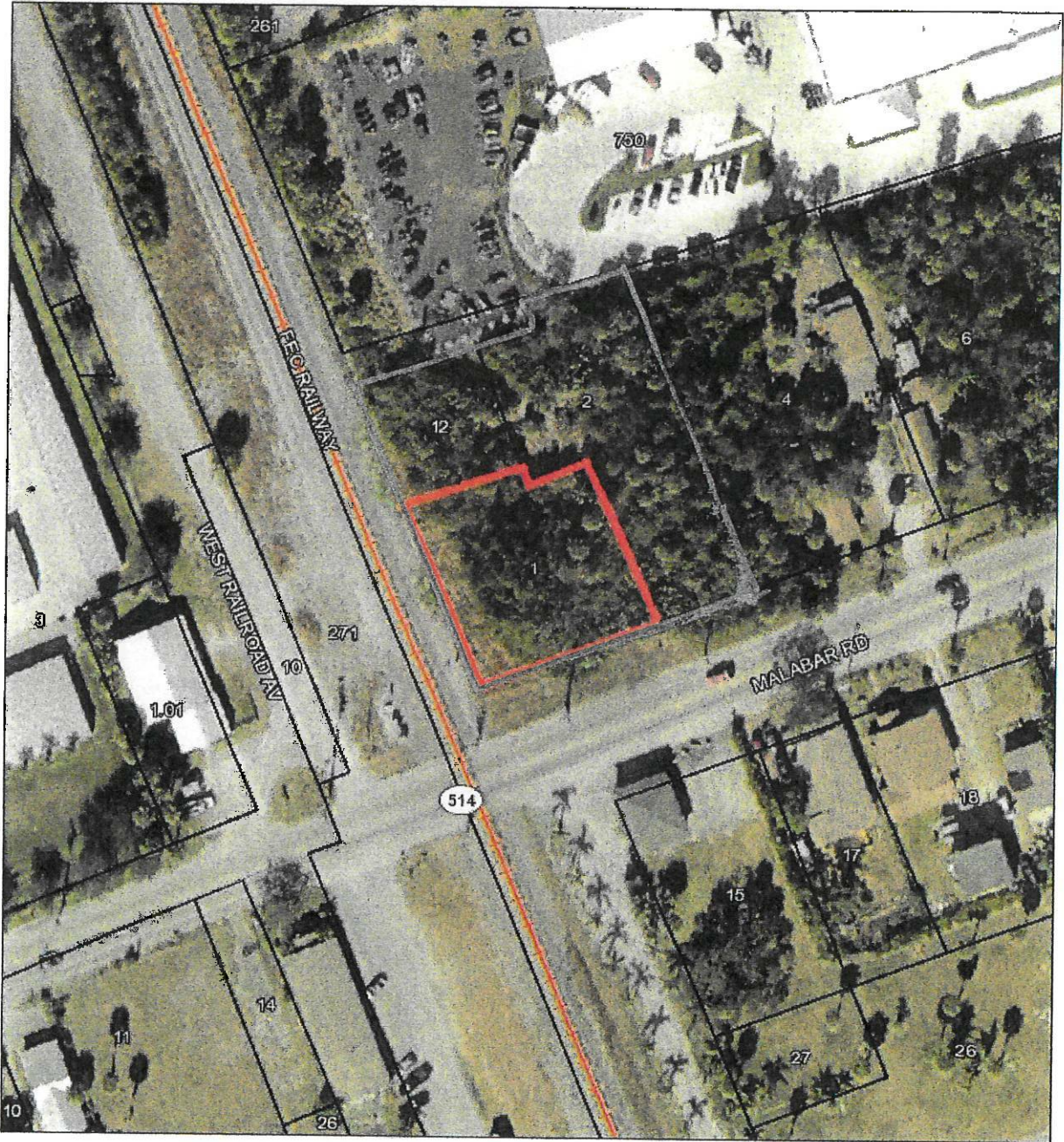
Affiant

Notary Kathleen A Gibson

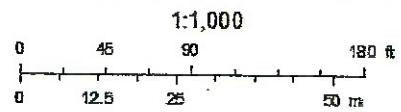


Publication Cost: \$69.34
Ad No: 0003598743
Customer No: BRE-6TO207

Brevard County Property Appraiser



March 27, 2019



2846850

For illustration only. Not a survey. Map layers may not precisely align.
© SCFPAO 2015

Ord 01-06

MAY 16 2019 17:30
TOWN OF MALABAR

Section 1-12.8. Vacate and abandonment.

MAY 16 2019

RECEIVED

- A. **Definitions:** For purposes of this Section the following terms shall have the following meanings:
1. *Vacate and abandon* shall mean vacate, abandon, close, renounce, disclaim or any other term that indicates the relinquishment of the Town's right, title or interest in a public right-of-way.
 2. *Public right-of-way* shall mean public road, street, highway, easement, way, thoroughfare.
- B. The Town Council may by resolution vacate and abandon any public right-of-way.
- C. All requests for a vacate and abandonment of any public right-of-way shall be by petition and shall state the name and address of all persons owning property abutting said public right-of-way and shall give a description of the public right-of-way sought to be vacated and abandoned.
- D. Petitions for a vacate and abandonment shall be submitted to the Town at least twenty-one (21) days prior to a regularly scheduled Planning and Zoning Board meeting. Meetings are the second Wednesday of each month. The following information shall be submitted with the petition:
1. List of all property owners within five hundred (500) feet of the total length of the subject public right-of-way. Such list shall be prepared by a county office with access to public records, i.e. property appraiser.
 2. A map of the total area of the public right-of-way and property owners with the area requested to be vacated and abandoned identified.
- E. The petition and all associated documents shall be forwarded to the Building Official for distribution to the appropriate Town staff. Staff shall review the request and determine if any conflict may exist or if there may be any reason that the Town should not grant the request. Written staff comments shall be forwarded to the Building Official within ten (10) working days following receipt of the vacate request.
- F. The Building Official shall present the vacate and abandon request and staff comments to the next regularly scheduled Planning and Zoning Board meeting for consideration and recommendation to the Town Council.
- G. The request and Planning and Zoning Board recommendation shall be forwarded to the Town Council for authorization to proceed.
- H. Before the adoption of any resolution vacating and abandoning any public right-of-way, the Town Clerk shall cause to be published in a newspaper of general circulation in the Town a notice that the Town Council shall hold a public hearing regarding said resolution. Said notice shall be published at least fourteen (14) days prior to the date of said public hearing.
- I. A courtesy copy of the notice shall be mailed to all property owners identified in subparagraph D. above and to all utility companies serving south Brevard County.
- J. Any decision by the Town Council concerning a vacate and abandonment shall be a legislative decision and governed by the fairly debatable standard.
- K. Notice of the adoption of the resolution vacating and abandoning any public right-of-way by the Town Council shall be published one (1) time within thirty (30) days following its adoption in a newspaper of general circulation in the Town.
- L.

The proof of publication of notice of the public hearing, the resolution adopted by the Town Council, and the proof of publication of the notice of adoption of the resolution all shall be recorded in the public records of Brevard County after same has been completed.

- M. The Town Council shall establish by resolution the appropriate schedule of fees, charges and expenses and a collection procedure.

(Ord. No. 01-06, § 1, 3-4-02)

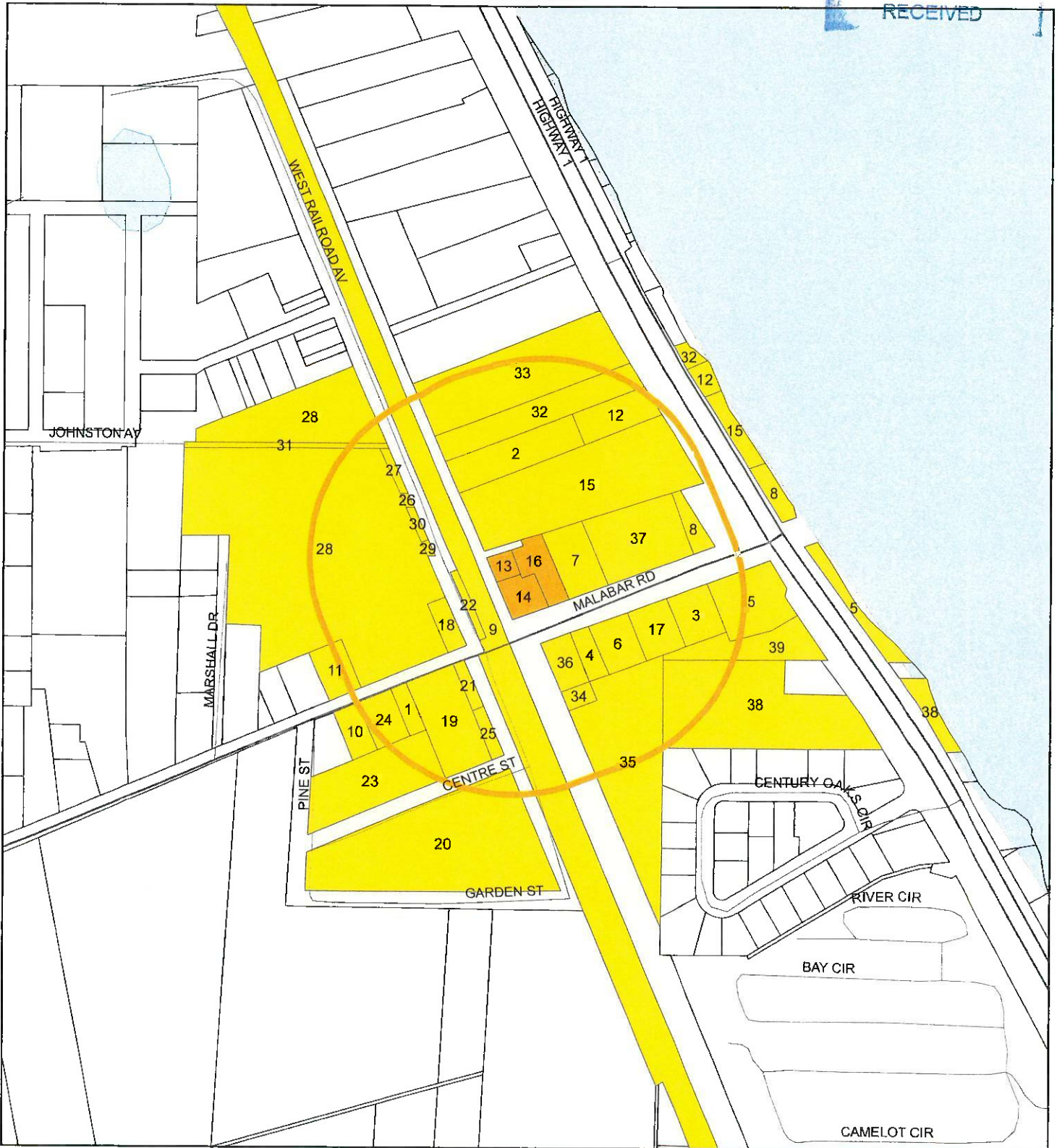
TOWN OF MALABAR

MAY 16 2019

RECEIVED

RADIUS MAP
 ROUTE 1 MOTORSPORTS
 carmine500

RECEIVED







1:4,800 or 1 inch = 400 feet

Buffer Distance: 500 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 3/27/2019

-  Buffer
-  Subject Property
-  Notify Property
-  Parcels

CARMINE, William

BROTHERS FAMILY REVOCABLE
LIVING TRUST
5235 SUTTON AVE
MELBOURNE FL 32904-5170

BROWN, LOUISE E TRUSTEE
PO BOX 500151
MALABAR FL 32950-0151

CARMINE LLC
PO BOX 600835
MALABAR FL 32950-0835

COCHRANE, PAULINE
COCHRANE, ROY
PO BOX 500833
MALABAR FL 32950-0833

DEVVRAT CORPORATION INC
1360 HIGHWAY 1
MALABAR FL 32950-

EASTON, RICHARD
8514 DAMASCUS DR
PALM BEACH GARDENS FL 33418-6014

EASTON, RICHARD H
8514 DAMASCUS DR
PALM BEACH GARDENS FL 33418-6014

EDGER PROPERTIES LLC
PO BOX 950847
LAKE MARY FL 32795-0847

FLORIDA EAST COAST RAILWAY LLC
7150 PHILIPS HWY
JACKSONVILLE FL 32256-6802

GOURLAY, ROBERT E, JR
2655 MALABAR RD
MALABAR FL 32950-4427

GOURLAY, ROBERT EARL, JR
2655 MALABAR RD
MALABAR FL 32950-4427

KAMDEN HOMES LLC
1049 EBER BLVD, STE 104
MELBOURNE FL 32904-8767

KELLWILL LLC
1300 S US HIGHWAY 1
MALABAR FL 32950-4413

KELLWILL LLC
PO BOX 587
GRANT FL 32949-0587

KEMMLER, HANSEL C
KEMMLER, BARBARA B
2785 MALABAR RD
MALABAR FL 32950-

LAWRENCE, FITZGERALD
LAWRENCE, MARIA
2728 MALABAR RD
MALABAR FL 32950-4411

LOTUS GROUP INVESTMENTS INC
PO BOX 500928
MALABAR FL 32950-0928

MALABAR, TOWN OF
2725 MALABAR RD
MALABAR FL 32950-

MARKS, ROBERT D
1100 NE BROOK NE ST
PALM BAY FL 32905-4902

MAYNARD, SHARON L
3336 SE FINOLA SE AVE
PALM BAY FL 32909-1321

NEACSU, ELIZABETH EMANUEL
1256 S US HIGHWAY 1
MALABAR FL 32950-6911

PROCTOR, DOUGLAS K
2460 MALABAR ROAD
MALABAR FL 32950-

RAY, DEANNE HUGGINS
PO BOX 500175
MALABAR FL 32950-0175

SMITH, DEBRA A
1410 HIGHWAY 1
MALABAR FL 32950-

WORTHY PROPERTIES LLC
6475 S US HIGHWAY 1
GRANT FL 32949-2217

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 3

Meeting Date: June 10, 2019

Prepared By: Denine M. Sherear, Planning and Zoning Board Secretary

SUBJECT: Land Use Map Amendment & Zoning Change for the following three Vacant Parcels 28-38-31-54-D-1, 28-38-31-54-D-12, and 28-38-31-54-D-2 Malabar, Florida 32950 from Residential/Limited Commercial (R/LC) to Commercial General (CG); Applicant Kellwill LLC, represented by Mr. William Carmine

BACKGROUND/HISTORY:

Kellwill LLC represented by Mr. William Carmine submitted an application referencing the above-mentioned vacant land, zoned Residential/Limited Commercial (R/LC). Kellwill LLC has requested the property be changed to Commercial General (CG), so the Applicant can proceed with a site plan. The Applicant has complied with all application procedures.

The three vacant properties are located on the north side of Malabar Road, east of the railroad tracks. The adjacent property is owned by Kellwill LLC and is currently Commercial General (CG). The properties to the north are either Commercial General (CG) or Residential /Limited Commercial (R/LC).

There are CG properties on the westside of the railroad tracks and on the south side of Malabar Road.

The method used to make these changes is by ordinance. I have provided complete package to the Town Staff ie, Planner, Engineer, Staff, and Attorney for review. All Staff has been invited to attend both the Planning & Zoning and Council Public Hearings.

This request and the P&Z Board's recommendation will be heard at a Public Hearing at the Council meeting of June 17th, 2019.

ATTACHMENTS:

- Application & Cover Letter for Land Use Amendment & Zoning Changes
- Proposed Ordinance providing for those changes
- FLUM & Zoning Map
- Map showing "Present and Proposed"
- Table 1-3.2 of Article III District Provisions
- Portion of Article III with Definitions
- Advertising "Public Hearing" Florida Today Newspaper

ACTION OPTIONS:

Action to Council

MAY 10 2019

RECEIVED



ROUTE 1 MOTORSPORTS

To: The Town of Malabar Planning and Zoning Board, and Town Council Members

Case No: SSA-ZC-1-2019

Ordinance:2019-06

Request: Comprehensive Plan Map Change & Zoning Change from RL/C To CG

Kellwill LLC, a Florida Limited Liability Corporation, leasing to Route 1 Motorsports has purchased three parcels of land on Malabar Road starting East of the Railroad tracks and continuing 170 foot East on Malabar Road. We would like to request a Land Use and Zoning change for those parcels, to CG. Under the current zoning these parcels are RL/C. Based on the footprint square footage limitations of RLC, this would not allow us to maximize our usage of this property.

Route 1 Motorsports is a growing Motorsports Dealership that has been in Brevard County since 2007. The company was based in Grant Valkaria until building our state of the art facility located at 1300 US Hwy 1, in Malabar, FL in 2017. We have exceeded our projections with our move to the Town of Malabar in the short 18 months of business. We have now purchased these three vacant lots with the hopes of continuing our growth with the expansion of our facilities. Our plan will be to build a 8,000 sq. foot building for storage and a Motorsports Rental Center on the Malabar Road frontage. During the Site Plan approval process of building our current facility, the Fire inspector was pushing for a second entrance. At that time we could not provide this access, we are confident that with this approval we will be able to provide this second entrance by connecting driveways and giving a much nicer ingress and egress option of our customers as well as Emergency vehicles.

Thank you in advance for considering our vision and helping a Malabar native develop the economic future of our Town.

Sincerely,

William James Carmine

Kellwill LLC, Route 1 Motorsports Unlimited Inc, & Malabar Mo's Inc.

1300 Highway 1, Malabar, FL 32950

PH: 321-725-7225

FX: 321-768-0049

TOWN OF MALABAR
2725 Malabar Road, Malabar, Florida 32950
(321) 727-7764 – Telephone
(321) 727-9997 - Fax

Date: 3/27/19



APPLICATION FOR LAND USE AMENDMENT AND ZONING CHANGE

Before completing this application, please refer to the attached:

- General Information
- Section 1-12.5 - Procedures for Adopting, Supplementing or Amending the Land Development Code
- Florida Statutes, Chapter 166.041(c)
- Article III - District Provisions

This application must be completed, with required attachments listed below, and returned to the Town Clerk's office.

Name of Applicant(s): Kellwill LLC Telephone #: 321 626-1835
Mailing Address: 1300 US Hwy 1 Malabar, FL 32950

Legal description of property covered by application:

Township: 28 Range: 38 Section: 31
Lot/Block: 59 Parcel Subdivision: D1, D2, D12
Other Legal: _____

Property Address: _____

- Current and Proposed Comprehensive Plan Land Use Map Designation. The current and proposed Comprehensive Plan Land Use Map designation for the subject property shall be identified: Current: RLC Proposed: RLC
- Current and Proposed Zoning. The current and proposed zoning for the subject property shall be identified: Current: RLC Proposed: CG
- Existing and Proposed Use. The existing and proposed use of the subject property shall be stated: Current: RLC Proposed: CG

Fees:

- Rezoning - \$625.00 for first acre plus \$10 for each additional acre, which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant for **Residential**.
 - Land Use Charges - \$300 which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant for **Residential**.
 - Rezoning & Land Use Charges - \$1500.00 for first acre plus \$10 for each additional acre, which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant for **Commercial**.
- (*Additional costs may include, but are not limited to engineering fees, attorney fees, etc.)

Required Attachments:

- Completed application, including Disclosure of Ownership (Pages 1 & 2)
- Fee of \$ 1500 in check or money order payable to *Town of Malabar*. We do not accept cash or credit cards.
- Radius package from Brevard County P&Z GIS Department providing a list of names and addresses of property owners and legal descriptions of all property within 500 feet of the boundaries of the property covered by this application. The source of this list must be the most current records maintained by the Brevard County Tax Appraiser's Office. (321-633-2060)

[Signature]
Signature of Applicant

Signature of Applicant

TOWN OF MALABAR
APPLICATION FOR LAND USE AMENDMENT AND ZONING CHANGE

RECEIVED
TOWN OF MALABAR

Where the property is not owned by the applicant, a letter/letters must be attached giving the notarized consent of the owner/owners to the applicant to request a rezoning review of the property.

Please complete only one of the following:

I, _____, being first duly sworn, depose and say that I, _____, am the legal representative of the Owner or Lessee of the property described, which is the subject matter of this application; that all of the answers to the questions in said application, and all data and matter attached to and made a part of said application are honest and true to the best of my knowledge and belief.

Applicant Date

Applicant Date

Sworn and subscribed before me this _____ day of _____, 20_____.

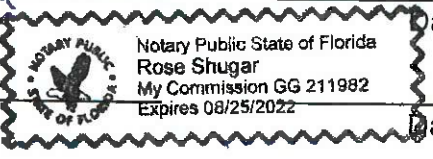
NOTARY PUBLIC
STATE OF FLORIDA

Commission No.: _____ My Commission Expires: _____.

I, William J. Carmine, being first duly sworn, depose and say that I, William J. Carmine, am the Owner of the property described, which is the subject matter of this application; that all of the answers to the questions in said application, and all data and matter attached to and made a part of said application are honest and true to the best of my knowledge and belief.

William J. Carmine
Applicant 3-27-2019
Date

Applicant _____
Date



Sworn and subscribed before me this 27 day of MARCH, 2019.

NOTARY PUBLIC
STATE OF FLORIDA

Commission No.: GG211982 My Commission Expires: 8/25/2022

TOWN OF MALABAR

FUTURE LAND USE MAP

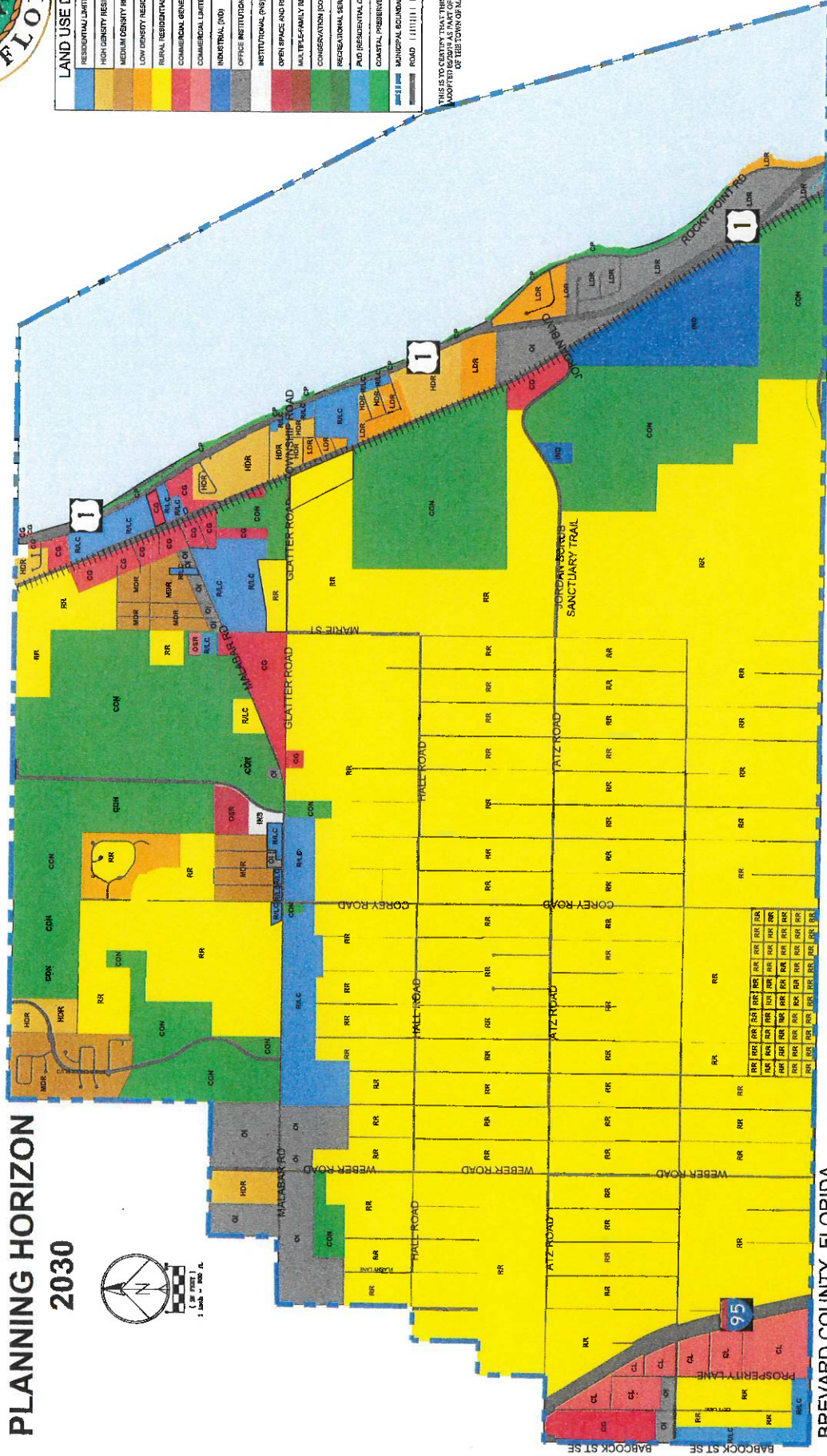


PLANNING HORIZON
2030



LAND USE DESIGNATIONS	
[Color]	RESIDENTIAL LIMITED COMMERCIAL (RLC)
[Color]	HIGH DENSITY RESIDENTIAL-4 UNITS PER ACRE (H4R)
[Color]	MEDIUM DENSITY RESIDENTIAL-4 UNITS PER ACRE (M4R)
[Color]	LOW DENSITY RESIDENTIAL-2 UNITS PER ACRE (L2R)
[Color]	RURAL RESIDENTIAL-1 UNIT PER 15 ACRE (R15)
[Color]	COMMERCIAL GENERAL (CG)
[Color]	COMMERCIAL LIMITED (CL)
[Color]	INDUSTRIAL (IND)
[Color]	OFFICE INSTITUTIONAL (OI)
[Color]	INSTITUTIONAL (IN)
[Color]	OPEN SPACE AND RECREATION (OSR)
[Color]	MULTI-FAMILY RESIDENTIAL OR OFFICE SPACE (MRF)
[Color]	CONSERVATION (CON)
[Color]	RECREATIONAL SERVICES (RS)
[Color]	PUD (RESIDENTIAL OR COMMERCIAL)
[Color]	COASTAL PRESERVE (CP)
[Color]	MUNICIPAL BOUNDARY BARRIER
[Color]	ROAD
[Color]	RAILROAD

THIS FUTURE LAND USE MAP IS THE OFFICIAL PLAN FOR THE TOWN OF MALABAR, FLORIDA, AS ADOPTED BY THE BOARD OF TOWN COMMISSIONERS ON MAY 14, 2014.




BREVARD COUNTY, FLORIDA

PRINTED DATE: MAY 2017

anticipated future residential development within or in the vicinity of areas designated "R/LC" on the Future Land Use Map.

1-2.2.6 Policy:

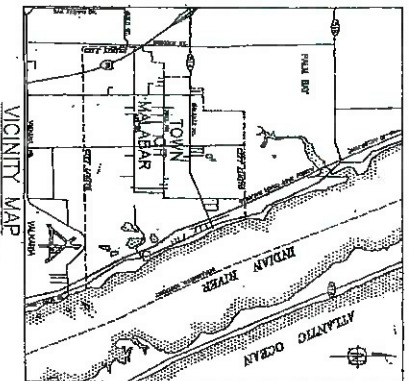
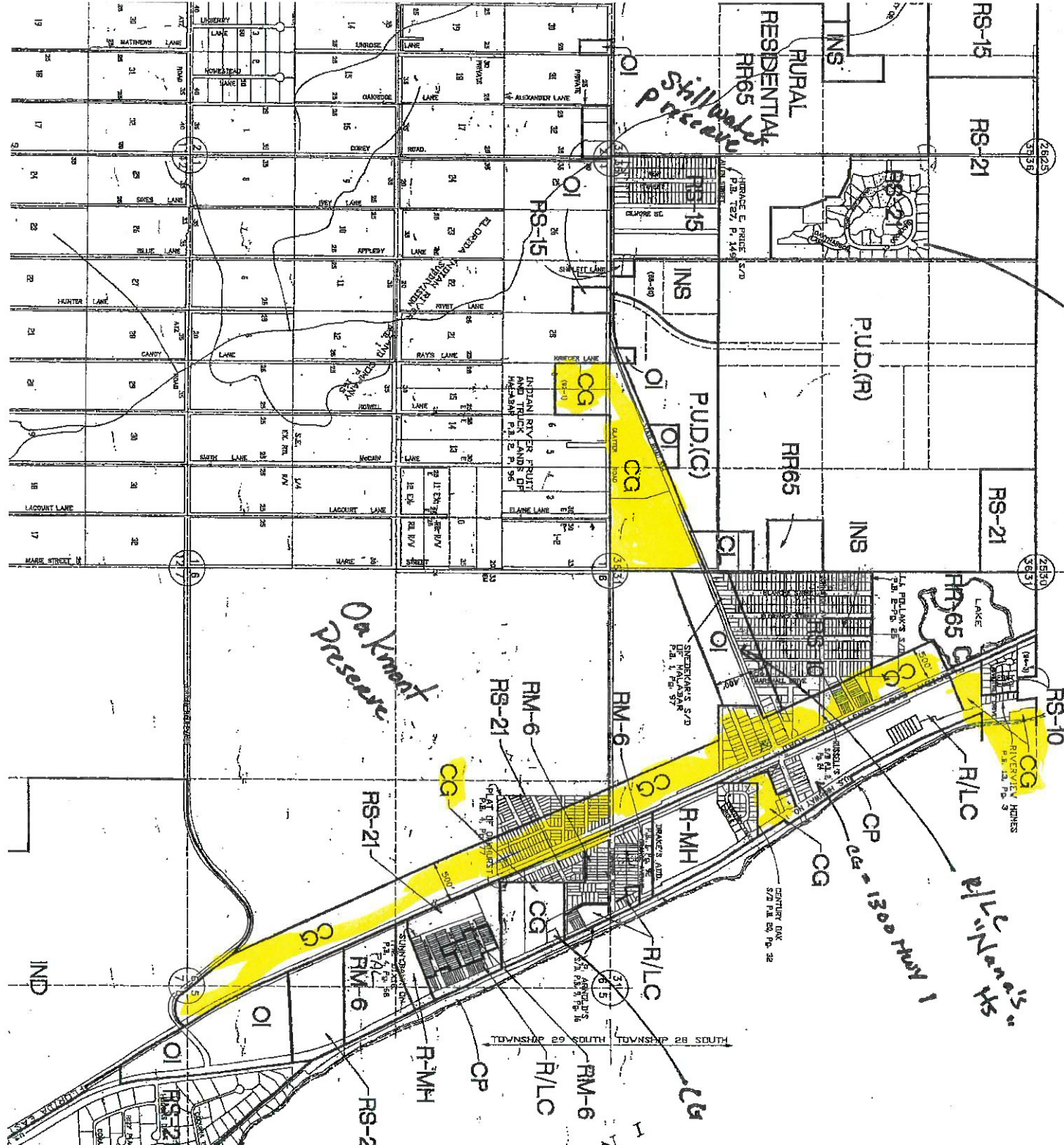
Criteria for the Residential and Limited Commercial Development R/LC Designation. The following criteria for development within the R/LC FLUM designation shall be incorporated into the Town of Malabar Land Development Regulations:

- a. *Percent of Site for Mixed Use Development.* Within the R/LC designation where Residential and Limited Commercial activities are proposed to occupy the same site and/or the same building the following minimum and maximum percentages shall apply:
 - 1) Residential Dwelling unit(s) shall not exceed commercial use(s) by more than one.
 - 2) Commercial use(s) shall not exceed residential dwelling unit(s) by more than one as described in the following table:
-  b. *Limited Commercial Uses.* Limited Commercial uses with the R/LC FLUM designation shall have a minimum floor area of nine hundred (900) square feet and a maximum of four thousand (4,000) square feet.
- c. *Residential Uses.* Single family units shall have a maximum density of four (4) units per acre. Multiple family uses shall have a density no greater than six (6) units per acre. However, any residential site located with a high surficial aquifer area on the Atlantic Coastal Ridge and not served by central water and wastewater shall have a density no greater than two (2) units per acre.
- d. *Minimum Lot Requirements.* Lots within the R/LC FLUM designation shall have a minimum lot size of 20,000 square feet, a minimum width of 100' and a minimum depth of 150'.
- e. *Setback Requirements.* Single family units shall have setbacks of 25' in the front, 10' on the interior and street sides, and 20' in the rear. Multiple family units shall have setbacks of 50' in the front, 10' on the interior side, 20' on the street side, and 25' in the rear.

Division

Count Cover 50

RANGE 37 EAST RANGE 38 EAST



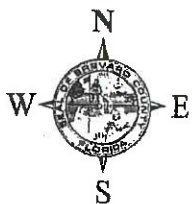
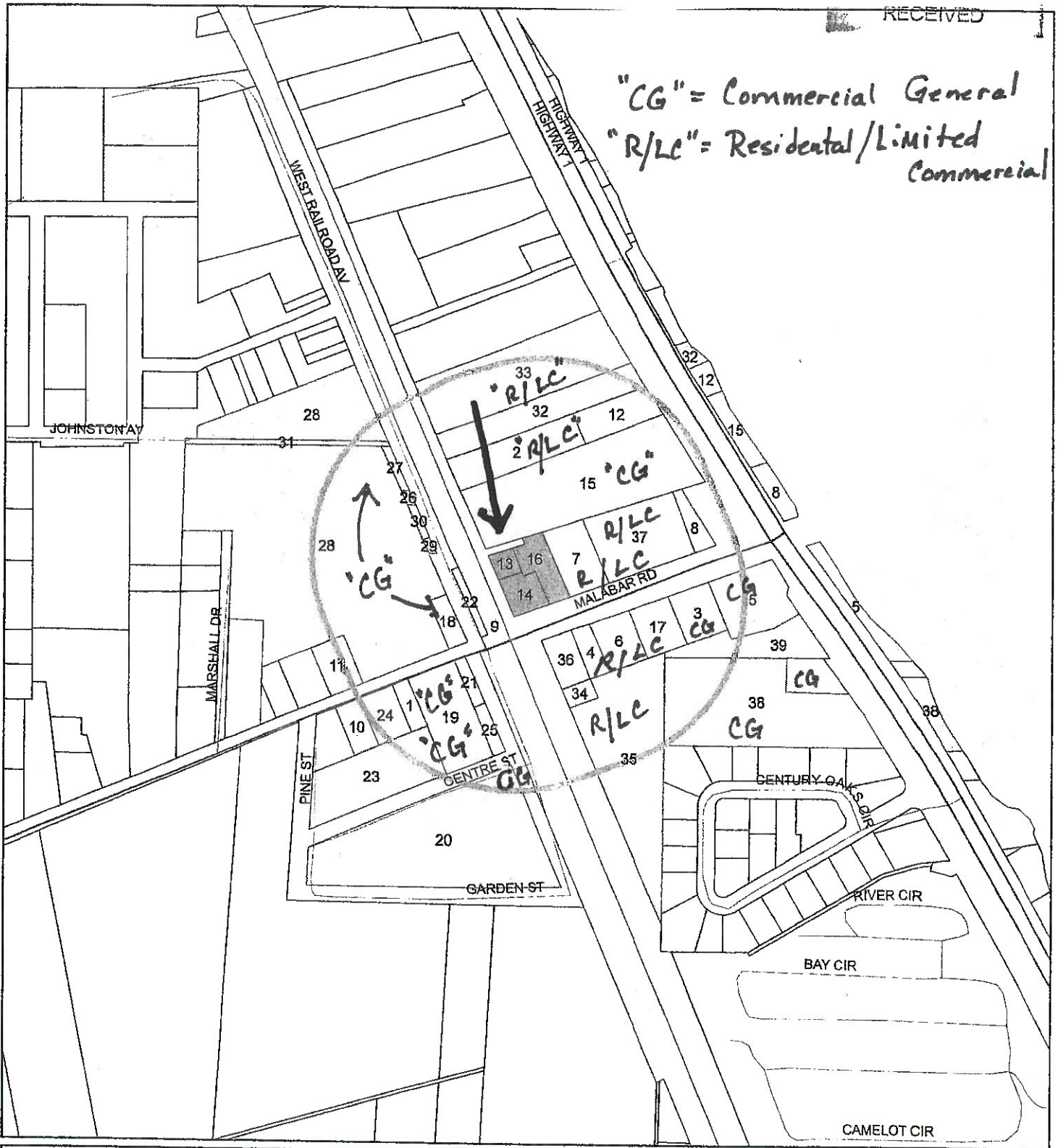
DISTRICTS - LEGEND

- ZONING DESIGNATIONS**
- RR-65 Rural Residential (1.5 Ac./Unit)
 - RS-21 Single Family Residential (1.5 Units/Acre)
 - RS-15 Single Family Residential (2 Units/Acre)
 - RM-6 Multi-Family Residential (4 Units/Acre)
 - R-MH Multi-Family Residential - Hillside (4 Units/Acre)
 - R/LC Residential Low Density (1 Unit/Acre)
 - CP Community Planned Development - Residential
 - CG Community Growth
 - IND Industrial
 - PLD Planned Unit Development - Commercial

Exhibit "A" of Resolution 09-2019

RECEIVED

"CG" = Commercial General
 "R/LC" = Residential/Limited Commercial







1:4,800 or 1 inch = 400 feet

Buffer Distance: 500 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

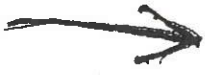
Produced by BoCC - GIS Date: 3/27/2019

-  Buffer
-  Subject Property
-  Notify Property
-  Parcels

LAND USE AND ZONING

§ 1-2.6

guests, in which ten (10) or more rooms are furnished for the accommodation of such guests; and which may have as an accessory use one or more dining room areas.



8. *Limited Commercial Activities.* Small limited item shops and stores limited to retail sales of personal service items, including small convenience items or services typically needed on a frequent and recurring basis. This land use classification is intended to accommodate shops with limited inventory serving: (1) a household market area in the immediate vicinity as opposed to citywide or region; (2) a specialized market with customized service demand; or (3) a tourist oriented market area in the immediate vicinity. This classification is intended to include the following:

- Bait and Tackle Shop.
- Barber and Beauty Shops.
- Book and Stationary Stores.
- Candy and Ice Cream Stores.
- Clothiers.
- Drug Stores and Pharmacies.
- Dry Cleaning and Laundry Pick-Up Substations and Self-Service Facilities.
- Florists.
- Gift Shops.
- Hobby and Handicraft Shops.
- Interior Decorators.
- Jewelry Stores.
- Meat Shops.
- Novelty and Curio Shops.
- Optical Stores.
- Photo Supplies and Studios.
- Shoe Repair Shops.
- Tailors or Seamstress.

Other similar limited commercial activities conducted in a fully enclosed building which are approved by Town Council after receipt of a recommendation from the Planning and Zoning Board. Prior to approving any such "similar" use, the Town Council shall render a finding that the use is similar to the uses identified herein and will produce impacts similar in nature to impacts generated by those activities specifically permitted herein. The burden of proof resides with the applicant. The procedures and criteria for review of such "similar" uses shall be as cited in the following section, § 1-2.6 [1-2.7]. The use shall comply with criteria cited in the above definition of limited commercial activities and shall not include more intense general retail sales and services. The procedures and criteria for review of other similar limited commercial activities shall be as cited in the following section, § 1-2.6 [1-2.7].

Supp. No. 20



- Accommodate only office buildings and institutional land uses and shall expressly exclude residential uses (except those Community Facilities defined as Nursing Homes and Related Health Care Facilities in 1-2.6.B.10(B)), general retail sales and services, warehousing, and outside storage; and
 - Frequently serve as a transition area which buffers residential uses located in one area from a nearby area which accommodates uses of a higher intensity.
 - A Malabar Vernacular Style is required for all development along arterial roadways.
- J. *INS "Institutional Services."* The INS district is established to implement comprehensive plan policies for managing institutional development. The district is intended to accommodate public and semi-public facilities such as government administration buildings; fire, police, and rescue services; health care delivery services; and educational institutions. Land uses such as places of worship, cultural or civic centers, and other similar public or private not-for-profit uses may be included within this district.
- K. *CL "Commercial Limited."* The CL district is established to implement comprehensive plan policies for managing limited commercial development accessible to major thoroughfares near residential neighborhoods. Such development is intended to provide essential household services in locations highly accessible to residential areas. For instance, sites within this district are intended to accommodate neighborhood shops with limited inventory or goods. Such shops generally cater to the following markets:
- Neighborhood residential markets within the immediate vicinity as opposed to city-wide or regional market; or
 - A specialized market with customized market demands.
 - A Malabar Vernacular Style is required for all development along arterial roadways.

Areas designated for limited commercial development are not intended to accommodate large-scale retail sales, services, and trade activities, generally serving a city-wide or regional market. Such stores would usually differ from limited commercial shops since the former would usually require a larger floor area, carry a relatively larger inventory and require substantially greater parking area. Uses, which are not intended to be accommodated within the limited commercial area, include the following: large scale discount stores; health spas; supermarket; department stores; large scale wholesaling and warehousing activities; general sales, services or repair of motor vehicles, heavy equipment, machinery or accessory parts, including tire and battery shops and automotive service centers; commercial amusements; and fast food establishments primarily serving in disposable containers and/or providing drive-in facilities. No residential uses shall be located in the limited commercial district.

- L. *CG "Commercial General."* The CG district is established to implement comprehensive plan policies for managing general commercial development. The general commercial

district is designed to accommodate general retail sales and services. Sites designated for CG zoning shall be located in highly accessible areas adjacent to major thoroughfares which possess necessary location, site, and market requirements required by general commercial land use activities.

The general commercial district shall also accommodate commercial trades in strategically designated areas as defined in the conditional use criteria. Development standards within the land development code shall require that site plans incorporate amenities necessary to prevent potential adverse effects on the traffic circulation system, public services, and residential development within the vicinity.

The general commercial district is not intended to accommodate manufacturing, processing, or assembly of goods, sales and services of heavy commercial vehicles and equipment, or related services or maintenance activities; warehousing; uses requiring extensive outside storage; or other activities or trades which may generate nuisance impacts, including glare, smoke, or other air pollutants, noise, vibration or major fire hazards. Finally, no permanent residential housing shall be located within the general commercial district.

The location and distribution of general commercial activities shall be determined based on the following considerations:


- Trip generation characteristics, impact on existing and plan transportation facilities and ability to achieve a functional internal circulation and landscaped off-street parking system;
- Location and site requirements based on specific needs of respective commercial activities, their market area, anticipated employment generation, and floor area requirements;
- Compatibility with and impact on other surrounding commercial activities;
- Relationship to surrounding land uses and natural systems; and
- Impact on existing and planned community services and utilities.
- A Malabar Vernacular Style is required for all development along arterial roadways.

M. *IND "Industrial."* The industrial district is established to implement comprehensive plan policies for managing industrial development. In locating industrial districts, consideration shall be directed to selecting sites accessible to rail facilities, terminal facilities, major arterials, labor markets, and necessary urban services. Industrial districts shall not include residential activities. However, residence for night watchman or custodians whose presence on industrial sites is necessary for security purposes may be approved as an accessory use. Industrial districts shall be accessible to major thoroughfares and shall be buffered from residential neighborhoods.

Any additional industrial zoning shall be consistent with the comprehensive plan, including criteria for siting industrial activities, including but not limited to, policy 1-1.3.1, policy 1-1.3.2, and policy 1-1.3.3.

- N. *PUD "Planned Unit Development."* The PUD district is established to implement comprehensive plan policies for managing planned unit development. The comprehensive plan incorporates policies encouraging innovative development concepts, including mixed use development. The planned unit development is intended to provide a voluntary framework for coordinating objectives of developers which may require departures from established public policy. The planned unit development district provides a management strategy for negotiating innovative development concepts, design amenities, and measures for protecting natural features of the land. The management process shall promote public and private coordination and cooperation. The land development code incorporates detailed regulations, standards, and procedures for implementing the planned unit development concept.

The planned unit development district shall be available as a voluntary approach for managing specific development characteristics and project amenities to be incorporated in residential, commercial, industrial or mixed use development. Developers who voluntarily participate in the process shall bind themselves as well as their successors in title to the stipulations within the development order approving the planned unit development district.



R/LC *"Residential and Limited Commercial."* The R/LC district is established to implement comprehensive plan policies for managing development on land specifically designated for mixed use Residential and Limited Commercial development on the Comprehensive Plan Future Land Use Map (FLUM). Such development is intended to accommodate limited commercial goods and services together with residential activities on specific sites designated "R/LC" which are situated along the west side of the US 1 corridor as delineated on the FLUM. For instance, sites within this district are intended to accommodate neighborhood shops with limited inventory or goods as well as single family and multiple family structures with a density up to six (6) units per acre. Commercial activities shall generally cater to the following markets:

- Local residential markets within the town as opposed to regional markets; or
- Specialized markets with customized market demands.
- A Malabar Vernacular Style is required for all development along arterial roadways.

Areas designated for mixed use Residential and Limited Commercial development are not intended to accommodate commercial activities with a floor area in excess of four thousand (4,000) square feet, such as large-scale retail sales and/or service facilities or trade activities. These types of commercial activities generally serve regional markets and the intensity of such commercial activities is not generally compatible with residential activities located within the same structure or located at an adjacent or nearby site. Such stores would usually differ from limited commercial shops since the former would usually require a floor area larger than four thousand (4,000) square feet; would generally carry a relatively larger inventory; and require substantially greater parking area. Uses, which are not intended to be accommodated within the

limited commercial area, include the following: large-scale discount stores; health spas; supermarket; department stores; large scale wholesaling and warehousing activities; general sales, services or repair of motor vehicles, heavy equipment, machinery or accessory parts, including tire and battery shops and automotive service centers; commercial amusements; and fast food establishments primarily serving in disposal containers and/or providing drive-in facilities.

Single family or multiple family residential uses with a density no greater than six (6) units per acre may also be located in the R/LC district. Such residential uses may be located either within a freestanding structure or within a structure housing both Residential and Limited Commercial activities. The R/LC district is intended and shall be interpreted to be a "commercial" district with respect to required setbacks and other size and dimension provisions referenced by zoning district in this Code.

(Ord. No. 94-4, § 2, 4-3-95; Ord. No. 07-02, §§ 1-4, 4-2-07; Ord. No. 14-01, § 2, 2-3-14)

Section 1-3.2. Land use by districts.

Table 1-3.2 "Land Use by Districts" stipulates the permitted and conditional uses by district.

Permitted uses are uses allowed by right provided all applicable regulations within the land development code are satisfied as well as other applicable laws and administration regulations. Conditional uses are allowable only if approved by the Town pursuant to administrative procedures found in Article VI. The applicant requesting a conditional use must demonstrate compliance with conditional use criteria set forth in Article VI.

No permitted use or conditional use shall be approved unless a site plan for such use is first submitted by the applicant. The applicant shall bear the burden of proof in demonstrating compliance with all applicable laws and ordinances during the site plan review process. Site plan review process is set forth in Article X.

Cross reference—Alcoholic beverages, ch. 4.

TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
Noncommercial Agricultural Operations	P													
Wholesale Agricultural Activities	P													
Commercial Stables	C													
COMMERCIAL ACTIVITIES														
Adult Activities														
Bars and Lounges									C					
Bed and Breakfast									C					
Business and Professional Offices								P	P	P	P ¹	P	P	
Enclosed Commercial Amusement										P				
Arcade Amusement Center/ Electronic Gaming Establishment										C ²				
Funeral Homes									P	P	C			
General Retail Sales and Services										P				
Hotels and Motels										P				
Limited Commercial Activities									P	P	P			
Marine Commercial Activities										C*				
Medical Services								P	P	P	P			
Mini Warehouse/Storage									C	P	P	P		
Parking Lots and Facilities										P	P			
Retail Plant Nurseries									P	P	P			
Restaurants (Except Drive-Ins and fast food service)									P	P	P			
Restaurants (Drive-ins)										P	P			
Service Station, Including Gasoline Sales										P				
Trades and Skilled Services										C*		C*		
Veterinary Medical Services										C*		P		
Vehicular Sales and Services								P	P	P	C	P		
Vehicular Services and Maintenance										C*		P		
Wholesale Trades and Services										C*		P		
INDUSTRIAL ACTIVITIES														
Kennels												C		
Manufacturing Activities												P		

TABLE 1-3.3(A). SIZE AND DIMENSION REGULATIONS

Zoning District	Minimum Lot (L)			Maximum Height (ft./stories)	Minimum Living Area (sq. ft.)	Setback (ft.) (S)			Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density (units per acre) with Central Water and Wastewater
	Size (sq. ft.)	Width (ft.)	Depth (ft.)			Front	Rear	Side (I)				
Rural Residential Development												
RR-65	65,840	150	250	35/3	1,500	40	30	30	20	N/A	80	0.466
Traditional Single Family Residential Development												
RS-21	21,780	120	150	35/3	1,800	35	20	15	35	N/A	65	2.00
RS-15	15,000	100	120	35/3	1,500	30	20	15	45	N/A	55	2.804
RS-10	10,000	75	100	35/3	1,200	25	20	10	50	N/A	50	4.00
Multiple Family Residential Development												
RM-4	5 Acres Minimum Site	200	200	35/3	1 Bedroom: 900 2 Bedroom: 1100 3 Bedroom: 1300 Each Additional Bedroom: 120	60	40	40	50	N/A	50	4.00
RM-6	5 acres Minimum Site	200	200	35/3	Single Family: 1200 SF Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	25	20	10	50	n/a	50	6
Mixed Use Development												
R/LC	20,000	100	150	35/3	1200 SF Single Family: Multiple Family: 1 Bedroom: 600 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120 Commercial: Min. Area: 900 Max. Area: 4,000	25	20	10	50	n/a	50	4
Mobile Home Residential Development												
R-MH	Site: 5 Acres Lot: 7000					10	8	8	50	N/A	50	6.00
Office Development												



TABLE 1-3.3(a) SIZE AND DIMENSION REGULATIONS FOR PRINCIPAL STRUCTURES

Zoning District	Minimum Lot (L)		Maximum Height (ft./stories)	Minimum Lining Area (sq. ft.) Area: 1000	Setback (ft.) ⁽²⁾			Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density (units per acre) with Central Water and Wastewater
	Size (sq. ft.)	Width (ft.)			Depth (ft.)	Front	Rear				
OI	20,000	100	150	35/3	35/60	25	20	25	0.20	35	N/A
Commercial Development											
CL	20,000	100	150	35/3	60	25	10 ⁴ 15 ³	20	0.20	35	N/A
CG	20,000	100	150	35/3	50	25	20 ⁴ 15 ³	30	0.20	35	N/A
Industrial Development											
IND	20,000	100	160	35/3	50 100 ⁶	25 100 ⁶	20 100 ⁶	30 100 ⁶	0.42	30	N/A
Institutional Development											
INS	20,000	100	150	35/3	60	25	20	30	0.20 0.10 ⁸	40	N/A
Coastal Preservation											
CP	No Size or Dimension Standards Adopted										

¹Minimum size sites and lots include one-half of adjacent public right-of-way
²Minimum setbacks determined from the existing right-of-way line where the yard abuts a public street pursuant to the above cited standards or from the center of the right-of-way pursuant to Table 1-3.3(E) whichever is most restrictive.
³Setback where rear lot line abuts an alley.
⁴Setback shall be greater where side property line abuts a district requiring a larger setback on the abutting yard. In such case the more restrictive abutting setback shall apply.
⁵Where any yard of industrial zoned property abuts a residential district, the building setback for such yard shall be 100 feet.
⁶Recreation activities maximum FAR shall be .10.

Abut or abutting property means a lot or parcel sharing a common boundary with the lot or parcel in question, or a lot or parcel immediately across a public or private right-of-way or street from the lot or parcel in question.

Commercial district means any area of the Town having the zoning classification CL or CG in accordance with the land development regulations of the Town.

Entrance gate means a gate designed for ingress and egress for vehicular traffic to and from a lot or parcel that directly connects to the public roadway. Entrance gates may be opened manually or by automated means and may be guided by hinges, tracks, or other means.

Entranceway means columns, poles, walls, arches or other structures that define a point of entry onto a property. The entranceway may or may not have a gate.

Fence means a vertical row of nonliving material, placed close together or abutting each other in such a manner as to form a boundary or barrier between two (2) adjacent parcels of land. Such amenities as kennels, cages, corals, trellises and related conveniences are not fences for the purposes of this subsection.

Gate means a rigid structure to open and close in order to allow ingress and egress through a fence or wall. Gates may be opened manually or by automated means and may be guided by hinges, tracks, or other means.

Height means the distance from existing grade to the top of such fence or wall including post and/or uprights measured on the side facing abutting property.

Industrial district means any area of the Town having the zoning classification IND in accordance with the land development regulations of the Town.

Institutional district means any area of the Town having the zoning classification INS in accordance with the land development regulations of the Town.

Opaque shall mean that objects located on one side of a fence or wall are not visible from the opposite side when the viewer's line of sight to such object is through such fence or wall.

Perimeter means outside boundary of a subdivision or multiple adjoining lots.

Residential district means any area of the Town having the zoning classification RR-65, RS-21, RS-15, RS-10, RM-4, RM-6, R-L/C or R-MH, in accordance with the land development regulations of the Town.

Wall means a vertical row primarily composed of masonry materials placed close together or abutting each other in such a manner as to form a boundary or barrier between two (2) parcels of land.

Yard means an open, unoccupied space on the same lot or parcel with a building or buildings, other than a court, which is unobstructed from the ground upwards by buildings or structures.

- (e) *Disclosure of Ownership.* The application shall include a verified statement showing each and every individual person having a legal and/or equitable ownership interest in the property upon which the application for rezoning is sought, except publicly held corporations, in which case the names and addresses of the corporate officers shall be sufficient.

B. *Administrative Review.* The Town Clerk shall forward zoning change petitions, for which appropriate fees have been submitted, to all appropriate administrative staff for their review and comment. The application shall be reviewed for conformance with the requirements of this Chapter [Code].

C. *Planning and Zoning Board Review.* The Planning and Zoning Board, regardless of the source of the proposed zone change petition, shall hold a public hearing(s) thereon, with due public notice. The Town Planning and Zoning Board shall submit a written report and recommendation concerning the proposed change of zoning to the Town Council for official action. If the Planning and Zoning Board denies the requested zone change or amendment, this action shall be deemed final unless such action is appealed to the Town Council pursuant to Section 1-12.3(C)(4). In its deliberations the Planning and Zoning Board shall consider the following criteria:

1. *Consistency With Plan.* Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service (LOS) standards and the concurrency management program. Any inconsistencies shall be identified by the Planning and Zoning Board.
2. *Conformance With Ordinances.* Whether the proposal is in conformance with all applicable requirements of the Town of Malabar Code of Ordinances.
3. *Changed Conditions.* Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations involved which are relevant to the amendment.
4. *Land Use Compatibility.* Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved.
5. *Adequate Public Facilities.* Whether, and the extent to which, the proposal would result in demands on public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services.
6. *Natural Environment.* Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetlands protection, preservation of groundwater aquifer, wildlife habitats, vegetative commodities, and wellfield protection.
7. *Economic Effects.* Whether, and the extent to which, the proposal would adversely affect the property values in the area, or the general welfare.

8. *Orderly Development.* Whether the proposal would result in an orderly and compatible land use pattern. Any negative effects on such pattern shall be identified.
9. *Public Interest; Enabling Act.* Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and interest of this ordinance and its enabling legislation.
10. *Other Matters.* Other matters which the Planning and Zoning Board may deem appropriate.

D. Action Following Reviews By Town Planning and Zoning Board. If an appeal to a decision of the Planning and Zoning Board is filed, the Town Clerk shall transmit copies of the petition, the comments and the minutes of the Planning and Zoning Board meeting to each member of the Town Council at least seven (7) days before the Council shall consider the appeal. The Town Clerk shall notify the applicant of the time and place of the meeting at which the Council will hear the appeal. Should the Council tentatively approve the petition, the Town Council will proceed to hold a public hearing(s) on the petition.

Should the Town Planning and Zoning Board approve the petition, the Town Clerk shall transmit copies of the petition, [and] all comments and the minutes of the Planning and Zoning Board meeting to each member of the Council at least seven (7) days before the Council shall consider the petition. Should the Council tentatively approve the petition, public hearing(s) shall be held on the petition.

E. Town Council Review. The Town Council shall hold a public hearing on the requested zone change petition or amendment, with due public notice, if any change is to be considered and shall then act on the proposed change. An affirmative vote of three (3) members of the Town Council is required for favorable action on a zone change petition or amendment for which the Town Planning and Zoning Board has recommended denial. In its deliberations the Town Council shall consider the criteria identified in Section 1-12.5(C) above together with the findings and recommendations of the Planning and Zoning Board. Any modifications or revisions to the Town Planning and Zoning Board recommendation which involve a greater area of land to be rezoned or a more intensive zoning classification shall be the subject of an additional public hearing before the Town Council with due notice prior to action by the Town Council.

Cross reference—Ordinance adoption procedure, § 2-76 et seq.

Section 1-12.6. Procedures for public hearings.

Due public notice shall be provided pursuant to § 166.041 F.S.

Section 1-12.7. Violations and provisions for schedule of fines.

Violations and Penalties. Prior to issuing a citation for a violation of this Code, the Town Clerk or other designated Town official shall provide notice to the violator that the violator has committed a violation of a code and shall establish a reasonable time period within which the violator must correct the violation. Such time period shall be no more than 30 days. If, upon



Town of Malabar, 2725 Malabar Road, Malabar, FL 32950
321-727-7764 (Office) 321-727-9997 (Fax) www.townofmalabar.org
townclerk@townofmalabar.org

**TOWN OF MALABAR
NOTICE OF
PUBLIC HEARING**

The Malabar Town Council will convene at the Council Chambers, 2725 Malabar Road, Malabar, Florida at 7:30PM on June 17, 2019 to hold a Public Hearing and consider a request for an amendment to the Future Lane Use and Zoning Maps from Residential Limited Commercial to Commercial General. The request involves three parcels in Township 28, Range 38, Section 31 and known as 54-D-1, 54-D-2 and 54-D-12 totaling .82 acres +/- . The applicant, Kellwill LLC is requesting the parcels be changed from mixed use Residential/Limited Commercial (R/LC) to Commercial General (CG). The property is generally located at the northeast corner of Malabar Road and East Railroad Avenue.

Case 2019-0617-3: Applicant is Kellwill LLC, represented by Mr. William Carmine. The Planning and Zoning Board will hear the request for this change at their meeting on Monday, June 10, 2019 at 7:00PM and make a recommendation to Council.

If you received this notice then you are listed as an owner of property, as shown in the records of Brevard County Property Appraiser's office, within 500' of the applicant's location. This Notice is provided as courtesy information and in compliance with the Town's desire to inform the public.



PUBLIC NOTICE

CASE NO. SSA-ZC-1-2019

The Public Hearings will be conducted at the Town of Malabar Council Chambers, 2725 Malabar Road, Malabar, FL 32950

Planning and Zoning Board Meeting:
Wednesday, **June 10**, 2019 @ 7:00 pm

Town Council Meeting:
Monday, **June 17**, 2019 @ 7:30 pm

APPLICANT: William Carmine, aka Kellwill LLC

REQUEST: COMPREHENSIVE PLAN MAP CHANGE & ZONING CHANGE FROM RL/C TO CG

Ordinance 2019-06

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA CHANGING THE COMPREHENSIVE PLAN MAP AND ZONING MAP THE THREE (3) PROPERTIES LOCATE IN THE SNEDEKERS SUBDIVISION AS FOLLOWS:

- VACANT PARCELS ON MALABAR ROAD, MALABAR, FLORIDA IN TOWNSHIP 28, RANGE 38, SECTION 31, LOT 54-D-1, LOT 54-D-2 AND LOT 54-D-12 FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG) PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN ZONING MAP; PROVIDING AN EFFECTIVE DATE.

The proposed ordinance may be inspected by the public at the Town Clerk's Office between the hours of 8:30AM and 5:00PM weekdays. Interested persons are encouraged to appear at these hearings and provide comments regarding the proposed ordinances. Persons with disabilities needing assistance to participate in any of these proceedings should contact the Clerk's Office, ADA Coordinator, 48 hours in advance of the meeting at 321-727-7764, Debby Franklin, Town Clerk.



TOWN OF MALABAR

JUN 03 2019

RECEIVED

TOWN OF MALABAR
2725 MALABAR RD

MALABAR, FL, 32950

STATE OF NEW JERSEY COUNTY OF MONMOUTH:
Before the undersigned authority personally appeared Debbie Davis, who on oath says that he or she is a Legal Advertising Representative of the FLORIDA TODAY, a daily newspaper published in Brevard County, Florida that the attached copy of advertisement, being a Legal Ad in the matter of

Notice Public Hearing

as published in FLORIDA TODAY in the issue(s) of:

05/31/19

Affiant further says that the said FLORIDA TODAY is a newspaper in said Brevard County, Florida and that the said newspaper has heretofore been continuously published in said Brevard County, Florida each day and has been entered as periodicals matter at the post office in MELBOURNE in said Brevard County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has never paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and Subscribed before me this 31th of May 2019,
by Debbie Davis who is personally known to me

Affiant

Notary Kathleen A Gibson

AD#3598710, 5/31/2019
**TOWN OF MALABAR
NOTICE OF PUBLIC HEARINGS**
The Town of Malabar's Planning and Zoning Board shall conduct a Public Hearing on Monday, June 10, 2019 at 7:00P.M. to consider a request for a future land use and zoning map change from R/LC to CS. The Malabar Town Council, Brevard County, Florida will convene in the Town Hall, 2725 Malabar Road, Malabar, Florida on Monday, June 17, 2019 at 7:30 PM or as soon thereafter as the matter can be heard, to conduct a public hearing on the same request and to consider the recommendation from the Planning and Zoning Board.
Copies of these documents are available in the Clerk's office for review, 2725 Malabar Road, Malabar, Florida, during regular business hours. All interested parties may appear and be heard at this meeting of the Town Council with respect to these topics. Persons with disabilities needing assistance to participate in any of these proceedings should contact the Clerk's Office, ADA Coordinator, 48 hours in advance of the meeting at 321-727-7764. Debby Franklin, CMC, Town Clerk/Treasurer

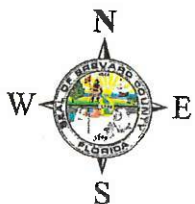
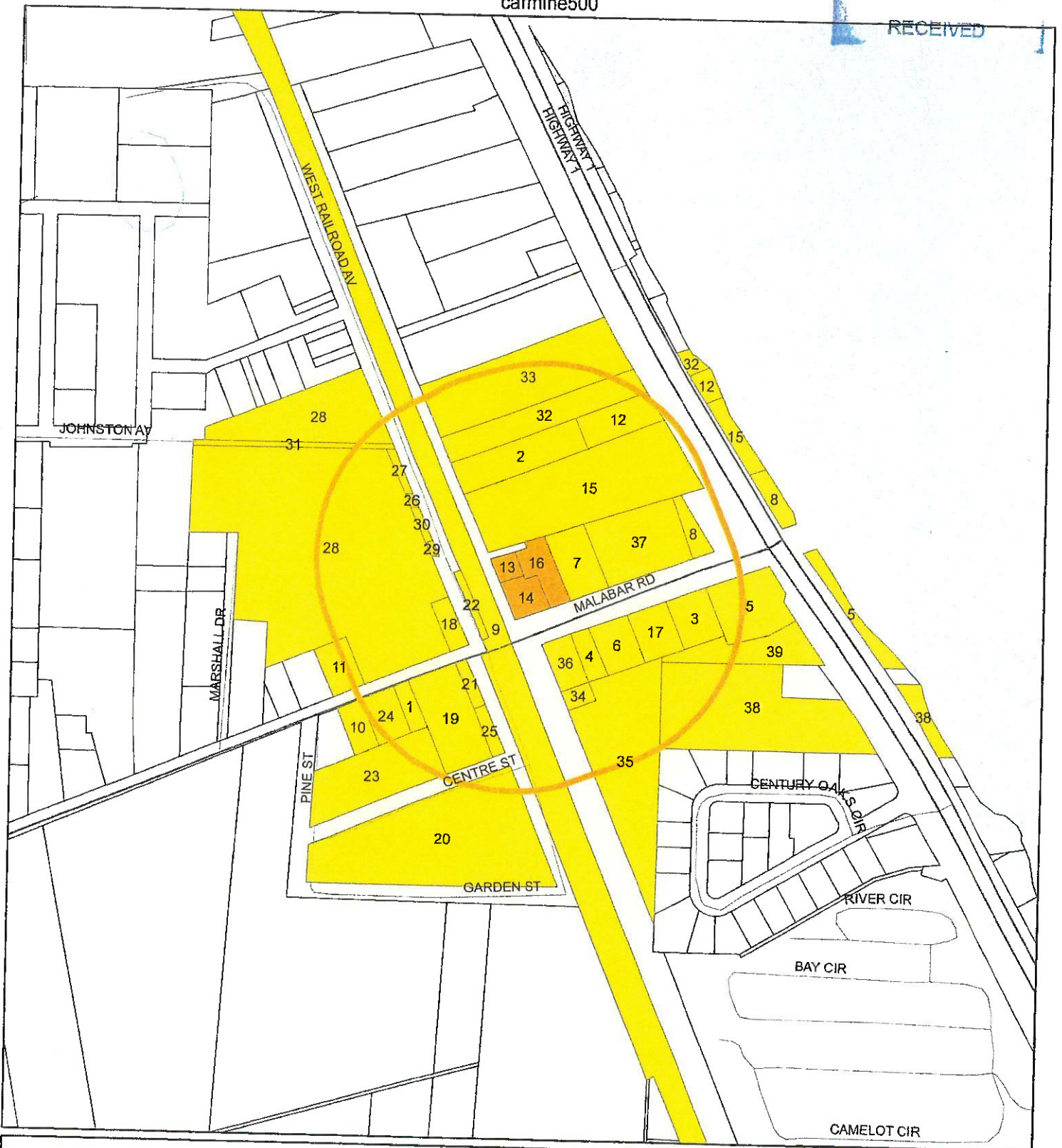


Publication Cost: \$77.11
Ad No: 0003598710
Customer No: BRE-6TO207

RADIUS MAP
 ROUTE 1 MOTORSPORTS
 carmine500

TOWN OF MALABAR

RECEIVED







1:4,800 or 1 inch = 400 feet

Buffer Distance: 500 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 3/27/2019

-  Buffer
-  Subject Property
-  Notify Property
-  Parcels

CARMINE, William

BROTHERS FAMILY REVOCABLE
LIVING TRUST
5235 SUTTON AVE
MELBOURNE FL 32904-5170

BROWN, LOUISE E TRUSTEE
PO BOX 500151
MALABAR FL 32950-0151

CARMINE LLC
PO BOX 600835
MALABAR FL 32950-0835

COCHRANE, PAULINE
COCHRANE, ROY
PO BOX 500833
MALABAR FL 32950-0833

DEVVRAT CORPORATION INC
1360 HIGHWAY 1
MALABAR FL 32950-

EASTON, RICHARD
8514 DAMASCUS DR
PALM BEACH GARDENS FL 33418-6014

EASTON, RICHARD H
8514 DAMASCUS DR
PALM BEACH GARDENS FL 33418-6014

EDGER PROPERTIES LLC
PO BOX 950847
LAKE MARY FL 32795-0847

FLORIDA EAST COAST RAILWAY LLC
7150 PHILIPS HWY
JACKSONVILLE FL 32256-6802

GOURLAY, ROBERT E, JR
2655 MALABAR RD
MALABAR FL 32950-4427

GOURLAY, ROBERT EARL, JR
2655 MALABAR RD
MALABAR FL 32950-4427

KAMDEN HOMES LLC
1049 EBER BLVD, STE 104
MELBOURNE FL 32904-8767

KELLWILL LLC
1300 S US HIGHWAY 1
MALABAR FL 32950-4413

KELLWILL LLC
PO BOX 587
GRANT FL 32949-0587

KEMMLER, HANSEL C
KEMMLER, BARBARA B
2785 MALABAR RD
MALABAR FL 32950-

LAWRENCE, FITZGERALD
LAWRENCE, MARIA
2728 MALABAR RD
MALABAR FL 32950-4411

LOTUS GROUP INVESTMENTS INC
PO BOX 500928
MALABAR FL 32950-0928

MALABAR, TOWN OF
2725 MALABAR RD
MALABAR FL 32950-

MARKS, ROBERT D
1100 NE BROOK NE ST
PALM BAY FL 32905-4902

MAYNARD, SHARON L
3336 SE FINOLA SE AVE
PALM BAY FL 32909-1321

NEACSU, ELIZABETH EMANUEL
1256 S US HIGHWAY 1
MALABAR FL 32950-6911

PROCTOR, DOUGLAS K
2460 MALABAR ROAD
MALABAR FL 32950-

RAY, DEANNE HUGGINS
PO BOX 500175
MALABAR FL 32950-0175

SMITH, DEBRA A
1410 HIGHWAY 1
MALABAR FL 32950-

WORTHY PROPERTIES LLC
6475 S US HIGHWAY 1
GRANT FL 32949-2217

Route 1 Motorsports Unlimited Inc.
1300 S US Hwy 1
Malabar, FL 32950

TD BANK
63-1432670

12301

PAY TO THE
ORDER OF

Town of Malabar

DATE

03/27/2019

\$ 1,500.00

*** One Thousand Five Hundred Dollars and 00 Cents ***

DOLLARS

Town of Malabar
2725 Malabar Road
Malabar, FL 32950

MEMO

Handwritten signature

⑈012301⑈ ⑆057014822⑆ 4254123534⑈

Route 1 Motorsports Unlimited Inc. Town of Malabar
Invoice No. Inv Date Description
Land Use App. 03/27/2019 Application for Land Use Amendment and Z
Discount Taken Amount Paid
\$0.00 \$1,500.00

RECEIPT

No. 496643

DATE 4/9/19
FROM Route 1 Motorsports U \$1500.00
DOLLARS

FOR RENT
FOR RENT
244 12301
BY *Signature*

ACC	PAID	DUE
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CASH	CHECK	MONEY ORDER
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CREDIT CARD	FROM TO	
<input type="checkbox"/>	BY <i>Signature</i>	

\$1,500.00