

RESOLUTION 13-2014

only in
SAFE

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA PARTIALLY VACATING AND ABANDONING A PORTION OF THAT CERTAIN RIGHT OF WAY KNOWN AS WEST RAILROAD RIGHT-OF-WAY LOCATED IN THE TOWN OF MALABAR; PROVIDING FOR SEVERABILITY; 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 determined that the Right-of-Way described above is of no need to the Town for road right-of-way; and

WHEREAS, through a series of plats, changes to plats, deeds and other recorded instruments the West Rail Road Avenue right of way has meandered and changed so that as originally platted the West Railroad Avenue right of way now has a 20 foot jog to the west from where originally platted; and,

WHEREAS, this has resulted in the West Railroad Avenue right of way being out of alignment; and,

WHEREAS, property owners abutting the west side of the West Railroad Avenue right of way have made improvements to their property which appear to now encroach into a portion of West Railroad Avenue.; and,

WHEREAS, the Town Council deems it is in the best interest of the Town to vacate and abandon the said Right-of-Way; and,

WHEREAS, in accordance with Resolution No. 04-2005 certain property was deeded/dedicated to the Town by a General Warranty Deed recorded I ORB 5512, PG 2169; and

WHEREAS, the Town desires to vacate and abandon/reconvey to the original Grantor, their heirs, successors or assigns, a portion the property described in Resolution No. 04-2005 as more particularly described in Section 2 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 westerly 2.5 feet of the West Railroad Avenue right of way beginning at the intersection of West Railroad Avenue as shown on the plat of Arnold's Plat of Malabar, recorded in Plat Book 2, Page 23 of the Public Records of Brevard County, Florida and the north right of way of Malabar Road; Thence run northwesterly along the westerly 2.5 feet of the West Railroad Avenue right of way to the easterly extension of the northerly line of Lot 2, Block A of said Arnold's Plat.

A map showing the area vacated is attached hereto as **Exhibit "A."** The intent of this vacate is to resolve issues relating to building encroachments in the West 2.5 feet of West Railroad Avenue.

The Town does not by this vacate, approve or acquiesce to any other encroachments in any of the remaining portions of the West Railroad right of way commencing at the intersection of the West Railroad Avenue right of way and Malabar Road (SR 514) and running north along the west 2.5 feet of the West Railroad Avenue right of way to a point perpendicular with the north line of Lot 2, Block A Arnold's Plat according to the map or plat as recorded in Plat Book 1, page 157, of the public records of Brevard County, Florida

Section 2. Right-of-Way Abandoned. The Town hereby vacates and abandons the following property:

Beginning at the intersection of the north line of Map Of Russell's Subdivision, as recorded in Plat Book 2, Page 24 of the Public Records of Brevard County, Florida and the westerly right of way line of West Railroad Avenue as described in Official Records Book 5512, Page 2169; Thence run South 23°23'19" East along said right of way line, a distance of 472.41 feet to the southeast corner of Lot 7, Block A, Arnold's Plat of Malabar, as recorded in Plat Book 1, Page 157, of the Public Records of Brevard County, Florida; Thence run North 21°17'05" West a distance of 464.7 feet to the said north line of Map of Russell's Subdivision; Thence run South 89°48'16" West along said north line a distance of 18.56 feet to the Point of Beginning.

A map showing the areas vacated is attached hereto as **Exhibit "B."** It is the intent that the property described in this Section 2 revert back to the original Grantor, their heirs, successors or assigns, in that certain General Warranty Deed dated July 25, 2005 and recorded in ORB 5512, PG 2169 of the Public Records of Brevard County, Florida.

The Town does not by this vacate, approve or acquiesce to any other encroachments in any of the remaining portions of the West Railroad right of way.

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 KORN and was seconded by Council Member ABARE and, upon being put to a vote, the vote was as follow:

- Council Member James Milucky
- Council Member Wayne Abare
- Council Member Steve Rivet
- Council Member Dick Korn
- Council Member Marisa Acquaviva

Aye
 Aye
 Aye
 Aye
 Excused

This Resolution was declared duly passed and adopted this 5th day of May, 2014.

Town of Malabar

Steve Rivet
Steve Rivet, Council Chair

ATTEST: