

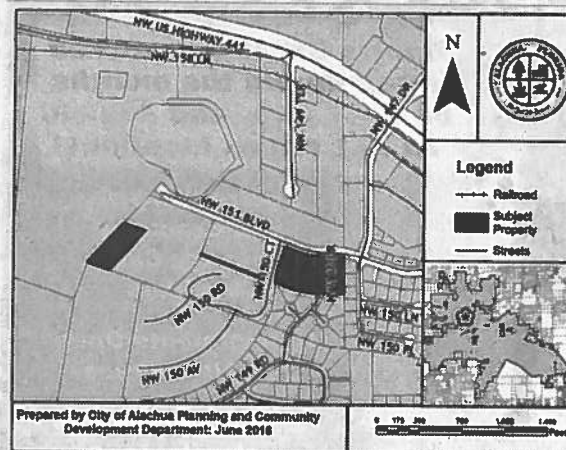


# City of ALACHUA

## NOTICE OF PUBLIC HEARING BEFORE THE PLANNING AND ZONING BOARD OF THE CITY OF ALACHUA, FLORIDA

### NOTICE OF PUBLIC HEARING BEFORE THE PLANNING AND ZONING BOARD OF THE CITY OF ALACHUA, FLORIDA

Notice is hereby given that the Planning & Zoning Board of the City of Alachua will hold a public hearing on July 12, 2016 at 6:30 PM. The hearing will be held in the James A. Lewis Commission Chambers in City Hall, located at 15100 NW 142nd Terrace, Alachua, Florida, to consider the following: a request by Ryan Thompson, AICP, of CHW, Inc., agent for 10.47, LLC and Wyndswept Hills, LLC, property owners, for the consideration of a Small Scale Comprehensive Plan Amendment (SSCPA) to the City of Alachua Future Land Use Map (FLUM) from Community Commercial to High Density Residential ( $\pm 1.8$  acres) and from High Density Residential to Community Commercial ( $\pm 3.87$ ) on an approximate 5.67 acre subject property, located north of One 51 Place Apartments and Wyndswept Hills Subdivision, south of Park Vegetariana, west of the Alachua Professional Plaza, and near the western terminus of NW 151 Boulevard, consisting of Tax Parcel No. 03869-006-000, and portions of Nos. 03869-007-000 & 03869-009-000. Existing FLUM: High Density Residential and Community Commercial; Zoning: PD-COMM.



At the public hearing, all interested parties may appear and be heard with respect to the application. Copies of the application are available for public inspection at the Planning and Community Development Department, 15100 NW 142nd Terrace, Alachua, Florida, on any regular business day between the hours of 7:30 a.m. to 6:00 p.m. Written comments on the application may be sent to the following address: City of Alachua, Planning and Community Development, P.O. Box 9, Alachua, FL 32616. Notice is given pursuant to Section 286.0105, Florida Statutes, that, in order to appeal any decision made at the public hearing, you will need a record of the proceedings, and that, for such purpose, you may need to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence upon which the appeal is to be based. In accordance with the Americans with Disabilities Act, any persons with a disability requiring reasonable accommodation in order to participate in this meeting should call the City Clerk at (386) 418-6100 x 101 at least 48 hours prior to the public hearing.

(Published: Alachua County Today - June 30, 2016)



BOAT BATTLE

Yellowfin sues rival startup

Bradenton company accuses new boatmaker Barker of copying hull design

By Lee Williams  
Gatehouse Media Services

From their 17-foot skiff to their 42-foot offshore, few vessels are as distinctive as the open fisherman-style, center-console boats from Yellowfin.

The Bradenton-based firm has been in business for 14 years, and has sold more than 1,000 vessels.

Yellowfin's boats feature a uniquely shaped hull and sheer line — which they claim is a “distinctive appearance that creates an overall commercial impression that boaters have come to know and appreciate.”

In legal terms, the look and feel of a product — especially when it's immediately recognizable by the public as a specific brand — is described as its “trade dress.”

A product's trade dress is protected at the federal level by the Lanham Act, the primary trademark statute in the United States.

Now, Yellowfin is suing a competitor, Barker Boatworks, which was founded in 2014 by Kevin Barker, a former Yellowfin vice president. So far, Barker Boatworks has delivered 20 boats and has orders for 50 more.

Yellowfin is alleging that Barker violated its trade dress rights by making boats that are very similar in design to theirs. Yellowfin also has accused Barker of stealing trade secrets from the company where he worked for four years, allegations his attorneys have denied.

Citing the litigation, Barker and Yellowfin owner Wylie Nagler declined to comment for this story.

Attorneys for Yellowfin first sent a cease-and-desist letter to Barker in October 2014.

“It has come to our client's attention that after you left Yellowfin, you set up a competing company, Barker Boatworks, LLC, and have promoted and marketed the manufacturing of a line of boats that infringes Yellowfin's trade dress rights,” the letter states. “As you know, Yellowfin has been manufacturing a line of boats for approximately 14 years that have a distinct appearance that creates an overall commercial impression that boaters have come to know and appreciate.”

Attorneys for Barker asked if Yellowfin had conducted consumer surveys to gauge whether Barker's alleged infringement on Yellowfin's trade dress was noticeable to the public.

In April 2015, Yellowfin responded by filing suit.

In their complaint, which alleges trade dress infringement, unfair competition and false designation of origin under the Lanham Act, Yellowfin notes that the company began designing a new hull in the late 1990s.

“All of the models share a substantial part of the sheer line, and Yellowfin has expended significant resources, advertising and promoting its line of boats that incorporate this unique trade dress,” the complaint states.

Court documents show that sport fishing magazines have written numerous articles about Yellowfin boats, and that fishermen and boaters

30. A comparison of line drawings of the two boats and the finished boats makes it difficult to know which one is manufactured by Yellowfin and which one is by Defendant.



A page from Yellowfin Yachts' complaint against Barker Boatworks details, in photos and line drawings, what they claim is their uniquely shaped hull and sheer line — which they claim is a “distinctive appearance that creates an overall commercial impression that boaters have come to know and appreciate.”

have “come to identify the distinctive features of the Yellowfin Trade Dress as identifying the manufacturer of the Yellowfin boats, to wit, Yellowfin.”

Barker, court documents claim, launched Barker Boatworks in 2014, and posted a design on his Facebook site of a 25-foot open fisherman-style boat called the “Calibogue Bay,” which Yellowfin alleged violated their trade dress rights because of its similar design.

Barker Boatworks exhibited their first production model at boat shows in Miami Beach and Palm Beach in February and April 2015.

“A comparison of line drawings of the two boats and the finished boats makes it difficult to know which one is manufactured by Yellowfin and which one is by Defendants,” the complaint states.

In addition to treble damages and attorney's fees, Yellowfin is asking the court to block Barker Boatworks from infringing on their trade dress rights, and to force the defendants to recall and “surrender for destruction all products, order forms, price lists, labels, advertisements, brochures, catalogs, packaging materials and other materials incorporating or imitating Plaintiff's trade dress.”

Trade secrets

Yellowfin has asked the court to order Barker Boatworks managers to turn over their cellphones and computers for inspection, because they allege that Barker stole trade secrets before leaving the company.

“As a Vice President, he had access to sensitive company information, information that he knew Yellowfin did not share publicly and would not want shared with a competitor. Among that trade secret information were (1) detailed information about its 550+ customers, and (2) detailed information about Yellowfin's sources for components and materials used in the manufacture of its boats, including pricing,” the complaint states. “A competitor obtaining that information could target Yellowfin's customers and could use the source information to circumvent the work involved in setting up a business, identifying key source companies, negotiating requirements contracts, negotiating pricing for materials, etc.”

When Barker left, Yellowfin began an internal audit of its computer system.

“As set forth in greater detail below, an initial review of some of the information from that laptop computer, together with other information learned by Yellowfin regarding Mr. Barker's activities during the days leading up to his

departure from Yellowfin in May 2014 and even the days after his departure, reveal that Mr. Barker did take sensitive, proprietary and confidential information from Yellowfin,” court documents state. “Because of that, Yellowfin sought leave to amend its complaint, which the

Court granted on August 31, 2015, to add a claim against the Defendants for theft of trade secrets.”

Barker's attorneys have denied the allegations.

Expert analysis

There are three elements to prove a trade dress case: distinctiveness, lack of functionality and consumer confusion, says Jonathan Pollard, of Pollard PLLC, a Fort Lauderdale-based trial lawyer who focuses his practice on competition law.

“Trade dress means the overall look and feel of a product, a design or a tangible good. The bottom line is that consumers associate this look and feel with a given brand,” said Pollard, who has extensive experience litigating competition claims, including non-compete, trade secret and trade dress cases.

“The best example of this is Red Bull. Anyone who thinks of Red Bull immediately associates its thin, silver and blue can.



Kevin Barker is a former Yellowfin Yachts vice president, who left to start his own company, Barker Boatworks. STAFF PHOTO / MIKE LANG

Yellowfin is alleging that Barker violated its trade dress rights by making boats that are very similar in design to theirs. Yellowfin also has accused Barker of stealing trade secrets from the company where he worked for four years, allegations his attorneys have denied.

Red Bull has trade dress protections.”

“Red Bull has distinctiveness — you don't even need to read the words on the can to know what it is,” Pollard said. “The consumer makes an immediate connection.”

The attorney said Yellowfin's suit appears to fall somewhat short in the area of creating customer confusion.

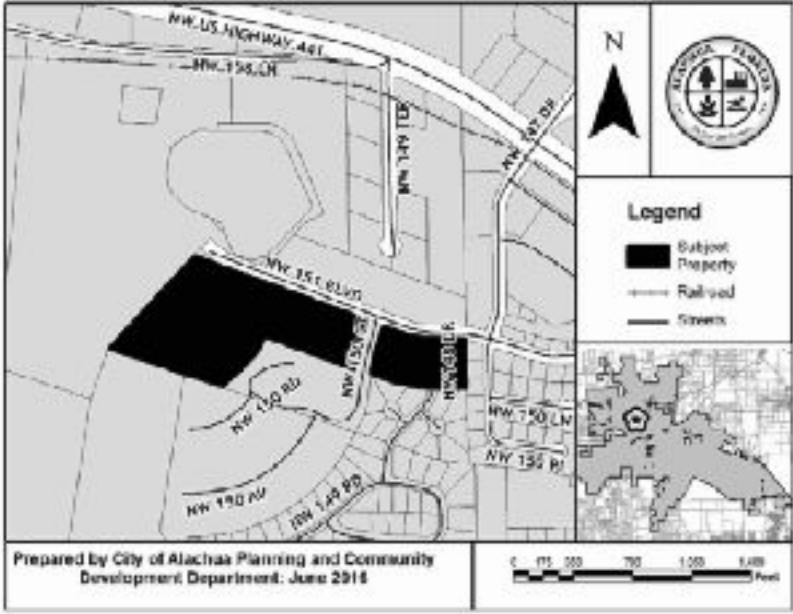
“There's a big difference between buying a can

of Red Bull and purchasing an expensive boat,” he said. “When you get into the real big-ticket luxury items like a boat selling for several hundred thousand dollars, no discerning consumer who has millions of dollars to spend would actually be confused between a Yellowfin and a Barker. Nobody buying a Barker boat is ever going to say, ‘Damn. I thought it was a Yellowfin. I was confused.’”

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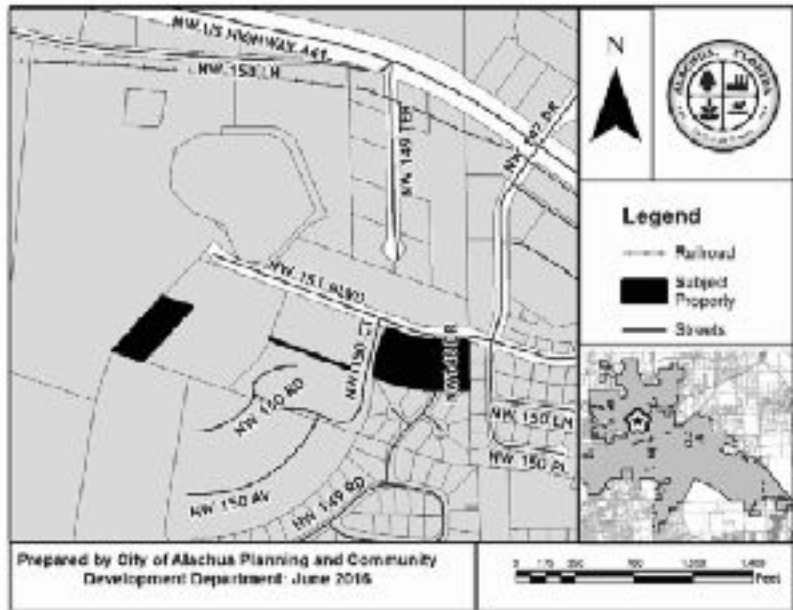
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GF-GH031383

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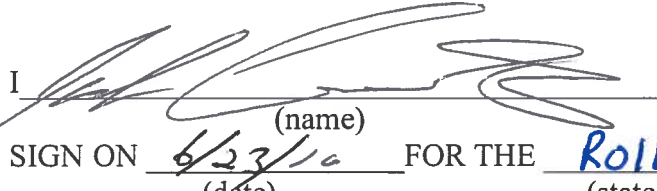


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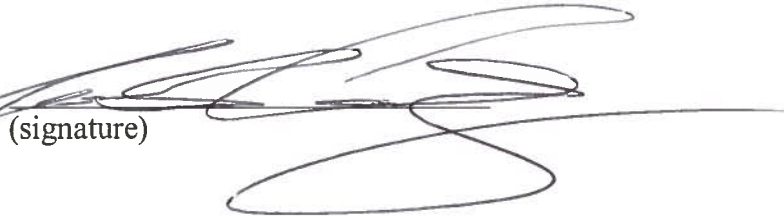


## AFFIDAVIT FOR POSTED LAND USE SIGN

I , POSTED THE LAND USE  
SIGN ON 6/23/10 FOR THE Rolling Oaks (SS&PA)  
(name) (date) (state type of action and project name)  
LAND USE ACTION.

AS PER ARTICLE 2.2.9 D OF THE LAND DEVELOPMENT REGULATIONS.

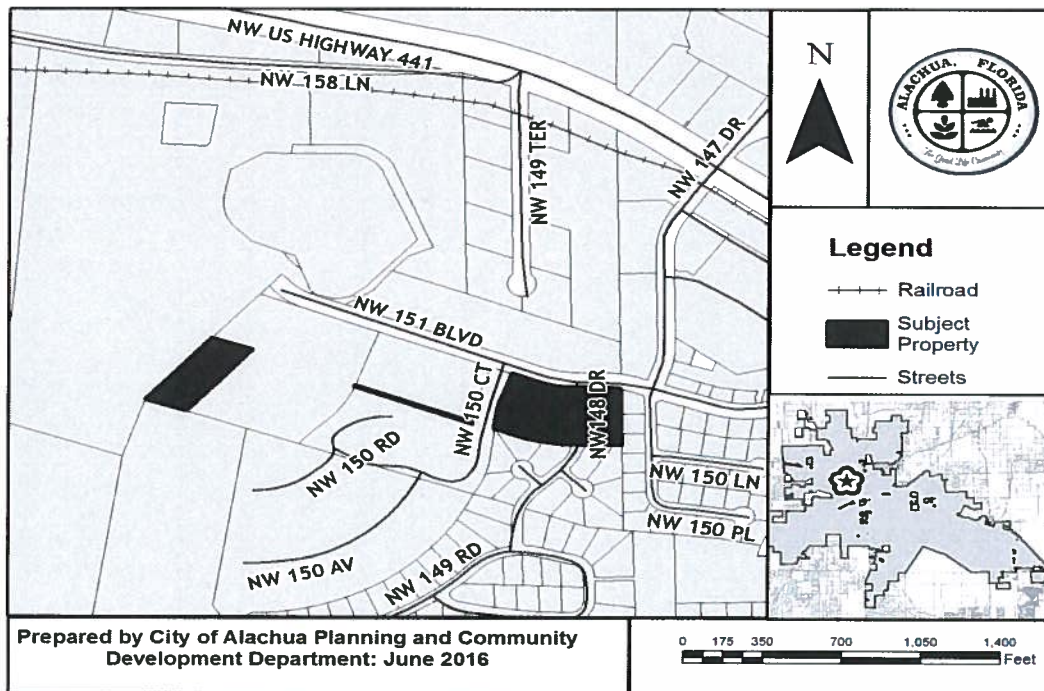
THIS WILL BE INCLUDED IN THE STAFF REPORT.

  
(signature)

4  
(number of signs)

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03605-010-001  
AVONDA WILLIAM M  
14741 NW 151ST BLVD  
ALACHUA FL 32615

03605-010-002  
SATTES FREDERICK H III  
14703 NW 151ST BLVD  
ALACHUA FL 32615

03605-010-003  
FLEMING DOUGLAS R  
14685 NW 151ST BLVD  
ALACHUA FL 32615

03605-010-007  
EDWARDS ERIN J  
14742 NW 150TH LANE  
ALACHUA FL 32615

03605-010-008  
CARTELL JOHN C  
14710 NW 150 LN  
ALACHUA FL 32615

03605-010-009  
CHESHIRE & LILKENDEY  
14688 NW 150TH LN  
ALACHUA FL 32615

03605-010-015  
VICK PATSY G  
14675 NW 150TH LN  
ALACHUA FL 32615

03605-010-016  
MCLAURIN PATRICIA LIFE ESTATE  
14707 NW 150TH LN  
ALACHUA FL 32615

03605-010-017  
MAURICIO DORIS ANN LIFE ESTATE  
14739 NW 150TH LANE  
ALACHUA FL 32615

03605-010-019  
HODGES & LUNDQUIST SR  
15084 NW 147TH DR  
ALACHUA FL 32615

03605-010-020  
AARNOUDSE JACOB A T  
15078 NW 147TH DR  
ALACHUA FL 32615-5305

03605-010-021  
SPURLIN HENRY J III  
15066 NW 147TH DR  
ALACHUA FL 32615

03605-020-022  
HOWELL ROBERT CHAD  
15054 NW 147TH DR  
ALACHUA FL 32615

03605-020-023  
BROCK MICHAEL J  
15042 NW 147TH DR  
ALACHUA FL 32615

03605-020-024  
FITZGERALD KATHLEEN E  
15030 NW 147TH DR  
ALACHUA FL 32615-5305

03605-020-025  
SMITH ODELL F SR  
14755 NW 150TH PL  
ALACHUA FL 32615

03605-020-033  
HENCIN PATRICK A  
14714 NW 150TH PL  
ALACHUA FL 32615

03605-020-034  
PAYNE JEREMY A  
14746 NW 150TH PL  
ALACHUA FL 32615-5306

03863-002-000  
R & J MCCAULEY LLC  
15260 NW 147TH DR  
ALACHUA FL 32615

03863-002-001  
ALACHUA DEVELOPMENT LLC  
5405 CYPRESS CENTER DR STE 320  
TAMPA FL 33609

03863-020-001  
CALIGIURI NICCOLO G  
14880 NW 151ST LN  
ALACHUA FL 32615

03863-020-002  
VISION CONSTRUCTION INC  
20222 NW 94TH AVE  
Alachua FL 32615

03863-020-004  
PASCALE MICHAEL  
14825 NW 151ST LANE  
Alachua FL 32615

03863-020-005  
FORD & GOODE  
14849 NW 151ST LN  
ALACHUA FL 32615

03863-020-006  
SHAH PARUL  
PO BOX 818  
ALACHUA ALACHUAFL 32616

03863-020-007  
NEWMAN ERIC M  
14878 NW 149TH RD  
Alachua FL 32615-0246

03863-020-008  
CROUCH JOHNNY D  
4006 NW 60TH AVE  
GAINESVILLE FL 32653

03863-020-045  
MCCOLLUM TRUSTEE & MCCOLLUM  
TRUSTEE  
15028 NW 148TH DR  
Alachua FL 32615

03863-020-046  
BAKOS THOMAS  
8403 SW 46TH RD  
Gainesville FL 32608

03863-020-047  
WETHERINGTON MARILYN E  
3730 SE 14TH TER  
GAINESVILLE FL 32641

03863-020-048  
BEVILLE RYAN  
22103 NW COUNTY RD 235A  
ALACHUA FL 32615

03863-020-049  
FLORIDA VICENTE C  
14974 NW 150TH LN  
Alachua FL 32669

03863-020-050  
VISION CONSTRUCTION INC  
3201 NW 202ND ST  
Newberry FL 32669

03868-001-007  
KOROSIC CHRISTOPHER ALLAN  
15710 NW US HIGHWAY 441  
ALACHUA FL 32615

03869-003-000  
HITCHCOCK & SONS INC  
29220 NW 122ND ST  
ALACHUA FL 32615

03869-012-000  
ALACHUA PROFESSIONAL PLAZA LLC  
15260 NW 147TH DR STE A  
ALACHUA FL 32615

03869-017-000  
TOMPKINS DARRYL J  
PO BOX 519  
ALACHUA FL 32616

03869-019-000  
WIGGINS ETHEL J TRUSTEE  
PO BOX 1857  
Alachua FL 32616-1857

03869-020-000  
TOMLINSON PROPERTY GROUP LLC  
3580 N MAIN ST  
GAINESVILLE FL 32609

03869-021-000  
TOMLINSON PROPERTY GROUP LLC  
3580 N MAIN ST  
GAINESVILLE FL 32609

03605-010-018  
CHACON MALIKA  
13602 NW 146TH AVE  
ALACHUA FL 32615-8574

03863-000-000  
ALACHUA HOLDINGS LTD  
PO BOX 1990  
ALACHUA FL 32616

03863-020-000  
WYNDWEPT HILLS HOMEOWNERS  
ASSOCIATION INC  
PO BOX 310  
Alachua FL 32616-0310

03863-020-003  
VISION CONSTRUCTION INC  
20222 NW 94TH AVE  
Alachua FL 32615

03868-000-000  
KOROSIC CHRISTOPHER ALLAN  
15710 NW US HIGHWAY 441  
ALACHUA FL 32615

03868-001-008  
KOROSIC CHRISTOPHER ALLAN  
15710 NW US HIGHWAY 441  
ALACHUA FL 32615

03868-002-000  
10.47 LLC  
14110 NW 21ST LN  
GAINESVILLE FL 32606

03868-002-001  
CITY OF ALACHUA  
P O BOX 9  
ALACHUA FL 32616

03869-000-000  
FIRST STREET GROUP L C  
PO BOX 1990  
ALACHUA FL 32616-1990

03869-006-000  
WYNDWEPT HILLS LLC  
PO BOX 474  
STEINHATCHEE FL 32359

03869-007-000  
10.47 LLC  
15260 NW 147TH DR  
ALACHUA FL 32615

03869-007-001  
ALACHUA DEVELOPMENT LLC  
5405 CYPRESS CENTER DR STE 320  
TAMPA FL 33609

03869-008-000  
KOROSIC CHRISTOPHER ALLAN  
15710 NW US HIGHWAY 441  
ALACHUA FL 32615

03869-009-000  
10.47 LLC  
15260 NW 147TH DR  
ALACHUA FL 32615

03869-010-000  
10.47 LLC  
15260 NW 147TH DR  
ALACHUA ALACHUAFL 32615

03869-015-000  
ALACHUA FAMILY DENTISTRY  
14690 NW 151ST BLVD STE 20  
ALACHUA FL 32615

03869-023-000  
ALACHUA TOWNE CENTRE  
ASSOCIATION INC  
13505 NW 88TH PL  
ALACHUA FL 32615

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Alachua, FL 32615

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Alachua, FL 32653

Richard Gorman  
5716 NW 93<sup>rd</sup> Avenue  
Alachua, FL 32653

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Alachua, FL 32615

David Forest  
23 Turkey Creek  
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John Tingle  
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Alachua, FL 32615

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Alachua, FL 32615

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Alachua, FL 32615

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