

COUNTY COUNCIL

OF

TALBOT COUNTY

2010 Legislative Session, Legislative Day No.: August 24, 2010

Resolution No.: 174

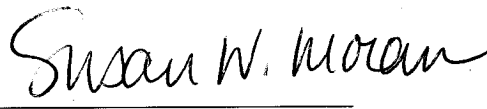
Introduced by: Mr. Bartlett, Mr. Duncan, Mr. Harrison, Mr. Pack

A RESOLUTION TO INTRODUCE, CONSIDER, AND DETERMINE WHETHER TO FORMALLY DECLINE TO ACCEPT THE OFFER OF DEDICATION FOR A PORTION OF THE PAPER STREET KNOWN AS *MILES HAVEN AVENUE* LOCATED BETWEEN 25848 AND 25840 ST. MICHAELS ROAD, EASTON, MARYLAND; AND 7488 BEACH AVENUE, EASTON, MARYLAND SHOWN ON A SUBDIVISION PLAT ENTITLED "*MILES HAVEN*" DATED JULY 12, 1923, RECORDED AMONG THE LAND RECORDS OF TALBOT COUNTY, MARYLAND AT C.B.L. LIBER 195/FOLIO 433, LOCATED GENERALLY NEAR THE COMMUNITY OF NEWCOMB. THE PROPERTIES ON WHICH THIS PAPER STREET IS LOCATED ARE CURRENTLY OWNED BY JOHN D. JR. & LYNNE A. JARRELL, 25848 ST. MICHAELS ROAD; ROBERT T. MAY, 25840 ST. MICHAELS ROAD; AND JOHN J. & JUDY K. MISTRETTA, 7488 BEACH AVENUE

By the Council: August 24, 2010

Introduced, read the first time, and ordered posted, with Public Hearing scheduled on Tuesday, September 28, 2010 at 2:00 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland 21601.

By order:



Susan W. Moran, Secretary

A RESOLUTION TO INTRODUCE, CONSIDER, AND DETERMINE WHETHER TO FORMALLY DECLINE TO ACCEPT THE OFFER OF DEDICATION FOR A PORTION OF THE PAPER STREET KNOWN AS MILES HAVEN AVENUE LOCATED BETWEEN 25848 AND 25840 ST. MICHAELS ROAD, EASTON, MARYLAND; AND 7488 BEACH AVENUE, EASTON, MARYLAND SHOWN ON A SUBDIVISION PLAT ENTITLED "MILES HAVEN" DATED JULY 12, 1923, RECORDED AMONG THE LAND RECORDS OF TALBOT COUNTY, MARYLAND AT C.B.L. LIBER 195/FOLIO 433, LOCATED GENERALLY NEAR THE COMMUNITY OF NEWCOMB. THE PROPERTIES ON WHICH THIS PAPER STREET IS LOCATED ARE CURRENTLY OWNED BY JOHN D. JR. & LYNNE A. JARRELL, 25848 ST. MICHAELS ROAD; ROBERT T. MAY, 25840 ST. MICHAELS ROAD; AND JOHN J. & JUDY K. MISTRETTE, 7488 BEACH AVENUE

1 **WHEREAS**, Robert T. May and John J. Mistretta and Judy K. Mistretta, (collectively, the
2 "Applicant") the current owners of 25840 St. Michaels Road, Easton, Maryland, Tax Map
3 40A, Parcel 772, second election district, Talbot County; and 7488 Beach Avenue, Easton,
4 Maryland, Tax Map 40A, Parcel 770, second election district, Talbot County, respectively
5 (the "Property"), have requested the County to formally decline to accept an offer of
6 dedication and formally abandon a portion of the paper street described as follows located
7 on, over, or adjacent to the Property:

8
9 That portion of "*Miles Haven Avenue*" fronting on Lots 29 through 35 of Section
10 "B," and Lots 1 through 8, Section "D", shown on a subdivision plat entitled "Miles
11 Haven" dated July 12, 1923, recorded among the Land Records of Talbot County,
12 Maryland at C.B.L. liber 195/ folio 433, located generally adjacent to the community
13 of Newcomb (the "Paper Street").
14

15 **WHEREAS**, the Talbot County Department of Public Works and the Talbot County Roads
16 Department have conducted an investigation of existing adjacent public and private roads,
17 and existing drainage and utility easements, and have submitted written recommendations to
18 the County Council.
19

20 **NOW, THEREFORE**, be it resolved by the County Council of Talbot County, Maryland as
21 follows:
22

23 **Section 1.** Upon introduction of this Resolution, a public hearing shall be scheduled, and the
24 date, time, place, and purpose of the public hearing shall be advertised once a week for three
25 successive weeks in a newspaper of general circulation in the County in accordance with the
26 requirements of Article 25A § 5 (B), Md. Ann. Code, at which time this request will be open
27 for receipt and consideration of public comment. The advertisement shall state the terms of

28 any proposed disposition, the compensation, if any, to be received therefor, and shall give the
29 public an opportunity to be heard and to make any objections thereto.

30
31 **Section 2.** Upon conclusion of the public hearing and closing of the public record, the
32 County Council will discuss the merits of the application, and decide to approve or
33 disapprove the proposed disposition.

34
35 **Section 3.** The proposed disposition is as follows:

36
37 1. The County finds that that there would be no public purpose served by construction,
38 operation or maintenance of a public road at this location and hereby declines to
39 accept the offer of dedication of the Paper Street.

40 2. Upon satisfaction of the contingencies and conditions set forth in Paragraph 3, below,
41 the President of the County Council is authorized to execute the Quitclaim Deed,
42 attached hereto as Exhibit "A". The Secretary shall attach a certified copy of this
43 Resolution to the above referenced Quitclaim Deed, to be recorded at the Applicant's
44 expense among the land records of Talbot County, Maryland.

45 3. This disposition is contingent upon the following conditions:

46 a. There are no existing drainage easements, facilities or public utilities currently
47 located in, upon, under, or through the Paper Street, and, if there are any, they
48 shall continue in place;

49 b. The Applicant has granted a perpetual easement to the County, in content and
50 form acceptable to the County, for drainage and utility easements adjacent to all
51 public roads and roadways abutting the Property, and in, upon, under, or through
52 the Property as necessary to serve the Property or other properties in the area;

53 c. The Applicant has, or will, prepare all deeds, surveys, plats, or other documents in
54 a form satisfactory to the County, and pay the cost thereof the recording,
55 duplication, and other costs associated with all instruments authorized and
56 prepared pursuant to this Resolution;

57 d. The Applicant shall pay all advertising costs for the public hearing;

58 e. The Applicant shall execute the *"Release, Waiver, and Indemnification*
59 *Agreement"* attached hereto as Exhibit "B".

60
61
62 BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon its
63 date of passage.

PUBLIC HEARING

Resolution No.

Having been posted and Notice, Time and Place of Hearing, and Title of Resolution No. 174 having been published, a public hearing was held on Tuesday, September 28, 2010 at 2:00 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland.

BY THE COUNCIL

Read the second time:

Enacted: September 28, 2010

By Order: Susan W. Moran
Secretary

Harrison - Aye

Pack - Aye

Duncan - Aye

Foster - Aye

Bartlett - Aye

QUITCLAIM DEED

THIS QUITCLAIM DEED, dated the _____ of _____, 2010, from Talbot County, Maryland, a charter County and political subdivision of the State of Maryland, Grantor, to Robert T. May, Sr. and Deborah A. May, his wife, Grantees.

The Grantor, for no monetary consideration, grants, conveys, releases, assigns and quitclaims to the Grantees, their personal representatives, heirs and assigns, all of the Grantor's right, title, interest and estate in a certain lot of ground described on the attached Exhibit A.

Together with all improvements thereupon, and the rights, alleys, ways, waters, easements, privileges, appurtenances and advantages belonging or appertaining thereto. Subject to, however, any rights of access of adjoining property owners over any of said alleys or ways.

WITNESS the hand and seal of the Grantor.

ATTEST:

Talbot County, Maryland

, Secretary

By: _____
Levin F. Harrison, IV
President, Talbot County Council

STATE OF MARYLAND, COUNTY OF _____, TO WIT:

I HEREBY CERTIFY, That on this ____ day of _____, 2010, before me, the subscriber, a Notary Public of the State of Maryland, personally appeared LEVIN F. HARRISON, IV, who acknowledged himself to be the President of the Talbot County Council of Talbot County, Maryland, a Maryland political subdivision, and that he as such President, being authorized so to do, acknowledged that he executed the foregoing instrument for the purposes therein contained, by signing the name of Talbot County by himself as President of the Talbot County Council, and further made oath, under the penalties of perjury, that the consideration as recited herein is true and correct, and further certified that this conveyance is not part of a transaction in which there is a sale, lease, exchange or other transfer of all or substantially all of the property and assets of the Grantor.

AS WITNESS my hands and Notarial seal.


Notary Public

My commission expires:

CERTIFICATION

CERTIFICATION

This is to certify that the within instrument was prepared by or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.


Philip E. L. Dietz, Jr., Attorney at Law

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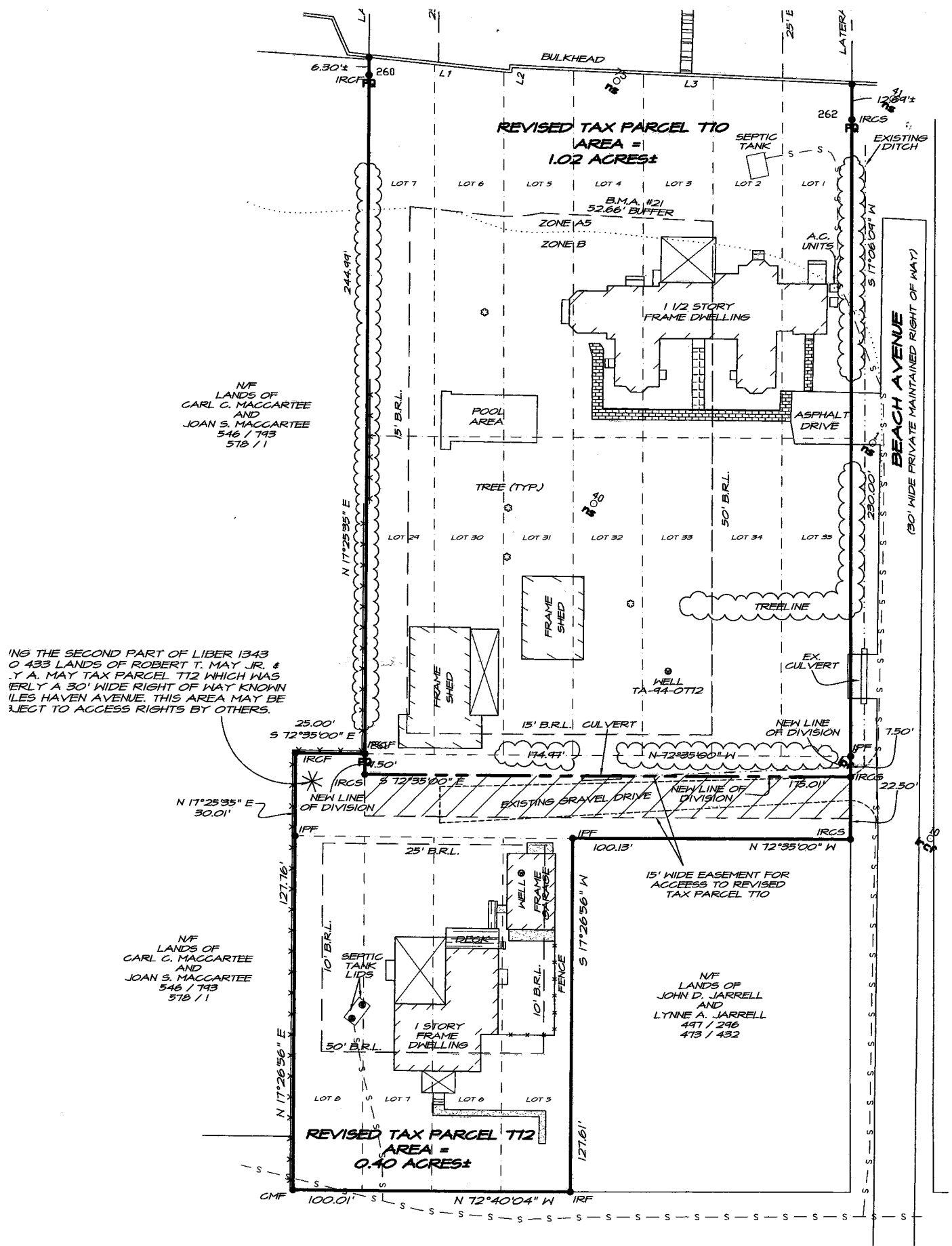


**LEGAL DESCRIPTION ON PART OF THE LANDS OF
ROBERT T. MAY SR. AND DEBORAH A. MAY**

BEGINNING at an iron rod with cap set on the westerly right of way line of Beach Avenue and being the northeasterly corner of the herein described parcel on the new line of division as shown on a plat prepared by Waters Professional Land Surveying entitled Revision of Boundary Lines John Joseph Mistretta and Judy K. Mistretta and Robert T. May Sr. and Deborah A. May Tax Map 40A Parcels 770 and 772 Second Election District Talbot County Maryland; THENCE, running with the westerly right of way line of Beach Avenue, (1) S 17°06'09" W a distance of 22.50' to an iron rod with cap set on the northerly property line of the lands of John D. Jarrell (deed 497 / 296) Lot 1; THENCE, running along the northerly property line of the said Jarrell lands which is also the northerly property line of lots 1 through 4, (2) N 72°35'00" W a distance of 100.13' to an iron pipe found at the northeast corner of lot 5; THENCE, running with the northerly property lines of lots 5 through 8, (3) N 72°35'00" W a distance of 100.01' to an iron pipe found on the easterly property line of the lands of Carl C. Maccartee (deed 546 / 793); THENCE, running with the easterly property lines of the said Maccartee lands the following two courses, (4) N 17°25'35" E a distance of 30.01' to an iron rod with cap found; THENCE, (5) S 72°35'00" E a distance of 25.00' to an iron rod with cap found at the southwest corner of lot 29; THENCE, running with the new lines of division, (6) S 17°25'35" W a distance of 7.50' to an iron rod with cap set; THENCE, (7) S 72°35'00" E a distance of 175.01' to an iron rod with cap set on the westerly right of way line of Beach Avenue and the place of beginning.

CONTAINING, an area of 0.108 acres of land more or less.

Christopher D. Waters
Reg. Prof. Land Surveyor MD No. 11052



BEING THE SECOND PART OF LIBER 1343 OF 433 LANDS OF ROBERT T. MAY JR. & LYNN A. MAY TAX PARCEL T12 WHICH WAS EARLIER A 30' WIDE RIGHT OF WAY KNOWN AS HAVEN AVENUE. THIS AREA MAY BE SUBJECT TO ACCESS RIGHTS BY OTHERS.

NF LANDS OF CARL G. MACCARTEE AND JOAN S. MACCARTEE 546 / 743 578 / 11

NF LANDS OF JOHN D. JARRELL AND LYNNE A. JARRELL 447 / 246 473 / 432

NOTICE:
BEING A REVISION OF LOT LINES ON THE PARTS OF LIBER 1343 OF 433 LANDS OF JOSEPH MISTRETTA & JUDY K. MISTRETTA RECORDED AMONG THE LAND RECORDS OF MARYLAND IN LIBER 1371 FOLIO 460 AND LIBER 1372 FOLIO 461 OWNED BY ROBERT T. MAY SR. & DEBORAH A. MARYLAND IN LIBER 1710 FOLIO 234 AND SHOULD NOT INSTITUTE ANY NEW BUILDABLE LOTS

SURVEYOR STATEMENT:

RELEASE, WAIVER AND INDEMNIFICATION AGREEMENT

Applicants, on behalf of themselves, their personal representatives, heirs, successors and assigns, hereby agree to indemnify, defend, and hold Talbot County, Maryland, harmless from and against any and all claims, actions, demands, damages, liabilities, losses, expenses, suits, costs, or judgments of every kind, nature, or description whatsoever arising from or related to Resolution No. 174, declining to accept an offer of dedication for a public street or declining to improve or otherwise makes the subject paper street available for public use. Applicant's obligation to indemnify and defend shall include Talbot County, Maryland, its elected and appointed officials, officers, boards, commissions, agencies, department heads, employees, servants, and agents and shall run with and bind the land, and shall be binding upon the Applicants, their personal representatives, heirs, successors and assigns, in perpetuity.

IN WITNESS WHEREOF, we hereunto affix our hands and seals this ____ day of _____ 2010.

Witness:

Applicant:

_____(SEAL)
Robert T. May, Sr.

_____(SEAL)
Deborah A. May

STATE OF _____
COUNTY OF _____, to wit:

I HEREBY CERTIFY, on this ____ day of _____ 2010 before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared _____, known to me, or satisfactorily proven to be the person whose name appears above, who acknowledged himself/herself to be the same, and being authorized so to do, executed the foregoing document for the purposes therein contained.

IN WITNESS WHEREOF I set my hand and official seal.

Notary Public

My commission expires:

STATE OF _____
COUNTY OF _____, to wit:

I HEREBY CERTIFY, on this _____ day of _____ 2010 before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared _____, known to me, or satisfactorily proven to be the person whose name appears above, who acknowledged himself/herself to be the same, and being authorized so to do, executed the foregoing document for the purposes therein contained.

IN WITNESS WHEREOF I set my hand and official seal.

Notary Public

My commission expires:



QUITCLAIM DEED

THIS QUITCLAIM DEED, dated the _____ of _____, 2010, from Talbot County, Maryland, a charter County and political subdivision of the State of Maryland, Grantor, to John Joseph Mistretta, and his successor(s), Trustee(s) of the John Joseph Mistretta Revocable Trust under agreement dated January 27, 1999, Grantee.

The Grantor, for no monetary consideration, grants, conveys, releases, assigns and quitclaims to the Grantee, his successor(s) and assigns, all of the Grantor's right, title, interest and estate in a certain lot of ground described on the attached Exhibit A.

Together with all improvements thereupon, and the rights, alleys, ways, waters, easements, privileges, appurtenances and advantages belonging or appertaining thereto. Subject to, however, any rights of access of adjoining property owners over any of said alleys or ways.

WITNESS the hand and seal of the Grantor.

ATTEST:

Talbot County, Maryland

, Secretary

By: _____
Levin F. Harrison, IV
President, Talbot County Council

STATE OF MARYLAND, COUNTY OF _____, TO WIT:

I HEREBY CERTIFY, That on this ____ day of _____, 2010, before me, the subscriber, a Notary Public of the State of Maryland, County of _____, personally appeared LEVIN F. HARRISON, IV, who acknowledged himself to be the President of the Talbot County Council of Talbot County, Maryland, a Maryland political subdivision, and that he as such President, being authorized so to do, acknowledged that he executed the foregoing instrument for the purposes therein contained, by signing the name of Talbot County by himself as President of the Talbot County Council, and further made oath, under the penalties of perjury, that the consideration as recited herein is true and correct, and further certified that this conveyance is not part of a transaction in which there is a sale, lease, exchange or other transfer of all or substantially all of the property and assets of the Grantor.

AS WITNESS my hands and Notarial seal.

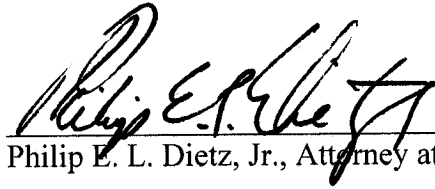
Notary Public

My commission expires:

CERTIFICATION

CERTIFICATION

This is to certify that the within instrument was prepared by or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.


Philip E. L. Dietz, Jr., Attorney at Law

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**LEGAL DESCRIPTION ON PART OF THE LANDS OF
JOHN JOSEPH MISTRETТА, AND HIS SUCCESSOR(S), TRUSTEE(S) OF THE
JOHN JOSEPH MISTRETТА REVOCABLE TRUST UNDER AGREEMENT
DATED JANUARY 27, 1999**

BEGINNING at a iron pipe found on the westerly right of way line of Beach Avenue and the northerly right of way line of a right of way formerly known as Miles Haven Avenue and being the southeasterly corner of lot 35 as shown on a plat prepared by Waters Professional Land Surveying entitled Revision of Boundary Lines John Joseph Mistretta and Judy K. Mistretta and Robert T. May Sr. and Deborah A. May Tax Map 40A Parcels 770 and 772 Second Election District Talbot County Maryland; THENCE, leaving the westerly right of way line of Beach Avenue and running with the southerly property lines of lots 35 through 29, (1) North 72°35'00" West a distance of 174.97' to an iron rod with cap found on the easterly property line of the lands of Carl C. Maccartee (deed 546 / 793); THENCE, leaving the easterly property line of the said Maccartee lands and running into the right of way formerly known as Miles Haven Avenue, (2) South 17°25'35" West a distance of 7.50' to an iron rod with cap set on the new line of division; THENCE, running with the new line of division (3) South 72°35'00" East a distance of 175.01' to an iron rod with cap set on the westerly right of way line of Beach Avenue; THENCE, running with the westerly right of way line of Beach Avenue, (4) North 17°06'09" East a distance of 7.50' to an iron pipe found and the place of beginning.

CONTAINING, an area of 0.03 acres of land more or less.

Christopher D. Waters
Reg. Prof. Land Surveyor MD No. 11052

RELEASE, WAIVER AND INDEMNIFICATION AGREEMENT

Applicant, on behalf of himself, his personal representatives, heirs, successors and assigns, hereby agrees to indemnify, defend, and hold Talbot County, Maryland, harmless from and against any and all claims, actions, demands, damages, liabilities, losses, expenses, suits, costs, or judgments of every kind, nature, or description whatsoever arising from or related to Resolution No. 174, declining to accept an offer of dedication for a public street or declining to improve or otherwise makes the subject paper street available for public use. Applicant's obligations to indemnify and defend shall include Talbot County, Maryland, its elected and appointed officials, officers, boards, commissions, agencies, department heads, employees, servants, and agents and shall run with and bind the land, and shall be binding upon the Applicant, his personal representatives, heirs, successors and assigns, in perpetuity.

IN WITNESS WHEREOF, we hereunto affix our hands and seals this ____ day of _____ 2010.

Witness:

Applicants:

_____(SEAL)
John Joseph Mistretta

STATE OF _____
COUNTY OF _____, to wit:

I HEREBY CERTIFY, on this ____ day of _____ 2010 before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared _____, known to me, or satisfactorily proven to be the person whose name appears above, who acknowledged himself/herself to be the same, and being authorized so to do, executed the foregoing document for the purposes therein contained.

IN WITNESS WHEREOF I set my hand and official seal.

Notary Public

My commission expires: