

COUNTY COUNCIL

OF

TALBOT COUNTY

2011 Legislative Session, Legislative Day No.: July 12, 2011

Resolution No.: 186

Introduced by: Mr. Bartlett, Mr. Duncan, Mr. Hollis, Mr. Pack, Ms. Price

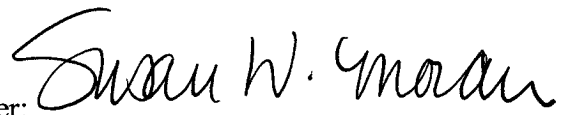
A RESOLUTION TO CONSIDER THE PETITION OF THELMA M. PRICKITT, 10496 MIRACLE HOUSE CIRCLE, CLAIBORNE, MARYLAND, TAX MAP 14, PARCEL 131, IN THE FIFTH ELECTION DISTRICT, TALBOT COUNTY, MARYLAND

THE PETITION REQUESTS THAT THE COUNTY COUNCIL OF TALBOT COUNTY FORMALLY DECLINE TO ACCEPT AN OUTSTANDING, UNACCEPTED OFFER, IF ANY, OF A DEDICATION IN AND TO CERTAIN PLATTED BUT UNIMPROVED STREETS AND AVENUES SHOWN AS A PORTION OF "PARK AVENUE"; A PORTION OF "HARRISON AVENUE"; A PORTION OF "BAY STREET"; AND A PORTION OF "TALBOT STREET" AS EXISTING IN A CERTAIN "AREA OF OCCUPATION" LOCATED IN TURNER'S ADDITION, CLAIBORNE, MARYLAND

By the Council: July 12, 2011

Introduced, read the first time, and ordered posted, with Public Hearing scheduled on Tuesday, August 9, 2011 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

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1 **WHEREAS**, Thelma M. Prickitt, (the "Petitioner") the current owner of 10496 Miracle House
2 Circle, Tax Map 14, Parcel 131, Fifth Election District, Talbot County, Maryland, has petitioned
3 the County Council of Talbot County, Maryland to formally decline to accept an outstanding,
4 unaccepted offer of dedication, if any, in and to certain platted but unimproved avenues and
5 alleys described in said Petition, which Petition is incorporated by reference herein; and,
6

7 **NOW, THEREFORE**, be it resolved by the County Council of Talbot County, Maryland as
8 follows:
9

10 **Section 1.** Upon introduction of this Resolution, a public hearing shall be scheduled, and the
11 date, time, place, and purposes of the public hearing shall be advertised at Petitioner's expense
12 once a week for three successive weeks in a newspaper of general circulation in the County in
13 accordance with the requirements of Article 25A, §5B, Maryland Annotated Code and Talbot
14 County Code, §134-4.2B. The advertisement shall state the terms of any proposed disposition,
15 the compensation, if any, to be received therefor, and shall give opportunity for objections
16 thereto.
17

18 **Section 2.** The County shall conduct a public hearing at which time the Petition will be open for
19 receipt and consideration of public comment. Upon receipt and consideration of any
20 recommendations from the Planning Commission and Public Works Advisory Board, and
21 recommendations by the Talbot County Department of Public Works and the Talbot County
22 Roads Department, conclusion of the public hearing(s), and closing of the record, the County
23 Council will consider the merits of the Petition.
24

25 **Section 3.** This Petition pertains to the following described property or interest in property:
26

27 The streets and avenues that are located in, upon, or over that certain tract, lot, or parcel known
28 as 10496 Miracle House Circle, Tax Map 14, Parcel 131, Fifth Election District, Talbot County,
29 Maryland and the "Area of Occupation," at or near the village of Claiborne, more particularly

described in a deed to Petitioner dated December 15, 1986 and recorded among the Land Records of Talbot County, Maryland at Liber 625, folio 311 and as shown on a certain plat entitled "Plat Showing the Lands of Thelma M. Prickitt", as surveyed by Christopher Waters Professional Land Surveying, dated 7/22/08; Last Revised 6/14/11, to be recorded among the Land Records of Talbot County, Maryland consisting of a denoted "Area of Occupation" over platted roadway (the "Property"), said legal description as follows:

BEGINNING at a concrete monument found on the southerly property line of the lands of Thelma Prickitt and being the southwest corner of the herein described occupied area as shown on a plat prepared by Waters Professional Land Surveying, Inc., dated July 22, 2008, entitled "Plat Showing the Lands of Thelma M. Prickitt in the Fifth Election District, Talbot County, Maryland"; THENCE, leaving said point and running with the westerly right of way line of Park Avenue, (1) N 02°17'00" W a distance of 260.88' to a concrete monument found of the southerly right of way line of Bay Street and being the northerly property line of the aforementioned Prickitt lands; THENCE, running with the southerly right of way line of Bay Street and the Prickitt lands the following two courses, (2) N 57°36'15" W a distance of 63.98' to a point; THENCE, (3) N 57°36'15" W a distance of 4.09' to a point; THENCE, running with an existing fence line, (4) S 63°36'12" E a distance of 115.74' to a point within the road right of way area; THENCE, running within the road right of way areas the following three courses, (5) S 03°39'13" W a distance of 67.86' to a point; THENCE, (6) S 00°38'39" W a distance of 67.26' to a point; THENCE, (7) S 46°37'49" E a distance of 21.31' to a point on the westerly property line of the lands of Dianna F. Ritner, Trustee of the Dianna F. Ritner Trust Under Declaration Dated July 1, 1999 (deed 942/881); THENCE, running with the property line of the said Ritner lands, (8) S 02°17'00" E a distance of 34.21' to a point; THENCE, running (9) S 32°25'00" W a distance of 72.48' to a point; THENCE, (10) S 85°21'14" W a distance of 8.75' to a concrete monument found and the place of beginning.

CONTAINING an area of 0.24 Acres of land more or less.

Section 4. The County Council of Talbot County finds that there would be no public purpose served by construction, operation or maintenance of a public road or alley at these locations and hereby declines to accept the offer of dedication of the Paper Streets, if any. These findings and disposition are subject to the following conditions:

(a) There are no drainage facilities or public utilities located in, upon, or through the Paper Streets;

(b) The Petitioner has granted or will grant a perpetual easement to the County, in form and content acceptable to the County, for drainage and utility easements adjacent to all public roads and roadways abutting, in, upon, or through the Property, as necessary to serve the Property or other properties in the area, if any;

(c) The Petitioner shall prepare all deeds, surveys, plats, or other documents in a form satisfactory to the County, and pay the cost thereof, including without limitation all duplication and other costs associated with all instruments prepared pursuant to this Resolution;

(d) The Petitioner shall execute a "*Release, Waiver, and Indemnification*" substantially in the form attached hereto as Exhibit "A."

Section 5. The President of the County Council for Talbot County is authorized to execute a Quitclaim Deed, consistent with the terms of this Resolution, in form and content acceptable to the County attorney, to be recorded at the Petitioner's expense among the Land Records of Talbot County, Maryland.

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

PUBLIC HEARING

Having been posted and Notice, Time and Place of Hearing, and Title of Resolution No. _____ having been published, a public hearing was held on in the Bradley Meeting Room, Courthouse, 11 North Washington Street, Easton, Maryland on _____.

BY THE COUNCIL

Read the second time:

Adopted: _____

By Order: _____

Susan W. Moran, Secretary

Bartlett -

Hollis -

Pack -

Price -

Duncan -

BEFORE THE COUNTY COUNCIL FOR TALBOT COUNTY, MARYLAND

IN THE MATTER OF THE PETITION * 10496 Miracle House Circle,
OF THELMA M. PRICKITT * Claiborne, Maryland 21624,
* Tax Map 14, Parcel 131,
* Fifth Election District,
* Talbot County, Maryland
*

* * * * *

**PETITION OF THELMA M. PRICKITT
REQUESTING THE COUNTY COUNCIL OF TALBOT
COUNTY TO DECLINE AN UNACCEPTED
OFFER OF DEDICATION, IF ANY, OF PAPER STREETS**

The undersigned, Thelma M. Prickitt, (hereinafter "Ms. Prickitt"), by and through Robert J. Merriken and Cowdrey Thompson, A Professional Corporation, her attorneys, petitions the County Council of Talbot County, Maryland (hereinafter the "County Council") to formally decline to accept an outstanding, unaccepted offer of dedication, if any, in and to a portion of certain platted but unimproved avenues and streets as hereinafter described, and states:

1. Ms. Prickitt is the owner of 10496 Miracle House Circle, Claiborne, Maryland 21624, which property is located wholly within Talbot County, Maryland and which property and/or the immediately adjacent land was the subject of a successful quiet title action initially captioned as Thelma M. Prickitt v. Sally P. Turner, et al., in the Circuit Court for Talbot County, Maryland, Case No. 20-C-09-006800 OC (hereinafter the "Quiet Title Action").

2. Ms. Prickitt's property is identified as the "Hotel Lot" on a subdivision plat entitled "Plat of Turner's Addition to Claiborne" recorded by J. Frank Turner among the

Land Records for Talbot County on May 14, 1906 in Liber 147, folio 156 (hereinafter the "Turner's Addition Plat"). (A copy of the Turner's Addition Plat is attached hereto as Exhibit 1 and is incorporated herein by reference.)

3. In connection with the aforementioned Quiet Title Action, numerous quitclaim deeds have been deeded to Ms. Prickitt by the then property owners within Turner's Addition of the area depicted as the "AREA OF OCCUPATION" on a plat entitled: "Plat Showing the Lands of Thelma M. Prickitt in the Fifth Election District, Talbot County, Maryland," prepared by Christopher Waters Professional Land Surveying, dated July 22, 2008; Last Revised June 15, 2009, and recorded at Plat Book 82, folio 308 among the Plat Records for Talbot County, Maryland (hereinafter the "Waters Plat"). (A copy of the Waters Plat is attached hereto as Exhibit 2 and is incorporated herein by reference.)

4. As to those owners in Turner's Addition that did not sign quitclaim deeds to Ms. Prickitt, the Circuit Court in the Quiet Title Action entered judgments against those persons declaring Ms. Prickitt as the absolute owner of the "AREA OF OCCUPATION." (Copies of the various orders of the Circuit Court declaring Ms. Prickitt as the owner of the "AREA OF OCCUPATION" are attached hereto in bulk as Exhibit 3 and are incorporated herein by reference.)

5. The new property line between Ms. Prickitt's property and the lands of Dianna F. Ritner, Trustee of the Dianna F. Ritner Trust Under Declaration Dated July 14, 1999 (hereinafter the "Ritner Trust"), as approved by the Circuit Court in the Quiet Title

Action, was arrived at by an agreement between the two neighbors prior to the filing of the Quiet Title Action.

6. By deed dated June 22, 2010 and recorded among the Land Records for Talbot County at Liber 1810, folio 206, Ms. Prickitt conveyed to the Ritner Trust any interest Ms. Prickitt may have had to those portions of "Bay Street" and "Park Avenue" which are **not** within the "AREA OF OCCUPATION" as depicted on the Waters Plat. (A copy of the deed from Ms. Prickitt to the Ritner Trust is attached hereto as Exhibit 4 and is incorporated herein by reference.)

7. By deed dated June 29, 2010 and recorded among the Land Records for Talbot County at Liber 1810, folio 203, the Ritner Trust conveyed to Ms. Prickitt any interest the Ritner Trust may have had to the "AREA OF OCCUPATION" as depicted on the Waters Plat. (A copy of the deed from the Ritner Trust to Ms. Prickitt is attached hereto as Exhibit 5 and is incorporated herein by reference.)

8. Thereafter, a stipulation of dismissal as to the Ritner Trust was filed in the Quiet Title Action.

9. Ms. Prickitt and her then partner, Sidney W. Absher (hereinafter "Mr. Absher"), purchased the "Hotel Lot" as joint tenants with rights of survivorship by deed dated December 15, 1986 and recorded among the Land Records for Talbot County on the same date at Liber 625, folio 391 (hereinafter "Ms. Prickitt's Deed"). (A copy of Ms. Prickitt's Deed is attached hereto as Exhibit 6 and is incorporated herein by reference.)

10. Mr. Absher passed away on January 23, 2008, thus vesting sole title in the "Hotel Lot" in Ms. Prickitt.

11. At the time of Ms. Prickitt's purchase of the "Hotel Lot," a frame shed or garage had previously been constructed and was partially situated on what is depicted as "Park Avenue" on the Turner's Addition Plat. As a result thereof, the deed from the then grantors conveyed the "Hotel Lot" to Ms. Prickitt and also quitclaimed an additional 5,757 square feet or 0.1322 acres, more or less, to encompass the frame shed or garage in the conveyance. (*See* Exhibit 6, Ms. Prickitt's Deed. *See also* the plat entitled "Plat Showing the Land of H. Howard Hamm & Anna M. Hamm & Ronald J. Reilly & Joan E. Reilly, in the Village of Claiborne, Talbot County, Maryland," prepared by Rauch, Walls and Lane, Inc., a registered surveyor, and dated December 12, 1986 and recorded among the Plat Records for Talbot County, Maryland at Plat Book 73, folio 22, depicting the "Hotel Lot," a copy of which is attached hereto as Exhibit 7 and is incorporated herein by reference. *See also* the plat entitled "Survey of Part of Park Ave., Turner's Addition to Claiborne, 5th Election District, Talbot County, Maryland," dated June 6, 1977 and prepared by Andrews, Miller & Assoc., Inc., a registered surveyor, and recorded among the Plat Records for Talbot County, Maryland in Plat Book 73, folio 23 (hereinafter the "Quitclaim Plat"), depicting the 5,757 square feet or 0.1322 acre quitclaimed parcel, more or less, to encompass the frame shed or garage, a copy of which is attached hereto as Exhibit 8 and is incorporated herein by reference.)

12. Only a few of the said streets or avenues on the Turner's Addition Plat have been used or partially used by the public and/or maintained by the County Council and/or its predecessors in governmental authority as public roads. (*See* Exhibit 2, the Waters Plat, especially the area marked "Paved Road." *See also* the deed dated September 6,

1977 by and between the County Council of Talbot County (the "County Council") as "Grantor" and Robert S. Lukens and Edward E. Lukens, Trustees under the Will of Robert P. Lukens, as "Grantees," which deed was recorded on September 13, 1977 in the Land Records for Talbot County at Liber 515, folio 604 (hereinafter the "County Deed"), a copy of which is attached hereto as Exhibit 9 and is incorporated herein by reference. *See also* a plat entitled "House Location Lots 61-A through 65, Block 5, Turner's Addition to Claiborne, 5th Election District, Talbot County, Maryland" dated March 23, 1977 and revised April 4, 1977, as prepared by Andrews, Miller & Assoc., Inc., a registered surveyor, and recorded among the Plat Records for Talbot County, Maryland in Plat Book 44, folio 7 (the "County Plat"), a copy of which is attached hereto as Exhibit 10 and is incorporated herein by reference.)

13. Adjacent to the "Hotel Lot" the County Council currently maintains a paved roadway approximately 15 feet wide that runs generally along "Talbot Street" and approximately down the middle of "Harrison Avenue" as depicted on the Turner's Addition Plat.

14. The County Council maintained portions of "Talbot Street" and "Harrison Avenue" are currently known as Miracle House Circle and/or Miracle House Road.

15. The streets or avenues adjacent to the "Hotel Lot" on the Turner's Addition Plat, depicted as "Bay Street" and "Park Avenue," as well as the non-paved areas adjacent to "Talbot Street" and "Harrison Avenue" have never been formally dedicated to the County Council as public roads or developed. (*See* Exhibit 2, the Waters Plat. *See also* Exhibit 9, the County Deed, and Exhibit 10, the County Plat.)

16. The subject avenues and streets are located in, upon, or over that certain tract, lot, or parcel known as 10496 Miracle House Circle, Tax Map 14, Parcel 131, Fifth Election District, Talbot County, Maryland, which now includes the "AREA OF OCCUPATION."

17. A legal description of the "AREA OF OCCUPATION" is attached hereto as Exhibit 11 and is incorporated herein by reference.

18. Attached hereto as Exhibit 12 and incorporated herein by reference is a **modified** version of the Waters Plat, which modified plat now depicts, among other things, the 1977 conveyance along the County Council maintained road from the County Council to the predecessors in interest of the Ritner Trust. (*See Exhibits 9 and 10*).

19. Ms. Prickitt is the current owner of the "Hotel Lot" and the "AREA OF OCCUPATION" as approved by the Circuit Court in the Quiet Title Action.

20. Ms. Prickitt avers that the paper streets and avenues within the "AREA OF OCCUPATION" are unimproved, that they do not now nor have they ever served the public or any other owners in Turner's Addition where the same are located.

21. Ms. Prickitt avers that there would be no public purpose served by construction, operation or maintenance of a public road, street, avenue, alley or thoroughfare within the "AREA OF OCCUPATION" and it would be in the County Council's interests to formally decline to accept the outstanding offer of dedication, if any, to the paper streets and avenues within the "AREA OF OCCUPATION."

22. Pursuant to the requirements of Article 25A, §5B, Maryland Annotated Code and Talbot County Code, §134-4.2B, Ms. Prickitt agrees to pay for and otherwise

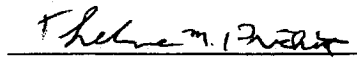
assure publication of an advertisement once a week for three successive weeks in one or more newspapers of general circulation published in Talbot County, Maryland, stating the terms of the proposed disposition, stating the compensation, if any, to be received by the County Council therefore, and giving opportunity for objections thereto. A copy of the proposed notice to be published is appended hereto and made a part hereof.

23. In the event this Petition is granted, Ms. Prickitt, for herself and for the successors in interest or title to the "Hotel Lot," agrees to indemnify and hold the County Council harmless to the maximum extent permitted by law from any and all liabilities, damages, expenses, suits, actions, causes of actions, demands, or judgments (collectively "Claim" or "Claims"), including payment of reasonable attorney's fees, costs of defense, and investigation of any such Claim or Claims arising from or relating in any way from any decision to formally decline to accept the outstanding offer of dedication, if any, of the paper streets and avenues within the "AREA OF OCCUPATION." This indemnification and hold harmless agreement shall include, without limitation, the County Council's elected and appointed officials, directors, employees, agents, successors, assigns, and representatives.

24. In addition, as part of this transaction with the County Council, Ms. Prickitt intends to quitclaim to the County Council any interest she may have to a strip of land approximately 10 feet in width running adjacent, contiguous and to the full length of Miracle House Circle or Road within the "AREA OF OCCUPATION" as shown on the modified Waters Plat as the "AREA OF OCCUPATION TO BE DEDICATED TO TALBOT COUNTY." (See Exhibit 12, the modified Waters Plat.)

WHEREAS, Thelma M. Prickitt requests the County Council of Talbot County to formally determine and decide to decline to accept the outstanding offer of dedication, if any, concerning the above-described paper streets and avenues within the "AREA OF OCCUPATION" and to authorize the President of the County Council to execute a quitclaim deed to convey the County Council's interest in the same, if any, to Thelma M. Prickitt, and in return, Thelma Prickitt will execute a quitclaim deed to the County Council to the 10 feet wide strip of land contained within the "AREA OF OCCUPATION" that runs adjacent to Harrison Avenue, now a part of a road known as Miracle House Circle or Road).

I DO SOLEMNLY DECLARE AND AFFIRM under the penalties or perjury that the contents of the foregoing Petition are true and correct to the best of my knowledge, information and belief.


Thelma M. Prickitt


Robert J. Merriken
COWDREY THOMPSON
A Professional Corporation
130 North Washington Street
P. O. Box 1747
Easton, Maryland 21601
(410) 822-6800
Attorneys for Petitioner

RELEASE, WAIVER AND INDEMNIFICATION AGREEMENT

Grantee, on behalf of herself, her 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. _____, declining to accept an offer of dedication for a public street or declining to improve or otherwise make the subject paper streets available for public use. Grantee'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 Grantee, her personal representatives, heir, successors and assigns, in perpetuity.

WITNESS:

Thelma M. Prickitt (SEAL)