

ORDINANCE NO. 2023

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SALISBURY FOR THE CLOSING OF AN AREA OF LAND BEING THE UNIMPROVED PORTION OF HEALTHWAY DRIVE AND FOR THE CONVEYANCE TO CAREFREE HOMES, LLC., OR ITS ASSIGNEE, OF ALL RIGHT, TITLE AND INTEREST, IF ANY, OF THE CITY OF SALISBURY, IN AND TO THE BED OF SAID CLOSED STREET, AND FOR THE TERMINATION OF CERTAIN INTERESTS OF THE CITY OF SALISBURY PERTAINING TO THE UNIMPROVED PORTION OF HEALTHWAY DRIVE AND CONTIGUOUS LAND.

WHEREAS, a portion of Healthway Drive approximately 625 feet in length shown on the subdivision plat entitled Property Subdivision For Salisbury Regional Health Center, dated June 15, 1984 and recorded among the Land Records of Wicomico County, Maryland, in Plat Cabinet 6, Folio 15-60, and also on resubdivision plats subsequently recorded among the aforesaid Land Records in Plat Cabinet 6, Folio 72-285 and Plat Cabinet 8, Folio 62-298, such portion being more particularly described as "Area of Healthway Drive To Be Abandoned" on the attached plat, dated November 15, 2006, by A•ES. Architect, containing 37,560 square feet of land, more or less, is a paper street which has never been used by the public and is unpaved; and

WHEREAS, the City of Salisbury Department of Public Works has determined that the aforementioned area of land has never been used by the public and is unpaved and the City believes it is in the best interest of the City to close such area and deed it to the owner of Lot 3 in Block F and Lot 8B in Block F as delineated by the plats mentioned above; and

WHEREAS, the owner of the aforementioned Lots is Carefree Homes, L.L.C., which has contracted to sell those Lots to Frank Robino Companies, L.L.C.; and

WHEREAS, both the owner of those Lots and the contract purchaser thereof have requested the City to close said paper street; and

WHEREAS, the City of Salisbury has determined to abandon the bed of the paper street as it is of no value; and

WHEREAS, the Salisbury Charter, SC11-2, gives the City charge of all public ways in the City of Salisbury, and SC16-8 allows the City to abandon or otherwise dispose of property that is not saleable; and

WHEREAS, the aforesaid subdivision and resubdivision plats describe an area 24 feet in width running south from the unimproved portion of Healthway Drive to U.S. Route 50 ("Salisbury Parkway") that is described thereon as a "24.0' Stormwater Drainage Easement" containing 0.08 acres of land, and the City of Salisbury Department of Public Works has determined that such easement has never been used for any municipal purpose, including but not limited to drainage, and that, upon closing of the unimproved portion of Healthway Drive, will have no value as a drainage easement for public purposes, and the City believes that it is in the best interest of the City to waive, release and discharge its entire right, title and interest in such easement; and

WHEREAS, the Healthway Drive Construction Agreement, dated March 18, 1988, by and between the City and Salisbury Regional Health Center, and recorded among the Land Records of the County aforesaid in Liber M.S.B. No. 1144, Folio 765, imposes certain obligations to improve as a public street the unimproved portion of Healthway Drive, which shall have no value to the City upon the closing thereof; and

WHEREAS, the Declaration of Cross Easements and Conditions for Storm Water Management Facilities ("Declaration"), dated January 15, 1988, by and between Salisbury Regional Health Center and Salisbury Nursing Home, Inc., recorded among the Land Records of the County aforesaid in Liber M.S.B. No. 1144, Folio 769, provides for certain stormwater drainage "cross easements" between land located on Healthway Drive and certain other land and confers upon the City of Salisbury certain rights in respect of those cross easements, which have not been improved or used in the manner contemplated by the parties to the aforementioned Declaration, and the City of Salisbury does not intend or desire to exercise its rights thereunder;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF SALISBURY, as follows:

1. That the aforementioned unimproved portion of Healthway Drive is hereby closed and vacated as a public street, alley or way.
2. For the purposes and reasons hereinabove set forth the City of Salisbury be, and hereby is, authorized to convey to Carefree Homes, LLC., or its assignee, all of its right, title, and interest in the unimproved area of Healthway Drive, as shown on the plat identified above.
3. Effective upon such conveyance and effected by means of the deed(s) for such conveyance, the City of Salisbury shall waive and release unconditionally and forever, all right, title and interest of the City under or pursuant to the aforementioned stormwater drainage easement and Healthway Drive Construction Agreement, or the several plats that refer to such matters, such as the "Note For Unimproved Portion of Healthway Drive," that appears plats

recorded in the aforesaid Land Records at Plat Cabinet 6, Folio 72-285, and Plat Cabinet 8, Folio 62-248.

4. Effective upon final passage of this Ordinance, the City of Salisbury hereby waives and releases, unconditionally and forever, its rights, powers and privileges under the aforementioned Declaration of Cross Easements and Conditions for Storm Water Management Facilities, dated January 15, 1988.
5. The City Solicitor be, and hereby is, directed to prepare and submit for execution by the City of Salisbury appropriate deeds for the purposes aforesaid.
6. This Ordinance shall take effect from the date of its final passage.

THIS ORDINANCE was introduced and read at a meeting of the Council of the City of Salisbury held on the _____ day of _____, 2006, and thereafter, a statement of the substance of the Ordinance having been published as required by law, in the meantime, was finally passed by the Council on the _____ day of _____, 2006.

Brenda J. Colegrove, City Clerk

Michael P. Dunn,
President of the City Council of the
City of Salisbury

Approved by me, this _____ day of _____, 200__.

Barrie P. Tilghman
Mayor of the City of Salisbury