

RESOLUTION NO. 11-2021

ACCEPTING A PETITION AND VACATING A DEDICATED PUBLIC RIGHT OF WAY IN THE TOWN OF MALVERN, ALABAMA

WHEREAS, Grace D. Beckett, who is the sole owner of the property abounding the public right of way in the Town of Malvern, Geneva County, Alabama, on both the North and South and the remaining property on the East and West are other public right of ways, which are still in use as roadways, which through a petition filed with the Town of Malvern and considered by the Council, is sought to be vacated and described as follows:

A strip of land approximately 50 feet by 400 feet described as follows; A parcel of land in the town of Malvern, Geneva County, Alabama, and which is a 50 foot public right of way and referred to as Merrit Road and bounded on the West by Grady Drive and bounded on the East by Merritt Drive, and further bounded on the North and South by a parcel of property described as follows: A parcel of land in the town of Malvern, Geneva County, Alabama, and being more particularly described as follows: Beginning at the Southwest corner of the NE 1/4 of the NW 1/4 of Section 22, T2N, R25E and thence N2°-41'W, along the West forty line 330.54 feet; thence N85°-00'E, 235.65 feet to the East side of a 50 foot street and to the starting point; thence continuing N85°-00'E, 400 feet; thence N5°-00'W, 575 feet to the intersection of two 50 foot streets; thence S85°-00'W along the South side of a 50 foot street 375 feet to the beginning of an arc with a 25 foot radius; S 40°-00'W along said arc a chord distance of 33.36 feet to the East side of a street; thence S5°-00'E, along the Eastside of the street 550 feet to the starting point. Said parcel being in the NE 1/4 of the NW 1/4 of Section 22, T2N, R25E, and containing 5.26 acres, more or less.

The said property owner being the sole legal owner of the property abounding, abutting and/or adjoining the above described public right of way sought to be vacated, has joined in a written agreement or instrument executed and acknowledged according to law, requesting by a petition, that the said right of way as hereinabove set forth shall be vacated, and

WHEREAS, a petition by the owners of all of the lands abutting the following described street requesting the vacation of said street, has been duly presented to the Town Council for the assent, acceptance and/or approval of said governing body, with said petition and map attached hereto, marked Exhibit "A" and made a part hereof; and

WHEREAS, all notices of said vacation of said right-of-way fee, as well as, and/or public hearings in connection therewith, were published, if so required and as required by law, pursuant to Sections 11-49-6 and 23-4-2 of the Alabama Code of 1975; and,

WHEREAS, no other owners of parcels or lots will be cut off from access nor be deprived of any right they may have to convenient and reasonable means of ingress and egress to and from their property; and

WHEREAS, notice of Public Hearing having been waived by the Petitioner, in this instance, and who instead proposed paying \$2,500.00 for the parcel and being the only abutting or adjoining landowner, and submitting the same to the Town Attorney who deposited and held said funds into his trust account, and upon submitting the executed Petition, and having provided such payment, and the Council finding that the amount proposed is a reasonable and a fair value for the parcel. Further, said amount does not exceed the assessed value per square foot of all subdivision lots or tracts abutting the vacated area; and

WHEREAS, it is in the interest of the public that such public right of way be vacated and this Resolution shall be filed in the Probate Court of the County as required by law to effectuate the transfer from the Town of Malvern to Grace D. Beckett. The recording of this Resolution shall operate as a declaration of the governing body's vacation and shall divest all public rights and liabilities, including any rights which may have been acquired by prescription, in that part of the public street, alley, right of way, or public highway vacated; and

WHEREAS, entities with utility lines, equipment or facilities in place at the time of this vacation shall have the right to continue to maintain, extend and enlarge their lines, equipment or facilities to the same extent as if the vacation had not occurred; and

WHEREAS, it appears to the Town Council of the Town of Malvern, Alabama, that the vacation of said public right of way is in order and that convenient and reasonable means of ingress and egress is afforded to all property owners not directly adjoining said public right of way.

WHEREAS NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Malvern, Alabama, that the vacation of the herein above described dedicated public right of way is assented to and approved and same is hereby vacated pursuant to Alabama law and specifically including but not limited to, the provisions of Section 23-4-20, et seq. of the Code of Alabama, 1975 as amended.

Done and adopted this 1st day of November, 2021.


Tom Vickers, Mayor

ATTEST:


Louise Couture, Municipal Clerk