

TOWN OF PAGOSA SPRINGS, COLORADO

**ORDINANCE NO. 780
(SERIES 2012)**

**AN ORDINANCE VACATING A PORTION OF THE BRYN MAWR STREET
PUBLIC RIGHT-OF-WAY NORTH OF BERWYN STREET
AND
VACATING A PORTION OF THE BERWYN STREET PUBLIC
RIGHT-OF-WAY EAST OF BRYN MAWR STREET,
WITHIN THE CORPORATE LIMITS OF
THE TOWN OF PAGOSA SPRINGS**

WHEREAS, the Town of Pagosa Springs ("Town") is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Pagosa Springs Home Rule Charter of 2003 as amended in 2012 ("Charter"); and

WHEREAS, pursuant to Sections 43-2-303(1)(a) and 43-2-303(2)(c), C.R.S., the Town may divest itself of all of its right, title or interest in and to any roadway upon the vacation of such roadway by ordinance; and

WHEREAS, on September 26, 2012, the Town's planning department received an application for Vacation of Public Right-of-Way and Public Utility Easements (the "Application") from Mr. Bob Goodman, for the vacation of the portion of Bryn Mawr Street north of Berwyn Street and the portion of Berwyn Street east of Bryn Mawr Street; and

WHEREAS, pursuant to Section 2.4.3.D.2.a(i) of the Land Use Development Code ("LUDC"), the Planning Commission held a public hearing on the Application on November 27, 2012; and

WHEREAS, the Town Council hereby finds that pursuant to Section 2.3.6 of the LUDC, all public notice requirements for the November 27, 2012 public hearing before the Town Planning Commission, were met, as follows:

- a. Public Notice was published in the Sun Newspaper, a newspaper of general circulation in the Town, on November 08, 2012, which was at least 15 days prior to the scheduled hearing.
- b. Written notice was mailed to the record owners of land immediately adjacent to the proposed vacations of Berwyn Street and Bryn Mawr Street, property owners within 300 feet of the subject property, and any other person who made a written request for such notice, on November 09, 2012, which was no less than 15 days prior to the public hearing.
- c. On November 08, 2012, Public Notice was physically posted along Cemetery Road in close proximity to the proposed right -of-way vacations

and remained posted for a period of at least 15 days prior to the public hearing.

- d. Public notice was also posted at Town Hall on October 25, 2012; and

WHEREAS, Section 2.3.7.F of the LUDC requires the applicant to provide written notice of the Application to all mineral estate owners and lessees by certified mail, return receipt requested, not less than 30 days prior to the initial public hearing, however, no mineral estate owners or lessees are recorded with the county clerk; and

WHEREAS, on November 27, 2012, the Planning Commission approved a recommendation to the Town Council to "Approve an Ordinance Vacating the portion of Bryn Mawr Street north of Berwyn Street and the portion of Berwyn Street east of Bryn Mawr Street, contingent on the approved Final Plat for Lot Consolidation of at least, Lot 1 of Block 13, Lots 1-5 of Block 12 and Lot A of Block 11;" and

WHEREAS, pursuant to Section 2.4.3.D.2.a(ii) of the LUDC, a public hearing before the Town Council on the Application was held on December 04, 2012 at 5pm; and

WHEREAS, the Town Council hereby finds that pursuant to Section 2.3.6 of the LUDC, all public notice requirements for the December 04, 2012 public hearing before the Town Council, were met, as follows:

- a. Public Notice was published in the Sun Newspaper, a newspaper of general circulation in the Town, on November 08, 2012, which was at least 15 days prior to the scheduled hearing.
- b. Written notice was mailed to the record owners of land immediately adjacent to the proposed vacations of Berwyn Street and Bryn Mawr Street, property owners within 300 feet of the subject property, and any other person who made a written request for such notice, on November 09, 2012, which was no less than 15 days prior to the public hearing.
- c. On November 08, 2012, Public Notice was physically posted along Cemetery Road in close proximity to the proposed ROW vacations and remained posted for a period of at least 15 days prior to the public hearing.
- d. Public notice was also posted at Town Hall on October 25, 2012; and

WHEREAS, Section 2.3.7.F of the LUDC requires the applicant to provide written notice of the Application to all mineral estate owners and lessees by certified mail, return receipt requested, not less than 30 days prior to the initial public hearing, however, no mineral estate owners or lessees exist; and

WHEREAS, the Town Council hereby finds that the criteria of Section 2.4.3.D.2.b(ii) of the Town's Land Use Development Code for vacation of a right-of-way have been met, as follows:

- a. *The vacation is consistent with the Comprehensive Plan and other adopted Town policies and plans, including any adopted transportation plan or streets/roadway plan.* Bryn Mawr Street and Berwyn Street are located within an area identified on the Comprehensive Plan Future Land Use Map as Low Density Residential which defines the primary use as low density single family residences. Vacation of the public right-of-way for the portion of Bryn Mawr Street north of Berwyn Street and the public right-of-way for the portion of Berwyn Street east of Bryn Mawr Street, and the utility easements therein will not negatively affect vehicular transportation, public safety, public services, or accessibility in the surrounding area.
- b. *The land to be vacated is no longer necessary for the public use and convenience.* Upon consolidation of at least Lot 1 of Block 13, Lots 1-5 of Block 12 and Lot A of Block 11, there will no longer be a needed for public use or convenience and will have no beneficial public use.
- c. *The vacation of a roadway that exists by right of usage shall occur only if the land adjoining said roadways is left with an established public road or private access easement connecting said land with another established public road.* The portion of Bryn Mawr Street south of Berwyn Street and the portion of Berwyn Street west of Bryn Mawr Street will remain as public rights-of-way and upon consolidation of at least Lot 1 of Block 13, Lots 1-5 of Block 12 and Lot A of Block 11, adjoining land will maintain current accesses to a public roads.
- d. *The vacation will not leave any land-locked parcels.* Upon consolidation of at least Lot 1 of Block 13, Lots 1-5 of Block 12 and Lot A of Block 11, no parcels will be land-locked and all parcels will have access to a public right-of-way.
- e. *The vacation will not adversely impact the health, safety and/or welfare of the general community, or reduce the quality of public facilities or services provided to any parcel of land, including but not limited to police/fire protection, access, and utility service.* Upon consolidation of at least Lot 1 of Block 13, Lots 1-5 of Block 12 and Lot A of Block 11, the right-of-way and utility easement vacation will not adversely affect or impact the health, safety, or welfare of the general community, or the quality of public facilities or services provided, and there will be no adverse effect to police/fire protection or access; and

WHEREAS, the Town wishes to formally and expressly vacate such roadway and utility easements within the corporate limits of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, as follows:

SECTION 1 – Incorporation of Recitals and Findings. The above Recitals and Findings of the Town Council are hereby incorporated into this Ordinance.

SECTION 2 – Vacation of Roadway and Utility Easements. Pursuant to Sections 43-2-303(1)(a) and 43-2-303(2)(c), C.R.S., the Town hereby divests itself of all of its right or interest in and to the public right-of-way for the portion of Bryn Mawr Street north of Berwyn Street and the portion of Berwyn Street east of Bryn Mawr Street, and the utility easements therein, within the corporate limits of the Town, see Exhibit A.

SECTION 3 – Vacation Contingent on Lot Consolidation. Vacation of the public right-of-way for the portion of Bryn Mawr Street north of Berwyn Street and the portion of Berwyn Street east of Bryn Mawr Street, and the utility easements therein is contingent upon a Town approved lot consolidation plat being recorded with the County Clerk for at least Lot 1 of Block 13, Lots 1-5 of Block 12 and Lot A of Block 11.

SECTION 4 – Vesting of Title. In accordance with the provisions of Section 43-2-302, C.R.S., title to the lands included within the roadway hereby vacated shall vest in the owner of the abutting property or properties, subject to the same encumbrances, liens, limitations, restrictions, and estates as the land to which it accrues.

SECTION 5 - Recording. In accordance with the requirements of Section 43-2-303(2)(f), C.R.S., this ordinance vacating the roadway designated herein shall be recorded in the office of the Clerk and Recorder of Archuleta County.

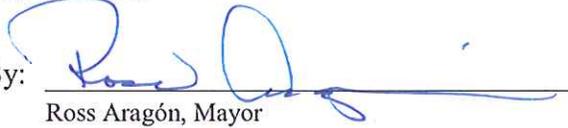
SECTION 6 – Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

SECTION 7 – Effective Date. This Ordinance shall become effective and be in force immediately upon final passage at second reading.

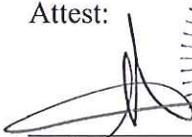
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INTRODUCED, READ, AND ORDERED PUBLISHED PURSUANT TO SECTION 3.9, B) OF THE PAGOSA SPRINGS HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE 4th DAY OF DECEMBER, 2012.

TOWN OF PAGOSA SPRINGS,
COLORADO

By: 
Ross Aragón, Mayor

Attest:

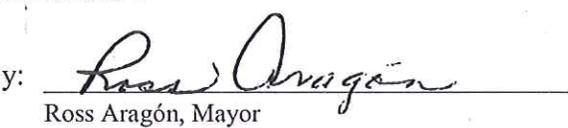

April Hessman, Town Clerk



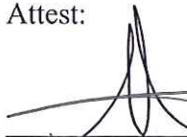
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FINALLY ADOPTED, PASSED, APPROVED, AND ORDERED PUBLISHED PURSUANT TO SECTION 3.9, D) OF THE PAGOSA SPRINGS HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE ____ DAY OF _____, 2012.

TOWN OF PAGOSA SPRINGS,
COLORADO

By: 
Ross Aragón, Mayor

Attest:


April Hessman, Town Clerk

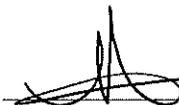


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CERTIFICATE OF PUBLICATION

I, the duly elected, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 780 (Series 2012) was approved by the Town Council of the Town of Pagosa Springs on first reading at its regular meeting held on the 04th day of December, 2012, and was published by title only, along with a statement that the full text of the Ordinance, including any amendments, is available for public inspection at the office of the Town Clerk at Town Hall, on the Town's official website, on December 05, 2012, which date was at least ten (10) days prior to the date of Town Council consideration on second reading.

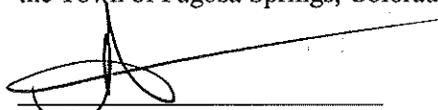
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this 04 day of December, 2012.



April Hessman, Town Clerk
(SEAL) 

I, the duly elected, ~~qualified and~~ acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 780 (Series 2012) was approved by the Town Council of the Town of Pagosa Springs on second reading, at its regular meeting held on the 20 day of Dec, 2012, and was published by title only, along with a statement indicating the effective date of the Ordinance and that the full text of the Ordinance is available at the office of the Town Clerk, on the Town's official website, on Dec 20 2012.

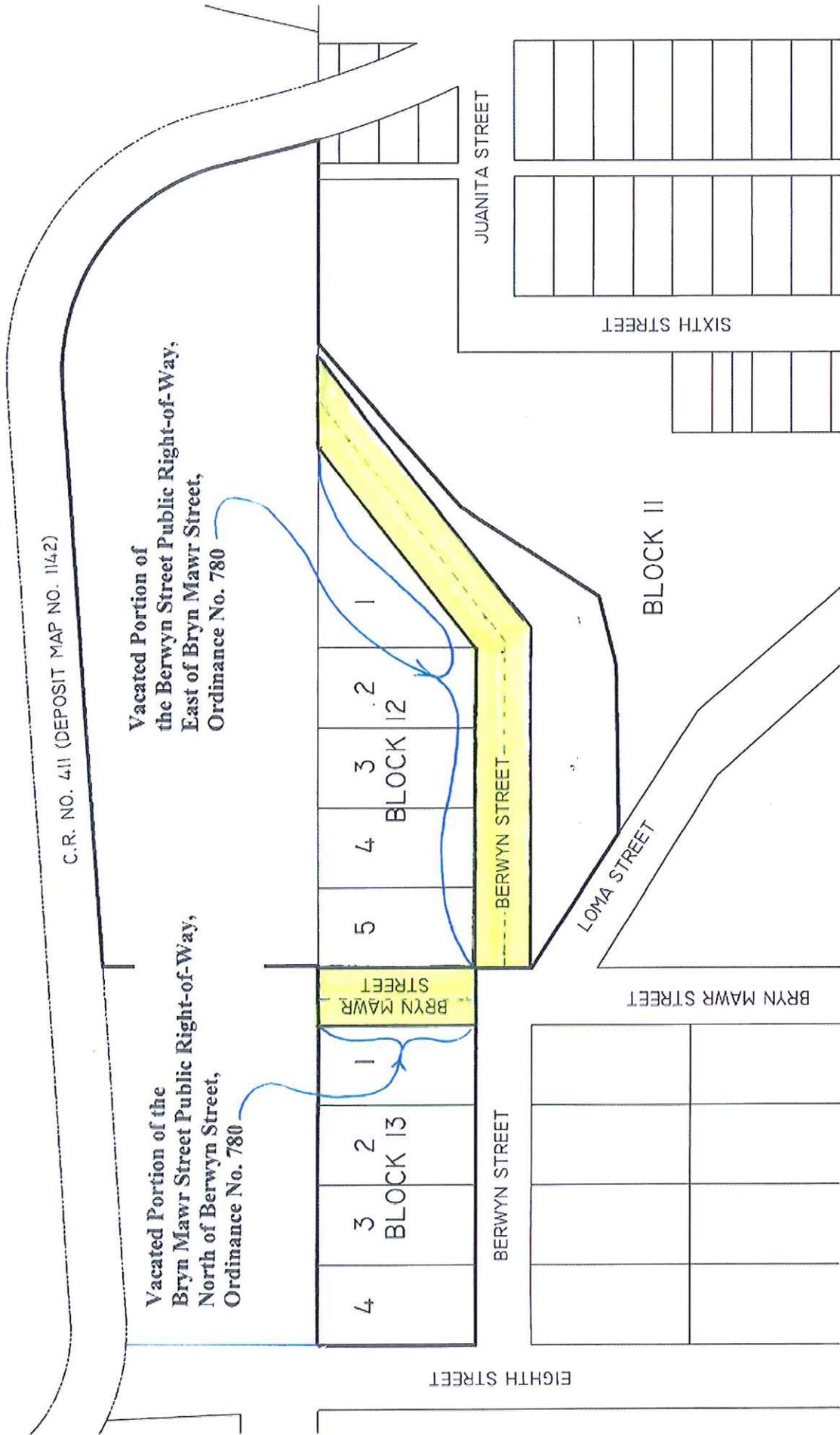
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this 20 day of Dec, 2012.



April Hessman, Town Clerk

(SEAL) 

Ordinance No. 780 EXHIBIT A



C.R. NO. 411 (DEPOSIT MAP NO. 1142)

Vacated Portion of the Berwyn Street Public Right-of-Way, East of Bryn Mawr Street, Ordinance No. 780

Vacated Portion of the Bryn Mawr Street Public Right-of-Way, North of Berwyn Street, Ordinance No. 780

1
2
3
4
5
BLOCK 12

1
2
3
4
BLOCK 13

BERWYN STREET

JUANITA STREET

LOMA STREET

SIXTH STREET

BRYN MAWR STREET

BLOCK II

EIGHTH STREET

