

ORDINANCE NO. 2008-1

AN ORDINANCE VACATING A PORTION OF SECOND STREET WITHIN THE INCORPORATED LIMITS OF THE TOWN OF LA JARA AND VESTING THE TITLE TO THE VACATED SEGMENT IN THE ABUTTING PROPERTY OWNERS.

WHEREAS, CRAIG McCARROLL and APRIL McCARROLL, taxpayers and property owners within the incorporated limits of the Town of La Jara, Colorado, have petitioned the Board of Trustees of the Town of La Jara for an Ordinance vacating a portion of Second Street, and

WHEREAS, the necessity for such vacation arises from the fact that a portion of their principal residential structure and their northern fence encroaches upon a portion of Second Street, a condition that has existed for many years unknown to the Petitioners or to their predecessors in title, and,

WHEREAS, the Board of Trustees finds and determines that, notwithstanding that such encroachment has existed for many years, the adjoining property owners and the general public and users of said Second Street have not been inconvenienced or hindered in any appreciable way and that the requested vacation of a portion of Second Street will not be detrimental to the adjoining property owners or the present and future users of the remaining portion of Second Street.

NOW, THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of La Jara, Colorado, as follows:

Section 1 - Vacating a Portion of Second Street: Pursuant to §42-2-203 (1)(a), C.R.S., that portion of Second Street as hereinafter described be, and the same is, hereby, permanently vacated. Said vacated segment of Second Street is more particularly described as follows:

A parcel of land located entirely in Second Street and situated adjacent to Block 18, Town of La Jara, Conejos County, Colorado, and being more particularly described by metes and bounds as follows:

Beginning at the Northeast Corner for Block 18, Town of La Jara, Conejos County, Colorado. Thence Northwesterly along the Northerly line for said Block 18, and the Southerly limit for Second Street a distance of 150.00 feet; thence Northeasterly perpendicular to said Northerly line for Block 18 a distance of 20.00 feet; thence Southeasterly on a line parallel to said Northerly line for said Block 18 a distance of 150.00 feet; thence Southwesterly a distance of 20.00 feet to the Northeasterly Corner for said Block 18 and the True Point of Beginning, containing 0.0688 acres, more or less.

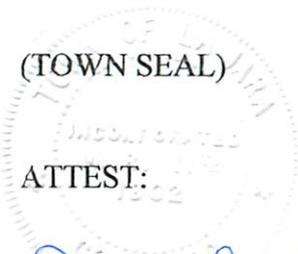
Section 2 - Vesting of Title to Vacated Portion to Adjoining Property Owners: Pursuant to §43-2-302 (1)(b) C.R.S., title to the vacated portion shall vest permanently in the present owners of the land abutting such vacated portion, such being **Craig McCarroll and April McCarroll**, their heirs, personal representatives, successors and assigns.

Section 3 - Publication: The Town Clerk shall certify to the passage of this Ordinance, cause notice of its contents and passage to be provided by land, and shall cause the same to be filed for record in the real estate record of the Clerk and Recorder of Conejos County, Colorado, pursuant to the requirements of §43-1-202.7, C.R.S.

INTRODUCED, READ, APPROVED, AND ADOPTED AND ORDERED PUBLISHED BY THE BOARD OF TRUSTEES OF THE TOWN OF LA JARA AT A REGULAR MEETING OF THE BOARD OF TRUSTEES AFTER PUBLIC NOTICE THEREOF AS REQUIRED BY LAW AT WHICH A QUORUM OF THE BOARD OF TRUSTEES WAS PRESENT THIS 14TH DAY OF AUGUST, 2008.

THE BOARD OF TRUSTEES OF THE TOWN OF LA JARA

(TOWN SEAL)



ATTEST:

By: *Austin Valdez*
Austin Valdez, Mayor

Priscilla Schimpf
Priscilla Schimpf, La Jara Town Clerk

APPROVED AS TO FORM AND CONTENT:

Raymond J. Valdez
Raymond J. Valdez, La Jara Town Attorney

Date of Publication: *Aug. 16, 2008*

The Town Clerk shall certify to the passage of this Ordinance and provide a copy of the same to the Board of Health and the Board of Public Health. The Town Clerk shall also provide a copy of the same to the Board of Health and the Board of Public Health. The Town Clerk shall also provide a copy of the same to the Board of Health and the Board of Public Health.

RESOLVED, BE IT ORDAINED, ENACTED AND ORDERED BY THE BOARD OF THE TOWN OF LA JARA AT A REGULAR MEETING OF THE BOARD OF THE TOWN OF LA JARA AT A MEETING HELD AT LA JARA, NEW MEXICO, THIS 14TH DAY OF AUGUST, 2008.

THE BOARD OF THE TOWN OF LA JARA

By: *[Signature]*
Teresa Valdez Mayor



Respectfully Submitted, Town Clerk

APPROVED AS TO FORM AND CONTENT

[Signature]
Teresa Valdez Mayor

Attest: *[Signature]*
Town Clerk

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WHEREAS, the necessity for such vacation arises from the fact that a portion of their principal residential structure and their northern fence encroaches upon a portion of Second Street, a condition that has existed for many years unknown to the Petitioners or to their predecessors in title, and,

WHEREAS, the Board of Trustees finds and determines that, notwithstanding that such encroachment has existed for many years, the adjoining property owners and the general public and users of said Second Street have not been inconvenienced or hindered in any appreciable way and that the requested vacation of a portion of Second Street will not be detrimental to the adjoining property owners or the present and future users of the remaining portion of Second Street.

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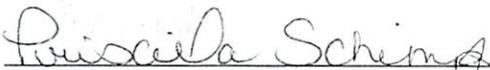
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THE BOARD OF TRUSTEES OF THE TOWN OF LA JARA

(TOWN SEAL)

By: 
Austin Valdez, Mayor

ATTEST:


Priscilla Schimpf, La Jara Town Clerk

APPROVED AS TO FORM AND CONTENT:


Raymond J. Valdez, La Jara Town Attorney

Date of Publication: Aug. 16, 2008

TO: THE BOARD OF TRUSTEES OF THE TOWN OF LA JARA, COUNTY OF CONEJOS AND STATE OF COLORADO:

We, the undersigned property owners and taxpayers owning residential property within the incorporated limits of the Town of La Jara, respectfully petition the Board of Trustees of the Town of La Jara that it adopt an ordinance by which a portion of Second Street be vacated, and as grounds therefor, state as follows:

1. The property in question was acquired by the undersigned by virtue of a Warranty Deed to Joint Tenants dated June 11, 2007, given by Robert Scott McCarroll and Paula McCarroll, and filed for record in the Office of the Clerk and Recorder of Conejos County, Colorado, on June 14, 2007, under Reception No. 7001006, and by which was conveyed the following property:

The North 20 feet of Lot 28 and all of Lot 29, Block 18, Town of La Jara as per the plat thereof as filed in the Office of the Clerk and Recorder of Conejos County, Colorado.

2. Situate on the above-described property is a single-family residential structure that has existed on the above-described property for a very long period of time, certainly in excess of 50 years, perhaps longer, that has been in the ownership of the McDaniel and McCarroll families as predecessors in title.
3. That, within the recent past, the undersigned constructed an addition and remodeling to the existing structure, part of which resulted in the extension of the north side of the building eastward towards Mulberry Street. The north side of the building prior to extension existed as such for a period of time as referenced above.
4. That, in connection with the remodeling of the existing structure, their lending institution required, among other things, that it be furnished with a Improvement Location Certificate prepared by a licensed surveyor licensed to do business in the state of Colorado.
5. That, pursuant to said survey, it was discovered that the entire north side of the structure and its surrounding northerly fence as they now exist as remodeled, and as existed for the period of time hereinabove referenced above, encroaches upon a portion of Second Street.
6. That the existence of such encroachment was not ever known to the undersigned, nor apparently to their predecessors in title, and it follows, to anyone else, including the governing board of the Town of La Jara and to the public in general in that the street abutting said residential structure has been used without any interference whatsoever, and without complaint by any person at any time to the best of the knowledge, information and belief of the undersigned.
7. Given the existence of such encroachment, the lending institution with whom the undersigned have arranged for financing is unwilling to close the loan as a permanent loan capable of being insured by

Valley Courier

Alamosa Newspapers Inc.
P.O. Box 1099, 2205 State Ave.
Alamosa, CO 81101

PROOF OF PUBLICATION

STATE OF COLORADO)
) SS.
COUNTY OF ALAMOSA)

Leanna Gillespie being duly sworn, desposes and says:

1. That she is the Bookkeeper of the Valley Courier, a daily newspaper printed and published in the City of Alamosa, County of Alamosa and State of Colorado, and is competent to certify to the facts herein stated.

2. That the said Valley Courier is printed and published daily, except Sundays and legal holidays and Mondays, or is printed and published on each of any 5 days in every week exception legal holidays; and that it has a general circulation in the County of Alamosa, and in the State of Colorado and elsewhere.

3. That the said the Valley Courier was established, and has been printed and published in said County, uninterruptedly and continuously, during a period of at least six months next prior to the first issue thereof.

containing that certain legal notice entitled _____

Legal# 19310 in re: _____

Notice _____ a copy of which is hereunto attached.

4. That the said the Valley Courier is a public daily newspaper of general circulation, and that the said daily newspaper is printed and published in whole or in part in the said County of Alamosa, in which said document is required by law to be published.

5. That the said the Valley Courier is a daily newspaper within the meaning of the laws and statutes of the State of Colorado and within the meaning of Colorado Revised Statutes 1953, Chapter 109, as amended to date; and that said publication has been admitted to the United States mails as periodicals matter under the provisions of the act of March 3, 1879, or any amendments thereof.

6. That the said annexed document was published in the regular and entire editions of the Valley Courier, a duly qualified daily newspaper for that purpose, within the terms of the above named Acts.

7. That the said annexed document is a full, true, and correct copy of the original which was regularly published in each of the regular and entire issues of said daily newspaper, a legally qualified paper for that purpose, once each week, on the same day of each week, for successive

weeks by 1 insertions and

that the first publication thereof was in the issue dated

August 16 2008 and that the last

publication was in the issue dated

August 16 2008

Bookkeeper Leanna Gillespie

Subscribed and sworn to before me this 5th day

of September

Shasta Luntine
My Commission Expires November 26 2008

Seal

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VALLEY COUNTY

OFFICE OF THE COUNTY CLERK

CLERK OF DISTRICT COURT

VALLEY COUNTY, MONTANA

IN RE: ESTATE OF

CBPI

Admission

a title company unless and until that matter of the encroachment is resolved to the satisfaction of the underwriting title insurance company and the financial institution.

8. That it is physically impossible, and certainly impracticable, to require the removal or alternation of the existing structures in order to conform to the boundaries of the street as platted, more so in light of the fact that the encroachment condition has existed for a very long time without detriment or prejudice to the general traveling public.
9. That a vacation of the portion of Second Street on which the residential structure and its surrounding northerly fence now encroach will not impede or obstruct traffic on the remaining portions of Second Street any more than prior existing encroachments did in the past.
10. That the encroachment of the residential structure and its surrounding northerly fence upon Second Street as it now exists is more particularly described, pursuant to a survey, as follows:

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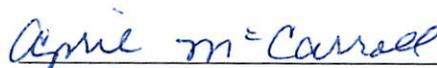
WHEREFORE, in light of the foregoing, the undersigned respectfully petition the Board of Trustees of the Town of La Jara that it adopt an ordinance vacating a portion of Second Street as more particularly described above in the form and manner as required by law, and for such other orders and conditions as the Board of Trustees finds and determines are proper in the premises.

Dated: August 14, 2008.

Respectfully submitted,



Craig McCarroll



April McCarroll