

## **ORDINANCE NO. 1065**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY GIG HARBOR, WASHINGTON, VACATING A PORTION OF RUST STREET, LYING SOUTH OF VERNHARDSON STREET.**

---

WHEREAS, the City has the authority to adopt a vacation ordinance to formally remove the cloud on the title of the referenced right-of-way area, but this street vacation ordinance does not affect the rights of anyone, including any rights the public may have acquired in the right-of-way since the street was vacated by operation of law; and

WHEREAS, the portion of Rust Street subject to this vacation request was created in the Plat of the Town of Artena, recorded in the records of Pierce County in 1890; and

WHEREAS, the referenced portion of street right-of-way has never been opened or improved as a public street; and

WHEREAS, the referenced portion of street right-of-way was located in Pierce County during the period of five years prior to 1909, and there is no evidence that it was used as a street during such period; and

WHEREAS, the City Council passed Resolution No. 691 initiating the procedure for the vacation of the referenced street and setting a hearing date; and

WHEREAS, after the required public notice had been given, the City Council conducted a public hearing on the matter on December 11, 2006, and at the conclusion of such hearing determined that the aforementioned right-of-way vacated by operation of law and lapse of time; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, ORDAINS  
AS FOLLOWS:

Section 1. The City Council finds that the unopened portion of the platted Rust Street right-of-way, lying south of Vernhardson Street, abutting properties at 3400 and 3415 Rust Street, attached hereto as legally described in Exhibit A and incorporated by this reference and as shown on the site drawing as depicted on Exhibit B, has vacated by lapse of time and operation of law under the Laws of 1889-90, Chapter 19 (Relating to County Roads), Section 32, p. 603, as Amended By Laws of 1909, Chapter 90, Section 1, p. 189, repealed in 1936 by the Washington State Aid Highway Act (Laws of 1936, Chapter 187, p. 760).

Section 2. The City has the authority to adopt a vacation ordinance to formally remove the cloud on the title of the referenced right-of-way area, but this street vacation ordinance does not affect the rights of anyone, including any rights the public may have acquired in the right-of-way since the street was vacated by operation of law.

Section 3. The City Clerk is hereby directed to record a certified copy of this ordinance with the office of the Pierce County Auditor.

Section 4. Reservation of Easement. The City has an easement over, under and through the street as generally depicted Exhibit B. The City shall retain its existing easement in the street for the purpose of maintaining, operating, repairing, and replacing the sewer utilities in place.

Section 5. This ordinance shall take effect five days after passage and publication as required by law.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor this 8<sup>th</sup> day of January, 2007.

CITY OF GIG HARBOR

By: \_\_\_\_\_  
Charles L. Hunter, Mayor

ATTEST/AUTHENTICATED:

By: \_\_\_\_\_  
Molly M. Towslee, City Clerk

APPROVED AS TO FORM:

Office of the City Attorney:

By: \_\_\_\_\_  
Carol A. Morris

FILED WITH THE CITY CLERK: 12/06/06

PASSED BY THE CITY COUNCIL: 01/08/07

PUBLISHED: 01/17/07

EFFECTIVE DATE: 01/22/07