

ORDINANCE NO. 1023

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY GIG HARBOR, WASHINGTON, VACATING A PORTION OF HALL STREET, BETWEEN NORTH HARBORVIEW DRIVE AND 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 Hall Street subject to this vacation request was created in the Plat of the Artena, recorded in the records of Pierce County in 1891; 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. 654 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 November 28, 2005, 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 Hall Street right-of-way, lying between North Harborview Drive and Vernhardson Street, abutting the northern property frontage of Parcels A and B of Short Plat No. 2260000371, attached hereto as legally described in Exhibit A and incorporated by this reference and as shown 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Chapter 19 (Relating to County Roads), Section 32, p. 603, as Amended By Laws of 1909, Chapter 90, Section 1, p. 189, repealed in 1936 by the Washington State Aid Highway Act (Laws of 1936, Chapter 187, p. 760).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. This unopened street vacated by lapse of time five years after it was platted in 1890 under the above statute, and the property owners have petitioned the City to adopt a vacation ordinance which would formally remove the cloud on the title of the referenced Hall Street right-of-way area. Since the actual vacation occurred, the property has been subject to adverse possession. (See, *Wells v. Miller*, 42 Wn. App. 94, 708 P.2d 1223 (1985).) This street vacation ordinance merely lifts the cloud on the title, and does not affect any rights acquired by the City, the public, or any member of the public since the street vacated in 1906. The City Council's adoption of this ordinance in order to remove the cloud on the title associated with Hall Street has been performed

solely to recognize operation of law under the above statutes, and is not the City's admission that the property described in Exhibit A is owned by the petitioners. Other individuals and entities, including the City, may have acquired rights to the property by adverse possession or prescription, and may seek formal recognition of these rights by quiet title action filed in a court with competent jurisdiction.

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. The City has an easement over, under and through the street as generally depicted on 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 12th day of December, 2005.

CITY OF GIG HARBOR

By:

Gretchen Wilbert, 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: 11/05
PASSED BY THE CITY COUNCIL: 12/12/05
PUBLISHED: 1/4/06
EFFECTIVE DATE: 1/9/06