

ORDINANCE NO. 778

**AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON,
VACATING THAT PORTION OF 38th AVENUE NORTHWEST LYING
SOUTH OF STATE ROUTE-16.**

WHEREAS, the City Council passed Resolution No. 506, establishing a Public Hearing Date of November 24, 1997, as rescheduled from November 10, 1997, as the date for a public hearing on a petition for the vacation of that portion of 38th Avenue Northwest, lying south of State Route-16, and shown and described on Exhibit A, attached hereto, as Tract D; and

WHEREAS, this public hearing was re-scheduled, pursuant to all requisite public notice, on November 10, 1997; and

WHEREAS, the hearing was held as re-scheduled and the Council heard testimony from all persons who expressed a desire to speak on the vacation; and

WHEREAS, after considering any and all such testimony, the Council decided to vacate the right-of-way as requested, subject to the payment of appropriate compensation to the City, now, therefore,

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

Section 1. Adoption of Findings and Conclusions. Pursuant to Section 12.14.012 of the Gig Harbor Municipal Code, the Council makes the following findings and conclusions in support of vacation:

A. FINDINGS

1. The right-of-way proposed for vacation is that portion of 38th Avenue Northwest, lying south of State Route-16, and shown and described on the attached Exhibit A as Tract D. The right-of-way was not acquired at public expense.

2. The right-of-way proposed for vacation is currently improved and has utilities.

3. Vacating the right-of-way will place land back on the tax rolls, and will relieve the City of any and all responsibility for the right-of-way.

4. The vacation has been requested by a petition signed by the owner of the properties abutting the right-of-way.

5. The value of the right-of-way will be determined by an independent, professional appraisal in accordance with Sections 12.14.004B and 12.14.006 of the Gig Harbor Municipal Code. The petitioners have agreed to pay this amount to the City, as provided in RCW 35.79.030 and Section 12.14.020 of the Gig Harbor Municipal Code.

6. The availability of access to public right-of-way will not be affected by this request for vacation.

7. The proponent will dedicate and construct a turn-around, in accordance with the Public Works Standards, on Parcel H as depicted on the map and described in Exhibit A attached hereto.

B. CONCLUSIONS

1. The City Council has the authority to consider street vacations pursuant to Chapter 35.79 RCW and Chapter 12.14 of the Gig Harbor Municipal Code.

2. The proposed vacation will provide a public benefit and be for a public purpose in that it will provide an economic and physical benefit, and will provide the City with compensation for the vacated land.

3. The vacation of the right-of-way will not adversely affect the street pattern or circulation in the immediate area or the community as a whole. Access to public right-of-way will not be affected by the right-of-way vacation.

4. The vacation will not adversely affect the public need, nor is the right-of-way contemplated or needed for future public use other than for construction, repair, and maintenance of future public utilities and services.

5. The right-of-way should be vacated, subject to the provisions in Section 1.B.6 below, and the petitioners compensating the City in the amount of the appraised value, as set forth in the above findings, and as required by Section 12.14.020 of the Gig Harbor Municipal Code and satisfactory to the City's Public Works Director.

6. The right-of-way should be vacated, subject to dedication of right-of-way and construction of a turn-around, or guarantee of construction of same, in accordance with the City's Public Works Standards, and as depicted for Parcel H as shown on the map attached as Exhibit A.

Section 2. Right-of-Way Vacated - Compensation. That certain dedicated right-of-way commonly known as 38th Avenue Northwest, lying south of State Route-16, and depicted on the map attached as Exhibit A, and incorporated herein by this reference as if set forth in full, is

hereby vacated, subject to the petitioners compensating the City in the amount of the appraised value as determined in accordance with Section 1, and the amount of the appraisal for the property, and subject to an easement to the City, satisfactory to the City Public Works Director, for construction, repair, and maintenance of future public utilities and services.

Section 3. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title, provided, that the vacation contemplated by this ordinance shall not become effective and this ordinance shall not be recorded until the petitioners compensate the City, and, dedicate and construct or otherwise guarantee construction of the turn-around, as provided above. Upon receipt of the required compensation, and dedication, and construction of such improvements, or receipt of guarantee for such improvements, as provided herein, the City Clerk is directed to record a certified copy of this ordinance with the Pierce County Auditor.

PASSED by the City Council and APPROVED by the Mayor this 8th day of December, 1997.

APPROVED:

MAYOR, GRETCHEN WILBERT

ATTEST/AUTHENTICATED:

CITY CLERK, MOLLY TOWSLEE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

By: _____
CAROL A. MORRIS

FILED WITH THE CITY CLERK: 11/19/97
PASSED BY THE CITY COUNCIL: 12/8/97
PUBLISHED: 12/17/97
EFFECTIVE DATE: 12/22/97

SUMMARY OF ORDINANCE NO. 778

of the City of Gig Harbor, Washington

On December 8, 1997, the City Council of the City of Gig Harbor, Washington, approved Ordinance No. 778, the main point of which may be summarized by its title as follows:

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, VACATING THAT PORTION OF 38TH AVENUE NORTHWEST LYING SOUTH OF STATE ROUTE-16.

The full text of this ordinance will be mailed upon request.

APPROVED by the City Council at their meeting of December 8, 1997

CITY CLERK, MOLLY TOWSLEE

EXHIBIT A

TRACT D

That portion of the westerly 38th Avenue Northwest right-of-way consisting of parcel APN 0221074073 bounded on the north by the southerly State Route-16 Right-of-Way line as depicted on Sheet 9 of that certain Map of Definite Location entitled State Route-16, Narrows Bridge to Olympic Drive, prepared by the Washington State Highway Commission March 19, 1970, on the northwest by parcel APN 0221078003, and on the southwest by parcel APN 0221078004, and on the east by a line offset thirty (30) feet, measured perpendicular to and westerly of, and parallel to, the section line common to sections 7 and 8 of T21N, R2E, W.M. Subject to an easement for utility construction, repair and maintenance over the above described vacated right-of-way.

TRACT H To be Dedicated to the City

That portion of parcel APN 0221083087 adjacent to, and east of, the 38th Avenue Northwest right-of-way, and bounded by a circle with a radius of 55 feet whose center is 57.3 feet northerly of the westerly extension of said parcel's southerly boundary line, as measured along the centerline of 38th Avenue Northwest, and 25 feet easterly of the centerline of 38th Avenue Northwest, measured perpendicular to said centerline.