

**ORDINANCE NO. 1286**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY GIG HARBOR, WASHINGTON, VACATING A PORTION OF RUST STREET ABUTTING 9509 NORTH HARBORVIEW DRIVE.**

---

WHEREAS, Mr. Stanley Stearns, Trustee of Colvos Trust, petitioned the City to vacate a 30-foot wide portion of Rust Street, which abuts their property at 9509 North Harborview Drive, Gig Harbor, Washington, under the nonuser statute, RCW 36.87.090 and GHMC Section 12.14.018(C); and

WHEREAS, the portion of street subject to the vacation petition was platted in the Town of Ardena, recorded in the records of Pierce County on August 20, 1890; and

WHEREAS, in 1890, this street was in unincorporated Pierce County; and

WHEREAS, the portion of Rust Street subject to the vacation petition was not included in any street that was opened or improved within five years after the original platting in 1890; and

WHEREAS, under RCW 36.87.090, any county road which remained unopened for public use for five years after platting was vacated by lapse of time; and

WHEREAS, the City's street vacation procedures for streets subject to the nonuser statute eliminates the cloud on the title created by the plat, because the street has already vacated by lapse of time and operation of law; and

WHEREAS, in the 1970's, the City installed utilities on a portion of the unopened right of way benefitting the subject property and the City desires to retain an easement for such utilities; and

WHEREAS, after receipt of the street vacation petition, the City Council passed Resolution No. 951 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 March 10, 2014, 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 described in Mr. Stearns street vacation petition has vacated by lapse of time and operation of law under RCW 36.87.090. The vacated portion of Rust Street, lying west of and perpendicular to North Harborview Drive, abutting parcel number 2260000171 at 9509 Peacock Hill Avenue is legally described in Exhibit A attached hereto and incorporated by this reference, and further, is shown on the survey map attached hereto as Exhibit B and incorporated herein. In addition, the property owner agrees to the City's retention of an easement for the utilities and grants the same as described on Exhibit A and depicted in Exhibit B.

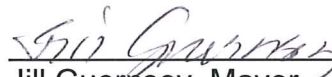
Section 2. The City has the authority to adopt a vacation ordinance to formally remove the cloud on the title of the referenced Right-of-Way area. This street vacation ordinance does not affect any existing rights, including any the public may have acquired in the Right-of-Way since the street was vacated 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 after the property owner signs the acknowledgment below before a notary public.

Section 4. 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 10th day of March, 2014.

CITY OF GIG HARBOR

  
\_\_\_\_\_  
Jill Guernsey, Mayor

ATTEST/AUTHENTICATED:

  
\_\_\_\_\_  
Molly M. Fowslee, City Clerk

APPROVED AS TO FORM:  
Office of the City Attorney:

  
\_\_\_\_\_  
Angela G. Summerfield

FILED WITH THE CITY CLERK: 03/10/14  
PASSED BY THE CITY COUNCIL: 03/10/14  
PUBLISHED: 03/19/14  
EFFECTIVE DATE: 03/24/14  
ORDINANCE NO. 1286

**[Acknowledgment on following page.]**

ACKNOWLEDGMENT AND OF GRANT OF EASEMENT

COLVOS TRUST

By \_\_\_\_\_  
Stanley Stearns, Trustee                  Date

STATE OF WASHINGTON         )  
   ) ss.  
COUNTY OF \_\_\_\_\_        )

I certify that I know or have satisfactory evidence that Stanley Stearns is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Trustee of COLVOS TRUST, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Printed: \_\_\_\_\_  
Notary Public in and for Washington,  
Residing at \_\_\_\_\_  
My appointment expires: \_\_\_\_\_

**EXHIBIT A  
LEGAL DESCRIPTION**



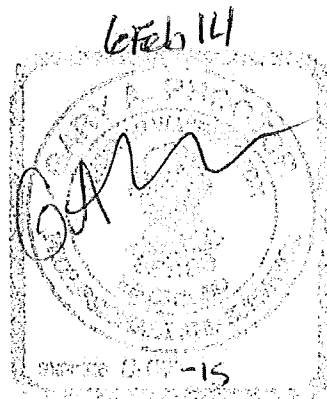
8803 State Highway 16  
PO Box 249  
Gig Harbor, WA 98335  
T 253 858 8106  
F 253 858 7466  
thorntonls.com

**PROPOSED  
LEGAL DESCRIPTION**

RIGHT-OF-WAY THAT WILL ATTACH BY OPERATION OF LAW TO COLVOS TRUST ADJOINER FOLLOWING VACATION OF A PORTION OF RUST STREET, GIG HARBOR, WASHINGTON, BEING A PORTION OF THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 21 NORTH, RANGE 2 EAST, W.M., IN PIERCE COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

THAT PORTION OF THE NORTH HALF OF RUST STREET (FORMERLY WALNUT STREET) PER THE PLAT OF THE TOWN OF ARTENA, RECORDED IN VOLUME 5 OF PLATS AT PAGE 68, UNDER AUDITOR'S FILE NUMBER 30921, RECORDS OF PIERCE COUNTY, WASHINGTON, ADJACENT TO AND ABUTTING LOTS 17 THROUGH 20, INCLUSIVE, IN BLOCK 4 OF SAID PLAT.

RESERVING A SANITARY SEWER EASEMENT TO THE CITY OF GIG HARBOR, BEING THE NORTH 15.00 FEET OF THE EAST 20.00 FEET OF THAT PORTION OF AFORESAID RUST STREET ADJACENT TO AND ABUTTING LOTS 17 THROUGH 20, INCLUSIVE, IN BLOCK 4 OF AFORESAID PLAT OF THE TOWN OF ARTENA.



# EXHIBIT B SURVEY MAP

