

ORDINANCE NO. 904

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
GIG HARBOR, WASHINGTON, VACATING A PORTION OF
RUST STREET, LYING EAST OF NORTH HARBORVIEW
DRIVE AND WEST OF WHEELER AVENUE ABUTTING
9508 WHEELER AVENUE IN GIG HARBOR, WASHINGTON.**

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 any rights anyone, including 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 Artna, 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. 583 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 25, 2002, 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 this unopened portion of the platted Rust Street right-of-way 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Chapter 19 (Relating to County Roads), Section 32, p. 603, as Amended By Laws of 1909, Chapter 90, Section 1, p. 189, repealed in 1936 by the Washington State Aid Highway Act (Laws of 1936, Chapter 187, p. 760). This portion of Rust Street, lying East of North Harborview Drive and West of Wheeler Avenue, abutting 9508 Wheeler Avenue at the north property frontage of Parcel No. 2260000240, and the north 30 feet of Rust Street abutting the south property frontage of Parcel No. 2260000140, attached hereto as legally described in Exhibit A and incorporated by this reference and as shown on the aerial Ortho photo as depicted on Exhibit B.


Section 2. The City Clerk is hereby directed to record a certified copy of this ordinance with the office of the Pierce County Auditor.

Section 3. 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 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 8th day of April, 2002.

CITY OF GIG HARBOR

By: 
Gretchen Wilbert, Mayor

ATTEST/AUTHENTICATED:

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

APPROVED AS TO FORM:
Office of the City Attorney:

By: _____
Carol A. Morris

FILED WITH THE CITY CLERK: 3/20/02
PASSED BY THE CITY COUNCIL: 4/8/02
PUBLISHED: 4/17/02
EFFECTIVE DATE: 4/22/02