

Town of Ruston
5117 N Winnifred St.
Ruston, WA 98407

Town of Ruston

ORDINANCE 1336

AN ORDINANCE OF THE TOWN OF RUSTON RELATING TO THE VACATION OF A PORTION OF BENNETT STREET UNDER THE CONDITIONS SET FORTH IN ORDINANCE 1155; AMENDING THE CONDITIONS UNDER WHICH THE TOWN AGREES TO VACATE A PORTION OF BENNETT STREET AS REQUESTED BY THE OWNER OF 5204 NORTH BENNETT STREET IN RUSTON.

WHEREAS, the Ruston Landing Master Development Plan imposed conditions on the development of 5204 North Bennett Street in Ruston; and

WHEREAS, one of the conditions required the developer to construct certain off-site improvements commonly known as the Bennett Street realignment, OCF Park and public parking improvements; and

WHEREAS, in order for the applicant to construct these off-site improvements, and for other benefits enjoyed by the applicant, the Town agreed to vacate a portion of Bennett Street, which is legally described as:

That portion of Bennett Street lying south of North 53rd Street in the Town of Ruston, Pierce County, Washington; and north of North 52nd Street in the Town of Ruston, Pierce County, Washington, and east of Lots 1 through 14, Block 1, of Howard Heights 2nd Addition, as per plat recorded in Volume 7 of plats, page 53, records of the Pierce County Auditor.

WHEREAS, the conditions under which the Town agreed to vacate this portion of Bennett Street were set forth in Ordinance No. 1155; and

WHEREAS, Ordinance No. 1155 specifically provided that this portion of Bennett Street would not be vacated unless and until the conditions in Ordinance No. 1155 had been performed; and

WHEREAS, the Ruston Landing Master Development Plan and Ordinance No. 1155 required the realignment of Bennett Street onto adjoining property and the installation of improvements for park and open space purposes. To date, these improvements have not been completed;

WHEREAS, on August 12, 2011, Onward Investors, LLC submitted an application to amend the Ruston Landing Master Development Plan, which included within it a request to relieve the property applicant of the burden of constructing off-site improvements commonly known as the Bennett Street Realignment, OCF Park, and public parking improvements; and

WHEREAS, Onward Investors, LLC has offered to pay the Town of Ruston a sum of \$520,000.00 in lieu of constructing the Bennett Street Realignment, OCF Park, and public parking improvements due to difficulties in acquiring the land needed to complete the improvements; and

WHEREAS, the Town finds that payment of Five Hundred Twenty Thousand Dollars (\$520,000.00) is sufficient to compensate it for both the conditions established in the development approvals identified above as well as vacation of the identified portion of Bennett Street; Ordinance 1155, along with the SEPA Mitigated Determination of Non-Significance (MDNS) dated July 28, 2004, and the Ruston Landing Master Development Plan all include conditions of approval which require the construction of the Bennett Street Realignment, OCF Park, and public parking improvements; and

WHEREAS, the SEPA MDNS was amended on August 16, 2011, to allow the cash in lieu of the improvements as requested; and

WHEREAS, Ordinance 1339 was approved on September 19, 2011, amending the Ruston Landing Master Development Plan and Ordinance 1319, to allow the cash in lieu of the improvements as requested; and

WHEREAS, the Town Council finds that it is also necessary to amend Ordinance 1155 to allow the cash in lieu of the improvement as requested; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF RUSTON:

Section 1: Section 4 of Ordinance 1155 Amend Section 4 of Ordinance 1155 as follows:

~~The petitioners shall realign Bennett Street onto adjoining property and improve such property for park and open space purposes, all as approved by the Town in conjunction with the Master Plan Development zone site plan approval. The street vacation must necessarily be effective before the relocation and park improvement work can be completed. Therefore, to secure this obligation, the petitioner shall deposit \$250,000 in escrow under the terms of an escrow agreement satisfactory with the Mayor and Town Attorney before this ordinance is recorded and becomes effective comply with all conditions of approval as stated in the Ruston Landing Master Development Plan and its~~

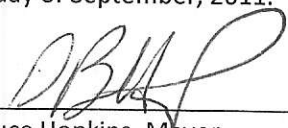
amendments. These conditions include the requirement to pay Five Hundred Twenty Thousand Dollars (\$520,000.00) to the Town of Ruston on or before November 18, 2011.

Section 2. Section 5 of Ordinance 1155 is hereby amended to read as follows:

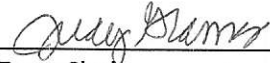
~~Upon approval of the escrow agreement and deposit of the funds described above in Section 4 of this ordinance,~~ This vacation shall not be effective unless and until the owner of the property located at 5204 North Bennett Street pays the Town of Ruston Five Hundred Twenty Thousand Dollars (\$520,000.00) on or before November 18, 2011. Upon such payment, a certified copy of this Ordinance shall be recorded by the Town Clerk in the office of the Pierce County Auditor.

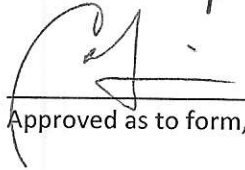
~~Section 3: This Ordinance shall become effective immediately upon publication hereof as provided by RCW 35.27.300.~~ Consistent with Section 7 of Ordinance 1155, this Ordinance shall not take effect until the conditions herein have been met after which time the Clerk is directed to promptly publish this Ordinance in the official newspaper of the Town. The conditions that must be met prior to publication and the effective date of this Ordinance is that the Town must receive full payment of the \$520,000 required under Section 2 of this Ordinance. This Ordinance shall take effect five days following publication of this Ordinance in the official newspaper of the Town.

PASSED BY THE COUNCIL AND APPROVED by me this 19 day of September, 2011.


Bruce Hopkins, Mayor

ATTEST:


Town Clerk


Approved as to form, Town Attorney

Publication Date: 9/21, 2011