

Subject: Petition for Street Vacation
By Point Ruston LLC to vacate
Portions of Yacht Club Road,
Gallagher Way, N. 51st Street,
and Old Ruston Way

Proposed Council Action:

The Council will hold a public hearing on the Application for Street Vacation. Following the Public Hearing, the Council will deliberate on The application. Ordinance 1516 has been Prepared for First Reading with language Appropriate for either granting or denying the Application. This matter will return for Action on December 18, 2018.

Dept. Origin: Privately-Initiated
Application

Prepared by: Jennifer Robertson

For Agenda of: December 4, 2018

Exhibits: Ordinance #1516 (DRAFT)

Initial & Date

Concurred by Mayor: _____

Approved by City Planner: _____

Approved as to form by City Atty: JSR/11-28-18

Approved by Finance Director: _____

Approved by Department Head: _____

INFORMATION / BACKGROUND

1. History of Point Ruston's Street Vacation Application.

State law permits cities to vacate rights of way that it no longer needs.¹ In 2010 Point Ruston LLC filed a Petition for a Right of Way Vacation with the City. Point Ruston sought to vacate portions of Yacht Club Road, Gallagher Way, N. 51st Street, and Old Ruston Way which would no longer be needed for rights of way as Point Ruston was reconstructing Ruston Way and other streets as part of the Point Ruston development project. Point Ruston dedicated the new rights of way to the City on May 14, 2010. A copy of the Dedication Deed is attached to the Application which is attached to Agenda Bill. The Dedication Deed acknowledges that the dedication was made as consideration for this street vacation by Ruston. This language has been highlighted.

All surrounding and underlying property for the areas sought to be vacated is owned by Point Ruston, LLC.

Point Ruston's 2010 vacation application was processed and on May 3, 2010 the City Council held a public hearing. At that time, staff recommended that the vacation not be granted as a result of the incomplete status of the Ruston Way improvements. The Council did not take action on the vacation request. Many years have passed and Point Ruston LLC has now completed the Ruston Way realignment project, including closing the Ruston Way tunnel and realigning

¹ See Chapter 35.79 RCW.

Gallagher Way, Ruston Way, Baltimore Street, and N. 51st Street, as well as creating Yacht Club Road (a portion of which is public). Staff is now recommending the approval of this street vacation.

Since the time of the 2010 hearing, the City has adopted Chapter 14.07 of the Ruston Municipal Code which contains the procedures for street vacations in Ruston. This chapter is consistent with State law.

On January 20, 2017, Point Ruston requested action on this prior street vacation application in 2017 by filing a new application (VAC 17-01) to reactivate the prior application. The City has processed the application and has verified the sufficiency of the petition and has verified the accuracy of the legal description. None of the area sought to be vacated abuts a body of water. (See map attached to Application as Exhibit B, to Dedication Deed as Exhibit B, and to Resolution No. 692, Exhibit B.)

Although a prior public hearing was held on May 3, 2010, due to the length of time, the City Council set a second public hearing in accordance with RMC 14.07.050 by passage of Resolution No. 692 on November 6, 2018. All legal notices have been provided for this hearing.

2. Council deliberations; Criteria for granting street vacation.

RMC 14.07.070 requires that the City Council hold a public hearing to consider the vacation at which the Council shall determine:

- (a) Whether a change of use or vacation of the described portion will better serve the public good; or
- (b) Whether the street, alley or portion thereof is no longer required for public use;
or
- (c) Whether the use thereof as a public way is of such public benefit as not to justify the cost of maintenance; or
- (d) Whether the substitution of a new and different thoroughfare would be more useful to the public; or
- (e) Whether conditions may so change in the future as to provide a greater public use or need than presently exists; and
- (f) Whether objections to the proposed vacation are made by owners of private property (exclusive of petitioners) abutting the same.

Following the public hearing, the Council will need to consider the application and make findings on the above issues. A draft ordinance with language for either approving or denying the vacation is being provided to assist the Council in this process. Whichever the decision, the Council should discuss and make findings under the above criteria. In either case, the ordinance approving or denying the application will be tailored prior to Second Reading on December 18, 2018 to reflect the Council's decision.

3. Recommended conditions.

The City staff recommends approval of this vacation and also recommends conditioning the vacation on Point Ruston's payment of up to \$2,000 to reimburse the City for its attorney's fees in processing the application, including preparing the required legislation and attending the Council meetings where this matter is being considered. The language for this condition is included in the draft Ordinance No. 1516.

4. Compensation.

Under Chapter 14.07 RMC, compensation is generally required for street vacations. This property is Class I property under RMC 14.07.120 for which full compensation would normally be due. However, the City agreed in 2010 that the street dedication from Point Ruston LLC to the City for the new Ruston Way would be just and fair compensation for this vacation, thereby meeting the requirements for compensation of RCW 39.17.030. In addition, because no compensation is being required, no appraisal is needed.

5. Procedural next steps.

a. If Approved:

Following the public hearing and deliberations, if the Council has decided to **grant** the application for street vacation, it should consider the suggested language in the attached draft Ordinance No. 1516 and direct the modification to the Ordinance to reflect the decision to grant the vacation. December 4th would be the First Reading of Ordinance No. 1516 with Second Reading and Action scheduled for December 18, 2018.

If the vacation is granted, then once Point Ruston meets any conditions established by the Council in the Ordinance, then the City's transfer of title in the vacated property will be by the recording of a Declaration of Street Vacation² along with recording the Ordinance granting the street vacation. This action will vest the vacated area to the abutting property owners, one-half each. However since Point Ruston LLC is both the abutting property owner on all sides of each area of the vacation, Point Ruston LLC will therefore be the sole recipient of title of the vacated property upon the recording of a Declaration of Street Vacation by the City.

b. If Denied:

Following the public hearing and deliberations, if the Council has decided to **deny** the application, then it should discuss the reasoning under RMC 14.07.070 and make a motion to deny the application. Council should consider the language in the attached draft Ordinance No. 1516 and direct the modification to the Ordinance to reflect the decision to deny the vacation. December 4th would be the First Reading of Ordinance No. 1516 with Second Reading and Action scheduled for December 18, 2018.

The suggested motion language for either approval or denial of the application are below.

² RCW 35.79.040

BOARD OR COMMITTEE RECOMMENDATION

Vacation is recommended by the Mayor, the Planning Director, and the City Engineer.

RECOMMENDATION / MOTION

Following a staff report, open public hearing and take testimony and written comments.

MOTION 1: I move to open the hearing on Point Ruston's application for a Street Vacation.

[Take testimony and any written comments or objections.]

Close public hearing.

MOTION 2: I move to close the public hearing.

Deliberate on the application for street vacation, including discussing the criteria in RMC 14.07.070.

If granting, then the following motions would be in order:

MOTION 3: I move to grant the requested street vacation.

MOTION 4: I move to proceed to First Reading of Ordinance No. 1516 granting the street vacation and to direct staff to modify the ordinance prior to Second Reading to reflect this decision.

Discuss Ordinance and direct any changes or conditions. Any revisions or missing information will be included when Ordinance No. 1516 is brought back for Second Reading and Action on December 18, 2018.

If denying, then the following motion would be in order:

MOTION 3: I move to deny the requested street vacation.

MOTION 4: I move to proceed to First Reading of Ordinance No. 1516 denying the street vacation and to direct staff to modify the ordinance prior to Second Reading to reflect this decision.



January 20, 2017
ELECTRONIC SUBMITTAL

Mr. Rob White
City of Ruston
5117 North Winnifred Street
Ruston, WA 98407

Re: Right-of-Way Vacation Petition
Point Ruston Master Development Plan Area
Point Ruston LLC and Point Ruston Phase II LLC
Our Job No. 17219

Dear Rob:

Barghausen Consulting Engineers, Inc., on behalf of Point Ruston LLC and Point Ruston Phase II LLC (the Petitioners) which represents 100 percent of the ownership interest of the adjacent parcels, is submitting a Right-of-Way Vacation Petition (the Petition) for portions of right-of-way known as Yacht Club Road, North 51st Street, and Gallagher Way. The Petition is predominately for right-of-way previously dedicated to the City of Ruston by the Petitioners and improved by the Petitioners. While the City of Ruston (the City) accepted the right-of-way, the improvements were never accepted by the City. The existing Yacht Club Road right-of-way and associated road improvements will transition to a private road once the Petition is approved. The following documents are included with this Petition:

1. One (1) copy of a Right-of-Way Vacation Information and Petitioner Signature Sheet
2. One (1) copy of the Right-of-Way Vacation Area Legal Description and Exhibit
3. One (1) copy of prior Right-of-Way Dedication (Pierce County Recording No. 201007130346)

Ruston Municipal Code identifies a Right-of-Way vacation process that requires the City Council to make a determination at hearing based on criteria contained in the Ruston Municipal Code (RMC). The following are the criteria listed in RMC 14.07.070 followed by our response:

- *Whether a change of use or vacation of the described portion will better serve the public good.*

Response: The Petition is made at the request of the City. The Petition serves the public good by alleviating the need for the public to maintain a new section of right-of-way constructed over the environmental site cap. Yacht Club Road will remain open as private road after the right-of-way is vacated.

- *Whether the street, alley or portion thereof is no longer required for public use.*

Response: The right-of-way was dedicated to the City seven (7) years ago. Since dedication the City has yet to accept the improvements and on one occasion the City has barricaded the right-of-way from public use. The right-of-way does not provide access to any City property outside the master plan area. As such, it is unnecessary for Yacht Club Road to remain a public way.

- *Whether the use thereof as a public way is of such public benefit as not to justify the cost of maintenance.*

Response: The use of Yacht Club Road as a public way has very minimal benefit versus the cost of maintenance. Specifically, the road only serves a very limited number of parcels and is a dead end street. Also, there are several alternative accesses to the Point Ruston development that can be used in lieu of Yacht Club Road. The cost of maintenance is likely higher than a typical road because the presence of the environmental cap over the site. Yacht Club Road will remain open as private road after the right-of-way is vacated.

- *Whether the substitution of a new and different thoroughfare would be more useful to the public.*

Response: A substitution thoroughfare would provide no benefit and likely increase the City's maintenance costs. A different dead-end right-of-way within a master plan development, which is under singular ownership, will provide no increased benefit to the public.

- *Whether conditions may so change in the future as to provide a greater public use or need than presently exists.*

Response: The dead-end right-of-way is limited to serving the Point Ruston Master Plan Development and Peninsula Park through an easement. The right-of-way does not provide a transportation connection through the City such that future improvements elsewhere would increase the public usage and value of this road.

- *Whether objections to the proposed vacation are made by owners of private property (exclusive of petitioners) abutting the same.*

Response: An objection could not be made by a property owner abutting Yacht Club Road since no other property owners abut Yacht Club Road.

Concerning the compensation of right-of-way associated with this Petition, the value of infrastructure improvements associated with the realignment of Ruston Way, which will be accepted by the City, serves as fair compensation for the vacated property. As unimproved right-of-way within the Point Ruston Master Development Plan Area, the land has no value when the cost of environmental remediation and ongoing liability are considered factors. Therefore, in consideration for previously dedicated Ruston Way right-of-way and the value of infrastructure improvements, compensation for this Petition is satisfied.

Thank you for your prompt attention to this Petition. Based on the information included within this letter, we believe this matter can be addressed quickly and we request a Hearing be scheduled as soon as possible. Should you have any questions or concerns with the included items, then please do not

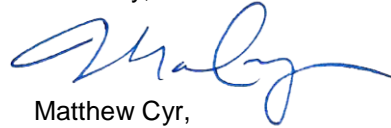
Mr. Rob White
Planning Department
City of Ruston

3

January 20, 2017

hesitate to contact my office directly via telephone at (425) 656-7437 or via email at mcyr@barghausen.com.

Sincerely,



Matthew Cyr,
Project Planner, LEED AP

MC/dm

17219c.007.doc

enc: As Noted

cc: Mr. Loren Cohen, Point Ruston, LLC
Mr. Mike Cohen, Point Ruston, LLC
Mr. Robert Fredrick, Point Ruston, LLC
Mr. Jay S. Grubb, Barghausen Consulting Engineers, Inc.
Mr. Chris S. Ferko, Barghausen Consulting Engineers, Inc.

Right-of-Way Vacation Petition Application

City of Ruston

Petitioner Information:

- **Petitioner/Applicant:** Point Ruston, LLC and Point Ruston Phase II, LLC
- **Address:** 5219 N. Shirley St. #100, Ruston, WA 98407
- **Phone:** (253) 752-2185
- **Contact:** Barghausen Consulting Engineers, Inc. (Matt Cyr), (425) 656-7437, mcyr@barghausen.com

Describe the proposed use of right-of-way to be vacated:

Right-of-way associated with Yacht Club Road, Gallagher Way, and N. 51st Street, north of Ruston Way, will be maintained as a private road and pedestrian access serving the Point Ruston Master Development Plan and provide access to Metro Parks Peninsula Park and the Tacoma Yacht Club. Right-of-way associated with Gallagher Way, south of Ruston Way, will be vacated to the adjacent undeveloped parcel.

Certification of Applicant:

I hereby state that I am the applicant listed above, and certify that all information contained above and in exhibits attached hereto is true and correct to the best of my knowledge and belief and is submitted for consideration by the City of Ruston.

Signature of the Applicant:  Date: 4/17/17

Printed Name: Lorne Cohen

We, the undersigned, support this request, and represent two-thirds of the lineal frontage of the property abutting the portion of the right-of-way to be vacated:

Signature of Parcel Owner: 

Name (Print): Michael Cohen

Manager

Company: Point Ruston, LLC and Point Ruston Phase II, LLC

Address: 5219 N. Shirley St. #100, Ruston, WA 98407

Phone: (253) 752-2185

Assessor's Parcel Nos: 022123-1091, -1092, -1088, -1086, -1100, -1087, -1093, -1094, -1076, and -1096.



CONSULTING ENGINEERS, LLC



Pt. Ruston
Job No. 1278-002-008-0003
January 18, 2017

EXHIBIT "A"

LEGAL DESCRIPTION FOR EXISTING RIGHT OF WAY TO VACATE

(TOWN OF RUSTON)

Those portions of Gallagher Way, North 51st Street and Yacht Club Road situate in Section 23, Township 21 North, Range 2 East, W.M., Town of Ruston, Pierce County, Washington, being more particularly described as follows:

COMMENCING at the southeast corner of Government Lot 1, being distant S 01°29'42" W, 342.23 feet southerly (as measured along the east line of said Government Lot 1) of the northeasterly corner of Tract 1 of Town of Ruston Boundary Line Adjustment No. 08-01 as recorded under Recording No. 200902085003;

THENCE along the south line of Government Lot 1, N 87°35'00" W, 706.01 feet to the easterly margin of Gallagher Way;

THENCE along said easterly margin, N 04°28'05" W, 58.19 feet to a point hereinafter referred to as Point A;

THENCE continuing along said easterly margin, N 04°28'05" W, 155.61 feet to a point hereinafter referred to as Point B;

THENCE continuing along said easterly margin, N 04°28'05" W, 124.69 feet to the TRUE POINT OF BEGINNING;

THENCE N 71°39'21" W, 20.72 feet;

THENCE N 57°42'51" W, 13.60 feet to the westerly margin of said Gallagher Way;

THENCE continuing N 57°42'51" W, 3.72 feet;

THENCE N 34°35'14" W, 38.49 feet to a point of curvature;

ESM Federal Way
33400 8th Ave S, Ste 205
Federal Way, WA 98003
253.838.6113 tel
800.345.5694 toll free
253.838.7104 fax

ESM Everett
1010 SE Everett Mall Way, Ste 210
Everett, WA 98208
425.297.9900 tel
800.345.5694 toll free
425.297.9901 fax

Civil Engineering
Land Surveying
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Landscape Architecture
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THENCE southwesterly 50.80 feet along the arc of a non-tangent curve to the right, having a radius of 79.00 feet, the radius point of which bears N 29°21'01" W, through a central angle of 36°50'32" to a point of reverse curvature;

THENCE westerly 59.77 feet along the arc of a tangent curve to the left, having a radius of 221.02 feet, through a central angle of 15°29'35" to the northwesterly margin of North 51st Street;

THENCE along said northwesterly margin, N 71°48'00" E, 135.19 feet to the westerly margin of Gallagher Way;

THENCE along said westerly margin, N 04°28'05" W, 18.91 feet to the north margin of Gallagher Way;

THENCE along said north line, S 87°35'00" E, 30.21 feet to the easterly margin of Gallagher Way;

THENCE along said easterly margin, S 04°28'05" E, 5.48 feet to the westerly margin of that right of way dedicated to the Town of Ruston by instrument recorded under Recording No. 201007130346;

THENCE along said westerly margin the following courses:

N 34°30'36" E, 52.90 feet;

N 30°19'26" E, 115.44 feet to a point of curvature;

Northerly 312.54 feet along the arc of a tangent curve to the left, having a radius of 376.00 feet, through a central angle of 47°37'33" to a point of tangency;

N 17°18'07" W, 39.20 feet to the northerly limits of said right of way dedication;

THENCE along said northerly limits, N 72°41'53" E, 60.00 feet to the easterly margin of said right of way;

THENCE along said westerly margin the following courses:

S 17°18'07" E, 39.20 feet to a point of curvature;

Southerly 362.42 feet along the arc of a tangent curve to the right, having a radius of 436.00 feet, through a central angle of 47°37'33" to a point of tangency;

S 30°19'26" W, 189.66 feet to a point of curvature;

Southerly 51.21 feet along the arc of a tangent curve to the left, having a radius of 130.85 feet, through a central angle of 22°25'25";

THENCE N 71°39'21" W, 21.53 feet to the TRUE POINT OF BEGINNING;

TOGETHER WITH that portion of Gallagher Way situate in Section 23, Township 21 North, Range 2 East, W.M., Town of Ruston, Pierce County, Washington, being more particularly described as follows:

BEGINNING at said Point A, being a point on a curve;

THENCE northwesterly 43.55 feet along the arc of a non-tangent curve to the left, having a radius of 197.00 feet, the radius point of which bears S 58°54'17" W, through a central angle of 12°39'54" to a point of tangency;

THENCE N 43°45'37" W, 10.04 feet to the westerly margin of Gallagher Way;

THENCE along said westerly margin, N 04°28'05" W, 114.25 feet to a point of curvature;

THENCE southeasterly 26.31 feet along the arc of a non-tangent curve to the right, having a radius of 34.00 feet, the radius point of which bears S 24°36'09" E, through a central angle of 44°20'47" to a point of tangency;

THENCE S 70°15'22" E, 4.77 feet to said Point B on the easterly margin of Gallagher Way;

THENCE along said easterly margin, S 04°28'05" E, 155.61 feet to the POINT OF BEGINNING.

See attached Exhibit B.

Containing a total of 45,400 square feet, more or less.

Written By: CAF

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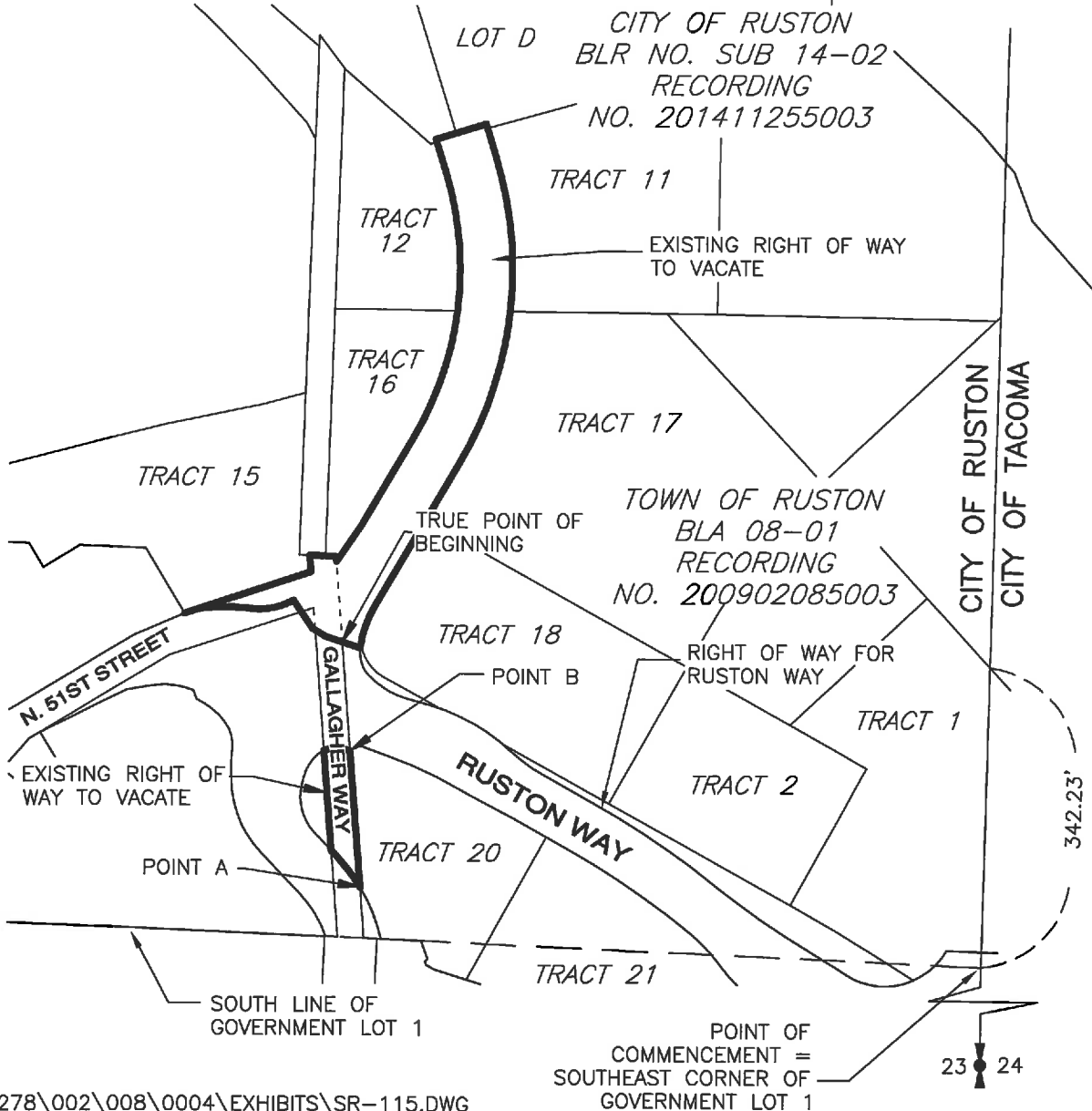
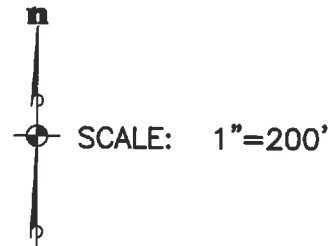


2017-01-18

EXHIBIT B

TO ACCOMPANY LEGAL DESCRIPTION FOR
EXISTING RIGHT OF WAY TO VACATE

A PORTION OF SECTION 23, T. 21 N., R. 2 E., W.M.,
CITY OF RUSTON, PIERCE COUNTY, WASHINGTON



1278\002\008\0004\EXHIBITS\SR-115.DWG

ESM

CONSULTING ENGINEERS LLC

33400 8th Avenue S.
Suite 205
Federal Way, WA 98003

www.esmcivil.com

FEDERAL WAY (253) 838-8113
EVERETT (425) 297-9900

Civil Engineering
Public Works

Land Surveying
Project Management

Land Planning
Landscape Architecture

JOB NO. 1278-002-008
DRAWING NAME : SR-123
DATE : 2017-01-18
DRAWN : CAF

WHEN RECORDED RETURN TO:

Town of Ruston
5117 Winnifred Street
Ruston Washington 98407

Document Title:	RIGHT OF WAY DEDICATION
Reference Number:	N/A
Grantor:	POINT RUSTON LLC
Grantee:	TOWN OF RUSTON
Legal Description:	SEE ATTACHED EXHIBIT "A"

RIGHT OF WAY DEDICATION

The GRANTOR, POINT RUSTON, LLC, a State of Washington limited liability company, owner of the real property described herein, for and in consideration of mutual and offsetting benefits, the sufficiency of which is hereby acknowledged, hereby grants, conveys, and dedicates to GRANTEE, TOWN OF RUSTON, a municipal corporation of the State of Washington, the following described real property, including any after acquired title, as and for public right of way, to be used for all lawful right of way purposes including, but not limited to, public roads, streets, surface transportation and associated uses as well as the installation, operation and maintenance of utilities, over, under, and along the following described real property in the Town of Ruston, County of Pierce, State of Washington:

See EXHIBIT "A", attached hereto and
by this reference made a part hereof.

In consideration of the foregoing, the Grantee agrees that the dedication of such property under this Deed shall be treated as serving to compensate the Grantee pursuant to the

Page:1


requirements Revised Code of Washington 35.79.030 for the street vacation as petitioned by the Grantor for which a public hearing was held by Grantee on May 3, 2010.

Further, Grantor agrees to indemnify and hold the Grantee harmless from liability for any and all claims under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq., and the Model Toxics Control Act, Chapter 70.105D RCW, which arise from the property dedicated pursuant to this Deed.

It is understood and agreed that this deed shall become binding upon the Grantee upon accepted by its Mayor or his designee as indicated by signature below.

[Signatures on following pages]

POINT RUSTON, LLC


Michael Cohen
Manager

Dated this 14th day of May, 2010.



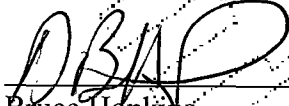
Notary Public in and for the State of Washington
My Commission Expires 10.25.10

GRANTEE:

TOWN OF RUSTON

This instrument is executed on this 14th day of MAY, 2010.


ACCEPTED:



Bruce Hopkins
Mayor


APPROVED:

Approved as to Form:



David Britton
Town Attorney

Legal Description Approved:



Jerome Morrissette
Town Engineer



CONSULTING ENGINEERS LLC



MC Construction Consultants, Inc.
Job No. 1278-002-008-0011
April 15, 2010

EXHIBIT "A"

LEGAL DESCRIPTION FOR PROPOSED RIGHT OF WAY TO ACQUIRE FOR RELOCATED RUSTON WAY

(TOWN OF RUSTON)

That portion of Tracts 1, 9, 10, 11, 12, 16, 17, 18, 19, 20 and 21 of Town of Ruston Boundary Line Adjustment No. 08-01 as recorded under Pierce County Recording No. 200902065003, situate in Section 23, Township 21 North, Range 2 East, W.M., Town of Ruston, Pierce County, Washington, more particularly described as follows:

BEGINNING at a point on the east line of said Section 23, being distant 1,351.56 feet northerly (as measured along said east line) of the east quarter corner of said section, being a 2" brass disk scribed with an "X";

THENCE N 88°30'18" W, 40.36 feet to a point of curvature;

THENCE westerly 133.70 along the arc of a non-tangent curve to the right, having a radius of 83.00 feet, the radius point of which bears N 59°33'43" W, through a central angle of 92°17'32" to a point of tangency;

THENCE N 57°16'11" W, 10.00 feet;

THENCE N 58°39'06" W, 62.20 feet;

THENCE N 57°16'11" W, 10.00 feet to a point of curvature;

THENCE northwesterly 99.30 feet along the arc of a tangent curve to the right, having a radius of 967.00 feet, through a central angle of 05°53'01" to a point of reverse curvature;

THENCE northwesterly 166.39 feet along the arc of a tangent curve to the left, having a radius of 1019.50 feet, through a central angle of 09°21'03" to a point of tangency;

ESM Federal Way
181 S 333rd St. Bldg C, Ste 210
Federal Way, WA 98003
253.838.6113 tel
800.345.5694 toll free
253.838.7104 fax

ESM Everett
1010 SE Everett Mall Way, Ste 203
Everett, WA 98208
425.297.9900 tel
866.615.6144 toll free
425.297.9901 fax

ESM Eastern Washington
2211 W Dotarway Rd, Ste 1
Ellensburg, WA 98926
509.962.2608 tel
877.962.2608 toll free
509.962.2611 fax

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3D Laser Scanning

Land Planning
Landscape Architecture
GIS
www.esmwa.com

For reference only, not for re-sale.

THENCE N 60°44'13" W, 65.15 feet to a point of curvature;

THENCE northwesterly 45.26 feet along the arc of a tangent curve to the right, having a radius of 190.00 feet, through a central angle of 13°38'59" to a point of reverse curvature;

THENCE northwesterly 107.12 feet along the arc of a tangent curve to the left, having a radius of 225.00 feet, through a central angle of 27°16'39" to a point of tangency;

THENCE N 74°21'53" W, 29.95 feet to a point of curvature;

THENCE northwesterly 38.13 feet along the arc of a tangent curve to the right, having a radius of 85.00 feet, through a central angle of 25°42'04" to a point of tangency;

THENCE N 48°39'49" W, 8.27 feet to a point of curvature;

THENCE northerly 37.02 feet along the arc of a tangent curve to the right, having a radius of 37.50 feet, through a central angle of 56°33'50" to a point of compound curvature;

THENCE northerly 51.21 feet along the arc of a tangent curve to the right, having a radius of 130.85 feet, through a central angle of 22°25'25" to a point of tangency;

THENCE N 30°19'26" E, 189.66 feet to a point of curvature;

THENCE northerly 362.42 feet along the arc of a tangent curve to the left, having a radius of 436.00 feet, through a central angle of 47°37'33" to a point of tangency;

THENCE N 17°18'07" W, 39.20 feet;

THENCE S 72°41'53" W, 60.00 feet;

THENCE S 17°18'07" E, 39.20 feet to a point of curvature;

THENCE southerly 312.54 feet along the arc of a tangent curve to the right, having a radius of 376.00 feet, through a central angle of 47°37'33" to a point of tangency;

THENCE S 30°19'26" W, 115.44 feet;

THENCE S 34°30'36" W, 52.90 feet to the easterly margin of Gallagher Way;

THENCE along said easterly margin, S 04°28'05" E, 217.04 feet;

THENCE S 70°15'22" E, 0.23 feet;

THENCE N 55°56'11" E, 11.76 feet;

THENCE S 70°15'22" E, 35.00 feet to a point of curvature;

THENCE southeasterly 89.13 feet along the arc of a tangent curve to the right, having a radius of 536.50 feet, through a central angle of $09^{\circ}31'09''$ to a point of tangency;

THENCE $S\ 60^{\circ}44'13''\ E$, 20.00 feet;

THENCE $S\ 62^{\circ}30'23''\ E$, 48.58 feet;

THENCE $S\ 60^{\circ}44'13''\ E$, 72.77 feet to a point of curvature;

THENCE southeasterly 172.88 feet along the arc of a tangent curve to the right, having a radius of 959.50 feet, through a central angle of $10^{\circ}19'25''$ to a point of compound curvature;

THENCE southeasterly 46.38 feet along the arc of a tangent curve to the right, having a radius of 187.00 feet, through a central angle of $14^{\circ}12'42''$ to a point of reverse curvature;

THENCE southeasterly 130.25 feet along the arc of a tangent curve to the left, having a radius of 213.00 feet, through a central angle of $35^{\circ}02'08''$ to a point of reverse curvature;

THENCE southeasterly 54.98 feet along the arc of a tangent curve to the right, having a radius of 113.00 feet, through a central angle of $27^{\circ}52'37''$ to the northerly margin of Ruston Way (also known as Dock Street) as established by the plat of "Bay View Addition" as recorded in Volume 2, Page 21, records of Pierce County, Washington;

THENCE along said northerly margin, $S\ 87^{\circ}35'05''\ E$, 148.05 feet to the east line of said section;

THENCE along said east line, $N\ 01^{\circ}29'42''\ E$, 128.06 feet to the POINT OF BEGINNING;

TOGETHER WITH that portion of said Tract 20, being more particularly described as follows:

COMMENCING at the southeast corner of Government Lot 1, being distant 1,333.44 feet northerly (as measured the said east line of said Section 23) of the east quarter corner of Section 23;

THENCE along the south line of Government Lot 1, $N\ 87^{\circ}35'00''\ W$, 686.95 feet to a point of curvature AND the TRUE POINT OF BEGINNING;

THENCE northwesterly 63.64 feet along the arc of a non-tangent curve to the left, having a radius of 197.00 feet, the radius point of which bears $S\ 77^{\circ}24'50''\ W$, through a central angle of $18^{\circ}30'33''$ to the easterly margin of Gallagher Way;

THENCE along said easterly margin, $S\ 04^{\circ}28'05''\ E$, 58.19 feet to said southerly line of Government Lot 1 AND a point hereinafter referred to as Point A;

THENCE along said southerly line, $S\ 87^{\circ}35'00''\ E$, 19.06 feet to the TRUE POINT OF BEGINNING;

For reference only, not for re-sale.

ALSO TOGETHER with that portion of Government Lot 1, Section 23, Township 21 North, Range 2 East, W.M., Town of Ruston, Pierce County, Washington, being more particularly described as follows:

COMMENCING at said Point A;

THENCE along said south line of Government Lot 1, N 87°35'00" W, 30.22 feet to the TRUE POINT OF BEGINNING;

THENCE continuing along said south line, N 87°35'00" W, 13.86 feet to a point of curvature;

THENCE northwesterly 58.16 along the arc of a non-tangent curve to the left, having a radius of 137.00 feet, the radius point of which bears S 70°33'46" W, through a central angle of 24°19'23" to a point of tangency;

THENCE N 43°45'37" W, 64.52 feet to a point of curvature;

THENCE northwesterly 89.16 feet along the arc of a tangent curve to the right, having a radius of 122.00 feet, through a central angle of 41°52'15" to a point of tangency;

THENCE N 01°53'22" W, 9.49 feet;

THENCE northerly along 26.88 feet along the arc of a tangent curve to the right, having a radius of 187.00 feet, through a central angle of 08°14'07" to a point of reverse curvature;

THENCE northerly 34.15 feet along the arc of a tangent curve to the left, having a radius of 44.00 feet, through a central angle of 44°28'32" to a point of compound curvature;

THENCE northwesterly 39.05 feet along the arc of a tangent curve to the left, having a radius of 89.00 feet, through a central angle of 25°08'25" to a point of tangency;

THENCE N 63°16'12" W, 2.81 feet;

THENCE N 19°29'07" W, 10.73 feet to a point of curvature;

THENCE westerly 51.47 feet along the arc of a non-tangent curve to the left, having a radius of 97.00 feet, the radius point of which bears S 20°28'52" W, through a central angle of 30°24'18" to a point of tangency;

THENCE S 80°04'34" W, 25.39 feet;

THENCE S 63°36'56" W, 109.46 feet to the southerly margin of North 51st Street (also known as J.O. Jelleburg County Road);

THENCE along said southerly margin, N 58°55'00" E, 170.77 feet;

For reference only, not for re-sale.

THENCE continuing along said southerly margin, N 71°48'00" E, 173.80 feet to the westerly line of of Gallagher Way;

THENCE along said westerly margin, S 04°28'05" E, 163.19 feet to a point of curvature;

THENCE southwesterly 15.80 along the arc of a non-tangent curve to the left, having a radius of 34.00 feet, the radius point of which bears S 24°36'09" E, through a central angle of 26°37'09" to a point of compound curvature;

THENCE southwesterly 23.91 feet along the arc of a tangent curve to the left, having a radius of 59.00 feet, through a central angle of 23°13'25" to a point of tangency;

THENCE S 15°33'17" W, 5.75 feet to a point of curvature;

THENCE southerly 62.11 feet along the arc of a tangent curve to the left, having a radius of 60.00 feet, through a central angle of 59°18'54" to a point of tangency;

THENCE S 43°45'37" E, 27.72 feet to said westerly margin of Gallagher Way;

THENCE along said westerly margin, S 04°28'05" E, 98.80 feet to the POINT OF BEGINNING.

Containing 132,890 square feet, more or less.

See attached Exhibit B.

Written By: DLR
Checked By: CAF

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04-15-2010

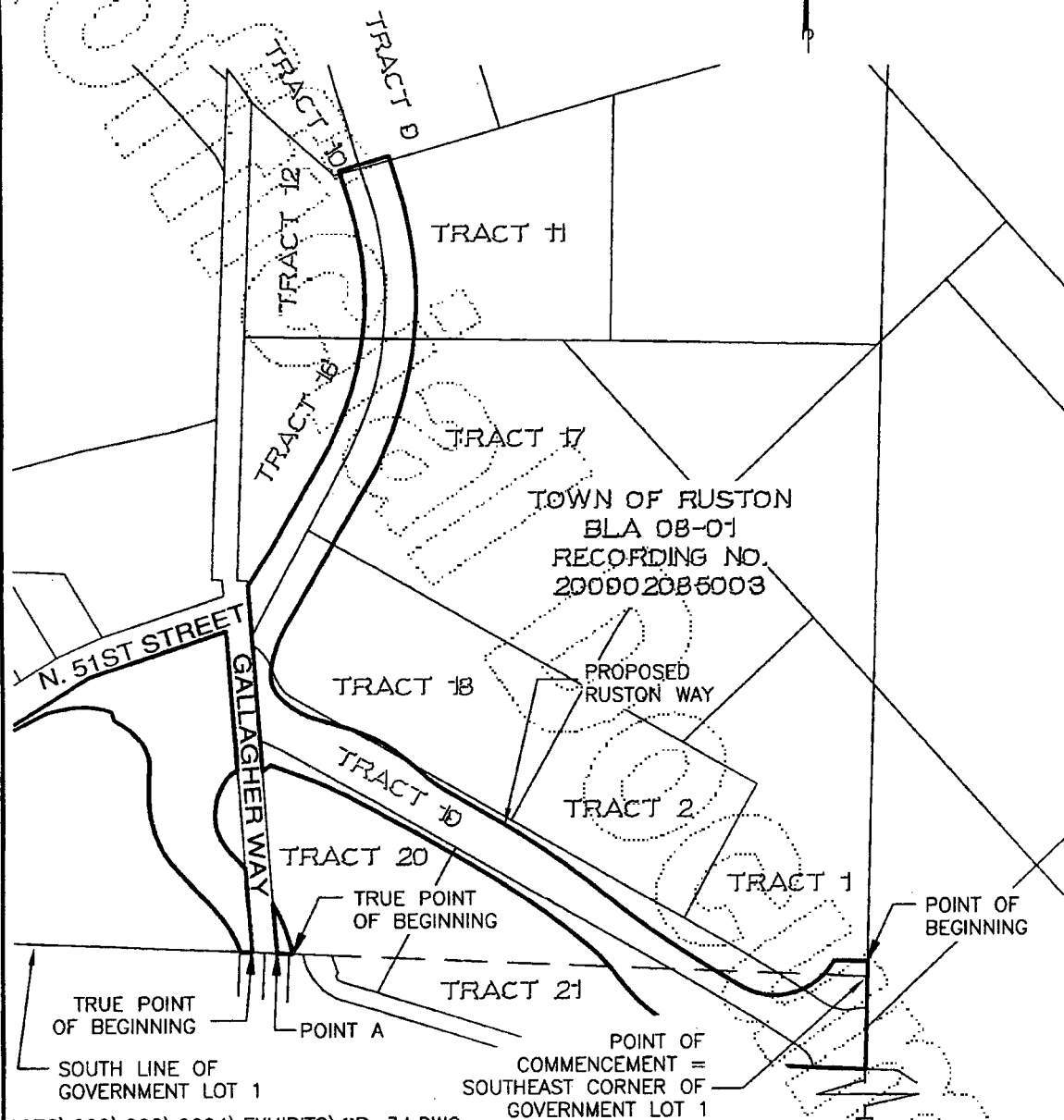
EXHIBIT B

TO ACCOMPANY LEGAL DESCRIPTION FOR
RIGHT OF WAY

A PORTION OF SECTION 23, T. 21 N., R. 2 E., W.M.,
TOWN OF RUSTON, PIERCE COUNTY, WASHINGTON



SCALE: 1"=200'



1278\002\008\0004\EXHIBITS\SR-34.DWG

ESM

CONSULTING ENGINEERS LLC

181 S. 333rd Street
Building C, Suite 210
Federal Way, WA 98003

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EVERETT (425) 297-9900
ELLENSBURG (509) 962-2808

JOB NO.
DRAWING NAME :
DATE :
DRAWN :
SHEET 1 OF 1

1278-002-008
SR-34
04-15-2010
DLR/CAF

23 24

For reference only, not for re-sale.

RESOLUTION NO. 692

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF RUSTON, WASHINGTON, SETTING A
TIME AND PLACE FOR A PUBLIC HEARING TO
CONSIDER VACATION OF PORTIONS OF YACHT
CLUB ROAD, GALLAGHER WAY, N. 51ST STREET,
AND OLD RUSTON WAY, ALL OF WHICH ARE NO
LONGER IN USE AS CITY STREETS.**

WHEREAS, in 2010 Point Ruston LLC filed a Petition for a Right of Way Vacation with the City; and

WHEREAS, in accordance with Chapter 35.79 RCW, the City has the right to vacate rights of way that it no longer needs; and

WHEREAS, the City Council held a public hearing in 2010 but did not take action on the vacation request due to the Ruston Way improvements not being completed; and

WHEREAS, since that time the City has adopted Chapter 14.07 of the Ruston Municipal Code which contains the procedures for street vacations in Ruston; and

WHEREAS, Point Ruston requested action on this prior street vacation application in 2017 by filing a new application (VAC 17-01) to reactivate the prior application; and

WHEREAS, the City has verified the sufficiency of the petition and has verified the accuracy of the legal description; and

WHEREAS, a copy of the legal description and map is attached to the this Resolution as Exhibit "A"; and

WHEREAS, the area requested for vacation does not abut a body of water; and

WHEREAS, although a prior public hearing has been held in May of 2010, due to the length of time, the City is holding a second hearing in accordance with RMC 14.07.050; and

WHEREAS, the City Council desires to set a second public hearing by passage of this resolution, the date of which shall be at least 20 days following the date the resolution is passed;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RUSTON, WASHINGTON, DOES HEREBY RESOLVE AS FOLLOWS:

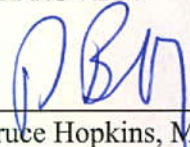
Section 1. Public Hearing Date and Time Established. A public hearing shall be held upon the Point Ruston's Petition for Right of Way Vacation on Tuesday, December 4, 2018 at 7:15 PM or as soon thereafter as the matter may be heard by the City Council, in Council Chambers at the Mary Joyce Community Center, 5219 N. Shirley Street, Ruston, Washington. At that time, the City Council shall take oral and written comments on this Petition in accordance with the procedures in Chapter 14.07 RMC.

Section 2. Direction to City Clerk. The City Clerk or designee is hereby directed to provide notice of the public hearing in accordance with RMC 14.07.050, including

- A. Posting a hearing notice in a conspicuous place on the portion of the right of way sought to be vacated;
- B. Mailing copies of the hearing notice, at least 20 calendar days prior to the date of the hearing, to the petitioner(s) and to each property owner within 300 feet of the right of way proposed to be vacated in accordance with RMC 14.07.050; and
- C. Posting a copy of the hearing notice on the City's website.

RESOLVED this 6th day of November, 2018.

APPROVED:



Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:



Judy Grams, City Clerk

FILED WITH THE CITY CLERK: _____
PASSED BY THE CITY COUNCIL: 11-6-2018
RESOLUTION NO.: 692

EXHIBIT A
Legal Description - Right of Way Vacation



CONSULTING ENGINEERS, LLC



Pt. Ruston
Job No. 1278-002-008-0003
May 24, 2017

EXHIBIT "A"

LEGAL DESCRIPTION FOR EXISTING RIGHT OF WAY TO VACATE

(CITY OF RUSTON)

Those portions of Gallagher Way and North 51st Street, situate in Section 23, Township 21 North, Range 2 East, W.M., City of Ruston, Pierce County, Washington, being more particularly described as follows:

COMMENCING at the southeast corner of Government Lot 1, being distant S 01°29'42" W, 342.23 feet southerly (as measured along the east line of said Government Lot 1) of the northeasterly corner of Tract 1 of Town of Ruston Boundary Line Adjustment No. 08-01 as recorded under Recording No. 200902085003;

THENCE along the south line of Government Lot 1, N 87°35'00" W, 706.01 feet to the easterly margin of Gallagher Way as it existed prior to July 13, 2010;

THENCE along said easterly margin, N 04°28'05" W, 58.19 feet to a point hereinafter referred to as Point A;

THENCE continuing along said easterly margin, N 04°28'05" W, 155.61 feet to a point hereinafter referred to as Point B;

THENCE continuing along said easterly margin, N 04°28'05" W, 217.04 feet to the northwesterly margin of Yacht Club Road as conveyed by that right of way dedication recorded under Recording No. 201007130346 AND the TRUE POINT OF BEGINNING;

THENCE S 34°30'36" W, 26.33 feet;

THENCE S 85°05'29" W, 9.11 feet to a point of curvature;

THENCE southwesterly 84.43 feet along the arc of a non-tangent curve to the right, having a radius of 79.00 feet, the radius point of which bears N 53°44'24" W, through a central angle of 61°13'56" to a point of reverse curvature;

ESM Federal Way
33400 8th Ave S, Ste 205
Federal Way, WA 98003
253.838.6113 tel
800.345.5694 toll free
253.838.7104 fax

ESM Everett
1010 SE Everett Mall Way, Ste 210
Everett, WA 98208
425.297.9900 tel
800.345.5694 toll free
425.297.9901 fax

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Land Surveying
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Land Planning
Landscape Architecture
GIS

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THENCE westerly 59.77 feet along the arc of a tangent curve to the left, having a radius of 221.02 feet, through a central angle of $15^{\circ}29'35''$ to the northwesterly margin of North 51st Street;

THENCE along said northwesterly margin, N $71^{\circ}48'00''$ E, 135.19 feet to the westerly margin of said Gallagher Way;

THENCE along said westerly margin, N $04^{\circ}28'05''$ W, 18.91 feet to the northerly margin of said Gallagher Way;

THENCE along said northerly margin, S $87^{\circ}35'00''$ E, 30.21 feet to the easterly margin of said Gallagher Way;

THENCE along said easterly margin, S $04^{\circ}28'05''$ E, 5.48 feet to the TRUE POINT OF BEGINNING;

TOGETHER WITH that portion of Gallagher Way situate in Section 23, Township 21 North, Range 2 East, W.M., Town of Ruston, Pierce County, Washington, being more particularly described as follows:

BEGINNING at said Point A, being a point on a curve;

THENCE northwesterly 43.55 feet along the arc of a non-tangent curve to the left, having a radius of 197.00 feet, the radius point of which bears S $58^{\circ}54'17''$ W, through a central angle of $12^{\circ}39'54''$ to a point of tangency;

THENCE N $43^{\circ}45'37''$ W, 10.04 feet to the westerly margin of Gallagher Way;

THENCE along said westerly margin, N $04^{\circ}28'05''$ W, 114.25 feet to a point of curvature;

THENCE southeasterly 26.31 feet along the arc of a non-tangent curve to the right, having a radius of 34.00 feet, the radius point of which bears S $24^{\circ}36'09''$ E, through a central angle of $44^{\circ}20'47''$ to a point of tangency;

THENCE S $70^{\circ}15'22''$ E, 4.77 feet to said Point B on the easterly margin of Gallagher Way;

Pt. Ruston
May 24, 2017
Page 3

THENCE along said easterly margin, S 04°28'05" E, 155.61 feet to the POINT OF BEGINNING.

Containing a total of 6,920 square feet, more or less.

See attached Exhibit B.

Written By: CAF

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2017-05-24

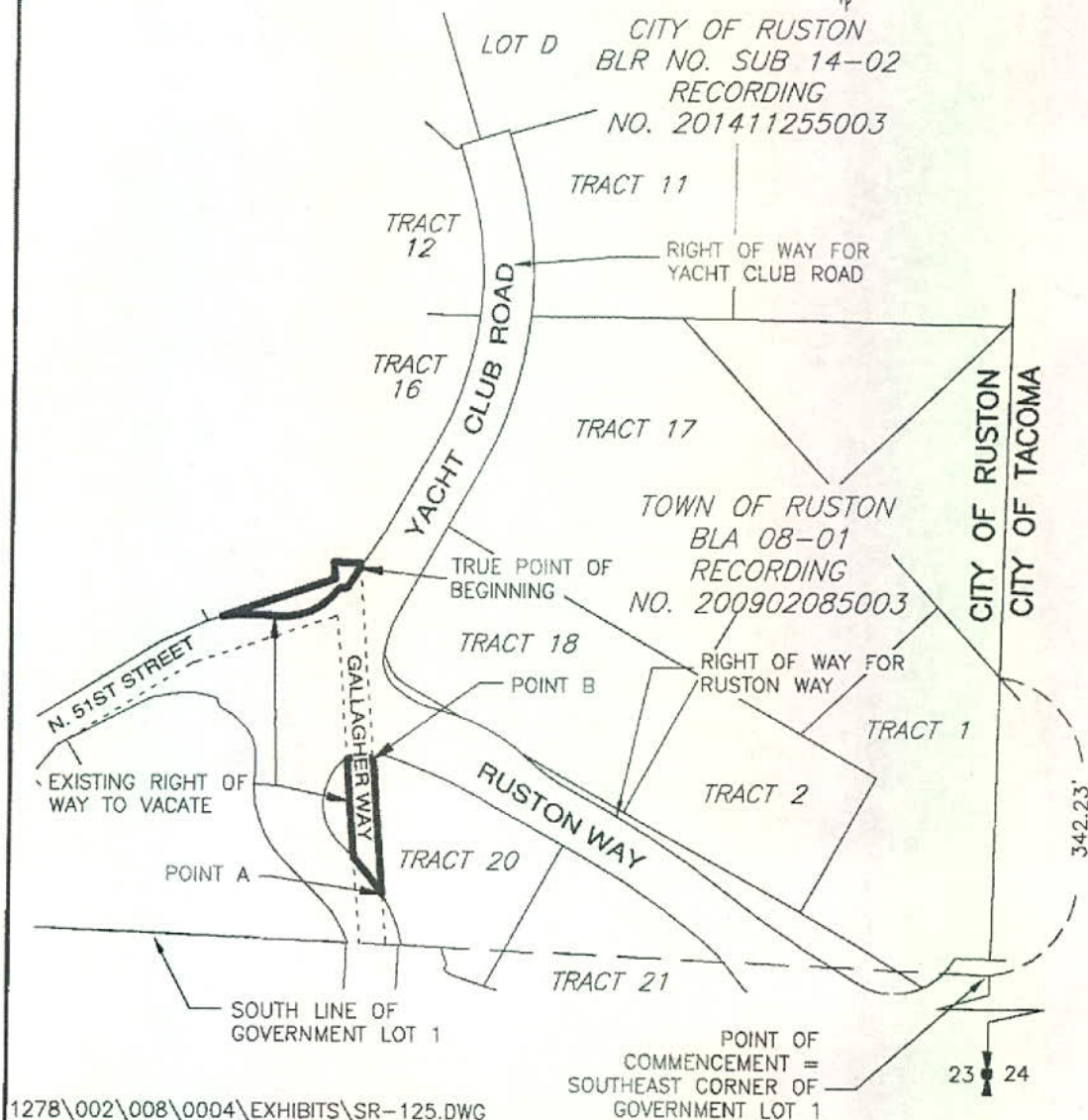
EXHIBIT B

TO ACCOMPANY LEGAL DESCRIPTION FOR EXISTING RIGHT OF WAY TO VACATE

A PORTION OF SECTION 23, T. 21 N., R. 2 E., W.M.,
CITY OF RUSTON, PIERCE COUNTY, WASHINGTON



SCALE: 1"=200'



1278\002\008\0004\EXHIBITS\SR-125.DWG

ESM

CONSULTING ENGINEERS LLC

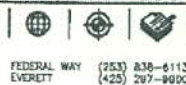
33400 8th Avenue S.
Suite 205
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Land Surveying
Project Management

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Landscape Architecture



JOB NO. 1278-002-008
DRAWING NAME : SR-125
DATE : 2017-05-24
DRAWN : CAF

DRAFT

ORDINANCE NO. 1516

AN ORDINANCE OF THE CITY OF RUSTON, WASHINGTON [APPROVING] [DENYING] POINT RUSTON LLC'S PETITION FOR THE VACATION OF PORTIONS OF YACHT CLUB ROAD, GALLAGHER WAY, N. 51ST STREET, AND OLD RUSTON WAY, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, in 2010 Point Ruston LLC filed a Petition for a Right of Way Vacation with the City; and

WHEREAS, in accordance with Chapter 35.79 RCW, the City has the right to vacate rights of way that it no longer needs; and

WHEREAS, the City Council held a public hearing on May 3, 2010 but did not take action on the vacation request due to the Ruston Way improvements not being completed; and

WHEREAS, Point Ruston LLC has now completed the Ruston Way realignment project including closing the Ruston Way tunnel and realigning Gallagher Way, Ruston Way, Baltimore Street, and N. 51 51 Street, as well as create Yacht Club Road; and

WHEREAS, as part of the realignment project, Point Ruston LLC has dedicated certain portions of its property in consideration of this vacation thereby meeting the requirements for compensation of RCW 39.17.030; and,

WHEREAS, since that time the City has adopted Chapter 14.07 of the Ruston Municipal Code which contains the procedures for street vacations in Ruston; and

WHEREAS, Point Ruston requested action on this prior street vacation application in 2017 by filing a new application (VAC 17-01) on January 20, 2017 to reactivate the prior application; and

DRAFT

WHEREAS, the City has verified the sufficiency of the petition and has verified the accuracy of the legal description; and

WHEREAS, the area requested for vacation does not abut a body of water; and

WHEREAS, although a prior public hearing has been held on May 3, 2010, due to the length of time, the City Council set a second hearing in accordance with RMC 14.07.050; and

WHEREAS, Section 14.07.070 of the Ruston Municipal Code requires that the City Council hold a public hearing to consider the vacation at which the Council shall determine:

(a) Whether a change of use or vacation of the described portion will better serve the public good; or

(b) Whether the street, alley or portion thereof is no longer required for public use; or

(c) Whether the use thereof as a public way is of such public benefit as not to justify the cost of maintenance; or

(d) Whether the substitution of a new and different thoroughfare would be more useful to the public; or

(e) Whether conditions may so change in the future as to provide a greater public use or need than presently exists; and

(f) Whether objections to the proposed vacation are made by owners of private property (exclusive of petitioners) abutting the same.

WHEREAS, the on November 6, 2018 the City Council passed Resolution No. 692 setting a public hearing for December 4, 2018 and directing the Clerk to provide the required public notice for the same; and

WHEREAS, the Clerk provided all notices required by law; and

WHEREAS, the date of the public hearing is more than 20 days following the date of the passage of Resolution No. 692; and

WHEREAS, a hearing was held upon said petition on December 4, 2018, at the time and place fixed in said resolution and notice, and

DRAFT

WHEREAS, _____ [LIST] _____ appeared at the hearing and [no written objections] [the following written objections] were received prior to the conclusion of the hearing [list any written objections]; and

WHEREAS, following said hearing, Council made its determination based on the criteria outlined in RMC 14.07.070; and

WHEREAS, the Council finds that the street or portion thereof is [no longer] [still] required for public use and [should] [should not] be vacated; and

WHEREAS, following the hearing, the City Council voted to consider an ordinance [denying] [granting] the petition for vacating such street or portions thereof; and

WHEREAS, the City Council then was presented with this draft Ordinance following that direction so that First Reading could occur immediately at the December 4, 2018 meeting; and

WHEREAS, the City Council then adopted this Ordinance on Second Reading on December 18, 2018; and

[THE FOLLOWING WHEREAS SECTIONS ARE ONLY APPLICABLE IF THE APPLICATION IS GRANTED]

WHEREAS, the property is a Class I property under RMC 14.07.120 for which full compensation would normally be due, however, the City agreed in 2010 that the street dedications from Point Ruston LLC to the City for the new Ruston Way would be just and fair compensation for this vacation and therefore the payment for the property is waived and no appraisal is needed; and

WHEREAS, pursuant to RCW 35.79.040, upon granting a street vacation, the City's transfer of title in the vacated property will be by the recording of a Declaration of Street Vacation which will vest the vacated area to the abutting property owners, one-half each; and

DRAFT

WHEREAS, Point Ruston LLC is both the abutting property owner on all sides of each area of the vacation and the underlying owner of the property and therefore would be the sole recipient of title of the vacated property upon the recording of a Declaration of Street Vacation by the City; and

WHEREAS, upon fulfillment of all conditions established herein for such vacation, such portions Yacht Club Road, Gallagher Way, N. 51st Street, and Old Ruston Way, located in the City of Ruston, Washington shall be vacated; **NOW, THEREFORE,**

**THE CITY COUNCIL OF THE CITY OF RUSTON, WASHINGTON, DOES
HEREBY ORDAIN AS FOLLOWS:**

Section 1. The portions of Yacht Club Road, Gallagher Way, N. 51st Street, and Old Ruston Way, located in the City of Ruston, Washington and identified in the petition for vacation filed on January 20, 2017 [is hereby vacated subject to the fulfillment of all conditions set forth in Section 2 of this ordinance] [should not be vacated].

Section 2. **[IF GRANTED]** The City Clerk is directed to record a certified copy of this ordinance and a Declaration of Street Vacation with the Pierce County Auditor's Office, and the Mayor is directed to take any action necessary to vacate such street or portions thereof, upon evidence of satisfactory completion of Petitioner's payment the City's legal costs for preparing this Ordinance and related documents, such as the Declaration, and for attending the City Council meetings at which this Ordinance was considered up to a maximum of \$2,000.00.

Section 3. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 4. Effective Date. This Ordinance shall be effective five days after publication as provided by law.

DRAFT

ADOPTED by the City Council of the City of Ruston and attested by the City Clerk in authentication of such passage on this 18th day of December, 2018.

APPROVED by the Mayor this 18th day of December, 2018.

Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:

Judy Grams, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Jennifer S. Robertson

FILED WITH THE CITY CLERK: _____
PASSED BY THE CITY COUNCIL: _____
PUBLISHED: _____
EFFECTIVE DATE: _____
ORDINANCE NO: 1516