

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:

Second Reading and Action for Ordinance
 No. 1516 approving the Petition for Street
 Vacation with Conditions.

Dept. Origin: Privately-Initiated
 Application

Prepared by: Jennifer Robertson

For Agenda of: December 18, 2018

Exhibits: Ordinance #1516

Initial & Date

Concurred by Mayor: _____

Approved by City Planner: _____

Approved as to form by City Atty: JSR/12-12-18

Approved by Finance Director: _____

Approved by Department Head: _____

INFORMATION / BACKGROUND

On December 4, 2018 the City Council held a public hearing on the petition for street vacation filed by Point Ruston, LLC. Only the applicant testified. Following the public hearing, the Council deliberated on the application and made findings on the criteria for considering a street vacation. The Council directed that the staff amend the draft ordinance to approve the vacation. In addition, the Council supported 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.

If Council adopts Ordinance #1516 approving the vacation, 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 Vacation¹ along with recording the Ordinance granting the street vacation. This action will vest the vacated area in Point Ruston LLC as both the abutting property owner on all sides of each area of the vacation.

BOARD OR COMMITTEE RECOMMENDATION

Vacation is recommended by the Mayor, the Planning Director, and the City Engineer. During the December 4th Council meeting, the City Council voted to approve the petition for vacation under the staff-recommended conditions.

¹ RCW 35.79.040

RECOMMENDATION / MOTION

Approve Ordinance #1516.

MOTION: I move to adopt Ordinance #1516 approving the street vacation petition under application number VAC 17-01 submitted by Point Ruston, LLC, vacating portions of Yacht Club Road, Gallagher Way, N. 51st Street and Old Ruston Way as described in the Petition, and imposing the conditions included in the Ordinance as a prerequisite to completing the vacation.

ORDINANCE NO. 1516

**AN ORDINANCE OF THE CITY OF RUSTON,
WASHINGTON APPROVING 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

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

WHEREAS, only the petitioners appeared at the hearing and no other public comment was made and no written objections were received prior to the conclusion of the hearing; 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 required for public use; and

WHEREAS, following the hearing, the City Council voted to consider an ordinance vacating such street or portions thereof; and

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

WHEREAS, the City Council directed that the draft ordinance be amended to reflect its decision to grant the vacation; and

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

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

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. Vacation Granted. 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.

Section 2. Conditions for Vacation. 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.

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.

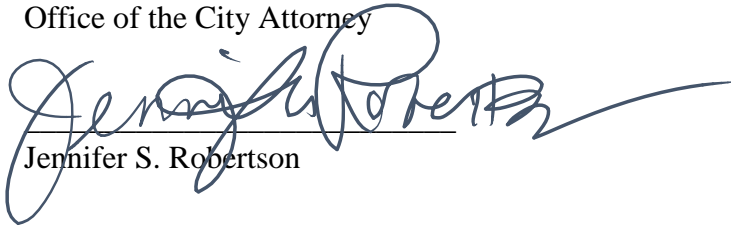
APPROVED by the Mayor this 18th day of December, 2018.

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