

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

09-0771R

RESOLUTION VACATING PEABODY STREET FROM 43<sup>RD</sup> AVENUE EAST TO A POINT 150 FEET EAST AND RETAINING A UTILITY EASEMENT AT THE EAST END OF THE VACATION AREA (ANDERSON).

CITY PROPOSAL:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city clerk requesting the vacation of Peabody Street from the east line of 43rd Avenue East to the street's terminus approximately 150 feet east; and

(b) Pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959, as amended, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing and, the city planning commission found that the petitioned street easement is useless for transportation and pedestrian purposes, but a public purpose exists for use of a portion of the easement for utility purposes as noted in (c) below; and

(c) Minnesota Power has requested a utility easement be retained to preserve access to an existing power distribution line located in eastern end of the petitioned vacation area; and

(d) The city planning commission, at its December 8, 2009, regular meeting, did approve, unanimously, vacating the petitioned street, subject to retaining a utility easement over the area described in (e) below; and

(e) The city council of the city of Duluth approves the vacation of the following, and as more particularly described on Public Document No. \_\_\_\_\_:

That part of Peabody Street from the east line of 43rd Avenue East to the street's terminus approximately 150' east, retaining a utility easement over that part of the vacation area east of a line beginning 10 feet west of the southeast corner of Lot 22, Dover Green Division, and terminating at a point 33 feet south of the southeast corner of said lot; and

(f) That the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the street to be vacated and easement retained.

Approved as to form:

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Attorney

PLANNING/PC KD:jab 12/11/2009

STATEMENT OF PURPOSE: This resolution vacates a 150 foot long section of Peabody Street east of 43rd Avenue East. This section of right-of-way has not been improved with any street, utilities or pedestrian facilities, except for a power line that crosses the eastern end of the vacation area. This resolution retains a utility easement for the power line, as requested by Minnesota Power.

The motion to approve the vacation of this street must prevail with at least six affirmative votes according to Section 45-44.

On December 8, 2009, the Duluth city planning commission held a public hearing on the proposal and voted 8-0 to recommend that the city council grant the street vacation subject to retaining the necessary utility easement. The petitioner states the purpose of the vacation is "to build a garage."

Petition received: August 26, 2009

Action Deadline: There is no action deadline for this resolution.