

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

10-0222R

RESOLUTION VACATING PART OF THE ALLEY SOUTHWEST OF THE INTERSECTION OF KENWOOD AVENUE AND ARROWHEAD ROAD AND RETAINING A UTILITY EASEMENT OVER THE ENTIRE VACATION AREA (DULUTH TEACHERS CREDIT UNION).

CITY PROPOSAL:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city clerk requesting the vacation of that part of the alley adjoining Blocks 1, 2, and 11, Myers & Whipples Addition, that is adjoining Lots 1-6, Block 11, except that part adjoining the southerly 14 feet of Lot 8 and all of Lots 9 and 10, Block 1, Myers and Whipples Addition; 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 (FN 10022), 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 alley is useless for vehicular and pedestrian purposes, but that the alley is needed for utility purposes as noted in (c) below; and

(c) Minnesota Power has requested a utility easement be retained over the entire vacation area to preserve access to an existing power distribution line and the city engineer has also requested a utility easement for a portion of the requested vacation area for a natural gas line; and

(d) The city planning commission, at its April 13, 2010, regular meeting, recommended denial of the vacation petition; and

(e) The city council of the city of Duluth approves the vacation of the following and retaining a utility easement over the entire vacation area, both more particularly described on Public Document No. \_\_\_\_\_: that part of the alley abutting Blocks 1, 2 and 11, Myers & Whipples Addition, described as follows: beginning at the northwest corner of Lot 6, Block 11; thence northerly in a straight line to the southwest corner of Lot 6, Block 2; thence deflecting

to the right and continuing easterly along the southerly line extended of said Block 2 to a point on the westerly line of Lot 5, Block 1, said point being six feet northerly from the southwest corner thereof; thence deflecting to the right and continuing southerly the westerly line of said Block 1 to a point on the westerly line of Lot 8 in said Block 1, said point being 11 feet southerly from the northwest corner thereof; thence deflecting to the right and continuing in a straight line to a point on the easterly line of Lot 1, Block 11, said point being 52 feet southerly from the northeast corner thereof; thence deflecting to the right and continuing northerly along the easterly line of said Lot1, Block 11 to the northeast corner of said Lot 1; thence deflecting to the left and continuing westerly along the northerly line of said Block 11 to the point of beginning and there terminating; and

(f) That the city clerk is, pursuant to Section 100 (b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. \_\_\_\_\_ showing the portion of the alley to be vacated and utility easement retained.

Approved as to form:

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Attorney

PC/PLNG KD:eu 4/19/2010

STATEMENT OF PURPOSE: This resolution vacates that part of the alley adjoining property owned by Duluth Teachers Credit Union at the southwest corner of Arrowhead Road and Kenwood Avenue. The petitioner states the vacation "is necessary to allow [the] petitioner to exercise substantial property rights" and "the alley breaks up the parcels owned by the petitioner and limits the utilization of the property, most of which is zoned C-1."

This section of the alley has not been improved for vehicular or pedestrian use, but it does contain a power line and a gas line. This resolution retains a utility easement over the entire vacation area.

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

On April 13, 2010, the Duluth planning commission held a public hearing on the proposal and voted 7-1 to recommend that the city council DENY the alley vacation.

Petition received: February 25, 2010

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