

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

10-0505R

RESOLUTION VACATING A PORTION OF 44TH AVENUE EAST BETWEEN LOT 9, BLOCK 108, AND LOT 16, BLOCK 109, LONDON ADDITION AND RETAINING A UTILITY EASEMENT OVER THE ENTIRE VACATION AREA, PETITIONED BY JARROD B. NOVOTNY, 4401 DODGE STREET.

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 44th Avenue East located between Lot 9, Block 108 and Lot 16, Block 109, both in London 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 10076) 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 is useless for vehicular and pedestrian purposes, but that the street 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 storm sewer improvements; and

(d) The city planning commission, at its September 14, 2010, regular meeting, recommended approval of the vacation petition and easement reservation; 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 44th Avenue East abutting Blocks 108 and 109, London Addition, described as follows:

Beginning at the northeast corner of Lot 9, Block 108; thence easterly in a straight line to the northwest corner of Lot 16, Block 109; thence

deflecting to the right and continuing southerly along the westerly line of said Block 109 to southwest corner of Lot 16, Block 109; thence deflecting to the right and continuing westerly in a straight line to the southeast corner of Lot 9, Block 108; thence deflecting to the right and continuing northerly along the easterly line of said Block 108 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 street to be vacated and utility easement retained.

Approved as to form:

Attorney

PC KD:eu 9/17/2010

STATEMENT OF PURPOSE: This resolution vacates that part of 44th Avenue East located between Dodge Street and the alley north of Dodge Street. The petitioner states the vacation is for "future construction of a garage and driveway."

This section of street has not been improved for vehicular or pedestrian use, but it does contain a power line and a pair of storm sewer catch basins. This resolution retains a utility easement over the entire vacation area.

The motion to approve the vacation by the city council must prevail with at least six affirmative votes according to Section 45-44.

On September 14, 2010, the Duluth city planning commission held a public hearing on the proposal and voted 11-0 to recommend that the city council approve the vacation and easement retention.

Petition Received: June 29, 2010

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