

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

10-0662R

RESOLUTION VACATING PORTIONS OF 45TH AVENUE WEST BETWEEN GRAND AVENUE AND WEST SECOND STREET ALSO KNOWN AS TRAVERSE STREET AND RETAINING UTILITY EASEMENTS OVER PORTIONS OF THE VACATED AREA (J&S PARTNERSHIP).

CITY PROPOSAL:

RESOLVED, that the city council hereby makes the following findings:

(a) That sufficient petitions were filed with the city clerk requesting the vacation of portions of 45th Avenue West adjoining Lot 8 and Lot 16, Block 69 and Lot 1 and Lot 9, Block 70, TOWN OF ONEOTA legally described as follows (see also Exhibit A):

(1) The Westerly 10 feet lying within 118 feet of Grand Avenue; and  
(2) The Easterly 10 feet lying within 118 feet of Grand Avenue; and  
(3) All that part lying Northerly of a line parallel with the Northerly line of vacated Second Street and 113 feet Northerly therefrom and Southerly of a line parallel with Grand Avenue and 118 feet Southerly therefrom subject to retention of a utility easement over the entire vacated area; 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 petitions were duly referred to the city planning commission (FN 10109), 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 portion of 45th Avenue West is useless for vehicular and pedestrian purposes, but not for utility purposes; and

(c) The presence of utilities in 45th Avenue West makes the following utility easements necessary:

(1) The Westerly 10 feet lying within 118 feet of Grand Avenue; and  
(2) All that part lying Northerly of a line parallel with the Northerly line of vacated Second Street and 113 feet Northerly therefrom and Southerly of a line parallel with Grand Avenue and 118 feet Southerly therefrom subject to retention of a utility easement over the entire vacated area; and

(d) The city planning commission, at its December 14, 2010 regular

meeting, recommended approval of the vacation petition subject to retention of utility easements; and

(e) The city council of the city of Duluth approves the vacation of the following subject to retention of utility easements, both more particularly described in Exhibit A and Public Document No: \_\_\_\_\_:

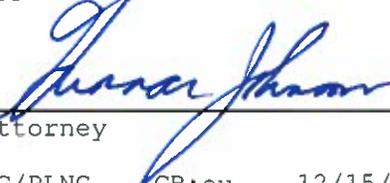
(1) The Westerly 10 feet lying within 118 feet of Grand Avenue subject to retention of a utility easement over the entire vacated area; and

(2) The Easterly 10 feet lying within 118 feet of Grand Avenue; and

(3) All that part lying Northerly of a line parallel with the Northerly line of vacated Second Street and 113 feet Northerly therefrom and Southerly of a line parallel with Grand Avenue and 118 feet Southerly therefrom subject to retention of a utility easement over the entire vacated area; 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 portions the street to be vacated and utility easements to be retained.

Approved as to form:

  
\_\_\_\_\_  
Attorney

PC/PLNG      CB:eu      12/15/2010

STATEMENT OF PURPOSE: This resolution vacates portions of 45th Avenue West between Grand Avenue and vacated West Second Street also known as Traverse Street. Vacation would allow for the expansion of adjacent development. Applicants own 100 percent of the frontage on both sides of the proposed vacation.

This section of right of way has not been improved for vehicular or pedestrian purposes. There are several utilities located in the existing right of way. This resolution contains utility easements as proposed by applicant for city utilities. Duluth City Engineering indicated no opposition to the vacation or the utility easement proposed by applicant.

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

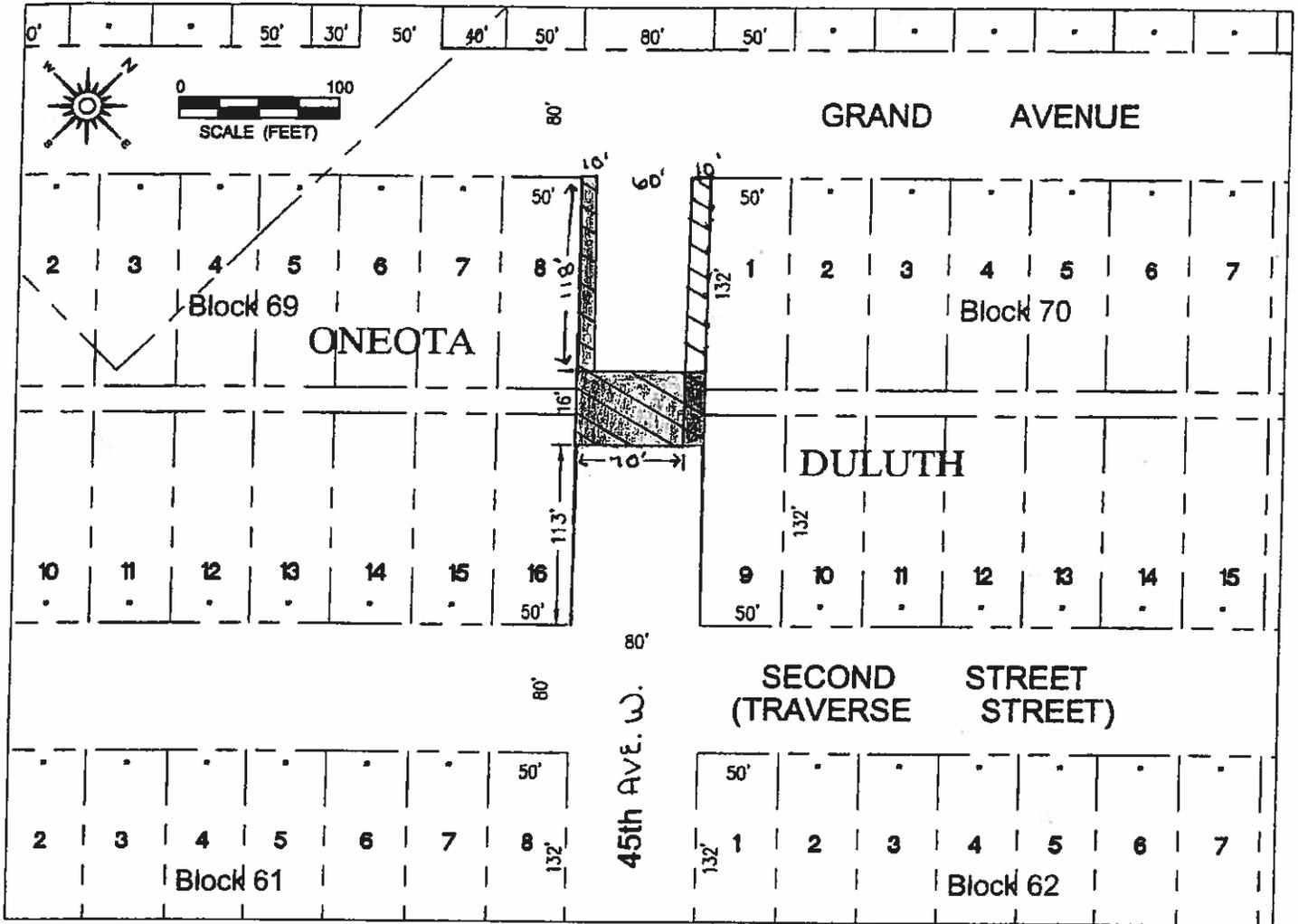
On December 14, 2010, the Duluth city planning commission held a public hearing on the proposal and voted 9-0 to recommend that the city council grant the street vacation subject to retention of the proposed utility easements.

Petition Received: October 14, 2010

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

Petitioner's Agent:

William Burns  
Hanft Fride Law  
130 West Superior Street, Suite 1000  
Duluth, Minnesota 55802-2094



THE PORTION TO BE VACATED IS SHOWN  ON THE ABOVE PLAT.

THE PORTION TO BE VACATED AND RETAINED AS UTILITY EASEMENT IS SHOWN  ON THE ABOVE PLAT.

- The Westerly 10 feet lying within 118 feet of Grand Avenue;
- The Easterly 10 feet lying within 118 feet of Grand Avenue; and
- All that part lying Northerly of a line parallel with the Northerly line of vacated Second Street and 113 feet Northerly therefrom and Southerly of a line parallel with Grand Avenue and 118 feet Southerly therefrom.