

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-0430R

RESOLUTION VACATING PLATTED NIAGARA STREET EAST OF  
JUNCTION AVENUE AND RETAINING A UTILITY EASEMENT (REGENTS  
OF THE UNIVERSITY OF MINNESOTA)

CITY PROPOSAL:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described below in (d) below; and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, 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 easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, August 14, 2012, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted street described below and as described and depicted on Public Document No. \_\_\_\_\_:

Niagara Street from the eastern line of Junction Avenue to the eastern line of Superior View Addition, First and Second Divisions.

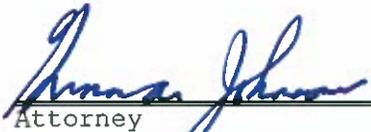
(e) The city council of the city of Duluth approves the dedication of the utility easement described below and as described and depicted on Public Document No. \_\_\_\_\_:

A 20' portion along the easterly line of Junction Avenue, a 20' portion along the northerly edge of Lot 1, Block 10, Superior View Addition First Division extended, and a 20' portion along the southerly edge of Lot 47, Block 11, Superior View Addition Second Division extended to the eastern

line of Superior View Addition.

(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 platted street to be vacated.

Approved as to form:

  
\_\_\_\_\_  
Attorney

STATEMENT OF PURPOSE: This portion of Niagara Street abuts a previously-vacated portion of Niagara Street to the east. The existing roadway serves University of Minnesota Duluth traffic.

On August 14, 2012, the Duluth city planning commission held a public hearing on the proposal and voted 7 yeas, 0 nays, and 0 abstentions to recommend that the city council approve the vacation and utility easement dedication.

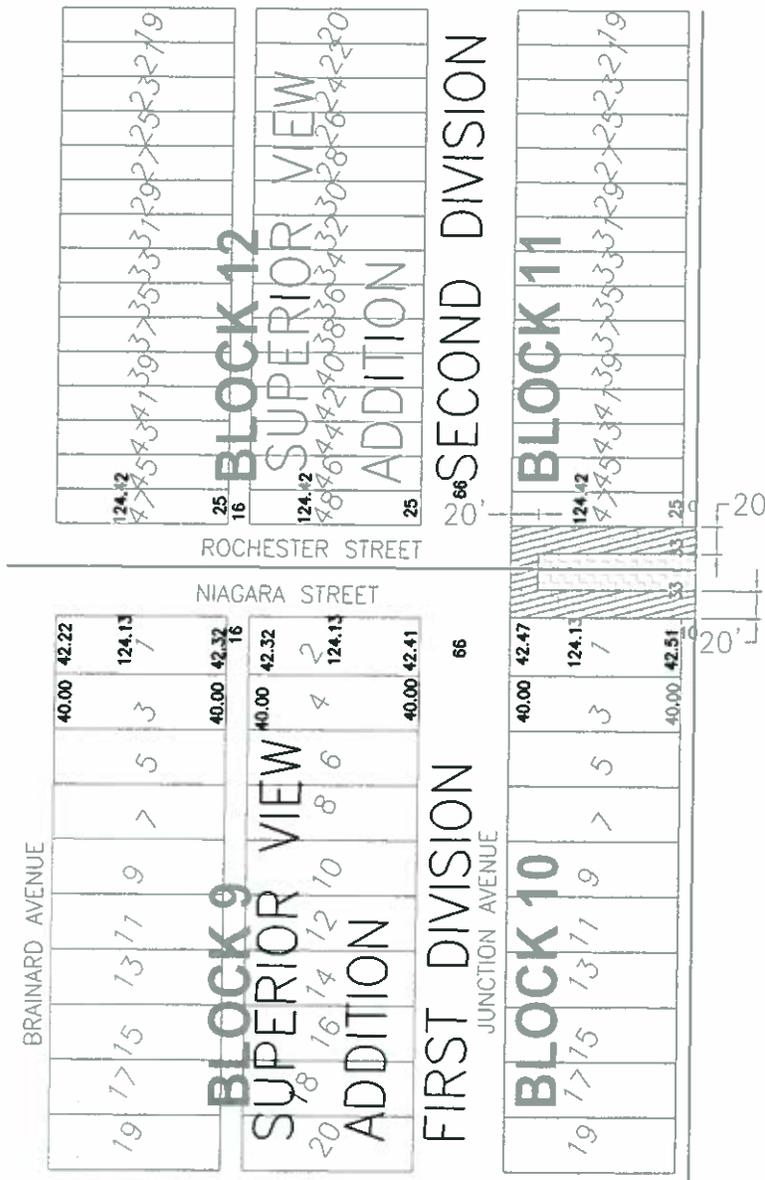
The motion to approve the vacation by the city council must prevail with at least six affirmative votes.

Petition Received: April 30, 2012

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

Petitioner:  
Regents of the University of Minnesota  
Real Estate Office Donhowe 4<sup>th</sup>  
319 15<sup>th</sup> Avenue SE  
Minneapolis, MN 55455

PL 12-081



PLAT SHOWING THE VACATION OF NIAGARA STREET FROM THE EASTERN LINE OF JUNCTION AVENUE TO THE EASTERN LINE OF SUPERIOR VIEW ADDITION, FIRST AND SECOND DIVISIONS.

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

PLAT SHOWING THE PORTION OF NIAGARA STREET TO BE RETAINED AS A UTILITY EASEMENT INCLUDING A 20' PORTION ALONG THE EASTERLY LINE OF JUNCTION AVENUE, A 20' PORTION ALONG THE NORTHERLY EDGE OF LOT 1, BLOCK 10, SUPERIOR VIEW ADDITION FIRST DIVISION EXTENDED, AND A 20' PORTION ALONG THE SOUTHERLY EDGE OF LOT 47, BLOCK 11, SUPERIOR VIEW ADDITION SECOND DIVISION EXTENDED TO THE EASTERN LINE OF SUPERIOR VIEW ADDITION

THE PORTIONS TO BE RETAINED AS A UTILITY EASEMENT IS SHOWN  ON THE ABOVE PLAT.

CITY ENGINEER

DATE

VACATION OF NIAGARA STREET FROM THE EASTERN LINE OF JUNCTION AVENUE TO THE EASTERN LINE OF SUPERIOR VIEW ADDITION, FIRST AND SECOND DIVISIONS.





**CITY OF DULUTH**

Planning Division

411 W 1<sup>st</sup> St, Rm 208 \* Duluth, Minnesota 55802-1197  
 Phone: 218/730.5580 Fax: 218/723-3559

**STAFF REPORT**

<b>File Number</b>	PL 12-081	<b>Contact</b>	Jenn Reed Moses, jmoses@duluthmn.gov	
<b>Application Type</b>	Vacation of Platted Right of Way	<b>Planning Commission Date</b>	August 14, 2012	
<b>Deadline for Action</b>	<b>Application Date</b>	April 30, 2012	<b>60 Days</b>	N/A
	<b>Date Extension Letter Mailed</b>	N/A	<b>120 Days</b>	N/A
<b>Location of Subject</b>	Niagara Street east of Junction Avenue			
<b>Applicant</b>	Regents of the University of Minnesota	<b>Contact</b>	612-626-0565	
<b>Agent</b>	Kelley Brandt, Real Estate Office	<b>Contact</b>	brand571@umn.edu	
<b>Legal Description</b>	See attached			
<b>Site Visit Date</b>	May 31, 2012	<b>Sign Notice Date</b>	July 31, 2012	
<b>Neighbor Letter Date</b>	July 18, 2012	<b>Number of Letters Sent</b>	5	

**Proposal**

Applicant proposes to vacate approximately 135' of Niagara Street between Junction Avenue and a previously-vacated portion of Niagara Street to the east. Portions of the roadway would be retained as a utility easement, as shown in the attached map.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1, R-2	Street Right of Way	Institutional
<b>North</b>	R-1	Institutional	Institutional
<b>South</b>	R-2	Institutional	Institutional
<b>East</b>	R-2	Institutional	Institutional
<b>West</b>	R-1, R-2	Institutional	Institutional

**Summary of Code Requirements (reference section with a brief description):**

Vacation of public rights of way and/or easements requires a Planning Commission public hearing with a recommendation to City Council. City Council action is to approve or deny by resolution. Resolutions approving either a full or partial vacation require a 6/9's vote of the Council.

Code Requirements are found in the UDC Section 50-37.6. The planning commission shall review the proposed vacation, and council shall approve the proposed vacation, or approve it with modifications, if it determines that the street, highway or easement proposed for vacation:

1. Is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient supply of utilities or public services in the city;
2. Where the street terminates at a waterfront or shoreline, the street is not and will not be needed to provide pedestrian or recreational access to the water;
3. Is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.

Essentially, the standard for evaluating vacations is "uselessness," that the proposed easement is not needed for the purposes for which it was dedicated.

*Handwritten signature: J.L.I.*

**Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):**

Governing Principle #7 - Create and maintain connectivity.

Future Land Use - Institutional: Applicable to university and college and public school campuses, large religious facilities or governmental campuses, cemeteries, etc.

**Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):**

Staff finds that:

- 1) The Regents of the University of Minnesota own all property abutting the proposed vacation area.
- 2) The existing roadway primarily serves University traffic.
- 3) An easement is needed for utility purposes. Applicant has worked with Minnesota Power and City of Duluth Engineering to ensure utility easements are maintained over portions of the roadway, as shown in the attached map.
- 5) Vacation will not create a dead-end street, as the portion of Junction Street to the east has previously been vacated.
- 6) No public comments were received.
- 7) As long as a new utility easement is provided/rededicated, staff finds that this easement is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient supply of utilities or public services in the city; the right of way is not and will not be needed to provide pedestrian or recreational access to the water; and the public right of way is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.
- 8) Vacations of streets lapse unless a plat showing the vacation is recorded with the county recorder within 90 days after final approval. The Duluth City Clerk facilitates the recording process.

**Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):**

Based on the findings, Staff recommends that the Planning Commission recommend approval to the City Council for the petition to vacate the right of way with the following conditions:

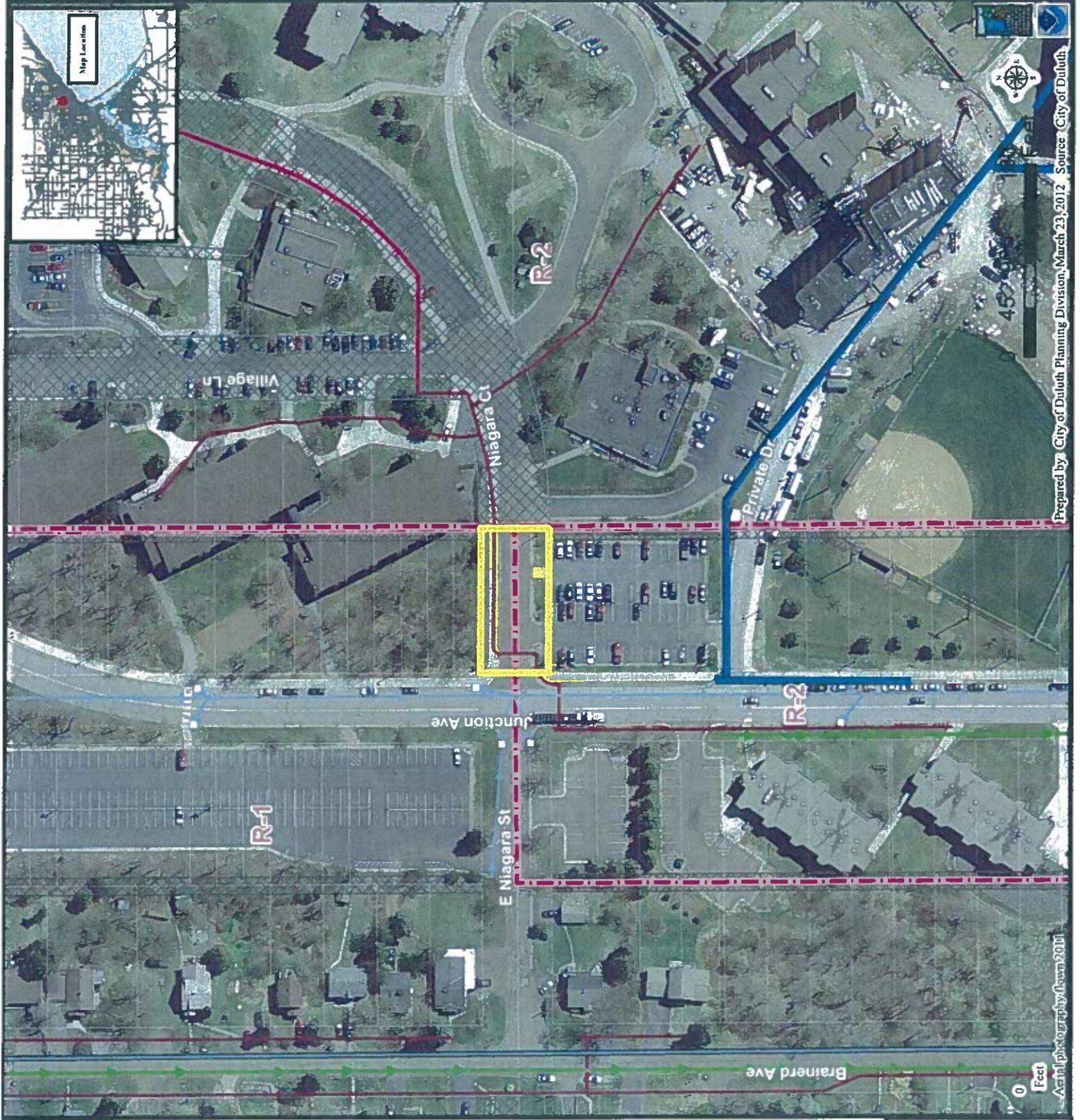
- 1) A utility easement be recorded, as shown in the attached map.
- 2) Vacation goes into effect after being recorded at the County Recorder's office. Applicant will work with Duluth City Clerk's office if needed to assist in the recording process.

III.L.2

**Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)**

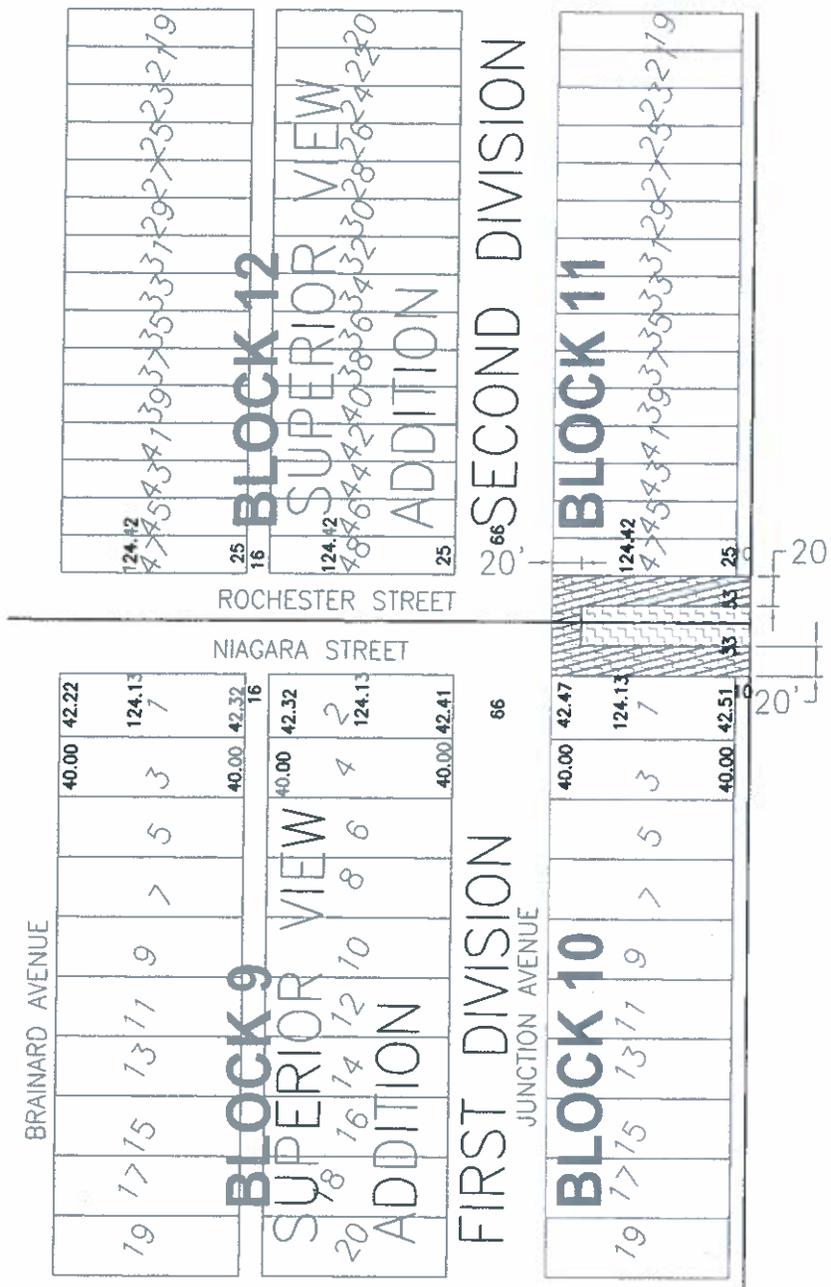
**Legend**

- Zoning
  - Zoning
- Vacated ROW
  - Vacated ROW
- Water Distribution System
  - 30 - 60" Water Pipe
  - 16 - 24" Water Pipe
  - 4 - 6" Water Pipe
- Sanitary Sewer Collection System
  - Sanitary Sewer Collector
  - Sanitary Sewer Interceptor
  - Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Gas Distribution Main
  - 8" - 16" Gas Pipes
  - 4" - 6" Gas Pipes
  - 0" - 4" Gas Pipes
- Storm Sewer Collection System
  - Storm Sewer Pipe
  - Storm Sewer Catch Basin
- Discharge\_Points



The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.

**L.3**



PLAT SHOWING THE VACATION OF NIAGARA STREET FROM THE EASTERN LINE OF JUNCTION AVENUE TO THE EASTERN LINE OF SUPERIOR VIEW ADDITION. FIRST AND SECOND DIVISIONS.

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CITY ENGINEER

DATE

III. 2.4