



Legislation Details (With Text)

File #: 23-0595R **Name:**
Type: Resolution **Status:** Passed
File created: 8/1/2023 **In control:** Planning and Economic Development
On agenda: 8/14/2023 **Final action:** 8/14/2023
Title: RESOLUTION RESCINDING RESOLUTION NO. 23-0567R AND VACATING THE UNIMPROVED UTILITY EASEMENT LYING ADJACENT TO AND ABUTTING LOT 8 AND LOT 9, LEVI ACRES.

Sponsors:

Indexes:

Code sections:

Attachments: 1. PL 23-108 Staff report and attachments

Date	Ver.	Action By	Action	Result
8/14/2023	1	City Council	adopted	

RESOLUTION RESCINDING RESOLUTION NO. 23-0567R AND VACATING THE UNIMPROVED UTILITY EASEMENT LYING ADJACENT TO AND ABUTTING LOT 8 AND LOT 9, LEVI ACRES.

CITY PROPOSAL:

WHEREAS, on June 5, 2023, James Wallner petitioned the City for the vacation of a platted 20-foot wide utility easement lying adjacent to and abutting Lot 8 and Lot 9, Levi Acres;

WHEREAS, 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 a public hearing and the city planning commission found that the utility easement is not needed for public purposes; and

WHEREAS, the planning commission, at its regular meeting on July 11, 2023, recommended approval of the vacation petition; and

WHEREAS, on July 24, 2023, the city council passed Resolution No. 23-0567R and vacated the 20-foot wide utility easement adjacent to and abutting Lot 8 and Lot 9, Levi Acres;

WHEREAS, it was discovered that Resolution No. 23-0567R contained an error in the file number and planning commission date and year within the body of the resolution;

WHEREAS, the cleanest and most expedient way to remedy these error's is to rescind Resolution No. 23-0567R in its entirety and to restate the terms of the vacation accurately in this resolution;

NOW, THEREFORE, BE IT RESOLVED, that Resolution No. 23-0567R, passed July 24, 2023, is hereby rescinded in its entirety.

RESOLVED FURTHER, the city council finds that the platted utility easement proposed to be vacated:

1. is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or otherwise for the efficient supply of utilities or public services in the City; and
2. is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.

RESOLVED FURTHER, that the city council of the city of Duluth approves the vacation legally described and depicted on the attached Exhibit A.

RESOLVED FURTHER, 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 showing the easement to be vacated. **STATEMENT OF PURPOSE:** The purpose of this resolution is to rescind Resolution No. 23-0567R that vacated a 20-foot wide utility easement lying adjacent to and abutting Lot 8 and Lot 9, Levi Acres. The file number and planning commission date and year within the body of Resolution No. 23-0567R contained error's that makes the document unrecordable in the St. Louis County real estate records, and the quickest method to remedy the error is through this new resolution.

The purpose of the original application was to vacate an unimproved 20-foot wide utility easement lying adjacent to and abutting Lot 8 and Lot 9, Levi Acres. This easement was dedicated when the area was platted in 1978, but has never been developed with utility infrastructure. The utility easement to be vacated is not needed for street or pedestrian uses or the efficient supply of utilities or public services in the City.

This item was originally heard on July 11, 2023, and the Duluth city planning commission held a public hearing on the proposal and voted 6 yeas, 0 nay, and 0 abstentions to recommend the city council approve the vacation.

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

Petition Received: June 5, 2023

Action Deadline: October 3, 2023

Petitioner: James Wallner
PL 23-108