



## Legislation Text

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**File #:** 21-0830R, **Version:** 1

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RESOLUTION VACATING A PLATTED UTILITY EASEMENT IN OUTLOT 1 IN THE PLAT OF RIVERSIDE AND ACCEPTING A UTILITY, STORM WATER AND DRAINAGE EASEMENT OVER THE SAME.

### CITY PROPOSAL:

WHEREAS, the city council finds a sufficient petition was filed with the city requesting the vacation of utility easement legally described below;

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 described below is not needed for public purposes;

WHEREAS, the city planning commission, at its regular meeting on Tuesday, October, 12, 2021, recommended approval of the vacation petition; and

WHEREAS, the city council finds that the utility easement proposed to be vacated:

(i) 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; and

(ii) is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.

NOW, THEREFORE, BE IT RESOLVED that the city council of the city of Duluth approves the vacation of the utility easement legally described and depicted on the attached Exhibit 1, contingent on the dedication of replacement utility easements, substantially in the easement agreement attached as Exhibit 2.

FURTHER RESOLVED, that the city council of the city of Duluth accepts perpetual easements for utility, storm water and drainage purposes, substantially in the form attached as Exhibit 2, from Ronald A. Weber and Marie A. Weber, a married couple, over, under and across the real property: (i) legally described and depicted on Exhibit A attached to Exhibit 2 and (ii) legally described on Exhibit B attached to Exhibit 2 and depicted on Exhibit C attached to Exhibit 2, at no cost to the City.

FURTHER RESOLVED, 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 St. Louis County, Minnesota: (i) a certified copy of this resolution showing the utility easement to be vacated, and (ii) the utility, storm water and drainage easement from Ronald A. Weber and Marie A. Weber.

STATEMENT OF PURPOSE: This resolution vacates a platted utility easement lying within Outlot 1 of the plat of Riverside, in the Riverside neighborhood. The platted utility easement has not been developed.

The State of Minnesota, Department of Transportation, in conjunction with the Department of Natural Resources and the City, will be performing a project to make improvements in the flow of Gogebic Creek (the "Project"). During a review of real estate interests for the Project, it was discovered that an existing pipe lies outside of the platted utility easement area. The City desires to obtain an easement over the area the pipe

exists and, in exchange, vacate the platted utility easement that is not developed nor needed.

The City also discovered that another pipe partially lies outside of the designated easement area. The City desires to expand this existing easement area by 10 additional feet, and the property owners are willing to grant such easement.

At its regular Planning Commission meeting on October 12, 2021, the commission held a public hearing on the proposal and voted 7 yeas, 0 nays, and 0 abstentions to recommend the city council approve the vacation. The staff report associated with this matter is attached as Exhibit 3.

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

Petition Received: September 10, 2021

Action Deadline: January 8, 2022

Petitioner: City of Duluth  
PL 21-164