



## Legislation Text

**File #:** 19-0424R, **Version:** 1

### RESOLUTION VACATING EXISTING PUBLIC PLAZA AGREEMENTS FOR LAKE SUPERIOR PLAZA TO BE REPLACED WITH UPDATED AGREEMENTS THAT ALLOW PUBLIC ACCESS. (REPLACEMENT)

#### CITY PROPOSAL:

RESOLVED, that:

- (a) The city council finds a sufficient petition was filed with the city requesting the vacation described 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 (PL 19-042) and such commission gave due notice of public hearing and did consider same in a public hearing and the city planning commission found that all of the plaza is not needed for public plaza and pedestrian passageway purposes if a replacement easement is obtained as shown on Attachment 2; and
- (c) The city planning commission, at its Tuesday, May 14, 2019 regular meeting, recommended approval of the plaza vacation with the condition that the vacation shall not be final until replacement plaza easement agreements in a form approved by the Land Use Supervisor are recorded in the office of the St. Louis County Recorder, said recording to occur immediately following recording of the vacation; and
- (d) Subject to Paragraphs (e) and (f) below, the city council of the city of Duluth approves the vacation of the plaza agreements for Lake Superior Plaza more particularly described in Attachment 1; and
- (e) Subject to Paragraph (f) below, 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 plaza to be vacated, subject to the dedication by owner of replacement plaza easements substantially in the form of those attached hereto as Attachments 2 and 3 and the execution and delivery by owner of an Amended and Restated Lake Avenue Plaza Development Agreement, all of which have having been approved by the Land Use Supervisor, and the replacement plaza easements and the Amended and Restated Lake Avenue Plaza Development Agreement be recorded immediately following recording of the plaza vacation; and
- (f) The plaza vacation and replacement plaza easements and the Amended and Restated Lake Avenue Plaza Development agreement must be recorded before December 31, 2020 or this resolution will lapse and be of no force and effect and the subject vacation shall be deemed to have been denied.

**STATEMENT OF PURPOSE:** This resolution vacates the existing public plaza agreements for Lake Superior Plaza and replaces them with updated agreements that allow public access, but reduce the size of Lake Superior Plaza to provide a security buffer between the Plaza and the Minnesota Power Building.

The applicant's proposal is to dedicate replacement "public pedestrian passageway and plaza" easements over the plazas on the east and west sides of Lake Avenue as shown in Attachments 2 and 3. These easements will provide the same level of public access to the plazas as the current agreements. However, to address safety and security concerns near their building, Minnesota Power is proposing to reduce the size of the west plaza by 30-40 feet near the building. In this space they would be able to better control access to their main entrance as well as place bollards and landscaping elements to prevent vehicular access near the building.

Reducing the plaza by 30-40 feet represents a reduction of about 20% of the total plaza area, with the remaining plaza area being approximately 1/3 acre. The remaining plaza is still large enough to host community events and general plaza functions. With the standard for vacating public easements being “uselessness,” the Council must determine that the area near the building is not needed for plaza purposes. Although the public occasionally uses this space, it is not critical to the functioning of the plaza and could be found useless.

On May 14, 2019, the Duluth city planning commission held a public hearing on the proposal as shown in the staff report (Attachment 4) and voted 6 yeas, 0 nays, and 0 abstentions to recommend the city council approve the vacation with conditions.

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

PL 19-042