



Legislation Text

File #: 23-0659R, **Version:** 1

RESOLUTION PARTIALLY VACATING A UTILITY AND DRAINAGE EASEMENT AFFECTING A PORTION OF LOT 5, BLOCK 2, ATLAS INDUSTRIAL PARK.

CITY PROPOSAL:

WHEREAS, the city council finds a sufficient petition was filed with the city requesting partial vacation of an easement for utility and drainage purposes registered in the Office of the St. Louis County Registrar of Titles on December 21, 2012 as Document No. 924480, with the portion of the easement area to be vacated legally described on the attached Exhibit 1;

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 portion of the easement for utility and drainage purposes described and depicted on the attached Exhibit 1 is not needed for public purposes;

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

WHEREAS, the city council finds that the portion of the 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 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 that portion of the easement area legally described and depicted on the attached Exhibit 1, contingent on written approval of the State of Minnesota as required by the Declaration dated December 20, 2012 and registered in the Office of the St. Louis County Registrar of Titles on December 21, 2012 as Document No. 924481 (the "Declaration").

FURTHER RESOLVED, that the intention of this vacation is to vacate a portion of that certain easement filed for record with the St. Louis County Registrar of Titles on December 21, 2012 as Document No. 924480.

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 a certified copy of this resolution showing the portion of the easement to be vacated only after receipt of written approval from the State of Minnesota as outlined above.

FURTHER RESOLVED, that the vacation shall lapse if this resolution is not recorded within 90 days of city council approval.

STATEMENT OF PURPOSE: This resolution vacates a portion of an easement for utility and drainage

purposes from the Duluth Economic Development Authority (“DEDA”) in 2012 (the “Easement”). The easement was dedicated to the City after the City was awarded a grant by the State of Minnesota Department of Employment and Economic Development in the amount of \$500,000 to pay for a portion of a street and utility construction project within Atlas Industrial Park (the “Grant”). A condition of the Grant required the City to record a Declaration in the St. Louis County real estate records to reflect that the Easement cannot be sold or otherwise disposed of without the approval of the State of Minnesota.

DEDA owns the lots affected by the Easement and is looking to sell the lots for future development. The portion of the Easement to be vacated under this resolution does not contain utilities, but would prevent development unless it is vacated. The State of Minnesota is willing to consent to the vacation described on the attached Exhibit 1 on the condition that the easement interest described on Exhibit 1 is appraised to determine its value and that an amount equal to the appraised value is remitted to the State of Minnesota. DEDA is working with the prospective buyer so that the appraised value will be paid by DEDA and/or the buyer -the City will not be responsible to pay the appraised value of the easement interest to the State.

At its regular Planning Commission meeting on July 11, 2023, the commission held a public hearing on the proposal and voted 6 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 2.

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

Petitioner: Duluth Economic Development Authority
PL 23-116