



Legislation Text

File #: 21-0597R, **Version:** 1

RESOLUTION VACATING THE ALLEY IN BLOCKS 2 AND 3, HARRINGTON'S ADDITION TO DULUTH AND ACCEPTING A ROAD AND UTILITY EASEMENT OVER PURPORTEDLY VACATED SUPERIOR STREET LYING ADJACENT TO BLOCK 3, HARRINGTON'S ADDITION TO DULUTH.
CITY PROPOSAL:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in paragraph (e) below.

(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 (file number PL 21-067) 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 platted alley legally described and depicted on the attached Exhibit 1 is useless for vehicular, utility, and drainage purposes.

(c) The city planning commission, at its Tuesday, June 8, 2021 regular meeting, recommended approval of the vacation petition conditioned on the grant of a road and utility easement in favor of the city over that portion of purportedly vacated Superior Street lying adjacent to Block 3, Harrington's Addition to Duluth.

(d) The city council finds that the portion of the alley to be vacated:

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; and

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

(e) The city council of the city of Duluth approves the vacation of the platted alley legally described and depicted on the attached Exhibit 1, subject to the dedication of the road and utility easement described in paragraph (f) below.

(f) That the city council of the city of Duluth accepts a perpetual easement for road and utility purposes, substantially in the form attached as Exhibit 2, from Falconer Family LLC, over under and across the real property described in Exhibit A to the attached Exhibit 2, at no cost to the city; and

(g) 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: (i) a certified copy of this resolution showing the platted alley to be vacated; and (ii) the easement agreement attached as Exhibit 2; and

(e) That the vacation shall lapse if this resolution is not recorded within 90 days of approval by the city council.

STATEMENT OF PURPOSE: This resolution vacates an unused platted alley (see Exhibit 1) to prepare the

site for future use, as well as accepts the dedication of an easement for street and utility purposes. The part of the alley to the east of Harrington's Division (in the plat of Sutphin's Addition, now Interstate West Addition) was vacated in 1927, and the granting of this vacation provides for a completely vacated alley from 38th Ave. W. to 39th Ave. W.

The planning commission found that the alley is not needed for vehicular, utility or drainage purposes. The commission also found that it is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.

On June 8, 2021, the Duluth city planning commission held a public hearing on the proposal as shown in the staff report in Exhibit 3 and voted 8 yeas, 0 nays, and 0 abstentions to recommend the city council approve the vacation.

The portion of Superior Street that lies adjacent to Falconer Family LLC's property (see Exhibit 2) may have been partially or totally vacated in the 1800s. The street is currently being used for road and utility purposes. Falconer Family LLC is willing to provide the City with a road and utility easement for this area in order to rectify this situation.

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

Petition Received: May 4, 2021

Action Deadline: September 1, 2021

Petitioner: Falconer Family LLC (Minneapolis Oxygen Company)

PL 21-067