



Legislation Details (With Text)

File #: 20-0470R **Name:**
Type: Resolution **Status:** Passed
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On agenda: 6/8/2020 **Final action:** 6/8/2020
Title: RESOLUTION VACATING A UTILITY EASEMENT IN THIRTY-EIGHTH AVENUE EAST LYING NORTH OF LONDON ROAD IN THE PLAT OF REARRANGEMENT OF PART OF EAST DULUTH AND OF FIRST ADDITION TO EAST DULUTH.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Exhibit A, 2. Staff Report

| Date | Ver. | Action By | Action | Result |
|----------|------|--------------|---------|--------|
| 6/8/2020 | 1 | City Council | adopted | |

RESOLUTION VACATING A UTILITY EASEMENT IN THIRTY-EIGHTH AVENUE EAST LYING NORTH OF LONDON ROAD IN THE PLAT OF REARRANGEMENT OF PART OF EAST DULUTH AND OF FIRST ADDITION TO EAST DULUTH.

CITY PROPOSAL:

WHEREAS, the city council, on December 2, 1925, vacated, among other areas, the portion of 38th Avenue East lying between the north line of London Road and the south line of Jefferson Street while retaining an easement for sewer, water and gas and other public utilities over the entire vacated area (the "1925 Vacation"); and

WHEREAS, the city council finds a sufficient petition was filed with the city requesting the vacation legally described and depicted on the attached Exhibit A; and

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 (PL 20-027) 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 utility easement legally described and depicted on the attached Exhibit A is useless for utility purposes; and

WHEREAS, the city planning commission, at its Tuesday, April 14, 2020 regular meeting, recommended approval of the vacation petition; and

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of a portion of the easement for sewer, water and gas and other public utilities that was retained during the 1925 Vacation, as legally described and depicted on the attached Exhibit A on the condition that the plat of LONDON EAST is approved and recorded in the real estate records of St. Louis County, Minnesota by May 31, 2022.

FURTHER RESOLVED, that if the plat of LONDON EAST is not approved and recorded in the real estate records of St. Louis County by May 31, 2022, then this vacation is null and void and of no further effect.

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 Saint Louis County, Minnesota, a certified copy of this resolution showing the easement to be vacated subject to the condition stated above.

FURTHER RESOLVED, that this vacation shall lapse if this resolution is not recorded with the real estate records of St. Louis County within 90 days of city council approval.

Statement of Purpose: This resolution vacates an unused utility easement in the area of the proposed London East plat preliminarily approved by the planning commission April 14, 2020. The utility easement was retained when a portion of platted 38th Avenue East was vacated in 1925.

An easement may be vacated upon determination that it is not needed for the purpose for which it was dedicated. In this case, the planning commission has found that the utility easement is not needed for utility 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 April 14, 2020, the Duluth city planning commission held a public hearing on the proposal as shown in Attachment 2 and voted 7 yeas, 1 nays, 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: March 10, 2020

Action Deadline: July 8, 2020

Petitioner:
Ted Stocke
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PL 20-027