



Legislation Text

File #: 16-0603R, **Version:** 1

RESOLUTION VACATING PORTIONS OF PEABODY STREET AND SOUTH 54TH AVENUE EAST, RETAINING A PUBLIC UTILITY EASEMENT OVER THE ENTIRE AREA TO BE VACATED (LUKE SCHMITZ).

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 and such commission gave due notice of public hearing and did consider same in a public hearing and the city planning commission found that this portion of the street easement is not needed for public street purposes; and
- (c) The city planning commission, at its Tuesday, July 12, 2016 regular meeting, recommended approval of the vacation petition; and
- (d) The city council of the city of Duluth approves the vacation of the platted road easement, maintaining a public utility easement, described below:

VACATION AND UTILITY EASEMENT LEGAL DESCRIPTION:

All that part of 54th Avenue East and Peabody Street, LONDON ADDITION TO DULUTH according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:
Commencing at the Northeast corner of Lot 89, MORRIS PARK DIVISION OF LAKESIDE; thence on an assumed bearing of North 90 degrees 00 minutes 00 seconds East, along the Easterly extension of the Northerly line of said Lot 89 for a distance of 15.17 feet, more or less, to the intersection with a line which is parallel and distant 66.00 feet West of the West line of Block 1, LESTER PARK 1ST DIVISION; thence North 02 degrees 38 minutes 00 seconds East; along said parallel line for a distance of 43.96 feet to the Point of Beginning of the parcel herein described; thence continue North 02 degrees 38 minutes 00 seconds East, along said parallel line 17.74 feet to the Northeasterly extension of the Southeasterly right of way line of the D.&I.R.R.R.; thence Southwesterly 150.90, along said Northeasterly extension of the Southeasterly right of way line of the D.&I.R.R.R., along a non-tangential curve, concave to the Southeast, having a radius of 3614.12 feet, a central angle of 02 degrees 23 minutes 32 seconds, the chord of

said curve bears South 65 degrees 53 minutes 25 seconds West for a distance of 150.89 feet to the intersection with the Northerly line of said MORRIS PARK DIVISION TO LAKESIDE, said line also being the South line of Peabody Street; thence North 90 degrees 00 minutes 00 seconds East, along the last described line for a distance of 37.81 feet to the point of intersection with a line which is parallel with and distant 16.00 feet Southeasterly of the Northeasterly extension of the Southeasterly right of way line of said D.&I.R.R.R.; thence Northeasterly 108.40 feet, along said line which is parallel with and distant 16.00 feet Southeasterly of the Northeasterly extension of the Southeasterly right of way line of the D.&I.R.R.R, along a non-tangential curve, concave to the Southeast, having a radius of 3598.12 feet, a central angle of 01 degrees 43 minutes 34 seconds, the chord of said curve bears North 66 degrees 06 minutes 05 seconds East for a distance of 108.39 feet to the Point of Beginning. Said parcel contains 2,075 square feet or 0.05 acres, more or less.

(e) 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 platted easement to be vacated.

STATEMENT OF PURPOSE: This resolution vacates undeveloped rights of way of Peabody Street and South 54th Avenue East. Due to the existence of utilities, a utility easement will be maintained over the entire width and length of this vacation. Structures cannot be built within a utility easement, which precludes applicant from constructing a garage in this location. Applicant intends to use the vacated area for parking.

On July 12, 2016, the Duluth city planning commission held a public hearing on the proposal and voted 5 yeas, 0 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: June 29, 2016

Action Deadline: October 27, 2016

Petitioner:

Luke Schmitz

101 S 54th Avenue E

Duluth, MN 55804

PL 16-045