



CITY OF DULUTH

Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL 18-079	Contact	Steven Robertson, 218-730-5295
Type	Vacation of Platted Right of Way	Planning Commission Date	July 10, 2018
Deadline for Action	Application Date	June 8, 2018	60 Days
	Date Extension Letter Mailed	July 2, 2018	120 Days
Location of Subject	South of the intersection of Grand Avenue and Warwick Street		
Applicant	Spirit Valley Land Company	Contact	Brad Johnson
Agent	LHB	Contact	Paul Vogel
Legal Description	See Attached		
Site Visit Date		Sign Notice Date	June 25, 2018
Neighbor Letter Date	June 28, 2018	Number of Letters Sent	10

Proposal

Vacate platted, but unimproved right of way, in preparation for a replatting of the subject area, with subsequent dedication of new right of way and utility and drainage easements.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-P	Residential/Undeveloped	General Mixed, Preservation, Urban Res
North	MU-N, R-1, P-1	Residential, Recreation	Neighborhood Commercial, Pres, Rec
South	I-G, R-1	Undeveloped, Railroad/Trail	Preservation
East	I-G	Undeveloped, Residential	Preservation
West	R-1, R-2	Residential	Preservation, Recreation, Urban Resid

Summary of Code Requirements

Vacation of public rights of way and/or easements require a Planning Commission public hearing with a recommendation to City Council. City Council action is to approve or deny by resolution. Resolutions approving either a full or partial vacation require a 6/9's vote of the council.

UDC Section 50-37.6C. The Planning Commission shall review the proposed vacation, and the council shall approve the proposed vacation, or approve it with modifications, if it determines that the street, highway or easement proposed for vacation:

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;
2. Where the street terminates at a waterfront or shoreline, the street is not and will not be needed to provide pedestrian or recreational access to the water;
3. Is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.

Comprehensive Plan Governing Principle and/or Policies and Current History (if applicable):

2006 Governing Principle #7 – Create and maintain connectivity.

2006 Governing Principle #8 - Encourage mix of activities, uses, and densities.

Future Land Use- General Mixed Use. The broadest mix of uses, including light industrial, office, commercial, and residential use, with performance standards to ensure compatibility. Includes areas that are in transition from industrial uses and large redevelopments that require master plans and phased development. General or heavy industrial can be included when a large site is master planned to allow appropriate separation of uses.

Future Land Use- Neighborhood Commercial. Small- to moderate scale commercial, serving primarily the adjacent neighborhood(s). May include specialty retail; community gathering businesses such as coffee shops or lower intensity entertainment; offices; studios or housing above retail (storefront retail with vertical mixed use). Typically situated in or adjacent to residential neighborhoods. May transition to neighborhood mixed use.

Future Land Use – Urban Residential. Greatest variety of building types, medium to high densities. Applicable to larger infill areas close to downtown, entertainment or activity centers, and waterfront residential areas. May include student housing areas, live/work units, and limited neighborhood retail. Connected or adjacent to parks and open space.

Future Land Use – Preservation. Lands with substantial restrictions. High natural resource or scenic value, or severe development limitations. Primarily public lands but limited private use is anticipated subject to use and design controls. Examples include: most city parklands and primary viewsheds; shorelands of lake, rivers, streams; wetlands and floodplains; high-value habitat; low-intensity private or public uses.

Previous Actions:

- Riverside Small Area Plan was adopted on October 26, 2015. It addressed land use and other related topics for the Riverside area, which included much of the area being platted as Kayak Bay.
- Wetland delineation was approved on in November 2015, and a wetland replacement plan showing impacts of approximately 24,000 square feet on the 27-acre site was approved on May 31, 2018.
- Property was rezoned (PL 16-105) from R-1, R-2, MU-N and I-G, to MU-P (Mixed Use Planned); approved by the City Council on February 13, 2017, effective March 15, 2017. The rezoning included a concept plan, which showed the uses, height, and density of the proposed plan.
- A preliminary plat was approved by the Planning Commission (PL 17-028) with conditions, on March 14, 2017.
- An EAW was conducted for this project (PL 17-085). On January 9, 2018, the Planning Commission made a negative declaration and did not require the preparation of an EIS for the project.

Review and Discussion Items

- 1) The applicant is proposing to vacate existing platted, but unimproved, right of way in conjunction with replatting the property for future development. See attached exhibit and legal description.
- 2) The proposed “Kayak Bay” plat will create several lots that have frontage on Grand Avenue, or the proposed Kayak Bay Drive, while a few of the residential lots proposed in the SW corner of the development will be served by a private road. The streets proposed for vacation will not be needed to serve proposed future development of the land in the plat and are not required for connectivity to other streets in the area.
- 3) The streets proposed for vacation will not be needed for pedestrian connections. The Willard Munger Trail runs through the development, roughly parallel to Grand Avenue, providing cross access (at Kayak Bay Drive) for pedestrians.
- 4) The proposed plat dedicates a utility easement for some of the required public utilities needed for development and the applicant will dedicate any additional utility easements needed at the time of development. The streets proposed for vacation will no longer be needed for utility purposes.

- 5) None of the streets proposed for vacation are needed to provide public recreational access to water. The proposed Kayak Bay Drive will provide access to the water and a new public park.
- 6) The rights of way proposed for vacation will not otherwise be needed to promote the public health, safety, or welfare of the citizens of Duluth when the proposed replatting of the property into the "Kayak Bay" plat is completed.
- 7) City staff had comments (technical corrections) on both the plat exhibit and the vacation exhibits, which were still being made/corrected at the time that this staff report was written. No other comments were received from city, agency or public comments.
- 8) Vacations of streets lapse unless the vacation is recorded with the county recorder within 90 days after final approval. The vacation recording is facilitated by the City of Duluth.

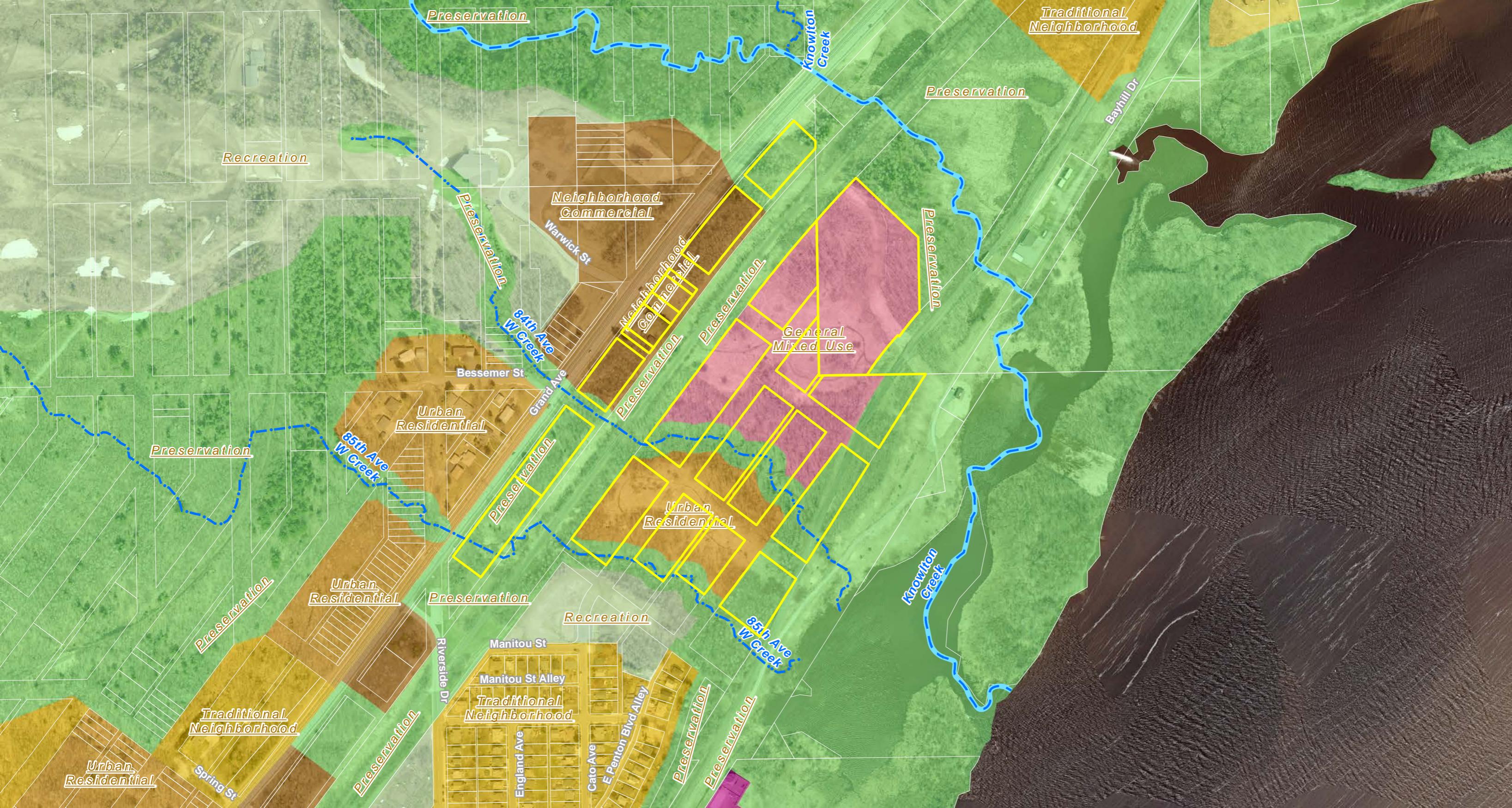
Staff Recommendation

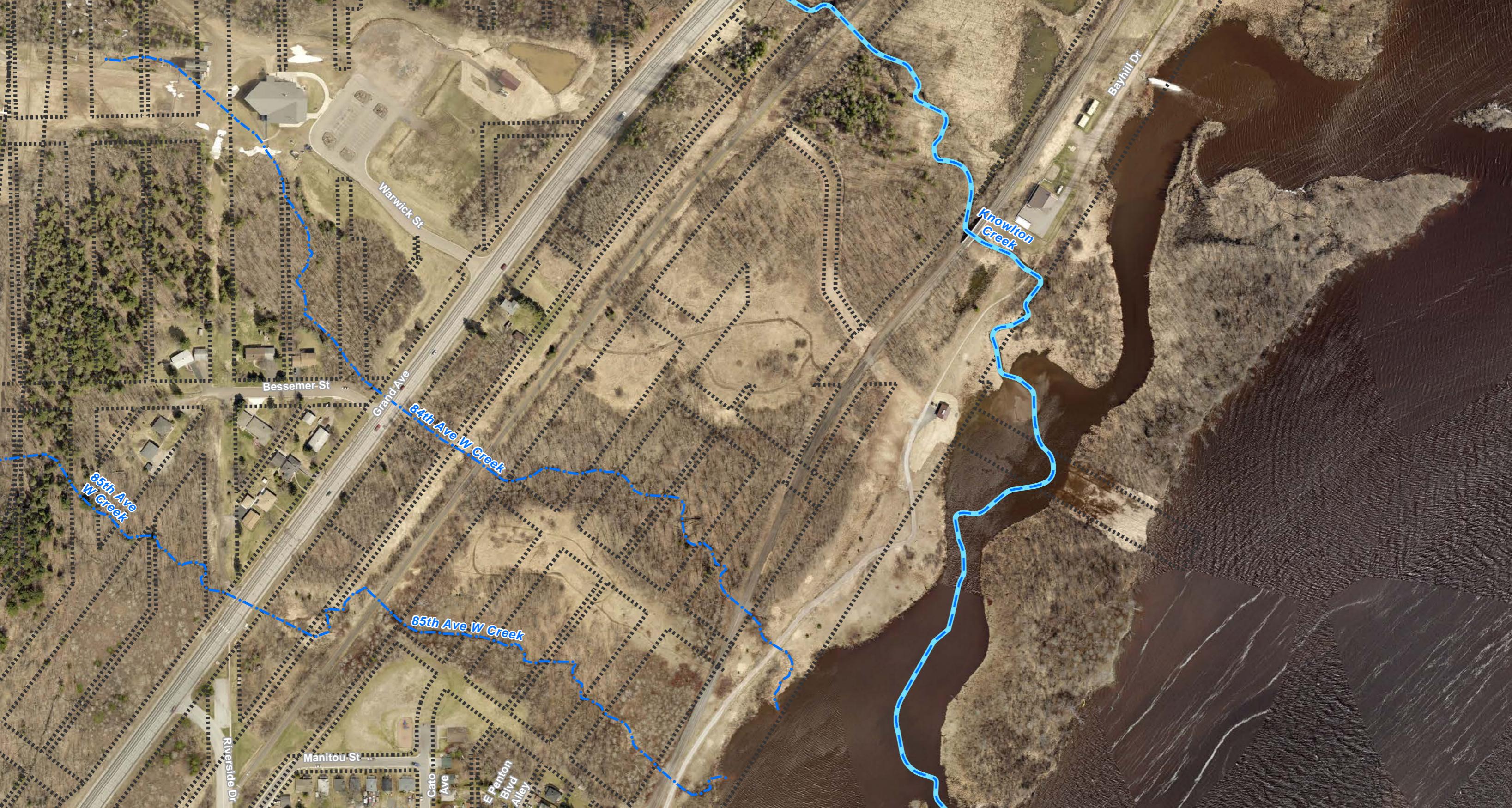
Based on the above findings, staff recommends that Planning Commission recommend approval of the proposed Vacation of streets with the following conditions:

1. The vacations shall not be final until the plat of Kayak Bay is recorded in the office of the St. Louis County Recorder, such recording to be done concurrently with filing of the plat.
2. The vacations must be recorded within 90 days of final approval by City Council or such approval will lapse.











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KAYAK BAY

being a portion of IRONTON FIRST DIVISION and GOVERNMENT LOT 1
 Section 23, Township 49 North, Range 15 West of the 4th Principal Meridian
 City of Duluth, St. Louis County, Minnesota

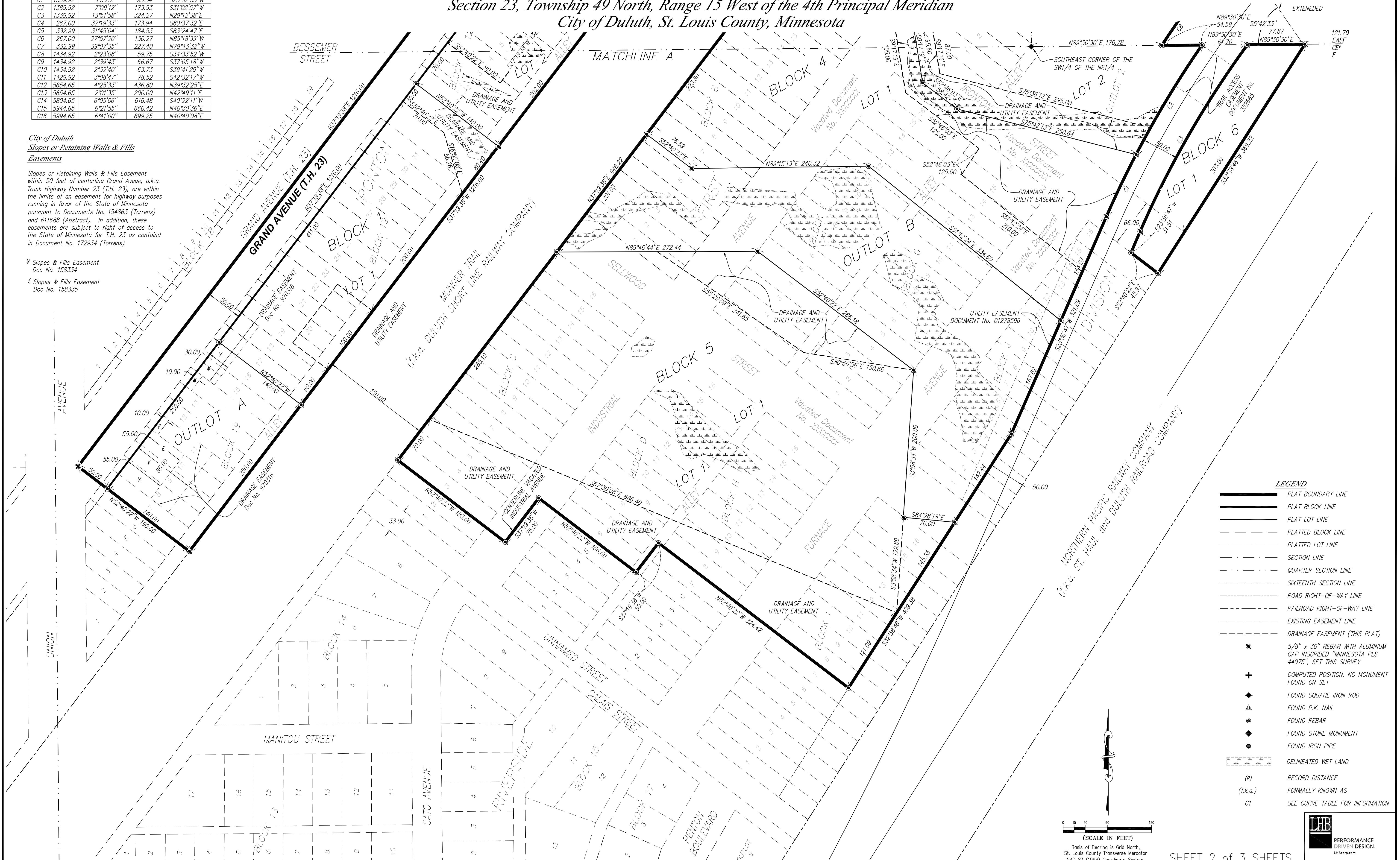
CURVE	RADIUS	CENTRAL ANGLE	ARC LENGTH	CHORD BEARING
C1	1389.92	3°50'51"	93.34	S25°32'55" W
C2	1389.92	7°09'12"	173.53	S31°02'57" W
C3	1339.92	13°51'58"	324.27	N29°12'38" E
C4	267.00	37°19'33"	173.94	S80°37'32" E
C5	332.99	31°45'04"	184.53	S83°24'47" E
C6	267.00	27°57'20"	130.27	N85°18'39" W
C7	332.99	39°07'35"	227.40	N79°43'32" W
C8	1434.92	2°23'08"	59.75	S34°33'52" W
C9	1434.92	2°39'43"	66.67	S37°05'18" W
C10	1434.92	2°37'40"	63.73	S39°41'29" W
C11	1429.92	3°08'47"	78.52	S42°32'17" W
C12	5654.65	4°25'33"	436.80	N39°32'25" E
C13	5654.65	2°01'35"	200.00	N42°49'11" E
C14	5804.65	6°05'06"	616.48	S40°21'11" W
C15	5944.65	6°21'55"	660.42	N40°30'36" E
C16	5994.65	6°41'00"	699.25	N40°40'08" E

City of Duluth
 Slopes or Retaining Walls & Fills
 Easements

Slopes or Retaining Walls & Fills Easement within 50 feet of centerline Grand Avenue, a.k.a. Trunk Highway Number 23 (T.H. 23), are within the limits of an easement for highway purposes running in favor of the State of Minnesota pursuant to Documents No. 154863 (Torrens) and 611688 (Abstract). In addition, these easements are subject to right of access to the State of Minnesota for T.H. 23 as contained in Document No. 127934 (Torrens).

* Slopes & Fills Easement
 Doc No. 158334

£ Slopes & Fills Easement
 Doc No. 158335



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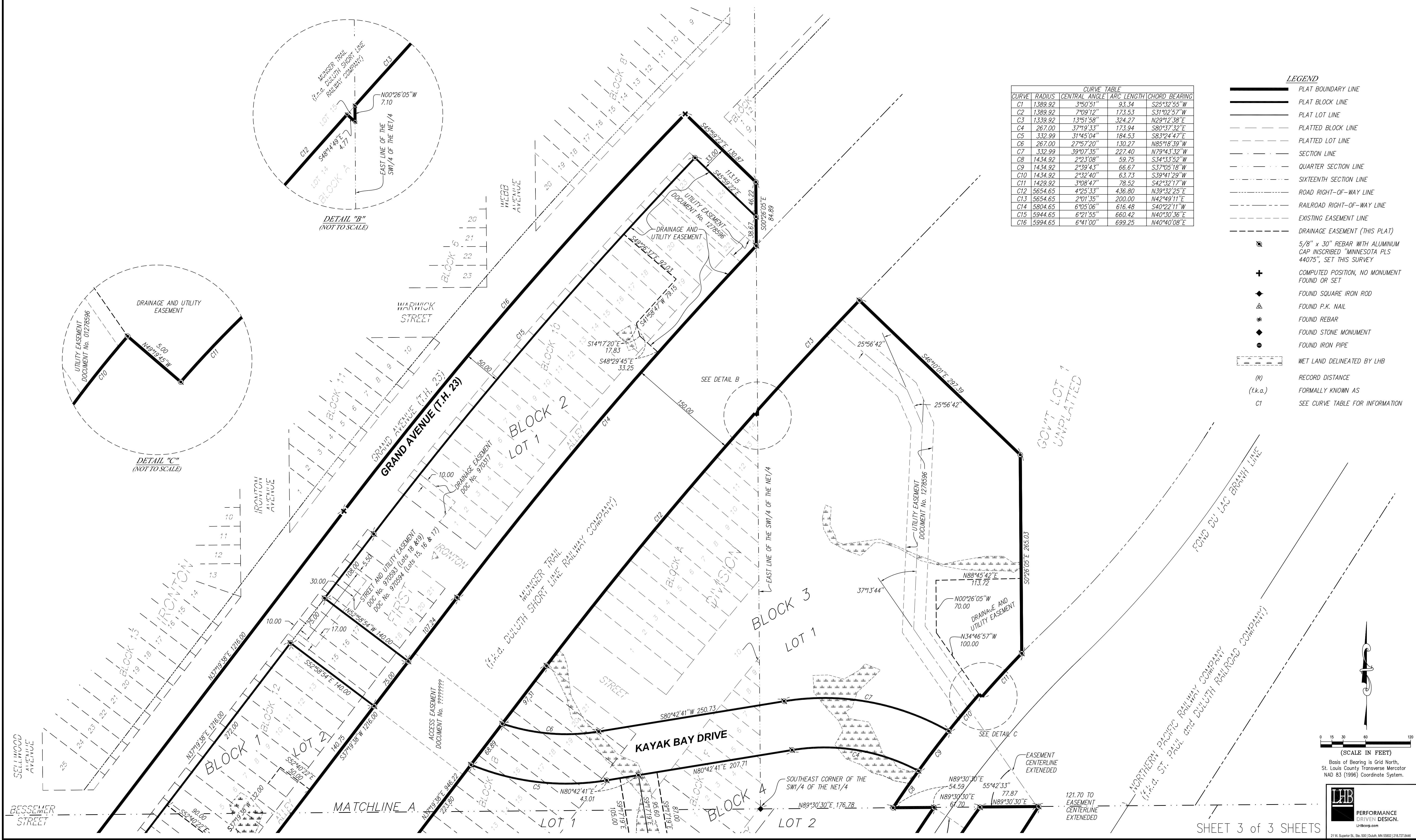
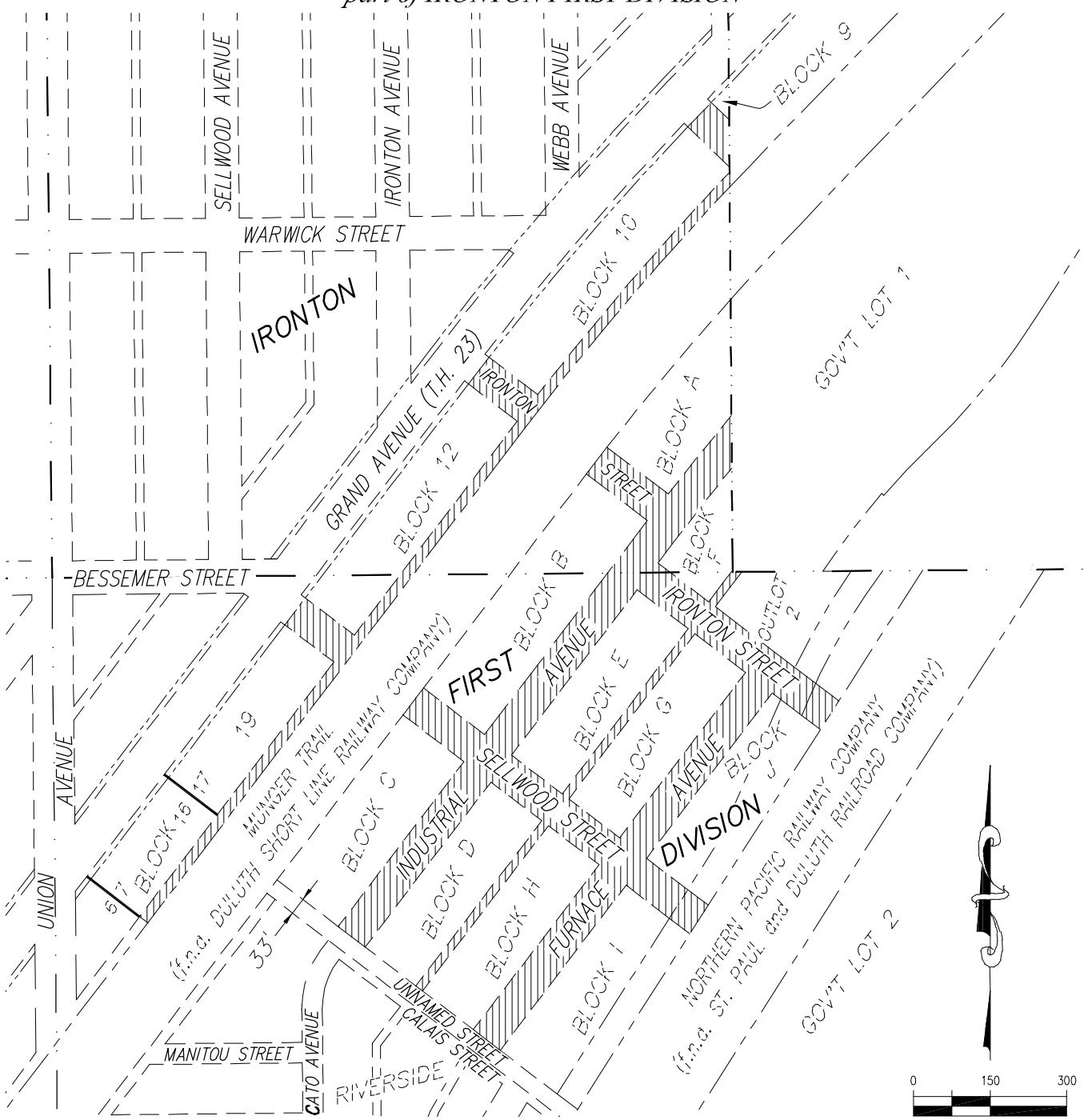


EXHIBIT B

VACATION EXHIBIT

part of IRONTON FIRST DIVISION



LEGEND
 = VACATION AREA

Basis of Bearing is Grid North,
 St. Louis County Transverse
 Mercator 96 Coordinate System.

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Print Name: Paul A. Vogel

License # 44075

Signature: 

Date: 06/07/2018

DATE PREPARED: 06/07/18

PROJ NO: 160239

FILE: 160239vStree

SHEET 1 of 1 SHEETS



PERFORMANCE
DRIVEN DESIGN.

LHBcorp.com

EXHIBIT

KAYAK BAY VACATION DESCRIPTION

DESCRIPTION:

All streets, avenues and alleys lying southeasterly of a line 10 feet southeasterly of, and parallel with, the northwesterly lines of Block 9, Block 10, Block 12 and that part of Lots 7 thru 31, Block 19, IRONTON FIRST DIVISION, City of Duluth, St. Louis County, Minnesota, said line hereinafter referred to as "Line A", excepting a 33 foot wide un-named street abutting Blocks C, D, H and I of said IRONTON FIRST DIVISION as shown on the attached Exhibit B.

TOGETHER WITH

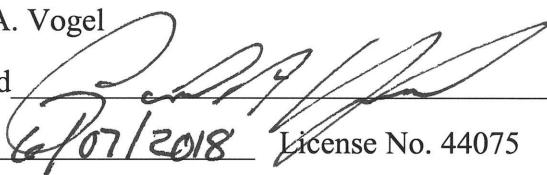
All easements in favor of the City of Duluth for Slopes or Retaining Walls and Fills affecting those portions of Block 9, Block 10, Block 12 and Block 19 lying northeasterly of the southwesterly line of Lot 17, said Block 19, all in IRONTON FIRST DIVISION, City of Duluth, St. Louis County, Minnesota, lying southeasterly of the aforementioned Line A.

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Paul A. Vogel

Signed

Date



License No. 44075

