



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

File Number	PL 23-052	Contact	Kyle Deming	
Type	Vacation of Drainage and Utility Easement	Planning Commission Date		April 11, 2023
Deadline for Action	Application Date	March 9, 2023	60 Days	N/A
	Date Extension Letter Mailed	N/A	120 Days	N/A
Location of Subject		Southwest of River West Dr. northwest of the railroad (Riverside)		
Applicant	River West Vacation Homes, LLC	Contact	Brad Johnson	
Agent		Contact		
Legal Description		Part of Lot 1, Block 4, Kayak Bay Plat (see attached Exhibit A)		
Site Visit Date		March 31, 2023	Sign Notice Date	March 28, 2023
Neighbor Letter Date		March 23, 2023	Number of Letters Sent	5

Proposal: Vacation of part of a drainage and utility easement in preparation for site development.

Staff Recommendation

Approval of the vacation, with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-P Mixed Use-Planned	Vacant	General Mixed Use
North	MU-P Mixed Use-Planned	Vacant	General Mixed Use
South	MU-P Mixed Use-Planned	Vacant	General Mixed Use
East	MU-P Mixed Use-Planned	Railroad	Open Space
West	MU-P Mixed Use-Planned	Vacant	General Mixed Use

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.

UCD Sec. 50-37.6.C – The Planning Commission shall review the proposed vacation, and 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. 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):

Governing Principles and Policies:

The following Imagine Duluth 2035 Governing Principles should be considered when reviewing the request:

- Governing Principle #7 – Create and maintain connectivity. The proposed vacation will reduce options for future public utility connectivity overall, but as site development details are now clearer, this easement will not be needed for public utilities.
- Governing Principle #8 – Encourage a mix of activities, uses, and densities. Vacation will facilitate site development consistent with the MU-P regulating plan with the vision for creating a mixed-use neighborhood.
- Governing Principle #9 – Support private actions that contribute to the public realm. Vacation will allow for the site development consistent with the MU-P regulating plan.

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.

Zoning

- Mixed Use-Planned: Provides a flexible development option for mixed use projects that integrate creative site design, provide a variety of building types, provide unique on-site amenities, conserve natural features, increase pedestrian connectivity, or otherwise result in a final product that provides a greater level of public benefit than would be required under the existing zone district. Each MU-P district requires approval of an MU-P regulating plan that includes the location, type, and intensity of proposed development and a description of public amenities or benefits included.

History:

- February 13, 2017, City Council approval of UDC Map Amendment to MU-P (PL 16-105) for Kayak Bay Village.
- March 14, 2017, Planning Commission approval of Preliminary Plat (PL 17-028).
- July 10, 2018, Planning Commission approval of Final Plat (PL 18-078).
- September 15, 2022, Land Use Supervisor approval of regulating plan amendment affecting Lot 2, Block 1, Kayak Bay.

Review and Discussion Items

Staff finds:

1. The proposal is to vacate the existing drainage and utility easement to facilitate development of Lot 1, Block 4, Kayak Bay. The original purpose for the drainage and utility easement was for the placement of a storm water basin to serve development on Lot 1, Block 4, Kayak Bay.
2. The original concept for development of Lot 1 was a single building and parking outside the easement area with a storm water basin in the southeast portion of the lot (see "Wetland Impacts Exhibit" within the attached Regulating Plan). The Revised Development Plan (see "Common Interest Community Number 159" drawing attached) shows development of 14 townhomes throughout the site with a smaller storm water basin in the southeast corner.
3. The revised plan retains the portion of the drainage and utility easement over the wetlands in the bottom of the ravine and uses retaining walls to hold back a proposed private driveway accessing some of the townhomes. The ravine conveys water, but is not an officially mapped stream, shoreland or floodplain.
4. City storm water engineer Tom Johnson commented, "The stormwater management requirements for the River West Development will be accomplished via privately owned stormwater management facilities that do not need to be in an easement. The facilities will need to be designed and constructed to City requirements and will be reviewed and approved. The drainage easement vacation will keep in place an easement over wetlands to be protected and for a drainage way"
5. The drainage and utility easement is not needed for its original purpose as the private storm water basin does not need to be located in a public drainage and utility easement. The portion of the easement remaining will still protect the wetland and drainage way in the ravine.
6. No other comments have been received on the proposed vacation.
7. Vacations of rights of way and easements 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 to City Council approval of the petitioned easement vacation, as petitioned, with the following condition:

1. The Council approve the vacation with at least a 6/9's vote.
2. Applicant must present a vacation exhibit meeting the City Engineer's requirements within 90 days of Planning Commission's recommendation or the application will be denied.
3. The vacation must be recorded within 90 days of final approval by City Council, or such approval will lapse.



Area Map

Legend

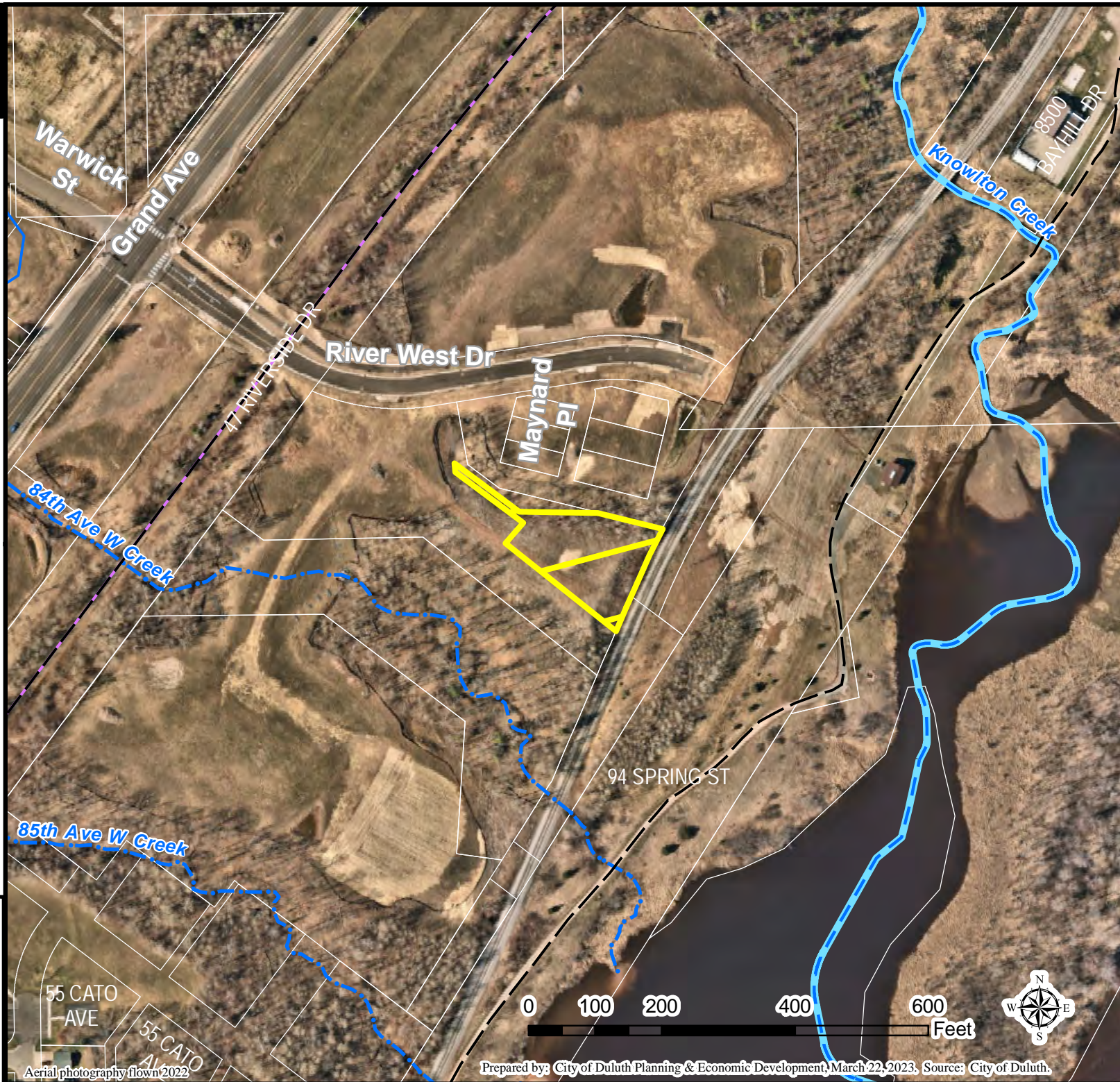
Streams

- Trout Stream (GPS)
- Other Stream (GPS)

Trails

- Multi-Use - Paved
- XC
- Multi-Purpose Snowmobile

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.





PL 23-052
Easement Vacation
Riverwest Vacation Homes, LLC

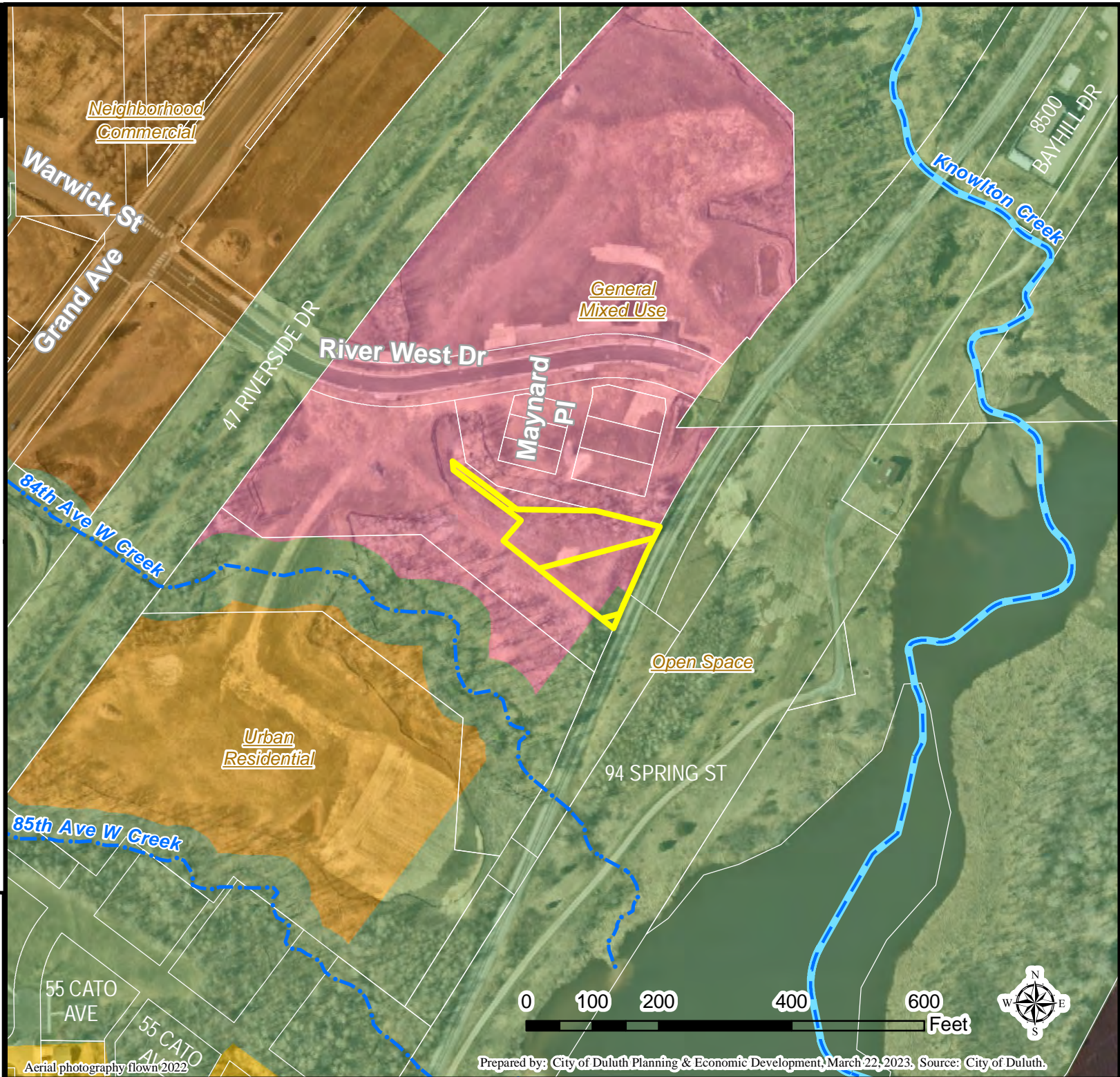
Future Land Use Map

Legend

Streams
— Trout Stream (GPS)
- - Other Stream (GPS)

Future Land Use
■ Open Space
■ Traditional Neighborhood
■ Urban Residential
■ Neighborhood Commercial
■ General Mixed Use

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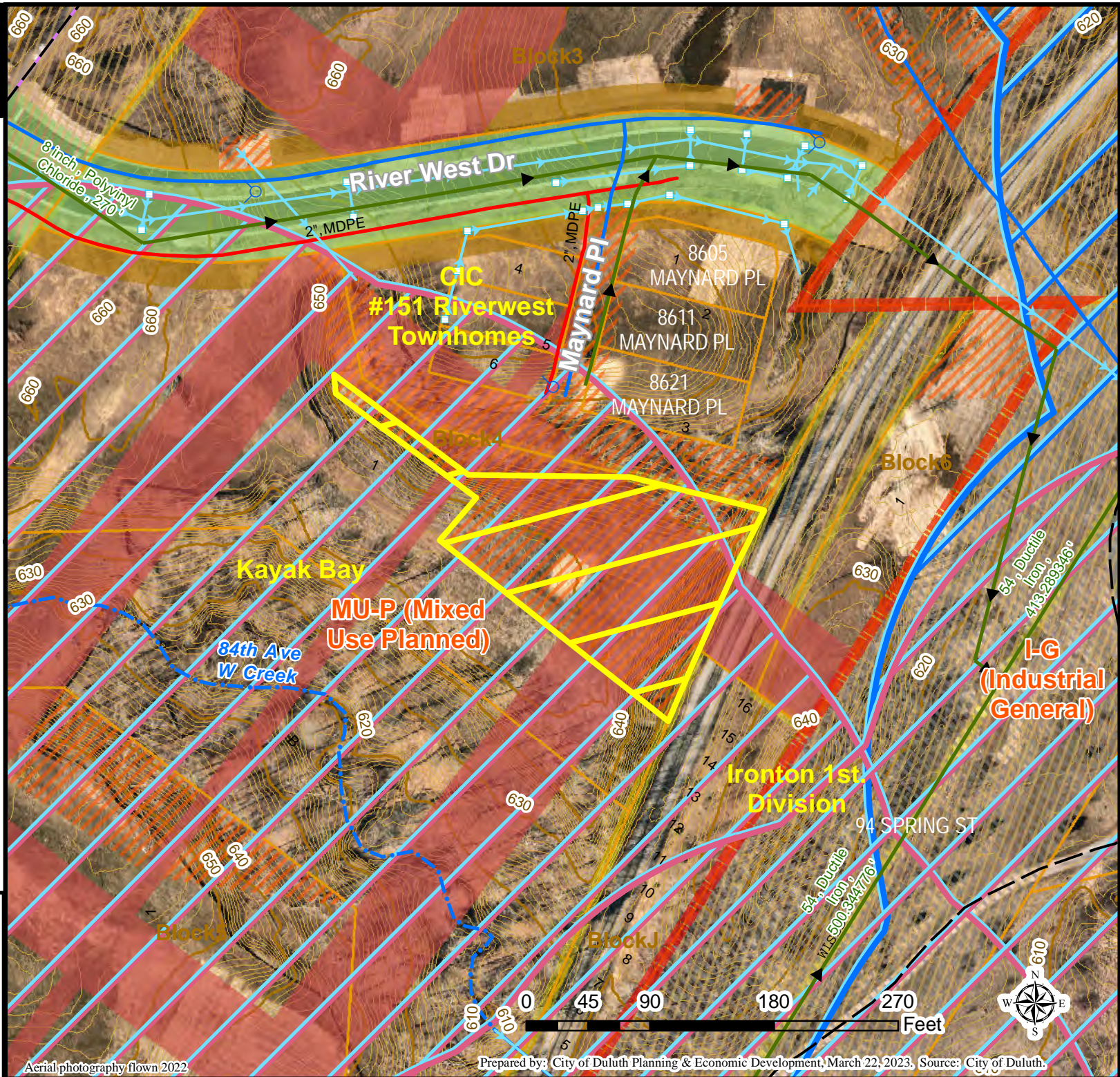
PL 23-052
Easement Vacation
Riverwest Vacation Homes, LLC

Site Map

Legend

- Zoning Boundaries
- Streams**
 - Other Stream (GPS)
- Shoreland (UDC)**
 - Cold Water
 - General Development
- Parcels**
 - Lots
 - Blocks
- Trails**
 - Multi-Use - Paved
 - Multi-Purpose Snowmobile
- Elevation**
 - 1 Ft contour
 - 10 Ft contour
- Distribution Main**
 - Water Main
 - Hydrant
 - Gas Main
- Sanitary Sewer Mains**
 - City of Duluth
 - WLSSD; Private
- Storm Sewer Mains**
 - Storm Sewer Pipe
 - Storm Sewer Catch Basin
 - Undefined ROW Status
- ROW Status**
 - Utility, Active
 - Railroad, Active
 - Access, Active - currently in use
 - Road, Active - currently in use
 - Road, Vacated - vacated
 - Subdivision Boundaries

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PL 23-052
Easement Vacation
Riverwest Vacation Homes, LLC

Site Map

Legend

Streams

- Other Stream (GPS)

Trails

- Multi-Use - Paved
- Multi-Purpose Snowmobile

Elevation

- 1 Ft contour
- 10 Ft contour

Distribution Main

- Water Main

- Hydrant

- Gas Main

Sanitary Sewer Mains

- City of Duluth
- WLSSD; Private

Storm Sewer Mains

- Storm Sewer Pipe
- Storm Sewer Catch Basin

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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

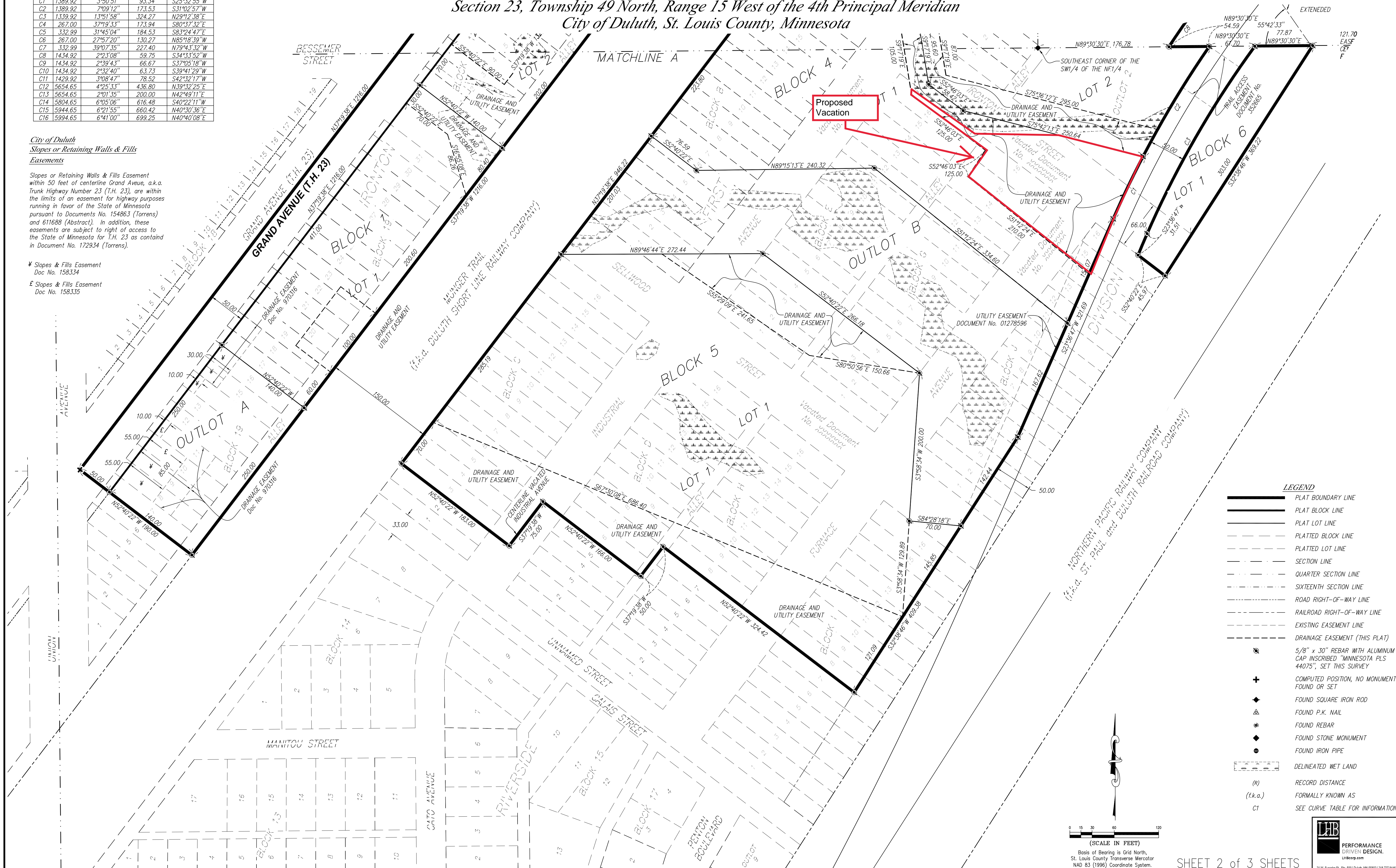
CURVE TABLE				
CURVE	RADIUS	CENTRAL ANGLE	ARC LENGTH	CHORD BEARING
C1	1389.92	3°50'51"	93.34	S25°32'55"W
C2	1389.92	7°09'12"	173.53	S31°02'57"W
C3	1339.92	13°51'58"	324.27	N29°12'38"E
C4	267.00	37°19'33"	173.94	S80°37'32"E
C5	332.99	31°45'04"	184.53	S83°24'47"E
C6	267.00	27°57'20"	130.27	N85°18'39"W
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°32'40"	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°22'11"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

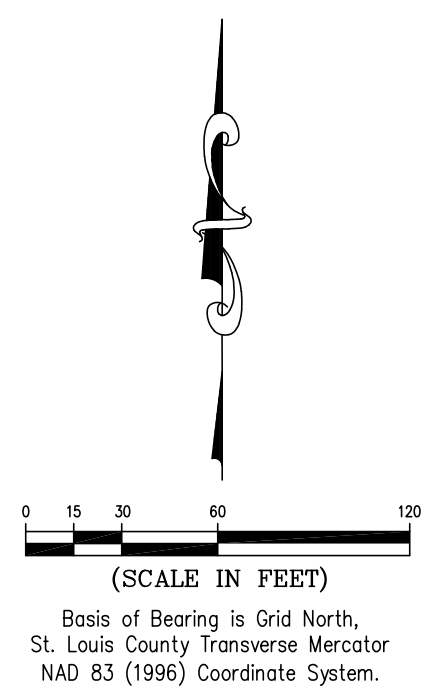
Slopes or Retaining Walls & Fills Easement
within 50 feet of centerline Grand Avenue, a.k.a.
Trunk Highway Number 23 (T.H. 23), are within
the limits of an easement for highway purposes
running in favor of the State of Minnesota
pursuant to Documents No. 154863 (Torrens)
and 611688 (Abstract). In addition, these
easements are subject to right of access to
the State of Minnesota for T.H. 23 as containd
in Document No. 172934 (Torrens).

✱ Slopes & Fills Easement
Doc No. 158334

✱ Slopes & Fills Easement
Doc No. 158335



- LEGEND**
- PLAT BOUNDARY LINE
 - PLAT BLOCK LINE
 - PLAT LOT LINE
 - PLATTED BLOCK LINE
 - PLATTED LOT LINE
 - SECTION LINE
 - QUARTER SECTION LINE
 - SIXTEENTH SECTION LINE
 - ROAD RIGHT-OF-WAY LINE
 - RAILROAD RIGHT-OF-WAY LINE
 - EXISTING EASEMENT LINE
 - DRAINAGE EASEMENT (THIS PLAT)
 - 5/8" x 30" REBAR WITH ALUMINUM CAP INSCRIBED "MINNESOTA PLS 44075", SET THIS SURVEY
 - COMPUTED POSITION, NO MONUMENT FOUND OR SET
 - FOUND SQUARE IRON ROD
 - FOUND P.K. NAIL
 - FOUND REBAR
 - FOUND STONE MONUMENT
 - FOUND IRON PIPE
 - DELINEATED WET LAND
 - (R) RECORD DISTANCE
 - (f.k.a.) FORMALLY KNOWN AS
 - C1 SEE CURVE TABLE FOR INFORMATION



VACATION EXHIBIT

Commencing at the northeast corner of Lot 1, Block 4, KAYAK BAY; thence South 80 degrees 42 minutes 41 seconds West along the north line of said Lot 1, a distance of 25.00 feet to the southwesterly line of an existing utility and drainage easement per plat of KAYAK BAY; thence South 09 degrees 17 minutes 19 seconds East along said southwesterly line, a distance of 92.00 feet to the Point of Beginning of the line to be described; thence South 43 degrees 52 minutes 00 seconds East, a distance of 18.00 feet; thence South 51 degrees 10 minutes 08 seconds East, a distance of 84.00 feet; thence South 88 degrees 05 minutes 16 seconds East, a distance of 132.00 feet to the northeasterly line of said Lot 1, Block 4; thence South 75 degrees 42 minutes 13 seconds East along said northeasterly line, a distance of 108.16 to the most easterly corner of said Lot 1, Block 4 feet and said line there terminating.

CITY ENGINEER



EXHIBIT A

VACATION DESCRIPTION:

That part of a Drainage and Utility Easement per plat of KAYAK BAY, Saint Louis County, Minnesota, affecting Lot One (1), Block Four (4), said KAYAK BAY, lying southerly of following described line:

Commencing at the northeast corner of Lot 1, Block 4, KAYAK BAY; thence South 80 degrees 42 minutes 41 seconds West along the north line of said Lot 1, a distance of 25.00 feet to the southwesterly line of an existing utility and drainage easement per plat of KAYAK BAY; thence South 09 degrees 17 minutes 19 seconds East along said southwesterly line, a distance of 92.00 feet to the Point of Beginning of the line to be described; thence South 43 degrees 52 minutes 00 seconds East, a distance of 18.00 feet; thence South 51 degrees 10 minutes 08 seconds East, a distance of 84.00 feet; thence South 88 degrees 05 minutes 16 seconds East, a distance of 132.00 feet to the northeasterly line of said Lot 1, Block 4; thence South 75 degrees 42 minutes 13 seconds East along said northeasterly line, a distance of 108.16 to the most easterly corner of said Lot 1, Block 4 feet and said line there terminating.

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 03/02/2023 License No. 44075

Revised Development Plan

COMMON INTEREST COMMUNITY NUMBER 159

Planned Community

RIVERWEST TOWNHOMES II

Being all of Lot 1, Block 4, KAYAK BAY, St. Louis County, Minnesota

This Common Interest Community Plat is part of the Declaration recorded as Document No. _____ on the _____ day of _____, 20____.

Wendy Leifert
St. Louis County Recorder

This Common Interest Community Plat is part of the Declaration recorded as Document No. _____ on the _____ day of _____, 20____.

Wendy Leifert
St. Louis County Registrar of Titles

Proposed
Vacation

UTILITIES AND IMPROVEMENTS - MUST BE BUILT

Note: Improvements shall meet the standards of the City of St. Louis, Missouri, and the State of Missouri.

- BURIED SANITARY SEWER
- BURIED SANITARY SEWER SERVICE
- BURIED STORM
- BURIED WATER
- BURIED WATER SERVICE
- STORM MANHOLE
- SANITARY MANHOLE
- CATCH BASIN (SQUARE)
- CATCH BASIN (ROUND)
- WATER VALVE
- HYDRANT
- CLEAN OUT
- CURB & GUTTER
- BITUMINOUS SURFACE
- FILTRATION POND TAIL



LEGEND

- PLAT BOUNDARY LINE
- PLAT UNIT BOUNDARY
- EXISTING BLOCK LINE
- EXISTING LOT LINE
- EXISTING EASEMENT LINE
- QUARTER SECTION LINE
- SIXTEENTH SECTION LINE
- 5/8" x 30" REBAR WITH ALUMINUM CAP INScribed "MINNESOTA PLS 44025"

RIVERWEST DEVELOPMENT MU-P REGULATING PLAN

On Grand Avenue Corridor
Duluth, MN

City of Duluth, MN
Planning Department Submittal
August 31, 2022

<i>This plan has been reviewed and approved by the City of Duluth Land Use Supervisor.</i>	
	
Land Use Supervisor Signature	Date

Prepared for:
Spirit Valley Land Company LLC

LHB Project:150444



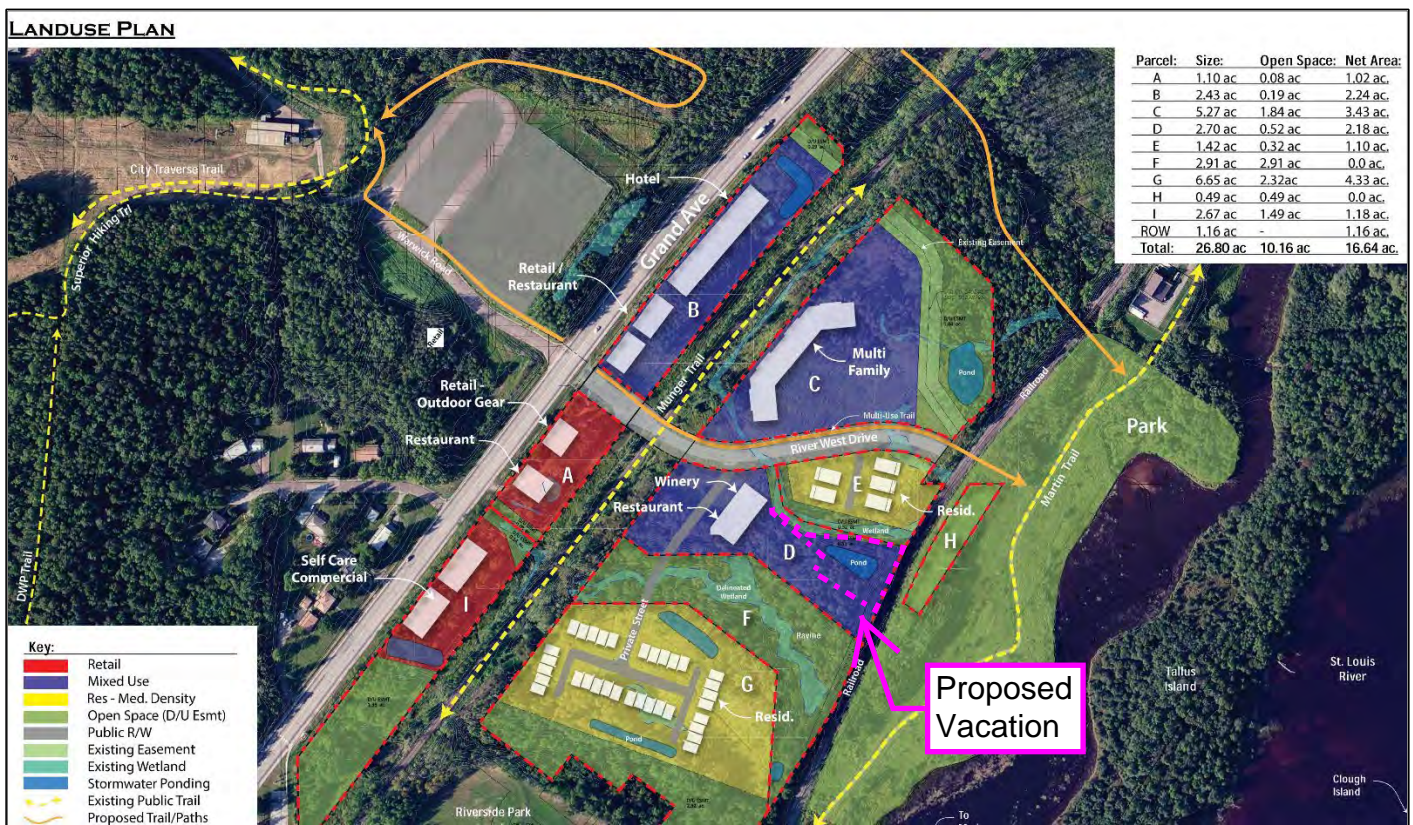
PERFORMANCE
DRIVEN DESIGN.

LHB Inc.
21 West Superior Street
Suite 500
Duluth, MN 55802

A. Development Land Use Plan

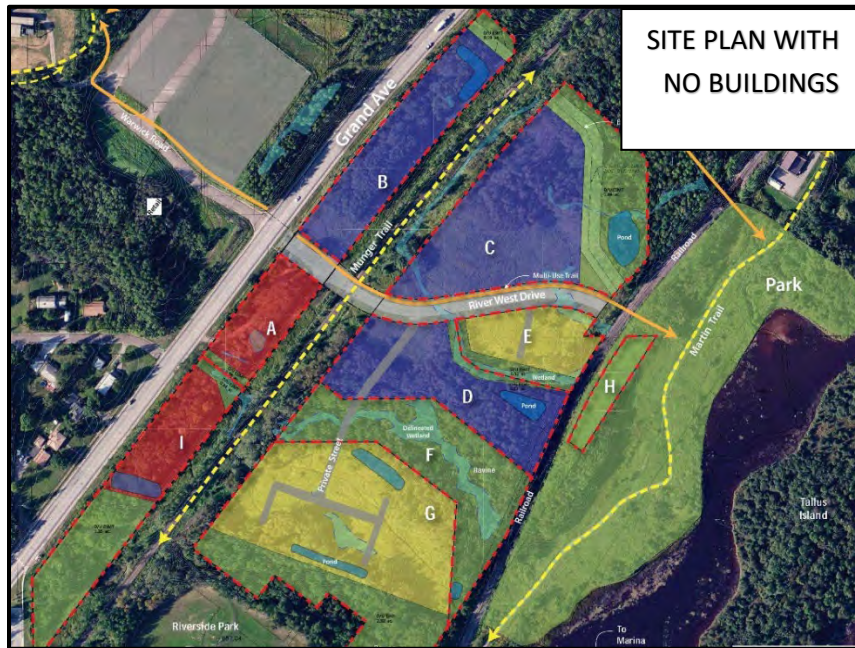
Below is a master plan illustrating the general layout of development areas and building parcels in relation to the natural features to remain, the proposed road and trails circulation systems, and proposed land use for each parcel. All regulation and code related items are included in the following pages.

Please note, if any code-related item is not specifically called out in the following pages, it is assumed that the code-related item will comply with the City of Duluth's UDC. All signage and site lighting will comply with the UDC standards. All landscaping, including parking lot landscaping, will also be in accordance with UDC standards.

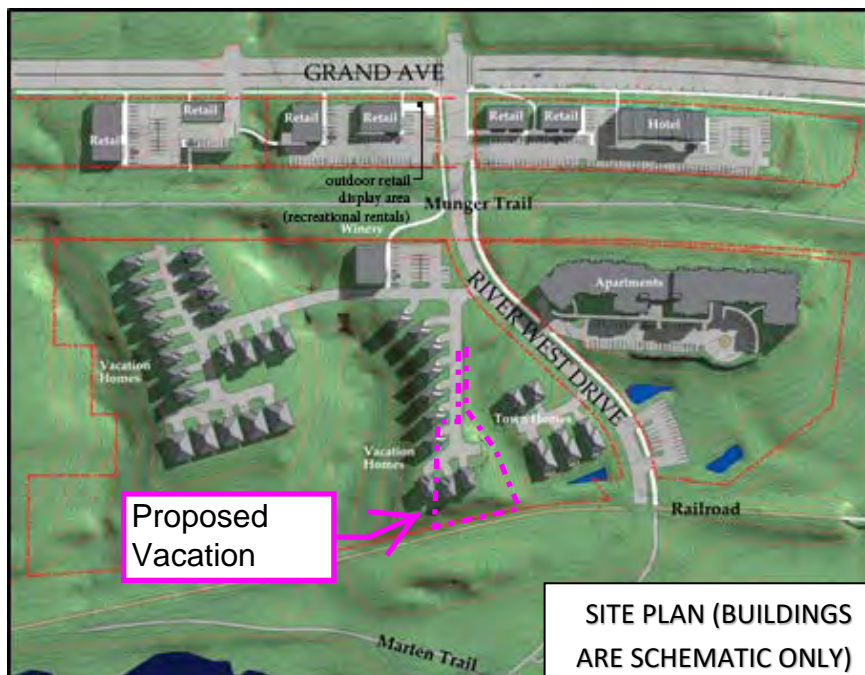


A1. Potential Site Plan Layout

Below are two site plan layouts illustrating the most recent potential development scheme. Each lot will need to go through a detailed site plan review so what is illustrated below is preliminary and subject to change.



Please note, the two access points into the development off of Grand Avenue shown below were already installed by MnDOT in 2021 as part of the Trunk Highway 23 roadway improvements project. Building placements are for schematic purposes only and will change during site plan review. Outdoor retail display area for recreational rentals, such as bikes and kayaks, are illustrated below for potential outdoor adventure retailer.



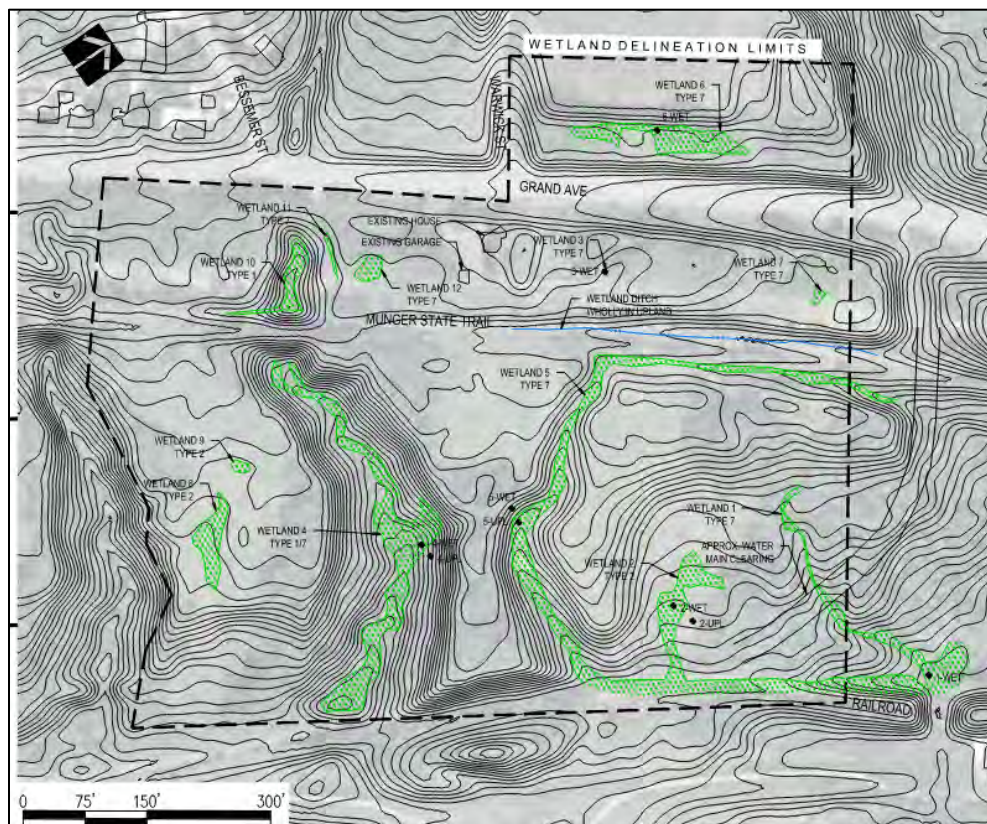
F. Natural Resources Inventory

Prior to a conceptual plan being created, a wetland delineation and comprehensive tree survey were conducted to mark natural resources within the site. With that information in hand, the overall concept plan was designed with sustainability in mind, as most wetlands have been avoided to the best extent possible and the preservation of mature vegetation and natural drainage ways have also been taken into consideration. The placement of future buildings have been sited to minimize earth-moving activities and take advantage of certain viewsheds to the river, as well as climatic conditions such as western exposures for daylighting and solar heat gain.

Approximately 16.64 acres (or 62%) of the MU-P property are planned for mixed-use development out of the total 26.80 acres of land. The balance of the site, which is approximately 10.16 acres (or 38%) will remain in its natural condition and/or will be designated as open green space, and consists of mature wooded vegetation and wetlands on varied topography. The majority of the ravines and naturally occurring wetlands will be undisturbed, allowing the diverse landscape to continue to act as a rich ecological feature benefiting local wildlife, and the surrounding environment.

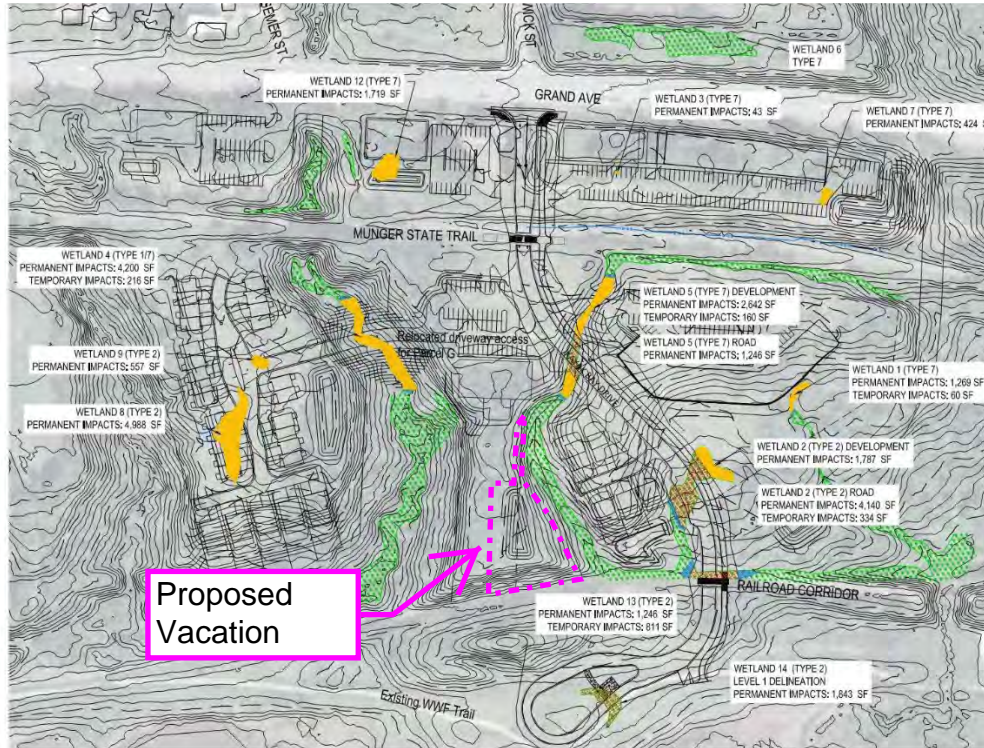
Below is a wetland delineation exhibit showing the natural drainage ways that drain from Grand Avenue towards the St. Louis River. The majority of these wetlands and drainage ways will be preserved in the RiverWest development project as evidenced on the Wetland Impacts Exhibit on the following page.

WETLAND DELINEATION EXHIBIT



Original Development Concept

WETLAND IMPACTS EXHIBIT



SITE PLAN FOR WETLAND IMPACTS



KAYAK BAY
DULUTH, MN

- PERMANENT WETLAND IMPACTS FOR DEVELOPMENT = 17,629 SF
- PERMANENT WETLAND IMPACTS FOR PUBLIC ROAD = 8,475 SF
- TEMPORARY WETLAND IMPACTS (COMBINED OVERALL) = 1,581 SF

As part of the project requirements, the development must contract with a certified professional to perform post road/grading site inspection to verify that wetland impacts and tree preservations were done in accordance with the proposed plans. In accordance with these requirements, the public road that was already installed by the City, was built per plan and field inspected by MSA Professional Services, Inc, and the mass grading and utility work that occurred as part of the site preparation was done per plan and inspected by LHB during the 2021 construction season.

G. Common Open Space

The RiverWest MU-P Regulating Plan strives to maximize the natural beauty and ecological features of the site while also providing new public amenities to the St. Louis River Corridor community and nearby neighborhoods. Public access will be allowed but will be limited to access via trail and/or the public road. The areas shown in green on the concept plan are considered common open space and total 38% of the total land area (this only includes areas outside of the right-of-ways). Protection and maintenance of the open spaces will be the responsibility of the private landowners.

Lot A (1.10 ac) = Total common open space is **.08 acres (or 7%)**

Lot B (2.43 ac) = Total common open space is **.19 acres (or 7.8%)**

Lot C (5.27 ac) = Total common open space is **1.84 acres (or 35%)**

Lot D (2.70 ac) = Total common open space is **.52 acres (or 19%)**

Lot E (1.42 ac) = Total common open space is **.32 acres (or 23%)**

Lot F (2.91 ac) = Total common open space is **2.91 acres (or 100%)**

**includes stormwater pond for adjacent parcels D & G*

Lot G (6.65 ac) = Total common open space is **2.32 acres (or 35%)**

Lot H (0.49 ac) = Total common open space is **.49 acres (or 100%)**

**includes storage /parking/temporary service areas*

Lot I (2.67 ac) = Total common open space is **1.49 acres (or 56%)**

H. Permitted and Special Uses

Below is a list of permitted uses within the MU-P by Parcel:

Parcels A & I (Retail/Commercial)

- Dwelling: townhouse, multi-family, live-work, single-family
- Bank
- Office
- Medical or Dental Clinic
- Lodging (Hotel or Motel)
- Restaurant (less than 5,000 sf with or without drive-thru)
- Restaurant (5,000 sf or more with or without drive-thru)
- Retail store less than 10,000 sf
- Filling Station (with or without convenience store)
- Garden Material Sales
- Personal Services or Repair, large more than 10,000 sf
- Personal Services or Repair, small less than 10,000 sf
- Event Center
- Preschool
- Parking Lot
- Personal Care

Parcels B, C, & D (Mixed-Use)

- Dwelling: townhouse, multi-family, live-work, single-family
- Bank
- Office
- Medical or Dental Clinic
- Lodging (Hotel or Motel)
- Vacation Dwelling Community*
- Restaurant (less than 5,000 sf with or without drive-thru)
- Restaurant (5,000 sf or more with or without drive-thru)
- Retail store less than 10,000 sf
- Filling Station (with or without convenience store)
- Garden Material Sales
- Winery/Brewery
- Personal Services or Repair, large more than 10,000 sf
- Personal Services or Repair, small less than 10,000 sf
- Event Center
- Preschool
- Parking Lot
- Personal Care