

**CITY PLANNING DIVISION
VACATION REPORT REVISED (7/8/08)**

**Staff: Lynn Ann Hollatz
Meeting Date: July 8, 2008**

1. APPLICANT: John Hovland
White Pine Development
101 Chase Ave.
Duluth, MN 55804

2. PROPOSED USE: For Eastridge development north of off-Highway #61 Expressway

3. VACATION REQUESTED: FN 08063
72nd Ave. East, 73rd Ave. East, 74th Ave. East, 75th Avenue East, and 76th Avenue East, Oakley St., Avondale St., and all alleys in Lakeview Manor Division and Chase Avenue at the Intersection of Hwy. 61 Right-of-Way to Hoover Street and from Avondale Street to Oakley Street), Hoover St. east of Chase Avenue, and Hollister St. east of 72nd Ave. East and all alleys in Lakeview Manor Division in Brighton Gardens First Division (in Eastridge Preliminary Plat).

4. LOCATION: Eastridge Development Preliminary Plat (north of Hwy. 61 Expressway, and about 1 1/2 miles east of Lester River) Located in the NE 1/4 of the SE 1/4 North of Highway #61 and the SE 1/4 of the NE 1/4 except Lot 28, Block 3 of Lakeview Manor in Section 33 and the South Half of the NW 1/4 North of Highway #61 in Section 34, T51N, R11W, City of Duluth, St. Louis County, Minnesota

5. LEGAL DESCRIPTION: 72nd Avenue East, 73rd Avenue East, 74th Avenue East, 75th Avenue East, 76th Avenue East and that part of Chase Avenue, Oakley Street, Avondale Street, and all alleyways, in Lakeview Manor Division; Hollister Street between 72nd Avenue East and Highway 61 MNDOT right-of-way, in Brighton Gardens Second Division; and Chase Street Avenue from Highway 61 MNDOT right-of-way to Hoover Street and Hoover Street From Chase Avenue to Highway 61 Expressway in Brighton Gardens First Division.

6. NUMBER OF SURROUNDING PROPERTY OWNERS NOTIFIED: 34

7. FIELD INSPECTION: By Planning Department Staff

8. REASON FOR VACATION: The applicant states the following, "This request for these street vacations will allow the new streets of Eastridge to be platted. The City of Duluth will not need these streets because there will be new streets in the new plat of Eastridge." (see attached map)

9. REACTIONS FROM VARIOUS AGENCIES, GROUPS AND INDIVIDUALS:
 - a) ~~Environmental Advisory Board letter (attached)~~
 - b) a) Letter from Mark Fitzgibbons, adjacent property owner along Chase Avenue (attached)
 - e) b) Comments from city engineer - Require that any vacated Right of way for public utility will need to be granted in the new streets, vacate alleys also. Will vacation hinder access to Lots on Hwy. 61? Does this take away frontage? (See conclusions below.)

Planning Commission: Action _____ Date July 8, 2008
 City Council: Action _____ Date _____
 Planning Staff: Lynn Ann Hollatz
 FN 08063

10. DISCUSSION:

- a) Vacating Chase Avenue between Hoover Street and the MNDOT right-of-way/Chase intersection would take away access and street frontage to Lots 32, 34, and 35, Block 1, Brighton Gardens First Division. The applicant has had the opportunity purchase these properties and has chosen not to. MNDOT representatives have indicated to Planning staff that an easement across the MNDOT 61 right-of-way/Chase Avenue intersection Brighton Gardens, First Division, could be possible in the future.
- b) No access is currently available to lot 28, Block 3, Lakeview Manor; however, pedestrian access may be available via the new plat as Mr. Hovland has suggested.
- b) ~~Vacating Chase Avenue between Avondale Street and the MNDOT 61 right of way/ Chase Avenue intersection, Brighton Gardens First Division, 74th Avenue East to Avondale, and Avondale from 74th Avenue East to Chase Avenue, Lakeview Manor Division, would eliminate any access and street frontage for Lot 28, Block 3, Lakeview Manor Division on 74th Avenue East, not owned by the applicant.~~
- c) On April 4, 2008, DEDA approved a land sale agreement (DEDA Resolution 08D-18), for tax-forfeit land to be attained by the applicant for Eastridge Development. A list of conditions specified in the agreement was to be met before the sale was finalized. (See attached) Included in this list is that the streets in the new Eastridge Plat be publicly owned. According to the DEDA land sale agreement, unless the Executive Director of DEDA amends the contract, the applicant will ensure that all new streets will be public, that they will provide the general public pedestrian, vehicular and bicycle access to an 80-acre City park referred to as Moose Mountain, and to the undeveloped parcel east of Moose Mountain, and will dedicate a conservation easement over at least 50 acres of the site that will prevent its future development. The applicant has also stated that all of his property east of Chase Avenue will be dedicated green space, so it would not be necessary to vacate Chase Avenue between Hoover Street and the MNDOT right-of-way/Chase Avenue intersection.

STAFF RECOMMENDATION:

- a) ~~Since street frontage to Lot 28 Block 3, Lakeview Manor Division, property not owned by applicant along 74th Avenue East, or Lots 32, 34 and 35, Block 1, Brighton Gardens, First Division is needed, vacate Avondale east of 74th Avenue East, Chase Avenue between Avondale Street and MNDOT right of way at Chase Avenue, or 74th Avenue East, on the condition that an alternative frontage and access to these properties, acceptable by the Planning Department, is provided in the new Eastridge Plat.~~ Provide pedestrian access to Lot 28, Block 3, Lakeview Manor Division, property not owned by applicant along 74th Avenue East, or Lots 32, 34 and 35, Block 1, Brighton Gardens, First Division is needed, vacate Avondale east of 74th Avenue East, Chase Avenue between Avondale Street and MNDOT right of way at Chase Avenue, or 74th Avenue East, on the condition that an alternative frontage and access to these properties, acceptable by the Planning Department, is provided in the new Eastridge Plat.
- b) ~~Do not vacate 74th Avenue East, Avondale Street from 74th Avenue East to Chase Avenue, and Chase Avenue between Avondale Hoover Street and the MNDOT right-of-way/Chase Avenue Intersection on the condition that an alternative frontage for property on Lot 28, Block 3, Lakeview Manor, acceptable to the Planning Department, is provided in the new Eastridge Plat.~~ Do not vacate 74th Avenue East, Avondale Street from 74th Avenue East to Chase Avenue, and Chase Avenue between Avondale Hoover Street and the MNDOT right-of-way/Chase Avenue Intersection on the condition that an alternative frontage for property on Lot 28, Block 3, Lakeview Manor, acceptable to the Planning Department, is provided in the new Eastridge Plat.

Planning Commission: Action _____ Date July 8, 2008
City Council: Action _____ Date _____
Planning Staff: Lynn Ann Hollatz
FN 08063

- e) ~~Vacate Chase Avenue between Hoover Street and the MNDOT right-of-way/Chase Avenue Intersection., on the condition that #2 above is met and if alternative access and frontage to Lots 32, 34, and 35, Block 1, Brighten Gardens, First Division, acceptable to the Planning Department, is provided in the new Eastridge Plat.~~
- d)-c) Vacate all other streets and alleys as requested, on the condition that the Planning Department has determined that all conditions of the April 4, 2008, DEDA approved a land sale agreement (DEDA Resolution 08D-18), for tax-forfeit land to be attained by the applicant for Eastridge Development have been met.
- e) d) Vacate streets within the subject property on the condition that public utility and pedestrian easements are provided within the new street right-of-ways of the new Eastridge Plat.

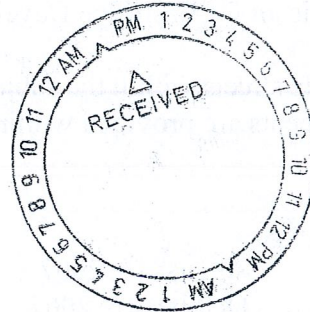
APPENDIX

Project Status:

FN 07101	August 16, 2007	Wetland delineation (PD)
FN 07135	October 16, 2007	Preliminary Plat Approval (PC)
FN 07156	November 26, 2007	Reclassification of Tax Forfeit Land (City Council)
FN 07159	April 4, 2008	Sale of City Parkland in Lakeview Manor (CC)
FN 08027	May 10, 2008	Eastridge preliminary plat (PC)
FN 08027	June 19, 2008	Low Dens. Planned Dev. Spec. Use Permit (CC)
	Pending	City Engineer sign-off
08D-18	April 4, 2008	Sale of DEDA land (CC)
FN 08063	Pending	Vacation of Streets in Eastridge Plat (PC 7/8, CC 7/21)
FN 08064	Pending	Variance for Streets in Eastridge Plat (PC 7/8, CC 7/21)
FN	Due 7/3	Water Resource Management Ordinance (WRMO) storm water management plan (PC 8/12)
FN	Due 7/3	Wetland delineation amendment (PD)
FN	Due 6/30	Wetland replacement plan permit (MN)
FN	Due 6/30	Final Plat Approval (PC decision 8/12)
Application needed Pending—		Permit for Water System

Planning Commission: Action _____ Date July 8, 2008
 City Council: Action _____ Date _____
 Planning Staff: Lynn Ann Hollatz
 FN 08063

June 25, 2008



Planning Commissioners
City of Duluth Planning Department
411 West First Street Room 402
Duluth MN 55802

Dear Commissioners:

Regarding: File Number 08063 Eastridge Development Street Vacations

I strongly object to the vacation of streets for the Eastridge Development. I own Lots 34 and 35 of Block 1 in Brighton Gardens First Division, and the vacation of Chase Avenue would prevent the ability to have access to these lots. It is my understanding that vacations of public right-of-ways should be considered only if there is no current or future public need. Since Chase Avenue could be developed to serve myself and other landowners in the area, these street vacations should not be allowed.

Early on in the planning process for this development, Mr. Hovland expressed an interest in purchasing the lots from me; however, he has not made any offers since that time. It appears he will purchase them only if he absolutely must, despite the fact that his plans for the development would preclude me from the use of my own lots. I respectfully request you recommend denial of this vacation request.

Respectfully,

Mark Fitzgibbons
15 North Third Avenue West
Duluth MN 55802
218-727-8906

III C 4

ACTIONS OF THE CITY PLANNING COMMISSION

FN 08026, Eastridge Estates Preliminary Plat APPROVED WITH CONDITIONS, April 8, 2008

CONDITIONS:

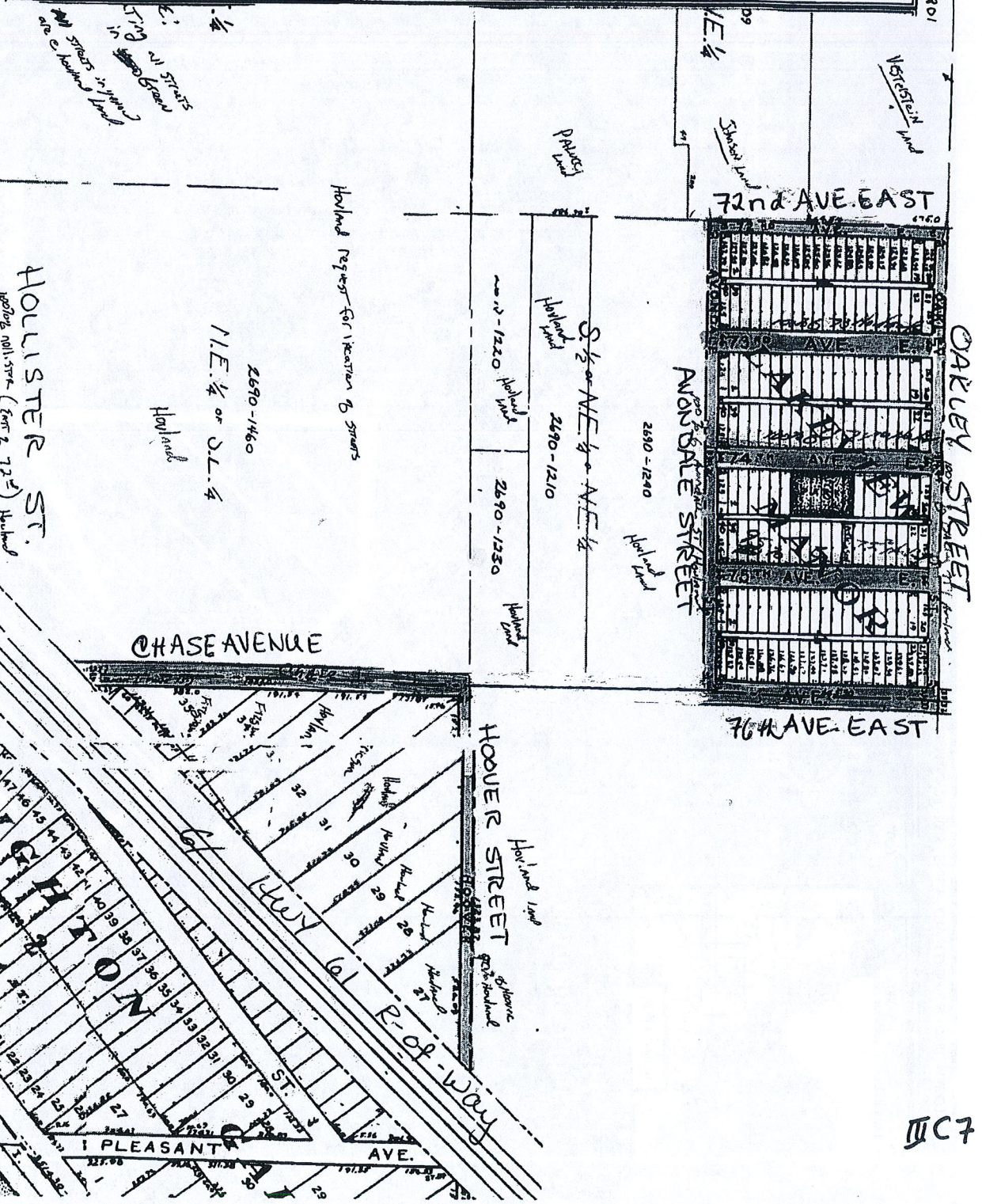
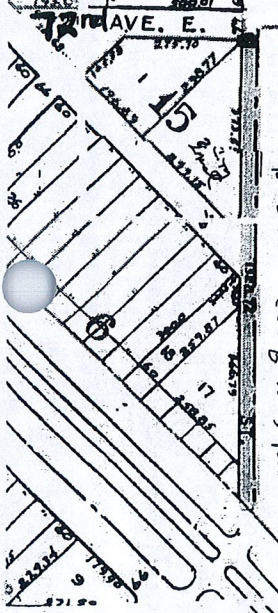
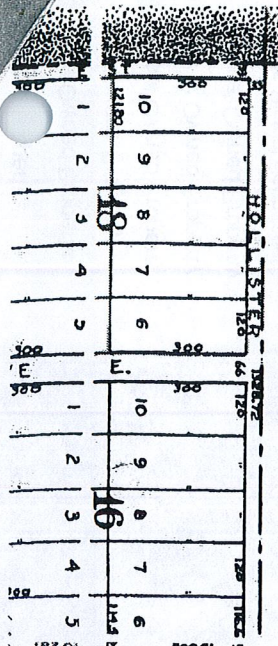
- A. The applicant must provide evidence of sufficient title interest in the property to be platted.
- B. The applicant must secure a Low Density Planned Development Special Use Permit that allows building lots to be clustered on part of the site while reserving the balance of the site as permanent open space.
- C. The applicant must petition to have all underlying streets, alleys, and easements vacated in the area to be platted.
- D. The applicant must submit to the City Planning Department the Phase I site evaluation and preliminary layout report and adjust lot boundaries to accommodate the septic systems for each lot.
- E. The applicant require the use of septic systems with additional pretreatment of septic tank effluent before dispersal, such requirements to be specified in Covenants placed on lots or similar mechanism.
- F. The applicant provide documents that contain a wastewater management and maintenance plan for each lot and the assignment of the responsibility for implementation to a qualified third party and any necessary Covenants or homeowners' association requirements to accomplish it.
- G. The applicant will provide documents in finished form and have received preliminary approval by an approved conservation easement holder for the portions of the plat to remain open space.
- ~~H. The depth of Lots 17-23 be reduced in order to meet the conservation subdivision requirements in the Comprehensive Plan (See Section III - C above).~~
- ~~I. The applicant increase by at least 15 acres the size of the outlots that comprise the designated open space in the Final Plat.~~
- ~~J. The applicant adjust lot lines in the Final Plat so that, with an average frequency of every 400-600 feet along the roadway, there be a minimum 20 foot wide gap in the lots for trail connections and that these be in the form of outlots to be held by the homeowners' association and NOT through easements on private lots.~~
- ~~K. The applicant adjust lot lines in the Final Plat so that a minimum 20 foot wide outlot be dedicated along the west and north edges of the plat in order to allow for pedestrian circulation.~~
- L. The applicant will work with the City to resolve both the design and ownership of the street rights of way in the plat in order to:
 - 1. Ensure guaranteed public access to Moose Mountain for pedestrians, bicycles, and vehicles,
 - 2. Provide public access to the land east of Moose Mountain for connection to a possible development on that site. Applicant need not improve access beyond the cul du sac and may require the developer of the land to the east to endte into agreements requiring the developer and its successors and assigns to share the cost of maintaining the road.
 - 3. Utilize as many conservation design techniques as possible in the road design.
- ~~M. The applicant will adjust lot boundaries on Lots 11-15 and 17-23 to more closely match wetland corridors and placing the wetland corridors in common ownership (outlots):~~
- N. The applicant will secure the appropriate access permits for access to T.H. 61.
- O. The applicant and City staff will come to an agreement on the appropriate width and configuration of rights of way in the plat.
- P. The applicant work with City Planning staff select street names that match the pattern of

- the area and City and other requirements.
- Q. The applicant will work with the City Engineering Division to design the water system to a level of detail that will show where utility easements will be necessary to cover the municipal water system.
 - R. The applicant will apply for the appropriate wetland permits related to road and lot development wetland impacts.
 - S. The applicant will have shown on the plat all delineated wetlands approved by the Wetland Conservation Act Technical Evaluation Panel.
 - T. The applicant must provide in finished form, ready for recording, the Declarations, Covenants, and Deed Restrictions for all lots and the entire subdivision. These documents must show compliance with all required items listed in the "Conclusions and Recommendations" section above as well as all other platting regulations and the Comprehensive Plan.
 - U. The applicant must provide in finished form the Articles of Incorporation for the homeowners' association and related documents.

(51+19)

(Revised Map) DATE: ~~June 25~~, 2008
July 8

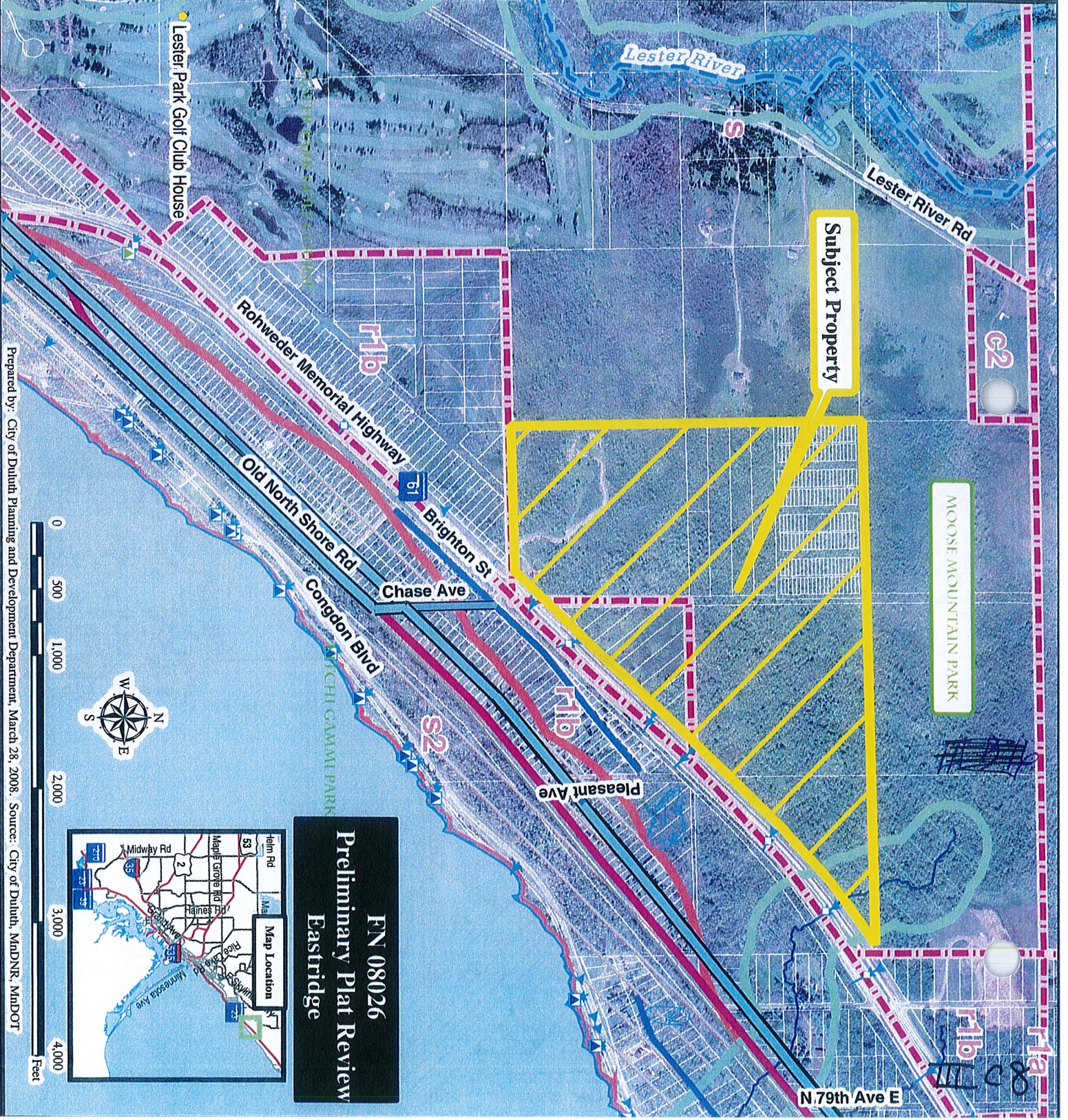
APPLICANT: John Hovland, White Pine Development
 PLANNING COMMISSION PUBLIC HEARING DATE: July 8, 2008
 REQUEST: Request for Street Vacations in proposed Eastridge Estates Plat
 LEGAL DESCRIPTION:
 The following streets in proposed plat of Eastridge Estates: 72nd Avenue East, 73rd Avenue East, 74th Avenue East, 75th Avenue East, Oakley Street, and Avondale Street, all in Lakeview Manor Plat and Chase Avenue (north of Highway 61), and Hoover Street and Hollister Street (east of 72nd Avenue East)
 PURPOSE: For new street development in proposed Eastridge Estates
 FILE NO: 08063 PLANNING & DEVELOPMENT - CITY OF DULUTH



III C7

Legend

- Subject Property
- State Owned Property
- City Owned Property
- School Owned Property
- County Owned Property
- Federal Owned Property
- Zoning District Boundaries
- Shoreland Management Zones
 - Natural Environment
 - Recreational Development
 - General Development- Class 1
 - General Development- Class 2
- 10' Contour (elev. change)
- Wetland (NRR1)
- Floodplain (FEMA)
- Northern Hardwoods (NRR1)
- Coniferous Forests (NRR1)
- Trout Stream (DNR)
- Other Stream (DNR)
- Storm Sewer Pipes
- Storm Sewer Catch Basin
- Sanitary Sewer
 - Gravity Main (Interceptor)
 - Gravity Main (Collector)
 - Pump Station
 - Pressurized Main
- Water System
 - >20" Gravity Main
 - 10"-20" Gravity Main
 - <10" Gravity Main
 - Unknown
- Gas Distribution System
 - 8" - 12" Gas Pipes
 - 4" - 6" Gas Pipes
 - 0.5" - 4" Gas Pipes



FN 08026
Preliminary Plat Review
Eastridge



Prepared by: City of Duluth Planning and Development Department, March 28, 2008. Source: City of Duluth, MNDNR, MNDOT