



**CITY OF DULUTH**

Planning Division

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

**STAFF REPORT**

<b>File Number</b>	PL 15-065	<b>Contact</b>	Kyle Deming, kdeming@duluthmn.gov	
<b>Application Type</b>	UDC Map Amendment	<b>Planning Commission Date</b>	May 12, 2015	
<b>Deadline for Action</b>	<b>Application Date</b>	April 13, 2015	<b>60 Days</b>	June 12, 2015
	<b>Date Extension Letter Mailed</b>	April 23, 2015	<b>120 Days</b>	August 11, 2015
<b>Location of Subject</b>	3705 & 3907 N. 87th Ave. W. (Bayview Heights)			
<b>Applicant</b>	Jerel Kane Finout	<b>Contact</b>	218-340-9841, jay.fineout@bnsf.com	
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	Parts of the NE 1/4 of SW 1/4 of Section 2, Twp 50N, R14W, - See Attached For Complete Legal			
<b>Site Visit Date</b>		<b>Sign Notice Date</b>	April 28, 2015	
<b>Neighbor Letter Date</b>	April 24, 2015	<b>Number of Letters Sent</b>	8	

**Proposal**

Applicant proposes to rezone 10 acres from RR-1, Rural Residential to RR-2, Rural Residential to meet lot frontage requirements for the three existing lots with widths of 163', 163', and 325'.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	RR-1	Two homes	Low Density Neighborhood
<b>North</b>	RR-1	Homes	Low Density Neighborhood
<b>South</b>	RR-1	Undeveloped	Low Density Neighborhood
<b>East</b>	RR-1	Homes	Low Density Neighborhood/Sensitive Lands Ovrl
<b>West</b>	Proctor	Fairgrounds	Proctor

**Summary of Code Requirements (reference section with a brief description):**

- UDC Sec. 50-37.3.A: Any property owner may petition the Planning Commission to amend the district boundaries in which the property is located.
- UDC Sec. 50-37.3.B: Planning Commission shall review the application, conduct a public hearing ... with public notice ... and make a written recommendation to council.
- UDC Sec. 50-37.3.C: The Planning Commission shall review the application, and Council shall approve the application or approve it with modifications, if it determines that the application:
  1. Is consistent with the Comprehensive Land Use Plan;
  2. Is reasonably related to the overall needs of the community, to existing land use, or to a plan for future land use;
  3. Is required by public necessity, convenience, or general welfare, or good zoning practice;
  4. Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible.

IV. G-1

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

**Future Land Use:**

Low Density Neighborhood - Single-family housing with urban services. Typified by curvilinear streets, houses with longer side parallel to street, and attached garages. Includes a range of house sizes and lot sizes. Non-residential uses are mainly uses such as schools and churches. Parks and open space are located within or adjacent to the neighborhood. Density - 3-4 units/acre; Conservation development an option, required with SLO; Limited number of secondary/granny flats

Sensitive Lands Overlay - High resource value lands or natural resources that may be developed under conservation design standards, transfer of development rights program designs, or low-impact performance standards. Design - varying densities and land uses; intensity is concentrated where natural carrying capacity is sufficient, or moved to other parcels via TDR-type program; conservation subdivision and design; natural resource performance standards

**Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):**

1.) The Minnesota Planning Act provides that zoning (an "official control") should implement the general objectives of the Comprehensive Plan and appellate courts have issued decisions that zoning must comply with the Comprehensive Plan or else be considered arbitrary and capricious.

2.) Good zoning practice requires that zone districts be consistent with the future land use category identified for the area. The purpose of the RR-2 district is to accommodate single-family detached residential uses on lots of at least 2 acres each. The district encourages distinctive neighborhoods with a suburban character. The district may serve as a transition between lower-density semi-rural areas and more intense residential or mixed use neighborhoods. Complimentary uses such as limited agriculture, small-scale institutional uses, parks, minor utilities and certain temporary uses are allowed. The proposed rezoning to RR-2 is reasonably related to the future land use map designation of Low Density Neighborhood.

3.) Two of the three lots owned by the applicant do not conform to the minimum lot frontage requirement for RR-1 of 250' because each has only 163' of frontage. Rezoning to RR-2, which requires a minimum lot frontage of 100', would make the lots conforming. In the future the landowner may adjust the lot lines in preparation for sale of one or more of the parcels.

4.) No letters were received from the public. No other public, agency, or City comments have been received.

**Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):**

Based on the above findings, staff recommends that Planning Commission recommend approval of the UDC Map Amendment, for the following reasons:

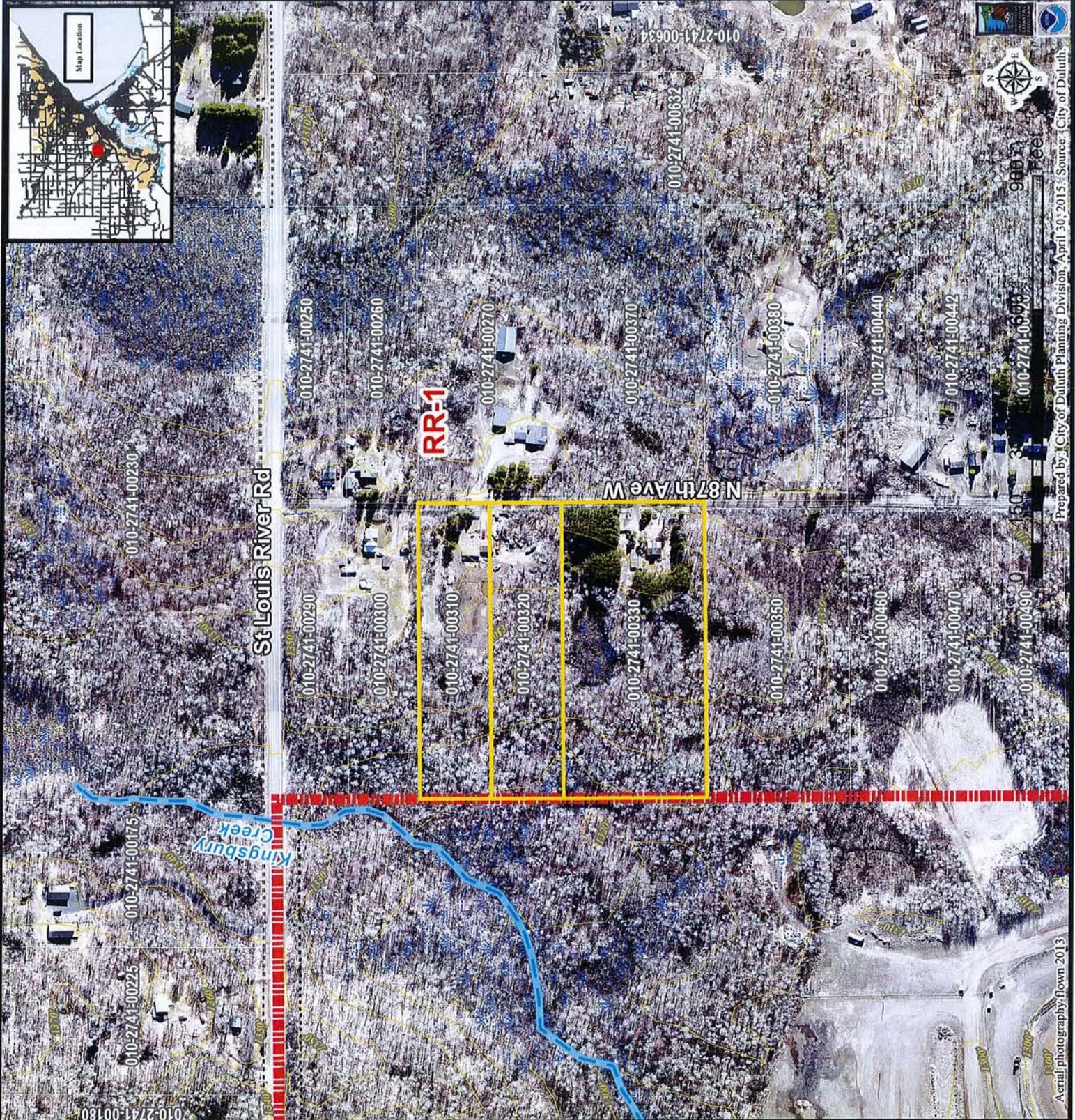
- 1.) This proposal is consistent with the Comprehensive Land Use Plan.
- 2.) The proposed RR-2 zone district is consistent with the future land use category of Low Density Neighborhood.
- 3.) Material adverse impacts on nearby properties are not anticipated.

6-2

**Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)**



City Planning  
 PL 15-065  
 3705 & 3907 N 87th Ave. W.  
 Aerial Map



Prepared by: City of Duluth Planning Division, April 30, 2015. Source: City of Duluth.

Aerial photography flown 2013

### Legend

- Zoning**
  - Trout Stream (GPS)
  - Other Stream (GPS)
  - Wetlands (NRR1)
  - 10' Contour (elev. change)
- Right-of-Way Type**
  - Road or Alley ROW
  - Vacated ROW
- Easement Type**
  - Other Easement
  - Utility Easement
- Shoreland Overlay Zone**
  - Cold Water
  - Natural Environment
  - General Development
- Floodplain Type**
  - General Flood Plain
  - Flood Way
  - Flood Fringe

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.

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SURVEY FOR: JEREL & SARAH FINEOUT  
 3907 NORTH 87TH AVE W  
 DULUTH, MN 55810

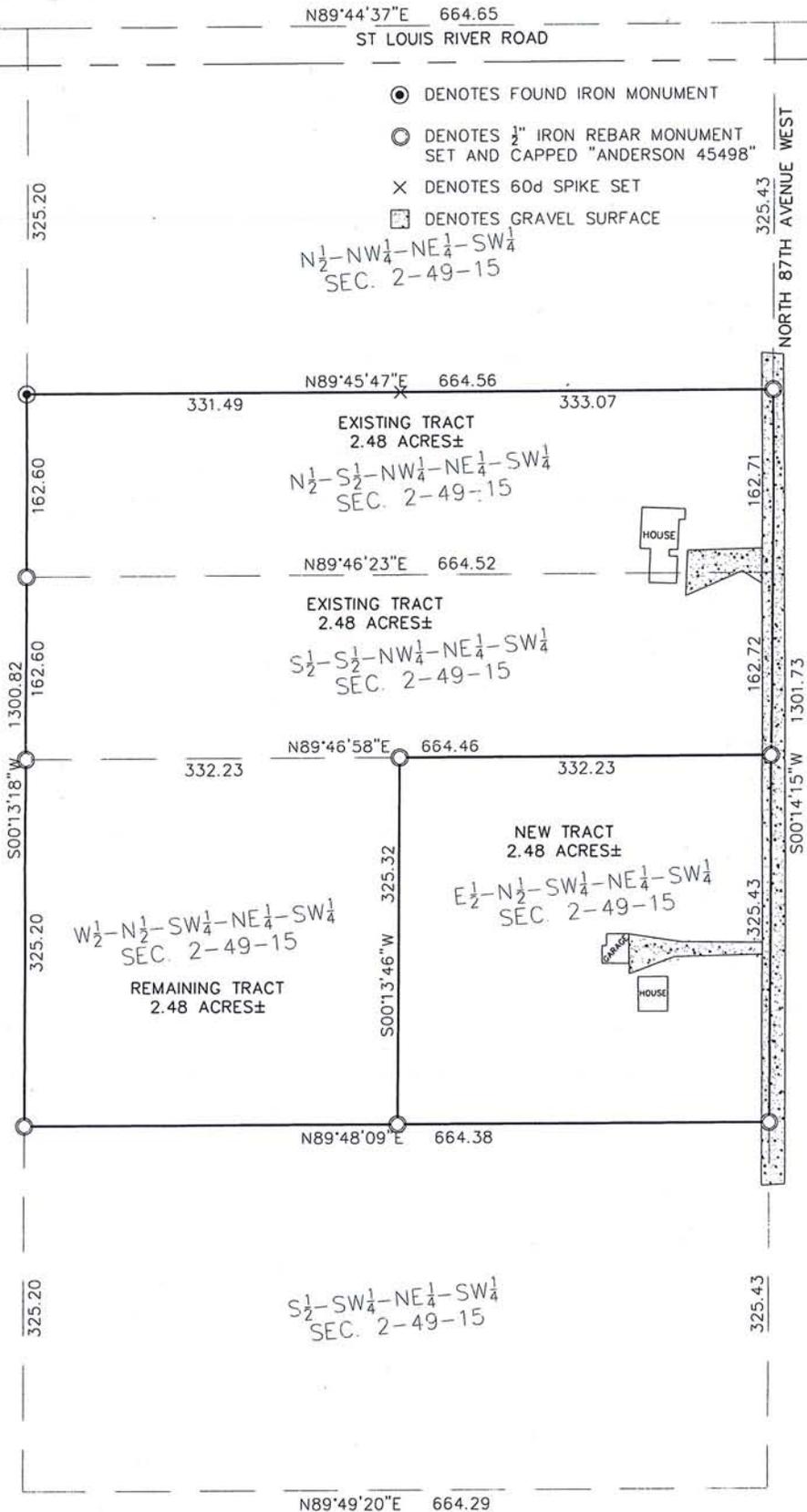
SURVEY OF: PARTS OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER,  
 SECTION 2, TOWNSHIP 49, RANGE 15, ST LOUIS COUNTY, MINNESOTA.

STRAIGHTLINE SURVEYING, INC.

P.O. Box 510, 500 Foltz Blvd  
 Moose Lake, MN 55767

Telephone: (218)-485-4811  
 Fax: (218)-485-4811

E-MAIL: bonderson@straightlinesurveying.com



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.

*Benjamin H. Anderson* 45498 09-25-2014 2014-148 NONE  
 Benjamin H. Anderson License No. Date Job No. Book No.

G-5

RECEIVED APR 18 2015

## Uses Allowed in Residential-Rural 1 (RR-1) Zone District Revised January 5, 2015

### Permitted Uses

- Dwelling, one family
- Residential care facility/assisted living (6 or fewer)
- Government building or public safety facility
- Park, playground, or forest reserve
- Religious assembly, small (less than 50,000 sq. ft.)
- School, elementary
- Agriculture, general
- Agriculture, urban
- Seasonal camp or cabin
- Day care facility, small (14 or fewer)

### Special or Interim Uses

- Cemetery or mausoleum
- Religious assembly, large (50,000 sq. ft. or more)
- School, middle or high
- Kennel
- Riding Stable
- Veterinarian or animal hospital
- Golf course
- Recreational Vehicle Park
- Other outdoor entertainment or recreation use not listed
- Preschool
- Day care facility, large (15 or more)
- Mini-Storage Facility
- Garden material sales
- Mining, extraction and storage
- Electric power transmission line or substation
- Major utility or wireless telecommunication facility
- Radio or television broadcasting tower
- Solar, geothermal, or biomass power facility (primary use)
- Water or sewer pumping stations/reservoirs
- Wind power facility (primary use)
- Solid waste disposal or processing facility

### Interim Uses

- Vacation dwelling unit

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**Uses Allowed in Residential-Rural 2 (RR-2) Zone District  
Revised January 5, 2015**

Permitted Uses

- Dwelling, one family
- Residential care facility/assisted living (6 or fewer)
- Government building or public safety facility
- Park, playground, or forest reserve
- Religious assembly, small (less than 50,000 sq. ft. or more)
- School, elementary
- Agriculture, urban
- Day care facility, small (14 or fewer)

Special or Interim Uses

- Cemetery or mausoleum
- Religious assembly, large (50,000 sq. ft. or more)
- School, middle or high
- Riding stable
- Golf course
- Recreational Vehicle Park
- Preschool
- Day care facility, large (15 or more)
- Electric power transmission line or substation
- Major utility or wireless telecommunication facility
- Water or sewer pumping stations/reservoirs

Interim Uses

- Vacation dwelling unit