

APPLICANT: Kami Holdings, LLC

Public Notice

ISSUED: May 13, 2022 EXPIRES: May 27, 2022

REFER TO: 2022-00487-KAL SECTION:404 - Clean Water Act

1. APPLICATION FOR PERMIT TO discharge dredged and fill material in 0.96 acre of wetlands adjacent to an unnamed tributary for the purpose of constructing a 4-story, 198-unit apartment building and 37 townhomes with associated amenities and infrastructure in the City of Duluth

2. SPECIFIC INFORMATION

AGENT:

GEI

3969 Reinke Road Hermantown, Minnesota 55811

PROJECT LOCATION: The project site is located in Section 21, Township 50 North, Range 14 West, St. Louis County, Minnesota. The approximate coordinates are Latitude 46.798055, Longitude -92.124137.

DESCRIPTION OF PROJECT: The proposed project is a 4-story, 198-unit apartment building and 37 townhomes with associated amenities and infrastructure. The purpose and need is to construct a 198-unit apartment building and 37 townhomes in the City of Duluth with compatible zoning and to meet city housing demands.

Associated infrastructure would include access roads, parking, sidewalks, utilities, and stormwater ponds.

An access road from Palm Street to Blackman Avenue would provide flow through traffic to the apartment building and would allow access for ambulance and fire emergency vehicles. An access road from Orange Street would provide access to the townhomes with turnarounds at each end.

The apartment building would require 1.25 parking stalls per unit as outlined in City of Duluth Ordinance for a total of 248 required parking stalls. Surface parking and underground garage parking provide 297 parking stalls which would exceed the 248 required but is equivalent to 1.09 parking stall per bedroom. The townhomes would require 1 parking stall per unit as outlined in City of Duluth Ordinance for a total of 37 parking stalls. The townhomes would typically have 2 surface parking stalls and 2 garage parking stalls for a total of 173 parking stalls.

Sidewalks would provide pedestrian ingress and egress. Stormwater ponds were designed to meet city and state specifications and include storage volume to accommodate the loss of wetland surface water storage.

QUANTITY, TYPE, AND AREA OF FILL: The project would result in the discharge of dredged and fill material in 0.96 acre of wetlands. Impacts to Wetland 3 (0.88 acres) would occur from the apartment building, parking, and stormwater basin.. Impacts to Wetland 2 (0.06 acres) would occur from the Phase I access road. Impacts to Wetland 6 (0.02 acres) would occur from the Phase II access road.

VEGETATION IN AFFECTED AREA: Six wetland basins, Wetland 1 – 6, were identified on-site during the wetland delineation. As described earlier, Wetlands 2, 3, and 6 would be impacted by the proposed project. Wetlands 2 and 3 are Type 7 – Hardwood Swamps dominated by Fraxinus nigra (black ash) and Alnus incana (speckled alder). Wetland 6 is a Type 6 – Alder Thicket dominated by speckled alder. Wetland 3 is in the central part of the project area and covers approximately 1.4 acres. Wetland 3 starts out as a sloped wetland that appears in the southwest corner of the Site. Wetland 3 broadens out in the east central part of the Site where the topography becomes more gradual. Wetland 3 enters a wet ditch offsite to the east where it drains into Wetland 2 and the open water pond to the north. Wetland 2 is located along the north property line and covers approximately 0.35 acres. Wetland 2 is adjacent to the open water pond to the north of the site and is hydrologically connected to Wetland 3 through a Wet Ditch cut through uplands. Wetland 6 is a small (0.02 acres) closed depression wetland in the south-central part of the delineation area. Wetland 6 may have been excavated as evidence of a spoil pile was observed adjacent to the wetland and other areas of the property have been used for aggregate mining.

SOURCE OF FILL MATERIAL: The source of fill material would be determined by the contractor. The type of fill material would be clean granular soils as well as material from areas within the existing site.

SURROUNDING LAND USE: The current location is close to the City of Duluth Central Entrance business district, downtown, and bus routes. The surrounding land uses are primarily residential and commercial.

DESCRIPTION OF STRUCTURE: The proposed structures would be a 4-story, 198-unit apartment building and 37 townhomes with access roads, parking, sidewalks, utilities, and stormwater ponds.

THE FOLLOWING PRECAUTIONS TO PROTECT WATER QUALITY HAVE BEEN DESCRIBED BY THE APPLICANT: Soil disturbance activities for the project would include, but are not limited to: clearing and grubbing, excavation and placement of underground utility, and access roads. Stormwater management and design of stormwater ponds/infiltration basins were designed to the minimum standards to minimize impacts to Wetland 1, Wetland 2, Wetland 3, and Wetland 4. Many iterations of the stormwater management system were evaluated and completed to capture and treat stormwater to city and state specification while minimizing impacts to wetlands. Surface water storage of site wetland basins was evaluated and included in stormwater management calculations to accommodate for the loss of surface water storage from impacted wetlands.

MITIGATION: Wetland replacement for wetland impacts resulting from the project is proposed through the use of wetland credits from the Poplar Ponds Preservation Bank. The applicant has proposed to purchase 0.96 acre of coniferous swamp wetland credits

3. FEDERALLY-LISTED THREATENED OR ENDANGERED WILDLIFE OR PLANTS OR THEIR CRITICAL HABITAT

None were identified by the applicant or are known to exist in the permit area. However, St. Louis County is within the known or historic range of the following Federally-listed species:

Northern Long Eared Bat: (Threatened) The northern long-eared bat is found across much of the region. Hibernates in caves and mines - swarming in surrounding wooded areas in autumn. During late spring and summer roosts and forages in upland forests.

Canada Lynx: (Threatened) Lynx and snowshoe hares are strongly associated with moist, cool, boreal spruce-fir forests. Landscapes with high snowshoe hare densities are optimal for lynx survival and reproduction. Hares are most abundant in young regenerating or mature multistoried forests with dense understory vegetation that provides food and cover.

This application is being coordinated with the U.S. Fish and Wildlife Service. Any comments it may have concerning Federally-listed threatened or endangered wildlife or plants or their critical habitat would be considered in our final assessment of the described work.

4. JURISDICTION

This application is being reviewed in accordance with the practices for documenting Corps jurisdiction under Section 404 of the Clean Water Act.

5. STATE SECTION 401 WATER QUALITY CERTIFICATION

Valid Section 404 permits cannot be issued for any activity unless water quality certification for the activity is granted or waived pursuant to Section 401 of the Clean Water Act. The Section 401 authority for this project is the Minnesota Pollution Control Agency (MPCA). A Department of the Army permit will not be granted until the Minnesota Pollution Control Agency has issued or waived Section 401 WQC certification.

This public notices serves as the notification to Region 5, United States Environmental Protection Agency (EPA) pursuant to section 401(a)(2) of the Clean Water Act. If EPA determines that the proposed discharges may affect the quality of the waters of any downstream neighboring jurisdiction other than the state in which the discharge will originate, it will so notify such other jurisdiction, the Corps, and the applicant. Pursuant to 33 Code of Federal Regulations Part 325.2(b)(1)(i), if such notice or a request for supplemental information is not received within 30 days of issuance of this public notice, the District Engineers will assume EPA has made a negative determination with respect to section 401(a)(2)

The MPCA has indicated that this public notice serves as its public notice of the application for Section 401 water quality certification under Minnesota Rules Part 7001 Section 401 of the Clean Water Act (33 U.S. Code 1341 (a)(1)). The MPCA has indicated that if, at a later date, it makes a preliminary anti-degradation determination regarding Section 401 Water Quality Certification, it will at that time plan to issue an additional public notice under Minnesota Rules Part 7001.

Any comments relative to MPCA's Section 401 Certification for the activity proposed in this public notice may be sent to:

Minnesota Pollution Control Agency Resource Management and Assistance Division Attention: 401 Certification 520 Lafayette Road North St. Paul, Minnesota 55155-4194 401Certification.PCA@state.mn.us

6. HISTORICAL/ARCHAEOLOGICAL

This public notice is being sent to the National Park Service and the State Archaeologist for their comments. The Corps will review information on known cultural resources and/or historic properties within and adjacent to the project area. The Corps will also consider the potential effects of the project on any properties that have yet to be identified. The results of this review and the Corps' determination of effect will be coordinated with the State Historic Preservation Officer independent of this public notice. Any adverse effects on historic properties will be resolved prior to the Corps authorization, or approval, of the work in connection with this project.

7. PUBLIC HEARING REQUESTS

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, in detail, the reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

8. PUBLIC INTEREST REVIEW

The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. Environmental and other documents will be available for review in the St. Paul District Office.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Regulatory Branch (File No. 2022-00487-KAL)

REPLIES/COMMENTS

Interested parties are invited to submit to this office written facts, arguments, or objections by the expiration date indicated above. These statements should bear upon the suitability of the location and the adequacy of the project and should, if appropriate, suggest any changes believed to be desirable. Comments received may be forwarded to the applicant.

Replies may be sent to Kristoffer Laman at Kristoffer.a.laman@usace.army.mil.

IF YOU HAVE QUESTIONS ABOUT THE PROJECT, contact Kristoffer Laman at the Duluth office at (218) 788-6409 or at Kristoffer.a.laman@usace.army.mil.

To receive Public Notice notifications, go to: https://www.mvp.usace.army.mil/Contact/RSS/ and subscribe to the RSS Feed for which you would like to receive Public Notices.

Enclosures:







