



**Planning & Development Division**  
*Planning & Economic Development Department*

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File Number	PL 22-142	Contact	Chris Lee, cleee@duluthmn.gov		
Type	Concurrent Use Permit	Planning Commission Date		September 13, 2022	
Deadline for Action	Application Date	July 21, 2022	60 Days	September 19, 2022	
	Date Extension Letter Mailed	August 31, 2022	120 Days	November 18, 2022	
Location of Subject		Sundby Road and W Page Street			
Applicant	Kinseth Hotel Corporation	Contact	Aaron Mailey		
Agent	Northland Consulting Engineers	Contact	David Bolf		
Legal Description		Parcel ID Number 010-2710-04594			
Site Visit Date		September 1, 2022	Sign Notice Date		August 30, 2022
Neighbor Letter Date		N/A	Number of Letters Sent		N/A

**Proposal**

The applicant is proposing to construct private sanitary sewer improvements in the public right of way of Sundby Road and West Page Street.

**Staff Recommendation**

Staff is recommending that planning commission recommend approval to City Council. A Concurrent Use Permit requires an ordinance.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	MU-C	Undeveloped	Central Business Secondary
<b>North</b>	MU-C	Undeveloped	Central Business Secondary
<b>South</b>	MU-C	Undeveloped	Central Business Secondary
<b>East</b>	MU-C	Undeveloped	Low Density Residential
<b>West</b>	RR-1	Commercial - Retail	Open Space

### **Summary of Code Requirements**

UDC Section 50-37.7C. The planning commission shall review the application, and council shall approve the application or approve it with modifications, if it determines that:

1. The proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city;
2. Any proposed skywalk will significantly improve the circulation of pedestrians in the city without exposure to weather conditions;
3. No portion of a public easement proposed for use is being physically used or occupied by the public.

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

#### Governing Principles

Governing Principle #4 – Support economic growth sectors which includes tourism.

#### Future Land Use

Central Business Secondary: An area adjacent to and supporting the central business primary area or a stand -alone area providing a similar mix of destination land uses but at a lower intensity than the primary CB area. Includes mixed regional and neighborhood retail, employment centers, public spaces, medium density residential, and public parking facilities.

### **Review and Discussion Items**

Staff finds that:

- 1.) The applicant is seeking a concurrent use permit to install a private sanitary sewer within the right of way for Sundby Street and West Page Street as shown in the attached exhibit.
- 2.) The concurrent use area contains 8,482 square feet. The applicant has stated that the purpose of the area is to connect to the nearest public utilities.
- 3.) The City of Duluth requires concurrent use permits to include liability insurance to indemnify the City against occurrences in the right of way. Other protections for the city and the public are typically included in the ordinance that is submitted to City Council. The City is not responsible for removal/replacement of the applicants' infrastructure should the City need to access the right-of-way in the permitted area.
- 4.) Underground utilities are subject to locate requirements via Gopher State One Call. The applicant may be responsible for conducting locates for private utilities. Staff is confirming any requirements for this with City Engineering.
- 5.) The area proposed for the concurrent use permit will not take away from the public's ability to use the public right of way, nor will it harm or inconvenience the health, safety, and general welfare of the city.
- 6.) No public, agency, or other comments have been received as of August 31, 2022.

**Staff Recommendation**

Based on the above findings, Staff recommends that Planning Commission recommend approval of the concurrent use permit with the following conditions:

- 1.) Applicant shall construct and maintain the project as identified in the attached exhibits.
- 2.) Applicant shall provide annual proof of liability insurance to indemnify the City against any occurrences in the right of way that are due to items covered under this permit.
- 3.) Applicant will remove the obstructions at the applicant's expense if directed to by the City with appropriate notice.
- 4.) If required by City Engineering, applicant shall sign up on the Gopher State One Call system to conduct locates.
- 5.) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.



PL22-143  
CUP, Plan Review  
Sundby Road

### Legend

- Gas Main
- Water Main
- ⊕ Hydrant
- Sanitary Sewer Mains**
  - CITY OF DULUTH
  - WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- S Storage Basin
- PS Pump Station
- Storm Sewer Mains**
  - Storm Sewer Pipe
  - Storm Sewer Catch Basin
- Zoning Boundaries

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