

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

10-0221R

RESOLUTION GRANTING A SIDEWALK OBSTRUCTION PERMIT TO
TAKK FOR MATEN/KIPPIS RESTAURANT FOR A SIDEWALK CAFÉ AT
11 EAST SUPERIOR STREET.

CITY PROPOSAL:

RESOLVED, that the city council makes the following findings:

(a) Section 45-4.1 of the Duluth City Code, 1959, as amended, allows the city council, by resolution, to allow the placement of objects or material on the public sidewalks or boulevard areas where the city council finds that such objects will not substantially interfere with pedestrian traffic and that the placement of such objects is beneficial to the public welfare; and

(b) Takk for Maten/Kippis Restaurant has requested permission to place tables and chairs on the sidewalk of the Superior Street right-of-way of property located at 11 East Superior Street, described as Superior Street right-of-way adjoining Lots 1 and 3, East Superior Street, Duluth Proper First Division; and

(c) Section 45-4.1, the city planning commission, at its regular meeting on April 13, 2010, reviewed this request and considered the comments and recommendations of the director of public works and recommends the conditional placement of the tables and chairs.

RESOLVED FURTHER, based upon the above noted findings, that Takk for Maten/Kippis Restaurant is hereby permitted to place certain exterior furnishings, described below, on or within the sidewalk area of the right-of-way of East Superior Street of the city of Duluth and the exterior furnishings be limited to that area immediately adjacent to the Takk for Maten/Kippis Restaurant, subject to the following conditions:

(a) The exterior furnishings permitted by this resolution are limited to the following: no more than five tables, 12 chairs, server station and decorative fencing for boundary delineation;

(b) The table and seating area and server station area shall be delineated from the public pedestrian way by a decorative fence. This decorative

fence shall be removed during all times that tables and chairs are not in place as well as when the restaurant is not open for business;

(c) All exterior furnishings to be placed on the sidewalk shall be approved in writing by the city architect, whose approval shall not be unreasonably withheld. The purpose of this review and approval is to ensure that the exterior furnishings are complimentary to the design character of the area and to protect the public's safety;

(d) The exterior furnishings permitted shall be located such that a public pedestrian walkway be maintained that is not less than six feet in width as measured from any permanent or temporary obstructions including, but not limited to, fire hydrants, lamp posts, flower planters, and newspaper stands;

(e) That the placement of exterior furnishings shall be located according to the criteria above only during the hours of operation of Takk for Maten/Kippis Restaurant and shall be removed from the sidewalk when the business is closed;

(f) That the applicant shall be responsible for policing refuse in the immediate area, which includes removing all food and beverage spills from the sidewalk surface;

(g) No amplified music shall be used in the sidewalk obstruction area;

(h) That the applicant be on notice that this permit is not exclusive, and that the city may require the permittee to remove the exterior furnishings for specific events conducted in the East Superior Street area; the areas described above shall be open to the general public; and the general public shall have the right to occupy tables and chairs in the area subject to this permit without making a purchase from the permittee, so long as said members of the general public are orderly and violate no provisions of the law;

(i) This permit shall be in effect until the lease currently held by Tkk for Maten/Kippis Restaurant is terminated or transferred to another party, at which time renewal may be requested; and

(j) This permit is subject to revocation by a resolution of the city council and 14 days notice to the permittee for failure to maintain the terms and conditions of this permit or at the discretion of the city.

RESOLVED FURTHER, that before this resolution shall be effective for any purpose whatsoever, the aforesaid permittee shall file with the city clerk: a duly executed and acknowledged written acceptance of the terms of this resolution; a certificate of insurance approved as to form by the city attorney evidencing that the permittee has in force insurance meeting the following requirements:

(a) A comprehensive general liability insurance policy shall be maintained in force by permittee in an amount not less than \$500,000 for injuries or death and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage. Such coverage shall include all permittee activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittee. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition.

RESOLVED FURTHER, the approval was made because of the city planning commission's findings that the exterior furnishings will not substantially

interfere with pedestrian traffic and that said furnishings will be beneficial to the public welfare if the conditions in paragraphs (a) through (j) are observed.

Approved as to form:

Attorney

PC:PLNG KD:tmf 4/19/2010

STATEMENT OF PURPOSE: This resolution grants Takk for Maten/Kippis Restuarant permission to create a sidewalk café on the Superior Street sidewalk in front of their business at 11 East Superior Street. The sidewalk café would consist of not more than five tables, 12 chairs, server station and decorative fencing. The sidewalk café would be delineated from the public pedestrian way by a decorative fence. The tables, chairs, and fencing selected for the sidewalk café are to be approved by the city architect to ensure that it is complimentary to the design character of the area and to protect the public's safety. The applicant is required to place the sidewalk café such that the public pedestrian way is a minimum of six feet in width, to clean up all spills and trash generated by the sidewalk café, that the exterior furnishings be removed when the business is closed, that no amplified music be used, and that Takk for Maten/Kippis Restaurant provide proof of sufficient liability insurance to protect the City from claims. The permit will be in effect until the current building lease Takk for Maten/Kippis Restaurant is terminated or transferred. The city can revoke the sidewalk obstruction permit if the terms of permit are not adhered to by the applicant. The city planning commission reviewed this permit request and recommended approval at its regular meeting on April 13, 2010.

Petition received: 3/2/2010, revised 4/1/2010
Action deadline: There is no action deadline for this resolution.