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**Date** August 13, 2012

RESOLUTION CLOSING HEARING ON THE VACATION AND LEASE OF A PORTION  
OF THE PUBLIC SIDEWALK ADJOINING THE KOMODO CLUB AT 214 3rd STREET  
FOR A SIDEWALK CAFE, AND DENYING SAME

WHEREAS, the City has received an application from RSJS, LLC, doing business as the Komodo Club at 214 3rd Street, represented by Jason Smithson, for a Sidewalk Cafe Lease upon a portion of the adjoining sidewalk; and,

WHEREAS, the affected portion of the sidewalk must first be vacated before the City may approve the proposed Sidewalk Cafe Lease; and,

WHEREAS, on June 25, 2012, by Roll Call No. 12-0978, it was duly resolved by the City Council that the proposed vacation and lease of such right-of-way be set down for hearing on July 23, 2012, at 5:00 p.m., in the Council Chambers; and

WHEREAS, due notice of said proposal to vacate and lease public right-of-way was published in the Des Moines Register on July 5, 2012, setting forth the time and place for hearing on said proposal; and

WHEREAS, on July 23, 2012, by Roll Call No. 12-1181, the City Council continued the hearing until August 13, 2012, at 5:00 p.m.; and,

WHEREAS, in accordance with said notice, those interested in said proposed vacation and lease, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council; NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed vacation and lease of public right-of-way are hereby sustained and the hearing is closed.
2. The proposed vacation and lease of a portion of the sidewalk adjoining the Komodo Club at 214 3rd Street is hereby DENIED. In support of this action the City Council hereby makes the following findings of fact:
  - a) The public sidewalk at this location is not sufficiently wide to accommodate a sidewalk cafe and the existing pedestrian traffic at times throughout the evening and late night hours.
  - b) This area was recently posted as a no parking zone in an attempt to stop people from congregating near their cars and blocking the sidewalk.

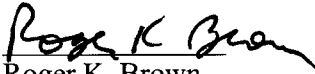
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- c) Adding a sidewalk cafe to an area that is relatively narrow already may force pedestrians into the traveled portion of the street when the sidewalk is congested, creating a safety hazard.

( Council Communication No. 12- 436 )

MOVED by \_\_\_\_\_ to adopt.

FORM APPROVED:



Roger K. Brown  
 Assistant City Attorney  
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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
<b>TOTAL</b>				
MOTION CARRIED			APPROVED	

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
 Mayor

\_\_\_\_\_  
 City Clerk