 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date:	May 20, 2013
	Agenda Item No.	12
	Roll Call No.	<u>13-775</u>
	Communication No.	<u>13-243</u>
	Submitted by:	Jeb E. Brewer, P.E., City Engineer

AGENDA HEADING:

Resolution rededicating the north/south alley in the vicinity of 309 Court Avenue for right-of-way purposes.

SYNOPSIS:

Recommend approval of resolution rededicating the north/south alley in the vicinity of 309 Court Avenue for right-of-way purposes. This right-of-way was vacated to allow the adjoining property owner to lease the property for use as an outdoor patio restaurant. This action is required in order to rededicate the right-of-way for continued public use as a public alley.

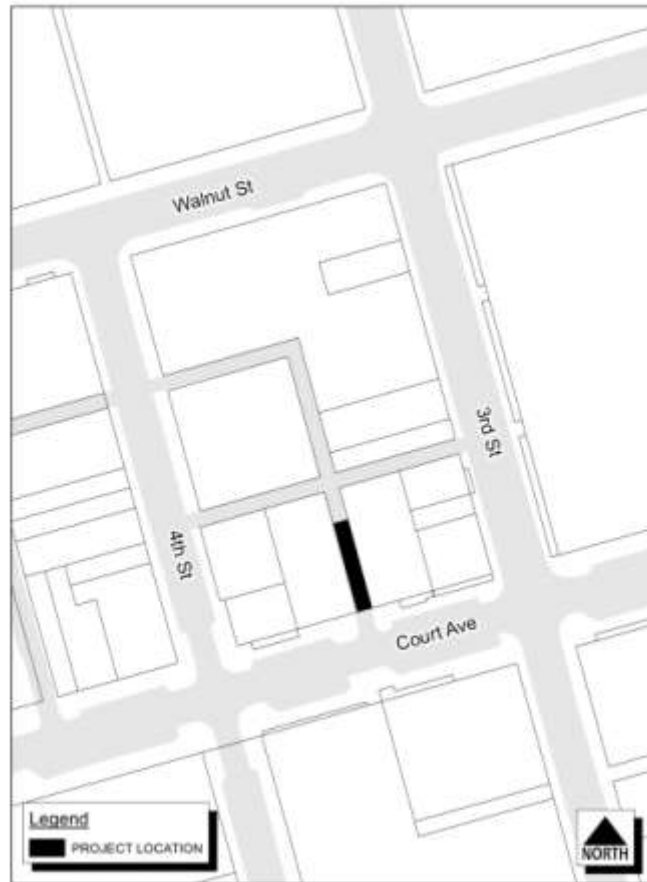
FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

On April 28, 1997, by Roll Call No. 97-1540, City Council approved a lease agreement for sidewalk café between the City of Des Moines and Madison Avenue Business Suites, Inc. for lease of a portion of the north/south alley in the vicinity of 309 Court Avenue for use as an outdoor restaurant patio and by, Roll Call No. 97-1542, passed Ordinance No. 13,468 vacating the right-of-way. Due to an error in the legal description for the right-of-way being vacated, on June 16, 1997, by Roll Call No. 97-2124, City Council passed Ordinance No. 13,497 vacating the City right-of-way and repealing Ordinance No. 13,468.

As a condition to granting the lease agreement which effectively closed the alley, the City required the lessee to replace the north/south alley access from Court Avenue to the east/west alley that extends east from 4th Street. The lease agreement required the lessee to grant the City a temporary easement for ingress and egress across an adjoining lot owned by the lessee located at 315 Court Avenue, with the requirement that the City release the easement upon termination of the lease agreement.

On January 28, 2008, by Roll Call No. 08-0119, City Council approved termination of the lease agreement and release of a temporary easement for ingress and egress that was granted to the City to replace the public access lost due to the vacation of the alley right-of-way. The business no longer requires the alley as the outdoor restaurant patio is on Court Avenue. Pursuant to termination of the lease agreement and release of the temporary easement for ingress and egress, the right-of-way requires rededication as public right-of-way for continued use as a public alley.



PREVIOUS COUNCIL ACTION(S):

Date: January 28, 2008

Roll Call Number: [08-119](#)

Action: [Approving](#) termination of lease agreement and release of easement for ingress and egress in a portion of vacated north/south alley in the vicinity of 309 Court Avenue. ([Council Communication No. 08-038](#)) Moved by Kiernan to adopt. Motion Carried 7-0.

Date: June 16, 1997

Roll Call Number: 97-2124

Action: Final consideration of ordinance above, (waiver requested by applicant), requires 6 votes. Moved by Vlassis that the rule requiring that ordinances must be considered, and voted on for passage at two (2) council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage and that the ordinance do now pass, [#13,497](#). Motion Carried 7-0.

Date: April 28, 1997

Roll Call Number: 97-1542

Action: Final consideration of ordinance above, (waiver requested by Court Ave Brewing). Moved by Hensley that the rule requiring ordinances must be considered, and voted on for passage at two (2) council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage and that the ordinance do now pass, #13,468.

Date: April 28, 1997

Roll Call Number: 97-1540

Action: On vacation and lease of a portion of the north/south alley right-of-way in the vicinity of 309 Court Avenue, to Madison Avenue Business Suites, Inc., and Court Avenue Brewing Co., 4 1/2 year term with renewal option, annual rental of \$1,076. Moved by Hensley to adopt, subject to amendment removing Court Ave. Brewing as a Tenant in the Lease Agreement.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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