



REPORT TO CITY PLAN COMMISSION

Plan Commission Meeting Date: March 23, 2021

Common Council Meeting Date: April 7, 2021

Item: Detachment of Territory – Ann Kloehn, William Kloehn and Julie Lapkoff, property owners, 1834 Palisades Drive – City of Appleton
Parcels #31-4-9003-00, 31-4-9004-00 and 31-4-9005-00

Prepared By: Don Harp, Principal Planner

GENERAL INFORMATION

Owner/Applicant: Ann Kloehn, William Kloehn and Julie Lapkoff

Location: 1834 Palisades Drive

Parcel Id. Numbers: 31-4-9003-00, 31-4-9004-00 and 31-4-9005-00

Petitioner's Request: The owners are requesting to detach land from the City of Appleton to the Village of Fox Crossing, pursuant to Section 66.0227 of the Wisconsin State Statutes.

Purpose for Detachment: See attached letter from Ann Kloehn dated January 15, 2021.

Population of Such Territory: 0

Detachment Area: 0.835 acres m/l

BACKGROUND

See attached letter from Ann Kloehn dated January 15, 2021.

See attached letter from Dr. John S. Kloehn dated October 24, 1991.

STAFF ANALYSIS

The City staff has reviewed the detachment petition and identifies the following:

Technical Review Group (TRG) Report: This item appeared on the February 2, 2021 Technical Review Group agenda. No negative comments were received from participating departments.

- **Department of Public Works:** The City has not expended funds to benefit the property by bringing utilities (sewer, water, and sanitary service) to the subject properties, and no refuge service is provided to the subject properties.

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March 23, 2021
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- **Appleton Police Department:** In a rare instance, the Appleton Police Department would respond to a 9-1-1 service call for the undeveloped lots Parcel Id. Numbers: 31-4-9003-00 and 31-4-9005-00. Fox Crossing Police Department would respond a to 9-1-1 service call at 1834 Palisades Drive and the undeveloped lot know as Parcel Id. Number: 31-4-9004-00. When the subject area is incorporated into the Village of Fox Crossing, Appleton Police would not go automatically to a 9-1-1 service call.
- **Appleton Fire Department:** Currently, the Appleton Fire Department would respond to a 9-1-1 service call for the subject properties. When the subject area is incorporated into the Village of Fox Crossing, Appleton Fire would not go automatically to a 9-1-1 service call, plus Appleton would not go as an “aid” upon request because administratively Appleton and Fox Crossing do not have a written agreement called a mutual aid agreement.
- **City Assessor’s Office:** 2020 taxes collected for Parcel Id. Numbers: 31-4-9003-00 (\$966.45), 31-4-9004-00 (\$1,253.73) and 31-4-9005-00 (\$829.93). Total amount collected in 2020: \$3,050.11.
- **Community and Economic Development Department:**
 1. On March 1, 2021, the attached Petition for Detachment was filed with the City Clerk.
 2. Within 60 days of filing the Petition for Detachment with the City Clerk, an ordinance detaching the territory by ¾ vote of Common Council is required. The failure of Common Council to adopt the ordinance within this time is a rejection of the petition and all proceedings are void.
 3. Existing Zoning Classification and Land Uses:

Parcel Number	Zoning Classification	Current Land Use
31-4-9003-00	City of Appleton (R-1B Single-Family District)	Undeveloped
31-4-9004-00	City of Appleton (R-1B Single-Family District)	The north half of the single family residence occupies this lot.
31-4-9005-00	City of Appleton (R-1B Single-Family District)	Undeveloped

4. Surrounding Zoning Classification and Land Uses:

Direction	Zoning Classification	Current Adjacent Land Use
North	City of Appleton (R-1B Single-Family District)	The Fox River
South	Village of Fox Crossing Zoning	Single-family
East	City of Appleton (R-1B Single-Family District) and Village of Fox Crossing Zoning	Single-family
West	Village of Fox Crossing Zoning	Single-family

5. The subject properties are not located within a tax increment finance district boundary.
6. Squaring off the boundaries of the City and Village may lead to more efficient operation of both units of government.
7. The City of Appleton and Village of Fox Crossing do not have a Boundary/Intermunicipal Agreement.
8. No City records have been found to support the subject area was inadvertently annexed by an error to the City.
9. The proposed detachment appears to be consistent with the following policy of the *Comprehensive Plan 2010-2030*.

Policy 11.1.1 Ensure continued discussion between Appleton and neighboring municipalities and counties, including both elected officials and department staff. Continue to partner with Outagamie, Winnebago, and Calumet counties to serve City residents in an efficient manner.

10. If the detachment is approved, City staff will amend the City records and GIS map to reflect this detachment of territory.

FUTURE ACTIONS

If Common Council approves the ordinance detaching the territory as proposed, the Village must then adopt an ordinance for attachment of said lands within 60 days, pursuant to Section 66.0227(2) of State Statutes.

RECOMMENDATION

Staff makes no recommendation for approval or denial on this item, as it is a policy decision by the Plan Commission and Common Council for detachment requests that are not supported by an annexation error or Boundary/Intermunicipal Agreement with the neighboring municipality.

Staff recommends the Plan Commission and the Common Council review the information provided by the petitioner and staff analysis regarding this request and base their decision to **APPROVE OR DENY** this item on the information attached to this staff report and presented at the meeting.

***Mrs. Ann Kloehn
1834 Palisades Drive
Appleton, WI 54915***

January 15, 2021

Don Harp, Principal Planner
Community and Economic Development Department
City of Appleton
100 N. Appleton Street
Appleton, WI 54911-4799
don.harp@appleton.org

RE: Kloehn Application for Detachment of Land
City Parcel Id. Number(s): 314900300, 314900400 & 314900500

Dear Mr. Harp:

We understand that the City of Appleton (“City”) desires that we provide a written explanation of the reasons for our detachment application. The specific reasons that we are requesting this detachment to the Village of Fox Crossing (“Village”) are as follows:

1. When Dr. and Mrs. Kloehn originally purchased their property in 1959, it was purchased with the understanding that the property was located in the Town of Menasha (now the Village of Fox Crossing) with the municipal boundary line with the City in the middle of the Fox River.
2. On the basis of the understanding in paragraph (1) above, Dr. and Mrs. Kloehn paid out-of-town tuition for both of their children to attend elementary, middle, and high school in the City, in reliance upon the jurisdictional boundaries that had been represented to them.
3. The first time that any jurisdictional issues arose was in the 1990s. At that time, Dr. and Mrs. Kloehn met with the then City Mayor Dorothy Johnson and it was agreed that these properties would never be considered as part of the City and that Dr. and Mrs. Kloehn would accordingly not be taxed by the City. It is our understanding that there is a letter memorializing this issue but, unfortunately, no such letter has been obtained despite our public records requests to obtain a copy.
4. In May 2014, we received a letter stating that the jurisdictional boundary was being recognized differently, and, as a result each of the three lots that are the subject of this detachment request became for the first time split in half with half being located in the City and half in what is now the Village. We were never consulted on this new recognition of the jurisdictional boundary and the action that resulted was contrary to the


understanding previously reached between Dr. and Mrs. Kloehn and Mayor Johnson.

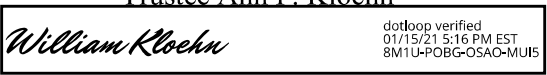
5. We have now been paying taxes to the City with absolutely no services of any kind being provided to us by the City.
6. We are not allowed to register to vote in the City as we are registered to vote in the Village. This violates a fundamental American principal that there should be no taxation without representation. We have nobody representing us in the City government.
7. Less than a year ago, my son was concerned about my health and called the police for a wellness check. In making that call, there was confusion about which jurisdiction should be covering the call. Initially, the call was given to the City and there was an investigation with the call ultimately being shifted to the Village of Fox Crossing before action was taken. If this were an emergency where time is of the essence, time and resources should not be wasted in determining who is going to cover the call to an elderly resident living alone.
8. We have had other incidences where both local and out-of-state police have indicated concern about the fact that this property is divided between two municipalities. These concerns continue to cause stress for Ms. Kloehn.
9. Within the three properties, two contain the house and the third is a vacant lot. If there is any construction done in relation to either the existing house or the vacant lot, there is no agreement of which municipal codes need to be adhered to. This lack of agreement is material as there are significant differences between the various codes (e.g., set-back requirements from the Fox River). While we have been told that the City will not enforce its codes in relation to the modifications of the existing house, our most recent discussions with the City indicate that there is no agreement on what codes need to be adhered to for any new construction or any future construction on the vacant property. Finally, no resident would consider it reasonable to rely on a verbal discussion as it relates to modifications to the existing house, particularly after history surrounding this property indicated above.
10. We have been advised that the current situation (i.e., the splitting of the properties to the City) will cause a significant devaluation of the property when it is ultimately sold for all the reasons stated above. There is no reason why the City should cause our property to be devalued, while providing no services, particularly as Ms. Kloehn has devoted 40 years of significant time and resources to the City on a charitable basis.
11. The Village has provided all services as it relates to these properties and there is complete agreement between the Village and the owners of these properties in attaching these properties to the Village.
12. The Town of Grand Chute has been consulted and they have no issue with the detachment from the City and attachment to the Village.

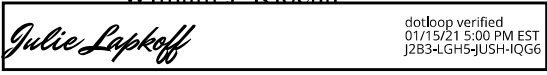
13. We are only looking to effectively restore the agreed arrangement between the owners and the City of Appleton that had been in place from 1959 to 2014.

Based upon the foregoing, we submit this letter to the City in support of our application for detachment to the Village. We hope that you will approve our detachment and thank you for your consideration. Please let us know if there are any questions or concerns.

Sincerely,

By:  dotloop verified
01/16/21 10:13 AM EST
A7Y1-YCWR-OZTQ-SGEU
Trustee Ann P. Kloehn

By:  dotloop verified
01/15/21 5:16 PM EST
8M1U-POBG-OSAO-MUI5
William I. Kloehn

By:  dotloop verified
01/15/21 5:00 PM EST
J2B3-LGH5-JUSH-IQG6
Julie A. Lapkoff

October 24, 1991

Mr. Bogdan Vitas, Jr.
Town Administrator
Town of Menasha
1000 Valley Road
P.O. Box 527
Menasha, WI 54952-0527

RE: City of Appleton - Town of Menasha Boundary

Dear Mr. Vitas:

We own the lot and live at 1834 Palisades Drive. Our lot is bounded on the North by the Fox River.

When we purchased our lot in 1959 we were aware that the Appleton City map depicted the Appleton boundary as crossing the Fox River to the South and then cutting across our lot from East to West. Prior to beginning construction of our house in the fall of 1959, I contacted Appleton City officials about this boundary and was referred to the Appleton City Clerk. He instructed me that because the actual extent of the property was so small, being only a portion of our lot, the City of Appleton could not provide services to our lot. Therefore, we would be taxed solely by the Town of Menasha and we would receive all services from the Town. He suggested that we disregard the fact that the Appleton City map showed the South city boundary as being South of the Fox River and actually cutting across a portion of our property. For the past 32 years we have followed these instructions, have received all of our municipal services from the Town of Menasha and have been taxed by the Town.

The subject of the boundary has been raised again recently at Town of Menasha Board Meetings due to the recent survey update conducted by Outagamie County and the proposed sale and development of the property adjacent to our lot. We are strongly in favor of continuing the same arrangement of receiving all services from the Town of Menasha and being taxed by the Town of Menasha as we have for the past 32 years. Therefore, to permanently resolve this question once and for all, I request the Town of Menasha to pursue an official agreement with the City of Appleton either by a change in the Town-City boundary or an intermunicipal agreement.

We will do anything we can to assist with this process. Our home phone number is 734-0525. Thank you for your help.

Sincerely,

Dr. John S. Kloehn

1834 palisades drive • appleton, wisconsin 54911

**PETITION FOR DETACHMENT OF LAND FROM THE CITY OF APPLETON
TO THE VILLAGE OF FOX CROSSING**

The undersigned, representing all owners of the land lying within the area described below and shown on the attached scale map, in accordance with s. 66.0227 Wis. Stats., petition to detach said land from the City of Appleton, Outagamie County, Wisconsin to the Village of Fox Crossing, Outagamie County, Wisconsin, to-wit:

LEGAL DESCRIPTION

A part of Lots 21, 22, 23, 24 & 25, Block 3 in The Palisades, located in the Southwest 1/4 of the Southwest 1/4 of Section 34, Township 21 North, Range 17 East, City of Appleton, Outagamie County, Wisconsin containing 36,393 square feet (0.835 acres) of land more or less and more particularly described as follows: Beginning at the Southwest corner of said Section 34; thence N00°15'42"W, 76.95 feet along the East line of Lot 1 of Certified Survey Map No. 2480 as recorded in Volume 1 of CSM's on Page 2480 as Document No. 788841 in the Winnebago County Register of Deeds Office to the start of a meander line, being S00°15'42"E, 66 feet more or less from the approximate ordinary highwater mark of the Fox River; thence N64°16'35"E, 24.54 feet along said meander line; thence S82°29'14"E, 65.19 feet along said meander line; thence S74°25'43"E, 199.41 feet along said meander line to the terminus of said meander line on the East line of said Lot 21, being S03°29'40"W, 63 feet more or less from the approximate ordinary high water mark of the Fox River; thence S03°29'40"W, 24.62 feet along said East line to the South line of Outagamie County; thence S89°47'57"W, 276.98 feet along said South line to the Point of Beginning; Including all those lands lying between the above described meander line and the approximate ordinary high water mark of the Fox River bounded by the respective lines extended.

Area of Property to be detached contains 0.835 acres m/l.

The current population of such territory is zero.

City Parcel Id. Number(s): 314900300, 314900400 & 314900500.

Dated the 25th day of February, 2021.

By: Ann Kloehn dotloop verified
02/25/21 2:01 PM EST
459P-GY6D-VXK0-F8FG

Trustee Ann P. Kloehn

By: William Kloehn dotloop verified
02/25/21 1:59 PM EST
WGGR-K1FG-CBVO-6LTW

William J. Kloehn

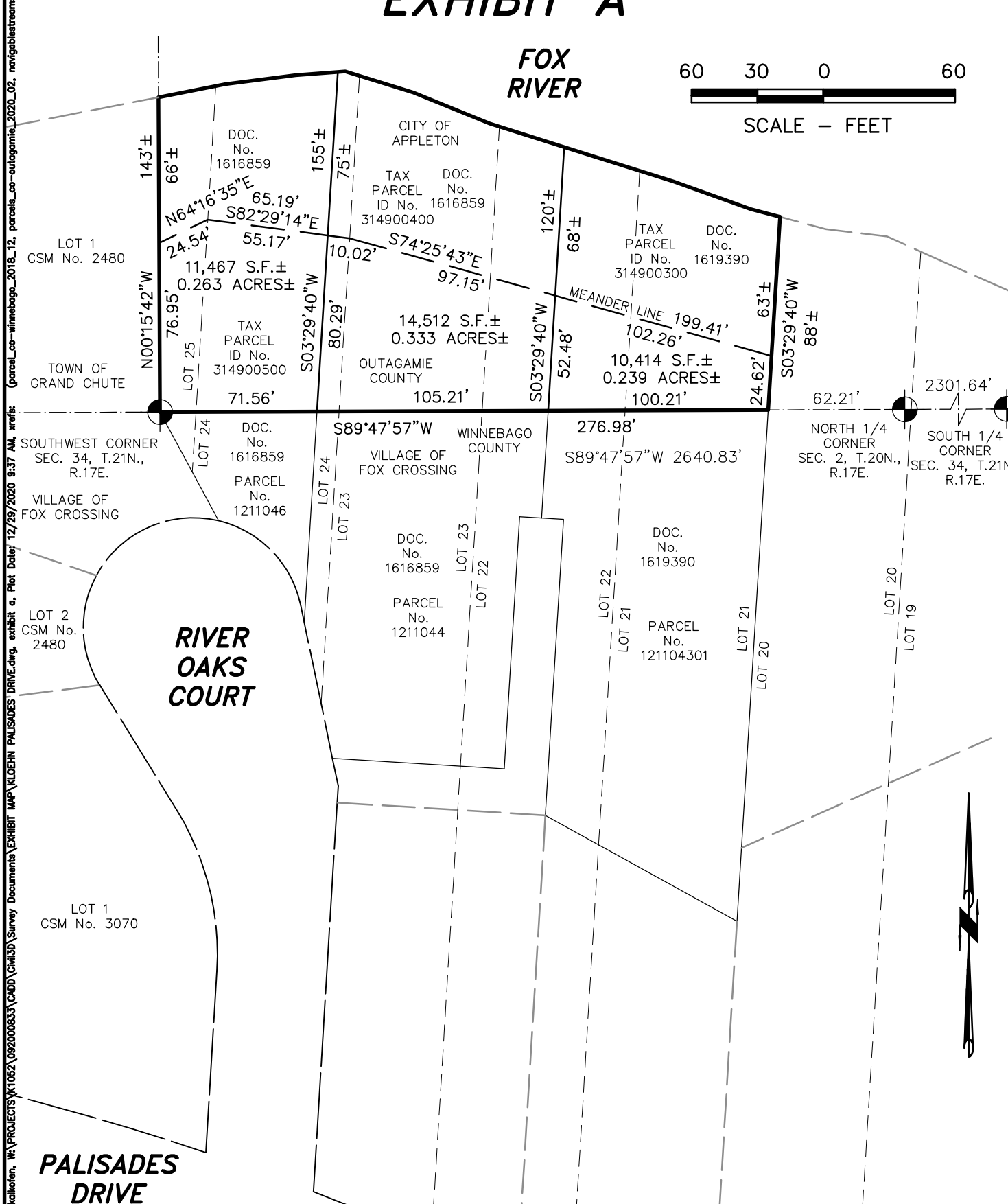
By: Julie Lapkoff dotloop verified
02/25/21 3:18 PM EST
5AVR-XVRE-KUOS-ZF6D

Julie A. Lapkoff

**OFFICE OF CITY CLERK
FILED
MAR 01 2021
APPLETON, WISCONSIN**

EXHIBIT A

FOX RIVER



C:\PROJECTS\K1052\092000833\CADD\CH13D\Survey Documents\EXHIBIT A\KLOEHN PALISADES DRIVE.dwg, exhibit a, Plot Date: 12/29/2020 9:37 AM, xref: (parcel_co-winnabago_2018_12, parcel_co-outagamie_2020_02, navigablestreams_co-outagamie)

EXHIBIT B-1

DESCRIPTION—TAX PARCEL ID No. 314900300

A part of Lots 21 & 22, Block 3 in The Palisades, located in the Southwest 1/4 of the Southwest 1/4 of Section 34, Township 21 North, Range 17 East, City of Appleton, Outagamie County, Wisconsin containing 10,414 square feet (0.239 acres) of land more or less and more particularly described as follows:

Commencing at the Southwest corner of said Section 34; thence N89°47'57"E, 176.77 feet along the South line of Outagamie County to the Point of Beginning; thence N03°29'40"E, 52.48 feet to the start of a meander line, being S03°29'40"W, 68 feet more or less from the approximate ordinary high water mark of the Fox River; thence S74°25'43"E, 102.26 feet along said meander line to the terminus of said meander line on the East line of said Lot 21, being S03°29'40"W, 63 feet more or less from the approximate ordinary high water mark of the Fox River; thence S03°29'40"W, 24.62 feet along said East line to the South line of Outagamie County; thence S89°47'57"W, 100.21 feet along said South line to the Point of Beginning; Including all those lands lying between the above described meander line and the approximate ordinary high water mark of the Fox River bounded by the respective lines extended.

DESCRIPTION—TAX PARCEL ID No. 314900400

A part of Lots 22, 23 & 24, Block 3 in The Palisades, located in the Southwest 1/4 of the Southwest 1/4 of Section 34, Township 21 North, Range 17 East, City of Appleton, Outagamie County, Wisconsin containing 14,512 square feet (0.333 acres) of land more or less and more particularly described as follows:

Commencing at the Southwest corner of said Section 34; thence N89°47'57"E, 71.56 feet along the South line of Outagamie County to the Point of Beginning; thence N03°29'40"E, 80.29 feet to the start of a meander line, being S03°29'40"W, 75 feet more or less from the approximate ordinary high water mark of the Fox River; thence S82°29'14"E, 10.02 feet along said meander line; thence S74°25'43"E, 97.15 feet along said meander line to the terminus of said meander line, being S03°29'40"W, 68 feet more or less from the approximate ordinary high water mark of the Fox River; thence S03°29'40"W, 52.48 feet to the South line of Outagamie County; thence S89°47'57"W, 105.21 feet along said South line to the Point of Beginning; Including all those lands lying between the above described meander line and the approximate ordinary high water mark of the Fox River bounded by the respective lines extended.

EXHIBIT B-2

DESCRIPTION—TAX PARCEL ID No. 314900500

A part of Lots 24 & 25, Block 3 in The Palisades, located in the Southwest 1/4 of the Southwest 1/4 of Section 34, Township 21 North, Range 17 East, City of Appleton, Outagamie County, Wisconsin containing 11,467 square feet (0.263 acres) of land more or less and more particularly described as follows:

Beginning at the Southwest corner of said Section 34; thence N00°15'42"W, 76.95 feet along the East line of Lot 1 of Certified Survey Map No. 2480 as recorded in Volume 1 of CSM's on Page 2480 as Document No. 788841 in the Winnebago County Register of Deeds Office to the start of a meander line, being S00°15'42"E, 66 feet more or less from the approximate ordinary high water mark of the Fox River; thence N64°16'35"E, 24.54 feet along said meander line; thence S82°29'14"E, 55.17 feet along said meander line to the terminus of said meander line, being S03°29'40"W, 75 feet more or less from the approximate ordinary high water mark of the Fox River; thence S03°29'40"W, 80.29 feet to the South line of Outagamie County; thence S89°47'57"W, 71.56 feet along said South line to the Point of Beginning; Including all those lands lying between the above described meander line and the approximate ordinary high water mark of the Fox River bounded by the respective lines extended.

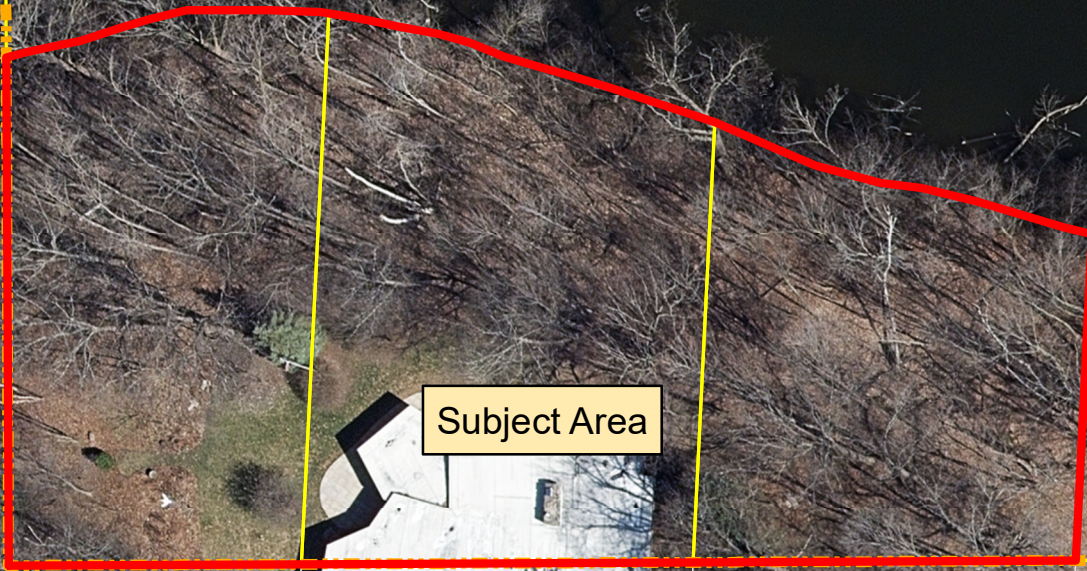
DESCRIPTION—TAX PARCEL ID No. 314900300, 314900400 & 314900500

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Detachment of Territory
Ann Kloehn, William Kloehn and Julie Lapkoff
City of Appleton Parcel Id. Numbers 31-4-9003-00,
31-4-9004-00 and 31-4-9005-00 to Village of Fox Crossing
Aerial Map

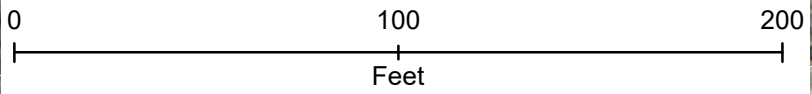
City Limits



Subject Area

City Limits

RIVER OAKS CT



Detachment of Territory
Ann Kloehn, William Kloehn and Julie Lapkoff
City of Appleton Parcel Id. Numbers 31-4-9003-00,
31-4-9004-00 and 31-4-9005-00 to Village of Fox Crossing
Zoning Map

