



## REPORT TO CITY PLAN COMMISSION

**Municipal Services Committee Meeting Date:** July 10, 2023

**Plan Commission Informal Public Hearing Date:** July 12, 2023

**Common Council Meeting Date – Initial Resolution:** July 19, 2023

**Common Council Meeting Date – Public Hearing (40-day waiting period):** September 6, 2023

**Item:** Street discontinuance to vacate a portion of East Circle Street

**Case Manager:** Lindsey Kemnitz, Principal Planner

### GENERAL INFORMATION

**Owner/Applicant:** City of Appleton / Tom Kromm, Department of Public Works

**Location:** Part of E. Circle Street, located west of N. Drew Street and east of N. Durkee Street

**Owner/Applicant's Request:** The applicant is requesting a street discontinuance to vacate a portion of E. Circle Street right-of-way.

### BACKGROUND

As Appleton Area School District was preparing a Certified Survey Map (CSM) for an expansion at the Kaleidoscope Academy, it was determined E. Circle Street, located west of N. Drew Street and east of N. Durkee Street as a public right-of-way. According to the City's records, the street vacation was initiated in 1971 to allow for construction of an addition but was not completed. In 1997, the City re-initiated the street vacation to provide accurate public records but was not completed. The area being vacated has not been used for public street purposes for over 50 years. The City is initiating the street vacation to create accurate public records for the future expansion plans of the Kaleidoscope Academy.

### STAFF ANALYSIS

**Title to Vacated Street:** When vacated, the land reverts to its original source, which in this case includes the parcels located adjacent to the proposed vacation area. Consequently, title to the street segments being vacated would belong to the adjoining property owner. All adjacent parcels are commonly owned by the Appleton Area School District. As shown on the attached map, the adjoining property owner would acquire the vacated E. Circle Street right-of-way of approximately 24,330 square feet. It is anticipated that the vacated area would be combined with the surrounding parcels, as described above.

**Existing Public Utilities:** The City will retain an easement for the existing sanitary sewer within the entire length and width of the vacated right-of-way. Currently, the sanitary sewer within the vacated right-of-way serves properties located on N. Durkee Street. The Public Works Department is intending to relay a portion of the sanitary sewer in N. Durkee Street in 2024, which will allow the City to release the sanitary sewer easement in the future.

**Street Vacation – E. Circle Street**

**July 12, 2023**

**Page 2**

**Street Right-of-Way Width:** This portion of E. Circle Street is approximately 60 feet wide.

**Street Classification:** The City’s Arterial/Collector Plan Map identifies E. Circle Street as a local street.

**Surrounding Zoning and Land Uses:** The surrounding area is under the jurisdiction of the City of Appleton (north, south, east, and west). The uses are generally residential and institutional in nature.

North: P-I Public Institutional District. The adjacent land to the north is occupied by Kaleidoscope Academy.

South: P-I Public Institutional District. The adjacent land to the south is occupied by Kaleidoscope Academy.

East: R-1B Single-Family District. The adjacent land use to the east is single family residential.

West: R-1B Single Family District. The adjacent land use to the west is single family residential.

**Comprehensive Plan 2010-2030:** The City of Appleton *Comprehensive Plan 2010-2030* Future Land Use Map identifies this area with a future Public/Institutional Use. The proposed street vacation is consistent with the following excerpts from the *Comprehensive Plan 2010-2030*.

*OBJECTIVE 6.8 Transportation:*

*Implement transportation improvements which also support the City’s desired land use, housing and neighborhood goals, objectives, and policies.*

*OBJECTIVE 7.3 Education:*

*Work with Appleton Area School District to assist them, when appropriate to do so, in delivering services to Appleton residents.*

**Technical Review Group (TRG) Report:** This item appeared on the June 20, 2023 TRG agenda. No negative comments were received from participating departments.

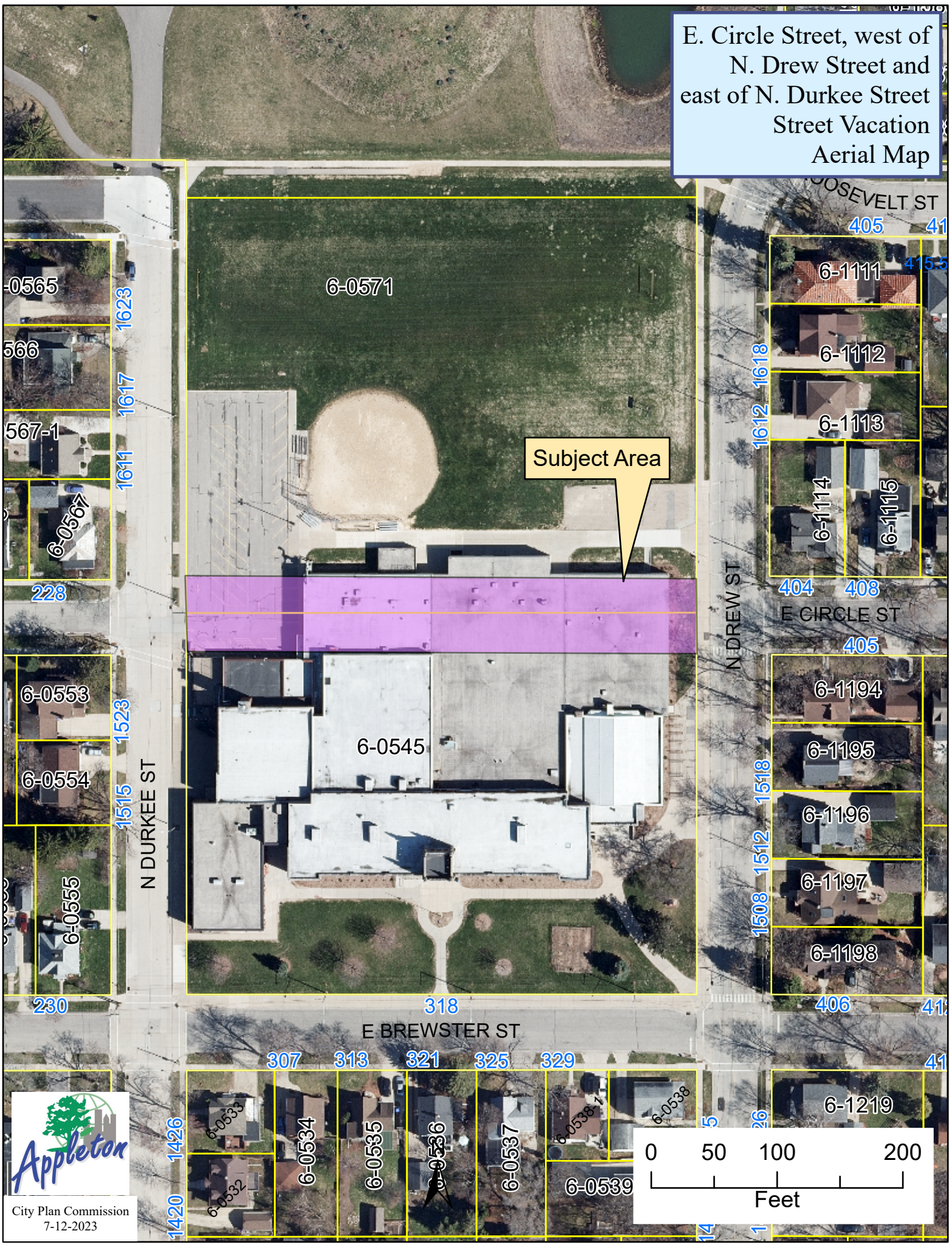
**RECOMMENDATION**

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Staff recommends the discontinuance of a portion of E. Circle Street public right-of-way, as shown on the attached map and legal description, and the adoption of the Initial Resolution, **BE APPROVED**.



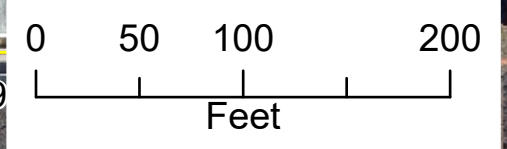
E. Circle Street, west of  
N. Drew Street and  
east of N. Durkee Street  
Street Vacation  
Aerial Map



Subject Area



City Plan Commission  
7-12-2023





## **INITIAL RESOLUTION**

**WHEREAS**, the public interest requires that a portion of East Circle Street, from North Durkee Street to North Drew Street, that has not previously been vacated, be vacated and discontinued,

**BE IT RESOLVED**, that the Common Council of the City of Appleton, Wisconsin, hereby determines that the public interest requires that a portion of East Circle Street, City of Appleton, Outagamie County, Wisconsin, as hereinafter described, is hereby vacated and discontinued pursuant to §66.1003 of the Wisconsin Statutes.

### **LEGAL DESCRIPTION**

All of a strip of land 60 feet in width and 405.5 feet m/l in length and containing 24,330 square feet of land m/l and being further described by:

All of Circle Street lying between Block Seven (7) and Block Twelve (12), of Herman Erbs 6<sup>th</sup> Ward Addition, located in the Southwest Quarter (SW ¼) of the Southeast Quarter (SE ¼) of Section 23, Township 21 North, Range 17 East, City of Appleton, Outagamie County, Wisconsin.

See also attached Exhibit "A" for illustration.

### **EASEMENT**

The City of Appleton their heirs, successors and or assigns (Grantee) hereby retain an easement for a sanitary sewer within the entire length and width of the above described right of way.

It is further agreed that this easement shall be a permanent easement.

It is further agreed that Grantee shall have the right to install, regrade, replace, relocate, operate, maintain, resize and repair the sanitary sewer and associated appurtenances. It is further agreed that after installing, regrading, replacing, relocating, operating, maintaining, resizing or repairing of this utility and associated appurtenances Grantee shall restore unimproved surfaces such as grass, gravel and dirt on said property, as closely as possible, to the condition previously existing. Grantee shall not be required to restore or compensate for any improvements or improved surfaces such as, but not limited to, curb and gutter, hard pavements, trees, shrubs and landscaping, disturbed as a result of the maintenance activities described herein. This easement includes the right to operate any and all equipment deemed necessary by Grantee to perform said activities. Grantee agrees that it shall give timely notice to the Grantor of routine maintenance work.

**COMMON DESCRIPTION:**

Portion of East Circle Street from North Durkee Street to North Drew Street

***FURTHER RESOLVED***, that the City Clerk of the City of Appleton be authorized and directed to give notice required by §66.1003 of the Wisconsin Statutes.

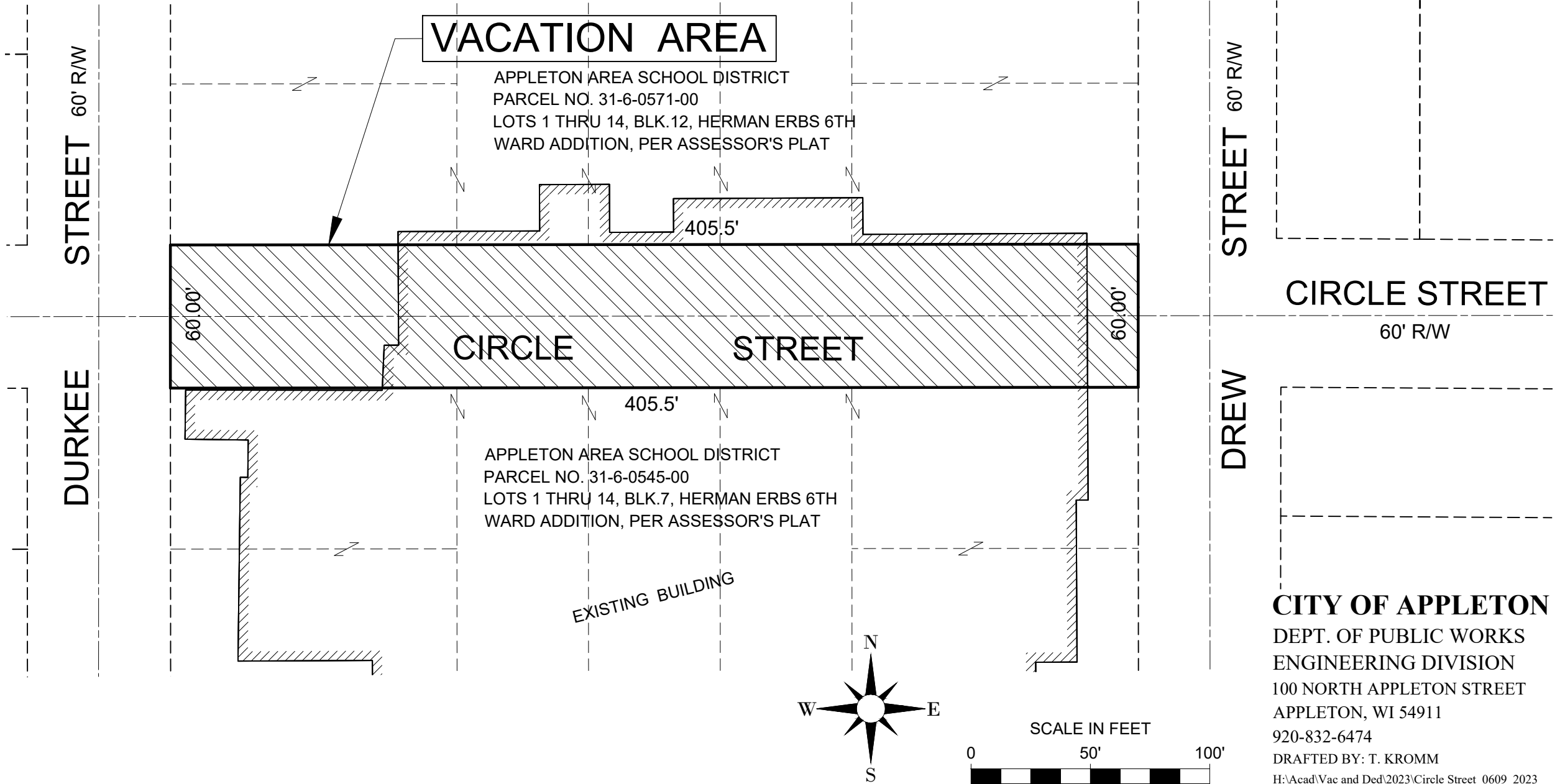
***FURTHER RESOLVED***, that according to §66.1005 of the Wisconsin Statutes, upon vacation and discontinuance of said part of East Circle Street, title to the above-described street shall belong to the adjoining property owner and shall acquire an ownership interest in the entire area being vacated as shown on the attached Exhibit Map.

By: \_\_\_\_\_

Date: \_\_\_\_\_  
City Law A23-0898

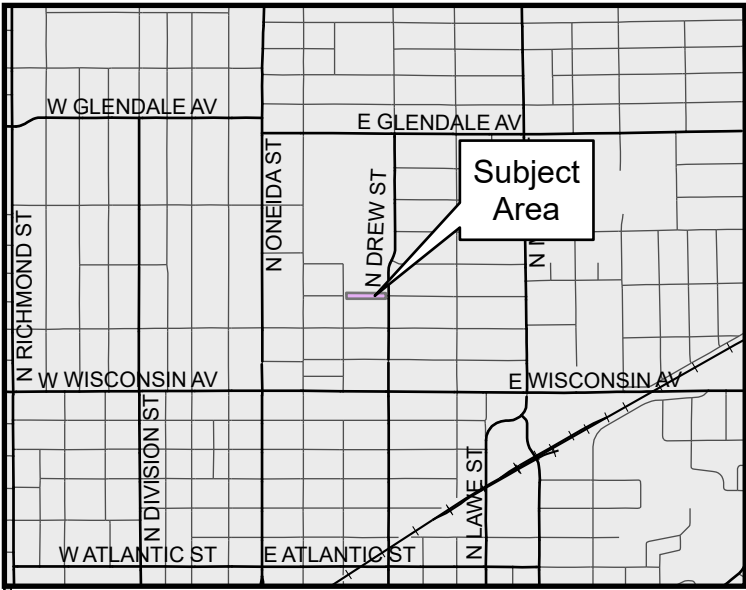
# EXHIBIT "A"

All of Circle Street, lying between Block Seven (7) and Block Twelve (12), of HERMAN ERBS 6TH WARD ADDITION, all according to the recorded Assessor's Map of the City of Appleton, being located in the Southwest  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 23, Township 21 North, Range 17 East, City of Appleton, Outagamie County, Wisconsin.



**CITY OF APPLETON**  
DEPT. OF PUBLIC WORKS  
ENGINEERING DIVISION  
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E. Circle Street,  
west of N. Drew Street and  
east of N. Durkee Street  
Street Vacation  
Vicinity Map



Subject Area

P-I



Subject Area

PD/R-3

R-2

R-1B

C-2

