



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Informal Public Hearing Date:** November 26, 2019

**Municipal Services Committee Meeting Date:** December 9, 2019

**Common Council Meeting Date-Initial Resolution:** December 18, 2019

**Common Council Public Hearing Date:** February 5, 2020

**Item:** Street Discontinuance to vacate a portion of North Erb Street, north of West Michigan Street

**Case Manager:** Jessica Titel

### GENERAL INFORMATION

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

**Street Name/Location:** Portion of North Erb Street, north of West Michigan Street

**Owner/Applicant's Request:** The applicant is requesting a street discontinuance to vacate a portion of North Erb Street, north of West Michigan Street.

### BACKGROUND

The Northview Plat dated 1956 dedicated this land for a public street. This section of public right-of-way has not been improved as a public street.

As part of an on-going process to review and analyze dedicated public right-of-way in the City of Appleton that may no longer serve a right-of-way need, this unimproved section of North Erb Street was identified for vacation. A three-party street vacation agreement was approved by the Common Council on November 20, 2019. This agreement sets forth expectations and responsibilities regarding the proposed street vacation.

### STAFF ANALYSIS

**Title to Vacated Street:** As a result, when vacated, the land must revert to its original source, which in this case are the parcels located to the east and west of the proposed vacation. Consequently, title to the street being vacated will belong to the adjoining property owner(s) and will acquire an ownership interest in land vacated as shown on the attached map.

**Public Utilities:** The City will retain an easement for all existing utilities and any future utilities deemed necessary within the entire length and width of the vacated right-of-way.

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

**Street Classification:** The City's Arterial Map identifies this portion of North Erb Street as a local street.

## **Street Vacation – North Erb Street**

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**Existing Conditions:** The vacated area is being used as a driveway for the existing single-family home that is to the east of the proposed vacation. The driveway will continue to be used to provide access the property.

**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 commercial in nature.

**North:** C-2 General Commercial District. The adjacent property to the north is currently a variety of commercial uses.

**South:** R-1B Single-Family Residential District. The adjacent land to the south is currently public right-of-way.

**East:** R-1B Single-Family Residential District. The adjacent property to the east is currently single-family residential.

**West:** R-1B Single-Family Residential District. The adjacent property to the west is currently vacant (the single-family home and garage that are shown on the attached aerial photo have since been razed.).

**2010-2030 Comprehensive Plan:** The City of Appleton 2010-2030 Comprehensive Plan identifies this area for future one and two family residential uses. The current use of the subject area is consistent with the current Future Land Use Map.

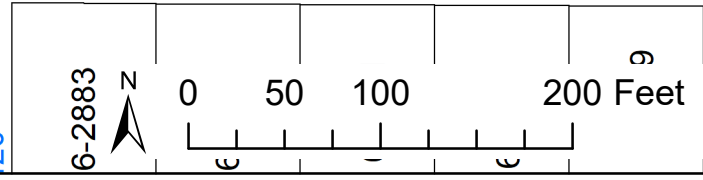
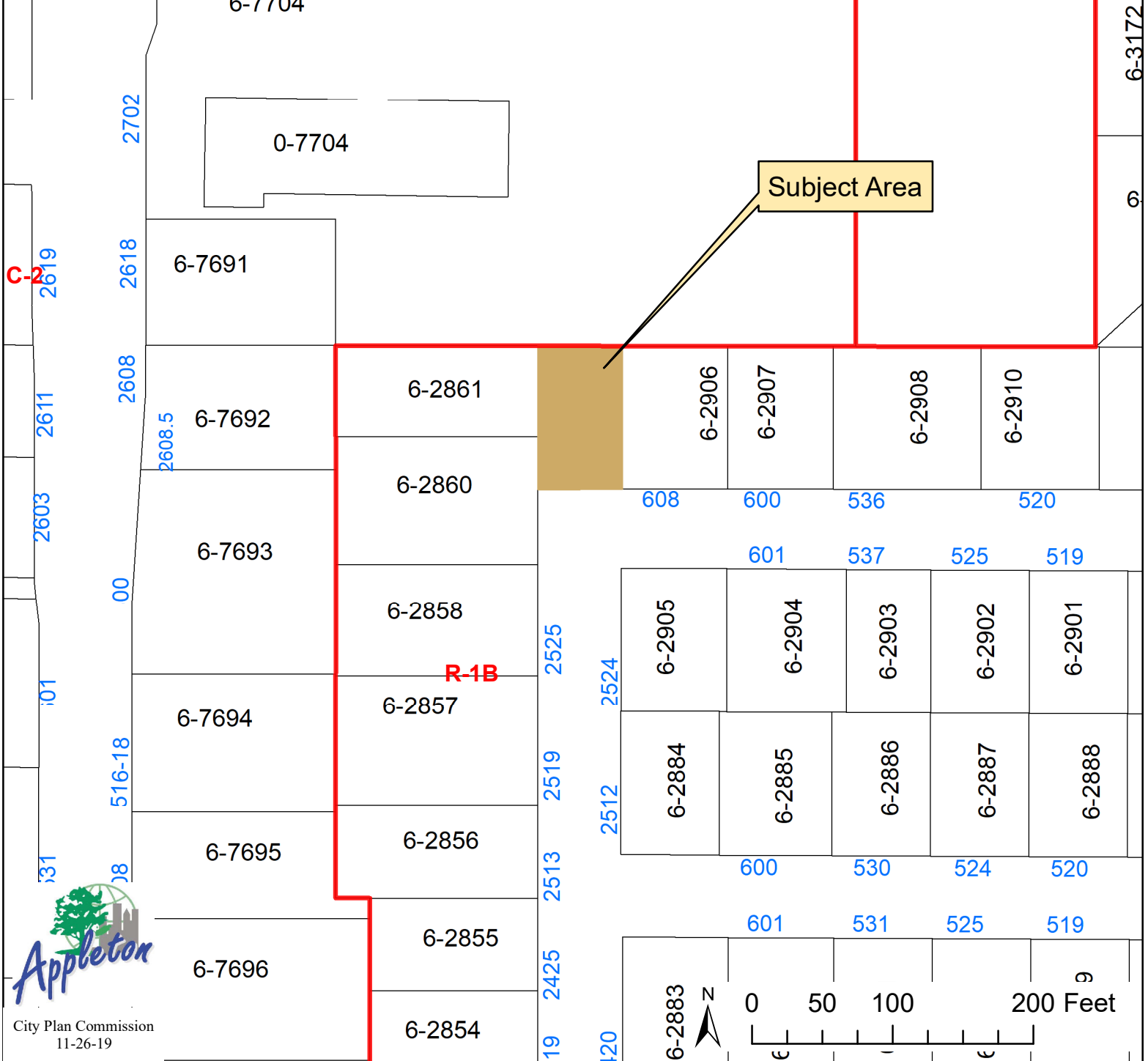
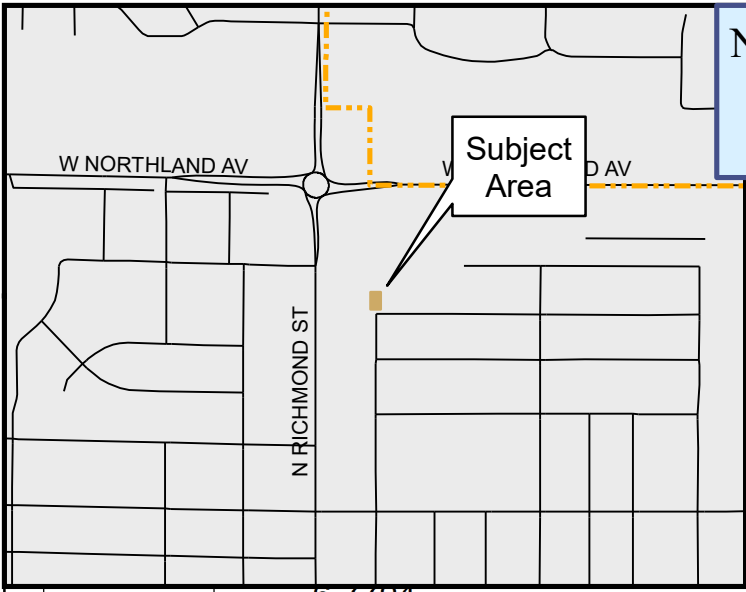
**Technical Review Group Report (TRG):** This item was discussed at the November 5, 2019 Technical Review Group meeting. No negative comments were received from participating departments.

### **RECOMMENDATION**

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Staff recommends the discontinuance of a portion of North Erb Street public right-of-way, as shown on the attached map and legal description, pending approval by the Municipal Services Committee, and the adoption of the Initial Resolution, **BE APPROVED**.

# North Erb Street, north of West Michigan Street Street Vacation Zoning Map





North Erb Street, north of West Michigan Street  
Street Vacation  
Aerial Map



Subject Area

W MICHIGAN ST

N ERB ST

W PERSHING ST

N RICHMOND ST

W LINDBERGH ST

0 100 200 400 Feet



City Plan Commission  
11-26-19



## ***INITIAL RESOLUTION***

***WHEREAS***, the public interest requires that a portion of North Erb Street, north of West Michigan 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 North Erb 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**

A strip of land 60 feet in width and 101.6 feet m/l in length, containing 6,096 square feet of land and being further described as:

All that part of Erb Street lying North of the Westerly extension of the North line of Michigan Street, located in the Northwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 23, Township 21 North, Range 17 East, City of Appleton, Outagamie County, Wisconsin.

See also attached Exhibit "A" for illustration.

### **EASEMENTS**

The City of Appleton their heirs, successors and or assigns (Grantee) hereby retain an easement for any and all existing utilities and also any future utilities deemed necessary or desirable by Grantee within the vacated right of way, including but not limited to, storm sewer, drainage, sanitary sewer, watermain, gas, electric, cable and fiber optic 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 any and all of these utilities and their associated appurtenances. It is further agreed that after installing, regrading, replacing, relocating, operating, maintaining, resizing or repairing of these utilities and their 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. Buildings or any other type of permanent structure shall not be placed over Grantees' facilities or in, upon or over said easement area. 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:**

A portion of North Erb Street, north of West Michigan Streets

***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 portion of North Erb Street, title to the above-described street shall belong to the adjoining property owners and shall acquire an ownership interest in the entire area being vacated as shown on the attached Exhibit Map.

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Date

City Law A19-1101  
11/15/2019

# EXHIBIT "A"

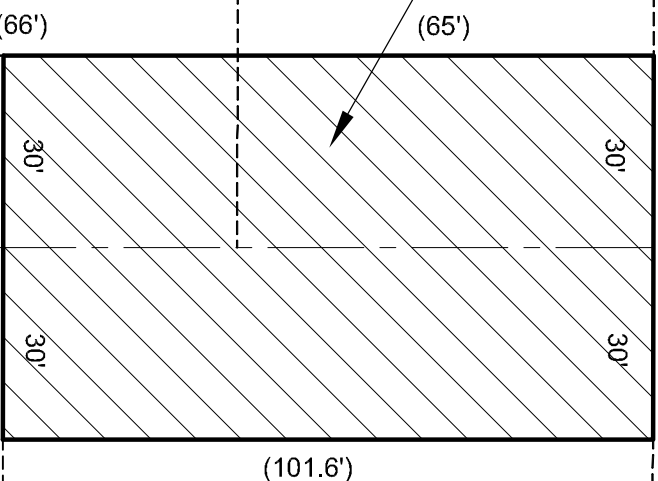
## ERB STREET VACATION

*R. Lewis and R. Lewis LLC*  
*31-6-7704-00*  
*Lot 2, CSM #1926, Zoned: C-2*

*R. Lewis and R. Lewis LLC*  
*31-6-2861-00*  
*Lot 11, Block 1*  
*Northview Plat*  
*Zoned: R-1B*

*R. Lewis and R. Lewis LLC*  
*31-6-2860-00*  
*Lot 10, N.27' Lot 9, Block 1*  
*Northview Plat*  
*Zoned: R-1B*

AREA TO  
BE VACATED

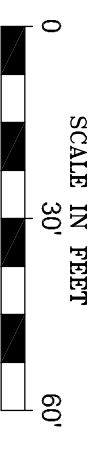
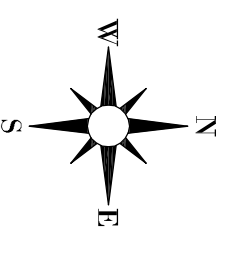


*Mitchell and Amber Nonn*  
*31-6-2906-00*  
*Lot 1, Block 4*  
*Northview Plat*  
*Zoned: R-1B*

***N. ERB STREET***

***W. MICHIGAN STREET***

60' R/W



**CITY OF APPLETON**

DEPT. OF PUBLIC WORKS  
ENGINEERING DIVISION  
100 NORTH APPLETON STREET  
APPLETON, WI 54911

920-832-6474

DRAFTED BY: T. KROMM

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