



REPORT TO CITY PLAN COMMISSION

Plan Commission Informal Public Hearing Date: July 20, 2015

Municipal Services Committee Meeting Date: July 21, 2015

Common Council Meeting Date – Initial Resolution: August 5, 2015

Common Council Meeting Date – Public Hearing (40-day waiting period): September 16, 2015

Item: Street Discontinuance to vacate a portion of South Badger Avenue

Case Manager: David Kress

GENERAL INFORMATION

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

Street Name/Location: Portion of South Badger Avenue, generally located west of South Memorial Drive

Owner/Applicant's Request: The applicant is requesting a street discontinuance to vacate a portion of South Badger Avenue west of South Memorial Drive.

BACKGROUND

In 2010, West Spencer Street, South Badger Avenue, and South Memorial Drive were reconstructed as a part of the Wisconsin Department of Transportation STH 47 project. Through this project, street alignments were adjusted to improve traffic flow. To accommodate the new street alignment, additional lands were acquired along the southwest side of Badger Avenue. As a result, the area being vacated is no longer used as public street.

STAFF ANALYSIS

Title to Vacated Street: When vacated, the land must revert to its original source, which in this case includes the lots located northeast of the proposed vacation area. Consequently, title to the street being vacated will belong to the adjoining property owner. The adjoining property owner will acquire an ownership interest in the land vacated, totaling approximately 4,198 square feet, as shown on the attached map.

Existing 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 Classification: The City's Arterial/Collector Plan Map identifies this portion of South Badger Avenue as an arterial 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 commercial, residential, and institutional in nature.

Street Vacation – South Badger Avenue

July 20, 2015

Page 2

North: C-2 General Commercial District and R-1C Central City Residential District. The adjacent land uses to the north are currently a mix of single-family residential and commercial uses, including gasoline sales.

South: R-1B Single-Family District, R-2 Two-Family District, and R-3 Multi-Family District. The adjacent land uses to the south are currently a mix of single-family residential and institutional uses.

East: R-1C Central City Residential District and R-2 Two-Family District. The adjacent land uses to the east are currently one and two-family residential.

West: R-1B Single-Family District. The adjacent land uses to the west are currently single-family residential.

Comprehensive Plan 2010-2030: The City of Appleton *Comprehensive Plan 2010-2030* identifies this area for future commercial uses.

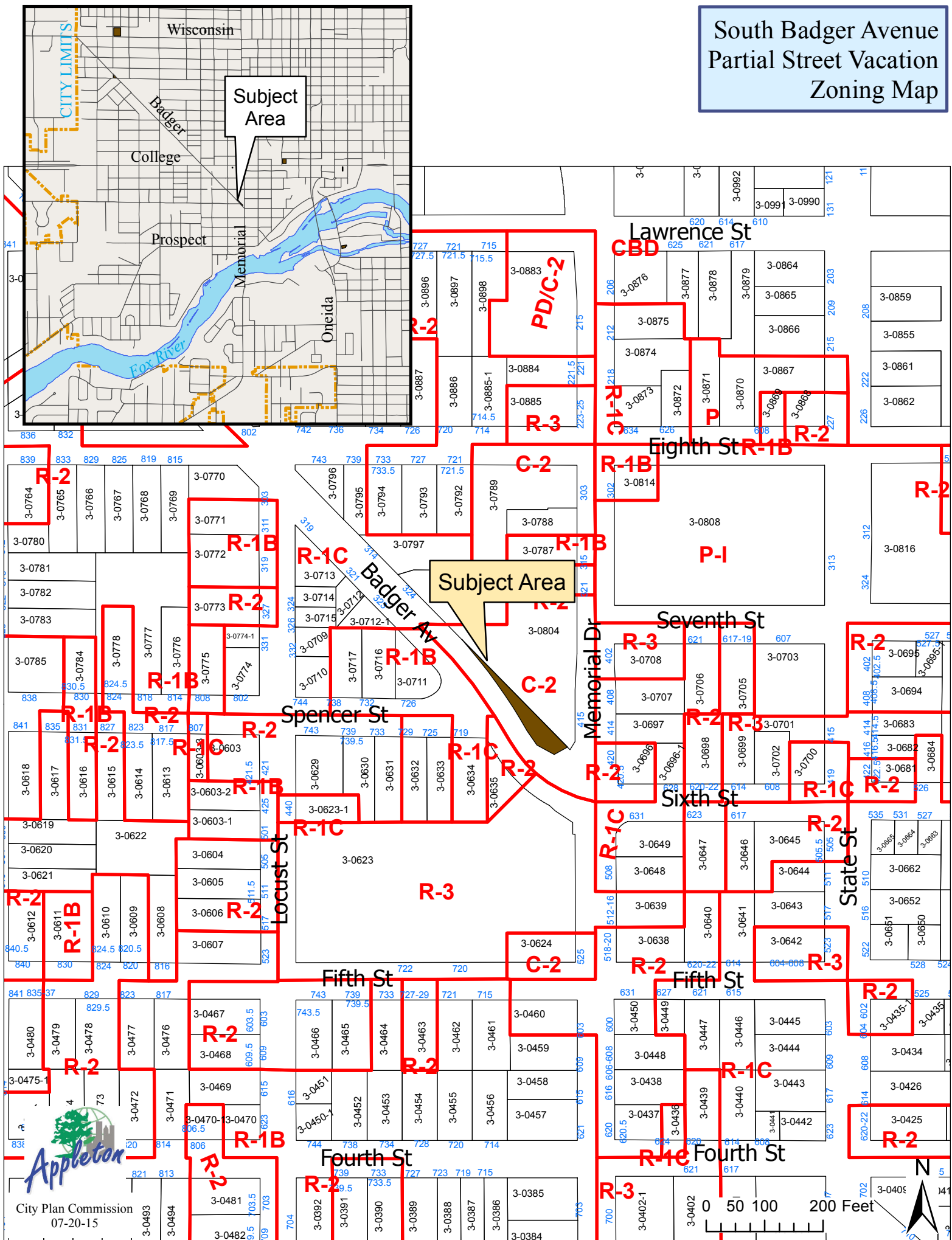
Technical Review Group (TRG) Report: This item was discussed at the June 30, 2015 Technical Review Group meeting. No negative comments were received from participating departments.

Written Public Comments: No questions, concerns, or comments have been received from the surrounding neighborhood.

RECOMMENDATION

Staff recommends the discontinuance of a portion of South Badger Avenue 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**.

South Badger Avenue Partial Street Vacation Zoning Map



INITIAL RESOLUTION

WHEREAS, the public interest requires that a portion of South Badger Avenue, 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 South Badger Avenue, City of Appleton, Outagamie County, Wisconsin, as hereinafter described, is hereby vacated and discontinued pursuant to §66.1003 of the Wisconsin Statutes.

LEGAL DESCRIPTION

Bounded on the Northeast by Lots 16, 17 and 19, of Block 39, Grand Chute Plat (aka 3rd Ward Plat), according to the recorded Assessor's Plat of the City of Appleton, all being located in the SE ¼ of the SE ¼ of Section 27, the NE ¼ of the NE ¼ of Section 34 and the NW ¼ of the NW ¼ of Section 35, T.21N., R.17E., City of Appleton, Outagamie County, Wisconsin, containing 4,198 square feet of land m/l and being further described by:

Commencing at the Southeast corner of said Section 27;
Thence North 89°12'54" West 20.68 feet along the South line of the SE ¼ of said Section 27 to the Northeasterly line of Badger Avenue and being the point of beginning;
Thence South 44°28'35" East 66.725 feet along the Northeasterly line of said Badger Avenue;
Thence South 61°11'51" West 26.09 feet;
Thence North 61°28'03" West 33.97 feet;
Thence North 34°53'10" West 28.87 feet;
Thence Northwesterly 193.72 feet, along the arc of a curve to the left having a radius of 884.00 feet and the chord of which bears North 35°28'47" West 193.34 feet to the Northeasterly line of Badger Avenue;
Thence South 44°28'35" East 192.235 feet along the Northeasterly line of said Badger Avenue to the point of beginning.

See attached Exhibit "A" for illustration.

TITLE TO VACATED LANDS

The adjoining property owners shall acquire ownership to the afore described and vacated portions of Badger Avenue as shown on the attached Exhibit "A" Map and more specifically as follows:

The owner of Lots 17, 19 and that part of Lot 16 of Block 39 in the Grand Chute Plat abutting the portion of vacated Badger Avenue shall acquire the vacated area in its entirety.

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, traffic, 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 said property, as closely as possible, to the condition previously existing, and Grantee does hereby agree to compensate fully for any damage caused directly or indirectly from said maintenance, resizing, repair, replacement or relocation of said utilities. 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:

South Badger Avenue

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 South Badger Avenue, title to the above-described streets shall belong to the adjoining property owners and shall acquire an ownership interest in the entire area being vacated as described herein.

Date

J:\Attorney\WORD\VACATION\Spencer & Badger (2015)\
Spencer & Badger - AMENDED Initial Resolution (Badger Only) - July 2015.doc

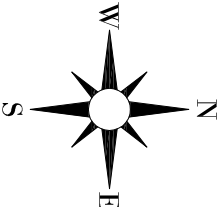
EXHIBIT "A"

PART OF BADGER AVENUE LYING ADJACENT TO LOTS 16, 17 AND 19 OF BLOCK 39, **GRAND CHUTE PLAT (AKA 3RD WARD)**, ALL ACCORDING TO THE RECORDED ASSESSOR'S PLAT OF THE CITY OF APPLETON, LOCATED IN THE NE 1/4 OF THE NE 1/4 OF SECTION 34, THE SE 1/4 OF THE SE 1/4 OF SECTION 27 AND THE NW 1/4 OF THE NW 1/4 OF SECTION 35, ALL IN TOWNSHIP 21 NORTH, RANGE 17 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN.

SPENCER STREET

BADGER AVENUE

MEMORIAL DRIVE



- LEGEND**-----
- ⊕ = Chisel Mark Found
 - ✕ = 3/4" Iron Rebar Found
 - ▲ = 1.3" O.D. Iron Pipe Found

BEARINGS ARE REFERENCED TO THE
WISCONSIN COUNTY COORDINATE
SYSTEM, OUTAGAMIE COUNTY, NORTH
LINE OF THE NW 1/4 OF SECTION 27-21-17
RECORDED AS S.89°01'30"E.

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SCALE IN FEET



CITY OF APPLETON

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