



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Informal Public Hearing Date:** October 26, 2015

**Municipal Services Committee Meeting Date:** October 27, 2015

**Common Council Meeting Date – Initial Resolution:** November 4, 2015

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

**Item:** Street Discontinuance to vacate a portion of South Lynndale Drive

**Case Manager:** David Kress

### GENERAL INFORMATION

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

**Street Name/Location:** Portion of South Lynndale Drive, generally located south of West Leonard Street to the railroad right-of-way.

**Owner/Applicant's Request:** The applicant is requesting a street discontinuance to vacate a portion of South Lynndale Drive between West Leonard Street and the railroad right-of-way.

### BACKGROUND

The Department of Public Works had scheduled reconstruction of this street for 2016 and 2017, but after discussions with the sole adjoining property owner, it is mutually agreeable to vacate this portion of public street instead.

### STAFF ANALYSIS

**Title to Vacated Street:** When vacated, the land must revert to its original source, which in this case includes the lots located east and west 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 89,431 square feet, as shown on the attached map.

**Existing Public Utilities and Emergency Access:** 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. The City will also retain an access easement for motorized maintenance and emergency response vehicles for the purpose of responding to any and all emergency situations.

**Street Right-of-Way Width:** This portion of South Lynndale Drive is approximately 80 feet wide.

**Street Classification:** The City's Arterial/Collector Plan Map identifies this portion of South Lynndale Drive as a local street.

**Street Vacation – South Lynndale Drive**  
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**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 industrial in nature.

North: M-2 General Industrial District. The adjacent land uses to the north are currently a mix of business / industrial uses. These properties are located in the Southwest Industrial Park.

South: M-2 General Industrial District, R-2 Two-Family District, and R-1B Single-Family District. The adjacent land uses to the south are currently railroad right-of-way and one and two-family residential.

East: M-2 General Industrial District. The adjacent land uses to the east are currently industrial, including a freight distribution center. These properties are located in the Southwest Industrial Park.

West: M-2 General Industrial District. The adjacent land uses to the west are currently a mix of business / industrial uses.

**Comprehensive Plan 2010-2030:** The City of Appleton *Comprehensive Plan 2010-2030* identifies this area for future industrial and business / industrial uses.

**Technical Review Group (TRG) Report:** This item was discussed at the October 6, 2015 Technical Review Group meeting.

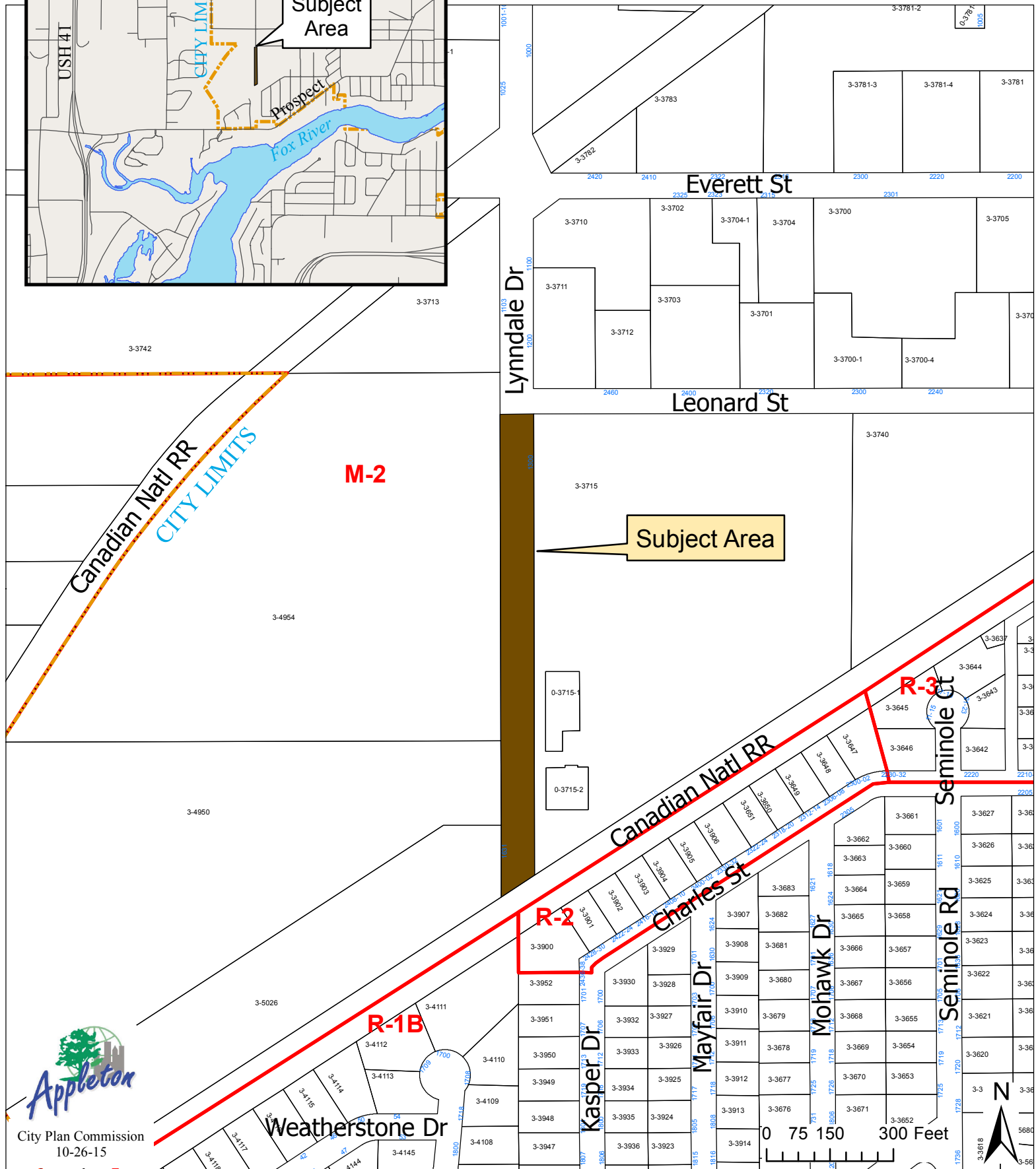
- Fire Department Comments: Buildings cannot be constructed over the proposed vacation area, as the road surface is needed for response purposes to the buildings at the south end.  
*An addition was made to the easement language to address this comment.*

**Written Public Comments:** Staff has received one letter from Mills Properties Inc. (see attached). No other questions, concerns, or comments have been received from the surrounding neighborhood.

## **RECOMMENDATION**

Staff recommends the discontinuance of a portion of South Lynndale Drive 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 Lynndale Drive Street Vacation Zoning Map





South Lynndale Drive  
Street Vacation

Leonard St

Area to be  
Vacated

Lynndale Dr

3-4954

3-3715

0-3715-1

0-3715-2

3-3900

3-3952

3-3930

3-3929

3-3907

3-3908

3-3909

3-3850

3-3931

3-3906

3-3905

3-3904

3-3903

3-3902

3-3901



City Plan Commission  
10-26-15

0 75 150 Feet





## ***INITIAL RESOLUTION***

***WHEREAS***, the public interest requires that a portion of South Lynndale Drive, 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 Lynndale Drive, 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 80 feet in width and 1117.9 feet m/l in length along its centerline and containing 89,431 square feet of land m/l and being further described by:

All that part of Lynndale Drive South of the Westerly extension of the South line of Leonard Street and Northerly of the Northwestern line of the Wisconsin Central Railroad Ltd.(formerly known as the Chicago and Northwestern Railroad Company), being located in the Northwest Quarter (NW ¼) of the Southeast Quarter (SE ¼) and the Northeast Quarter (NE ¼) of the Southwest Quarter (SW ¼), Section 33, T.21N., R.17E., City of Appleton, Outagamie County, Wisconsin and being further described as follows:

Commencing at the Southeast corner of Lynndale Drive and Leonard Street and being the point of beginning;

Thence S.00°02'W. 1092.00 feet m/l along the East line of Lynndale Drive to the Northwestern line of the Wisconsin Central Railroad Ltd. r/w;

Thence S.57°06'W. 95.32 feet, along the Northwestern line of the Wisconsin Central Railroad Ltd. r/w to the West line of Lynndale Drive;

Thence N.00°02'E. 1143.77 feet m/l along the West line of Lynndale Drive to the Westerly extension of the South line of Leonard Street;

Thence N.90°00'E. 80.00 feet along said extension to the point of beginning.

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. Grantee also retains an access easement for motorized maintenance and emergency response vehicles for the purpose of responding to any and all emergency situations.

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:**

South Lynndale Drive – South of Leonard Street to railroad right-of-way

***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 Lynndale Drive, 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.

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Date

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Lynndale Drive - Initial Resolution.doc

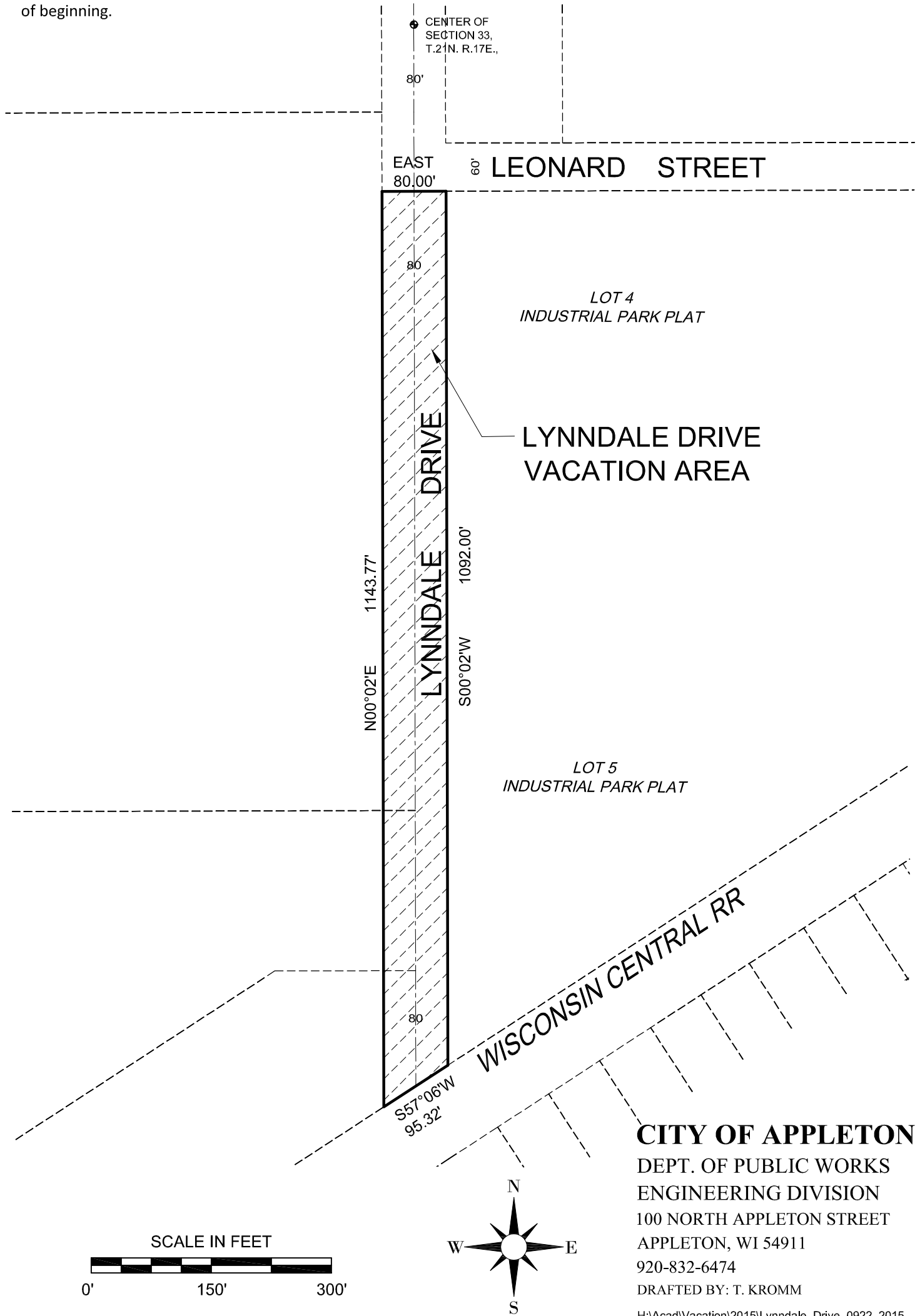
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Christopher W. Croatt, Chair

# EXHIBIT "A"

All of a strip of land 80 feet in width and 1117.9 feet m/l in length along its centerline and containing 89,431 square feet of land m/l and being further described by:

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CITY OF APPLETON

DEPT. OF PUBLIC WORKS  
ENGINEERING DIVISION

100 NORTH APPLETON STREET

APPLETON, WI 54911

920-832-6474

DRAFTED BY: T. KROMM

H:\Acad\Vacation\2015\Lynndale Drive 0922 2015



OPERATIONS & DISTRIBUTION CENTER  
1300 S. LYNNDALE DRIVE  
P.O. BOX 1199  
APPLETON, WISCONSIN 54912-1199  
920-731-8121

August 7, 2015

Ms. Paula Vandehey, Director of Public Works  
100 North Appleton Street  
Appleton, WI 54911

Re: Lynndale Avenue Reconstruction  
Petition for Vacation of Right of Way

Dear Ms. Vandehey:

We have owned and operated the Fleet Wholesale Supply distribution center at 1300 Lynndale Avenue for several decades. Since that time, our store locations and sizes have expanded, we have enlarged the distribution center and have acquired both the Long and Foremost properties, as well as the former lagoon site. We have just recently acquired the office building at 1200 Leonard Street as well. This was all done to accommodate the growth of our operations in the Midwest. As a result, we now own all of the property on both sides of Lynndale Avenue lying south of Leonard Street and north of the railroad that borders our ownership on the south.

We are aware of the reconstruction done to Lynndale Avenue north of Leonard Street to College Avenue and are aware of your plans to reconstruct the balance of the utilities and road during 2016 and 2017 respectively. We also assume that since we own both sides of the road, much of the cost will be assessed to us as the benefitting property owner.

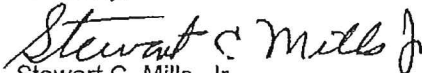
As our engineer, Bruce Buxton, discussed with you on July 28, 2015, although we do not know exactly what we want to do, we know we need to expand the operations to accommodate what is now 35 stores and soon to be 36. We have had several discussions about the expansion and would expect to be able to make a decision within a year or two. Any expansion would likely interfere with the improvements you are contemplating and require that they be relocated to accommodate our expansion. Obviously, this would result in paying twice for the same services, something no one is interested in doing.

Inasmuch as we control both sides of the road and there is no through traffic on this dead end road, we see benefit in not doing the improvement at all at this time, but rather vacating the road and turning ownership and responsibility over to us. Vacating the road would relieve you of maintenance and repair and hopefully allow you to postpone any work in the area south of Leonard Street.

We, therefore, request that you consider this letter as a petition for vacation of the right of way of Lynndale Avenue South from Leonard Street to the railroad at the southern terminus of Lynndale Avenue. We also request that the right of way be deeded to us, as the abutting owner, subject to the easements needed to operate and maintain the existing utility systems, until they are relocated to a mutually acceptable location.

We would be most happy to have our engineer meet with you and your staff to review the details of this request at your convenience. If you have any questions, please advise.

Sincerely,

  
Stewart C. Mills, Jr.  
Co-Owner

cc: Henry C. Mills II  
Jeff Meek, CFO  
Hugh Leasum, Sr. Dir. Of Operations  
Bruce Buxton, Engineer