

ENROLLED ORDINANCE 164-45

AMEND THE DISTRICT ZONING MAP OF THE TOWN OF MERTON ZONING CODE BY REZONING CERTAIN LANDS LOCATED IN PART OF THE NW 1/4 OF SECTION 15, T8N, R18E, TOWN OF MERTON, WAUKESHA COUNTY, WISCONSIN, FROM THE B-3 GENERAL BUSINESS DISTRICT TO THE B-2 LOCAL BUSINESS DISTRICT (ZT-1691)

WHEREAS the subject matter of this Ordinance having been approved by the Merton Town Board on August 25, 2009, after Public Hearing, and the giving of requisite notice of said hearing, and duly referred to and considered by the Waukesha County Park and Planning Commission, and a recommendation for approval, thereon reported to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section 60.61 of the Wisconsin State Statutes.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the District Zoning Map for the Town of Merton, adopted by the Town of Merton on October 23, 2007, is hereby amended to rezone from the B-3 General Business District to the B-2 Local Business District, certain lands located in part of the NW 1/4 of Section 15, T8N, R18E, Town of Merton, Waukesha County, Wisconsin, and more specifically described in the "Staff Report and Recommendation" and map on file in the office of the Waukesha County Department of Parks and Land Use, and made a part of this Ordinance by reference (ZT-1691), is hereby approved.

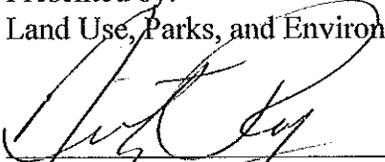
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Merton.

BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

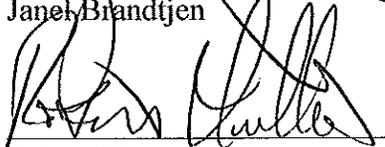
BE IT FURTHER ORDAINED that all ordinances inconsistent with or in contravention of provisions of this Ordinance are hereby repealed.

AMEND THE DISTRICT ZONING MAP OF THE TOWN OF MERTON ZONING CODE BY REZONING CERTAIN LANDS LOCATED IN PART OF THE NW 1/4 OF SECTION 15, T8N, R18E, TOWN OF MERTON, WAUKESHA COUNTY, WISCONSIN, FROM THE B-3 GENERAL BUSINESS DISTRICT TO THE B-2 LOCAL BUSINESS DISTRICT (ZT-1691)

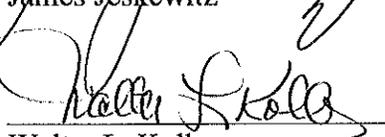
Presented by:
Land Use, Parks, and Environment Committee

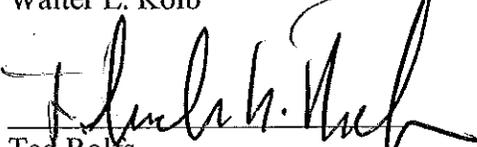

Fritz Ruf, Chair

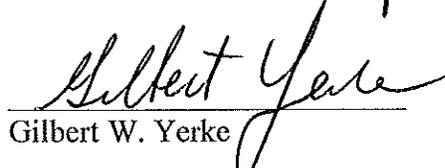

Janel Brandtjen


Robert Hutton

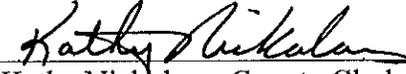

James Jeskewitz


Walter L. Kolb


Ted Rolfs

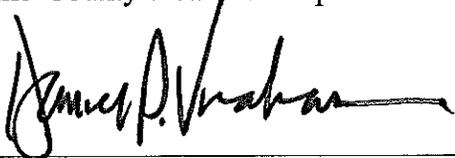

Gilbert W. Yerke

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: October 30, 2009, 
Kathy Nickolaus, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X
Vetoed: _____
Date: 11-2-09


Daniel P. Vrakas, County Executive

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-10/27/09

(ORD) NUMBER-1640046

1 D. FALSTAD.....AYE
3 R. HUTTON.....AYE
5 J. JESKEWITZ.....AYE
7 P. HAUKOHL.....AYE
9 J. HEINRICH.....AYE
11 F. RUF.....AYE
13 P. DECKER.....AYE
15 P. MEYERS.....AYE
17 J. TORTOMASI.....AYE
19 S. WIMMER.....AYE
21 W. ZABOROWSKI.....AYE
23 J. PLEDL.....
25 G. YERKE.....AYE

2 T. ROLFS.....AYE
4 J. DWYER.....AYE
6 J. BRANDTJEN.....AYE
8 T. SCHELLINGER.....AYE
10 D. SWAN.....AYE
12 P. WOLFF.....AYE
14 B. MORRIS.....AYE
16 D. PAULSON.....AYE
18 K. CUMMINGS.....AYE
20 P. JASKE.....AYE
22 P. GUNDRUM.....AYE
24 W. KOLB.....AYE

TOTAL AYES-24

TOTAL NAYS-00

CARRIED_____

DEFEATED_____

UNANIMOUS X

TOTAL VOTES-24

WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE
STAFF REPORT AND RECOMMENDATION
ZONING MAP AMENDMENT

DATE: September 17, 2009

FILE NO: ZT-1691

PETITIONER: James Tremaine, Etal
N76 W30638 C.T.H. VV
Hartland, WI 53029

TAX KEY NO's: MRTT 0346.986, MRTT 0346.989, MRTT 0346.990, MRTT
0346.991.001, MRTT 0346.994.001 and MRTT 0346.988

LOCATION:

The properties are located in part of the NW ¼ of Section 15, T8N, R18E, Town of Merton. More specifically, the properties are located on the north side of C.T.H. "VV", west of C.T.H. "E", containing approximately 9.3 acres of land area.

PRESENT ZONING:

B-3 General Business District.

PRESENT LAND USE:

Single family and two-family residential.

PROPOSED ZONING:

B-2 Local Business District.

PROPOSED LAND USE:

The owner of one of the properties would like to build a second single-family residence on his property. Residential is not permitted in B-3 without an associated business use, but residential use is permitted in B-2.

PUBLIC HEARING DATE:

August 5, 2009. A joint hearing with the County was not required.

PUBLIC REACTION:

Two of the petitioner's asked technical questions regarding the impact of the zoning on their properties and no other comments were made from the public.

TOWN PLAN COMMISSION AND TOWN BOARD ACTIONS:

On August 5, 2009, the Town of Merton Plan Commission voted to recommend approval of the rezoning to the Town of Merton Board. On August 25, 2009, the Town of Merton Board adopted the amending ordinance.

CONFORMANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY (2035) AND THE TOWN OF MERTON LAND USE PLAN:

The proposed rezoning to the B-2 Local Business District is compliant with the recommendations contained in the Town of Merton Land Use Plan as well as the Comprehensive Development Plan for Waukesha County, which indicates this area of the Town along the north side of C.T.H. "VV", is planned for commercial uses.

164-0-046

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OTHER CONSIDERATIONS:

It should be noted that one of the petitioners indicated he was interested in building a second residence on his property and that because of the B-3 General Business District zoning which exists for all of the residences on these properties, they are considered non-conforming in that the B-3 General Business District does not allow residential uses as a permitted use unless they are used in conjunction with an otherwise permitted business use. That provision does not exist under the B-2 Local Business District. A rezoning to the B-2 Local Business District will allow residential uses without being associated or connected with an otherwise permitted business use. One of the properties contains an existing duplex and the B-2 Local Business District would allow, pursuant to a Conditional Use, provisions for a duplex structure for residential purposes under similar provisions that are contained in the Waukesha County Zoning Code and the Waukesha County Shoreland and Floodland Protection Ordinance. Lands surrounding this property include: a cemetery to the west, the old North Lake Railroad corridor (now abandoned and being acquired by the Wisconsin Department of Natural Resources) to the north, business uses to the east and agricultural, open space and recreational uses to the south, and directly across the street from these properties. In addition, a residence lies to the south. Soils on these various properties all appear to contain adequate conditions to accommodate on-site waste disposal systems.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that this request be **approved**. We feel that the proposed change to allow the existing and proposed residences to be conforming with the Ordinance is appropriate, while also allowing for future commercial activities, which are consistent with the Town and County Land Use Plans.

Respectfully submitted,

Richard J. Mace / Kab

Richard L. Mace
Planning and Zoning Division Manager

RLM:kab

Attachments: Map
Town Ordinance

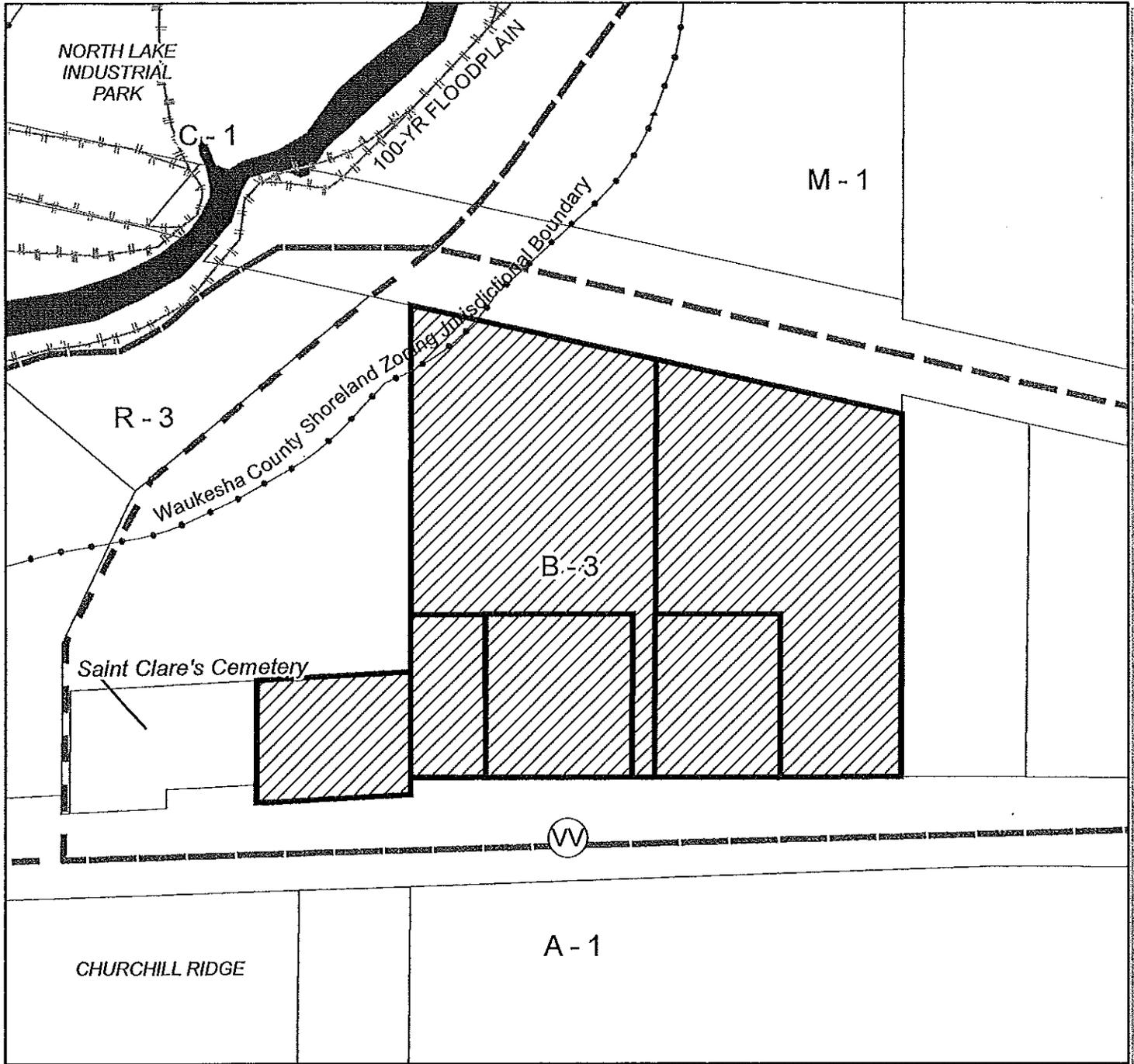
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164-0-046

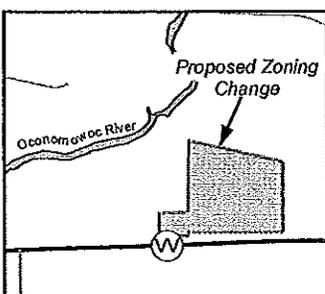
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ZONING MAP AMENDMENT

PART OF THE NW 1/4 OF SECTION 15
TOWN OF MERTON



TOWN ZONING CHANGE FROM B-3 GENERAL BUSINESS DISTRICT TO B-2 LOCAL BUSINESS DISTRICT (9.35 AC)



FILE.....ZT-1691
 DATE.....09-17-09
 AREA OF CHANGE.....9.35 ACRES
 TAX KEY NUMBER.....MRTT 0346.986,
 .988 - .990, .991.001, .994.001



1 inch = 200 feet
 0 100 200 Feet

164-0-046

Prepared by the Waukesha County Department of Parks and Land Use

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ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE BOUNDARIES OF
THE B-2 LOCAL BUSINESS DISTRICT AS SHOWN
ON THE DISTRICT MAP, TOWN OF MERTON,
WAUKESHA COUNTY, WISCONSIN

The Town Board of Supervisors of the Town of Merton, Waukesha County, Wisconsin, do ordain as follows:

SECTION 1. The District Zoning Map of the Town of Merton, Wisconsin, dated April 9, 1974, as revised, and notations and references thereon, is hereby amended to transfer the following described lands from B-3 General Business District to B-2 Local Business District:

Property Description

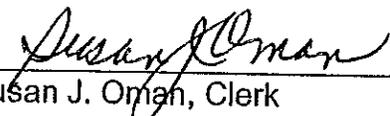
SEE ATTACHED LEGAL DESCRIPTION AND MAP

SECTION 2. EFFECTIVE DATE. This ordinance shall take effect upon passage, posting or publication as required by law, and the final effective date being the date of Waukesha County Board approval.

DATED: August 25, 2009

TOWN OF MERTON
By: 
Richard Morris, Chairman

ATTEST:


Susan J. Oman, Clerk

Date Adopted: 8/25/09
Date Published: 8/31/09
Effective Date: 8/31/09

164-0-046

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August 25, 2009

LEGAL DESCRIPTION OF LANDS TO BE REZONED FROM B-3 TO B-2

Being a part of the SE 1/4 and SW 1/4 of the SW 1/4 of Section 15, T8N, R18E, Town of Merton, Waukesha County, Wisconsin, more fully described as follows; Beginning at the SE corner of Tax Parcel No. 0346-994.001, said point being the SW corner of Lot 3 of C.S.M. No. 6317; thence westerly, along the northerly right-of-way line of C.T.H. VV, 661 feet to the SW corner of Tax Parcel No. 0346-990; thence southerly, 27 feet to the SE corner of Tax Parcel No. 0346-991.001; thence westerly, along the northerly right-of-way line of C.T.H. VV, 208 feet to the SW corner of Tax Parcel No. 0346-991.001; thence northerly, 165 feet to the NW corner of Tax Parcel No. 0346-991.001; thence easterly, 208 feet to the NE corner of Tax Parcel No. 0346-991.001; thence northerly, 497 feet to the NW corner of Tax Parcel No. 0346-986; thence southeasterly, 677 feet along the southerly line of Parcel 4 of C.S.M. No. 9633 to the NE corner of Tax Parcel No. 0346-994.001; thence southerly, along the east line of said tax parcel, 490 feet to the northerly right-of-way line of C.T.H. VV, and the place of beginning.

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REZONING MAP

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BEING A PART OF THE SE 1/4 AND SW 1/4 OF THE SW 1/4 OF SECTION 15,
T.8N., R.18E., TOWN OF MERTON, WAUKESHA COUNTY, WISCONSIN

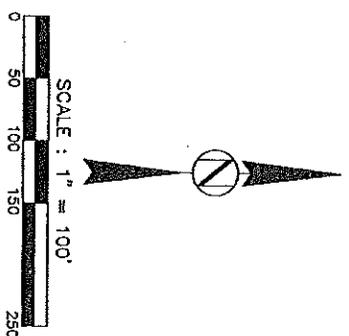
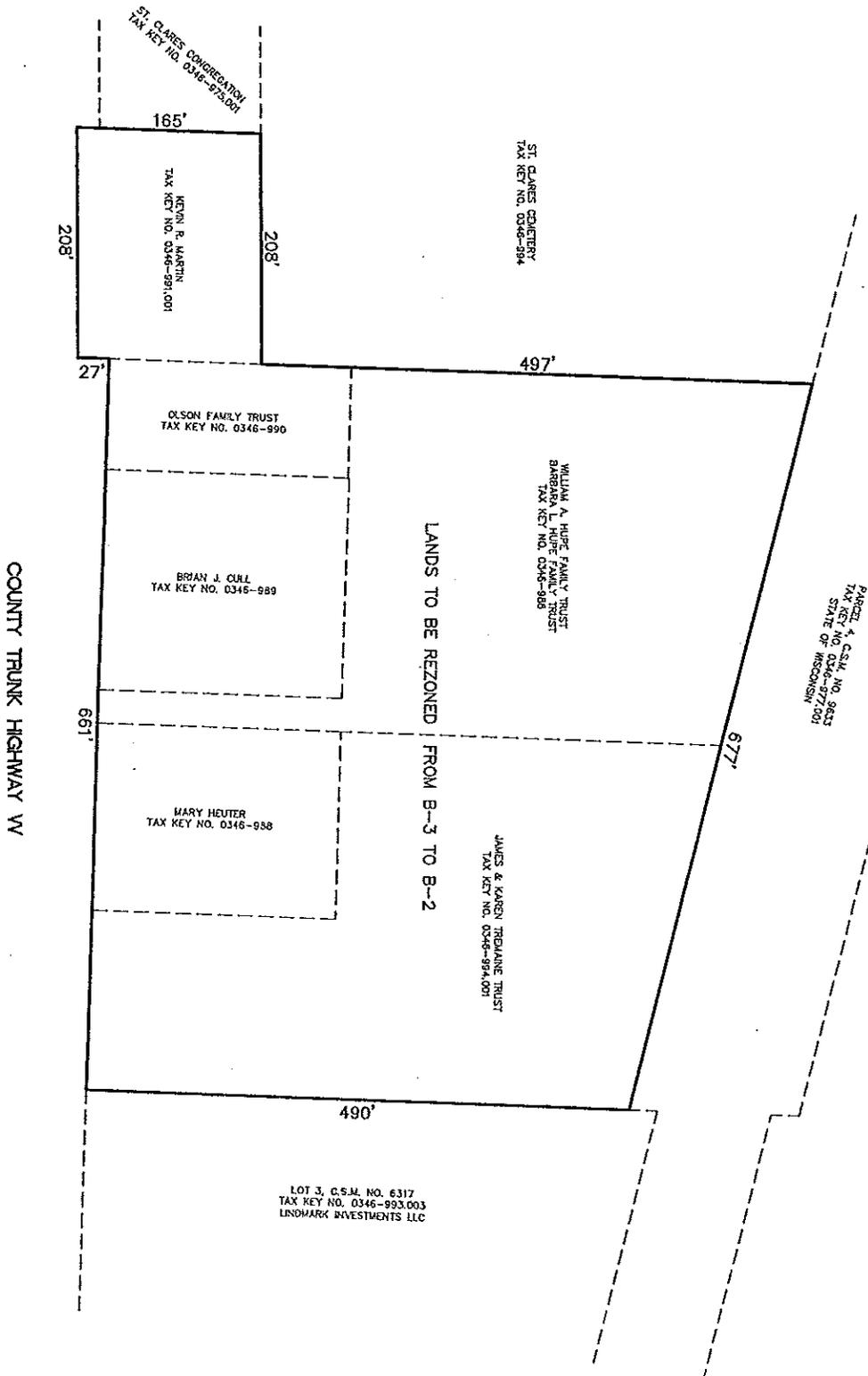
PAGE 4, C.S.M. NO. 9853
TAX KEY NO. 0346-977/001
STATE OF WISCONSIN

PREPARED BY

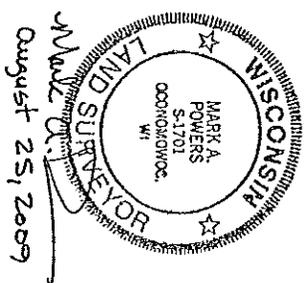
MARK A. POWERS, RLS 1701
LAKE COUNTRY ENGINEERING, INC.
W359 NS920 BROWN ST., SUITE 102
OCONOMOC, WI, 53066
(262)569-9331

PREPARED FOR

JAMES TREMANE
N76 W30638 CTH W
HARTLAND, WI, 53029



164-0-046



PROJECT NO. 09-1757