

ENROLLED ORDINANCE 171-3

AMEND THE TOWN OF OCONOMOWOC DISTRICT ZONING MAP OF THE WAUKESHA COUNTY ZONING CODE FOR THE TOWN OF OCONOMOWOC BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NW ¼ OF SECTION 18, T8N, R17E, TOWN OF OCONOMOWOC, FROM THE FLP FARMLAND PRESERVATION DISTRICT TO THE R-1 RESIDENTIAL DISTRICT (CZ-1828)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Oconomowoc Town Board on April 18, 2016, and

WHEREAS, the matter was referred to and considered by the Waukesha County Park and Planning Commission, which recommended approval and reported that recommendation to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section 59.69, Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Town of Oconomowoc District Zoning Map of the Waukesha County Zoning Code, Waukesha County, Wisconsin, adopted by the Waukesha County Board of Supervisors, on February 26, 1959, is hereby amended to conditionally rezone certain lands located in part of the NW ¼ of Section 18, T8N, R17E, Town of Oconomowoc, from the FLP Farmland Preservation District to the R-1 Residential District, 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 CZ-1828, subject to the following conditions:

1. The Zoning Amendment shall only amend the zoning on the three (3) acres as shown on the proposed Certified Survey Map from the Farmland Preservation District to the R-1 Residential District. No other lands are to be rezoned.
2. A Certified Survey Map, prepared by a Registered Land Surveyor in the State of Wisconsin, dividing the parcel as proposed, shall be reviewed and approved by the Town Plan Commission and Town Board prior to the issuance of any building permits.
3. A deed restriction must be prepared and reviewed and approved by Waukesha County Planning and Zoning Staff and recorded in the Waukesha County Register of Deeds Office that states that, pursuant to the Waukesha County Comprehensive Plan, no additional development rights remain for the remnant parcel and proposed Lot 1 is entitled to one dwelling unit. Said restriction must state that the restriction shall apply in perpetuity unless the County Comprehensive Plan Farmland Preservation designation for the property is amended in the future.

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

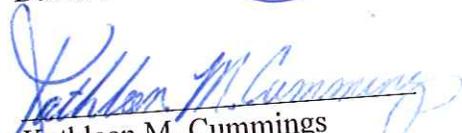
BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

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

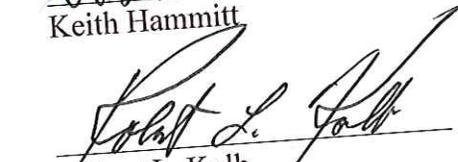
AMEND THE TOWN OF OCONOMOWOC DISTRICT ZONING MAP OF THE WAUKESHA COUNTY ZONING CODE FOR THE TOWN OF OCONOMOWOC BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NW 1/4 OF SECTION 18, T8N, R17E, TOWN OF OCONOMOWOC, FROM THE FLP FARMLAND PRESERVATION DISTRICT TO THE R-1 RESIDENTIAL DISTRICT (CZ-1828)

Presented by:  
Land Use, Parks, and Environment Committee

  
David D. Zimmermann, Chair

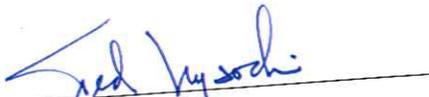
  
Kathleen M. Cummings

ABSENT  
Keith Hammitt

  
Robert L. Kolb

ABSENT  
William Mitchell

ABSENT  
Thomas J. Schellinger

  
Ted Wysocki

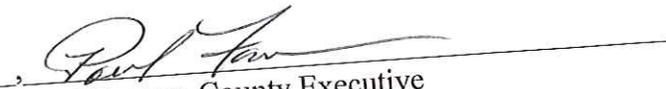
The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 5/24/16,   
Kathleen Novack, County Clerk

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

Approved: X

Vetoed: \_\_\_\_\_

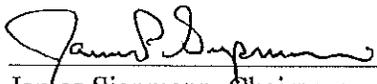
Date: 6/2/16,   
Paul Farrow, County Executive

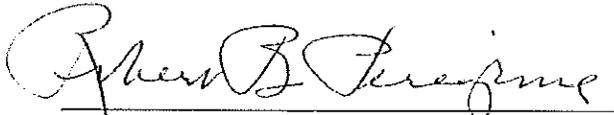
COMMISSION ACTION

The Waukesha County Park and Planning Commission, after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Zoning Code, hereby recommends approval of (CZ-1828 Timothy and Azucena Murray) in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

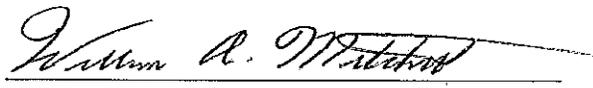
April 21, 2016

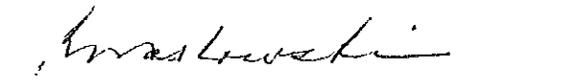
  
James Siepmann, Chairperson

  
Robert Peregrine

  
Richard Morris

Absent  
Gary Goodchild

  
William Mitchell

  
William Maslowski

Absent  
Keith Hammitt

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

**DATE:** April 21, 2016

**FILE NO.:** CZ-1828

**PETITIONER/OWNER:** Timothy and Azucena Murray  
W381N8297 Rolling River Ct.  
Oconomowoc, WI 53066

**TAX KEY NO.:** OCOT 0501.997.004

**LOCATION:**

Part of the NW ¼ of Section 18, T8N, R17E, Town of Oconomowoc. More specifically, the property is located west of Pennsylvania St. and north of the Oconomowoc Bypass and contains approximately 72 acres.

**EXISTING LAND USE:**

Agricultural.

**PROPOSED LAND USE:**

Create lot for single family residence.

**EXISTING ZONING:**

FLP Farmland Preservation District.

**PROPOSED ZONING:**

R-1 Residential District.

**PUBLIC HEARING DATE:**

March 22, 2016.

**PUBLIC REACTION:**

An adjacent landowner asked a question about the access easement serving the property.

**TOWN PLAN COMMISSION AND TOWN BOARD ACTION:**

On March 22, 2016 the Town of Oconomowoc Plan Commission recommended approval of the request subject to two conditions. The Town Board approved the request subject to the same conditions on April 18, 2016.

**COMPLIANCE WITH THE TOWN OF OCONOMOWOC COMPREHENSIVE DEVELOPMENT PLAN AND THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY:**

The property is designated in the Farmland Preservation category on the County Plan and the Prime Agricultural category on the Town Plan. The proposal to rezone the property is consistent with plan recommendations that call for a maximum of one dwelling unit per 35 acres.

**STAFF ANALYSIS:**

The petitioners would like to build a new residence on a proposed three-acre parcel that would be divided from a 72 acre parcel that is in farm use (See Exhibit "A"). The property is both planned and zoned for Farmland Preservation. The Zoning Code requires rezoning of lands designated as such that are proposed to be used for residential purposes. Lands zoned FLP District that are proposed to be converted to residential use must be rezoned to the R-1 District and new residential lots cannot exceed three acres. In addition, such new lots must comply with the 35 acre density requirements of the County Development Plan and the lot siting requirements of the FLP District.

The subject property does not currently contain a residence. The parcel was approved and created as a "flag" lot in 2008 when approximately 35 acres of farmland was transferred from the "parent" parcel to the neighboring farm to the south, leaving the subject parcel with a narrow strip of land extending to Pennsylvania St. The prior owner of the farm had previously divided the house and outbuildings and approximately 12 acres along the Pennsylvania St. frontage from the farm and sold the 12 acres to another party via the Zoning Code's farm consolidation provisions. At the time, the property was zoned AP Agricultural Preservation District which generally required 35 acre minimum parcel sizes. However, the farm consolidation provisions of the ordinance at the time allowed for smaller lots to be created. Accordingly, the 12 acre lot was permissible at the time. The "farm tracking unit" that was assigned to these lands as part of the adoption of the 2015 Farmland Preservation update includes both the subject parcel and the adjacent 12 acre parcel for a total of 84 acres and one existing dwelling unit. Therefore, when applying the 35 acre density requirement, the subject parcel is entitled to one additional dwelling unit.

The Town Planner and County Planning Staff have had a good deal of dialogue with the petitioner regarding his preferred home site. The petitioner notes that the area where he would like to build is sloping in nature and approximately one half of the subject three acres has not been farmed in recent years because of the slope conditions. The Zoning Code siting criteria call for new residences to be located off of cultivated land to the extent practical and similarly call for preservation of prime agricultural soils to the extent possible. While a portion of the proposed parcel contains prime agricultural soils, the proposed home site is located on the west fringe of the area of prime soils. Lands on the farm that are not prime are generally located in the areas further west, some of which have been previously quarried, and most of which have high groundwater limitations making them unsuitable for home construction. Much of the west part of the parcel is mapped as containing wetlands. The siting criteria also call for new parcels to be considered near roadways where practicable. Because the subject parcel was previously approved as a flag lot, there are no home sites available near Pennsylvania St. nor the existing residence that was previously split from the farm. Accordingly, Town and County Staff feel that the proposed home site is in a suitable location.

A one lot CSM has been prepared to facilitate the land division and requests for a remnant parcel waiver and a lot not abutting a public road are pending and will also be considered by the Park and Planning Commission on April 21, 2016. A 50' wide easement was recorded in 2008 as part of the transfer of

adjacent lands to the farmer to the south. The easement provides access to the adjacent Runyard farm in addition to serving the subject lands. If this rezoning is approved, the easement will need to be modified and expanded to extend to the proposed three acre lot and will need to be 66' wide in order to meet ordinance requirements.

**STAFF RECOMMENDATION:**

Planning and Zoning Staff recommend that this request be **approved**, subject to the following conditions, which are inclusive of the Town's recommended conditions.

1. The Zoning Amendment shall only amend the zoning on the three (3) acres as shown on the proposed Certified Survey Map from the Farmland Preservation District to the R-1 Residential District. No other lands are to be rezoned.
2. A Certified Survey Map, prepared by a Registered Land Surveyor in the State of Wisconsin, dividing the parcel as proposed, shall be reviewed and approved by the Town Plan Commission and Town Board prior to the issuance of any building permits.
3. A deed restriction must be prepared and reviewed and approved by Waukesha County Planning and Zoning Staff and recorded in the Waukesha County Register of Deeds Office that states that, pursuant to the Waukesha County Comprehensive Plan, no additional development rights remain for the remnant parcel and proposed Lot 1 is entitled to one dwelling unit. Said restriction must state that the restriction shall apply in perpetuity unless the County Comprehensive Plan Farmland Preservation designation for the property is amended in the future.

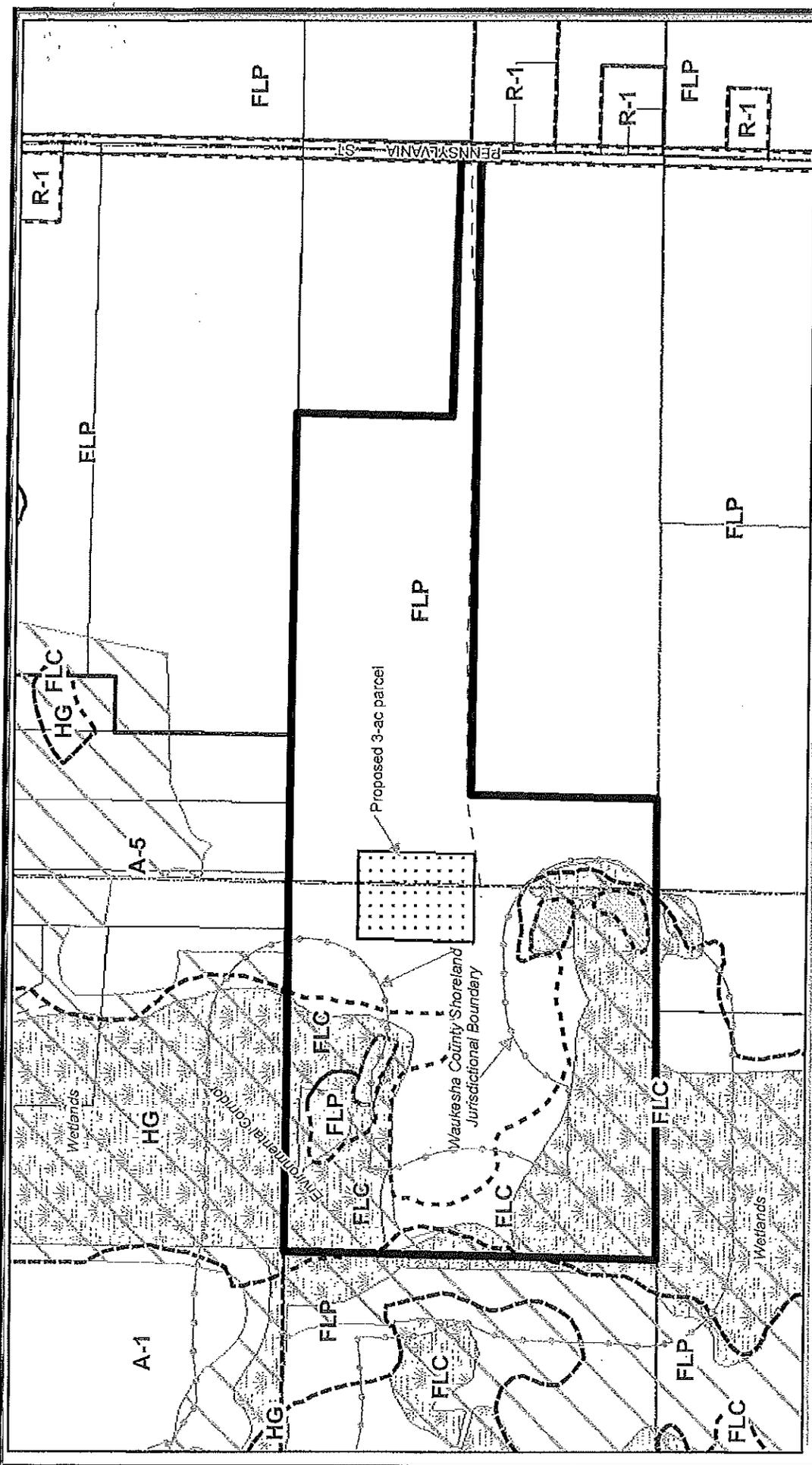
The rezoning is consistent with Town and County Plan recommendations, as 35 acre density is being maintained. The rezoning of three acres of land will allow the petitioner to create a new lot and construct a new residence. As conditioned and in accordance with ordinance requirements, a deed restriction will be prepared to disclose to future owners that there are no density credits remaining on these lands after the creation of the subject three acre parcel. This will ensure that 35 acre density is maintained over time and that the vast majority of the lands on site remain in farmland or open space uses which furthers the goals of the Farmland Plan designation to preserve the last remaining five square mile blocks of productive farmland within the County. Preventing use conflicts through application of 35 acre density is critical in ensuring the viability of farming in designated farmland preservation areas.

Respectfully submitted,

*Jason Fruth*

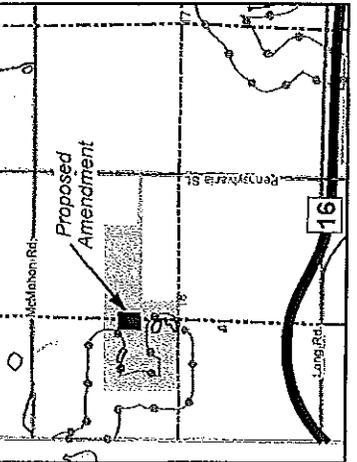
Jason Fruth  
Planning and Zoning Manager

Attachments: Map, Town Ordinance, Exhibit "A"



# ZONING AMENDMENT

PART OF THE NW 1/4 & NE 1/4 OF SECTION 18 TOWN OF OCONOMOWOC



CONDITIONAL COUNTY ZONING CHANGE FROM FLP FARMLAND PRESERVATION DISTRICT TO R-1 RESIDENTIAL DISTRICT

FILE NO. CZ-1828  
 PETITIONER TIMOTHY MURRAY  
 DATE OF PLAN COMM. CONSIDERATION 04/21/16  
 AREA OF CHANGE 3.0 ACRES  
 TAX KEY NUMBER OCOT 0501.997.004

Prepared by the Waukesha County Department of Parks and Land Use

RESOLUTION NO. 2016-9

RESOLUTION APPROVING REZONING

WHEREAS, Timothy and Azucena Murray own 72.5 acres of land lying west of Pennsylvania Street (Tax Key No. OCOT 0501.997.001) in the Town of Oconomowoc, Waukesha County, Wisconsin; and

WHEREAS, the current zoning of said land is Farmland Preservation District and Farmland Conservancy District under the Waukesha County zoning ordinance; and

WHEREAS, the property owners request that three acres of said land be rezoned to R-1 Residential District to provide a site for petitioner to create a three-acre parcel for a future home site; and

WHEREAS, the three acres of land are currently vacant; and

WHEREAS, the Town of Oconomowoc Land Use Plan 2035 designates the subject parcel in the Prime Agricultural category which has been modified by Waukesha County to the Farmland Preservation category, and accordingly the requested rezoning is consistent with said plan; and

WHEREAS, petitioner proposes to construct a single-family residence on the three-acre parcel; and

WHEREAS, the Town Planner and the Town Plan Commission recommend to the Town Board that the requested rezoning be approved, with the rezoning being as follows: the three-acre parcel shown on Exhibit A attached hereto be rezoned from Farmland Preservation District to R-1 Residential District, subject to the following conditions:

1. The Zoning Amendment shall only amend the zoning on the three acres as shown on the proposed certified survey map from the Farmland Preservation District to the R-1 Residential District. No other lands are to be rezoned (see attached Exhibit A).
2. A certified survey map, prepared by a Registered Land Surveyor in the State of Wisconsin, dividing the parcel as proposed shall be reviewed and approved by the Town Plan Commission and Town Board prior to the issuance of any building permits.

NOW THEREFORE, BE IT HEREBY RESOLVED that the Town Board of the Town of Oconomowoc approves the request of Timothy and Azucena Murray to rezone the three acres of land shown on Exhibit A to R-1 Residential District, subject to the following conditions:

1. The Zoning Amendment shall only amend the zoning on the three acres as shown on the proposed certified survey map from the Farmland Preservation District to the R-1 Residential District. No other lands are to be rezoned (see attached Exhibit A).

2. A certified survey map, prepared by a Registered Land Surveyor in the State of Wisconsin, dividing the parcel as proposed shall be reviewed and approved by the Town Plan Commission and Town Board prior to the issuance of any building permits.

DATED: 4-18-16

TOWN OF OCONOMOWOC

By:   
Robert C. Hultquist, Chairman

ATTEST:

  
Lori Opitz, Clerk

2016-4 2016

# CERTIFIED SURVEY MAP NO.

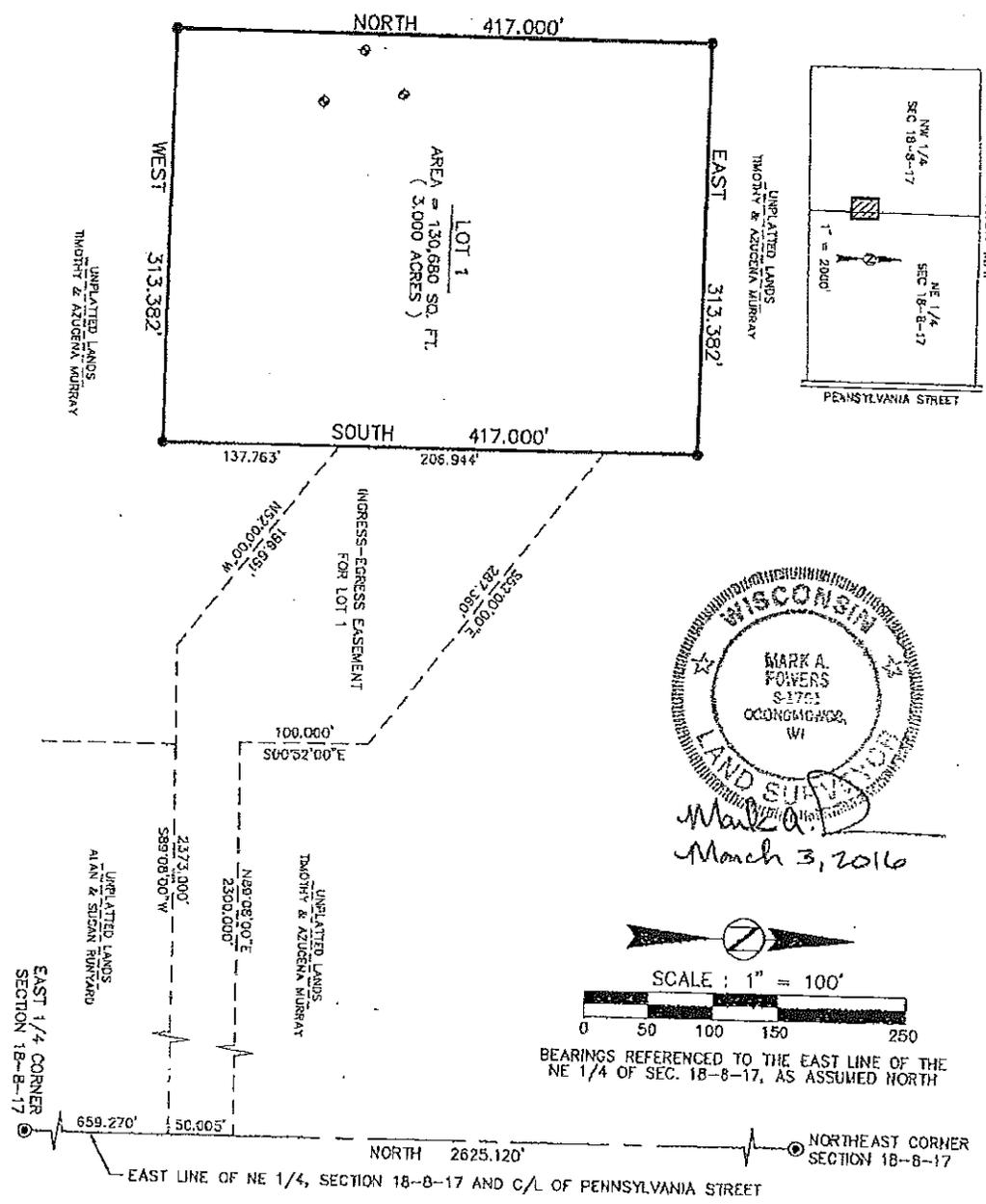
BEING A PART OF THE SW 1/4 OF THE NE 1/4 AND PART OF THE SE 1/4 OF THE NW 1/4, ALL IN SECTION 18, T.8N., R.17E., TOWN OF OCONOMOWOC, WAUKESHA COUNTY, WISCONSIN

**SURVEYOR**  
MARK A. POWERS, PLS 1701  
LAKE COUNTRY ENGINEERING, INC.  
970 S. SILVER LAKE ST., SUITE 105  
OCONOMOWOC, WI. 53066  
(262)569-9331

**SURVEY FOR**  
TIMOTHY AND AZUCENA MURRAY  
W381 N8297 ROLLING RIVER CT.  
OCONOMOWOC, WI. 53066

- LEGEND**
- ⊙ - CONC MON W/ BRASS CAP
  - - 1.25" O.D. IRON PIPE SET, 18" LONG, WT. = 1.68 LBS/LIN. FT.
  - ⬢ - SOIL BORING

UNPLATTED LANDS  
TIMOTHY & AZUCENA MURRAY



WISCONSIN  
 MARK A. POWERS  
 S-1701  
 OCONOMOWOC, WI  
 LAND SURVEYOR  
 March 3, 2016





WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-04/24/16

NUMBER-1710003

- 1 R. KOLB.....AYE
- 3 R. MORRIS.....AYE
- 5 ~~J. BRANDTJEN~~.....AYE  
*T. Dondlinger*
- 7 J. GRANT.....AYE
- 9 J. HEINRICH.....
- 11 C. HOWARD.....AYE
- 13 P. DECKER.....AYE
- 15 B. MITCHELL.....AYE
- 17 D. PAULSON.....AYE
- 19 K. CUMMINGS.....AYE
- 21 W. ZABOROWSKI.....AYE
- 23 K. HAMMITT.....
- 25 ~~G. YERKE~~.....AYE  
*D. Johnson*

- 2 D. Zimmermann.....AYE
- 4 J. BATZKO.....AYE
- 6 J. WALZ.....AYE
- 8 ~~E. HIGHUM~~.....AYE  
*T. Michalski*
- 10 D. SWAN.....AYE
- 12 P. WOLFF.....AYE
- 14 ~~C. PETTIS~~.....AYE  
*C. Wood*
- 16 M. CROWLEY.....AYE
- 18 L. NELSON.....AYE
- 20 T. SCHELLINGER.....AYE
- 22 ~~F. JASKE~~.....AYE  
*T. Wysocki*
- 24 S. WHITTOW.....

TOTAL AYES-22

TOTAL NAYS-00

CARRIED \_\_\_\_\_

DEFEATED \_\_\_\_\_

UNANIMOUS X

TOTAL VOTES-22