

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

No. 3327
Wauconda Township

COUNTY BOARD, LAKE COUNTY, ILLINOIS
May 11, 2004

MADAM CHAIRMAN AND MEMBERS OF THE COUNTY BOARD:

Your Planning, Building and Zoning Committee presents herewith a Resolution on Zoning Case No. 3327, which consists of the Petition of Timothy and Elaine Leicht and Single Site Solutions Corporation relative to a request for a Conditional Use Permit to allow limited vehicle service, specifically including a gasoline sales, a car wash and a convenience store. The Department of Planning, Building and Development recommends the petition be denied. On the motion "to deny" the prayer of the petitioner, the Zoning Board of Appeals vote is 7 "Ayes" and 0 "Nay"; on the motion "to approve" the Planning, Building and Zoning Committee vote is 4 "Ayes" and 3 "Nays".

- o A "Aye" vote on the motion shall operate in favor of the prayer of the petitioner.
- o A "Nay" vote on the motion shall operate against the prayer of the petitioner.

Respectfully submitted,

	Aye	Nay
<u>Judy Martini</u> CHAIRMAN	✓	✓
<u>Samuel D. Miller</u> VICE-CHAIRMAN	✓	✓
<u>Robert Sabonjian</u>	✓	✓
<u>Steph E. Carlson</u>	✓	✓
<u>Randall Whitman</u>	✓	✓
<u>Sturson H. Fain</u>	X	✓
<u>Donna Lane</u>	✓	✓

RESOLUTION

WHEREAS, a public hearing has been held by the Lake County Zoning Board of Appeals pursuant to the Statutes of the State of Illinois on the petition of Timothy and Elaine Leicht and Single Site Solutions Corporation relative to a request for a Conditional Use Permit to allow limited vehicle service, specifically including gasoline sales, a car wash and a convenience store for the following real estate, to-wit:

All that part of the North 282.0 feet of the Northwest 1/4 of the Southeast 1/4 of section 35, township 44 North, Range 9, East of the Third Principal Meridian which lies Westerly of the center line of Illinois Route 59, (except there from the West 100 feet of the North 182.0 feet), in Lake County, Illinois.

PIN: 09-35-400-002

WHEREAS, your Department of Planning, Building and Development duly considered the aforesaid petition and recommends that it be denied; and

WHEREAS, your Zoning Board of Appeals, after reviewing the testimony presented at the public hearing on the aforesaid petition, has submitted its report thereon to the County Board and its report recommends by a vote of 7 - 0 that the petition be denied; and

WHEREAS, your Planning, Building and Zoning Committee duly considered the petition and reports aforescribed and recommends by a vote of 4 to 3 that the petition be granted subject to the conditions attached hereto as Exhibit A. Motion by Member Sabonjian, second by Member Whitmore, to grant the petition. Voting "Aye", Members Sabonjian, Carlson, Whitmore and Mountsier. Voting "Nay", Members Newton, Carter and Martini.

NOW, THEREFORE, BE IT RESOLVED by the Lake County Board, that the prayer of the Petitioner be granted and that the above described real estate shall be issued a Conditional Use Permit to allow limited vehicle service, specifically including gasoline sales, a car wash and a convenience store subject to the conditions attached hereto as Exhibit A ; and

BE IT FURTHER RESOLVED, that the Secretary of said Zoning Board of Appeals be instructed to notify the petitioner as to the action taken by the Board.

EXHIBIT A

Zoning Case #3327

This Conditional Use Permit shall be issued subject to the following additional conditions:

1. The hours of operation of the car wash, gasoline sales and convenience mart, including the lighting thereof, shall be limited to the period between 5:00 a.m. and 11:00 p.m.
2. The existing billboard on the property shall be removed.

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

COUNTY BOARD, LAKE COUNTY, ILLINOIS

May 11, 2004

MADAM CHAIRMAN AND MEMBERS OF THE COUNTY BOARD:

Pursuant to State Statutes and following proper publication of public notice, a public hearing was conducted before the Lake County Zoning Board of Appeals on April 23, 2003 and continued through March 5, 2004, in the Wauconda Township Hall and Wauconda Village Hall, Wauconda, Illinois, relative to the petition of Timothy and Elaine Leicht and Single Site Solutions Corporation requesting a Conditional Use Permit to allow limited vehicle service, specifically including gasoline sales, a car wash and a convenience store for the following described real estate, to-wit:

All that part of the North 282.0 feet of the Northwest 1/4 of the Southeast 1/4 of section 35, township 44 North, Range 9, East of the Third Principal Meridian which lies Westerly of the center line of Illinois Route 59, (except there from the West 100 feet of the North 182.0 feet), in Lake County, Illinois.

PIN: 09-35-400-002

The proceedings of this hearing have been manually and electronically recorded and are available for public review at the office of the Lake County Zoning Board of Appeals.

The reports and recommendations received prior to this hearing from the various County Departments and other interested agencies are on file at the office of the Lake County Zoning Board of Appeals. The Board is in receipt of the reports and recommendations from the following agencies, to-wit:

The Health Department;
The Division of Transportation;
The Building and Code Enforcement Division;
The Department of Planning, Building and Development; and
The Regional Planning Commission.

In making its recommendation, the Zoning Board has considered and taken into account the following:

- a) The testimony at the hearing;
- b) A site inspection of the property in question;
- c) The recommendations from interested official bodies; and
- d) Standards provided in Sections 3.6 and 6.2 of the Unified Development Ordinance

At the Review Meeting of the Lake County Zoning Board of Appeals held on March 5, 2004, after a final review of all evidence and testimony presented, Member Van Erden moved, with a second by Member Koeppen, to recommend the prayer of the petitioner for a Conditional Use Permit to allow limited vehicle service be denied. Voting "Aye" on this motion were Members Freese, Van Erden, Helke, Morgan, Koeppen, Zingle and Wilson. Voting "Nay", none. The motion to recommend this petition be denied was passed by a vote of 7 - 0.

The Board finds that the request for a Conditional Use Permit does not meet the standards contained in Section 3.6 in the following manner:

Standard #A The use in its proposed location will be consistent with the stated purpose and intent of Section 1.5.

Finding: The property is currently classified as General Commercial (GC) zoning and is presently used as an automobile service facility. The proposed gas station, convenience store and car wash uses require a Conditional Use Permit in the GC district and are not permitted uses by right.

The property is shown on Lake County's comprehensive plan as Estate. Although zoned General Commercial, this CUP request is for a use that is more intensive than would be permitted by right in this district. The granting of this request would therefore allow a use that would be in greater conflict with the plan than the current zoning.

Standard #C The proposed use in its proposed location will not have a substantial adverse impact on any of the following, either as they exist at the time of application or as they may be developed in the future due to implementation of the Comprehensive Plan:

1. Adjacent property
2. The character of the neighborhood
3. Natural resources
4. Infrastructure
5. Public sites, or
6. Any other matters affecting the public health, safety, or general welfare.

Finding: 1. *Adjacent property*

Residential development surrounds the subject property. The development will operate 24 hours a day and generate a significant increase in noise, lighting and automobile fumes from the increased automobile traffic. We believe the development will have an adverse impact on the use, enjoyment and value of the adjacent properties.

We note the applicants have furnished letters from two appraisers who state the opinion that adjacent property will not be adversely affected and "may be positively influenced" by the proposed development. We note that neither of these letters contains any supporting objective data (such as comparables) to substantiate these opinions.

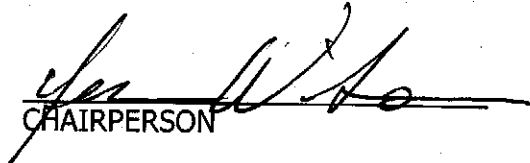
We are also troubled by the logic behind these opinions. They assume that the adjoining properties will benefit from having the present unsightly business replaced by a business that "will esthetically be more attractive than the existing facility..." This implies that the applicant should be rewarded with the requested CUP, in part, because of his past poor property management.

2. The character of the neighborhood

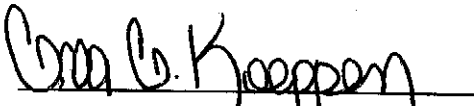
The character of this area is that of a residential community. The high intensity proposed development is not compatible with the residential nature of the community and will have an adverse impact on the character of the neighborhood.

6. Any other matters affecting the public health, safety, or general welfare

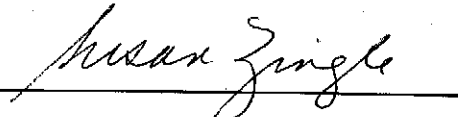
The proposed redevelopment is to include a 24-hour convenience store, a gas station and a car wash facility. Substantial traffic, noise and car exhaust pollution will be generated. The project's location and utilization of a single, narrow curb cut onto Rt. 59 may cause additional traffic confusion in an already less-than-desirable situation. The granting of the CUP could potentially have an adverse impact on the public health, safety or general welfare of Lake County residents.


CHAIRPERSON

VICE-CHAIRPERSON







Dated this 7th day of April 2004.

Summary of Testimony Zoning Case #3327

A public hearing was conducted by the Lake County Zoning Board of Appeals on April 23, 2003, and continued through March 5, 2004 on the petition of Timothy and Elaine Leicht and Single Site Solutions Corporation which requests a Conditional Use Permit to allow limited vehicle service, specifically including gasoline sales, a car wash and a convenience store. The subject property is zoned General Commercial, contains 2.23 acres and is located on the southwest corner of IL Highway 59 and Oak Grove Drive in Wauconda Township. The following is a summary of the testimony presented:

1. Mr. James Hermann, attorney for the applicants, testified that this Conditional Use Permit is being requested to allow the applicants to construct a convenience mart with gasoline sales and a car wash. The convenience mart is permitted by right under the property's current General Commercial zoning but the CUP is necessary for gasoline sales and the car wash. Mr. Leicht is the owner of the property and will retain ownership of the proposed car wash while Single Site Solutions is a contract purchaser of a portion of the property and will own the convenience mart and gasoline sales. The property is improved with two auto repair buildings and a single-family house, all which will be demolished. Mr. Leicht formerly also sold gas until 1989 and the underground tanks have been removed. The proposed convenience mart will be a 2000 sq. ft. building with six gasoline pumps. Principal access will be by means of a single driveway onto IL Route 59 and a secondary access onto Oak Grove Drive. County staff have reviewed the proposed site plan and have confirmed that it will comply with all County regulations if the CUP is approved.
2. Mr. Tim Leicht, owner, testified the proposed car wash will have one automatic and two manual wash bays. It will utilize a state-of-the-art water filtration and recycling system and will only need about 130 gallons per day of fresh water which will be supplied from a well on the property. He estimated that approximately 66 cars per day will utilize the car wash.
3. Mr. Leicht also testified that this proposal complies with the comprehensive plan of the Village of Tower Lakes and, although the Village supports this proposal, the property cannot be annexed because it is not contiguous to the Village. He also discussed annexation with the Mayor of Wauconda but the Mayor was not interested.
4. Mr. Michael Caldwell, engineer, testified that his firm conducted a traffic study for the proposed use. He estimates that about 1400 cars per day, or between 85 and 90 cars per peak hour, will enter and leave the site. About 35% of this will be additional traffic, the remaining 65% already passes the site on Route 59.

There are sufficient gaps in the traffic flow to accommodate these turning movements without causing backups on Route 59. Similarly, in his opinion, very few cars will exit the site using Oak Grove Drive and this should cause no additional delays for the residents of Oak Grove subdivision. This connection to Oak Grove is a convenience for the subdivision residents and if this connection is not made it would have very little effect on the flow of traffic on-site. He also noted that traffic from Route 59 could not enter the site using Oak Grove Drive due to an island in Oak Grove Drive that effectively prohibits such a movement.

5. Mr. Jeff Aiani, landscape contractor, testified that his firm has designed a transition yard which meets or exceeds all County requirements. This heavily landscaped yard will be at least 30 ft. wide along the north, west and south sides of the property to buffer the adjoining residences. It will contain 50 canopy trees, 83 evergreens, 91 ornamentals, 74 evergreen shrubs and 416 regular shrubs in addition to an 8-foot tall solid wooden fence (the landscaping will be placed outside of the fence).
6. Mr. Newton Finn, attorney representing Oak Grove Subdivision homeowners, testified this subdivision contains 81 homes and all oppose this request. It should be denied as it does not meet the standards specified for CUP's by the County's Unified Development Ordinance, it does not comply with the County's comprehensive plan, it is not compatible with the character of the neighborhood and it will cause the depreciation of residential property values throughout Oak Grove Subdivision. In his opinion, the applicants wish to do too many things, too intense and on too small a parcel.
7. Mr. Roger Wojcicki, president of the Oak Grove Homeowner's Association, stated his opinion that it would take 20 years for the landscaping to grow to provide adequate buffering. The gasoline fumes and auto noises would be a constant disturbance to the neighborhood, noting that this could well be a 24-hour operation. He also stated that the Oak Grove Drive/Route 59/Ivanhoe Road intersection is already very dangerous and this development would only make it worse. Mr. Wojcicki also stated there is no need in the area for this business as Wauconda already has four gas stations and three car washes, and there is another convenience mart just one minute south on Route 59.
8. Ms. Lorrie Godawa, Trustee of the Village of Wauconda, submitted a Resolution from the Village objecting to this requested CUP. She also submitted a letter from the Mayor of Wauconda stating his concerns regarding traffic safety and his intent to prohibit access to Oak Grove Drive. However, under questioning, Ms. Godawa stated that the Village has taken no action to do so. Ms. Godawa also submitted a petition signed by 154 residents of Oak Grove Subdivision opposing the construction of a convenience mart on this property.

9. Mr. Bob Cook, nearby resident, stated his opinions the sign and lights from this property would be very distracting to adjoining residents, the gasoline sales would produce polluted runoff, this proposal could pose a hazard for children of the nearby playground and the access to Oak Grove Drive would result in serious congestion for the residents of this subdivision.
10. Ms. Deb Arthurs, neighboring owner to the east, testified she believes this proposal would substantially decrease her property values, her privacy and the enjoyment of her property. It will also hamper access to her driveway, be noisy and unsightly.
11. Ms. Pat Rivers, adjoining neighbor to the south, stated her opinion that this proposal would devalue her property and adversely affect her well. Mr. John Benson, nearby resident, stated it would make homes in the subdivision more difficult to sell and increase congestion on Oak Grove Drive.
12. In his closing statements, Mr. Hermann stated that this proposal meets the standards for CUP's in the Ordinance. The property is zoned General Commercial and is presently used as a vehicle repair business. In the past it also had a gas station. \$92,000 worth of landscaping will be installed to shield the neighbors. The increased traffic will only amount to about 30 more cars during peak hours. Ambient noise will not increase and the lighting will not be as bright at the property line as the existing street lights in the subdivision. The property contains no floodplain or wetlands and the proposed curb cut meets all IDOT requirements.

**Summary of Department and Agency Comments
Zoning Case #3327**

Lake County Health Department:

Septic system plans have not been submitted for Department review and approval.

Lake County Division of Transportation:

This Division has no comments.

Lake County Regional Planning Commission:

After due consideration, the Commission voted 8 – 3 to recommend the requested CUP be denied.

Lake County Department of Planning, Building and Development:

Staff recommends this request be denied due to its failure to meet four of the standards of the UDO. Specifically, this CUP would allow a use that is in greater conflict with the County's comprehensive plan than the current zoning. The use will adversely impact on the use, enjoyment and value of adjacent properties and the character of the neighborhood. Further, the use could cause additional traffic hazards and congestion which would have an adverse affect on the public health, safety or general welfare.



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MEMORANDUM

December 29, 2003

TO: Dennis Wilson, Chairman
Zoning Board of Appeals

FR: Robert Mosteller, Deputy Director *RM*
Lake County Department of Planning and Development

CASE NO: 3327 CUP

REQUESTED ACTION: The Petitioner is requesting a Conditional Use Permit to allow limited vehicle service including a convenience store, gasoline sales and a car wash facility.

HEARING DATE: January 5, 2004 at 1:00 pm.

GENERAL INFORMATION

OWNER(s): Timothy and Elaine Leicht, record owners and Single Site Solutions Corp., contract purchaser.

PIN NUMBER(S): 09-35-400-002

OF PARCELS: One (1).

SIZE: Approximately 1.85 acres.

LOCATION: The subject property is located at 26474 N Highway 59 (Barrington Road) in Wauconda Township, on the southwest corner of Oak Grove and Highway 59.

EXISTING ZONING: (GC) General Commercial

EXISTING LAND USE: Automobile Repair Facility

SURROUNDING ZONING/LAND USE

NORTH: (R-2) Single Family Residential Zoning in the Village of Wauconda/ Single Family Residential Use.

SOUTH: (E) Estate Zoning/ Single Family Residential Use.

EAST: (R-1) Residential 1 Zoning/ Single Family Residential Use.

WEST: (R-2) Single Family Residential Zoning in the Village of Wauconda/ Single Family Residential Use

LAKE COUNTY FRAMEWORK COMPREHENSIVE PLAN

LAKE COUNTY: (E) Estate.

MUNICIPALITIES WITHIN 1½ MILES: The Village of Wauconda abuts the north property line and the Village of Lake Barrington is to the southwest of the subject parcel. However, the Village of Tower Lake has jurisdiction over this area according to an intergovernmental agreement. The Future Land Use Plan designation for the Village of Tower Lakes is Business and the Village Board has stated it has "no objection" to this proposal.

DETAILS OF REQUEST

ACCESS: The subject property has access from Highway IL-59 (Barrington Road). A secondary access point is to be taken off the local road, Oak Grove Drive.

SOIL TYPES: The soil type on the property is:
#194B Morley Silt Loam, 2-4% slopes.

**FLOODPLAIN/
WETLAND:** There are no wetland or floodplain areas on the parcel.

**SEWER
AND WATER:** The parcel is served by a septic system and private well.

ADDITIONAL COMMENTS

On November 11, 2003, the Staff Review Committee gave conditional approval to the proposed site plan. This approval is contingent on obtaining the requested CUP and the necessary access permits. By all indications, the applicants can comply with all site design and performance standards of the UDO. While some may still question the issue of access, this is under the jurisdiction of IDOT and the Village of Wauconda. Similarly, some may question the applicants' ability to comply with the noise and lighting regulations of the UDO. However, the applicants have submitted data that indicates compliance will be achieved. Further, this is an enforcement issue and compliance is mandatory.

RECOMMENDATION

Staff recommends that the request for a Conditional Use Permit be denied, as it does not meet all the General Standards of the Conditional Use Permit contained in Article 3.6.8., specifically Standards A., C.1., C.2. and C.6.

Standard A *The use in its proposed location will be consistent with the stated purpose and intent of Section 1.5.*

Comment: The property is currently classified as General Commercial (GC) zoning and is presently used as an automobile service facility. The proposed gas station, convenience store and car wash uses require a Conditional Use Permit in the GC district and are not permitted uses by right.

The property is shown on Lake County's comprehensive plan as Estate. Although zoned General Commercial, this CUP request is for a use that is more intensive than would be permitted by right in this district. The granting of this request would therefore allow a use that would be in greater conflict with the plan than the current zoning.

Standard B *The proposed use in its proposed location complies with all applicable standards of this (UDO) ordinance, including any applicable Use Standards of Sec. 6.2.*

Comment: The proposed site plan and accompanying materials indicate that the proposed development can comply with the regulations of the UDO.

Standard C *The proposed use in its proposed location will not have a substantial adverse impact on any of the following, either as they exist at the time of application or as they may be developed in the future due to implementation of the Comprehensive Plan:*

1. *Adjacent property*
2. *The character of the neighborhood*
3. *Natural resources*
4. *Infrastructure*
5. *Public sites, or*
6. *Any other matters affecting the public health, safety, or general welfare.*

Comment:

1. Adjacent property

Residential development surrounds the subject property. The development will operate 24 hours a day and generate a significant increase in noise, lighting and automobile fumes from the increased automobile traffic. We believe the development will have an adverse impact on the use, enjoyment and value of the adjacent properties.

We note the applicants have furnished letters from two appraisers who state the opinion that adjacent property will not be adversely affected and "may be positively influenced" by the proposed development. While staff is not expertly qualified on matters of property value, we further note that neither of these letters contains any supporting objective data (such as comparables) to substantiate these opinions.

We are also troubled by the logic behind these opinions. They assume that the adjoining properties will benefit from having the present unsightly business replaced by a business that "will esthetically be more attractive than the existing facility..." This implies that the applicant should be rewarded with the requested CUP, in part, because of his past poor property management.

2. The character of the neighborhood

The character of this area is that of a residential community. The high intensity proposed development is not compatible with the residential nature of the community and will have an adverse impact on the character of the neighborhood.

3. Natural resources

There are no existing wetland or floodplain resources on the site. The applicants have received conditional approval from the Director of the Department of Planning, Building and Development (pursuant to Sec. 4.2.9.H. of the UDO) to remove one additional Significant Tree.

4. Infrastructure

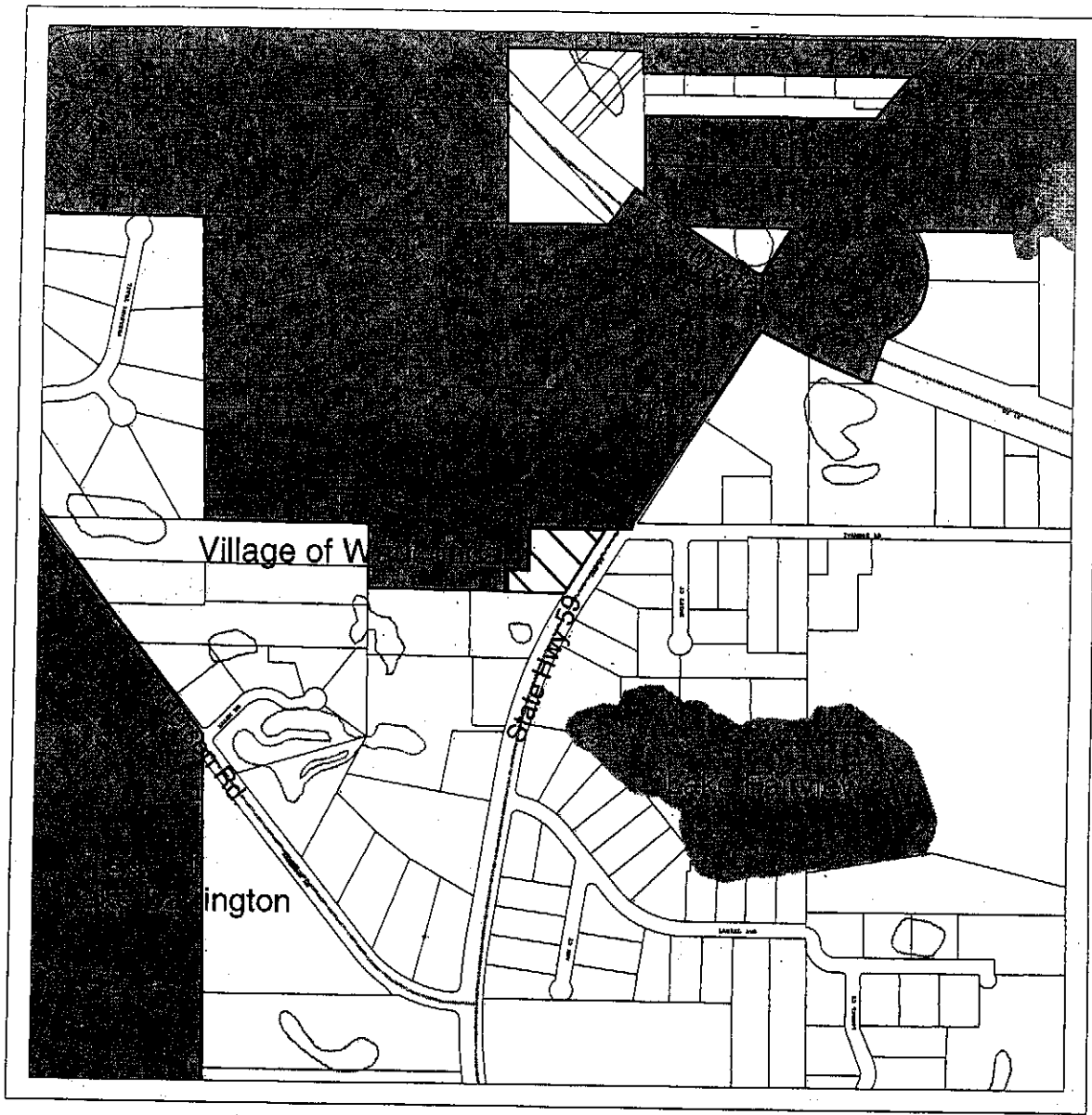
The auto repair facility is currently serviced with private septic and well. The property has direct access to IL-59 (a major arterial road). The existing use and the new proposed plan does provide a driveway onto the local street Oak Grove Drive. However, this drive is to be designated a right-in and right-out only. Oak Grove Drive also has a center median that would prohibit the Oak Grove entry being used by any traffic coming from IL-59. The applicants have stated that the tanker truck would not be using this driveway. The granting of this CUP should not have a significant effect on the area's infrastructure.

5. Public sites

A neighborhood park/playground is located immediately to the northwest of the property but would not suffer "substantial adverse" impacts.

6. Any other matters affecting the public health, safety, or general welfare

The proposed redevelopment is to include a 24-hour convenience store, a gas station and a car wash facility. Substantial traffic, noise and car exhaust pollution will be generated. The project's location and utilization of a single, narrow curbcut onto Rt. 59 may cause additional traffic confusion in an already less-than-desirable situation. The granting of the CUP could potentially have an adverse impact on the public health, safety or general welfare of Lake County residents.



Zoning Board of Appeals
Case# 3327