

Agenda Item # 44

Distribution
Dept. of Plng., Bldg & Dev. (4)

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

No. 3593
Lake Villa Township

COUNTY BOARD, LAKE COUNTY, ILLINOIS

January 16, 2007

MADAM CHAIRMAN AND MEMBERS OF THE COUNTY BOARD:

Your Planning, Building and Zoning Committee presents herewith a Resolution on Zoning Case No. 3593, which consists of the Petition of Karlheinz Zimmerman relative to a request for rezoning from the Agricultural to the Residential - 1 zone. 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 5 "Ayes" and 0 "Nays." On the motion "to grant" the prayer of the petitioner, the Planning, Building and Zoning Committee vote is 1 "Ayes" and 6 "Nays".

- o An "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.
- o A 3/4 (18) affirmative vote is required to approve the rezoning if there is a legal objection on file.

Respectfully submitted,

	Aye	Nay
<u>Samuel D. Herber</u> CHAIRPERSON	___	✓
<u>Ludie Martine</u> VICE-CHAIRPERSON	___	✓
<u>Susan L. Bueckert</u>	___	✓
<u>Robert Sabouryan</u>	✓	___
<u>[Signature]</u>	AM	✓
<u>Randy Whitman</u>	___	✓
<u>[Signature]</u>	___	X

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 Karlheinz Zimmerman relative to a request for rezoning from the Agricultural to the Residential – 1 zone for the following real estate, to-wit:

PARCEL 1: THAT PART OF THE WEST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 29, TOWNSHIP 46 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE WEST LINE OF SAID HALF QUARTER SECTION, 19 CHAINS NORTH OF THE SOUTHWEST CORNER THEREOF; THENCE NORTH ON SAID WEST LINE 409 FEET (MORE OR LESS) TO A POINT 975 FEET SOUTH OF THE NORTHWEST CORNER OF SAID HALF QUARTER SECTION; THENCE NORTH 84 DEGREES EAST 347.8 FEET TO THE CENTER LINE OF FOX RIVER ROAD (ROUTE 83); THENCE SOUTH ALONG SAID CENTER LINE TO A POINT THAT IS SOUTH 85 DEGREES 30 MINUTES EAST FROM THE PLACE OF BEGINNING; THENCE NORTH 85 DEGREES 30 MINUTES WEST 604.4 FEET TO THE PLACE OF BEGINNING; (EXCEPT THAT PART DESCRIBED AS FOLLOWS: COMMENCING AT A POINT THAT IS SOUTH 85 DEGREES 30 MINUTES EAST 217.5 FEET FROM A POINT ON THE WEST LINE OF SAID HALF QUARTER SECTION, 19 CHAINS NORTH OF THE SOUTHWEST CORNER THEREOF; THENCE CONTINUING SOUTH 85 DEGREES 30 MINUTES EAST 386.9 FEET TO THE CENTER LINE OF FOX RIVER ROAD (ROUTE 83); THENCE NORTHWESTERLY ALONG SAID CENTER LINE 198.7 FEET; THENCE WEST 278.2 FEET TO A POINT 139.6 FEET NORTH OF THE PLACE OF BEGINNING; THENCE SOUTH 139.6 FEET TO THE PLACE OF BEGINNING; (AND EXCEPT THAT PART CONVEYED TO THE STATE OF ILLINOIS BY DEED RECORDED AS DOCUMENT 1250759), IN LAKE COUNTY, ILLINOIS.

PARCEL 2: EASEMENT OVER THE EXISTING ROADWAY (AS SAID ROADWAY IS DELINEATED ON A SURVEY OF R. E. ALLEN AND ASSOCIATES, LTD, DATED NOVEMBER 10, 1972, FILE NUMBER 588-72), FOR INGRESS AND EGRESS TO ILLINOIS ROUTE 83 FOR THE BENEFIT OF PARCEL 1, AS RESERVED IN THE WARRANTY DEED FROM OLIDE MATTEUCCI, ET AL, TO EDWARD L. PHILLIPPI, ET AL, DATED JANUARY 4, 1961 AND RECORDED JANUARY 6, 1961, AS DOCUMENT 1094807, IN LAKE COUNTY, ILLINOIS.

PI#: 02-29-400-005

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 5 – 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 1 to 6 that the petition be granted. Motion made by Member Martini, with a second by Member Mountsier to grant the petition. Voting "Aye" was Member Sabonjian; voting "Nay," were Members Leafblad, Whitmore, Mountsier, Martini, Gravenhorst and Newton.

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 rezoned from the Agricultural to the Residential – 1 zone, 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.

STATE OF ILLINOIS)

COUNTY OF LAKE)

COUNTY BOARD, LAKE COUNTY, ILLINOIS

January 16, 2007

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 August 29, 2006 at 1:00 p.m. in the Lake Villa Township Hall, 37908 N. Fairfield Road, Lake Villa, Illinois, relative to the petition of Karlheinz Zimmerman requesting rezoning from the Agricultural to the Residential – 1 zone for the following described real estate, to-wit:

PARCEL 1: THAT PART OF THE WEST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 29, TOWNSHIP 46 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE WEST LINE OF SAID HALF QUARTER SECTION, 19 CHAINS NORTH OF THE SOUTHWEST CORNER THEREOF; THENCE NORTH ON SAID WEST LINE 409 FEET (MORE OR LESS) TO A POINT 975 FEET SOUTH OF THE NORTHWEST CORNER OF SAID HALF QUARTER SECTION; THENCE NORTH 84 DEGREES EAST 347.8 FEET TO THE CENTER LINE OF FOX RIVER ROAD (ROUTE 83); THENCE SOUTH ALONG SAID CENTER LINE TO A POINT THAT IS SOUTH 85 DEGREES 30 MINUTES EAST FROM THE PLACE OF BEGINNING; THENCE NORTH 85 DEGREES 30 MINUTES WEST 604.4 FEET TO THE PLACE OF BEGINNING; (EXCEPT THAT PART DESCRIBED AS FOLLOWS: COMMENCING AT A POINT THAT IS SOUTH 85 DEGREES 30 MINUTES EAST 217.5 FEET FROM A POINT ON THE WEST LINE OF SAID HALF QUARTER SECTION, 19 CHAINS NORTH OF THE SOUTHWEST CORNER THEREOF; THENCE CONTINUING SOUTH 85 DEGREES 30 MINUTES EAST 386.9 FEET TO THE CENTER LINE OF FOX RIVER ROAD (ROUTE 83); THENCE NORTHWESTERLY ALONG SAID CENTER LINE 198.7 FEET; THENCE WEST 278.2 FEET TO A POINT 139.6 FEET NORTH OF THE PLACE OF BEGINNING; THENCE SOUTH 139.6 FEET TO THE PLACE OF BEGINNING; (AND EXCEPT THAT PART CONVEYED TO THE STATE OF ILLINOIS BY DEED RECORDED AS DOCUMENT 1250759), IN LAKE COUNTY, ILLINOIS.

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PIN: 02-29-400-005

The proceedings of this hearing have been 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:

The Lake County Health Department,
The Lake County Building and Code Enforcement Division and
The Department of Planning, Building and Development

As required by the Lake County Zoning Ordinance, in making its recommendation the Zoning Board of Appeals 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) The Standards provided in Section 3.3 of the Unified Development Ordinance.

At the close of the continued public hearing of the Lake County Zoning Board of Appeals held on November 9, 2006, after a final review of all evidence and testimony presented, Member Stimpson moved, with a second by Member Koeppen, to recommend the prayer of the petitioner for rezoning from the Agricultural to the Residential – 1 zone be denied. Voting "Aye" on this motion were Members Bell, Koeppen, Morgan, Raymond and Stimpson. Voting "Nay," none. The motion to recommend the petition be denied was passed by a vote of 5 – 0.

The Board finds that the request for rezoning does not meet Standards A, B, C and F for Map Amendments, Section 3.3, in the following manner:

Standard A. The proposed amendment is consistent with the stated purpose and intents of the Unified Development Ordinance (Sec. 1.5).

Finding: The subject property is designated Office / Research on the Future Land Use Map of the *Framework Plan*. The adjoining parcels on the north and south are also designated Office / Research. The unincorporated properties on the east side of IL 83, which have a frontage on IL 83 of approximately 3500 feet and an area of approximately 60 acres, are designated Industrial on the future land use map. The proposed amendment does not comply with the Ordinance because the requested R – 1 zoning is not consistent with the future land use for the subject property and other nearby parcels in unincorporated Lake County.

Standard B. The proposed amendment corrects an error or inconsistency or meets the challenge of some changing condition in the area.

Finding: The predominate development in the vicinity is the retail / office / and limited industrial uses on the east side of IL 83. Based on existing development and future land uses, the trend of development is for commercial and limited industrial uses.

Standard C. The proposed amendment will allow development that is compatible with existing uses and zoning of nearby property.

Finding: The proposed R – 1 zoning is compatible with the R – 1 zoning on the east side of IL 83, the single-family dwellings on the abutting properties to the north and south, and the farmland on the south and west. However, the proposed amendment is not consistent with the non-residential uses and zoning in the vicinity of the subject property. In summary, the R – 1 is compatible with some, but not all, nearby properties.

Standard F. The subject property is suitable for proposed zoning classification.

Finding: The subject property is not suitable for the proposed R – 1 zoning because its only frontage is on IL 83, which is a state highway classified as an arterial, and because the future land use in both the *Framework Plan* and Lake Villa Comprehensive Plans is for intensive, non-residential development.

The Board finds that the request for rezoning meets Standards D and E for Map Amendments, Section 3.3, in the following manner:

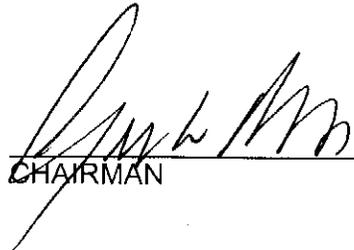
Standard D. The County and other service providers will be able to provide adequate public facilities and services to the property, while maintaining adequate levels of service to existing development.

Finding: The subject property will be served by private septic and water well. Adequate public services are available if the rezoning is approved.

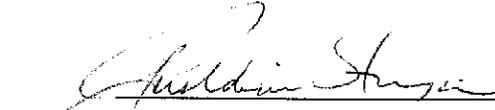
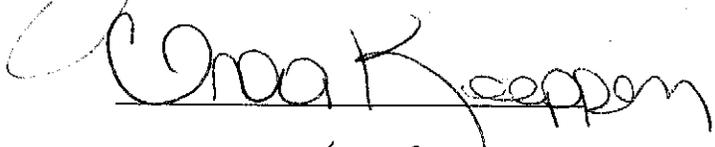
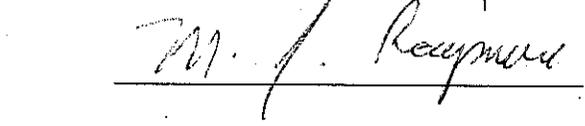
Standard E. The proposed amendment will not result in significant adverse impacts on other property in the vicinity of the subject tract or on the environment, including air, water, noise, stormwater management, wildlife and natural resources.

Finding: The proposed amendment will not result in significant adverse impacts on other property in the vicinity of the subject property or on the environment.

No. 3593
Lake Villa Township


CHAIRMAN

VICE CHAIRMAN

Dated this 20th day of September 2006.

Summary of Testimony

Zoning Case #3593

A public hearing was conducted by the Lake County Zoning Board of Appeals on August 29, 2006, on the application of Karlheinz Zimmerman, record owner, which seeks rezoning from the Agricultural to the Residential – 1 Zoning District for the purpose of dividing the subject parcel into two residential lots. The subject property contains approximately 3.13 acres and is located at 39294 Highway 83, in Lake Villa Township. The following is a summary of the testimony presented:

1. Ms. Jennifer Giraldi, the designated representative, presented the request and testified the purpose for the rezoning was to allow the property to be divided into two lots. A detached, single-family dwelling would be constructed on the newly created lot north of the existing house.
 2. Ms. Giraldi further testified that soil borings had shown that a second septic system could be added. She stated that a wetland delineation had been completed, required wetland buffers could be provided and there would not be any negative impact to the wetland. Ms. Giraldi explained that the two houses would use a shared driveway, which would be guaranteed by a recorded easement, so a second driveway on IL 83 would not be necessary.
 3. Ms. Mindy Fulgenzi, on behalf of the owner of the adjoining property to the north, stated that the pond on the subject property overflows onto the adjacent property. Ms. Giraldi stated that it would be possible to grade around the pond to contain the water on the subject property and eliminate the overflow.
 4. At the continued public hearing on November 9, 2006, Ms. Giraldi testified that a revised plat of survey showed that both proposed lots would meet the lot width requirement of 130 feet. She further testified that the tree survey showed all significant trees would be saved.
 5. Ms. Giraldi testified that the Illinois Department of Transportation had been contacted regarding the possibility of obtaining a separate driveway connection to IL 83 for the proposed second lot and house. She said she had been advised that the owner should apply for a permit from IDOT. Ms. Giraldi told the Board that applying would be expensive because of permit requirements and the owner did not want to go to this expense until he had a clearer impression of whether or not the rezoning was likely to be approved. Mr. Mosteller stated his opinion that the County would prefer a shared, single-driveway rather than two separate driveways connected to IL 83.
 6. In conclusion, Ms. Giraldi testified that she felt the request was compatible with the zoning and uses of nearby properties. Specifically, the adjoining property to the north has a single-family residence, the properties to the west and south in Lake Villa are zoned for residential uses, an adjoining parcel to the south has a single-family dwelling, and the property to the east across IL 83 is vacant. In her opinion, the rezoning request complies with the required standards.
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Summary of Department and Agency Comments

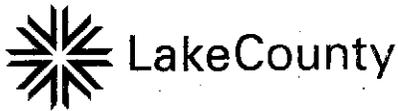
Zoning Case #3593

Lake County Health Department:

The Lake County Health Department has no objection to the proposed rezoning of this parcel.

Lake County Department of Planning, Building and Development:

Staff recommends denial because the preponderance of the evidence does not support the rezoning. Specifically, the request does not comply with the Future Land Use Map of the *Framework Plan* which designates the property as Office / Research. Furthermore, based on existing development and future land uses, the trend of development in the area is for commercial and limited industrial uses; thus, the proposed amendment is not consistent with the non-residential uses and zoning in the area. The subject property is not suitable for the proposed R – 1 zoning because its only frontage is on IL 83, which is a state highway classified as an arterial, and because the future land use in both the *Framework Plan* and Lake Villa Comprehensive Plans is for intensive, non-residential development.



Philip J. Rovang
Director

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E-mail planning@co.lake.il.us

MEMORANDUM

August 17, 2006

TO: James Morgan, Acting Chairman
Lake County Zoning Board of Appeals

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

CASE NO: 3593 Rezoning

REQUESTED ACTION: Rezoning from the Agricultural to the Residential – 1 zoning district

PUBLIC HEARING DATE: August 29, 2006

GENERAL INFORMATION

PETITIONER: Karlheinz Zimmerman, record owner

OF PARCELS: One

SIZE: 3.13 acres

LOCATION: 39294 Highway 83, Lake Villa

EXISTING ZONING: Agricultural

PROPOSED ZONING: Residential – 1

EXISTING LAND USE: One detached single-family dwelling on one lot

PROPOSED LAND USE: Two detached single-family dwellings on two lots

SURROUNDING ZONING / LAND USE

EAST: R - 1 / Vacant

NORTH: GC / Single-family dwelling

WEST: Village of Lake Villa: UR - 1 (a single-family residential district) / Farmland

SOUTH: Unincorporated: Agricultural / Single-family dwelling
Village of Lake Villa: UR - 1 / Farmland

COMPREHENSIVE PLANS

LAKE COUNTY: Office / Research

MUNICIPALITIES WITHIN 1 ½ MILES: Village of Lake Villa: Limited Industrial

DETAILS OF REQUEST

ACCESS: Access is provided via IL 83.

PHYSICAL CHARACTERISTICS: The subject property currently has one detached, single - family dwelling in the southwest corner with a setback from IL 83 of approximately 300 feet. The northern portion of the property, where a second dwelling would be built if the rezoning is approved and the lot is split, contains a pond of approximately 13,300 square feet. The second dwelling would have a setback of approximately 210 feet and would be located behind the pond. The subject property contains several mature trees.

SOIL TYPES: The predominant soil type on the subject property is Ozaukee Silt Loam (530B and 530C).

FLOODPLAIN / WETLANDS: The subject property is not in a floodplain. There is a small wetland (pond) in the north central portion of the subject property.

SEWER AND WATER: Private septic and water well

RECOMMENDATION ON REZONING

Staff recommends denial of the rezoning. The request does not meet Standards A, B, C and E as explained below:

Map Amendment Approval Criteria – UDO Section 3.3.8

Standard A: The proposed amendment is consistent with the stated purpose and intent of Sec. 1.5.

Comment: The subject property is designated Office / Research on the Future Land Use Map of the *Framework Plan*. The adjoining parcels on the north and south are also designated Office / Research. The unincorporated properties on the east side of IL 83, which have a frontage on IL 83 of approximately 3500 feet and an area of approximately 60 acres, are designated Industrial on the future land use map. The proposed amendment does not comply with the Ordinance because the requested R – 1 zoning is not consistent with the future land use for the subject property and other nearby parcels in unincorporated Lake County.

Standard B: The proposed amendment corrects an error or inconsistency or meets the challenge of some changing condition in the area.

Comment: The predominate development in the vicinity is the retail / office / and limited industrial uses on the east side of IL 83. Based on existing development and future land uses, the trend of development is for commercial and limited industrial uses.

Standard C: The proposed amendment will allow development that is compatible with existing uses and zoning of nearby property.

Comment: The proposed R – 1 zoning is compatible with the R – 1 zoning on the east side of IL 83, the single-family dwellings on the abutting properties to the north and south, and the farmland on the south and west. However, the proposed amendment is not consistent with the non-residential uses and zoning in the vicinity of the subject property. In summary, the R – 1 is compatible with some, but not all, nearby properties.

Standard D: The County and other service providers will be able to provide adequate public facilities and services to the property, while maintaining adequate levels of service to existing development.

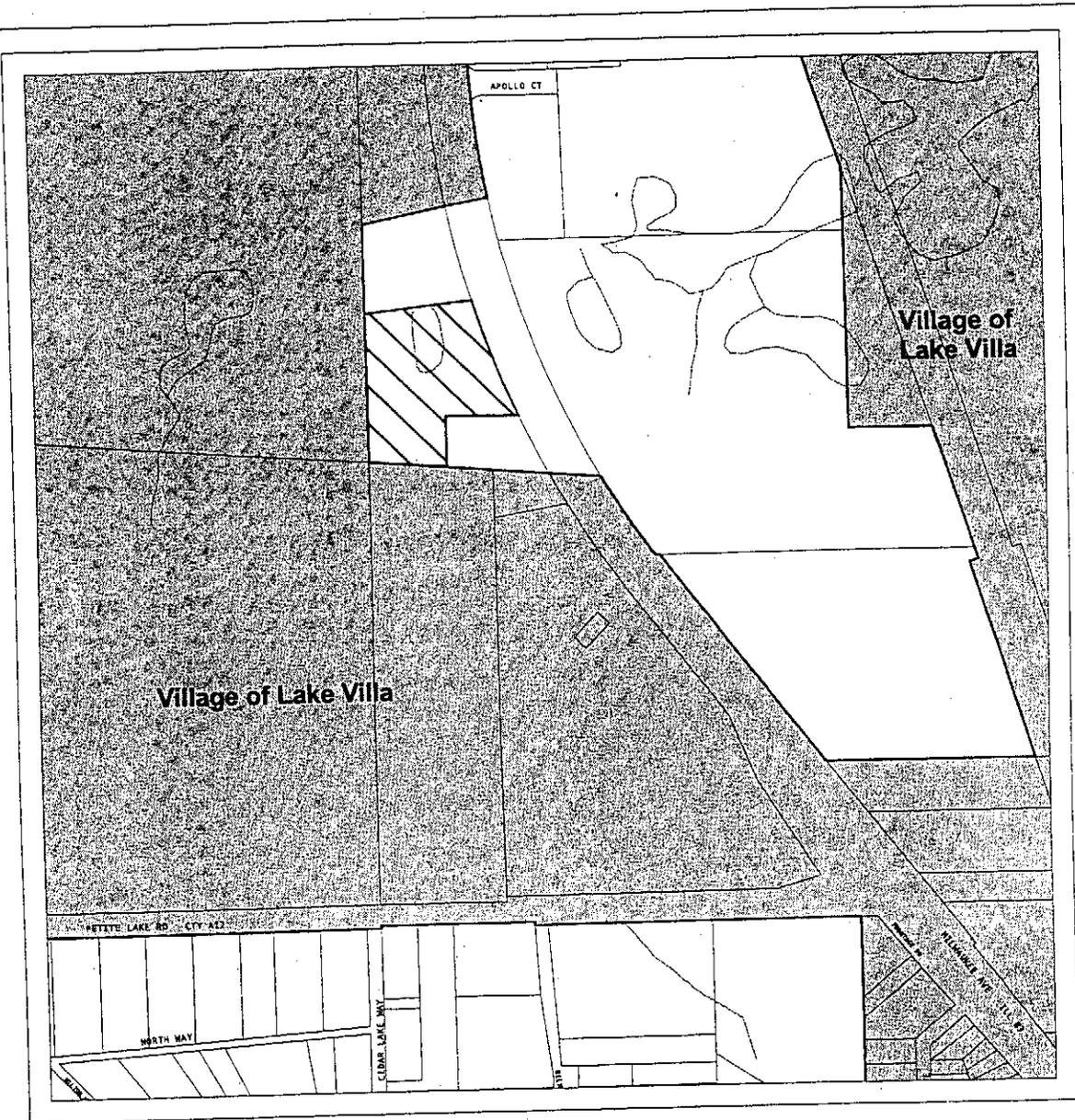
Comment: The subject property will be served by private septic and water well. Adequate public services are available if the rezoning is approved.

Standard E: The proposed amendment will not result in significant adverse impacts on other property in the vicinity of the subject tract or on the environment, including air, water, noise, stormwater management, wildlife and natural resources.

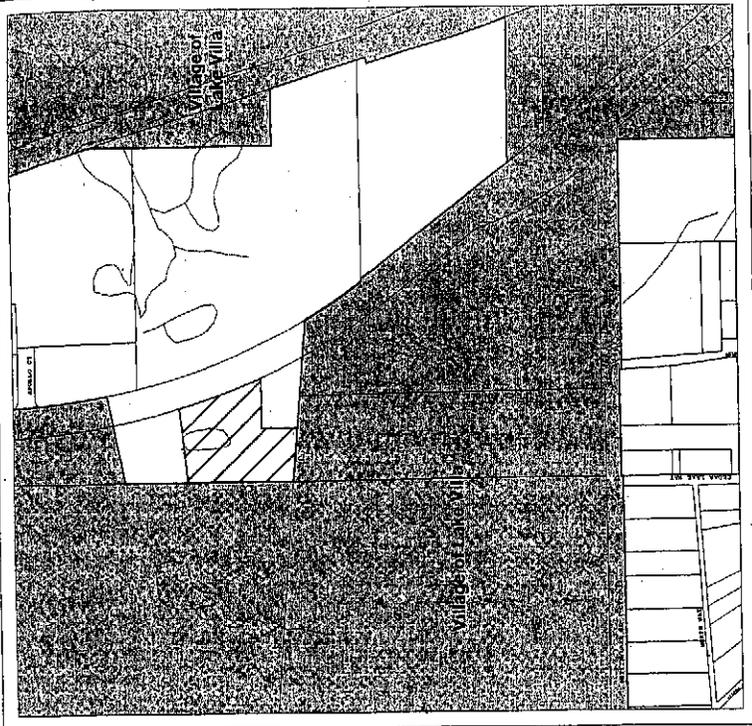
Comment: Compliance with all requirements of the UDO and all applicable permitting agencies will ensure that no significant adverse impacts to other property or the environment will occur.

Standard F: The subject property is suitable for the proposed zoning classification.

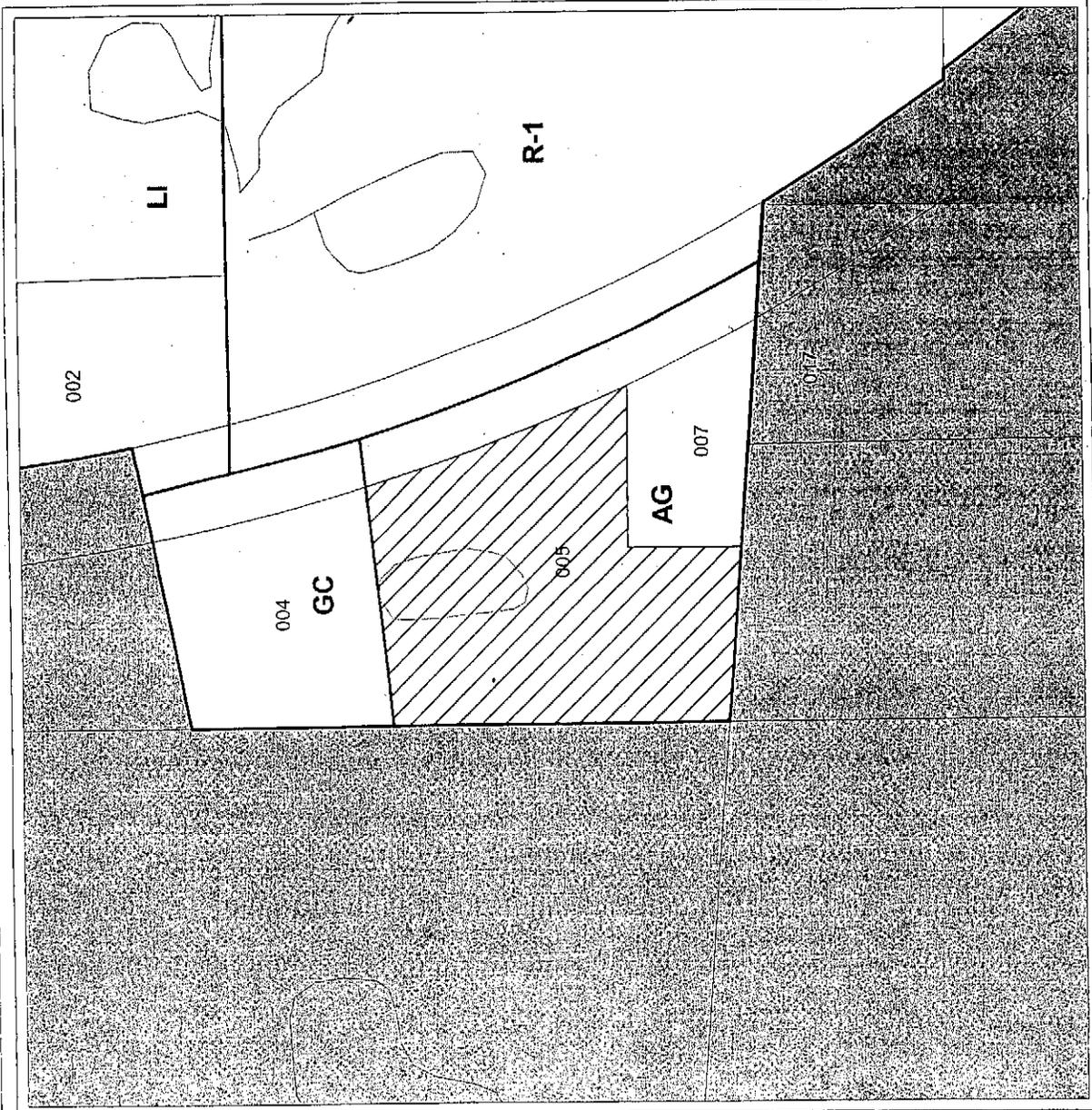
Comment: The subject property is not suitable for the proposed R – 1 zoning because its only frontage is on IL 83, which is a state highway classified as an arterial, and because the future land use in both the *Framework Plan* and Lake Villa Comprehensive Plans is for intensive, non-residential development.



Zoning Board of Appeals
Case# 3593



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Incorporated Lake County

