

Agenda Item # 26

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

STATE OF ILLINOIS)

) SS

No. 3609
Waukegan Township

COUNTY OF LAKE)

COUNTY BOARD, LAKE COUNTY, ILLINOIS

February 13, 2007

MADAM CHAIRMAN AND MEMBERS OF THE COUNTY BOARD:

Your Planning, Building and Zoning Committee presents herewith a Resolution on Zoning Case No. 3609, which consists of the Petition of Allen and Cheryl O'Dette, relative to a request for rezoning from the Residential - 1 to the General Commercial zone. The Department of Planning, Building and Development recommends the petition be granted only for the portion of the subject property with a Future Land Use of Retail / Commercial on the Future Land Use Map in the *Lake County Regional Framework Plan* (revised May 10, 2005). On the motion "to grant" the prayer of the petitioners to rezone the portion of the subject property lying west of a straight line created by extending the eastern edge of the alleyway on the north side of Nemesis Avenue to the eastern edge of that alleyway on the north side of Wall Avenue and "to deny" the prayer of the petitioners for the remainder of the subject property the Zoning Board of Appeals vote is 7 "Ayes" and 0 "Nays." The Planning, Building and Zoning Committee vote "to grant" the prayer of the petitioners is 5 "Ayes" and 2 "Nays".

- o An "Aye" vote on the motion shall operate in favor of the prayer of the petitioners.
- o A "Nay" vote on the motion shall operate against the prayer of the petitioners.
- o A 3/4 (18) affirmative vote is required to approve the rezoning if there is a legal objection on file.

Respectfully submitted,

<u>Pamela O. Neuh</u>	Aye	Nay
CHAIRPERSON		✓

<u>Leedy Martene</u>	Aye	Nay
VICE-CHAIRPERSON		

<u>James L. Brewster</u>	Aye	Nay
	✓	

<u>Robert Saboyzo</u>	Aye	Nay
	✓	

<u>[Signature]</u>	Aye	Nay
	✓	

<u>Steven M. [Signature]</u>	Aye	Nay
	X	

<u>Randy White</u>	Aye	Nay
	✓	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 Allen and Cheryl O'Dette relative to a request for rezoning from the Residential – 1 to the General Commercial zone for the following real estate, to-wit:

LOTS "A", 3 AND 7, BLOCK 3, IN F.H. BARTLETT'S NORTH SHORE LANDS, BEING A SUB. OF PARTS OF THE N.E. ¼ AND THE N.W. ¼ OF SEC. 7, TWP. 45 N., R. 12E. OF THE 3RD P.M., ACCORDING TO THE PLAT THEREOF, RECORDED AS DOC. 289244, ON NOV. 3, 1926, IN BOOK "G" OF PLATS, PAGE 80, IN LAKE CO., ILL AND CONTAINING 1.82 AC.S, MORE OR LESS.

PINs: 08-07-109-012, -013 and -007

WHEREAS, your Department of Planning, Building and Development duly considered the aforesaid petition and recommends that it be granted only for the portion of the subject property with a Future Land Use of Retail / Commercial on the Future Land Use Map in the *Lake County Regional Framework Plan* (revised May 10, 2005); 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 granted for the portion of the subject property lying west of a straight line created by extending the eastern edge of the alleyway on the north side of Nemesis Avenue to the eastern edge of that alleyway on the north side of Wall Avenue and be denied for the remainder of the subject property; and

WHEREAS, your Planning, Building and Zoning Committee duly considered the petition and reports aforescribed and recommends by a vote of 5 to 2 that the petition be granted. Motion made by Member SABONIAN, with a second by Member LEAFBLAD to grant the petition. Voting "Aye," were Members GRANENHUS, SABONIAN, LEAFBLAD, MUNSTER, voting "Nay," Members NEWTON & WHITMORE.
MARTINI

NOW, THEREFORE, BE IT RESOLVED by the Lake County Board that the prayer of the Petitioners be granted and that the above described real estate shall be rezoned from the Residential – 1 to the General Commercial zone, and

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

STATE OF ILLINOIS)

COUNTY OF LAKE)

COUNTY BOARD, LAKE COUNTY, ILLINOIS

February 13, 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 November 6, 2006, at 1:00 p.m., in the Lake County Administration Building, Room 1001, 18 N. County Street, Waukegan, Illinois, relative to the petition of Allen and Cheryl O'Dette requesting rezoning from the Residential – 1 to the General Commercial zone for the following described real estate, to-wit:

LOTS "A", 3 AND 7, BLOCK 3, IN F.H. BARTLETT'S NORTH SHORE LANDS, BEING A SUB. OF PARTS OF THE N.E. ¼ AND THE N.W. ¼ OF SEC. 7, TWP. 45 N., R. 12E. OF THE 3RD P.M., ACCORDING TO THE PLAT THEREOF, RECORDED AS DOC. 289244, ON NOV. 3, 1926, IN BOOK "G" OF PLATS, PAGE 80, IN LAKE CO., ILL AND CONTAINING 1.82 AC.S, MORE OR LESS.

PINs: 08-07-109-012, -013 and -007

The proceedings of this hearing have been manually recorded and a transcript is 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 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 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 January 4, 2007, after a final review of all evidence and testimony presented, Member Van Erden moved, with a second by Member Koeppen, to recommend the petition for rezoning from the Residential – 1 to the General Commercial zone be granted for the portion of the subject property lying west of a straight line created by extending the eastern edge of the alleyway on the north side of Nemesis Avenue to the eastern edge of that alleyway on the north side of Wall Avenue and be denied for the remainder of the subject property. Voting "Aye" on this motion were Members Bell, Freese, Koeppen, Raymond, Stimpson, Van Erden and Westerman; voting "Nay", none. The motion passed by a vote of 7 – 0.

The Board finds that the request for rezoning for the portion of the property described in the motion meets the Standards for Map Amendments contained in 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 has two Future Land Use designations: Retail/Commercial and Residential Single-family Small Lot (RSL). The proposed rezoning is only consistent with the Ordinance for the portion of the subject property lying west of a straight line created by extending the eastern edge of the alleyway on the north side of Nemesis Avenue to the eastern edge of that alleyway on the north side of Wall Avenue.

The remainder of the subject property has a future land use designation of Residential Single-family Small Lot; rezoning the portion of the property with a residential land use is not consistent with the Ordinance because this land use is not intended for commercial development.

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

Finding: The portion of the subject property with frontage on IL 131 and Retail/Commercial future land use is poorly suited for single-family residential uses. Portions of IL 131 in the vicinity of the subject property are undergoing a transition from residential to non-residential development. This changing condition supports, but is limited to, that portion of the subject property lying west of a straight line created by extending the eastern edge of the alleyway on the north side of Nemesis Avenue to the eastern edge of that alleyway on the north side of Wall Avenue.

The Future Land Use Map anticipates changing conditions along the IL 131 corridor, but rezoning the entire subject property goes beyond what is anticipated and would be a disruption to the existing residential neighborhood. In addition, rezoning the entire subject property is excessive based on the area needed for the desired business.

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

Finding: The nearest GC zoning, which is used for auto sales and a union hall, is less than 350 feet away to the northwest. A gas station on the north side of Blanchard Road in Beach Park is 700 feet away. A parcel zoned and used for commercial / light industrial is approximately 520 feet southwest in Waukegan. A landscaping company (which is not allowed in the R – 1 zone) is approximately 180 feet to the south. The subject property is surrounded on all sides by properties with R – 1 zoning. Approval of the rezoning for the portion of the subject property lying west of a straight line created by extending the eastern edge of the alleyway on the north side of Nemesis Avenue to the eastern edge of that alleyway on the north side of Wall Avenue, can be compatible with the existing residential properties because of the lack of central sewer and the transition yard requirements of the Ordinance.

However, rezoning the remainder of the subject property is not compatible with the existing residential uses and zoning of adjoining and nearby properties. The barn structure that is on the eastern portion of the property is so dilapidated that it is not reasonable to expect that it could be rehabilitated at a reasonable cost for

long-term use in the business. Rezoning the entire subject property would create an intrusion into the residential neighborhood.

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: If needed, a septic system and water well will have to be approved by the Health Department. The Illinois Department of Transportation has the authority for an access permit to IL 131 and can require any necessary improvements.

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: Compliance with all requirements of the UDO should assure that no significant adverse impacts to the environment will occur. The required buffering between a non-residential use established on the portion of the subject property lying west of a straight line created by extending the eastern edge of the alleyway on the north side of Nemesis Avenue to the eastern edge of that alleyway on the north side of Wall Avenue and the adjoining residential uses can be provided.

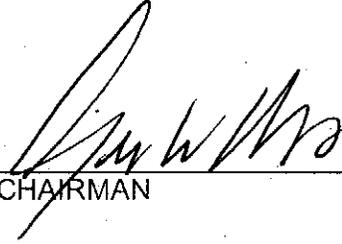
However, as already stated, rezoning of the entire property would be an excessive intrusion into the residential neighborhood.

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

Finding: The rezoning should be limited to the portion of the subject property lying west of a straight line created by extending the eastern edge of the alleyway on the north side of Nemesis Avenue to the eastern edge of that alleyway on the north side of Wall Avenue.

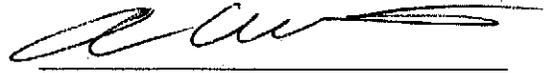
The remainder of the subject property is not suitable for the proposed zoning classification because it would allow the intrusion of a commercial use into a residential neighborhood.

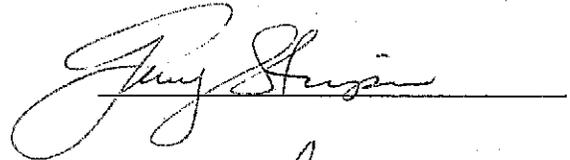
No. 3609
Waukegan Township

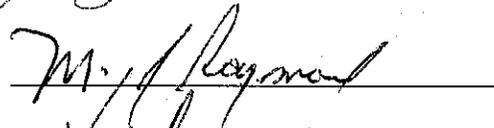

CHAIRMAN

VICE CHARIMAN











Dated this 11th day of January 2007.

Summary of Testimony

Zoning Case # 3609

A public hearing was conducted by the Lake County Zoning Board of Appeals on November 6, 2006, on the application of Allen and Cheryl O'Dette, beneficial owners, which seeks rezoning from the Residential 1 zone to the General Commercial zone. The applicants wish to use the property for storage for their commercial plumbing business, provided the rezoning and the necessary Conditional Use Permit (simultaneously requested in ZBA # 3610) are granted. The subject property contains approximately 1.82 acres and is located at 36843 and 36861 N. Green Bay Road and 12796 W. Nemesis Avenue, Waukegan, IL. The following is a summary of the testimony presented:

1. Mr. James Babowice, attorney for the petitioners, presented the request and testified that the Illinois Department of Transportation has plans to widen Green Bay Road, which supports the requested rezoning from residential to commercial. He also testified that the trend in development on Green Bay north and south of the subject property is for commercial.
2. Mr. Babowice further testified that the petitioners intend to repair the barn on the east portion of the property and use it for cold storage for their plumbing business. Because of the location of the barn, split zoning of the property is not practical because the barn would remain residentially zoned and thus could not be used in this manner. The barn is a historical structure and if it cannot be used in the business, the owners will probably have to demolish it.
3. Mr. Allen O'Dette testified that the petitioners bought the property in 1997 and have been gradually working to improve it. He further testified that they purchased the property to use the barn for storage and if it cannot be used in the business, it will be demolished. He stated that a dilapidated house had been burned by the Waukegan Fire Department as a fire training exercise; a windmill, a milk house behind the barn, a garage attached to the front of the barn and the septic system for the house had all been removed. He also testified that the well that had been used for the house has been repaired and he had obtained a building permit for repairs to the barn's foundation. Mr. O'Dette testified that in his opinion the inside of the barn is in good condition. In response to a question from the Board, Mr. O'Dette stated he did not have any estimates on the cost to rehabilitate the barn and bring it up to code for use in his business.
4. Mr. O'Dette testified that his business would not impact adjacent properties. The barn would be used to store pipe, cast iron plumbing fittings, an air compressor, a concrete saw, a small backhoe and a new truck. Copper would be kept in the secure, outdoor storage container currently on the property. There would only be 2 or 3 deliveries per week to the property.
5. Mr. Babowice explained that a Court Order was issued on August 17, 2006 requiring that the non-operable vehicles and debris on the property be removed. The petitions for rezoning and the CUP were filed following the Court Order.
6. Ms. Milka Velaga, abutting neighbor to the south, stated she had no objections to the current operation, but was concerned that rezoning the entire property to General Commercial would allow it to be used for any use allowed in the GC zone. Mr. Bob Bogue, adjoining neighbor to the east on Wall Avenue, was concerned that the rezoning may negatively impact the value of his property.

Summary of Department and Agency Comments

Zoning Case # 3609

Lake County Health Department:

The Lake County Health Department requires a Property Alteration application be submitted, reviewed and approved prior to using the property as a storage facility.

Lake County Department of Planning, Building and Development:

Staff recommends approval **only** for the portion of the subject property that is designated Retail/Commercial on the Future Land Use Map of the *Regional Framework Plan* and also has frontage on Green Bay Road (IL 131). Staff recommends denial of the request for the area designated Residential Single-family Small Lot (RSL) on the future land use map.

Please see the maps included with this case that show Current Zoning, Future Land Use, the portion of the property Recommended for Rezoning by the ZBA, and an aerial photo that shows the ZBA recommendation, the barn and nearby buildings.

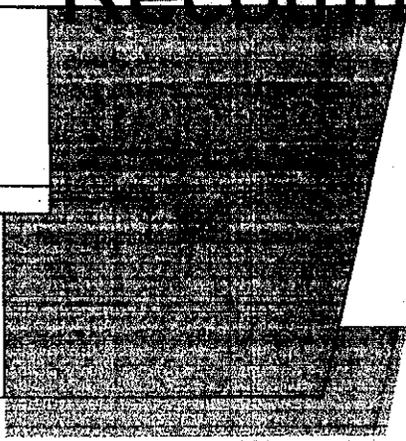
The Green Bay Road corridor is undergoing a transition from residential to non-residential development which supports the request for the portion of the subject property with frontage on IL 131 and Retail/Commercial future land use. The property is large enough so that the required buffering between the non-residential use and the adjoining residential uses can be provided. The property will be served by a septic system and private water well, subject to approval of the Health Department. The Illinois Department of Transportation has the authority for an access permit to IL 131 and can require any necessary improvements. Conforming to all code requirements, as well as those of other permitting agencies, should insure there will not be a significant adverse impact to the neighborhood, the environment or infrastructure.

Village of Beach Park

3609

W Blanchard Rd

Recommendation



ZBA Recommendation:

W Tyler Ave

Rezone the property adjacent to Green Bay Road to GC

to GC

W Wall Ave

N Adelphi Ave

W Wall Ave

R-1

GC

R-1

GC

R-1

City of Waukegan

W Nemesis Ave

W Nemesis Ave

N Green Bay Rd

N Adelphi Ave



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MEMORANDUM

October 30, 2006

TO: George Bell, Chairman, Lake County Zoning Board of Appeals

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

CASE NO: #3609 & #3610. Rezoning and CUP

REQUESTED ACTION: Rezoning from the Residential – 1 (R – 1) zoning district to the General Commercial (GC) zoning district and a Conditional Use Permit to allow contractor's equipment sales or storage (indoor and outdoor).

HEARING DATE: November 6, 2006

GENERAL INFORMATION

PETITIONER(S): Allen and Cheryl O'Dette, beneficial owners

OF PARCELS: Three

SIZE: 1.82 acres

LOCATION: 36843 and 36861 N. Green Bay Road and 12796 W. Nemesis Avenue, Waukegan

EXISTING ZONING: Residential – 1 (R – 1)

PROPOSED ZONING: General Commercial (GC)

EXISTING LAND USE: Barn used for storage; storage trailers and outdoor storage of vehicles and plumbing supplies.

PROPOSED LAND USE: Contractor's equipment sales or storage (indoor and outdoor) for storage for a commercial plumbing business.

SURROUNDING ZONING / LAND USE

NORTH, SOUTH, WEST & EAST: R – 1 / Single-family dwellings and vacant lots

COMPREHENSIVE PLANS

LAKE COUNTY: Retail / Commercial (PIN 08-07-109-013 and approximately the western 157 feet of -012 adjacent to IL 131)
Residential Single-family Small Lot (<0.25 acres) (PIN 08-07-109-007 and the eastern portion of -012)

MUNICIPALITIES WITHIN 1 ½ MILES: Village of Beach Park / Low-density single-family
City of Waukegan / Low-density residential

DETAILS OF REQUEST

ACCESS: Direct access is via Green Bay Road, Nemesis Avenue and Wall Avenue.

PHYSICAL CHARACTERISTICS: The subject property is currently improved with a barn that needs repair and two unimproved driveways.

SOIL TYPES: Ozaukee Silt Loam (530B and C2) and Grays and Markham Silt Loam (979B)

FLOODPLAIN / WETLANDS: According to the County's GIS, the property is not in a floodplain and does not contain any wetlands.

SEWER AND WATER: Private septic and private well, if needed.

COMMENTS

- The property was issued a Red Tag on July 29, 2005 for: (1) Fill brought on property (site development permit may be required); (2) Inoperable vehicles must be in operable condition, repair, stored inside, or remove from the property; (3) Junk and debris must be removed and the property completely cleaned up.
- The ZBA has been delegated the authority for the CUP for Contractor's equipment sales or storage (indoor and outdoor) requested in ZBA #3610.
- Since the requested CUP is for a nonresidential use, the CUP is subject to the General Development Standards of Article 9 (UDO 3.9.2).
- If the rezoning is approved, a transition area will be required between the subject property and all adjacent R – 1 zoned properties, except for the unimproved alley and Nemesis Avenue. The transition area between the subject property and R – 1 zoned lots with a single-family dwelling must be 30 feet in width, have three plant units per 100 linear feet, and either an 8 foot high, solid wooden fence, or a berm 5 feet in height. There must be a transition area 30 feet in width, with three plant units per 100 linear feet between the subject property and the vacant R – 1 zoned lot east of the unimproved alley and north of unimproved Nemesis Avenue (UDO 9.3.6.A and B).

RECOMMENDATIONS

1. ZBA # 3609 Rezoning: Staff recommends approval **only** for the portion of the subject property that is designated Retail/Commercial on the Future Land Use Map of the *Regional Framework Plan* and also has frontage on Green Bay Road (IL 131). This area is approximately 200 feet wide by 150 feet deep (30,000 square feet) and is vacant. Staff recommends denial of the request for the area of the subject property that is designated Residential Single-family Small Lot (RSL) on the future land use map. The subject property with its two future land use designations, and staff's recommendation on the rezoning, is illustrated on the attached map.
 2. ZBA # 3610 CUP: Staff recommends denial of the CUP as presented. Staff does not believe the entire property should be rezoned to General Commercial, and the GC zoning is necessary for the CUP. This recommendation is expanded upon in the section of this report pertaining to the CUP.
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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 has two Future Land Use designations: Retail/Commercial and Residential Single-family Small Lot (RSL). The proposed rezoning is only consistent with the Ordinance for the portion of the subject property that is designated Retail/Commercial and has frontage on IL 131 (Green Bay Road). Please see the attached future land use map.

The applicant's commercial activities are being conducted in the area of the property with a future land use designation of Residential Single-family Small Lot. Because of the R – 1 zoning this use is illegal. The existing barn that is used for commercial storage appears to be dilapidated and in need of extensive repairs. In addition to the poor condition of the barn, a Red Tag was issued for the inoperable vehicles and junk and debris. One of the purposes of the Ordinance is to eliminate uses, structures and situations that do not comply with the Ordinance (UDO 1.5.S). With the exception of the portion of the property with a future land use of Retail/Commercial and frontage on IL 131, the proposed amendment is not consistent with the stated purpose and intent of the Ordinance.

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

Comment: The portion of the subject property with frontage on IL 131 and Retail/Commercial future land use is poorly suited for single-family residential uses. As elaborated upon in the Comment to Standard C, portions of IL 131 in the vicinity of the subject property are undergoing a transition from residential to non-residential development. This changing condition supports, but is limited to, that portion of the request which is designated Retail/Commercial on the Future Land Use map of the *Framework Plan*.

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

Comment: The nearest GC zoning, which is used for auto sales and a union hall, is less than 350 feet away to the northwest. A gas station on the north side of Blanchard Road in Beach Park is 700 feet away. A parcel zoned and used for commercial / light industrial is approximately 520 feet southwest in Waukegan. The landscaping company mentioned in the application (which is not allowed in the R – 1 zone) is approximately 180 feet to the south. The subject property is surrounded on all sides by properties with R – 1 zoning, which, if public sewer was available, could make approval of the rezoning problematic because of the intensity of some of the GC uses. However, staff believes that uses allowed in the GC zone that would be likely to develop on the subject property, considered

in its entirety, using a septic system would be compatible with the existing uses and zoning of nearby property because of the requirements in the Ordinance.

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: If needed, a septic system and water well will have to be approved by the Health Department. The Illinois Department of Transportation has the authority for an access permit to IL 131 and can require any necessary improvements.

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 should assure that no significant adverse impacts to the environment will occur. The property is large enough so that the required buffering between the non-residential use on the subject property and the adjoining residential uses to the east can be provided.

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

Comment: As explained above, staff believes that the rezoning should be limited to the portion of the subject property designated as Retail/Commercial on the Future Land Use Map.

Conditional Use Permit General Standards – UDO Section 3.6.8.

The following three Standards must be met in order to obtain a Conditional Use Permit:

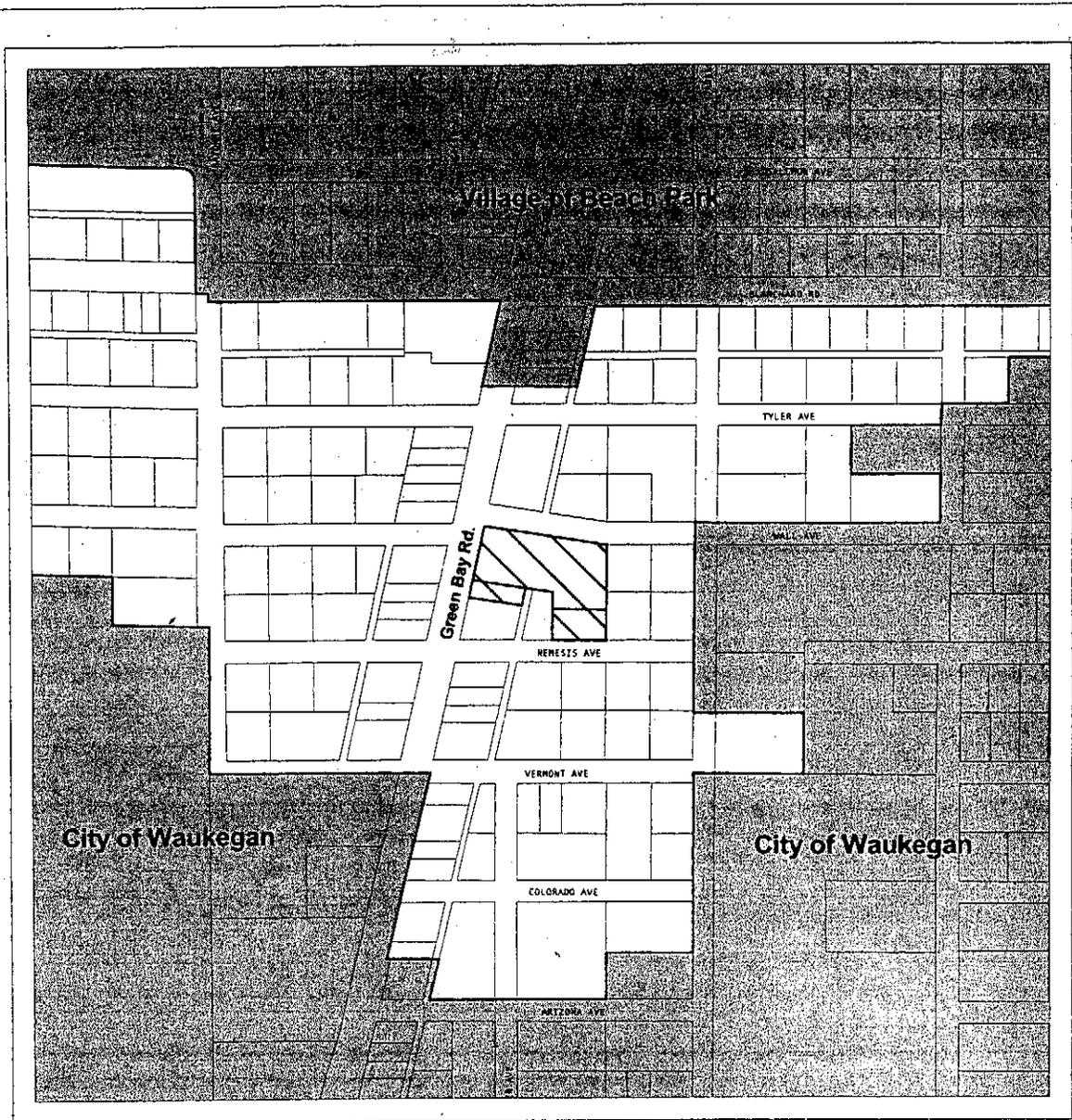
- A. The use in its **proposed location** will be consistent with the stated purpose and intent of Section 1.5:
- B. The proposed use in its **proposed location** complies with all applicable standards of this Ordinance, including any applicable Use Standards of Section 6.2
- C. The proposed use in its **proposed location** will not have a substantial adverse impact on any of the following, either as they exist at the time of the application or as they may be developed in the future due to implementation of the *Regional Framework Plan*:
 - 1. adjacent property
 - 2. character of the neighborhood
 - 3. natural resources
 - 4. infrastructure
 - 5. public sites
 - 6. any other measures affecting the public health, safety, or general welfare

COMMENT ON CUP

The **proposed location** in the application is the entire property. As explained above, staff does not support rezoning the entire property. Therefore it is staff's opinion that the use in the **proposed location** does not comply with the three standards.

This is a delegated CUP wherein the ZBA has the authority to grant or deny the request. Because of this, staff recommends that the ZBA table Case # 3610 until the County Board has reached its decision on the rezoning, bearing in mind the following possibilities:

- 1. If the County Board denies the entire rezoning request, the subject property will remain zoned R – 1, and the CUP is moot.
- 2. If the County Board limits the rezoning to that portion of the subject property that is designated Retail/Commercial on the future land use map, the GC zoning would only apply to the front of property and the storage use would have to be moved. The applicants would have to amend their CUP application to demonstrate that the proposed development complies with the General Development Standards in Article 9 (UDO 3.9). Staff will review this revised application and provide its recommendation to the ZBA.
- 3. If the County Board approves the rezoning as requested, staff will then provide its recommendation to the ZBA.



**Zoning Board of Appeals
Case # 3609 & # 3610**