

Agenda Item # 36

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

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

No. 3683
Newport Township

COUNTY BOARD, LAKE COUNTY, ILLINOIS

December 11, 2007

MADAM CHAIRMAN AND MEMBERS OF THE COUNTY BOARD:

Your Planning, Building and Zoning Committee presents herewith a Resolution on Zoning Case No. 3683, which consists of the Petition of DK Contractors, Inc. record owners, relative to a request for rezoning from the General Commercial zone to the Limited Industrial zone. The Department of Planning, Building and Development recommends the petition be granted. On the motion "to grant" the prayer of the petitioner, the Zoning Board of Appeals vote is 5 "Ayes" and 1 "Nay." On the motion "to grant" the prayer of the petitioner, the Planning, Building and Zoning Committee vote is 1 "Ayes" and 5 "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,

James D. Uebersch Aye Nay
 CHAIRPERSON

Judy Martini
 VICE-CHAIRPERSON

Diana L. Brewster

Robert Sabony
J. Randolph White

Stacy M. ...
 _____ _____

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 DK Contractors, Inc. record owners, relative to a request for rezoning from the General Commercial to the Limited Industrial zone for the following real estate, to-wit:

PARCEL 1:

THAT PART OF GOVERNMENT LOT 2 OF EAST FRACTIONAL HALF IN FRACTIONAL SECTION 4 LYING WESTERLY OF THE WESTERLY LINE OF PREMISES DEDICATED TO THE STATE OF ILLINOIS BY DOCUMENT 406895, IN TOWNSHIP 46 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN LAKE COUNTY, ILLINOIS.

PIN: 03-04-400-001

PARCEL2:

THAT PART OF GOVERNMENT LOT 2 OF WEST FRACTIONAL HALF OF FRACTIONAL SECTION 4, TOWNSHIP 46 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 2; THENCE SOUTH ON THE EAST LINE OF SAID LOT 2, A DISTANCE OF 259 FEET TO THE INTERSECTION OF SAID EAST LINE WITH THE WESTERLY LINE OF HIGHWAY (FORMER U.S. ROUTE 41); THENCE SOUTHERLY ALONG SAID WESTERLY LINE OF HIGHWAY 37 FEET; THENCE WEST 31.1 FEET TO A POINT THAT IS 217.67 FEET SOUTHEASTERLY OF A POINT (HEREINAFTER CALLED POINT "A") THAT IS 200 FEET SOUTH OF THE NORTH LINE AND 233.23 FEET WEST OF THE EAST LINE OF SAID LOT 2; THENCE NORTHWESTERLY 217.67 FEET TO SAID POINT "A"; THENCE NORTH 200 FEET PARALLEL TO THE EAST LINE OF SAID LOT 2 TO THE NORTH LINE OF SAID LOT 2; THENCE EAST ON SAID NORTH LINE 233.23 FEET TO PLACE OF BEGINNING, IN LAKE COUNTY, ILLINOIS.

PIN: 03-04-300-011

PARCEL 3:

THE WEST 200 FEET OF THE NORTH 200 FEET OF THE EAST 433.23 FEET OF LOT 2 OF THE WEST FRACTIONAL HALF OF FRACTIONAL SECTION 4, TOWNSHIP 46 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN LAKE COUNTY, ILLINOIS.

PIN: 03-04-300-010

PARCEL 4:

THAT PART OF GOVERNMENT LOT 2 OF WEST FRACTIONAL HALF OF FRACTIONAL HALF OF FRACTIONAL SECTION 4, TOWNSHIP 46 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 2; THENCE SOUTH ON THE EAST LINE OF SAID LOT 2 A DISTANCE OF 259 FEET TO THE INTERSECTION OF SAID EAST LINE WITH THE WESTERLY LINE OF HIGHWAY (FORMER U.S. ROUTE 41) AND PLACE OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTHERLY ALONG SAID WESTERLY LINE OF HIGHWAY 37 FEET; THENCE WEST 31.01 FEET TO A POINT THAT

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PIN: 03-04-300-012

WHEREAS, your Department of Planning, Building and Development duly considered the aforesaid petition and recommends that it be granted; 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 – 1 that the petition be granted; and

WHEREAS, your Planning, Building and Zoning Committee duly considered the petition and reports aforescribed and recommends by a vote of 1 to 5 that the petition be granted. Motion made by Member Martini, with a second by Member Whitmore, to grant the petition. Voting "Aye," was Member Whitmore; voting "Nay," Members Martini, Sabonjian, Mountsier, Gravenhorst and Newton.

NOW, THEREFORE, BE IT RESOLVED by the Lake County Board that the request of the Petitioner for rezoning from the General Commercial to the Limited Industrial zone be granted; 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)
) SS
COUNTY OF LAKE)

COUNTY BOARD, LAKE COUNTY, ILLINOIS

December 11, 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 12, 2007 at 1:00 P.M. in the Wadsworth Village Hall, 14155 Wadsworth Road, Wadsworth, Illinois, relative to the petition of DK Contractors, Inc. record owners, requesting rezoning from the General Commercial to the Limited Industrial zone for the following real estate, to-wit:

PARCEL 1:

THAT PART OF GOVERNMENT LOT 2 OF EAST FRACTIONAL HALF IN FRACTIONAL SECTION 4 LYING WESTERLY OF THE WESTERLY LINE OF PREMISES DEDICATED TO THE STATE OF ILLINOIS BY DOCUMENT 406895, IN TOWNSHIP 46 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN LAKE COUNTY, ILLINOIS.

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

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 public hearing of the Lake County Zoning Board of Appeals held on November 12, after a final review of all evidence and testimony presented, Member Koeppen moved, with a second by Member Raymond, to recommend the prayer of the petitioner for rezoning from the General Commercial to the Limited Industrial zone be granted. Voting "Aye" on this motion were Members Bell, Koeppen, Raymond, Reindl and Stimpson. Voting "Nay," Member Westerman. The motion to recommend the petition be granted was passed by a vote of 5 – 1.

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

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

Finding: The County's comprehensive plan shows the property as Retail / Commercial and, therefore, the current GC zoning is consistent with the Plan. However, the changes that have taken place in the area since the adoption of the Framework Plan support the requested rezoning to LI.

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

Finding: The trend of development in this area, as indicated by changing land uses and recent zoning actions, is clearly toward a light industrial character. Approval of this rezoning is in accordance with these changes.

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

Finding: The uses allowed in the LI district are compatible with the uses of 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.

Finding: Adequate public facilities and services are existing.

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 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.

Finding: The property is physically suitable for the types of uses / development allowed in the LI zoning district.

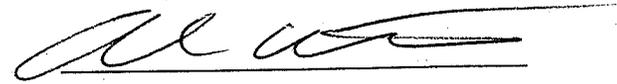
At the direction of the Chairman of the Zoning Board of Appeals, this report is herewith forwarded to your Honorable Body with the recommendation that it be accepted.

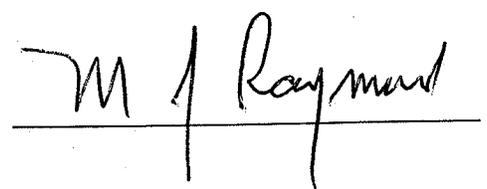
No. 3683
Newport Township

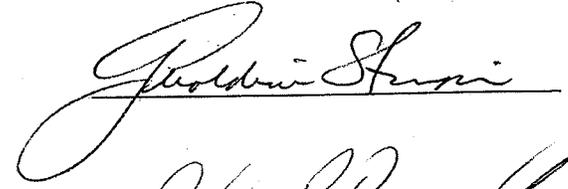

CHAIRMAN

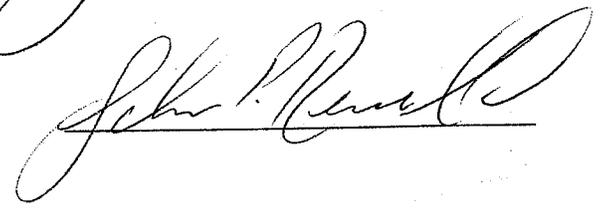
VICE CHAIRMAN











Dated this 20th day of November 2007.

Summary of Testimony

ZBA #3683

A public hearing was conducted by the Lake County Zoning Board of Appeals, on Monday, November 12, 2007 at 1:00 P.M. in the Wadsworth Village Hall, 14155 Wadsworth Road, Wadsworth, IL, on the petition of DK Contractors, Inc., record owners, which seeks rezoning from the General Commercial zone to the Limited Industrial zone for the purpose of contractor's storage of materials and equipment, truck repair facility and office. The subject property is located at 43442 N. Old Highway 41, Zion, Illinois, Newport twp., and contains approximately 3.71 acres.

The following is a summary of the testimony:

1. Attorney James Babowice and Mr. Dick Day, property owner, presented the case. Mr. Day testified that his company has existed since 1987 and is primarily engaged in earth moving, site utilities and demolition contracting. Mr. Day further testified that his company works within a radius of approximately 60 miles, which includes Lake and Cook counties and Racine and Kenosha counties in Wisconsin. The location of the subject property is well suited to his business because it facilitates obtaining permits to transport heavy equipment on Illinois and Wisconsin roads, its proximity to the interstate system and to Routes 41 and 45. In addition, the location is ideal for working on the interstate itself.
 2. Mr. Babowice introduced a letter of support from nearby property owners, Barbara and Joseph Doopers, dated October 25, 2007. In the letter, the Doopers state that "DK Contractors are good neighbors and we have no problem with the rezoning to Limited Industrial."
 3. Mr. Mike Gross, a nearby property owner, testified that property located at the intersection of Russell Road and Old 41 recently had been annexed by Wadsworth and given industrial zoning.
 4. Mr. Day testified that his immediate plans were to secure the property and use it for a storage and staging area for material and heavy construction equipment. He did not have any plans to construct any buildings in the next 12 months. He also stated there is no well or septic system. Access will be from Old US 41, rather than State Line Road. He stated his opinion that the property was not suitable for retail development because there are several powerline easements that segment the property and affect the buildable area. In response to a question, Mr. Day explained that he had documentation showing that the land has been certified clean of the contamination from an earlier gas station.
 5. Mr. Babowice addressed the comment in the petition that the applicant intends to apply for a CUP to allow processing landscape material and topsoil, crush concrete, and establish an asphalt or concrete plant. He explained that this was included to alert the Board that a CUP might be applied for in the future. The owner's immediate plans are limited to using the property for staging and storing heavy construction equipment.
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Summary of Department Comments

ZBA #3683

Lake County Health Department:

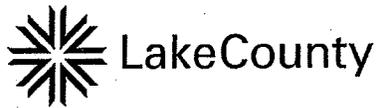
The applicants must apply for an Individual Sewage Disposal System permit for the proposed project, which must be reviewed and approved prior to construction taking place on the site.

Lake County Department of Planning, Building and Development:

Planning staff recommends approval of the rezoning because the request complies with the preponderance of the required standards.

The County's comprehensive plan shows the property as Retail / Commercial. The trend of development in the area, as indicated by changing land uses and recent zoning actions, is clearly toward a light industrial character. Approval of this rezoning is in accordance with these changes. The uses allowed in the LI district are compatible with the uses of nearby properties.

Public facilities and services are adequate. The property is physically suitable for the types of uses / development allowed in the LI zoning district.



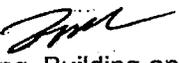
Philip J. Rovang
Director

18 North County Street - 6th Floor
Waukegan, Illinois 60085
Phone 847 377 2875
Fax 847 360 6734
E-mail planning@co.lake.il.us

MEMORANDUM

October 24, 2007

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: 3683 Rezoning

REQUESTED ACTION: Rezoning from the General Commercial zone to the Limited Industrial zone.

ZBA PUBLIC HEARING DATE: November 12, 2007

GENERAL INFORMATION

PETITIONERS: DK Contractors, Inc. record owners

OF PARCELS: Four

SIZE: 3.71 acres

ADDRESS: 43442 N. Old Highway 41, Zion, Newport twp.

EXISTING ZONING: General Commercial

PROPOSED ZONING: Limited Industrial

EXISTING LAND USE: Brick building of unknown use in the northern portion of the subject property; illegal outdoor parking of heavy construction equipment.

PROPOSED LAND USE: Contractor's storage of materials and equipment, truck repair facility and office. Applicant intends to apply for a CUP to establish a facility for processing landscape material and topsoil, crush concrete, and establish an asphalt or concrete plant.

Development Review
Robert Mosteller
Deputy Director

Zoning Administration
Sheel Yajnik
Zoning Administrator

Planning and Support Services
Dennis Sandquist
Deputy Director

Community Development
Vern Witkowski
Deputy Director

SURROUNDING ZONING / LAND USE

NORTH: Wisconsin / Construction company

NORTHWEST: Wisconsin / Outdoor theatre (Bristol Renaissance Faire)

EAST: GC / Building construction company

SOUTH: GC / Vacant, (future location of military artifact restoration for the Russell Military Museum, CUP 3666)

WEST: GC / Vacant

SOUTHWEST: GC / contractor's equipment storage (CUP 3494)

COMPREHENSIVE PLANS

LAKE COUNTY: Retail / Commercial

MUNICIPALITIES WITHIN 1½ MILES: Village of Wadsworth / Commercial

DETAILS OF REQUEST

ACCESS: Access may be available from State Line Road and Old Highway 41.

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

SEWER AND WATER: The property is served by private septic and private water well.

ADDITIONAL COMMENTS

Outdoor parking / storage of construction equipment is allowed in the GC zone with a CUP or is permitted by right in the LI zone.

Recent zoning requests approved for properties in the area:

ZBA # 3494: Conditional Use Permit to allow contractor's equipment sales and storage; 43360 N. Highway 41; aprox. 2.6 acres; August 2005.

ZBA # 3527 and 3528: Rezoning from the Estate zone to General Commercial and a CUP to allow landscaping / contractor's yard, outdoor material storage, parking and repair of trucks and equipment; 43242 and 43272 Highway 41; aprox. 5.4 acres; February 2006.

ZBA # 3666: Conditional Use Permit to allow truck/trailer parking, vehicle repair and commercial service oriented industrial sales and service uses not otherwise classified, more specifically the storage and restoration of military vehicles and artifacts; 43396 Old Highway 41; aprox. 3.6 acres; September 2007.

The petition states that the applicant anticipates filing for Conditional Use Permits (subject to approval of the rezoning to LI) for a "facility to process landscape material and topsoil" and an "asphalt or concrete plant." Staff notes that if the landscape material processing facility is a "Landscape Waste Composting Facility" as defined in the UDO, a minimum site area of 400,000 square feet is required (UDO 6.3.28.C). The minimum site area required for an asphalt or concrete plant is 200,000 square feet (UDO 6.3.8). The subject property does not meet the minimum size required for either of these uses. CUPs for both these uses are granted or denied by the County Board.

RECOMMENDATION ON REZONING

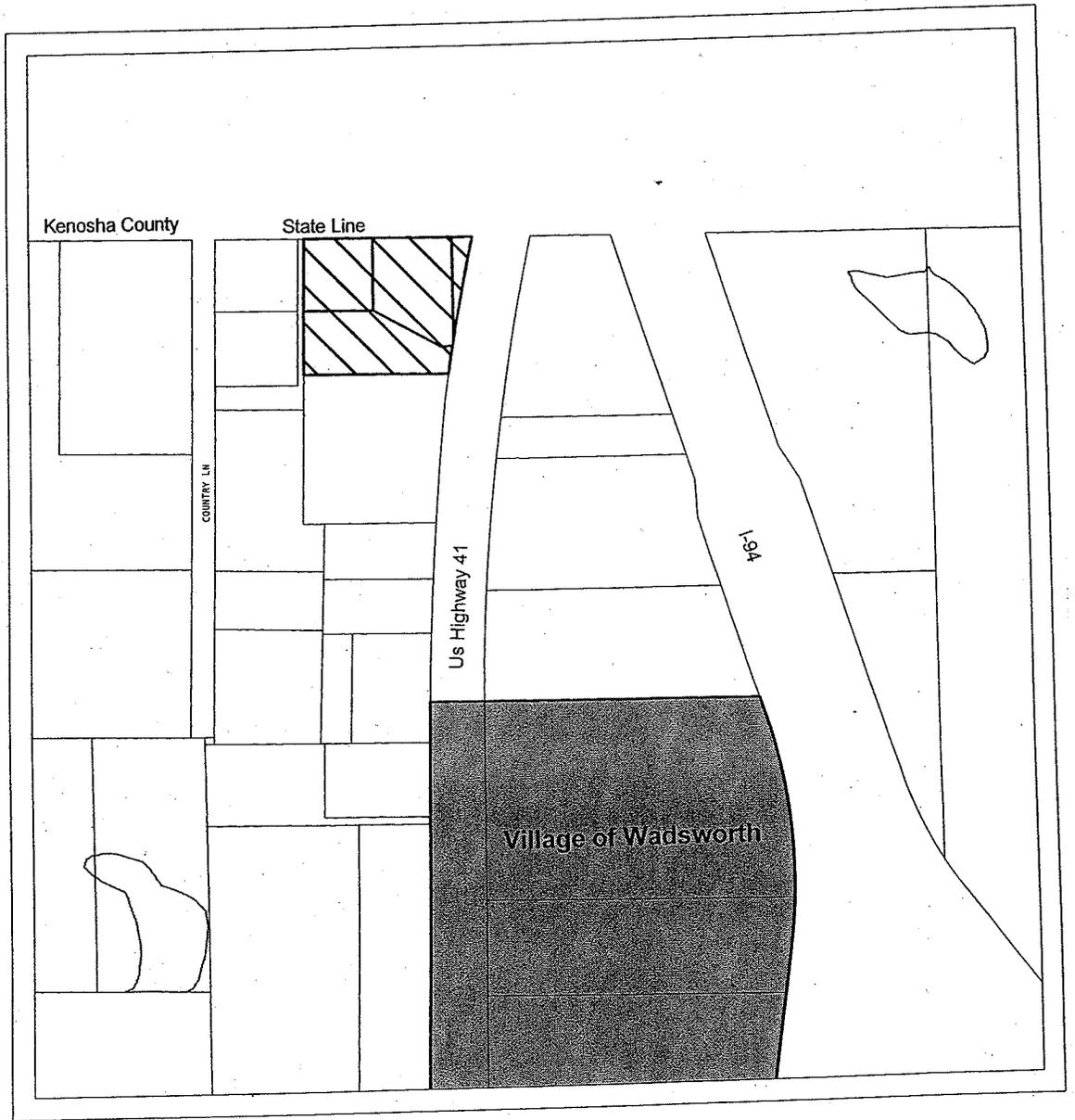
Staff recommends approval for the rezoning from General Commercial to Limited Industrial. In staff's opinion the request meets the preponderance of Map Amendment Approval Criteria in Section 3.3.8 as follows:

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 County's comprehensive plan shows the property as Retail / Commercial. The current GC zoning, rather than the desired LI zoning, is consistent with the Plan.
- Standard B: The proposed amendment corrects an error or inconsistency or meets the challenge of some changing condition in the area.
- Comment: The trend of development in this area, as indicated by changing land uses and recent zoning actions, is clearly toward a light industrial character. Approval of this rezoning will be in accordance with these changes.
- Standard C: The proposed amendment will allow development that is compatible with existing uses and zoning of nearby property.
- Comment: The uses allowed in the LI district are compatible with the uses of 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: Driveways must be approved by the agency with jurisdiction. The property is served by private water well and septic system. Adequate public facilities and services are existing.
- 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 property is physically suitable for the types of uses / development allowed in the LI zoning district.



Zoning Board of Appeals
Case# 3683

IS 217.67 FEET SOUTHEASTERLY OF A POINT (HEREINAFTER CALLED POINT "A") THAT IS 200 FEET SOUTH OF THE NORTH LINE AND 233.23 FEET WEST OF THE EAST LINE OF SAID LOT 2; THENCE NORTHWESTERLY 217.67 FEET TO SAID POINT "A"; THENCE WEST PARALLEL TO THE NORTH LINE OF SAID LOT 2 TO A POINT 433.23 FEET WEST OF THE EAST LINE OF SAID LOT 2; THENCE SOUTH PARALLEL TO THE EAST LINE OF SAID LOT 2; THENCE EAST PARALLEL TO THE NORTH LINE OF SAID LOT 2 TO THE EAST LINE OF SAID LOT 2; THENCE NORTH ON SAID EAST LINE TO THE PLACE OF BEGINNING, IN LAKE COUNTY, ILLINOIS.

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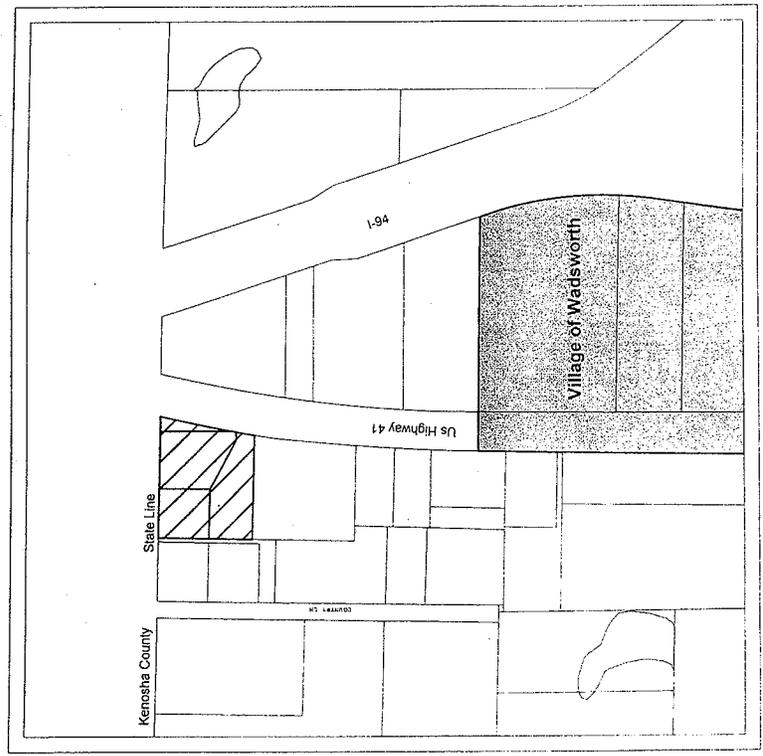
WHEREAS, your Department of Planning, Building and Development duly considered the aforesaid petition and recommends that it be granted; and

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 – 1 that the petition be granted; and

WHEREAS, your Planning, Building and Zoning Committee duly considered the petition and reports aforescribed and recommends by a vote of 1 to 5 that the petition be granted. Motion made by Member Martini, with a second by Member Whitmore, to grant the petition. Voting "Aye," was Member Whitmore; voting "Nay," Members Martini, Sabonjian, Mountsier, Gravenhorst and Newton.

NOW, THEREFORE, BE IT RESOLVED by the Lake County Board that the request of the Petitioner for rezoning from the General Commercial to the Limited Industrial zone be granted; 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.



Zoning Board of Appeals Case# 3683

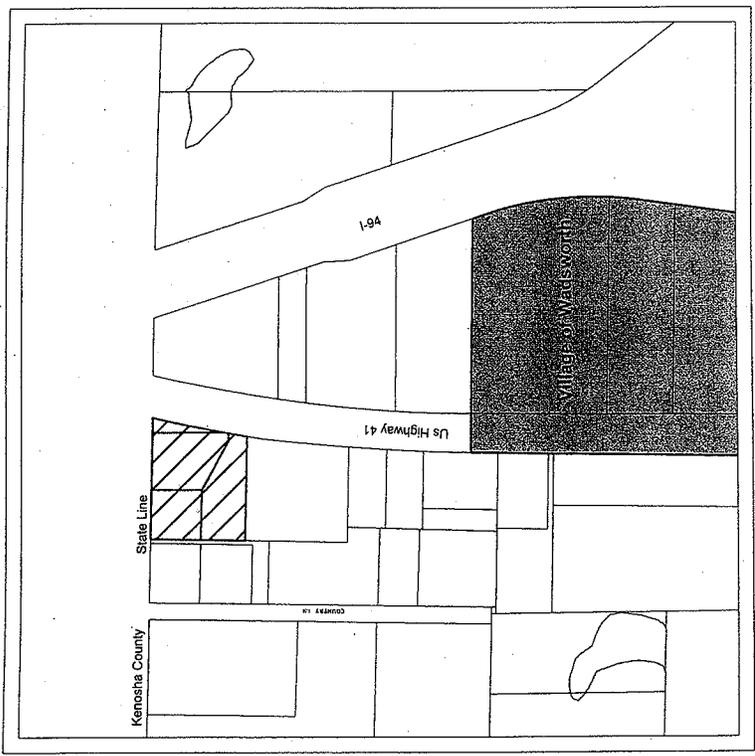
Newport Township



Incorporated Lake County



October 01, 2007



Zoning Board of Appeals
Case# 3683

 Subject Parcel
 Incorporated Lake County