
PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
1/25/16

ITEM NO. 5: B-3 TO B-2; 6.178 ACRES; E 900 RD (MKM)

Z-15-00608: Consider a request to rezone approximately 6.178 acres from County B-3 District to County B-2 District, located in the 1400 block of E 900 Rd. Submitted by BG Consultants, Inc. on behalf of Fairway LC, property owner of record.

STAFF RECOMMENDATION: Staff recommends denial of rezoning request Z-15-00608 and forwarding it to the Board of County Commissioners with a recommendation for denial based on the findings of fact found in the body of the staff report.

REASON FOR REQUEST

Applicant's Response:

"The owner wishes to build small warehouses on the property which are not permitted in the current zoning."

KEY POINTS

- The property is located within the boundaries of the *West of K10 Plan*. The plan recommends 'Commercial--Lake Oriented' uses for this property.
- Access to the property is provided from E 900 Road, a Local Road.
- The adjacent B-3 Zoned property is developed with *Boat/RV Storage*, which is permitted in the B-3 District, and with *Mini-Storage*, which required approval of a Conditional Use Permit in the B-3 District.
- The property was platted as Lot 1 Block 1, Lakeside Vista in conjunction with the rezoning to the B-3 District in 2008.

ASSOCIATED CASES

- Z-05-10-06: Rezoning from A-1 (Suburban Home Residential) District to B-3 (Limited Business) District approved by County Commission on August 16, 2006. Resolution adopted on June 2, 2008 following platting of the property.
- PF-07-07-07: Lakeside Vista Final Plat which was recorded at the Register of Deeds Office on April 4, 2008.
- CUP-04-06-07: Conditional Use Permit for *Mini-Storage* to the south; approved by the Board of County Commissioners on June 11, 2007.

OTHER ACTION REQUIRED

- Board of County Commissioners approval of rezoning application and publication of Resolution.
- Board of County Commissioners approval of site plan prior to development.
- Zoning and Codes Office issuance of building permit prior to development.

ATTACHMENTS

Attachment A: Zoning map

PUBLIC COMMENT

No public comment was received for this item prior to the printing of this staff report.

Project Summary

The subject property is located along the north side of an existing commercial development with boat/RV and mini-storage uses. Fully enclosed warehouse buildings, under 20,000 sq ft each, are proposed on the subject property.

REVIEW & DECISION-MAKING CRITERIA

1. ZONING AND USE OF PROPERTIES NEARBY

Current Zoning and Land Use: B-3 (County- Limited Business) District; *Agriculture*.

Surrounding Zoning and Land Use: To the north:
A-1 (County-Suburban Home Residential) District;
Agriculture

To the west: A-1 (County-Suburban Home Residential) District, A (County-Agricultural) Districts and F-F (Floodway Fringe) Overlay District;
Agriculture

To the south:

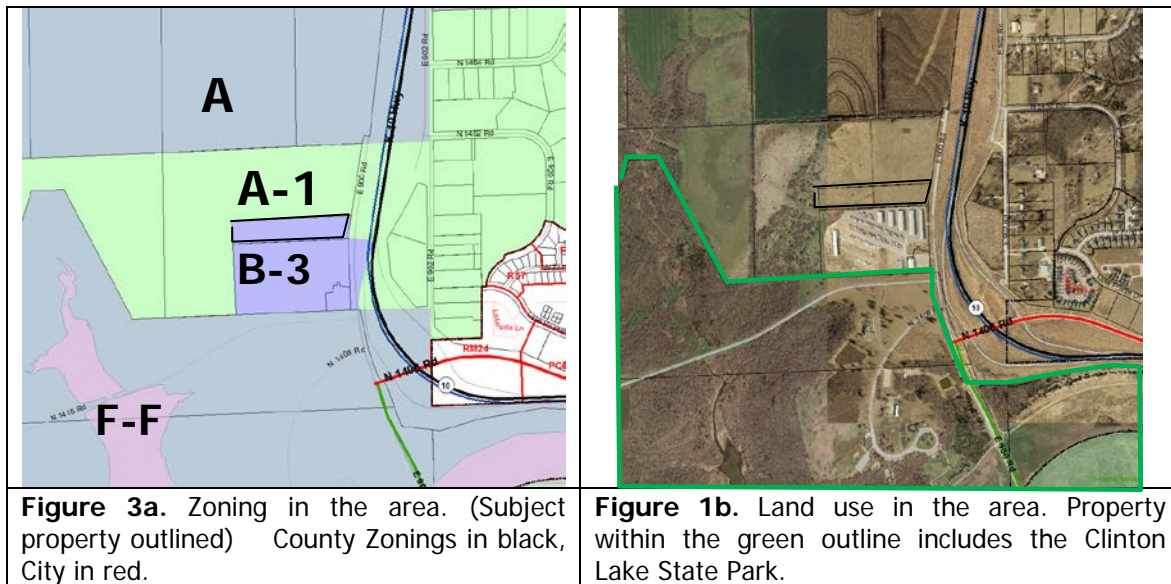
A (County-Agricultural) District and F-F (Floodway Fringe) Overlay District; Army Corps of Engineers Information Center and Facility Yards for Clinton State Lake and Open Space.

To the east:

A-1 (County-Suburban Home Residential) District, K10 Highway and *Single-Family Dwellings*. Property further to the east is within the City of Lawrence and includes RM12 and RM24 (Multi-Dwelling Residential), RS10 and RS7 (Single Dwelling Residential), and PCD (Planned Commercial Development) Districts Zonings;

(Figure 1)

Staff Finding – The area is near the west boundary of the city of Lawrence and contains a mix of rural and urban zonings and land uses. The subject property and the area to the south are zoned for limited commercial uses with County and City residential zoning surrounding the property to the west, north, and east. Property to the south of the commercially zoned property is zoned A (Agriculture) and is part of the Clinton State Park. Land uses in the area include mini-warehouse and boat storage to the south, open space and Army Corps of Engineers facilities further to the south, agriculture to the north and west, and residential to the east.



2. CHARACTER OF THE AREA

The area is divided east and west by the K10 Highway, with the west city limits of Lawrence approximately a quarter mile east of the highway. Properties to the east of the K10 Highway, both within and outside of the city limits, are developed residentially while properties to the west remain undeveloped with the exception of the storage uses in the B-3 District and park offices and facilities for Clinton Lake. The area immediately south of the subject property is developed with storage uses: mini-storage and boat/RV storage. The remainder of the area to the west of E 900 Road and K10 Highway is relatively undeveloped, with the northern portion in Agricultural use and the southern portion containing the Clinton State Park and facilities.

Staff Finding – The area is divided east/west by the K10 Highway. The area west of K10 is primarily rural in nature with agriculture and open space as the primary uses. The area also contains a commercial node with boat- and mini-storage uses. The area east of K10 is more urban residential in nature with residential development in varying densities.

3. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED

Applicant's Response:

"The property has never been developed with the current zoning. With no access to sanitary sewer facilities, any immediate use must be one that will not require sanitary facilities. The proposed warehouses will be able to function without sanitary facilities."

The property is currently zoned B-3 (Limited Business) which is intended to permit and encourage the grouping of certain retail activities and services intended primarily to serve the motoring public. The uses permitted in this district include the following:

Automobile Service Station	Boat Storage	Florist Shop, Greenhouse, Garden Supplies
Antique Sales	Camera Supply Sales	Gift, Novelty and Souvenir Sales

Art Supplies	Drug Store	Grocery Store
Bicycle Sales/Rental/Repair	Equestrian Equipment Sales	Hardware Store (excluding lumber and industrial)
Boat and Equipment Sales & Repair	Fishing and Camping Equipment and Supplies	Restaurant (no service to automobiles)

These uses could be accommodated with the use of an on-site sewage management system. The property is served by Rural Water District No. 1, so a public supply of water is available. The property is suited to the uses which are permitted in the B-3 District.

The B-2 District allows an expanded list of commercial uses in addition to all uses which are permitted in the B-3 District. (Attachment B). The use the applicant is considering is *Wholesale establishment or warehouse in a completely enclosed building as long as floor area devoted to such uses shall not exceed 20,000 square feet* (Section 12-310-2.12, Zoning Regulations).

City services, including water and sanitary sewer infrastructure, have not been extended to the area. Annexation of the property into the city and development at an urban density would not be feasible until city services were extended to serve the area west of K10 Highway. Development of rural commercial uses, using on-site sewage management systems and rural water, would be appropriate prior to annexation.

The property is in close proximity to the K10 Highway and its intersection with E 900 Road, which is classified as a Minor Arterial to the south. E 900 Road is classified as a Local Road to the north of the intersection and dead-ends just north of the subject property. The City Future Thoroughfare map identifies E 900 Road to the north as a Future Collector which will be extended to the north to connect with the extension of N 1457 Road, designated as a Future Minor Arterial. A traffic impact study would need to be provided with any development project to insure the road network is adequate for the anticipated traffic. The extension of E 900 Road and N 1457 Road are proposed in the future; however, the proximity to K10 Highway access would suit commercial uses.

Staff Finding – The property is suitable for the uses to which it is restricted in the B-3 Zoning District and is also suitable for the uses which are permitted in the B-2 District, with limitations that may be placed on the scale and scope of development by the use of rural utilities and the property's access on a Local Road.

4. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

Staff Finding – The property has not been developed since it was rezoned to the B-3 District in August of 2006.

5. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicants Response:

"The property to the south is zoned B-3 and is currently used as mini-warehouses and boat/vehicle storage. The property to the north and west is owned by the same owner as the subject property. K-10 Highway is abutting the property on the east side. The proposed zoning will not detrimentally affect the nearby properties."

The uses permitted in the B-2 District, beyond those which are allowed in the B-3 District, include amusement uses such as a skating rink, billiard parlor, or theater; manufacturing uses such as bottling works, plumbing and heating shop, tire sales and service, and general service and repair establishments; as well as drive-in restaurants; motels; and wholesale establishment or warehouse, provided such uses occupy a maximum of 20,000 sq ft. These uses may be incompatible with future development of the residential uses to the north. This area is currently zoned A-1 (Suburban Home District) for rural residences and is recommended for medium density and high density residential development in the *West of K10 Plan*.

Staff Finding – Removal of restrictions could have negative impacts on the future residential use of the property to the north, as currently zoned and as recommended in the *West of K10 Plan*.

6. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE PETITIONER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNERS

Applicants Response:

"If the rezoning is approved, additional tax revenue will be generated as opposed to the property remaining vacant if the rezoning is denied."

Evaluation of these criteria includes weighing the benefits to the public versus the benefits of the owner of the subject property. Benefits are measured based on the anticipated impacts of the rezoning request on the public health, safety and welfare.

If the rezoning were denied, the property would retain the B-3 Zoning and could be developed with uses which are permitted within the B-3 District with site plan approval, or with uses which are listed as Conditional Uses in Section 12-319 when approved as a Conditional Use. The proposed warehouse use would not be possible if the rezoning were denied.

As discussed in Section 7 of this report, the proposed warehouse use, and many of the uses permitted in the B-2 District are not compliant with the land use recommendations in the long range plan for the area, the *West of K10 Plan*. Compliance with the recommendations in the area plan provides predictability for land owners in the area regarding future development. Denial of the proposed rezoning would require the zoning to remain B-3 and would limit the uses which are permitted in the area to lake-oriented uses as recommended in the long range plan.

The Zoning Regulations note that the B-2 (General Business) District is intended to provide sufficient space for a wide variety of business, commercial, and miscellaneous service activities, particularly along certain existing major thoroughfares where a general mixture of commercial and service activity now exists, but which uses are not characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or the nuisance factors of dust, odor and noise associated with manufacturing. The area contains the mini-warehouse and boat storage use and a lot with a vacant convenience store. The development of the property to the north with the warehouse use would exceed the 20,000

sq ft that is permitted in the B-2 District. The Code language is unclear if this limit applies per building or for the use overall; however, the purpose language for the B-2 District notes that it should not be characterized by extensive warehousing. Based on the purpose statement, it is staff's opinion that the limitation applies to the use as a whole and not to the individual buildings. The proposed use exceeds the area limitation in the B-2 Zoning District. If the rezoning were approved, the proposed use would need to be altered to fit the use standards of the B-2 District.

Staff Finding –The proposed development of warehouse buildings would not be possible if the rezoning were denied. The proposed warehouse use is not consistent with the land use recommendations in the Comprehensive Plan, the area plan, or with the use standards of the Zoning Regulations. The denial would benefit the public health, safety, or welfare as it would maintain consistency with the adopted long range plan for the area and provide predictability for the future development of the site.

7. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"The West of K-10 Plan proposed this area be a Community Commercial Center (CC) which allows a Light Wholesale, Storage and Distribution use."

The property is located within the boundaries of the *West of K10 Plan*. The plan recommends 'Commercial Center-Lake Oriented' uses for this area and recommends CC200 or MU Districts when the property is within the City. The plan notes:

"This lake-oriented commercial development should serve the many visitors to Clinton Lake. Horizon 2020 identifies K-10 and Clinton Parkway as a future Neighborhood Commercial Center. This Plan recommends changing that designation to a Community Commercial Center to reflect the higher intensity of the lake oriented nature of the existing commercial uses. Many of those uses serving the lake, such as boat storage, are not appropriate for a Neighborhood Commercial designation." (Page 27, *West of K10 Plan*)

The primary land uses recommended for this area are 'lake oriented commercial'.

The Comprehensive Plan, which includes the area plan by reference, recommends this area for lake-oriented commercial uses and notes typical uses as bait shops, boat rental, and lodging. (Page 6-23, *Horizon 2020*) Other uses which could be considered lake oriented commercial include bike rental/repair, hiking and camping equipment, restaurants, small grocery store, and fuel/gas sales. The proposed warehouse use is not a lake-oriented use. In addition, many of the uses permitted in the B-2 District are not lake-oriented uses.

Staff Finding – The rezoning request to the B-2 General District is not compliant with the overall recommendations in the Comprehensive Plan or the specific recommendations in the Area Plan, for lake-oriented commercial uses in this location. The proposed use and many of the uses in the B-2 District are not lake-oriented. The B-3 Zoning District contains a limited range of uses which are lake-oriented.

8. PROFESSIONAL STAFF RECOMMENDATION

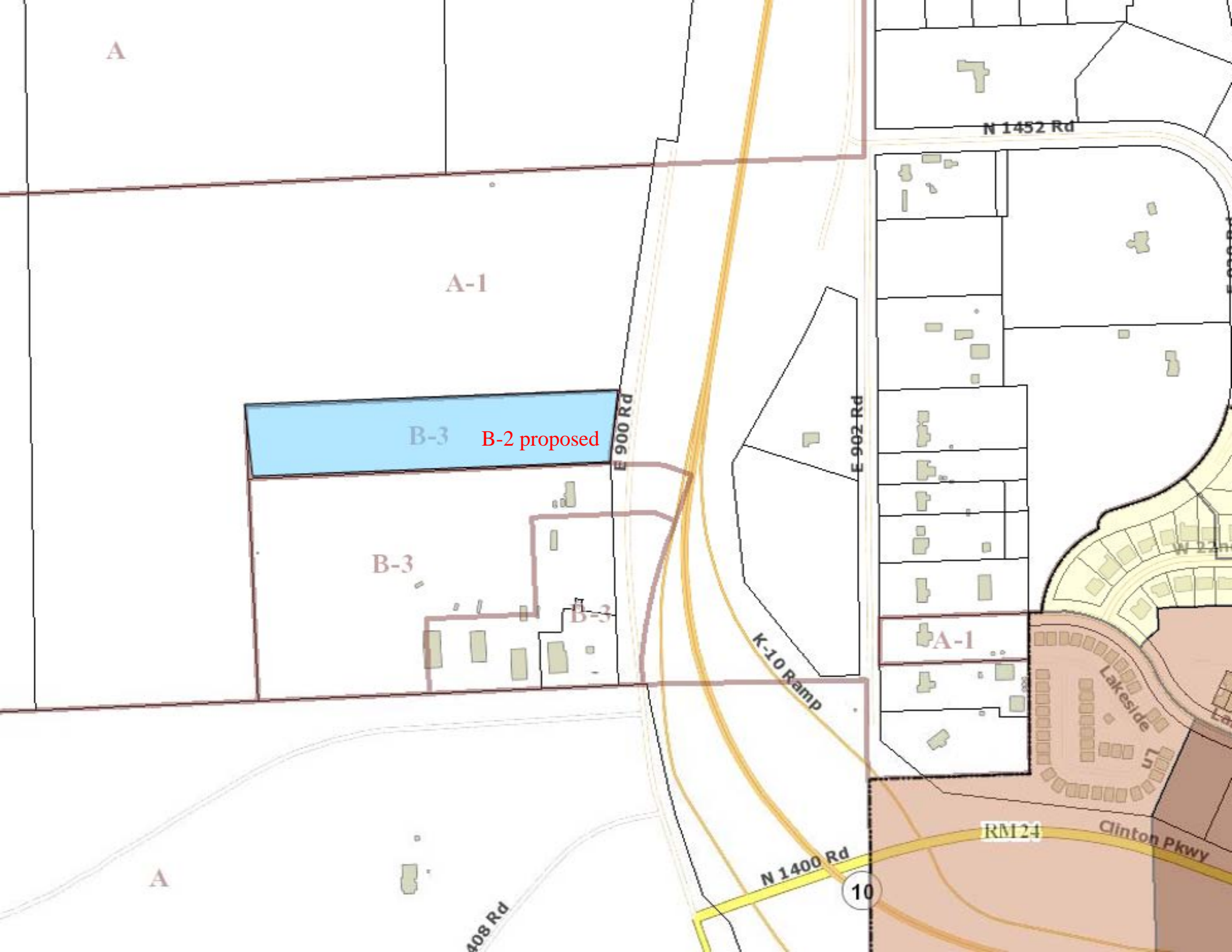
This staff report reviews the proposed rezoning request for its compliance with the Comprehensive Plan, the Golden Factors, and compatibility with surrounding development. The proposed warehouse use, and many other uses permitted in the B-2 Zoning District do

not comply with the recommendation in the Comprehensive and Area Plans for lake-oriented commercial development.

The proposed use would be compatible with other land uses in the area currently; however, the warehouse use could be incompatible with the residential development that is recommended in the Area Plan for the adjacent property.

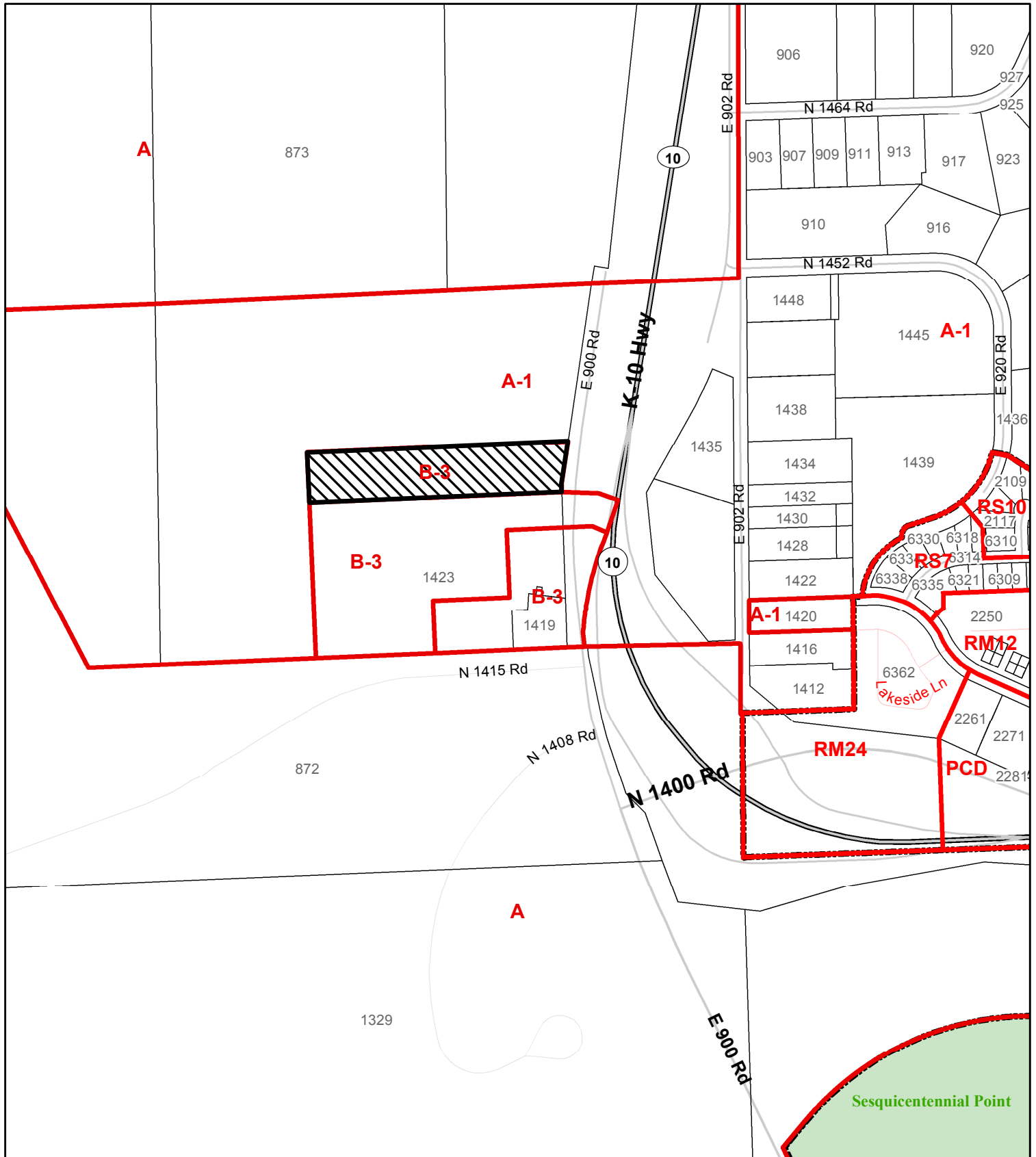
The land is suitable for the proposed use, which could be easily served without any sanitary sewer provisions or, if an office was included, could be served with an on-site sewage management system. The use could be served with rural water and an on-site sewage management system. Fire protection measures and the adequacy of the road network and any improvements that are needed would be determined through the site planning process for the particular use/design that is proposed.

As the rezoning request is not consistent with the recommendations in the Comprehensive and Area Plans, staff recommends denial of this rezoning request.



USES PERMITTED IN B-2 ZONING DISTRICT

- Agriculture
- Single Family Dwelling
- Residential Design Mfg Homes
- Churches, Temples, etc
- Colleges and Schools
- Rural Home Occupations
- Nonprofit Libraries or Museums, Art Galleries
- Public Parks And Playgrounds
- Child Care Home
- Child Care Center
- Parking Lot and Storage Garage
- Display Room for Merchandise to be Sold on Order where Merchandise is Stored Elsewhere
- Dressmaking, Bakery, Appliance And Bicycle Repair, Etc.
- Filling Stations
- Frozen Food Locker
- Animal Hospital or Clinic
- Offices, Including Clinics
- Personal Services: Barber Shops, Banks, Dry Cleaning, Restaurants, Taverns, Undertaking Establishments, Etc.
 - Self Service laundry
- Retail Stores Including Florists and Greenhouses
- Amusement Place, Skating Rink, Swimming Pool or Dance Hall in Completely Enclosed Building; Theater
- Bottling Works, Dyeing and Cleaning Works or Laundry, Plumbing and Heating Shop, General Service and Repair Establishments, Etc.
- Bowling Alley/Billiard Parlor
- Drive-In Restaurants
- Food Storage Lockers
- Hotels, Motels, or Motor Hotels
- Material Storage Yards in Connection with Retail Sales
- Outdoor Advertising Sign
- Printing or Engraving Establishments
- Public Garage
- Wholesale Establishment or Warehouse in a Completely Enclosed Building so Long as Floor Area Devoted to Such Uses Shall Not Exceed 20,000 Sq Ft
- Used Car Lot



**Z-15-00608: Rezone 6.178 acres from County B-3 District to County B-2 District
Located North of Judy's Junction in 1400 Block of E 900 Road**