

# PLANNING COMMISSION

**AGENDA ITEM: 3. Public Hearing – Rezone Request R-2 & B-2 to B-3**

**PREPARED BY: Luke Sims**

**DATE: August 23, 2021**

## INTRODUCTION

This item is a re-zoning of three properties located along Sugar Loaf Road. The format for this item is the following:

- A. Chair shall state the case to be heard.
- B. Chair shall ask the applicant to present his/her case.
- C. Chair shall call on City Staff, to present staff comments.
- D. The hearing shall be opened and interested persons, upon giving their name and address, are invited to speak to the Commission. Following recognition by the Chair, Commission members may ask questions of persons addressing the Commission in order to clarify facts. Any statement by a member, other than to question, may be ruled out of order.
- E. After all new facts and information have been brought forth, the hearing shall be closed, and interested persons shall not be heard again unless the hearing is reopened and unless all interested parties shall be allowed to be heard again. Upon completion of the hearing, the Commission shall discuss the item at hand and render a decision or recommendation.

The role of the Planning Commission is to review the request by considering potential future uses of the land and the Comprehensive Plan's recommendations.

## BASE DATA

**Petitioner:** Ron & Margaret May

**Location:** 1255 Sugar Loaf Road  
1258 Sugar Loaf Road  
1265 Sugar Loaf Road

**Parcel IDs:** 323207150  
323207180  
323207190

**Area:** Approximately 3.76 acres (163,785 sq. ft.)

**Existing Zoning:** R-2, Medium Density Residential  
B-2 Community Business District

**Proposed Zoning:** B-3 General Business District

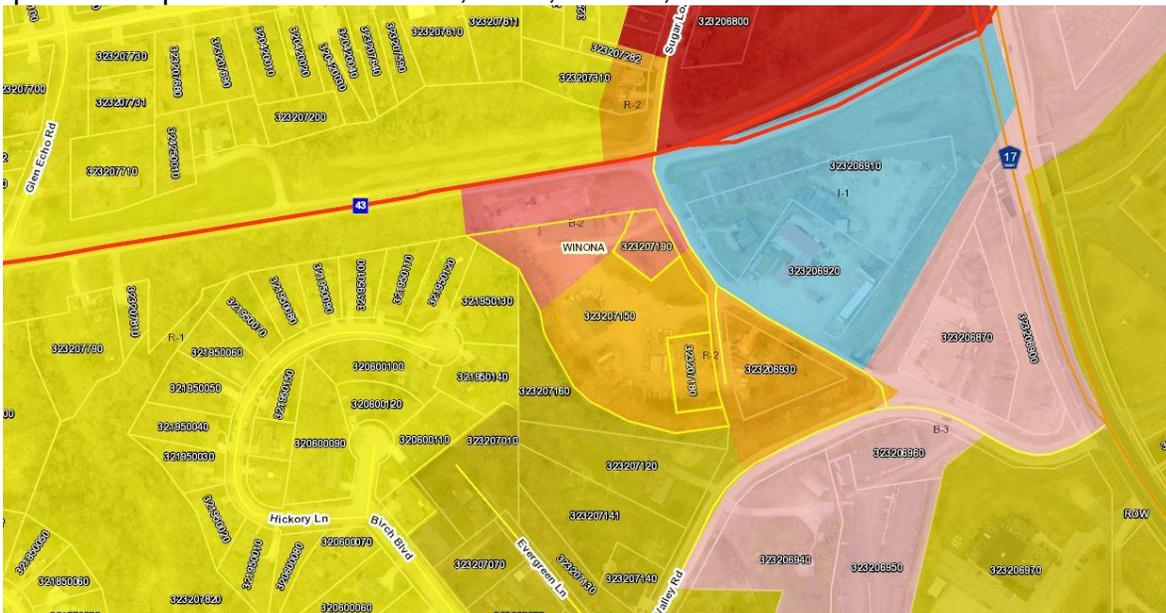
The property owners are proposing the continued use of the property as a commercial use. The property owners operate an existing business, KTI Fencing at the location.

### USE HISTORY

The properties in question have been operating as a business use with steady, incremental development on the property in support of the commercial operations. Commercial buildings were built/expanded in 2011 and 2014. KTI has been operating at this location for the past five years.

### SITE/AREA CHARACTERISTICS

The area is approximately 3.76 acres sited along Sugar Loaf Road to the East and Highway 43 to the North. There are residential properties to the North across Highway 43 and to the southwest and south. The residential properties abutting the 3.76 acres are separated by trees and a stream. The properties to the east and southeast are zoned a mix of industrial, business, and residential and have a variety of uses including commercial and residential. All surrounding properties are separated from the properties in question either a road, trees, stream, or combination thereof.



### ANALYSIS

**1. Was there an error or oversight in approval of original zoning of the site?**

No, the original zoning was established in accordance with the surrounding zoning pattern across the area. A house formerly occupied the property addressed as 1265 Sugar Loaf Road.

**2. Have there been changes in area development patterns, since original zoning, to warrant rezoning?**

Yes, the properties in question and the surrounding area has continued toward more commercial uses over time. KTI Fencing is the latest iteration of commercial use at the property, following Winona Nursery's use of the properties. Residential uses persist to the south and west of the properties and are buffered by woods and a stream from the three properties in question.

**3. Would potential uses of requested B-3 General Commercial zoning impose "undue hardship" (relating to noise, odors, etc.) on neighboring properties?**

No, the potential uses in the B-3 General Commercial district will continue to facilitate the uses that persist at the properties in question. Other B-3 uses that may occupy these parcels in the future are buffered from the properties by woods and a stream. The re-zoning would be consistent with the B-3 zoning to the east that allows the same uses.

**4. Would the public interest be better served if rezoning was considered within another area?**

No, re-zoning to B-3 in this location would be consistent with surrounding zoning patterns, past and existing use of the property, and is supported by the future land use designation of General Commercial found in the 2007 Comprehensive Plan.

**5. Could the rezoning be construed as being spot zoning?**

Spot zoning occurs if one of the following tests are met:

A. The rezoning action results in benefits which are only enjoyed by the petitioner.

The rezoning does not solely benefit the petitioner as it is consistent with the 2007 Comprehensive Plan's future land use designation of General Commercial. The re-zoning will be consistent with the goals of the community at-large as reflected in the Comprehensive Plan.

- B. The rezoning is considered to be arbitrary, capricious, or unreasonable.  
The proposed rezoning fits with surrounding zones and is in concert with the Comprehensive Plan. Thus, the rezoning is not arbitrary, capricious, or unreasonable.
- C. Rezoning is not consistent with goals and objectives of the Comprehensive Plan.  
The area in question is designated as General Commercial by the future land use plan. Rezoning the area in question to B-3 General Commercial is in accordance with this designation.

### **GENERAL PUBLIC CORRESPONDANCE**

There has been no correspondence with the general public regarding this application.

### **SUMMARY OF ANALYSIS**

In summary, the previous analysis concludes:

1. No error or oversight was made in the original R-2 and B-2 zoning of the area in question.
2. Existing and prior land uses are reflective of the general commercial nature already present at these properties and the surrounding areas.
3. Potential uses of the B-3 General Commercial designation are consistent with prior and present uses at these properties and surrounding areas.
4. B-3 General Commercial is the correct zoning consistent with the comprehensive plan's future land use designation.
5. Because the proposed rezoning is supported by the Comprehensive Plan's designation for the area as General Commercial, the proposed rezoning should not be misconstrued as spot zoning.

In consideration of this matter, the following alternative actions are available:

1. Recommend approval of the request, as submitted.
2. Recommend denial of the request and direct staff to draft a resolution of denial. If denial is recommended, specific reasons for denial shall be given. These reasons should pertain to the potential uses of the proposed zone.
3. Recommend modification of the request.
4. Table the item to allow staff additional time to answer any lingering questions.

Attachments