ZONING AMENDMENT STAFF REPORT Date: November 5, 2009

NAME Joe Richardson

LOCATION 5146 Kooiman Road
(North side of Kooiman Road, 1000' East of Business Parkway)

CITY COUNCIL DISTRICT District 4

PRESENT ZONING R-A, Residential-Agricultural District

PROPOSED ZONING I-1, Light Industry District

AREA OF PROPERTY 0.7 ± Acres

CONTEMPLATED USE Rezoning from R-A, Residential-Agricultural District, to I-1, Light Industry District, to accommodate existing businesses.
It should be noted, however, that any use permitted in the proposed district would be allowed at this location if the zoning is changed. Furthermore, the Planning Commission may consider zoning classifications other than that sought by the applicant for this property.

TIME SCHEDULE FOR DEVELOPMENT Immediate

ENGINEERING COMMENTS Must comply with all storm water and flood control ordinances. Detention will be required for any cumulative increase in impervious area added to the site in excess of 4000 square feet. Any new dumpster or vehicle wash area cannot drain to storm sewer and must connect to sanitary sewer. Any work performed in the right of way will require a right of way permit.

TRAFFIC ENGINEERING COMMENTS Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards.

URBAN FORESTRY COMMENTS Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64).

FIRE DEPARTMENT COMMENTS All projects must comply with the requirements of the 2003 International Fire Code, including Appendices B through D, as adopted by the City of Mobile, and the 2003 International Existing Building Code, as appropriate.

REMARKS The applicant is requesting rezoning from R-A, Residential-Agricultural District, to I-1, Light Industry District, to accommodate existing businesses. Specifically, the applicant wishes to change the zoning to accommodate an existing business, so that the business no longer has to rely on a "non-conforming use" status to continue operations: no new construction is proposed at this time regarding the application at hand.

I-1 districts are composed of land and structures used for light manufacturing or wholesaling, or suitable for such uses, where the use and its operation do not directly adversely affect nearby residential and business uses. These districts are usually separated from residential areas by business areas or by natural barriers. The district regulations are designed to allow a wide range of industrial activities subject to limitations designed to protect nearby residential and business districts.

The entire site appears to be depicted as residential on the General Land Use Component of the Comprehensive Plan, which is meant to serve as a general guide, not a detailed lot and district plan or mandate for development. Moreover, the General Land Use Component allows the Planning Commission and City Council to consider individual cases based on additional information such as the classification request, the surrounding development, the timing of the request, and the appropriateness and compatibility of the proposed use and zoning classification.

It should be pointed out that the General Land Use Plan is part of the Comprehensive Plan, which was last updated in 1998. The General Land Use Plan was a tool used by staff in the development of the rezoning plan for the annexed area. The General Land Use Plan information was supplemented by field verification by staff of land uses along every public street within the annexed area in November 2008, prior to the development of the rezoning plan for the annexed area.

As stated in Section 64-9.A.1. of the Zoning Ordinance, the intent of the Ordinance and corresponding Zoning Map is to carry out the comprehensive planning objective of sound, stable and desirable development. While changes to the Ordinance are anticipated as the city grows, the established public policy is to amend the ordinance only when one or more of the following conditions prevail: 1) there is a manifest error in the Ordinance; 2) changing conditions in a particular area make a change in the Ordinance necessary and desirable; 3) there is a need to increase the number of sites available to business or industry; or 4) the subdivision of land into building sites makes reclassification of the land necessary and desirable.

The site is located in the recently annexed Theodore / Tillman's Corner area. Zoning enforcement within the annexed area began on February 17, 2009. Per state law and the Zoning Ordinance, all of the annexed area, including this site, were zoned R-1, Single Family Residential at the time of the annexation. The Mobile City Council approved a rezoning plan for

the entire annexed area at its July 7, 2009 meeting: this site was rezoned from R-1 to R-A as part of the rezoning plan.

The applicant states that the rezoning of the site to R-A was "*challenged*" by the property owner, but that "*the owner was denied the change due to the timing of his request.*" It should be pointed out that no one spoke to the Planning Commission regarding this site during its consideration of the rezoning plan: the "*challenge*" occurred while the rezoning plan was under consideration by City Council, thus beyond the ability of staff or the Planning Commission to consider.

The site is bounded to the North by single-family residences, to the East by a non-conforming businesses in an R-A district, to the South across Kooiman Road by vacant land (that has an entrance to a borrow pit South of the vacant land) in an R-A district, and to the West by a two strips of land totaling 30 feet in width with an R-A designation, then a trucking/warehousing business in a B-5, Office-Distribution District.

The site contains three structures, and is currently in use by an erosion control contractor. The current business wishes to purchase the property, but only if the site is zoned to allow the use by-right, versus the existing non-conforming use. The Zoning Ordinance Chart of Permitted Uses shows that a contractor's storage yard (vehicles, equipment, materials and supplies) is allowed by-right in an I-1 or I-2 zoning district, however, that yard "*must be enclosed within a solid wall or fence at least 8-feet high.*" A contractor's office with outside storage, but not including the storage of heavy equipment, is allowed by right in B-1, B-2, and B-3 districts, but requires a 6-foot high privacy fence, and limits the stacking height of materials to 6 feet, excludes the storage of dump trucks and other heavy equipment, and only allows the outside storage in a rear yard. The proposed use cannot occur in a B-5 district.

The applicant states that the following work is performed on the site:

- Light assembly of erosion control products, including welding, burning and metal fabrication;
- Interior and exterior material storage;
- Equipment storage;
- Truck and equipment repair; and
- Contractor's office.

It would appear, therefore, that a B-1, B-2 or B-3 district may be inadequate for the existing use of the site. The applicant has not, however, addressed any of the four specific conditions to be considered by the Planning Commission when reviewing a rezoning request.

Section 64-3.A.5.a. of the Zoning Ordinance recommends that a new proposed I-1 district should contain at least 4 acres. This site is only 0.7 +/- acres, thus is clearly below the recommended minimum district size. The nearest I-1 district is approximately 985 feet to the North of the site in question. The site is approximately 30-feet West of an existing B-5 district containing a trucking / warehouse use: the 30-feet separating the site from the B-5 district is used for two private driveways (known as Powell Lane) which provide access to residential properties located North of the site.

It should also be pointed out that the applicant proposes no improvements to bring the property into compliance with the commercial site requirements of the Zoning Ordinance. All properties annexed into the City come with various non-conforming attributes, such as parking, landscaping and signage. When the rezoning plan for the annexed area was approved by the City Council, there were no requirements to improve sites – the non-conforming attributes were allowed to continue (although compliance over time is expected to occur due to site improvements through building permit, Planning Commission, or Board of Adjustment actions, or site redevelopment). Typically, however, when a specific site (versus a broad area) is considered by the Planning Commission for rezoning, a condition of the rezoning is to bring the site into compliance with all requirements of the Zoning Ordinance, which in this case would include trees, landscaping, parking, buffering, and an application for Planned Unit Development due to the multiple buildings on a single site. Furthermore, a one-lot subdivision may also be warranted if additional Planning Commission actions are required, even though it appears the existing parcel was created prior to 1984, when Mobile County allowed the Subdivision Regulations to be enforced within the City of Mobile's Planning Jurisdiction.

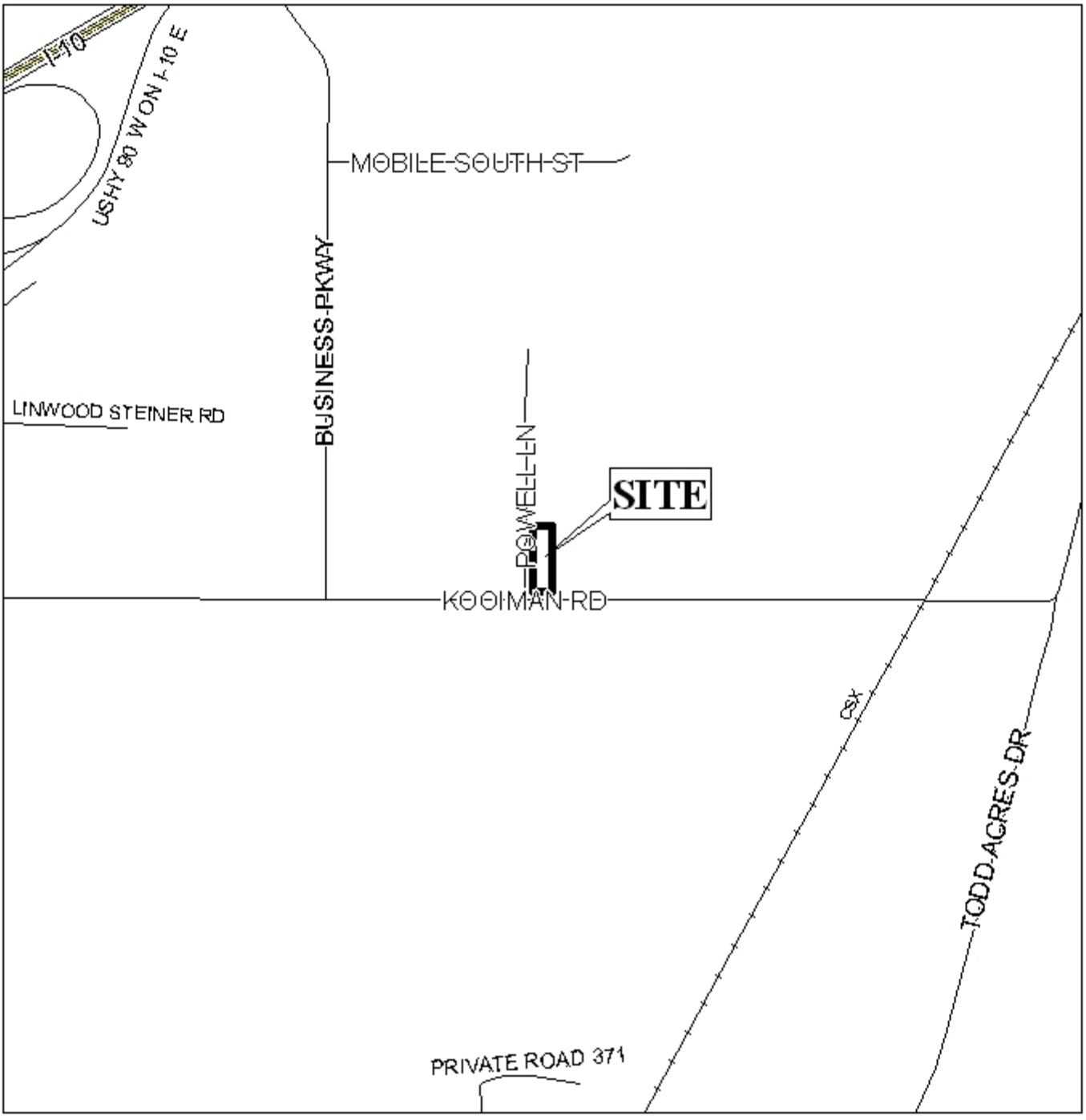
There appears to be an error in the legal description, namely, a "North" is left out of that portion leading from the "point of commencement" to Kooiman Road. The error should be corrected prior to application for City Council public hearing of the rezoning request: the error affects the mandatory legal advertisement cost, hence the necessity of immediate correction.

As discussed, there are many issues with the site. Staff believes that a rezoning of the site to I-1 to accommodate the existing business is not appropriate, as other less desirable I-1 uses could also locate on the site. Maintaining the site as a non-conforming use or, perhaps, applying for a use variance through the Board of Zoning Adjustment may be a more advisable path: the Planning Commission must balance the interests of the property owner and business owner with the interests of adjacent property owners.

RECOMMENDATION Based on the preceding, the rezoning request is recommended for Denial for the following reasons:

1) The site does not meet the recommended minimum 4 acre area criteria of Section 64-3.A.5.a. of the Zoning Ordinance for a new I-1 light industrial district;
2) The applicant did not justify the rezoning based upon the any of the four criteria listed in Section 64-9.A.1. of the Zoning Ordinance; and
3) No improvements to the site are proposed to bring the site into compliance with the commercial site development requirements of the Zoning Ordinance, including buffering, trees, landscaping, paved parking, and lighting.

LOCATOR MAP



APPLICATION NUMBER 17 DATE November 5, 2009

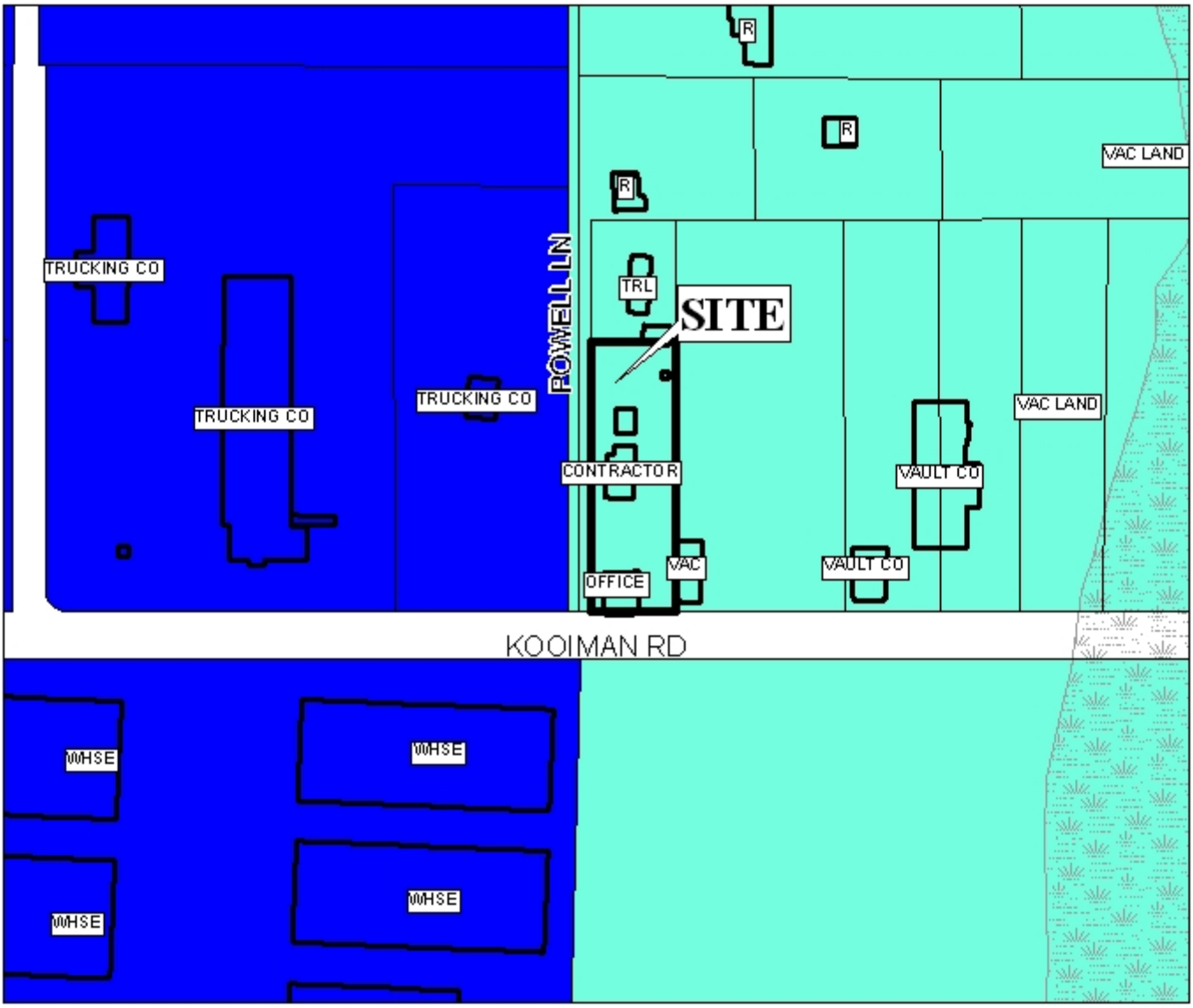
APPLICANT Joe Richardson

REQUEST Rezoning from R-A to I-1

N

NTS

PLANNING COMMISSION
VICINITY MAP - EXISTING ZONING



There is a trucking company to the west of the site, a residence to the north, auto sales to the east, and warehouses to the south.

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LEGEND R-1 R-2 R-3 R-A R-B H-B T-B B-1 LB-2 B-2 B-3 B-4 B-5 I-1 I-2

NTS

PLANNING COMMISSION
VICINITY MAP - EXISTING ZONING

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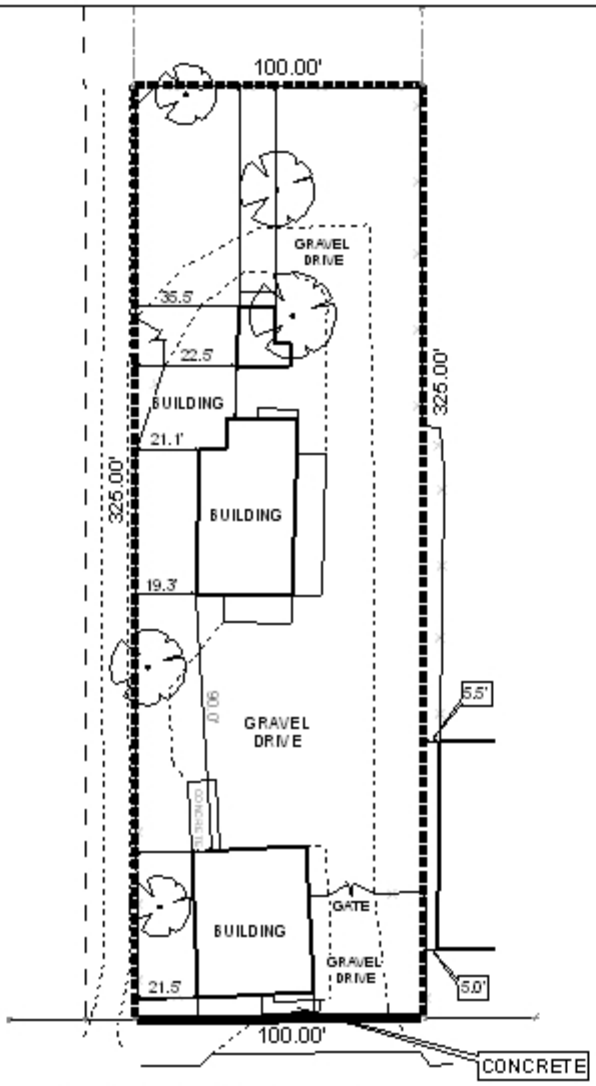
SITE PLAN



Illustrated in the site are structures, drives, trees, and easements.

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