

**ZONING AMENDMENT STAFF REPORT****Date: June 5, 2014****NAME**

JCP Investments, LLC (Don Williams).

**LOCATION**4436 Government Boulevard  
(West side of Government Boulevard extending to the East side of Demetropolis Road, 500'± North of Government Boulevard)**CITY COUNCIL  
DISTRICT**

District 4

**PRESENT ZONING**

B-2, Neighborhood Business District

**PROPOSED ZONING**

B-3, Community Business District

**AREA OF PROPERTY**

0.53 ± Acres

**CONTEMPLATED USE**

Rezoning from B-2, Neighborhood Business District, to B-3, Community Business District, to allow a retail business with outside storage.

**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**

Not specified

**ENGINEERING  
COMMENTS**

No comments

**TRAFFIC ENGINEERING  
COMMENTS**

Government Blvd (Highway 90) is an ALDOT maintained roadway. Driveway number, size location and design to be approved by ALDOT (where applicable) and Traffic Engineering and conform to AASHTO standards. Confirmation of ALDOT approval of the driveway on Highway 90 will need to be provided, prior to the issuance of any permits for land disturbing activities. A "Do Not Enter" sign should be included at the point on the southern driving aisle where it narrows from 24' to 15'.

**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 within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile.

**REMARKS**

The applicant is requesting Rezoning from B-2, Neighborhood Business District, to B-3, Community Business District, to allow a retail business with outside storage. Specifically, the applicant proposes 5,000 square feet of outside storage and intends to utilize 1,300 square feet of an existing 4,300 square-foot commercial building for storage, with the remaining 3,000 square feet used for retail. In addition, the applicant also proposes an attached 2-story, 2,500 square-foot addition to also be used as storage.

The site is shown as commercial 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.

As stated in Section 64-9. 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 applicant states the following regarding the rezoning request:

*The need to rezone is to allow outside storage yard, which can not be allowed under our current B-2 zoning. The nature of the pawn shop business sometimes requires cars, boats, trailers and other larger items to be stored on site. The site being vacant for so long highlights neighborhood changed conditions which make a change in the zoning necessary and desirable.*

The applicant's justification for the proposed rezoning is to allow an outside storage yard and references the above condition #2 as to why a change in the Ordinance is warranted.

The site is adjacent to B-2, Neighborhood Business District to the Northeast and Southwest. Directly across Government Boulevard and Demetropolis Road, to the site's Southeast and West respectively, is a B-3, Community Business District.

Although there is no minimum size for new districts, Section 64-3.A.5.b. of the Zoning Ordinance states as a guideline that new B-3 districts be a minimum of 4 acres. Although the site in question is only 0.53 ± Acres, smaller districts may be created where unusual conditions or circumstances justify them in the opinion of the commission.

It should be noted that there appears to be a slight discrepancy in relation to the dimensions of the submitted site plan and the Final Plat for the site, recorded in 1976. Discrepancies may have an impact on site compliance to include landscaping requirements, for instance. As such, a revised site plan should be submitted to reflect the correct dimensions of the site.

It should be pointed out that the proposed parking spaces on the Northern portion of the site do not contain any bumper stops or curbing and two of the proposed spaces are depicted within the right-of-way of Government Boulevard. As such, the applicant should be advised that a right-of-way use agreement may be required or the applicant may request a street vacation. Also, no accessible route is depicted from the accessible parking space to the building and, although the Planning Section does not enforce accessible parking or ADA, certain aspects of ADA do impact site design. As such, any revised site plan or building plan should comply with Section 64-6. of the Zoning Ordinance, in addition to design compliance with the requirements of the ADA, in accordance to the applicable building code section 1106 (and 2010 ADA Standards for Accessible Design), at the time of permitting.

It should be pointed out that fencing on the site may be an issue. There appears to be an existing privacy fence along the Northeastern property line which is not depicted on the site plan and the applicant now proposes a 6' wooden privacy fence around the proposed storage area, which includes a portion of the western property line. As the site is considered a double frontage lot, the required setbacks may differ slightly than the typical 25'. Due to the proximity of this site and the adjacent commercial site to the Northeast, and the proposed traffic circulation around the site, Staff questions visibility as it appears that a 6' wooden privacy fence may cause line of sight issues.

In reference to vegetation, trees and landscaping is illustrated on the site plan, however, 7 frontage trees appear to be depicted within the right-of-way and, as such, may not be counted towards the required number of frontage trees. Also, several trees appear to be proposed within 15' of above-ground utility lines, although not identified on the site plan. The applicant should keep in mind that any trees planted within 15' of above-ground utility lines **must** be live oak trees. Therefore, the site plan should be revised to illustrate live oak trees but if the applicant desires a different type of frontage tree, they should be depicted a minimum distance of 15' from the overhead utility lines.

Overall, the site and tree plan should be revised to quantify and illustrate full compliance with the Frontage Tree requirements of the Zoning Ordinance and, if it is determined that the

proposed landscaping is insufficient, a variance application to the Zoning Board of Adjustment will be required.

It should be pointed out that there is no dumpster clearly identified on the site plan. The site plan should be revised to illustrate the location of a dumpster in compliance with Section 64-4.D.9. of the Zoning Ordinance, or a note stating that waste removal will be via curb-side pick-up.

It should be noted that a sidewalk is also not illustrated on the site plan along the street frontages.

Lighting is not illustrated on the site plan. Any new lighting on the site will have to comply with the requirements of Sections 64-4.A.2., 64-6.A.3.c., and 64-6.A.8. of the Zoning Ordinance. A note reflecting this requirement should appear on the site plan, and photometric plans may be required at the time of permitting.

It is important to note that although a pawn shop with outside storage is considered a B-3 use, a pawn shop is allowed by right within a B-2 district. Changing the zoning from B-2 to B-3 for this site would be considered spot zoning, as there are viable uses that could occur at this location. Further, it appears there are no changing conditions in this particular area that would make a change in the Ordinance necessary and desirable and there does not appear to be a need to increase the number of sites available to business or industry within the area, as B-3 districts already exist within the vicinity. As such, Staff recommends denial for the rezoning.

### **RECOMMENDATION**

Based upon the preceding, the rezoning request is recommended for denial for the following reasons:

- 1) There does not appear to be any changing conditions in this particular area that would make a change in the Ordinance necessary and desirable; and
- 2) There does not appear to be a need to increase the number of sites available to business or industry.

# LOCATOR MAP



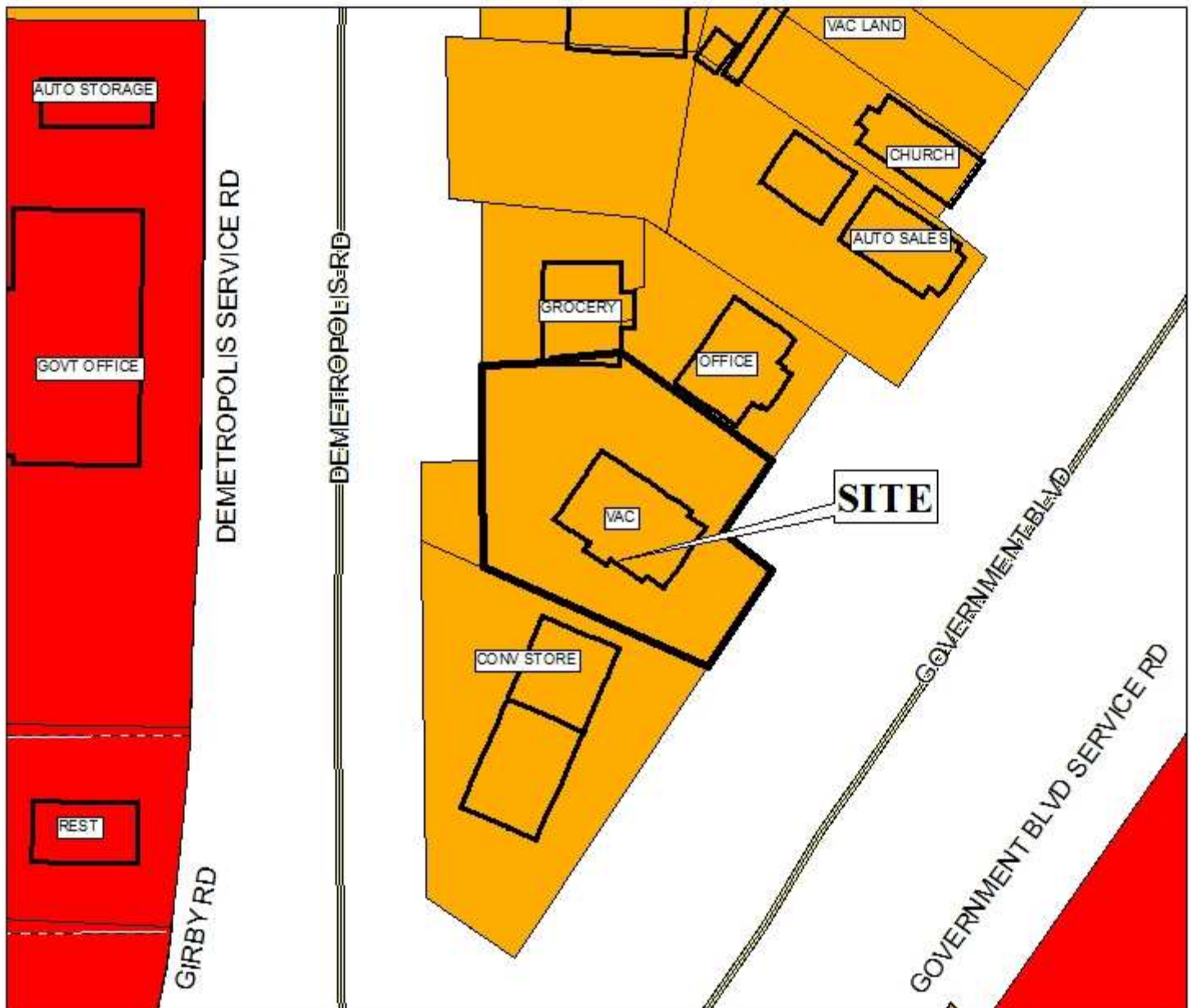
APPLICATION NUMBER 18 DATE June 5, 2014

APPLICANT JCP Investments, LLC (Don Williams)

REQUEST Rezoning from B-2 to B-3



# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



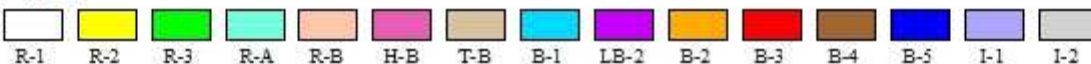
The site is surrounded by commercial units.

APPLICATION NUMBER 18 DATE June 5, 2014

APPLICANT JCP Investments, LLC (Don Williams)

REQUEST Rezoning from B-2 to B-3

LEGEND





# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units.

APPLICATION NUMBER 18 DATE June 5, 2014

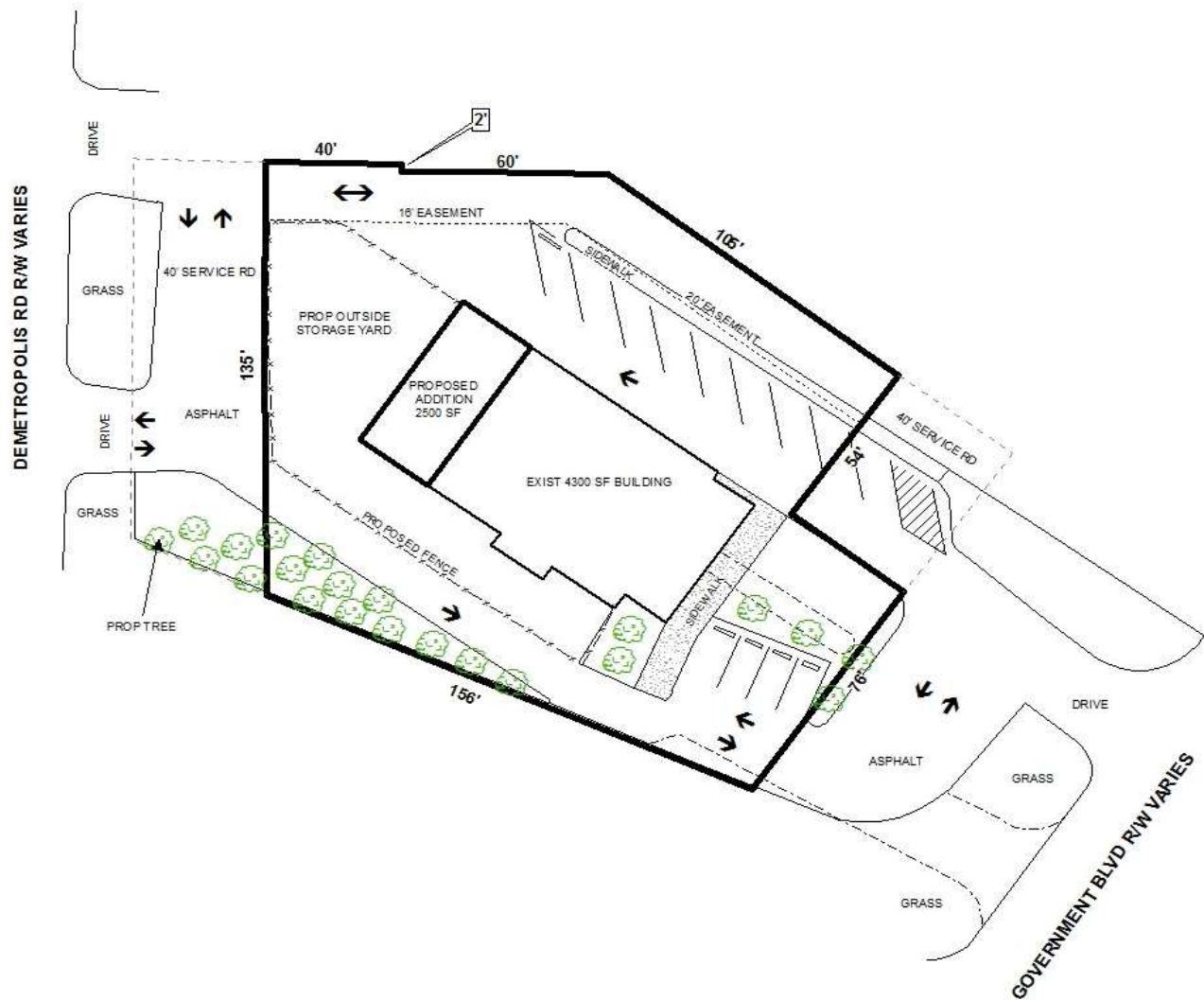
APPLICANT JCP Investments, LLC (Don Williams)

REQUEST Rezoning from B-2 to B-3



# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING

## REZONING FROM B-2 TO B-3



The site plan illustrates the proposed addition, exist building, proposed trees and fence, exist easements, and drives,

APPLICATION NUMBER 18 DATE June 5, 2014  
 APPLICANT JCP Investments, LLC (Don Williams)  
 REQUEST Rezoning from B-2 to B-3



NTS