

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: November 1, 2010****CASE NUMBER**

5638

APPLICANT NAME

Stratford, LLC

North side of Grelot Road, 160'± West of Chimney Top
Drive West.

VARIANCE REQUEST

USE: Use Variance to allow a contractor's storage yard and helicopter landing/refueling pad in a split-zoned B-1, Buffer Business District, and LB-2, Limited Neighborhood Business District, in support of construction of an electric transmission line.

PARKING SURFACE: Parking Surface Variance to allow gravel vehicle parking in a split-zoned B-1, Buffer Business District, and LB-2, Limited Neighborhood Business District.

**ZONING ORDINANCE
REQUIREMENT**

USE: The Zoning Ordinance does not allow a temporary contractor's storage yard in a B-1, Buffer Business District, and a helipad as an accessory use to commercial facilities requires Planning Approval in a B-1, Buffer Business District, and is not allowed in an LB-2, Limited Neighborhood Business District.

PARKING SURFACE: The Zoning Ordinance requires all vehicle parking surfaces to be asphalt, concrete, or an approved alternative paving surface in a B-1, Buffer Business District, and LB-2, Limited Neighborhood Business District.

ZONING

B-1, Buffer Business, and LB-2, Limited Neighborhood
Business

AREA OF PROPERTY

5.6± Acres

**TRAFFIC ENGINEERING
COMMENTS**

No comments.

CITY COUNCIL
DISTRICT

District 6

ANALYSIS

The applicant is requesting Use and Parking Surface Variances to allow a temporary contractor's storage yard and helicopter landing/refueling pad with gravel vehicle parking in a split-zoned B-1, Buffer Business District, and LB-2, Limited Neighborhood Business District, in support of construction of an electric transmission line; the Zoning Ordinance does not allow a contractor's storage yard in a B-1, Buffer Business District, or an LB-2, Limited Neighborhood Business District, and a helipad as an accessory use to commercial facilities requires Planning Approval in a B-1, Buffer Business District, and is not allowed in an LB-2, Limited Neighborhood Business District, and all vehicle parking surfaces must be asphalt, concrete, or an approved alternative paving surface in such districts.

Alabama Power Company received Planning Approval on July 22, 2010, to construct a high voltage transmission line extending from an area behind Providence Hospital to the North side of Grelot Road running generally along Milkhouse Creek. The West side of the subject site of this variance request is adjacent to the East side of the lower part of the easement for the transmission line, and the applicant proposes to allow the site for a contractor's storage yard for the materials necessary to construct the transmission line. Also, since the support poles, electrical wires, and associated hardware for the towers must be air-lifted into place due to the boggy conditions along Milkhouse Creek not being favorable for heavy ground equipment access, the applicant proposes to allow heavy-lift helicopters to land on the site to pick up pole sections and other construction materials for transport to their designated positions and to refuel the helicopters on-site. Equipment proposed to be located on the site consists of bucket trucks, derrick trucks, pickup trucks, crane trucks, stringing equipment, backhoes, bulldozers, road tractors, trailers, etc. The existing entrance access drive and vehicle maneuvering and parking area is composed of 4" crushed aggregate which was placed without permits. Twelve standard vehicle parking spaces are proposed along the East side of aggregate surface. The site is proposed to be in use for the duration of the transmission line construction which is expected to last approximately three weeks.

As the site is proposed to be used for a short duration in support of a public utilities construction project, approval of this application would seem justified. However, the nature of the uses in relation to near-by residential use should require stringent conditions if approved. The fact that heavy utility poles and transmission line tower components are to be air-lifted by helicopter to their designated positions should require that the helicopter approach and departure patterns be restricted so that no flights with equipment lifts are made over any developed properties, or at least structures thereon. Also, aircraft fuel tanks and/or fuel trucks should be located as far to the West side of the landing pad as possible to minimize any damage from fire or explosion to the residences to the East. And helicopter use should be restricted to the hours of 7:00 AM to 6:00 PM to minimize noise intrusion into surrounding neighborhoods.

The site has had major amounts of un-permitted land disturbance activities; therefore, an after-the-fact land disturbance permit should be obtained for work already done without a permit, and permits should be obtained prior to any further land disturbance activity.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application; and, unless the Board is presented with sufficient evidence to find that the variance will not be contrary to the public interest, and that special conditions exist such that a literal enforcement of the Ordinance will result in an unnecessary hardship. The Ordinance also states that a variance should not be approved unless the spirit and intent of the Ordinance is observed and substantial justice done to the applicant and the surrounding neighborhood.

Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

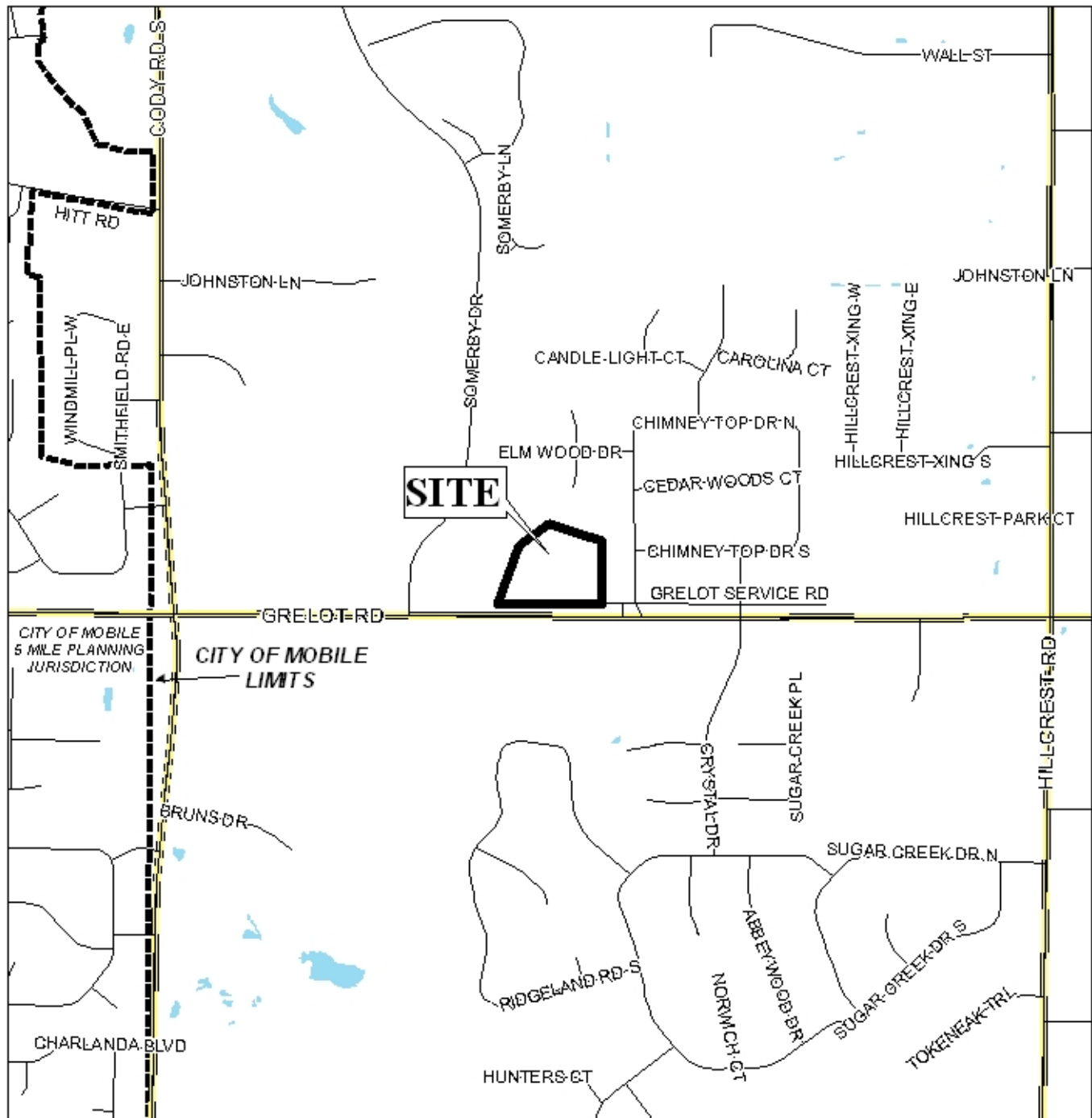
A memo furnished to staff indicates that the helicopter will be available on November 15th and on-site for one week, depending on weather. It is also mentioned that the site will be needed one week prior to the arrival of the helicopter for material staging. This time frame conflicts with the legal time frame for permitting approval due to the fact that there is an automatic 15-day waiting period beyond the Board's decision on a variance case to allow any party aggrieved with the Board's decision to file an appeal in Circuit Court. Therefore, if this variance is approved, the earliest any permits could be approved would be November 17th, which would also be the earliest date the site could be used for its intended purposes.

Given the nature of the project for which the subject site is proposed to support, the Board should consider this application for approval, subject to conditions.

RECOMMENDATION: Based on the preceding, this application is recommended for approval, subject to the following conditions:

- 1) helicopter approach and departure patterns are restricted so that no flights with equipment lifts are made over any developed properties, or at least structures thereon;
- 2) aircraft fuel tanks and/or fuel trucks are to be located as far to the West side of the landing pad as possible to minimize any damage from fire or explosion to the residences along the East side of the site;
- 3) helicopter flight operations are to be limited to the time frame of 7:00 AM to 6:00 PM to minimize noise intrusion into surrounding neighborhoods;
- 4) obtaining of all necessary permits after-the-fact for land disturbance already completed without permits;
- 5) obtaining of all necessary permits for further land disturbance activities;
- 6) the site is not to be used for its proposed purposes until November 17th, at the earliest, to allow for a Circuit Court appeal by aggrieved parties, if the variance is approved; and
- 7) full compliance with all other municipal codes and ordinances.

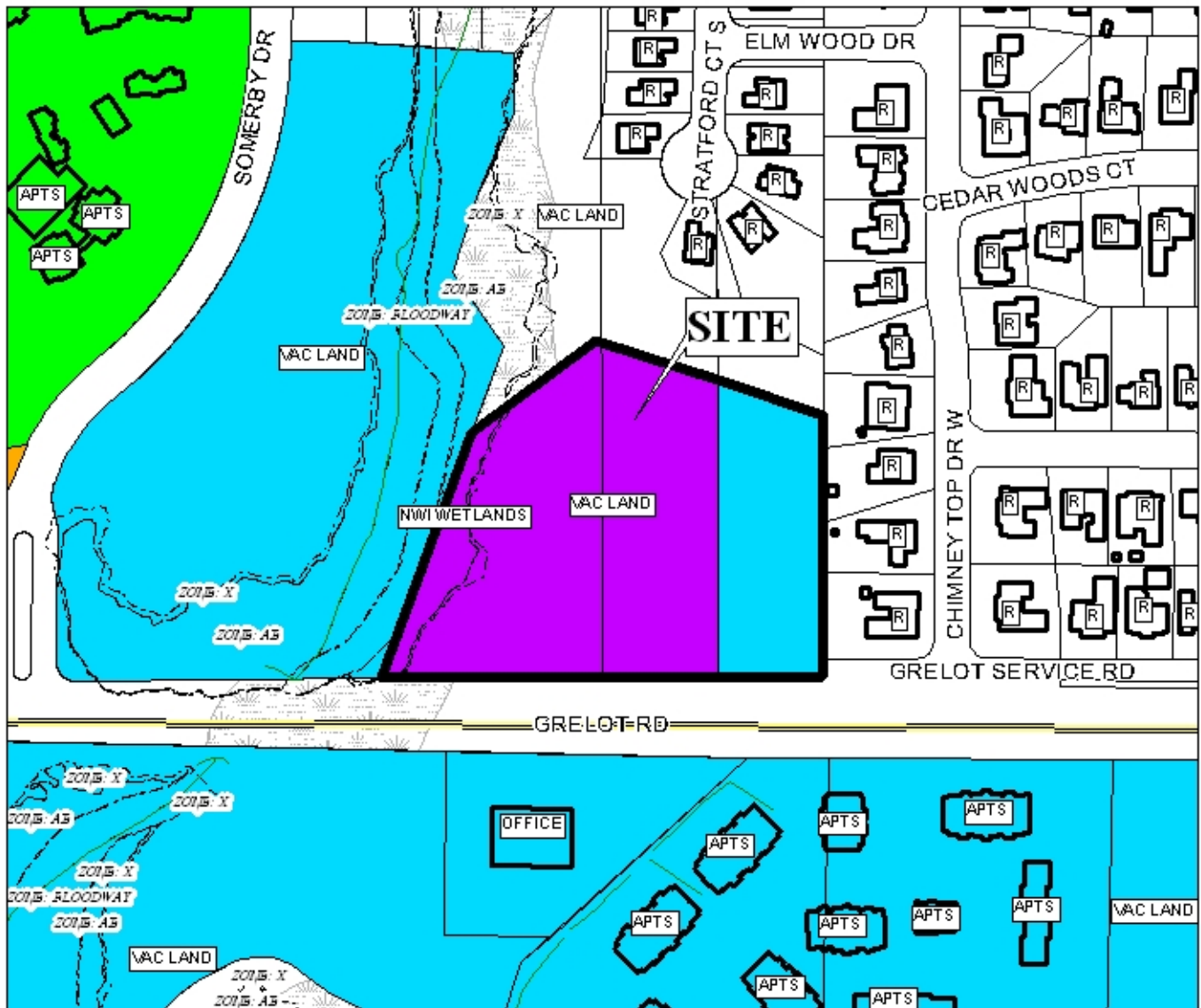
LOCATOR



APPLICATION NUMBER 5638 DATE November 1, 2010
APPLICANT Stratford LLC
REQUEST Use Variance



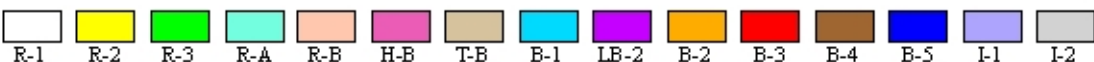
BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



This site is surrounded by residential and commercial land use.

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LEGEND



NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



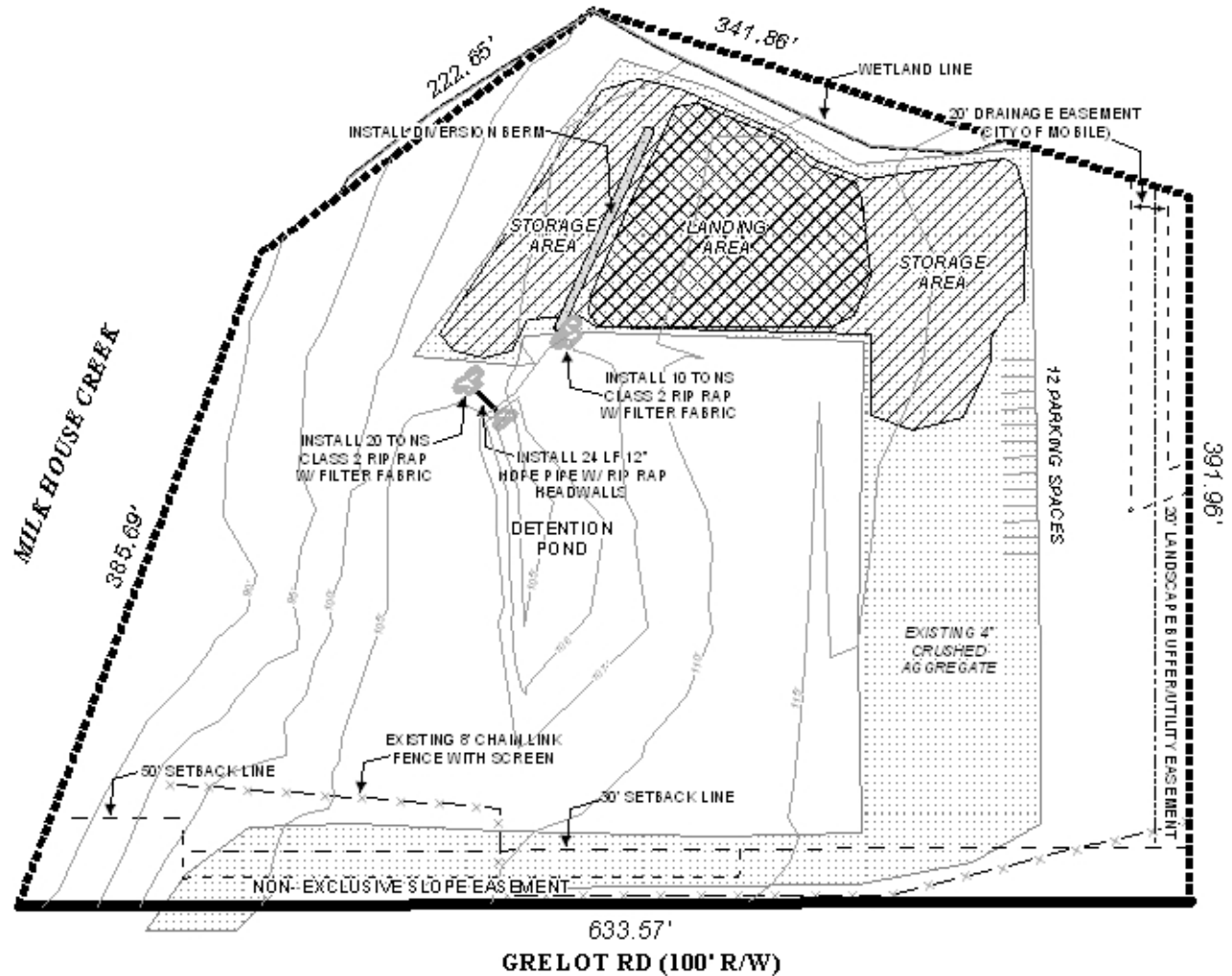
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SITE PLAN



This site plan illustrates the proposed material/equipment storage yards and helicopter landing area.

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