

APPLICATION NUMBER

5243

A REQUEST FOR

**USE VARIANCE TO ALLOW AN AUTO WRECKING
YARD AND STORAGE FACILITY IN AN R-1, SINGLE-
FAMILY RESIDENTIAL DISTRICT; THE ZONING
ORDINANCE REQUIRES I-2, HEAVY INDUSTRIAL
DISTRICT WITH PLANNING APPROVAL.**

LOCATED AT

5401 BEAR FORK ROAD

(South side of Bear Fork Road, 1,000' ± East of North University Boulevard)

APPLICANT

DIRT, INC.

BOARD OF ZONING ADJUSTMENT

JULY 2004

The applicant is requesting Use Variance to allow an auto wrecking yard and storage facility in an R-1, Single-Family Residential District; the Zoning Ordinance requires I-2, Heavy Industrial District with Planning Approval.

This application is before the Board again because of improper notification and advertising. It should be noted that the staff's analysis and recommendation have not changed.

The applicant states that the property was purchased as an existing auto wrecking and storage facility. The applicant obtained a license for a borrow pit with the State of Alabama, and leased the remaining five acres for use as auto storage and to an electrical contractor. In addition, the applicant states that the auto wrecking yard has been in operation for over 20 years.

In October 2003, the applicant applied for rezoning and planning approval to the Planning Commission to allow a junkyard and borrow pit. The applications were denied and the denial was affirmed by the City Council in November 2003.

The rezoning and planning approval report brought about several concerns related to this location. The first being that the use of the property (wrecking yard and borrow pit) began several months ago, not 20 years ago as stated by the applicant. This was brought to the city's attention through a complaint to the City of Mobile Action Center. The only verified use of the property was an electrical contractor's office.

The applicant has submitted documentation stating the uses of the property as an auto wrecking yard and salvage, a borrow pit and an electrical contractor's office. Upon review of the documentation, the staff determined that the only legal non-conforming use allowed for this site is the borrow pit (which is not part of this application). The auto salvage yard ceased to operate in 1981 and the electrical contractor in 2001. As the site in question has had a vacancy for more than two consecutive years, the site has lost its non-conforming status.

While the site in question is a large parcel of land, 39.5 acres, it is surrounded by residentially zoned properties to the East, South, and West. These properties are mostly developed with single-family dwellings and there are several churches in the immediate vicinity. The closest industrially zoned property is over one mile to the East. It should be noted that the properties on the north side of Bear Fork Road are located in the City of Prichard.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application. Additionally, no variance shall be granted unless the Board is presented with sufficient evidence to find that the variance will not be contrary to the

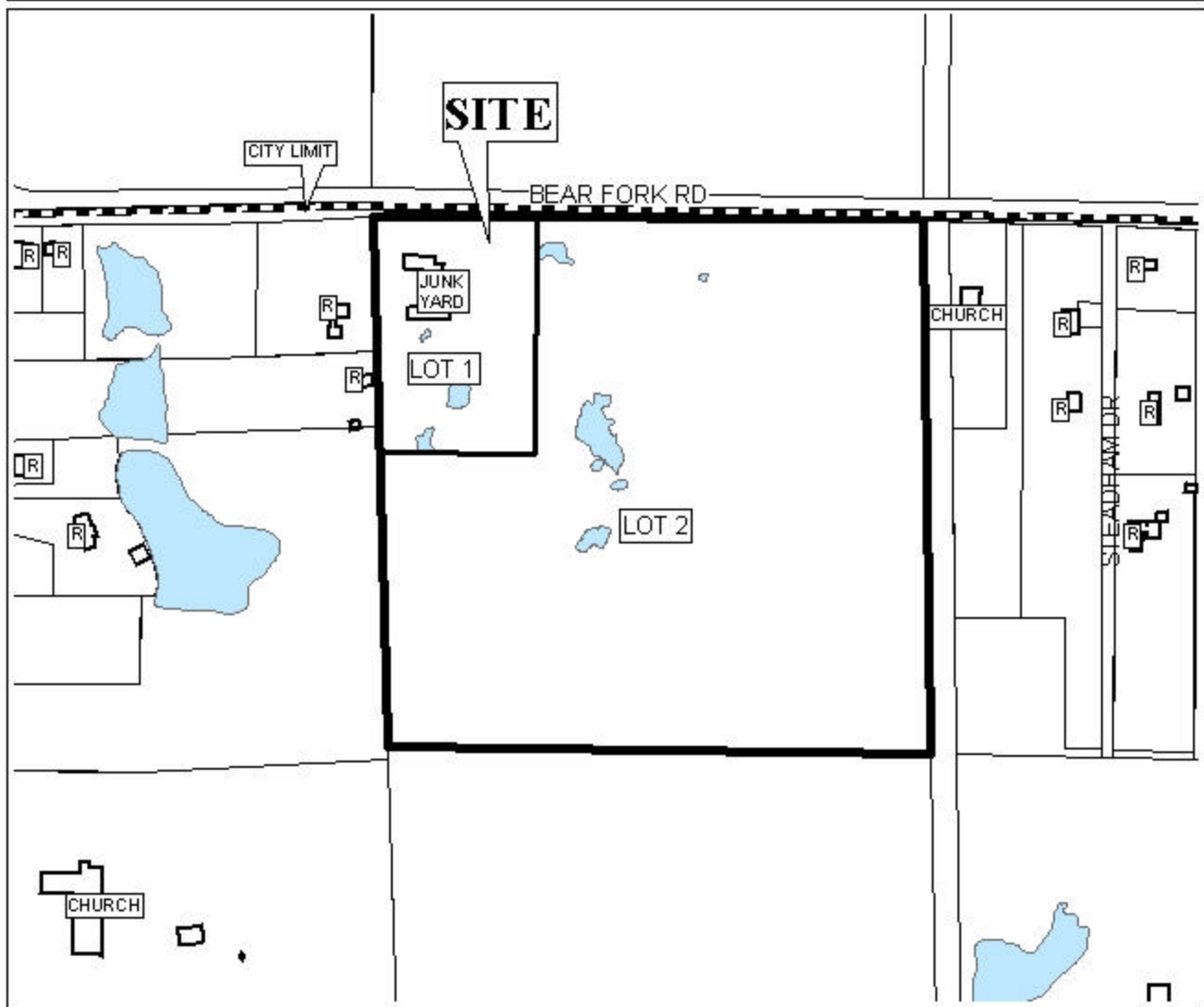
public interest, and that special conditions exist such that a literal enforcement of the Ordinance will result in an unnecessary hardship. The Ordinance also states that a variance should not be approved unless the spirit and intent of the Ordinance is observed, and substantial justice done to the applicant and the surrounding neighborhood.

The applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. It is simply the applicant's desire to operate an auto salvage yard in a residential district.

RECOMMENDATION 5243**Date: July 12, 2004**

Based upon the preceding, this application is recommended for denial.

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is located South of the Mobile City limits in an area of mixed land use.

APPLICATION NUMBER 5243 DATE July 12, 2004
 APPLICANT Dirt, Inc.
 REQUEST Use Variance

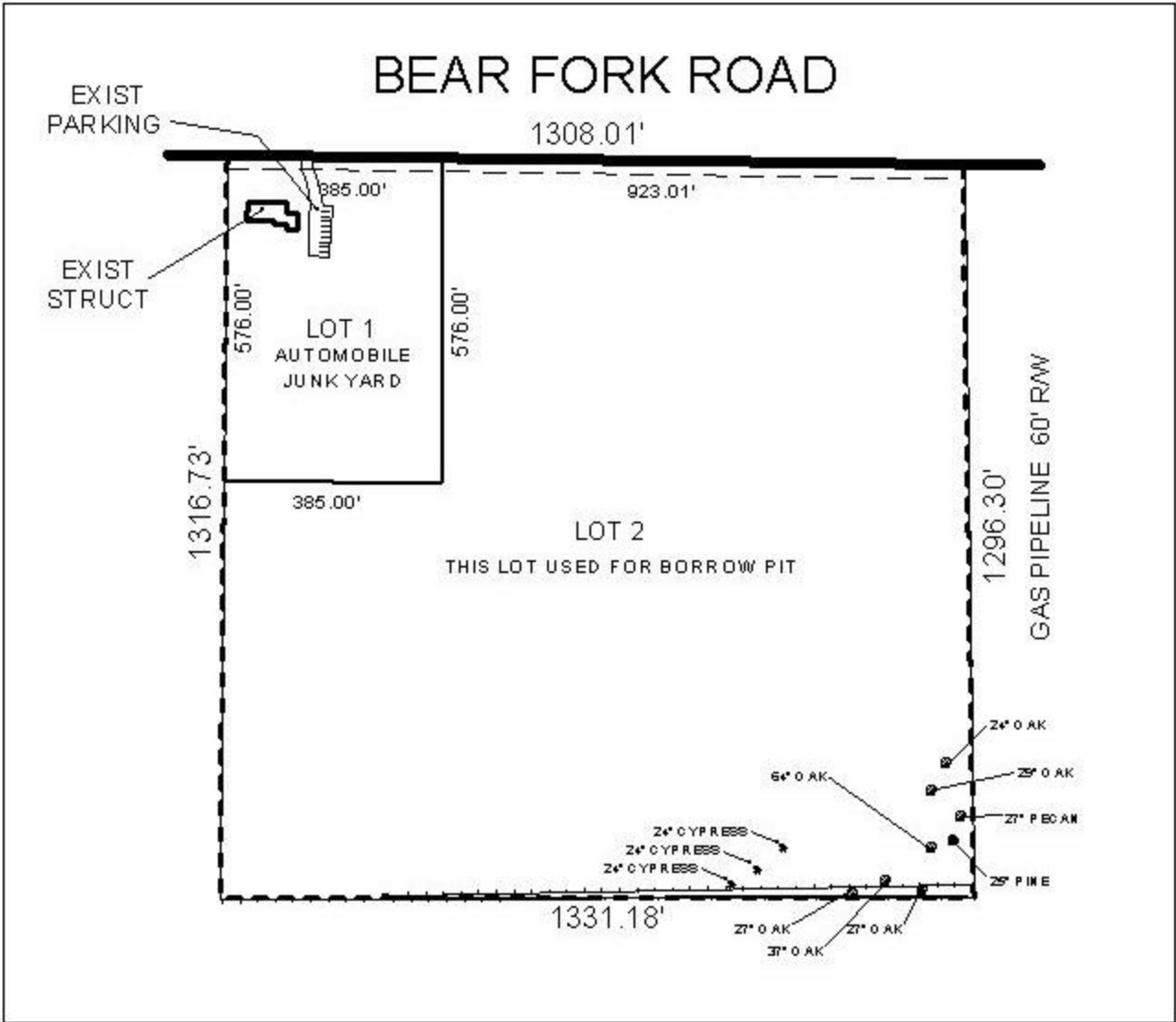
LEGEND



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SITE PLAN



The site is located on the South side of Bear Fork Road, 900' East of University Boulevard. The plan illustrates the existing structures and the proposed lots.

APPLICATION NUMBER 5243 DATE July 12, 2004

APPLICANT Dirt, Inc.

USE/REQUEST Use Variance

NTS

