

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: October 4, 2021****CASE NUMBER**

6420

**APPLICANT NAME**

Roxanne Eaton

**LOCATION**

3340 Lees Lane  
(West side of Lees lane, 680'± South of its North terminus).

**VARIANCE REQUEST**

**USE:** Use Variance to allow a family recreation venue with accessory use facilities in an R-1, Single-Family Residential District.

**ZONING ORDINANCE  
REQUIREMENT**

**USE:** The Zoning Ordinance requires that the primary use of a property be for a single-family residential dwelling in an R-1, Single-Family Residential District.

**ZONING**

R-1, Single-Family Residential

**AREA OF PROPERTY**

0.6± Acre

**ENGINEERING  
COMMENTS**

No comments.

**TRAFFIC ENGINEERING  
COMMENTS**

No comments.

**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 [Act 929 of the 1961 Regular Session of the Alabama Legislature (Acts 1961, p. 1487), as amended, and City Code Chapters 57 and 65]. Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from undeveloped residential sites, developed residential sites in historic districts, and all commercial sites will require a tree removal permit.

**FIRE DEPARTMENT  
COMMENTS**

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance (2012 International Fire Code). Fire apparatus access is required to be within 150' of all commercial and residential buildings. A

fire hydrant is required to be within 400' of non-sprinkled commercial buildings and 600' of sprinkled commercial buildings.

## **CITY COUNCIL** **DISTRICT**

District 4

### **ANALYSIS**

The applicant is requesting a Use Variance to allow a family recreation venue with accessory use facilities in an R-1, Single-Family Residential District; the Zoning Ordinance requires that the primary use of a property be for a single-family residential dwelling in an R-1, Single-Family Residential District.

The site has been given a Low Density Residential (LDR) land use designation per the Future Land Use Plan and Map, adopted by the Planning Commission at its May 18, 2017 meeting. The Future Land Use Plan and Map complements and provides additional detail to the Development Framework Maps in the Map for Mobile, adopted by the Planning Commission at its November 5, 2015 meeting. This designation acknowledges existing commercial development that is spread along Mobile's transportation corridors in a conventional strip pattern or concentrated into shorter segments of a corridor.

This designation applies to existing residential neighborhoods found mostly west of the Beltline or immediately adjacent to the east side of the Beltline.

The primary land use in the LDR districts is residential and the predominant housing type is the single-family housing unit, detached or semi-detached, typically placed within a street grid or a network of meandering suburban streets. The density in these districts ranges between 0 and 6 dwelling units per acre (du/ac).

These neighborhoods may also contain small-scale, low-rise multi-unit structures at appropriate locations, as well as complementary retail, parks and civic institutions such as schools, community centers, neighborhood playgrounds, and churches or other religious uses if those uses are designed and sited in a manner compatible with and connected to the surrounding context. The presence of individual ancillary uses should contribute to the fabric of a complete neighborhood, developed at a walkable, bikeable human scale.

It should be noted that the Future Land Use Plan and Map components of the Map for Mobile Plan are meant to serve as a general guide, not a detailed lot and district plan. In many cases the designation on the new Future Land Use Map may match the existing use of land, but in others the designated land use may differ from what is on the ground today. As such, the Future Land Use Plan and Map 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, where applicable, the zoning classification.

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.

The applicant's narrative states:

**Proposed Use:**

*The lot size is 0.57 of an acre with dimensions of 60' x 374.13' x 66.82' x 403.59' and is elevated approximately 4 1/2 ft at the street and then is level land with some mature trees.*

*We, the owners, are two sisters, both of us are retired. We both own homes that are located within a 15-minute drive of the lot. We plan to use the lot as a remote backyard because it is waterfront property, and the depth of the lot will provide plenty of off-street parking for our guests.*

*We plan to:*

- 1. Sit outside and watch the water as it flows by.*
- 2. Lie on a hammock*
- 3. Push the kids of family and friends in the swing*
- 4. Host outdoor get togethers for family and friends.*
- 5. Fish from the bank of the lot.*
- 6. Get the benefit of exercise by walking around the perimeter of the lot instead of walking at a track or on streets.*
- 7. The shed that's on the lot will be used to provide onsite bathroom and kitchen facilities for us and our guests.*

**Improvements**

**Existing improvements:**

- 1. Paid to have the lot bush hogged and began cutting the grass on a regular basis to cultivate a nice lawn.*
- 2. Purchased a 14' x 40' wooden shed that we placed at the back side of the lot facing the water. The shed is partially finished on the inside with a bathroom and a kitchen area. The shed sits on concrete blocks and is tied to the ground via tiedown straps.*
- 3. We paid Mobile Area Water and Sewer System (MAWSS) to get water and sewer lines added to the lot.*

**Planned improvements:**

**Plans for 1 to 4 months: October — December 2021**

1. *Add electricity to the property via a power pole to power the shed and exterior lights and any additional outdoor power needs.*
2. *Hire a Plummer run the plumbing for water and sewer from the street to the shed.*
3. *Erect a tent / gazebo area facing the water to provide seating and shade.*
4. *Install a fire pit to enjoy evenings on the waterside.*
5. *Install an outdoor grill for cookouts.*
6. *Purchase and install storage shed to store lawn mower, barbecue grill & outdoor furniture.*

**Plans for 6 to 9 months: March —June 2022**

1. *Fence in a portion of lot for safety.*
2. *Hang a hammock.*
3. *Install a swing set.*
4. *Plan to Install above ground pool which may be upgraded to inground pool in the future.*

**Reason Use Variance is Required:**

1. *We want power and water on the property.*
2. *Alabama Power informed us that we need approval of a variance to install a power pole on this lot.*
3. *In our opinion, our usage of this property will not have a negative impact on surrounding properties.*

The subject site is located on the West side of Lees Lane within an area of developed sites used as single-family dwellings and vacant land, all of which are zoned R-1. To the East across Lees Lane is I-1, Light Industry zoning, mostly vacant, but with one church and one single-family residence. The site is bordered along the rear by Moore Creek, a tributary of Dog River. The applicant proposes to use the site for strictly recreational purposes instead of for single-family residential purposes; hence, this variance request.

As the applicant has stated in the narrative, a shed of approximately 14 feet by 40 feet has already been placed on the site to serve as a kitchen and bathroom facility. However, this was done without any of the necessary site plan reviews, building code reviews or building permits having been obtained. A Right-of-Way permit was obtained for the water and sewer connections to the site, but those permits are not reviewed by Planning and Zoning. Had a building permit been applied for, the structure would not have been approved as an accessory structure is not allowed in an R-1 district prior to the construction of the primary structure, a single-family dwelling. It should be noted that a structure with facilities for cooking and sleeping are allowed by right in R-1 districts.

Pertaining to the request, the applicant has not provided justification as to what hardships would prevent the property from being used in compliance with the current R-1 zoning classification. The applicant has not illustrated that a literal enforcement of the Ordinance would result in an unnecessary hardship. As the surrounding neighborhood is zoned R-1, there are no unusual

characteristics of the property that satisfy variance standards; therefore, the Board should consider this request for denial.

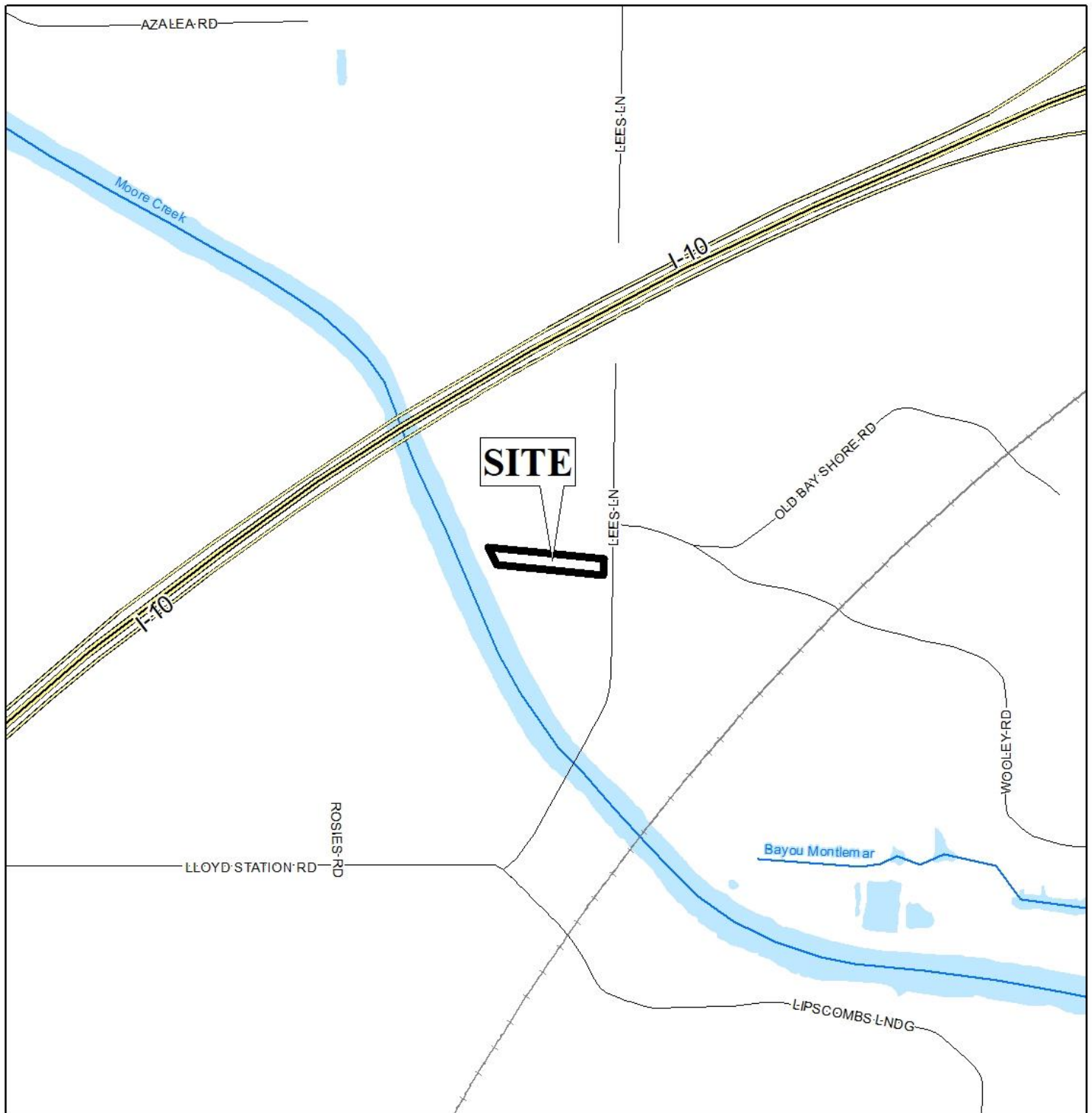
**RECOMMENDATION:** Staff recommends to the Board the following findings of facts for Denial of the Use Variance request to allow a family recreation venue with accessory use facilities in an R-1, Single-Family Residential District:

- 1) Approving the variance will be contrary to the public interest in that the use would be contrary to the established zoning classification of the site and use of the surrounding neighborhood as single-family residential;
- 2) Special conditions were not illustrated such that the literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) The spirit of the chapter shall not be observed, and substantial justice shall not be done to the surrounding neighborhood by granting the variance because the use would be incompatible to an established R-1 District.

**In order for any concerns to be considered by the Board you must email your concerns to [planning@cityofmobile.org](mailto:planning@cityofmobile.org) or they may be uploaded to the website via the portal under the meeting date and case. Comments must be entered by 2:00 PM on Friday, October 1<sup>st</sup>, before the meeting, in order to be considered by the Board.**

**If you wish to participate in the meeting, you must email [planning@cityofmobile.org](mailto:planning@cityofmobile.org) by 2:00 PM on Friday, October 1<sup>st</sup>, before the meeting. In accordance with the Rules of the Board of Zoning Adjustment, no more than four (4) speakers are allowed to speak for or against an application. Speaking time is limited to five (5) minutes per speaker.**

# LOCATOR MAP



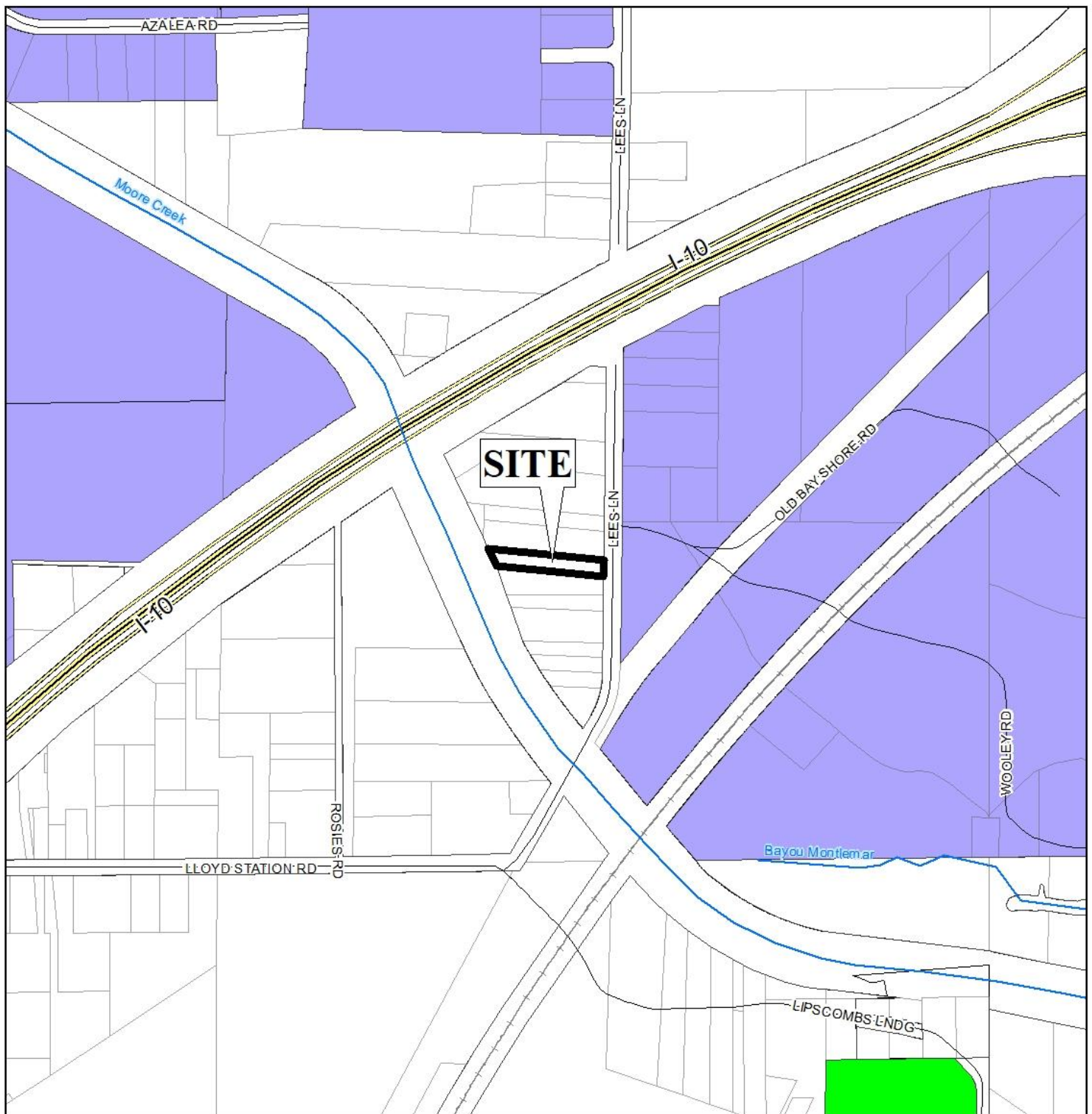
APPLICATION NUMBER 6420 DATE October 4, 2021

APPLICANT Roxanne Eaton

REQUEST Use Variance



# LOCATOR ZONING MAP



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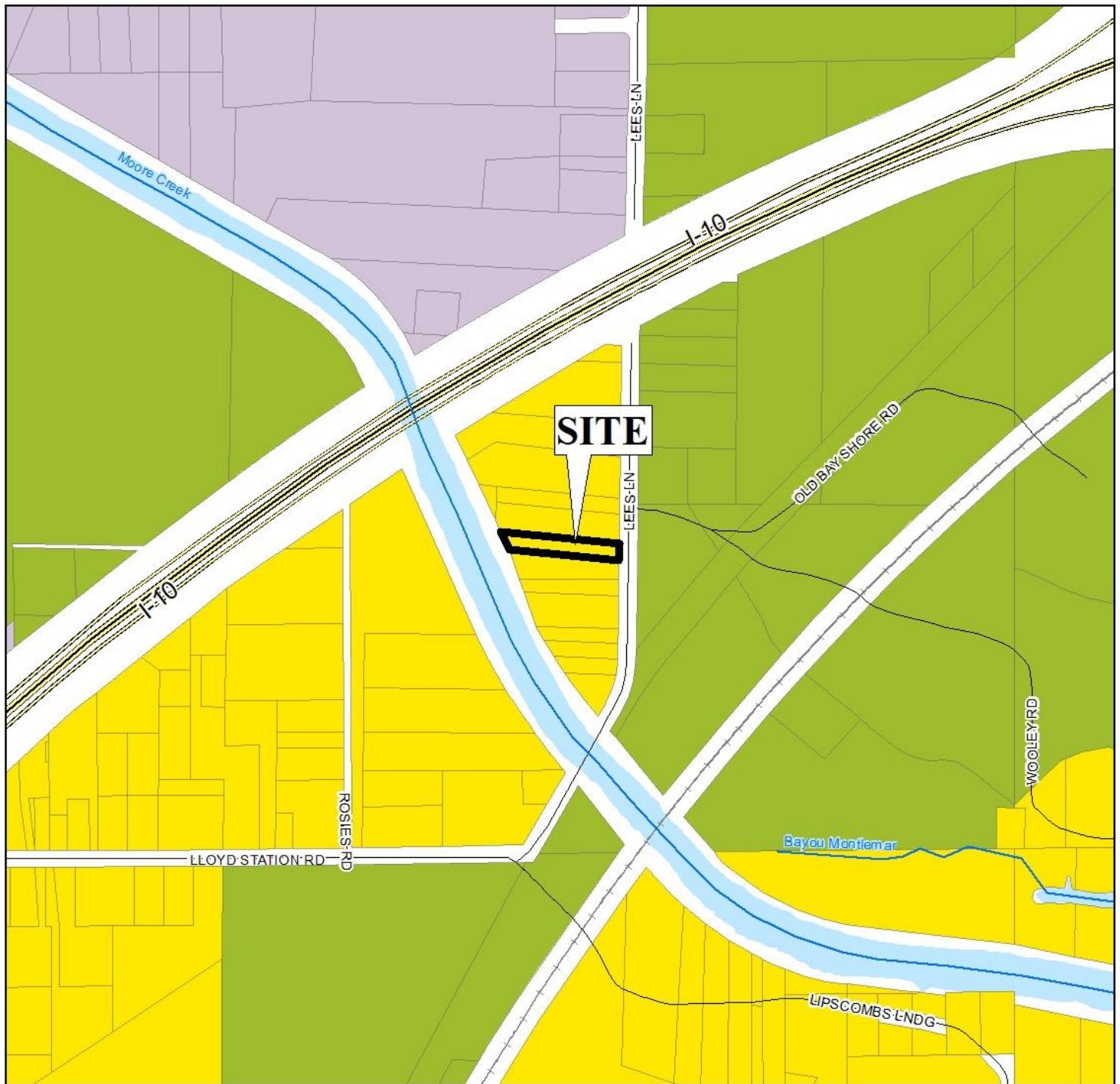
APPLICANT Roxanne Eaton

REQUEST Use Variance





# FLUM LOCATOR MAP



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APPLICANT Roxanne Eaton

REQUEST Use Variance

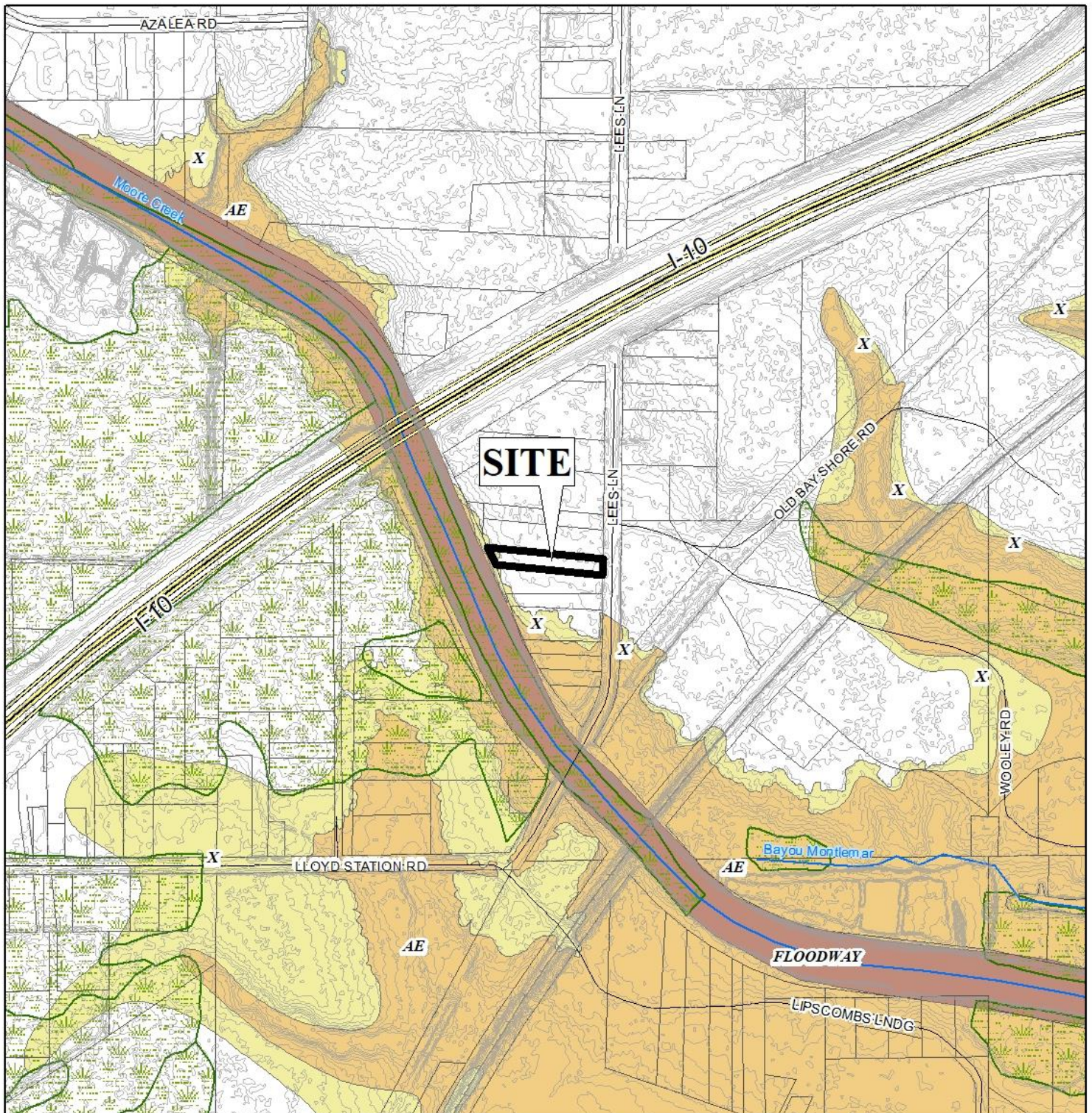
Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed Commercial Corridor	Institutional	



NTS



# ENVIRONMENTAL LOCATOR MAP



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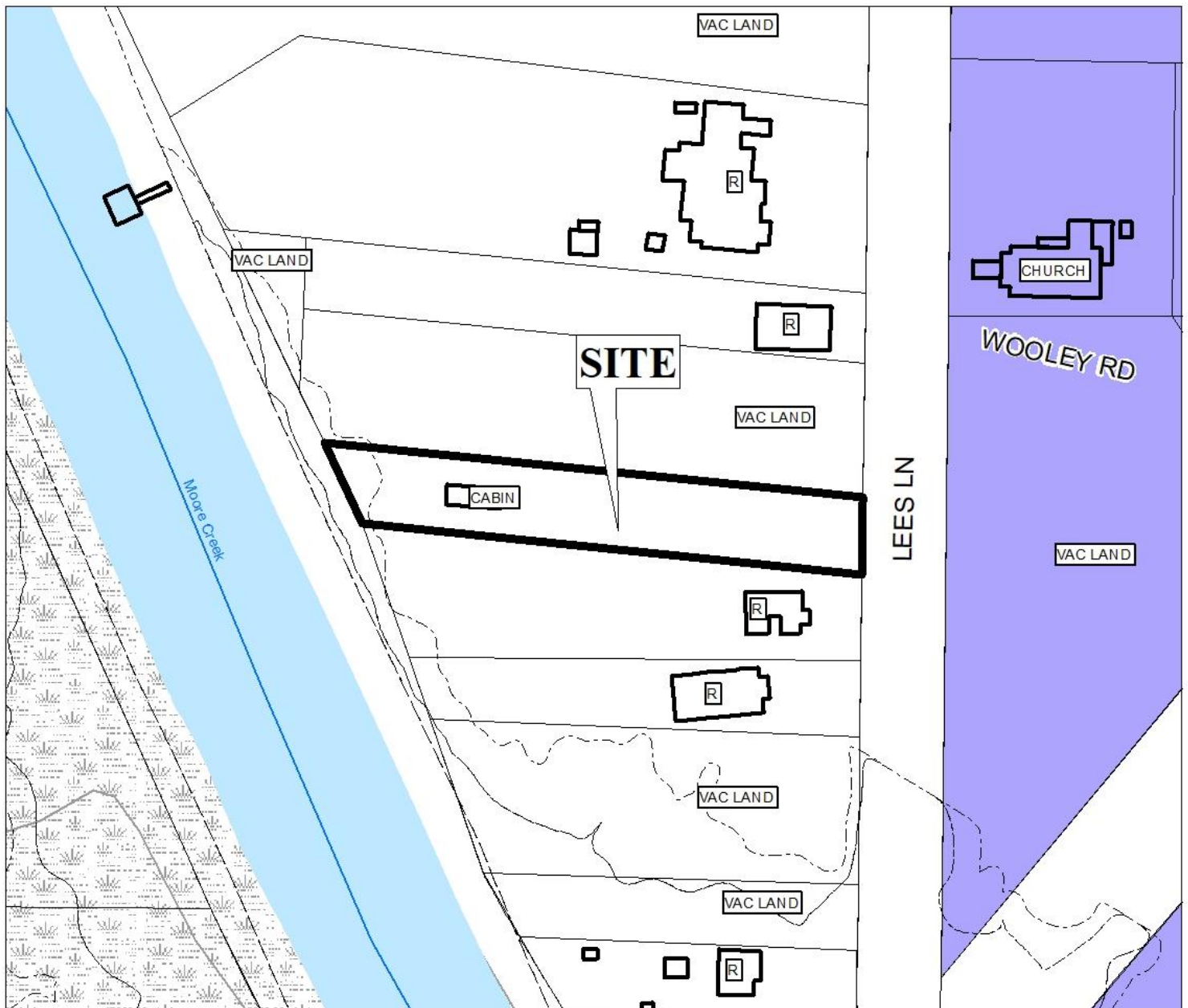
APPLICANT Roxanne Eaton

REQUEST Use Variance





# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units. A church lies northeast of the site.

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R-A	R-3	T-B	B-2	B-5	MUN	SD-WH	T5.1
R-1	R-B	B-1	B-3	I-1	OPEN	T3	T5.2
R-2	H-B	LB-2	B-4	I-2	SD	T4	T6





# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by residential units. A church lies northeast of the site.

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# SITE PLAN



The site plan illustrates the property, trees, and cabin.

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