Sumter City-County Zoning Board of Appeals

September 11, 2024

BOA-24-32, 30 Baldpate Cove (City)

The applicant (Floyd Simmons) is requesting multiple variances to the residential accessory structure requirements outlined in *Article 4.g.2.b.2, Article 4.g.2.b.4, Article 4.g.2.b.5: (Residential Accessory Structure) Development Standards* and *Article 4, Exhibit 4-1: Maximum Square Footage of Residential Accessory Structure Based on Gross Acreage* of the *City of Sumter Zoning & Development Standards Ordinance* (the "Ordinance") and any other variances as my be required in order to legally establish a third residential accessory structure on the property, that is located +/- 1.6 ft. from the rear property line (at the closest point), and will result in +/- 3,284 sq. ft. of total residential accessory structure area on the property. The Ordinance allows no more than 2 residential accessory structures and no more than 1,120 sq. ft. of total residential accessory structure size on property that is 0.6 acres in size. The Ordinance also requires that residential accessory structures over 1,200 sq. ft. be set back at least 10 ft. from property lines. The Property is located at 30 Baldpate Cove, is zoned Residential-15 (R-15), and is represented by TMS# 205-01-04-006.

Sumter
SOUTH CAROLINA

Appeals - Variance - Special Exception

Sumter City-County
Zoning Board of Appeals

September 11, 2024

BOA-24-32, 30 Baldpate Cove (City)

I. THE REQUEST

Applicant: Floyd Simmons

Status of the Applicant: Property Owner

Request: Multiple variances to the residential accessory structure requirements and any other variances as my be required in order to legally establish a third residential accessory structure on the property, that is located +/- 1.6 ft. from the rear property line (at the closest point), and will result in +/- 3,284 sq. ft. of total residential accessory structure area on the property.

City Council Ward: Ward 5

Location: 30 Baldpate Cove

Present Use/Zoning: Residence / Residential-15 (R-15).

Tax Map Reference: 205-01-04-006

II. BACKGROUND

The applicant is requesting multiple variances to the residential accessory structure requirements outlined in *Article 4.g.2.b.2, Article 4.g.2.b.4, Article 4.g.2.b.5: (Residential Accessory Structure) Development Standards* and *Article 4, Exhibit 4-1: Maximum Square Footage of Residential Accessory Structure* Based on Gross Acreage of the *City of Sumter Zoning & Development Standards Ordinance* (the "Ordinance") and any other variances as my be required in order to legally establish a third residential accessory structure on the property, that is located +/- 1.6 ft. from the

rear property line (at the closest point), and will result in +/- 3,284 sq. ft. of total residential accessory structure area on the property.

The Ordinance allows no more than 2 residential accessory structures (larger than 120 sq. ft.) per lot, with the maximum combined size of those structures set by *Article 4, Exhibit 4-1*. In the case of 30 Baldpate Cove, the Ordinance allows a maximum of 1,120 sq. ft. of total accessory structure on property that is 0.6 acres in size. The Ordinance also requires that residential accessory structures over 1,200 sq. ft. meet a minimum 10 ft. setback from property lines.

As shown on the diagram below, there are currently 3 separate accessory buildings on the property. Buildings #1 and #2 were constructed prior to adoption of the current Ordinance requirement, and their combined size of 1,584 is considered non-conforming not subject to discontinuance (grandfathered) per *Article 6* of the Ordinance. Furthermore, the rear setback of 7.3 ft. of Building #1 is grandfathered.

However, Building #3's impact on the site in terms of it's contribution to total accessory structure numbers, size, and setbacks, is not grandfathered, and is subject to Ordinance requirements. This structure was recently placed on the property without permits. This is an open zoning enforcement case, and the applicant seeking variance approval to resolve violations.

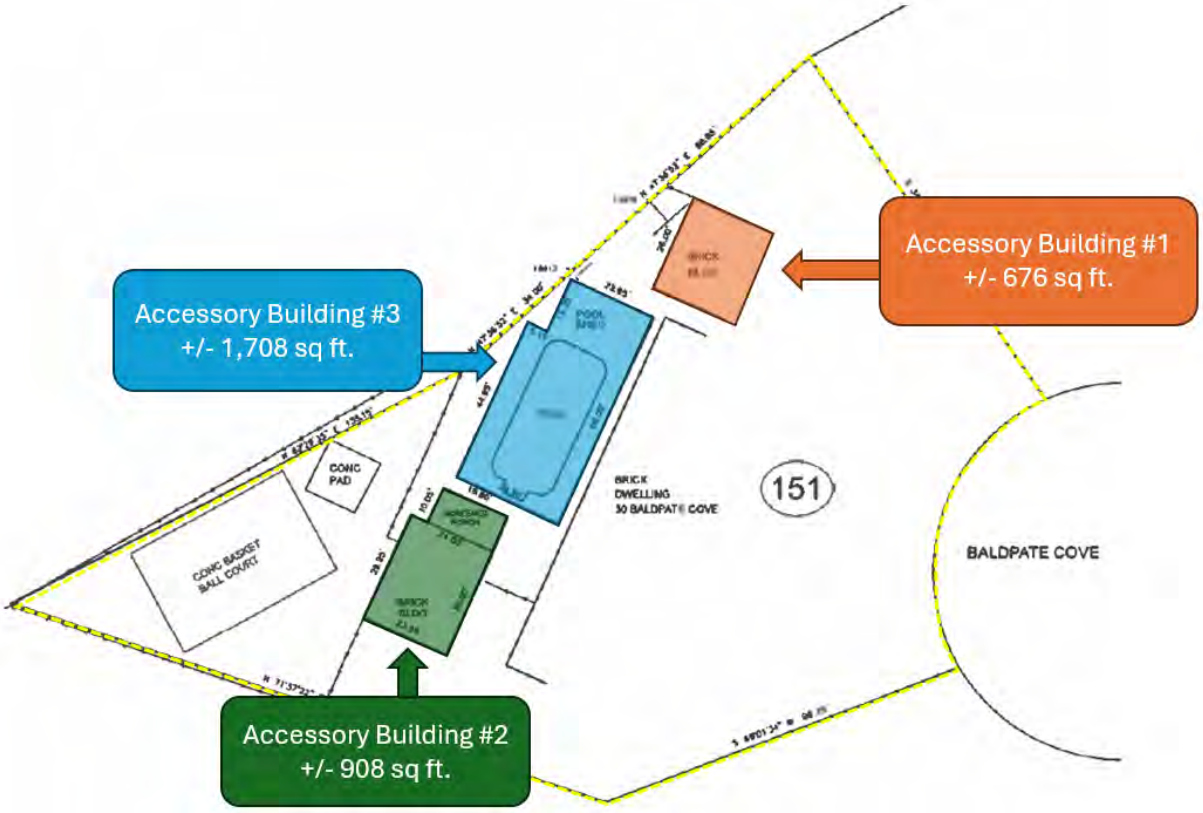

Figure 1 - Aerial View of Structure Placement

In addition to the Ordinance requirements, the property is subject to Restrictive Covenants enforced by the Idlewild Subdivision Homeowners Association (HOA). Those covenants, last

revised in 2014, contain the following provisions relevant to the variance requests that are separately enforced.

> *2. No building, fence or other structure of any kind shall be begun, erected, or placed on any of the lots of the above tract until the building plans, specifications, design, and plat plan showing the location of such building, fence, or structure on the lot in question has been first approved by the Architectural Control Committee of "IDLEWILD DEVELOPMENT" in writing as to the conformity of size, type, and quality, and as to the harmony of design with the proposed or existing structure in the above tract and as to the location of the building, fence , or structure, with respect to topography and finish grade elevation. All building plans and specifications submitted for approval will remain the property of the Architectural Control Committee.*
>
> *3. No building shall be located on any lot nearer to the front lot line than the minimum building setback line shown on the plat. No building shall be located on any lot nearer than thirty (30') feet to any side street line and no building shall be located nearer than five (5') (per city code Article 4 Section G) feet to an interior lot line and the sum of the setback distances from the interior lot lines on either side shall not be less than twenty-five feet. No dwelling shall be located on any interior lot nearer than twenty-five (25') feet to the rear lot line. Within the limitations of the property line restrictions herein referred to, no detached garage or outbuildings or other structures shall be located closer than five (5') (per city code Article 4 Section G) feet to any property line, and such structures shall be located on the rear half of the lot. For the purpose of this paragraph, eaves, steps and other open porches shall not be considered as part of a building, provided, however, that this shall not be construed to permit any portion of a building to encroach upon another lot.*

Planning staff has confirmed with the Idlewild HOA that the +/-1,708 sq. ft. accessory building over the pool has not been submitted for approval by the HOA to date.

Ordinance Requirements:

Article 4.g.2. Residential Accessory Structures: Residential accessory structures shall comply with the following conditions:

> ***b. Development Standards:***
>
> > *2. **Number** – No residential parcel shall have more than 2 accessory structures; the aggregate floor area of both structures added together shall not exceed the maximum size allowed under Exhibit 4-1.*
> >
> > *4. **Setbacks** – Note: accessory structures over 1,200 sq. ft. must be a minimum of 10 ft. from all side and rear property lines.*
> >
> > *i. Interior Lots – Front – N/A*
> > *Side – 5 ft.*
> > *Rear – 5 ft,*

*5. **Maximum Size** – the maximum size of residential accessory structures shall be governed by Exhibit 4-1 and shall be based on the gross acreage of the parcel of land on which it is located.*

Article 4, Exhibit 4-1: Maximum Square Footage of Residential Accessory Structure Based on Gross Acreage.

EXHIBIT 4-1

Maximum square footage of residential accessory structures based on gross acreage

Acreage	0	0.1	0.2	0.3	0.4	0.5	0.6	0.7	0.8	0.9
**<0.5	See note 1									
0.5	1100	1120	1140	1160	1180	-	-	-	-	-
1.0	1200	1225	1250	1275	1300	1325	1350	1375	1400	1425
2.0	1450	1475	1500	1525	1550	1575	1600	1625	1650	1675
3.0	1700	1725	1750	1775	1800	1825	1850	1875	1900	1925
4.0	1950	1975	2000	2025	2050	2075	2100	2125	2150	2175
5.0	2200	2225	2250	2275	2300	2325	2350	2375	2400	2425
6.0	2450	2475	2500	2525	2550	2575	2600	2625	2650	2675
7.0	2700	2725	2750	2775	2800	2825	2850	2875	2900	2925
8.0	2950	2975	3000	3025	3050	3075	3100	3125	3150	3175
9.0	3200	3225	3250	3275	3300	3325	3350	3375	3400	3425
>= 10.0	Exempt, see note 2									

The Request:

The applicant is requesting multiple variances to the residential accessory structure requirements outlined in *Article 4.g.2.b.2, Article 4.g.2.b.4, Article 4.g.2.b.5: (Residential Accessory Structure) Development Standards* and *Article 4, Exhibit 4-1: Maximum Square Footage of Residential Accessory Structure Based on Gross Acreage* of the *City of Sumter Zoning & Development Standards Ordinance* (the "Ordinance") and any other variances as my be required in order to legally establish a third residential accessory structure on the property, that is located +/- 1.6 ft. from the rear property line (at the closest point), and will result in +/- 3,284 sq. ft. of total residential accessory structure area on the property. The Ordinance allows no more than 2 residential accessory structure. The Ordinance requires that residential accessory structures over 1,200 sq. ft. in size be setback at least 10 ft. from property lines. The Ordinance allows no more than 1,120 sq. ft. of total residential accessory structure area on property that is 0.6 acres in size.

III. FOUR PART TEST

In order to grant the requested variance, the request must meet all parts of a State-mandated four-part test. When reviewing a variance request, the Board may not grant a variance that would do the following:

- Allow the establishment of a use not otherwise permitted in a zoning district;
- Extend physically a nonconforming use of land;
- Change zoning district boundaries shown on the Sumter City-County Official Zoning Map.

The fact a property may be utilized more profitably should a variance be granted shall not be considered grounds for approving a variance request. In granting a variance, the Board may attach to it such conditions regarding location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to promote the public health, safety, or general welfare.

Staff Review:

1) ***There are extraordinary and exceptional conditions pertaining to the particular piece of property.***

   The subject property is 0.6 acres in size, and is comparably sized to other lots in the Idlewild Subdivision. The lot does have a slightly irregular shape based on its position on a cul-de-sac and extension of the rear yard to a triangular point that is not common in the area.

   In relation to a request to allow for an increase in the amount of accessory structure area permitted on a residential parcel, staff finds that these conditions are not extraordinary or exceptional.

2) ***These conditions do not generally apply to other property in the vicinity.***

   While lots in the Idlewild Subdivision and surrounding areas are slightly irregular, all meet the minimum development standards for an R-15 lot under the Ordinance. There do not appear to be any conditions applicable to 30 Baldpate Cove that do not also apply to other lots in the subdivision, particularly looking at the 6 total cul-de-sacs in the development.

   All residential properties are required to abide by the accessory structure limitations based on gross acreage of the lot.

3) ***Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.***

   As is, the applicant could construct up to 2 accessory buildings with a combined size of 1,120 sq. ft. without a variance under the current Ordinance, and furthermore, is considered nonconforming not subject to discontinuance at a combined size of 1,584 sq. ft.. The ordinance prevents the applicant from legally constructing any additional accessory structures over 120 sq. ft.

4) ***The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.***

   The purpose of regulating the size, number, and setbacks of residential accessory buildings is to ensure compatibility, preserve the primary residence as the focal point of the property, and avoid negatively impacting surrounding properties.

Furthermore, exceeding the established maximum accessory structure size, number, and setback limits without demonstrating a true hardship is detrimental as it hinders the effectiveness of the Ordinance requirements and undermines the expressed intent of the ordinance citywide.

IV. STAFF RECOMMENDATION

Staff finds that the request does not demonstrate a tangible hardship necessary to grant a variance, and approving this request as proposed could be detrimental to the R-15 zoning district as whole due to the precedence set.

V. DRAFT MOTIONS FOR BOA-24-34

1. I move the Zoning Board of Appeals **deny** BOA-24-32, subject to the findings of fact and conclusions developed by the BZA and so stated:

2. I move the Zoning Board of Appeals **approve** BOA-24-32, subject to the following findings of fact and conclusions:

3. I move the Zoning Board of Appeals enter an alternative motion for BOA-24-32.

VI. BOARD OF APPEALS – SEPTEMBER 11, 2024

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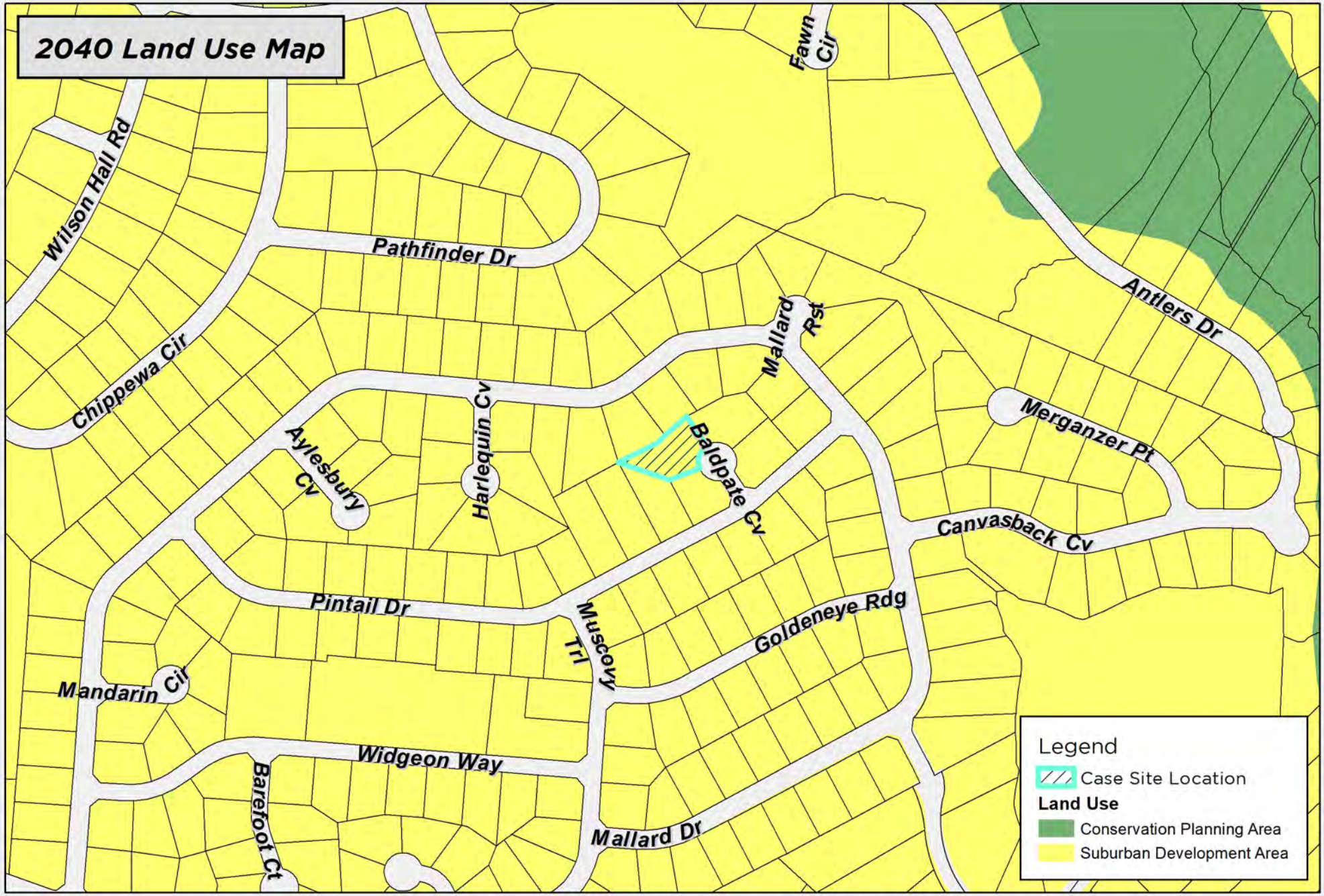
Sumter SOUTH CAROLINA

BOA-24-32
30 Baldpate Cove, Sumter, SC 29150
Tax Map # 205-01-04-006



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2024 Aerial Photography Map

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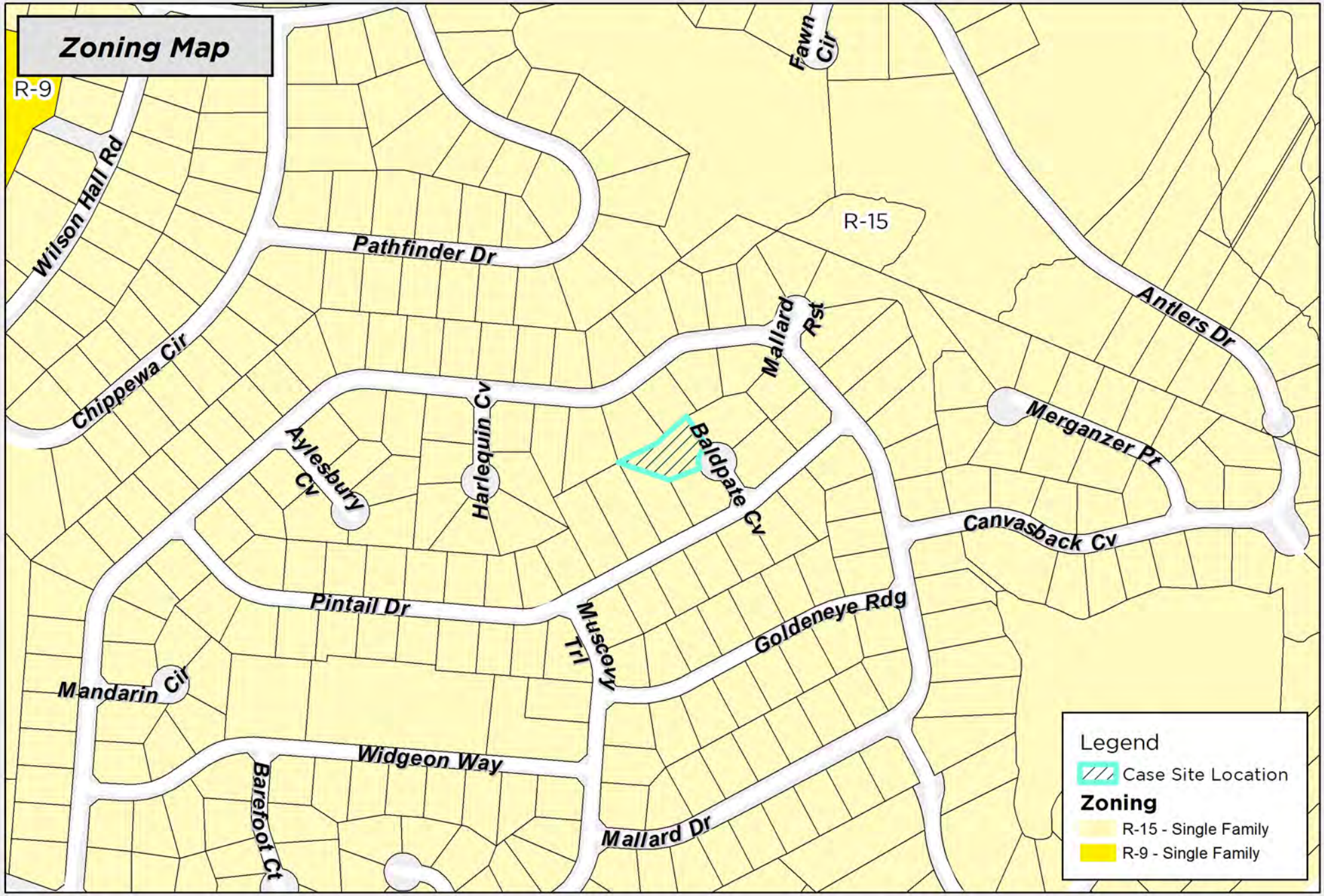

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