

Staff Report- Z-24-02- Baldwin Family Transfer Rezoning Planning Commission Public Hearing November 7, 2024

Overview

<i>Owners and Applicants:</i>	Eric and Christy Baldwin
<i>Location:</i>	6036 Braeburn Lane (private road), adjacent to Machicomoco State Park
<i>Tax Map and Parcel #'s:</i>	44-87A
<i>RPC #'s:</i>	13933
<i>Acreage:</i>	5.02 +/-
<i>Existing Zoning:</i>	RC-1, Rural Countryside
<i>Existing Use:</i>	Residential (a primary dwelling and an accessory dwelling)
<i>Requested Zoning:</i>	SC-1, Suburban Countryside
<i>Purpose:</i>	Enable the property to be subdivided through the Family Transfer Subdivision process.
<i>Proffers Submitted:</i>	No
<i>Surrounding Land Uses:</i>	East: Machicomoco State Park West (across Cedar Bush Creek): Residential North: Machicomoco State Park South: Cedar Bush Creek and Machicomoco State Park

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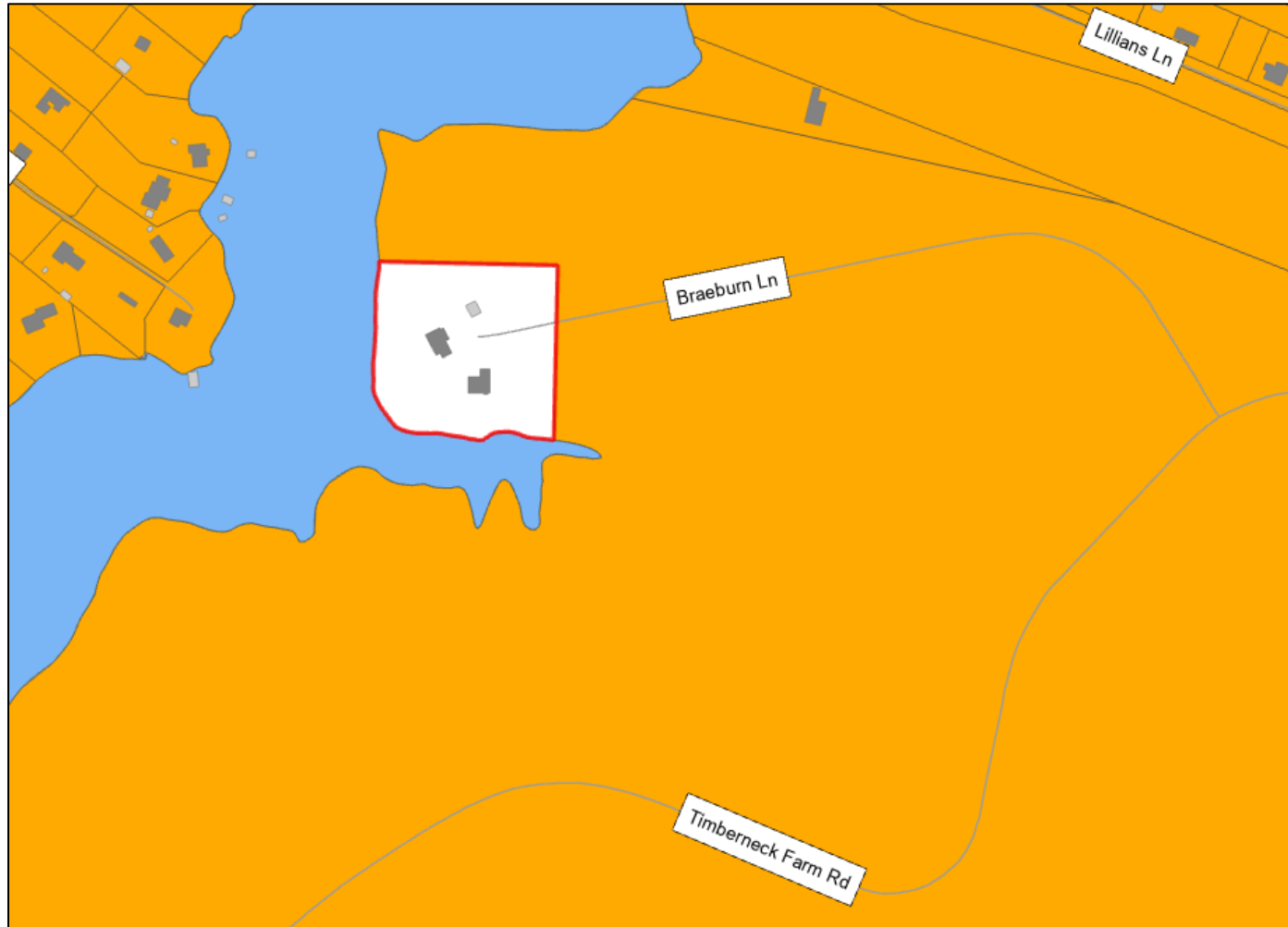
General Project Description

The applicants are proposing to rezone TM 44-87A (RPC 13933) from the RC-1 (Rural Countryside) district to the SC-1 (Suburban Countryside) district in order to perform a subsequent Family Transfer under the lot size permissible through the SC-1 district. This property contains two residences, a primary dwelling and an accessory dwelling. This parcel is completely adjacent to, and surrounded by, the Machicomoco State Park.

Although Machicomoco State Park is currently zoned SC-1, prior to 2009, this property was originally zoned RC-1, similar to the property currently seeking to be rezoned through Rezoning Application Z-24-02. However, in 2009, the state park's land was rezoned to the PUD-1 (Planned Unit Development) district in order to develop a "conservation" residential subdivision with substantial common open space, trails, water access, and design amenities. Due to the lack of viability to develop this property as the specific subdivision prescribed by the PUD-1 zoning, the state park property was subsequently rezoned to the SC-1 district in 2017 with proffers for a more "standard" subdivision with the same density proposed. Although a park was a permitted use in the SC-1 district, based on the specific proffers associated with the 2017 rezoning, a "park", as defined by the Zoning Ordinance, would not have been permitted at this site. Therefore, in order to develop the site as a park by The Conservation Fund, the property was rezoned again in 2018 to the SC-1 district in 2018 with proffers for its current state park use. As a result of the numerous rezonings of the state park land, which originally was zoned RC-1, but is now zoned SC-1, the property sought to be rezoned through Rezoning Application Z-24-02 is now the sole remaining parcel in this area zoned RC-1. The applicants of the current rezoning were notified as adjacent property owners during each rezoning for the state park and, if requested at the time of those rezonings, could have been included with a request to rezone to the SC-1 district.

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Existing Zoning



Purple Outline: Applicant's Parcel
White: RC-1 (Rural Countryside)

Orange: SC-1 (Suburban Countryside)

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Comprehensive Plan

The Comprehensive Plan identifies this site as within the Suburban Countryside designation and within the Development District. The Comprehensive Plan's Future Land Use chapter describes the Suburban Countryside designation as follows:

“Suburban Countryside is designated for large portions of the County surrounding the more intensely-developed Gloucester Court House Village Area and Gloucester Point/Hayes Village Area. This district intends to serve as a transitional district between areas with working and rural lands and densely developed Village Areas and may be served by public water and sewer. This region contains moderate suburban residential development (two-acre minimum) with extensive open space of a more rural nature than typical suburban development. Although much of the region is already developed as residential subdivisions, additional development is possible where services are available and characteristics permit. New clustered development with smaller lots that preserves ecological and cultural sites is encouraged where adequate infrastructure is available. These areas are appropriate as a potential TDR sending zones. Existing forestry and agricultural activities are compatible uses and their continuance is supported. New or expanded agricultural uses should be carefully evaluated for their compatibility with the residential character of the area. Conservation easements and similar measures protecting existing natural and cultural features are supported in these areas.”

This area was historically zoned RC-1 because it had previously been used as a farm and the PUD proposed for the property (prior to its current state park use) intended to continue to have a portion of the property in agricultural use. The park and surrounding suburban development are consistent with the Comprehensive Plan's vision for this area. Although it's within the development district, public water and sewer are not currently available. Therefore, higher density development would not be appropriate on this property.

The rezoning proposes the SC-1 district in order to perform a Family Transfer Subdivision, which would require two acres per lot created under this district. Since the applicants live on this property and plan to continue to live there following the subdivision, this will retain both existing residences in the County and not result in any substantial changes to the site and surrounding area. Once divided, however, the Zoning Ordinance would permit each resulting property one additional accessory dwelling unit.

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Comprehensive Plan Designation



Note: The entire area shown is classified by the Comprehensive Plan's Future Land Use Map as Suburban Countryside.

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Transportation Impact

The property is located on Braeburn Lane, a private road accessed from Machicomoco State Park's main internal road, Timberneck Farm Road. This park's internal road directly accesses Borden Road (SR 635) along the cul-de-sac at the end of this state route. In accordance with Sections 15-3.2(c)(3) and 15-31(a) of the Subdivision Ordinance, Family Transfer Subdivisions are permitted on private roads as long as the physical roadway is at least 10 feet in width (required to be installed or improved at the time of parcel development, not subdivision) and is contained within a private easement of at least 20 feet in width. The property appears to be served by a private road contained within a 50-foot easement, which, upon confirmation by a surveyor at the time of subdivision, would satisfy these requirements.

Since the property currently contains two residences (one primary dwelling and one accessory dwelling), which, following rezoning and subdivision, would remain unchanged but be located on separate parcels as separate primary dwellings, the physical development of the property as proposed by the applicants would produce no additional trips as the property currently generates. However, in accordance with Sections 5-30.2(2)(e) and 9B-9.20 of the Zoning Ordinance, following subdivision of the property, each resulting parcel would be permitted an accessory dwelling, which would be limited in size (footprint and square footage) proportional to the primary dwelling. Therefore, following a rezoning and Family Transfer Subdivision, each parcel could contain both a primary and accessory dwelling, which would produce a maximum of 20 additional trips (10 trips per new accessory dwelling) from these parcels.

The Virginia Department of Transportation (VDOT) has reviewed this rezoning, including the proposed subdivision (with residences on separate parcels) as well as the maximum residential development of these parcels (one primary dwelling and one accessory dwelling per parcel) and did not object to either circumstance that could result from the proposed rezoning. Since VDOT's requirements only apply to public roadways and private entrances on these roads, the County's Subdivision Ordinance requirements regulate private road requirements. As previously stated, it appears that this rezoning and Family Transfer Subdivision would satisfy the Subdivision Ordinance's private road requirements, but this would need to be confirmed by a surveyor at the time of subdivision.

Fiscal Impact

According to the County Assessor, the proposed rezoning, combined with a Family Transfer Subdivision, will "at the very least, reduce the value of (the) original parcel while at the same time create an additional homesite for the new lot." However, since both of these lots will contain one primary dwelling, as previously mentioned, the only additional home sites possible are through an accessory dwelling on each parcel resulting from the subdivision. In accordance with Section 9B-9.20 of the Zoning Ordinance, accessory dwellings are limited in size (footprint and square footage) proportional to the primary dwelling. Therefore, as expressed by the County Assessor, without more specifics on the

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configuration of each lot, which is required for a subdivision, but not for the rezoning, “it is difficult to determine with certainty the change to the assessment(s) of each lot.” Factors that could impact the assessed values of the parcels resulting from a Family Transfer Subdivision include lot size and linear feet of waterfront along Cedarbush Creek, among others.

Environmental Impact

Since this property is located adjacent to Cedarbush Creek, the Chesapeake Bay Preservation Ordinance’s (CBPO, Chapter 5.5 of the County Code) limitations for development within the Resource Protection Area (RPA), including the 100-foot RPA buffer, would apply to this property. In 2011, a joint permit through the County’s Wetlands Board and the Virginia Marine Resources Commission was approved for a 225-foot “living shoreline” along Cedarbush Creek (the parcel’s western property boundary) for shoreline restoration and bank stabilization. However, the parcel’s southern property boundary is adjacent to an inlet to Cedarbush Creek and was not included in this project. In accordance with the CBPO, the RPA buffer would apply to both shorelines.

Although both residences appear to be located more than 100 feet from these property lines, they may fall within the RPA buffer if the extent of wetlands is determined to be located within the property’s boundaries, which would occur at the time of subdivision. Following the subdivision, the resulting properties would be required to be reviewed by the Chesapeake Bay Preservation and Erosion Commission as “post-Bay Act” lots for any accessory dwellings or other accessory structures proposed to be constructed within the RPA buffer. Development within this buffer would require approval from the Chesapeake Bay Preservation and Erosion Commission in accordance with the requirements of the CBPO.

Other Impacts

Various other departments have reviewed the rezoning application. The Health Department has confirmed that each residence on this parcel contains their own drainfield for sewage disposal and provided documentation of their locations, which do not appear to prevent lots meeting the County’s requirements for Family Transfer Subdivisions from being satisfied. However, neither of these systems contain a certified reserve footprint within the boundaries of each parcel it would serve (but outside of the RPA buffer), which is required for subdivision in accordance with Section 15-14.1(a) of the Subdivision Ordinance, but not for the rezoning.

In addition, the Health Department has confirmed that two wells exist on the property, but it is unclear which residence each well serves. Unlike the drainfield requirement, which necessitate location on the same parcel it serves, Section 15-15.1 states “where individual wells are used, they shall be approved by the health department prior to subdivision plat approval”, permitting wells to be located either on-site or off-site as long as the well design is consistent with the Health Department’s requirements. As stated in

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their comments, if a parcel will be created with no on-site well, the Health Department will require either a new on-site well to be established or an easement created for the off-site well serving the parcel.

Staff Comments

As previously mentioned, this parcel contains two residences, a primary dwelling and an accessory dwelling, along with multiple accessory structures. For a Family Transfer Subdivision to be permitted, the current RC-1 district requires lot sizes of 5 acres to be created for each lot resulting from the subdivision. Since the property is only 5.02 acres, a Family Transfer Subdivision is unachievable under this zoning district. However, since the minimum lot size in the SC-1 district is 2 acres, it appears that a Family Transfer Subdivision would be possible for this property as long as all other applicable requirements (average lot width and setbacks for all structures, among others) are satisfied. If subdivided, they would locate each residence on individual lots.

Staff Recommendation

Staff recommends the Planning Commission forward Rezoning Application Z-24-02 to the Board of Supervisors with a recommendation of approval for the following reasons:

1. The proposed rezoning furthers the Suburban Countryside designation's desire for moderate suburban residential development (two-acre minimum).
2. The application supports the Development District's intention of being the County's principal population center, but at a more moderate density due to the lack of public water and sewer.
3. The application is consistent with the Family Transfer Ordinance's purpose (Section 15-3.2(a) of the Subdivision Ordinance) to encourage and promote family members to remain in close proximity by allowing the conveyance of property between immediate family members without the necessity of compliance with all of the subdivision requirements imposed on unrelated parties.

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Site Aerial

