




**ZONING MAP AMENDMENT**  
**STAFF ANALYSIS**  
*Legislative Hearing*

LOCATION MAP	
	<b>CASE NUMBER:</b> ZPH2019-00031
	<b>A. PROPERTY INFORMATION</b>
	<b>PIN(s):</b> 963446535600000 & 963446634600000
	<b>Addresses:</b> 1854 Brevard Road <b>Owner(s):</b> Glen Higgins
	<b>B. REZONING REQUEST</b>
	<b>Applicant:</b> Rebecca Regal, Novellife LLC <b>Existing Zoning:</b> R-2 Residential <b>Proposed Zoning:</b> EMP Employment
	<b>C. PUBLIC NOTICE</b>
	PB Notice in AVL Citizen Times legal ad: 7/5/19 PB Notice mailed to owners within 1,000 ft: 7/3/19 PB Physical posting: 7/2/19 PB Notice on BC Website: 7/2/19 PB Hearing: 07/15/2019 BOC Notice in AVL Citizen Times legal ad: 7/26/19 & 8/2/19 BOC Notice mailed to owners within 1,000 ft: 7/24/19 BOC Physical posting: 7/26/19 BOC Notice on BC Website: 7/24/19 BOC Hearing: 8/6/19
<b>NOTE TO THE BOARD:</b> N/A	

D. STAFF RECOMMENDATION
<b>APPROVAL</b> (see Section K, below)

E. SUMMARY OF REQUEST
ZPH2019-00031: Applicant requests rezoning of two parcels from R-2 to EMP.

## F. COMPARISON OF ZONING ORDINANCE DISTRICT STATEMENT OF INTENT

### EXISTING ZONING DISTRICT:

#### *Sec. 78-640 (c) Residential District (R-2)*

*The R-2 Residential District is primarily intended to provide locations for residential development and supporting recreational, community service and educational uses in areas where public water and sewer services are available or will likely be provided in the future. These areas will usually be adjacent to R-1 Residential Districts, will provide suitable areas for residential subdivisions requiring public water and sewer services, and in order to help maintain the present character of R-1 districts, will not allow manufactured home parks.*

### PROPOSED ZONING DISTRICT:

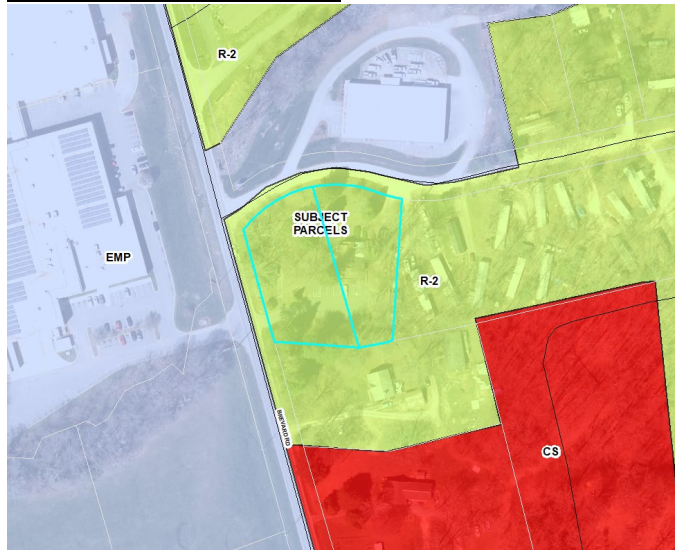
#### *Sec. 78-640 (g) Employment District (EMP)*

*The EMP Employment District is primarily intended to provide appropriately located sites for employment concentrations primarily for office uses, industrial uses, storage and warehousing, and wholesale trade. Such locations should currently have public water and sewer services available or be expected to have these services in the future. Only those manufacturing uses will be allowed which meet all local, state and federal environmental standards, and do not involve obnoxious noise, vibrations, smoke, gas, fumes, odor, dust, fire hazards, or other objectionable conditions which would be detrimental to the health, safety, and general welfare of the community. These areas will also include sites suitable for supportive activities such as community service, commercial service, and residential uses.*

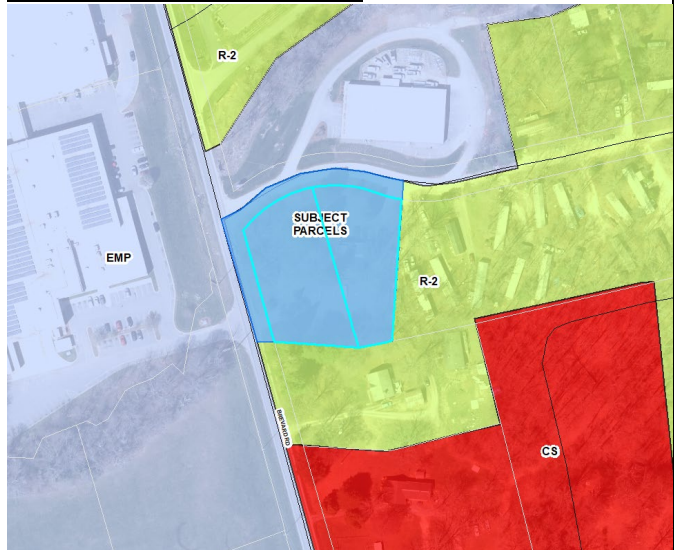
## G. SPOT ZONING ANALYSIS

Staff has no concerns with spot zoning, given that the property is contiguous to existing NS zoning along the southern boundary.

### EXISTING ZONING DISTRICT



### PROPOSED ZONING DISTRICT



## H. NEIGHBORHOOD CONSISTENCY

### 1. CURRENT DEVELOPMENT TYPES:

The subject properties contain one, commercial / restaurant use (Ivory Road Café & Kitchen) Adjacent and nearby land uses include single family residential homes, apartments, and commercial / industrial land uses.

### 2. ALLOWED DEVELOPMENT TYPES AFTER CHANGE:

Rezoning the parcels from R-2 to EM zoning would continue to allow single family, duplex, and multi-family development while also allowing a broad range of intense commercial and manufacturing land uses. See the allowable use table, below.

### 3. ALLOWABLE DENSITY / DIMENSIONAL STANDARDS AFTER CHANGE:

See below for district comparison:

	Existing District:	Proposed District:
	R-2 Residential	EMP Employment
Minimum Lot Size	30,000 SF well & septic 10,000 SF public water / septic 6,000 SF public water & sewer	30,000 SF well & septic 10,000 SF public water / septic 5,000 SF public water & sewer
Max dwelling units per acre	12	12
Setbacks (Front/Side/Rear)	20/10/20 well & septic 10/7/15 public water & sewer	20/10/20
Max height	35 feet	90 feet

### 4. NEIGHBORHOOD CONSISTENCY:

The subject parcels are located at a distinct transition point between medium / high-density residential uses, and commercial / industrial uses. The proposed rezoning would continue the ongoing evolution of the immediate area from a residential area to one dominated by commercial / industrial land uses.

## I. COMPREHENSIVE LAND USE PLAN CONSISTENCY (See Figure 20 on page 4)

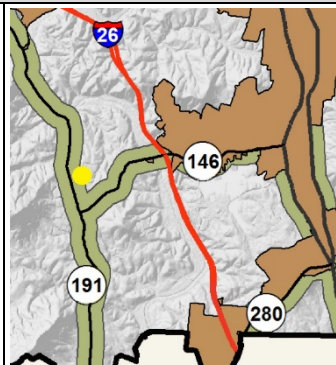
**1. LAND USE PLAN RECOMMENDATIONS:** The following is an analysis of the rezoning proposal in context of Figure 20. *Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update:*

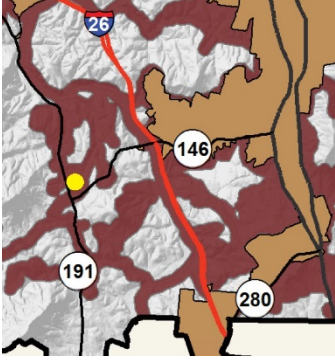
**Within Reasonable proximity to major transportation corridors**

**Intense Commercial: "Highly Suggested"**

**Manufacturing: "Highly Suggested"**

The subject parcels are adjacent to adjacent to a major transportation corridor



<p><b>Within Reasonable proximity to infrastructure (combined water / sewer service area)</b></p> <p><b>Intense Commercial: “Highly Suggested”</b></p> <p><b>Manufacturing: “Highly Suggested”</b></p> <p>The subject parcels are within the Combined Water / Sewer Service Area.</p> <p>Water &amp; sewer services are adjacent &amp; / or proximate to the subject parcels.</p>	
<p><b>Outside of steep slope areas (25% +)</b></p> <p><b>Intense Commercial: “Highly Suggested”</b></p> <p><b>Manufacturing: “Highly Suggested”</b></p>	<p>The subject parcels are located completely outside of the Steep Slope Overlay District (slopes greater than 35%), and steep slopes greater than 25%.</p>
<p><b>Outside of high elevations (2500' +)</b></p> <p><b>Intense Commercial: “Highly Suggested”</b></p> <p><b>Manufacturing: “Highly Suggested”</b></p>	<p>The subject parcels are located completely outside of areas of elevation 2,500' or greater.</p>
<p><b>Outside of moderate and high slope stability hazards</b></p> <p><b>Intense Commercial: “Highly Suggested”</b></p> <p><b>Manufacturing: “Highly Suggested”</b></p>	<p>The subject parcels are located completely outside of areas of moderate and high slope stability hazards.</p>
<p><b>Outside of flood hazard areas</b></p> <p><b>Intense Commercial: “Suggested”</b></p> <p><b>Manufacturing: “Suggested”</b></p>	<p>The subject parcels are completely outside of any Special Flood Hazard Area.</p>
<p><b>Separation from low-density residential uses</b></p> <p><b>Intense Commercial: “Highly Suggested”</b></p> <p><b>Manufacturing: “Suggested”</b></p>	<p>The subject parcels abut medium and high-density zoning and land uses to the south and east.</p>

<p>2. <b>CONSISTENT:</b> The change is <u>consistent</u> with the following recommendations of the Comprehensive Land Use Plan 2013 Update as outlined below:</p>	<p>Intense Commercial and Manufacturing land uses...</p> <p>“Within Reasonable proximity to major transportation corridors” is “Highly Suggested” [<i>The subject parcels are adjacent to adjacent to a major transportation corridors</i>].</p> <p>“Within Reasonable proximity to infrastructure (combined water / sewer service area)” is “Highly Suggested” [<i>The subject parcels are within the Combined Water / Sewer Service Area</i>].</p> <p>“Outside of steep slope areas (25% +)” is “Highly Suggested” [<i>The subject parcels are located completely outside of the Steep Slope Overlay District (slopes greater than 35%), and steep slopes greater than 25%</i>].</p> <p>“Outside of high elevations (2500’ +)” is “Highly Suggested” [<i>The subject parcels are located completely outside of areas of elevation 2,500’ or greater</i>].</p> <p>“Outside of moderate and high slope stability hazards” is “Highly Suggested” [<i>The subject parcels are located completely outside of areas of moderate and high slope stability hazards</i>].</p> <p>“Outside of flood hazard areas” is “Suggested” [<i>The subject parcels are completely outside of any Special Flood Hazard Area</i>].</p> <p>“[Separated] from low-density residential uses” is “Highly Suggested” [Intense Commercial]; and “Suggested” [Manufacturing] [<i>The subject parcels abut medium and high-density zoning and land uses to the south and east</i>].</p>
<p>3. <b>INCONSISTENT:</b> The change is <u>inconsistent</u> with the following recommendations of the Comprehensive Land Use Plan 2013 Update as outlined below:</p>	<p>Not Applicable.</p>

#### J. OTHER COMPATIBILITY

##### BC Strategic Priorities:

Not Applicable.

#### K. STAFF RECOMMENDATION COMMENTS:

Staff recommends approval as presented.

## BOARD BASIS FOR DECISION MAKING

The Board must determine if there is a reasonable basis for the requested change in light of its effect on all involved including the following considerations:

- The requested change does not directly or indirectly result in the creation of spot zoning
- Size of the tract in question
- Compatibility of the change with existing Comprehensive Land Use Plan
- Benefits and detriments resulting from the change for the owner of the newly zoned property, his neighbors, and the surrounding community
- Relationship between the uses envisioned under the new zoning and the uses currently present in adjacent tracts

References: *Good Neighbors of South Davidson v. Town of Denton*, 355 N.C. 254, 559 S.E.2d 768 (2002); *Chrismon v. Guilford County*, 322 N.C. 611, 370 S.E.2d 579 (1988)

## LAND USE PLAN CONSISTENCY STATEMENTS

The following consistency statements are provided to support the Board's findings to approve or deny an application.

### Consistent:

The proposed map amendment is consistent with Figure 20. *Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update*, specifically:

- Intense Commercial and Manufacturing land uses "Within Reasonable proximity to major transportation corridors" is "Highly Suggested" [*The subject parcels are adjacent to adjacent to a major transportation corridors*].
- Intense Commercial and Manufacturing land uses "Within Reasonable proximity to infrastructure (combined water / sewer service area)" is "Highly Suggested" [*The subject parcels are within the Combined Water / Sewer Service Area*].
- Intense Commercial and Manufacturing land uses "Outside of steep slope areas (25% +)" is "Highly Suggested" [*The subject parcels are located completely outside of the Steep Slope Overlay District (slopes greater than 35%), and steep slopes greater than 25%*].
- Intense Commercial and Manufacturing land uses "Outside of high elevations (2500' +)" is "Highly Suggested" [*The subject parcels are located completely outside of areas of elevation 2,500' or greater*].
- Intense Commercial and Manufacturing land uses "Outside of moderate and high slope stability hazards" is "Highly Suggested" [*The subject parcels are located completely outside of areas of moderate and high slope stability hazards*].
- Intense Commercial and Manufacturing land uses "Outside of flood hazard areas" is "Suggested" [*The subject parcels are completely outside of any Special Flood Hazard Area*].
- Intense Commercial land uses "[Separated] from low-density residential uses" is "Highly Suggested"; and Manufacturing land uses "[Separated] from low-density residential uses" is "Suggested" [*The subject parcels abut medium and high-density zoning and land uses to the south and east*].
- The proposed map amendment would not be detrimental to the owners, adjacent neighbors, and surrounding community as it **does** meet a number of goals as identified in the Buncombe County Comprehensive Land Use Plan Update.

Therefore, the requested zoning would **be reasonable and in the public interest**.

**Inconsistent:**

The proposed map amendment is inconsistent with Figure 20. *Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update*, specifically:

*Staff has identified no policy basis for denial of the proposed rezoning. If the Planning Board elects to recommend denial, it should articulate its basis for doing so.*

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The proposed map amendment **would be** detrimental to the owners, adjacent neighbors, and surrounding community as it **does not** meet a number of goals as identified in the Buncombe County Comprehensive Land Use Plan Update.

Therefore, the requested zoning **would not be reasonable and in the public interest.**



# **The Zoning Ordinance of Buncombe County, North Carolina**



**- EXCERPT -**

*Initially Adopted December 1, 2009*

*As Amended May 1, 2018*



**Sec. 78-641. Permitted uses.**

(a) *Permitted use table.* Uses are permitted in the various zoning districts pursuant to Table 1.

Table 1 – Permitted Use Table												
Uses	<b>P = Permitted</b> <b>C = Allowed as Conditional Use</b> <b>SR = Permitted with Special Requirements</b> <b>Blank Space = Not Permitted</b>											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
Single-family residential dwelling, including modular	P	P	P	P	P	P	P	P	P		P	P
Two residential dwelling units (attached or detached)	P	P	P	P	P	P	P	P	P			P
Community oriented developments		P	P	P	P	P	P	P	P			
Multifamily residential dwelling units (no more than eight units in no more than four buildings)			P	P	P	P	P	P	P			P
HUD-labeled manufactured homes-Residential	P			P			P					P

**Table 1 – Permitted Use Table**

Uses	<b>P = Permitted</b> <b>C = Allowed as Conditional Use</b> <b>SR = Permitted with Special Requirements</b> <b>Blank Space = Not Permitted</b>											
	<b>Districts</b>											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
Manufactured home parks (8 units or fewer)				P								P
Manufactured home parks (more than 8 units)				C								P
Planned unit developments, level I		C	C	C	C	C	C	C	C			C
Planned unit developments, level II						C	C	C	C	C		C
Subdivisions	P	P	P	P	P	P	P	P	P	P	P	P
Subdivisions, alternative path hillside development	P	P	P	P	P	P	P	P	P			P
Subdivisions, conservation development	P	P	P	P	P	P	P	P	P			P
Accessory buildings	P	P	P	P	P	P	P	P	P	P	P	P
Adult Entertainment Establishments						C	C					C
Airports										C		
Amusement Parks						C	C	C	C			C
Animal hospitals and veterinarian clinics					P	P	P			P		P
Asphalt Plants							C					C
Aviation-related services and facilities										P		
Banks and other financial institutions					P	P	P	P	P	P		P
Bed and breakfast inns (10 occupants or	SR		SR	P	P	P	P	P	P			P

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Uses	<b>P = Permitted</b> <b>C = Allowed as Conditional Use</b> <b>SR = Permitted with Special Requirements</b> <b>Blank Space = Not Permitted</b>											
	<b>Districts</b>											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
less)												
Bed and breakfast inns (more than 10 occupants)	C		C	P	P	P	P	P	P			P
Cargo/freight terminals, operations and activities						P	P			P		P
Cemetery	P		P	P		P		P	P			P
Chip Mills												C
Places of worship Church	P	P	P	P	P	P	P	P	P		P	P
Clubs or lodges				P	P	P	P	P	P	P		P
Concrete Plants							C					C
Day nursery and private kindergarten (up to 8 students)	SR	SR	SR	SR	P	P	P	P	P	P		P
Day nursery and private kindergarten (more than 8 students)			C	C	P	P	P	P	P	P		P
Family care home	P	P	P	P				P	P		P	P
Funeral homes						P	P	P	P			P
Government protective services			P	P	P	P	P	P	P	P		P
Greenhouses, commercial (nursery, lawn and garden products)					P	P	P	P	P	P		P
Group homes			C	P	P	P	P	P	P			P
Hazardous Waste Facilities												C

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	<b>Districts</b>											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
Health care facilities			C	C		P	P	P	P			P
Home occupations	P	P	P	P	P	P	P	P	P		P	P
Hotels and motels						P	P	P	P	P		P
Incinerators												C
Junkyards							C					C
Kennels				C	P	P	P			P		P
Laundry and dry cleaning services					P	P	P	P	P	P		P
Libraries			P	P	P	P	P	P	P			P
Manufacturing and processing operations						P	P			P		P
Medical Clinics				C	P	P	P	P	P	P		P
Mining and Extraction Operations							C					C
Motor Sport Facilities												C
Motor vehicles maintenance and repair					C	P	P	P	P	P		P
Motor vehicles impoundment lot or tow yard						SR	SR	SR				SR
Motor vehicles sales and rental						P	P			P		P
Motor vehicles service stations (fueling stations)					P	P	P	P	P	P		P
National Guard and Reserve Armories						P	P	P		P		P
Nightclubs, bars and					P	P	P		P	P		P

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Uses	<b>P = Permitted</b> <b>C = Allowed as Conditional Use</b> <b>SR = Permitted with Special Requirements</b> <b>Blank Space = Not Permitted</b>											
	<b>Districts</b>											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
pubs												
Personal Landing Strips				C		C	C	C	C	C		C
Physical fitness centers				C	P	P	P	P	P	P		P
Postal and parcel delivery services					P	P	P	P	P	P		P
Printing and lithography						P	P			P		P
Professional and business offices and services					P	P	P	P	P	P		P
Private utility stations and substations, pumping stations, water and sewer plants, water storage tanks (less than 2 acres in total footprint)	P	P	P	P	P	P	P	P	P	P	P	P
Private utility stations and substations, pumping stations, water and sewer plants, water storage tanks (2 acres or greater in total footprint)	C	C	C	C	C	C	C	C	C	C	C	C
Public utility stations and substations, pumping stations, water and sewer plants, water storage tanks (less than 2 acres in total footprint)	C	C	C	C	P	P	P	P	P	P	C	P
Public utility stations and substations, pumping stations, water and sewer	C	C	C	C	C	C	C	C	C	C	C	C



**Table 1 – Permitted Use Table**

Uses	<b>P = Permitted</b> <b>C = Allowed as Conditional Use</b> <b>SR = Permitted with Special Requirements</b> <b>Blank Space = Not Permitted</b>											
	<b>Districts</b>											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
plants, water storage tanks (2 acres or greater in total footprint)												
Radio, TV and telecommunications towers	C			C		C	C	C	C	P		P
Recreation use, governmental	P	P	P	P	P	P	P	P	P	P	P	P
Recreation use, non-governmental	C	C	C	C	C	P	P	P	P	P	C	P
Repair services (electrical and appliances)					P	P	P			P		P
Restaurants, eating establishments and cafés					P	P	P	P	P	P		P
Retail trade, commercial services, sales and rental of merchandise and equipment (inside building with no outside sales storage)					P	P	P	C	P	P		P
Retail trade, commercial services, sales and rental of merchandise and equipment						P	P		P	P		P
Rooming house			C	P	P	P	P	P	P			P
Schools, public and private			C	C	C	P		P	P			P
Schools--Vocational, business and special schools						P	P	P	P	P		P

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Uses	<b>P = Permitted</b> <b>C = Allowed as Conditional Use</b> <b>SR = Permitted with Special Requirements</b> <b>Blank Space = Not Permitted</b>											
	<b>Districts</b>											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
Shooting Ranges – Outdoor Commercial									C			C
Slaughtering Plants												C
Solid Waste Facilities – Landfills, Transfer Stations, Materials Recovery							C	C		C		C
Storage and warehousing						P	P	P	P	P		P
Theaters						P		P	P			P
Travel trailers (no more than 180 days per calendar year)				P				P	P			P
Travel trailer parks				C				SR	SR			SR
Vacation rentals	P	P	P	P	P	P	P	P	P		P	P
Vacation rental complex				C	C	C	C	C	C		C	C
Wholesale sales						P	P		C	P		P

(b) *Uses governed by other ordinances.* The following uses may be allowed but also will be governed by the specified ordinances adopted by the board of commissioners:

- (1) Adult entertainment establishments: Subject to compliance with section 14-121 et seq. of this Code, as may be amended;
- (2) Communication towers: Subject to compliance with chapter 72 of this Code, as may be amended;
- (3) Junkyards: Subject to compliance with chapter 26, article III of this Code, as may be amended;
- (4) Manufactured home parks: Subject to compliance with chapter 46, article III, of this Code, as may be amended;



- (5) Off-premise signs: Subject to compliance with chapter 78, article V, of this Code, as may be amended.
- (6) Subdivisions: Subject to compliance with chapter 70 of this Code, as may be amended.

### Sec. 78-642. Dimensional requirements.

The dimensional requirements for structures and land in the various zoning districts shall be in accordance with Table 2.

Table 2. Dimensional Requirements										
Districts	Minimum Lot Size 1,2,4,5 (Square Feet)	Density <sup>2,4</sup>		Minimum Yard Setback Requirements in Feet <sup>3,4</sup>						Maximum Height (Feet)
		Minimum Land Area Per Dwelling Unit (multiple units on a single lot) (square feet)	Maximum Number Dwelling Units Per Acre	Front Yard Public Sewer	Side Yard Public Sewer	Rear Yard Public Sewer	Front Yard	Side Yard	Rear Yard	
<b>R-LD Residential</b>	43,560	No more than 2 units per lot	2 (no more than 2 units per lot)	10	10	20	10	10	20	35
<b>R-1 Residential</b>	30,000 (no public sewer) 12,000 (public sewer no public water) 8,000 (public water and sewer)	No more than 2 units per lot	10 (no more than 2 units per lot)	10	7	15	20	10	20	35
<b>R-2 Residential</b>	30,000 (no public sewer) 10,000 (public sewer no public water) 6,000 (public water and sewer)	Minimum lot size shown in column two plus 0 for first additional unit  Plus: 3,600 for each additional unit	12	10	7	15	20	10	20	35
<b>R-3 Residential</b>	Same as R-2	Same as R-2	12	10	7	15	20	10	20	35
<b>NS Neighborhood Service</b>	30,000 (no public sewer) 10,000 (public sewer no public water)	Minimum lot size shown in column two plus 0 for first additional unit  Plus: 3,600 for	12	10	7	15	20	10	20	35

**Table 2. Dimensional Requirements**

Districts	Minimum Lot Size 1,2,4,5 (Square Feet)	Density <sup>2,4</sup>		Minimum Yard Setback Requirements in Feet <sup>3,4</sup>						Maximum Height (Feet)
		Minimum Land Area Per Dwelling Unit (multiple units on a single lot)  (square feet)	Maximum Number Dwelling Units Per Acre	Front Yard  Public Sewer	Side Yard  Public Sewer	Rear Yard  Public Sewer	Front Yard	Side Yard	Rear Yard	
	5,000 (public water and sewer)	each additional unit								
<b>CS Commercial Service</b>	Same as NS	Same as NS	12	10	10	10	10	10	10	50
<b>EMP Employment</b>	Same as NS	Same as NS	12	20	10	20	20	10	20	90
<b>CR Conference Center/Resort</b>	30,000 (no public sewer)  12,000 (public sewer no public water)  8,000 (public water and sewer)	Minimum lot size shown in column two plus 0 for first additional unit  Plus: 3,500 for each additional unit	12	20	10	20	20	10	20	50 (plus 1ft additional for each additional 5 feet of setback from all property lines up to 100ft total).
<b>PS Public Service</b>	Same as NS	Same as NS	12	20	10	20	20	10	20	50
<b>AI Airport Industry</b>	Same as NS	NA	NA	20	10	20	20	10	20	50
<b>BDM Beaverdam</b>	See Footnote 6 and 8	See Footnote 6 and 8 No more than 1 unit per lot	See Footnote 6 and 8 No more than 1 unit per lot	See Footnote 7 and 8	15	25	See Footnote 7 and 8	15	25	35
<b>OU Open Use</b>		No dimensional requirements except as applied to conditional uses.								

Footnote 1--The minimum land area for lots not served by public water and/or sewer shall be subject to approval by the county health department to ensure the proper operation of septic tanks and wells. In no case shall minimum lot areas be less than those specified in this table.

Footnote 2--The minimum land area shall be calculated based on that portion of the lot which is under control of and deeded to the property owner, exclusive of road rights-of-way.

Footnote 3—All above ground portions of the structure, including but not limited to decks, stairs, overhangs which extend 24 inches or greater outside of the footprint of the structure, and other attached heated or unheated spaces must meet the dimensional requirements as set forth in this Chapter. Any structure abutting two or more highways, roads, or streets shall maintain minimum “front yard” setbacks on any side of the structure which abuts a street, road, or highway in accordance with the provisions of the district in which the property is situated. The location of the primary entrance of the structure, as determined by the Zoning Administrator, shall be considered the front, and shall also maintain minimum “front yard” setbacks.