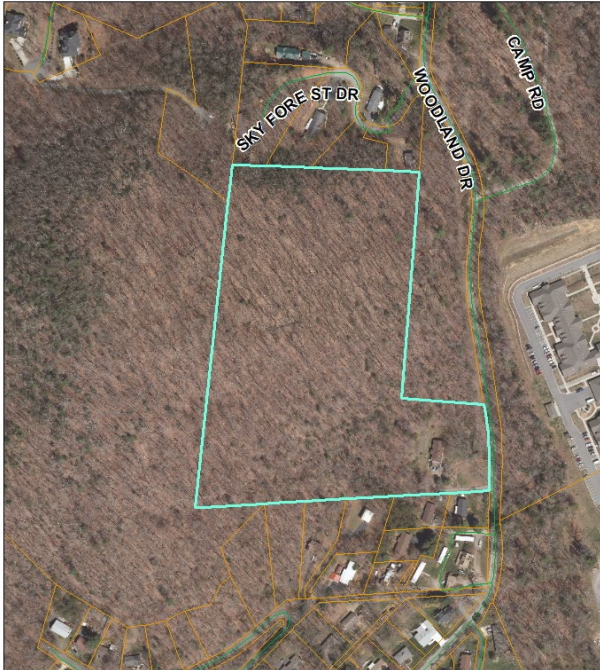




ZONING MAP AMENDMENT
STAFF ANALYSIS
Legislative Hearing

LOCATION MAP



CASE NUMBER: ZPH2019-00022

A. PROPERTY INFORMATION

PIN(s): 9699-56-2219

Addresses: 119 Woodland Dr., Swannanoa

Owner(s): Robert and Laura Uherka

B. REZONING REQUEST

Applicant: Robert and Laura Uherka

Existing Zoning: R-LD Residential Low Density

Proposed Zoning: R-1 Residential

C. PUBLIC NOTICE

PB Notice in AVL Citizen Times legal ad: 6/19/19

PB Notice mailed to owners within 1,000 ft: 6/19/19

PB Physical posting: 6/21/19

PB Notice on BC Website: 6/19/19

PB Hearing: 07/01/2019

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

NOTE: The Planning Board first considered the original version of rezoning ZPH2019-00022 at its May 20, 2019 meeting, at which meeting the Board recommended denial on the basis of noncompliance with the *Buncombe County Comprehensive Land Use Plan 2013 Update*. The Applicant withdrew ZPH2019-00022 prior to the Board of Commissioners hearing on June 18, 2019, and submitted a smaller, revised rezoning area. On July 15, 2019, the Planning Board considered the revised rezoning and recommended denial.

D. STAFF RECOMMENDATION

APPROVAL (see Section K, below)

E. SUMMARY OF REQUEST

Robert and Laura Uherka of RuLu LLC have applied to rezone a 1.7 acre portion of one, 14.07+ acre parcel of land identified as tax lot PIN 9699-56-2219, which is currently zoned R-LD Residential Low Density, to R-1 Residential. The subject property and rezoning area are located at 119 Woodland Drive, Swannanoa.

F. COMPARISON OF ZONING ORDINANCE DISTRICT STATEMENT OF INTENT

EXISTING ZONING DISTRICT:

Residential Low Density (R-LD)

Low-Density Residential District (R-LD). The R-LD Low-Density Residential District is primarily intended to provide locations for low-density residential and related-type development in areas where topographic or other constraints preclude intense urban development. These areas are not likely to have public water and sewer services available, and the minimum required lot area will be one acre unless additional land area is required for adequate sewage disposal. These are environmentally sensitive areas that are characterized by one or more of the following conditions: Steep slopes, fragile soils, or flooding.

PROPOSED ZONING DISTRICT:

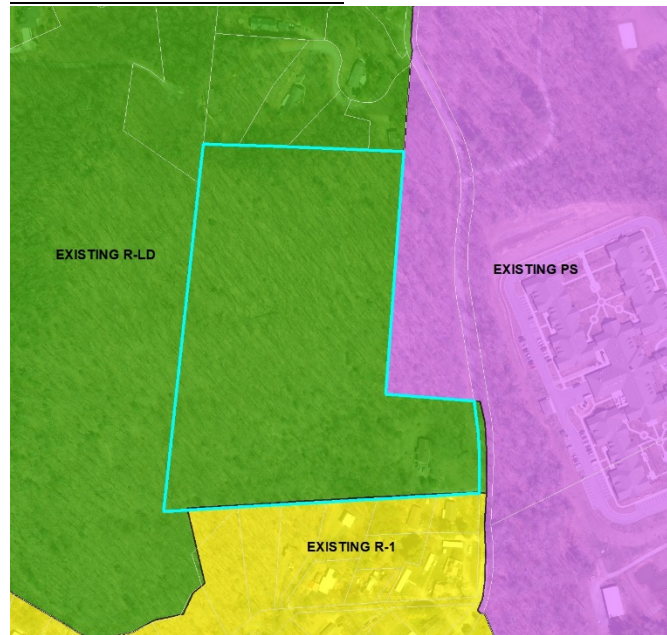
Residential District (R-1).

The R-1 Residential District is primarily intended to provide locations for single-family and two-family 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. This district is further intended to protect existing subdivisions from encroachment of incompatible land uses, and this district does not allow manufactured home parks.

G. SPOT ZONING ANALYSIS

Staff has no concerns with spot zoning, given that the property is contiguous to existing R-1 zoning along the southern boundary.

EXISTING ZONING DISTRICT



PROPOSED ZONING DISTRICT



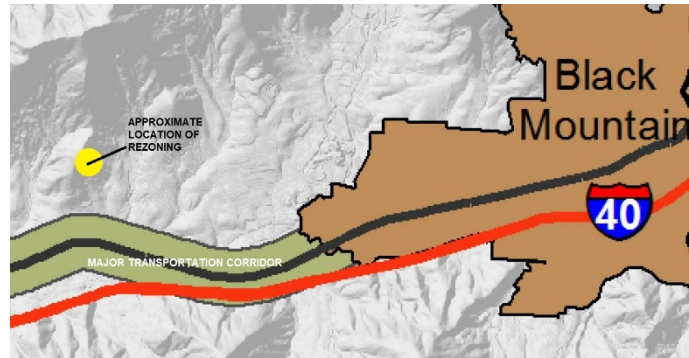
H. COMPREHENSIVE LAND USE PLAN CONSISTENCY (See Figure 20 on page 4)

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

Single-family development: "Suggested"

The rezoning area is approximately 1 miles from major transportation corridors

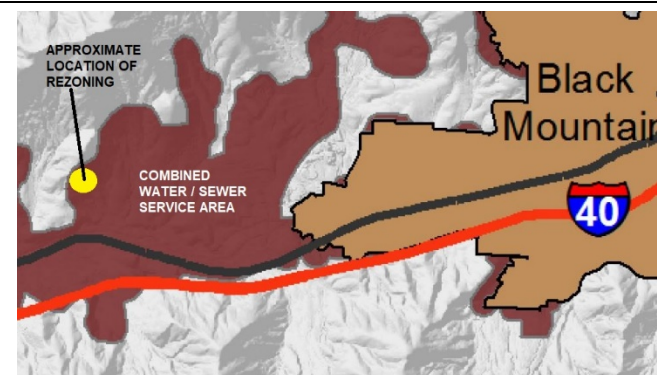


Within Reasonable proximity to infrastructure (combined water / sewer service area)

Single-family development: "Suggested"

The revised rezoning area is located within the Combined Water / Sewer Service Area.

Water & sewer services are adjacent to the rezoning area.



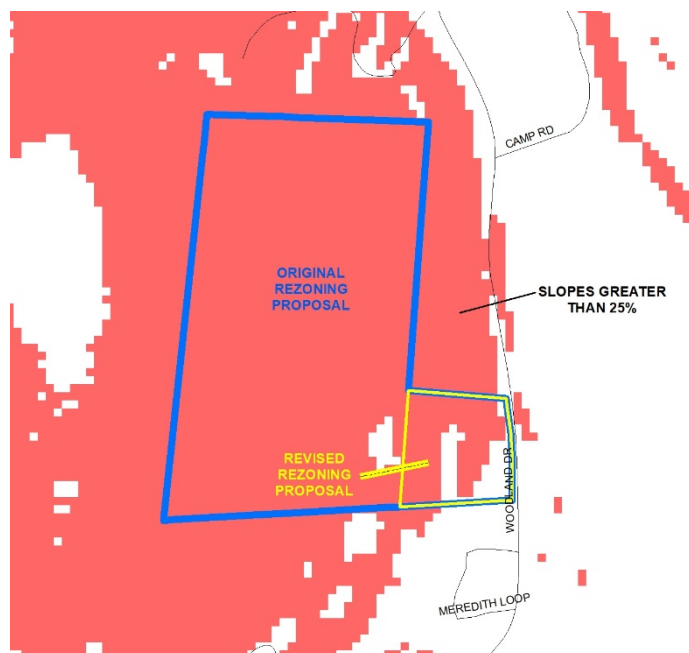
Outside of steep slope areas (25% +)

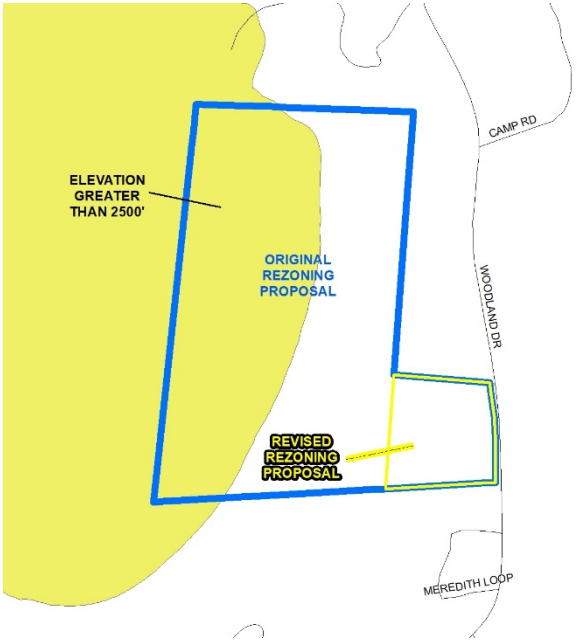
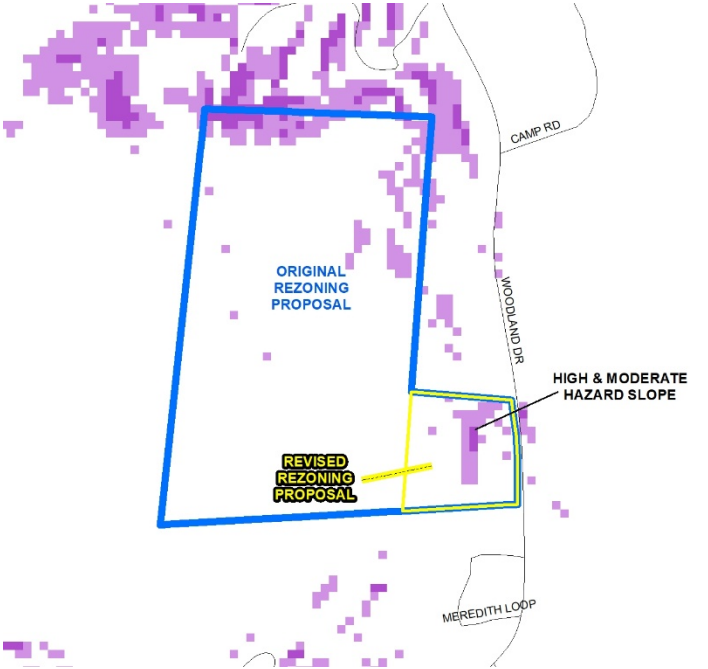
Single-family development: "Suggested"

The revised rezoning area is located completely outside of the Steep Slope Overlay District (slopes greater than 35%).

Approximately 2/3 of the rezoning area contains slopes greater than 25%.

The revised zoning area is smaller and is situated at a lower elevation than was the original rezoning proposal.



<p>Outside of high elevations (2500' +)</p> <p>Single-family development: "Suggested"</p> <p>The rezoning area is below 2,500' above sea level.</p> <p>The revised zoning area is smaller and is situated at a lower elevation than was the original rezoning proposal. Potential impacts to slopes above 2,500' are eliminated.</p>	
<p>Outside of moderate and high slope stability hazards</p> <p>Single-family development: "Highly Suggested"</p> <p>The revised zoning area contains a small area of High & Moderate Hazard Slope. It is Staff's perspective that the slope hazard area within the revised rezoning area is de minimis.</p>	
<p>Outside of flood hazard areas</p> <p>Single-family development: "Highly Suggested"</p>	<p>The revised rezoning area is completely outside of any Special Flood Hazard Area.</p>
<p>Separation from low-density residential uses</p> <p>Single-family development: "N/A"</p>	<p>Not applicable.</p>
<p>2. CONSISTENT: The change is <u>consistent</u> with the following recommendations of the Comprehensive Land Use Plan 2013 Update as outlined below:</p>	<p>Single-family development "Within Reasonable proximity to major transportation corridors" is "Suggested."</p>

	<p>Single-family development “Within Reasonable proximity to infrastructure (combined water / sewer service area)” is “Suggested.”</p> <p>Single-family development “Outside of steep slope areas (25% +)” is “Suggested.”</p> <p>Single-family development “Outside of high elevations (2500’ +)” is “Suggested.”</p> <p>Single-family development “Outside of flood hazard areas” is “Highly Suggested.”</p> <p>Single-family development Outside of moderate and high slope stability hazards “Highly Suggested.” [It is Staff’s perspective that the slope hazard area within the revised rezoning area is <i>de minimis</i>.]</p>
<p>3. INCONSISTENT: 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>

I. OTHER COMPATIBILITY

BC Strategic Priorities ¹:

Buncombe County lists Affordable Housing as one of its Strategic Priorities. The current R-LD zoning district limits all development to 1 acre minimum lot sizes. Rezoning the parcel to R-1 would allow lot sizes as small as 8,000 square feet for lots on public water and sewer, or 30,000 square feet for lots on septic systems. This could increase the number of lots available on the site, and potentially reduce allowable lot sizes, which may correlate to more affordable land prices. Lots containing areas located within the steep slope/high elevation overlay district would still be limited to 1.5 acre minimum lot sizes. However, affordable housing opportunities on the site may be offset by the cost of construction in a steep slope environment.

¹ <https://www.buncombecounty.org/common/commissioners/strategic-priorities/Affordable-Housing.pdf>

J. NEIGHBORHOOD CONSISTENCY

1. CURRENT DEVELOPMENT TYPES:

The rezoning area currently contains a single family residence. Adjacent and nearby land uses include single family residential homes, and vacant/undeveloped land. Non-adjacent parcels to the east include a Correctional Center. R-1 is primarily intended for single-family uses. The revised rezoning area removes the preponderance of the steeper slopes from the R-1 proposal, thus maintaining consistency with properties to the west of the subject parcel.

2. ALLOWED DEVELOPMENT TYPES AFTER CHANGE:

Rezoning the parcels from R-LD to R-1 zoning would continue to allow single family and duplex development while also continuing to prohibit multi-family residential units. The change would allow for the creation of Community Oriented Developments, and Level 1 Planned Unit Developments. In addition, the change would eliminate the ability to create a Bed and Breakfast Inn, Cemetery, or locate radio, tv, or telecommunication towers on the land.

3. ALLOWABLE DENSITY / DIMENSIONAL STANDARDS AFTER CHANGE:

The change would reduce the minimum lot size from 1 acre to 30,000 square feet for septic, or as low as 8,000 square feet for lots on public water and sewer.

	Existing District:	Proposed District:
	R-LD Residential	R-1 Residential
Minimum Lot Size	43,560 SF	8,000 SF (Public water/sewer) 30,000 SF (Septic system)
Max dwelling units per acre	2	10
Setbacks (Front/Side/Rear)	10/10/20	10/7/15 (Water/sewer) 20/10/10 (Septic)
Max height	35 feet	35 feet

4. NEIGHBORHOOD CONSISTENCY:

In terms of land use types, density and lot sizes, single-family / duplex residential development of the revised rezoning area would be consistent with the neighborhood character of the adjacent R-1 zoned area located south of the subject property.

K. STAFF RECOMMENDATION COMMENTS:

The revised rezoning area represents a good-faith effort to address the concerns of the Planning Board and Staff. 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:

- Single-family development "Within Reasonable proximity to major transportation corridors" is "Suggested."
- Single-family development "Within Reasonable proximity to infrastructure (combined water / sewer service area)" is "Suggested."

- Single-family development “Outside of steep slope areas (25% +)” is “Suggested.”
- Single-family development “Outside of high elevations (2500’+)” is “Suggested.”
- Single-family development “Outside of flood hazard areas” is “Highly Suggested.”
- Single-family development Outside of moderate and high slope stability hazards “Highly Suggested.” [The slope hazard area within the revised rezoning area is *de minimis*.]
- 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:

- Single-family development Outside of moderate and high slope stability hazards “Highly Suggested.”
- 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	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	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	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	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

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	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

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	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

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	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	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	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

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	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^{2,4}		Minimum Yard Setback Requirements in Feet ^{3,4}						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	
R-LD Residential	43,560	No more than 2 units per lot	² (no more than 2 units per lot)	10	10	20	10	10	20	35
R-1 Residential	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
R-2 Residential	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
R-3 Residential	Same as R-2	Same as R-2	12	10	7	15	20	10	20	35
NS Neighborhood Service	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 ^{2,4}		Minimum Yard Setback Requirements in Feet ^{3,4}						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								
CS Commercial Service	Same as NS	Same as NS	12	10	10	10	10	10	10	50
EMP Employment	Same as NS	Same as NS	12	20	10	20	20	10	20	90
CR Conference Center/Resort	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).
PS Public Service	Same as NS	Same as NS	12	20	10	20	20	10	20	50
AI Airport Industry	Same as NS	NA	NA	20	10	20	20	10	20	50
BDM Beaverdam	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
OU Open Use		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.