



Rowan County Department of Planning & Development

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MEMORANDUM

TO: Rowan County Board of Commissioners
FROM: Shane Stewart, Assistant Planning Director
DATE: November 10, 2022
RE: **ZTA 05-22: Amendments to the SNIA designation process and Land Use Plan Recommendations**

SUGGESTED BOARD OF COMMISSIONERS ACTION

☐ Schedule Public Hearing for **ZTA 05-22** for December 5, 2022

BACKGROUND

In 1989, the North Carolina General Assembly passed the Water Supply Watershed Protection Act directing the state's Environmental Management Commission (EMC) to develop measures to protect drinking water sources throughout the state. Over the next few years, the EMC identified water supply watershed boundary limits, established classifications for each, and developed minimum standards for development which were issued as a mandate for counties to adopt and enforce within a local program by January 1, 1994.

In general, single family development is regulated by lot size (e.g. 1 home per ½ acre) while non-residential or multi-family projects are regulated by a maximum percentage of impervious surface (e.g. buildings, pavement, gravel, etc.) permitted on the property when compared to undeveloped areas (e.g. grassed, wooded, landscaped) of the property. Other than the high density amendment in 2019, much of the watershed standards currently in the Zoning Ordinance remain unchanged since incorporated from the county's Watershed Ordinance adopted in 1993 to the Zoning Ordinance in 1998.

Requests for a Special Non-Residential Intensity Allocation (SNIA) is a current process whereby the Board of Commissioners can identify up to ten (10) percent of the acreage within each watershed area, not including the critical area, and allow up to seventy (70)

percent impervious coverage. Current standards for review are minimal and do not include a public process.

PROPOSED CHANGES

Planning staff propose a series of changes to section 21-33(2) of the Zoning Ordinance pertaining to the Water Supply Watershed Overlay (WSO) district.

- Revised density and built-upon limits table [sec. 21-33(2)(d)] – This single table contain the density options by type: low density, density averaging, high density, and SNIA.
- Options to obtain density compliance [sec. 21-33(2)(f)] – Each density option is identified by review type. SNIA requests are proposed to be reviewed as a conditional district (rezoning) instead of an “administrative” review by the Board of Commissioners.
- SNIA review process [sec. 21-33(2)(f)(2)] – This section includes a purpose statement, eligibility, and process for previously approved requests and minor changes.
- Land use plan recommendations – General recommendations including maximum acreage of removal by parcel.

Sec. 21-4. Definitions.

Unless otherwise expressly provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this chapter. For any word that is not defined in this section, the common dictionary definition applies.

Balance of watershed (BW) means an area defined as the entire drainage basin upstream of **an** **and** draining to a WS-II or WS-III watershed critical area where the risk of water supply pollution is greater than in surrounding areas.

“Existing” impervious development. Consists of any structure(s) or operational area(s) that has either been:

1. In existence and continuous operation prior to the effective date of the Rowan County Water Supply Watershed Ordinance on January 1, 1994 (since codified in the RCZO); or,
2. Lawfully permitted prior to the effective date (February 16, 1998) of the Rowan County Zoning Ordinance; or,
3. Lawfully permitted in accordance with the standards of the Rowan County Zoning Ordinance prior to the effective date of the High Density amendments contained in Section 21-33(2)(f)(3) of the RCZO.

Protected area (PA) means the area of a **WS-IV** watershed, beyond the critical area, as measured ten (10) miles upstream from an intake or to the ridge line, whichever is closer, and draining to the intake.

Sec. 21-31. Zoning districts established.

(a) The county is hereby divided into a variety of general zoning districts. The purpose and minimum requirements of each zoning district are provided in the appropriate zoning district provisions and in article V. In addition, special overlay district regulations apply for specified areas. The applicability of all zoning districts to individual properties shall be shown on official zoning maps which shall be a part of the zoning ordinance. These maps shall be maintained for public inspection in the offices of the county planning department. Interpretation of zoning district uses and boundaries shall be as provided in article XII and article XIII.

(b) The following general use and overlay districts are established:

(1) General zoning districts:

- | | |
|---|----------------------------|
| a. Rural Agricultural (RA) | h. 85-ED-1 |
| b. Rural Residential (RR) | i. 85-ED-2 |
| c. Residential Suburban (RS) | j. 85-ED-3 |
| d. Multifamily Residential (MFR) | k. 85-ED-4 |
| e. Manufactured Home Park District (MHP) | l. Industrial (IND) |
| f. Neighborhood Business (NB) | m. Institutional (INST) |
| g. Commercial, Business, Industrial (CBI) | n. Airport Industrial (AI) |

(2) Overlay districts:

- a. Water Supply Watershed (~~WS~~ **WSO**).
- b. Airport **Height Zone** (AZO).
- c. Agricultural (AO).
- d. Manufactured Home Overlay (MHO).

Sec. 21-33. Overlay districts.

Overlay districts are zoning districts, which are applied only in conjunction with other zoning districts, and may grant additional use of development requirements upon the underlying zoning districts. The effect is to have both the overlay district and the underlying zoning controlling the use and development of the lot. Overlay districts are applicable on an area wide basis to support specific public policy objectives and as such should be consistent with adopted land use plans. Overlay districts may be applied to conventional and conditional zoning districts. An overlay district may be initiated as an amendment by the board of commissioners, planning board, planning staff, or the property owner or their designated representative.

(1) *Airport Zone Overlay, AZO.*

(2) *Water Supply Watershed Overlays, WSO.* The purpose of the watershed overlay

is to provide for the protection of public water supplies as required by the Water Supply Watershed Classification and Protection Act (G.S. 143-214.5) and regulations promulgated therein. The watershed overlays may be an overlay in any conventional or conditional zoning district established in this chapter. The overlay districts supplement the uses or development requirements of the underlying zoning districts.

- a. *Uses allowed.* The use requirements of the underlying districts apply to the **WS WSO** districts, unless otherwise provided in this section. However, all allowed uses must be in conformance with the provisions of this section.
- b. *Expressly prohibited in critical areas.* The following uses are expressly prohibited:
 1. Landfills;
 2. Sites for land application of sludge/residuals or petroleum contaminated soils.
- c. *Calculating built-upon area.* For the purpose of calculating built-upon area, total project area shall include total acreage in the lot on which the project is to be developed **less acreage with any public road right of way. Built-upon area for a non-residential use existing prior to January 1, 1994 (effective date of the initial WSO district designation and ordinance) as determined by planning staff will be subtracted from the overall lot acreage. All built-upon area proposed or existing after January 1, 1994 shall be subject to standards of this chapter. Home Occupations defined by section 21-4 shall be considered single family development. Built-upon area calculations for a Rural Home Occupation shall only include new built-upon area proposed and use of any existing structure(s) for the operation but not existing residential structures.**
- d. ~~Low Density standard and built-upon limits.~~ The following density and built-upon limits including nonpoint source and pollution control measures shall apply to development in the water supply watersheds unless expressly provided otherwise. **Maximum allowable density and built-upon limits on a project by project basis is subject to one of the following options:**

1. Density and Built-Upon Limits

Watershed	Single family Residential	Multi-family and Nonresidential Development
Watershed II Critical Area, WS-II-CA	80,000 sq.ft. minimum lot size	Development shall not exceed 6 percent on a project-by-project

	or 6 percent built-upon area on a project by project basis	basis, unless otherwise provided in this section.
Watershed II-Balance of Watershed, WS-II-BW	40,000 sq.ft. minimum lot size	Maximum 12 percent built-upon on a project by project basis
Watershed III-Critical Area, WS-III-CA	40,000 sq.ft. minimum lot size	Maximum 12 percent built-upon on a project by project basis
Watershed III-Balance of Watershed, WS-III-BW	20,000 sq.ft. minimum lot size	Maximum 24 percent built-upon on a project by project basis
Watershed IV-Critical Area, WS-IV-CA*	20,000 sq.ft. minimum lot size	Maximum 24 percent built-upon on a project by project basis
Watershed IV-Protected Area, WS-IV-PA*	20,000 sq.ft. minimum lot size	Maximum of 24 percent built-upon area with curb and gutter or 36 percent built-upon area without curb and gutter

Water Supply Classification	Location in Watershed	Maximum Allowable Built-upon Area % (Non-residential / Multi-family) and Minimum Lot Size in sq.ft. [sf] (Single Family)					
		Low Density Development		Density Averaging ¹	High Density Development ²		SNIA
		Single Family Residential Development	Non-residential and Multi-family Development	Non-residential Development	Single Family Residential Development	Non-residential and Multi-family Development	Non-residential Development
WS-II	Critical Area	80,000 sf or 6% built upon area	6% built-upon area	6% built-upon area	N/A	N/A	N/A
	Balance of Watershed	40,000 sf	12% built-upon area	12% built-upon area	N/A	N/A	70% built-upon area
WS-III	Critical Area	40,000 sf	12% built-upon area	12% built-upon area	N/A	N/A	N/A
	Balance of Watershed	20,000 sf	24% built-upon area	24% built-upon area	N/A	N/A	70% built-upon area
WS-IV ³	Critical Area	20,000 sf	24% built-upon area	24% built-upon area	50% built-upon area	50% built-upon area	N/A
	Protected Area	20,000 sf	24% built-upon area or 36% without curb and gutter	24% built-upon area or 36% without curb and gutter	70% built-upon area	70% built-upon area	70% built-upon area

¹ Density Averaging requests that include donating property from the critical area must comply with the built-upon area allowance in the critical area.

² High Density Development is only permissible subject to section 21-33(2)(f)(3)(a).

³ Development activities which require an erosion / sedimentation control plan must meet these requirements.

2. e. Nonpoint Source and Stormwater Pollution Control. The following measures shall apply to development in the WSO unless expressly provided otherwise:

i. 1. Vegetated Conveyances. Stormwater runoff from the project shall be released to vegetated areas as dispersed flow or transported by vegetated conveyances to the maximum extent practicable. In determining whether this criteria has been met, Rowan County shall take into account site-specific factors such as topography and site layout as well as protection of water quality. Vegetated conveyances shall be maintained in perpetuity to ensure continued function as designed. Vegetated conveyances that meet the following criteria shall be deemed to satisfy the requirements of this Sub-Item:

(1) i. Side slopes shall be no steeper than 3:1 (horizontal to vertical) unless it is demonstrated to Rowan County that soils and vegetation will remain stable in perpetuity based on engineering calculations and on-site soil investigation; and

(2) ii. The conveyance shall be designed so that it does not erode during the peak flow from the 10-year storm event as demonstrated by engineering calculations.

ii. 2. Curb Outlet Systems. In lieu of vegetated conveyances, low density projects shall have the option to use curb and gutter with outlets to convey stormwater to grassed swales or vegetated areas. Requirements for these curb outlet systems shall be as follows:

(1) i. The curb outlets shall be located such that the swale or vegetated area can carry the peak flow from the 10-year storm and at a non-erosive velocity;

(2) ii. The longitudinal slope of the swale or vegetated area shall not exceed five percent except where not practical due to physical constraints. In these cases, devices to slow the rate of runoff and encourage infiltration to reduce pollutant delivery shall be provided;

(3) **iii.** The swale's cross section shall be trapezoidal with a minimum bottom width of two feet;

(4) **iv.** The side slopes of the swale or vegetated area shall be no steeper than 3:1 (horizontal to vertical);

(5) **v.** The minimum length of the swale or vegetated area shall be 100 feet; and

(6) **vi.** Low density projects may use treatment swales designed in accordance with 15A NCAC 02H .1061 in lieu of the requirements specified in Sub-Items (4) **i.** through (5) **v.** of this Sub-Item.

f. *Options in Density Compliance.* Proposed development within a WSO is subject to submission of a site plan to illustrate proposed compliance with this chapter based on one of the following four (4) application types in accordance with the density standards noted in subsection 21-33(2)(d) and based on the review process identified as follows:

Density Type	Low Density	Density Averaging	High Density	SNIA
Review Process *	P	S	SR	CD

CD - Conditional District

P - Permitted by Right

S - Special Use

SR - Permitted with Special Requirements

*** Refer to section 21-111 for a description of field entries.**

To verify a completed project conformed to the proposed plan, planning staff may require a site plan from a professional land surveyor verifying the built-upon area limits and calculations in conformity with this chapter.

1. *Low Density.* Proposed development meeting the low density standards with built-upon area completely contained within the subject parcel's boundary shall be subject to review by planning staff to ensure compliance with this chapter. For the purposes of section 21-33(2)(f), residential clustering consisting of a planned development where the collective project acreage complies with the low density standards is considered low density subject to a special use permit reviewed in accordance with section 21-60(15).

e. 2. Special ~~nonresidential intensity allocation~~ *Non-residential Intensity Allocation* (SNIA) ~~permit~~.

1. a. *Purpose.* ~~The purpose is to~~ SNIA designation ~~provide~~ is a method for the

~~board of commissioners to allow~~ **case by case allocation of up to ten (10) percent of the land area within the balance or protected area portion of a water supply watershed located in the county's planning and zoning jurisdiction** ~~portion of the balance of watershed area (excluding a critical area) to be granted an SNIA permit to be developed at~~ **with a built-upon surface area** up to seventy (70) percent ~~built-upon surface area~~. **Regardless of the options to achieve compliance with built-upon area standards in section 21-33(2)(f), the county recognizes a need to create an equitable approach to preserve SNIA designations for developments less conducive to the other three (3) application types. SNIA designations should advance the public interest through applications that will enhance tax base / employment opportunities; serve a public or semi-public use; or provide other benefits as determined by the Board of Commissioners. To effectively evaluate a request given the limited acreage available for allocation, review standards from section 21-33(d)(f)(2), and land use plan guidance, applications must be reviewed as a conditional district to the WSO district.**

b. *Eligibility.* Non-residential uses subject to compliance with section 21-113 and located outside the critical area are eligible unless otherwise indicated in this chapter. New development located within both a WSIV-PA and development node or corridor within an adopted Rowan County Land Use Plan, which propose three (3) acres or more in built-upon area, must seek approval under the High Density option. An applicant may request the Board of Commissioners consider granting a waiver to the three (3) acre maximum eligibility provision and allow the request to be considered subject to section 21-33(2)(f)(2). In granting a waiver, the Board of Commissioners shall affirm the project is not consistent with the purpose of this subsection; water quality impacts resulting from the development project will be minimized; and the waiver lends itself to a better project design.

2. c. *Application and review procedures.* Applications for the initial development under the SNIA option shall be reviewed and approved as a conditional district in the WSO consistent with sections 21-33(2)(f)(2), 21-61, and 21-62 except that in lieu of section 21-62 (d), a minor change to an approved SNIA request is subject to section 21-33(2)(f)(2)(f) include a site plan as prescribed in section 21-52. Applications for SNIA may be submitted concurrent with a general or conditional zoning district or special use permit request.

d. *Buffers.* Development shall adhere to buffer requirements of section 21-213(h).

e. *Previously approved SNIA requests.* SNIA requests approved by the Board of Commissioners prior to December 5, 2022 that either were or will be developed consistent with the approved plan within two (2) years of approval, are not subject to additional consideration as a conditional district to retain development rights. Subsequent development on property consistent with this subsection may be reviewed and approved by planning staff subject to compliance with the general district standards and built-upon limits prescribed by section 21-33(2)(d).

f. *Minor change to SNIA approved after December 5, 2022.* Minor change to a WSO-CD may be reviewed and approved by planning staff that propose either:

1) Subsequent development consistent with the original approved site plan, which propose additional built-upon area consistent with all other standards of this chapter or

2) Reduction in building size that does not exceed the greater of 5,000 sq.ft. or 25%.

All other changes shall be considered a new request submitted per section 21-33(2)(f)(2).

g. *Expiration.* SNIA designations are subject to expiration referenced in section 21-62(e).

~~3. *Review and approval.* The site plan shall be reviewed by the board of commissioners. Approval of the plan may include the addition of reasonable and appropriate conditions.~~

~~4. *Applicable areas.* Areas in which SNIA permits may be approved are as follows:~~

~~i. WS-II-BW.~~

~~ii. WS-III-BW.~~

~~iii. WS-IV-PA.~~

~~5. *Eligibility for an SNIA permit.* Non-residential uses subject to compliance with section 21-113 shall be eligible unless otherwise indicated in this chapter.~~

f. 3. High Density standard and built-upon limits.

(1) a. Purpose. New development activities within a Watershed IV Critical Area (WS-IV-CA) or a Watershed IV Protected Area (WS-IV-PA) that require a soil erosion and sedimentation control plan pursuant to G.S. 113A Article 4

or Chapter 18 of the Rowan County Code of Ordinances and exceed the low density standards of subsection 2(d) of this Chapter must seek approval under the High Density standards when affected by any of the following:

- a. i.** Proposing a major subdivision as defined in Section 22-56 of the Rowan County Subdivision Ordinance; or,
- b. ii.** Proposing a Planned Development Subdivision (PDS) as defined in Section 22-58 of the Rowan County Subdivision Ordinance; or,
- c. iii.** Located in a development node or corridor in an adopted Rowan County Land Use Plan and proposes three (3) acres or more in built-upon area.

(2) b. Intent. High Density standards will allow for creation of denser development projects while ensuring impacts to water quality within the watershed are minimized by utilizing Best Management Practices to control stormwater runoff and resulting pollution. Furthermore, the application of High Density standards to projects referenced in 21-33(2)(f) **(1)(3)(a)** will preserve the SNIA provision for development activities within the watershed that are of a scale and scope that do not warrant high density standards.

(3) c. Standards and built-upon limits. The Board of Commissioners may approve a project application(s) for use of High Density development standards based on the following:

- a. i.** WS-IV-CA. Where new development exceeds the low density standards of Section 21-33(2)(d), engineered stormwater controls shall be used to control runoff from the first inch of rainfall and development shall not exceed fifty percent (50%) built-upon area.
- b. ii.** WS-IV-PA. Where new development exceeds the low density standards of Section 21-33(2)(d), engineered stormwater controls shall be used to control runoff from the first inch of rainfall and development shall not exceed seventy percent (70%) built-upon area.
- c. iii.** Qualifying areas of the stormwater control structure may be considered pervious when computing total built-upon area.

(4) d. Application. Projects subject to the conditions of subsection 2(f) **(1)(3)(a)** of this Chapter shall submit an application for consideration by the Board of Commissioners subject to the process outlined in Section 21-317 of this Chapter.

(5) e. Waivers. New development activities in a WS-IV-PA subject to the requirements of this subsection may request the Board of Commissioners consider granting a waiver from the High Density standards and instead allow the project to utilize the provisions of Section 21-33(2) **(e)(f)(2)**. In granting a waiver, the Board of Commissioners shall affirm the project is not consistent

with the purpose and intent of this subsection; water quality impacts resulting from the development project will be minimized; and the waiver lends itself to a better project design.

4. Density Averaging.

(3) *Agricultural Overlay, AO.*

(4) *Manufactured Home Overlay, MHO.*

Sec. 21-61. Conditional districts.

(a) *Purpose.* There are instances where a rezoning request to a general district would be inappropriate and could not effectively be managed by the district's general development standards. As an alternative manner to evaluate such a request, a conditional district may propose specific development standards necessary to address anticipated impacts on surrounding properties and the county, establish consistency with adopted plans, and / or provide a clear understanding of the type and degree of future development allowed within the district. This can often be achieved by the commitment to a specific use or uses permitted in the conditional district, increased development standards, or site plan details, which are tailored to address the aforementioned objectives and sufficient to allow for an appropriate evaluation of the request. This voluntary procedure must be petitioned by the property owner or their authorized agent as a development proposal and not for securing early zoning for tentative uses which may not be undertaken for a long period of time.

<i>General Zoning Districts</i>	<i>Conditional Districts</i>
RS	RS (CD)
RR	RR (CD)
RA	RA (CD)
MHP	MHP (CD)
MFR	MFR (CD)
CBI	CBI (CD)
85-ED-1	85-ED-1 (CD)
85-ED-2	85-ED-2 (CD)
85-ED-3	85-ED-3 (CD)
85-ED-4	85-ED-4 (CD)
IND	IND (CD)
NB	NB (CD)
INST	INST (CD)

AI	AI (CD)
Overlay Zoning Districts WSO	Conditional Districts WSO (CD)

Sec. 21-111. Generally.

The range of uses permitted as of right and under prescribed conditions established in this article is summarized in section 21-113. **Field entries are as follows:**

- a. **“P” means the use is “Permitted by Right” subject to review by planning staff in accordance with applicable ordinance standards.**
- b. **“P(A)” means the use is “Permitted as an Accessory Use” subject to review by planning staff in accordance with applicable ordinance standards.**
- c. **“SR” means the use is permitted based on compliance with specific “Special Requirements” and other applicable ordinance standards subject to review by either planning staff or the Board of Commissioners as indicated by the requirements.**
- d. **“SR(A)” means the use is permitted based on compliance with specific “Special Requirements as an Accessory Use” and other applicable ordinance standards subject to review by planning staff.**
- e. **“S” means the use is permitted subject to the issuance of a “Special Use Permit” by the Board of Commissioners.**
- f. **“CD” means the use is permitted subject to approval of a “Conditional District” by the Board of Commissioners.**
- g. **Blank entries mean the use is not permitted in the subject zoning district.**

In the event of a conflict between section 21-113 and the text of this chapter, the text shall control.

Sec. 21-314. Planning department.

- (a) *Duties and responsibilities.* The planning department serves as the lead agency for the overall administration of this article and serves as the primary professional staff of the planning board and board of adjustment.
 - (1) *Planning director.* The planning director performs the following duties:

- i. Maintains inspection records for each stormwater control structure permitted under Section 21-33(2)(f)(3) of this Chapter.

Sec. 21-363. Hierarchy of districts.

The districts established in this chapter are classified from "most restrictive" to "least restrictive": RS (most restrictive), RR, RA, MFR, MHP, INST, AI, NB, CBI, 85-ED-1, 85-ED-2, 85-ED-3, 85-ED-4, IND (least restrictive).

SUBDIVISION ORDINANCE

Section 22-11. Other Definitions.

"Existing" impervious development. Consists of any structure(s) or operational area(s) that has either been:

1. In existence and continuous operation prior to the effective date of the Rowan County Water Supply Watershed Ordinance on January 1, 1994 (since codified in the RCZO); or,
2. Lawfully permitted prior to the effective date (February 16, 1998) of the Rowan County Zoning Ordinance; or,
3. Lawfully permitted in accordance with the standards of the Rowan County Zoning Ordinance prior to the effective date of the High Density amendments contained in Section 21-33(2)(f)(3) of the RCZO.

Section 22-112. Stormwater Control Measures: Operation, Maintenance and Inspections

(d) Inspections.

3. Responsibility for Inspections. Rowan County shall exercise ultimate authority for operation and maintenance of stormwater control measures approved pursuant to the high density development standards for water supply watersheds contained in Section 21-33(2)(f)(3) of the Rowan County Zoning Ordinance.

PROCEDURES

The Board of Commissioners must develop a statement of consistency regarding the proposed zoning ordinance amendments describing whether its action is consistent with any adopted comprehensive plans [sec. 21-361 (c)]. See below Planning Board recommended statement.

**OCTOBER 24, 2022
PLANNING BOARD
MEETING**

No public comment was received during the Planning Board courtesy hearing. The board voted unanimously (6-0) to recommend approval as presented subject to the following statement of consistency:

“ZTA 05-22 is reasonable, appropriate, and necessary to meet the development needs of Rowan County not previously envisioned by the East and West Area Land Use Plans. Furthermore, the adoption of ZTA 05-22 is deemed an amendment to the East and West Area Land Use Plans. The requirement that SNIA permits be submitted and approved as conditional districts is a more appropriate method to evaluate the SNIA request; the application will be legislative and not quasi-judicial, allowing easier input by the public and review by the Planning Board; and it defines criteria to be considered while reviewing the SNIA request.”

STAFF COMMENTS

While this amendment represents a significant change in the approval process, staff is of the opinion a conditional district is the most appropriate method to properly evaluate a request.

ENCLOSURES

1. Watershed map
2. Watershed acreage and SNIA allocations
3. Land use plan recommendations