

# ZTA 04-22

## Density Averaging

**December 5, 2022**

# What is Density Averaging

- Density Averaging allows for two non-contiguous parcels to be treated as one single parcel to meet the built-upon area/ density requirements of the Water Supply Watershed they are located.
- Density Averaging is only allowed for non-residential development.
- Local governments are required to allow Density Averaging.

# How Density Averaging Works

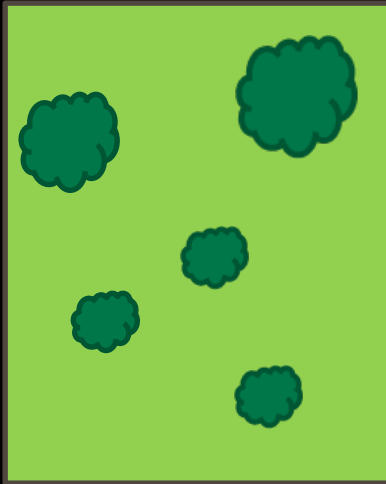
- Two parcels are involved with Density Averaging.
  - The “Donating Property” gives up its development rights and must remain in a natural or vegetative state in perpetuity.
  - The “Receiving Property” is allowed to use the acreage of the Donating Property when calculating the total amount of built-upon area allowed for the development.
- Overall project density meets the requirements of the Watershed.

# Density Averaging Exercise

Property 1

1 Acre

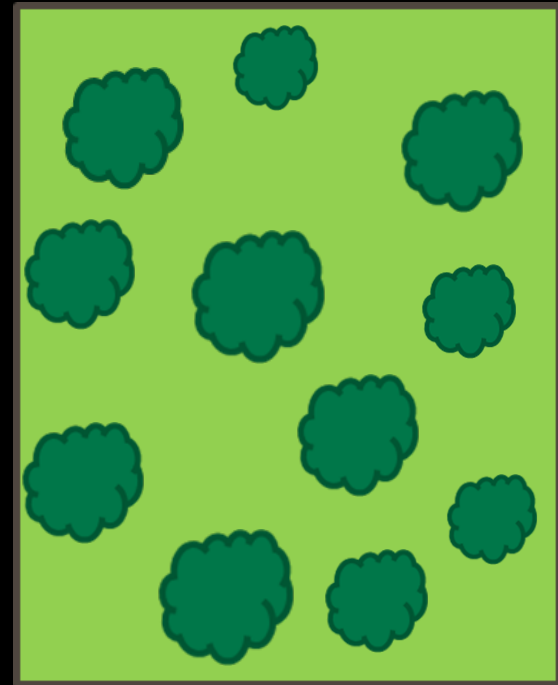
5,000 SQ FT BUA Allowed



Property 2

2 Acres

10,000 SQ FT BUA Allowed

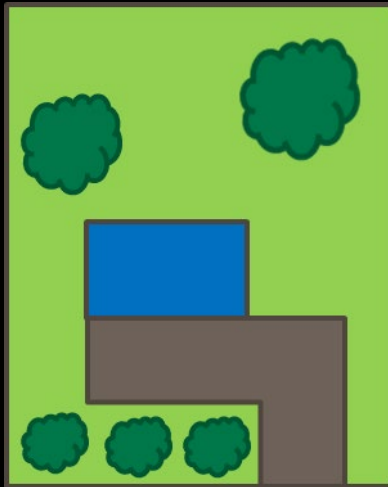


# Density Averaging Exercise

Property 1

1 Acre

15,000 SQ FT BUA Allowed

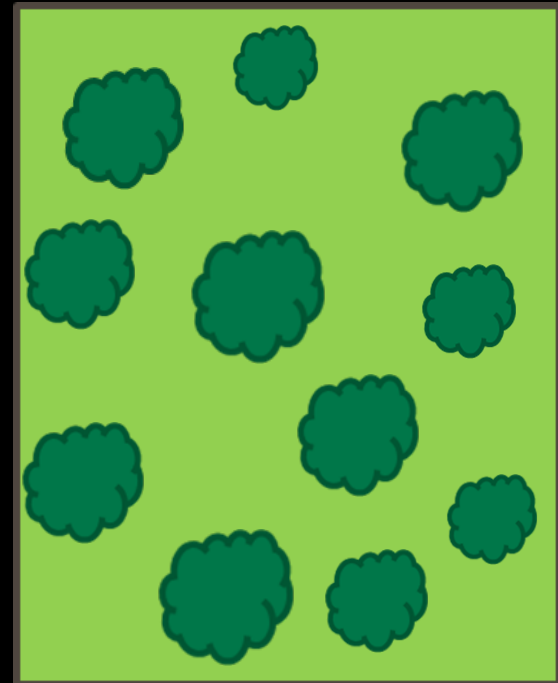


Receiving Property

Property 2

2 Acres

No future development Allowed



Donating Property

# Density Averaging Exercise 2

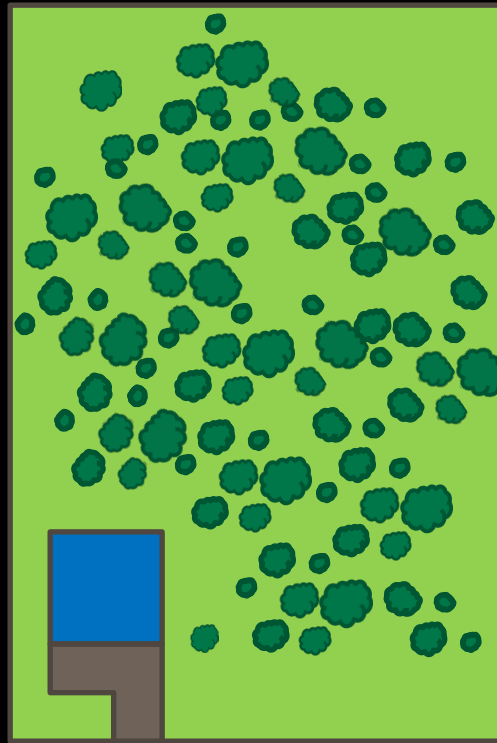
Property 1

10 Acres

50,000 SQ FT BUA Allowed

40,000 SQ FT Existing

Proposed 30,000 SQ FT  
expansion



# Density Averaging Exercise 2 A

Property 1

10 Acres

50,000 SQ FT BUA Allowed by right

20,000 SQ FT BUA received

70,000 SQ FT new BUA limit

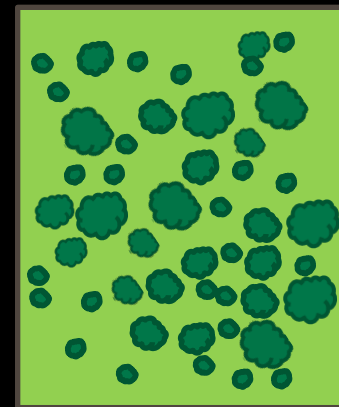
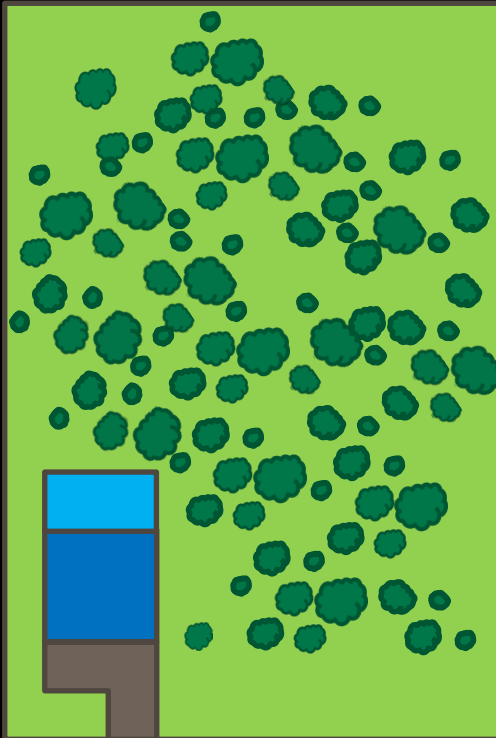
Property 2

4 Acres

20,000 SQ FT BUA Allowed by right

20,000 SQ FT BUA donated to  
property 1

Development no longer allowed



# Density Averaging Exercise 2 B

Property 1

10 Acres

50,000 SQ FT BUA Allowed by right

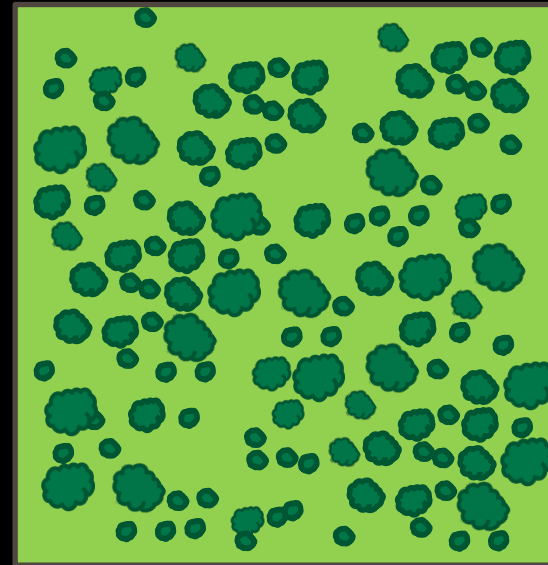
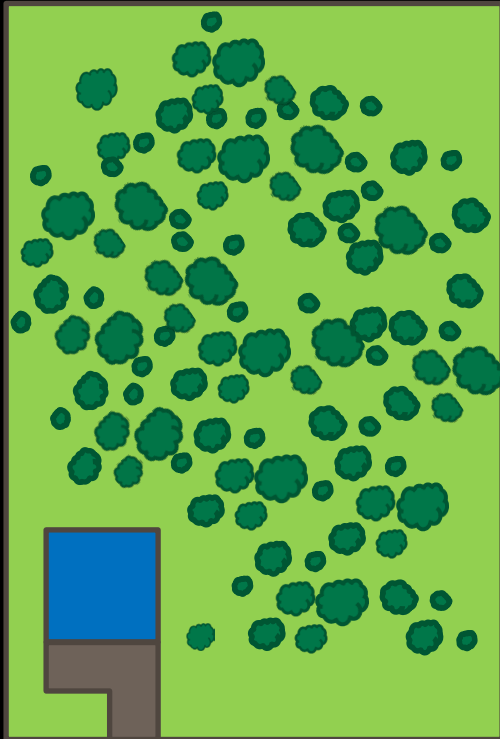
40,000 SQ FT Existing

Proposed 30,000 SQ FT expansion

Property 2

8 Acres

40,000 SQ FT BUA Allowed by right



Density Averaging



# Density Averaging Exercise 2 B

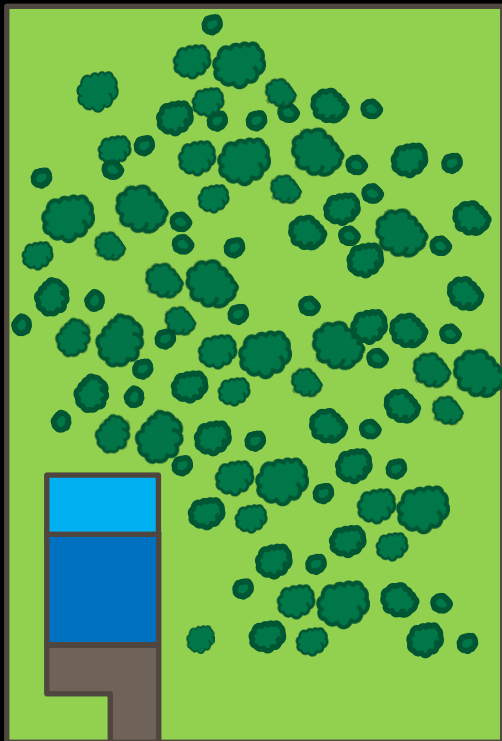
Property 1

10 Acres

50,000 SQ FT BUA Allowed by right

20,000 SQ FT BUA received from  
property 2B

70,000 SQ FT new BUA limit



Property 2

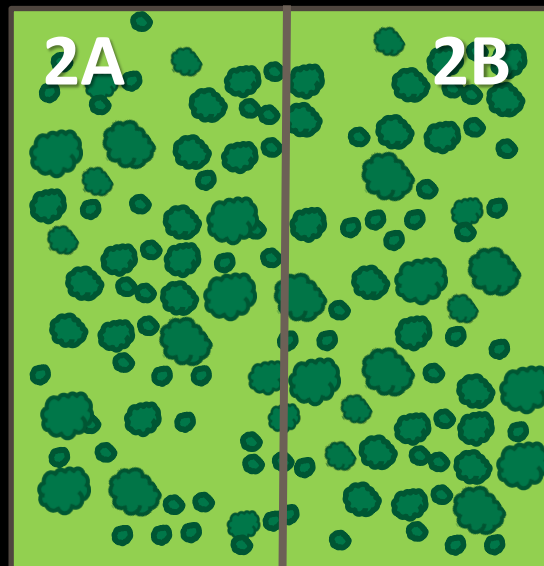
8 Acres

40,000 SQ FT BUA Allowed by right

4 acres preserved to donate 20,000  
SQ FT BUA to property 1

Property 2A 20,000 SQ FT BUA Limit

Property 2B no development allowed



# Density Averaging Exercise 3

Property 1

3.73 Acres

19,340 SQ FT BUA Allowed by right

100,000 SQ FT BUA Proposed



# Density Averaging Exercise 3

Property 1

3.73 Acres

19,340 SQ FT BUA Allowed by right

100,000 SQ FT BUA Proposed





# Density Averaging Exercise 3

## Property 2

34.16 Acres

15.5 Acres placed in Conservation easement.

81,021 Sq Ft of BUA donated to property 1

Conservation easement area can continue to be farmed, but can not be developed.





# Density Averaging Exercise 3





# Density Averaging Exercise 3



# Proposed Amendments

## 21-4 Definitions.

- Definitions were added for Density Averaging, Donating Property, and Receiving Property.

## 21-33 Overlay Districts

- Added a new section 21-33(2)(f)(4)
- Lays out purpose and intent along with the eligibility requirements to use Density Averaging.

## 21-311 Board of Commissioners

- Establishes the Board of Commissioners as the Watershed Review Board.

## 21-318 Density Averaging Permit Application

- Establishes a new section of the Zoning Ordinance sec 21-318
- Lays out the process for applying for a Density Averaging Permit.

## 22-59 Certifications and notations on plats

- Adds a new certificate that will need to be on all final plats with a Donating or Receiving Property.

# Planning Board

## **Statements of Consistency and Reasonableness:**

ZTA 04-22 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 04-22 is deemed an amendment to the East and West Area Land Use Plans. This text amendment will allow for the flexibility of applying impervious limitations across multiple parcels and reflects NC Senate bill 249 which became NC GS 143-214.5 as adjusted to exceed state requirements in keeping with the Rowan County Watershed Program.



# Staff Comments

- Density Averaging is mandated by GS 143-214.5. Without specific adopted standards the County would need to follow the state required minimums.
- This text amendment has a few standards that exceed the state minimums. These higher standards are proposed to help the County stay in compliance with the Water Supply Watershed program.
- It is important to consider that Donating Properties must remain in an undeveloped state in perpetuity. Density Averaging standards and Land Use Plan recommendations should take that fact into account.

# Procedures

- Conduct a public hearing
- Adopt a Statement of Consistency
- Approve/Deny/Table ZTA 04-22

## Sec. 21-4 Definitions

**Density Averaging** means a process involving two (2) non-contiguous tracts of land, referred to as “Donating Property” and “Receiving Property”, which are located in the same water supply watershed within Rowan County and are used to aggregate all or a portion of a tract’s allowable built upon area or density to achieve compliance with the respective watershed’s built-upon limits. Density averaging requests are subject to standards specified in section 21-33(2)(f)(4) and review process in 21-318.

**Donating Property** means a tract of land that is and will remain in a perpetual, undeveloped and vegetative or natural state aggregated with a Receiving Property to comply with water supply watershed built-upon limits

**Receiving Property** means a project on a tract of land that has been allowed to exceed built-upon limits of section 21-33(2)(d) as it is paired with a Donating Property, which contains sufficient acreage or square footage to collectively comply with the water supply watershed built-upon limits for the respective water supply watershed.

# Sec. 21-33(2)(f) Options in Density Compliance

## 4. Density Averaging

### a. Purpose and Intent

1. Purpose. Density Averaging provides non-residential developments in watershed overlay districts the option to aggregate density between two non-contiguous properties for the purpose of compliance with the water supply watershed development standards of 21-33(2)(d). This process involves the allowable built upon area of a donating property being transferred to a receiving property to comply with the built-upon limits for the respective water supply watershed.
2. Intent. Density Averaging is intended as an alternative method of compliance for built-upon limits within the subject parcel boundary, stormwater control measures with High Density standards, or SNIA applications for non-residential development.

# Sec. 21-33(2)(f)(4)(b) Eligibility

## 4. Density Averaging

- b. Eligibility. An applicant may average development density between two non-contiguous properties (i.e. One (1) Donating Property and One (1) Receiving Property) for purposes of achieving compliance with the water supply watershed development standards if all of the following circumstances exist:
  - 1. The properties are within the same water supply watershed, located entirely within Rowan County's Zoning Jurisdiction. Properties located in the critical area of the watershed are not eligible to be a Receiving Property but may be used as the Donating Property for projects outside the critical area

## Sec. 21-33(2)(f)(4)(b) Eligibility

2. Overall project density on the collective Receiving and donating Property meets applicable built-upon area requirements (existing and proposed) as prescribed in section 21-33(2)(d). Built-upon area received from the critical area of the watershed is still subject to the requirements of the critical area. Built-upon area calculations from both properties including any remaining balance of the Donating Property shall be provided.
3. The Donating Property must be an existing or proposed tract of land having sufficient acreage or square footage to offset all, or requisite portion of the built-upon area on the Receiving Property. If the Donating Property will be a new tract and it is not exempt under sec. 22-6, the new tract must meet all lot requirements except for road frontage. At a minimum, access shall be sufficient to provide vehicular access for tract maintenance.

## Sec. 21-33(2)(f)(4)(b) Eligibility

4. The Donating Property will remain in a perpetually undeveloped and vegetated or natural state and will be managed by one of the following means:
  - a. Conveyed and accepted by a local government as a public park or greenway;
  - b. Placed under a conservation easement or farmland preservation easement; or
  - c. Recorded plat and deed restriction;

Applicants have the burden of demonstration to the Board of Commissioners their proposal will ensure perpetual compliance with this chapter.

## Sec. 21-33(2)(f)(4)(b) Eligibility

5. The following areas shall not be eligible for use as the Donating Property:
  - a. Any area within a floodway or non-encroachment area as identified on the Rowan County Flood Insurance Rate Maps.
  - b. Any dedicated or observed road easement or right of way.
  - c. Any dedicated utility easement or right of way.
  - d. Any railroad right of way
  - e. Any area within a stream buffer as required by section 21-213(h).
  - f. Any area identified as a wetland.
  - g. Any septic drain fields identified by the Rowan County Environmental Health Department.
  - h. Any area within an existing conservation easement.



## Sec. 21-33(2)(f)(4)(b) Eligibility

6. Properties that have received a SNIA permit, utilize the High-Density standards from section 21-33(2), or have received a watershed variance are not eligible for Density Averaging.
7. The proposed development is a non-residential use.
8. Both the Receiving Property and the Donating Property can be in joint or separate ownership so long as all other requirements of this section are met.
9. Development permitted under density averaging and meeting applicable low-density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable as certified by a North Carolina Professional Engineer.

## Sec. 21-33(2)(f)(4)(b) Eligibility

10. Built upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas as certified by a North Carolina Professional Engineer.
11. Vegetated setbacks on both properties meet the minimum requirements of 21-213(h)

## Sec. 21-33(2)(f)(4)(C) Application

- c. Application. Projects that meet the eligibility requirements in section 21-33(2)(f)(4) may submit a Density Averaging permit application for consideration by the Board of Commissioners subject to the process outlined in section 21-318 of this chapter.

## Section 21-311. Board of Commissioners

(8) Function as the Watershed Review Board regarding decisions related to Special Non-Residential Intensity Allocation (SNIA) permits, High Density development permits, Variance from Watershed Overlay (WSO) standards and Density Averaging requests.

# Sec. 21-318. Density Averaging Permit Application

1. A Density Averaging permit shall be required for any project that averages the density of two non-contiguous properties for the purpose of compliance with the development requirements set forth in sec 21-33(2).
2. An application for a Density Averaging permit shall be made on the proper form and submitted to the Planning Department with the following information:
  - a. Documentation demonstrating how the Receiving Property will comply with section 21-33(2)(f)(4)(b)
  - b. Existing plats and deeds.
  - c. Draft plat(s).
  - d. Metes & Bounds description(s) of the Donating Property, intended for recordation.
  - e. Site Plan.

# Sec. 21-318. Density Averaging Permit Application

3. The Planning Department shall review the application and, if deemed complete, submit a recommendation to the Board of Commissioners to schedule a quasi-judicial hearing regarding the application. Notice and quasi-judicial hearings shall be as provided in section 21-315. Prior to any decision to approve or deny the application the Board shall make the following findings:
  - a. The participating parcels as a whole conform to the intent and requirements of sec 21-33(2);
  - b. The proposed application and supporting documents assure the Donating Property will perpetually remain in an undeveloped, vegetative or natural state; and
  - c. The proposed development on the Receiving Property is consistent with the zoning district which it is located and in general conformity with any adopted county plans.

# Sec. 21-318. Density Averaging Permit Application

4. The Board shall take action as prescribed in section 21-58(g).
  - a. If the Board approves the application, the Planning Department shall issue a Density Averaging permit.
  - b. If the Board approves the application, such approval shall be indicated on the site plan, deed and plat required to ensure the Donating Property remains perpetually undeveloped, the Receiving Property complies with built-upon area limitations, and overall project complies the intent of Density Averaging.
  - c. If the Board disapproves the application, the reasons for such action shall be stated in the minutes of the Board and presented to the applicant in writing either by personal service or registered mail, return receipt requested. The applicant may make changes and submit a revised plan which shall be submitted, reviewed, and acted upon by the Board pursuant to the procedures in this section.

# Sec. 21-318. Density Averaging Permit Application

5. If a Density Averaging permit has been approved by the Board of Commissioners, no change in the development proposal authorized for participating parcels shall be made unless the permit is amended by the Board. The amendment process will follow the same procedure as required for the original issuance of the Density Averaging permit



# Sec. 22-59. Certifications and notations required on plats.

This certificate shall appear on all final plats with a Donating or Receiving Property.

## Density Averaging Certificate

This plat complies with the provisions of Density Averaging from section 21-33(2) of the Rowan County Zoning Ordinance and has received Density Averaging permit approval from the Rowan County Board of Commissioners.

Density Averaging Permit Number: \_\_\_\_\_

Approval date: \_\_\_\_\_

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