



Rowan County Planning and Development Department

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MEMORANDUM

TO: Chairman Edds and Rowan County Board of Commissioners
FROM: Shane Stewart, Assistant Planning Director
DATE: August 23, 2016
RE: **ZTA 01-16 & STA 02-16**

SUGGESTED BOARD OF COMMISSIONERS ACTION

Receive staff report Conduct public hearing Close hearing & discuss
 Develop statement of consistency Motion to Approve / Deny / Table **ZTA 01-16 & STA 02-16**

BACKGROUND

Planning Staff propose multiple amendments to the Subdivision and Zoning Ordinances partly in response to recent changes to the North Carolina General Statutes (NCGS) but also includes other amendments where staff are of the opinion changes are needed. Amendments also include sections of clarification or other non-material changes. Further explanation is provided in the following sections and the below text sidebar.

AMENDMENTS RESULTING FROM NCGS CHANGES

- **HB 721 / SL 2015** – Legislation provided specific standards for the use of performance guarantees while eliminating the option of requiring maintenance guarantees. Financial guarantees (e.g. letter of credit, surety bond, cash) are used to ensure required improvements for subdivisions are completed if the jurisdiction elects to allow recordation of the plat prior to the installation of road construction, utilities, and similar improvements. While these changes do not require significant modification of the current process used, changes are proposed to ensure the ordinances properly align.
- **HB 625 / SL 2014** – This bill established specific provisions in the zoning and building code statutes for a temporary health care structure. These structures provide a temporary option to facilitate care for impaired persons which would effectively be considered an accessory use in all residential zoning districts if certain standards are met.

- **HB 634 / SL 2015** – The definition of built-upon area was amended to exclude a specific application of number 57 gravel and trails defined by NCGS 113A-85.

**STAFF INITIATED
AMENDMENTS**

- **Sec. 22-54 - Family subdivision waiver provision.** Current text provides a waiver option from the family subdivision requirements but is generic in nature providing confusion as to when a request to deviate from the ordinance requires a variance. As such, the proposed amendment ensures waiver requests would be reserved for the creation of more than 3 lots or conveyance to a family member that does not meet the definition of immediate family (e.g. aunts, uncles, nieces, nephews, cousins, etc.). Variance requests are reserved for all other requests to deviate from the ordinance requirements.

- **Sec. 22-57(g) – Conveyance plats.** In certain instances, the current Subdivision Ordinance permits the use of conveyance plats in lieu of a recorded plat (18"x24" or 24"x36") when creating new parcels of land. Conveyance plats (8 ½" x 14" in size) are designed to be attached to one's deed as reference of the subdivided parcel. Historically, these attachments fail to be recorded with the deed creating problems with their future reference and the lack of a visual representation for the new parcel. Proposed language would eliminate this option allowing only recorded plats for divisions of land. The Yadkin Valley Chapter of the North Carolina Society of Surveyors unanimously supports this measure.

- **Sec. 21-61 through 63 – Conditional Zoning.** Staff proposes migration from conditional use districts to conditional zoning. Conditional use districts are special zoning districts where all uses listed as permitted by right are conditional and the requested use is considered in a subsequent conditional use permit request. The process does have similarities but conditional zoning requests are approved as legislative decisions, similar to a general rezoning, as opposed to quasi-judicial where sworn testimony and findings of fact are required. While these requests would still have to provide site specific plans, eliminating the quasi-judicial procedural elements would make the process much easier for all involved. As a side note, current legislation proposed in the General Assembly to modernize planning and zoning statutes for counties and municipalities propose the elimination of conditional use zoning in favor of conditional zoning. If approved, the county would need to approve the rezoning of approximately 32 properties from the current conditional use district to a conditional district.

PROPOSED CHANGES

Text proposed for deletion appear **highlighted with strikethroughs** while proposed new text appear **highlighted with bold red text.** **Due to the number of pages included within this proposed text amendment, Planning Staff did not provide the full text for every section proposed for amendments.**

AMENDMENTS TO CHAPTER 21: ZONING ORDINANCE

Staff
Comments

- 1 Secs. 21-17--21-30. Reserved.
2 Article II. General and Overlay Districts
3 Sec. 21-31. Zoning districts established.
4 Sec. 21-32. General zoning districts defined; purpose and intent.
5 Sec. 21-33. Overlay districts.
6 Sec. 21-34. Economic development districts established for I-85.
7 Secs. 21-35--21-50. Reserved.
8 Article III. Site Plans, Special Requirements, Conditional Use Permits and
9 ~~Parallel~~ Conditional ~~Use~~ **Zoning** Districts
10 Sec. 21-51. Purpose.
11 Sec. 21-52. Site plan required.
12 Sec. 21-53. Permitted uses with special requirements.
13 Sec. 21-54. Maximum building size and setback requirements for certain
14 uses listed as SR in the Rural Agricultural District.
15 Sec. 21-55. General criteria for uses listed as SR in article III.
16 Sec. 21-56. Specific criteria for uses listed as SR in section 21-113.
17 Sec. 21-57. Review and approval of conditional uses.
18 Sec. 21-58. Review procedures.
19 Sec. 21-59. Evaluation criteria.
20 Sec. 21-60. Conditional use requirements for specific uses.
21 Sec. 21-61. ~~Parallel conditional use~~ **Conditional zoning** districts.
22 Sec. 21-62. Effect of approval for conditional **zoning** districts ~~and parallel~~
23 ~~conditional use districts.~~
24 Sec. 21-63. Application re-submittal for conditional use permits and ~~parallel~~
25 conditional ~~use~~ **zoning** districts.

26 *Sec. 21-4. Definitions.*

27 *Built-upon area* means that portion of a development project that is covered by
28 impervious or partially impervious cover, including buildings, pavement, gravel
29 areas (e.g. roads, parking lots, paths), recreation facilities (e.g. tennis courts), etc.
30 **This does not include** (Note: ~~Wooded~~ slatted decks, ~~and~~ the water area of a
31 swimming pool, ~~are considered pervious~~). **a surface of number 57 stone, as**
32 **designated by the American Society for Testing and Materials, laid at least**
33 **four inches thick over a geotextile fabric, and trails defined in G.S. 113A-85**
34 **that are either unpaved or paved as long as the pavement is porous with a**
35 **hydraulic conductivity greater than 0.001 centimeters per second (1.41**
36 **inches per hour).**

37 *Community water system* means a public water supply approved by the state
38 department of ~~environmental, health, and natural resources~~, **Environmental**
39 **Quality Division of Water Resources**, public water supply ~~branch~~ **section**, that
40 serves at least fifteen (15) service connections used by year-round residents or
41 regularly serves at least twenty-five (25) year round residents which is owned

Definition change
resulting from HB
634.

Revised office
name

1 and operated by a privately owned for profit or nonprofit licensed water supply
2 firm or corporation or a private individual.

3 *Drinking Place* means an establishment whose principal purpose is to derive
4 income from the sale of alcoholic beverages that are served and consumed on-
5 premise. These establishments, commonly known as bars, pubs, saloons, and
6 taverns, hold themselves out to the public through advertising, signage, or other
7 activities as purveyors of alcoholic beverages served on-premise. Drinking
8 places may also provide limited food services but do not meet the definition of
9 an eating place as defined herein. In determining whether a use meets this
10 definition, the Zoning Administrator may also consider the percentage of income
11 from alcoholic beverage sales, floor plans, and plans / permits from the Rowan
12 County Building ~~Codes Enforcement~~ **Inspections** Department, Rowan County
13 Environmental Health Division, and the North Carolina ABC Commission.
14 Unless otherwise indicated, this definition does not include congressionally
15 chartered veteran organizations or wine tasting rooms defined by G.S. 18B-1000
16 or this ordinance.

17 *Eating Place* means an establishment principally engaged in preparing and
18 serving food and beverages, which may or may not be consumed on-premise,
19 and in which the service of alcoholic beverages are accessory to the service of
20 food and non-alcoholic beverages in terms of sales and square footage. In
21 determining whether a use meets this definition, the Zoning Administrator may
22 also consider the percentage of income from alcoholic beverage sales, floor
23 plans, and plans / permits from the Rowan County ~~Codes Enforcement~~
24 **Inspections** Department, Rowan County Environmental Health Division, and the
25 North Carolina ABC Commission.

26
27 *Substantial modification* means the mounting of a proposed wireless facility on
28 a wireless support structure that substantially changes the physical dimensions of
29 the support structure. A mounting is presumed to be a substantial modification if
30 it meets any one or more of the criteria listed below. The burden is on the local
31 government to demonstrate that a mounting that does not meet the listed criteria
32 constitutes a substantial change to the physical dimensions of the wireless
33 support structure.

- 34 a. Increasing the existing vertical height of the structure by the greater of (i)
35 more than ten percent (10%) or (ii) the height of one additional antenna
36 array with separation from the nearest existing antenna not to exceed 20
37 feet.
- 38 b. Except where necessary to shelter the antenna from inclement weather or
39 to connect the antenna to the tower via cable, adding an appurtenance to
40 the body of a wireless support structure that protrudes horizontally from
41 the edge of the wireless support structure the greater of (i) more than 20
42 feet or (ii) more than the width of the wireless support structure at the
43 level of the appurtenance.
- 44 c. Increasing the square footage of ~~of~~ the existing equipment compound by

Revise department
name.

**Staff
Comments**

1 more than 2,500 square feet.

2 **Temporary family health care structure means a transportable residential**
3 **structure, providing an environment facilitating a caregiver's provision of**
4 **care for a mentally or physically impaired person, that (i) is primarily**
5 **assembled at a location other than its site of installation, (ii) is limited to one**
6 **occupant who shall be the mentally or physically impaired person, (iii) has**
7 **no more than 300 gross square feet, and (iv) complies with applicable**
8 **provisions of the State Building Code, G.S. 143-139.1(b), and G.S. 160A-**
9 **383.5.**

Incorporate temporary family health care structure from HB 624

10 *Sec. 21-11. Zoning vested rights.*

11 (a) Pursuant to G.S. 153A-344.1, a vested right to undertake and complete the
12 development and use of property under the documented terms, any associated
13 conditions, and approved site plans may be established for any one (1) of the
14 following:

15 (1) Site plan approval by the board of commissioners;

16 (2) Conditional or special use permits;

17 **(3) Conditional zoning district;**

18 ~~(3)~~ **(4)** Multi-family or multi-unit development plans.

19 (Ord. of 1-19-98, § I; Amend. of 4-21-14)

Incorporate conditional zoning option (see section 21-61 through 63 for details.

20 *Sec. 21-33. Overlay districts.*

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

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

37 (4) *Manufactured Home Overlay, MHO.*

38 a. *Purpose and intent.* The purpose of the Manufactured Home Overlay
39 is to provide for the development of Type II and Type III

Staff
Comments

1 manufactured homes in established residential zoning districts while
2 maintaining the overall residential, rural or agricultural character of
3 those districts. Because of the potential impacts of the establishment
4 of this district, it ~~is a conditional district. The intent of the~~ **has**
5 prescribed conditions contained in this subsection ~~is~~ to ensure
6 compatibility with the surrounding area.

7 b. *Permitted districts.* The Manufactured Home Overlay supplements the
8 range of uses and regulations in the underlying district. The overlay is
9 allowed in the following districts permitting residential development;
10 RA, RR, CBI and MFR. All other uses in the underlying district shall
11 continue to remain in effect and subject to the regulations and
12 conditions of approval of the underlying district.

13 c. *Procedures for district designation.* The following procedures are
14 required for MHO district designation:

- 15 1. Designation as an MHO district shall require a rezoning as
16 provided in article XIV of this chapter.
- 17 2. Upon approval of an MHO district by the board of commissioners,
18 the area so designated shall be labeled "MHO" on the zoning map.

19 d. ~~Conditional district review~~ **Review**. The petitioner seeking to rezone
20 property to this district must illustrate that the proposed development
21 will comply with the evaluation criteria contained in section 21-59. A
22 site plan is required as provided by section 21-52. In approving the
23 district reasonable conditions may be included to protect the public
24 health, safety and welfare and to meet the intent of this chapter.

25 e. *Development standards.* The following standards shall apply for the
26 location of type II and type III manufactured homes unless
27 specifically provided otherwise in this chapter:

- 28 1. Location of type II and type III manufactured homes on
29 subdivisions of one (1) or more lots shall require establishment of
30 an MHO zoning district.
- 31 2. Upon establishment of an MHO district the following types of
32 homes may be located in the following districts:
 - 33 i. RA district: Type II and type III.
 - 34 ii. RR district: Type II.
 - 35 iii. CBI district: Type II and type III.
 - 36 iv. MFR district: Type II and type III.
- 37 3. Side & rear yard setbacks for the district's external boundary is 30
38 feet.

Based on proposed conditional zoning districts, language herein is proposed for revision to clarify the process

1 (Ord. of 1-19-98, § III; Ord. of 6-7-99; Ord. of 12-18-00(2); Ord. of 10-4-04;
2 Amend. of 11-2-09; Amend. of 4-21-14)

3 **ARTICLE III. SITE PLANS, SPECIAL REQUIREMENTS,**
4 **CONDITIONAL USE PERMITS AND PARALLEL CONDITIONAL USE**
5 **ZONING DISTRICTS**

6 *Sec. 21-56. Specific criteria for uses listed as SR in section 21-113.*

7 (6) *Additional standards applicable to specific uses listed as SR in the*
8 *transportation, communication, electric, gas and sanitary services group.*

9 d. Co-location of Wireless and Eligible Facilities Requests (SIC 48 part).
10 Co-location of wireless and eligible facilities requests are recognized as
11 an efficient method for providing wireless facilities and are encouraged
12 due to their minimization of adverse visual impacts and the opportunity
13 for an expedited and effective administrative review.

14 1. Applications for co-location of wireless facilities shall include two
15 (2) copies of a site plan prepared by a registered professional
16 engineer or a professional land surveyor as provided in Section 21-
17 52 including items in Section 21-56 (6)(e)5 and Section 21-
18 60(3)a.1.i.,

19 2. Consideration of eligible facilities requests pursuant to this
20 subsection shall comply with all standards prescribed below,
21 otherwise the request may be deemed a substantial modification and
22 subject to the provisions of Section 21-60 (3)(a):

23 i. Not increase the existing vertical height of the structure by the
24 greater of (a) more than ten percent (10%) or (b) the height of one
25 additional antenna array with separation from the nearest existing
26 antenna not to exceed twenty feet (20') regardless of height
27 limitations prescribed in Section 21-60(3)b.

28 ii. Not add an appurtenance to the body of a wireless support structure
29 that protrudes horizontally from the edge of the wireless support
30 structure the greater of (a) more than 20 feet or (b) more than the
31 width of the wireless support structure at the level of the
32 appurtenance. A statutory exception (ref. NCGS 153A-
33 349.51(7a)b) to this standard allows for sheltering the antenna
34 from inclement weather or to connect the antenna to the tower via
35 cable.

36 iii. Not increase the square footage of the existing equipment
37 compound by more than 2,500 square feet.

38 iv. Provide information from Section 21-56 (6)(e) 4, and 5; and
39 Section 21-60(3)(a) 1.i. and 21-60(3)(c)

40 *Sec. 21-58. Review procedures.*

Missing section
reference

Missing section
reference

Staff
Comments

1 (f) *Amendments of conditional use permits.* Amendments to approved
2 conditional use permits may be made as follows:

3 (1) *Minor changes.* Conditional use permits are considered through a quasi-
4 judicial process and the county recognizes slight deviations in site-
5 specific development proposals may arise, warranting changes to the
6 plans ~~and / or conditions of approval~~ and therefore offers a provision for
7 administrative approval of a minor change. The applicant may submit a
8 written request to the planning director that includes supporting
9 documentation (e.g. federal / state permits, survey / engineering
10 information) substantiating the need for the minor change. After
11 reviewing the record of proceedings, the planning director may consider
12 minor changes that are substantially similar to that approved by the Board
13 of Commissioners subject to the following criteria:

14 (j) *Revocation.* The Board of Commissioners may consider revocation of an
15 approved conditional use permit through the same procedure as the original
16 permit. Following the hearing, the Board of Commissioners may elect to
17 revoke the permit if **it** is factually determined that one or more instances
18 listed below have occurred:

19 (1) The vested rights time period from Sec. 21-11 lapsed;

20 (2) The permit was obtained by fraud;

21 (3) Non-compliance with the approved site plan and / or conditions of
22 approval;

23 (4) Repeated zoning code violations or criminal activity; or

24 (5) Eminent threat to public health or safety.

25 Failure to validate at least one of these instances shall allow the conditional
26 use permit to remain valid. Petitioners may appeal this decision to ~~the~~
27 superior court. ~~Should a Parallel Conditional Use Rezoning be revoked, the~~
28 ~~Board of Commissioners will rezone the property back to a general zoning~~
29 ~~district.~~

30 (Ord. of 1-19-98, § IV; Ord. of 10-18-04; Amend. of 3-7-05; Amend. of 2-20-
31 06(1); Amend. of 11-2-09; Amend. of 10-4-10; Amend. of 3-5-12; Amend. of 4-
32 21-14)

33 *Sec. 21-60. Conditional use requirements for specific uses.*

34 The following criteria shall be used in evaluating specific conditional use
35 permit applications. If no specific requirements are listed for a specific use, then
36 only the general criteria will be used in evaluating the application.

37 (1) *Mining group: Metal mining (SIC 10), mining and quarrying of non-metallic*
38 *minerals (SIC 14) except common sand mining.*

Minor changes should not include deviations from a specific condition of approval.

This section is revised and included in sec. 21-62(d)(2)(d).

1 a. *New Facilities.* Facilities regulated under this section are considered to be
2 those operations where no mining or quarrying activity has ever occurred; or
3 operations have been abandoned or discontinued for a period of three
4 hundred sixty (360) consecutive days; or its **NC DENR NC Department of**
5 **Environmental Quality** authorized mining permit has expired.

6
7 b. *Existing Facilities.* Facilities regulated under this section are those
8 mining or quarrying operations that existed prior to enactment of this chapter
9 [February 16, 1998] and have continuously operated and maintained an
10 active mining permit with NC Department of ~~Environment and Natural~~
11 ~~Resources~~ **Environmental Quality**. Said facilities seeking conforming use
12 status or expansions to their operational areas are subject to these standards.

13 (4) Electric, Gas, and Sanitary Services.

14 b. Ground mounted solar energy systems over 6,000 sq.ft. (SIC 491 pt.)

15 1. *Setbacks.* Solar collectors shall be located a minimum of fifty (50)
16 feet from adjoining property lines.

17 2. *AZO.* Systems proposed within **the portion of the approach surface**
18 **contained by the horizontal** ~~ten thousand (10,000) feet of the extended~~
19 ~~runway approach~~ surface of the AZO shall provide an approved FAA
20 form 7460-1.
21

22 *Sec. 21-61. ~~Parallel conditional use~~ **Conditional** districts.*

23 *(a) Purpose.* ~~Conditional use districts allow specific uses to be established in~~
24 ~~accordance with prescribed conditions pertaining to an individual project.~~
25 ~~The uses in these districts are such that~~ **There are instances where certain**
26 **uses** may have significant ~~impact~~ **impacts** on the surrounding area and the
27 county which cannot be predetermined and controlled by general district
28 standards. ~~Conditional district zoning allows specific standards for a~~
29 ~~particular use after review and comment from the public. A petition to rezone~~
30 ~~a property to a conditional district shall be accompanied by a site plan as~~
31 ~~provided in section 21-52. The purpose of this section is to provide a~~
32 ~~voluntary alternative procedure for the rezoning of a property for a specific~~
33 ~~use. A broad range of uses are permitted in the conventional district.~~
34 ~~However, there are instances where~~ **As a result,** a general zoning district
35 designation is clearly inappropriate for a property, but a specific use **or uses**
36 permitted ~~under this~~ **as a conditional** district ~~and~~ subject to development
37 requirements **to address the anticipated impacts** would be consistent with
38 the spirit and intent of this chapter. ~~Parallel conditional use districts, herein~~
39 ~~established, are intended to accommodate such situations.~~ This voluntary
40 procedure is intended for firm development proposals, and is neither intended

More specific description of location and FAA form needed.

Multiple changes for the migration from conditional use districts to conditional zoning. Both options have similarities, only minor changes are required for the text. Changes are made throughout sections 21-61 through 63 to accommodate conditional districts.

1 nor suited for securing early zoning for tentative uses which may not be
2 undertaken for a long period of time.

3

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

4 (b) *Applications.* Applications for ~~parallel~~ conditional use districts shall be
5 on forms provided by the county planning ~~and development~~ department.
6 Only property owners or their authorized agents shall apply for rezoning to
7 an appropriate conditional use district (amended 6-19-00). ~~Emphasis will be~~
8 ~~given to an evaluation of the proposed use district in relationship to~~
9 ~~surrounding property.~~ In addition to the ~~general~~ information required ~~in~~
10 ~~section 21-52 and other applicable sections of this chapter for a~~
11 ~~conditional use,~~ the petitioner may propose additional limitations or
12 restrictions ~~to ensure compatibility between the development and the~~
13 ~~surrounding area.~~ **Only uses listed in section 21-113 as permitted by**
14 **right may be considered within a conditional district.**

15 (b) *Permitted uses and development requirements.* Upon approval of a
16 conditional use district, ~~only the use or uses identified in the conditional~~
17 ~~district are allowed subject to any associated conditions or limitations~~
18 ~~therein.~~ **all uses allowed in the underlying general district are allowed as are**
19 **conditional uses.** All use requirements of the underlying general use district
20 shall apply as well as all other requirements of the ordinance. In no situation
21 shall approval of a conditional use district reduce required standards of this
22 ordinance unless otherwise provided herein. ~~Application for a conditional use~~
23 ~~district shall be accompanied by an application for a conditional use permit~~
24 ~~for the specific use requested.~~ Approval of the conditional use permit shall
25 ~~occur only after approval of the parallel conditional use district.~~ However,
26 ~~review and recommendation of the application as provided in this ordinance~~
27 ~~may occur prior to approval of the conditional use district.~~ The owner may

Conditional district changes.

1 ~~propose conditions to ensure compatibility between development and the~~
2 ~~surrounding area (amended 6-19-00).~~

3 (c) *Review Procedures.* ~~Parallel conditional use~~ **Conditional** district
4 requests shall follow review procedures referenced in Sec. ~~21-58 and~~ 21-
5 362.

6 (d) ~~Issuance of a parallel conditional use permit~~ **Conditional District**
7 **Approval.** The board of commissioners may approve a reclassification of a
8 property to a conditional ~~use~~ district only upon determining that the
9 proposed use **or uses** will meet all standards and regulations in this chapter
10 that are applicable ~~to the proposed use.~~ Specific conditions applicable to the
11 districts may be proposed by the petitioner or the board of commissioners,
12 but only those conditions mutually approved by the board and the petitioner
13 may be incorporated into the zoning regulations ~~or permit requirements.~~
14 Conditions and site-specific standards imposed in a conditional ~~use~~ district
15 shall be limited to those that address the conformance of the development
16 and use of the site to applicable ordinances and an officially adopted
17 comprehensive or other plan and those that address the impacts reasonably
18 expected to be generated by the development or use of the site. The approval
19 of the district and any requested conditions shall be included on an approval
20 form provided by the county. If the approval and any attached conditions are
21 acceptable to the petitioner, then this acceptance shall be indicated by the
22 petitioner signing the approval form.

23
24 (Ord. of 1-19-98, § IV; Ord. of 6-17-02; Amend. of 3-7-05; Amend. of 2-20-
25 06(1); Amend. of 6-16-08; Amend. of 6-19-10; Amend. of 3-5-12)

26 *Sec. 21-62. Effect of approval for ~~parallel~~ conditional ~~use~~ districts.*

27 (a) *Conditions attached to approval.* Approval of a ~~parallel~~ conditional ~~use~~
28 district and the attached conditions are binding on the property as an
29 amendment to the zoning maps. All subsequent development and use of the
30 property shall be in accordance with the standards for the approved
31 conditional ~~use~~ district, the approved rezoning request, and all conditions
32 attached to the approval. In accordance with Sec. 21-11, an approved
33 ~~parallel~~ conditional ~~use~~ district secures a vested right to undertake a project
34 for two (2) years unless a longer duration is requested by the applicant and
35 approved by the Board of Commissioners.

36 (b) *Uses allowed.* Only uses and structures indicated on the approved site plan
37 shall be allowed on the subject property. All uses and structures in a ~~parallel~~
38 conditional ~~use~~ district shall also comply with all standards and
39 requirements for development in the underlying zoning district.

40 (c) *Effect on zoning maps.* Following approval of the rezoning request for a
41 ~~parallel~~ conditional ~~use~~ district, the subject property shall be identified on
42 the zoning map by the appropriate district designation as listed in section

Conditional
district changes.

**Staff
Comments**

If adopted, the county would need to approve the rezoning of approximately 32 properties to revise their designation.

Minor change language provided herein mirrors that from sec. 21-58 (f)(1) for minor changes to conditional use permits. Additional section needed to accommodate conditional zoning.

1 21-61 (a). All parallel conditional use districts approved prior to
2 September 6, 2016 shall hereby be replaced by a comparable
3 conditional district. For example, a pre-existing CBI-CUD designation
4 will be changed to a CBI-CD designation. Associated applications, site
5 plans, conditions, and limitations placed on the conditional use district
6 are incorporated without change into the standards and conditions for
7 the new conditional district. Changes to a pre-existing conditional use
8 district are subject to the conditional district process identified in
9 subsection (d). Nothing in the section shall be interpreted to invalidate
10 a pre-existing conditional use district.

11 (d) *Alterations to approval.* Alterations to an approved plan for a parallel
12 conditional use district shall be as provided in this subsection.

13 (1) Except as provided in subsection (2) below, changes to the approved
14 parallel conditional use district and maps shall be treated as amendments
15 to this chapter and the zoning maps.

16 (2) Minor changes may be considered in accordance with Sec. 21-58 f.

17 a. The county recognizes slight deviations in site-specific
18 development proposals may arise, warranting changes to the
19 plans and therefore offers a provision for administrative
20 approval of a minor change. The applicant may submit a
21 written request to the planning director that includes
22 supporting documentation (e.g. federal / state permits,
23 survey / engineering information) substantiating the need for
24 the minor change. After reviewing the record of
25 proceedings, the planning director may consider minor
26 changes that are substantially similar to that approved by
27 the Board of Commissioners subject to the following criteria:

28 1. Relocation of operational area improvements that do not
29 project into the required setback;

30 2. One time expansions that do not exceed the lesser of ten
31 (10) percent of the approved structure or one thousand
32 (1,000) square feet for nonresidential uses;

33 3. One time expansions that do not exceed the lesser of ten
34 (10) percent of the development or five (5) units;

35 4. Structural alterations that do not significantly effect the
36 basic style, ornamentation, and / or character of the
37 building; or

38 5. Change in detail which does not affect the basic
39 relationship of the use to the required standards of the
40 applicable ordinances or condition(s) of approval.

1 **b. Regardless of Sec. 21-62(d)(2)(a)(1-5), the planning director**
2 **may forward the requested change to the Board of**
3 **Commissioners for consideration in the same procedure as**
4 **required for the original issuance of the conditional district as**
5 **per Sec. 21-61(b). All other changes shall be reviewed by the**
6 **Board of Commissioners as per Sec. 21-61(b). Modifications**
7 **requesting reduction of the minimum standards within the**
8 **zoning ordinance shall be treated as a variance request and**
9 **not considered herein.**

10 **c. Requests for a minor change may be submitted to the**
11 **planning director at any time, although proposals to change**
12 **or amend any approved conditional district shall not be**
13 **considered by the Board of Commissioners within one (1) year**
14 **after date of original authorization of such permit or within**
15 **one (1) year after hearing of any previous proposal to amend**
16 **or change the district unless deemed appropriate by the**
17 **planning director. The applicant may appeal the decision of**
18 **the planning director to the Planning Board. The Planning**
19 **Board will make a recommendation for the Board of**
20 **Commissioners' consideration. Failure of the Board of**
21 **Commissioners to set a public hearing regarding an**
22 **amendment shall constitute denial of the request and**
23 **conditions of the original district shall remain in effect.**

24 **d. The Board of Commissioners may consider revocation of an**
25 **approved conditional district through the same procedure as**
26 **the original permit. Following the hearing, the Board of**
27 **Commissioners may elect to revoke the district if it is factually**
28 **determined that one or more instances listed below have**
29 **occurred:**

- 30 **1. The vested rights time period from Sec. 21-11 lapsed;**
- 31 **2. The permit was obtained by fraud;**
- 32 **3. Non-compliance with the approved site plan and / or**
33 **conditions of approval;**
- 34 **4. Repeated zoning code violations or criminal activity; or**
- 35 **5. Eminent threat to public health or safety.**

36 **Failure to validate at least one of these instances shall allow the**
37 **conditional district to remain valid. Petitioners may appeal this**
38 **decision to superior court. Should a conditional district be**
39 **revoked, the Board of Commissioners will rezone the property**
40 **back to a general zoning district.**

Minor change
language
continued

Staff
Comments

1 ~~(e) Revocation. The Board of Commissioners may consider revocation of an~~
2 ~~approved parallel conditional use district as per Sec. 21-58(j).~~

3 (Ord. of 1-19-98, § IV; Ord. of 10-18-04; Amend. of 11-2-09; Amend. of 10-
4 4-10; Amend. of 3-5-12)

5 *Sec. 21-63. Application re-submittal for conditional use permits and parallel*
6 *conditional use districts.*

7 (a) If conditionally approved, the applicant may submit a revised application
8 within forty-five (45) days of having received the decision of the
9 appropriate board. The revised application shall include provisions
10 described in conditions placed on the application. If the conditionally
11 approved application is not resubmitted within the prescribed time period
12 the application shall be deemed to be disapproved.

13 (b) If a conditional use **permit or conditional district** application is denied,
14 the administrator shall not accept another application similar to the denied
15 application for the same property or a portion of the same property for a
16 period of twelve (12) months from the date of the public hearing, unless
17 the administrator determines that:

18 (Ord. of 1-19-98, § IV)

19 *Sec. 21-113. Table of uses.*
20

On the following pages for the table of uses, major subdivisions in the CBI and NB districts require a CUP but are proposed for revision to permitted by right in the non-residential districts and not permissible in residential districts.

Changes proposed for specific agricultural uses providing a logical grouping of similar uses vs. those typically exempt from zoning.

P- Permitted by Right P(A) - Permitted as Accessory Use SR - Permitted with Special Requirements C- Conditional Use		Zoning Districts									
		Residential					Nonresidential				
Use		RA	RR	RS	MHP	MFR	CBI	NB	INST	IND	
<i>Residential</i>											
SIC											
	Temporary family health care structure	P (A)	P (A)	P (A)	P (A)	P (A)	P (A)	P (A)			
	Duplexes, triplexes, quadruplexes, quadrplexes, other multi-family developments					C					
	Major Subdivisions for residential use	P	P	P	P	P	C	C	P	P	
<i>Agriculture, forestry and fishing</i>											
07	Agricultural services, all except	P	P	P	P	P	P	P		P	
074	Veterinary services	SR	SR	SR	SR	SR	SR P	SR P		P	
0751 (pt)	Slaughtering, custom						P	SR		P	
0752 (pt)	Animal Shelters, Boarding Kennels, Dog Pounds, Dog grooming, showing pets, training pets, vaccinating pets	SR					P	P		P	
0782	Lawn and garden services	SR					P	P		P	
0783	Ornamental Shrub and Tree Services	SR					P	P		P	
<i>Unclassified</i>											
	Major subdivisions for commercial use						P	P	P	P	

- 1 Sec. 21-136. Repairing damaged nonconforming structures.
- 2 (a) Conditions for repair of damaged nonconforming uses. Repair or rebuilding
- 3 such nonconforming structures shall be subject to the following conditions:
- 4 (1) In the event of damage by fire or other causes to the extent less than
- 5 seventy-five (75) percent of its tax value prior to such damage as
- 6 determined by the county ~~codes enforcement supervisor~~ **director of**
- 7 **Building Inspections**, reconstruction of a nonconforming structure shall
- 8 be permitted for the same use subject to the following conditions:
- 9 a. There is no greater nonconformity with respect to dimensional
- 10 restrictions such as setback requirements, height limitations, or
- 11 density requirements or other requirements such as parking, loading
- 12 and landscaping requirements.
- 13 b. In the same manner in which it originally existed.
- 14 (2) In the event of damage by fire or other causes to the extent exceeding

**Staff
Comments**

Revised
department name

Staff
Comments

1 seventy-five (75) percent of its tax value prior to such damage as
2 established by the county ~~codes enforcement supervisor~~ **director of**
3 **Building Inspections**, reconstruction of a nonconforming structure shall
4 be permitted provided it is constructed:

- 5 a. In the same manner in which it originally existed subject to
6 compliance with the requirements of the state building code; or
7 b. Relocated in compliance with dimensional and use requirements of
8 the district in which the unit is relocated.
9

10 (Ord. of 11-19-01(2); Amend. of 9-6-11; Amend. of 4-21-14)

11 *Sec. 21-137. Abandonment and discontinuance.*

12 (a) *Nonconforming use.* A nonconforming manufactured home space, vacated
13 for one hundred eighty (180) days, or left vacated for one hundred eighty
14 (180) days after the effective date of this article shall only be used for a
15 conforming use. **A manufactured home space in a MHP zoning district**
16 **meeting the applicable standards of section 21-283, which contain one**
17 **or more non-conforming situations from section 21-60(11), left**
18 **unoccupied for more than one hundred eighty (180) days shall not be**
19 **considered abandoned, discontinued, or vacated unless all of the spaces**
20 **within the MHP district are unoccupied for said time period.** Other
21 nonconforming uses left vacant, abandoned or discontinued for a period of
22 three hundred sixty (360) days shall only be re-established as a conforming
23 use.

24 (b) *Determination of nonconformity.* For purposes of determining whether a
25 right to continue a nonconforming situation is lost pursuant to this section,
26 all of the buildings, activities, and operations maintained on the zone lot are
27 generally to be considered as a whole. If a nonconforming use is maintained
28 in conjunction with a conforming use, discontinuance of a nonconforming
29 use for the required period as provided in subsection (a) shall terminate the
30 right to maintain it thereafter.

31 (c) *Existing nonconforming manufactured homes.* Existing nonconforming
32 manufactured homes may be replaced with a newer manufactured home;
33 however, the new manufactured home shall meet current building codes for
34 manufactured housing as set forth by the department of housing and urban
35 development, unless expressly provided otherwise in this article. The new
36 manufactured home shall be as large or larger that the replaced
37 manufactured home. If the space is left vacant for more than one hundred
38 eighty (180) days, the space shall only be used for a conforming use. If the
39 manufactured home is not replaced within one hundred eighty (180) days it
40 can only be replaced with a conforming use.

41 *Sec. 21-184. Prohibited signs.*

42 **No sign visible to the general public may contain the following terms:**

This section would clarify a manufactured home could be replaced on a space within an existing MHP which does not meet one or more of the current standards (e.g. space setback or park density) even if the replacement is beyond 180 days. The park would have to be zoned conforming, meet 21-283 and not completely unoccupied.

Prohibition of specific wording such as these would most certainly violate first amendment rights.

1 **"Erotic", "Nude", "Topless", or "XXX". Reserved.**

2 (Amend. of 8-20-07)

3 *Sec. 21-271. Generally.*

4 (a) The types of development approval governed by this article include uses
5 permitted as of right, uses permitted with special requirements, and
6 conditional uses.

7 (b) Uses permitted as of right and uses permitted with special requirements shall
8 require a zoning permit, a building permit and a certificate of occupancy.

9 (c) In addition to the requirements listed in subsection (b) above, special uses
10 and conditional uses shall require approval as described in article III.

11 (d) Variances from these regulations, appeals of administrative decisions
12 rendered under this chapter, shall be governed by article XIII.

13 (e) Amendments to the text of this chapter and to the zoning maps, including the
14 reclassification of property to a conditional **zoning** district ~~or parallel~~
15 ~~conditional use district~~, shall be governed by article XIV.

16
17 (Ord. of 1-19-98, § XII)

18 *Sec. 21-272. Issuance of building permits.*

19 It is illegal for any person to begin construction, reconstruction, or to make
20 any structural repairs, alterations, or additions to any structure without obtaining
21 required building permits from the ~~codes enforcement division, Building Code~~
22 ~~Enforcement department~~ **Building Inspections Department**. The ~~codes~~
23 ~~enforcement supervisor~~ **Director of Building Inspections** will not issue a
24 building permit for structures located within the zoning jurisdiction of the
25 county unless the plans, specifications, and intended use of the structure
26 conforms to the requirements of these regulations. The application for a building
27 permit shall be accompanied by a zoning permit or other evidence of
28 compliance with this chapter.

29 (Ord. of 1-19-98, § XII; Amend. of 10-4-10)

30 *Sec. 21-273. Type and number of uses permitted in all zones.*

31 The number of uses per zone lot shall be governed as follows:

32 (1) *Multiple uses per zone lot.* In all districts, combination uses may be
33 placed on the same zone lots, however, the applicable requirements of
34 subsections (2) and (3) below must be met. This includes subsequent
35 permitted development on property that may have received approval of a
36 conditional use permit, not including ~~parallel~~ conditional use **zoning**
37 districts, unless otherwise indicated.

1 (2) *Secondary dwelling units.* Detached secondary units excluding two or
2 more manufactured homes are permitted provided the entire zone lot
3 contains adequate area to meet the zone lot size requirements for each
4 dwelling and all other requirements of this section are met.

5 (3) *Subdivision requirements.* Issuance of a zoning permit for multiple
6 single-family dwellings or duplexes in a zoning district where
7 multifamily development is not a permitted use on an individual lot
8 shall meet the minimum requirements of a minor subdivision to allow
9 the parcel to be subdivided into conforming individual lots for each
10 dwelling, while not requiring an approved and recorded subdivision
11 plat.

12 (Ord. of 1-19-98, § XII; Ord. of 10-18-99(2); Amend. of 3-7-05; Amend. of 10-
13 4-10; Amend. of 3-5-12; Amend. of 3-5-12; Amend. of 4-21-14)

14 *Sec. 21-277. Exceptions and modifications.*

15 (b) *Utilities.* Except where otherwise expressly addressed, the following utility
16 structures and facilities are not intended to be regulated by this chapter:

- 17 (1) Utility lines, pipes, cables, & associated minor equipment &
18 structures, including transformers, pumping stations, "signal
19 boosters", & maintenance buildings;
- 20 (2) Electronics cabinets for telephone switching and similar devices used
21 by public service providers;
- 22 (3) Water towers or tanks;
- 23 (4) Water systems or sewage disposal systems as an exclusive accessory
24 use for a development project; and
- 25 (5) Solar energy systems located on the roof or exterior wall of any
26 building and systems located within a NCDOT right-of-way; **are not**
27 **intended to be regulated herein unless located within the portion**
28 **of the approach surface contained by the horizontal surface of the**
29 **AZO and exceed 6,000 sq.ft. solar collector area. Systems that**
30 **meet these standards must provide an approved FAA form 7460-1**
31 **prior to receiving a zoning permit.**

32 (c) *Exceptions to front setback requirements for dwellings.* Setback
33 requirements for dwellings may be modified when the setbacks of
34 contiguous existing buildings are less than required. These decreased
35 setbacks are determined by computing the average setback on adjacent lots
36 one hundred (100) feet on either side of the lot of the proposed dwelling.
37 The modified setback may be equivalent to the average setback or ten (10)
38 feet from the rights-of-way line, whichever is greater.

39 (d) *Antennae for private or public safety use.* Antennae for private use or for
40 use by "police protection" or "fire protection" are exempt from the

More specific language provided similar to that noted in sec. 21-60(4) above. Also, this noted systems that meet these standards for exemption must obtain the requisite FAA form.

Staff
Comments

Missing section
reference.

1 requirements contained in Sections 21-56 (6)(d)(e) and (f). Private, non-
2 commercial antennae exempted under this provision include: residential
3 radio and television, private citizen's bands, amateur (HAM) radio and any
4 others determined as similar by the Zoning Administrator on a case-by-case
5 basis.

6 *Sec. 21-281. Temporary uses.*

7 Temporary uses are allowed subject to the following requirements:

8 (3) Type I, II, and III manufactured homes with skirting as provided by
9 section 21-276 may be approved for certain temporary use by the
10 zoning administrator, contingent on a documented need. Temporary
11 uses may be approved for:

12 a. A temporary residence during construction of a dwelling.
13 Documentation shall be provided that the construction of the
14 dwelling will commence and be completed within a reasonable
15 time. In no situation shall this temporary use be granted for more
16 than twenty-four (24) months.

17 b. As a temporary residence for a medical hardship. This use shall be
18 allowed for the duration of the medical hardship.

19 When the situation resulting in the temporary use no longer is needed,
20 or the time period allowed expires, the subject manufactured home shall
21 be removed or made a conforming use.

22 **(4) Temporary family health care structures, as defined by this**
23 **ordinance, may be permitted as an accessory use in accordance**
24 **with section 21-113 subject to the following standards:**

25 **a. The structure must be used by a caregiver or a named legal**
26 **guardian in providing care for a mentally or physically**
27 **impaired person on property containing the caregiver or**
28 **legal guardian's residence or on property owned by the**
29 **caregiver;**

30 **b. Subject to principal structure setbacks listed in section 21-**
31 **84;**

32 **c. Only one temporary family health care structure shall be**
33 **allowed on a lot or parcel of land and may not contain a**
34 **permanent foundation;**

35 **d. Application for a temporary family health care structure**
36 **must include a doctor's certification identifying the mentally**
37 **or physically impaired person's need. Subsequent annual**
38 **certifications are necessary to maintain the structure's**
39 **status as a qualified temporary family health care structure;**
40 **and**

Language from
HB 625

1 **e. The temporary health care structure shall be removed**
2 **within sixty (60) days of the mentally or physically impaired**
3 **person no longer receiving or is no longer in need of the**
4 **assistance provided for in this section.**

5 (Ord. of 1-19-98, § XII; Ord. of 2-1-99(1); Amend. of 3-7-05; Amend. of 9-6-
6 11; Amend. of 4-21-14)

7 *Sec. 21-362. Map amendments (rezoning).*

8 (h) *Content of application package.* Each rezoning petition shall be
9 accompanied by:

10 (1) Two (2) copies of a map, to scale, which clearly illustrates the
11 subject property to be rezoned; or

12 (2) Written metes & bounds legal description for property(ies)
13 proposed for rezoning;

14 (3) Any other pertinent information as may be required by this article;

15 (4) Requests for **parallel** conditional **use zoning district districts**
16 **rezonings** shall be accompanied by a site plan as specified in section
17 21-52.

18 (j) *Planning board action.* The planning board shall provide a
19 recommendation to the board of commissioners on each rezoning
20 request. The planning board shall advise and comment on whether the
21 proposed amendment is consistent with any comprehensive plan that
22 has been adopted and any other officially adopted plan that is
23 applicable. The planning board shall provide a written recommendation
24 to the board of commissioners that addresses plan consistency and other
25 matters as deemed appropriate by the planning board, but a comment
26 by the planning board that a proposed amendment is inconsistent with
27 the comprehensive plan shall not preclude consideration or approval of
28 the proposed amendment by the board of commissioners. Rezoning
29 requests for conditional **use zoning** districts or other small-scale
30 rezonings shall also include a statement of reasonableness analyzing the
31 request as a recommendation for adoption by the board of
32 commissioners. Failure of the planning board to transmit its
33 recommendation within thirty (30) days after first consideration of a
34 rezoning or a referral by the board of county commissioners may allow
35 the board of commissioners to proceed in its consideration of the
36 rezoning without the planning board recommendation. The planning
37 board shall make one (1) of the recommendations as provided in this
38 subsection:

39 (1) Grant the rezoning as requested;

40 (2) Grant the rezoning with modifications, including a recommendation

1 to rezone to a more restrictive district than requested; or

2 (3) Deny the rezoning request.

3 (k) *Board of commissioners action.* The board of commissioners shall
4 consider any rezoning petition and the planning board recommendation
5 at an advertised public hearing. After the public hearing is closed, the
6 board of commissioners shall take one (1) of the following actions:

7 (1) Grant the rezoning as requested or modified;

8 (2) Continue the request;

9 (3) Refer the application, with modifications, back to the planning board
10 for further study and consideration; or

11 (4) Deny the rezoning request.

12 Prior to adopting or rejecting any zoning amendment, the board of
13 commissioners shall adopt a statement describing whether its action is
14 consistent with an adopted comprehensive plan and explaining why the
15 board considers the action taken to be reasonable and in the public
16 interest. That statement is not subject to judicial review. Rezoning
17 requests for conditional **use zoning** districts or other small-scale
18 rezonings shall also include adoption of a statement of reasonableness
19 analyzing the request.

20 **AMENDMENTS TO CHAPTER 22: SUBDIVISION**
21 **REGULATIONS**

22 *Section 22-9. "Family Subdivision" Defined.*

23 **(a) Purpose. Minimum access standards for new lots are one of several**
24 **primary objectives of this ordinance. To achieve this, all lots**
25 **subdivided after the effective date of this ordinance are required to**
26 **have frontage on either an existing or proposed road meeting the**
27 **right of way and construction standards established by NCDOT.**
28 **However, Rowan County recognizes a residential lot created for**
29 **conveyance to an immediate family member, where access is**
30 **provided by a private road, is a reasonable alternative to requiring**
31 **the construction of a new public road.**

32 **(b) Intent. Family subdivision lots are typically conveyed as gift deeds**
33 **or for nominal consideration in circumstances where the existing**
34 **parcel does not contain the required road frontage to qualify as a**
35 **minor subdivision and would otherwise be required to construct a**
36 **new public road for access. The standards set forth in this**
37 **ordinance for family subdivisions are designed to promote:**

38 **a. The transfer of ownership of the newly subdivided lots to**

Language proposed herein establishes a purpose and intent statement for clarity. No new regulation established herein.

1 **immediate family members;**

2 **b. Compliance with all other applicable ordinance standards**
3 **related to dimensional and design criteria; and**

4 **c. Recognition that necessary maintenance associated with private**
5 **roads is coordinated among family members.**

6 **(c) Definition.** A family subdivision is defined as a subdivision of not more
7 than three (3) lots plus the residual lot conveyed by the property owner to
8 members of his / her immediate family as defined in this ordinance. A
9 family member may only receive one (1) lot under this provision. ~~The~~
10 ~~creation of more than three (3) lots as provided in this section may be~~
11 ~~considered by the board of commissioners in accordance with section 22-~~
12 ~~54.~~

13 (Ord. of 2-1-99(2); Amend. of 11-2-09)

14 *Section 22-10. Other Definitions.*

15 *Subdivision Review Committee.* An advisory committee to the Rowan County
16 Board of Commissioners to review all major subdivision preliminary and final
17 plats and to make recommendations to the Subdivision Administrator for the
18 Board of Commissioners to approve, approve with conditions or disapprove. The
19 committee shall consist of one (1) or more representatives from the following
20 agencies or officials:

- 21 1. Rowan County Health Department.
- 22 2. Rowan County ~~Planning and Development~~ **Environmental Management**,
23 Soil Sedimentation Control Staff.
- 24 3. Rowan County Planning Department.
- 25 4. N.C. Department of Transportation, Division 9, District 1, office.
- 26 5. Rowan County Emergency Services, Fire Division.

27 *Section 22-54. Waivers; Family Subdivisions.*

28 The Board of Commissioners may authorize a waiver from the family
29 subdivision requirements **to allow the creation of more than three (3) lots or**
30 **conveyance to a family member that does not meet the definition of**
31 **immediate family** when, in its opinion, undue hardship may result from strict
32 compliance. **All other requests to deviate from the requirements herein are**
33 **subject to a variance in accordance with section 21-332 of the Zoning**
34 **Ordinance.** In granting any waiver, the Board of Commissioners shall consider
35 the nature of the proposed subdivision, the existing use of the land in the
36 vicinity, the number of persons to reside or work in the proposed subdivision and
37 the probable effect of the proposed subdivision upon traffic conditions in the
38 vicinity. The waiver shall be granted only when it has been determined that such
39 waiver shall not be detrimental to the county and the area surrounding the
40 subdivision.

This is addressed
the waiver section
below sec. 22-54.

New language
provides
clarification on the
separation of
waiver and
variance.

1 (Ord. of 2-1-99(2))

2 *Section 22-55. Optional Sketch Plan.*

3 Prior to the submission of a preliminary or final plat, the subdivider may
4 submit to the Subdivision Administrator three (3) copies of the proposed
5 subdivision. The sketch plan will be reviewed by appropriate county staff and
6 NCDOT representatives to insure compliance with all applicable regulations. If
7 the proposed subdivision is not in compliance the subdivider shall be notified of
8 specific areas of noncompliance by the subdivision administrator. The sketch plan
9 should contain the following information:

- 10 (1) A sketch vicinity map showing the location of the subdivision in relation
11 to neighboring tracts, subdivision, roads, and waterways;
- 12 (2) North arrow, scale of plat, graphic scale bar and name of person who
13 prepared the plat;
- 14 (3) The boundaries of the tract and the portion of the tract to be subdivided;
- 15 (4) The total acreage to be subdivided;
- 16 (5) The existing and proposed uses of the land within the subdivision and the
17 existing uses of land adjoining it;
- 18 (6) The proposed street layout with approximate pavement and right-of-way
19 width, lot layout including dimensions and area of each lot;
- 20 (7) The name, mailing address, and telephone number of the owner;
- 21 (8) The name of the proposed subdivision;
- 22 (9) Streets and lots of adjacent developed or platted properties;
- 23 (10) The zoning classification of the tract and of adjacent properties, **if**
24 **applicable;**
- 25 (11) Tax map and parcel number, recorded deed book and page number of
26 subdivided tract.
- 27 (12) As applicable, location of water point source or description of method
28 used for providing a water point source.

29 (Amend. of 7-16-07(2))

30 *Section 22-56. Major Subdivision; Preliminary Plat Submission and Review.*

31 (a) *Submission Procedure*

32 The subdivider shall submit a preliminary plat application for all major
33 subdivisions which shall be reviewed by the Subdivision Review Committee
34 (hereinafter referred to as the "Committee"). Upon receipt of said application
35 the Subdivision Administrator shall schedule a Committee meeting within
36 fourteen (14) days. The Committee shall have authority to approve the plat

Staff
Comments

1 before any construction or installation of improvements may begin. Failure
2 to submit all items required by this subsection shall constitute an incomplete
3 application and no review or approval by the Committee shall be issued. A
4 preliminary plat application shall include:

- 5 1. Eight (8) copies of the preliminary plat containing all items outlined in
6 section 22-61(a) submitted to the Subdivision Administrator.
- 7 2. Two (2) copies of a sedimentation and erosion control plan (or waiver).
- 8 3. ~~Either an application~~ **Application** for a driveway permit ~~or stopping site~~
9 ~~distance verification request~~ submitted to the Division 9 District 1 North
10 Carolina Department of Transportation office.
- 11 4. Road plans and profiles submitted to the Division 9 District 1 North
12 Carolina Department of Transportation office **if applicable**.
- 13 5. Subdivision review application and fee.
- 14 6. Two (2) copies of the proposed restrictive covenants for maintenance of
15 any proposed open space in compliance with the provisions of section
16 22-58(f) of this article.
- 17 7. Certification from both the Fire Marshal and Chief of the fire department
18 with responding jurisdiction that the major subdivision proposal is
19 proximate to an adequate and reliable water point source. For projects
20 lacking proximity to a sufficient water point source, a proposed method
21 for complying with the requirements of section 22-111 of this ordinance
22 must be provided.
- 23 8. For projects required to construct or provide a water point source, two (2)
24 copies of the proposed restrictive covenants for maintenance of the water
25 point source in compliance with the provisions of section 22-58 (g) of
26 this article and 2 copies of the water usage agreement contract contained
27 in Appendix A.
- 28 9. If applicable, location of the all weather access road to a water point
29 source in compliance with the standards of section 22-80(g).

30 *Section 22-57. Final Subdivision Requirements.*

31 (a) *Requirements for Final Plat.* The final plat shall be prepared by a
32 professional land surveyor currently licensed and registered in the State of
33 North Carolina by the North Carolina State Board of Registration for
34 Professional Engineers and Land Surveyors. The final plat shall conform to
35 the provisions for plat, subdivisions, and mapping requirements set forth in
36 G.S. 47-30 and the "Standard of Practice for Land Surveying in North
37 Carolina," where applicable, and the requirement of the Rowan County
38 Register of Deeds.

39 ~~At least~~ **Two (2)** ~~five (5)~~ completed copies of the final plat shall be submitted

NCDOT recognizes permit applications as the formal process to verify site distances

1 **for minor or family subdivisions or six (6) copies for major subdivisions**
2 to the Subdivision Administrator **and with** one (1) **of these copies copy**
3 **being** on reproducible material suitable for recordation at the Register of
4 Deeds office. **The remaining copies shall be black or blue line paper prints.**
5 Said copies shall be considered complete if they contain all of the
6 information as required by section 22-59 of this ordinance. Material and
7 drawing medium for the original shall be in accordance with the "Standards
8 of Practice for Land Surveying in North Carolina" where applicable, and the
9 requirements of the Rowan County Register of Deeds.

10 The final plat shall be 18" x 24", 21" x 30", or 24" x 36" in size and shall be
11 at a scale of not less that one (1) inch equals one hundred (100) feet, unless
12 each lot in the proposed subdivision is more than three (3) acres. In such
13 case, the scale shall not be less than one (1) inch equals two hundred (200)
14 feet. Map may be placed on more than one (1) sheet with appropriate match
15 lines.

16 Submission of the final plat shall be accompanied by a nonrefundable filing
17 fee according to the fee schedule approved by the Board of Commissioners.
18 The fee and the required number of final plats must be submitted to the
19 Subdivision Administrator.

20 (c) Major Subdivisions; ~~Improvements~~ **Performance** Guarantees.

21 (1) Agreement and Security Required.

22 Instead of requiring the completion, installation and dedication of all
23 improvements before final plat approval, Rowan County may enter an
24 agreement with the subdivider whereby the subdivider shall agree to
25 complete all required improvements within twelve (12) months, with the
26 exception of a water point source. The county may accept ~~an~~
27 **improvement a performance** guarantee for a water point source for the
28 period prior to plat recordation and terminating with issuance of the first
29 certificate of occupancy for a structure. Consideration of an extension(s)
30 beyond the initial 12-month period for all improvements except the
31 water point source, may be granted by the ~~Subdivision Review~~
32 ~~Committee~~ **Board of Commissioners in accordance with subsection**
33 **(2) below** based upon a written request from the subdivider indicating
34 the need for an extension and an anticipated completion date for the
35 improvements.

36
37 Once said agreement is signed by both parties and the security required
38 herein is provided, the final plat may be approved by the Subdivision
39 Administrator or Board of Commissioners, if all other requirements of
40 this ordinance are met. To secure this agreement, the subdivider shall
41 provide to the Rowan County Board of Commissioners either one (1), or
42 a combination of the guarantees listed below. All such guarantees shall
43 be subject to the approval of the Board of Commissioners and shall be

Revisions based
on HB 721.

Any guarantee
extension should
be approved by
the BOC not SRC.

1 made payable to Rowan County.

2 The amount of such guarantee shall be equal to 1.25 times the cost of
3 installing all required improvements. The cost **estimates estimate** shall
4 be prepared by a North Carolina registered professional engineer and
5 include his/her original seal and signature and accompany the
6 subdivider's request for consideration under this subsection. The cost of
7 preparing **these the** cost **estimates estimate** shall be borne by the
8 developer.

9 (a). Surety Performance Bond(s).

10 The subdivider shall obtain a performance bond(s) from a surety
11 bonding company authorized to do business in North Carolina.

12 **(b). Letter of credit issued by any financial institution licensed to do
13 business in North Carolina.**

14 **(c). (b). Cash or Equivalent Security. Other form of guarantee that
15 provides equivalent security to a surety bond or letter of credit.**

16 ~~The subdivider shall deposit cash, an irrevocable letter of credit from
17 an institution with a physical presence in the State of North Carolina,
18 or other instruments readily convertible into cash at face value, **Cash
19 and similar instruments must be deposited in escrow** either with
20 the county, or in escrow with a financial institution designated as an
21 official depository of Rowan County.~~

22 ~~If cash or other instrument is deposited in escrow with a financial
23 institution as herein provided, the subdivider shall then file with the
24 Board of Commissioners an agreement between the financial
25 institution and him guaranteeing the following:~~

26 ~~a. That said escrow account shall be held in trust until released by
27 the Board of Commissioners and may not be used or pledged by
28 the subdivider in any other matter during the term of the escrow,
29 and~~

30 ~~b. That in case of a failure on the part of the subdivider to complete
31 said improvements, the financial institution shall, upon
32 notification and submission by the Board of Commissioners to
33 the financial institution of an engineer's estimate of the amount
34 needed to complete the improvements. The financial institution
35 shall immediately either pay to the county the funds estimated to
36 complete the improvements, up to the full balance of the escrow
37 account, or deliver to the county any other instruments fully
38 endorsed or otherwise made payable in full to the county.~~

39 (2) **Extensions and** Default.

40 **If the required improvements are not complete and the current
41 performance guarantee is expiring, the performance guarantee**

Language from
statute.

**Staff
Comments**

Language from statute.

1 shall be extended or a new guarantee issued for an additional
2 period until such required improvements are complete. A
3 developer shall demonstrate good faith progress toward completion
4 of the required improvements that are the subject of the
5 performance guarantee or extension. The form of any extension
6 shall remain at the election of the developer.

7 ~~Failure on the part of~~ **Should** the subdivider **fail** to complete the
8 required improvements in a timely manner as spelled out in the
9 performance ~~bond or escrow agreement~~ **guarantee**, then the surety, or
10 the financial institution holding the ~~escrow account~~ **guarantee**, shall, if
11 requested by the Board of Commissioners, pay all or any portion of the
12 ~~bond or escrow fund~~ **funds** to Rowan County up to the amount needed
13 to complete the improvements based on the engineer's estimate. Upon
14 payment, the Board of Commissioners, in its discretion, may expend
15 such portion of said funds as it considers necessary to complete all or
16 any portion of the required improvements. The county shall return to
17 the ~~bonding firm~~ **appropriate institution** any funds not spent in
18 completing the improvements. Should the amount of funds needed to
19 complete the installation of all required improvements exceed the
20 amount in the bond or escrow account, the subdivider shall nonetheless
21 be responsible for providing the funds to cover such cost. The
22 subdivider shall always bear the financial burden for the installation of
23 all required improvements.

24 (3) Release of Guarantee Security.

25 **The performance guarantee shall be returned or released, as**
26 **appropriate, in a timely manner upon acknowledgement by the**
27 **Planning and Development Department that the subject**
28 **improvements are complete. As an alternative, the County**
29 **Manager may authorize the release of a portion of the security that**
30 **coincides with improvements documented as complete. The**
31 **developer must provide a revised performance guarantee and**
32 **engineer's estimate of 1.25 times the cost of installing all remaining**
33 **improvements required.** ~~The Board of Commissioners may authorize~~
34 ~~the County Manager to release a portion of the security posted as the~~
35 ~~improvements are completed and approved by the county. Such funds~~
36 ~~shall then be released in accordance with the guarantee of~~
37 ~~improvements agreement after the corresponding improvements have~~
38 ~~been so approved.~~

Language from statute.

This amendment would expedite a potential draw down request, which could occur multiple times during a project.

39 (d) *Major Subdivision; Final Plat Submission and Approval.*

40 Upon receipt of a final plat application, the Subdivision Administrator
41 shall schedule a Committee meeting within fourteen (14) days. Failure to
42 submit all items required by this subsection shall constitute an incomplete
43 application and no review or approval by the Committee shall be issued.

Staff
Comments

1 Review and approval for all major subdivision final plats shall be as
2 described for preliminary plats in section 22-56(b).

3 Final plat applications shall be submitted to the Subdivision
4 Administrator and contain:

- 5 1. **Six (6) copies** ~~Five (5)~~ copies of the final plat meeting standards
6 outlined in section 22-57(a) and the information contained in section
7 22-61(b);
- 8 2. **For private roads, certification** ~~Verification~~ from a North Carolina
9 registered professional engineer that all applicable aspects of road
10 construction or other improvements have been completed; ~~or~~
- 11 3. **For public roads, certification** ~~Certification~~ from the Division 9
12 District 1 North Carolina Department of Transportation office that
13 applicable road construction improvements have been completed to
14 their minimum construction standards;
- 15 4. An approved ~~residential~~ driveway permit ~~or an approved stopping site~~
16 ~~distance certification~~ from the Division 9 District 1 North Carolina
17 Department of Transportation office;
- 18 5. Any other documentation required by the Committee as a condition of
19 preliminary plat approval;
- 20 6. Completed review application **and fee;**
- 21 7. Two (2) copies of the finalized restrictive covenants for maintenance
22 of any proposed open space in compliance with the provisions of
23 section 22-58(f) of this article;
- 24 8. As applicable, certification from both the Fire Marshal and the Chief
25 of the fire department having responding jurisdiction that a water point
26 source has been constructed in compliance with section 22-111 of this
27 ordinance, including two (2) copies of the finalized restrictive
28 covenants for maintenance of the water point source as contained in
29 the provisions of section 22-58 (g) of this article and a signed and
30 notarized version of the water usage agreement contract contained in
31 Appendix A;
- 32 9. As applicable, certification from the Chief of the fire department with
33 responding jurisdiction that the all-weather access road has been
34 constructed in compliance with the standards of section 22-80(g).

35 (e) *Minor and Family Subdivision Final Plat Submission and Approval.*

36 The subdivider shall submit the final plat application for the proposed
37 minor or family subdivision containing:

- 38 1. Two (2) copies of the final plat meeting standards outlined in section
39 22-57(a) and the information contained in section 22-61(b);

Clarifies the
process based on
road dedication.

**Staff
Comments**

Clarifies the applicant must be approved and not simply applied for.

Survey for a deed attachment option proposed for elimination as discussed on page 3.

Flexibility should be included.

1 2. Completed review application and review fee;
2 3. Application for a **Approved** residential driveway permit **submitted**
3 **to from** the Division 9 District 1 North Carolina Department of
4 Transportation office when creation of **an a new** easement for a
5 family subdivision accesses a state or publicly maintained road; **or**

6 4. Stopping site distance verification request submitted to the Division
7 9 District 1 North Carolina Department of Transportation office;

8 **(g) Conveyance Plat Allowed.**

9 ~~If the proposed subdivision meets the requirements of a minor~~
10 ~~subdivision as defined by this ordinance and no more than two (2) lots~~
11 ~~are created the subdivider may proceed with the preparation of a~~
12 ~~conveyance plat to be submitted and reviewed in accordance with~~
13 ~~section 22-57(e). The conveyance plat, consisting of no more than one~~
14 ~~sheet, shall be no larger than 8 ½ by 14 inches and include the original~~
15 ~~seal and signature of the surveyor on each copy. An approved copy of~~
16 ~~the plat shall be attached to the deed recorded for the parcel.~~

17 ~~The conveyance plat shall contain the information required for a final~~
18 ~~plat as described in section 22-61(b) and comply with the scale~~
19 ~~requirements specified in section 22-57(a).~~

20 (Ord. of 2-1-99(2); Amend. of 7-16-07(2); Amend. of 6-16-08; Amend.
21 of 11-2-09; Amend. of 10-4-10)

22 *Section 22-58. Planned Development Subdivision (PDS).*

23 *(e) Supplementary Requirements of Planned Unit Development (PUD).*

24 Any proposed PDS that is proposed as a Planned Unit Development
25 (PUD) as defined in section 22-10 shall be subject to the following
26 regulations and standards:

27 (1) The allowable number of dwelling units per acre shall conform to
28 the density standards prescribed in chapter 21 section 84 of the
29 Zoning Ordinance.

30 (2) When Land Application Treatment Systems are used for sewage
31 treatment and disposal system, the land area required for the
32 treatment and disposal shall not be included in determining the
33 maximum gross density.

34 (3) The maximum land area associated with any nonresidential
35 structures, excluding surface parking, shall not exceed thirty (30)
36 percent of the total land area associated with the nonresidential uses
37 **unless otherwise approved by the Board of Commissioners.**

38 (4) Land area associated or required with one type of land use may not
39 be used to compute acreage available for another type of land use.

**Staff
Comments**

1 Land area shall not be counted twice in computing acreage available
2 to each land use.

3 (5) Any proposed common open space in a PUD shall provide for the
4 upkeep and maintenance under provisions of section 22-58(f).

5 *Section 22-59. Certifications and Notations Required on Plats.*

6 (2) The following notation shall appear and be signed, as appropriate, on all
7 final plats.
8

9 **Certificate of Road Maintenance**

10 I (We) hereby certify that I (We) will maintain the roads to the standards
11 set forth by the North Carolina Department of Transportation until the
12 (respective governmental agency) (homeowners association) takes over
13 this responsibility. (This does not include removal of snow/ice)

14 _____
15 _____
16 _____
17 Date _____ Owner/Developer

19 **NCDOT Certificate**

21 **Department of Transportation Division of Highways**
22 **Proposed Subdivision Roads Construction Standards Certificate**

24 **Approved by: _____**
25 **District Engineer**

27 **Date: _____**
28

29 The following notation shall appear on all final plats of family subdivisions:

30 **FAMILY SUBDIVISION DISCLOSURE STATEMENT**

31 This subdivision plat was approved under the provisions of a "family
32 subdivision" under Chapter 22, Subdivision Ordinance, of the Rowan
33 County Code of Ordinances. Any further subdivision of any parcel
34 shown on this plat ~~may require~~ **requires** compliance with the current
35 provisions of the Subdivision Ordinance. This compliance may require
36 additional road right-of-way, ~~or~~ road improvements, ~~or~~ compliance with
37 other provisions of the ordinance for approval. All private roads or
38 streets shown were not subject to any improvement standards, nor
39 guarantee of installation, nor intended to be accepted by any
40 governmental agency for public maintenance.
41

Current statement provides false sense of maintenance security. Below disclosure statement provides more information and allows the developer to assign the maintenance responsibility as appropriate.

Certificate assists in the process of transitioning road maintenance responsibility to NCDOT.

Staff
Comments

1 The following notation shall appear on all final plats of major subdivisions with
2 **new** private streets:

3 **ROAD MAINTENANCE DISCLOSURE STATEMENT**

4 This subdivision contains private streets and storm drainage that were
5 designed **and (constructed or financially guaranteed in accordance**
6 **with section 22-57 (c) of the Subdivision Ordinance to be**
7 **constructed)** to NCDOT standards. **Maintenance of these**
8 **improvements shall be the responsibility of (the developer(s) or the**
9 **property owners) until these responsibilities are assumed by a**
10 **(Homeowners or Property Owners Association) established by the**
11 **collective lot owners.** but will be maintained by the developer until the
12 collective lot owners assume this responsibility. Enforcement of the
13 maintenance certificate is the responsibility of the collective lot owners,
14 not Rowan County. Additionally, **Neither** NCDOT **and nor** Rowan
15 County are **not** responsible for any maintenance associated with these
16 improvements **or enforcement of the responsibilities noted within this**
17 **statement. (Note: This statement shall not serve as a substitute for**
18 **any other statutory disclosure requirement.)**

19 The following notation shall appear on all final plats of major subdivisions with
20 **new** public streets:

21 **ROAD MAINTENANCE DISCLOSURE STATEMENT**

22 The street and storm drainage system in this subdivision were designed
23 **and (constructed or financially guaranteed in accordance with**
24 **section 22-57 (c) of the Subdivision Ordinance to be constructed)** to
25 NCDOT standards. **, but will be maintained by the developer pending**
26 **acceptance by NCDOT. Enforcement of the maintenance certificate is**
27 **the responsibility of the collective lot owners, not Rowan County.**
28 **Property owners should be aware NCDOT is not responsible for any**
29 **maintenance associated with these improvements until the streets**
30 **have been petitioned for inclusion into the secondary road**
31 **maintenance system and accepted therein. Maintenance of these**
32 **improvements shall be the responsibility of (the developer(s) or the**
33 **property owners) until NCDOT has accepted maintenance**
34 **responsibilities.** Rowan County is not responsible for any maintenance
35 associated with these improvements **or enforcement of the**
36 **responsibilities noted within this statement.** Additionally, NCDOT is
37 **not responsible for any maintenance associated with these improvements**
38 **unless formally accepted. (Note: This statement shall not serve as a**
39 **substitute for any other statutory disclosure requirement.)**

40 (Ord. of 2-1-99(2); Amend. of 6-16-08; Amend. of 11-2-09)

41 *Section 22-79. Subdivision Design.*

As indicated above, these statements provide clarity of maintenance responsibility and recognizes subsequent action required for NCDOT to assume maintenance of streets dedicated to the public.

**Staff
Comments**

1 (a) *Lot Dimensions.*

2 All new **residential** lots in subdivision shall conform to the following
3 requirements:

4 (1) Lot Area.

5 (a). All lots in a new subdivision shall conform to the zoning
6 requirements of the zoning district in which the subdivision is
7 located. Conformance to zoning requirements means, among
8 other things that the smallest lot in the subdivision must meet all
9 dimensional requirements of chapter 21 article IV of the Rowan
10 County Zoning Ordinance.

11 (b).a. Lot sizes may be increased on the recommendation of the
12 Rowan County Health
13 Department based on the assessment of soil application rates
14 and subsoil conditions.

15 ~~b. Lots served by a septic tank system and located on a
16 watershed of a Class I or II reservoir or on the watershed of a
17 portion of a Class A II stream extended from a Class I
18 reservoir to a downstream intake to a water purification plant
19 shall contain at least forty thousand (40,000) square feet of
20 area suitable for a septic tank location and operation. The
21 location and extent of these watersheds shall be determined
22 by the State Board of Health and N.C. Department of
23 Environment, Health and Natural Resources.~~

24 **b. e.** Any lot served by a septic tank system shall be large
25 enough to accommodate both a septic tank, its drainage field,
26 plus a reserve drainage area.

27 (c). In determining the lot area requirements, the following shall not
28 be included:

- 29 a. Any deeded road or easement right-of-way
- 30 b. Any dedicated road right-of-way
- 31 c. Any road right-of-way to be dedicated
- 32 d. Any road right-of-way claimed by the N.C. Department of
33 Transportation
- 34 e. Any railroad right-of-way
- 35 f. Any area within a floodway or non-encroachment zone
36 according to the Rowan County FIRM and / or FIS.

37 (2) Lot Specifications: Minimum specifications for all uses shall comply
38 with the applicable zoning requirements of chapter 21 article IV of
39 the Rowan County Zoning Ordinance.

40 (3) Orientation of **Residential** Lot Lines: Side lot lines shall be
41 substantially at right angles or radial to street lines. Substantially

Lot dimensions are subject to Article IV, which is based on zoning district and use.

NCDEQ no longer requires 40K lots in these specific locations. This applies to the watersheds of Coldwater Creek, Flat Rock Branch, and Irish Buffalo Creek generally areas south of Hwy 152.

1 shall be known as a tolerance of plus or minus fifteen (15) degrees
2 of a right angle or a radial line. Double-frontage lots shall be
3 avoided wherever possible. Where side lot lines intersect at the rear
4 of the lot the angle of intersection shall not be less than thirty (30)
5 degrees.

- 6 (4) **Residential** Lot Depth: Minimum lot depth **for residential dwellings**
7 shall comply with the applicable zoning requirements of chapter 21
8 article IV of the Rowan County Zoning Ordinance.

9 *Section 22-80. Road Standards.*

10 Every lot shall have access to it that is sufficient to provide a means of
11 ingress and egress for emergency vehicles as well as for all those likely to
12 need or desire access to the property in its intended use. In situations where
13 an original lot is provided access via a non-state standard right-of-way or
14 easement (public or private) and is proposed to be subdivided, the
15 subdivider shall be responsible for obtaining the necessary right-of-way
16 and for all aspects of road construction for upgrading said access to the
17 proposed subdivision. Road construction and right-of-way standards shall
18 meet the requirements of Section 22-80(a) or (b) of this ordinance.

19 (a) *Public Roads.*

20 All subdivision lots shall abut on a public road except as provided in
21 section 22-80(b) and (d) of this ordinance. All public roads shall be
22 paved and built to all applicable standards of this ordinance and all
23 other applicable standards of the North Carolina Department of
24 Transportation (NCDOT). Roads which are not eligible to be put on the
25 NCDOT system because there are too few residences shall nevertheless
26 be dedicated for public use and shall be built in accordance with the
27 standard necessary to be put on the NCDOT System. A written
28 agreement with provision for maintenance of the street until it is put on
29 the State System shall be included with the final plat and recorded with
30 Rowan County Register of Deeds office. The maintenance agreement
31 shall provide that **either** the subdivider **or property owners** shall be
32 responsible for the maintenance of all proposed public streets until the
33 responsibility has been transferred to either a homeowner's association
34 established for the owners of properties in the subdivision or has been
35 accepted for public road maintenance by NCDOT.

36 (b) *Private Roads.*

37 Private roads shall be permitted only when the roads proposed within a
38 subdivision will not be eligible for inclusion into the NCDOT state
39 maintained system or by a municipality in Rowan County because of
40 their standards for acceptance. Such roads shall meet all right-of-ways
41 and construction standards of NCDOT unless specifically provided
42 otherwise. The subdivider shall provide certification from a registered

Change to
coincide with road
disclosure
statements

1 professional engineer that the subject roads were built to these
2 standards. All private roads shall be marked as such on the preliminary
3 and final plat and a maintenance agreement shall be provided and
4 recorded with the plat at the Rowan County Register of Deeds office
5 once the final plat has been approved.

6 Said maintenance agreement shall include, but not be limited to, the
7 following items:

- 8 (1) That a homeowner's association shall be established as a legal
9 entity for the property owners within the entire subdivision.
- 10 (2) That all property owners within the subdivision shall be members
11 of the homeowner's association.
- 12 (3) That the subdivider shall convey all private streets in fee simple
13 ownerships within the subdivision to the homeowner's association.
- 14 (4) That the responsibility for maintenance of private streets from the
15 developer to the homeowners association shall be noted in the deed
16 of each purchaser of property within the subdivision.

17 At the time of the preparation of the sales agreement the developer
18 shall include a disclosure statement to the prospective buyer as herein
19 outlined. The developer and seller shall include in the disclosure
20 statement an explanation of the consequences and responsibility about
21 the maintenance of a private street, and shall fully and accurately
22 disclose to the party or parties upon whom responsibility for
23 construction and maintenance of such street or streets shall rest.

24 Private roads for a family subdivision, as defined in section 22-9, shall
25 not be required to meet construction standards of NCDOT, instead the
26 lot(s) created shall be provided ingress and egress via a twenty-foot
27 easement or right-of-way (new or existing) **in continuity to a**
28 **publically maintained road**, which shall be shown on the final plat.
29 Furthermore, family subdivisions may also occur in situations where
30 prior minor subdivision approval was granted but not within a major
31 subdivision. In addition, the street frontage requirements of section 22-
32 79(a) "Lot Dimensions" shall not apply to these lots. For the purposes
33 of determining other required setbacks, "street" and "street right-of-
34 way" shall be interpreted to mean the twenty-foot exclusive easement.
35 The establishment or extension of a new easement or right-of-way
36 shall not be prevented by the required setback of an existing structure
37 if the Subdivision Administrator determines no other feasible options
38 are available.

39 Any family subdivision that cannot comply with the provisions of this
40 subsection shall not be approved as a family subdivision and shall be
41 approved and comply with the provisions of a minor or major
42 subdivision.

Clarification to
ensure access
connects to
existing public
road without gaps.

1 *Section 22-103. Sewage Disposal Facilities Required.*

2 (a) Every principal use and every lot within a subdivision shall be served
3 by a sewage disposal system that is adequate to accommodate the
4 reasonable needs of such use or subdivision lot and that complies with
5 all applicable health regulations.

6 (b) Notwithstanding any other provisions of this ordinance, no privately
7 owned or operated sewage treatment system that discharges into surface
8 waters shall be allowed within a public water supply watershed
9 according to watershed classification by the North Carolina ~~Division of~~
10 **Environmental Management Department of Environmental Quality**.

11 *Section 22-104. Determining Compliance With section 22-103.*

12 (b) In the following table, the column on the left describes the type of
13 development and the column on the right indicates the agency that must
14 certify to the county whether the proposed sewage disposal system
15 complies with the standard set forth in section 22-103(a).

IF	THEN
1) Lots within the subdivision are to be served by simple connection to existing municipal or county lines or lines of a previously approved private treatment system:	No further certification is necessary.
2) Lots within the subdivision are to be served by a county or municipal system but the developer will be responsible for installing the necessary additions to the public system:	The appropriate utilities director (municipal or county) must certify that the proposed extension meets the local government's specifications and will (if connection to the local governments system is proposed) be accepted by the local government. (A "Permit to Construct" must be obtained from the Division of Environmental Management appropriate governmental agency).
3) Lots within the subdivision that are not served by a county or municipal system and are to be served by a sewage treatment system, that has not previously been approved, that does discharge into surface waters or	A permit must be obtained from the Division of Environmental Management prior to final plat submittal.

Revision to generic reference due to processes that may vary.

on ground surfaces:

- | | |
|---|---|
| 4) Lots within the subdivision that are not served by a county or municipal system and are to be served by a privately operated sewage treatment system, that has not previously been approved, that does discharge below the ground surface: | A permit must be obtained by the Rowan County Health department prior the final plat submittal. |
| 5) Lots served by individual septic tank systems: | No further certification is necessary. |

1 *Section 22-106. Determining Compliance with section 22-105.*

2 (b) In the following table, the column on the left describes the type of
3 development and the column on the right indicates the agency that must
4 certify to the county whether the proposed water supply system complies
5 with the standard set forth in section 22-105.

6

IF	THEN
1)Lots within the subdivision are to be served by a simple connection to existing municipal or county lines or lines of a previously approved public water supply system:	No further certification is necessary
2)Lots within the subdivision are to be served by a municipal or county system but the developer will be responsible for installing the necessary additions to such system:	The appropriate utility director (municipal or county) must certify to the county that the proposed system meets the local government’s specifications and will be accepted by the local government. (A “Permit to Construct” must be obtained from Division of Health Services appropriate governmental agency).
3)Lots within the subdivisions are not to be served by a municipal or county system and are to be served by a privately owned public water supply system that has not previously been approved:	The Division of Health Services must certify that the proposed system complies with all applicable state and federal regulations. (A “Permit to Construct” must be obtained from Division of Health Services). The Division of Environmental

Revision to generic reference due to processes that may vary.

Management must also approve the plans if the water source is a well and the system has a design capacity of one hundred thousand (100,000) gallons per day or is located within certain areas designated by Division of Environmental Management.

Staff
Comments

4)Lots within the subdivision are to be served by individual wells:

No further certification is necessary.

STAFF COMMENTS

The proposed amendments ensure Rowan County’s ordinances are in line with the NCGS and provide clarification in many other areas. Staff is also of the opinion other changes noted on pages 1 and 2 and within the comment sidebar are essential for effective administration.

PROCEDURES

The Board of Commissioners must develop a statement of consistency describing whether its action is consistent with any adopted comprehensive plans and indicate why the action is reasonable and in the public interest [sec. 21-361 (b)]. Specifically, the statement is required for amendments to the zoning ordinance and not the subdivision ordinance portion of this text amendment. A portion of the amendments are based on statute changes and minor modifications which should be included in this statement. With a statement that includes these reasons, the remaining portion of the statement should address the staff initiated text amendment sections.

MAY 9, 2016 COMMITTEE B MEETING

Committee B voted unanimously (4-0) to approve the text as proposed. According to the Planning Board

Rules of Procedure, their decision to approve the request is forwarded to the Planning Board as a motion to approve the request.

MAY 23, 2016 PLANNING BOARD MEETING

The Planning Board voted unanimously (6-0) to approve the text as proposed with the following Statement of Consistency: **“ZTA-01-16 & STA-02-16 are consistent based on the changes to state regulations”**.