

FORSYTH COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: April 01, 2021 **AGENDA ITEM NUMBER:** 4A-4B

SUBJECT:

- A. PUBLIC HEARING ON AN ORDINANCE AMENDMENT PROPOSED BY PLANNING AND DEVELOPMENT SERVICES STAFF TO AMEND SECTION 4.1.6 OF THE UNIFIED DEVELOPMENT ORDINANCES PERTAINING TO AFFORDABLE HOUSING BONUS DENSITY PROVISION**

- B. ORDINANCE AMENDMENT TO AMEND SECTION 12.2 OF THE UNIFIED DEVELOPMENT ORDINANCES PERTAINING TO AFFORDABLE HOUSING BONUS DENSITY PROVISION (UDO-CC7)**

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:

SUMMARY OF INFORMATION:-

See attached staff report.

After consideration, the Planning Board recommended approval of the zoning text amendment.

ATTACHMENTS: X YES NO

SIGNATURE: _____ **DATE:** March 30, 2021

UDO-CC7

ORDINANCE AMENDING SECTION 4.1.6 OF THE *UNIFIED DEVELOPMENT ORDINANCES* (UDO) TO REVISE BONUS DENSITY FOR AFFORDABLE HOUSING PROVISIONS AND TO REVISE ALTERNATIVE PARKING AND PARKING INCENTIVES

Be it ordained by the Board of Commissioners of Forsyth County, North Carolina, that the Unified Development Ordinances are amended as follows:

Section 1. Chapter 4, Subsection 4.1.6 of the UDO is amended as follows:

4.1.6 BONUS DENSITY FOR AFFORDABLE HOUSING

A. DENSITY INCREASE PERMITTED

1. An increase in the density otherwise permitted in the zoning district may be permitted for developments which provide on-site housing opportunities for low- or moderate-income households.

A contract shall be approved by the County Attorney or City Attorney, and the Forsyth County Community and Economic Development (FCCED) or the Winston-Salem Community Development Department (CD) as a condition of special use district zoning, preliminary subdivision approval, or other site plan review guaranteeing that the reserved units will be purchased by or rented to qualifying households, and shall be binding for period established by County or City Affordable Housing programs.

2. The reserved lots or rental units shall be indicated on the site plan submitted.

B. APPLICABILITY

1. DUPLEX OR MULTIFAMILY UNITS

A twenty-five percent (25%) density bonus for duplex or multifamily units may be approved if:

- a. A minimum of forty percent (40%) of the total units are to be rented to families earning less than sixty percent (60%) of Forsyth County median income, adjusted for family size, as determined by the United States Department of Housing and Urban Development (HUD). (Hereinafter, median income); or
- b. A minimum of twenty percent (20%) of the total units are to be rented to families earning less than fifty percent (50%) of median income.

2. SINGLE FAMILY DETACHED UNITS

A twenty-five percent (25%) density bonus for single family residential development may be approved if twenty-five percent (25%) of total units, or a minimum two units, are to be sold to families earning less than eighty percent (80%) of median income.

NOTE: Items to be removed are indicated with a ~~strike through~~; items to be added are shown as **highlighted**. Items with a single underscore are applicable to Forsyth County only, and *italicized* items are applicable to Winston-Salem only.

C. CONTRACT FOR SALE OF SINGLE FAMILY RESIDENCES

Approval of the special use district zoning, preliminary subdivision, or other site plan review shall not occur until there is a contract between the property owner and Forsyth County or the City of Winston-Salem, which shall also be binding on future owners of the reserved lots. The contract shall be administered by FCCED or CD, and shall include the following provisions:

1. APPROVAL OF SALES AND REALES

All sales and resales of units shall be approved by FCCED or CD to assure ownership by qualifying buyers in accordance with the following eligibility criteria.

a. INCOME

Family income at the time of purchase shall not exceed the limits set forth in **Section 4.1.6B, Applicability**.

b. RESIDENCY

At least one member of a qualifying household must have lived or worked in Forsyth County for the past twelve (12) months.

2. DURATION OF CONTRACT

The contract shall apply to each of the reserved lots, and shall continue to affect a particular lot for a time period established by County or City Affordable Housing policies.

3. OCCUPANCY

There shall be no occupancy of the unit prior to its sale to a qualifying buyer.

4. SCHEDULE

The contract shall include a schedule by which construction and sale of the reserved units will be accomplished.

5. RESALE PRICE

a. The resale price of any reserved housing unit shall not, at any time during the life of the contract, exceed the maximum amount affordable to the purchasing low or moderate income household as defined by the AMI percentage outlined in section **4.1.6B, Applicability**.

b. The maximum sale or resale price shall be determined by FCCED or CD (depending on jurisdiction), calculated by using current appraisal.

6. VIOLATION OF CONTRACT

Violation of any of the terms of the contract required by this section may constitute grounds for revocation of the special use district zoning, preliminary subdivision, or other site plan review.

D. CONTRACT FOR RENTAL OF DUPLEX OR MULTIFAMILY UNITS

Approval of the special use district zoning, preliminary subdivision, or other site plan review shall not occur until there is a contract between the property owner or developer and Forsyth County or the City of Winston-Salem, which shall also be binding on future owners of the

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development. The contract shall be administered by Forsyth County or the City of Winston-Salem, and shall include the following provisions:

1. APPROVAL OF RENTALS

All rentals shall be approved by FCCED or CD to assure occupancy by qualifying households in accordance with the following eligibility criteria:

a. INCOME

- i. Family income at the time of purchase shall not exceed the limits set forth by FCCED or CD.
- ii. Families whose income increases above the eligibility requirements may continue to occupy the rental unit, unless otherwise required through terms of the rental agreement between the lessor and lessee.

b. RESIDENCY

At least one member of a qualifying household must have lived or worked in Forsyth County for the past twelve (12) months.

2. CHANGE IN OCCUPANCY

Every change in occupancy during the term of the contract shall be approved by ~~FCDH or HND~~ FCCED or CD to assure continued compliance with eligibility criteria.

3. MAXIMUM RENT

- a. The maximum rent allowed shall be determined using HUD's annual income guidelines and/or its annual Fair Market Rent information based on local jurisdiction.
- b. The value for median income used in calculating maximum allowable rent shall be determined using HUD's annual income guidelines and/or its annual Fair Market Rent information based on local jurisdiction.

4. VIOLATION OF CONTRACT

Violation of any of the terms of the contract required by this section may constitute grounds for revocation of the Special Use District zoning, preliminary subdivision, or other site plan review.

E. DISCLOSURE OF CONTRACT TERMS TO POTENTIAL HOME-BUYERS

1. EXPLANATION TO PROSPECTIVE BUYER

- a. Staff from the FCCED or CD shall meet with the prospective buyer prior to the purchase to assure that all terms of the contract are fully understood.
- b. Such explanation shall communicate that although building permits for the improvements to the structure may be obtained if the owner wishes to remodel or construct an addition or accessory structures, there is no assurance that the investment will be regained if the unit is sold prior to the expiration of the contract due to the requirement that it be purchased by a moderate income household.

2. HOME OWNERSHIP COUNSELING

Home ownership counseling shall be made available to ~~first-time~~ buyers to provide information on such topics as insurance and maintenance. The counseling shall be provided by FCCED or CD.

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F. RESERVED

Section 2. Chapter 6, Subsection 6.1.5 of the UDO is amended as follows:

6.1.5 ALTERNATIVE PARKING AND PARKING INCENTIVES

D. PARKING ALTERNATIVES IN SELECTED ZONING DISTRICTS

3. ALTERNATIVE PARKING COMPLIANCE FOR MULTIFAMILY DEVELOPMENT NEAR TRANSIT

Alternative compliance with parking regulations may be allowed for the uses Residential Building, Duplex; Residential Building, Townhouse; Residential Building, Twin Home; and Residential Building, Multifamily, where such uses are:

- a. located on sites within ¼ mile of a current Winston-Salem Transit Authority (WSTA) route, and
- b. located on sites which are within one-quarter (1/4) mile of a designated *Legacy* Growth Corridor, and/or within one-quarter (1/4) mile of an activity center as identified in *Legacy* or associated area plans.

If the conditions of both **a.** and **b.** above are met, parking requirements may be reduced to one (1) parking space per dwelling unit regardless of unit size or bedroom count.

Section 3. This Ordinance shall be effective upon adoption.

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TO: City-County Planning Board Members
FROM: Tiffany White, Project Planner
DATE: September 24, 2020
SUBJECT: Bonus Density for Affordable Housing UDO revisions / UDO-CC7 Staff Report

Bryce A. Stuart Municipal Building
100 E. First Street
P.O. Box 2511
Winston-Salem, NC 27102
CityLink 311 (336.727.8000)
Fax 336.748.3163

As part of its 2020-2021 work program, the City-County Planning Board requested that staff review the existing Unified Development Ordinances (UDO) provision for *Bonus Density for Affordable Housing* (section 4.1.6) and make recommendations for any necessary modifications. The *Bonus Density for Affordable Housing* provision has been included in the UDO since its inception in 1994, yet has never been used. In 2015, staff prepared a report with information on the Density Bonus provision, and voluntary inclusionary zoning programs in general (attached), although this report did not modify the provision itself. The *Winston-Salem/Forsyth County Housing Study and Needs Assessment* (HSNA) prepared by Enterprise Community Partners for the City's Community Development Department in 2018 also recommended reevaluation of this ordinance to determine whether changes to the provision could increase affordable housing production in our area (Objective 1, Recommended Strategy #3, p. 26). The following memo contains research and recommendations for a proposed ordinance amendment (UDO-CC7).

Background

Bonus density for affordable housing provisions provide a process by which developers gain the opportunity to build additional units above the base density in a zoning district, if a certain portion of the units in the project are set aside for affordable housing. These types of provisions can be found around the state and country, although use of such provisions varies widely. Within North Carolina, density bonuses can be found in some form in several communities, including Asheville, Chapel Hill and Charlotte, although such provisions have not frequently been used. In other parts of the country, specifically in dense, high-cost locations in California, the Northeast, and some southern cities including Atlanta, density bonuses are more widely used. It should be noted that many of these locations also have some form of inclusionary zoning regulations which impact the utilization of Density Bonus provisions, since provision of a certain number of affordable units would already be mandated via inclusionary zoning.

Currently, the *Bonus Density for Affordable Housing* provision for Winston-Salem/Forsyth County allows for the following:

- A 25% density bonus for duplex or multifamily units if 40% of the units are available to residents making less than 60% Area Median Income (AMI), or if 20% of the units are available to residents making less than 50% AMI.
- A 25% density bonus for single family residential development if 25% of the units are sold/rented to residents making less than 80% AMI.

For example, a developer proposing a 20-unit duplex project and utilizing the density bonus would be granted an additional 5 units (25% increase) if 10 units (based on the new total number of 25 units) are available for individuals making less than 60% AMI.

Currently, the affordability provisions are required to remain for a minimum of 15 years, and are administered through either the City of Winston-Salem Community Development Department (CD) or the Forsyth County Housing and Economic Development department (FCHED). As noted in the 2015 evaluation of this provision, Winston-Salem/Forsyth County continues to be in line with our peer communities in both our bonus percentage and the parameters of affordability required to trigger the bonus density.

Evaluation of Current Provision

While reevaluating this provision, staff identified several developers who have worked locally with affordable housing, and invited them to review and comment on the provision. Specifically, staff asked whether the Bonus Density provision was an incentive to building affordable housing in our community as it is currently written, or if modifications to the ordinance might make it more attractive to encourage greater inclusion of affordable units. Across the board, developers stated that in general, Bonus Density provisions in any form were not attractive in our local market for three main reasons:

- our overall population density is not high enough to make efficient use of density bonuses;
- in general, our zoning districts already allow enough density to meet demand, and;
- land here is not expensive or scarce enough to drive density bonus use.

All of the developers interviewed thought that Density Bonus provisions were a good incentive to provide affordable units, just not in the Winston-Salem/Forsyth County area at this time. Other comments about the existing Density Bonus provision included some concern about the 15 year time period of affordability, and the fact that donation of developable land by the developer was a deal killer, since any desirable land would be utilized by the developer.

Staff also asked the developers what other incentives might make the inclusion of affordable units in their projects more attractive. For example, other communities provide parking incentives and/or setback variance incentives for affordable units. The developers stated that setback variances would not be much of an incentive in the local market, but that parking incentives, such as a reduction of the number of spaces per affordable unit, might be attractive in some situations. Additional information on potential parking changes is discussed below.

Developers also indicated that the most attractive local incentives to affordable housing were changes to stormwater regulations, waived or reduced impact or system development fees, and direct municipal funding for projects. These incentives are outside the purview of this report, and outside the scope and enforcement of the UDO itself - however, if affordable housing incentives are a priority for Winston-Salem and Forsyth County, it may be beneficial for City and County management to investigate how to modify these regulations to boost the development of affordable units.

Because enforcement of the *Bonus Density for Affordable Housing* provision is provided by FCHED and CD, Planning and Development staff also invited these departments to review the UDO language to ensure that it complied with current policies. Several updates were suggested so that the provision would comply with revised Department of Housing and Urban

Development (HUD) guidelines as well as departmental compliance changes. Staff also proposes modifying Bonus Density language so that it more directly correlates to other City/County affordable housing programs, specifically the *Affordable Workforce Housing Assisted with City Funds* policy, which gives developers access to municipal funding in exchange for reserving a portion of their units as affordable housing. Consistency across departments regarding Affordable Housing regulation and enforcement will make it easier for staff to manage these programs and will also make the use of these programs more developer-friendly. The proposed Ordinance language will allow for any future modifications to housing programs administered by FCHED and CD to correlate to the UDO Bonus Density provision without necessitating future Ordinance revisions. Additional modifications to UDO language were included to clarify calculations of affordable units.

Finally, staff also reached out to the Housing Authority of Winston-Salem (HAWS) as they are the largest developer of affordable housing in the area. HAWS reviewed the provision, and made some suggestions for modifying the regulatory language similar to what CD had recommended.

In addition to the above revisions, staff is proposing removing the donation of land provision from this section. As mentioned above, developers stated this would never be an aspect of the provision that would be utilized, and retaining it only adds confusion to the UDO. It is likely that this part of the provision was included as an early attempt at land banking, which is a way for municipalities to aggregate land to hold in trust until it is possible for the land to be developed as affordable housing. Current methods of land banking are done differently, however, and any future local attempt at land banking would adhere to those new methods.

Parking Reductions for Affordable Housing

As stated previously, many communities across the country allow for parking reductions for affordable units as an incentive for affordable housing. The majority of communities researched across the country required only one (1) parking space per affordable unit regardless of unit size. Several communities also allowed for further reductions based on location, such as transit adjacent areas or other densely populated areas close to transportation or job centers. Durham, for example, allows for projects that comply with their Density Bonus program to have a minimum of zero parking units per affordable unit if they are located in the Compact Neighborhood Tier, an area analogous to our GMA 2.

Parking for affordable housing does have other factors, however. For example, projects that use funding from the Federal Low Income Housing Tax Credit program must comply with the regulations of that program, which include their own parking mandates. As such, a reduction in parking minimums for affordable units may be an incentive to some projects, but other external standards may reduce the effectiveness of such an incentive.

A 2019 report from Planning staff on Affordable Housing Opportunity Sites indicated that the most desirable location for affordable units is along transit lines, to help reduce the Housing and Transportation Index (H&T), a value that assesses overall affordability costs. In addition, UDO-283, an amendment which allowed for multifamily housing projects in additional zoning districts along identified Growth Corridors, also took the availability of transit into consideration when determining those updates. Based on these factors, staff believes that reducing total parking requirements for multifamily projects in more densely populated areas

of the city and county would help reduce the total cost of the projects, allowing for both greater housing availability and increased affordability.

Staff is proposing alternative parking compliance provisions for multifamily development that is within one-quarter (1/4) mile of an identified *Legacy* Growth Corridor or Activity Center and within one-quarter (1/4) mile of an existing transit line regardless of unit size or affordability. Not specifically tying parking reductions to affordable units for projects that receive incentives will allow such developments to remain in compliance with the UDO even after the required affordability period ends, while still accomplishing the goal of encouraging more affordable units based on reduced construction costs. Such a provision would also lower the H&T Index for residents because of the requirement for proximity to transit.

Conclusion

Despite our history of relatively stable housing prices, Winston-Salem and Forsyth County have not been immune to increased housing demand and rising prices that are a nationwide trend in 2020. Ensuring that the UDO includes provisions which promote housing affordability and incentivize developers to increase the supply of affordable units will be imperative in the coming year. The changes proposed by UDO-CC7 will help in accomplishing these goals.

**CITY-COUNTY PLANNING BOARD
STAFF REPORT**

DOCKET: UDO-CC7
STAFF: [Tiffany N. White](#)

REQUEST

This text amendment is proposed by Planning and Development Services staff to modify Section 4.1.6 of the Unified Development Ordinances, pertaining to Bonus Density for Affordable Housing, and Section 6.1.5, pertaining to Alternative Parking Compliance for Multifamily Development Near Transit.

BACKGROUND

As part of its 2020-2021 work program, the City-County Planning Board requested that staff review the existing Unified Development Ordinances (UDO) provision for *Bonus Density for Affordable Housing* (section 4.1.6) and make recommendations for any necessary modifications. The *Bonus Density for Affordable Housing* provision has been included in the UDO since its inception in 1994, yet has never been used. In 2015, staff prepared a report with information on the Density Bonus provision, and voluntary inclusionary zoning programs in general (attached), although this report did not modify the provision itself. The *Winston-Salem/Forsyth County Housing Study and Needs Assessment* (HSNA) prepared by Enterprise Community Partners for the City's Community Development Department in 2018 also recommended reevaluation of this ordinance to determine whether changes to the provision could increase affordable housing production in our area (Objective 1, Recommended Strategy #3, p. 26).

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ANALYSIS

While reevaluating this provision, staff identified several developers who have worked locally with affordable housing, and invited them to review and comment on the provision. Specifically, staff asked whether the Bonus Density provision was an incentive to building affordable housing in our community as it is currently written, or if modifications to the ordinance might make it more attractive to encourage greater inclusion of affordable units. Across the board, developers stated that in general, Bonus Density provisions in any form were not attractive in our local market for three main reasons:

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Staff also asked the developers what other incentives might make the inclusion of affordable units in their projects more attractive. For example, other communities provide parking incentives and/or setback variance incentives for affordable units. The developers stated that setback variances would not be much of an incentive in the local market, but that parking incentives, such as a reduction of the number of spaces per affordable unit, might be attractive in some situations. Additional information on potential parking changes is discussed below.

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management to investigate how to modify these regulations to boost the development of affordable units.

Because enforcement of the *Bonus Density for Affordable Housing* provision is provided by FCHED and CD, Planning and Development staff also invited these departments to review the UDO language to ensure that it complied with current policies. Several updates were suggested so that the provision would comply with revised Department of Housing and Urban Development (HUD) guidelines as well as departmental compliance changes. Staff also proposes modifying Bonus Density language so that it more directly correlates to other City/County affordable housing programs, specifically the *Affordable Workforce Housing Assisted with City Funds* policy, which gives developers access to municipal funding in exchange for reserving a portion of their units as affordable housing. Consistency across departments regarding Affordable Housing regulation and enforcement will make it easier for staff to manage these programs and will also make the use of these programs more developer-friendly. The proposed Ordinance language will allow for any future modifications to housing programs administered by FCHED and CD to correlate to the UDO Bonus Density provision without necessitating future Ordinance revisions. Additional modifications to UDO language were included to clarify calculations of affordable units.

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As stated previously, many communities across the country allow for parking reductions for affordable units as an incentive for affordable housing. The majority of communities researched across the country required only one (1) parking space per affordable unit regardless of unit size. Several communities also allowed for further reductions based on location, such as transit adjacent areas or other densely populated areas close to transportation or job centers. Durham, for example, allows for projects that comply with their Density Bonus program to have a minimum of zero parking units per affordable unit if they are located in the Compact Neighborhood Tier, an area analogous to our GMA 2.

Parking for affordable housing does have other factors, however. For example, projects that use funding from the Federal Low Income Housing Tax Credit program must comply with the regulations of that program, which include their own parking mandates. As such, a reduction in parking minimums for affordable units may be an incentive to some projects, but other external standards may reduce the effectiveness of such an incentive.

A 2019 report from Planning staff on Affordable Housing Opportunity Sites indicated that the most desirable location for affordable units is along transit lines, to help reduce the Housing and Transportation Index (H&T), a value that assesses overall affordability costs. In addition, UDO-283, an amendment which allowed for multifamily housing projects in additional zoning districts along identified Growth Corridors, also took the availability of transit into consideration when determining those updates. Based on these factors, staff believes that reducing total parking requirements for multifamily projects in more densely populated areas of the city and county would help reduce the total cost of the projects, allowing for both greater housing availability and increased affordability.

Staff is proposing alternative parking compliance provisions for multifamily development that is within one-quarter (1/4) mile of an identified *Legacy* Growth Corridor or Activity Center *and* within one-quarter (1/4) mile of an existing transit line regardless of unit size or affordability. Not specifically tying parking reductions to affordable units for projects that receive incentives will allow such developments to remain in compliance with the UDO even after the required affordability period ends, while still accomplishing the goal of encouraging more affordable units based on reduced construction costs. Such a provision would also lower the H&T Index for residents because of the requirement for proximity to transit.

Despite our history of relatively stable housing prices, Winston-Salem and Forsyth County have not been immune to increased housing demand and rising prices that are a nationwide trend in 2020. Ensuring that the UDO includes provisions which promote housing affordability and incentivize developers to increase the supply of affordable units will be imperative in the coming year.

RECOMMENDATION: APPROVAL

**CITY-COUNTY PLANNING BOARD
PUBLIC HEARING
MINUTES FOR UDO-CC7
OCTOBER 8, 2020**

Tiffany White presented the staff report.

After Tiffany's presentation, George stated that the City needs to look harder at other ideas that have been mentioned (having to do with covenants on land and/or giving or subsidizing land) and stated that he hopes changes will include mixed-wage housing as well as affordable housing.

Aaron stated that UDO-CC6 is just a small piece of the work being done in the way of affordable housing and that Community Development is doing the majority of the work on this issue, where many ideas and discussions are occurring at the City Council level.

PUBLIC HEARING

FOR: None

AGAINST: None

WORK SESSION

MOTION: Clarence Lambe recommended approval of the ordinance amendment.

SECOND: Jack Steelman

VOTE:

FOR: George Bryan, Melynda Dunigan, Jason Grubbs, Tommy Hicks, Clarence Lambe, Chris Leak, Mo McRae, Brenda Smith, Jack Steelman

AGAINST: None

EXCUSED: None

Aaron King
Director of Planning and Development Services

(For publication in the WS Journal Legal Section on
March 19 & 26, 2021)

NOTICE OF PUBLIC HEARING

NOTICE is hereby given that the Board of Commissioners will hold a public hearing in the Commissioners' Meeting Room on the fifth floor of the Forsyth County Government Center, 201 N. Chestnut Street, Winston-Salem, North Carolina at 2:00 p.m. on Thursday, April 01, 2021 on the following:

Public Hearing on ordinance amendment proposed by Planning and Development Services revising Section 12.2 of the Unified Development Ordinances pertaining to traffic impact study standards (UDO-CC6)

Public Hearing on ordinance amendment proposed by Planning and Development Services revising Sections 4.1.6 and 6.1.5 of the Unified Development Ordinances pertaining to bonus density for affordable housing and alternative parking compliance for multifamily development near transit (UDO-CC7)

Public Hearing on ordinance amendment proposed by Planning and Development Services revising Sections 5.2.30, 5.2.31 and 11.2 of the Unified Development Ordinances pertaining to use specific standards and definitions of the Family Group Home A, Family Group Home B, and Family Group Home C uses (UDO-CC9)

There will be no meeting place where members of the public can be physically present. The Meeting will be broadcast live at 2:00 p.m. on local cable channel WSTV 13- The Government Channel, http://winston-salem.granicus.com/MediaPlayer.php?publish_id=29 and <https://vimeo.com/forsythcountync>.

All persons interested in the proposed amendments are invited by the Board of Commissioners to present their views. If you wish to submit a written comment, please send an email to sloopam@forsyth.cc by Friday, April 2, 2021.

This notice shall be published once a week for two successive calendar weeks. The notice shall be published the first time not less than 10 days, or more than 25 days, before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

This the 19th day of March, 2021.

FORSYTH COUNTY BOARD OF COMMISSIONERS
Ashleigh M. Sloop, Clerk to the Board