

ORDINANCE

AN ORDINANCE TO APPROVE A ZONING ORDINANCE TEXT AMENDMENT TO ARTICLE 2 TO ALLOW WAIVER APPROVAL OF A REDUCTION IN NON-COMMON OPEN SPACE WHERE ANOTHER CONSERVATION EASEMENT ACHIEVES THE PURPOSE OF A NON-COMMON OPEN SPACE EASEMENT

WHEREAS, Section 2-406.2 of the Fauquier County Zoning Ordinance requires 85 percent of the gross site area be placed in a non-common open space easement in conjunction with division of rural lots; and

WHEREAS, the intent of the non-common open space requirement is to conserve large parcels for agricultural use within the County by requiring subdivision to be clustered on 15 percent of a parcel's land area; and

WHEREAS, the County has a significant inventory of land located within conservation easements pursuant to Section 10.1-1700 or 10.1-1009 of the *Virginia Code*, and seeks to encourage such conservation easements; and

WHEREAS, these alternative conservation easements frequently accomplish the same goal as a non-common open space easement; and

WHEREAS, requiring a non-common open space easement as a second easement on such properties may not provide additional benefit; and

WHEREAS, the County wishes to amend the Zoning Ordinance to allow the Board of Supervisors to waive the requirement for a non-common open space easement to be placed on the non-common open space parcel in cases where the Board determines that an alternative conservation easement on the property accomplishes the same goal as the non-common open space easement; and

WHEREAS, the County has determined that the public necessity, convenience, general welfare and good zoning practice warrant this amendment; and

WHEREAS, on August 11, 2016, the Fauquier County Board of Supervisors initiated this proposed amendment; and

WHEREAS, on September 15, 2016, the Fauquier County Planning Commission held a public hearing on the proposed amendment and recommended approval of an alternative approach requiring Special Exception approval rather than waiver approval;

WHEREAS, the Fauquier County Board of Supervisors has concluded that the waiver approach is preferable; now, therefore, be it

ORDAINED by the Fauquier County Board of Supervisors this 13th day of October 2016, That the following proposed amendment to Section 2-406.2 be, and is hereby, approved:

2-406.2

Non-Common Open Space Requirements

1. In the RA and RC Zoning Districts, 85 percent of gross site area shall be in non-common open space unless a special exception satisfying the standards of Section 5-2601 is approved or a waiver pursuant to Section 2-406.2(7) is approved. For lots of less than thirty (30) acres on May 21, 1986 and less than thirty (30) acres at the time of division, the open space requirement of Section 3-408 does not apply.
2. The open space shall be in one parcel and shall meet the requirements of Section 2-705 of the Zoning Ordinance.
3. The acreage upon which the open space is to be calculated shall be determined as set forth in Section 2-406.3.
4. The open space shall be located so as to meet the requirements of Section 2-406.4.
5. A buffer meeting the requirements of Section 2-406.5 shall be established along all one-hundred year floodplain located in non-common open space.
6. The recordation of non-common open space shall meet the requirements of Section 2-406.6.
7. The Board of Supervisors may waive the requirement for a non-common open space easement if the required open space area is or will be placed within a conservation easement authorized pursuant to Section 10.1-1700 or 10.1-1009 of the Virginia Code and the Board of Supervisors determines that the alternative conservation easement will protect the land for use as agriculture or open space.

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*Paul S. McCulla
Clerk to the Board of Supervisors*