

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

WHEREAS, the Fauquier County Planning Commission held a public hearing on the proposed amendment on September 15, 2016 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, recommended for approval:

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 noncommon 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 noncommon open space easement if the required open space area is or will be placed within an open space or conservation easement authorized pursuant to either the Virginia Conservation Easement Act, Section 10.1-1009, et. seq., or the Open Space Easement Act, Section 10.1-1700, et. seq., of the Virginia Code and the Board of Supervisors determines that the alternative-~~conservation~~ easement will allow no additional division of the property and will protect the land for use as agriculture or open space.

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