

**TOWNSHIP OF SOUTH FAYETTE
ALLEGHENY COUNTY, PENNSYLVANIA**

ORDINANCE NO. 07 OF 2024

**AN ORDINANCE OF THE TOWNSHIP OF SOUTH
FAYETTE, ALLEGHENY COUNTY, PENNSYLVANIA,
REPEALING ORDINANCE 01-2021 THAT AMENDED
CHAPTER 240 ZONING, ARTICLE XIV OPEN SPACE
DESIGN OPTION, SECTION 240-88 AREA AND BULK
REGULATIONS SUBSECTON (B)(10) OF THE SOUTH
FAYETTE CODE**

WHEREAS, the Board of Commissioners of the Township of South Fayette has determined that it is appropriate and necessary to repeal Ordinance 1 of 2021 that amended provisions of Article XIV Open Space Design Option, Section 240-88 Area and Bulk regulations, subsection (B) (10) of the Township's Zoning Ordinance that permitted the Board of Commissioner the authority to provide modifications pursuant to Section 240-88 of the South Fayette Township Zoning Ordinance without the need for a ZHB variance;

WHEREAS, the Board of Commissioners now believe it is necessary to require that the eligibility requirements, standards or regulations set forth in the Open Space Design Option provision of the Township's Zoning Ordinance be met as originally contemplated by Ordinance 3 of 2006:

WHEREAS, the Board of Commissioners find that the eligibility, standards or regulations in Article XIV Open Space Design Option, Section 240-88 Area and Bulk regulations as set forth in Ordinance 3 of 2006 prior to amendment by Ordinance 1 of 2021 are necessary and reasonable when considering the Open Space Design Option for properties located in the Township's Rural Residential Zoning District ("R-1") and the Planned Economic Development ("PED") District; and

AND NOW, THEREFORE, BE IT ORDAINED AND IT IS HEREBY ORDAINED AND ENACTED BY THE BOARD OF COMMISSIONERS OF THE TOWNSHIP OF SOUTH FAYETTE AS FOLLOWS:

Section 1. **Incorporation of Recitals**

The recitals set forth hereinabove are incorporated herein by reference thereto.

Section 2. **Repeal and Reinstatement.**

Ordinance 1 of 2021 is hereby repealed in its entirety.

Chapter 240 Zoning, Article XIV Open Space Design Option, Section 240-88 Area and Bulk Regulations, subsection (B)(10) will be reinstated as originally stated in Ordinance 3 of 2006 and as set forth below without the stricken text previously provided for by Ordinance 1 of 2021:

~~The Board of Commissioners may within their discretion, but shall not be required to, by conditional use approval, permit the modification or waiver of any of the eligibility requirements, standards or regulations set forth in this Article in order to encourage the use of innovative design. The Board of Commissioners may deny conditional use approval, provided that they determine that the spirit and intent of this Article would not be met by such approval. A developer desiring to obtain such conditional use approval shall, when making application for conditional use approval for the open space design option, also make application for conditional use approval under this subsection for any modification or waiver of any of the eligibility requirements, standards or regulations set forth in this Article. The Board of Commissioners shall only consider or grant modifications or waivers from the provisions of this Article to an application that is submitted for property located in the Township's R 2 and R 3 Zoning Districts. An application for conditional use approval containing a request for any modification or waiver shall submit a statement that provides the justification for such waiver that reflects that the approval of the same would promote the spirit and intent of this Article and also provide how the proposed modification or waiver would promote innovative design. The Board of Commissioners shall consider both conditional use approval requests simultaneously. Any conditional use to permit a modification of any of the standards of this article shall also be subject to Chapter 215, Article IX, "Waivers and Modifications," in the Township Subdivision and Land Development Ordinance as well as the following criteria:~~

The Board of Commissioners may, by conditional use approval, permit the modification of any of the standards set forth in this Article in order to encourage the use of innovative design. A developer desiring to obtain such conditional use approval shall, when making application for conditional use approval for the Open Space Design Option, also make application for conditional use approval under this Subsection. The Board of Commissioners shall consider both conditional use approval requests simultaneously. Any conditional use to permit a modification of any of the standards of this Article shall be subject to Chapter 215 Article IX "Waivers and Modifications" in the Township Subdivision and Land Development Ordinance as well as the following criteria.

(a) The design and improvement of lots or open space which shall contain modified standards shall be in harmony with the design and improvement of other lots or open space within the proposed development and shall not, through the use of the modified standards, be obviously different from, or inferior to, other lots within the proposed development.

(b) The use of modified standards shall not result in configurations of lots or street systems which shall be impractical *in function* or detract from the appearance of the proposed development.

(c) The proposed modified standards shall not result in any danger to the public health, safety or welfare by making access to dwellings by emergency vehicles more difficult, by depriving adjoining properties of adequate light and air or by violating the other purposes for which zoning ordinances are to be enacted under Section 604(1) of the MPC.

(d) Landscaping and other methods shall be used to ensure the privacy of the future residents of the dwellings and to attain the proposed use of the open space.

Section 3. Repealer

All ordinances and parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided, however, that such repeals shall be only to the extent of such inconsistency and in all other aspects, this ordinance shall be cumulative of the other ordinance regulating and governing the subject matter covered by this ordinance.

Section 4. Severability

If any section or provision or parts hereof in this ordinance shall be adjudged invalid, illegal, or unconstitutional, such invalidity, illegality, or unconstitutionality shall not affect the validity of the ordinance as a whole or any other section or provision or part thereof.


Section 5. Effective Date

This ordinance shall be in full force and effect from and after its passage.

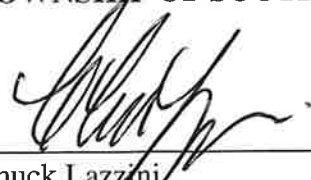
ADOPTED AND APPROVED this 9 day of October 2024.

ATTEST:

TOWNSHIP OF SOUTH FAYETTE



John Barrett
Manager/Secretary



Chuck Lazzini,
Chairman, Board of Commissioners