

**RESOLUTION NO. 2019-09-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY TEXAS, GRANTING A VARIANCE TO SECTION 130-356 OF THE CODE OF ORDINANCES DEFERRING THE REQUIREMENT TO REHABILITATE THE EXISTING STOCK POND DAM ON LOT 5 OF THE 380 TOWNE CENTRE ADDITION**

**WHEREAS**, the developer of Lot 5 of the 380 Towne Centre Addition, McKinney SH II, Ltd., has requested a variance to Section 130-356 of the Code of Ordinances to receive building permits and certificates of occupancy for proposed facilities on said lot prior to completion of improvements to the on-site dam, and

**WHEREAS**, due to conditions beyond the control of the developer, such as coordination with TCEQ, the Corps of Engineers and the adjacent property owner, the appropriate permits for construction cannot be obtained in a timely manner, and

**WHEREAS**, failure to issue the variance will cause the developer to violate commitments that must be delivered by the developer to proposed retailers, thus making the developer unable to develop the retail, hotel and restaurant uses on the site, and

**WHEREAS**, the proposed variance will only delay the improvement of, but will not alter the current downstream floodplain conditions.

**NOW THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS:**

Section 1. The City Council of the City of McKinney, Texas hereby grants a variance to Section 130-356 of the Code of Ordinances to defer the requirement to rehabilitate the on-site dam and authorize the release of building permits and certificates of occupancy for Lot 5 of the 380 Towne Centre Addition with the following conditions:

- The deferral is only granted for the first two certificate of occupancy requests for any of Buildings 5A, 5B or 5C as shown on the approved site plan for the lot. The third building will not receive a certificate of occupancy until the dam improvements are complete.
- McKinney SH II, Ltd. shall indemnify and hold harmless the City of McKinney for any disputes associated with this variance

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 3rd DAY OF SEPTEMBER, 2019.**

CITY OF MCKINNEY, TEXAS

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George C. Fuller, Mayor

ATTEST:

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EMMPRESS DRANE, City Secretary  
LISA SEWELL, Deputy City Secretary

APPROVED AS TO FORM:

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MARK S. HOUSER  
City Attorney