

ORDINANCE NO. 2011-01-001

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, APPROVING A REQUEST TO USE APPROXIMATELY 0.18 ACRES OF LAND LOCATED WITHIN PUBLIC LAND DESIGNATED AS A PARK (BONNIE WENK PARK) FOR THE CONSTRUCTION OF A PORTION OF A PUBLIC ROADWAY WITHIN THE WISKBROOK ESTATES AND INWOOD HILLS PHASE 2 SUBDIVISIONS, LOCATED APPROXIMATELY 450' WEST OF HARDIN BOULEVARD AND APPROXIMATELY 1500' NORTH OF BENT CREEK ROAD; PROVIDING FOR SEVERABILITY; PROVIDING FOR INJUNCTIVE RELIEF; PROVIDING FOR NO VESTED INTEREST; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF

**WHEREAS**, JBGL Inwood, LLC and Willivy Development, L.P. ("The Developers") desire to develop two abutting residential developments identified as Wiskbrook Estates and Inwood Hills, Phase II (the "Subdivisions"), which will take access to and from Hardin Boulevard; and

**WHEREAS**, another point of access is necessary to provide ingress and egress to the northern portion of Inwood Hills, Phase II, and the eastern and northern portions of Wiskbrook Estates to conform to the City's Subdivision Ordinance and address concerns regarding the ability to provide access and emergency services to those portions of the Subdivisions; and

**WHEREAS**, the City's Subdivision Ordinance and engineering design standards require intersections to be designed and constructed as close as possible to a ninety degree (90°) angle; and

**WHEREAS**, Developers have agreed to construct the Subdivisions generally in conformance to the layout represented in Exhibit A, attached hereto, which layout conforms to the City's Subdivision Ordinance and encroaches upon and across a small outer corner of City-owned land that is used for passive park or greenbelt purposes and is designated as Bonnie Wenk Park; and

**WHEREAS**, in order to design and construct the Subdivisions with another necessary point of ingress and egress in a manner generally conforming to the layout represented in Exhibit A, attached hereto, a public roadway must be designed and constructed in such a manner as to encroach, in part, on approximately 0.18 acres of said City-owned land designated as Bonnie Wenk Park, which is more fully depicted on Exhibit A, attached hereto; and

**WHEREAS**, the City Council of the City of McKinney, Texas, after public notice and public hearing as required by law, and upon due deliberation and consideration of all testimony and information submitted during said public hearing, has determined that there is no feasible and prudent alternative to the use of such approximately 0.18 acres of City-owned park land and that the proposed project includes all reasonable planning to minimize harm to the land, as a park, which may result from the use thereof and agrees to allow the construction of a public right-of-way generally in a manner consistent with Exhibit A, attached hereto.

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

Section 1. All of the above premises are found to be true and correct legislative and factual determinations of the City Council of the City of McKinney and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.




- Section 2. Subdividers have filed or hereby agree to file, as soon as is reasonably practicable, a general development plan and/or preliminary-final plat for, and to thereafter develop, their respective Subdivisions generally in conformance to the lot and street layout represented in Exhibit A, attached hereto, subject to compliance with the City's Subdivision Ordinance and to minimize potential harm to the land, as a park, that may otherwise result from the use of said park land and in exchange for City's agreement to provide allow a portion of the Roadway to encroach on approximately 0.18 acres of City-owned park land.
- Section 3. The City Council of the City of McKinney agrees to allow the construction of a portion of a public roadway on approximately 0.18 acres of City-owned park land, located approximately four hundred fifty feet (450') west of Hardin Boulevard and approximately one thousand five hundred feet (1500') north of Bent Creek Road (the "Subject Property"), which is more fully depicted by Exhibit A, attached hereto.
- Section 4. The City Council of the City of McKinney authorizes the City Manager and the City Attorney to draft and execute a license agreement with Developers that will grant to Developers the right only to enter upon the Subject Property to construct a portion of the roadway, described in Section 2, above, together with all appurtenances necessary thereto that will provide another point of access to and from the Subdivisions and which license agreement shall immediately cease and expire upon the City's final acceptance of said roadway segment.
- Section 5. The proposed roadway that is to be constructed on the Subject Property shall conform to all design standards and review requirements of the City and conform to all City, state and federal statutes, ordinances and regulations as they currently exist or may be amended in the future.
- Section 6. The Developers shall be solely responsible for all costs and expenses associated with the design and construction of the roadway and all appurtenances thereto upon and across the Subject Property.
- Section 7. If any section, subsection, paragraph, sentence, phrase or clause of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect, and to this end, the provisions of this Ordinance are declared to be severable.
- Section 8. It shall be unlawful for any person, firm or corporation to develop this property, or any portion thereof, in any manner other than is authorized by this Ordinance, and upon conviction therefore, shall be fined any sum not exceeding \$2,000.00, and each day that such violation shall continue shall be considered a separate offense. These penal provisions shall not prevent an action on behalf of the City of McKinney to enjoin any violation or threatened violation of the terms of this Ordinance, or an action for mandatory injunction to remove any previous violation hereof.
- Section 9. That no developer or property owner shall acquire any vested interest in this Ordinance or specific regulations contained herein. The ordinance, and the subsequent site plans (if any) and regulations may be amended or repealed by the City Council of the City of McKinney, Texas, in the manner provided by law.
- Section 10. The caption of this Ordinance shall be published one time in a newspaper having general circulation in the City of McKinney, and shall become effective upon such publication.

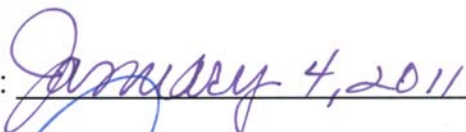
DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THIS 4<sup>TH</sup> DAY OF JANUARY, 2011.

CITY OF MCKINNEY, TEXAS


  
BRIAN LOUGHMILLER  
Mayor

CORRECTLY ENROLLED:

  
SANDY HART, TRMC, MMC  
City Secretary  
BLANCA I. GARCIA  
Assistant City Secretary

DATE: 

APPROVED AS TO FORM:

  
MARK S. HOUSER  
City Attorney





**EXHIBIT A**

**WISKBROOK ESTATES**  
 34 LOTS  
 MIN. LOT AREA - 7200 SF  
 MIN. LOT WIDTH - 100 FT  
 MIN. LOT DEPTH - 100 FT  
 FRONT YARD - 20 FT  
 REAR YARD - 25 FT, EXCEPT THAT THE REAR YARD SETBACK MAY BE REDUCED TO 10 FT FOR 40% OF THE TOTAL WIDTH  
 SIDE YARD - 6 FT

**INWOOD HILLS PHASE 2**  
 161 LOTS  
 MIN. LOT AREA - 6000 SF  
 MIN. LOT WIDTH - 50 FT  
 MIN. LOT DEPTH - 50 FT  
 FRONT YARD - 20 FT  
 REAR YARD - 25 FT, EXCEPT THAT THE REAR YARD SETBACK MAY BE REDUCED TO 10 FT FOR 40% OF THE TOTAL WIDTH  
 SIDE YARD - 6 FT

Proposed Right-of-Way  
 on City Owned Land

**CONCEPTUAL SITE PLAN**

**WISKBROOK ESTATES**  
 WILLIUVY DEVELOPMENT, LP  
 1401 CEDAR BLUFF DRIVE  
 MCKINNEY, TEXAS 75070

**CC CIVIL CONSULTING GROUP**  
 WWW.CCGROUP.NET  
 TEXAS REGISTERED ENGINEERING FIRM NO. E-1374  
 200 1/2 E. WINDA STREET, SUITE 2  
 MCKINNEY, TEXAS 75070  
 P. 972.563.8193  
 F. 972.563.9167

DESIGNED BY: CCB	<p><b>PRELIMINARY</b>                  FOR REVIEW ONLY                  NOT FOR CONSTRUCTION, RECORD,                  OR OTHER PURPOSES</p> <p>Prepared: MICHELLE L. COBURN                  P.E. No. 22885 Date: 12/1/2010</p>
DRAWN BY: CCB	
CHECKED BY: CCB	
SCALE:	
DATE: 12/1/2010	
JOB NO. 08002.00	<p>PROJECT NO. V-1119</p>