

ORDINANCE NO. 2012-09-XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, APPROVING A REQUEST TO USE APPROXIMATELY 476.5 SQUARE FEET OF LAND, MORE OR LESS, LOCATED WITHIN PUBLIC LAND DESIGNATED AS A PARK (BONNIE WENK PARK) FOR THE CONSTRUCTION OF THE EASTERN ONE-HALF OF A 24' WIDE SHARED DRIVE/FIRE LANE LOCATED ON THE NORTH SIDE OF VIRGINIA PARKWAY APPROXIMATELY 730' EAST OF HARDIN BOULEVARD FOR THE MUTUAL BENEFIT OF THE BONNIE WENK PARK DEVELOPMENT PROJECT AND THE ADJACENT PROPERTY OWNER INCLUDING THE CONVEYANCE OF A RECIPROCAL OR MUTUAL FIRE LANE AND ACCESS EASEMENT FOR SAID SHARED DRIVE/FIRE LANE TO THE ADJACENT PROPERTY OWNERS; 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, the City of McKinney Parks, Recreation and Open Space Department ("Department") desires to construct a park to be identified as Bonnie Wenk Park, including a dog park, along the north side of Virginia Parkway east of its intersection with Hardin Boulevard ("the Park"), which property will take access to and from Virginia Parkway; and

WHEREAS, the Department desires to provide two points of access to provide ingress and egress to the Park; and

WHEREAS, the preferred alignment of the secondary access drive to serve the Park, which drive will also serve as the primary entrance to access the included dog park area, is along the western boundary of the Park property and aligned with the existing median opening in Virginia Parkway located approximately 730' east of Hardin Boulevard; and

WHEREAS, the Department believes it would be mutually beneficial to make the western entrance into the Park a shared driveway with the western one-half of the shared driveway serving the Park constructed on the property immediately adjacent to the western boundary of the Park and the eastern one-half of the shared driveway constructed on Park land (the "Shared Driveway"); and

WHEREAS, utilizing a Shared Driveway will provide a better alignment between the entry into the Park and the existing median opening in Virginia Parkway, reduce the impact of the Shared Driveway on City-owned park land and allow for the preservation of existing trees along the southwestern area of the Park, reduce the number of openings on to Virginia Parkway necessary to serve the Park and the adjacent property, and reduce potentially conflicting traffic patterns; and

WHEREAS, in order to construct and use the Shared Driveway it is necessary to obtain a fire lane and access easement upon and across that part of the adjacent property upon which the western one-half of the Shared Driveway will be constructed and grant the owner of said adjacent property a reciprocal or mutual right to use approximately 476.5 square feet of the Park property upon which the eastern one-half of the Shared Driveway will be constructed as depicted generally on Exhibit A attached hereto and incorporated herein by reference; 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 476.5 square feet 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 Shared Driveway and the conveyance of a reciprocal or mutual fire lane and access easement for the use of the eastern one-half of the Shared Driveway that is situated on Park land to the adjacent property owners 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. The City Council of the City of McKinney agrees to allow the construction of a Shared Driveway along the western boundary of the Park at a location along the north side of Virginia Parkway approximately 730' east of Hardin Boulevard for the mutual benefit of the Park development project and the adjacent property owners.
- Section 3. The City Council also agrees to allow the conveyance of a reciprocal or mutual fire lane and access easement permitting such property owners to use the eastern one-half of the Shared Driveway that is situated on approximately 476.5 square feet of City-owned park land, 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 reciprocal or mutual fire lane and access easement with the owners of the property adjacent to the western boundary of the Park that will permit such property owners to use the eastern one-half of the Shared Driveway that is situated on City-owned park land containing approximately 476.5 square feet of land, more or less, in conjunction with the City's right to use the western one-half of the Shared Driveway that is situated on their property for the reciprocal or mutual rights of ingress and egress.
- Section 5. 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 6. 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 7. 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 8. 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 4th DAY OF SEPTEMBER, 2012.

CITY OF MCKINNEY, TEXAS

BRIAN LOUGHMILLER
Mayor

CORRECTLY ENROLLED:

SANDY HART, TRMC, MMC
City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney



CONCRETE CURB
(PER CITY OF MCKINNEY STANDARDS)

CURB FROM 6" TO 0" HEIGHT
IN LAST 5 LF

INSTALL 49 LF OF 6" INTEGRAL
CONCRETE CURB
(PER CITY OF MCKINNEY STANDARDS)

INSTALL 10 LF OF STREET HEADER
PAVEMENT
(SEE SD No. 2070)

INSTALL 25 LF OF
METAL BEAM
BARRICADE AT END OF
ROAD 3' OFF
PAVEMENT EDGE (SEE
SD No. 2290)

INSTALL 6" INTEGRAL
CONCRETE CURB
(PER CITY OF MCKINNEY STANDARDS)

EXISTING DRIVE TO BE
REMOVED AND DISPOSED OF

LONGITUDINAL BUTT JOINT

SEE SHEET C4.01

CONCRETE CURB
(PER CITY OF MCKINNEY STANDARDS)

TAPER CURB FROM 6" TO 0" HEIGHT
IN LAST 5 LF

INSTALL 9 L.F. MOUNTABLE CURB FOR
MAINTENANCE ACCESS AT THE LAST
PARKING STALL. PAVEMENT FOR THE
STALL AND SIDEWALK SHALL BE 6" THICK.

INSTALL 6" INTEGRAL
CONCRETE CURB
(PER CITY OF
MCKINNEY STANDARDS)

SEE NOTE 3

INSTALL 124 LF OF 6" INTEGRAL
CONCRETE CURB
(PER CITY OF MCKINNEY STANDARDS)

INSTALL 6" INTEGRAL CONCRETE CURB -
BOTH SIDES OF DRIVEWAY ENTRANCE
TAPER CURB FROM 6" TO 0" HEIGHT
IN LAST 5 LF.
(PER CITY OF MCKINNEY STANDARDS)

BLOCK OUT PAVING
AROUND CURB INLET

EXISTING DRIVE TO
REMOVED AND DISPOSED

VIRGINIA PARKWAY

EXHIBIT A