

ORDINANCE NO. 2013-12-XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING THE ZONING MAP OF THE CITY OF MCKINNEY, TEXAS; SO THAT AN APPROXIMATELY 32.94 ACRE PROPERTY, LOCATED ON THE EAST SIDE OF ORCHID DRIVE AND APPROXIMATELY 350 FEET NORTH OF ELDORADO PARKWAY, IS REZONED FROM "PD" – PLANNED DEVELOPMENT DISTRICT TO "PD" – PLANNED DEVELOPMENT DISTRICT, GENERALLY TO ALLOW FOR AN ASSISTED LIVING FACILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR INJUNCTIVE RELIEF, PROVIDING FOR NO VESTED INTEREST; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF

WHEREAS, the City of McKinney has considered the rezoning of an approximately 32.94 acre property, located on the east side of Orchid Drive and approximately 350 feet north of Eldorado Parkway, is rezoned from "PD" – Planned Development District to "PD" – Planned Development District, generally to allow for an assisted living facility; and,

WHEREAS, after due notice of the requested rezoning as required by law, and the required public hearings held before the Planning and Zoning Commission and the City Council of the City of McKinney, Texas, the City Council is of the opinion that the change in zoning district should be made.

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

Section 1. The zoning map is hereby amended in order to rezone approximately 32.94 acre property, located on the east side of Orchid Drive and approximately 350 feet north of Eldorado Parkway, is rezoned from "PD" – Planned Development District to "PD" – Planned Development District, generally to allow for an assisted living facility.

Section 2. Use and development of the subject property, more fully depicted on Exhibits "A" and "B", shall develop in accordance with "PD" – Planned Development District Ordinance No. 99-02-24, and as amended, except as follows:

- a. An assisted living facility shall be an additional allowed use, and shall only be permitted on Tract 2 (maximum of 7 acres), more fully depicted on the attached Zoning Exhibit "B".
- b. An assisted living facility use shall be limited to a maximum height of 40 feet (2 stories).
- c. At the time of development of an assisted living facility on the subject property, one canopy tree shall be provided every 40 linear feet along the north and south sides of the southernmost access drive extending east from Orchid Drive (approximately 160 feet along of the north side of the drive and approximately 550 feet along the south side of the drive), more fully depicted on Exhibit "C".

Section 3. 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 4. 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 5. 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 6. 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 THE 3rd DAY OF DECEMBER, 2013.

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