

ORDINANCE NO. 2010-11-XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING ORDINANCE NO. 2005-02-017 OF THE CITY OF MCKINNEY, TEXAS; SO THAT AN APPROXIMATELY 35.15 ACRE PROPERTY, LOCATED ON THE SOUTHEAST CORNER OF VIRGINIA PARKWAY AND STONEBRIDGE DRIVE, IS REZONED FROM "PD" – PLANNED DEVELOPMENT DISTRICT TO "PD" – PLANNED DEVELOPMENT DISTRICT, GENERALLY TO MODIFY THE DEVELOPMENT STANDARDS; 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 35.15 acre property, located on the southeast corner of Virginia Parkway and Stonebridge Drive, which is more fully depicted on Exhibit A, attached hereto, is rezoned from "PD" – Planned Development District to "PD" – Planned Development District, generally to modify the development standards; 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. Ordinance No. 2005-02-017 is hereby amended in order to rezone an approximately 35.15 acre property, located on the southeast corner of Virginia Parkway and Stonebridge Drive, is rezoned from "PD" – Planned Development District to "PD" – Planned Development District.

Section 2. The subject property shall develop in accordance with "PD" – Planned Development District Ordinance No. 2005-02-017, and as amended, with the following exceptions:

a. Tracts D, E, and F, as reflected on the attached Zoning Exhibit (Exhibit B), shall be subject to the following regulations:

1. Concurrently with the development of the first 50 residential units in the Town Center District, the developer shall construct, within the Town Center District 40,000 square feet of floor area of commercial uses exclusive of parking. Any enclosed mechanical and electrical space and parking uses are not part of the calculated floor area.
2. The ground floor of each building constructed in Tracts D and E, as reflected on the attached Zoning Exhibit, shall feature 10 percent non-residential uses including, but not limited to retail and office uses. Any enclosed mechanical and electrical space and parking uses are not part of the calculated floor area.
3. The ground floor of each building constructed in Tract F, as reflected on the attached Zoning Exhibit, shall feature 100 percent non-residential uses including, but not limited to retail and office uses.

4. Construction of residential units in the Town Center District shall not commence until all of the following items have been satisfied:
 - i. at least 13 dwelling units in the Villa District have been constructed;
 - ii. either a living landscaping screen (ivy, Italian cypress shrubs and/or a similar alternative) that softens the appearance of the entirety of the 5 story parking garage southeast has been provided or complimentary masonry clad finishing materials have been provided along the southeast façade of the Harbor District's (Tract F) parking garage;
 - iii. a living landscaping screen (ivy, Italian cypress shrubs and/or a similar alternative) that softens the appearance of the entirety of the 5 story parking garage has been provided along the southwest façade of the Harbor District's (Tract F) parking garage; and
 - iv. the construction of phase one of the Harbor District, as indicated in Exhibit C, has commenced and the entire parking garage has received a full certificate of occupancy.
- b. In Tract E, as reflected on the attached Zoning Exhibit (Exhibit B), a Farmers Market shall be a permitted retail use.
- c. Two pedestrian bridges shall be permitted to extend over the right-of-way providing a minimum vertical clearance of 17 feet. The first bridge shall be permitted to extend from Tract F (the Harbor parking garage) to Tract D (a future multi-story building) over Mediterranean Drive and the second bridge shall be permitted to extend from Tract E (a future multi-story building) to Tract D (a future multi-story building) over Adriatic Parkway.
- d. The following provisions as found in Zoning Ordinance Section 146-132(3) "Fences, Walls, and Screening Requirements" **shall not** apply to the subject property:
 - a. Screening devices shall be placed along any property line or district boundary between any single family detached or attached or any two-family zoning or use and any mobile home park, or non-residential use, but not across a dividing street between such uses. An alley shall not be considered a dividing street for purposes of this section. The more intensive use shall have the responsibility for providing and maintaining the screening device.
 - b. Multiple family residential developments outside of the Regional Employment Center Overlay district shall provide and maintain a six foot tall masonry screening wall along all side and rear property lines.
- e. The following provisions as found in Zoning Ordinance Section 146-135(f) "Architectural and Site Standards" **shall not** apply to the subject property:
 - (17) Multiple family residential uses shall provide a landscaped buffer of at least twenty feet (20') in width along all property

lines planted with one canopy tree (minimum three-inch caliper and seven feet in height at time of planting) for each 30 linear feet or portion thereof of adjacent exposure. The trees along the street frontage may be clustered, while the trees along all other property lines may not.

- f. The following provisions as found in Zoning Ordinance Section 146-139(f) "Architectural and Site Standards" **shall not** apply to the subject property:
6. All parking areas shall be screened from view from public thoroughfares by one or more of the following:
 - (i) A combination of low masonry walls and earthen berms reaching a minimum of six feet tall;
 - (ii) Earthen berms reaching a minimum of six feet tall;
 - (iii) A six foot tall brick masonry, stone masonry, or other architectural masonry finish; or
 - (iv) A six foot tall primed and painted tubular steel or wrought iron fence with masonry columns spaced 20 feet on center with structural supports placed every 10 linear feet, and with sufficient evergreen landscaping to create a screening effect.
 9. All multi-family residential buildings located outside of the Regional Employment Center Overlay District shall be limited to two stories in height.
 11. Multi-family residential structures within 150 feet of an adjacent single family residential use or zone shall be situated so that no exterior facing window is oriented towards said adjacent single family residential use or zone.

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 THIS 16TH DAY OF NOVEMBER, 2010.

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