LDR 03-09

TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO. 50-09

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY AMENDING SUBPART B, CHAPTER 98 OF THE CODE OF ORDINANCES, ENTITLED "ZONING," THROUGH THE AMENDMENT OF ARTICLE III "DISTRICT REGULATIONS" BY THE AMENDMENT OF SECTION 98-904 ENTITLED "APPLICATIONS AND DEVELOPMENT REVIEW PROCESS" BY THE AMENDMENT OF SUBSECTION (A) ENTITLED "APPLICATIONS FOR REZONING" BY RE-NUMBERING EXISTING PARAGRAPH NOS. (2) AND (3) AS PARAGRAPH NOS. (4) AND (5) AND INSERTING NEW PARAGRAPH NOS. 2 AND 3 REGARDING THE ANALYSIS OF MIXED USE DEVELOPMENT APPLICATIONS BY A TOWN-DESIGNATED PLANNING FIRM AS PART OF THE DEVELOPMENT AND REVIEW PROCESS FOR REZONING TO THE MIXED USE ZONING DISTRICT; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, after public notice and public hearing as required by law. the Planning and Zoning Commission of the Town of Flower Mound, Texas, has recommended denial of a requested change in the zoning text regarding the analysis of Mixed Use development applications by a Town-designated planning firm as part of the development and review process for rezoning to the Mixed Use Zoning District, and the applicant has timely appealed said denial to the Town Council; and

WHEREAS, all legal requirements, conditions, and prerequisites have been complied with prior to this case coming before the Town Council of the Town of Flower Mound; and

WHEREAS, the Town Council of the Town of Flower Mound, after public notice and public hearing as required by law and upon due deliberation and consideration of the recommendation of the Planning and Zoning Commission of the Town of Flower Mound and of all testimony and information submitted during said public hearings, has determined that it is in the public's best interest and in furtherance of the health, safety, morals, and general welfare of the citizens of the Town, to amend the Town Code of Ordinances as set for herein;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT:

SECTION 1

All of the above premises are hereby found to be true and correct legislative and factual findings of the Town of Flower Mound, and they are hereby approved and incorporated into the body of this Ordinance as if restated herein in their entirety.

SECTION 2

From and after the effective date of this Ordinance, Subsection (a) of Section 98-904 entitled "Applications for rezoning" is hereby amended to read as follows:

(a) *Applications for rezoning.*

(1) An applicant requesting a rezoning to the MU shall submit a concept plan that meets the requirements of this chapter and includes the informational requirements for a zoning change and development plan.

(2) All mixed use developments will be reviewed for compliance with the Town's regulations. The analysis will be prepared by a planning firm designated by the Town to be included as part of submittals for approval of a comprehensive plan amendment, zoning amendment, development plan, and/or site plan.

(3) The applicants of the proposed development shall pay to the Town a fee to cover the expense of the mixed use development analysis. The fee determination will be made by the Town after review of the complexity, size and location of the proposed development.

(4) The Town's development review committee (DRC) shall review the application for completeness and compliance with the Town Master Plan and all applicable ordinances and forward the application to the Planning and Zoning Commission.

(5) The Planning and Zoning Commission shall make a recommendation on the rezoning request and the Town Council may approve any such proposal, together with any conditions, requirements or limitations thereon which the Planning and Zoning Commission or Town Council deems appropriate. The concept plan shall be approved as part of the ordinance establishing the Mixed Use Zoning District.

SECTION 3

This Ordinance shall be cumulative of all provisions of ordinances of the Town of Flower Mound, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 4

It is hereby declared to be the intention of the Town Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section, and said remaining portions shall remain in full force and effect.

SECTION 5

Any person, firm or corporation who violates any provision of this Ordinance or of any final site plan adopted by the Planning and Zoning Commission and/or Town Council of the Town of Flower Mound shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-13 of the Code of Ordinances of the Town of Flower Mound. Each day, or portion thereof, any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 6

This Ordinance shall take effect and be in full force from and after its passage and publication, as provided by the Revised Civil Statutes of the State of Texas and the Home Rule Charter of the Town of Flower Mound, Texas.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF 4 TO 0, ON THIS THE 7TH DAY OF DECEMBER, 2009.

APPROVED:

JODY A. SMITH, MAYOR

ATTEST:

Paula J. Paschal, TOWN SECRETARY

APPROVED AS TO FORM:

Terrence S. Welch, TOWN ATTORNEY