

TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO. 78-05

AN ORDINANCE DESIGNATING A CERTAIN AREA AS TAX INCREMENT FINANCING REINVESTMENT ZONE NUMBER ONE, TOWN OF FLOWER MOUND, TEXAS, ESTABLISHING A BOARD OF DIRECTORS FOR SUCH REINVESTMENT ZONE, MAKING CERTAIN FINDINGS, AND OTHER MATTERS RELATED THERETO.

WHEREAS, the Town Council of the Town of Flower Mound, Texas, (the "Town"), desires to promote the development of a certain contiguous geographic area within its jurisdiction by the creation of a reinvestment zone, as authorized by the Tax Increment Financing Act, Chapter 311 of the Texas Tax Code Annotated (Vernon 2002), (the "Act"); and

WHEREAS, in compliance with the Act, the Town has called a public hearing to hear public comments on the creation of the proposed reinvestment zone and its benefits to the Town and the property in the proposed reinvestment zone; and

WHEREAS, in compliance with the Act, notice of such public hearing was published in the Denton Record Chronicle, a paper of general circulation in the Town, such publication date being not later than seven (7) days prior to the date of the public hearing; and

WHEREAS, such hearing was convened at the time and place mentioned in the published notice, to wit, on the 19th day of September, 2005 at 6:30 o'clock p.m., in the Town Hall of the Town of Flower Mound, Texas, which hearing was closed after public testimony was received; and

WHEREAS, the Town, at such hearing, invited any interested person, or his attorney, to appear and speak for or against the creation of the reinvestment zone, the boundaries of the proposed reinvestment zone, whether all or part of the territory which is described and attached hereto as Exhibit "A" and depicted on the map attached hereto as Exhibit "B" should be included in such proposed reinvestment zone, the concept of tax increment financing and the appointment of a board of directors of the proposed reinvestment zone; and

WHEREAS, all owners of property located within the proposed reinvestment zone and all other taxing units and other interested persons were given a reasonable opportunity at such public hearing to protest the creation of the proposed reinvestment zone and/or the inclusion of their property in such reinvestment zone; and

WHEREAS, the proponents of the reinvestment zone offered evidence, both oral and documentary, in favor of all of the foregoing matters relating to the creation of the reinvestment zone, and opponents, if any, of the reinvestment zone appeared and offered evidence, both oral and documentary, to contest creation of the zone;

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

SECTION 1

The facts and recitations contained in the preamble of this ordinance are hereby found and declared to be true and correct.

SECTION 2

The Town Council, after conducting such hearing and having heard such evidence and testimony, has made the following findings and determinations based on the evidence and testimony presented to it:

a) That the public hearing on adoption of the reinvestment zone has been properly called, held and conducted and that notice of such hearing has been published as required by law and delivered to all taxing units overlapping the territory inside the proposed reinvestment zone.

b) That creation of the proposed reinvestment zone with boundaries as described in Exhibit "A" and territory as depicted in Exhibit "B" will result in benefits to the Town, its residents and property owners, in general, and to the property, residents and property owners in the reinvestment zone.

c) That the reinvestment zone, reflected in Exhibits "A" and "B", meets the criteria for the creation of a reinvestment zone set forth in the Act (and specifically Tex. Tax Code Section 311.005) in that:

1. It is a contiguous geographic area located wholly within the corporate limits of the Town.

2. The area is predominately open and because of obsolete platting or lack of site improvements, or other factors, substantially impairs or arrests the sound growth of the Town.

d) That 10 percent or less of the property in the proposed reinvestment zone, excluding property dedicated to public use, is used for

residential purposes, which is defined in the Act as any property occupied by a house which has less than five living units.

e) That the total appraised value of all taxable real property in the proposed reinvestment zone according to the most recent appraisal rolls of the Town, together with the total appraised value of taxable real property in all other existing reinvestment zones within the Town, according to the most recent appraisal rolls of the Town, does not exceed 15 percent of the current total appraised value of taxable real property in the Town and in the industrial districts created by the Town, if any.

f) That the proposed reinvestment zone does not contain more than 15 percent of the total appraised value of real property taxable by a county or school district.

g) That the improvements in the reinvestment zone will significantly enhance the value of all taxable real property in the reinvestment zone.

h) That the development or redevelopment of the property in the proposed reinvestment zone will not occur solely through private investment in the reasonable foreseeable future.

SECTION 3

The Town hereby creates a reinvestment zone over the area described in Exhibit "A attached hereto and depicted in the map attached hereto as Exhibit "B" and such reinvestment zone shall hereafter be identified as Tax Increment Financing Reinvestment Zone Number One (TIRZ #1), Town of Flower Mound, Texas (the "Zone" or "Reinvestment Zone").

SECTION 4

There is hereby established a board of directors for the Zone that shall consist of seven members. The board of directors of Tax Increment Financing Reinvestment Zone Number One (TIRZ #1), Town of Flower Mound, Texas shall be appointed as follows:

a) Three members shall be appointed by the Town Council, and two members shall be appointed by the Commissioner's Court of Denton County, and the Flower Mound Mayor and the Flower Mound Town Manager shall serve as *ex officio* non-voting members of the Board. The initial board of directors shall be appointed by resolution of the Town Council and the Commissioner's Court within sixty (60) days of the passage of this ordinance

or within a reasonable time thereafter. All members appointed to the board shall meet the eligibility requirements set forth in the Act. The governing bodies of other taxing units that levy taxes on real property in Tax Increment Financing Reinvestment Zone Number One have chosen not to pay any of their taxes into the Tax Increment Fund and have waived their right to appoint board members.

b) The terms of the board members, save and except the *ex official* non-voting members, shall be two-year terms. *Ex official* members shall serve only so long as they hold and retain their respective offices. The Town Council shall designate a voting member of the board to serve as chairman of the board of directors for a term of one year that begins on January 1 of the following year, and the board shall elect from its members a vice chairman and other officers as it sees fit.

c) Board members shall serve at the will and pleasure of the entity by which they are appointed. If, for any reason, a board member does not complete his or her term of office the vacancy in that board member's position shall be filled by the entity which originally appointed the vacating board member. Such appointments shall be for the remainder of the vacating board member's two-year term of office. If the vacating board member has been designated as the chairman of the board of directors, the Town Council shall designate a new chairman for the remainder of the vacating chairman's one-year term.

d) The board of directors shall make recommendations to the Town Council concerning the administration of the Zone. It shall prepare and adopt a project plan and reinvestment zone financing plan for the Zone and must submit such plans to the Town Council for its approval. Subject to any restrictions and limitations contained in the Act the board of directors shall possess all powers necessary to prepare, implement and monitor such project plan and financing plan for the reinvestment zone as the Town Council considers advisable, including the submission of an annual report on the status of the Zone.

e) All meetings of the board of directors shall be open to the public and posted in accordance with the Texas Open Meetings Act, as amended, and action shall only be taken by the board of directors after a public hearing on any proposed action. Any action by the Town Council on any recommendation by the board of directors shall be after a public hearing by the Town Council.

SECTION 5

The Zone shall take effect on January 1, 2005 and the termination of the Zone shall occur on December 31, 2024, or at an earlier time designated by subsequent ordinance of the Town Council in the event the Town determines that the Zone should be terminated due to insufficient private investment, accelerated private investment or other good cause, or at such time as all project costs and tax increment bonds, if any, and the interest thereon, have been paid in full.

SECTION 6

The Tax Increment Base for the Zone, which is the total appraised value of all taxable real property located in the Zone, is to be determined as of January 1, 2005, the year in which the Zone was designated a reinvestment zone.

SECTION 7

There is hereby created and established a Tax Increment Fund for the Zone which may be divided into such subaccounts as may be authorized by subsequent resolution or ordinance, into which all Tax Increments, less any of the amounts not required to be paid into the Tax Increment Fund pursuant to the Act, are to be deposited. The Tax Increment Fund and any subaccounts are to be maintained in an account at the Town Treasurer's affiliated depository bank of the Town and shall be secured in the manner prescribed by law for funds of Texas cities. In addition, all revenues from the sale of any tax increment bonds and notes hereafter issued by the Town, revenues from the sale of any property acquired as part of the tax increment financing plan and other revenues to be dedicated to and used in the Zone shall be deposited into such fund or subaccount from which money will be disbursed to pay project costs for the Zone or to satisfy the claims of holders of tax increment bonds or notes issued for the Zone.

SECTION 8

If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 9

This Ordinance shall take effect immediately from and after its passage and it is accordingly so ordained.

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF 4 TO 0, ON THIS 19th DAY OF SEPTEMBER, 2005.

APPROVED:



Jody A. Smith, MAYOR

ATTEST:



Paula J. Paschal, TOWN SECRETARY, TRMC

APPROVED AS TO FORM AND LEGALITY:



Terrence S. Welch, TOWN ATTORNEY

EXHIBIT "A"**Legal Description**

BEGINNING at the intersection of the north ROW of FM 1171 (Cross Timbers Road) and the east ROW of Morriss Road; thence

East along the north ROW of FM 1171 (Cross Timbers Road) to a point directly opposite the east ROW of Firewheel; thence

South across FM 1171 (Cross Timbers Road) and continuing south along the east ROW of Firewheel to a point directly opposite the south ROW of Milford; thence

Westerly across Firewheel and continuing along the south ROW of Milford, extending directly across Morriss Road to the west ROW of Morriss Road; thence

Northerly along the west ROW of Morriss Road to the south ROW of FM 1171 (Cross Timbers Road); thence

Westerly along the south ROW of FM 1171 (Cross Timbers Road) to the east ROW of Yucca; thence

South along the east ROW of Yucca, continuing across Sagebrush to the south ROW of Sagebrush; thence

Westerly along the south ROW of Sagebrush to the east ROW of FM 2499 (Long Prairie Road); thence

South along the east ROW of FM 2499 (Long Prairie Road) to a point directly opposite the south ROW of Chaparral; thence

Across FM 2499 (Long Prairie Road) and continuing west along the south ROW of Chaparral to a point opposite the west property line of the 15.227 acre HCA Health Services Texas, Inc. tract; thence

Across Chaparral and continuing along the west, northwest and north property lines of the 15.227 acre HCA Health Services Texas, Inc. tract to the southwest corner of the 3.936 acre Feti Staravecic tract; thence

North along the west property line of the 3.936 acre Feti Staravecic tract, across Bob White Lane and continuing along the west property lines of the 1.277 acre and 0.724 acre Tolleson Family Trust tracts, the 1.647 acre, 1.514 acre and 1.321 acre Harvey Earles tracts, the 1.322 and 1.323 acre Vasavada tracts, the 1.86 acre Lancaster tract, the 0.315 acre and 1.905 acre Coker tracts, and the 4.802 acre Johnson tract, continuing across Sagebrush to the north ROW of Sagebrush; thence

East along the north ROW of Sagebrush to the southwest corner of the 2.676 acre M & L Sagebrush West, Ltd. tract; thence

North along the west property line of the 2.676 acre M & L Sagebrush West, Ltd. tract, the 0.915 and 1.743 acre Flower Mound Square LP tracts, the 0.990 acre FM Investments tract and the 1.36 acre FM Link Properties, Ltd. tract to the south ROW of Churchill; thence

West and northwesterly along the south ROW of Churchill to the north ROW of Broadmoor; thence

Southwesterly along the north ROW of Broadmoor to the southeast corner of the 1.871 acre Gaylnn Sonius tract; thence

West along the south property line of the 1.871 acre Gaylnn Sonius tract and continuing directly across Old Settlers to the west ROW; thence

North along the west ROW of Old Settlers across FM 1171 (Cross Timbers Road) to the north ROW of FM 1171 (Cross Timbers Road); thence

Southeasterly and easterly along the north ROW of FM 1171 (Cross Timbers Road) to its intersection with the northwest point of the 2.894 acre Flower Mound Towne Crossing, Ltd. tract; thence

East along the north property line of the 2.894 acre Flower Mound Towne Crossing, Ltd. tract to the southwest corner of the 3.589 acre YYV Estates Joint Venture tract; thence

North along the west property lines of the 3.589 acre YYV Estates Joint Venture tract, the 3.002 acre Cross tract, the 4.965 acre James tract, the 4.988 acre Crawford tract, the 2.990 acre Zeller tract, the 2.990 acre Johnson tract, the 2.964 acre Fell tract, the 2.971 acre McGiboney tract, the 3.000 acre Simmons tract, the 2.434 acre Crawford tract, the 2.398 acre Sutton tract, across Windsor, continuing along the west property lines of the 6.917 acre Guzik tract, the 2.253 acre Bradburry tract, and the 5.922 acre Nowell Family tract to the south property line of the 16.436 acre Shu tract; thence

West and north along the south and west property lines of the 16.436 acre Shu tract to its northwest corner; thence

North along the east ROW of Mulberry to the south ROW of Pecan; thence

West across Mulberry and along the south ROW of Pecan to the west ROW of Spruce; thence

North along the west ROW of Spruce across Willow (as platted) to the north ROW of Willow (as platted); thence

Easterly along the north ROW of Willow (as platted) to the west ROW of FM 2499 (Long Prairie Road); thence
Northwesterly along the west ROW of FM 2499 (Long Prairie Road) to the south ROW of Rippy Road; thence

Northwesterly and north along the south and west ROW of Rippy Road to its intersection with the southeast corner of the 17.902 acre Bradford tract; thence

West and north along the south and west property lines of the 17.902 acre Bradford tract, continuing along the west property line of the 5.146 acre Cain tract to its intersection with the southeast corner of the 19.165 acre Parks tract; thence

West and north along the south and west property lines of the 19.165 acre Parks tract to its intersection with the south ROW of Waketon; thence

West along the south ROW of Waketon to the town limits boundary; thence

North along the town limits boundary to the centerline of FM 407 (Justin Road); thence

West along the centerline of FM 407 (Justin Road) to the town limits boundary; thence

Across FM 407 (Justin Road) and following the town limits boundary north, east and south back to the centerline of FM 407 (Justin Road); thence

Easterly along the centerline of FM 407 (Justin Road) to a point directly opposite the east property line of the 2.002 acre Austin Realty tract; thence

Across FM 407 (Justin Road) and along the east property lines of the 2.002 acre Austin Realty tract, the 5.882 acre Warren tract, the 24.000 acre Weaver Properties tract, across Dixon Lane, and continuing along the east property line of the 87.134 acre Whyburn tract across Waketon to the south ROW of Waketon; thence

West along the south ROW of Waketon to the northeast corner of the 15.667 acre Phoenix Meadows tract; thence

South along the east property line of the 15.667 acre Phoenix Meadows tract to the north ROW of College Parkway; thence

East, southeast and east along the north, northeast and north ROW of College Parkway to a point directly opposite the east property line of the 11.0 acre Town of Flower Mound tract; thence

South along the east property line of the 11.0 acre Town of Flower Mound tract to the north property line of the 6.8502 acre Minassain Properties tract; thence

East along the north property lines of the 6.8502 acre Minassain Properties tract and the 6.2 acre Reeder Partnership, Ltd. tract to its northeast corner; thence

South along the east property lines of the 6.2 acre Reeder Partnership, Ltd. and 2.6 acre Tobias tracts to the north property line of the 13.95 acre Town of Flower Mound tract; thence

Generally southeast along the north property line of the 13.95 acre Town of Flower Mound tract to the west ROW of Morriss; thence

Perpendicularly across Morriss to the east ROW; thence

South along the east ROW of Morriss to the northwest corner of the 3.498 acre Bank United property; thence

East along the north property lines of the 3.498 acre Bank United property and the 0.74 acre Bank One Corporation property to the west ROW of Timber Creek; thence

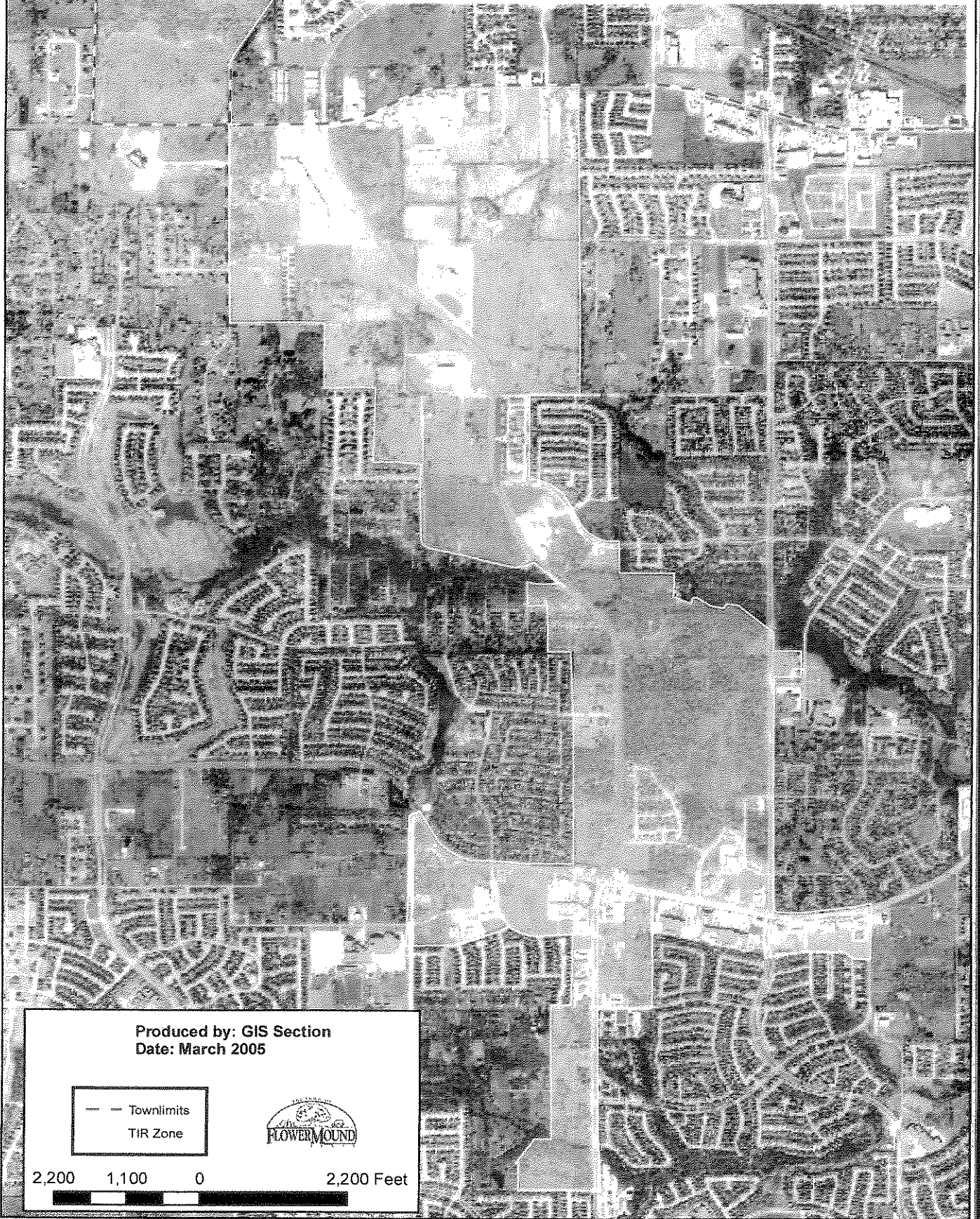
South along the west ROW of Timber Creek to the north ROW of Eaton; thence

West along the north ROW of Eaton to the east ROW of Morriss; thence

South along the east ROW of Morriss to the north ROW of FM 1171 (Cross Timbers Road) and the POINT OF BEGINNING, containing a total of approximately 1,465 acres.

EXHIBIT "B"

Tax Increment Reinvestment Zone Boundary Map



Produced by: GIS Section
Date: March 2005

--- Townlimits
TIR Zone



2,200 1,100 0 2,200 Feet