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October 15, 2021

Town of Flower Mound
Attn: Bryn Meredith, Town Attorney
Taylor, Olson, Adkins, Sralla & Elam L.L.P.
6000 Western Place, Suite 200
Fort Worth, Texas 76107

Misty Ventura
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Re: Flower Mound Ranch– Zoning Application Letter of Intent (Mixed Use Zoning Application)

Dear Mr. Meredith:

On behalf of the landowners, I am submitting this Letter of Intent in connection with the Mixed Use zoning of 1,042.56 acres for the Flower Mound Ranch project, as described in the enclosed application (the "Property"), consistent with the existing Mixed Use Master Plan designation on that acreage. The applicant requests that the Town Council consider this zoning application at the same Town Council meeting as the companion zoning application for Estate Density that covers the remainder of the 1,586.3-acre Flower Mound Ranch project ("Flower Mound Ranch").

Site Information

Flower Mound Ranch surrounds all four corners of the intersection of US 377 and Cross Timbers Road and has extensive frontage on both US 377 and Cross Timbers Road. Cross Timbers Road has been widened, and US 377 is planned for future expansion. Sewer service is available through the existing Trinity River Authority line that parallels the railroad, which is the western boundary of the Property. Large water transmission lines that will serve the Property exist along both US 377 and Cross Timbers Road. All of the existing gas wells on the Property have been plugged, and the land has been restored. With the exception of the existing residential structures within Flower Mound Ranch, which are reflected on DCAD records, all of the Flower Mound Ranch property has been in continuous agricultural use and subject to an agricultural tax exemption since prior to the Town's annexation of Flower Mound Ranch.

History of Vested Rights and Mixed Use

In 2005, Orric Freeman and J. Charles Haynes filed a lawsuit against the Town of Flower Mound (the "Town") seeking the disannexation of 5,044 acres (the "Annexed Area") due to the Town's failure to provide full municipal services to the Annexed Area, which included the portion of Flower Mound Ranch located within the town limits of Flower Mound. In November of 2006, the parties to the lawsuit entered into a Rule 11 Agreement to abate the lawsuit (the "Rule 11 Agreement"). As part of the Rule 11 Agreement, the Town agreed to amend the Master Plan to transfer the area shown on Exhibit 1 to the Rule 11 Agreement into Area Plan 5 (West) – White's Branch to US 377 (also known as Specific Plan Area 8). The Town subsequently

amended its Master Plan to designate the majority of Flower Mound Ranch for future "mixed use" with the remainder designated as "Prairie Vista."

A copy of Exhibit 1 to the Rule 11 Agreement is attached, and it clearly shows that mixed use development is part of the plan for development approved by the Town. The Rule 11 Agreement provides that the owners of the property shown on Exhibit 1 shall vest mixed use land uses, pursuant to Chapter 245 of the Texas Local Government Code, and that Exhibit 1 shall be deemed a development plan pursuant to Section 245.002 of the Texas Local Government Code.

Mixed use development includes multifamily. The Town's Master Plan includes a mixed use category described as follows: "A variety of commercial, office, retail, civic, institutional and **residential** uses within pedestrian oriented, vertical and horizontal mixed use environments. These uses may be combined within a single district, site, or building in the mixed use area. Components of a mixed use development include specialized street standards, open space, parks and plazas and enhanced architectural standards. Mixed use developments are intended to accommodate physical development patterns characteristic of those found in historic American downtown areas while taking into consideration contemporary building and development techniques. Key development concepts include: (i) horizontal and vertical mix of uses throughout the development, (ii) unifying landscape elements, (iii) integrated street networks shared by vehicles, cyclists and pedestrians, (iv) responsible environmental stewardship, (v) connectivity to existing Town transportation networks and surrounding neighborhoods, (vi) walkability within the development, and (vii) interconnected public spaces (parks, open space, water features)." (emphasis added)

In addition, the Town's Master Plan includes the following table that mandates residential as part of a mixed use development:

Land Use	Percentage of the Acreage	Flexibility Factor
Non-residential uses**	45%	±25%
Public uses	5%	±5%
Residential uses^β	45%	±25%
Civic/Open Space (public and private)	5%	+10%
Total	100%	
**Non-residential uses shall include retail, office, hospitality, entertainment, etc.		
^β Residential uses above commercial uses shall not be included in the calculation of percentage of residential uses in the overall development.		

The Town's zoning ordinance includes a mixed use zoning district (MU), which was added to the Town's zoning ordinance by the adoption of Ordinance 62-08 after the Town entered into the Rule 11 Agreement. The MU district allows residential uses, including live/work units, residential lofts, apartments/condos (stacked residential), single-family residential attached dwelling unit, and single-family residential detached dwelling unit.

The zoning ordinance states that the MU zoning district implements the goals of the Town's Master Plan by allowing for mixed use development in selected areas. It also states that

the MU district "shall be applicable to all properties that are designated as "mixed use" in the Town of Flower Mound's Land Use Plan." The Town's Master Plan limits residential density by imposing a maximum height of five stories (unless granted a bonus by the Town) and restricting residential uses to only 70 percent of uses (excluding residential above commercial, which are not subject to a percentage restriction).

The MU zoning district regulations include the following provisions that clearly contemplate and allow residential as a component of mixed use:

- "The purpose and intent of the mixed use zoning district (MU) is to implement the mixed use land use category guidelines established in the town's master plan. the MU is intended to: Allow a mixture of complementary land uses that include *housing*, retail, offices, commercial services, and civic uses to create economic vitality; Provide flexibility in the siting and design of new developments and redevelopment to anticipate changes in the marketplace while establishing *human-scaled residential* and nonresidential buildings; Include a range of *residential options* that reflect changing lifestyles while balancing market demand and community preferences...." (emphasis added)

- "Residential land uses within a "village" mixed use setting should be allowed in this district to accompany campus commercial."

- "Horizontal mixed use is the location of different land uses, including commercial, retail, office, residential, public, and other uses in proximity to one another in separate buildings but in the same development or block."

- "Vertical mixed use is a building or structure in which at least one of the upper floors of a commercial building has residential uses (live-work units or lofts) with a mixture of retail or office uses at the other levels of the building or structure, or office uses above ground floor retail uses."

In addition to the Rule 11 Agreement, on June 16, 2008, the Town entered into a Wastewater Impact Fee Prepayment Agreement (the "Prepayment Agreement") with Jack Furst addressing wastewater obligations for Flower Mound Ranch. Pursuant to Chapter 245, the Prepayment Agreement is a permit that vests rights to the planned mixed use development project for the Property. The Prepayment Agreement contemplates that Flower Mound Ranch will develop in accordance with the Rule 11 Agreement, including the plan for development for mixed use. Pursuant to the Prepayment Agreement, Jack Furst prepaid \$1,310,000 in wastewater impact fees to ensure that wastewater services would be available when Flower Mound Ranch is developed. This prepayment was for a portion of the 2008 costs incurred by the Town in connection with sewer line improvements necessary to serve property on the west side of Flower Mound, including Flower Mound Ranch. This prepayment entitles Jack Furst to 1,036 wastewater service units, which do not expire and may be assigned to a developer. The number of wastewater units support a portion of the development planned for the Property and exceeds the number of units that would be needed to serve the Property with just estate residential lots. Wastewater impact fees for development of Flower Mound Ranch in excess of 1,036 wastewater service units will be paid as development occurs in accordance with applicable regulations.

Zoning Application

The enclosed zoning application is consistent with the Rule 11 Agreement, the Prepayment Agreement, the Master Plan designation for the Property, and the original mixed use zoning ordinance adopted by the Town (Ordinance No. 62-08). In addition, the preliminary utility plans in the enclosed application are consistent with the Town's master utility plans. Based on the project's vested rights, the Town's mixed use ordinances (Ordinance No. 62-08, as amended) and associated zoning application checklists prepared by the Town's staff are not legally applicable to the enclosed application for the project; however, the applicant is opting to take advantage of the provisions of Ordinance No. 62-08 based on Section 245.002(d) of the Texas Local Government Code, which allows a permit holder to take advantage of a change to the laws, rules, regulations, or ordinances of a regulatory agency that enhance or protect the project without forfeiting any rights under Chapter 245. Consistent with such vested rights, the enclosed application was prepared in accordance with the general zoning application checklist of the Town, as well as the requirements of Ordinance No. 62-08. In the spirit of cooperation, the applicant has prepared a very detailed zoning application that complies with the intent, as well as applicable form and content requirements, of the Town's mixed use zoning ordinance as amended over time, as well as the staff checklist for mixed use zoning applications.

With respect to aesthetic standards for buildings, including building material restrictions, the Town is preempted by Chapter 3000, Texas Government Code, from adopting and enforcing such standards; therefore, these standards have been omitted from the zoning application.

Pursuant to Chapter 245, the property owner is a permit holder entitled to rely on vested rights that allow mixed use development, including multifamily and other residential uses. But for the vested rights provided by the Rule 11 Agreement and the Prepayment Agreement, there would have been no dismissal of the disannexation lawsuit or prepayment of impact fees. These provisions were part of the consideration for the plaintiff's agreement to dismiss the disannexation lawsuit, and the enclosed zoning application is consistent with these vested rights. The landowner anticipates that the Town will provide full municipal services for the mixed use development contemplated by the enclosed zoning application consistent with the project's vested rights and the Town's obligations under applicable annexation laws.

In anticipation of developing the Property consistent with the project's vested rights, the applicant respectfully requests the Town approve the enclosed zoning application no later than November 15, 2021.

Respectfully,



Misty Ventura

Exhibit 1 to Rule 11 Agreement

Exhibit 1

Master Plan Update

Town of Flower Mound

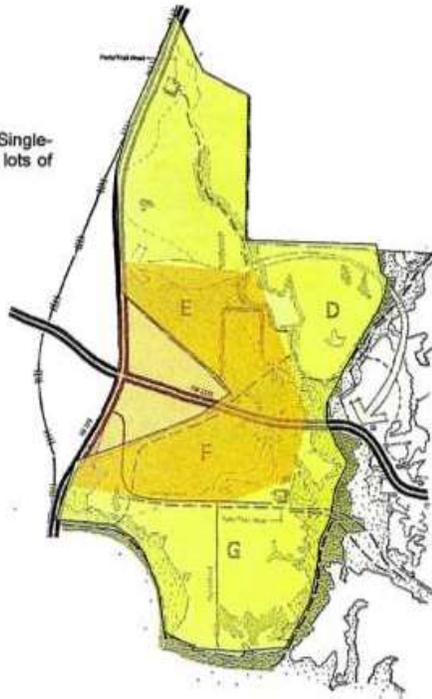


Attachment 2

2.0 AREA PLANS

Area Plan 5 (West) - White's Branch to US 377

Estate Density Residential – Single-family detached development on lots of one acre or larger.



-  Estate Density Residential
-  Mixed Use

2.40

Flower Mound Master Plan 2001

09/29/06

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