

ORDINANCE NO. 5335

AN ORDINANCE OF THE CITY OF DENISON, TEXAS, PROVIDING FOR SPECIFIED CHANGES IN THE OFFICIAL ZONING MAP OF THE CITY OF DENISON, TEXAS; PROVIDING FOR A CONDITIONAL USE PERMIT FOR A DISTRIBUTION CENTER IN THE COMMERCIAL (C) DISTRICT ON THE PROPERTY DESCRIBED IN EXHIBIT A, BEING AN APPROXIMATELY 2.388 ACRE TRACT OF LAND LEGALLY DESCRIBED AS BEING LOCATED IN THE FAIRMOUNT ADDITION, BEING ALL OF LOTS 1, 2, 3, 14, 15, AND 16 AND THE ADJOINING 15 FOOT ALLEY, AND A PART OF LOTS 4 AND 5, ALL IN BLOCK 18; AND ALL OF LOTS 1 AND 16, AND PART OF LOTS 2, 3, AND 15 AND THE ADJOINING 15 FOOT ALLEY, ALL IN BLOCK 21; AND A PORTION OF THE RIGHTS-OF-WAY AT RUSK AVENUE, FLORENCE STREET, AND FORD STREET, OF FAIRMOUNT ADDITION TO THE CITY OF DENISON, GRAYSON COUNTY, TEXAS, ACCORDING TO THE DEED RECORDED IN VOLUME 84, PAGE 513, DEED RECORDS OF GRAYSON COUNTY, TEXAS; IDENTIFIED AS GCAD PROPERTY ID NO. 150067 AND BEING COMMONLY KNOWN AS 307 W. COFFIN STREET, CITY OF DENISON, GRAYSON COUNTY, TEXAS; PROVIDING A PENALTY CLAUSE; PROVIDING REPEALER, SEVERABILITY AND SAVINGS CLAUSES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, Testa Lab, LLC (“Owner”) has made application under the provisions of the Zoning Ordinance of the City of Denison for a Conditional Use Permit for a distribution center as depicted by Site Plan in **Exhibit “B”**, on property being an approximately 2.388 acre tract of land legally described as being located in the Fairmount Addition, being all of lots 1, 2, 3, 14, 15, and 16 and the adjoining 15 foot alley, and a part of lots 4 and 5, all in Block 18; and all of lots 1 and 16, and part of lots 2, 3, and 15 and the adjoining 15 foot alley, all in Block 21; and a portion of the rights-of-way at Rusk Avenue, Florence Street, and Ford Street, of Fairmont Addition to the City of Denison, Grayson County, Texas, according to the deed recorded in Volume 84, Page 513, Deed Records of Grayson County, Texas; and being commonly known as 307 W. Coffin Street, Denison, Texas, and more specifically described and depicted in **Exhibit “A”**, copies of which are attached and incorporated as if fully set forth herein (the “Property”), which Property is located in the Commercial (C) District; and

WHEREAS, the Comprehensive Zoning Ordinance of the City allows for a distribution center in the Commercial (C) District with the grant of a Conditional Use Permit; and

WHEREAS, public hearings on said application having been held before the Planning and Zoning Commission and the City Council of the City of Denison (the “City Council”), after due notice of the public hearings having been mailed and published in all respects as required by law on the property fully described in the body of this Ordinance; and

WHEREAS, the Planning and Zoning Commission has recommended approval of a distribution center for the Property; and

WHEREAS, the City Council has considered the evidence and testimony provided by all parties appearing before the City Council, in person and in writing, and the recommendation of the Planning and Zoning Commission relative to the proposed zoning change and has further considered all written approvals and protests, all as required by law; and

WHEREAS, the City Council has determined that the uses requested for the Property as requested in the Conditional Use Permit application and subject to the provisions of this Ordinance are compatible with surrounding properties and are appropriate for the location of the Property.

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

Section 1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Zoning Map and Conditional Use Permit Approved. The zoning map of the City of Denison adopted by Section 28.3 of the Denison Code of Ordinances and on file in the office of the Planning Director is hereby amended to reflect the Conditional Use Permit is approved in the Commercial (C) District on the Property as follows:

2.01. Permit Granted. A Conditional Use Permit (“CUP” or “Permit”) for the Property authorizing use of the distribution center, is hereby approved.

2.02. Permit Conditions. The CUP and the use for which it is granted is subject to all Applicable Regulations (defined below) and to the following conditions:

A. Uses. The following use shall be permitted in accordance with the conditions of the CUP:

Distribution center: Building or facility used for the storage and distribution of wholesale items/products.

B. Applicable Regulations. In addition to the specific requirements set forth in this Ordinance, this CUP shall be subject to all ordinances and regulations of the City applicable to the Property, including without limitation the Comprehensive Zoning Ordinance and those regulations governing the Commercial (C) District (“Applicable Regulations”). The CUP granted by this Ordinance shall control in cases of conflict between this Ordinance and/or the Comprehensive Zoning Ordinance.

Section 3. Failure to Comply/Expiration/Transferable. All terms of this CUP shall be complied with prior to issuance of a certificate of occupancy. This CUP shall be declared null and void and of no force and effect and shall discontinue if or for any one or more of the following:

- A. Any failure to comply with any term or condition of this Ordinance or the applicable regulations, as they exist or may be amended; or
- B. Any improvements, the Property, uses or structures regulated by this CUP are enlarged, modified, structurally altered or otherwise significantly changed unless a separate conditional use permit or other required authorization is granted therefor; or
- C. A building permit for the construction of any new structure for which a use is authorized hereunder has not been approved within one (1) year of the date of approval of this Ordinance; or
- D. A certificate of occupancy for any existing structure for which a use authorized by this Ordinance is not applied for and issued within one hundred and eighty (180) days from the effective date of this Ordinance; or
- E. A use for which this CUP is granted ceases to operate for a continuous period of one hundred eighty (180) calendar days; or
- F. A structure for which this CUP is granted remains vacant for a continuous period of one hundred eighty (180) calendar days; or
- G. This CUP was obtained by fraud or deception; or
- H. As otherwise permitted by law, this Ordinance and/or the City's Zoning Ordinance, as they exist or may be amended, including without limitation the requirements of Section 28.9 "Nonconforming Uses and Structures".

Section 4. Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

Section 5. Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Denison hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences clauses and phrases be declared unconstitutional or invalid.

Section 6. Penalty. Any person, firm, entity or corporation who violates any provision of this Ordinance or Denison's Zoning Ordinance Chapter 28, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined in a sum not exceeding Two Thousand and No/100 Dollars (\$2,000.00). Each continuing day's violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Denison from filing suit to enjoin the violation. Denison retains all legal rights and

remedies available to it pursuant to local, state, and federal law.

Section 7. Publication and Effective Date. This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

AND IT IS SO ORDERED.

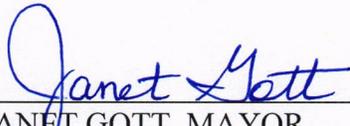
On motion by Mayor Pro Tem Crawley, seconded by Council Member Hander, the above and foregoing Ordinance was passed and approved by the following vote:

Ayes: Hander, Courtright, Thorne, Gott, Massey, Crawley and Thomas

Abstentions:

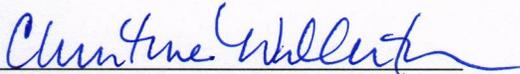
Nays:

At regular meeting January 16, 2024.



JANET GOTT, MAYOR

ATTEST:



Christine Wallentine, City Clerk



EXHIBIT "A"
Property Description and Depiction

Situated in the county of Grayson, state of Texas, being all of Lots 1, 2, 3, 14, 15, and 16 and the adjoining 15 foot alley, and a part of Lots 4, and 5, all in Block 18; and all of Lots 1, and 16, and a part of Lots 2, 3, and 15 and the adjoining 15 foot alley, all in Block 21; and a portion of the rights-of-way of Rusk Avenue, Florence Street, and Ford Street, of Fairmont Addition to the city of Denison, Texas, as recorded in/under Volume 84, Page 513, of the Real Property Records of Grayson County, Texas, and being more particularly described by metes and bounds as follows:

Beginning at a ½" steel rod found at the intersection of the centerline of Rusk Avenue (70 foot right-of-way) and the centerline of Ford Street (60 foot right-of-way);

Thence South 00° 00' 00" West, with the centerline of said Rusk Avenue, a distance of 640.00 feet to a ½" steel rod found in the North right-of-way line of Coffin Street (70 foot right-of-way);

Thence North 90° 00' 00" West, with the North right-of-way line of said Coffin Street, a distance of 110.00 feet to a 1/2" steel rod found;

Thence North 00° 00' 00" East, a distance of 250.00 feet to a 1/2" steel rod set;

Thence North 90° 00' 00" West, a distance of 75.00 feet to a 1/2" steel rod found in the West line of said Lot 3, Block 21;

Thence North 00° 00' 00" East, a distance of 300.00 feet to a ½" steel rod set in the West line of said Lot 3, Block 18;

Thence North 90° 00' 00" West, a distance of 60.00 feet to a 1/2" steel rod set;

Thence North 14° 02' 10" East, a distance of 92.77 feet to a 1/2" steel rod set in the centerline of said Ford Street;

Thence South 90° 00' 00" East, with the centerline of said Ford Street, a distance of 222.50 feet to the Point of Beginning and containing 2.388 acres of land, more or less.

**EXHIBIT "A" continued
Property Description and Depiction**

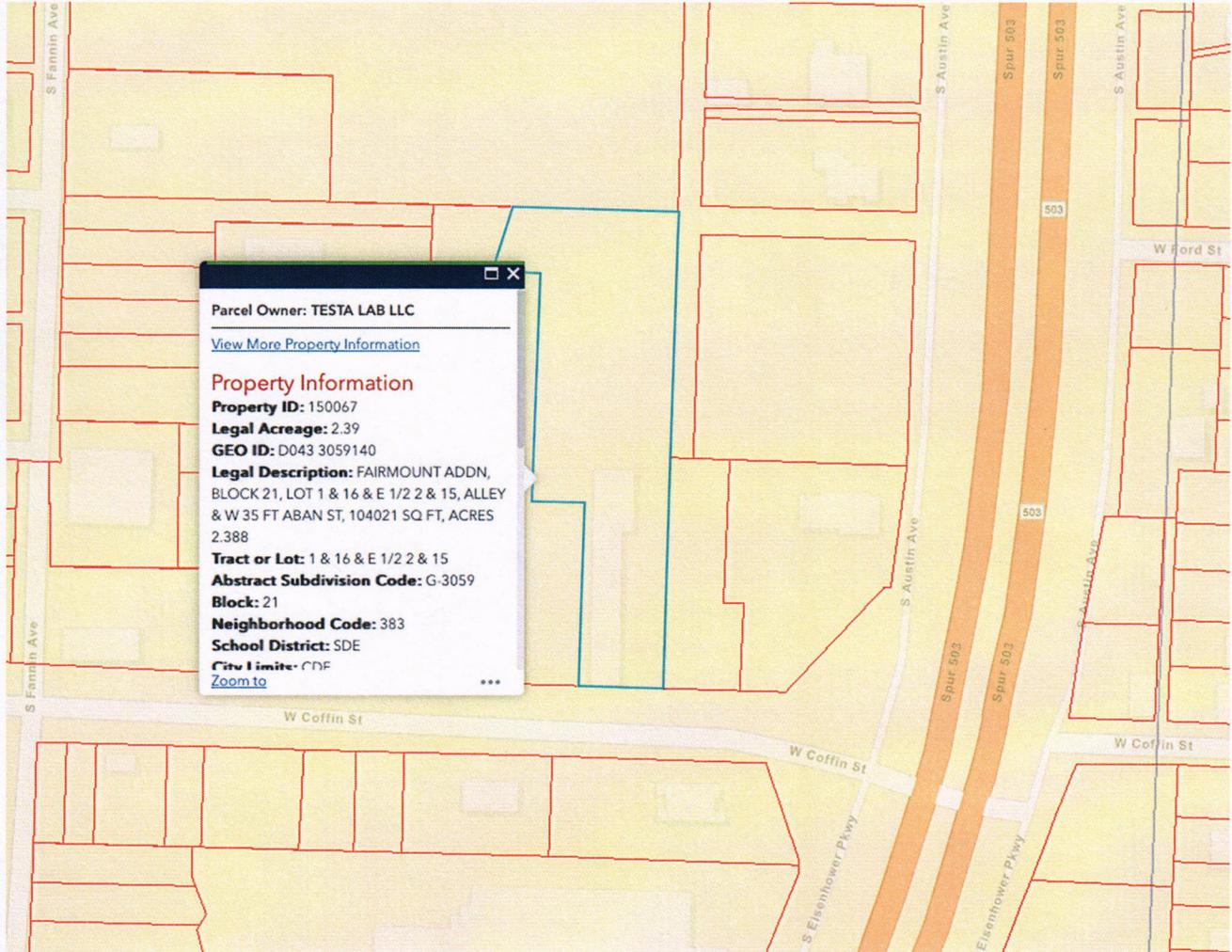


Exhibit "B"
Site Plan

