

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF DENTON, TEXAS, APPROVING A SPECIFIC USE PERMIT FOR A MULTI-FAMILY DWELLING DEVELOPMENT IN A NEIGHBORHOOD RESIDENTIAL MIXED USE ZONING DISTRICT AND USE CLASSIFICATION. THE APPROXIMATELY 16.061 ACRE SITE IS GENERALLY LOCATED ON THE SOUTH SIDE OF EAST MCKINNEY STREET (FM 426), APPROXIMATELY 1,500 FEET EAST OF WOODROW LANE, IN THE CITY OF DENTON, DENTON COUNTY, TEXAS; PROVIDING FOR A PENALTY IN THE MAXIMUM AMOUNT OF \$2,000.00 FOR VIOLATIONS THEREOF; PROVIDING A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE. (S15-0009)

WHEREAS, Lance Vanzant, on behalf of the property owner, Codella, LLC, ("Applicant") has applied for a Specific Use Permit (SUP) to allow a Multi-Family Dwelling use on approximately 16.061 acres of land within a Neighborhood Residential Mixed Use (NRMU) zoning district and use classification, located approximately 1,500 feet East of Woodrow Lane on the South side of East McKinney Street (FM426) and more particularly described in Exhibit "A", attached hereto and incorporated herein by reference (hereinafter, the "Property"); and

WHEREAS, after notice published and written notice sent to owners within 200 feet of the Property, a public hearing was held before the Planning and Zoning Commission in accordance with State law on November 4, 2015, whereby the Planning and Zoning Commission recommended (6-0) approval of the requested SUP, subject to conditions as stated herein; and

WHEREAS, written opposition of the SUP request was received from at least twenty percent of the owners of land immediately adjoining and within 200 feet of the Property, requiring a three-fourths (3/4) vote of all members of the City Council qualified to vote; and

WHEREAS, on December 9, 2015, after notice published, a public hearing was held before the City Council in accordance with State law and the City Council hereby finds that the request is consistent with the Denton Plan and federal, state, and local law and that the Applicant has agreed to comply with all provisions of the Denton Development Code, as they exist, may be amended, or in the future arising, including but not limited to, this Ordinance, and has further agreed to comply with the additional restrictions and conditions set forth herein; and

WHEREAS, the City Council has, by the affirmative vote of at least three-fourths of all members, determined that it will be beneficial to Denton and its citizens to grant the SUP; that such grant will not be detrimental to the public welfare, safety, or health; and that the SUP should be granted; NOW THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations contained in the preamble of this ordinance are incorporated herein by reference and found to be true.

SECTION 2. SUP Granted. The SUP to allow Multi-Family Dwellings on the Property is hereby approved, subject to the following conditions:

1. Development of the site shall substantially comply with the site plan and landscape plan attached in Exhibit "B":
2. The maximum number of units of the development shall be 322 units:
3. The western access shall be an emergency access only until East McKinney Street (FM 426) is widened and a median is installed: and
4. Building façades facing East McKinney Street (FM 426) shall have a minimum of 60% masonry building materials. Gables, windows, doors, and related trim may be excluded from the percentage calculation.

SECTION 3. Failure to Comply. Except as otherwise stated above, all terms of the SUP shall be complied with prior to issuance of a Certificate of Occupancy. Failure to comply with any term or condition of the Ordinance will result in the SUP being declared null and void and of no force and effect through revocation or modification. The SUP is issued to the entity named above and is assignable and transferable.

SECTION 4. Unlawful Use. It shall be unlawful for any person, firm, corporation or other entity to make use of the Property in some manner other than as authorized by the Denton Code of Ordinances and this Ordinance.

SECTION 5. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by any court, such invalidity shall affect the validity of the provisions or applications, and to this end the provisions of this ordinance are severable.

SECTION 6. Penalty. Any person violating any provision of this ordinance shall, upon conviction, be fined a sum not exceeding \$2,000.00 for each violation. Each day that a provision of this ordinance is violated shall constitute a separate and distinct offense. The penal provisions imposed under this Ordinance shall not preclude the City from filing a civil suit to enjoin the violation and it retains all legal rights and remedies available to it under local, state, and federal law.

SECTION 7. Effective Date. In compliance with Section 2.09(c) of the Denton Charter, this ordinance shall become effective fourteen (14) days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this ordinance to be published twice in the Denton Record-Chronicle, a daily newspaper published in the City of Denton, Texas, within ten (10) days of the date of its passage.

PASSED AND APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
CHRIS WATTS, MAYOR

ATTEST:  
JENNIFER WALTERS, CITY SECRETARY

BY: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:  
JENNIFER DECURTIS, DEPUTY CITY ATTORNEY

BY: Jennifer DeCurtis  
Deputy City Attorney

**Exhibit A**  
**Legal Description**

SITUATED in the City of Denton, in the Timothy M. Downing Survey, Abstract No. 346 of Denton County, Texas and being all of Lot 1, Block A of VELA-CODINA ADDITION, an addition to the City of Denton, according to the Conveyance Plat thereof, recorded in Cabinet 2013, Page 112, Plat Records, Denton County, Texas (P.R.D.C.T.) and also being part of that certain called 18.532 acre tract of land described as "Tract IV" in a deed to Codela, LLC, recorded in Document No. 2012-145972, Deed Records, Denton County, Texas (D.R.D.C.T.) and said Lot 1, Block A being more particularly described by metes & bounds as follows:

BEGINNING at a 5/8 inch iron rod, topped with a plastic cap, stamped "TNP", found for the southeast corner of said Lot 1, Block A and for the southwest corner of Lot 1R, Block A of McKINNEY STREET SUBSTATION ADDITION, an addition to the City of Denton, according to the Replat thereof, recorded in Cabinet 2015, Page 250, P.R.D.C.T. and said point also being on the north line of that certain called 318.937 acre tract of land described in a deed to Staff Realty, Inc., recorded in County Clerk's File No. 94-R0006845, D.R.D.C.T.;

THENCE: South 89 deg. 28 min. 12 sec. West (plat call: S 89° 27' 42" W – 675.89'), at 230.95 feet, passing a 1/2 inch iron rod found for the common corner of the M.E.P. & P. R.R. Co. Survey, Abstract No. 1475 and the Enoc Morris Survey, Abstract No. 868 and continuing with the common line of said Lot 1, Block A and Staff Realty tract for a total distance of 676.07 feet to a 1/2 inch iron rod found for the southwest corner of said Lot 1, Block A and same being the southeast corner of that certain called 7.363 acre tract of land described in a deed to Terrano Reality, Inc., recorded in Document No. 2005-157409, D.R.D.C.T. and said point bears North 89 deg. 35 min. 55 sec. East – 317.53 feet from a 4"x4" concrete monument found at the southwest corner of said 7.363 acre Terrano tract;

THENCE: North 03 deg. 52 min. 17 sec. West (plat call: N 03° 53' 23" W – 197.91'), with the common line of said Lot 1, Block A and Terrano tract, along and near a barbed wire fence, a distance of 198.24 feet to 1/2 inch iron rod found near a fence corner post, from which a 3/4 inch iron pipe found, bears South 10 deg. 46 min. 32 sec. East – 4.96 feet. Said 1/2 inch iron rod being the beginning of a non-tangent curve to the left, having a radius of 975.52 feet and a chord that bears North 12 deg. 37 min. 11 sec. West – 296.26 feet (plat chord: N 12° 37' 53" W – 296.52');;

THENCE: Continuing along said common line and with said curve to the left, veering east of an existing barbed wire fence, through a central angle of 17 deg. 28 min. 05 sec. and an arc length of 297.41 feet (plat: 297.67') to a 1/2 inch iron rod found for corner at the end of said curve from which another 1/2 inch iron rod found bears North 63 deg. 52 min. 56 sec. East – 0.57 feet;

THENCE: North 21 deg. 04 min. 48 sec. West (plat call: N 21° 22' 23" W – 190.00'), continuing along the common line of said Lot 1, Block A and Terrano tract, along and near an existing barbed wire fence, a distance of 190.12 feet to a 1/2 inch iron rod found near a fence corner post and said point being the beginning of a non-tangent curve to the right, having a radius of 674.44 feet and a chord that bears North 10 deg. 45 min. 06 sec. West – 245.95 feet (plat chord: N 10° 52' 22" W – 245.82');

THENCE: Continuing along said common line and with said curve to the right, veering west of said existing barbed wire fence, through a central angle of 21 deg. 00 min. 41 sec. and an arc length of 247.33 feet (plat: 247.20') to a 3/4 inch iron pipe found for corner at the end of said curve from which a 1/2 inch iron rod found bears South 70 deg. 24 min. 23 sec. West – 1.57 feet;

THENCE: North 00 deg. 13 min. 10 sec. West (plat call: N 00° 22' 23" W – 64.56'), continuing along said common line, along and near said barbed wire fence, a distance of 64.25 feet to a 1/2 inch iron rod found on the south right-of-way line of McKinney Street (F.M. Highway 426 – variable width R.O.W.) for the northwest corner of said Lot 1, Block A and the northeast corner of said 7.363 acre Terrano tract and another 1/2 inch iron rod found, bears South 76 deg. 14 min. 00 sec. West – 1.71 feet;

THENCE: South 88 deg. 10 min. 52 sec. East (plat call: S 88° 15' 40" E – 261.95'), along the north line of said Lot 1, Block A and the south right-of-way line of said McKinney Street, a distance of 262.19 feet to a 5/8 inch iron rod found for corner from which a 1/2 inch iron rod found, bears South 87 deg. 34 min. 46 sec. West – 1.64 feet and said corner point being the beginning of a non-tangent curve to the right, having a radius of 1,378.90 feet and a chord that bears South 80 deg. 20 min. 10 sec. East – 376.66 feet (plat chord: S 80° 24' 59" E – 376.53');

THENCE: Continuing along the common line of said Lot 1, Block A and McKinney Street, with said curve to the right, through a central angle of 15 deg. 41 min. 59 sec. and an arc length of 377.84 feet (plat: 377.71') to a 5/8 inch iron rod found for corner at the end of said curve, from which a 3/4 inch iron pipe found, bears South 24 deg. 56 min. 25 sec. West – 1.25 feet;

THENCE: South 72 deg. 31 min. 16 sec. East (plat call: S 72° 34' 10" E – 239.99'), continuing along the common line of said Lot 1, Block A and McKinney Street, a distance of 238.21 feet to a 1/2 inch iron rod, topped with a red plastic cap, stamped "RPLS 4701", set for the northeast corner of said Lot 1, Block A;

THENCE: South 00 deg. 33 min. 51 sec. East (Reference Bearing), along the east line of said Lot 1, Block A, at 2.06 feet, passing a 5/8 inch iron rod with cap, stamped "TNP" and at 6.56 feet passing another 5/8 inch iron rod with cap, stamped "TNP", found for the northwest corner of the above described Lot 1R, Block A of McKinney Street Substation Addition, and continuing on, along the common line of said Vela-Codina Addition and

McKinney Street Substation Addition for a total distance of 820.85 feet to the POINT OF BEGINNING and containing 699,634 square feet or 16.061 acres

**Exhibit B**  
**Site Plan and Landscape Plan**





