

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, TEXAS REGARDING A REQUEST FOR A SPECIFIC USE PERMIT TO ALLOW FOR A MULTI-FAMILY RESIDENTIAL USE ON APPROXIMATELY 4.044 ACRES OF LAND, GENERALLY LOCATED ON THE EAST SIDE OF FALLMEADOW STREET, FIFTEEN FEET EAST OF THE NORTHERN INTERSECTION OF GARDENVIEW CIRCLE AND FALLMEADOW STREET, IN THE CITY OF DENTON, DENTON COUNTY, TEXAS; ADOPTING AN AMENDMENT TO THE CITY'S OFFICIAL ZONING MAP; PROVIDING FOR A PENALTY IN THE MAXIMUM AMOUNT OF \$2,000.00 FOR VIOLATIONS THEREOF; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE. (S25-0002a)

WHEREAS, Maxwell Fisher with ZoneDev, representing the property owner MSW Partners, LLC has applied for a new Specific Use Permit ("SUP") to allow for a Multifamily Residential use on an approximately 4.044-acre site, within the Residential 7 (R7) zoning district and use classification, as described in **Exhibit "A"** (hereinafter, "the Property"); and

WHEREAS, on October 15, 2024, City Council passed an ordinance creating the "Affordable Housing Development Incentive Program" in Subchapter 2.12 of the Denton Development Code, which enables developers who execute an Affordability Incentives Agreement with the City agreeing to provide a specific number of affordable housing units to take advantage of certain affordability incentives in the design of their site; and

WHEREAS, A draft Affordability Incentives Agreement has been submitted for the project proposed by this SUP on the Property, and the project has been designed using three of the affordability incentives offered in Subchapter 2.12, and therefore a completed Affordability Incentives Agreement must be fully executed between the City of Denton and the developer of the project prior to issuance of any Building Permit or Certificate of Occupancy for this SUP project; and

WHEREAS, on June 25, 2025, the Planning and Zoning Commission, in compliance with the laws of the State of Texas, having given the requisite notices by publication and otherwise, and having afforded full and fair hearings and to all property owners interested in this regard, has recommended ____ [____ - ____] of the requested SUP, subject to conditions; and

WHEREAS, on July 15, 2025, the City Council likewise conducted a public hearing as required by law to consider the SUP request. Upon consideration, 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 ("DDC"), and has further agreed to comply with the additional restrictions and conditions set forth herein; and

WHEREAS, the City Council has 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; that proposed permit, as conditioned below, satisfies criteria set forth in Sections 2.4.5E Approval Criteria Applicable to all Applications and 2.5.2D Specific Use Permit Approval Criteria of the Denton Development Code; 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. The SUP to allow the Multifamily Residential Use on the Property as shown on the site plan attached and incorporated herein as **Exhibit “C”**, the landscape plan attached and incorporated herein as **Exhibit “D,”** and the building elevations attached and incorporated herein as **Exhibit “E”**, is hereby approved, subject to the use-specific standards of the DDC, as amended, and with the following conditions:

1. The attached Site Plan, Landscape Plan, and Building Elevations reflect an intent to comply with the 2019 Denton Development Code (DDC), as amended.
2. The attached Site Plan and Landscape Plan are incorporated as requirements of the SUP. City Staff shall have the ability to approve a reduction in the building footprint, an increase in the landscape area, and a decrease in the number of dwelling units with associated parking, of up to 5% of any of the amounts specified in requirements “a” through “c” below, as well as a reduction in provided vehicle parking of no more than 10 spaces, provided all applicable requirements of the DDC are met:
 - a. No more than 120 one- and two- and three-bedroom units with a total building footprint not to exceed 49,811 square feet.
 - b. A minimum total landscape area of 38,724 square feet. At minimum, on-site amenities shall include a dog park, and an outdoor open space containing a grill area, pool, and playground, as depicted in Exhibit C.
 - c. One hundred and sixty-nine (169) vehicle parking spaces required, after approved reductions, and ten (10) bicycle parking spaces required, as depicted in Exhibit C.
 - d. Two full points of access onto Fallmeadow Street shall be provided.
3. Minor alterations to the depicted locations of buildings, pedestrian pathways, and parking may be approved by City Staff, provided that the final plan complies with the attached Site Plan in terms of access and internal pedestrian connectivity.
4. Minor alterations to the depicted locations and species of individual plantings may be approved by City Staff, provided that the final landscaping, as planted, complies with the attached Landscape Plan in terms of required landscape elements, open space, and overall tree canopy, as well as all elements of the DDC.
5. Building architecture shall be consistent in style and detailing to the attached conceptual Building Elevations (Exhibit E). Minor alterations to the Building Elevations may be approved by City Staff, provided that the final project complies with DDC Section 7.10 Site and Building Design.

6. Encroachment into City of Denton drainage easements, as depicted in Exhibits C and D, are permitted only on the condition that the following language, or similar language to the same effect as approved by City Staff, is included in a note on the final plat for the Property:

“As a condition of allowing encroachments in existing and proposed drainage easements on this lot, Owner acknowledges that the City of Denton has the rights of constructing public drainage improvements, drainage maintenance, inspection, or other related public drainage work within the drainage easements. Owner acknowledges the city's right to remove the fence and any other private improvements encroaching within the easements. City of Denton is not liable for any reimbursement, replacement, or damages incurred by the encroachment of private improvements, including paving, landscaping, or structures.”

Should the above language, or similar language to the same effect as approved by City Staff, not be included in a note on the Final Plat, the Site Plan and Landscape Plan shall be changed to remove all encroachments from all existing and proposed drainage easements on the Property, while maintaining compliance with all other standards of the Denton Development Code. The aforementioned changes may require a Specific Use Permit amendment in accordance with the Denton Development Code, subject to determination by City Staff.

7. The Multifamily Residential project on the Property is proposed to include a percentage of affordable housing units targeted at specific income levels which is sufficient, in accordance with Denton Development Code Table 2.12-B Affordability Incentive Procedure - Definitions, to allow the project to request 3 or fewer Affordability Incentives from the list in DDC Subsection 2.12.1F.2 Affordability Incentives. The attached Site Plan and Landscape Plan (Exhibits C and D) include designs which take advantage of three incentives from DDC Subsection 2.12.1F.2. Below are the three Affordability Incentives used and the actual designs which those incentives enable:

- a. Affordability Incentive 1: 20% increase in the maximum permitted building height for the R7 zoning district as provided in DDC Subsection 3.2.7 R-7 Residential, provided the development is still in compliance with Subsection 7.10.6 Building Height in Transition Areas.
 - i. Actual Design: 19.3% increase in building height above the maximum permitted building height in the R7 zoning district, for a total height of 47 feet, 9 inches.
- b. Affordability Incentive 2: A 10-point reduction in the required number of points from Table 7.E Landscaping Area Point System.
 - i. Actual Design: A 5-point reduction in the required number of points from Section B: Parking Lot Landscape Elements of Table 7.E Landscaping Area Point System, as depicted in Exhibit D.
- c. Affordability Incentive 3: A reduction in parking requirements to not less than 1 parking space per affordable dwelling unit irrespective of the number of habitable rooms.

- i. Actual Design: A reduction in required parking to 1 vehicle space per affordable housing unit for the 81 units of proposed affordable housing. Vehicle parking for the remaining 39 units shall be in accordance with the parking study submitted to and approved by staff in accordance with DDC 7.9.5G Modification of Minimum Parking Requirement by Director.

In accordance with DDC Subsection 2.12.1D.2.b Affordability Incentives Agreement, prior to issuance of any building permit for this project, the applicant must execute an Affordability Incentives Agreement, including all elements required by DDC Subsection 2.12.1D.2.b, in a form approved by the City Attorney. Should the applicant not execute an approved Affordability Incentives Agreement as required by DDC Subsection 2.12.1D.2.b, then the Site Plan (Exhibit C), (Exhibit D), and Building Elevations (Exhibit E) for this SUP shall be required to be redesigned to remove all deviations from DDC standards which were enabled by Affordability Incentives. Approval of the redesigned SUP plans shall require an SUP amendment in accordance with the DDC.

8. Notwithstanding the limited administrative approvals authorized in conditions 2, 3, 4, and 5, the City reserves the right to require approval by ordinance of any amendments or alterations to the SUP, the attached Site Plan, the attached Landscape Plan, and the attached Building Elevations.
9. The zoning map shall reflect the Specific Use Permit on the property consistent with the DDC.

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. The SUP is issued to the entity named above runs with the land and is assignable and transferable to subsequent owners of the Property.

SECTION 4. SUP Regulations. Upon notice to the property owner and a hearing before the City Council, a SUP may be revoked or modified if: 1. There is one or more of the conditions imposed by this Ordinance that has not been met or has been violated on the Property; or 2. The SUP was obtained or extended by fraud or deception; or 3. As otherwise permitted by law and/or permitted by the Denton Development Code.

SECTION 5. Unlawful use. It shall be unlawful for any person, firm, entity, or corporation to make use of the above-referenced Property in some manner other than as authorized by the Denton's Codes of Ordinances and this Ordinance.

SECTION 6. 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 7. Penalty. Any person, firm, entity or corporation 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 Denton from filing

suit to enjoin the violation and it retains all legal rights and remedies available to it under local, state and federal law.

SECTION 8. 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.

The motion to approve this ordinance was made by _____ and seconded by _____, the ordinance was passed and approved by the following vote [___ - ___]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: _____

DRAFT

EXHIBIT A

Legal Description

SITUATED in the City of Denton, in the B.B.B.&C.R.R. Co. Survey, Abstract No. 186, Denton County, Texas and being all of that certain called 4.1149 acre tract of land described in a Special Warranty Deed to MSW Partners, LLC, recorded in Document No. 2022-161464, Deed Records, Denton County, Texas (D.R.D.C.T.) and being more particularly described by metes & bounds as follows:

BEGINNING at a 1/2 inch iron rod, topped with a red plastic cap, stamped "RPLS 4701" (hereinafter referred to as "with cap"), set for the northwest corner of the above described MSW Partners tract at the northeast corner of Fallmeadow Street (50' wide right-of-way) and said point also being on the south line of Block A of Sandlin Addition, an addition to the City of Denton, according to the Conveyance Plat thereof, recorded in Cabinet T, Page 78, Plat Records, Denton County, Texas (P.R.D.C.T.) and said point bears South 89 deg. 41 min. 07 sec. East – 384.58 feet from a 1/2 inch iron rod found for the northwest corner of Fallmeadow North Addition, an addition to the City of Denton, according to the plat thereof, recorded in Cabinet C, Page 75, P.R.D.C.T.;

THENCE: South 89 deg. 41 min. 07 sec. East, along the common line of said MSW Partners tract and said Block A of Sandlin Addition, a distance of 438.09 feet to a 1/2 inch iron rod with cap, set for the northeast corner of said MSW Partners tract and the northwest corner of Kingswood Apartments, Phase Two, Lot One, an addition to the City of Denton, according to the Conveyance Plat thereof, recorded in Cabinet C, Page 88, P.R.D.C.T. and said point bears North 89 deg. 41 min. 07 sec. West – 178.44 feet from a 5/8 inch iron rod found for the northeast corner of Joyce Lane (60' wide right-of-way) and the northwest corner of Kingswood Apartments, an addition to the City of Denton, according to the plat thereof, recorded in Cabinet C, Page 56, P.R.D.C.T.;

THENCE: South 00 deg. 36 min. 53 sec. West, along the common line of said MSW Partners tract and said Kingswood Apartments, a distance of 410.00 feet to a 1/2 inch iron rod with cap, set for the southeast corner of said MSW Partners tract and same being the northeast corner of Unit One, Block Three, Denton North Addition, an addition to the City of Denton, according to the plat thereof, recorded in Cabinet J, Page 197, P.R.D.C.T. and affected by Certificate of Correction, recorded in Volume 790, Page 82, D.R.D.C.T.;

THENCE: North 89 deg. 40 min. 22 sec. West, along the common line of said MSW Partners tract and said Unit One, Block Three, Denton North Addition, a distance of 436.39 feet to a 1/2 inch iron rod with cap, set on the east right-of-way line of the above described Fallmeadow Street for the southwest corner of said MSW Partners tract and the northwest corner of said Unit One, Block Three, Denton North Addition;

THENCE: North 00 deg. 22 min. 38 sec. East, along the common line of said MSW Partners tract and said Fallmeadow Street, a distance of 409.90 feet to the POINT OF BEGINNING and containing 179,245 square feet or 4.115 acres of land.

EXHIBIT B

Site Location Map

