

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

AN ORDINANCE OF THE CITY OF DENTON, TEXAS REGARDING A REQUEST FOR A SPECIFIC USE PERMIT (SUP) TO ALLOW FOR AN EQUIPMENT SALES AND RENTAL USE ON APPROXIMATELY 10 ACRES OF LAND, GENERALLY LOCATED ON THE SOUTH SIDE OF US 380, APPROXIMATELY 3,800 FEET WEST OF MASCH BRANCH ROAD, IN THE CITY OF DENTON, DENTON COUNTY, TEXAS; PROVIDING FOR A PENALTY IN THE MAXIMUM AMOUNT OF \$2,000.00 FOR VIOLATIONS THEREOF; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE. (S24-0001a)

WHEREAS, Aimee Bissett with 97 Land Company, representing the property owner Henry Property Development, LLC has applied for a new Specific Use Permit (“SUP”) to allow for an Equipment Sales and Rental use on an approximately 10-acre site, within the Light Industrial (LI) zoning district and use classification, as described in **Exhibit “A”** (hereinafter, “the Property”); and

WHEREAS, on April 24, 2024, 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 May 21, 2024, 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 and 2.5.2D 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 Equipment Sales and Rental use on the Property as shown on the site plan and landscape plan attached and incorporated herein as **Exhibit “B” and Exhibit “C,”** is hereby approved, with the following conditions:

1. Development of the site shall substantially comply with the attached Site Plan and Landscape Plan. Administrative approval of changes that do not increase the size of the designated equipment rental display and storage areas, change the number of parking

spaces, decrease the buffer and screening requirements, or result in a decrease of more than 5 percent in the landscape area for the whole site may be administratively approved, if such changes are permissible per the Denton Development Code. All other changes shall require a Specific Use Permit amendment in accordance with the Denton Development Code.

2. Notwithstanding the limited administrative approvals authorized in condition 1, the City reserves the right to require approval by ordinance of any amendments or alterations to the SUP, the attached site plan, and the attached landscape plan, including those referenced in condition 1. The attached site plan and landscape plan are incorporated as requirements of the SUP.
3. An encroachment agreement must be obtained prior to the approval of the Civil Engineering Plans for all encroachments into the private easements located on the property. Failure to obtain an encroachment agreement will require approval of an amendment to the SUP by ordinance.
4. Improvements within the TxDOT roadway require approval by TxDOT. If the modified traffic impact analysis (TIA) submitted to TxDOT requires minor alterations to relocate the cross-access connection, relocate the proposed driveway along US 380, relocate parking spaces impacted by the driveway relocation, or modify the median opening and turn lanes, or any other changes required by TxDOT, these changes may be approved by City staff, provided that the final configuration of the driveway and cross-access complies with the Texas Department of Transportation (TxDOT) requirements as well as all elements of the DDC. All other changes to site access shall require a Specific Use Permit amendment in accordance with the Denton Development Code.
5. Construction of the pavement within the cross-access easement is required when the adjacent property to the east develops.
6. The zoning map shall reflect the Specific Use Permit on the property consistent with the DDC.
7. Minor alterations to the building elevations may be approved by City staff, provided that the final project complies with Denton Development Code Subsection 7.10.5D, Building Mass and Form.

**SECTION 4. 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 5. 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 6. 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 7. 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 9. 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 10. 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 [\_\_\_\_ - \_\_\_\_]:

	<b>Aye</b>	<b>Nay</b>	<b>Abstain</b>	<b>Absent</b>
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Chris Watts, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

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GERARD HUDSPETH, MAYOR

ATTEST:  
JESUS SALAZAR, CITY SECRETARY

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

APPROVED AS TO LEGAL FORM:  
MACK REINWAND, CITY ATTORNEY

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

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## EXHIBIT A

### Legal Description

BEING all that certain tract or parcel of land situated in the S. Huizar Survey, Abstract No. 514 and the G.H. Barb Survey, Abstract No. 208, Denton County, Texas, being a portion of a called 29.85 acres of land described in Special Warranty Deed to Series V, Henrey Property Development LLC, recorded under Instrument Number 2021-102870, Deed Records, Denton County, Texas (D.R.D.C.T.), and being more particularly described by the following metes and bounds description:

COMMENCING at a capped 5/8 inch iron rod stamped "TXDOT" found for corner in the most southerly Right-of-Way line of W. University Drive (variable width Right-of-Way), same being in the most northwesterly corner of Crow-Billingsley Denton GHB, LTD, recorded under Instrument Number 2023-40765, Deed Records, Denton County, Texas (D.R.D.C.T.), also being in the most northeasterly corner of the remainder of Servies V, Henry Property Development LLC, recorded under Instrument Number 2021-102870, Deed Records, Denton County, Texas (D.R.D.C.T.);

THENCE in a westerly direction along said W. University Drive and over, across, and upon said remainder of Series V tract the following three (3) courses and distance:

North 87 degrees 53 minutes 48 seconds West, a distance of 807.83 feet to an aluminum monument found for corner in the most northeasterly corner of Save & Except recorded under Instrument Number 2010-13656, Deed Records, Denton County, Texas (D.R.D.C.T.);

South 83 degrees 32 minutes 53 seconds West, a distance of 101.12 feet to an aluminum monument found for corner;

North 87 degrees 55 minutes 17 seconds West, a distance of 194.35 feet to a capped 5/8 inch iron rod stamped "TRAVERSE LS PROP COR" set for corner in the most northeasterly corner of said portion of Series V tract, same being the most northwesterly corner of said remainder of Servies V tract, also being in the most southerly line of said Save and Except tract and being THE POINT OF BEGINNING;

THENCE South 00 degrees 12 minutes 22 seconds West, in a southerly direction along the common line between the most easterly line of said portion of Series V tract and the most westerly line of said remainder of Series V tract, a distance of 777.07 feet to a capped 5/8 inch iron rod stamped "TRAVERSE LS PROP COR" set for corner in the most southwesterly corner of said remainder of Series V tract, same being the most southeasterly corner of said portion of Series V tract, also being a point in the most northerly line of The Robert H. and Jimmie G Nobles Charitable Remainder unitrust, recorded under Volume 2897, Page 995, Deed Records, Denton County, Texas (D.R.D.C.T.);

THENCE North 89 degrees 25 minutes 30 seconds West, in a westerly direction along the common line between the most northerly line of said The Robert and Jimmie Nobles tract and the most southerly line of said portion of Series V tract, a distance of 556.22 feet to a capped 5/8 inch iron rod stamped "TRAVERSE LS PROP COR" set for corner in the most southwesterly corner of said portion of Series V tract, same being a point in the most northerly line of said The Robert and Jimmie Nobles tract, also being in the most southeasterly corner of Annette Sue Schroeder, recorded under Instrument Number 2015-54980, , Deed Records, Denton County, Texas (D.R.D.C.T.);

THENCE North 00 degrees 37 minutes 06 seconds East, in a northerly direction along the common line between the most easterly line of said Annette Schroeder tract and the most westerly line of said portion of

Series V tract, a distance of 778.37 feet to a aluminum monument found for corner in the most northwesterly corner of said portion of Series V tract, same being in the most northeasterly corner of said Annette Schroeder tract, also being in the most southwesterly corner of said Save and Except;

THENCE in an easterly direction over, across, and upon said portion of Series V tract and Save and Except tract the following six (6) courses and distances;

North 85 degrees 39 minutes 59 seconds East, a distance of 45.10 feet to an aluminum moment found for corner;

South 87 degrees 55 minutes 16 seconds East, a distance of 148.00 feet to a capped 5/8 inch iron rod stamped "TRAVERSE LS PROP COR" set for corner;

North 79 degrees 19 minutes 17 seconds East, a distance of 104.58 feet to a capped 5/8 inch iron rod stamped "TRAVERSE LS PROP COR" set for corner;

South 87 degrees 55 minutes 17 seconds East, a distance of 150.00 feet to a capped 5/8 inch iron rod stamped "TRAVERSE LS PROP COR" set for corner;

South 79 degrees 23 minutes 26 seconds East, a distance of 101.12 feet to a capped 5/8 inch iron rod stamped "TRAVERSE LS PROP COR" set for corner;

South 87 degrees 55 minutes 17 seconds East, a distance of 5.65 feet to THE POINT OF BEGINNING and containing 10.002 acres (435,691 square feet) of land, more or less.

## **EXHIBIT B**

### Site Plan

## **EXHIBIT C**

### Landscape Plan

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