

ORDINANCE NO. 4776

File No. Z0519-0097

AN ORDINANCE AMENDING THE MESQUITE ZONING ORDINANCE BY APPROVING A CHANGE OF ZONING FROM AGRICULTURE AND GENERAL RETAIL TO PLANNED DEVELOPMENT – GENERAL RETAIL ON PROPERTY LOCATED AT THE SOUTHEAST CORNER OF IH-20 AND FM-741 TO ALLOW FOR PERSONAL SERVICES, RETAIL AND RESTAURANT USES IN ADDITION TO OTHER USES ALLOWED IN THE GENERAL RETAIL ZONING DISTRICT SUBJECT TO CERTAIN STIPULATIONS; REPEALING ALL ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission and the City Council, in compliance with the Charter of the City of Mesquite, state laws and the zoning ordinance, have given the required notices and held the required public hearings regarding the rezoning of the subject property; and

WHEREAS, the City Council finds that it is in the public interest to grant this change in zoning.

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

SECTION 1. The subject property is described as being a 25.464-acre tract and a 1.935-acre tract of land in the Martha Music Survey Abstract No. 312, City of Mesquite, Kaufman County, Texas, being more fully described in the legal descriptions (Tract 1 and Tract 2, respectively), attached hereto as **Exhibit “A,”** and located at the southeast corner of IH-20 and FM-741 (collectively the **“Property”**).

SECTION 2. The Mesquite Zoning Ordinance is amended by approving a change of zoning for the Property from Agriculture and General Retail to Planned Development – General Retail to allow personal services, retail and restaurant uses in addition to other uses allowed in the General Retail Zoning District subject to the following stipulations:

1. Except as provided herein, the site plan for the Property shall conform substantially to the Concept Plan, attached hereto as **Exhibit “B.”** The number of lots and the Permissible Building Area (**“PBA”**) sizes shown on **Exhibit “B”** may be modified provided that parking and other development standards are met.
2. All uses permitted in the General Retail District are allowed on the Property except as modified in Subsections “a,” “b” and “c” of Paragraph 3 immediately below. The uses permitted in the Planned Development are subject to the same requirements applicable to the uses in the General Retail District, as set out in the

Mesquite Zoning Ordinance. For example, a use permitted in the General Retail District only by Conditional Use Permit (“CUP”) is permitted in this Planned Development only by CUP.

3. Uses permitted or prohibited.

a. The following uses are permitted on the Property:

526	Retail Nursery, Garden Supply
554	Limited Fuel Sales (no more than eight fueling positions) is permitted as an accessory use to a grocery store
5812a	Drive-in Restaurant
5812b	Restaurant holding a Food and Beverage Certificate with Private Club
7215	Dry Cleaning (excluding Coin-Operated Laundries)
7334	Commercial Photography
7336	Commercial Art, Graphics Design

b. The following use may be permitted on the Property by CUP:

549a	One Convenience Store with Refueling Station and Self-Service Gasoline Sales shall be permitted by right and be allowed to have a maximum of 8 fuel pumps (16 fueling positions). Any additional convenience store(s) shall require approval of a conditional use permit.
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c. The uses prohibited on the Property are defined/identified in **Exhibit “C”** attached hereto and incorporated by reference.

4. A cross access easement shall be provided on each lot at the time of development and shall be shown on the plat to be filed in Kaufman County.
5. A Traffic Impact Analysis (“TIA”) is required in accordance with the Mesquite Engineering Design Manual.
6. The minimum setback to an adjacent lot line of property in a residential zoning district shall be 70 feet from the residential lot line.
7. The minimum number of off-street parking spaces shall be provided as required by Section 3-400 of the Mesquite Zoning Ordinance except that one parking space per 250-square feet of gross floor area shall be provided for retail, restaurant and personal service uses. Reduction in this requirement may be provided as authorized by Section 3-403 of the Mesquite Zoning Ordinance.
8. Each lot within the Property shall have frontage on a public or private street, or be accessible by an access easement, which is dedicated by plat filed in Kaufman County.

9. The development will have cohesive landscaping to create a harmonious streetscape edge that will contain native plant materials and drought-tolerant shrubs and trees. The landscaping shall comply with the requirements in Section 1A of the Mesquite Zoning Ordinance and be consistent with the landscaping shown on the Concept Plan with the additional stipulations listed below:
  - a. A landscape area equal to a minimum of 15% of the Property shall be provided by the time of full development of the Property, and landscaped areas located in adjacent right-of-way and maintained by the property owner's association for the Property shall be counted to satisfy the 15% requirement. In no case shall any individual lot have less than 10% landscaping.
  - b. A landscape buffer shall be provided along the ROW with a minimum depth of 15 feet.
  - c. One tree is required for every 500 square feet of required landscaping, which shall also include that one large shade tree shall be provided for each 35 linear feet along the ROW and shall be planted within the 15-ft landscape buffer no more than 35 feet apart.
  - d. Ten evergreen shrubs shall be provided for each 30 linear feet along the ROW and shall be planted in the 15-ft landscape buffer.
  - e. When a parking area contains 20 or more parking spaces, the interior of the area shall be landscaped by providing a minimum of one tree for every 12 parking spaces or fraction thereof and at the terminus of all rows of parking. Such islands shall contain at least one tree. The remainder shall be landscaped with shrubs, turf, ground cover or other appropriate material not to exceed three feet in height.
10. District screening between the Planned Development and the adjacent residentially zoned property shall consist of a five-foot-high wrought iron fence along the southeast and northeast edge of paving as noted on the Concept Plan. Evergreen trees, selected from Section 1A-500, shall be installed and maintained adjacent to the fence on the interior next to the wrought iron fence at intervals to effectively create a visual screen. At the time of planting, the trees must, at minimum, be the height of the wrought iron fence. The screening will be located at the edge of the paving.
11. Signage.
  - a. The design of all free-standing signs shall be consistent with the conceptual signage designs shown in the attached **Exhibit "D"** and shall not exceed the sizes shown for each sign type in **Exhibit "D."** The freestanding signs shall be located on the Property as shown on **Exhibit "B."**

- b. Multi-tenant signs may advertise any business located within the Planned Development, regardless of individual lot lines, without being considered off-premise (billboard) signage.

SECTION 3. All ordinances, or portions thereof, of the City of Mesquite in conflict with the provisions of this ordinance, to the extent of such conflict are hereby repealed; otherwise, they shall remain in full force and effect.

SECTION 4. The Property shall be used only in the manner and for the purposes provided for by the Mesquite Zoning Ordinance, as amended.

SECTION 5. Should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 6. Any person (as defined in Chapter 1, Section 1-2 of the Code of the City of Mesquite, Texas, as amended) violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction thereof, shall be subject to a fine not to exceed \$2,000.00 for each offense, provided, however, if the maximum penalty provided for by this ordinance for an offense is greater than the maximum penalty provided for the same offense under the laws of the State of Texas, the maximum penalty for violation of this ordinance for such offense shall be the maximum penalty provided by the laws of the State of Texas. Each day or portion of a day any violation of this ordinance continues shall constitute a separate offense.

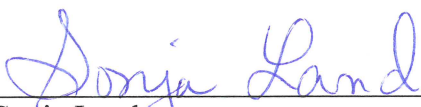
SECTION 7. This ordinance shall take effect and be in force from and after five days after publication.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 20th day of April 2020.



Bruce Archer  
Mayor

ATTEST:



Sonja Land  
City Secretary

APPROVED AS TO LEGAL FORM:



David L. Paschall  
City Attorney



TRACT 1  
LEGAL DESCRIPTION  
25.464 ACRE TRACT

BEING that certain tract of land situated in the Martha Music Survey, Abstract No. 312, in Kaufman County, Texas, and being part of that certain tract of land described in deed to CADG Kaufman 146, LLC, recorded in Volume 4363, Page 38, of the Deed Records of Kaufman County, Texas (DRKCT), and being more particularly described as follows:

BEGINNING at a 5/8 inch iron rod with cap marked "PETITT-RPLS 4087" set at the intersection of the southwest right-of-way line of Farm to Market Road No. 741 (called 90 foot R.O.W. at this point), and the northeasterly right-of-way line of Heartland Parkway (called 100 foot R.O.W. at this point), and being the west corner of said CADG Kaufman 146, LLC tract;

THENCE North 46°18'40" East, with said southwest right-of-way line of Farm to Market Road No. 741, said southwest right-of-way line according to Deed to the State of Texas recorded in Volume 454, Page 159, DRKCT, a distance of 428.96 feet to a 1/2 inch iron rod with cap stamped "DAA" found for corner at the west corner of that certain tract of land described as Tract 7 in deed to HW Heartland, L.P. recorded in Volume 3119, Page 142, DRKCT;

THENCE leaving said southwest right-of-way line of Farm to Market Road No. 741, and with the southwest and southeast lines of said Tract 7, the following bearings and distances to 1/2 inch iron rods with cap stamped "DAA" found for corner:

South 43°42'15" East, a distance of 207.45 feet;

And North 46°15'02" East, a distance of 146.43 feet;

THENCE North 15°07'57" East, continuing with said southeast line of Tract 7, a distance of 467.14 feet to a 5/8 inch iron rod with cap marked "PETITT-RPLS 4087" set for corner;

THENCE North 83°20'17" East, leaving said northwest line of Tract 7, and with the northerly line of said CADG Kaufman 146, LLC tract, a distance of 465.52 feet to a 5/8 inch iron rod with cap marked "PETITT-RPLS 4087" set for corner;

THENCE over and across said CADG Kaufman 146, LLC tract, the following bearings and distances to 5/8 inch iron rods with cap marked "PETITT-RPLS 4087" set for corner:

South 06°39'43" East, a distance of 222.01 feet;

South 68°43'31" East, a distance of 145.05 feet;

North 86°42'10" East, a distance of 198.45 feet;

South 07°44'02" East, a distance of 285.71 feet;

South 42°35'50" West, a distance of 477.61 feet;

South 15°12'36" West, a distance of 235.81 feet;

North 78°15'28" West, a distance of 65.47 feet;

And South 09°46'40" West, a distance of 165.00 feet, said iron rod being located on said northeasterly right-of-way line of Heartland Parkway (variable width R.O.W. at this point), and being the beginning of a non-tangent curve to the left;

THENCE with said northeasterly right-of-way line of Heartland Parkway, said right-of-way dedicated by Final Plat of Heartland Tract A, Phase 2B, recorded in Cabinet 3, Slide 38, of the Plat Records of Kaufman County, Texas, and

with said curve having a central angle of 02°09'35", a radius of 790.00 feet, a chord which bears North 81°18'07" West, a chord distance of 29.78 feet, for an arc distance of 29.78 feet to the end of said curve, a 1/2 inch iron rod with cap stamped "DAA" found for corner;

THENCE North 82°23'59" West, continuing with said northeasterly right-of-way line of Heartland Parkway, a distance of 23.30 feet to a 1/2 inch iron rod with cap stamped "DAA" found for corner, and being the beginning of a tangent curve to the right;

THENCE continuing with said northeasterly right-of-way line of Heartland Parkway, and with said curve having a central angle of 10°28'32", a radius of 300.00 feet, a chord which bears North 77°08'39" West, a chord distance of 54.77 feet, for an arc distance of 54.85 feet to the end of said curve, a 1/2 inch iron rod with cap stamped "DAA" found for corner, and being the beginning of a tangent reverse curve to the left;

THENCE continuing with said northeasterly right-of-way line of Heartland Parkway, and with said curve having a central angle of 10°28'32", a radius of 300.00 feet, a chord which bears North 77°08'39" West, a chord distance of 54.77 feet, for an arc distance of 54.85 feet to the end of said curve, a 1/2 inch iron rod with cap stamped "DAA" found for corner (called 100 foot R.O.W. at this point);

THENCE North 82°22'55" West, continuing with said northeasterly right-of-way line of Heartland Parkway, a distance of 172.65 feet to a 1/2 inch iron rod with cap stamped "DAA" found for corner, and being the beginning of a tangent curve to the right;

THENCE continuing with said northeasterly right-of-way line of Heartland Parkway, and with said curve having a central angle of 38°41'30", a radius of 950.00 feet, a chord which bears North 63°02'10" West, a chord distance of 629.41 feet, for an arc distance of 641.53 feet to the end of said curve, a 1/2 inch iron rod with cap stamped "DAA" found for corner;

THENCE North 43°41'26" West, continuing with said northeasterly right-of-way line of Heartland Parkway, a distance of 249.59 feet to the POINT OF BEGINNING of herein described tract, containing 25.464 acres of land.

## TRACT 2

### LEGAL DESCRIPTION 1.935 ACRE TRACT

BEING that certain tract of land situated in the Martha Music Survey, Abstract No. 312, in Kaufman County, Texas, and being that certain tract of land described as Tract 7 in deed to H.W. Heartland, L.P. (now known as UST-Heartland, L.P. according to Certificate of Amendment filed in the Office of the Secretary of State of Texas on December 3, 2013), recorded in Volume 3119, Page 142, of the Deed Records of Kaufman County, Texas (DRKCT), and being more particularly described as follows:

COMMENCING at a 5/8 inch iron rod with cap marked "PETITT-RPLS 4087" set at the intersection of the southeast right-of-way (R.O.W.) line of Farm to Market Road No. 741 (called 90 foot R.O.W. at this point), and the northeasterly right-of-way line of Heartland Parkway (called 100 foot R.O.W. at this point), and being the west corner of that certain tract of land described in deed to Heartland Retail, LLC recorded in Volume 5787, Page 437, DRKCT;

THENCE North 46°18'40" East, with said southeast right-of-way line of Farm to Market Road No. 741, a distance of 428.96 feet to a 1/2 inch iron rod with cap stamped "DAA" found at the west corner of said Tract 7, and being the POINT OF BEGINNING of herein described tract;

THENCE North 46°18'40" East, continuing with said southeast right-of-way line of Farm to Market Road No. 741, a distance of 22.96 feet to a 5/8 inch iron rod with cap marked "PETITT-RPLS 4087" set for corner at the beginning of a tangent curve to the left;

THENCE continuing with said southeast right-of-way line of Farm to Market Road No. 741, and with said curve having a central angle of 14°27'58", a radius of 999.93 feet, a chord which bears North 39°04'41" East, a chord

distance of 251.79 feet, for an arc distance of 252.46 feet to the end of said curve, a 5/8 inch iron rod with cap marked "PETITT-RPLS 4087" set for corner;

THENCE North 32°01'23" East, continuing with said southeast right-of-way line of Farm to Market Road No. 741, a distance of 211.13 feet to a 5/8 inch iron rod with cap marked "PETITT-RPLS 4087" set for corner at the beginning of a non-tangent curve to the left;

THENCE continuing with said southeast right-of-way line of Farm to Market Road No. 741, and with said curve having a central angle of 00°58'12", a radius of 909.93 feet, a chord which bears North 31°32'17" East, a chord distance of 15.40 feet, for an arc distance of 15.40 feet to the end of said curve, a concrete monument found for corner at the intersection of said southeast right-of-way line of Farm to Market Road No. 741, and the southerly right-of-way line of Interstate Highway No. 20 (variable width R.O.W);

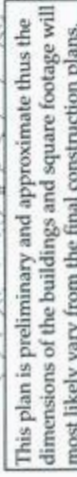
THENCE North 83°20'17" East, with said southerly right-of-way line of Interstate Highway No. 20, a distance of 79.06 feet to a 5/8 inch iron rod with cap marked "PETITT-RPLS 4087" set for corner at the northeast corner of said Tract 7;

THENCE South 15°07'57" West, leaving said southerly right-of-way line of Interstate Highway No. 20, and with the southeasterly line of said Tract 7, a distance of 477.91 feet to a 1/2 inch iron rod with cap stamped "DAA" found for corner;

THENCE South 46°15'02" West, continuing with said southeasterly line of Tract 7, a distance of 146.43 feet to a 1/2 inch iron rod with cap stamped "DAA" found for corner;

THENCE North 43°42'15" West, with the southwest line of Tract 7, a distance of 207.45 feet to the POINT OF BEGINNING of herein described tract, containing 1.935 acres of land.




Exhibit "B"  
Z0519-0097



1. All new floor systems are presumed to be designed for impacts less than 10,000 ft-lb.
2. Parking is calculated at 1 space per 200 sq ft of building area for all units.
3. Number of provided parking spaces that must be accessible.
4. Number of accessible parking spaces that must be van-accessible.
5. Parking is calculated 1 space per 300 sq ft of building area within.

- Key Notes

- Symbol Legend

-  Canopy Tree
-  Ornamental Tree
-  Iron Fence & Shrub Screening

Owner &amp; Applicant

Owner & Applicant:  
Heartland Retail, LP, 8200 Douglas Ave., Suite 300, Dallas, TX 75225

(214) 750-1800

Architects:  
(214) 730-1

Architect:  
Callison/RTKL, 1717 Pacific Dallas, TX 75201

CAUSO/NIKE  
(214) 468-7510

Engineer/Supervisor  
(619) 400-7310

**engineer/surveyor:**  
Petitt-Barraza, LLC, 1651 N Glenville Drive, Suite 212, Richardson, Texas

75081

(214) 221-9955

**PROHIBITED USES**

1. Any use contrary to law or which violates the terms of this Declaration.
  2. Any use that emits a noxious odor, excessive noise, waste, environmental pollution, or an offensive activity that may be or become an annoyance or nuisance to the ordinary use of neighboring properties.
  3. Cemetery, mortuary, or other place of internment of people or animals, or any premises where deceased bodies or body parts (human or animal) are removed, examined, stored, or processed, such as a taxidermist.
  4. Prison, jail, detention or correctional facility.
  5. Sexually-oriented business, including businesses that sell sexually-oriented attire, accessories, etc.... (such as Sara's Secrets, Condom Sense, etc....).
  6. "Adult Entertainment Uses," which includes (for the purposes of this Declaration) any theater or other establishment which shows, previews, displays, advertises, or conspicuously promotes for sale or rental movies, films, videos, magazines, books, or other medium (whether now or hereafter developed) that are designated for "Adults Only" or rated "X" by the movie production industry (or any successor rating established by the movie production industry).
  7. Tattoo parlors, body piercing shops, and shops offering or promoting illegal drug paraphernalia.
  8. Bars, nightclubs, or other establishments whose reasonably projected annual gross revenues from the sale of alcoholic beverages for on-premises consumption exceeds 60 percent of the gross revenues. This prohibition does not apply to a full-service restaurant serving alcoholic beverages as part of its food service operation, such as Chili's, which is primarily viewed by the public as a restaurant, but which may derive a substantial portion of its sales from alcoholic beverages - even more than 60 percent of gross sales. Convenience stores that sell beer and/or wine are exempt from this requirement.
  9. Slaughter houses or packing plants.
  10. Gun club, gun range, shooting range, or any weaponry range that emits loud noises. This prohibition does not apply to archery ranges that do not emit loud noises or to family entertainment centers with toy weapons.
  11. Manufacturing processes that discharge dust, gas, fumes, chemicals, or waste, or that involve loud and offensive noise that can be heard outside the building.
  12. Outdoor storage, wholesale storage, self-storage facilities, warehousing, or wholesale distribution, such as (without limitation) a landfill, junk yard, scrap metal yard, salvage yard, or storage facility for vehicles, trailers, watercraft, or aircraft. This prohibition does not preclude a limited amount of outdoor storage that is directly necessary for an adjunct business, provided the storage is screened from public view.
  13. Self-service laundry or self-service dry cleaner.
  14. Sale, storage, or rental of motor vehicles, manufactured homes, mobile homes, trailers, recreation vehicles, trucks, or buses, new or used.
  15. Sale, storage, or rental of heavy machinery, used commercial equipment, used commercial machinery, used appliances, used vehicle parts.
  16. Repair of vehicles, engines, or motors. This also includes boat repair shops and collision repair, vehicle body shops, and hail repair facilities. This prohibition does not apply to new car dealerships or vehicle repair services in connection with an automobile service station or a new car dealership.
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17. Exploration, mining, refining, processing, or sale operations pertaining to oil, gas, minerals, sand, gravel or rocks and all related activities.
  18. Dumping, storage, disposal, incineration, treatment, processing, or reduction of garbage, or refuse of any nature, other than handling or reducing waste produced on the premises from authorized uses in a clean and sanitary manner.
  19. Pawn shops, flea markets, salvage businesses, or thrift stores - such as Salvation Army - whose principal business is selling discounted and used merchandise. This prohibition does not preclude the resale of high quality merchandise, such as sold by Plato's Closet, Clothes Circuit, and/or Clotheshorse Anonymous, or periodic events, such as craft fairs.
  20. Mini-warehouses, warehouse/distribution centers, motor and freight terminals, truck terminals, transit centers, and truck stop-type facilities.
  21. Any facility for the dyeing and finishing of textiles, the production of fabricated metal products, the storage and refining of petroleum, or commercial dry cleaners.
  22. Electric power generator plant.
  23. Kennels and any use involving outdoor animal pens, such as a commercial stable. Veterinary offices with indoor boarding facilities and/or independent indoor animal boarding facilities are permitted.
  24. Airport.
  25. Drive-in theater.
  26. Facilities, businesses, or agencies that provide services to people who are indigent, homeless, unemployed, temporarily employed, or seeking a job change, if the people served come in person to the property.
  27. Any government office that provides services to the public, in person, by appointment or on a walk-in basis.
  28. Any residential uses, including, but not limited to: single-family homes, apartment units, condominium units, duplex dwellings, tri-plex dwellings, townhomes and any other attached or detached residential dwelling.
  29. Pay Day Lending.
  30. Dollar Stores may not be a single tenant in a freestanding building. Any dollar store must be located as a tenant in the main retail strip.
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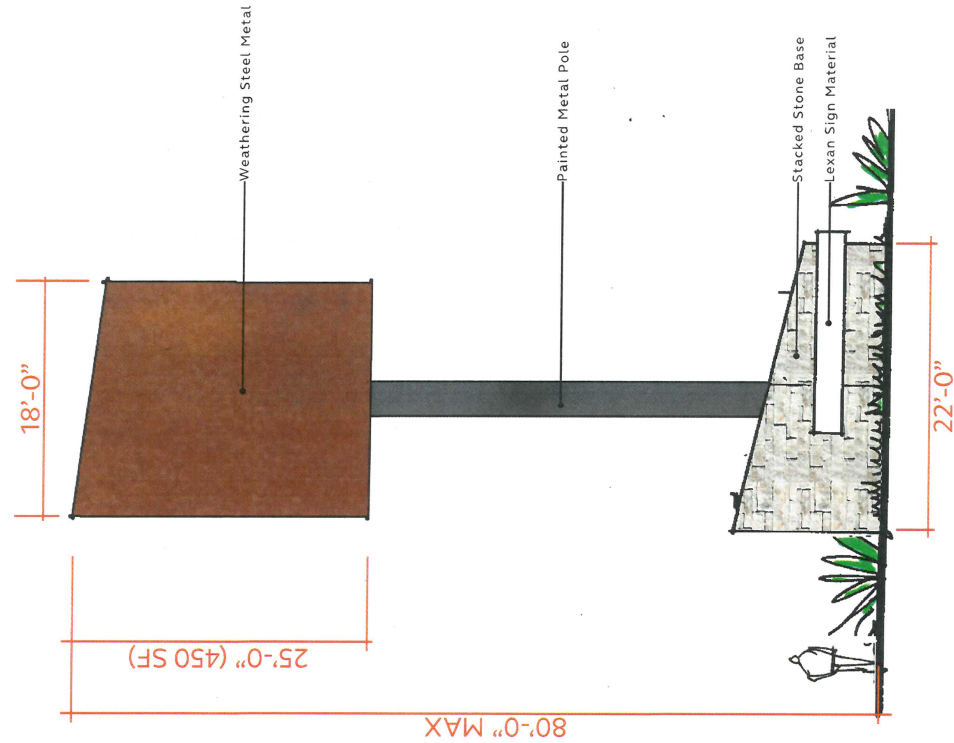
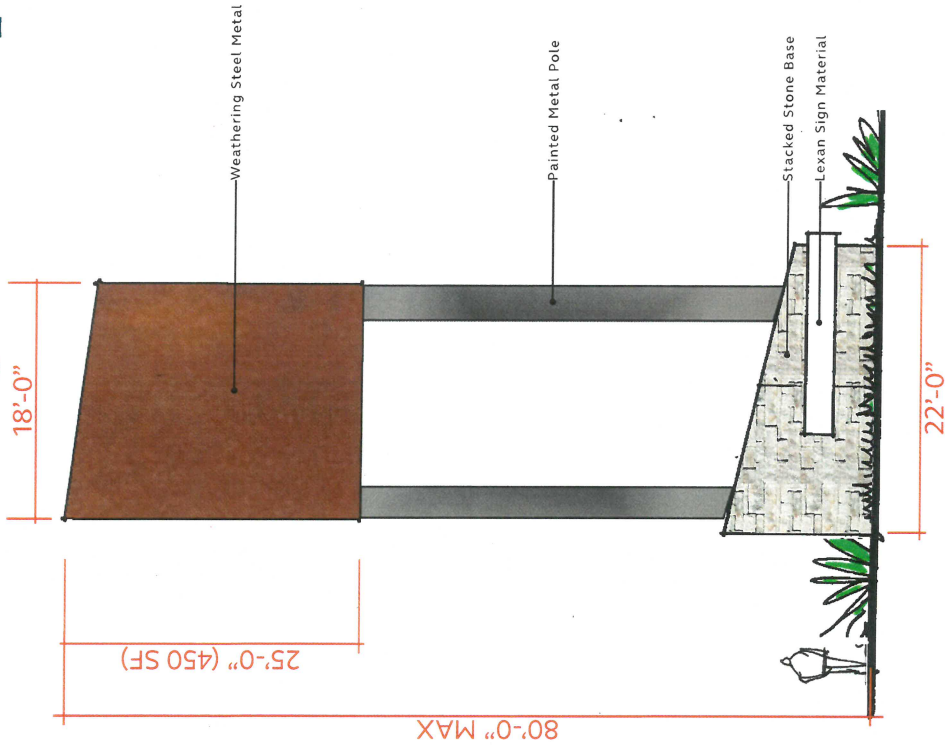


EXHIBIT "D"  
Z0519-0097



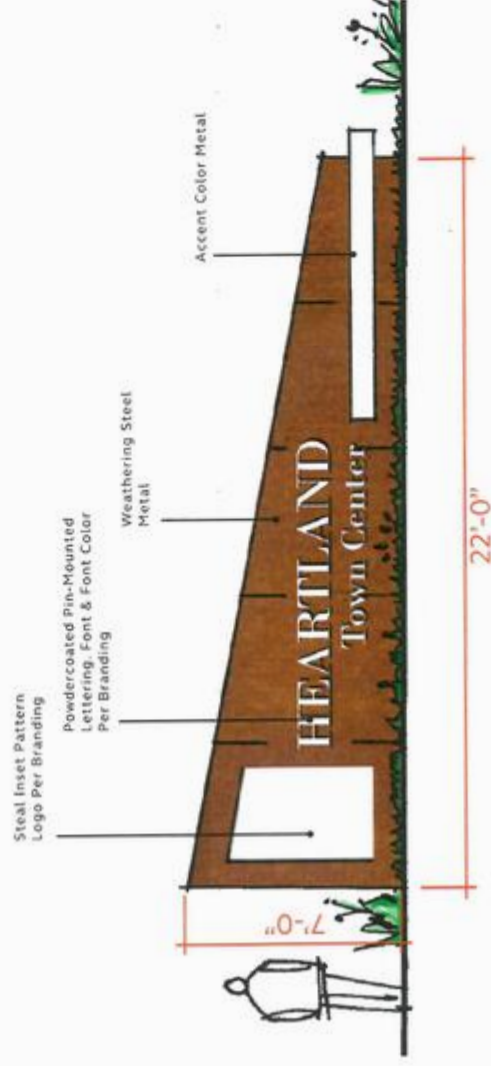
# Monument Sign Conceptual Sketch

EXHIBIT "D"  
Z0519-0097



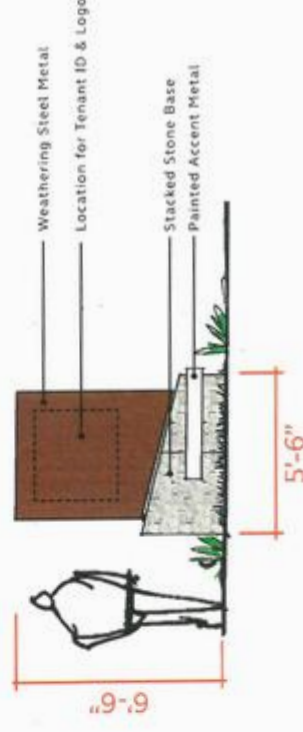
# Monument Sign Conceptual Sketch

EXHIBIT "D"  
Z0519-0097



## S4 - Entry Monument Sign

(S4 Location is labeled on the Conceptual Site Plan)



## S3 - Pad Tenant ID

(S3 Location is labeled on the Conceptual Site Plan)