

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

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE ALLEN LAND DEVELOPMENT CODE AND ZONING MAP, AS PREVIOUSLY AMENDED, BY GRANTING SPECIFIC USE PERMIT NO. 151 AUTHORIZING 0.999± ACRES SITUATED IN THE WITSAUL FISHER SURVEY, ABSTRACT NO. 323, PRESENTLY ZONED PLANNED DEVELOPMENT NO. 42 FOR SHOPPING CENTER “SC” TO BE DEVELOPED AND USED FOR A FUELING STATION; ADOPTING DEVELOPMENT REGULATIONS, A SITE PLAN, LANDSCAPE PLAN, AND BUILDING ELEVATIONS; PROVIDING FOR A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission and the governing body of the City of Allen, Texas, in compliance with the laws of the State of Texas and the ordinances of the City of Allen, Texas, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all the property owners generally and to all persons interested and situated in the affected area, and in the vicinity thereof, and in the exercise of its legislative discretion, have concluded that Allen Land Development Code Zoning Regulations and Zoning Map of the City of Allen, Texas, as previously amended, should be amended.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:**

**SECTION 1.** The Allen Land Development Code Zoning Regulations and the Zoning Map of the City of Allen, Collin County, Texas, be amended by granting Specific Use Permit No. 151 authorizing 0.999± acres situated in the Witsaul Fisher Survey, Abstract No. 323, City of Allen, Collin County, Texas, and more particularly described in Exhibit “A,” attached hereto and incorporated herein by reference (the “Property”), which is presently zoned Planned Development No. 42 for Shopping Center “SC” to be developed and used for a Fueling Station subject to the provisions of this Ordinance.

**SECTION 2.** The Property shall be used only in the manner and for the purposes provided for in the Allen Land Development Code, the Development Regulations governing Planned Development No. 42, as amended, and, if developed and used as a Fueling Station in accordance with this Specific Use Permit No. 151, shall be subject to the following special conditions:

- A. The Specific Use Permit granted hereby is expressly limited to the area of the Property shown in the legal description attached hereto as Exhibit “A” and as shown in the Site Plan attached hereto as Exhibit “B,” and incorporated herein by reference.
- B. The use and development of the Property as a Fueling Station shall be only in accordance with the Site Plan attached as Exhibit “B,” the Landscape Plan set forth in Exhibit “C,” and the Building Elevations set forth in Exhibit “D,” attached hereto and incorporation herein by reference.
- C. This Specific Use Permit is limited to authorizing the use and development of the Property as a Fueling Station and not for any other use that may otherwise be within the definition of “Fueling Station” as that use is defined in the Allen Land Development Code, as amended.
- D. Notwithstanding anything to the contrary in this Ordinance, the Property may be developed and used for fueling station purposes, only if (a) such use is developed and continually operated in association with the development and operation of a grocery store use on the adjacent property identified as “Lot 1”

on the Landscape Plan, and (b) the fueling station is owned by (i) the same person or entity that owns the grocery store or (ii) an affiliate of the person or entity of the grocery store owner. Use of the Property for a fueling station independent of the grocery store use as provided shall constitute a prohibited use. For purposes of this paragraph, an "affiliate of the person or entity of the grocery store owner" shall mean any entity that owns or controls, is owned or controlled by or is under common ownership or control with, the grocery store owner, or any entity the ownership of which is substantially the same as the ownership of the grocery store. For purposes of this Paragraph E, "control" (and any form thereof, such as "controlling" or "controlled") means, for any person or entity, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such person or entity. The Specific Use Permit granted by this Ordinance shall terminate and the use of the Property for fueling station purposes shall cease if either of the foregoing conditions (i) or (ii) described above fail to be satisfied for a period of ninety (90) consecutive days.

E. All fuel system vent stacks must be hidden from view from a public street.

**SECTION 3.** To the extent of any irreconcilable conflict with the provisions of this Ordinance and other ordinances of the City of Allen governing the use and development of the Property and which are not expressly amended by this Ordinance, the provisions of this Ordinance shall be controlling.

**SECTION 4.** Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance, or of the Allen Land Development Code Zoning Regulations, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Allen Land Development Code Zoning Regulations, as amended hereby, which shall remain in full force and effect.

**SECTION 5.** An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Allen Land Development Code Zoning Regulations, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

**SECTION 6.** Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in Allen Land Development Code Zoning Regulations of the City of Allen, as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense.

**SECTION 7.** This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Allen, and it is accordingly so ordained.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 24<sup>TH</sup> DAY OF JANUARY 2017.**

**APPROVED:**

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**Stephen Terrell, MAYOR**

**APPROVED AS TO FORM:**

**ATTEST:**

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**Peter G. Smith, CITY ATTORNEY**  
(kbl:1/11/17:82882)

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**Shelley B. George, TRMC, CITY SECRETARY**

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**STATE OF TEXAS**

**COUNTY OF COLLIN**

BEING a tract of land situated in the WITSAUL FISHER SURVEY, ABSTRACT NO. 323, City of Allen, Collin County, Texas and being a portion of a tract of land as described in deed to 2170/Malone Joint Venture, recorded in Volume 2885, Page 708, Deed Records, Collin County, Texas (D.R.C.C.T.) and being more particularly described as follows:

COMMENCING at a 1/2 inch iron rod with red plastic cap stamped "W.A.I." found for corner, said iron rod being the most southerly southeast corner of Auburn Springs, Phase Two Addition, an addition to the City of Allen, Collin County, Texas according to the plat thereof recorded in Cabinet O, Page 127, Plat Records, Collin County, Texas (P.R.C.C.T.) and in the north right-of-way line of Main Street (F.M. Highway 2170, variable width right-of-way);

THENCE North 89 deg 42 min 18 sec East, departing the Southeast corner of said Auburn Springs and along the Northerly right-of-way line of said Main Street, a distance of 388.40 feet to the POINT OF BEGINNING;

THENCE departing the Northerly right-of-way line of said Main Street and over and across said 2170/Malone Joint Venture tract the following courses and distances;

North 00 deg 20 min 57 sec West, a distance of 208.90 feet to a 1/2-inch iron rod with red plastic stamped "W.A.I." set for corner;

North 89 deg 40 min 30 sec East, a distance of 210.63 feet to a 1/2-inch iron rod with red plastic cap stamped "W.A.I." set for corner;

South 00 deg 19 min 30 sec East, a distance of 204.05 feet to a 1/2-inch iron rod with red plastic cap stamped "W.A.I." set for corner, said iron rod being on the proposed Northerly right-of-way line of said Main Street;

THENCE South 89 deg 42 min 36 sec West, along the proposed Northerly right-of-way line of said Main Street, a distance of 20.20 feet to a 1/2-inch iron rod with red plastic cap stamped "W.A.I." set for corner;

THENCE South 87 deg 48 min 43 sec West, along the proposed Northerly right-of-way line of said Main Street, a distance of 150.08 to a 1/2-inch iron rod with red plastic cap stamped "W.A.I." set for corner in the existing Northerly right-of-way line of said Main Street;

**EXHIBIT "A"**  
**LEGAL DESCRIPTION cont.**

THENCE South 89 deg 42 min 18 sec West, along the Northerly right-of-way line of said Main Street, a distance of 40.34 feet to the POINT OF BEGINNING;

CONTAINING within these metes and bounds 0.999 acres of 43,530 square feet of land, more or less.

Bearings shown hereon are based upon an on-the-ground Survey performed in the field on the 28th day of March, 2016, utilizing a G.P.S. measurement (NAD 83) from the City of Allen Geodetic Monuments No. 7 and No. 2.

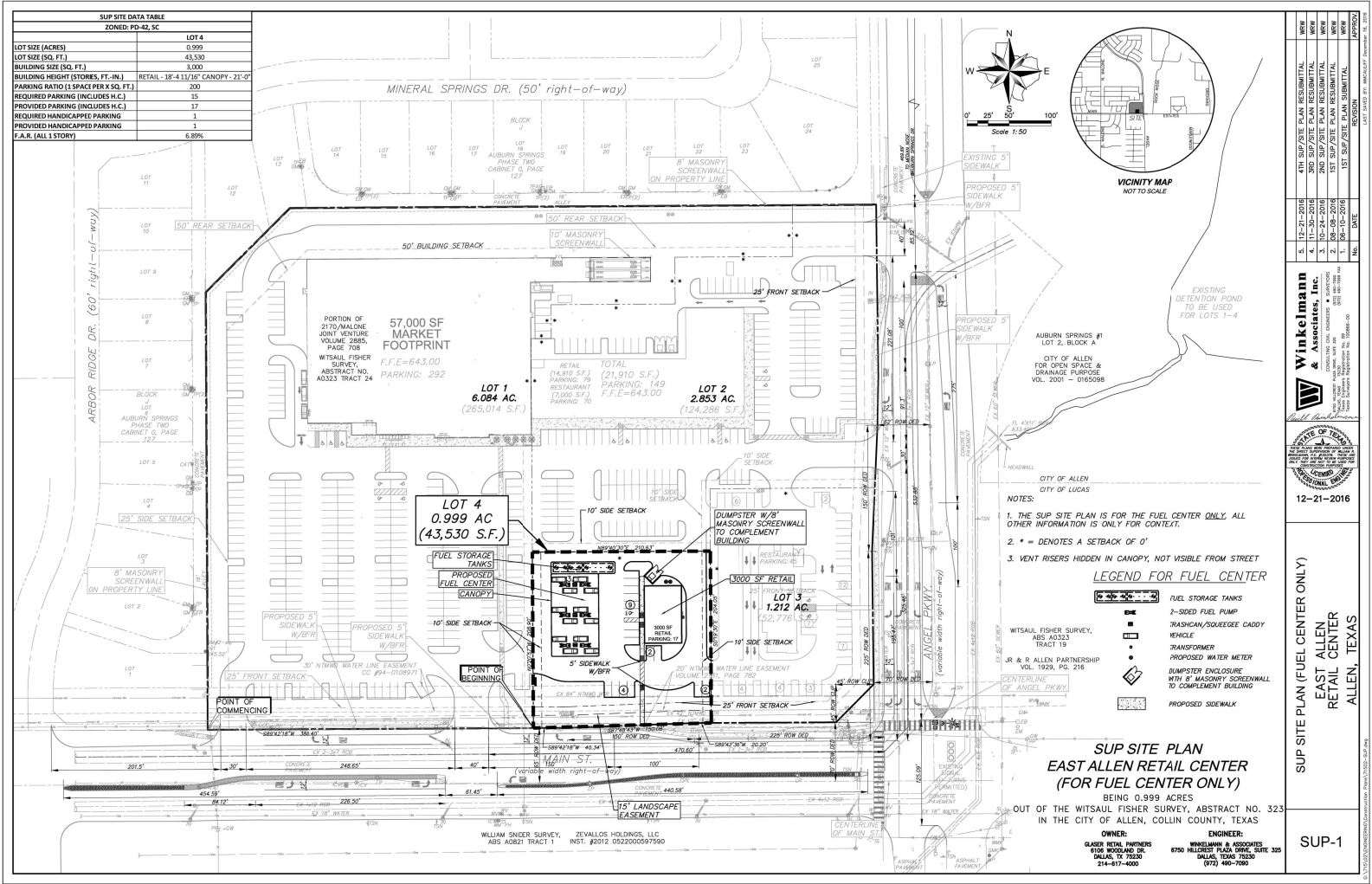
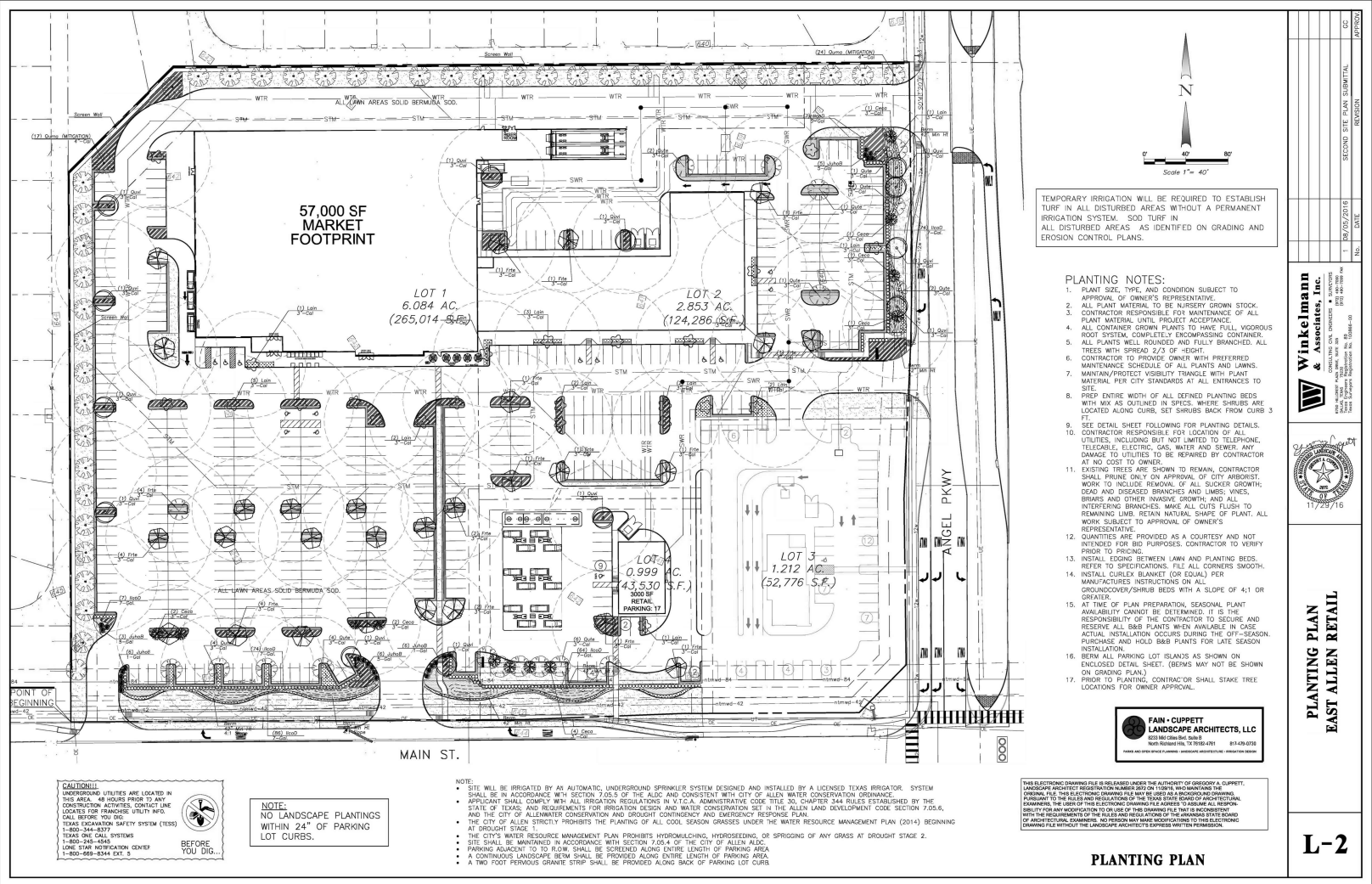


EXHIBIT "B"  
SUP SITE PLAN

WFO	4TH SUP/SITE PLAN RESUBMITTAL	12-21-2016	5.
WFO	3RD SUP/SITE PLAN RESUBMITTAL	10-24-2016	3.
WFO	2ND SUP/SITE PLAN RESUBMITTAL	08-08-2016	2.
WFO	1ST SUP/SITE PLAN RESUBMITTAL	06-10-2016	1.
REVISION	DATE	NO.	
SUP SITE PLAN (FUEL CENTER ONLY)			
EAST ALLEN RETAIL CENTER			
ALLEN, TEXAS			
SUP-1			



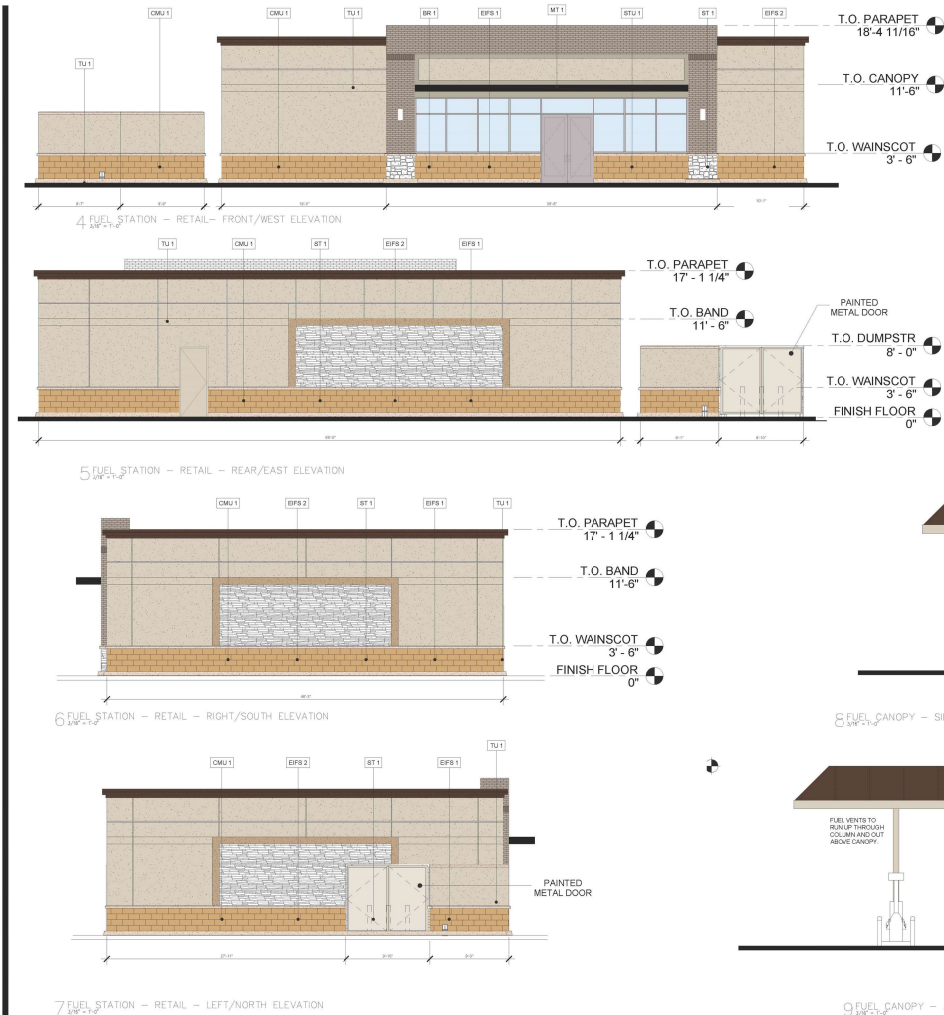
**EXHIBIT "C"**  
**SUP LANDSCAPE PLAN**

**Winkelmann & Associates, Inc.**  
CONSULTING ENGINEERS • LANDSCAPE ARCHITECTS  
1000 West 10th Street, Suite 100  
North Platte, NE 68101-4371 815-438-0715

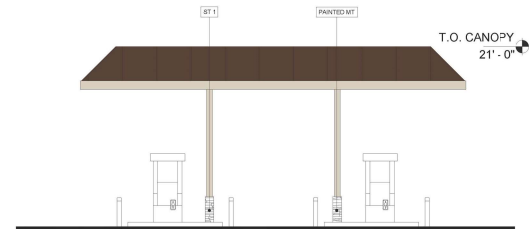


**PLANTING PLAN**  
**EAST ALLEN RETAIL**

**L-2**



MATERIAL COVERAGE CALCULATIONS									
		FUEL STATION							
		FRONTWEST		REAR/EAST		LEFT/NORTH		RIGHT/SOUTH	
		SQ. FT.	%	SQ. FT.	%	SQ. FT.	%	SQ. FT.	%
ACME BRICK - SLATE	BR 1	346	28.4	0	0.0	13	1.6	13	1.6
LIGHT BAN	CMU 1	200	16.4	173	14.8	123	15.5	123	15.5
"SUNGLASS PALETTE" CLANN EDWARDS GE-4173	EPS 1	30	2.5	35	3.0	30	3.8	30	3.8
"VAN BUREN BROWN" BENJAMIN MOORE #C-105	EPS 2	32	2.6	72	6.2	50	6.3	50	6.3
"DEBERT GRAY" CLANN EDWARDS GE-4176 W/ 25% DARKEN	MT 1	27	2.2	0	0.0	2	0.3	2	0.3
METAL	MT 2	30	2.5	0	0.0	0	0.0	0	0.0
GAST STONE: CONTINENTAL 1102 NATURAL STONE	BT 1	20	1.6	174	14.9	148	18.4	148	18.4
BRUCOD	BTU 1	80	6.6	0	0.0	0	0.0	0	0.0
TILT UP PANEL	TU 1	432	37.2	715	61.1	431	54.1	431	54.1
TEXTURED PAINT: MATCH BRICK	PT 4	0	0	0	0.0	0	0.0	0	0.0
TOTAL		1217	100	1189	100	795	100	795	100
		TOTAL MASONRY: 3,647SF / 3,976SF = 91.7%							
		TOTAL EPS: 328SF / 3,976SF = 8.3%							



SITE DEVELOPMENT		08.05.16
REVISED ELEVATIONS		09.29.16

**Heights Venture**  
ARCHITECTURE + DESIGN

Robert H. Hagan, AIA  
710 Regenerative #1000  
Not for Regulatory Approval  
Permit, or Construction

**ALLEN RETAIL CENTER**

ALLEN, TX

Project Number: 18-43  
Date: November 21, 2016  
Drawn By: FL  
Checked By: FL

**CSUB2**  
EXTERIOR ELEVATIONS

EXHIBIT "D"  
SUP BUILDING ELEVATIONS