

Inst # 1998-20066

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

William R. Sylvester, Esq.
Walston Wells Anderson & Baines
500 Financial Center
Birmingham, Alabama 35203

06/01/1998-20066
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SHELBY COUNTY JUDGE OF PROBATE
020 MCD 57.50

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DECLARATION OF EASEMENTS AND RESTRICTIONS AND JOINT MAINTENANCE AGREEMENT

THIS DECLARATION OF EASEMENTS AND RESTRICTIONS AND JOINT MAINTENANCE AGREEMENT ("Declaration") is made this 2/97 day of May, 1998, by J. Wilson Dinsmore, an individual ("Declarant"), whose principal place of business is located at 2107 Fifth Avenue North, Birmingham, Alabama 35203 (all initially capitalized terms contained herein, unless defined elsewhere herein, shall have the meanings ascribed to those terms in Article 1):

R E C I T A L S:

WHEREAS, Declarant is the owner of that certain tract of land situate and being in the City of Pelham, County of Shelby, State of Alabama, and as more particularly described in **Exhibit A** ("Real Property");

WHEREAS, Declarant contemplates the sale or lease of some or all of the Parcels comprising the Real Property so that there may not be common ownership or common right to possession of the Parcels;

WHEREAS, title to the Real Property and title to certain adjoining property are subject to (a) that certain Declaration of Easements for Joint Access, Drainage Pipe, Sewer Pipe, and Construction/ Maintenance/Repair of Retaining Wall, dated August 29, 1997, between Declarant and R.K.M. 'Bama, Inc., recorded August 29, 1997, as Instrument No. 1997-27813, Shelby County, Alabama, Records ("Declaration A"); and (b) that certain Declaration of Easements for Joint Access, Drainage Pipe, Sewer Pipe, and Construction/Maintenance/Repair, dated September 5, 1997, between Declarant and North Pelham, L.L.C., recorded September 11, 1997, as Instrument No. 1997-29355, Shelby County, Alabama, Records ("Declaration B") (collectively, "Declarations");

WHEREAS, Declarant desires to declare and establish certain easements and restrictions, and to make provisions for the joint maintenance of certain facilities, for the benefit of the current and future Owners and Occupants of the Parcels, that will run with the land and be appurtenant to the Parcels, and subject to which each Parcel shall be held, leased, sold, encumbered, developed and used; and

WHEREAS, Declarant desires and intends that no merger of rights occurs because of the present common ownership or any future common ownership of the dominant and servient estates created by the easements and restrictions, as hereinafter provided.

NOW, THEREFORE, for good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Declarant hereby declares as follows:

ARTICLE 1. DEFINITIONS.

1.1 Access Easement Area. "Access Easement Area" shall mean that certain 24-foot wide strip of land extending 12 feet on either side of the common boundary line of Parcel 1 and Parcel 2, shown as the hatched area on the Site Plan, and as more particularly described in Exhibit B, as same may hereafter be extended, as hereinafter provided. Declarant or any future Owner of Parcel 3 shall have the right (but not the obligation) to extend the initial Access Easement Area to Shelby County Road No. 275 (Old U.S. Highway 31) over and across a portion of Parcel 3, in accordance with such design and in such fashion as Declarant or such Owner shall determine, by making and executing an amendment to this Declaration and causing same to be recorded in the Shelby County, Alabama, Records.

1.2 Common Area. "Common Area" shall mean the Access Easement Area and Parking Easement Area.

1.3 Common Area Improvements. "Common Area Improvements" shall mean the paving, curbing, landscaping, striping, lighting, irrigation and other improvements and appurtenances to and within the Common Area.

1.4 Drainage Easement Area. "Drainage Easement Area" shall mean that certain 15-foot wide strip of land extending 7½ feet on either side of the common boundary line of Parcel 1 and Parcel 2, shown as the "Storm Drainage Easement" on the Site Plan, and as more particularly described in Exhibit C.

1.5 Drainage Line. "Drainage Line" shall mean that certain approximately 24-inch diameter underground storm sewer line to be laid and installed beneath the surface of the Drainage Easement Area.

1.6 Floor Area. "Floor Area" shall mean the actual number of square feet of space contained on each floor within a building, including any mezzanine and basement space, as measured from the exterior faces of the exterior walls or storefront of the building, and within any patio area.

1.7 Law. "Law" shall mean any statute, decisional law, ordinance or regulation of any duly constituted governmental authority having jurisdiction over the particular subject matter.

1.8 Occupant. "Occupant" shall mean any Person (including an Owner) from time to time entitled to use and occupy Parcel 1, Parcel 2 or Parcel 3 under any deed, lease, or other instrument or agreement; collectively, "Occupants."

1.9 Owner. "Owner" shall mean the record owner of the fee simple title to Parcel 1, Parcel 2 or Parcel 3; collectively, "Owners."

1.10 Parcel. "Parcel" shall mean either Parcel 1, Parcel 2 or Parcel 3; collectively, "Parcels."

1.11 Parcel 1. "Parcel 1" shall mean that certain tract of land situate and being in the City of Pelham, County of Shelby, State of Alabama, as generally shown on the Site Plan as "Parcel 1," and as more particularly described in Exhibit D.

1.12 Parcel 2. "Parcel 2" shall mean that certain tract of land situate and being in the City of Pelham, County of Shelby, State of Alabama, as generally shown on the Site Plan as "Parcel 2," and as more particularly described in Exhibit E, subject to any boundary line adjustment as may be permitted pursuant to Article 7.

1.13 Parcel 3. "Parcel 3" shall mean that certain tract of land situate and being in the City of Pelham, County of Shelby,

State of Alabama, as generally shown on the Site Plan as "Parcel 3," and as more particularly described in Exhibit F, subject to any boundary line adjustment as may be permitted pursuant to Article 7.

1.14 Parking Easement Area. "Parking Easement Area" shall mean that certain area of land located on Parcel 1 and Parcel 2 from time to time devoted to vehicular parking.

1.15 Party. "Party" shall mean Declarant, so long as it retains any legal or equitable interest in any portion of the Real Property, and its respective successors and assigns who become an Owner of any portion of the Real Property, so long as such successors or assigns retain any legal or equitable interest in any portion of the Real Property.

1.16 Permittee. "Permittee" shall mean any officer, director, partner, member, manager, employee, agent, contractor, guest, customer, vendor, supplier, visitor or other invitee of an Owner or Occupant insofar as their activities relate to the intended uses of the Real Property; collectively, "Permittees."

1.17 Person. "Person" shall mean any individual, partnership, firm, association, corporation, limited liability company, trust or any other form of business or governmental entity.

1.18 Retaining Wall. "Retaining Wall" shall mean that certain concrete block retaining wall located on and adjacent to a portion of the northwest boundary line of the Real Property, being the same retaining wall referred to in Section 2(d) of Declaration A.

1.19 Site Plan. "Site Plan" shall mean that certain site plan of the Real Property attached hereto as Exhibit G.

1.20 Utility Lines. "Utility Lines" shall mean those facilities and systems for the transmission of utility services, including, without limitation, electricity, water, natural gas, sewage, storm drainage, telephone and cable.

ARTICLE 2. INGRESS, EGRESS AND PARKING.

2.1 Grant of Ingress and Egress Easements. Declarant, as the Owner of Parcel 1, Parcel 2 and Parcel 3 (to the extent the initial Access Easement Area is extended pursuant to Section 1.1), hereby grants, declares and establishes perpetual, non-exclusive and appurtenant easements, for vehicular and pedestrian ingress and egress, between said Parcels and U.S. Highway 31 South and Shelby County Road No. 275 (Old U.S. Highway 31) (to the extent the initial Access Easement Area is extended pursuant to Section 1.1) adjoining the Real Property, over and across the Access Easement Area, for the benefit of the Owners, Occupants and Permittees of said Parcels.

2.2 Grant of Parking Easement. Declarant, as the Owner of Parcel 1 and Parcel 2, hereby grants, declares and establishes a perpetual, non-exclusive and appurtenant easement for vehicular parking, over and across the Parking Easement Area, for the benefit of the Owners, Occupants and Permittees of said Parcels; together with a perpetual, non-exclusive and appurtenant easement for vehicular and pedestrian ingress and egress to and from the Parking Easement Area located on each Parcel.

2.3 Parking Requirements.

2.3.1 Minimum Parking Requirements. The Owner of Parcel 1 and the Owner of Parcel 2 shall each maintain or cause to be maintained on its respective Parcel a sufficient number of street level parking spaces to meet or exceed the following: if said Parcel is used for restaurant purposes, the greater of

10 parking spaces for each 1,000 square feet of Floor Area, or the minimum number of parking spaces required by Law; if said Parcel is used for non-restaurant purposes, 5 parking spaces for each 1,000 square feet of Floor Area, or the minimum number of parking spaces required by Law. As used herein, the "minimum number of parking spaces required by Law" shall be determined without the benefit of any variance and without the inclusion of any parking spaces that may be located on any other Owner's Parcel.

2.3.2 Employee Parking. Notwithstanding anything contained in Section 2.2 to the contrary, the Owner of Parcel 1 and the Owner of Parcel 2 shall each cause the employees of the business conducted or to be conducted on its respective Parcel to park their vehicles only within the portion of the Parking Easement Area on its respective Parcel; provided, however, until such time as both Parcel 1 and Parcel 2 are fully developed, the Owner of the fully developed Parcel shall have the right to permit the employees of the business conducted or to be conducted on its Parcel to park their vehicles on suitable areas of the undeveloped Parcel, so long as same does not interfere with the construction activities conducted or to be conducted on the undeveloped Parcel.

2.4 No Obstructions. No fence or other barrier which would prevent or obstruct the passage of pedestrians or vehicles for the purposes herein permitted shall be erected or permitted within or across the Common Area.

2.5 Repair and Maintenance of Common Area. The Owner of each Parcel, at its sole cost and expense, shall repair, maintain, replace and reconstruct, as may be appropriate, the Common Area Improvements located on its Parcel in conformity with the standards of similar first-class developments, including, without limitation, the repair, maintenance and replacement of the paved surfaces such that those surfaces are smooth and evenly covered with the type of surfacing materials originally installed on them or comparable surfacing materials equal in all respects to the original surfacing materials in quality, appearance and durability; removal of all paper, debris, filth, refuse, snow and ice from the Common Area; maintenance of appropriate entrance, exit and directional signs, markers and lights that may be reasonably required in accordance with the operation of similar first-class developments; cleaning and repairing of light fixtures and re-lamping and re-ballasting as needed; and repairing and repainting of striping and all other similar markings as are necessary to maintain the Common Area Improvements in a first-class condition (collectively, "Common Area Maintenance").

2.6 Failure to Maintain Common Area. If an Owner ("Defaulting Owner") obligated hereunder fails to properly perform the Common Area Maintenance on its Parcel, and such failure shall continue for thirty (30) days following receipt of written notice from the other Owner or Owners ("Non-Defaulting Owner(s)"), which 30-day period may be extended a reasonable amount of time (but not more than an additional sixty (60) days) as may be necessary to cure such failure, provided the same is of a nature which cannot reasonably be cured within a 30-day period, and provided further that the Defaulting Owner has promptly commenced such cure and diligently prosecutes the same to completion, then in addition to any other rights and remedies available hereunder, the Non-Defaulting Owner(s) shall have the right to make any payment or perform any act required of the Defaulting Owner, and in exercising such right, to enter and occupy as long as necessary the Parcel of the Defaulting Owner and incur necessary and incidental costs and expenses. Nothing herein contained shall imply any obligation to make any payment or perform any act required of the Defaulting Owner and the exercise of such right shall not constitute a release of any obligation or waiver of any default. All payments made and all costs and expenses incurred in connection with any exercise of such right shall be paid by the Defaulting Owner to the Non-Defaulting Owner(s) within ten (10) days following the Defaulting Owner's receipt of an itemized statement of such costs

and expenses, together with interest at an annual rate of twelve percent (12%), or the highest rate of interest permitted by law, whichever is lower, from the respective dates of making such payments or incurring such costs and expenses, until paid. If the defaulting Owner shall fail to pay the Non-Defaulting Owner(s) within said 10-day period, then the Non-Defaulting Owner(s) shall have a lien against the Defaulting Owner's Parcel, which lien shall be perfected by the recording of a notice thereof in the Shelby County, Alabama, Records; any such lien shall be subordinate to the lien of any previously recorded deed of trust, mortgage, or vendor's lien affecting such Parcel. Such lien may be foreclosed only in accordance applicable Law. Any notice of such lien shall be mailed to the Owner of the affected Parcel promptly upon the recording thereof, by certified mail, return receipt requested, to the last known address of such Owner.

2.7 Reservation of Rights. Each Owner reserves the right:

(a) to close off the portion of the Common Area located on its Parcel for such reasonable period of time as may be legally necessary, in the opinion of such Owner's counsel, to prevent the acquisition of prescriptive rights by anyone; provided, however, that prior to closing off any portion of the Common Area, as herein provided, such Owner shall give written notice to the Occupants of the other Parcels of its intention to do so, and shall attempt to coordinate such closing with the Occupants of the other Parcels so that no unreasonable interference in passage of pedestrians or vehicles shall occur;

(b) at any time and from time to time to exclude and restrain any Person who is not an Owner, Occupant or Permittee from using the portion of the Common Area on its Parcel;

(c) to re-arrange and reconstruct the portion of the Parking Easement Area on its Parcel; and

(d) each Owner reserves the right to have the full use and enjoyment of the Common Area located on its respective Parcel, except as to the rights established by this Declaration.

ARTICLE 3. UTILITIES.

3.1 Grant of Utility Easements. Declarant, as the Owner of Parcel 1, Parcel 2 and Parcel 3, hereby grants, declares and establishes perpetual, non-exclusive and appurtenant easements for the installation, operation, flow, passage, use, maintenance, connection, repair, relocation, and removal of Utility Lines serving each Parcel, including, without limitation, sanitary sewers, storm drains, water (fire and domestic), gas, electrical, telephone and communication lines, for the benefit of the Owner and Occupants of each Parcel, but only to the extent that such lines cannot reasonably be located within any existing or future public rights of way and/or public utility easements adjoining each Parcel. All utility lines shall be underground except:

(a) ground mounted electrical transformers;

(b) as may be necessary during periods of construction, reconstruction, repair, or temporary services;

(c) as may be required by governmental agencies having jurisdiction thereover;

(d) as may be required by the provider of such service;

(e) fire hydrants; and

(f) gas risers, manifolds, vents, switch gears, meters and similar equipment and appurtenances, if located to the rear of buildings within the Real Property.

3.2 Location of Utility Lines. The initial location of any Utility Line shall be subject to the prior written approval of the Owner whose Parcel is to be burdened thereby, such approval not to be unreasonably withheld or delayed. In no event shall any Utility Line be located within any area of any Parcel devoted or intended to be devoted to the placement of buildings. The easement area shall be no wider than necessary to reasonably satisfy the requirements of a private or public utility, or 7½ feet on each side of the centerline if the easement is granted to an Owner. Upon request, the grantee shall provide to the grantor a copy of an "as-built" survey showing the location of such Utility Line. The grantor shall have the right at any time to relocate a Utility Line upon thirty (30) days' prior written notice to the grantee, provided that such relocation:

(a) shall not interfere with or diminish the utility service to the grantee during the grantee's business hours;

(b) shall not reduce or unreasonably impair the usefulness or function of such Utility Line;

(c) shall be performed without cost or expense to grantee;

(d) shall be completed using materials and design standards which equal or exceed those originally used; and

(e) shall have been approved by the provider of such service and the appropriate governmental or quasi-governmental agencies having jurisdiction thereover.

Documentation of the relocated easement area, including the furnishing of an "as-built" survey, shall be done at the grantor's expense and as soon as practicable.

3.3 Grant of Specific Drainage Easement. Without limiting the generality of the foregoing, Declarant, as the Owner of Parcel 1 and Parcel 2, hereby grants, declares and establishes a perpetual, non-exclusive and appurtenant easement for the discharging of surface storm water and/or runoff from its respective Parcel through the Drainage Line beneath the Drainage Easement Area, for the benefit of the Owners and Occupants of Parcel 1, Parcel 2 and Parcel 3.

3.4 Repair and Maintenance of Drainage Line. Until such time, if any, that the Owner of Parcel 3 shall tie into the Drainage Line, the Owner of Parcel 1 shall keep and maintain the Drainage Line in good condition and repair, and the Owner of Parcel 2 shall reimburse the Owner of Parcel 1 for 50% of the costs and expenses of maintaining and repairing the Drainage Line from time to time within ten (10) days after written demand therefor, such demand to be accompanied by reasonable supporting documentation. At such time, if any, that the Owner of Parcel 3 shall tie into the Drainage Line, the Owner of Parcel 3 shall thereafter keep and maintain the Drainage Line in good condition and repair, and the Owner of Parcel 1 and the Owner of Parcel 2 shall each reimburse the Owner of Parcel 3 one-third (1/3) of the costs and expenses of maintaining and repairing the Drainage Line from time to time, within ten (10) days after written demand therefor, such demand to be accompanied by reasonable supporting documentation. If the reimbursing Owner or Owners shall fail to reimburse to the performing Owner its or their share(s) of such costs and expenses within said 10-day period, then the performing Owner shall have a lien against the Parcel or Parcels of the reimbursing Owner or Owners, which lien shall be perfected by the recording of a notice thereof in the Shelby County, Alabama, Records; any such lien shall be subordinate to the lien of any previously recorded deed of trust, mortgage or vendor's lien affecting such Parcel or Parcels. Such lien may be foreclosed only in accordance with applicable Law. Any notice of such lien shall be mailed to the Owner of the affected Parcel or Parcels promptly

upon the recording thereof, by certified mail, return receipt requested, to the last known address of such Owner or Owners.

4. INDEMNIFICATION AND INSURANCE

4.1 Indemnification. The Owner of each Parcel hereby agrees to indemnify, defend and save and hold the Owners and Occupants of the other Parcels harmless from and against any and all claims, suits, demands, liabilities, costs and other expenses (including reasonable attorneys' fees) for any personal injury or property damage occurring on the indemnifying Owner's Parcel, except to the extent such personal injury or property damage occurs as a result of any act or failure to act of the Owner(s) or Occupant(s) of the other Parcel(s), or their respective Permittees, in which case said latter Owner(s) shall to such extent indemnify, defend and save and hold harmless the Owner of the Parcel upon which such act or failure to act occurred.

4.2 Insurance. Each Owner, at its sole cost and expense, shall obtain and keep in force public liability and property damage insurance with respect to its Parcel, in commercially reasonable amounts for so long as this Declaration shall remain in full force and effect; provided, however, each Owner shall have the right to discharge its obligations under this **Section 4.2** through a company-wide plan of self insurance, provided that at all times during the period in which such plan is in effect, said Owner maintains a net worth (or shareholders' equity) of at least One Hundred Million Dollars (\$100,000,000).

ARTICLE 5. REPAIR, MAINTENANCE AND RECONSTRUCTION OF RETAINING WALL:

The Owner of Parcel 1 and the Owner of Parcel 3 shall each cause that portion of the Retaining Wall located on its respective Parcel to be kept and maintained in good condition and repair. The Owner of Parcel 2 shall reimburse the Owner of Parcel 1 for 50% of the cost of maintaining, repairing and, if necessary, reconstructing that portion of the Retaining Wall located on Parcel 1 from time to time within ten (10) days after written demand therefor, such demand to be accompanied by reasonable supporting documentation. If the Owner of Parcel 2 shall fail to reimburse the Owner of Parcel 1 within said 10-day period, then the Owner of Parcel 1 shall have a lien against Parcel 2, which lien shall be perfected by the recording of a notice thereof in the Shelby County, Alabama, Records; any such lien shall be subordinate to the lien of any previously recorded deed of trust, mortgage or vendor's lien affecting such Parcel. Such lien may be foreclosed only in accordance with applicable Law. Any notice of such lien shall be mailed to the Owner of Parcel 2 promptly upon the recording thereof, by certified mail, return receipt requested, to the last known address of such Owner. The Owner of Parcel 3 shall be solely responsible for the cost of maintaining, repairing, and if necessary, reconstructing that portion of the Retaining Wall located on its Parcel, subject, however, to any agreement such Owner may have or may enter into with any third party in connection therewith.

ARTICLE 6. ALLOCATION OF CERTAIN OBLIGATIONS UNDER THE DECLARATIONS

6.1 Declaration A. With respect to the drainage pipe referred to in Section 2(B) of Declaration A, the Owner of Parcel 3 shall be solely responsible for the 50% share of the responsibility of the Owner of the "Exhibit A property" (as defined in Declaration A) for the reasonable repair and maintenance of the drainage pipe. With respect to the sewer pipe referred to in Section 2(C) of Declaration A, the Owner of Parcel 1 shall be responsible for the 50% share of the Owner of the "Exhibit A property" for the reasonable repair and maintenance of the sewer pipe. With respect to the Retaining Wall referred to Section 2(D) of Declaration A, the Owner of Parcel 3 and the Owner of Parcel 1

shall each be responsible for the repair and maintenance of the Retaining Wall in accordance with the provisions of Article 5 of this Declaration. With respect to the indemnification and hold harmless obligations of Section 3 of Declaration A, the Owner of Parcel 1, the Owner of Parcel 2, and the Owner of Parcel 3, respectively, shall each be responsible to the owner of the "Exhibit B property" (as defined in Declaration A) and Walgreen Co., as to any liability, cost or damage arising from the use of the easements described in Declaration A by said Owners, respectively, or their respective Occupants or Permittees. With respect to the limitation set forth in Section 5 of Declaration A pertaining to no unreasonable interference with any other use of the properties referred to therein and the placement of liens on either property referred to therein, the Owner of Parcel 1, the Owner of Parcel 2, and the Owner of Parcel 3, respectively, shall each be responsible for any such interference or placement of liens arising from their respective conduct or that of their respective Occupants or Permittees.

6.2 Declaration B. With respect to the drainage pipe referred to in Section 2(B) of Declaration B, the Owner of Parcel 3 shall be solely responsible for the 50% share of the responsibility of the Owner of the "Exhibit A property" (as defined in Declaration B) for the reasonable repair and maintenance of the drainage pipe. With respect to the sewer pipe referred to in Section 2(C) of Declaration B, the Owner of Parcel 1 shall be responsible for the 50% share of the Owner of the "Exhibit A property" for the reasonable repair and maintenance of the sewer pipe. With respect to the indemnification and hold harmless obligations of Section 3 of Declaration B, the Owner of Parcel 1, the Owner of Parcel 2, and the Owner of Parcel 3, respectively, shall each be responsible to the Owner of the "Exhibit B property" (as defined in Declaration B) and Walgreen Co., as to any liability, cost or damage arising from the use of the easements described in Declaration B by said Owners, respectively, or their respective Occupants or Permittees. With respect to the limitation set forth in Section 5 of Declaration B pertaining to no unreasonable interference with any other use of the properties referred to therein and the placement of liens on either property referred to therein, the Owner of Parcel 1, the Owner of Parcel 2, and the Owner of Parcel 3, respectively, shall each be responsible for any such interference or placement of liens arising from their respective conduct or that of their respective Occupants or Permittees.

ARTICLE 7. ADJUSTMENT OF COMMON BOUNDARY LINE OF PARCEL 2 AND PARCEL 3:

Declarant shall have the right to adjust the common boundary line of Parcel 2 and Parcel 3 by making and executing an amendment to this Declaration and causing same to be recorded in the Shelby County, Alabama, Records; provided, however, no such adjustment shall result in the area contained within Parcel 2 (as presently configured and described) being reduced to less than 25,000 square feet in area nor increased to more than 43,560 square feet in area.

ARTICLE 8. GENERAL PROVISIONS:

8.1 Duration. This Declaration and the provisions contained herein shall continue in perpetuity, unless amended in accordance with the provisions of Section 8.2.

8.2 Amendment. The provisions of this Declaration may be amended, in whole or in part, only by an instrument in writing, executed and acknowledged by the Parties and duly recorded in the Shelby County, Alabama, Records.

8.3 Waiver of Default. No waiver of any default by any Party or Parties shall be implied from any omission by any other Party or Parties to take any action in respect of such default if such default continues or is repeated. No express waiver of any

default shall affect any default or cover any period of time other than the default and period of time specified in such express waiver. One or more waivers of any default in the performance of any term, provision or covenant contained in this Declaration shall not be deemed to be a waiver of any subsequent default in the performance of the same term, provision or covenant or any other term, provision or covenant contained in this Declaration.

8.4 Captions and Capitalized Terms. The captions of each Article, Section and paragraph are included only for convenience of reference and shall be disregarded in the construction and interpretation of this Declaration. Capitalized terms are also selected only for convenience of reference and do not necessarily have any connection to the meaning that might otherwise be attached to such term in a context outside of this Declaration.

8.5 Condemnation. In the event any portion of the Real Property shall be condemned, the award shall be paid to the Party or Parties owning the land or the improvements taken; provided, however, the other Party or Parties may make a claim for severance damages against the condemnor provided that it does not diminish the award payable to the Party or Parties owning the land or the improvements taken, and no Party shall be obligated to relocate, replace or restore such land or improvements or the Access Easement Areas affected.

8.6 Breach Shall Not Defeat Mortgage. A breach in any of the terms, conditions, covenants or restrictions of this Declaration shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, but such terms, conditions, covenants or restrictions shall be binding upon and effective against any Party whose interest in the Real Property or any portion thereof is acquired by foreclosure, trustee's sale or otherwise.

8.7 Continuation Notwithstanding Breach. It is expressly agreed that no breach of this Declaration shall entitle any Party to cancel, rescind or otherwise terminate this Declaration. However, such limitation shall not affect in any manner any other rights or remedies which a Party may have hereunder by reason of such breach.

8.8 Counterparts. This Declaration may be executed in several counterparts, each of which shall be deemed an original.

8.9 Entire Agreement. This Declaration and exhibits hereto contain the entire agreement between and among the Parties with respect to the subject matter hereof. Any prior correspondence, memoranda or agreements are superseded in total by this Declaration and exhibits hereto. The provisions of this Declaration shall be construed as a whole according to their common meaning and not strictly for or against any Party.

8.10 Governing Law. This Declaration shall be construed in accordance with the laws of the State of Alabama.

8.11 Injunctive Relief. In the event of any violation or threatened violation of any provision of this Declaration by any Party or Parties hereto, the other Party or Parties shall have the right to enjoin such violation or threatened violation in any court of competent jurisdiction. The Parties acknowledge and agree that the aggrieved Party's remedy at law for violation of this Declaration would be inadequate.

8.12 Attorneys' Fees. In the event any Party or Parties hereto institute any action or proceeding against any other Party or Parties relating to the interpretation or enforcement of the provisions of this Declaration or any violation hereunder, the unsuccessful Party or Parties in such action or proceeding shall reimburse to the successful Party or Parties its or their reasonable attorneys' fees and court costs.

8.13 Estoppel Certificates. Upon the request of any Party or Parties hereto, the other Party or Parties shall issue to any party designated by the requesting Party an appropriate certificate certifying whether the certifying Party knows of any default under this Declaration by the requesting Party, or of any assignment, modification or amendment to this Declaration (and the nature and extent of any such default or other known matter), whether, to the certifying Party's knowledge, the requesting Party owes any money under this Declaration to the certifying Party (and the amount thereof and reason therefor) and whether, to the certifying Party's knowledge, this Declaration is in full force and effect. The certificate may be relied upon by a bona fide encumbrancer or purchaser for value without knowledge of facts to the contrary and shall constitute a waiver of any claim by the certifying Party based upon facts contrary to the certificate of which that Party had actual knowledge at the time of making the certificate. The certificate shall not subject the Party furnishing the certificate to any liability for any inaccurate statement which such Party in good faith believed was correct when made or any obligation to correct or disclose any change in the information certified.

8.14 Interest. Wherever and as often as one Owner shall not have paid any sum payable hereunder to another Owner within ten (10) days of receipt of written notice, the delinquent Owner shall pay interest on such amount from the due date to and including the date such payment is received by the Owner entitled thereto, at the lesser of (a) twelve percent (12%) per annum, or (b) the highest rate permitted by law.

8.15 No Partnership. Neither this Declaration nor any act of the Parties shall be deemed or construed by the Parties to constitute an agreement to share profits and losses or to create the relationship of principal-agent, partnership, joint venture or any association whatsoever between any of the Parties.

8.16 No Third-Party Beneficiary. The provisions of this Declaration are for the exclusive benefit of the Parties and their respective Occupants and not for the benefit of any other third Person, nor shall this Declaration be deemed to have conferred any rights, express or implied, upon any other third Person. No Person other than a Party hereto or an Occupant shall have the right to enforce any of the provisions of this Declaration.

8.17 Not a Public Dedication. Nothing in this Declaration shall be deemed to be a gift to the general public, or a dedication for any public purpose whatsoever, of any portion of the Real Property, it being the intention of the Parties that this Declaration shall be strictly limited to and for the purposes herein expressed.

8.18 Notices. All notices, demands, statements and requests (collectively, a "Notice") required or permitted to be given under this Declaration must be in writing and shall be deemed to have been properly given when received or when receipt is refused. Notices shall be sent by U.S. mail, registered or certified, or by a nationally recognized courier service (including Federal Express, DHL, Express Mail, UPS or similar operation) to the address of the Person to whom it is directed, provided it is sent prepaid, return receipt requested.

8.19 Severability. If any term, covenant, restriction or condition contained in this Declaration shall, to any extent, be invalid or unenforceable, the remainder of this Declaration (or the application of such term, covenant, restriction or condition to Persons or circumstances other than those with respect to which it is invalid or unenforceable) shall not be affected thereby.

8.20 Singular and Plural. Whenever required by the context of this Declaration, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and neuter genders, and vice versa.

8.21 Successors; Binding Effect. The provisions of this Declaration and all covenants, conditions, restrictions and easements granted or established hereunder shall run with the land with respect to both the benefits and burdens created herein and affecting the Parcels, and shall be binding upon and inure to the benefit of the signatories hereto and their respective successors and assigns. This Declaration and all the terms, covenants and conditions contained herein shall be enforceable as equitable servitudes and constitute covenants running with the land under applicable law.

8.22 Rights Cumulative. The rights and remedies given to any Party under this Declaration shall be deemed to be cumulative and none of such rights or remedies shall be exclusive of any others, or of any other right or remedy at law or in equity which such Party might otherwise have by virtue of a default under this Declaration, and the exercise of one such right or remedy by any Party shall not impair such Party's standing to exercise any other right or remedy.

8.23 No Merger of Rights. No merger of rights shall occur because of any present or future common ownership or common right to possession of the dominant and servient estates created hereunder.

8.24 Section and Exhibit References. All references to Article and Section numbers in this Declaration, unless otherwise provided, shall be understood to refer to the various Articles and Sections of this Declaration. All references to Exhibits in this Declaration, unless otherwise provided, shall be understood to refer to the various Exhibits attached to this Declaration, which by said references are incorporated herein.

8.25 Time. Time is of the essence of this Declaration and every provision contained herein.

IN WITNESS WHEREOF, the Parties have caused this Declaration to be executed effective as of the day and year first above written.

DECLARANT:

J. WILSON DINSMORE

State of Alabama
County of Jefferson

) S.S.

I, Jennifer Carlson, a Notary Public in and for said County in said State, hereby certify that J. Wilson Dinsmore, whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand this the 21st day of May, 1998.

Jennifer Carlson 3/12/2001
Notary Public

(Seal)

EXHIBIT A

DESCRIPTION PARCEL 1

A PARCEL OF LAND SITUATED IN THE NORTHEAST 1/4 OF SECTION 36, TOWNSHIP 19 SOUTH, RANGE 3 WEST, SHELBY COUNTY, ALABAMA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 36; THENCE RUN SOUTH ALONG THE EAST LINE OF SAID SECTION 36 A DISTANCE OF 266.80 FEET, THENCE TURN 117°40'00" RIGHT AND RUN NORTHWESTERLY 165.21 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY #31; THENCE TURN 110°54'05" LEFT TO THE TANGENT OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 1,752.68 FEET, RUN ALONG THE ARC OF SAID CURVE AND SAID ROAD RIGHT OF WAY FOR 16.26 FEET TO THE SOUTHEAST CORNER OF LOT 1 ACCORDING THE SURVEY OF WALGREENS-PELHAM, AS RECORDED IN MAP BOOK 23, PAGE 88 IN THE OFFICE OF PROBATE OF SHELBY COUNTY, ALABAMA AND THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID CURVE AND SAID ROAD RIGHT OF WAY FOR 70.67 FEET TO A POINT; THENCE TURN 90°00'00" LEFT FROM THE TANGENT TO SAID CURVE AT SAID POINT AND RUN EASTERLY ALONG SAID ROAD RIGHT OF WAY FOR 15.00 FEET; THENCE TURN 90°00'00" RIGHT TO THE TANGENT OF A CURVE TO THE LEFT SAID CURVE HAVING A RADIUS OF 1,737.68 FEET AND RUN ALONG THE ARC OF SAID CURVE AND SAID ROAD RIGHT OF WAY FOR 189.15 FEET TO A POINT; THENCE TURN 94°22'17" RIGHT FROM THE TANGENT TO SAID CURVE AT SAID POINT AND RUN WESTERLY FOR 239.84 FEET; THENCE TURN 95°24'00" RIGHT AND RUN NORTHEASTERLY FOR 116.68 FEET TO A POINT ON THE SOUTHEAST LINE OF SAID LOT 1, THENCE TURN 50°36'53" RIGHT AND RUN NORTHEASTERLY ALONG SAID LOT LINE FOR 257.43 FEET TO THE POINT OF BEGINNING. CONTAINING 0.98 ACRES.

DESCRIPTION PARCEL 2

A PARCEL OF LAND SITUATED IN THE NORTHEAST 1/4 OF SECTION 36, TOWNSHIP 19 SOUTH, RANGE 3 WEST, SHELBY COUNTY, ALABAMA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 36; AND RUN SOUTH ALONG THE EAST LINE OF SAID SECTION 36 A DISTANCE OF 266.80 FEET, THENCE TURN 117°40'00" RIGHT AND RUN NORTHWESTERLY 165.21 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 31; THENCE TURN 110°54' 05" LEFT TO THE TANGENT OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 1,752.68 FEET, AND RUN ALONG THE ARC OF SAID CURVE AND SAID ROAD RIGHT OF WAY 86.93 FEET TO A POINT; THENCE TURN 90°00'00" LEFT FROM THE TANGENT TO SAID CURVE AT SAID POINT AND RUN EASTERLY ALONG SAID ROAD RIGHT OF WAY 15.00 FEET; THENCE TURN 90°00'00" RIGHT TO THE TANGENT OF A CURVE TO THE LEFT SAID CURVE HAVING A RADIUS OF 1,737.68 FEET AND RUN ALONG THE ARC OF SAID CURVE AND SAID ROAD RIGHT OF WAY 189.15 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE LAST DESCRIBED COURSE AND ALONG SAID ROAD RIGHT OF WAY 113.00 FEET TO A POINT; THENCE TURN 82°08'35" RIGHT FROM THE TANGENT TO SAID CURVE AT SAID POINT AND RUN SOUTHWESTERLY 211.53 FEET; THENCE TURN 90°00'00" RIGHT AND RUN NORTHWESTERLY 177.28 FEET; THENCE TURN 105°57'15" RIGHT AND RUN 239.84 FEET TO THE POINT OF BEGINNING.

DESCRIPTION PARCEL 3

A PARCEL OF LAND SITUATED IN THE NORTHEAST 1/4 OF SECTION 36, TOWNSHIP 19 SOUTH, RANGE 3 WEST, SHELBY COUNTY, ALABAMA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 36; AND RUN SOUTH ALONG THE EAST LINE OF SAID SECTION 36 A DISTANCE OF 266.80 FEET, THENCE TURN 117°40'00" RIGHT AND RUN NORTHWESTERLY 165.21 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 31; THENCE TURN 110°54' 05" LEFT TO THE TANGENT OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 1,752.68 FEET, AND RUN ALONG THE ARC OF SAID CURVE AND SAID ROAD RIGHT OF WAY 86.93 FEET TO A POINT; THENCE TURN 90°00'00" LEFT FROM THE TANGENT TO SAID CURVE AT SAID POINT AND RUN EASTERLY ALONG SAID ROAD RIGHT OF WAY 15.00 FEET; THENCE TURN 90°00'00" RIGHT TO THE TANGENT OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 1,737.68 FEET AND RUN ALONG THE ARC OF SAID CURVE AND SAID ROAD RIGHT OF WAY 302.15; THENCE TURN 82°08'35" RIGHT FROM THE TANGENT TO SAID CURVE AT SAID POINT AND RUN SOUTHWESTERLY 211.53 FEET; TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE LAST DESCRIBED COURSE 326.38 FEET TO A POINT ON THE NORTHEAST RIGHT OF WAY LINE OF OLD MONTGOMERY HIGHWAY; THENCE TURN 67°22'28" RIGHT AND RUN NORTHWESTERLY ALONG SAID RIGHT OF WAY LINE 159.18 FEET; THENCE TURN 92°26'33" RIGHT AND RUN NORTHEASTERLY 60.75 FEET TO THE POINT OF BEGINNING OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 72.00 FEET, AND RUN ALONG THE ARC OF SAID CURVE 18.96 FEET TO THE POINT OF A TANGENT TO SAID CURVE; THENCE RUN NORTHEASTERLY ALONG SAID TANGENT TO SAID CURVE 87.46 FEET; THENCE TURN 45°00'00" LEFT AND RUN 42.43 FEET; THENCE TURN 45°00'00" RIGHT AND RUN 66.56 FEET; THENCE TURN 16°09'56" LEFT AND RUN 186.72 FEET; THENCE TURN 132°36'48" RIGHT AND RUN SOUTHERLY 116.68 FEET; THENCE TURN 21°21'15" LEFT AND RUN 177.28 FEET TO THE POINT OF BEGINNING.

Exhibit B
to
Declaration of Easements and Restrictions
and Joint Maintenance Agreement

Legal Description of Access Easement Area

A PARCEL OF LAND SITUATED IN THE NORTHEAST 1/4 OF SECTION 36, TOWNSHIP 19 SOUTH, RANGE 3 WEST, SHELBY COUNTY, ALABAMA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 36, AND RUN SOUTH ALONG THE EAST LINE OF SAID SECTION 36 A DISTANCE OF 266.80 FEET; THENCE TURN 117°40'00" RIGHT AND RUN NORTHWESTERLY 165.21 FEET TO A POINT ON THE WESTERN RIGHT OF WAY LINE OF U.S. HIGHWAY #31; THENCE TURN 110°54'05" LEFT TO THE TANGENT OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 1,752.68 FEET AND RUN ALONG THE ARC OF SAID CURVE AND SAID ROAD RIGHT OF WAY FOR 86.93 FEET; THENCE TURN 90°00'00" LEFT FROM THE TANGENT TO SAID CURVE AT SAID POINT AND RUN EASTERLY ALONG SAID ROAD RIGHT OF WAY FOR 15.00 FEET; THENCE TURN 90°00'00" RIGHT TO THE TANGENT OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 1,737.68 FEET AND RUN ALONG THE ARC OF SAID CURVE AND SAID ROAD RIGHT OF WAY FOR 189.15 FEET TO THE POINT OF BEGINNING OF A 24 FOOT ACCESS EASEMENT, SAID EASEMENT LIES 12 FEET EITHER SIDE OF A CENTERLINE DESCRIBED AS FOLLOWS: THENCE TURN 94°22'17" RIGHT FROM THE TANGENT TO SAID CURVE AT SAID POINT AND RUN WESTERLY FOR 239.84 FEET TO A POINT, SAID POINT BEING THE TERMINUS OF SAID EASEMENT.

Exhibit C
to
Declaration of Easements and Restrictions
and Joint Maintenance Agreement

Legal Description of Drainage Easement Area

DESCRIPTION (STORM DRAINAGE EASEMENT)

A 15.0 FEET WIDE STORM DRAINAGE EASEMENT, SAID EASEMENT BEING 7.5 FEET WIDE ON BOTH SIDES OF A CENTERLINE DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 36; AND RUN SOUTH ALONG THE EAST LINE OF SAID SECTION 36 A DISTANCE OF 266.80 FEET, THENCE TURN 117°40'00" RIGHT AND RUN NORTHWESTERLY 165.21 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 31; THENCE TURN 110°54' 05" LEFT TO THE TANGENT OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 1,752.68 FEET , AND RUN ALONG THE ARC OF SAID CURVE AND SAID ROAD RIGHT OF WAY 86.93 FEET TO A POINT; THENCE TURN 90°00'00" LEFT FROM THE TANGENT TO SAID CURVE AT SAID POINT AND RUN EASTERLY ALONG SAID ROAD RIGHT OF WAY 15.00 FEET; THENCE TURN 90°00'00" RIGHT TO THE TANGENT OF A CURVE TO THE LEFT SAID CURVE HAVING A RADIUS OF 1,737.68 FEET AND RUN ALONG THE ARC OF SAID CURVE AND SAID ROAD RIGHT OF WAY 189.15 FEET TO THE POINT OF BEGINNING OF THE EASEMENT CENTERLINE HEREIN DESCRIBED; THENCE TURN 94°22' 17" RIGHT FROM THE TANGENT TO SAID CURVE AT SAID POINT AND RUN WESTERLY 538.05 FEET TO THE END OF SAID EASEMENT CENTERLINE.

Exhibit D
to
Declaration of Easements and Restrictions
and Joint Maintenance Agreement

Legal Description of Parcel 1

A parcel of land situated in the northeast 1/4 of Section 36, Township 19 South, Range 3 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the northeast corner of said Section 36; thence run South along the east line of said Section 36 a distance of 266.80 feet; thence turn 117°40'00" right and run Northwesterly 165.21 feet to a point on the westerly right of way line of U.S. Highway 31; thence turn 110°54'05" left to the tangent of a curve to the left, said curve having a radius of 1,752.68 feet, run along the arc of said curve and said road right of way for 16.26 feet to the southeast corner of Lot 1 according the survey of Walgreens-Pelham, as recorded in Map Book 23, Page 88, in the Office of Probate of Shelby County, Alabama, and the point of beginning; thence continue along said curve and said road right of way for 70.67 feet to a point; thence turn 90°00'00" left from the tangent to said curve at said point and run Easterly along said road right of way for 15.00 feet; thence turn 90°00'00" right to the tangent of a curve to the left, said curve having a radius of 1,737.68 feet, and run along the arc of said curve and said road right of way for 189.15 feet to a point; thence turn 94°22'17" right from the tangent to said curve at said point and run Westerly for 239.68 feet; thence turn 95°24'00" right and run Northeasterly for 116.68 feet to a point on the southeast line of said Lot 1; thence turn 50°36'53" right and run Northeasterly along said lot line for 257.43 feet to the point of beginning. Containing 0.98 acres.

Exhibit E
to
Declaration of Easements and Restrictions
and Joint Maintenance Agreement

Legal Description of Parcel 2

DESCRIPTION PARCEL 2

A PARCEL OF LAND SITUATED IN THE NORTHEAST 1/4 OF SECTION 36, TOWNSHIP 19 SOUTH, RANGE 3 WEST, SHELBY COUNTY, ALABAMA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 36; AND RUN SOUTH ALONG THE EAST LINE OF SAID SECTION 36 A DISTANCE OF 266.80 FEET, THENCE TURN 117°40'00" RIGHT AND RUN NORTHWESTERLY 165.21 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 31; THENCE TURN 110°54' 05" LEFT TO THE TANGENT OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 1,752.68 FEET, AND RUN ALONG THE ARC OF SAID CURVE AND SAID ROAD RIGHT OF WAY 86.93 FEET TO A POINT; THENCE TURN 90°00'00" LEFT FROM THE TANGENT TO SAID CURVE AT SAID POINT AND RUN EASTERLY ALONG SAID ROAD RIGHT OF WAY 15.00 FEET; THENCE TURN 90°00'00" RIGHT TO THE TANGENT OF A CURVE TO THE LEFT SAID CURVE HAVING A RADIUS OF 1,737.68 FEET AND RUN ALONG THE ARC OF SAID CURVE AND SAID ROAD RIGHT OF WAY 189.15 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE LAST DESCRIBED COURSE AND ALONG SAID ROAD RIGHT OF WAY 113.00 FEET TO A POINT; THENCE TURN 82°08'35" RIGHT FROM THE TANGENT TO SAID CURVE AT SAID POINT AND RUN SOUTHWESTERLY 211.53 FEET; THENCE TURN 90°00'00" RIGHT AND RUN NORTHWESTERLY 177.28 FEET; THENCE TURN 105°57'15" RIGHT AND RUN 239.84 FEET TO THE POINT OF BEGINNING.

Exhibit F
to
Declaration of Easements and Restrictions
and Joint Maintenance Agreement

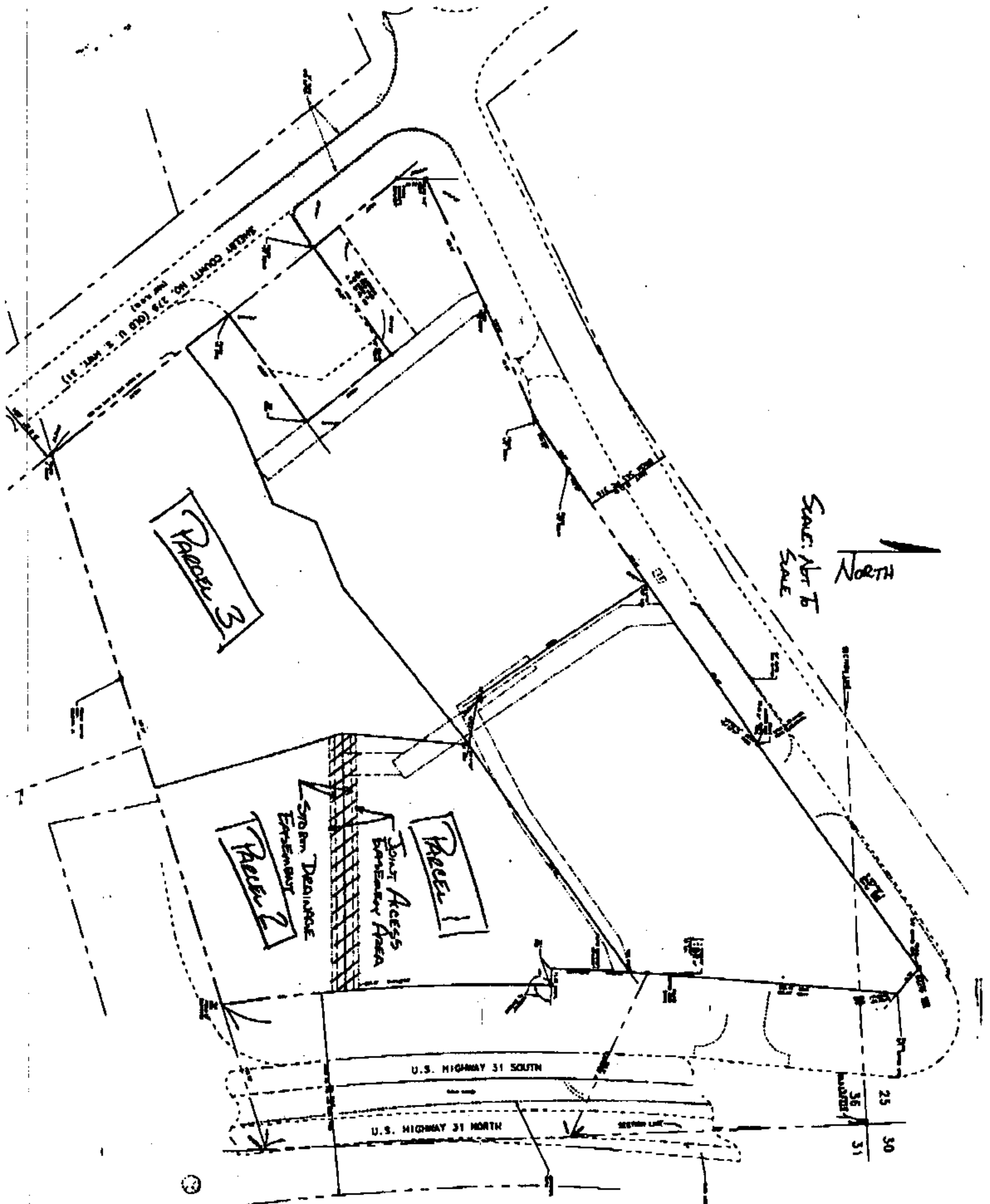
Legal Description of Parcel 3

DESCRIPTION PARCEL 3

A PARCEL OF LAND SITUATED IN THE NORTHEAST 1/4 OF SECTION 36, TOWNSHIP 19 SOUTH, RANGE 3 WEST, SHELBY COUNTY, ALABAMA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 36; AND RUN SOUTH ALONG THE EAST LINE OF SAID SECTION 36 A DISTANCE OF 266.80 FEET, THENCE TURN 117°40'00" RIGHT AND RUN NORTHWESTERLY 165.21 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 31; THENCE TURN 110°54' 05" LEFT TO THE TANGENT OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 1,752.68 FEET, AND RUN ALONG THE ARC OF SAID CURVE AND SAID ROAD RIGHT OF WAY 86.93 FEET TO A POINT; THENCE TURN 90°00'00" LEFT FROM THE TANGENT TO SAID CURVE AT SAID POINT AND RUN EASTERLY ALONG SAID ROAD RIGHT OF WAY 15.00 FEET; THENCE TURN 90°00'00" RIGHT TO THE TANGENT OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 1,737.68 FEET AND RUN ALONG THE ARC OF SAID CURVE AND SAID ROAD RIGHT OF WAY 302.15; THENCE TURN 82°08'35" RIGHT FROM THE TANGENT TO SAID CURVE AT SAID POINT AND RUN SOUTHWESTERLY 211.53 FEET; TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE LAST DESCRIBED COURSE 326.38 FEET TO A POINT ON THE NORTHEAST RIGHT OF WAY LINE OF OLD MONTGOMERY HIGHWAY; THENCE TURN 67°22'28" RIGHT AND RUN NORTHWESTERLY ALONG SAID RIGHT OF WAY LINE 159.18 FEET; THENCE TURN 92°26'33" RIGHT AND RUN NORTHEASTERLY 60.75 FEET TO THE POINT OF BEGINNING OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 72.00 FEET, AND RUN ALONG THE ARC OF SAID CURVE 18.96 FEET TO THE POINT OF A TANGENT TO SAID CURVE; THENCE RUN NORTHEASTERLY ALONG SAID TANGENT TO SAID CURVE 87.46 FEET; THENCE TURN 45°00'00" LEFT AND RUN 42.43 FEET; THENCE TURN 45°00'00" RIGHT AND RUN 66.56 FEET; THENCE TURN 16°09'56" LEFT AND RUN 186.72 FEET; THENCE TURN 132°36'48" RIGHT AND RUN SOUTHERLY 116.68 FEET; THENCE TURN 21°21'15" LEFT AND RUN 177.28 FEET TO THE POINT OF BEGINNING.

Exhibit G
to
Declaration of Easements and Restrictions
and Joint Maintenance Agreement

Site Plan



CONSENT AND JOINDER OF MORTGAGEE

The undersigned Mortgagee under that certain Mortgage dated June 26, 1997, made by J. Wilson Dinsmore under that certain Promissory Note of even date in the sum of Five Hundred Thousand Dollars (\$500,000) secured against some or all of the Real Property referred to in the within Declaration of Easements and Restrictions and Joint Maintenance Agreement ("Declaration"), hereby consents to and joins in the execution of the Declaration for the sole purpose of subordinating its Mortgage to the provisions of the Declaration.

NATIONAL BANK OF COMMERCE
OF BIRMINGHAM, N.A.

By James A. Powell
Name James A. Powell
Its Vice President
Date 5/29/98

State of Alabama
County of Jefferson

) S.S.

I, Rebecca B. Paterson, a Notary Public in and for said County in said State, hereby certify that James A. Powell, whose name as Vice President of National Bank of Commerce of Birmingham, N.A., is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the 29 day of May, 1998.

Rebecca B. Paterson
Notary Public

(Seal)

CONSENT AND JOINDER OF LESSEE

The undersigned Lessee under that certain Ground Lease dated May 28, 1998 ("Lease"), by and between J. Wilson Dinsmore, as Lessor, and the undersigned, as Lessee, demising Parcel 1 referred to in the within Declaration of Easements and Restrictions and Joint Maintenance Agreement ("Declaration"), hereby consents to and joins in the execution of the Declaration for the sole purpose of subordinating its rights under the Lease to the provisions of the Declaration.

IHOP PROPERTIES, INC.

✓ By *Richard K. Herzer*
Richard K. Herzer, President
✓ Date 5/28/98

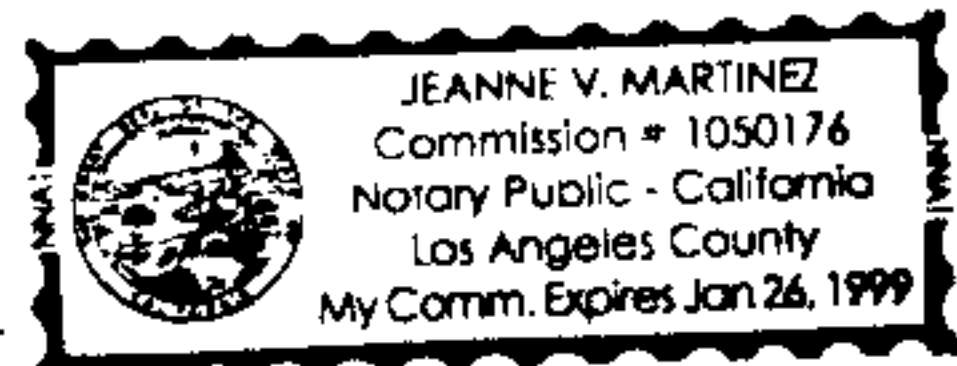
State of California)
County of Los Angeles) S.S.

On May 28, 1998, before me, Jeanne V. Martinez, a Notary Public in and for said County and State, personally appeared Richard K. Herzer, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature

Jeanne V. Martinez



(Seal)

Inst # 1998-20066

Pelham, AL

06/01/1998-20066
03:45 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
020 MCD 57.50

DECLARA.3fr (5/22/98)