

THIS INSTRUMENT PREPARED BY: Darrel Davis  
AFTER RECORDING PLEASE RETURN TO:

DARREL DAVIS  
WAL-MART REAL ESTATE BUSINESS TRUST  
2001 SE 10TH STREET  
BENTONVILLE, AR 72716-0550

Inst # 2001-30016  
07/20/2001-30016  
08:19 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
008 NSB 32.00

### ACCESS EASEMENT

THIS ACCESS EASEMENT is entered into as of the 3<sup>rd</sup> day of July, 2001, by and between WAL-MART REAL ESTATE BUSINESS TRUST, a Delaware business trust with an address of 702 S.W. 8<sup>th</sup> Street, Bentonville, AR 72716 ("Grantor" or "Wal-Mart"); and SYSTEM CAPITAL REAL PROPERTY CORPORATION, a Delaware corporation with an address of One McDonald's Plaza, Oakbrook, IL, 60523 ("Grantee").

### WITNESSETH

WHEREAS, Wal-Mart is the owner of that certain tract or parcel of land situated in the City of Calera, County of Shelby, State of Alabama, identified as Tract 1 on the site plan attached hereto as Exhibit "A" ("Tract 1"); and as legally described on Exhibit "B" and,

WHEREAS, Grantee will be by the time this instrument is recorded the owner of that 1.49 acre, more or less, tract or parcel of land in the same city, county, and state, which tract lies adjacent to Tract 1 and is identified as Tract 2 on Exhibit "A" and more fully described on Exhibit "B" ("Tract 2") which tract Wal-Mart Stores East, Inc. is current owner of and intends to convey fee simple title to Grantee by a warranty deed; and

WHEREAS, Grantee has requested from Wal-Mart, and Wal-Mart is desirous of granting to Grantee, a non-exclusive easement for pedestrian and vehicular ingress and egress over and across that portion of Tract 1 identified as the Access Area on Exhibit "A" and more fully described on Exhibit "C" and Exhibit "D" ("Access Area").

NOW THEREFORE, in consideration of one dollar (\$1.00) and other good and valuable consideration, Wal-Mart does hereby grant to Grantee a non-exclusive easement for vehicular and pedestrian ingress and egress over and across the Access Area for access to and from Tract 2, subject to the following terms and conditions to which the parties hereto do hereby agree:

(a) For no additional consideration, Grantor agrees to grant to Grantee at Closing a recordable non-exclusive easement in an agreement reasonably acceptable to Grantee for vehicular ingress and egress over, upon and across the driveways and access ways, , exits and entrances, , as these areas now exist as shown on Exhibit "A" ("Access Area") for access to and from the Property, to be used non-exclusively by Grantee, its tenants, customers, suppliers, and employees. Grantee shall not be allowed to use the Access Area for heavy truck traffic except as may be necessary for delivering merchandise to the business operation to be located thereon.

(b) Grantee shall indemnify, defend and hold harmless the Grantor from any damages or liability to persons or property that might arise from the use of the Access Area by Grantee, its tenants, employees, customers, suppliers or anyone else using the Access Area for ingress and egress to and from the Property. Grantee further agrees that Grantee will at all times during the duration of this easement maintain and pay for comprehensive general liability insurance affording protection to Grantor and Grantee naming Grantor as an additional insured on the policy or policies for a combined bodily injury and property damage limit of liability not less than \$2,000,000.00 for each occurrence. Grantee further agrees, upon request to deliver to Grantor a certificate or certificates from an insurance company or insurance companies satisfactory to Grantor evidencing the existence of such insurance and naming Grantor as an additional insured.

(c) In the event Grantor fails to maintain or repair that portion of the Access Area which is cross-hatched on Exhibit "A" (the "Protected Access Area"), Grantee may do so at its expense provided Grantee uses like or similar quality and type of materials originally installed by Grantor on the Protected Access Area, and further provided that Grantee does not alter or change the grade or elevation of the Protected Access Area without Grantor's written consent. No repair or maintenance shall commence within the Protected Access Area without prior fourteen-(14) day written notice to Grantor.

(d) Grantee shall be entitled to install no more than two (2) 30-foot curb cuts between the Property and the Protected Access Area as shall be determined by Grantee's approved Development Plan.

(e) Grantor agrees, at its sole cost and expense to pave any unpaved portion of the Access Area and that if, in the process of paving and developing the Access Area, Grantor encounters any irrigation equipment previously installed by Grantor in the Access Area, Grantor agrees to disconnect and relocate any such equipment at its cost. If Grantor encounters any utility lines under the Access Area, it agrees to encase said lines in order to protect it. If it is necessary for Grantor to remove trees or any other type of landscaping, it agrees to relocate it adjacent to the Access Area in a location acceptable to Grantor.

(f) If, in the process of developing the Property, Grantee damages, breaks, destroys, or in any way impairs the Access Area, or any other improvements of Grantor, Grantor in its sole discretion, may require Grantee to either: (i) restore at Grantee's sole cost and expense the Access Area, or Grantor's improvements to its original quality and condition; or (ii) Grantor may, restore the Access Area, or improvements and invoice Grantee for Grantor's reasonable costs incurred restoring the damaged Access Area, or improvements; whereupon Grantee agrees to reimburse Grantor within thirty (30) days of receipt of an invoice for such expenses.

(g) Grantor shall reserve the right in its sole and absolute discretion to modify or relocate the Access Area except the Protected Access Area (unless required by any governmental authority) provided any such modification or relocation does not restrict or prevent ingress and egress to and from the Property. Grantor shall not modify or relocate the Access Area in any other way.


(h) Grantee, at its expense, shall provide to Grantor a legal description of the Protected Access Area prior to May 31, 2001. In addition, Grantor agrees to provide Grantee a legal description of its adjacent property upon final execution of this Agreement to enable Grantee to obtain title insurance over the easement areas described in this Agreement.


(Signature page follows)


IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.


WAL-MART REAL ESTATE BUSINESS TRUST

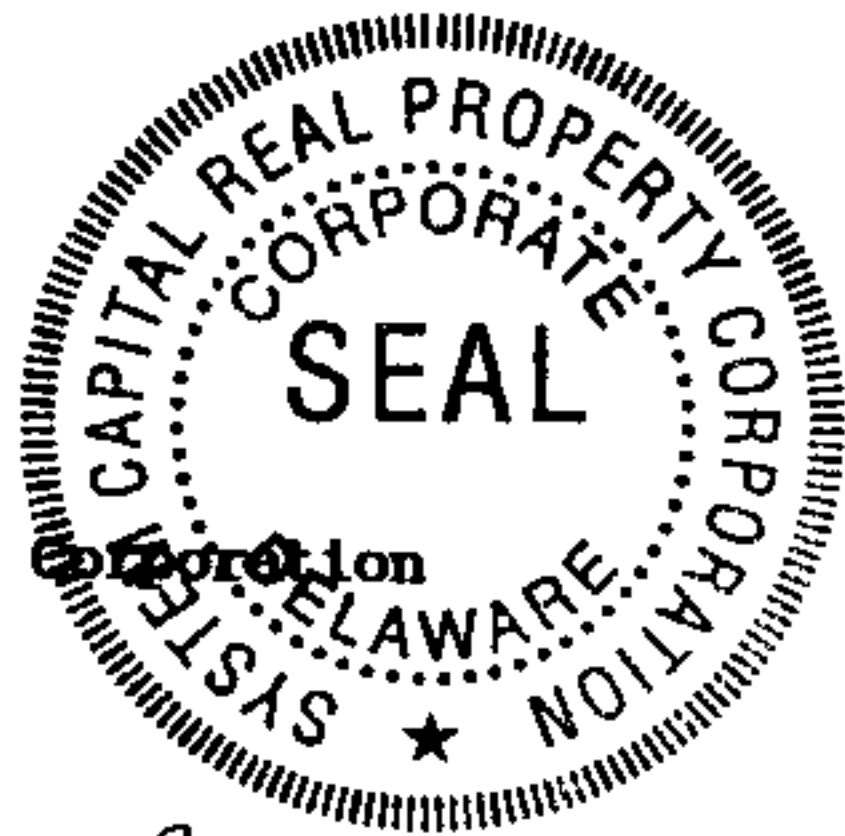
ATTEST:

  
Michael W. Kersting  
Assistant Secretary

BY:   
J. Scott Greear  
TITLE: Director of Building Development

WITNESS OR ATTEST:  
  
Catherine A. Griffin  
Assistant Secretary

System Capital Real Property Corporation  
BY:   
TITLE: Vice President

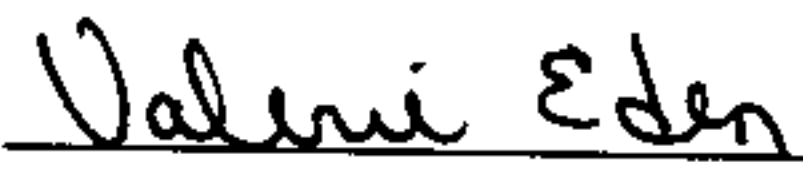


TRUST ACKNOWLEDGMENT

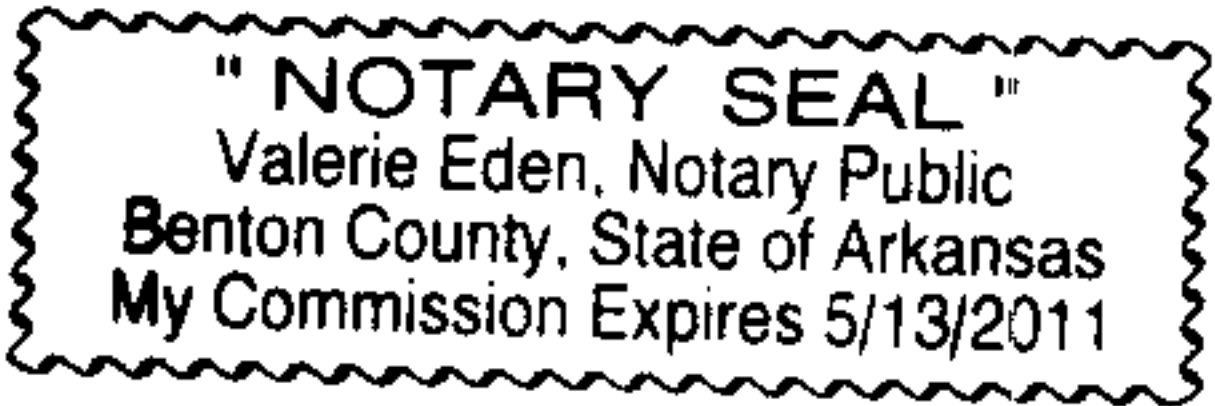
STATE OF ARKANSAS )  
 ) ss.  
COUNTY OF BENTON )

On this 3<sup>rd</sup> day of July, 2001, before me, the undersigned notary public in and for said County and State, personally appeared before me J. Scott Greear to me personally known, who, being by me duly sworn, did say that he is Director of Building Development of Wal-Mart Real Estate Business Trust and that the seal affixed to the foregoing instrument is the seal of said trust, and that said instrument was signed and sealed in behalf of said trust by authority of its Board of Directors, and said J. Scott Greear acknowledged said instrument to be the free act and deed of said trust.

WITNESS BY HAND and notarial seal subscribed and affixed in said County and State the 3<sup>rd</sup> day of July, 2001.

  
NOTARY PUBLIC

My Commission Expires:  
5-13-11



CORPORATE ACKNOWLEDGMENT

STATE OF ILLINOIS

)

) ss.

COUNTY OF COOK

)

On this 16th day of July, 2001, before me, the undersigned notary public in and for said County and State, personally appeared before me Raymond Voros to me personally known, who, being by me duly sworn, did say that he/~~she~~ is Vice President of System Capital Real Property Cororation and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said Vice President acknowledged said instrument to be the free act and deed of said corporation.

WITNESS BY HAND and notarial seal subscribed and affixed in said County and State the 16th day of July, 2001.

  
NOTARY PUBLIC

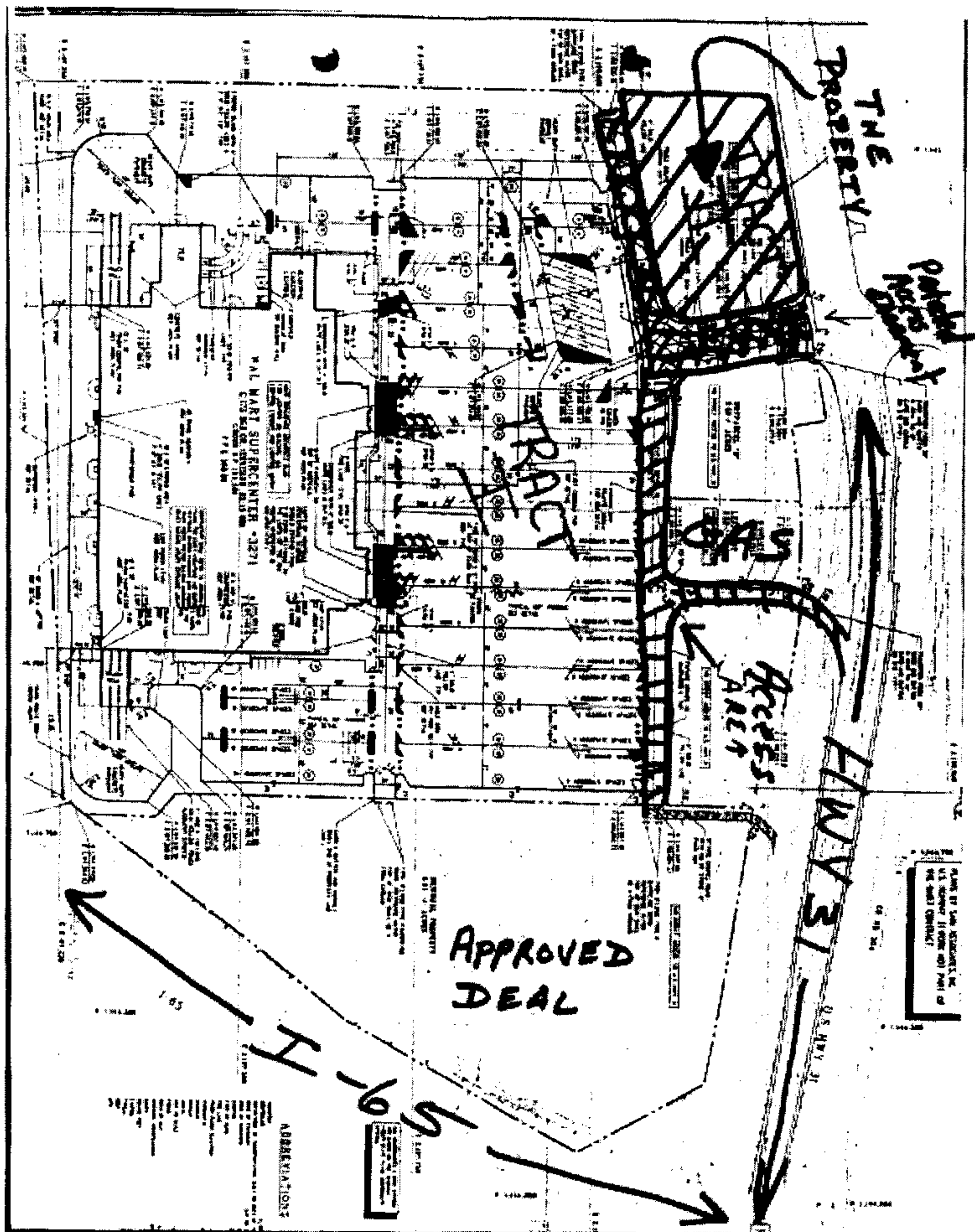
My Commission Expires:

June 9, 2002





## Site Plan



**EXHIBIT "B"**

**Tract 2**

**Lot 3, according to the Map and Survey of Wal-Mart Supercenter #3271 Subdivision,  
as recorded in Map Book 27, Page 117, in the Probate Office of Shelby County, Alabama.**

## EXHIBIT "C"

### Access Area (Part of Tract 1 legal description)

AN ACCESS AREA serving Lot 3, according to the Map and Survey of Wal-Mart Supercenter #3271 subdivision, as recorded in Map Book 27, Page 117, in the Probate Office of Shelby County, Alabama, being more particularly described as follows:

Commence at the Southwest Corner of the Southwest Quarter of the Northeast Quarter of Section 4, Township 22 South, Range 2 West, Shelby County, Alabama; thence run a plat N 02°06'24" W a distance of 512.99 feet; thence S 89°47'07" E a distance of 823.04 feet to the Northwest corner of the aforesaid Lot 3; thence continue S 89°47'07" E a distance of 213.41 feet to the Westerly Right-of-Way line of U. S. Highway 31; thence S 10°16'53" E a distance of 284.08 feet along said Westerly Right-of-Way line; thence S 52°46'38" W a distance of 21.59 feet; thence S 79°43'07" W a distance of 143.53 feet to the P.C. of a curve to the right with a radius of 43.50 feet, a central angle of 89°15'17", a chord bearing of N 55°39'15" W and a chord length of 61.12 feet; thence run Westerly, then Northerly 67.76 feet along the arc of said curve; thence N 11°01'37" W a distance of 289.86 feet to the Northwest corner of Lot 3; thence N 89°47'07" W a distance of 37.22 feet; thence S 11°01'38" E a distance of 376.94 feet; thence S 00°22'33" W a distance of 26.80 feet to the Point of Beginning of the ACCESS AREA; thence S 89°37'30" E a distance of 71.96 feet to the P.C. of a curve to the left, concave Southeasterly, with a radius of 43.50 feet, a central angle of 79°20'33", a chord bearing of S 40°02'50" W and a chord length of 55.54 feet; thence run Westerly, then Southerly 60.24 feet along the arc of said curve, being along the Westerly line of Lot 4 of said subdivision; thence S 00°22'34" W a distance of 230.62 feet along Lots 4 and 5 West line to the P.C. of a curve to the left, concave Northeasterly with a radius of 23.50 feet, a central angle of 90°00'00", a chord bearing of E 44°37'26" E and a chord length of 33.23 feet; thence run Southerly, then Easterly 36.91 feet along the arc of said curve; thence N 89°37'26" E a distance of 121.82 feet along the South line of Lot 5 to the P.C. of a curve to the right, concave Southerly with a radius of 121.50 feet, a central angle of 20°57'11", a chord bearing of S 79°08'51" E and chord length of 44.19 feet; thence run Easterly, then Southeasterly 44.43 feet along the arc of said curve to the Westerly Right-of-Way line of U.S. Highway 31 and a point on a curve, concave Westerly with a radius of 854.81 feet, a central angle of 01°57'48", a chord bearing of S 06°25'10" W and a chord length of 29.29 feet; thence run Southerly then Southwesterly 29.29 feet along the Westerly Right-of-Way line curve arc to the Northeast corner of Lot 6 of said subdivision and a point on a curve to the left, concave Southerly with a radius of 93.50, a central angle of 25°34'34", a chord bearing of N 76°50'08" W and a chord length of 41.39 feet; thence run Northwesterly, then Westerly 41.74 feet along the arc of said curve; thence S 89°37'26" W a distance of 101.82 feet along the North line of Lot 6 to the P.C. of a curve to the left, concave Southeasterly with a radius of 43.50, a central angle of 90°00'00", a chord bearing of S 45°22'34"

W and a chord length of 61.25 feet; thence run Westerly, then Southerly 68.33 feet along the arc of said curve; thence S 00°22'34" W a distance of 251.33 feet along the West line of Lot 6 to the Southeast Corner of Lot 1 of said subdivision; thence N 89°37'26" W a distance of 36.50 feet along the South line of Lot 1; thence N 00°22'33" E a distance of 619.69 feet to the Point of Beginning.

EXHIBIT "D"

A PROTECTED ACCESS AREA serving Lot 3, according to the Map and Survey of Wal-Mart Supercenter #3271 Subdivision, as recorded in Map Book 27, Page 117, in the Probate Office of Shelby County, Alabama, being more particularly described as follows:

Commence at the Southwest Corner of the Southwest Quarter of the Northeast Quarter of Section 4, Township 22 South, Range 2 West, Shelby County, Alabama; thence run a plat  $N 02^{\circ}06'24'' W$  a distance of 511.99 feet; thence  $S 89^{\circ}47'07'' E$  a distance of 821.04 feet to the Northwest corner of the aforesaid Lot 3; thence continue  $S 89^{\circ}47'07'' E$  a distance of 113.61 feet to the Westerly Right-of-Way line of U. S. Highway 31; thence  $S 10^{\circ}16'53'' E$  a distance of 284.08 feet along said Westerly Right-of-Way line to the Point of Beginning of the PROTECTED ACCESS AREA; thence  $S 52^{\circ}45'38'' W$  a distance of 21.59 feet; thence  $S 79^{\circ}43'07'' W$  a distance of 143.53 feet to the P.C. of a curve to the right with a radius of 43.50 feet, a central angle of  $89^{\circ}15'17''$ , a chord bearing of  $N 55^{\circ}39'15'' W$  and a chord length of 61.12 feet; thence run Westerly, then Northerly 67.76 feet along the arc of said curve; thence  $N 11^{\circ}01'37'' W$  a distance of 289.86 feet to the Northwest corner of Lot 3; thence  $N 89^{\circ}47'07'' W$  a distance of 37.22 feet; thence  $S 11^{\circ}01'38'' E$  a distance of 376.94 feet; thence  $S 00^{\circ}22'33'' W$  a distance of 26.80 feet; thence  $S 89^{\circ}37'30'' E$  a distance of 71.96 feet; thence  $N 79^{\circ}43'07'' E$  a distance of 120.73 feet; thence  $S 10^{\circ}16'53'' E$  a distance of 5.00 feet; thence  $N 79^{\circ}43'01'' E$  a distance of 40.28 feet; thence  $S 65^{\circ}30'48'' E$  a distance of 18.21 feet to the Westerly Right-of-Way line of U. S. Highway 31; thence  $N 10^{\circ}16'53'' W$  a distance of 102.17 feet to the Point of Beginning.

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