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Shelby Cnty Judge of Probate, AL
09/05/2007 10:48:48AM FILED/CERT

Prepared by: Douglas J. Centeno
BENTON & CENTENO, LLP
2019 Third Avenue North
Birmingham, Alabama 35203

STATE OF ALABAMA)
COUNTY OF SHELBY)

VERIFIED CLAIM OF LIEN

Richards & Sons Construction, a corporation qualified under the laws of the State of Alabama, by and through Fred Richards, its President, who has personal knowledge of the facts herein set out, files this statement in writing, verified by his oath.

Richards & Sons Construction, a corporation, claims a lien upon the following property situated in Shelby County, Alabama, more particularly described as follows, to wit:

See Exhibits "A", "A-1" and "B", and also known as:
Colonial Promenade Alabaster Shopping Center

This lien is claimed, separately and severally, as to the land, buildings and improvements located thereon to the extent of the entire lot or parcel which is contained within a city or town. If said land is not within a city or town, this lien is claim, separately and severally, as to the buildings and improvements located on the above described real estate, plus one (1) acre of land surrounding and contiguous thereto. This lien is claimed on the above mentioned real estate, plus improvements, to secure indebtedness owed by Bellanca Paving, Inc. in the amount of \$10,195.00, which is due and owing after all just credits have been given, on the 29th day of August, 2007, and which sum of money, together with reasonable attorney's fees and interest thereon, is due and unpaid.

This sum of money is due and owing for the supplies of paving materials and other related materials for improvements at the Colonial Promenade Alabaster Shopping Center, Alabaster, Alabama said materials being used in the erection of improvements on the above described property.

The names of the owners/landlords or proprietors of the said property is Highway 31 Alabaster Two, LLC c/o Colonial Realty Limited Partnership.

Richards & Sons Construction

By: 
Fred Richards, President


Before me, the undersigned, a Notary Public, in and for the County of Shelby, State of Alabama, personally appeared Fred Richards, who being duly sworn, doth depose and say: that he has personal knowledge of the facts set forth in the foregoing statement of lien and that the same are true and correct to the best of his knowledge and belief.


Fred Richards, Affiant

Subscribed and sworn to before me on this the 29th day of August, 2007, by said affiant.


Notary Public NOTARY PUBLIC STATE OF ALABAMA AT LARGE
My Commission Expires MY COMMISSION EXPIRES Apr 5, 2011
BONDED THROUGH NOTARY PUBLIC UNDERWRITERS

EXHIBIT A


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This Instrument Was Prepared By
And, After Recording, Return To:

Hartman, Simons, Spielman & Wood, LLP
6400 Powers Ferry Road, Suite 400
Atlanta, Georgia 30339
Attn: Abbye Goodling, Esq.

Shelby County, AL 03/12/2007
State of Alabama

Deed Tax: \$1285.00

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE (hereinafter the "Memorandum") is made and entered into effective as of the 16th day of February, 2007, by and between **HIGHWAY 31 ALBASTER TWO, LLC**, an Alabama limited liability company having an address of c/o Colonial Realty Limited Partnership, 2101 6th Avenue North, Suite 750 Birmingham, Alabama 35203, Attention: Legal Department (hereinafter called "Landlord"), and **RARE HOSPITALITY INTERNATIONAL, INC.**, a Georgia corporation, having an address of 8215 Roswell Road, Building 600, Atlanta, Georgia 30350, Attn: Legal Department (hereinafter called "Tenant").

1. **PREMISES.** For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and pursuant to the terms of that certain Operation and Easement Agreement by and between Target Corporation, Highway 31 Alabaster LLC and Landlord dated January 13, 2006 ("OEA") and provisions of that certain Ground Lease of dated as of November 30, 2006 between Landlord and Tenant (hereinafter the "Lease"), Landlord leases to Tenant and Tenant leases from Landlord that certain premises containing approximately 1.40 acres and more particularly described in **Exhibit "A-1"** attached hereto and incorporated herein by this reference (hereinafter the "Premises") in the Colonial Promenade Alabaster Shopping Center (the "Shopping Center") in the City of Alabaster, Alabama, together with, subject to the OEA, (i) the right and non-exclusive easement to use, for itself, its employees, customers and invitees the Common Area (including, without limitation, the parking areas, walkways, roads and driveways in the Shopping Center), (ii) the right and non-exclusive easement to tap into all utility lines in the Shopping Center, (iii) the right and non-exclusive easement to discharge storm water into the storm water drainage system serving the Shopping Center and the right to detain storm water in the storm water detention facility serving the Shopping Center, (iv) the right and non-exclusive easement to have storm water runoff from the Premises pass to all land adjacent to the Premises, subject to all applicable laws, codes and ordinances, and (vi) the right and non-exclusive easement to have a monument sign at the location shown on **Exhibit "A"**. A legal description of the Shopping Center is attached hereto as **Exhibit "B"**.

2. **TERM.** The term of the Lease is fifteen (15) years on and after the Rent Commencement Date specified in the Lease, together with the options set forth in Paragraph 3 below and upon all the provisions set forth in the Lease, all of which provisions are specifically made a part hereof as fully and completely as if set out in full herein.



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3. OPTIONS TO EXTEND TERM. Reference is particularly made to Section 3.2 of the Lease wherein Tenant is given the option to extend the term of the Lease on the terms and conditions set forth therein for up to three (3) option periods of five (5) years each.

4. EXCLUSIVE USE. Reference is particularly made to Section 23.1 of the Lease wherein Tenant has been granted the following exclusive use rights (the "Exclusive Use"): Landlord will not use, lease, or permit more than one (1) other Tenant (the "Other Steakhouse Operator") in any portion of the Shopping owned or controlled by Landlord to be used for the purpose of a steakhouse restaurant similar to LongHorn Steakhouse, including but not limited to such steakhouse restaurants as: "Chop House", "Golden Corral", "Logan's Roadhouse", "Lone Star Steakhouse", "Original Roadhouse Grill", "Outback Steakhouse", "Roadhouse Grill", "Ryan's Steakhouse", "Sagebrush", "Saltgrass Steakhouse", "Sizzler", "Smokey Bones", "Steak and Ale", "Ted's Montana Grill", "Texas Roadhouse", "Texas Steakhouse", "Trail Dust Steakhouse", "Tumbleweed" or such similar restaurant concepts. Notwithstanding anything to the contrary contained herein, Landlord (or its affiliated entities) shall not be permitted to locate the Other Steakhouse Operator on any of the outparcels located on Highway 31 as shown on Exhibit "A" as the "Restricted Outparcel Area". For purposes of this Section, "owned or controlled by Landlord" shall include, but not be limited to, property owned or controlled directly or indirectly by Landlord, or property owned or controlled in whole or in part by one or more of the shareholders, members, principals or partners of Landlord. This restriction shall attach to and run with the restricted land for the term of the Lease, and shall be binding upon Landlord's heirs, personal representatives, successors and assigns. In the event that Tenant changes its use of the Premises from that of a steakhouse restaurant for a period of six (6) months, then the exclusive use provision set forth in Article 23 of the Lease shall automatically terminate and be of no further force and effect. Notwithstanding anything to the contrary contained herein, the Exclusive Use restriction set forth in Section 23.1 of the Lease shall be subject to the rights of tenants under existing leases in the Shopping Center; provided, however, to the extent that Landlord has consent rights over any existing tenant's right to change its use or assign its lease or sublet its premises, then Landlord agrees that it shall not consent to any change in use, assignment or subletting which is in violation of the Exclusive Use.

5. TENANT'S PROTECTED AREA. Reference is particularly made to Section 9.2 of the Lease wherein Landlord covenants that, at all times during the Term: (i) no buildings or similar structures shall be constructed in the Tenant's Protected Area, and (ii) no access roads and/or drives within Tenant's Protected Area may be changed or eliminated, except by eminent domain or other reason beyond Landlord's control, in which case the provisions of Section 17.1 of the Lease shall control.

6. COMMON AREA MAINTENANCE. As Tenant's contribution to roadway and other Common Area maintenance, Tenant covenants and agrees to pay Landlord the sum of One Thousand and Five Hundred and 00/100 Dollars (\$1,500.00) on or before January 1 of each calendar year (the "Common Area Maintenance Contribution"). In the event that the Rent Commencement Date occurs other than on January 1, then on the Rent Commencement Date Tenant shall pay to Landlord its annual Common Area Maintenance Contribution prorated for the portion of the calendar year remaining following the Rent Commencement Date. Notwithstanding any language to the contrary contained herein, after the first full Lease Year, the

Common Area Maintenance Contribution shall increase by three percent (3.00%) over the preceding lease year on each January 1st thereafter. The Common Area Maintenance Contribution due and payable pursuant to Section 9.3 shall be in lieu of any payment required to be made by an owner or occupant of an outparcel pursuant to the terms of the OEA. In the event that Landlord is not the "Operator" (as defined in the OEA), then Landlord shall be obligated to pay the Outparcel Contribution (as defined in the OEA) applicable to the Premises to the Operator and Tenant shall have no obligation to make such Outparcel Contribution.

6. PURPOSE OF MEMORANDUM. This Memorandum is prepared for the purposes of recording and in no way modifies the express and particular provisions of the Lease. The provisions and terms of the Lease shall control in the event of any conflict between the terms of this Memorandum and the terms of the Lease. A complete copy of the Lease may be found at the offices of Tenant or Landlord. Terms used in this Memorandum that are capitalized herein but are not otherwise defined in this Memorandum shall have the specific definition ascribed to that particular capitalized term in the Lease.

7. FOR THE BENEFIT OF THE PREMISES; GOVERNING LAW. It is the intention of Landlord and Tenant that the covenants described and referred to herein shall be binding on their respective successors, heirs and assigns, as the case may be, and on each successive owner of the Shopping Center, or of any portion thereof, and each person having any interest therein derived through any owner thereof. This Memorandum shall be construed in accordance with the laws of the state in which the Shopping Center is located.

SIGNATURES COMMENCE ON NEXT PAGE

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

LANDLORD:

HIGHWAY 31 ALABASTER TWO, LLC
an Alabama limited liability company

By: Colonial Properties Trust, an Alabama
Real Estate Investment Trust
Its: General Partner

By: [Signature]
Name: BRIAN J. NELTNER
Title: SENIOR VICE PRESIDENT
Date:

Signed, sealed and delivered
in the presence of:

[Signature]
Witness

[Signature]
Witness

STATE OF Alabama
COUNTY OF Jefferson

On February 16, 2007, before me, Jessica Leigh Todd, a Notary Public, in and for said State, personally appeared Brian J. Neltner, Senior Vice President of Highway 31 Alabaster Two, LLC, an Alabama limited liability company, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, of the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal

[Signature]
Notary Public
My commission expires: Nov. 8, 2010

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TENANT:

RARE HOSPITALITY INTERNATIONAL, INC.

By: [Signature]

Name: Joia M. Johnson
Executive Vice President, Secretary

Title: _____

Signed, sealed and delivered
in the presence of:

[Signature]
Witness

[Signature]
Witness

STATE OF Georgia
COUNTY OF Fulton

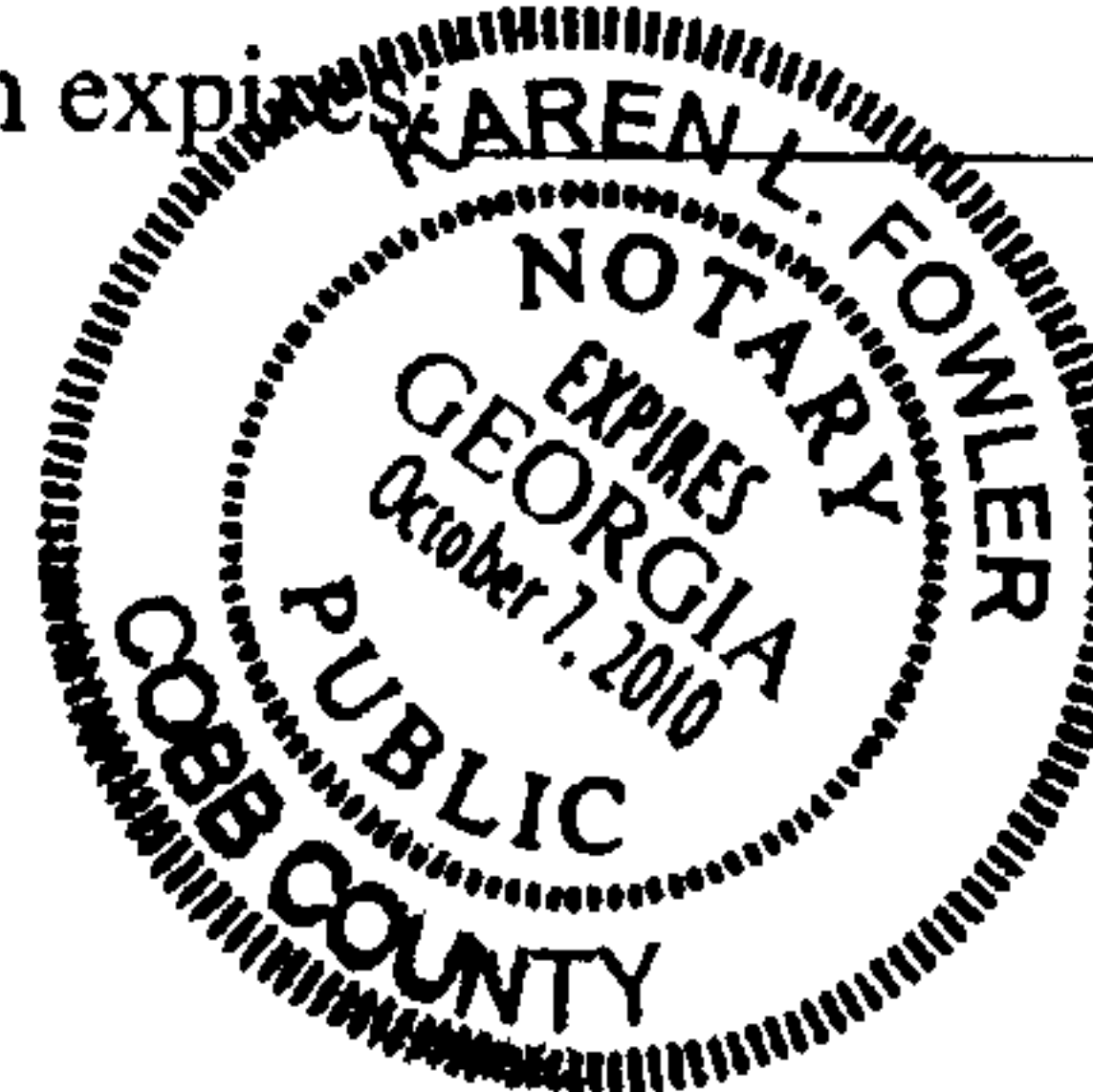
On January 17, 2007, before me, Karen L. Fowler, a Notary Public, in and for said State, personally appeared Joia M. Johnson, Corp. Sec. of RARE Hospitality International, Inc., a Georgia corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, of the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal

Karen L. Fowler

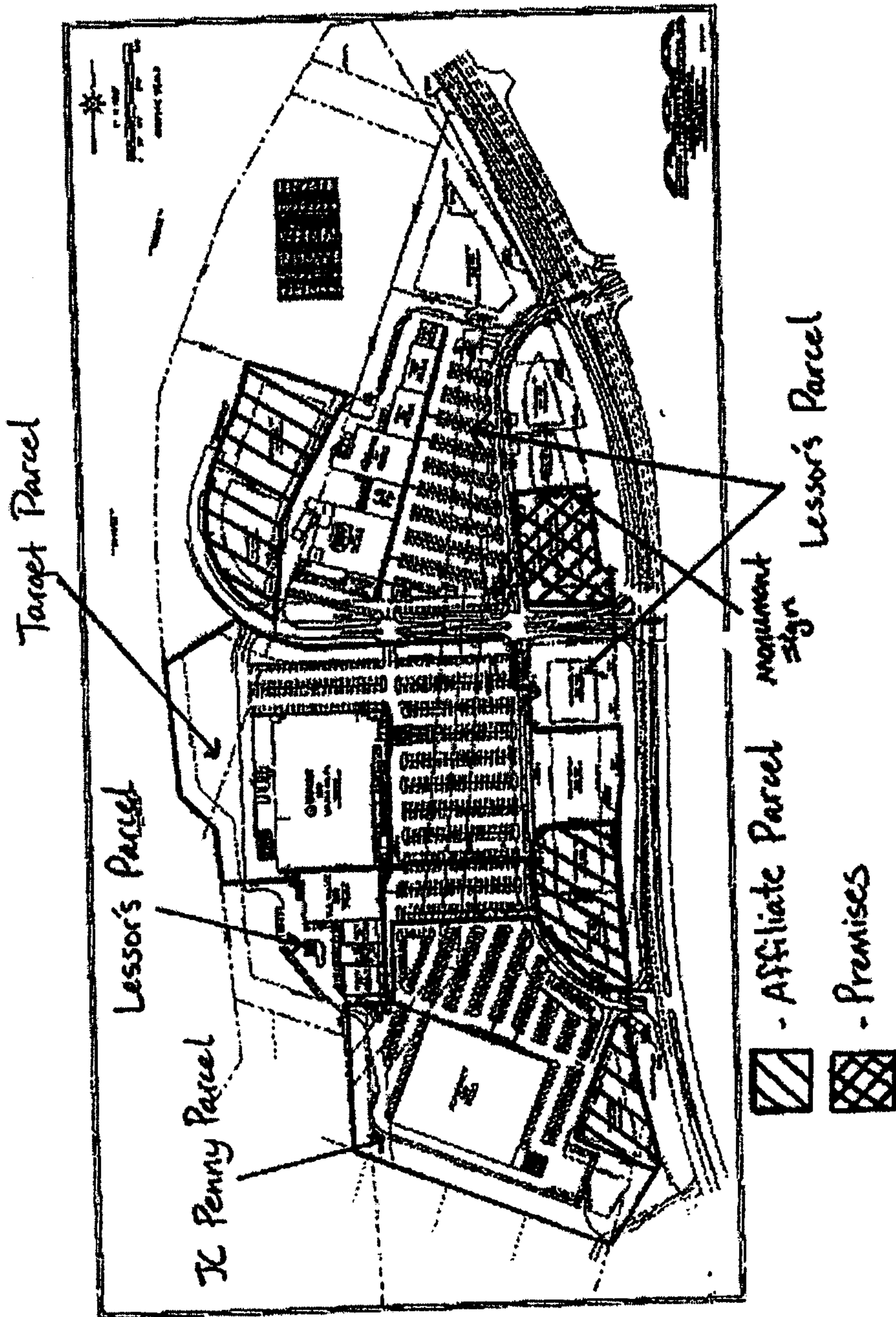
Notary Public

My commission expires _____



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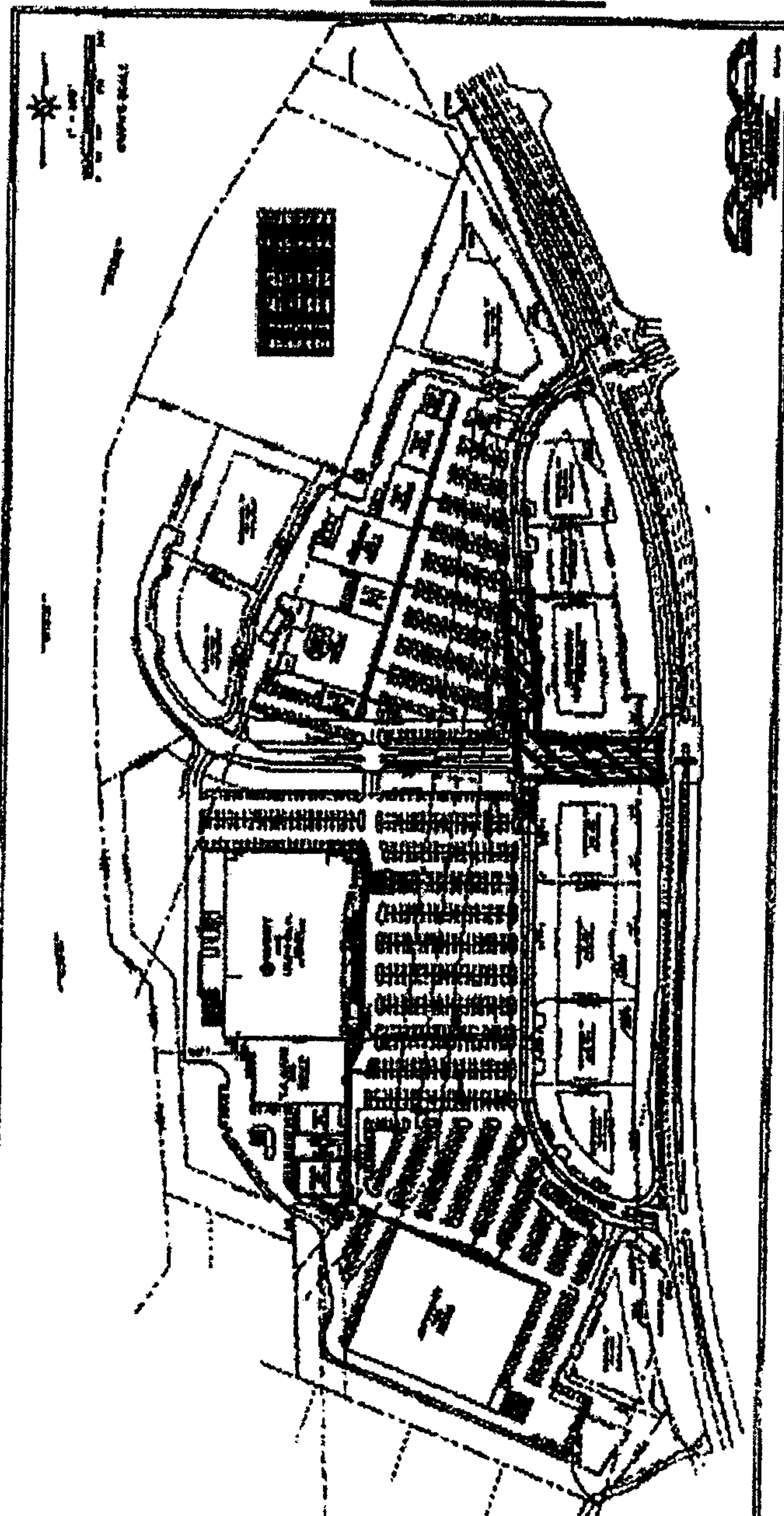
EXHIBIT "A"





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EXHIBIT "A"



▨ - Access Drive Work
And
Lessee's Protected Area

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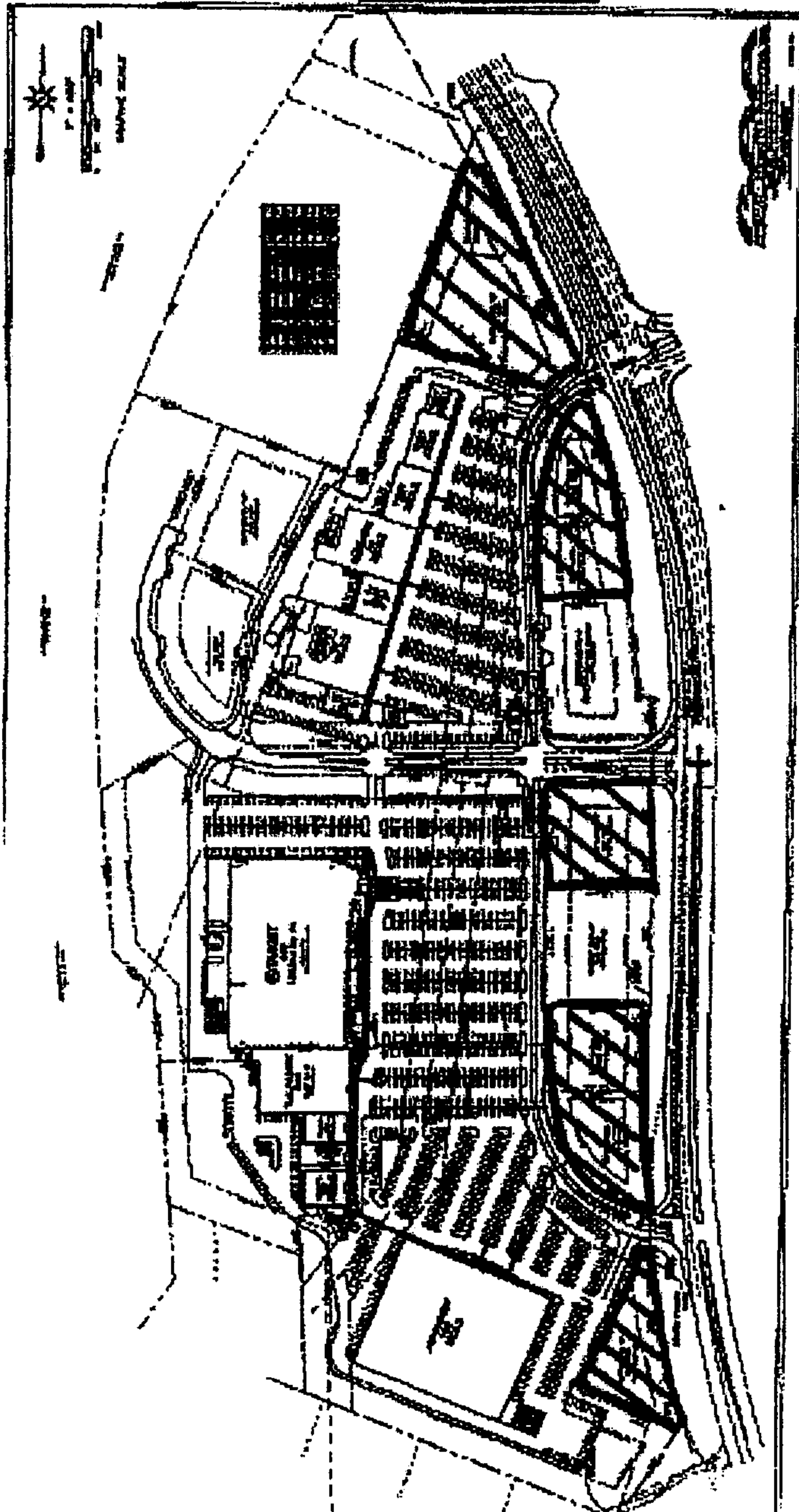
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EXHIBIT "A"



▨ - Restricted Outparceled Area

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EXHIBIT "A-1"

Legal Description of Premises

OUTPARCEL 5

A parcel of land situated in the Northwest one-quarter of the Northeast one-quarter of Section 12, Township 21 South, Range 3 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Southeast corner of the Southwest one-quarter of the Northeast one-quarter of said Section; thence run North 02 degrees 27 minutes 46 seconds West along the East line thereof for a distance of 36.91 feet; thence run North 41 degrees 36 minutes 27 seconds East for a distance of 23.06 feet; thence run North 14 degrees 14 minutes 05 seconds East for a distance of 196.57 feet to a point on the Westernmost right of way line of U.S. Highway 31 (right of way varies) and a point on a curve to the right, said curve having a radius of 2411.83 feet, a central angle of 10 degrees 42 minutes 14 seconds, a chord bearing of North 30 degrees 13 minutes 11 seconds West for a chord distance of 449.92 feet; thence run along arc of said curve and along said right of way for a distance of 450.57 feet; thence run North 68 degrees 29 minutes 48 seconds East for a distance of 9.96 feet to a point on the Westernmost right of way line of U.S. Highway 31 (right of way varies) and the point of commencement of a curve to the right, said curve having a radius of 2401.83 feet, a central angle of 04 degrees 34 minutes 11 seconds, a chord bearing of North 24 degrees 09 minutes 33 seconds West for a chord distance of 191.51 feet; thence run along arc of said curve and along said right of way for a distance of 191.57 feet to the point of commencement of a spiral curve; thence run North 21 degrees 04 minutes 52 seconds West for a chord distance of 71.75 feet to a point on a spiral curve; thence run North 19 degrees 05 minutes 03 seconds West for a chord distance of 182.06 feet to a point on a spiral curve; thence run North 18 degrees 10 minutes 10 seconds West for a chord distance of 53.16 feet; thence leaving said spiral curve, run North 20 degrees 02 minutes 14 seconds West along said right of way for a distance of 197.87 feet; thence run North 20 degrees 02 minutes 14 seconds West along said right of way for a distance of 92.77 feet; thence run North 20 degrees 39 minutes 53 seconds West along said right of way for a distance of 127.40 feet; thence run along last described course along said right of way for a distance of 100.00 feet to the POINT OF BEGINNING; thence run South 69 degrees 47 minutes 27 seconds West for a distance of 204.58 feet to the point of commencement of a curve to the right, said curve having a radius of 20.00 feet, a central angle of 86 degrees 44 minutes 28 seconds, a chord bearing of North 66 degrees 50 minutes 19 seconds West for a chord distance of 27.47 feet; thence run along arc of said curve for a distance of 30.28 feet; thence run North 23 degrees 28 minutes 05 seconds West for a distance of 275.14 feet; thence run North 66 degrees 31 minutes 55 seconds East for a distance of 187.02 feet to a point on the Westernmost right of way line of U.S. Highway 31 (right of way varies) and a point on a curve to the right, said curve having a radius of 2162.01 feet, a central angle of 05 degrees 46 minutes 58 seconds, a chord bearing of South 26 degrees 36 minutes 05 seconds East for a chord distance of 218.11 feet; thence run along arc of said curve and along said right of way for a distance of 218.21 feet; thence run North 64 degrees 12 minutes 56 seconds East along said right of way for a distance of 28.61 feet; thence run South 20 degrees 39 minutes 53 seconds East along said right of way for a distance of 90.21 feet to the POINT OF BEGINNING. Said parcel contains 60,979 square feet or 1.40 acres more or less.

EXHIBIT "B"

Legal Description of the Lessor's Parcel

A parcel of land situated in the Southwest one-quarter of the Northeast one-quarter of Section 12, Township 21 South, Range 3 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Southeast corner of said Southwest one-quarter of the Northeast one-quarter and run North 87 degrees 51 minutes 24 seconds West along the South line of said quarter-quarter for a distance of 716.00 feet; thence leaving said South line run North 22 degrees 00 minutes 08 seconds West for a distance of 295.00 feet to the POINT OF BEGINNING; thence run North 89 degrees 10 minutes 01 seconds West for a distance of 297.23 feet to a point on the Easternmost right of way line of Interstate 65 (right of way varies); thence run North 24 degrees 39 minutes 45 seconds West along said right of way for a distance of 303.47 feet; thence leaving said right of way, run North 69 degrees 47 minutes 27 seconds East for a distance of 169.72 feet; thence run North 20 degrees 12 minutes 33 seconds West for a distance of 30.00 feet; thence run North 69 degrees 47 minutes 27 seconds East for a distance of 273.86 feet; thence run North 58 degrees 46 minutes 41 seconds East for a distance of 30.56 feet; thence run North 69 degrees 47 minutes 27 seconds East for a distance of 143.11 feet; thence run South 20 degrees 12 minutes 33 seconds East for a distance of 32.65 feet to the point of commencement of a curve to the left, said curve having a radius of 287.00 feet, a central angle of 10 degrees 14 minutes 21 seconds, a chord bearing of South 25 degrees 30 minutes 31 seconds East for a chord distance of 51.09 feet; thence run along arc of said curve for a distance of 51.16 feet; thence run South 69 degrees 47 minutes 27 seconds West for a distance of 145.77 feet; thence run South 20 degrees 12 minutes 33 seconds East for a distance of 20.00 feet; thence run South 69 degrees 47 minutes 27 seconds West for a distance of 241.45 feet; thence run South 20 degrees 12 minutes 33 seconds East for a distance of 207.90 feet; thence run South 69 degrees 47 minutes 27 seconds West for a distance of 135.72 feet; thence run South 22 degrees 00 minutes 08 seconds East for a distance of 34.31 feet to the POINT OF BEGINNING. Said parcel contains 208,998 square feet or 4.80 acres more or less.

DEVELOPER PARCEL 2

A parcel of land situated in part of the Northeast one-quarter of the Northwest one-quarter, the Southeast quarter of the Northwest quarter, the Northwest one-quarter of the Northeast one-quarter and the Southwest one-quarter of the Northeast one-quarter of Section 12, Township 21 South, Range 3 West, Shelby County, Alabama, being more particularly described as follows:

(Continued on Following Page)

Begin at the Southeast corner of the Northeast one-quarter of the Northwest one-quarter of said Section; thence run South 87 degrees 31 minutes 35 seconds East along the South line of said quarter-quarter for a distance of 174.79 feet; thence run South 69 degrees 47 minutes 27 seconds West for a distance of 142.65 feet to the point of commencement of a curve to the right, said curve having a radius of 275.00 feet, a central angle of 25 degrees 15 minutes 58 seconds, a chord bearing of North 35 degrees 08 minutes 01 seconds West for a chord distance of 134.30 feet; thence run along arc of said curve for a distance of 135.67 feet to the point of commencement of a curve to the left, said curve having a radius of 40.60 feet, a central angle of 117 degrees 39 minutes 27 seconds, a chord bearing of North 30 degrees 10 minutes 15 seconds East for a chord distance of 68.45 feet; thence run along arc of said curve for a distance of 82.14 feet; thence run North 08 degrees 39 minutes 29 seconds West for a distance of 219.88 feet; thence run North 05 degrees 08 minutes 18 seconds East for a distance of 343.64 feet; thence run South 89 degrees 27 minutes 02 seconds East for a distance of 46.08 feet; thence run South 00 degrees 28 minutes 59 seconds West for a distance of 548.72 feet to the POINT OF BEGINNING. Said parcel contains 41,471 square feet or 0.95 acres more or less.

OUTPARCEL 5-2

A parcel of land situated in part of the Southwest one-quarter of the Northeast one-quarter and the Northwest one-quarter of the Northeast one-quarter of Section 12, Township 21 South, Range 3 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Southeast corner of the said Southwest one-quarter of the Northeast one-quarter of said Section; thence run North 02 degrees 27 minutes 45 seconds West along the East line thereof for a distance of 36.91 feet; thence run North 41 degrees 36 minutes 27 seconds East for a distance of 23.05 feet; thence run North 14 degrees 14 minutes 03 seconds East for a distance of 196.57 feet to a point on the Westernmost right of way line of U.S. Highway 31 (right of way varies) and a point on a curve to the right, said curve having a radius of 2411.83 feet, a central angle of 10 degrees 42 minutes 14 seconds, a chord bearing of North 30 degrees 19 minutes 11 seconds West for a chord distance of 449.92 feet; thence run along arc of said curve and along said right of way for a distance of 450.57 feet; thence run North 68 degrees 29 minutes 48 seconds East for a distance of 9.56 feet to a point on the Westernmost right of way line of U.S. Highway 31 (right of way varies) and the point of commencement of a curve to the right, said curve having a radius of 2401.83 feet, a central angle of 04 degrees 34 minutes 11 seconds, a chord bearing of North 24 degrees 09 minutes 33 seconds West for a chord distance of 191.51 feet; thence run along arc of said curve and along said right of way for a distance of 191.57 feet to the point of commencement of a spiral curve; thence run North 21 degrees 04 minutes 52 seconds West for a chord distance of 71.75 feet to a point on a spiral curve; thence run North 19 degrees 05 minutes 09 seconds West for a chord distance of 182.06 feet to a point on a spiral curve; thence run North 18 degrees 10 minutes 10 seconds West for a chord distance of 53.16 feet; thence leaving said spiral curve, run North 20 degrees 02 minutes 14 seconds West along said right of way for a distance of 197.87 feet to the POINT OF BEGINNING; thence leaving said right of way, run South 69 degrees 47 minutes 27 seconds West for a distance of 202.12 feet

(Continued on Following Page)

to the point of commencement of a curve to the right, said curve having a radius of 20.00 feet, a central angle of 39 degrees 58 minutes 38 seconds, a chord bearing of North 65 degrees 13 minutes 04 seconds West for a chord distance of 28.28 feet; thence run along arc of said curve for a distance of 51.41 feet; thence run North 20 degrees 23 minutes 35 seconds West for a distance of 85.90 feet to a point on the North line of the Southwest one-quarter of the Northeast one-quarter of said Section; thence run South 87 degrees 31 minutes 35 seconds East along said North line for a distance of 240.81 feet to a point on the Westernmost right of way line of U.S. Highway 31 (right of way varied); thence run South 20 degrees 02 minutes 14 seconds East along said right of way for a distance of 14.05 feet to the POINT OF BEGINNING. Said parcel contains 13,346 square feet or 0.31 acres more or less.

TOGETHER WITH:

A parcel of land situated in the Northwest one-quarter of the Northeast one-quarter of Section 12, Township 21 South, Range 3 West, Shelby County, Alabama, being more particularly described as follows:

Begin at the Southwest corner of the said Northwest one-quarter of the Northeast one-quarter and run North 00 degrees 28 minutes 59 seconds East along the West line for a distance of 1264.19 feet to a point on the Southwesternmost right of way line of U.S. Highway 31 (right of way varied); thence run South 50 degrees 14 minutes 28 seconds East along said right of way for a distance of 290.23 feet to the point of commencement of curve to the right, said curve having a radius of 2192.01 feet, a central angle of 14 degrees 27 minutes 05 seconds, a chord bearing of South 40 degrees 48 minutes 44 seconds East for a chord distance of 551.41 feet; thence run along arc of said curve and along said right of way for a distance of 552.88 feet; thence run South 56 degrees 37 minutes 09 seconds West along said right of way for a distance of 29.99 feet to the point of commencement of a curve to the right, said curve having a radius of 2182.01 feet, a central angle of 09 degrees 55 minutes 58 seconds, a chord bearing of South 28 degrees 40 minutes 35 seconds East for a chord distance of 374.33 feet; thence run along arc of said curve and along said right of way for a distance of 374.80 feet; thence run North 64 degrees 12 minutes 56 seconds East along said right of way for a distance of 28.61 feet; thence run South 20 degrees 39 minutes 53 seconds East along said right of way for a distance of 317.62 feet; thence run South 20 degrees 02 minutes 14 seconds East along said right of way for a distance of 78.74 feet to a point on the South line of said quarter-quarter; thence leaving said right of way, run North 87 degrees 31 minutes 35 seconds West along said South line for a distance of 916.78 feet to the POINT OF BEGINNING. Said parcel contains 711,462 square feet or 16.33 acres more or less.