

Charles Smith
1706 St. Paul's Hill, N.Y.

2. The plaintiff, Charles Smith's motion for a new trial is considered as a motion to amend the decree and is partially granted. The Final Judgment of Divorce rendered on the 16th day of November, 1978, is hereby amended as follows:

(a) Paragraph No. 7 is hereby stricken in its entirety and amended as follows:

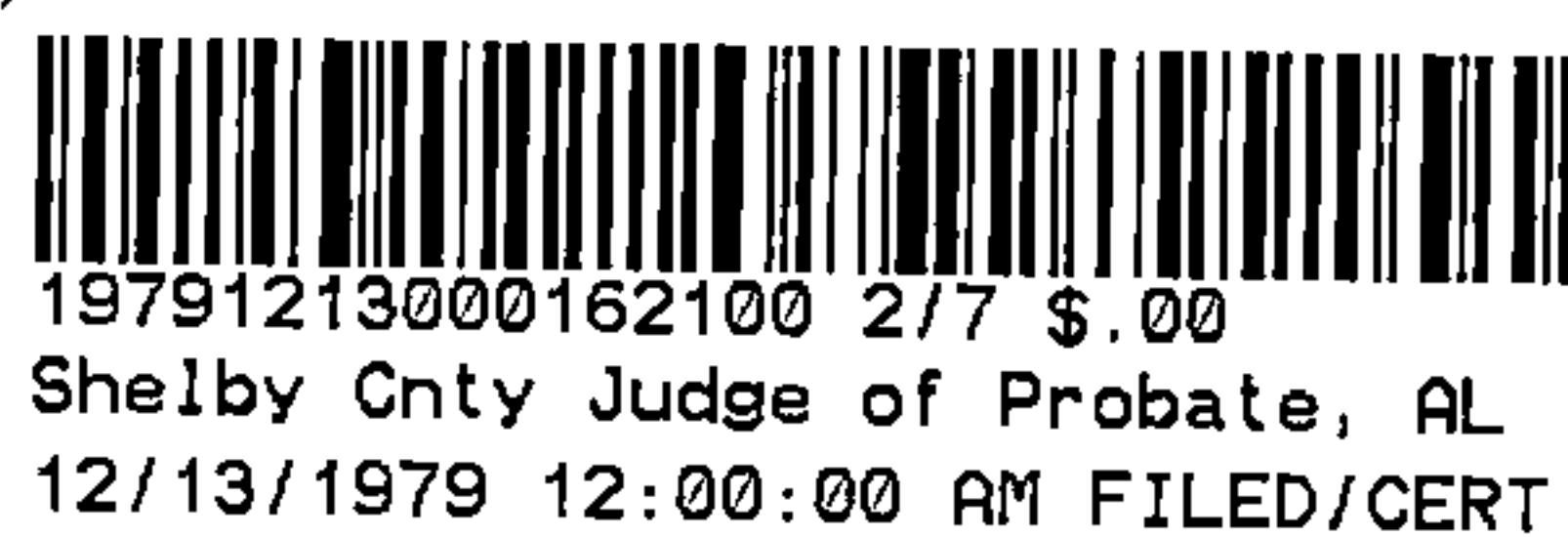
(7.) The plaintiff, Charles Smith, is hereby divested of all right, title and interest in and to the following described real property, and all right, title and interest in and to the herein described real property is vested in the defendant, Mildred Virginia Phillips Smith, as follows, to-wit:

PARCEL 2: The following is a description of a tract of land situated in the SE 1/4 of the NW 1/4 of Section 35, Township 19 South, Range 3 West, Shelby County, Alabama, and being more particularly described as follows: Commence at the NE corner of said 1/4 - 1/4, said corner also being the point of beginning; thence South along the East line of said 1/4 - 1/4, 170.80 feet; thence 112°42'07" right, 68.83 feet; thence 67°17'53" right, 59.23 feet; thence 65°41'09" right, 28.00 feet; thence 65°42'01" left, 73.80 feet, thence 90°29'54" right, 38.00 feet to the point of beginning and containing 7,987 square feet or 0.18 acres, more or less.

PARCEL 3: The following is a description of a tract of land situated in the SE 1/4 of the NW 1/4 of Section 35, Township 19 South, Range 3 West, Shelby County, Alabama, and being more particularly described as follows: Commence at the NE corner of said 1/4 - 1/4, thence South along the East line of said 1/4 - 1/4, 177.27 feet to the point of beginning; thence continue along last stated course, 63.10 feet to the Northerly right-of-way of Riverchase Parkway West; thence 35°45'38" right, along said right-of-way, 71.17 feet; thence 133°07'44" right, leaving right-of-way, 8.80 feet; thence 27°22'45" right, 30.13 feet; thence 06°26'00" right, 90.29 feet to the point of beginning and containing 1,746 square feet or 0.04 acres, more or less.

The plaintiff, Charles Smith, is hereby directed to execute a deed conveying all of his right, title and interest in the aforesaid property to the defendant, Mildred Virginia Phillips Smith. The defendant, Mildred Virginia Phillips Smith, shall execute an easement to the plaintiff for the joint use of the driveway contained in Parcel 3 as more specifically set out in the survey of Lowe Engineers dated January 9, 1979, which is attached to this decree and made a part hereof.

(b) Paragraph No. 8 is hereby stricken in its entirety and amended as follows:



(8.) The defendant, Mildred Virginia Phillips Smith, is hereby divested of all right, title and interest in and to the following described real property, and the plaintiff, Charles Smith, is hereby invested with the right, title and interest in and to the following described real property, to-wit:

BOOK 34 PAGE 83

PARCEL 4: The following is a description of a tract of land situated in the SE 1/4 of the NW 1/4 of Section 35, Township 19 South, Range 3 West, Shelby County, Alabama, and being more particularly described as follows: Commence at the NE corner of said 1/4-1/4; thence South along the East line of said 1/4-1/4; 170.80 feet to the point of beginning; thence continue along last stated course, 6.47 feet; thence 22°42'07" right, 90.29 feet; thence 06°26'00" left, 30.13 feet; thence 27°22'45" left 8.80 feet to the Northerly right-of-way of Riverchase Parkway West; thence 46°52'16" right, along said right-of-way, 90.50 feet to a curve to the right, said curve having a central angle of 08°37'42" and a radius of 470.00 feet; thence along the arc of said curve and right-of-way, 70.78 feet; thence 91°10'18" right to tangent of said curve and leaving said right-of-way, 80.11 feet; thence 44°28'35" right, 300.06 feet; thence 102°02'27" right, 98.19 feet; thence 18°15'40" left, 36.60 feet; thence 96°11'01" right, 59.23 feet; thence 67°17'53" left, 68.83 feet to the point of beginning and containing 46,878 square feet or 1.08 acres, more or less.

The defendant, Mildred Virginia Phillips Smith, is hereby directed to execute a deed conveying all her right, title and interest in and to the aforesaid property to the plaintiff.

The Court further establishes a restrictive covenant on that portion of Parcel 4 of that certain survey of Lowe Engineers dated January 9, 1979, which is attached to this decree, which is designated in said survey as Tract "A" and Tract "B" which is colored in red. Said restrictive covenant restricts plaintiff, Charles Smith, and prohibits him from building any house, residence, structure or building of any kind whatsoever, fence, garage or pump house on any portion of the restricted area set out in Tracts A and B of Lowe Engineers survey attached to this decree, without the express approval of defendant, Mildred Virginia Phillips Smith, her heirs or assigns. However, plaintiff may construct field lines and a septic tank on said Tracts A and B. This restrictive covenant shall be a covenant that runs with the land and appurtenant to and for the use and benefit of Parcels 1, 2 and 3 of Lowe Engineers survey. Plaintiff, Charles Smith, shall cause the surveyor to adequately



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Shelby Cnty Judge of Probate, AL
12/13/1979 12:00:00 AM FILED/CERT

describe Tracts A and B as set out in Lowe Engineers survey and to confirm in the conveyance from the defendant, Mildred Virginia Phillips Smith, to the plaintiff, Charles Smith, such restrictive covenant. Said restrictive covenant shall be contained in the deed from the defendant, Mildred Virginia Phillips Smith, to the plaintiff, Charles Smith, of Parcel 4 as set out in this paragraph.

(c) Paragraph No. 9 is hereby stricken in its entirety and amended as follows:

(9.) The defendant Tri-Smith Properties, Inc. is hereby divested of all right, title and interest in and to the real estate hereinafter described, and the defendant, Mildred Virginia Phillips Smith, is hereby vested with all right, title and interest in and to the following described real property, to-wit:

70
34
PAGE
begin

PARCEL 1: The following is a description of a tract of land situated in the SW 1/4 of the NE 1/4 of Section 35, Township 19 South, Range 3 West, Shelby County, Alabama and being more particularly described as follows: Commence at the NW corner of said 1/4 - 1/4, said corner also being the point of beginning; thence East along the North line of said 1/4 - 1/4, 38.07 feet; thence 89°30'58" right, 187.18 feet to the Northerly right-of-way of Riverchase Parkway West; thence 35°45'38" right, along said right-of-way, 65.15 feet; thence 144°14'22" right, leaving said right-of-way, 240.37 feet to the point of beginning and containing 8,139 square feet or 0.19 acres, more or less.

The defendant, Tri-Smith Properties, Inc. is hereby directed to execute a deed of conveyance conveying all of its right, title and interest in the aforesaid property to the defendant, Mildred Virginia Phillips Smith.

3. The Court further amends the Final Judgment of Divorce by adding the following:

(15.) The Court creates and establishes for the use and benefit of Parcels 1, 2 and 3 of Lowe Engineers Survey, as well as for the use and benefit of Parcel 4 of Lowe Engineers survey, an easement for a joint driveway, which said driveway runs along the common boundary line between Parcel 3 and Parcel 4, Tract B, as set out in Lowe Engineers survey to this decree, being a driveway of uneven width extending from the right-of-way line of Riverchase Parkway West in a generally northeasterly direction until it intersects with the western boundary line of Parcel 1 of Lowe



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Engineers survey, and being an asphalt driveway as the same exists as of the date of this decree. The joint driveway easement is given for the purpose of ingress and egress for the benefit of Parcels 1, 2, 3 and 4 of Lowe Engineers survey, and shall be jointly maintained by the respective owners, their heirs or assigns, each sharing in the repair and maintenance of same. The plaintiff, Charles Smith, and the defendant, Mildred Virginia Phillips Smith, are hereby directed to confirm said joint driveway easement by an instrument in writing in conformity with this decree.

4. The remaining portions of said Final Judgment of Divorce dated November 16, 1978, not amended by this decree are hereby ratified and affirmed. The Court having deemed a survey necessary in this cause and heretofore having ordered said survey, and the Court finding that the said survey inured to the benefit of both parties to this cause, the costs of said survey in the amount of \$4,036.50 are hereby taxed as costs against the plaintiff. Any other court costs accrued herein are hereby taxed against the plaintiff, Charles Smith.

DONE and ORDERED this 16th day of January 1979.

James H. Shacht
Circuit Judge



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12/13/1979 12:00:00 AM FILED/CERT

N.W. Corner Of the S.W. 1/4 Of
N.E. 1/4, Section 35, Township
19S, Range 3 W, Shelby
County, Alabama.

P.O.B.

1/4 Line 7

TRI-SMITH PROPERTY

WEST

PARKWAY

RIVERCHASE

R/W 7

60'

R/W 7

R/W 7

72
PAGE
72

300.06'
17°57'33"
98.19'
198°15'32"
36.60'
83°48'51"
59.23'
247°17'53"
68.83'
112°42'01"
6.47'
157°17'53"
80.29'
186°26'00"
30.13'
207°22'45"
8.80'
133°07'44"
90.50'
135°31'26"
80.11'
88°49'42" To Tan.

$\Delta = 08^\circ 37' 42''$
 $R = 470.00'$
 $L = 70.78'$
 $T = 35.46'$

Asphalt Drive 2
TRAIL 2
TRAIL 1

SPLIT LEVEL
ROCK HOUSE



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RCCEL 1

The following is a description of a tract of land situated in the SW 1/4 of the NE 1/4 of Section 35, Township 19 South, Range 3 West, Shelby County, Alabama and being more particularly described as follows:
Commence at the NW corner of said 1/4 - 1/4, said corner also being the point of beginning; thence East along the North line of said 1/4 - 1/4, 38.07 feet; thence 89°30'58" right, 187.18 feet to the Northerly right-of-way of Riverchase Parkway West; thence 35°45'38" right, along said right-of-way, 65.15 feet; thence 144°14'22" right, leaving said right-of-way, 240.37 feet to the point of beginning and containing 8,139 square feet or 0.19 acres, more or less.

RCCEL 2

The following is a description of a tract of land situated in the SE 1/4 of the NW 1/4 of Section 35, Township 19 South, Range 3 West, Shelby County, Alabama and being more particularly described as follows:
Commence at the NE corner of said 1/4 - 1/4, said corner also being the point of beginning; thence South along the East line of said 1/4 - 1/4, 170.80 feet; thence 112°42'07" right, 68.53 feet; thence 17°53" right, 59.23 feet; thence 65°41'09" right, 28.00 feet; thence 65°42'01" left, 73.50 feet; thence 90°29'54" right, 38.00 feet to the point of beginning and containing 7,907 square feet or 0.18 acres, more or less.

RCCEL 3

The following is a description of a tract of land situated in the SE 1/4 of the NW 1/4 of Section 35, Township 19 South, Range 3 West, Shelby County, Alabama and being more particularly described as follows:
Commence at the NE corner of said 1/4 - 1/4; thence South along the East line of said 1/4 - 1/4, 177.27 feet to the point of beginning; thence continue along last stated course, 63.10 feet to the Northerly right-of-way of Riverchase Parkway West; thence 35°45'38" right, along said right-of-way, 71.17 feet; thence 133°07'44" right, leaving right-of-way, 81.80 feet; thence 27°22'45" right, 30.13 feet; thence 06°26'00" right, 90.29 feet to the point of beginning and containing 1,746 square feet or 0.04 acres, more or less.

RCCEL 4

The following is a description of a tract of land situated in the SE 1/4 of the NW 1/4 of Section 35, Township 19 South, Range 3 West, Shelby County, Alabama and being more particularly described as follows:
Commence at the NE corner of said 1/4 - 1/4; thence South along the East line of said 1/4 - 1/4, 177.50 feet to the point of beginning; thence continue along last stated course, 0.47 feet; thence 2°42'07" right, 90.29 feet; thence 06°26'00" left, 30.13 feet; thence 27°22'45" left, 8.80 feet to the Northerly right-of-way of Riverchase Parkway West; thence 46°52'16" right, along said right-of-way, 90.50 feet to a curve to the right, said curve having a central angle of 16°37'42" and a radius of 470.00 feet; thence along the arc of said curve and right-of-way, 70.70 feet; thence 1°10'18" right to tangent of said curve and leaving said right-of-way, 80.11 feet; thence 4°26'34" right, 300.06 feet; thence 102°02'27" right, 98.19 feet; thence 13°15'40" left, 96.60 feet; thence 96°11'01" right, 59.23 feet; thence 67°17'53" left, 68.83 feet to the point of beginning and containing 46,878 square feet or 1.08 acres, more or less.

I hereby certify that this plat is a true and correct representation of the land surveyed and as been prepared in conformity with the minimum standards and requirements by law.

John E. Norton
John E. Norton
Registered Engineer and Surveyor
State of Alabama Reg. No. 10257

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
PLAT WAS FILED

1979 DEC 13 PM 2:25

Thomas A. Snowden, Jr.
JUDGE OF PROBATE

Rec 1050
Ind 1.00
1150

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