

1153
This instrument was prepared by:
B. Glenn Murdock
Vulcan Materials Company
One Metroplex Drive
Birmingham, Alabama 35209

STATE OF ALABAMA)
SHELBY COUNTY)

CONSENT AND WAIVER
AS TO RESTRICTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS, that

WHEREAS, USX Corporation (formerly known as the United States Steel Corporation), did declare and adopt certain covenants and restrictions for the property included in the Survey of Cahaba River Park, a subdivision in the West 1/2 of Section 35, Township 18 South, Range 2 West, Shelby County, Alabama (hereinafter the "Property"), a map of which is recorded in Map Book 6, Page 31, in the office of the Judge of Probate of Shelby County, Alabama (hereinafter the "Survey"), by the adoption of that certain Declaration of Covenants and Restrictions for Cahaba River Park which was recorded in said office in Misc. Book 9, Page 513, and which from time to time thereafter has been amended (as so amended, the "Restrictive Covenants"); and

WHEREAS, the undersigned, Vulcan Materials Company (hereinafter "Vulcan"), by virtue of the Easement and Fourth Amendment to Restrictive Covenants recorded in the office of the Judge of Probate of Shelby County, Alabama, in Book 271, Page 363, may consent, in its sole discretion, to any use permitted by the B-2 Zoning Ordinance of the City of Birmingham (excepting therefrom, certain specified uses) and further Vulcan can waive, in its sole discretion, any part or all of Paragraphs 3, 4, 5, 9 and 10 of the Restrictive Covenants; and

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Land Title

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WHEREAS, Leon D. Hadley ("Hadley"), successor to Riverview, is the owner in fee simple of Lot-6A, as hereinafter defined, and desires to sell Lot 6-A to Precision Automotive Engineering, Inc. ("Precision"), for its use as the site of an automotive body repair shop in accordance with certain plans which have been submitted to Vulcan.

NOW THEREFORE, for and in consideration of Vulcan's entitlement to indemnification as contemplated by certain provisions hereinafter set forth, and subject to the other provisions hereof, the Vulcan (i) does hereby consent to the use of Lot 6-A in compliance with the provisions of Exhibit A (attached hereto and incorporated by this reference herein) as an automobile body repair shop (the "Shop"), and (ii) with respect to the aforesaid Lot 6-A, does hereby waive the requirements of Paragraphs 3 and 5 of the Restrictive Covenants to the extent set forth in Exhibit A hereto. The provisions of Exhibit A constitute limitations on the foregoing consent and waiver. Except as expressly waived or modified hereby, the Restrictive Covenants and all amendments thereto shall remain in full force and effect in accordance with their terms.

Lot 6-A is defined as that certain lot designated as such on the Cahaba Commons Resurvey No. 2, prepared by Miller, Triplett and Miller Engineers, Inc., dated June 24, 1991, a reduced copy of which is attached hereto as Exhibit B.

The foregoing consent and waiver shall become void and of no further force and effect in the event the fee simple title to Lot-6A is not conveyed to Precision with thirty (30) days of the date of this instrument.

Without limiting any other remedies which may be available, Vulcan reserves the right to seek equitable relief in the event Lot 6-A and the Shop are not hereafter constructed and maintained in compliance with the provisions of Exhibit A.

FOR AND IN CONSIDERATION of the foregoing consent and waiver, the receipt and sufficiency of such consideration being hereby acknowledged, Hadley, for himself and his

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successors and assigns, hereby makes the following representations, warranties and covenants to Vulcan:

1. Hadley represents and warrants to Vulcan that, at the time of his execution of this instrument, Hadley is the sole owner in fee simple of Lot-6A.
2. Without limiting any other remedies which may be available, Hadley covenants and agrees that, in the event Lot-6A and/or the Shop is not hereafter constructed and maintained in compliance with the provisions of Exhibit A, Vulcan shall have the right to seek equitable relief. In the event Vulcan successfully asserts any claim for relief, whether at law or in equity, in connection with any such non-compliance, Hadley and Precision shall indemnify Vulcan for its attorneys' fees, court costs and related expenses reasonably incurred in connection with the assertion of such claim.
3. The undertakings by Hadley in Paragraph 2, above, are intended to be, and shall be, appurtenant to and run with Lot-6A, so as to be binding upon all parties now or hereafter holding any interest in Lot-6A by, through or under Hadley, including, but not limited to, Precision and any party holding by, through or under it, but not be binding upon Hadley and not be a personal obligation of Hadley following his conveyance of the Premises in fee simple to Precision.

On behalf of itself and its successors and assigns, Precision executes this instrument for the purpose of acknowledging and agreeing to be bound by the provisions hereof upon receiving any interest in Lot-6A. Further, Precision agrees that, from time to time hereafter, it shall execute any documents which reasonably may be necessary to effect the purpose of this instrument.

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IN WITNESS WHEREOF, Vulcan, Hadley, and Precision each has executed this instrument, or caused this instrument to be executed on its behalf by its duly authorized officer or representative, as of the 17th day of July, 1991.

VULCAN MATERIALS COMPANY

By: William J. Grayson, Jr.
William J. Grayson, Jr.
Its Executive Vice President
Construction Materials

ATTEST:

By: E. S. S. S. S.
Its: Assistant Secretary
(CORPORATE SEAL)

LEON D. HADLEY [SEAL]
By: Greg A. Church
Greg A. Church, Attorney-In-Fact

WITNESS:
Greg A. Church

PRECISION AUTOMOTIVE
ENGINEERING, INC.
By: Pamela E. Robertson
Pamela E. Robertson
Its President

ATTEST:

By: E. Kay Wallace
Its: _____
(CORPORATE SEAL)

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, _____, a Notary Public in and for said County and State, hereby certify that William J. Grayson, Jr., whose name as Executive Vice President, Construction Materials, of Vulcan Materials Company, a corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this date that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation. Given under my hand and seal of office this _____ day of July, 1991.

Robbie O. Storey
Notary Public

My Commission Expires:

ROBBIE O. STOREY
Notary Public, Alabama State at Large
My Commission Expires October 22, 1992
(Notarial Seal)

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, Rhonda B Toombs, a Notary Public in and for said County and State, hereby certify that Greg A. Church, whose name as Attorney-In-Fact for Leon D. Hadley is signed to the foregoing instrument, and who is known to me, acknowledged before me on this date that, being informed of the contents of the instrument, he, in his capacity as such Attorney-In-Fact, executed the same voluntarily for and as the act of Leon D. Hadley. Given under my hand and seal of office this 17th day of July, 1991.

Rhonda B Toombs
Notary Public

My Commission Expires:

NOTARY PUBLIC, STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: APRIL 1, 1992.
BONDED THRU NOTARY PUBLIC UNDERWRITERS

(Notarial Seal)

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, Mary Katherine Grafton, a Notary Public in and for said County and State, hereby certify that Pamela E. Robertson, whose name as President of Precision Automotive Engineering, Inc., a corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this date that, being informed of the contents of the instrument, she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation. Given under my hand and seal of office this 17th day of July, 1991.

Mary Katherine Grafton
Notary Public

My Commission Expires: MY COMMISSION EXPIRES DEC. 10, 1994

(Notarial Seal)

BOOK 354 PAGE 75

EXHIBIT A

TO CONSENT AND WAIVER AS TO RESTRICTIVE COVENANTS

This Exhibit A to that certain Consent And Waiver As To Restrictive Covenants (the "Consent") entered into on or about the 17th day of July, 1991, by Vulcan Materials Company, Leon D. Hadley and Precision Automotive Engineering, Inc., with respect to the Restrictive Covenants (as defined in the body of this Consent), consists of four (4) pages. Pages 3 and 4 of this Exhibit A consist of the following: Page 3 -- a reduced copy of a plat titled "Erosion & Sedimentation Control Grading Plan for Precision Automotive, Inc." prepared by Miller, Triplett & Miller Engineers, Inc.; Page 4 -- a reduced copy of a drawing titled "Exterior Elevations" prepared by Inscho Building Associates, Inc., and dated May 16, 1991.

The following requirements shall apply to the use of Lot 6-A as the site for the Shop (as defined in the body of this Consent):

1. The business of the Shop shall be the making of repairs, including related painting, to the bodies of wrecked or otherwise damaged automobiles and work incidental thereto (collectively "Repairs"). No consent is given to the use of Lot 6-A for the servicing, maintenance, repair or rebuilding of engines or transmissions of automobiles, except as may be incidental to the making of the aforesaid body repairs.

2. The storage of all vehicles which are on the premises for the purpose of having Repairs done thereto shall be inside the Shop building during both business and non-business hours; provided, however, that automobiles may be stored outside upon the completion of the Repairs thereto. All equipment, machinery, supplies, new and used automobile parts, inventories and other items must be stored inside the Shop building; however, damaged automobile parts and trash may be stored outside the Shop building if they are kept in a standard covered receptacle such as those provided by contract waste disposal firms (i.e., a dumpster) or a similar covered receptacle.

3. The Shop building shall be located on the Premises at approximately the location shown on the plat which constitutes Page 3 of this Exhibit. Vulcan waives the requirements of Paragraph 3 of the Restrictive Covenants to the extent necessary for the building to be so located.

4. The Shop building shall be the Ceko system described in the Inscho Building Associates, Inc., specifications titled "Proposed New Facility For Precision Automotive Engineering, Inc." bearing the legend "May 22, 1990, PR90-209 Revision No. 2" (a copy of which has been provided to Vulcan), or its equivalent.

5. The Shop building shall have the following characteristics:

(a) Brick paneled areas a minimum of four (4) feet wide, by the full height of the building, shall be spaced at twenty-five (25) foot intervals (measured from the center of each brick paneled area) on both the sides and the rear of the building.

(b) The front of the building shall have four (4) foot wide brick paneled areas at each corner, with a three (3) foot high brick wainscot with brick rolock.

(c) All of items a and b, above, as well as the location of a canvas canopy in the front, center of the building, windows, doorways and other characteristics of the building, shall be as depicted in the drawing which is Page 4 of this Exhibit A.

(d) The following exterior colors shall be used: all brick -- approximately terracotta; walls between the brick paneled areas -- approximately wedgewood blue; trim -- approximately architectural bronze; canvas canopy -- an architectural accent color to be chosen.

6. Parking lots and roadways shall be located as depicted on the plat which is Page 4 of this Exhibit, and shall be paved and have curb and gutter, or be constructed of crushed stone or gravel, in accordance with the indications on said plat.

7. Between each brick paneled area on the sides and rear of the Shop building there shall be planted and maintained a tree, with an approximate minimum height of six (6) feet, for the purpose of enhancing the appearance or attractiveness of the Shop building. There shall be other landscaped zones and islands reasonably designed and maintained to enhance the appearance and attractiveness of Lot 6-A. All portions of Lot 6-A upon which the Shop building, or a parking lot or roadway, are not located shall be landscaped or have grass planted and maintained thereon.

8. The Shop building, and Lot 6-A, shall be kept in good repair and shall be maintained in a neat and attractive manner in keeping with or for the purpose of enhancing the overall appearance and attractiveness of Cahaba River Park. By way of example and not limitation, the above-described canopy shall be kept in good repair; non-brick portions of the building shall be repainted from time to time as may reasonably be necessary; and parking lots and roadways shall be kept in good repair.

9. Vulcan waives Paragraph 5 of the Restrictive Covenants to the extent that the requirements of said Paragraph are contrary to the provisions of this Exhibit A.

EXHIBIT A
TO CONSENT AND WAIVER
AS TO RESTRICTIVE COVENANTS

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RIVERVIEW ROAD

46°32'57"

157.71'

146.71'

137°02'57"

$\Delta = 17^{\circ}26'30''$
 $R = 518.69'$
 $T = 79.56'$
157.90'

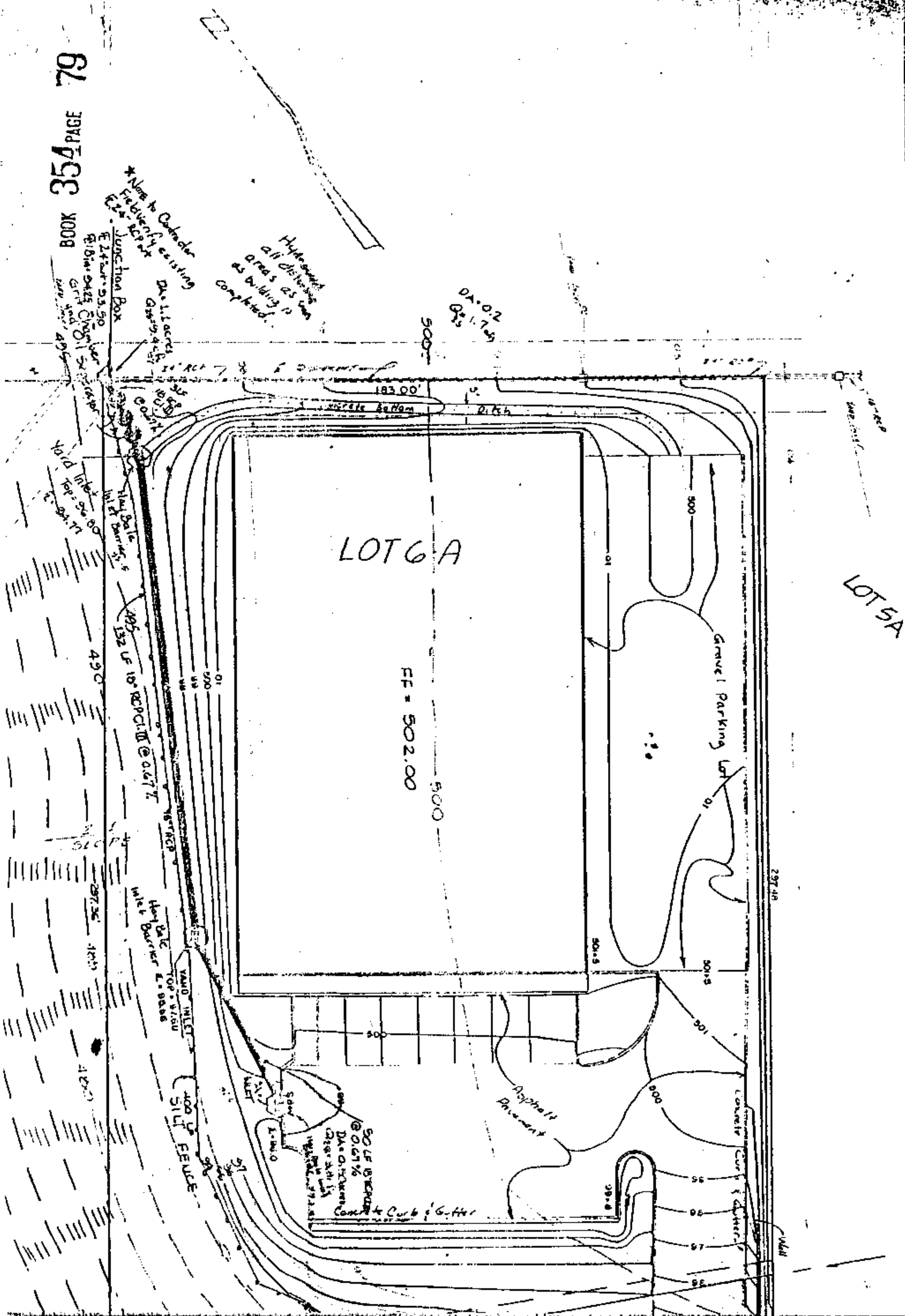
131.11'

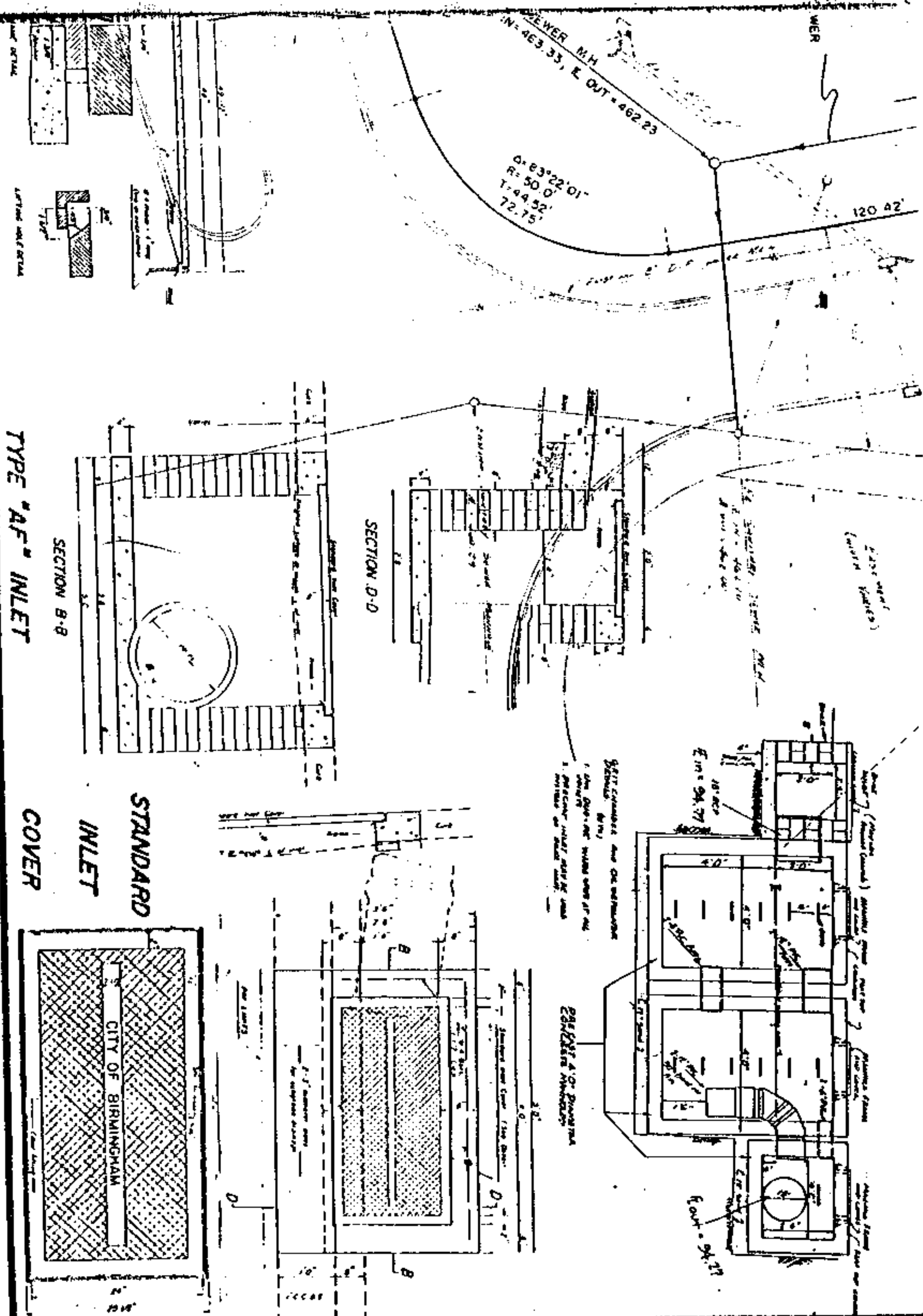
$\Delta = 0^{\circ}43'46''$
 $R = 30174.83'$
 $T = 24.67'$
45.33'

SAN.

LOT 7A

EXISTING B
SANITARY S

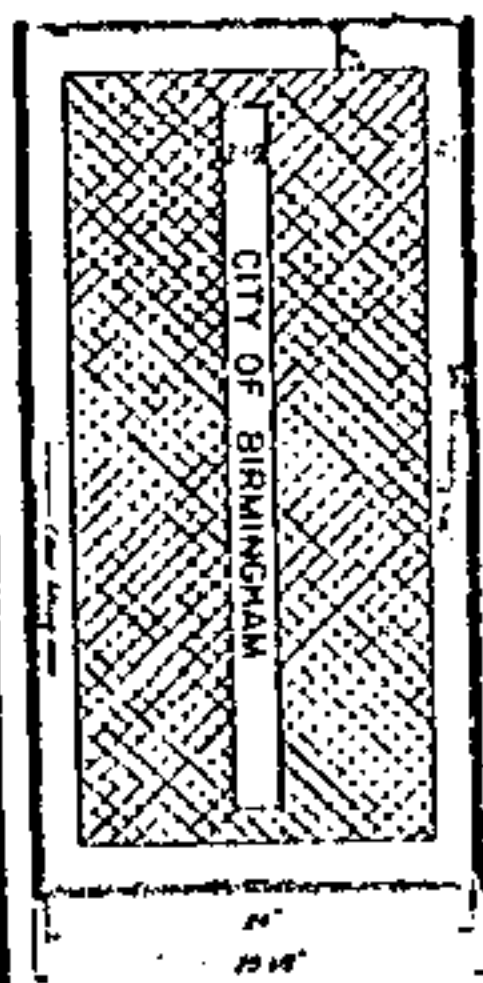




BOOK 354 PAGE 80

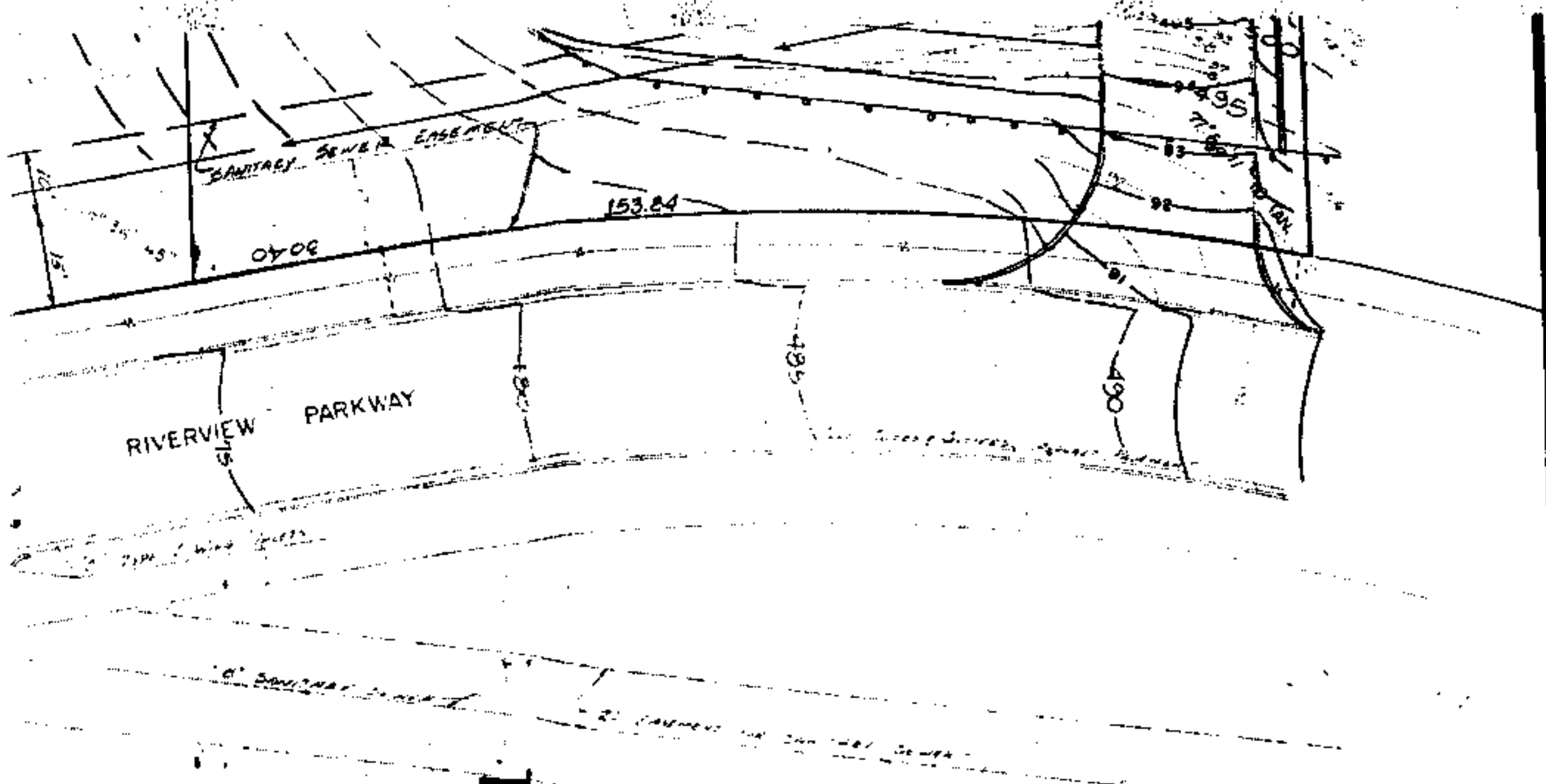
TYPE "AF" INLET

STANDARD
INLET
COVER

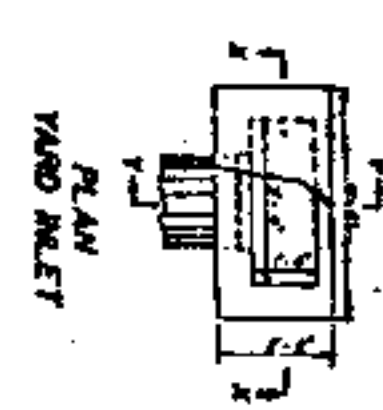
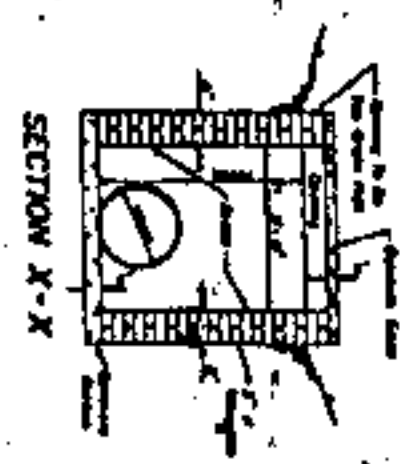
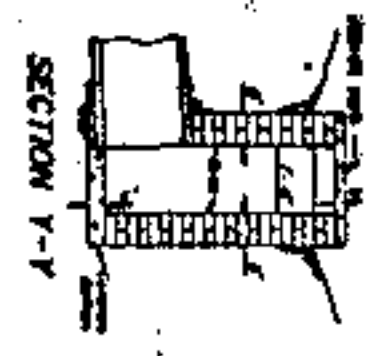
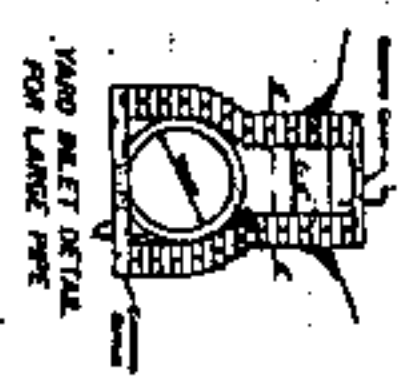
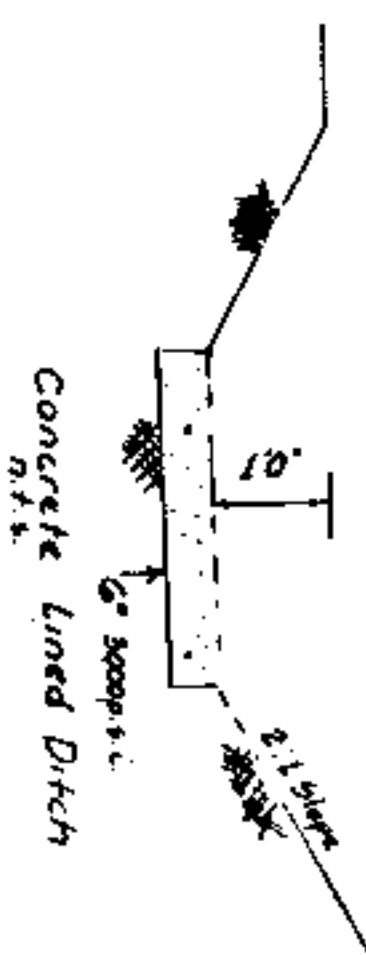


PROJECT		PRECISION LOT 6A, R	
ENGINEER		DATE	
REVISIONS		DATE	
DRAWN		CHECKED	
STATE		JUNE 6, 1990	
TITLE		PRECISION LOT 6A, R	
SHEET		SCALE 1" = 20'	

Exhibit A to Consent and Waiver as to Restrictive Covenants (P



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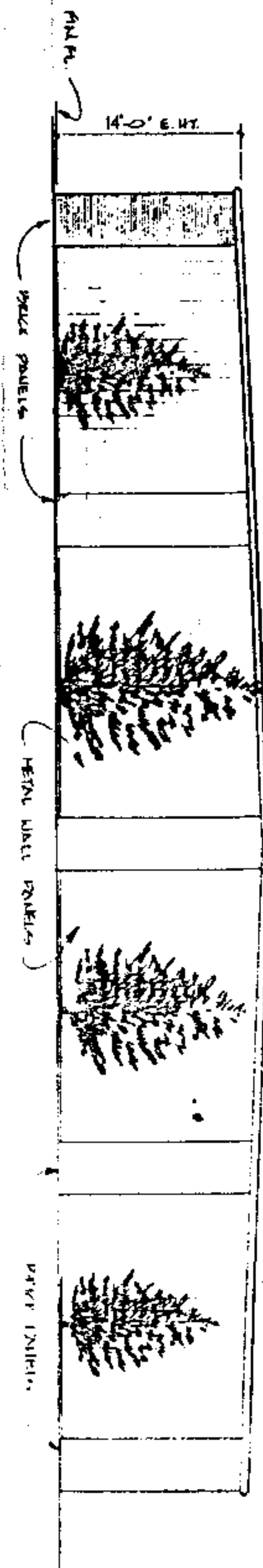
EROSION & SEDIMENTATION CONTROL
GRADING PLAN FOR
ON AUTOMOTIVE, INC.
SURVEY OF CAHABA COMMONS No. 1



MILLER, TRIPLETT AND MILLER
ENGINEERS, INC.
CONSULTING ENGINEERS — LAND SURVEYORS
115 NORTH 40TH STREET, BIRMINGHAM, ALABAMA 35222
TELEPHONE (205) 592-0881

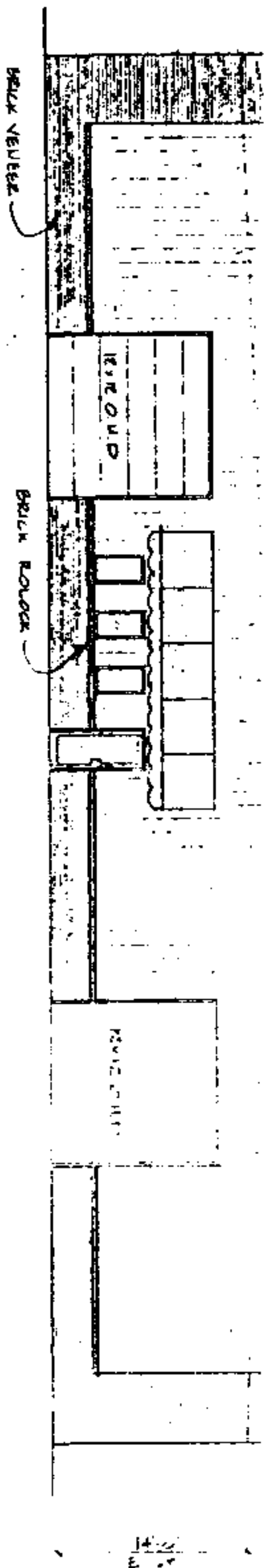
REAR ELEVATION

1/8" = 1'-0"



FRONT ELEVATION

1/8" = 1'-0"



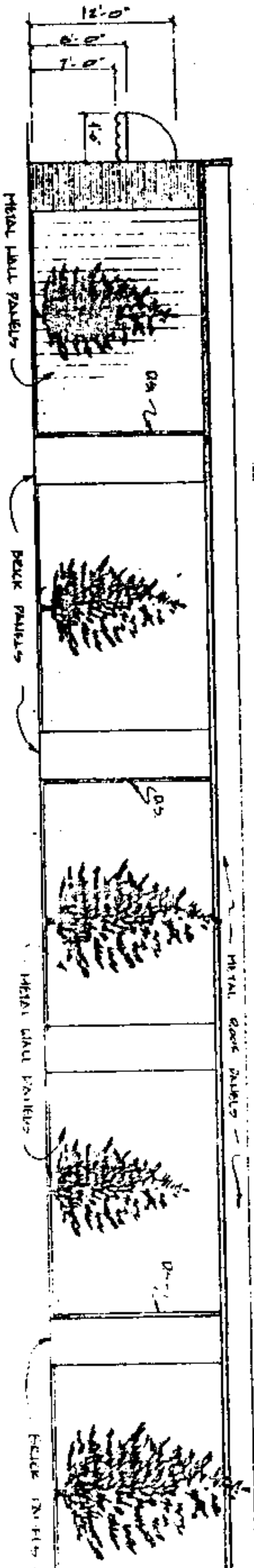
BRICK SOURCE

METAL WALL PANELS

12' 1/2'

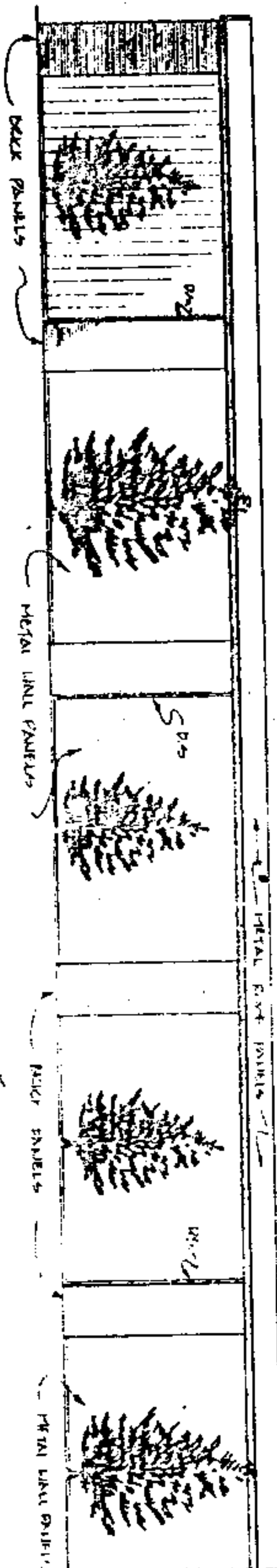
RIGHT SIDE ELEVATION

1/2" = 1'-0"



LEFT SIDE ELEVATION

1/2" = 1'-0"



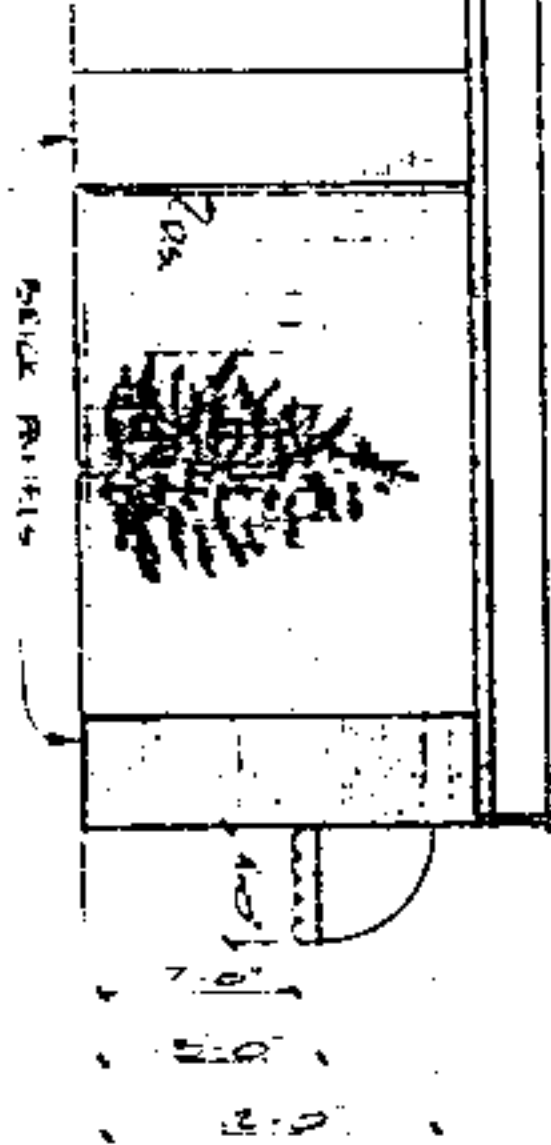
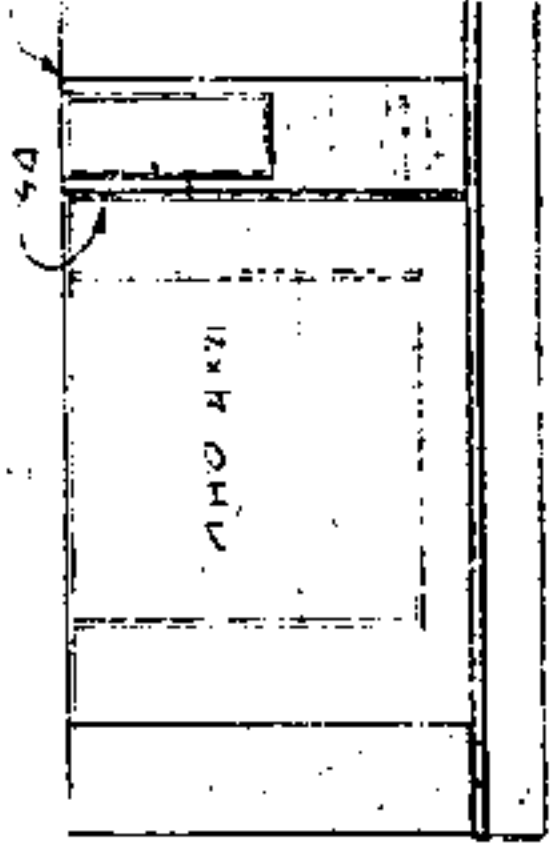
This drawing and all information and designs shown are the property of Insecho Building Associates, Inc. This drawing is confidential and must not be made public or copied without prior written authorization from Insecho and is subject to return upon demand. Acceptance of provisions of this drawing constitutes full agreement with the foregoing conditions.

INSECHO BUILDING
ASSOCIATES, INC.
JUL 3 1991
DATE PRINTED

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drawing title EXTERIOR ELEVATIONS	drawing revision	drawn: <u>Free</u> checked: <u>Ben</u> approved: <u>Ben</u> date: 5-2-91
project number 21-90	drawing number	

Exhibit A to Consent and Waiver as to Restrictive Covenants (Page 4 of



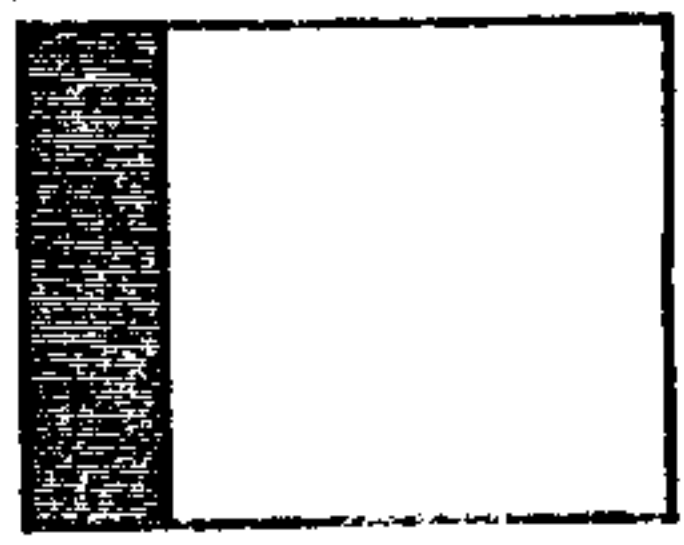
BOOK 354 PAGE 85

SION AUTOMOTIVE ENGINEERS
SM, AL.

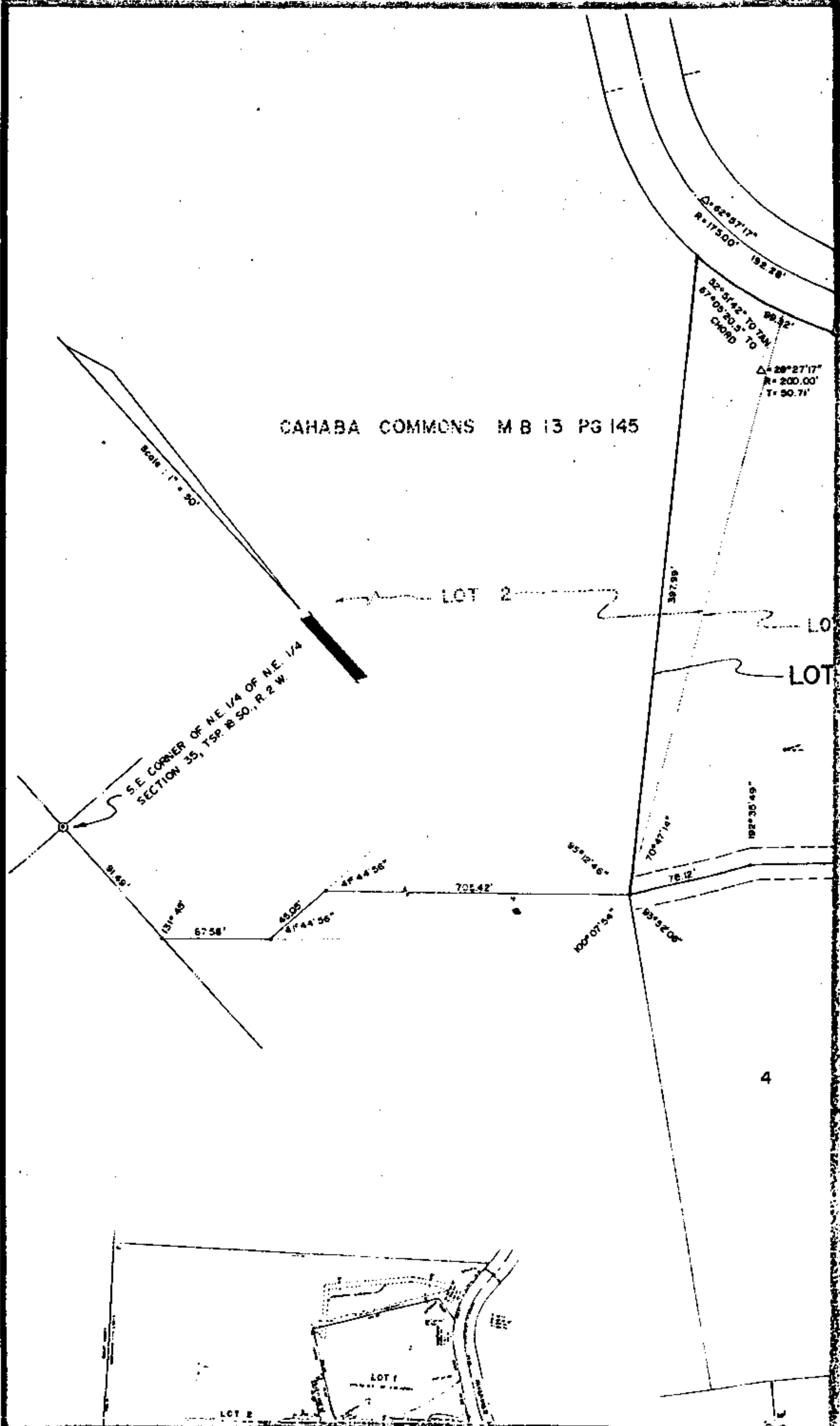
INSCHO BUILDING ASSOCIATES INC.

1318 Putman Drive • P.O. Box 5838 • Huntsville, Alabama 35895

esign • contract management • building & specialty construction



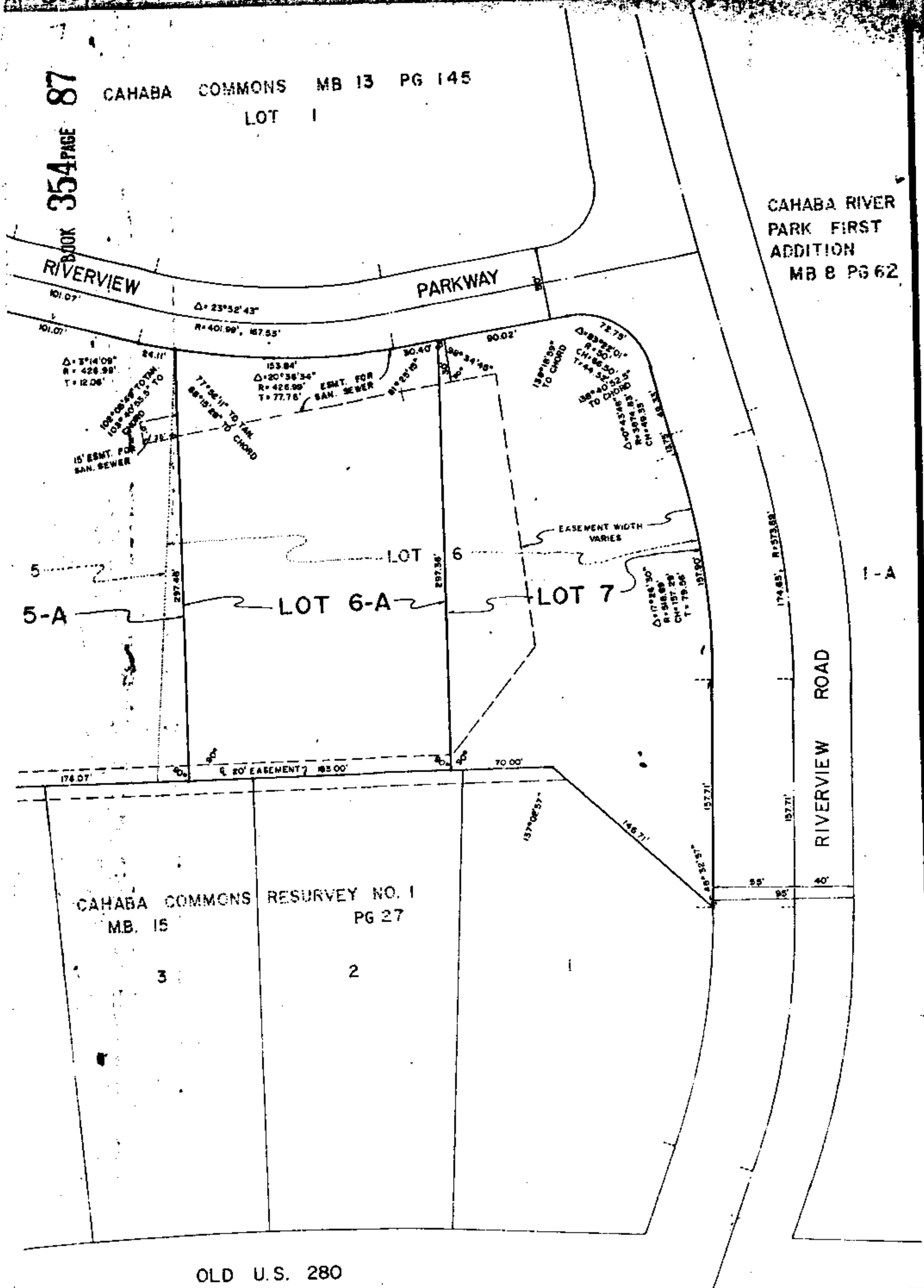
4)

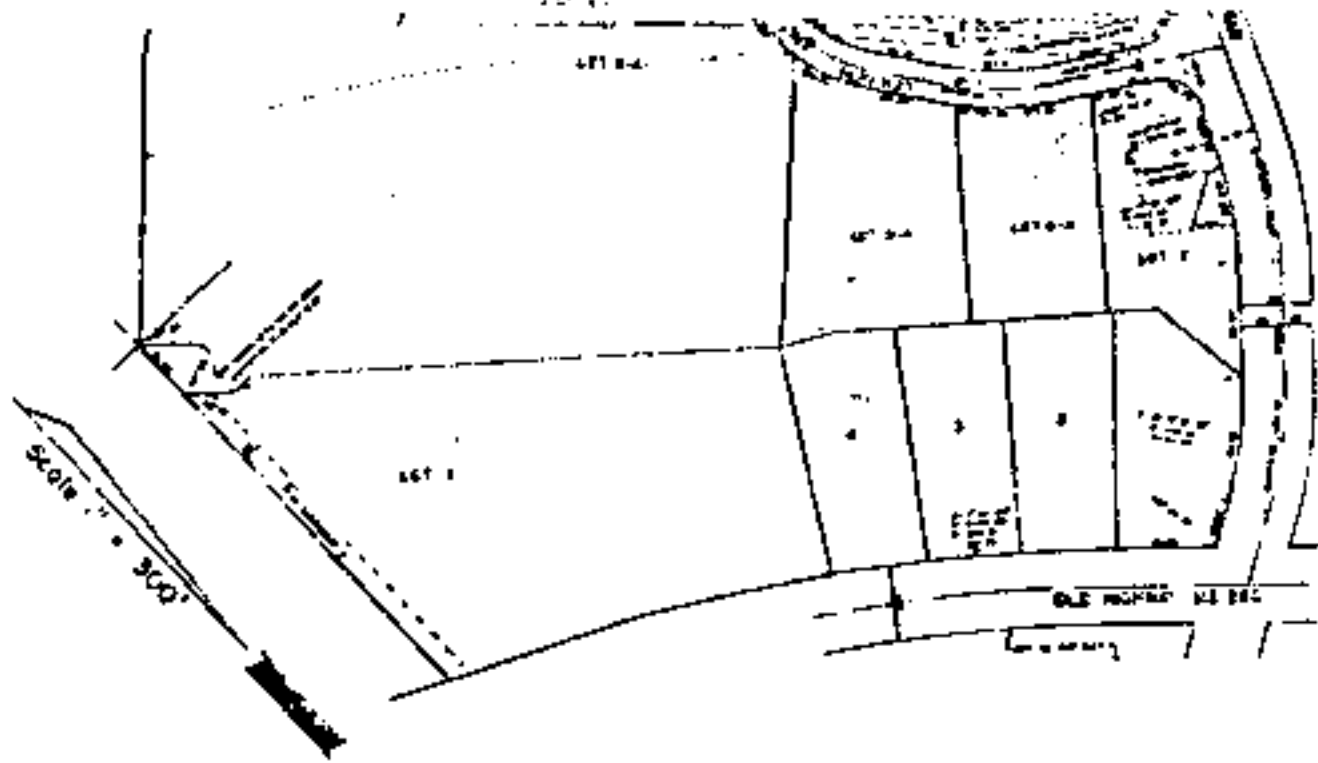


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CAHABA COMMONS MB 13 PG 145
LOT 1

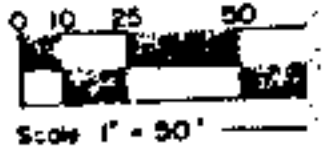
CAHABA RIVER
PARK FIRST
ADDITION
MB 8 PG 62





CAHABA RESUR

BEING A RESURVEY OF
NO. 1 AS RECORDED IN M.
CAHABA COMMONS AS R.
PROBATE OFFICE OF SH.
1/2 OF SECTION 35 - T5E



BOOK 354 PAGE 88

STATE OF ALABAMA)
JEFFERSON COUNTY)

The undersigned, Joseph A. Miller, Jr., a Civil Engineer and Land Surveyor, and LEON D. HADLEY, as Owner, do hereby certify that this plat or map was made pursuant to a survey made by said surveyor and that said survey and this plat or map were made at the instance of said Owner; that this plat or map is a true and correct plat or map of lands shown therein and known as CAHABA COMMONS RESURVEY NO. 2 showing the subdivisions into which it is proposed to divide said lands, giving the lengths and bearings of said boundaries at each lot and its number; showing the streets, alleys and public grounds, giving the bearings, length, width, and name of each street, as well as the number of each lot and block, and showing the relation of the lands to the survey of CAHABA COMMONS RESURVEY NO. 1, as recorded Map Book 15, Page 27, in the Office of the Probate Court of Shelby County, Alabama; and that iron pins have been installed at all lot corners and curve points as shown and designated by small open circles on said plat or map. Said Owner also certifies that he is the Owner of said lands and that the same are not subject to any mortgage. Said Owner agrees that the City of Birmingham may at any time change the natural or existing grade of any street, alley, or public grounds or any part thereof from the natural or existing grade to the permanent grade without the payment or compensation of damages to the abutting owner; and this agreement shall be a covenant running with the lands. The undersigned appoint the City of Birmingham as Agent for the purpose of filing said plat or map, together with this instrument for record, and certify that we have full authority to execute this instrument and map.

In witness whereof we have hereunto set our hands on the respective dates set forth below.

SURVEYOR: Joseph A. Miller, Jr.

OWNER: Leon D. Hadley

Joseph A. Miller, Jr.
Joseph A. Miller, Jr., Date 6/24/91
Ala. Reg. No. P.E. & L.S. 2875
115 North 40th Street, Bham, AL 35222
Telephone (205) 592-0391 R2827b

By *Leon D. Hadley*
Leon D. Hadley Date 6-24-91

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, Sara S. Miller, Notary Public in and for said County and State, do hereby certify that Joseph A. Miller, Jr., whose name is signed to the foregoing certificate as Surveyor, and who is known to me acknowledged before me on this date that, after being duly informed of the contents of said certificate, he executed the same voluntarily with full authority therefor.

Given under my hand and seal this the 24th day of June, 1991.

Sara S. Miller
Sara S. Miller, Notary
Commission Expires 10/05/92

SHEET		SCALE		CHECKED		DRAWN		DATE		TITLE		JOB NO.		REVISIONS		ENGINEER		PROJECT	
1		1" = 50'		J A M JR		G R		JUNE 11, 1991		CAHABA COMMONS RESURVEY NO. 2		17252		DATE		JOSEPH A. MILLER, JR. REGISTERED ENGINEER No. 2875			

Exhibit B to Consent and Waiver as to Restrictive Covenants

COMMONS VEY NO. 2

LOTS 5 AND 6, CAHABA COMMONS RESURVEY
BOOK PAGE AND PART OF LOT 2
RECORDED IN MAP BOOK 13, PAGE 145 IN THE
ELBY COUNTY AND SITUATED IN THE EAST
1/4 SO. - R. 2 W SHELBY COUNTY, ALABAMA

100 200
100 200

June 10, 1991

STATE OF ALABAMA
JEFFERSON COUNTY)

I, Edgar W. Minor, Notary Public in and for said County and State,
do hereby certify that Leon D. Madley, whose name is signed to the foregoing
certificate, as Owner, and who is known to me, acknowledged before me on this
date that after being duly informed of the contents of said certificate, he
executed the same voluntarily as such individual and with full authority
therefor.

Given under my hand and seal this the 14th day of June, 1991.

Edgar W. Minor
Notary Public
Commission Expires 6-13-94

RESOLUTION: There being no Street Dedication the usual Resolution is omitted.

APPROVED:
BIRMINGHAM PLANNING COMMISSION

W. Thomas Magee
W. Thomas Magee
Technical Advisor

APPROVED:
CITY ENGINEER

Hobson R. Riley, Jr.
Hobson R. Riley, Jr.
City Engineer

1. Dead Tax	
2. Mfg Tax	
3. Inventory Fee	30.00
4. Recording Fee	3.00
5. Notary Fee	1.00
6. Commission Fee	
Total	54.00

JUDGE OF PROBATE

91 JUL 18 AM 8:58

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



MILLER, TRIPLETT AND MILLER
ENGINEERS, INC.

CONSULTING ENGINEERS — LAND SURVEYORS
115 NORTH 40TH STREET, BIRMINGHAM, ALABAMA 35222

TELEPHONE (205) 591-2301