

This instrument was prepared by:

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2700 Hwy. 280E, Suite 290E  
Birmingham, AL 35223

STATE OF ALABAMA       }  
COUNTY OF SHELBY       }

## DECLARATION AND RIGHT OF FIRST REFUSAL

KNOW ALL MEN BY THESE PRESENTS, that the undersigned J. Allen Chesser and wife, Betty S. Chesser, being the owners of the property described on Exhibit "A", and Exhibit "B", as attached hereto and made a part hereof, located in Shelby County, Alabama, desire to submit the subject property to certain restrictions, covenants and a right of first refusal.

NOW THEREFORE, J. Allen Chesser and wife, Betty S. Chesser, do upon the recording hereof, declare and make the subject property and any portion thereof subject to the following covenants, conditions, restrictions, uses, limitations and affirmative obligations in accordance with that certain contract entered into on December 21, 1995 by and between Birmingham Realty Company and J. Allen Chesser and wife, Betty S. Chesser;

1. Excavation Easement: For a period of one (1) year from April 3, 1996, J. Allen Chesser and wife, Betty S. Chesser grants to Birmingham Realty Company, its successors and assigns, an easement to enter upon the property described on Exhibit "A", only, as attached hereto and made a part hereof and excavate and remove such material as necessary to develop the property being developed by Birmingham Realty Company as described on Exhibit "C", as attached hereto and made a part hereof.

2. Development; Contingency; Exclusive Use: J. Allen Chesser and wife, Betty S. Chesser hereby prohibit the use of the property described on Exhibit "A", and Exhibit "B", as attached hereto and made a part hereof, as a grocery store, drug store or similar use, within one thousand (1,000) feet of the property lines of the property described on Exhibit "C", as attached hereto and made a part hereof.

3. First Right of Refusal: If at anytime within two (2) years of April 3, 1996, J. Allen Chesser and wife, Betty S. Chesser, their heirs or assigns, receive a bonafide offer from an individual or entity to purchase property east of the property described on

04/11/1996-11736  
08:54 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
007 MCD 24.50

CLAYTON T. SWEENEY, ATTORNEY AT LAW

Inst # 1996-11736

Exhibit "C", as attached hereto and made a part hereof, which offer J. Allen Chesser and wife, Betty S. Chesser desires to accept, J. Allen Chesser and wife, Betty S. Chesser shall promptly deliver to Birmingham Realty Company a copy of such offer and Birmingham Realty Company may within fifteen (15) days thereafter elect to purchase the property on the same terms and conditions as those set forth in such offer.

J. Allen Chesser and wife, Betty S. Chesser hereby declare that the foregoing restrictions, covenants, conditions, limitations, uses shall run with the land and be binding on and shall inure to the benefit of the property described on Exhibit "A", Exhibit "B" and Exhibit "C", as attached hereto and made a part hereof, and all parties having or acquiring any right, title or interest in and to said property or any part thereof, and their successors in interest.

IN WITNESS WHEREOF, the undersigned, J. Allen Chesser and wife, Betty S. Chesser have caused this declaration to be executed this the 3rd day of April, 1996.

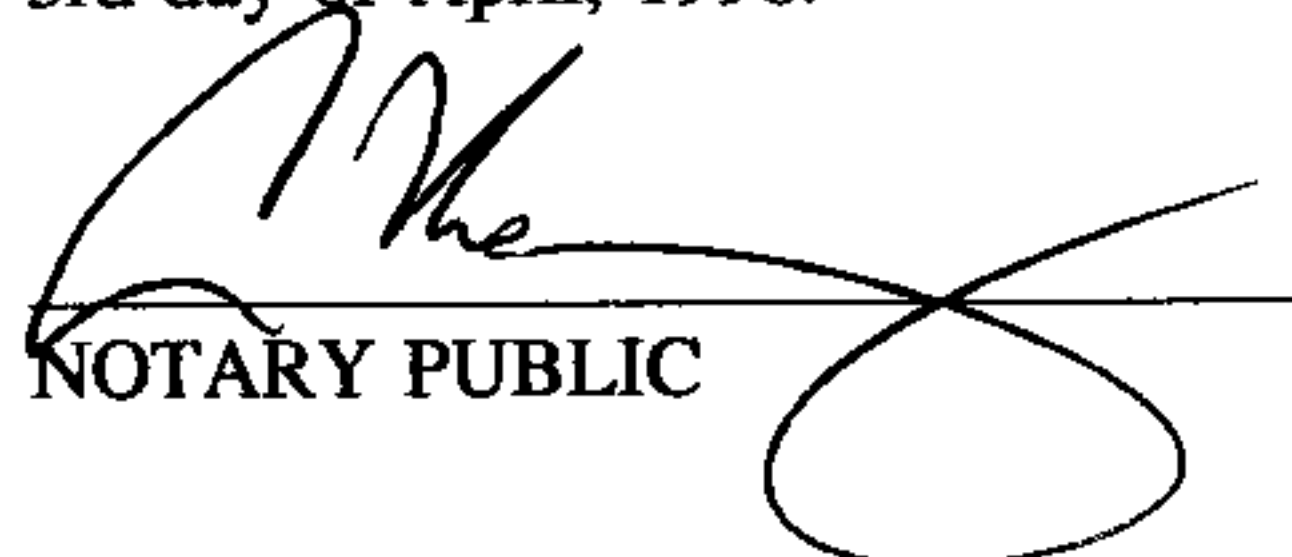
  
J. ALLEN CHESSER

  
BETTY S. CHESSER

STATE OF ALABAMA    }  
JEFFERSON COUNTY    }

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that J. Allen Chesser and Betty S. Chesser, whose names are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day, that being informed of the contents of the conveyance, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 3rd day of April, 1996.

  
NOTARY PUBLIC

My Commission expires: 5-29-99

~~PARCELS~~

EXHIBIT "A"

From the true S.W. corner of the SE $\frac{1}{4}$ -SW $\frac{1}{4}$  of Section 27, T19S-R1W, run thence East along the South boundary of said SE $\frac{1}{4}$ -SW $\frac{1}{4}$  a distance of 1020.97 feet to a point on the Easterly boundary of Co. Hwy. #47 (80' R.O.W.), being the point of beginning of herein described parcel of land; thence continue along said course a distance of 304.71 feet to the true S.W. corner of the SW $\frac{1}{4}$ -SE $\frac{1}{4}$  of said Section 27; thence continue along said course a distance of 10.26 feet to a point in the centerline of North Fork Yellowleaf Creek; thence turn 49°16'45" left and run 184.44 feet along said creek centerline and the following courses; 23°59'38" right for 132.48 feet; 29°49'59" left for 136.01 feet; 54°42'18" right for 116.40 feet; 48°51'20" left for 319.04 feet; 15°39'22" left for 167.61 feet; 35°27'37" right for 64.88 feet; 07°43'26" right for 191.50 feet; 27°58'17" left for 516.07 feet; thence turn 14°04'24" left and run 138.88 feet along said creek centerline to the S.E. corner of the NW $\frac{1}{4}$ -SE $\frac{1}{4}$  of said Section 27; thence turn 25°02'42" left and run 435.17 feet along the East boundary of said NW $\frac{1}{4}$ -SE $\frac{1}{4}$  to a point on the Southeasterly boundary of Co. Hwy. #47; thence turn 143°20'52" left and run 62.0 feet along said Hwy. boundary and the following courses; 06°16'31" right for 174.13 feet; 05°08'29" left for 268.06 feet; 02°22'27" right for 167.99 feet; 02°47'32" right for 181.04 feet; 05°02'23" right for 244.99 feet; 03°10'40" right for 1007.46 feet; 02°38'22" left for 47.93 feet; 06°41'07" left for 47.23 feet; 08°01'17" left for 45.09 feet; 09°18'41" left for 47.52 feet; 08°26'03" left for 45.42 feet; 08°37'19" left for 44.76 feet; 09°16'39" left for 42.48 feet; thence turn 12°15'05" left and run 70.56 feet along said Hwy. boundary to the point of beginning of herein described parcel of land

~~PARREXXKX~~

EXHIBIT "B"

From the true S.W. corner of the SW $\frac{1}{4}$ -SE $\frac{1}{4}$  of Section 27, T19S-R1W, run thence North along the West boundary of said SW $\frac{1}{4}$ -SE $\frac{1}{4}$  a distance of 598.26 feet to a point on the Northerly boundary of Co. Hwy. #47 (80' R.O.W.); thence turn 51°08'18" right and run 407.69 feet along said Hwy. boundary to the point of beginning of herein described parcel of land; thence turn 60°59'27" left and run 804.31 feet; thence turn 90°08'50" right and run 586.0 feet; thence turn 90°08'50" left and run 199.94 feet to a point on the Southerly boundary of U.S. Hwy. #280; thence turn 118°54'25" right and run 239.96 feet along said Hwy. boundary; thence turn 28°23'21" left and run 99.90 feet along said Hwy. boundary; thence turn 43°26'46" right and run 128.39 feet along said Hwy. boundary; thence turn 74°01'07" right and run 158.30 feet along said Hwy. boundary to a point on the Northerly boundary of Co. Hwy. #47; thence turn 19°37'42" right and run 266.0 feet along said Co. Hwy. #47 boundary and the following courses; 02°22'17" right for 163.98 feet; 02°47'31" right for 175.57 feet; 05°02'19" right for 239.25 feet; thence turn 03°10'41" right and run 285.59 feet along said Hwy. boundary to the point of beginning of herein described parcel of land



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EXHIBIT "C"

CHELSEA PROPERTY

SHOPPING CENTER PARCEL

A parcel of land situated in the East 1/2 of the S.W.1/4 and the West 1/2 of the S.E.1/4 of Section 27, Township 19 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Southwest corner of the S.E.1/4 of the S.W.1/4 of Section 27, Township 19 South, Range 1 West, Shelby County, Alabama and run North along the West line of said 1/4-1/4 section a distance of 1048.33 feet to a point; thence  $66^{\circ}52'40''$  to the right in a Northeasterly direction a distance of 210.13 feet to a point; thence  $16^{\circ}06'07''$  to the right in a Northeasterly direction a distance of 109.35 feet to a point; thence  $18^{\circ}54'05''$  to the left in a Northeasterly direction a distance of 117.455 feet to a point; thence  $67^{\circ}45'50''$  to the right in a Southeasterly direction a distance of 20.00 feet to a point; thence  $90^{\circ}00'$  to the left in a Northeasterly direction a distance of 568.7775 feet to a point; thence  $90^{\circ}26'05''$  to the right in a Southeasterly direction a distance of 38.22 feet to a point; thence  $90^{\circ}00'$  to the left in a Northeasterly direction a distance of 104.94 feet to a point; thence  $89^{\circ}00'15''$  to the right in a Southeasterly direction a distance of 97.095 feet to the POINT OF BEGINNING; thence continue along the last stated course a distance of 154.31 feet to a point; thence  $89^{\circ}59'35''$  to the left in a Northeasterly direction a distance of 490.77 feet to a point on the Southeasterly right-of-way line of U.S. Highway #280; thence  $39^{\circ}04'58''$  to the right in a Northeasterly direction along said highway right-of-way a distance of 59.66 feet to a point; thence  $89^{\circ}51'10''$  to the right in a Southeasterly direction a distance of 768.13 feet to a point; thence  $90^{\circ}00'$  to the right in a Southwesterly direction a distance of 411.32 feet to a point; thence  $90^{\circ}00'$  to the right in a Southwesterly direction a distance of 105.00 feet to the P.C. (point of curve) of a curve to the left having a radius of 20.00 feet and a central angle of  $90^{\circ}00'$ ; thence Northwesterly, Westerly and Southwesterly direction along the arc of said curve a distance of 31.42 feet to the P.T. (point of tangent) of said curve; thence in the tangent to said curve in a Southwesterly direction a distance of 285.11 feet to a point; thence  $98^{\circ}39'02''$  to the right in a Northerly direction a distance of 31.79 feet to the P.C. (point of curve) of a curve to the right having a radius of 960.00 feet and a central angle of  $24^{\circ}24'46''$ ; thence Northerly and Northeasterly along the arc of said curve a distance of 409.04 feet to the P.T. (point of tangent) of said curve; thence in the tangent to said curve a distance of 52.62 feet to the POINT OF BEGINNING.

April 2, 1996

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EXHIBIT "C" (cont.)

CHELSEA PROPERTY

31 ACRE ± PARCEL

A parcel of land situated in the East 1/2 of the S.W.1/4 and the West 1/2 of the S.E.1/4 of Section 27, Township 19 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Begin at the Southwest corner of the S.E.1/4 of the S.W.1/4 of Section 27, Township 19 South, Range 1 West, Shelby County, Alabama and run North along the West line of said 1/4-1/4 section a distance of 516.3176 feet to the POINT OF BEGINNING; thence continue on the last described course a distance of 531.5619 feet to a point; thence 66°52'40" to the right in a Northeasterly direction a distance of 210.13 feet to a point; thence 16°06'07" to the right in a Northeasterly direction a distance of 109.35 feet to a point; thence 18°54'05" to the left in a Northeasterly direction a distance of 117.455 feet to a point; thence 67°45'50" to the right in a Southeasterly direction a distance of 20.00 feet to a point; thence 90°00' to the left in a Northeasterly direction a distance of 568.7775 feet to a point; thence 90°26'05" to the right in a Southeasterly direction a distance of 38.22 feet to a point; thence 90°00' to the left in a Northeasterly direction a distance of 104.94 feet to a point; thence 89°00'15" to the right in a Southeasterly direction a distance of 97.095 feet to a point; thence 72°00'20" to the right in a Southwesterly direction a distance of 52.62 feet to the P.C. (point of curve) of a curve to the left having a radius of 960.00 feet and a central angle of 24°24'46"; thence Southwesterly and Southerly along the arc of said curve a distance of 409.04 feet to the P.T. (point of tangent) of said curve; thence in the tangent to said curve a distance of 31.79 feet to a point; thence 98°39'02" to the left in a Northeasterly direction a distance of 285.11 feet to the P.C. (point of curve) of a curve to the right having a radius of 20.00 feet and a central angle of 90°00'; thence in a Northeasterly, Easterly and Southeasterly direction along the arc of said curve a distance of 31.42 feet to the P.T. (point of tangent) of said curve; thence in the tangent to said curve a distance of 105.00 feet to a point; thence 90°00' to the left in a Northeasterly direction a distance of 411.32 feet to a point; thence 90°00' to the right in a Southeasterly direction a distance of 236.13 feet to a point on the Northwestern right-of-way line of Shelby County Road #47; thence 60°59'27" to the right in a Southwesterly direction along the said right-of-way line a distance of 721.50 feet to a point; thence 2°38'35" to the left in a Southwesterly direction along said right-of-way line a distance of 54.45 feet to a point; thence 6°41'09" to the left in a Southwesterly direction along said right-of-way line a distance of 57.51 feet to a point; thence 8°00'57" to the left in a Southwesterly direction along said right-of-way line a distance of 57.21 feet to a point; thence 9°18'56" to the left in a Southwesterly direction along said right-of-way line a distance of 59.94 feet to a point; thence 8°26'08" to the left in a Southwesterly direction along said right-of-way line a distance of

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EXHIBIT "C" (cont.)

EXHIBIT "C" (cont.)

57.34 feet to a point; thence  $8^{\circ}36'58''$  to the left in a Southerly direction along said right-of-way line a distance of 57.285 feet to a point; thence  $9^{\circ}17'$  to the left in a Southerly direction along said right-of-way line a distance of 56.14 feet to a point; thence  $7^{\circ}55'39''$  to the left in a Southwesterly direction along said right-of-way line a distance of 61.38 feet to a point on the South line of Section 27, Township 19 South, Range 1 West; thence  $98^{\circ}35'$  to the right in a Westerly direction a distance of 340.5889 feet to a point on the Easterly right-of-way line of the Seaboard Coastline Railroad; thence  $41^{\circ}30'$  to the right in a Northwesterly direction along said railroad right-of-way line a distance of 778.9436 feet to the POINT OF BEGINNING.

April 2, 1996

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