

STATE OF ALABAMA
COUNTY OF SHELBY

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS (the "Declaration") is made as of the 1ST day of September, 2000, by Jack Whatley, whose address is P.O. Box 1731 Alabaster, Alabama 35007(hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant simultaneously herewith has conveyed to Mesquite Creek Development, Inc., a Georgia corporation ("MESQUITE "), that certain real property situated in Shelby County, Alabama, being more particularly described on Exhibit "A", attached hereto and made a part hereof for all purposes ("Mesquite Property"); and

WHEREAS, under the provisions of that certain Contract for the Purchase and Sale of real Property by and between Declarant and Mesquite having an effective date of August 09, 2000, Declarant did agree to place the following restrictions on certain real property.

NOW, THEREFORE, Declarant, for and in consideration of the sum of One Dollar (\$1.00) in hand paid, the receipt and sufficiency of which is hereby acknowledged, covenants and agrees, and for itself, its heirs, successors, legal representatives and assigns, does hereby covenant and declare as follows:

1. No facility which serves as a retail outlet for motor fuels or as a convenience store or for the advertising thereof shall be constructed, maintained or operated on the tract or parcel of land more particularly described on Exhibit "B" attached hereto and made a part hereof for all purposes (the "Declarant's Property"); and
2. The above restrictions and covenants shall be deemed to be covenants and restrictions running with the land for the benefit of the MESQUITE Property and as a burden upon the Declarant's Property affected thereby, and shall be in full force and effect from the date hereof or (ii) the longest period allowed by applicable law, and shall be binding upon Declarant, Declarant's Affiliates and their respective heirs, successors, legal representatives, successors-in-title and assigns, and shall be enforceable by MESQUITE, its successors, assigns, successors-in-title and tenants.
4. In the case of any violation or attempted violation by Declarant and/or Declarant's Affiliates and their respective heirs, successors, legal representatives, successors-in-title or assigns of any of the covenants or restrictions contained within this Declaration, MESQUITE, its successors, assigns, successors-in-title and tenants may enforce these covenants and restrictions by injunction or other appropriate proceedings and the prevailing party shall be entitled to recover its damages, costs and reasonable attorneys' fees.
5. It is the intention of Declarant that should there be any provision or provisions of this Declaration which shall prove to be invalid, void, illegal or unenforceable by reason of present or future laws or rules or regulations of any governmental body or entity or any court of competent jurisdiction, such provision or provisions of this Declaration shall in no way affect, impair or invalidate any of the remaining provisions of this Declaration, and all such remaining provisions shall remain in full force and effect. Furthermore, it is the intention of the Declarant that if any provision or provisions are declared to be invalid, void, illegal or unenforceable by reason of present or future laws, rules or regulations of any governmental body or entity or any court of competent jurisdiction, such provision or provisions shall be revised by such governmental body or entity or court to render same fully valid and, to the extent possible, conform to the terms of this Declaration. Such revised provision or provisions shall then be fully binding upon the Declarant as if they were contained in this Declaration.

09/28/2000-34170
10:07 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
004 MEL 16.00

IN WITNESS WHEREOF, Declarant has executed and sealed these presents the day and year above written.

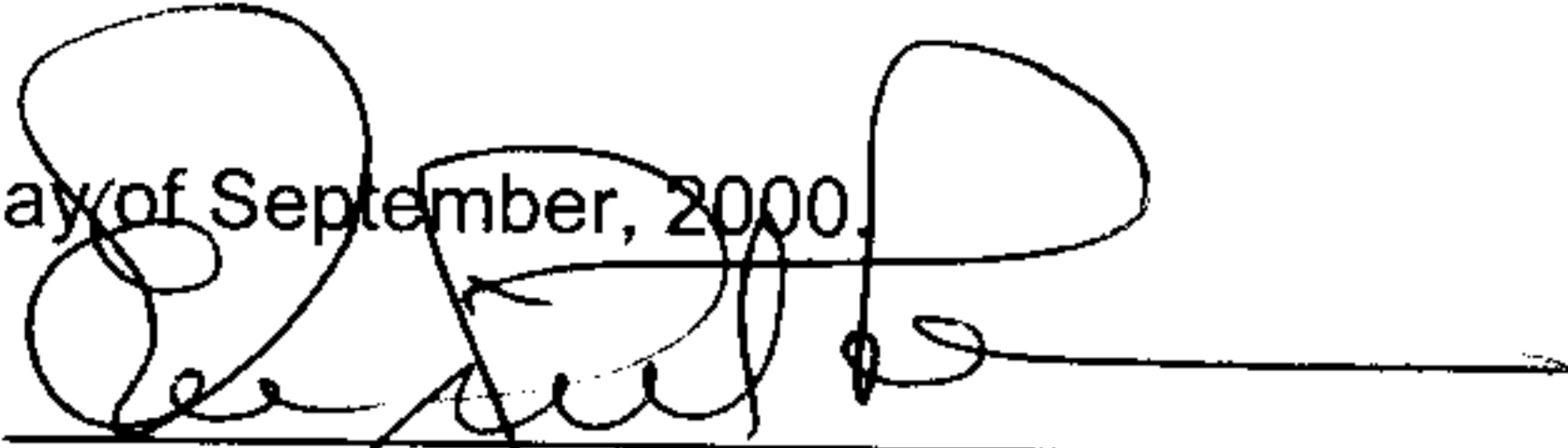
"Declarant"
 (SEAL)
JACK WHATLEY

STATE OF ALABAMA)

COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that **Jack Whatley**, whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day, that being informed of the contents of the foregoing conveyance he executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 1st day of September, 2000.



Notary Public
My Commission Expires: 5/13/04

Exhibit "A"

STATE OF ALABAMA
COUNTY OF SHELBY

PARCEL - 2

Commence at the southwest corner of the southwest quarter of the northeast quarter of Section 3, Township 24 north, Range 12 east, Shelby County, Alabama and run thence easterly along the south line of said quarter-quarter a distance of 312.57' to a point on the east line of Melton Street in the Town of Montevallo, Alabama; Thence run North 01° degree 24 minutes 44 seconds West a distance of 261.11' to a rebar corner; Thence run North 01° degrees 01 minute 29 seconds West along said east line of said Melton Street a distance of 390.80' to a found property corner; Thence run North 01° degrees 35 minutes 03 seconds East along east line of Melton Street a distance of 183.69' to a concrete monument on the south margin of Alabama Highway No. 25; Thence run North 00° degrees 24 minutes 38 seconds West a distance of 115.77' to a found rebar corner on the northerly margin of said Highway 25 and the point of beginning of the property being described; Thence run North 06° degrees 11 minutes 12 seconds East along an existing fence line a distance of 172.58' to a steel corner at a fence corner; Thence run North 16° degrees 26 minutes 22 seconds East along an existing fence line a distance of 76.35' to a found nail in concrete corner; Thence run North 85° degrees 08 minutes 10 seconds East along an existing fence line a distance of 126.78' to a found rebar corner; Thence run South 01° degree 15 minutes 46 seconds East part way along an existing fence line a distance of 273.20' to a set rebar corner on the north margin of Alabama Highway No. 25; Thence run North 84° degrees 10 minutes 55 seconds West along the north margin of said Highway 25 a distance of 173.44' to the point of beginning, containing 39,929 square feet, more or less.

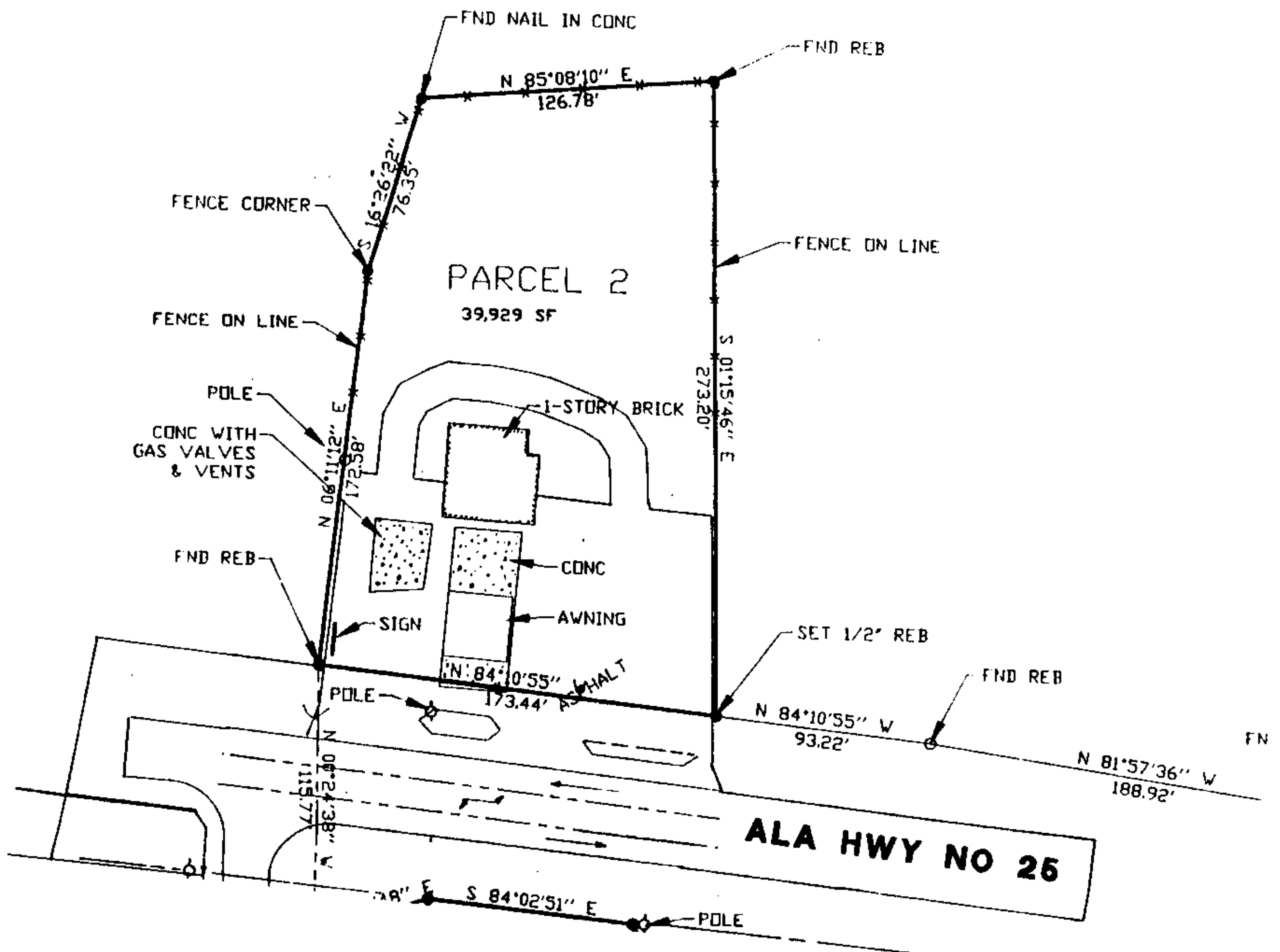
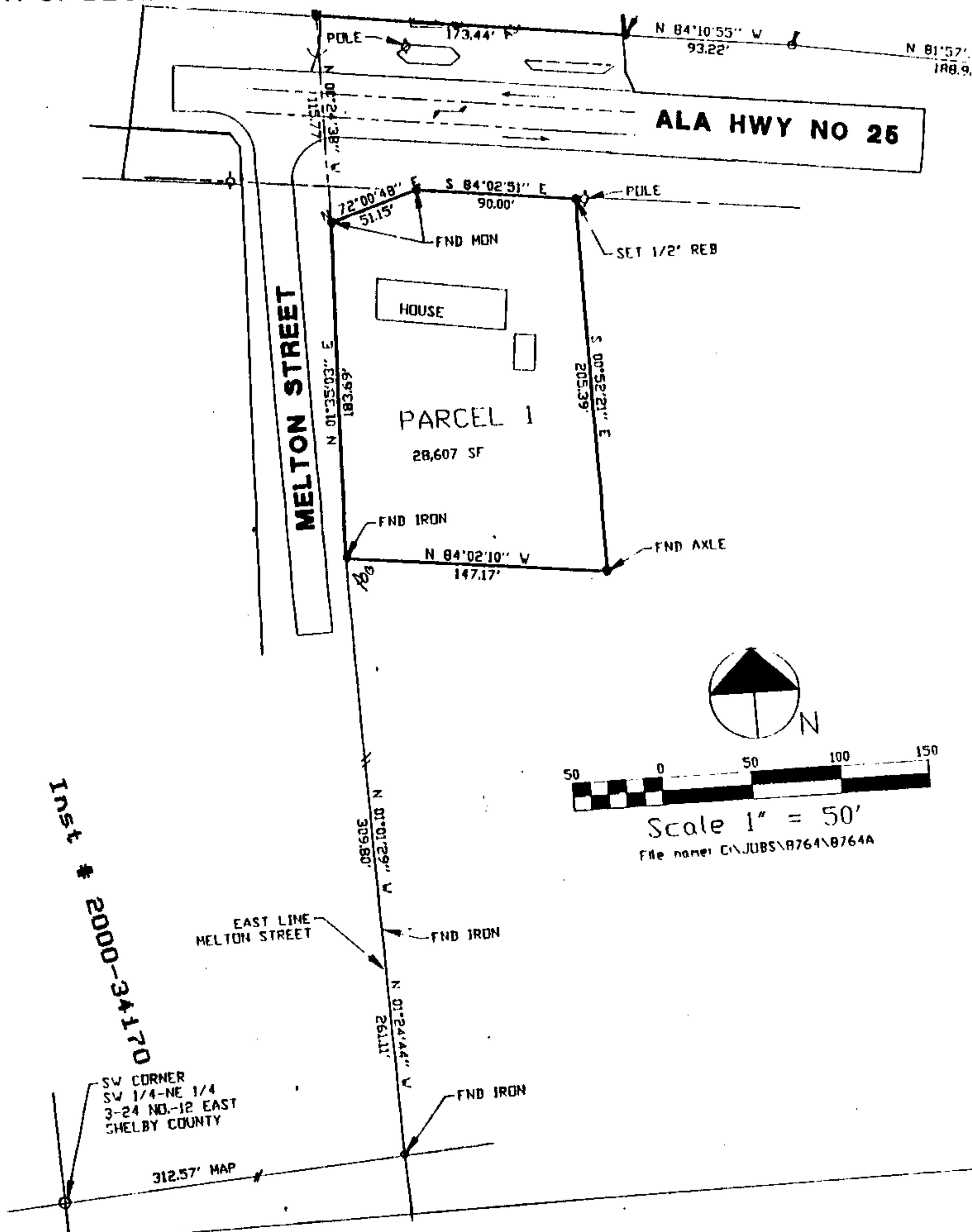


EXHIBIT "B"

COMMENCE AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 3, TOWNSHIP 24 NORTH, RANGE 12 EAST, SHELBY COUNTY, ALABAMA AND RUN THENCE EASTERLY ALONG THE SOUTH LINE OF SAID QUARTER A DISTANCE OF 312.57' TO A POINT ON THE EAST LINE OF MELTON STREET IN THE TOWN OF MONTEVALLO, ALABAMA; THENCE RUN NORTH 01°DEGREES 24 MINUTES 44 SECONDS WEST A DISTANCE OF 261.11' TO A REBAR CORNER; THENCE RUN NORTH 01° DEGREES 01 MINUTES 29 SECONDS WEST ALONG SAID EAST LINE OF MELTON STREET A DISTANCE OF 390.80' TO THE POINT OF BEGINNING; THENCE RUN NORTH 01° DEGREES 35 MINUTES 03 SECONDS EAST ALONG THE EAST LINE OF MELTON STREET A DISTANCE OF 183.69' TO A CONCRETE MONUMENT ON THE SOUTH MARGIN OF ALABAMA HIGHWAY NO. 25; THENCE RUN NORTH 72° DEGREES 00 MINUTES 48 SECONDS EAST A DISTANCE OF 51.15' TO A POINT; THENCE RUN SOUTH 84° DEGREES 02 MINUTES 51 SECONDS EAST A DISTANCE OF 90.00 FEET TO A POINT; THENCE RUN SOUTH 00° DEGREES 52 MINUTES 21 SECONDS EAST A DISTANCE OF 205.39' FEET TO A POINT; THENCE RUN NORTH 84° DEGREES 02 MINUTES 10 SECONDS WEST A DISTANCE OF 147.17' FEET BACK TO THE POINT OF BEGINNING



The above described property is more particularly depicted on that certain survey prepared for Gingercrest, Inc. Dated July 6, 2000 by Conn & Allen, which survey is incorporated herein and made part hereof by this reference.

09/28/2000-34170
10:07 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
16:00