

**After Recording, Return To:**  
**PETsMART, INC.**  
**19601 N. 27<sup>th</sup> Ave.**  
**Phoenix, AZ 85027**  
**Attn: Tracee Smith**

**MEMORANDUM OF LEASE**

Notice is hereby given that **KIMCO BIRMINGHAM L.P.**, an Alabama limited partnership ("Landlord"), and **PETsMART, Inc.**, a Delaware corporation ("Tenant"), have entered into a Shopping Center Lease (the "Lease") dated July 28, 2003, pertaining to certain premises identified on Exhibit A attached hereto and located within the real property described in Exhibit B attached hereto (the "Shopping Center"), together with the outparcels located adjacent thereto. The initial term of such Lease is fifteen (15) Lease Years, and Tenant has the option to extend such term for up to five (5) renewal periods of five (5) Lease Years each. Among other things, the Lease grants to Tenant the right along with Landlord and other tenants in the Shopping Center to use the Common Areas depicted on Exhibit A, including without limitation roads, driveways, sidewalks and parking areas, grants certain rights with respect to Landlord's monument sign structures, and prohibits certain uses within the Shopping Center and the outparcels located adjacent thereto as set forth in that certain Declaration of Easements, Covenants, and Restrictions and Declaration of Protective Covenants recorded in the Real Property Records of Shelby County, Alabama as well as automobile repair shops or service stations (excluding a convenience store on an outparcel which may sell gasoline but cannot provide vehicle repair services).

IN WITNESS WHEREOF, Landlord and Tenant have executed this Memorandum of Lease as of the 30<sup>th</sup> day of July, 2003.

LANDLORD:

TENANT:

**KIMCO BIRMINGHAM L.P.**,  
an Alabama limited partnership

**PETsMART, INC.**,  
a Delaware corporation

By: **KD BIRMINGHAM 1035, INC.**,  
an Alabama corporation

By: [Signature]  
Name: Steven E. Jackson  
Title: Vice President, Real Estate

By: [Signature]  
Name: **BRUCE M. KAUDERER**  
Title: **Vice President**

STATE OF New York )  
 ) ss:  
COUNTY OF Nassau )

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of July, 2003, by Bruce M. Kauderer as Vice President of **KD BIRMINGHAM 1035, INC.**, an Alabama corporation, and general partner of **KIMCO BIRMINGHAM L.P.**, an Alabama limited partnership, on behalf of the Landlord.

Roseanne Dwyer  
Notary Public

My Commission expires:

\_\_\_\_\_

ROSEANNE DWYER  
Notary Public, State of New York  
No. 4909302  
Qualified in Nassau County  
Commission Expires January 11, 2006

STATE OF ARIZONA )  
 ) ss:  
COUNTY OF MARICOPA )

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of July, 2003, by Steven E. Jackson as Vice President, Real Estate of **PETSMART, INC.**, a Delaware corporation, on behalf of the Tenant.

Tracee R. Smith  
Notary Public

My Commission expires:

\_\_\_\_\_

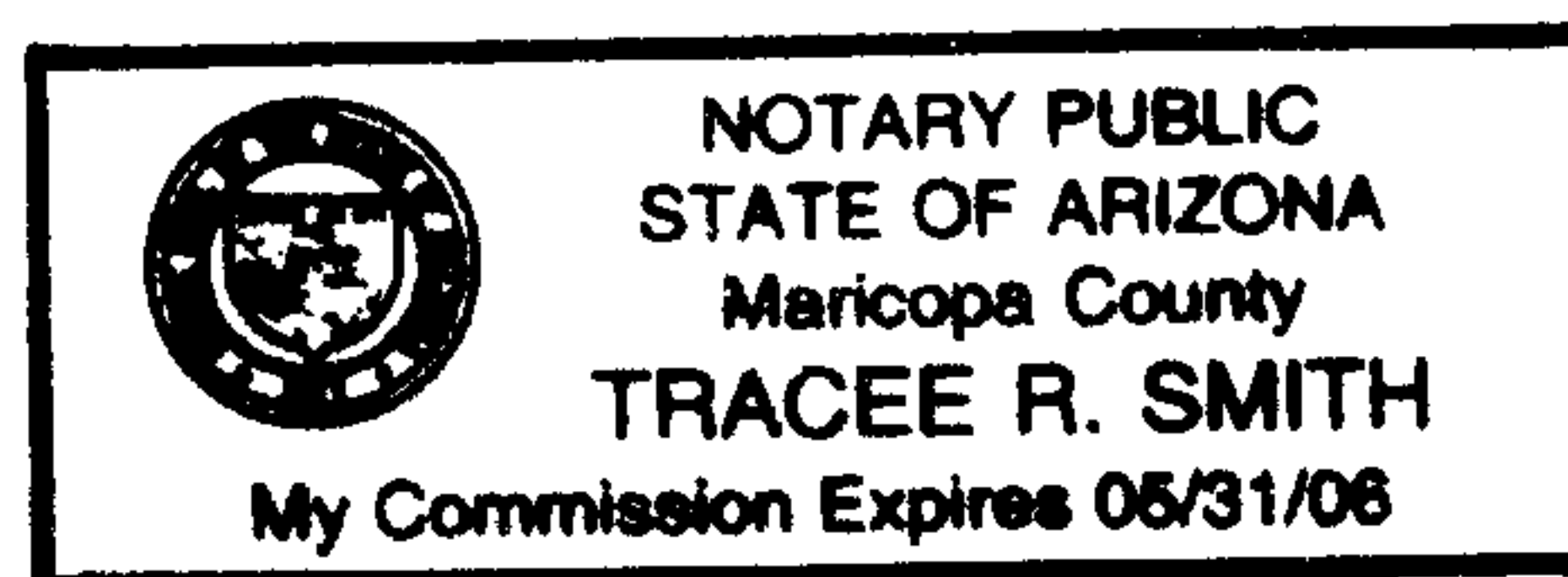
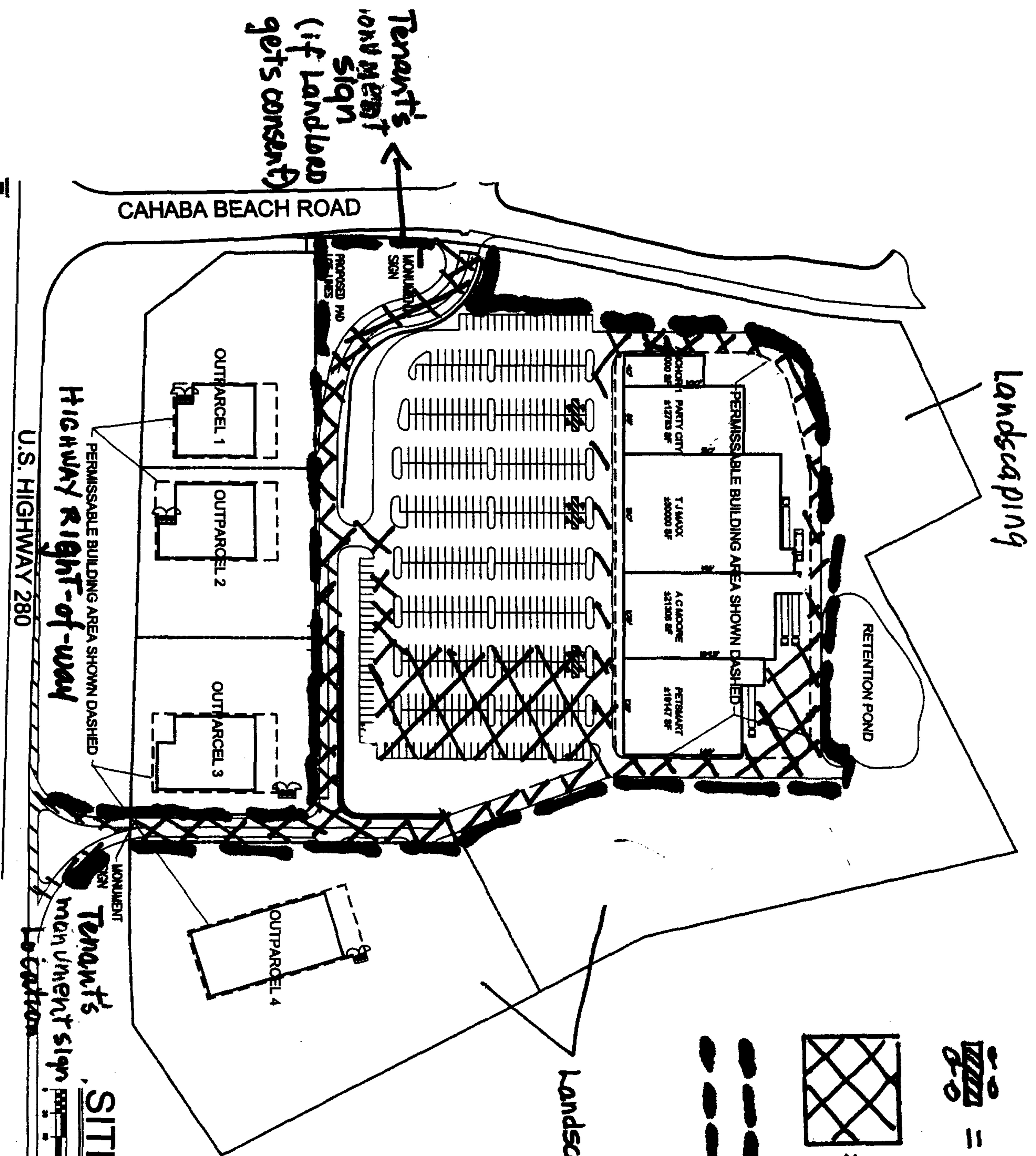


Exhibit A

Site Plan

[Exhibit immediately following this page]



= Handicapped Parking

= Tenant's Protected Area

= Outline of Shopping Center

Landscaped Slope

NOTE: MONUMENT SIGNS ARE SUBJECT TO THE APPROVALS AND PERMITS FROM ALL APPLICABLE JURISDICTIONAL AUTHORITIES.

SITE PLAN SP-23

Site Plan of Inverness Heights Market

EXHIBIT "A"



## Exhibit B

### The Shopping Center and Outparcels

#### Description of the Shopping Center

A parcel of land situated in the Northeast one-quarter of the Southeast one-quarter of Section 36, Township 18 South, Range 2 West and the Northwest one-quarter of the Southwest one-quarter of Section 31, Township 18 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Begin at the Northwest corner of the Northwest one-quarter of the Southwest one-quarter of Section 31, Township 18 South, Range 1 West and run in a Southerly direction along the west line for a distance of 165.34 feet; thence turn an exterior angle of 90 degrees 17 minutes 26 seconds to the right and run in an Easterly direction for a distance of 419.70 feet; thence turn an interior angle of 75 degrees 55 minutes 04 seconds to the left and run in a Southwesterly direction for a distance of 483.03 feet; thence turn an exterior angle of 165 degrees 36 minutes 34 seconds to the right and run in a Southerly direction for a distance of 152.38 feet; thence turn an interior angle of 90 degrees 00 minutes 00 seconds to the left and run in a Westerly direction for a distance 251.13 feet; thence turn an exterior angle of 103 degrees 37 minutes 16 seconds to the right and run in a Southwesterly direction for a distance of 138.35 feet; thence turn an exterior angle of 194 degrees 10 minutes 07 seconds to the right and run in a Southwesterly direction for a distance of 266.47 feet to a point on a curve to the right, said curve having a radius of 3124.05 feet, a central angle of 00 degrees 44 minutes 02 seconds, an interior angle of 88 degrees 33 minutes 51 seconds to the left to chord for a chord distance of 40.01 feet; thence run along arc of said curve for a distance of 40.01 feet; thence turn an interior angle of 91 degrees 26 minutes 09 seconds to the left from chord and run in a Northeasterly direction for a distance of 189.66 feet; thence turn an exterior angle of 135 degrees 00 minutes 00 seconds to the right and run in a Northwesterly direction for a distance of 46.45 feet; thence turn a exterior angle of 135 degrees 00 minutes 00 seconds to the right and run in a Northwesterly direction for a distance of 673.90 feet; thence turn an interior angle of 180 degrees 41 minutes 41 seconds to the left and run in a Northwesterly direction for a distance of 19.70 feet to a point on the Easternmost right of way line of Cahaba Beach Road; thence turn an interior angle of 89 degrees 49 minutes 43 seconds to the left and run in a Northeasterly direction along said right of way for a distance of 42.66 feet to the point of commencement of a non-tangent curve to the right, said curve having a radius of 1220.03 feet, a central angle of 12 degrees 22 minutes 05 seconds, an interior angle of 173 degrees 53 minutes 33 seconds to the left to chord for a chord distance of 262.85 feet; thence run along arc of said curve and along said right of way for a distance of 263.36 feet; thence turn an interior angle of 173 degrees 43 minutes 12 seconds to the left from chord and run in a Northeasterly direction along said right of way for a distance of 289.69 feet to the point of commencement of a non-tangent curve to the left, said curve having a radius of 915.84 feet, a central angle of 10 degrees 04 minutes 28 seconds, an exterior angle of 174 degrees 57 minutes 52 seconds to the right to chord for a chord distance of 160.83 feet; thence run along arc of said curve and along said right of way for a distance of 161.03 feet to a point on the North line of the Northeast one-quarter of the Southeast one-quarter of Section 36, Township

18 South, Range 2 West; thence leaving said right of way, turn an interior angle of 122 degrees 20 minutes 33 seconds to the left from chord and run in an Easterly direction along the North line for 242.13 feet to the POINT OF BEGINNING. Said parcel contains 638,712 square feet or 14.66 acres more or less.

**Description of Outparcels 1, 2 and 3:**

A parcel of land situated in the Northeast one-quarter of the Southeast one-quarter of Section 36, Township 18 South, Range 2 West and the Northwest one-quarter of the Southwest one-quarter of Section 31, Township 18 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Northeast corner of the Northeast one-quarter of the Southeast one-quarter of Section 36, Township 18 South, Range 2 West and run in a Westerly direction along the North line for a distance of 242.13 feet to the point of commencement of a non-tangent curve to the right, said curve having a radius of 915.84 feet, a central angle of 10 degrees 04 minutes 28 seconds, an interior angle of 122 degrees 20 minutes 33 seconds to the right to chord for a chord distance of 160.83 feet; thence run along arc of said curve for a distance of 161.03 feet; thence turn an exterior angle of 174 degrees 57 minutes 52 seconds to the left from chord and run in a Southwesterly direction for a distance of 289.69 feet to the point of commencement of a non-tangent curve to the left, said curve having a radius of 1220.03 feet, a central angle of 12 degrees 22 minutes 05 seconds, an interior angle of 173 degrees 43 minutes 12 seconds to the right to chord for a chord distance of 262.85 feet; thence run along arc of said curve for a distance of 263.36 feet; thence turn an interior angle of 173 degrees 53 minutes 33 seconds to the right from chord and run in a Southwesterly direction for a distance of 42.66 feet; thence turn an interior angle of 89 degrees 49 minutes 43 seconds to the right and run in a Southeasterly direction for a distance of 19.70 feet to the POINT OF BEGINNING; thence turn an exterior angle of 180 degrees 41 minutes 41 seconds to the right and run in a Southeasterly direction for a distance of 673.90 feet; thence turn an interior angle of 135 degrees 00 minutes 00 seconds to the left and run in a Southeasterly direction for a distance of 46.45 feet; thence turn an interior angle of 135 degrees 00 minutes 00 seconds to the left and run in a Southwesterly direction for a distance of 189.66 feet to a point on the Northernmost right of way of U.S. Highway 31 and a point on a non-tangent curve to the right, said curve having a radius of 3124.05 feet, a central angle of 00 degrees 07 minutes 09 seconds, an interior angle of 88 degrees 08 minutes 15 seconds to the left to chord for a chord distance of 6.49 feet; thence run along arc of said curve and along said right of way for a distance of 6.49 feet; thence turn an exterior angle of 179 degrees 53 minutes 04 seconds to the right from chord and run in a Northwesterly direction along said right of way for a distance of 621.39 feet; thence turn an interior angle of 129 degrees 11 minutes 45 seconds to the left and run in a Northwesterly direction along said right of way for a distance of 128.15 feet to a point on the Easternmost right of way of Cahaba Beach Road; thence turn an interior angle of 143 degrees 14 minutes 45 seconds to the left and run in a Northeasterly direction along said right of way for a distance of 101.62 feet to the POINT OF BEGINNING. Said parcel contains 145,031 square feet or 3.33 acres more or less.