

STATE OF ALABAMA     )  
SHELBY COUNTY         )

### ENCROACHMENT EASEMENT AGREEMENT

THIS AGREEMENT, made and entered into this 3rd day of February, 2004, by and between DAVID LATHAM HOMES, L.L.C. (herein referred to as "LATHAM HOMES, OWNER OF LOT 21"), DAVID LATHAM HOMES, L.L.C. (herein referred to as "LATHAM HOMES, OWNER OF LOT 22") and REGIONS BANK, (herein referred to as "REGIONS BANK")

#### WITNESSETH

WHEREAS, LATHAM HOMES, OWNER OF LOT 21 is the owner of the property being more particularly described as follows:

Lot 21, according to the Final Plat, Grand Oaks, as recorded in Map Book 31, Page 68, in the Probate Office of Shelby County, Alabama.

(herein referred to as the "First Property")

WHEREAS, LATHAM HOMES, OWNER OF LOT 22, is the owner of the property being more particularly described as follows:

Lot 22, according to the Final Plat, Grand Oaks, as recorded in Map Book 31, Page 68, in the Probate Office of Shelby County, Alabama.

(herein referred to as the "Second Property").

WHEREAS, REGIONS BANK has a security interest in the First Property under the terms of its mortgage recorded in Instrument Number 2003-38800 in the Office of the Judge of Probate of Shelby County, Alabama.

WHEREAS, the Survey prepared by Walter W. Wickstrom, Jr., of R.C. Farmer and Associates, Inc. dated January 6, 2004 and January 30, 2004, which is attached hereto as Exhibit A and incorporated herein by this reference, discloses that certain improvements owned by LATHAM HOMES, OWNER OF LOT 22 are located partially on the First Property. Said improvement is a concrete driveway which encroaches upon the First Property.

NOW, THEREFORE, in consideration of the premises, and of One Dollar (\$1.00) in hand paid by LATHAM HOMES, OWNER OF LOT 22 to LATHAM HOMES, OWNER OF LOT 21 and to REGIONS BANK, THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, the parties hereto hereby covenant and agree as follows:

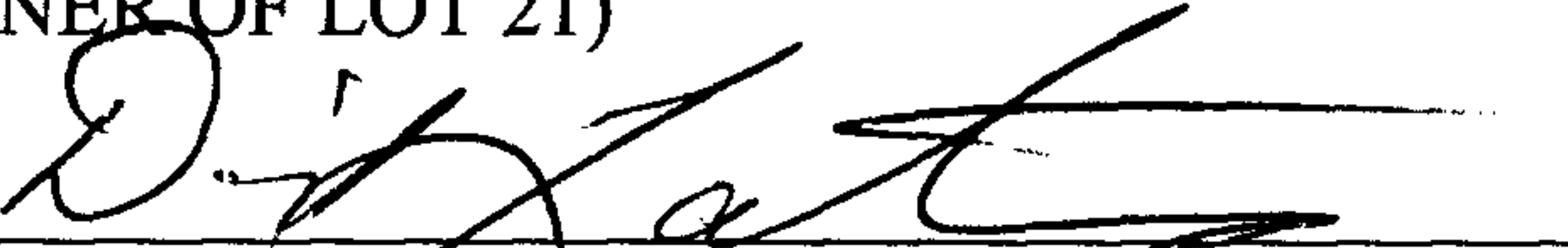
1. LATHAM HOMES, OWNER OF LOT 22, hereby disclaims any title or interest in any portion of the First Property by reason of said encroachment.
2. LATHAM HOMES, OWNER OF LOT 21, its successors and assigns, and REGIONS BANK, its successors and assigns, hereby grant unto LATHAM HOMES, LOT 22, its successors and assigns, a permanent, exclusive easement over the Second Property at the site of the encroachment for the purpose of using and maintaining the portion of the concrete driveway which is located thereon and such easement shall be a burden upon the First Property and a benefit to the Second Property.


A. Strickland

3. LATHAM HOMES, OWNER OF LOT 22, its successors and assigns, covenant and agree that should the portion of the driveway encroachment ever be removed by LATHAM HOMES, OWNER OF LOT 22, its successors and assigns, at any time, all rights granted under this Agreement shall immediately become null and void.


IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, this 3<sup>rd</sup> day of February, 2004.

LATHAM HOMES, L.L.C.  
(OWNER OF LOT 21)

BY:   
DAVID LATHAM, ITS MEMBER

BY:   
DEBRA R. LATHAM, ITS MEMBER

REGIONS BANK

BY:   
RONALD B. ROBERTS  
ITS: ~~S~~R. VICE-PRESIDENT

LATHAM HOMES, L.L.C.  
(OWNER OF LOT 22)

BY:   
DAVID LATHAM, ITS MEMBER


BY:   
DEBRA R. LATHAM, ITS MEMBER

ACKNOWLEDGEMENT ON NEXT PAGE

STATE OF ALABAMA     )  
JEFFERSON COUNTY    )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that David Latham and Debra R. Latham (as to Lot 21) whose names as Members of Latham Homes, L.L.C., is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of this instrument, he executed the same in his capacity for the aforesaid limited liability company on the day the same bears date.

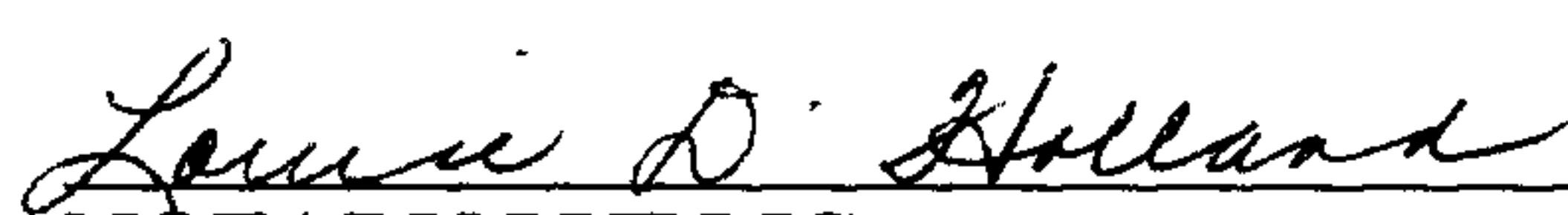
Given under my hand and official seal, this the 3rd day of February, 2004.

  
NOTARY PUBLIC  
My Commission Expires: 5-11-05

STATE OF ALABAMA     )  
JEFFERSON COUNTY    )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Ronald B. Roberts, whose name as Jr. Vice-President of Regions Bank is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of this instrument, he executed the same in his capacity for the aforesaid corporation on the day the same bears date.

Given under my hand and official seal, this the 3rd day of February, 2004.

  
NOTARY PUBLIC  
My Commission Expires: 2/25/2005

STATE OF ALABAMA     )  
JEFFERSON COUNTY    )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that David Latham and Debra R. Latham, (as to Lot 22) whose names as Members of Latham Homes, L.L.C., is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of this instrument, he executed the same in his capacity for the aforesaid limited liability company on the day the same bears date.

Given under my hand and official seal, this the 3rd day of February, 2004.

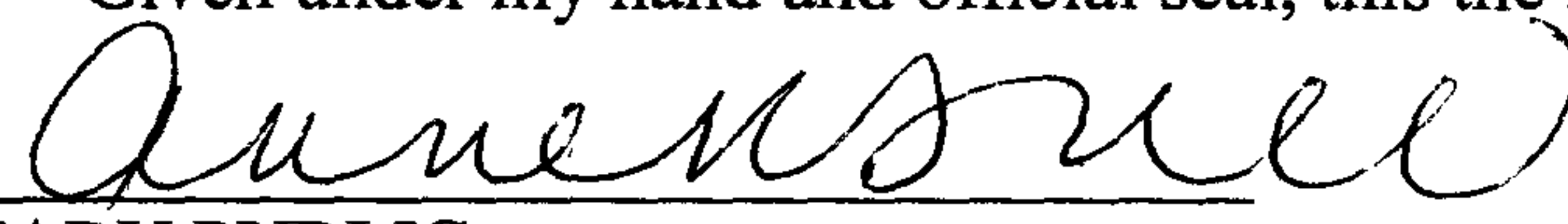
  
NOTARY PUBLIC  
My Commission Expires: 5-11-05



EXHIBIT A

20040206000063190 Pg 4/4 20.00  
Shelby Cnty Judge of Probate,AL  
02/06/2004 12:44:00 FILED/CERTIFIED

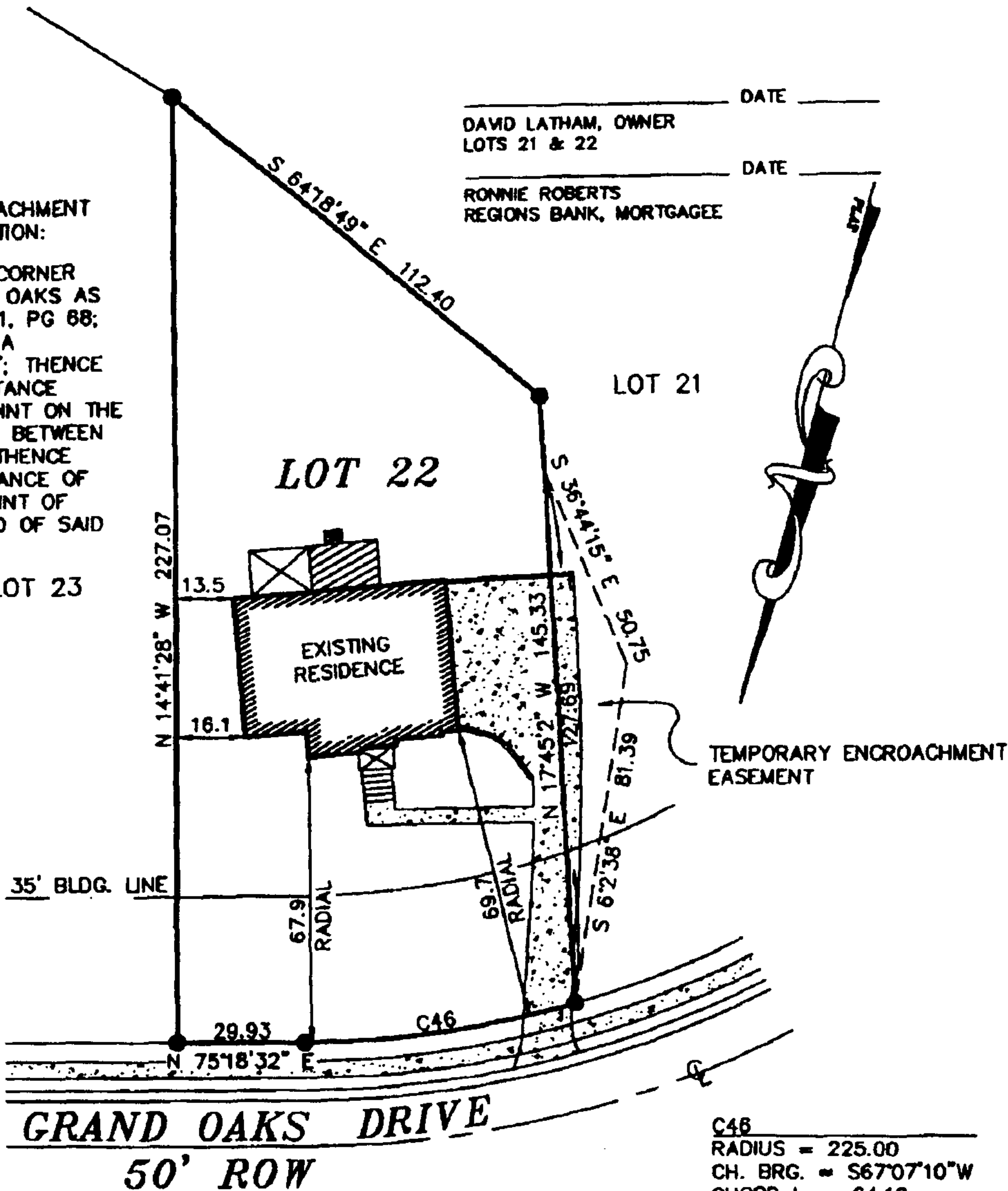
STATE OF ALABAMA  
COUNTY OF SHELBY

NOTE:  
A RESURVEY OF LOTS 21 & 22 IS IN THE PROCESS OF  
BEING RECORDED. FOLLOWING THE RECORDING OF SAID  
RESURVEY, THERE WILL BE NO ENCROACHMENT. THE  
TEMPORARY ENCROACHMENT EASEMENT WILL BE  
VACATED BY SAID RESURVEY.

TEMPORARY ENCROACHMENT  
EASEMENT DESCRIPTION:

BEGIN AT THE NW CORNER  
OF LOT 22, GRAND OAKS AS  
RECORDED IN MB 31, PG 68;  
THENCE S6°2'38"E, A  
DISTANCE OF 81.39'; THENCE  
S36°44'15"E, A DISTANCE  
OF 50.75' TO A POINT ON THE  
WESTERLY LOT LINE BETWEEN  
LOTS 21 AND 22; THENCE  
N17°45'2"W, A DISTANCE OF  
127.69' TO THE POINT OF  
BEGINNING AND END OF SAID  
EASEMENT.

LOT 23



Survey of Lot 22, Block \_\_\_\_\_ according to FINAL PLAT GRAND OAKS  
as recorded in the Office of the Judge of  
Probate of afore-said County in Plat Book 31, Page 68: The address based on  
reliable information and sources of said Lot is GRAND OAKS DRIVE  
the CITY OF HOOVER, Alabama and is INSIDE the corporate limits of  
the CITY OF HOOVER: That said lot lies in Zone 'C', according to  
F.I.R.M. Community-Panel Number 010191 0065 B \* Dated SEPT. 16, 1982

SURVEY FOR: LATHAM

REQUESTED BY: DAVID LATHAM

TYPE OF SURVEY: MORTGAGE SURVEY

DATE OF FIELD SURVEY: 1/6/04 & 1/30/04

\* SHELBY COUNTY FLOOD INFO USED; THIS AREA OF HOOVER WAS NOT INCORPORATED AT THE TIME OF F.I.R.M. FLOOD STUDY.

LEGEND

- 1 - CONCRETE MONUMENT FOUND.
- - PK NAIL FOUND
- - 8 REBAR SET WITH CAP STAMPED.
- - PK NAIL SET
- - UTILITY POLE
- - BRICK WALL
- - WOOD DECK
- - COVERED WOOD DECK
- - SCREENED IN DECK
- - IRON PIN FOUND 1/2" OUTSIDE DIAMETER
- U- - OVERHEAD UTILITY LINE(S)
- X- - FENCE
- - CONCRETE
- - NOT TO SCALE
- △ - ACRES
- ⊙ - CENTERLINE
- ESMT - EASEMENT.
- M B L - MINIMUM BUILDING LINE
- ROW - RIGHT OF WAY.
- - CONCRETE BLOCK WALL
- - BRICK WALL

SCALE: 1" = 40'

BASIS OF BEARING USED: PLAT

SOURCE OF INFORMATION USED IN MAKING THIS SURVEY IS:  
RECORD MAP

JOB # 7952

DATE: 2/2/04

DRAWN: SDM

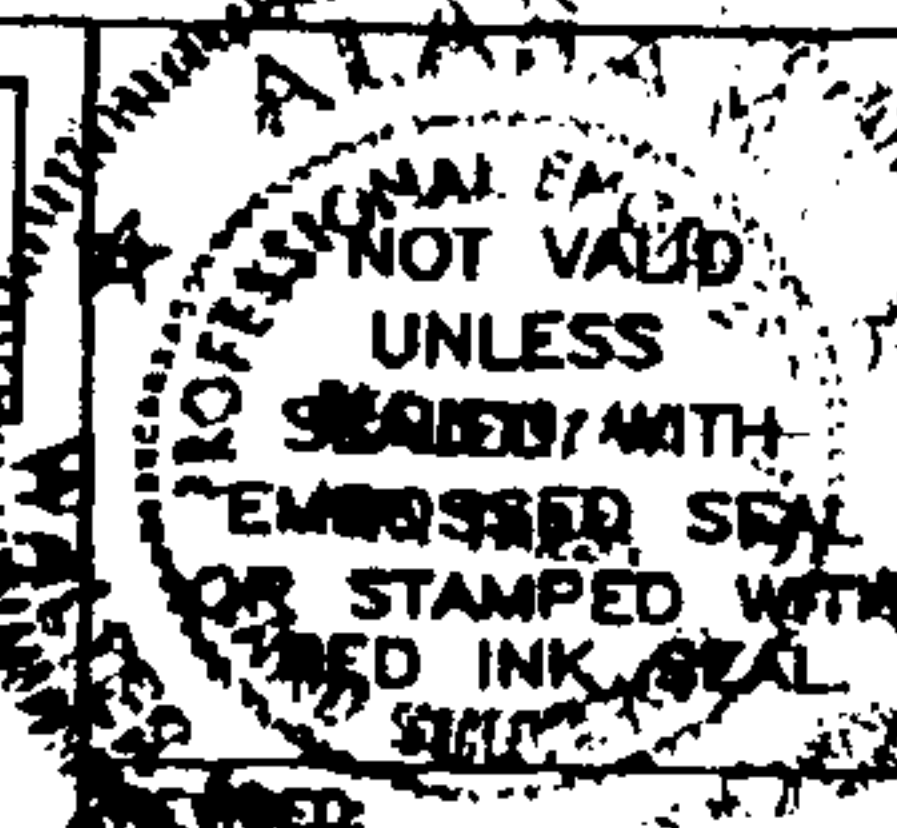
CHECKED: WWW

SHEET NO 1 of 1

PREPARED BY:  
R. C. FARMER  
and  
ASSOCIATES, INC.  
248 YEAGER PARKWAY  
PELHAM, ALABAMA  
36124  
TEL-205-664-2566  
FAX-205-664-2616

I HEREBY STATE THAT ALL PARTS OF THIS SURVEY AND  
DRAWING HAVE BEEN COMPLETED IN ACCORDANCE WITH THE  
CURRENT REQUIREMENTS OF THE STANDARDS OF PRACTICE  
FOR SURVEYING IN THE STATE OF ALABAMA TO THE BEST  
OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

*Kathleen H. Nickerson*



ANNE R. STRICKLAND  
ATTORNEY AT LAW  
5330 STADIUM TRACE PKWY STE 250  
BIRMINGHAM, AL 35244