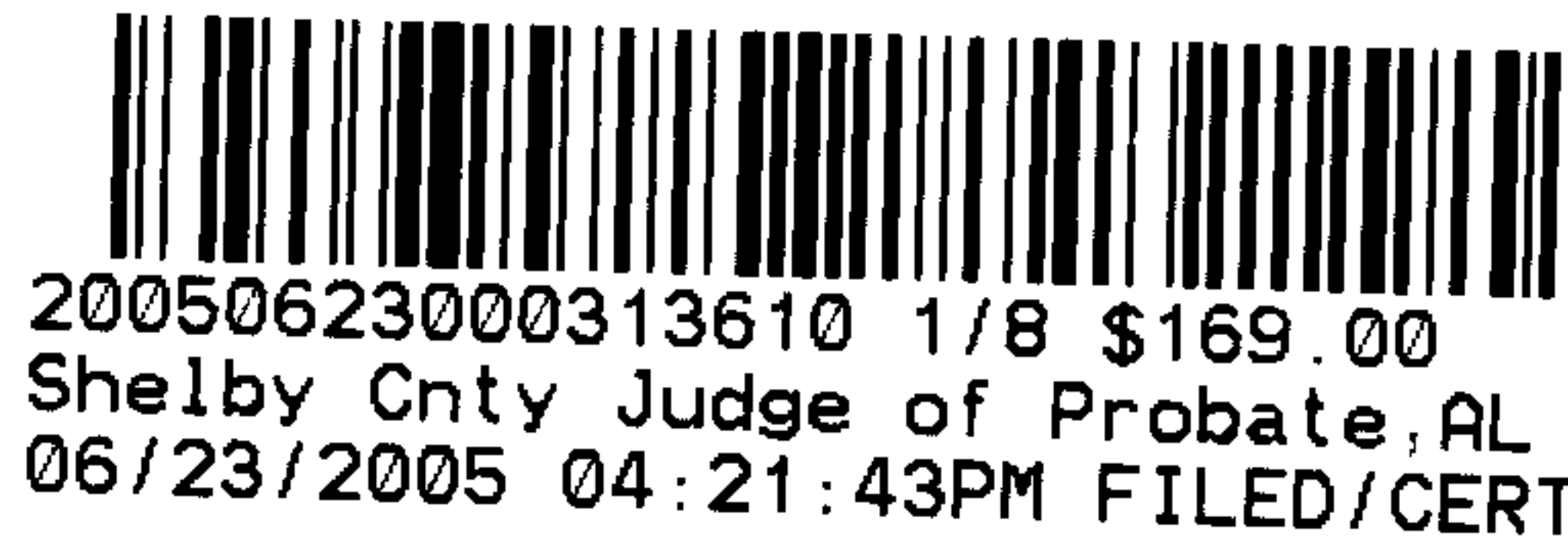




Monthly Base
Rental = \$ 2000.00
per month
(two thousand
dollars.)

STATE OF ALABAMA)
COUNTY OF SHELBY)

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE is made and entered into as of May 31, 2005, by and between **Broderick, LLC**, an Alabama limited liability company ("Landlord"); and **New Gourmet Deli, LLC d/b/a McAlister's Deli**, an Alabama limited liability company ("Tenant").

WITNESSETH:

1. **Premises.** Landlord hereby leases to Tenant and Tenant hereby leases from Landlord certain premises located at 152 Bowling Lane in the City of Pelham, County of Shelby, State of Alabama, together with the building containing approximately three thousand seven hundred fifty-three square feet (the "Premises"), upon and subject to such covenants, conditions and agreements as are set forth in that certain Shopping Center Lease Agreement between Landlord and Tenant of even date herewith (the "Lease"), which Lease is incorporated herein by reference.

The Premises are part of a shopping center known as "Oak Mountain Centre", which shopping center is located on that certain real property situated in the City of Pelham, County of Shelby, State of Alabama, as more particularly described on Exhibit A attached hereto and made a part hereof (the "Shopping Center").

2. **Term and Renewal Options.** Subject to the terms and conditions of the Lease, the Lease has an initial term of eighty-seven (87) months (the "Initial Term") subject to extension (at Tenant's option) as provided therein for three (3) consecutive additional periods of sixty (60) months each (along with Initial Term, the "Term").

3. **Certain Restrictions.** The Lease contains the following provisions:

- A. Tenant shall operate its business in the Premises during the Term of this Lease for the purpose of a typical McAlister's Deli operation as the same exists as of the date of the Lease, or as may be modified by McAlister's Corporation from time to time and required of Tenant pursuant to its franchise agreement, and for no other purpose.
- B. For as long as Tenant is open and operating a fully stocked and staffed McAlister's Deli and not in default under the Lease, Landlord agrees that Tenant's McAlister's Deli shall be the only restaurant or food service operation allowed in building #1 as shown on the site plan (the "Exclusive Use") attached as Exhibit B except that Landlord shall be allowed to lease

space in building # 1 to an ice cream/dessert or coffee shop or a wine/cheese shop or a pizza take-out and/or delivery operation (i.e. no full-service, dine-in restaurant to be allowed in building #1 except for Tenant) ("Permitted Uses"). Landlord further agrees, with the contingences for the foregoing Exclusive Use, to limit any restaurant use or uses in building # 2 shown on the site plan to no more than 3,800 square feet in the aggregate and Landlord shall limit the total number of restaurants in this Shopping Center to no more than three (3).

4. **Notices.** As more fully set forth in the Lease, the addresses of Landlord and Tenant for the purposes of notices, payments and other communications required or permitted thereunder are as follows:

If to Landlord: Broderick, LLC
Post Office Box 380605
Birmingham, Alabama 35238
Attention: Craig Kollars

with a copy to: Adam J. Sigman, Esq.
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
1600 SouthTrust Tower
420 20th Street North
Birmingham, Alabama 35203

If to Tenant: New Gourmet Deli, LLC d/b/a McAlister's Deli
1960-E Chandalar Drive
Pelham, Alabama 35124
Attention: Tom McQuillan

with a copy to: Stephen P. Leara, Esq.
Wallace, Jordan, Ratliff & Brandt, L.L.C.
800 Shades Creek Parkway, Suite 400
Birmingham, Alabama 35209

5. **Entire Agreement.** All of the terms, provisions, covenants and agreements contained in the Lease are incorporated herein by reference in the same manner and to the same extent as if all of such terms, provisions, covenants and agreements were expressly set forth herein; and nothing contained in this Memorandum of Lease shall be deemed, construed, or implied to alter, modify or amend in any manner whatsoever any of the terms, provisions, covenants or agreements contained in the Lease. In the event of any inconsistency between the terms of the Lease and this instrument, the terms of the Lease shall prevail.

6. **Purpose.** Landlord and Tenant acknowledge that the information contained herein is true and correct and that they intend to place this Memorandum of Lease of record for the purpose of giving public notice of the Lease.

7. **Binding Effect.** The rights and obligations set forth herein shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

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20050623000313610 3/8 \$169.00
Shelby Cnty Judge of Probate, AL
06/23/2005 04:21:43PM FILED/CERT

SIGNED as of the day and year first written above.

LANDLORD:

Broderick, LLC,
an Alabama limited liability company

By: *Craig G. Kollars*
Name: CRAIG G. KOLLARS
Its: Member

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Craig Kollars, whose name as Member of **BRODERICK, LLC**, an Alabama limited liability company, 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 the instrument, in his capacity as such officer and with full authority, he executed the same voluntarily for and as the act of said limited liability company on the day the same bears date.

Given under my hand this the 31st day of May, 2005.

[NOTARIAL SEAL]

Seema D. Thottassery
Notary Public
My Commission Expires: _____

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Jan 5, 2009
BONDED THRU NOTARY PUBLIC UNDERWRITERS

TENANT:

New Gourmet Deli, LLC d/b/a McAlister's Deli,
an Alabama limited liability company

By: _____

Tom McQuillan

Its Manager

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Tom McQuillan, whose name as Manager of **NEW GOURMENT DELI, LLC d/b/a McALISTER'S DELI** an Alabama limited liability company, 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 the instrument, in his capacity as such officer and with full authority, he executed the same voluntarily for and as the act of said limited liability company on the day the same bears date.

Given under my hand this the 5th day of May, 2005.

[NOTARIAL SEAL]

Kaye H. Hays
Notary Public

My Commission Expires: 12/7/07

KHH

THIS INSTRUMENT PREPARED BY:

Stephen P. Leara, Esq.
Wallace, Jordan, Ratliff & Brandt, LLC
800 Shades Creek Parkway, Suite 400
Birmingham, Alabama 35209

EXHIBIT A

20050623000313610 6/8 \$169.00
Shelby Cnty Judge of Probate, AL
06/23/2005 04:21:43PM FILED/CERT

Land

Lot 1-A, according to the Survey of Jim Lunceford's Resurvey of Oak Mountain Centre, as recorded in Map Book 32, Page 54, in the Office of the Judge of Probate of Shelby County, Alabama.

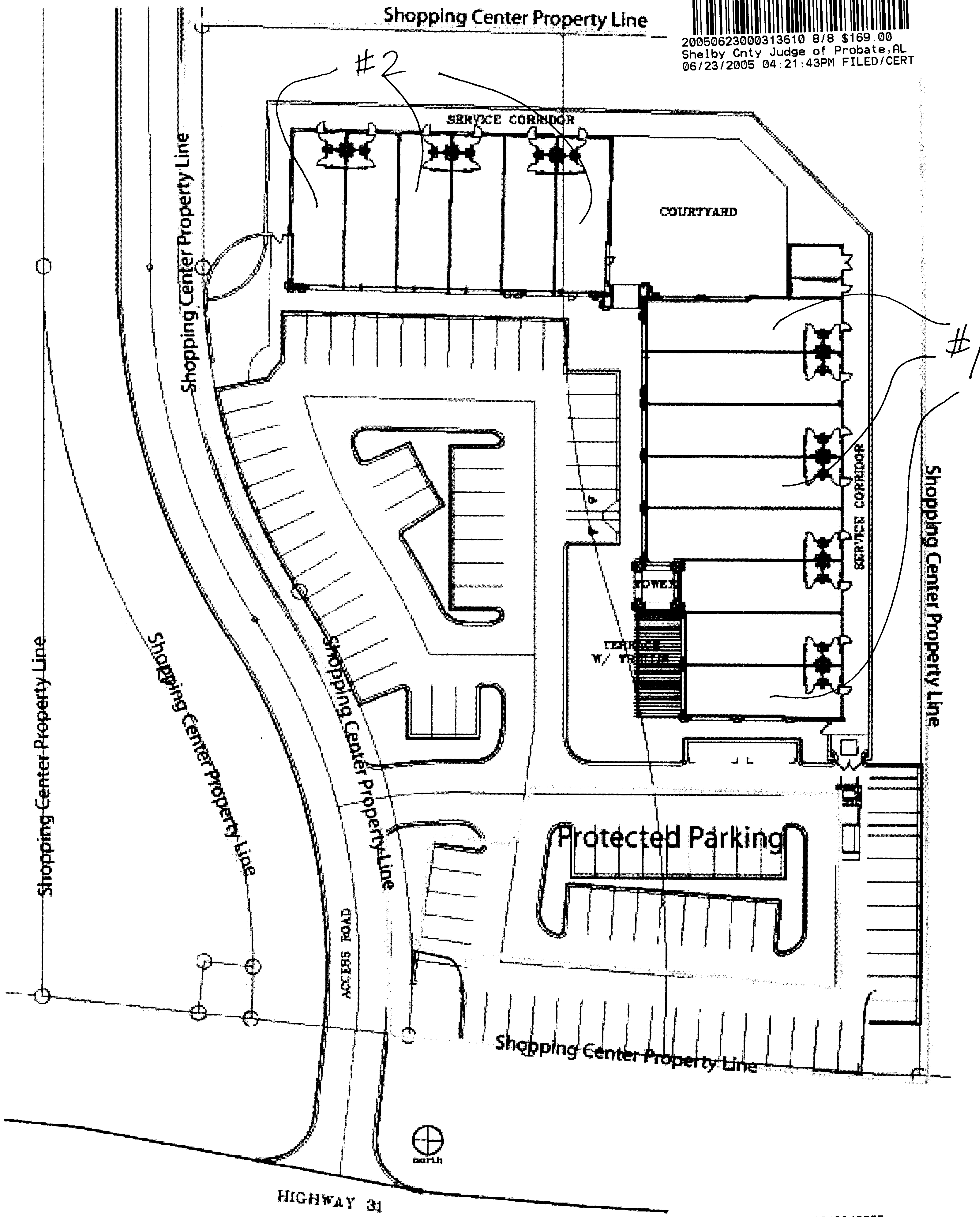

20050623000313610 7/8 \$169.00
Shelby Cnty Judge of Probate, AL
06/23/2005 04:21:43PM FILED/CERT

EXHIBIT B

Site Plan

Shopping Center Property Line

20050623000313610 8/8 \$169.00
Shelby Cnty Judge of Probate, AL
06/23/2005 04:21:43PM FILED/CERT



Shelby County, AL 06/23/2005
State of Alabama
Deed Tax: \$134.00