

STATE OF ALABAMA) SHELBY COUNTY)

ENCROACHMENT EASEMENT AGREEMENT

THIS AGREEMENT, made and entered into this the 5th day of , 2005, by and between Brian McCarver (hereinafter referred to as "McCarver") and Donald N. Lathem, Jr. and wife Gina C. Lathem, (hereinafter referred to as "Lathem")

WITNESSETH

WHEREAS, McCarver is the owner of the property described s follows:

Lot 239, according to the Survey of The Woodlands, Sector 2, 4 & 5, as recorded in Map Book 29, Page 99, in the Probate Office of Shelby County, Alabama

known hereinafter s "Lot 239".

WHEREAS, Lathem is the owner of the property adjacent to Lot 239, described as follows:

Lot 238-A, according to the Survey of The Woodlands, Sector 2, 4 & 5, as recorded in Map Book 29, Page 99, in the Probate Office of Shelby County, Alabama

known hereinafter as "Lot 238-A, as shown on that survey by R.C. Farmer & Associates, Inc. dated August 2, 2004 and attached hereto and incorporated herein as Exhibit "A:.

WHEREAS, the Survey shown on Exhibit "A" discloses that a portion of the slope for the driveway for Lot 238-A is located on Lot 239.

NOW THEREFORE, in consideration of the premises, Ten dollars (\$10.00) in hand paid by Lathem to McCarver and other good and valuable consideration, the parties covenant and agree as follows:

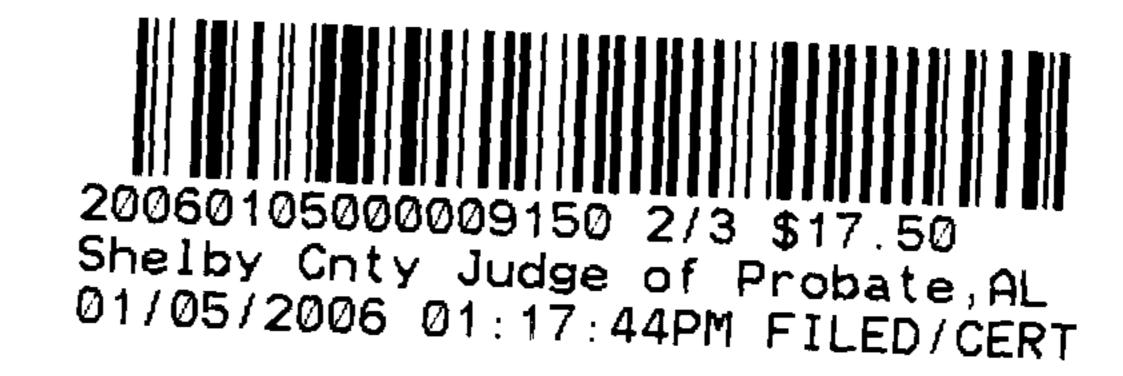
- 1. Lathem, the heirs, executors, successors and assigns, hereby disclaims any title or interest in any portion of Lot 239 by reason of said encroachment.
- 2. McCarver hereby grants unto Lathem, their heirs executors, successors and assigns, a permanent easement of Lot 238-A at the site of the encroachment for the purpose of using and maintaining the portion of the slope of the driveway which is located thereon.
- 3. Lathem, their heirs, executors, successors and assigns, covenant and agree that should said portion of the slope of the driveway on Lot 238-A be removed by Lathem, their heirs, executors, successors and assigns. at anytime, all rights granted under this Agreement shall immediately become null and void.

IN WITNESS WHEREOF, the parties herein have hereunto set their hands and seals this the day and year first above written.

DONALD N. LATHEM, JR.

GINA C. LATHEM

ACKNOWLEDGMENTS 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 Brian McCarver, whose name 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 said instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this the 5th day of 6th 2005.

NOTARY PUBLIC

My Commission Expires: 5/3/09

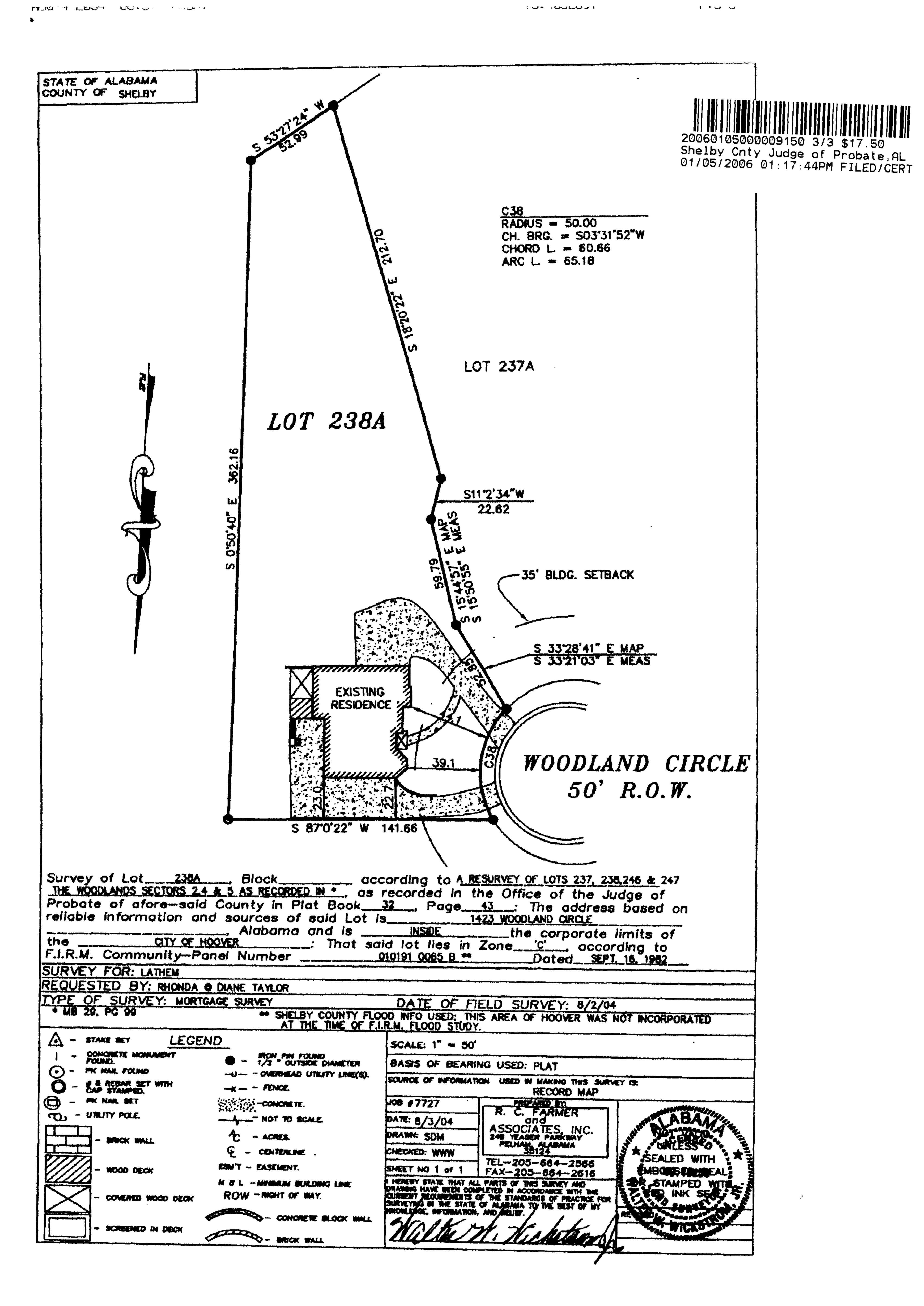
STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Donald N. Lathem, Jr. and Gina C. Lathem, 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 said instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this the 5th day of 6th., 2005.

NOTARY PUBLIC

My Commission Expires: 5/30/09



Shelby County: AL 01/05/2006 State of Alabama Deed Tax:\$.50