


STATE OF ALABAMA )

SHELBY COUNTY )



20070329000141960 1/9 \$35.50  
Shelby Cnty Judge of Probate, AL  
03/29/2007 01:20:03PM FILED/CERT

Shelby County, AL 03/29/2007  
State of Alabama

Deed Tax: \$.50

### ACCESS EASEMENT AGREEMENT

THIS **ACCESS EASEMENT AGREEMENT** (this "Agreement") is made and entered into as of the 27<sup>th</sup> day of March, 2007, by **MJM CHELSEA, LLC**, an Alabama limited liability company ("MJM Chelsea"), and **B & F REALTY #1, LLC**, an Alabama limited liability company ("B & F Realty"), and is joined in by **COMPASS BANK** for the purpose of evidencing its consent to the provisions of this Agreement.

#### Recitals

WHEREAS, pursuant to that certain Purchase Agreement between MJM Chelsea and B & F Realty dated as of June 20, 2006, as amended from time to time (the "Purchase Agreement"), MJM Chelsea has conveyed to B & F Realty certain real property located in Chelsea, Shelby County, Alabama more particularly described on Exhibit A attached hereto (the "B & F Property"). The location of the B & F Property is illustrated on the preliminary plan for Chelsea Crossings shopping center as shown on Exhibit B attached hereto (the "Plan").

WHEREAS, MJM Chelsea is in the process of developing the property surrounding the B & F Property (the "Development"), which is shown more fully on the Plan.

WHEREAS, B & F Realty has requested, and MJM Chelsea has agreed to provide, an access easement as described more fully herein.

NOW, THEREFORE, in consideration of the sum of Ten and No/100 Dollars (\$10.00) in hand paid to MJM Chelsea, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, MJM Chelsea does hereby grant, bargain, sell and convey to B & F Realty, upon the conditions and subject to the limitations hereinafter set forth, the easements and rights hereinafter set forth.

TO HAVE AND TO HOLD, said easements and rights unto B & F Realty, its successors and assigns.

#### 1. Representations and Warranties.

(a) By MJM Chelsea. MJM Chelsea does hereby represent and warrant that it is the owner of the fee simple interest in and to such real property comprising the Access Easement Area (as such term is defined hereinbelow) and that all necessary steps have been taken to authorize it to enter into this Agreement.



(b) By B & F Realty. B & F Realty does hereby represent and warrant that it has taken all steps necessary to authorize it to enter into this Agreement.

2. Access Easement Area. MJM Chelsea does hereby declare, establish, grant and convey a non-exclusive access easement (the "Access Easement") over, across, through and upon the property as more fully described or designated on Exhibit C (including the area cross-hatched on Exhibit B) as attached hereto (the "Access Easement Area") and all roadways and/or drives now or hereafter located thereon for the purpose of providing reasonable access and a means of ingress and egress for passenger vehicles and pedestrians to and from U.S. Highway 280 (utilizing a stoplight to be installed on U.S. Highway 280 at the location designated on Exhibit B) and the B & F Realty Property. MJM Chelsea hereby represents and warrants that it is the owner of the Access Easement Area.

3. Nature and Duration of Easement. The Access Easement shall be permanent, perpetual and non-exclusive in nature.

4. Agreements Run with Land. Both the benefits and the burdens of all easements and rights established by this Agreement shall run with and bind the lands described herein and shall be binding upon and inure to the benefit of any and all owners thereof and their respective tenants, licensees, invitees, employees, personal representatives, heirs, successors, and assigns.

5. Interpretation. The easements, benefits, rights and obligations set forth herein shall be interpreted so as to allow the owners of the lands affected hereby to enjoy the commercially reasonable use and benefit of the same while fulfilling the essential purposes of such easement, covenants and restrictions.

6. Captions and Headings. The captions and headings contained in this Agreement are for convenience of reference only and shall not be used in the construction or interpretation of any provisions of this Agreement.

7. Severability. If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall ever be held to be invalid or unenforceable, then in each such event the remainder of this Agreement or the application of such term, covenants, condition or provision to any other person or any other circumstance (other than those as to which it shall be invalid or unenforceable) shall not be thereby affected, and each term, covenant, condition and provision hereof shall remain valid and enforceable to the fullest extent permitted by law.

8. Governing Law. This Agreement shall be construed in accordance with and governed by the internal laws of the State of Alabama.

9. Entire Agreement. This Agreement contains the entire agreement between the parties hereto in respect of the easement hereby conveyed, and neither party is bound by any previous representations or agreements of any kind regarding the Access

Easement except as herein contained. This Agreement and any provision herein contained may be terminated, extended, modified or amended only with the express written consent of the then-owners of the B & F Realty Property and the portion of the Development so affected.

**[signature pages to follow]**



*[signature page to Access Easement Agreement]*

**B & F REALTY #1, LLC**

By: B & F Holdings, Ltd.  
Its: Member

By: B & F Holdings GP, LLC  
Its: General Partner

By: *James M. Baird*  
Name: Jerrell M. Baird  
Title: President

STATE OF Alabama )

Jefferson COUNTY )

I, the undersigned, a notary public in and for said county in said state, hereby certify that Jerrell M. Baird, whose name as President of B & F Holdings GP, LLC, in its capacity as General Partner of B & F Holdings, Ltd., in its capacity as Member of B & F Realty #1, 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 said instrument, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this 27<sup>th</sup> day of March, 2007.

*Carolyn N. Lantier*  
Notary Public

[NOTARIAL SEAL]

My commission expires: \_\_\_\_\_

My Commission Expires September 29, 2009

*[signature page to Access Easement Agreement]*

**MJM CHELSEA, LLC**

By: 

Name: John M. Walters

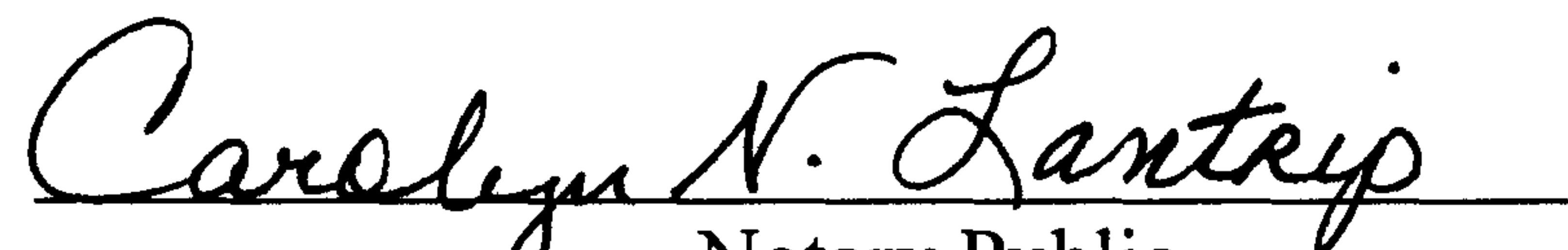
Title: Authorized Member

STATE OF ALABAMA )

JEFFERSON COUNTY )

I, the undersigned, a notary public in and for said county in said state, hereby certify that John M. Walters, whose name as Authorized Member of MJM Chelsea, 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 said instrument, he, as such Authorized Member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this 27<sup>th</sup> day of March, 2007.

  
Notary Public

[NOTARIAL SEAL]

My commission expires: \_\_\_\_\_

**THIS INSTRUMENT PREPARED BY:**

Matthew W. Grill  
Maynard, Cooper & Gale, P.C.  
1901 Sixth Avenue North  
2400 AmSouth/Harbert Plaza  
Birmingham, Alabama 35203  
(205) 254-1000

*My Commission Expires September 29, 2009*



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**EXHIBIT A**

(Description of B & F Realty Property)

Outparcel 3, Chelsea Crossings, according to the plat thereof recorded in Map Book 37, Page 49, of the records in the Office of the Judge of Probate, Shelby County, Alabama.

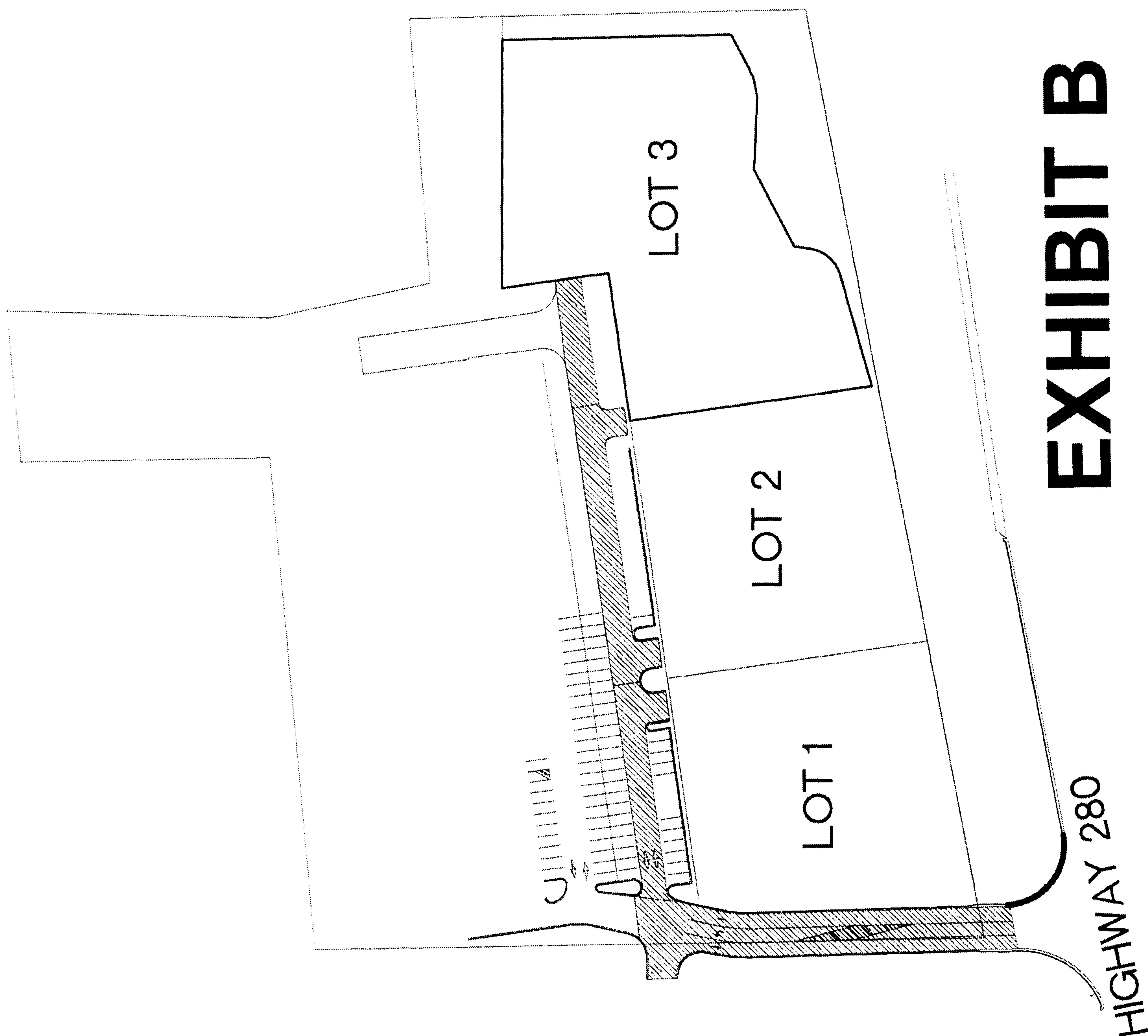
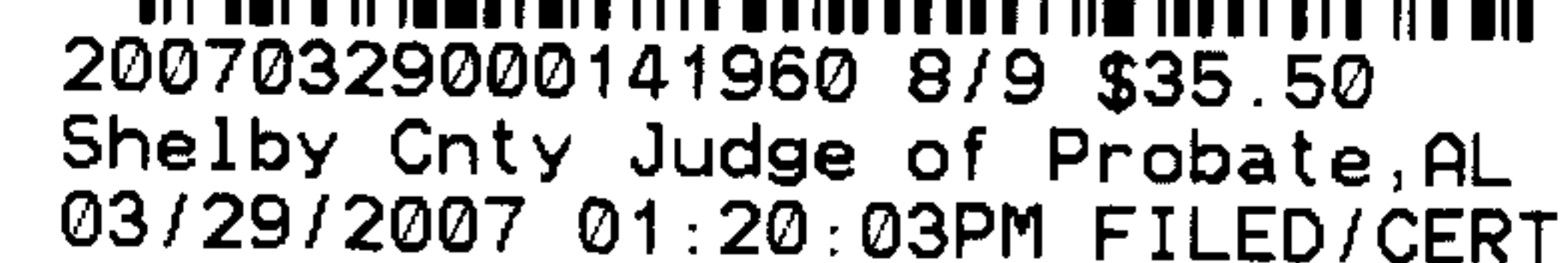
**EXHIBIT B**

(The Plan)




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# EXHIBIT B



  
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**EXHIBIT C**

(Description of Access Easement Area)

All of the common entrances, exits, streets, roads, roadways, driveways and parking areas located on Lot 4, Chelsea Crossings, according to the plat thereof recorded in Map Book 37, Page 49, of the records in the Office of the Judge of Probate, Shelby County, Alabama.