


STORE NO.:
SITE: CR 52 AND HUNTLEY PARKWAY,
PELHAM, SHELBY COUNTY, ALABAMA
SHOPPING
CENTER: PELHAM TOWNE CENTER
STOREROOM: 45,600 Square Feet


20071004000464330 1/13 \$6553.50
Shelby Cnty Judge of Probate, AL
10/04/2007 09:44:25AM FILED/CERT

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE is made and entered into as of the 6th day of July, 2007, by and between SHARP PELHAM, LLC, an Alabama limited liability company (hereinafter referred to as "Landlord") and PUBLIX ALABAMA, LLC, an Alabama limited liability company, (hereinafter referred to as "Tenant").

W I T N E S S E T H:

WHEREAS, Landlord and Tenant have entered into a certain lease agreement (hereinafter referred to as the "Lease") of even date herewith; and

WHEREAS, Landlord and Tenant desire to enter into this Memorandum of Lease to set forth certain terms and conditions of the Lease.

NOW, THEREFORE, for and in consideration of the sum of ONE AND NO/100 DOLLAR (\$1.00) in hand paid by Landlord and Tenant, each to the other, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant, intending to be legally bound, hereby set forth the following information with respect to the Lease:

1. Landlord. The name and address of Landlord are as follows:

Sharp Realty and Management, LLC
400 Union Hill Drive, Suite 300
Birmingham, Alabama 35209
Attn: Ronda Lusco

2. Tenant. The name and address of Tenant are as follows:

Publix Alabama, LLC
3300 Publix Corporate Parkway
Lakeland, Florida 33811
ATTN: John Frazier,
President

3. Date of Lease. The Lease is dated as of the 6th day of July, 2007.

4. Commencement Date. The Commencement Date shall be the first to occur of the following two dates: (i) the date upon which Tenant shall open the Premises for business with the public; or (ii) the date which is forty-five (45) days after the date on which construction of the Premises, Common Area, and grading of the Outparcels (all being hereinafter defined) shall have been completed as contemplated by Paragraph 7.07(a) of this Lease, entitled "Completion of Construction of the Premises and the Common Area and Grading of the Outparcels".

5. Term. The term of the Lease shall consist of the following:

(a) Initial Period. An initial period of twenty (20) years beginning on the Commencement Date and ending twenty (20) years from the first day of the calendar month immediately succeeding the Commencement Date; and

(b) Extension Periods. Tenant may, at its option, extend the Term beyond the initial period of twenty (20) years for seven (7) successive periods of five (5) years each upon the same terms and conditions contained in the Lease.

6. Shopping Center. The Shopping Center shall consist of the Shopping Center Tract and Outparcels together with those buildings and Common Area improvements constructed from time to time on the Shopping Center Tract and Outparcels as such buildings and Common Area improvements are depicted on the Site Plan. The Shopping Center shall at all times during the Term be known as Pelham Towne Center.

7. Shopping Center Tract. That certain tract of real property, excluding the Outparcels, as depicted on the Site Plan, and being more particularly described in Exhibit "B" attached hereto and incorporated herein.

8. Premises. The Premises consist of: (i) a Storeroom containing 45,600 square feet of interior ground floor area, (ii) the Sidewalk Area, and (iii) the Service Area, which Premises is substantially depicted and so designated and outlined in red on the Site Plan attached hereto as Exhibit "A" and by reference thereto incorporated herein.

9. Outparcels. Outparcels A, B, C, D, and E as depicted and so designated on the Site Plan, and being more particularly described in Exhibit "B-1" attached hereto and incorporated herein, each of which may be referred to individually as an "Outparcel". If on the date of this Lease Outparcels are neither depicted or designated on the Site Plan nor described in Exhibit "B-1", then the term "Outparcels" or "Outparcel" shall be deemed to refer collectively or individually, as the case may be, to any Outparcels which may be created subsequent to the date of this Lease in accordance with the terms and provisions of this Lease.

10. Exclusive Uses. Article 16 of the Lease establishes certain exclusive use rights and prohibited use in respect to the Shopping Center, which Article 16 is hereinafter reprinted.

16. USE

16.01 Permitted Uses. Subject to the provisions of Paragraph 16.03 of this Lease, entitled "Prohibited Uses", Tenant shall have the right to use and occupy the Premises for any lawful purpose.

16.02 Exclusive Uses.

(a) Exclusive Uses. Landlord covenants and agrees that during the Term, Tenant shall have the exclusive right within the Shopping Center Tract and Outparcels to, either directly or indirectly via remote distribution (e.g., ordering, processing, or delivery by internet, mail order, etc.): (i) engage in the retail sale of groceries and other products typically offered for sale in a grocery supermarket; (ii) operate a grocery supermarket, bakery, delicatessen, and/or fish market; (iii) sell drugs or other products which are required by law to be dispensed by a registered pharmacist, even though such pharmacist may not be required to be present for delivery of such products; and (iv) engage in retail sales of items of food for "off-premises" consumption.

(b) Exceptions to Exclusive Uses. The terms and provisions of Paragraph 16.02(a) of this Lease, entitled "Exclusive Uses", to the contrary notwithstanding, occupants of the Shopping Center, as well as occupants of adjacent property which may otherwise be restricted pursuant to the terms and provisions of Paragraph 18.02 of this Lease, entitled "Adjacent Property Restrictions", shall not be prohibited from engaging in the operation of: (i) a sit down restaurant offering prepared ready-to-eat food items for consumption either on or off the premises; (ii) a delicatessen or sandwich shop type restaurant (but not a bakery) which offers take out service as an incidental part of its restaurant operation, provided that at least seventy percent (70%) of the Leasable Floor Area of such restaurant (exclusive of kitchen or food preparation area) is utilized for seated dining purposes; (iii) a health food store or nutrition center, provided that the Leasable Floor Area devoted to such health food store or nutrition center shall not exceed 1,600 square feet, ice cream parlor or frozen yogurt store, franchise doughnut shop (equivalent to a Dunkin' Donut or Krispy Kreme operation), bagel shop, candy store, or a pickup or delivery outlet (such as pizza or Chinese delivery), all of which may offer the sale of food items for consumption on or off the premises; (iv) a combination gas station and convenience food store operation, provided that the Leasable Floor Area devoted to the sale of food and beverage products shall not exceed 1,500 square feet; PROVIDED, HOWEVER, the foregoing exception (iv) shall not permit a gas station/convenience food store that is owned by, operated by or controlled by another grocery supermarket entity or general merchandise retailer that also operates grocery supermarkets (such as WalMart), such entity's parent company or its subsidiaries or affiliates, and which gas station and convenience store operation is identified on the premises with such grocery supermarket name or the name under which such general merchandise retailer operates its grocery supermarkets within the State in which the Premises is located; (v) a video rental or sale store (similar to a Blockbuster Video) which may offer the sale of items normally sold by movie theaters (i.e., popcorn or candy) for consumption off the premises; and (vi) the retail sale of groceries

and other products typically sold in a grocery supermarket (exclusive of perishable goods typically sold in a grocery supermarket) by any tenant or occupant of premises of the Shopping Center (other than Tenant, entity in which Tenant owns a legal or beneficial interest, or an entity which owns a legal or beneficial interest in Tenant) consisting of not more than an aggregate of 2,000 square feet of Leasable Floor Area, but only to the extent the sale of such groceries and other products typically sold in a grocery supermarket constitute an ancillary, and not primary, use by such tenant of its premises, and the Leasable Floor Area of such premises devoted to the sale thereof shall not exceed ten percent (10%) of the Leasable Floor Area of such premises devoted to retail sales area (as opposed to office, storage, or other uses). For purposes of this Lease, the phrase "ancillary, and not primary, use" shall be deemed to mean a use from which not more than ten percent (10%) of the dollar amount of gross sales volume of a tenant shall be derived.

(c) Option to Lease Additional Space; Conditional Exclusive Uses. Landlord covenants and agrees that during the period (the "Optional Lease Period") commencing on the date of this Lease and expiring on the ninetieth (90th) day thereafter, Tenant shall have the option to lease other premises in the Shopping Center, and/or lease or purchase one or more Outparcels upon the following terms and conditions:

(i) Exercise of Option. In the event Tenant elects to lease other premises within the Shopping Center, or lease or purchase one or more Outparcels for purposes of engaging in a Conditional Exclusive Use (hereinafter defined), and in the event Tenant notifies Landlord in writing of such intention within the Optional Lease Period, Landlord and Tenant shall in good faith endeavor to negotiate such lease or purchase contract upon terms and conditions mutually acceptable to Landlord and Tenant. In the event Tenant exercises its option to lease additional premises in the Shopping Center or to lease or purchase one or more Outparcels, as permitted in this Paragraph 16.02, then, so long as such Conditional Exclusive Use is conducted within such premises or upon such Outparcel, Tenant, or an entity in which Tenant owns a legal or beneficial interest, or an entity which owns a legal or beneficial interest in Tenant, shall have the exclusive right within the Shopping Center and the Outparcels to engage in such Conditional Exclusive Use in the same manner as an exclusive use described in Paragraph 16.02(a) of this Lease, entitled "Exclusive Uses". If, within the Optional Lease Period, Tenant fails to notify Landlord of Tenant's intention to lease other premises within the Shopping Center or lease or purchase an Outparcel for a Conditional Exclusive Use, then, upon expiration of the Optional Lease Period, Tenant's option to lease or purchase such premises or Outparcel shall be deemed terminated and of no further force or effect whatsoever. Landlord and Tenant hereby acknowledge and agree that the option to lease additional premises within the Shopping Center and to lease or purchase one or more Outparcels shall be exclusive to Tenant; however, in the event Tenant elects to exercise such option, Tenant may, without the consent of Landlord, assign Tenant's rights to lease such other premises within the Shopping Center or to lease or purchase one or more Outparcels to an entity in which Tenant owns a legal or beneficial interest, or an entity which owns a legal or beneficial interest in Tenant, and any such lease or agreement to purchase shall be negotiated and entered into in the name of such entity, albeit upon terms and conditions mutually acceptable to such entity and Landlord. In the event Tenant waives a Conditional Exclusive Use for the benefit of another tenant of the Shopping Center, such waiver shall not be construed to constitute a waiver of any Conditional Exclusive Use for the benefit of any other tenants or prospective tenants of the Shopping Center or an Outparcel, or any purchaser of an Outparcel.

(ii) Conditional Exclusive Use. For purposes of this Lease, the term "Conditional Exclusive Uses" shall be deemed to mean the following: a store primarily engaged in the retail sale of wine and other alcoholic beverages for off-premises consumption (i.e. a liquor store); the sale of prepared sandwiches, soups, and salads for consumption either on or off the premises (similar to Atlanta Bread Company, Panera, Quizno's, Subway, or Blimpie); or a gasoline service station or combination gasoline service station and convenience food store.

16.03 Prohibited Uses.

(a) Unlawful or Nuisance Use. Tenant hereby covenants and agrees that it will not use the Premises for any unlawful purpose, or in any way which would constitute a legal nuisance to adjoining tenants in the Shopping Center.

(b) Specific Prohibited Uses. Landlord hereby covenants and agrees that no other premises in the Shopping Center, Outparcels, or adjacent property which may otherwise be restricted pursuant to the terms and provisions of Paragraph 18.02 of this Lease, entitled "Adjacent Property

Restrictions", shall be used for the following "prohibited uses": any unlawful purpose, or in any way which would constitute a legal nuisance to adjoining tenants in the Shopping Center; dry cleaning plant; cinema or theater; skating rink; bowling alley; discotheque; dance hall; nightclub; amusement gallery; pool room; health spa; adult entertainment facility; gymnasium; massage parlor; adult book store; pin ball or electronic game room; a so-called "head shop"; funeral parlor; flea market; bingo parlor; a gaming, gambling, betting or game of chance business (exclusive of the sale of lottery tickets); cafeteria; sale, rental or lease of automobiles, trucks, other motorized vehicles, or trailers; car wash; billboard; or cell phone tower. In addition, Landlord hereby covenants and agrees that no other premises in the Shopping Center located within 300 feet of the Storeroom (which distance shall be measured from the Storeroom demising wall nearest said other premises to the demising wall of said other premises nearest the Storeroom) shall be used for a day care center, or a "concept" restaurant and/or cocktail lounge of a parking intensive nature, such restaurants and/or cocktail lounges, being similar in nature to Bennigan's, T.J. Applebee's, Outback Steakhouse, Chili's, Hooters, and T.G.I. Friday's. In any event, not more than an aggregate of eight (8) restaurants and/or cocktail lounges, regardless of concept or parking intensive nature, shall be located within the Shopping Center and the Outparcels combined, nor shall a restaurant of any kind be located within ninety (90) feet of the Storeroom; provided, however, no more than four (4) of said eight (8) restaurants shall be located within the "in-line" shops and no more than four (4) of said eight (8) restaurants shall be located on Outparcels; provided further, no restaurant of any kind shall be located on Outparcel E. The maximum square footage of Leasable Floor Area of any in-line restaurant shall be 2,000 square feet; provided, however, one (1) restaurant containing up to 4,000 square feet of Leasable Floor Area shall be allowed on the northernmost end of the "in-line" shops, provided that the entry/exit door is located on the north side of the building.

16.04 Covenant Running with the Land. Landlord covenants and agrees that all leases entered into between Landlord and other tenants within the Shopping Center shall prohibit such other tenants from violating the exclusive use rights and prohibited use restrictions set forth in Paragraphs 16.02 and 16.03(b) of this Lease, entitled "Exclusive Uses" and "Specific Prohibited Uses", respectively, for and during the Term. Landlord hereby covenants and agrees that in the event Landlord sells, transfers, or conveys all or any portion of the Shopping Center, or adjacent property which may otherwise be restricted pursuant to the terms and provisions of Paragraph 18.02 of this Lease, entitled "Adjacent Property Restrictions", the exclusive use rights and prohibited use restrictions set forth in said Paragraphs 16.02 and 16.03(b) hereof shall be deemed to constitute a covenant running with title to such sold, transferred or conveyed portion of the Shopping Center, or adjacent property which may otherwise be restricted pursuant to the terms and provisions of Paragraph 18.02 of this Lease, entitled "Adjacent Property Restrictions", which covenant shall remain in full force and effect and be binding upon the successors in title to Landlord for and during the Term. Upon expiration or termination of this Lease as herein permitted, such covenant shall likewise expire or terminate.

16.05 Enforcement. In the event any other tenant in the Shopping Center, or adjacent property which may otherwise be restricted pursuant to the terms and provisions of Paragraph 18.02 of this Lease, entitled "Adjacent Property Restrictions", or successor in title thereto shall violate said exclusive use or prohibited use provisions, and upon notice to Landlord of such violation, Landlord shall promptly commence and expeditiously pursue any and all remedies available to Landlord for the enforcement of said exclusive use and prohibited use provisions, including, without limitation, injunctive relief against such tenant or successors in title. Furthermore, Tenant shall have the right, but not the obligation, to pursue enforcement of said exclusive use and prohibited use provisions against such other tenants or successors in title, whether in Tenant's own right or in the name of Landlord, and Landlord hereby agrees to cooperate and, to the extent required, participate with Tenant in this regard. Any expense, including, without limitation, reasonable attorney's fees and court costs, incurred by Tenant in the enforcement of the rights set forth in this Article 16 shall be deemed paid or incurred for the account of Landlord, and Landlord agrees to reimburse Tenant therefor on demand and save Tenant harmless therefrom. In the event Landlord fails to reimburse Tenant upon demand for any amount paid for the account of Landlord hereunder within fifteen (15) days after receipt from Tenant of bills or written notice of claim for reimbursement, said amount may be deducted by Tenant from the next or any succeeding installment payments of Fixed Minimum Rent or any other amounts due and payable by Tenant to Landlord hereunder.

16.06 No Waiver. No delay or failure on the part of Tenant in the enforcement of its rights pursuant to this Article 16 shall impair enforcement, or be construed as a waiver, of any such right, or constitute acquiescence by Tenant to the breach or violation thereof. No waiver of its rights pursuant to this Article 16 shall be valid as against Tenant unless made in writing and signed by Tenant, and then only to the extent expressly set forth therein.

11. Exclusive Uses of Other Tenants. Article 17 of the Lease confers upon Tenant immunity from exclusive use rights of other tenants in the Shopping Center, which Article 17 is hereinafter reprinted.

17. EXCLUSIVE USES OF OTHER TENANTS

17.01 Application to Tenant. Landlord covenants and agrees that any exclusive use rights which may be contained in leases or agreements entered into between Landlord and other tenants in, or successor in title to, the Shopping Center shall expressly provide, and Landlord hereby further covenants and agrees, that such exclusive use rights of other tenants, or successor in title, shall neither be applicable to Tenant or the Premises during the Term, nor be applicable to Tenant or any entity which Tenant owns a legal or beneficial interest, or any entity which owns a legal or beneficial interest in Tenant (an "Affiliated Entity") and other premises within the Shopping Center or the Outparcels occupied by Tenant or an Affiliated Entity.

17.02 Indemnification. Landlord shall defend and indemnify Tenant and/or an Affiliated Entity, as the case may be, and hold Tenant and/or an Affiliated Entity, as the case may be, harmless from any and all actions, damages, claims, costs, and expenses of any nature arising out of the alleged breach by Tenant and/or an Affiliated Entity, as the case may be, of any exclusive use rights contained in any lease or agreement between Landlord and any other tenant in, or successor in title to, the Shopping Center, which indemnification shall survive the expiration or earlier termination of the Term.

17.03 No Waiver. No delay or failure on the part of Tenant and/or an Affiliated Entity, as the case may be, in the enforcement of its rights pursuant to this Article 17 shall impair enforcement, or be construed as a waiver, of any such right, or constitute acquiescence by Tenant and/or an Affiliated Entity, as the case may be, to the breach or violation thereof. No waiver of its rights pursuant to this Article 17 shall be valid as against Tenant and/or an Affiliated Entity, as the case may be, unless made in writing and signed by Tenant and/or an Affiliated Entity, as the case may be, and then only to the extent expressly set forth therein.

12. Article 18 of the Lease establishes certain restrictions in respect to Outparcels and property adjacent to the Shopping Center, which Article 18 is hereinafter reprinted.

18. OUTPARCEL AND ADJACENT PROPERTY RESTRICTIONS

18.01 Outparcel Restrictions. Landlord covenants and agrees that any buildings, pylon or monument signs constructed on the Outparcels shall be subject to the following restrictions: (i) no more than one building shall be constructed on any Outparcel and said building shall accommodate only one (1) business operation therein, provided that this restriction shall not prohibit typical co-branding operations of the kind typically found in the State where the Shopping Center is located; (ii) no building shall exceed one story in height; (iii) no building sign or structure shall exceed twenty-eight (28) feet in height; (iv) the Leasable Floor Area of any building constructed on an Outparcel shall not exceed the floor area limitation set forth on the Site Plan, provided, in any event, such Leasable Floor Area shall be further limited to the extent that the number and size of on-grade automobile parking spaces required by all applicable rules, regulations, ordinances, and laws can be constructed and maintained within the boundaries of such Outparcel; (v) each building shall comply with all governmental rules, regulations, ordinances, and laws; (vi) any pylon or monument signs erected or constructed on the Outparcels shall not obstruct visibility of the Premises or the pylon or monument sign identifying the Shopping Center or Tenant; (vii) "reader board" type signs and billboards shall be prohibited on an Outparcel; (viii) the Outparcels or any buildings constructed thereupon shall neither be used in violation of the exclusive rights granted to Tenant in Paragraph 16.02 of this Lease, entitled "Exclusive Uses", nor for any of the prohibited uses set forth in Paragraph 16.03 of this Lease, entitled "Prohibited Uses"; and (ix) in the event any improvements located on any Outparcel shall be damaged or destroyed, and in the event the owner of any such Outparcel elects not to repair or restore such improvements, the Outparcel owner shall promptly raze and remove such damaged or destroyed improvements, and either landscape or pave and maintain any such Outparcel (including concealment of any exposed slab or foundation thereof) in a manner consistent with the Common Area. More specifically, subject to the terms and provisions of Item (ii) of Paragraph 7.03(b) of this Lease, entitled "Parking Areas; Access", all such rules, regulations, ordinances, or laws relative to parking requirements shall be complied with by providing the requisite size and number of on-grade parking spaces within the boundaries of said Outparcels, without reduction in such size and number by virtue of the granting of a variance or special exception to such rules, regulations, ordinances, or laws by the governmental authority having jurisdiction thereof. Furthermore, the provisions of all applicable rules, regulations, ordinances, and laws to the contrary notwithstanding, for purposes of this Paragraph 18.01, the Leasable Floor Area of any building constructed on an Outparcel shall also be deemed to include outdoor balconies, patios, or other outdoor areas utilized for retail sales or food or beverage service (exclusive of areas utilized exclusively for drive through or walk-up take-out food or beverage service).

18.02 Adjacent Property Restrictions.

(a) Adjacent Property of Landlord. If at any time during the Term, Landlord, or any entity in which Landlord owns a legal or beneficial interest or any entity which owns a legal or beneficial interest in Landlord, acquires real property adjoining or adjacent to the Shopping Center, Landlord covenants and agrees that: (i) such adjoining or adjacent property shall be subject to the exclusive use and prohibited use provisions of Article 16 of this Lease, entitled "Use"; (ii) any buildings or other improvements (including pylon or monument signs) constructed on such adjacent property shall not materially interfere with or alter the visibility of and public access to the Premises or the visibility of the Shopping Center pylon or monument signage; (iii) Landlord shall not place, or allow the placement of, any telecommunications towers thereon; (iv) Landlord shall neither confer upon such adjoining or adjacent property any parking rights, nor permit the parking by occupants, employees, agents, or invitees of such occupants of such adjoining or adjacent property, to park upon the Shopping Center Tract; and (v) any building constructed on outparcels located on such adjacent property and within 250 feet of the boundary of the Shopping Center shall comply with the restrictions set forth in Paragraph 18.01 of this Lease, entitled "Outparcel Restrictions".

(b) Common Area Rights of Others. Landlord covenants and agrees that without the prior written consent of Tenant, Landlord shall not grant or convey to the owner of any real property adjoining or adjacent to the Shopping Center any rights, easements, or privileges in or to the Common Area of the Shopping Center, provided, however, such consent shall not be unreasonably withheld, conditioned, or delayed if the owner of the adjacent property agrees to subject such adjacent property to the restrictions set forth in Paragraph 18.02(a), entitled "Adjacent Property of Landlord", or such other restrictions as Tenant shall approve in writing, during the Term of this Lease. The terms and provisions of the preceding sentence to the contrary notwithstanding, Tenant may, in its sole discretion, withhold its consent to the granting of any parking rights upon the Shopping Center Tract in favor of such adjoining or adjacent property; furthermore, Landlord covenants that, in the absence of such consent, Landlord shall not permit the occupants, employees, agents, or invitees of such adjoining or adjacent property to park upon the Shopping Center Tract.

18.03 Covenant Running With the Land. Landlord hereby covenants and agrees that the restrictions set forth in Paragraphs 18.01 and 18.02 of this Lease, entitled "Outparcel Restrictions" and "Adjacent Property Restrictions", respectively, shall be deemed to constitute a covenant running with title to the Outparcel or adjacent property, as the case may be, which covenant shall remain in full force and effect and be binding upon the owner of such Outparcel or adjacent property for and during the Term. Upon expiration or termination of this Lease as herein permitted, such covenant shall likewise expire or terminate. The restrictions set forth in Paragraphs 18.01 and 18.02 shall be manifested by filing for record a Memorandum of Lease encumbering the Outparcels and the adjacent property, and filing for record a Declaration of Restrictions encumbering the adjacent property.

18.04 Enforcement. In the event the owner of an Outparcel or the adjacent property to which the restrictions set forth in Paragraphs 18.01 and 18.02 hereof shall apply shall violate such restrictions, and upon notice to Landlord of such violation, Landlord shall promptly commence and expeditiously pursue any and all remedies available to Landlord for the enforcement of said restrictions, including, but not limited to, injunctive relief against such owner. Furthermore, Tenant shall have the right, but not the obligation, to pursue enforcement of said restrictions against such owner, whether in Tenant's own right or in the name of Landlord, and Landlord hereby agrees to cooperate and, to the extent required, participate with Tenant in this regard. Any expense, including, without limitation, reasonable attorney's fees and court costs, incurred by Tenant in enforcement of the restrictions set forth in this Article 18 shall be deemed paid or incurred for the account of Landlord, and Landlord agrees to reimburse Tenant therefor on demand and save Tenant harmless therefrom. In the event Landlord fails to reimburse Tenant upon demand for any amount paid for the account of Landlord hereunder within fifteen (15) days after receipt from Tenant of bills or written notice of claim for reimbursement, said amount may be deducted by Tenant from the next or any succeeding installment payments of Fixed Minimum Rent or any other amounts due and payable by Tenant to Landlord hereunder.

18.05 No Waiver. No delay or failure on the part of Tenant in the enforcement of its rights pursuant to this Article 18 shall impair enforcement, or be construed as a waiver, of any such right, or constitute acquiescence by Tenant to the breach or violation thereof. No waiver of its rights pursuant to this Article 18 shall be valid as against Tenant unless made in writing and signed by Tenant, and then only to the extent expressly set forth therein.

13. Article 48 of the Lease confers upon Tenant certain rights to purchase the Shopping Center, which Article 48 is hereinafter reprinted.

48. RIGHT OF FIRST OFFER

48.01 Right of First Refusal. If Landlord receives from, or tenders to, a third party (the "Third Party"), an acceptable, bona fide, arms-length offer (the "Offer") pursuant to which Landlord proposes to sell, convey, or assign to the Third Party, or grant to the Third party an option to purchase, or undertake to lease (other than a typical premises lease pursuant to which the Third Party is the occupant) to the Third Party, all or a portion of the Shopping Center Tract, then, as a condition to Landlord's accepting the Offer from, or tendering the Offer to, the Third Party, Landlord shall, within five (5) business days of its receipt or tender of such Offer, deliver to Tenant written notice of the Offer (the "Notice of Offer"). The Notice of Offer shall set forth the name and address of the Third Party and all of the terms and conditions of the Offer, along with copies of all relevant documents pertaining to the Offer (collectively, the "Notice Documents"), including, but not limited to: (i) a copy of the proposed assignment, purchase, or lease agreement; (ii) a rent roll for the Shopping Center Tract, certified by Landlord to be true and correct; (iii) operating statements for the Shopping Center Tract for the immediately preceding twenty-four (24) months (or the period of operation of the Shopping Center Tract if less than twenty-four (24) months); (iv) copies of all loan documents encumbering the Shopping Center Tract or a reasonably detailed summary of any such financing; and (v) any other document, instrument or information relevant to Tenant's decision whether or not to purchase the Shopping Center Tract.

48.02 Right to Purchase; Time for Acceptance. Landlord hereby grants to Tenant the right to purchase or lease, as the case may be, the Shopping Center Tract or portion thereof described in the Offer upon the same terms and conditions set forth in the Offer. Tenant shall have thirty (30) days after receipt of the Notice of Offer and the Notice Documents to notify Landlord in writing of its election to exercise such right as herein provided. If Tenant fails to exercise such right as herein provided, such failure shall be deemed to be a waiver of Tenant's right as to that Offer, and Landlord may proceed to consummate the transaction contemplated by the Offer in accordance with the terms and conditions thereof.

48.03 Reinstatement of Tenant's Purchase Right. If subsequent to Tenant not accepting the terms in the Offer: (i) the terms and conditions of the Offer are modified or amended in any way, or (ii) the transaction contemplated by the Offer is not consummated within one hundred eighty (180) days after the date of receipt by Tenant of the Notice of Offer, then, in either event, Tenant's rights hereunder shall be reinstated as to any modified or amended Offer, any offer continuing beyond such one hundred eighty (180) day period, or any subsequent Offer received by Landlord from a third party or tendered by Landlord to a third party.

48.04 Application of Right of First Refusal. For purposes of this Article 48, the sale, transfer, conveyance, or assignment of all or a portion of the entity constituting Landlord (except for the sale of stock of a publicly traded company on a nationally recognized stock exchange) shall be deemed a sale of all or a portion of the Shopping Center Tract. This right of first refusal shall not apply to any form of financing, foreclosure sale, deed in lieu of foreclosure, or otherwise; provided, however, this right of first refusal shall apply to any subsequent sale of all or a portion of the Shopping Center Tract by any person or entity acquiring title through a foreclosure sale, deed in lieu of foreclosure or otherwise. This right of first refusal shall not apply to transfers in connection with a condemnation or under threat of condemnation. This right of first refusal shall continue in full force and effect for the Term of this Lease and shall be binding upon any successor in interest to Landlord, whether by sale of all or a portion of the Shopping Center Tract or transfer of all or a portion of the entity constituting the Landlord. The parties hereto hereby acknowledge and agree that the Right of First Refusal contained herein is intended to apply only to the sale or lease of the Shopping Center Tract, as opposed to a separate and distinct sale or lease of an Outparcel; provided, however, in the event an Offer pertains to the sale and/or lease of both the Shopping Center Tract and one or more Outparcels, then the Right of First Refusal contained herein shall be deemed to apply to all of the property described in the Offer, including the Outparcel(s) described therein, in which case the Notice Documents shall likewise pertain to all of the property described in the Offer. Until such time as Landlord receives an Offer which includes both all or a portion of the Shopping Center Tract and one or more Outparcels, the Right of First Refusal contained herein shall not be deemed to encumber the Outparcels.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed under seal as of the day and year first above written.

LANDLORD:

Signed, sealed and delivered
in my presence this 29th day
of June, 2007.

Adrian Steeman

Witness

SHARP PELHAM, LLC, an
Alabama limited liability company

By: *Sam Sharp* [SEAL]
Sam Sharp, Managing Member

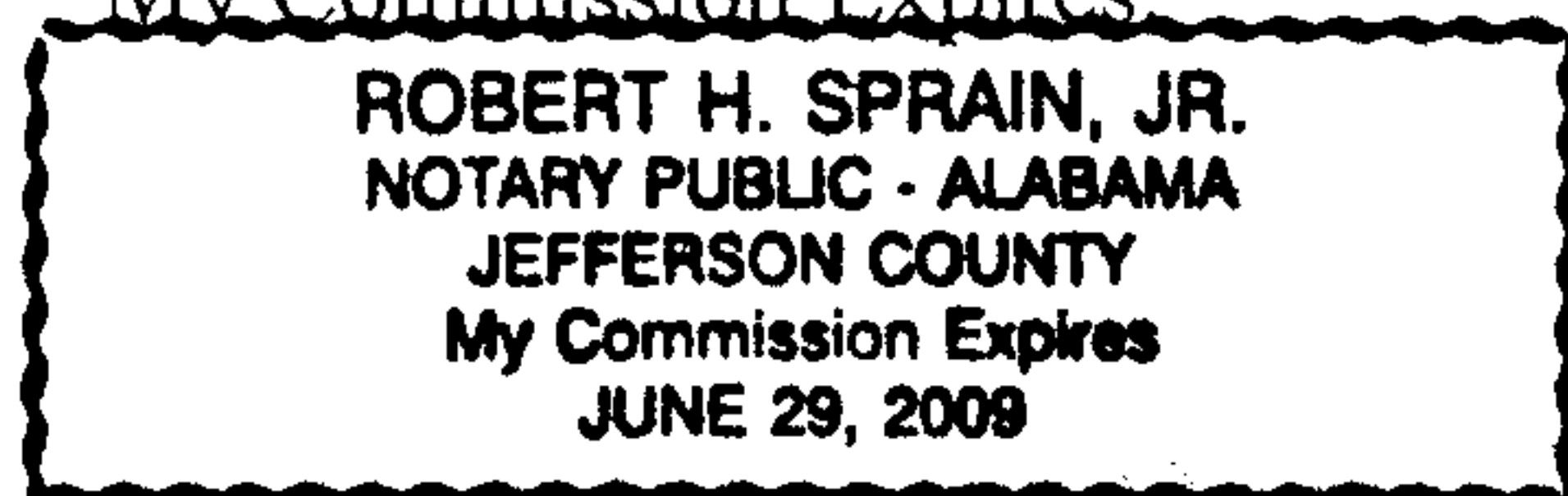
STATE OF ALABAMA
COUNTY OF JEFFERSON

I, the undersigned, a Notary Public in and for said State at Large, hereby certify that Sam Sharp, whose name as Managing Member of SHARP PELHAM, 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 officer and with full authority, executed the same voluntarily for and as the act of said limited liability company as of the date hereof.

Given under my hand this 29th day of June, 2007.

[Signature]
Notary Public

My Commission Expires:



TENANT:

Signed, sealed and delivered
in my presence this 6th day
of July, 2007.

Vicki Brekke

Witness VICKI BREKKE

PUBLIX ALABAMA, LLC, an
Alabama limited liability company

By: *John Frazier* [SEAL]
John Frazier,
President

STATE OF FLORIDA
COUNTY OF POLK

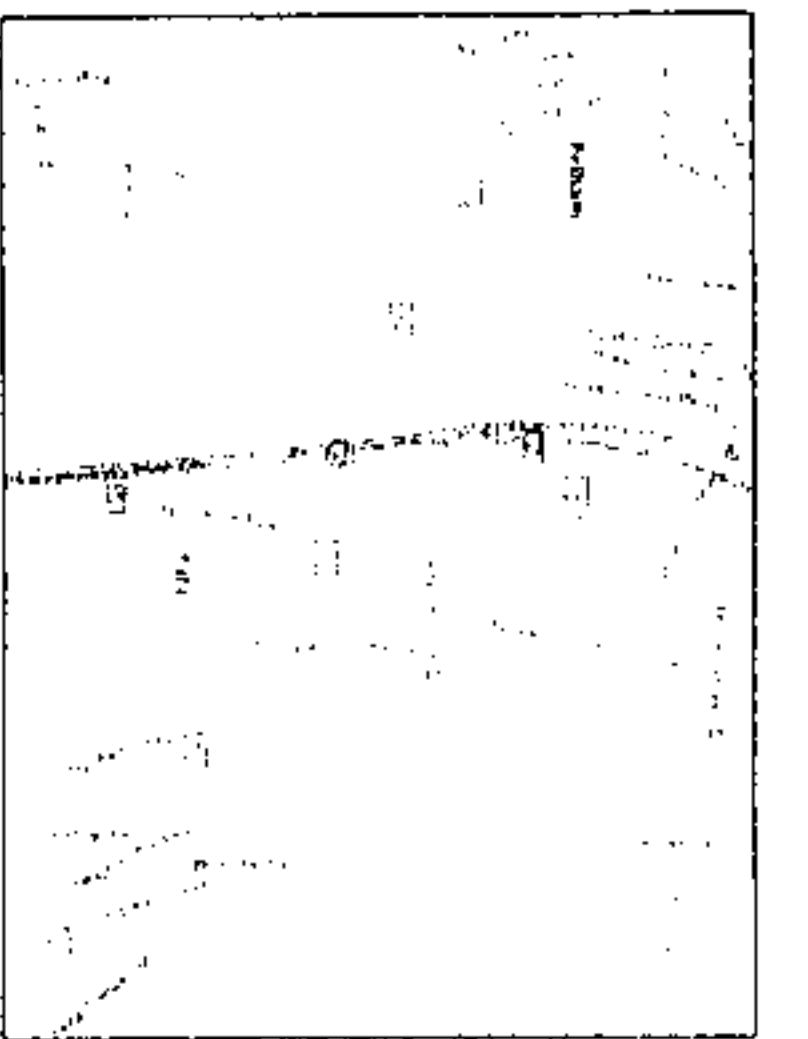
I, the undersigned, a Notary Public in and for said State at Large, hereby certify that John Frazier, whose name as President of PUBLIX ALABAMA, LLC, an Alabama limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company as of the date hereof.

Given under my hand this 6th day of July, 2007.

Christy Leahy
Notary Public

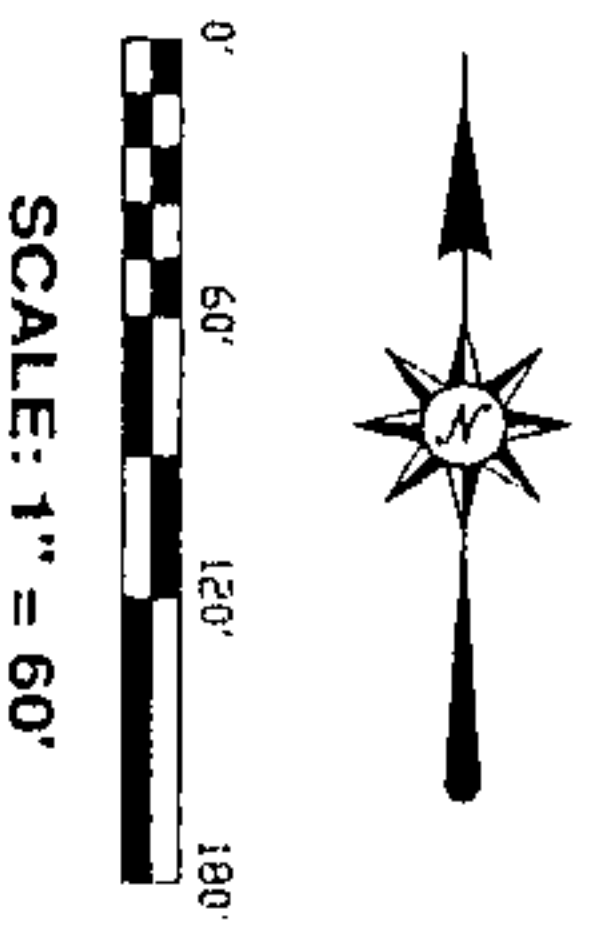
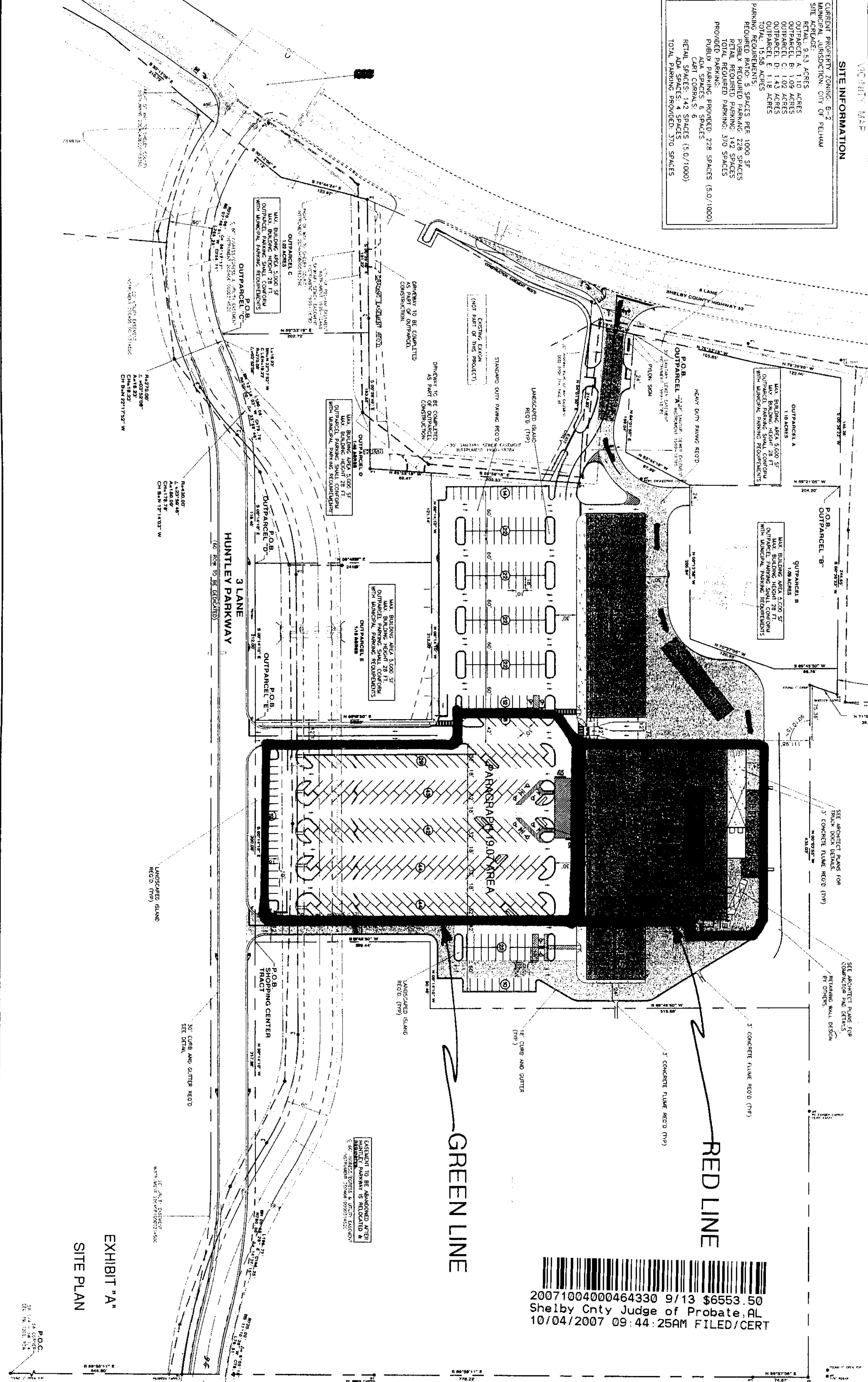
My Commission Expires:





SITE INFORMATION

CURRENT PROPERTY ZONING: B-2
MUNICIPAL JURISDICTION: CITY OF PELHAM
SITE TOTAL: 5.3 ACRES
OUTPARCEL A: 1.10 ACRES
OUTPARCEL B: 1.09 ACRES
OUTPARCEL C: 1.02 ACRES
OUTPARCEL D: 1.43 ACRES
OUTPARCEL E: 1.43 ACRES
TOTAL: 5.16 ACRES
PARKING REQUIREMENTS:
REQUIRED RATIO: 5 SPACES PER 1000 SF
TOTAL REQUIRED PARKING: 228 SPACES
TOTAL PROVIDED PARKING: 310 SPACES
PUBLIC PARKING PROVIDED: 228 SPACES (5.0/1000)
ADA SPACES: 6 SPACES
CAPT CORALS: 6
RETAIL SPACES: 142 SPACES (5.0/1000)
TOTAL PARKING PROVIDED: 310 SPACES



20071004000464330 9/13 \$6553.50
Shelby Cnty Judge of Probate, AL
10/04/2007 09:44:25AM FILED/CERT

EXHIBIT "A"
SITE PLAN

GONZALEZ - STRENGTH & ASSOCIATES, INC.
CIVIL ENGINEERING, LAND SURVEYING, PLANNING, TRAFFIC & TRANSPORTATION
2178 Parkway Lake Drive
Hoover, ALABAMA 36444
PHONE: (205) 942-2965
FAX: (205) 942-3038
www.Gonzalez-Strength.com

PUBLIX LEASE EXHIBIT
PELHAM TOWNE CENTRE
HIGHWAY 52
PELHAM, ALABAMA
SHARP REALTY MANAGEMENT
HOMESWOOD, ALABAMA

DWN. BY: B. HARRIS, P.E. CKD. BY: M. GONZALEZ, P.E. SCALE: 1"=50' DATE: 6/30/07

REVISIONS		
NO.	DESCRIPTION	DATE
0	ISSUED FOR APPROVAL	6/1/07

Initial

STORE NO.:
SITE: CR 52 AND HUNTLEY PARKWAY,
PELHAM, SHELBY COUNTY,
ALABAMA
SHOPPING
CENTER: PELHAM TOWNE CENTER
STOREROOM: 45,600 Square Feet



20071004000464330 10/13 \$6553.50
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EXHIBIT "B"

Shopping Center Tract Legal Description

A parcel of land situated in the Southwest one-quarter of Section 19, Township 20 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Southwest corner of the Southwest one-quarter of the Southwest one-quarter of said Section; thence run South 89 degrees 58 minutes 11 seconds East for a distance of 645.80 feet to the point of commencement of a curve to the right, said curve having a radius of 720.00 feet, a central angle of 06 degrees 05 minutes 18 seconds, a chord bearing of North 11 degrees 10 minutes 26 seconds East for a chord distance of 76.47 feet; thence run along arc of said curve for a distance of 76.51 feet to the point of commencement of a reverse curve to the left, said curve having a radius of 780.00 feet, a central angle of 14 degrees 27 minutes 15 seconds, a chord bearing of North 06 degrees 59 minutes 28 seconds East for a chord distance of 196.25 feet; thence run along arc of said curve for a distance of 196.77 feet; thence run North 00 degrees 14 minutes 10 seconds West for a distance of 317.88 feet to the POINT OF BEGINNING; thence run along last described course for a distance of 300.00 feet; thence run North 89 degrees 45 minutes 50 seconds East for a distance of 241.63 feet; thence run North 00 degrees 14 minutes 10 seconds West for a distance of 333.14 feet; thence run South 85 degrees 59 minutes 18 seconds East for a distance of 202.53 feet; thence run North 04 degrees 01 minutes 50 seconds East for a distance of 214.83 feet to a point on the Southernmost right of way line of Shelby County Highway 52 (right of way varies); thence run South 76 degrees 52 minutes 19 seconds East along said right of way for a distance of 60.76 feet; thence leaving said right of way, run South 04 degrees 01 minutes 50 seconds West for a distance of 159.04 feet; thence run South 62 degrees 44 minutes 18 seconds East for a distance of 97.99 feet; thence run South 00 degrees 12 minutes 58 seconds East for a distance of 206.84 feet; thence run South 70 degrees 27 minutes 05 seconds East for a distance of 120.95 feet; thence run North 89 degrees 45 minutes 50 seconds East for a distance of 86.76 feet; thence run South 00 degrees 36 minutes 23 seconds West for a distance of 35.10 feet; thence run North 71 degrees 07 minutes 47 seconds West for a distance of 39.54 feet; thence run South 00 degrees 03 minutes 55 seconds East for a distance of 435.03 feet; thence run South 89 degrees 45 minutes 50 seconds West for a distance of 515.68 feet; thence run North 00 degrees 14 minutes 10 seconds West for a distance of 90.46 feet; thence run South 89 degrees 45 minutes 50 seconds West for a distance of 239.44 feet to the POINT OF BEGINNING. Said parcel contains 415,377 square feet or 9.53 acres more or less.

STORE NO.:

SITE:

CR 52 AND HUNTLEY PARKWAY,
PELHAM, SHELBY COUNTY,
ALABAMA

SHOPPING

CENTER:


PELHAM TOWNE CENTER

STOREROOM:

45,600 Square Feet

EXHIBIT "B-1"

Outparcel Legal Descriptions


20071004000464330 11/13 \$6553.50
Shelby Cnty Judge of Probate, AL
10/04/2007 09:44:25AM FILED/CERT

OUTPARCEL "A"

A parcel of land situated in the Southwest one-quarter of Section 19, Township 20 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Southwest corner of the Southwest one-quarter of the Southwest one-quarter of said Section; thence run South 89 degrees 58 minutes 11 seconds East for a distance of 645.80 feet to the point of commencement of a curve to the right, said curve having a radius of 720.00 feet, a central angle of 06 degrees 05 minutes 18 seconds, a chord bearing of North 11 degrees 10 minutes 26 seconds East for a chord distance of 76.47 feet; thence run along arc of said curve for a distance of 76.51 feet to the point of commencement of a reverse curve to the left, said curve having a radius of 780.00 feet, a central angle of 14 degrees 27 minutes 15 seconds, a chord bearing of North 06 degrees 59 minutes 28 seconds East for a chord distance of 196.25 feet; thence run along arc of said curve for a distance of 196.77 feet; thence run North 00 degrees 14 minutes 10 seconds West for a distance of 317.88 feet; thence run along last described course for a distance of 300.00 feet; thence run North 89 degrees 45 minutes 50 seconds East for a distance of 241.63 feet; thence run North 00 degrees 14 minutes 10 seconds West for a distance of 333.14 feet; thence run South 85 degrees 59 minutes 18 seconds East for a distance of 202.53 feet; thence run North 04 degrees 01 minutes 50 seconds East for a distance of 214.83 feet to a point on the Southernmost right of way line of Shelby County Highway 52 (right of way varies); thence run South 76 degrees 52 minutes 19 seconds East along said right of way for a distance of 60.76 feet to the POINT OF BEGINNING; thence run South 76 degrees 52 minutes 19 seconds East for a distance of 165.85 feet; thence run South 79 degrees 39 minutes 20 seconds East for a distance of 122.05 feet; thence run South 00 degrees 36 minutes 23 seconds West for a distance of 146.26 feet; thence run North 89 degrees 21 minutes 05 seconds West for a distance of 204.20 feet; thence run North 62 degrees 44 minutes 18 seconds West for a distance of 97.99 feet; thence run North 04 degrees 01 minutes 50 seconds East for a distance of 159.04 feet to the POINT OF BEGINNING. Said parcel contains 47,988 square feet or 1.10 acres more or less.

OUTPARCEL "B"

A parcel of land situated in the Southwest one-quarter of Section 19, Township 20 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Southwest corner of the Southwest one-quarter of the Southwest one-quarter of said Section; thence run South 89 degrees 58 minutes 11 seconds East for a distance of 645.80 feet to the point of commencement of a curve to the right, said curve having a radius of 720.00 feet, a central angle of 06 degrees 05 minutes 18 seconds, a chord bearing of North 11 degrees 10 minutes 26 seconds East for a chord distance of 76.47 feet; thence run along arc of said curve for a distance of 76.51 feet to the point of commencement of a reverse curve to the left, said curve having a radius of 780.00 feet, a central angle of 14 degrees 27 minutes 15 seconds, a chord bearing of North 06 degrees 59 minutes 28 seconds East for a chord distance of 196.25 feet; thence run along arc of said curve for a distance of 196.77 feet; thence run North 00 degrees 14 minutes 10 seconds West for a distance of 317.88 feet; thence run along last described course for a distance of 300.00 feet; thence run North 89 degrees 45 minutes 50 seconds East for a distance of 241.63 feet; thence run North 00 degrees 14 minutes 10 seconds West for a distance of 333.14 feet; thence run South 85 degrees 59 minutes 18 seconds East for a distance of 202.53 feet; thence run North 04 degrees 01 minutes 50 seconds East for a distance of 214.83 feet to a point on the Southernmost right of way line of Shelby County Highway 52 (right of way varies); thence run South 76 degrees 52 minutes 19 seconds East along

said right of way for a distance of 60.76 feet; thence run South 76 degrees 52 minutes 19 seconds East for a distance of 165.85 feet; thence run South 79 degrees 39 minutes 20 seconds East for a distance of 122.05 feet; thence run South 00 degrees 36 minutes 23 seconds West for a distance of 146.26 feet to the POINT OF BEGINNING; thence run South 00 degrees 36 minutes 23 seconds West for a distance of 244.65 feet; thence run South 89 degrees 45 minutes 50 seconds West for a distance of 86.78 feet; thence run North 70 degrees 27 minutes 05 seconds West for a distance of 120.95 feet; thence run North 00 degrees 12 minutes 58 seconds West for a distance of 206.84 feet; thence run North 89 degrees 21 minutes 05 seconds West for a distance of 204.20 feet to the POINT OF BEGINNING. Said parcel contains 47,498 square feet or 1.09 acres more or less.

OUTPARCEL "C"

A parcel of land situated in the Southwest one-quarter of Section 19, Township 20 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Southwest corner of the Southwest one-quarter of the Southwest one-quarter of said Section; thence run South 89 degrees 58 minutes 11 seconds East for a distance of 645.80 feet to the point of commencement of a curve to the right, said curve having a radius of 720.00 feet, a central angle of 06 degrees 05 minutes 18 seconds, a chord bearing of North 11 degrees 10 minutes 26 seconds East for a chord distance of 76.47 feet; thence run along arc of said curve for a distance of 76.51 feet to the point of commencement of a reverse curve to the left, said curve having a radius of 780.00 feet, a central angle of 14 degrees 27 minutes 15 seconds, a chord bearing of North 06 degrees 59 minutes 28 seconds East for a chord distance of 196.25 feet; thence run along arc of said curve for a distance of 196.77 feet; thence run North 00 degrees 14 minutes 10 seconds West for a distance of 829.88 feet; thence run North 00 degrees 14 minutes 10 seconds West for a distance of 118.40 feet to the point of commencement of a curve to the left, said curve having a radius of 430.00 feet, a central angle of 23 degrees 59 minutes 46 seconds, a chord bearing of North 12 degrees 14 minutes 03 seconds West for a chord distance of 178.78 feet; thence run along arc of said curve for a distance of 180.09 feet to the point of commencement of a compound curve to the left, said curve having a radius of 270.00 feet, a central angle of 03 degrees 52 minutes 08 seconds, a chord bearing of North 22 degrees 17 minutes 52 seconds West for a chord distance of 18.23 feet; thence run along arc of said curve for a distance of 18.23 feet to the POINT OF BEGINNING and the point of commencement of a reverse curve to the right, said curve having a radius of 270.00 feet, a central angle of 56 degrees 17 minutes 17 seconds, a chord bearing of North 07 degrees 46 minutes 51 seconds East for a chord distance of 254.71 feet; thence run along arc of said curve for a distance of 265.25 feet; thence run South 50 degrees 12 minutes 05 seconds East for a distance of 61.12 feet; thence run South 75 degrees 44 minutes 24 seconds East for a distance of 123.67 feet; thence run South 00 degrees 26 minutes 49 seconds East for a distance of 181.22 feet; thence run South 89 degrees 33 minutes 19 seconds West for a distance of 202.72 feet to the POINT OF BEGINNING. Said parcel contains 44,476 square feet or 1.02 acres more or less.

OUTPARCEL "D"

A parcel of land situated in the Southwest one-quarter of Section 19, Township 20 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Southwest corner of the Southwest one-quarter of the Southwest one-quarter of said Section; thence run South 89 degrees 58 minutes 11 seconds East for a distance of 645.80 feet to the point of commencement of a curve to the right, said curve having a radius of 720.00 feet, a central angle of 06 degrees 05 minutes 18 seconds, a chord bearing of North 11 degrees 10 minutes 26 seconds East for a chord distance of 76.47 feet; thence run along arc of said curve for a distance of 76.51 feet to the point of commencement of a reverse curve to the left, said curve having a radius of 780.00 feet, a central angle of 14 degrees 27 minutes 15 seconds, a chord bearing of North 06 degrees 59 minutes 28 seconds East for a chord distance of 196.25 feet; thence run along arc of said curve for a distance of 196.77 feet; thence run North 00 degrees 14 minutes 10 seconds West for a distance of 829.88 feet to the POINT OF BEGINNING; thence run North 00 degrees 14 minutes 10 seconds West for a distance of 118.40 feet to the point of commencement of a curve to the left, said curve having a radius of 430.00 feet, a central angle of 23 degrees 59 minutes 46 seconds, a chord bearing of North 12 degrees 14 minutes 03 seconds West for a chord distance of 178.78 feet; thence run along arc of said curve for a distance of 180.09 feet to the point of commencement of a compound curve to the left, said curve having a radius of 270.00 feet, a central angle of 03 degrees 52 minutes 08 seconds, a chord bearing of North 22 degrees 17 minutes 52 seconds West for a chord distance of 18.23 feet; thence run along arc of said curve for a distance of 18.23 feet; thence run North 89 degrees 33

minutes 19 seconds East for a distance of 202.72 feet; thence run South 00 degrees 26 minutes 49 seconds East for a distance of 183.65 feet; thence run South 85 degrees 59 minutes 18 seconds East for a distance of 82.47 feet; thence run South 00 degrees 14 minutes 10 seconds East for a distance of 121.14 feet; thence run South 89 degrees 45 minutes 50 seconds West for a distance of 241.63 feet to the POINT OF BEGINNING. Said parcel contains 62,477 square feet or 1.43 acres more or less.

OUTPARCEL "E"

A parcel of land situated in the Southwest one-quarter of Section 19, Township 20 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Southwest corner of the Southwest one-quarter of the Southwest one-quarter of said Section; thence run South 89 degrees 58 minutes 11 seconds East for a distance of 645.80 feet to the point of commencement of a curve to the right, said curve having a radius of 720.00 feet, a central angle of 06 degrees 05 minutes 18 seconds, a chord bearing of North 11 degrees 10 minutes 26 seconds East for a chord distance of 76.47 feet; thence run along arc of said curve for a distance of 76.51 feet to the point of commencement of a reverse curve to the left, said curve having a radius of 780.00 feet, a central angle of 14 degrees 27 minutes 15 seconds, a chord bearing of North 06 degrees 59 minutes 28 seconds East for a chord distance of 196.25 feet; thence run along arc of said curve for a distance of 196.77 feet; thence run North 00 degrees 14 minutes 10 seconds West for a distance of 617.88 feet to the POINT OF BEGINNING; thence run North 00 degrees 14 minutes 10 seconds West for a distance of 212.00 feet; thence run North 89 degrees 45 minutes 50 seconds East for a distance of 241.63 feet; thence run South 00 degrees 14 minutes 10 seconds East for a distance of 212.00 feet; thence run South 89 degrees 45 minutes 50 seconds West for a distance of 241.63 feet to the POINT OF BEGINNING. Said parcel contains 51,226 square feet or 1.18 acres more or less.

Shelby County, AL 10/04/2007
State of Alabama

Deed Tax: \$6506.50