

**RECORDER'S MEMORANDUM**  
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction.

20100719000229410 1/5 \$24.00  
Shelby Cnty Judge of Probate, AL  
07/19/2010 01:44:48 PM FILED/CERT

### Estoppel Certificate

This certificate is provided pursuant to Section 4 on page 2 of that certain Restrictive Agreement of November 5, 1999 between Brook Highland Highway, LLC and David E. Foley, who was at that time the Bishop of the Catholic Diocese of Birmingham in Alabama. Since the execution and recording of that Restrictive Agreement, the Diocese has constructed St. Mark's Catholic Church on the real estate described on Exhibit B, and the real estate described on Exhibit A has been further subdivided and developed for commercial use. In December of 2009 the real estate described on Exhibit C was purchased at foreclosure by McCullough Snappy Service Oil Co., Inc. It is undisputed by and between the parties that the real estate purchased by McCullough is part of the "Retained Parcel" covered by the terms of the 1999 Restrictive Agreement.

The improvements that existed on the real estate when purchased by McCullough were not in total compliance with the terms of the Restrictive Agreement, so a series of meetings was initiated between McCullough and a committee from St. Mark's Church. As a result of those meetings, McCullough and the church committee developed a plan to improve the property which has now been completed. With reference to Section 1 of the 1999 Restrictive Agreement:

- a) The landscaping between the properties is now consistent with the standards for similar commercial developments in the area.
- b) There are no loading docks, and all mechanical systems have been screened from view including the construction of a masonry enclosure with wooden gates for the dumpster.
- c) The metal price signs and canopy over the gasoline islands shall remain painted in the color scheme required by Shell with the addition of lights under the canopy directly focused on the pumps. Metal bronze colored awnings have been added above the windows of the convenience store. The exterior of the building has been further improved as follows:
  - the exterior walls facing the street have been faced up to the bottom of the windows with decorative Cantera stone manufactured by Rock CAST in the Stone Creek color
  - the fascia and window trim has been painted SWP color 7048 Urban Bronze
  - the body of the building has been painted SWP color 6150 Universal Khaki

McCullough hereby agrees to maintain the improvements as noted above, and the Diocese hereby certifies that the property described on Exhibit C is now in compliance with the terms of the 1999 Restrictive Agreement. McCullough further agrees that hereinafter no changes will be made that violate any of these agreements, nor enter into any agreement that does not recognize the restrictive covenants as amended by this document.

McCullough Snappy Service Oil Co., Inc.

By: 

Paul Ott Carruth, Jr.  
Its Vice-President

Diocese of Birmingham in Alabama

By: 

Most Reverend Robert J. Baker, S.T.D.  
Bishop of Birmingham in Alabama,  
a Corporation Sole



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**EXHIBIT A**

**Retained Parcel**

Lot 3B, according to the Resurvey of Lot 3, Brook Highland Commercial No. 3, as recorded  
in Map Book 26, Page 41 in the Office of the Judge of Probate of Shelby County, Alabama.

Please Return To:  
Cahaba Title, Inc.  
1900 Indian Lake Drive  
Birmingham, AL 35244



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Shelby Cnty Judge of Probate, AL  
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**EXHIBIT B**

**Buyer Parcel**

Lot 3A, according to the Resurvey of Lot 3, Brook Highland Commercial No. 3, as recorded in Map Book 26, Page 41 in the Office of the Judge of Probate of Shelby County, Alabama.

Please Return To:  
Cahaba Title, Inc.  
1900 Indian Lake Drive  
Birmingham, AL 35244

Inst # 1999-45934

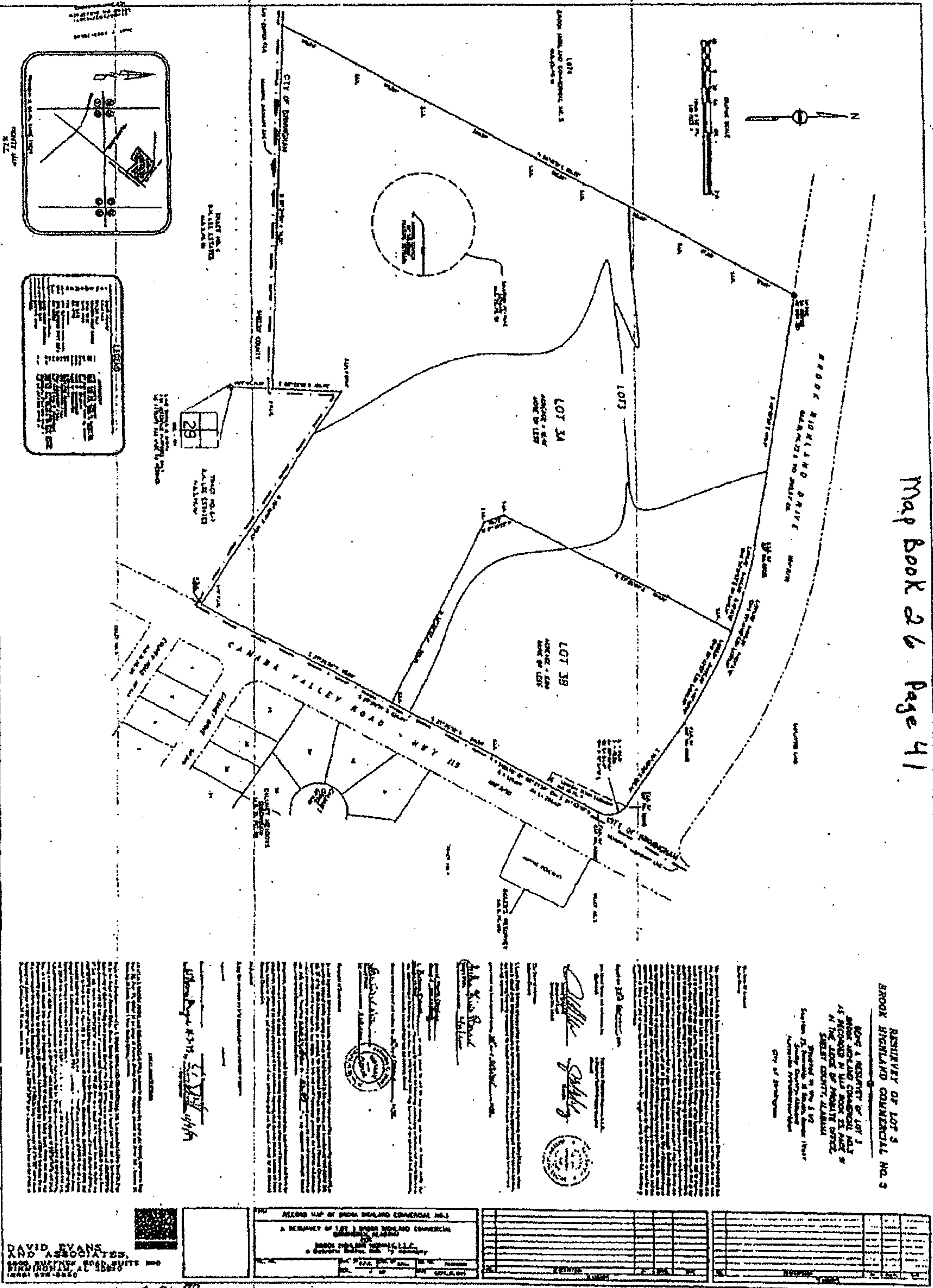
11/09/1999-45934  
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SHELBY COUNTY JUDGE OF PROBATE  
008 NKS 27.00





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Shelby Cnty Judge of Probate, AL  
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Map Book 26 Page 41



DAVID EVANS  
AND ASSOCIATES, INC.  
BIRMINGHAM, ALABAMA  
(205) 988-8800

5-86-79



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EXHIBIT A

A parcel of land containing 52949.67 Square Feet (1.22 Acres) being located in the South Half of Section 29, Township 18 South, Range 1 West, Shelby County, Alabama, being part of LOT 3B of a RESURVEY OF LOT 3, BROOK HIGHLAND COMMERCIAL No. 3, as recorded in Map Book 26, Page 41 in the Probate Office of Shelby County, Alabama, being more particularly described as follows:

Commence at the Southwest Corner of the Southeast Quarter of Section 29, Township 18 South, Range 1 West, Shelby County, Alabama; thence run North along the Half-Section Line 1328 feet to a point on the Southerly line of LOT 3A of a RESURVEY OF LOT 3, BROOK HIGHLAND COMMERCIAL No. 3, as recorded in Map Book 26, Page 41 in the Probate Office of Shelby County, Alabama; thence North 02°23'01" East 132.43 feet to a point along the Southerly line of said Lot 3A; thence South 56°20'17" East 499.43 feet to a point at the Southeasterly Corner line of said Lot 3A along the Northwestern right-of-way line of Alabama Highway No. 119; thence North 27°26'38" East 534.24 feet along the Northwestern right-of-way line of Alabama Highway No. 119 to the P.C. of a curve to the right with a radius of 5423.75 feet and a central angle of 00°15'08"; thence run Northeasterly, then Easterly 52.87 feet along the arc of said curve to the Point of Beginning; thence North 61°16'15" West 234.54 feet to a point; thence North 27°26'35" East 236.20 feet to a point along the Southerly line of Brook Highland Parkway at a point on a curve to the right with a radius of 896.93 feet, a central angle of 00°30'43" and a chord bearing of South 55°53'22" East; thence run Easterly, then Southeasterly 8.01 feet along the curve and along the Southerly right-of-way line of Brook Highland Parkway; thence South 55°45'32" East 197.48 feet to along the Southerly right-of-way line of Brook Highland Parkway to the P. C. of a curve to the right with a radius of 42.00 feet, a central angle of 80°44'47" and a chord bearing of South 12°54'18" East; thence Southeasterly, then Southerly 59.19 feet along the arc of said curve to a P. R. C. of a curve to the left with a radius of 5423.75 feet, a central angle of 02°08'47" and a chord bearing of South 29°00'30" West; thence run Southerly, then Southeasterly 175.77 feet along the arc of said curve and along the Northwestern right-of-way line of Alabama Highway No. 119 to the Point of Beginning.