

RESOLUTION 2015-04-20-06

Request to Vacate Applegate Cove and Right of Way

WHEREAS, the Pelham Board of Education is desirous of vacating Applegate Cove, a street in the City of Pelham lying within the Applegate Subdivision in the Oak Mountain Business Park and has petitioned the City that the assent of the City Council of the City of Pelham, Alabama be given as required by law in such cases; and

WHEREAS, the Pelham Board of Education is the sole owner of all the property abutting on or adjacent to the following described public road, street, highway or right-of-way that is proposed to be vacated, situated in Pelham, Alabama:

Applegate Cove, a street located in Oak Mountain Business Park and recorded in Map Book 24, pages 148 and 149 and Map Book 25, pages 9, 57 and 73 in the Office of the Probate Judge of Shelby County

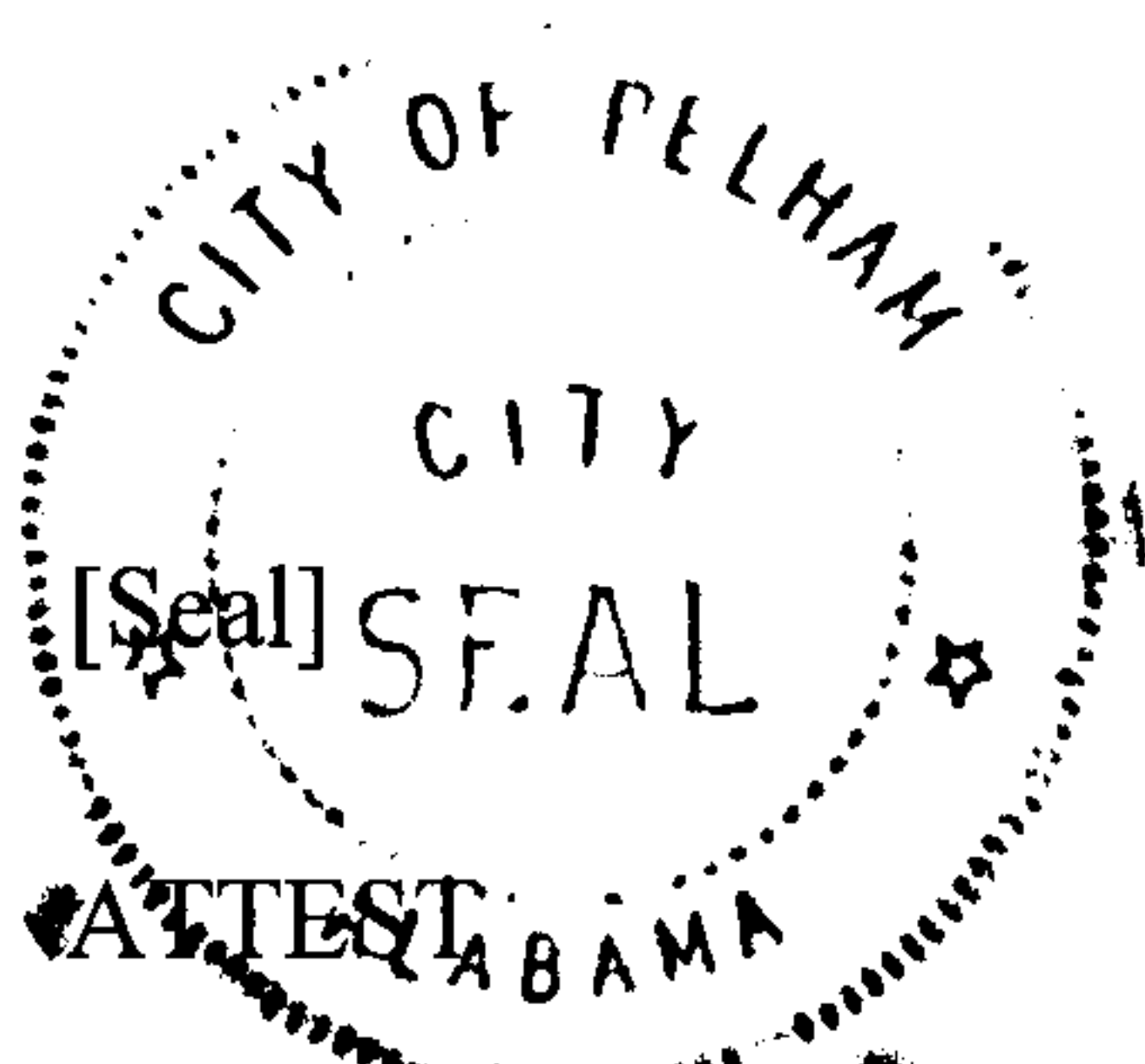
As no other property owners possess land that adjoins, abuts or is in close proximity to Applegate Cove or use it as a means of ingress/egress to their lands, this vacation will not inconvenience any other landowners or citizens of the City; and

WHEREAS, the Pelham City Clerk notified all local utilities of the public hearing in regard to said vacation via certified mail at least thirty (30) days prior to the hearing as required by law.

NOW, THEREFORE BE IT RESOLVED by the City Council of Pelham, Alabama that they do hereby assent to the vacation of Applegate Cove as described above, and that Applegate Cove be and is hereby vacated and all public rights and easements therein divested of the property.

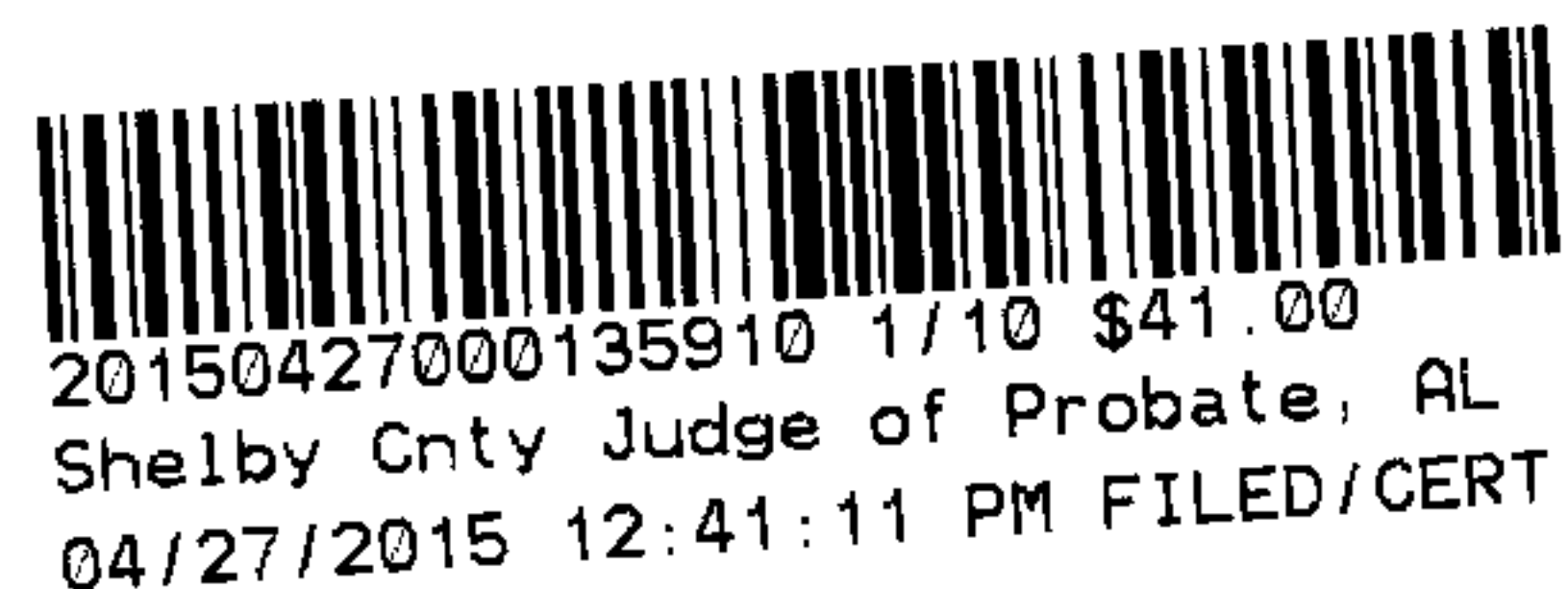
THEREUPON Karyl Rice, a council member, moved and Beth McMillan, a council member, seconded the motion that Resolution 2015-04-20-06 be given vote, and said resolution passed by majority vote of the Council present, and the President of the Council declared the same passed.

ADOPTED this 20th day of April, 2015.



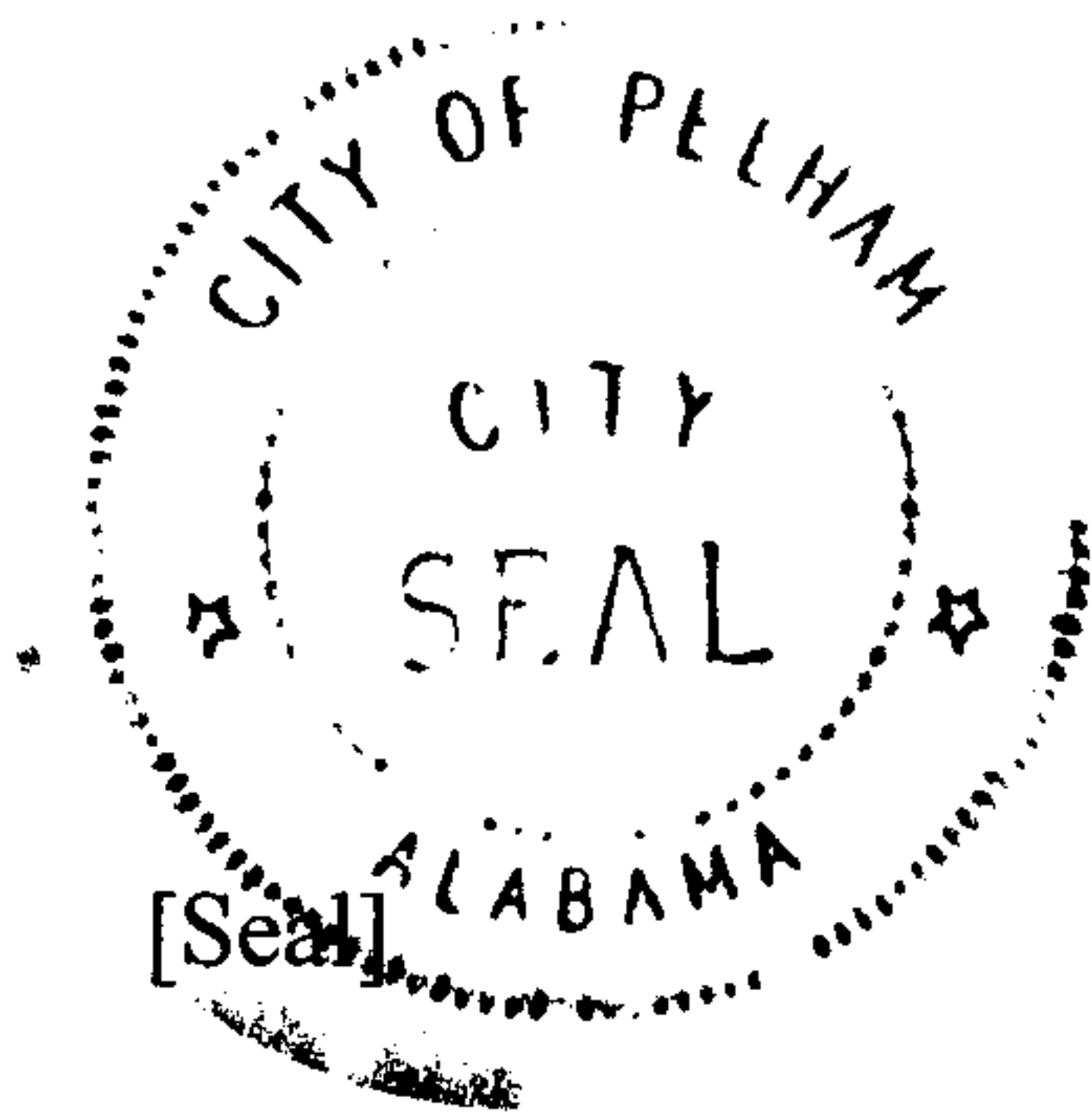
Marsha Yates
Marsha Yates, CMC, City Clerk

Rick Hayes
President of the Council



I, the undersigned qualified City Clerk of the City of Pelham, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution lawfully passed and adopted by the City Council of the City named herein, at a regular meeting of such Council held on the 20th day of April 2015 and that such resolution is on file in the office of the City Clerk and that no action has been taken to rescind or modify said resolution.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City on this 20th day of April 2015.



Marsha Yates
Marsha Yates, CMC, City Clerk

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Shelby Cnty Judge of Probate, AL
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SUPPLEMENT TO PETITION FOR VACATION OF APPLGATE COVE

Comes now the Pelham Board of Education (the "Pelham Board") and supplements its Petition for Vacation of Applegate Cove heretofore filed with the City of Pelham, Alabama on or about March 17, 2015 (the "Petition") as follows:

Paragraph 1 of the Petition is restated in its entirety as follows:

"1. Pursuant to maps or plats recorded in the Probate Court of Shelby County at (i) Map Book 24, page 148, (ii) Map Book 24, page 149, (iii) Map Book 25, page 9, (iv) Map Book 25, page 57, and (v) Map Book 25, page 73, a dedicated street that is now known as Applegate Cove lies within the Oak Mountain Business Park subdivision. One terminus of this street is located at its intersection with Applegate Parkway, and the other dead ends at a cul-de-sac within that subdivision."

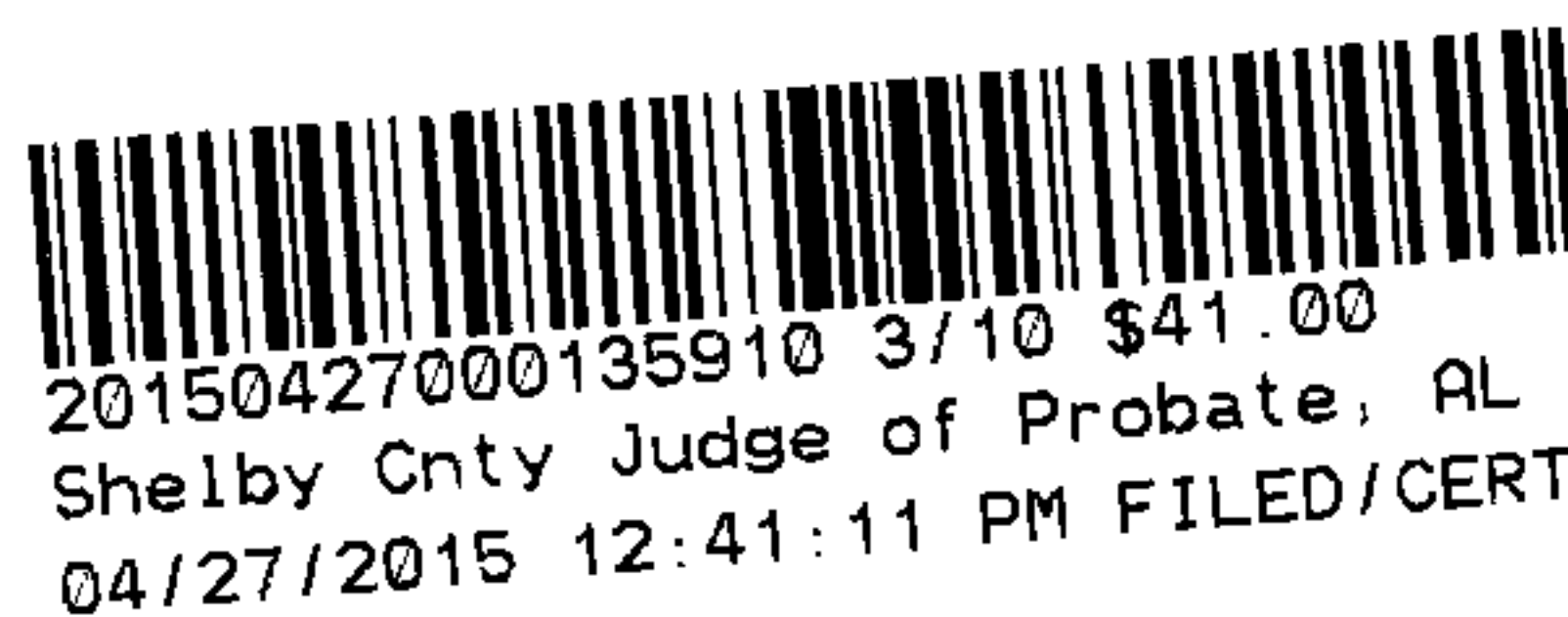
Except as provided in this Amendment, all other provisions in the Petition for Vacation of Applegate Cove are reaffirmed.

Respectfully submitted this 17th day of April, 2015.



Steven T. Stine,
Attorney for Pelham Board of Education

Bishop, Colvin, Johnson & Kent, LLC
1910 First Avenue North
Birmingham, AL 35203
Phone: (205) 251-2881
sstine@bishopcolvin.com



STATE OF ALABAMA)

COUNTY OF SHELBY)

PETITION FOR VACATION OF APPLGATE COVE

Comes now the undersigned, Pelham Board of Education (the "Pelham Board"), and respectfully requests that the City Council of the City of Pelham, Alabama, grant this Petition for Vacation of Applegate Cove, a street in the City lying within the Applegate Subdivision ("Applegate Cove"). As grounds for this Petition, the Pelham Board states as follows:

1. Pursuant to an existing recorded subdivision and Survey of the Oak Mountain Business Park that is recorded in the Office of the Probate Judge of Shelby County at Map Book 25, pages 149, 73, and 57, one terminus of the street now known as Applegate Cove is located at its intersection with Applegate Parkway, and this street dead ends at a cul-de-sac within the Oak Mountain Business Park.

2. On January 26, 2015, Oak Mountain Business Park, LLC conveyed to the Pelham Board approximately 19 acres of land within the Applegate Subdivision (the "School Board Land"). A copy of Statutory Warranty Deed evidencing this conveyance, which is recorded in the Office of the Probate Judge of Shelby County as Instrument No. 2015128000028490, is attached as Exhibit A.

3. Following the conveyance of the School Board Land to the Pelham Board, the Board now owns all of the real property within the Applegate Subdivision that abuts or is served by Applegate Cove. A copy of an ALTA Survey prepared on January 22, 2015, by Gary Pitzing of Goodwin, Mills & Cawood in connection with the conveyance of the School Board Land and that depicts the subject street is attached as Exhibit B.

4. The Pelham Board has immediate plans to build a new elementary school on the School Board Land.

5. In the developing the School Board Land, the street and property now comprising Applegate Cove will be used for purposes other than as a means of ingress/egress for the new school.

6. The Pelham Board desires to vacate the entirety of the street shown on Exhibit B that is also known as Applegate Cove.

7. As no other property owners possess land that adjoins, abuts or is in close proximity to Applegate Cove or use it as a means of ingress/egress to their lands, this vacation will not inconvenience any other landowners or citizens of the City.

8. Representatives of the Pelham Board have contacted each utility (or other entity) that is known to have above ground or buried equipment, lines or facilities within the public right-of-way of the street to be vacated. Arrangements have been made with each of them for the

removal of their respective facilities, and to the knowledge of the Pelham Board, none of those utilities (or other entities) have any objection to the vacation of Applegate Cove.

NOW WHEREFORE, the Pelham Board of Education, pursuant to and in accordance with the provisions of Section 23-4-20 of the Alabama Code (1975), does hereby submit this written petition for vacation of Applegate Cove, the same being within the municipal limits of the City of Pelham, Alabama, and request the City Council schedule a hearing regarding same and approve and assent to its vacation.

IN WITNESS WHEREOF, the undersigned, duly authorized representative of the Pelham Board of Education has set his signature and seal on the date of the Acknowledgment below.

PELHAM BOARD OF EDUCATION

By: *Rick Rhoades*

Rick Rhoades

Its: President

STATE OF ALABAMA
COUNTY OF SHELBY

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that whose name as Rick Rhoades, the President of the Pelham Board of Education, 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, with full authority, executed the same voluntarily for and as the act of said entity.

Given under my hand and official seal this the 17 day of March, 2015.

Gam Crostwell Phifer

Notary Public

Notary Public - Alabama State At Large

[AFFIX SEAL]

My commission expires: _____

My Commission Expires

October 2, 2017

Bonded Thru Notary Public Underwriters

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THIS INSTRUMENT WAS PREPARED BY:
William C. Byrd, II, Esq.
Bradley Arant Boult Cummings LLP
1819 Fifth Avenue North
Birmingham, AL 35203


STATE OF ALABAMA §
 § ss.
SHELBY COUNTY §

STATUTORY WARRANTY DEED


KNOW ALL PERSONS BY THESE PRESENTS, that for and in consideration of the sum of \$100.00 and other good and valuable consideration in hand paid by the Pelham Board of Education, an Alabama public entity ("Grantee"), to the undersigned Oak Mountain Business Park, LLC, an Alabama limited liability company ("Grantor"), the receipt and sufficiency whereof is acknowledged, Grantor does by these presents GRANT, BARGAIN, SELL and CONVEY unto Grantee certain real property, situated in Shelby County, Alabama, more particularly described as follows:

PARCEL 2:

A parcel of land located in the Southeast 1/4 of the Southwest 1/4 of Section 19, Township 20 South, Range 2 West, more particularly described as follows: Commence from the Northeast Corner of the Southeast 1/4 of the Southwest 1/4 of Section 19, Township 20 South, Range 2 West, also being the Point of Beginning; thence South 00 degrees 40 minutes 55 seconds East a distance of 483.88 feet; thence South 61 degrees 23 minutes 41 seconds West a distance of 96.28 feet to the Northeasterly right of way of Applegate Parkway; thence North 28 degrees 33 minutes 06 seconds West along said right of way a distance of 242.35 feet to a curve to the right having a radius of 470.00 feet and a delta of 8 degrees 45 minutes 19 seconds; thence along a chord bearing North 24 degrees 11 minutes 37 seconds West a distance of 71.75 feet to a curve to the right having a radius of 100.00 feet and a delta of 13 degrees 37 minutes 01 seconds; thence along a chord bearing North 13 degrees 00 minutes 32 seconds West a distance of 23.71 feet to a curve to the right having a radius of 9396.93 feet and a delta of 0 degrees 31 minutes 35 seconds; thence along a chord bearing North 6 degrees 28 minutes 25 seconds West a distance of 86.32 feet; thence North 6 degrees 12 minutes 10 seconds West a distance of 60.20 feet to a curve to the right having a radius of 40.00 feet and a delta of 86 degrees 57 minutes 38 seconds; thence along a chord bearing North 37 degrees 16 minutes 39 seconds East a distance of 55.05 feet to the Southerly right of way of Shelby County Highway 52 being a curve to the left having a radius of 1602.44 feet and a delta of 5 degrees 11 minutes 28 seconds; thence along a chord bearing North 76 degrees 58 minutes 15 seconds East a distance of 145.14 feet; thence South 16 degrees 21 minutes 33 seconds East a distance of 36.76 feet; thence North 72 degrees 55 minutes 15 seconds East a distance of 31.43 feet; thence North 16 degrees 27 minutes 41 seconds West a distance of 36.27 feet; thence South 86 degrees 40 minutes 14 seconds East a distance of 40.79 feet to the Point of Beginning.


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PARCEL 3:

A parcel of land located in the Southwest 1/4 of the Southeast 1/4 of Section 19, Township 20 South, Range 2 West, more particularly described as follows: Commence from the Northwest Corner of the Southwest 1/4 of the Southeast 1/4 of Section 19, Township 20 South, Range 2 West, also being the Point of Beginning; thence South 00 degrees 40 minutes 55 seconds East a distance of 483.88 feet; thence North 61 degrees 23 minutes 41 seconds East a distance of 104.89 feet; thence South 63 degrees 59 minutes 11 seconds East a distance of 191.55 feet to the Northerly right of way of Applegate Cove being on a curve to the left having a radius of 170.00 feet and a delta of 57 degrees 44 minutes 30 seconds; thence along a chord bearing North 9 degrees 05 minutes 20 seconds East a distance of 164.16 feet; thence North 19 degrees 46 minutes 56 seconds West a distance of 56.15 feet to a curve to the left having a radius of 40.00 feet and a delta of 45 degrees 34 minutes 44 seconds; thence along a chord bearing North 42 degrees 34 minutes 17 seconds West a distance of 111.83 feet; thence North 17 degrees 59 minutes 31 seconds West leaving said right of way a distance of 176.71 feet; thence North 89 degrees 57 minutes 37 seconds West a distance of 201.22 feet; thence South 78 degrees 53 minutes 21 seconds West a distance of 6.46 feet to the Point of Beginning.

Lot 15, Oak Mountain Business Park, Map Book 25, Page 57.

Lot 16, Oak Mountain Business Park, Map Book 25, Page 73.

Lot 16A, Oak Mountain Business Park, Map Book 25, Page 73.

Lot 17, Oak Mountain Business Park, Map Book 25, Page 73.

Lot 18, Oak Mountain Business Park, Map Book 24, Page 149.

Lot 19, Oak Mountain Business Park, Map Book 24, Page 149.

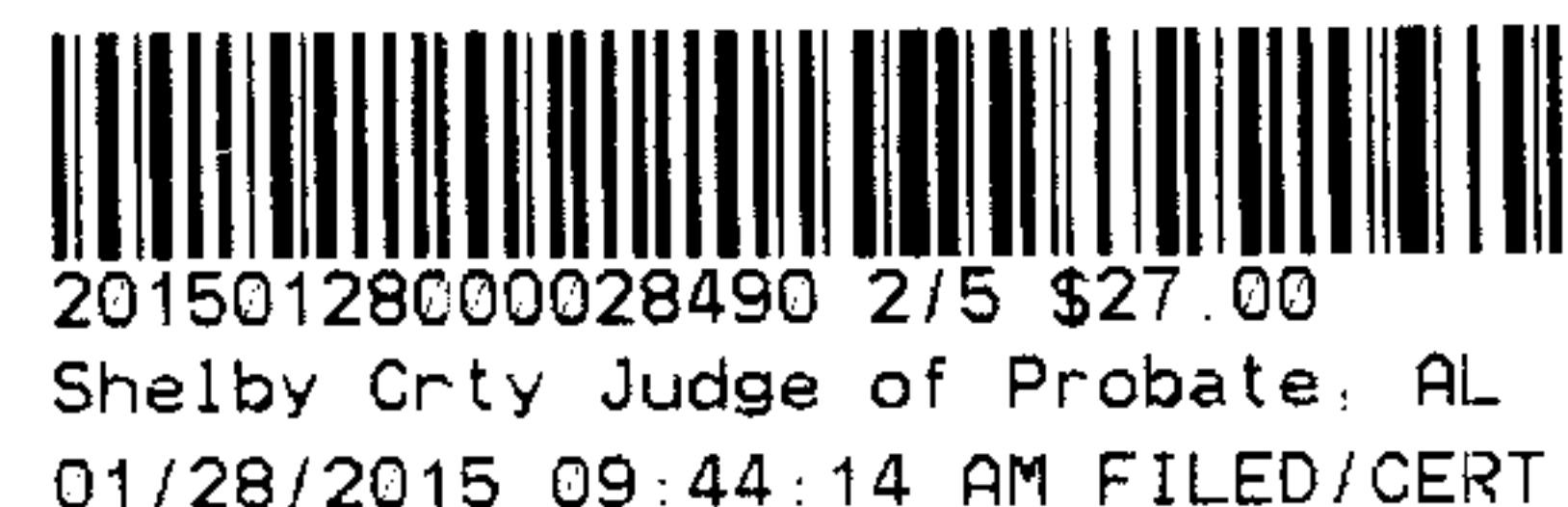
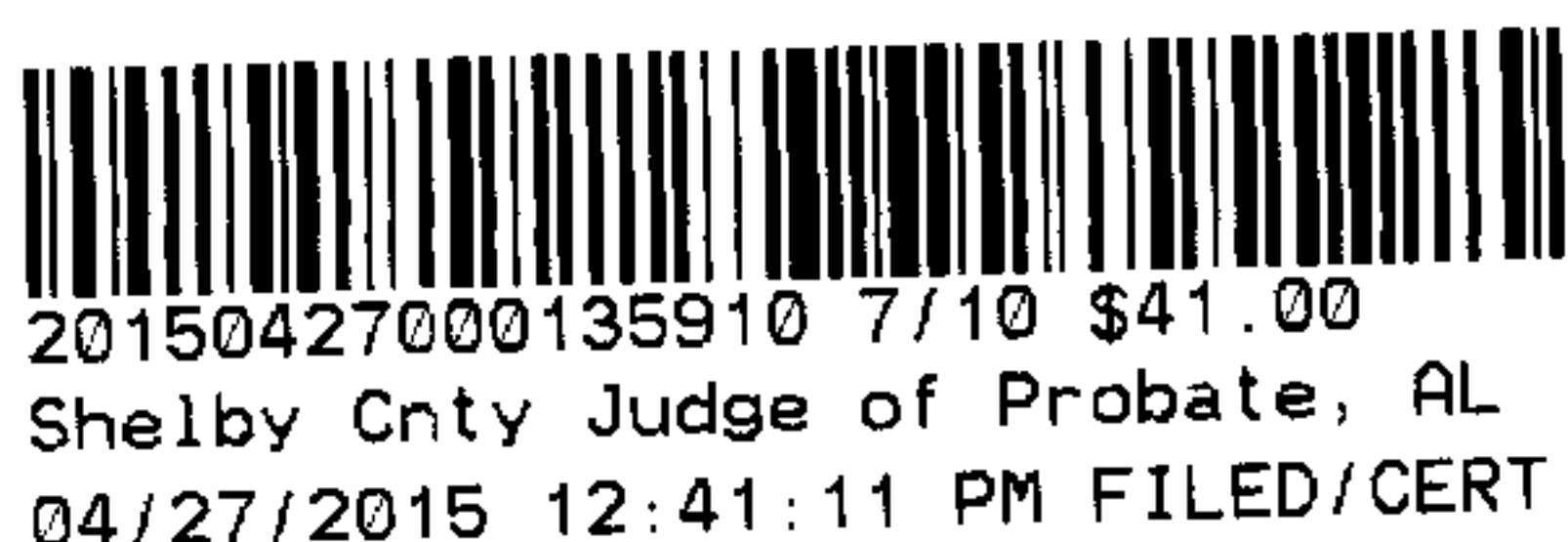
Lot 20, Oak Mountain Business Park, Map Book 24, Page 149.

Lot 23, Oak Mountain Business Park, Map Book 25, Page 9.

TOGETHER WITH all and singular to the extent of any interest therein of Grantor, the tenements, hereditaments, and appurtenances, thereto belonging or in any wise appertaining and the reversion or the reversions, remainder or remainders, rents, issues, and profits thereof except as herein disclosed; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, of said Grantor, of, in, and to the same and every part or parcel thereof, with the appurtenances except as herein disclosed, to the extent of any interest of Grantor therein, but SUBJECT TO the following permitted exceptions:

(i) Ad valorem taxes for the year 2015 and subsequent years.

(ii) Any and all matters of record.



Pursuant to the provisions of Ala. Code § 40-22-1 (1975), the following information is offered in lieu of submitting Form RT-1:

Grantor's Name and Mailing Address:

Oak Mountain Business Park, LLC
Attn: Del Clayton
100 Applegate Court
Pelham, Alabama 35124

Grantee's Name and Mailing Address:


Pelham Board of Education
3162 Pelham Parkway
Pelham, Alabama 351243


Property Address: Applegate Cove, Pelham, Alabama
Date of Sale: January 26, 2015
Total Purchase Price \$3,300,000.00

The Purchase Price can be verified in the Closing Statement.

TO HAVE AND TO HOLD all and singular, the above-mentioned and described premises, together with the appurtenances, unto Grantee, its successors or assigns forever.

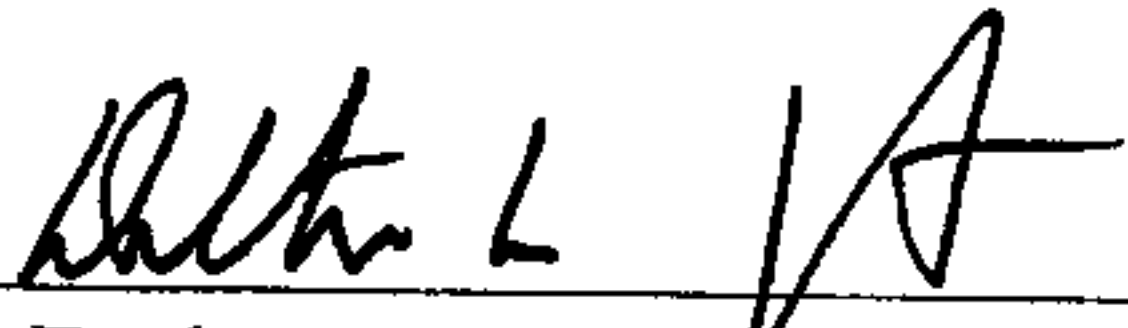
Grantor hereby covenants and agrees with Grantee, its successors and assigns, that Grantor will warrant and defend the Property against the lawful claims (unless accepted herein) of all persons claiming by, through, or under Grantor, but not further or otherwise.


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IN WITNESS WHEREOF, Grantor has hereunto set its signature by its duly authorized officer, dated effective as of the 26th day of January, 2015.


OAK MOUNTAIN BUSINESS PARK, LLC, an
Alabama limited liability company


By: 
Delton L. Clayton
Its Manager

STATE OF ALABAMA §
 § ss.
COUNTY OF SHELBY §

I, the undersigned, a notary public in and for the State of Alabama at Large, hereby certify that Delton L. Clayton, whose name as Manager of Oak Mountain Business Park, 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, he, as such Manager and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand on this the 26th day of January, 2015.


Notary Public
My Commission Expires: March 6, 2017


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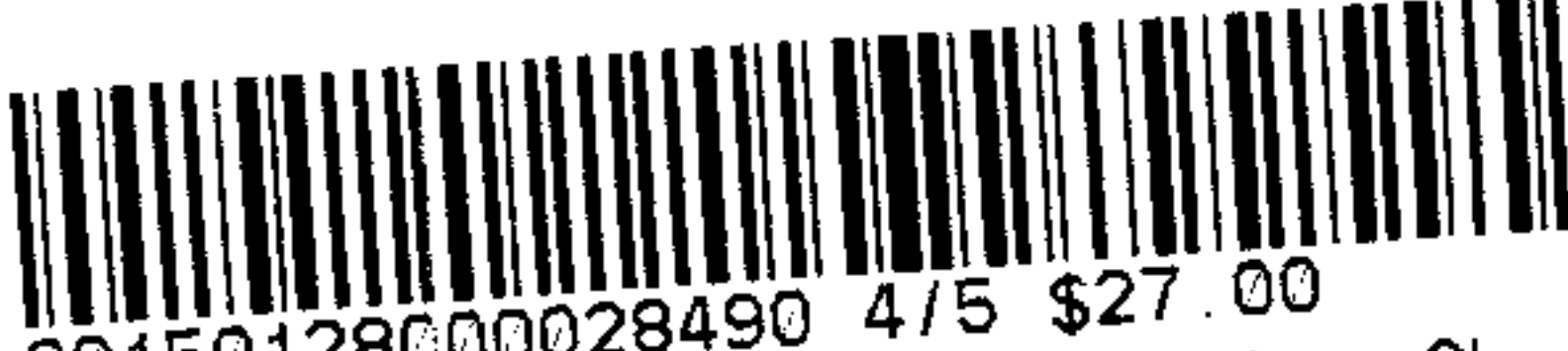
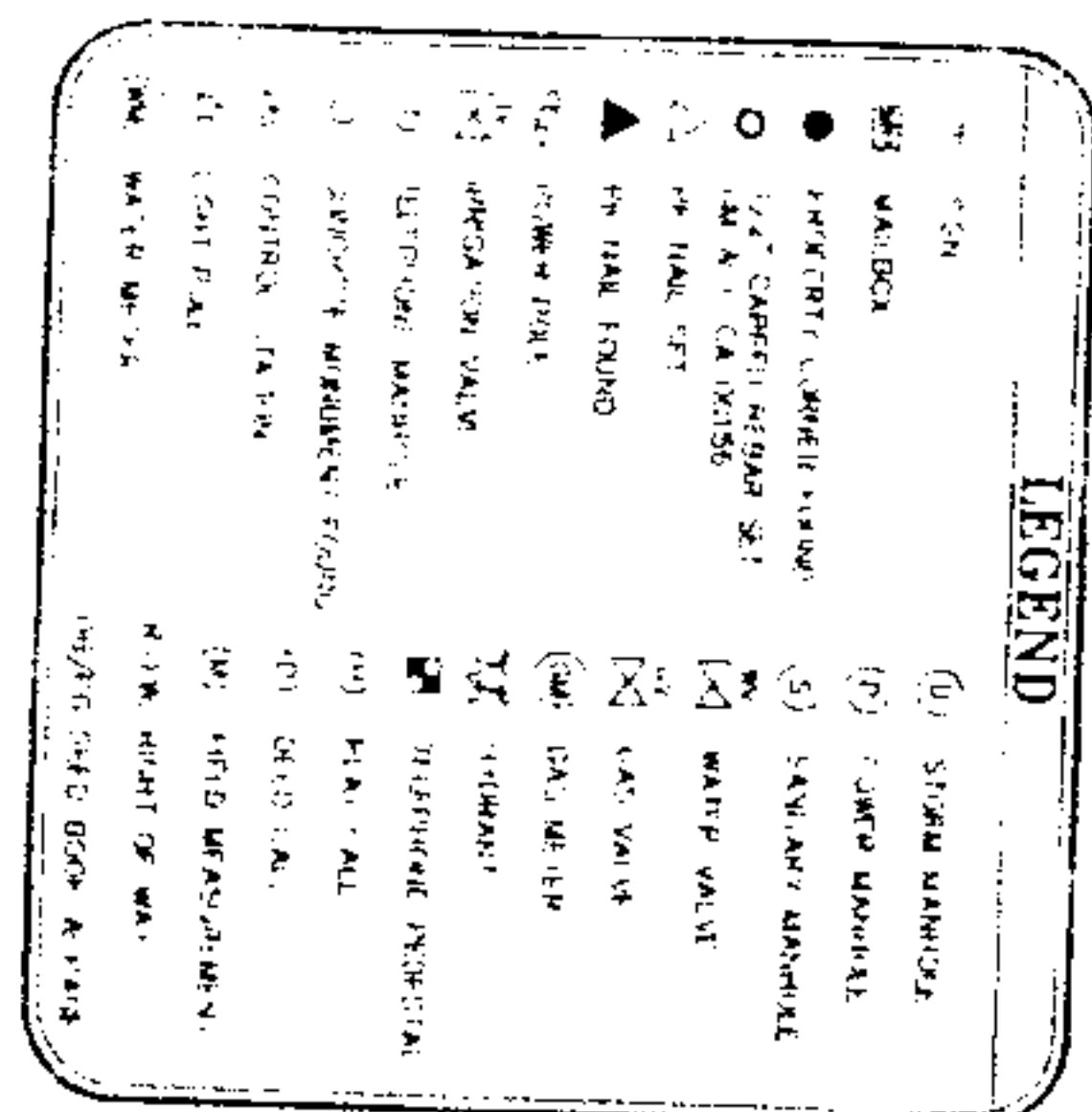
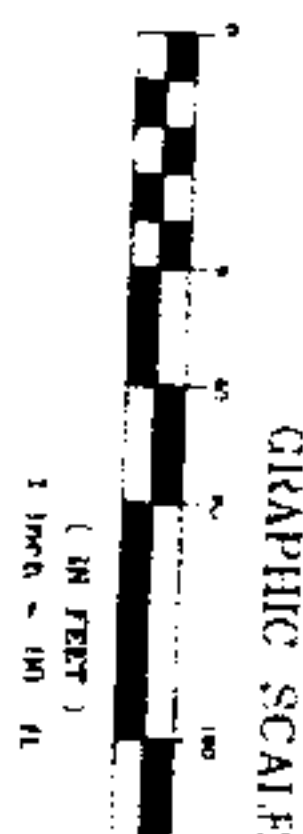

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EXHIBIT B

Applegate Cove



ALTA/ACSM TOPOGRAPHIC SURVEY
FUTURE SITE PELHAM ELEMENTARY

James E. Bishop
#14 9 30 0 000 001 082

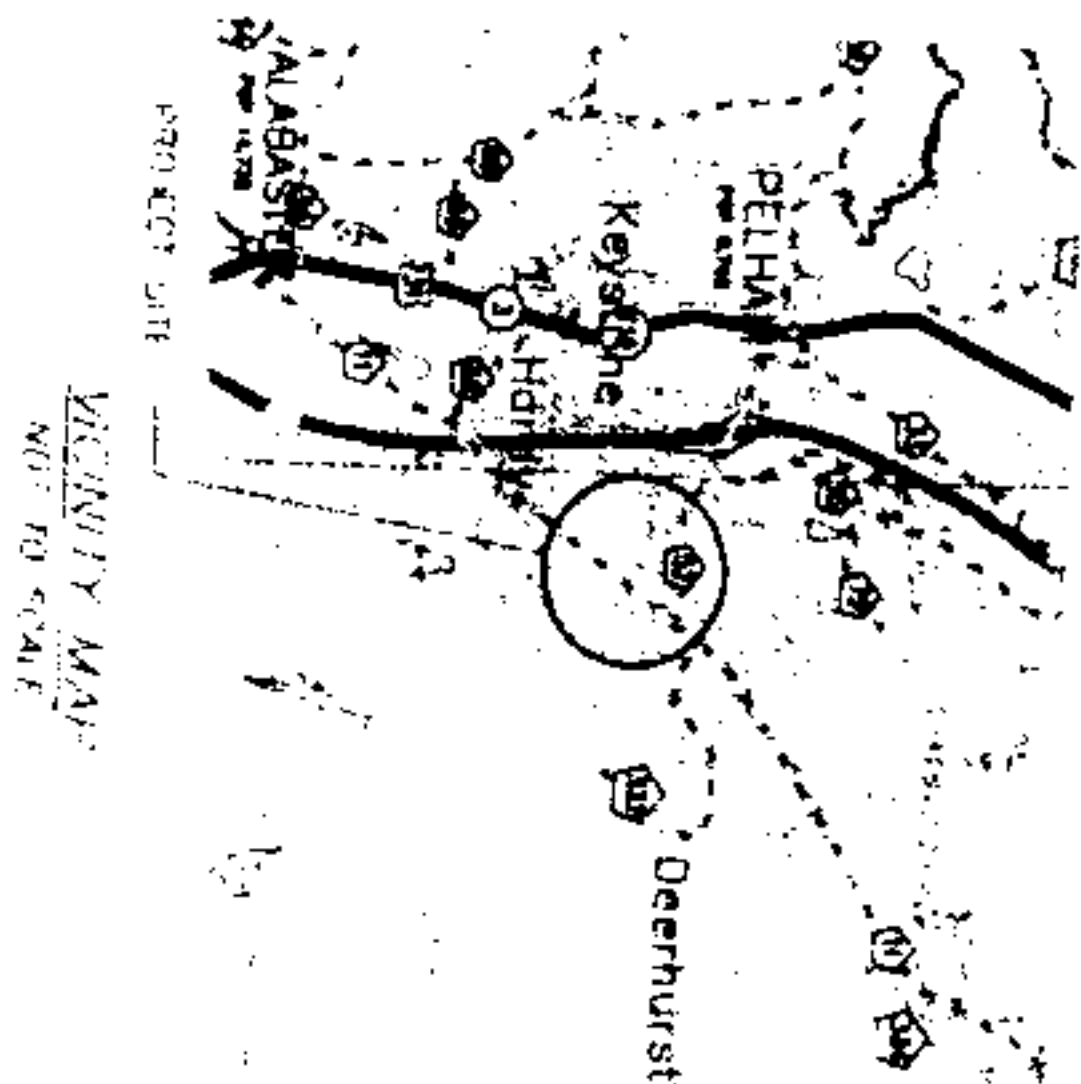
Grady Andrews
#14 9 4 000 005 008

Industrial Training Consultants Inc
#14 4 19 4 000 005 002

ZONE B-2

Elms Investments LLC
#14 4 19 4 000 003 003

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1-27-15
Date of Survey



ALTA/ACSM & Topographic Survey

Pelham Elementary
ALTA/ACSM & Topographic Survey

CBHM140090

ISSUE DATE

drawn by: JB
checked by: GP



GOODWYN MILLS CAWOOD

2701 1st Ave South, Suite 100 | Birmingham, AL 35233
Tel 205.879.4462 | GMCNETWORK.COM