

Prepared by and upon recording
return to:

Troutman Sanders LLP
Attn: Stacy E. Hyken, Esq.
600 Peachtree Street, NE Ste. 3000
Atlanta, Georgia 30308

DECLARATION OF EASEMENTS AND RESTRICTIONS AND SHORT FORM LEASE

THIS DECLARATION OF EASEMENTS AND RESTRICTIONS AND SHORT FORM LEASE (this "**Declaration and Short Form Lease**") is entered into as of this 23rd day of October, 2019, by and between RAM – HELENA DEVELOPMENT PARTNERS, LLC, an Alabama limited liability company ("**Landlord**"), and CHICK-FIL-A, INC., a Georgia corporation ("**Tenant**").

RECITALS:

A. Landlord and Tenant have entered into a Ground Lease dated October 23, 2019 (as subsequently amended, the "**Lease**").

B. Tenant is granted certain rights and privileges which are intended to run with title to the Land and the Adjoining Property (as such terms are defined in the Lease) during the term of the Lease, including any extensions thereof.

C. Tenant is also granted certain rights and privileges which are intended to survive Tenant's exercise of its right of first refusal.

D. Landlord and Tenant desire to file this Declaration and Short Form Lease to provide record notice of the Lease and its terms and conditions both during Tenant's tenancy under the Lease (including any extensions thereof), as well as during any subsequent period of fee simple ownership of the Demised Premises by Tenant.

NOW, THEREFORE, for and in consideration of the mutual covenants contained in this Declaration and Short Form Lease and in the Lease, Landlord and Tenant hereby agree as follows:

1. **Demised Premises.** Effective as of the Commencement Date, Landlord leases to Tenant, and Tenant leases from Landlord, on the terms and conditions of the Lease, the parcel of land (the "**Land**") and all improvements on the Land, consisting of approximately 1.47 acres located at the eastern corner of the intersection of Highway 17 and Helena Road in the City of Helena, Shelby County, Alabama, described

on Exhibit A, together with any and all improvements, appurtenances, rights, privileges and easements benefiting, belonging or pertaining to the Land (collectively, the "**Demised Premises**").

2. **Term**. The term of the Lease will commence on the Commencement Date (as that term is defined in the Lease) and will terminate on the last day of the month which is fifteen (15) years after the Rent Commencement Date (as that term is defined in the Lease) unless sooner terminated or extended as provided in the Lease. Tenant has the right to extend the term of the Lease for eight (8) consecutive periods of five (5) years each pursuant to the terms of the Lease. Upon request, each of Landlord and Tenant agrees to promptly execute and deliver an amendment to this Declaration and Short Form Lease in recordable form acknowledging the actual date of the Commencement Date and the Rent Commencement Date and providing notice of extension periods added to the Lease.

3. **Incorporation of Lease**. The provisions of the Lease are incorporated into this Declaration and Short Form Lease as if set out in full. In the event of any conflict or inconsistency between the terms of this Declaration and Short Form Lease and the terms of the Lease, the terms of the Lease will govern and control for all purposes.

4. **Defined Terms**. All capitalized terms and words of art which are used but not defined in this Declaration and Short Form Lease will have the same respective meaning designated for such terms and words of art in the Lease.

5. **Adjoining Property**. The Adjoining Property, as defined in the Lease and used in this Declaration and Short Form Lease, is described on Exhibit B. A portion of the Adjoining Property is the "**Further Restricted Property**" which is depicted and labeled on Exhibit B.

6. **Easements**. Landlord grants to Tenant, for the term of the Lease, the following rights and easements over the Adjoining Property:

(a) As to only Tract 1 and Tract 5 of the Adjoining Property, general vehicular and pedestrian access and parking, including the right (but not the obligation) to maintain, repair and replace the access roads, parking areas and sidewalks (including the right to offset such costs against rent payable under the Lease if Landlord fails to perform such work);

(b) Specific vehicular and pedestrian access over the accessways described as Tract 5, which are crosshatched on Exhibit B (the "**Protected Drives**");

(c) A general access and maintenance easement over such portion of the Adjoining Property as is reasonably necessary to effectuate Tenant's rights in Section 9 of the Lease to place and maintain any Future Adjoining Property Sign Panel (as defined in Section 9 the Lease);

(d) General utility easements, including the right to construct, tie into, maintain, repair and replace all utility facilities that are necessary to serve the Demised Premises (including storm and surface water drainage and detention facilities), together with the right of storm and surface water drainage from the Land on the Adjoining Property; and

(e) A temporary construction easement over those portions of the Adjoining Property as reasonably required for Tenant's development of the Demised Premises.

7. **Tenant's Exclusive Use and Restrictions on Adjoining Property**. Subject to, and in addition to those covenants and restrictions contained in the master declaration of easements and restrictions covering the Land and the Additional Property to be recorded by Landlord prior to the Commencement

Date (the "**Master Declaration**"), Landlord agrees that the Adjoining Property is subject to the following restrictive covenants for the term of the Lease:

(a) No material changes will be made to the layout within the area defined as Tract 1, Tract 5 and Tract 6 and shown as the "**No Change Area**" on Exhibit "B". For the purposes of illustration only, the following changes to the No Change Area will be considered material: relocation of any drive aisles, reduction in the number of parking spaces, or elimination of any curb cuts serving the Demised Premises.

(b) Landlord will maintain, repair and restore (including snow removal each applicable morning before 7 a.m.), at no cost to Tenant, all roads, parking areas, and utility facilities that are the subject of the easements granted to Tenant in Section 3(a) of the Lease (including, without limitation, the Protected Drives) in accordance with first-class shopping center standards and practices, and Landlord will not obstruct or alter the Protected Drives during the term of the Lease. Landlord acknowledges that Tenant is relying on Landlord to maintain all of such off-site accessways, parking areas and utility facilities that support the Demised Premises in good order and repair at all times.

(c) Landlord will not lease, rent, sell, or occupy, or permit to be leased, rented, sold, or occupied, any portion of the Adjoining Property for any use that is not in accordance with either (i) the terms contained herein, (ii) the terms of any other restrictive use provision of other tenant leases, or (iii) the Master Declaration.

(d) Landlord will not lease, rent, sell or occupy, or permit to be leased, rented, sold or occupied, any portion of the Adjoining Property for any of the following: a theater of any kind; bowling alley, skating rink, amusement park, carnival, or circus; meeting hall, place of instruction, sporting event or other sports facility, auditorium or any other like place of public assembly; a gym or fitness center leasing or occupying more than 5,000 square feet (notwithstanding the foregoing, no gym or fitness center may be located on the Further Restricted Property, regardless of square feet); mortuary or funeral parlor; establishment selling cars or other motor vehicles, motor vehicle maintenance or repair shop or gas station, or any establishment selling trailers; billiard parlor; tavern, pub or bar deriving more than thirty-five percent (35%) of its gross sales from the sale of alcohol (notwithstanding the foregoing, no tavern, pub or bar whatsoever may be located on the Further Restricted Property); liquor store; pawn shop; or amusement center, flea market, massage parlor, "disco" or other dance hall, tattoo or body piercing parlor; casino, gaming room, or "off track betting" operation; for the sale of paraphernalia for use with illicit drugs or for the sale of marijuana; or for the sale, rental or display of pornographic materials.

(e) No restaurant will be permitted on any portion of the Adjoining Property unless the restaurant independently maintains a parking ratio equal to or greater than the number of spaces required by law without a variance, without relying on any parking spaces located on the Land or any other property other than where the restaurant is located.

(f) No portion of the Adjoining Property will be leased, used or occupied as a restaurant selling or serving chicken as a principal menu item. For the purposes of the Lease, "a restaurant selling or serving chicken as a principal menu item" means a restaurant deriving twenty-five percent (25%) or more of its gross food sales from the sale of chicken. A "restaurant" includes any business establishment, including, without limitation, a kiosk, stand, booth, food truck or area located inside another business facility.

(g) No portion of the Adjoining Property will be leased, used, or occupied by or for any of the following uses: McDonald's, Wendy's, Boston Market, Kentucky Fried Chicken, Popeye's, Church's, Bojangle's, Mrs. Winner's, Carl's Jr., Hardee's, Chicken Out, Zaxby's, Ranch One, El Pollo Loco, Pollo Campero, Pollo Tropical, Raising Cane's, Chester's, Bush's Chicken, Biscuitville, Chicken Now, PDQ, ChikWich, Ezell's Famous Chicken, Roy Rogers, Shake Shack, Slim Chickens, and Habit Burger.

9. **Utility Easements.** Tenant will have the right to enter into reasonable agreements with utility suppliers creating easements in favor of the suppliers, including, without limitation, gas, electricity, telephone, cable, internet, water and sewer, as are required in order to service the building and improvements on the Land. Landlord covenants and agrees to execute commercially reasonable easement agreements and to take all other actions reasonably required in order to effectuate the same, the reasonable costs and expenses of which will be Tenant's responsibility.

10. **Intentionally Omitted.**

11. **Tenant's Right of First Offer.**

(a) If Landlord intends to offer the Demised Premises for sale to an unaffiliated third-party or if Landlord receives an offer from an unaffiliated third-party to purchase the Demised Premises on terms acceptable to Landlord, Landlord will first offer Tenant the right to purchase the Demised Premises by sending to Tenant a written notice of the specific terms of the offer to sell or purchase. The offer will include the price (the "**Offering Amount**"), payment terms, conditions of title, costs of escrow and other relevant terms, together with a current payoff letter from any mortgagee of the Demised Premises evidencing such lender's agreement to release its mortgage upon payment of the release price. Tenant will have thirty (30) days after receipt of the notice to exercise its right to purchase by providing written notice to Landlord. If Tenant exercises the right to purchase, the closing will occur within thirty (30) days after the date of Tenant's notice. If Tenant does not elect to accept the offer or fails to provide notice within the thirty (30) day period, Landlord may offer to sell the Demised Premises to a third-party on substantially the terms and conditions provided in Landlord's notice to Tenant. If Landlord does not complete the sale on substantially the terms in the notice to Tenant (for not less than ninety-five percent (95%) of the Offering Amount) in one hundred eighty (180) days, and if Landlord determines again that Landlord desires to offer the Demised Premises for sale, Landlord must again comply with the terms of this Section and Tenant will again have the right of first offer in this Section.

(b) This Section will not apply in the event of a sale, transfer or assignment of Landlord's interest in the Demised Premises in connection with the foreclosure of any deed to secure debt, mortgage or other similar security instrument, whether by judicial or non-judicial sale, or any deed or assignment in lieu of foreclosure, covering Landlord's fee interest. Further, this Section will not apply to any transfer by descent or devise following the death of any party comprising Landlord or to transactions by and among Landlord or any family member of any party comprising Landlord, including without limitation, trusts, corporations or other entities having a majority interest owned by or inuring to the benefit of Landlord or any family member of any party comprising Landlord; provided, however, that the provisions of this Section will be binding upon such purchaser and such purchaser's heirs, successors and assigns. Landlord agrees that the Declaration and Short Form Lease will reflect the right of first offer granted to Tenant. If Tenant elects not to record a Declaration and Short Form Lease, Landlord will enter into a Memorandum of Right of First Offer, which will be prepared and recorded by Tenant at its sole cost and expense.

12. **Duration / Cancellation of Declaration and Short Form Lease.** Landlord agrees that the easements, covenants and restrictions set forth in this Declaration and Short Form Lease will run with the title to the Land and the Adjoining Property so long as Tenant or a firm, person, corporation, partnership or other entity that is controlled by, in control of, or under common control with Tenant, or in which one or more members of the Cathy Family has an individual or collective ownership interest equal to or greater than fifty percent (50%) (a "**Related Party**") has any interest in the underlying real property (either leasehold or fee simple), and the owner and ground lessee of the real property constituting the Demised Premises will have the right to enforce the terms and conditions of this Declaration and Short Form Lease at law or in equity. On the request of Landlord following the expiration or termination of the Lease, and provided that the Lease is not terminating because Tenant has purchased and is taking fee simple ownership

of the Demised Premises, Tenant will promptly execute and deliver to Landlord an appropriate release and cancellation instrument acknowledging the expiration or termination of the Lease and releasing any and all right, title and interest of Tenant in and to the Demised Premises under the Lease. The release and cancellation instrument will be executed in proper form for recordation in the official real estate records of the jurisdiction in which the Demised Premises is located. Notwithstanding the foregoing, if Tenant or a Related Party retains a leasehold or ownership interest in the Demised Premises following the termination or expiration of the Lease, then the terms and conditions of this Declaration and Short Form Lease will not terminate but will continue in full force and effect so long as Tenant or a Related Party has a leasehold or ownership interest in the real property constituting the Demised Premises. The lineal descendants of S. Truett Cathy and Jeanette McNeil Cathy, and the spouses of such lineal descendants constitute members of the Cathy Family.

13. **Covenant Against Liens.**

(a) If, because of any act or omission of Tenant or any agent of Tenant, any mechanic's lien or other lien, charge or order for the payment of money is filed against Landlord or any portion of the Demised Premises or Adjoining Property, then Tenant will, at its own cost and expense, cause the same to be discharged of record or bonded within thirty (30) days after Tenant's receipt of actual notice of such lien; and Tenant will indemnify and save Landlord harmless from and against all costs, liabilities, suits, penalties, claims and demands, including reasonable attorneys' fees, resulting therefrom. Notice is hereby given that all such liens will relate and attach only to the interest of Tenant in the Demised Premises.

(b) If, because of any act or omission of Landlord or any agent of Landlord, any mechanic's lien or other lien, charge or order for the payment of money is filed against Tenant or any portion of the Demised Premises or Adjoining Property and such lien impacts or interferes with Tenant's rights contained in the Lease, then Landlord will, at its own cost and expense, cause the same to be discharged of record or bonded within thirty (30) days after Landlord's receipt of actual notice of such lien; and Landlord will indemnify and save Tenant, its agents, successors and assigns, harmless from and against all costs, liabilities, suits, penalties, claims and demands, including reasonable attorneys' fees, resulting therefrom. Notice is hereby given that all such liens will relate and attach only to the interest of Landlord in the Demised Premises.

14. **Counterparts.** This Declaration and Short Form Lease may be executed in one or more counterparts, each of which will constitute an original, and all of which together will constitute one and the same instrument.

15. **Vesting of Buildings and Improvements.** Upon the expiration or sooner termination of the Lease, and so long as Tenant has no further leasehold or ownership interest in the real property constituting the Demised Premises, title to any buildings or improvements located on the Land (as such term is defined in the Lease), including those constituting the Demised Premises, will vest in and become the full and absolute property of Landlord.

16. **Notice.** Notices under this Declaration and Short Form Lease must be in writing and delivered (i) in person, (ii) by courier, or (iii) by reputable overnight courier guaranteeing next business day delivery, to the following addresses:

If to Landlord:

RAM – HELENA DEVELOPMENT
PARTNERS, LLC
2200 Magnolia Avenue, South, Suite 100
Birmingham, Alabama 35205
PHONE: (205) 568-9608

EMAIL: robert@retailspecialists.com

ATTN: Mr. Robert S. Jolly, Jr., Manager

With a copy to:

Stephen P. Leara, Esq.

2200 Magnolia Avenue South, Suite 100

Birmingham, Alabama 35205

PHONE: (205) 490-2830

EMAIL: sleara@retailspecialists.com

ATTN: Stephen P. Leara, EVP | General Counsel

If to Tenant:

Chick-fil-A, Inc.

5200 Buffington Road

Atlanta, Georgia 30349

PHONE: (404) 765-8000

ATTN: Legal Department – Real Estate

With a copy to Tenant's Counsel:

Troutman Sanders LLP

600 Peachtree Street, N.E.

Suite 3000

Atlanta, Georgia 30308-2216

PHONE: (404) 885-2560

EMAIL: stacy.hyken@troutman.com

ATTN: Stacy E. Hyken, Esq.

[Signatures commence on next page]

Landlord and Tenant have caused this Declaration and Short Form Lease to be executed on the day, month and year set out above.

"LANDLORD"

RAM – HELENA DEVELOPMENT PARTNERS, LLC,
an Alabama limited liability company

By:  (SEAL)

Name: Robert S. Jolly, Jr.

Title: Manager

CORPORATE ACKNOWLEDGMENT

STATE OF ALABAMA)

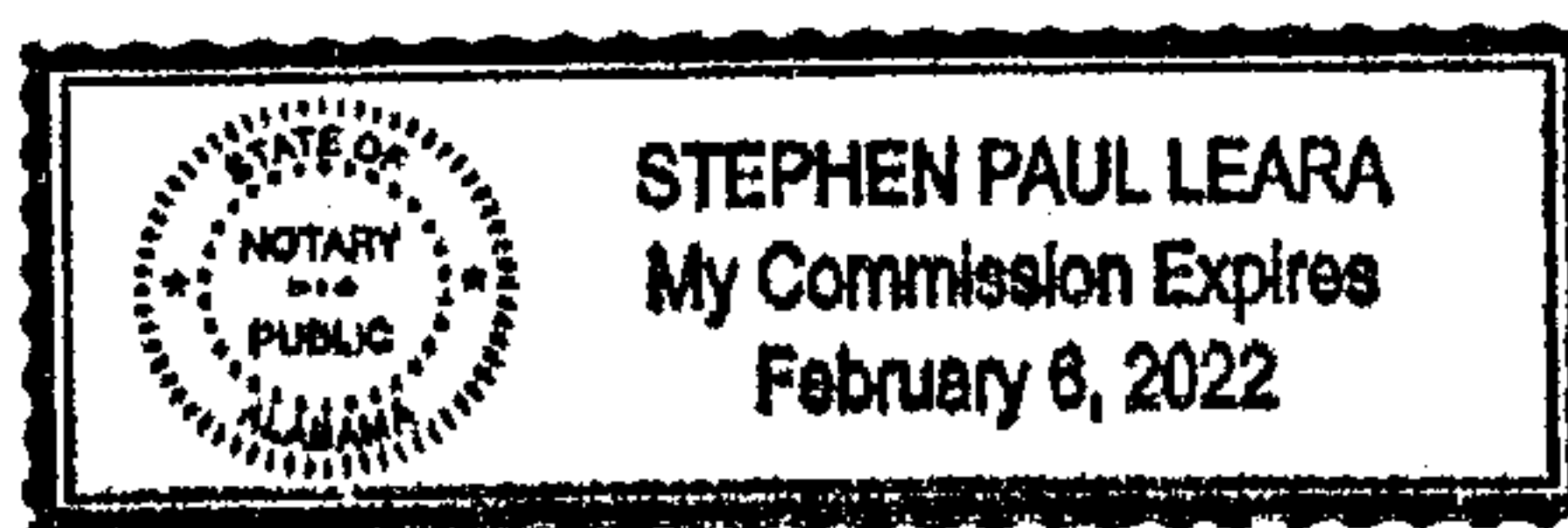
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for JEFFERSON County, in the State of ALABAMA, hereby certify that Robert R. Jolly, Jr., whose name as Member/Manager RAM – HELENA DEVELOPMENT PARTNERS, 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 conveyance, they, as such representative, and with full authority, executed the same voluntarily for and as the act of said limited liability company, on the day the same bears date.

Given under my hand and official seal, this 23rd day of October, 2019.


Notary Public

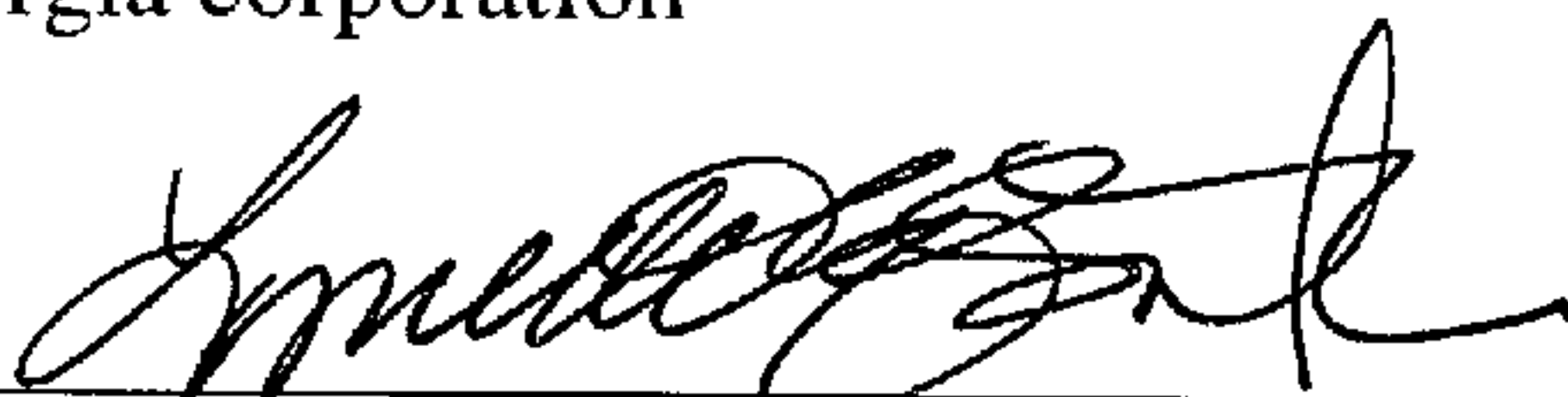
My Commission Expires:



[Signatures continued on next page]

"TENANT"

CHICK-FIL-A, INC.,
a Georgia corporation

By: 
Name: Lynette E. Smith
Title: EVP, General Counsel

(CORPORATE SEAL)


CORPORATE ACKNOWLEDGMENT

STATE OF GEORGIA)

COUNTY OF FULTON)

I, the undersigned, a Notary Public in and for Fulton County, in the State of Georgia, hereby certify that Lynette E. Smith, whose name as EVP, General Counsel, of CHICK-FIL-A, INC., a Georgia corporation, are signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of said conveyance, he/she, as such representative, and with full authority, executed the same voluntarily for and as the act of said corporation, on the day the same bears date.

Given under my hand and official seal, this 21 day of October, 2019.


Notary Public

My Commission Expires: 2-7-2021

(NOTARY SEAL)

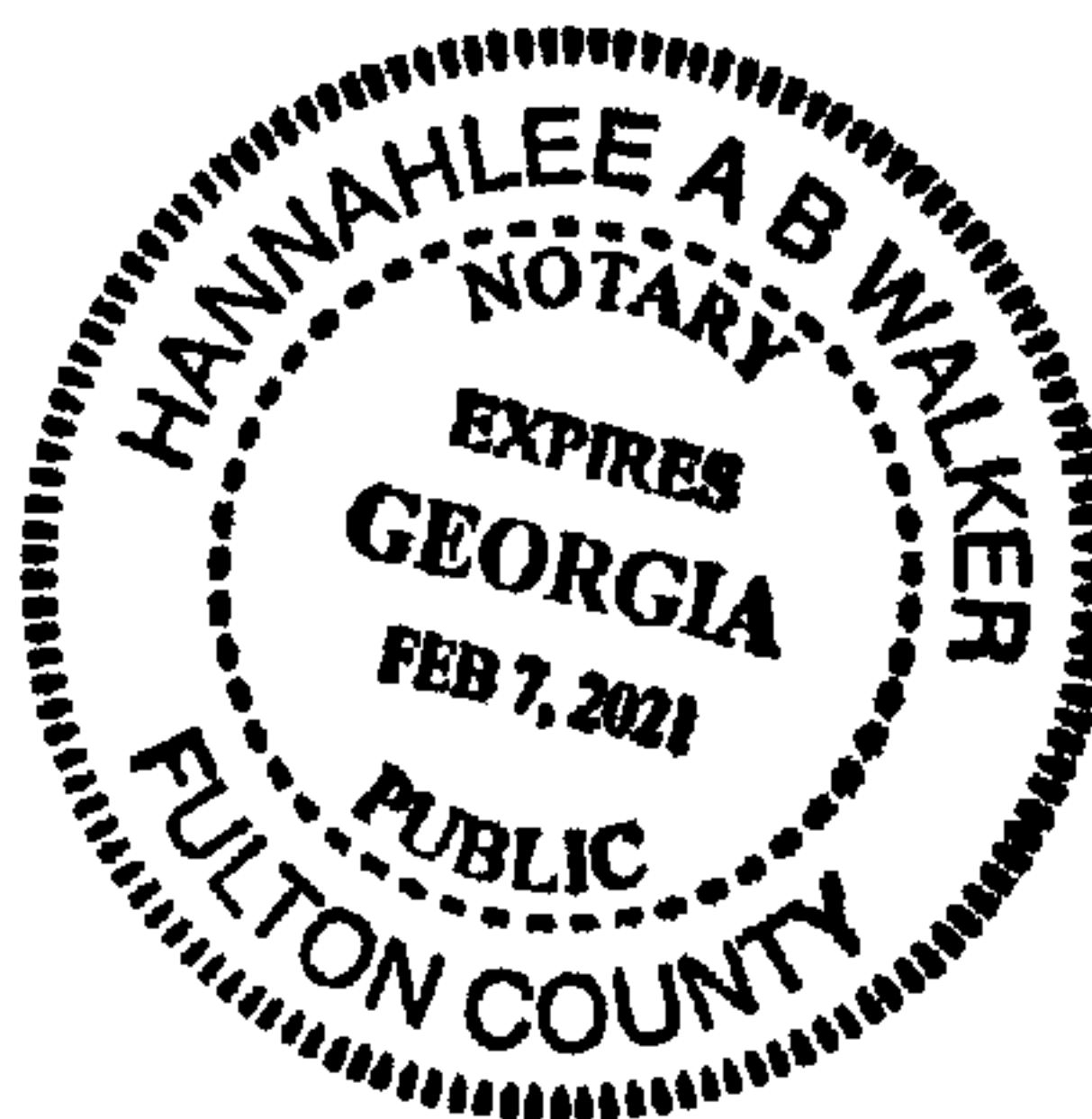
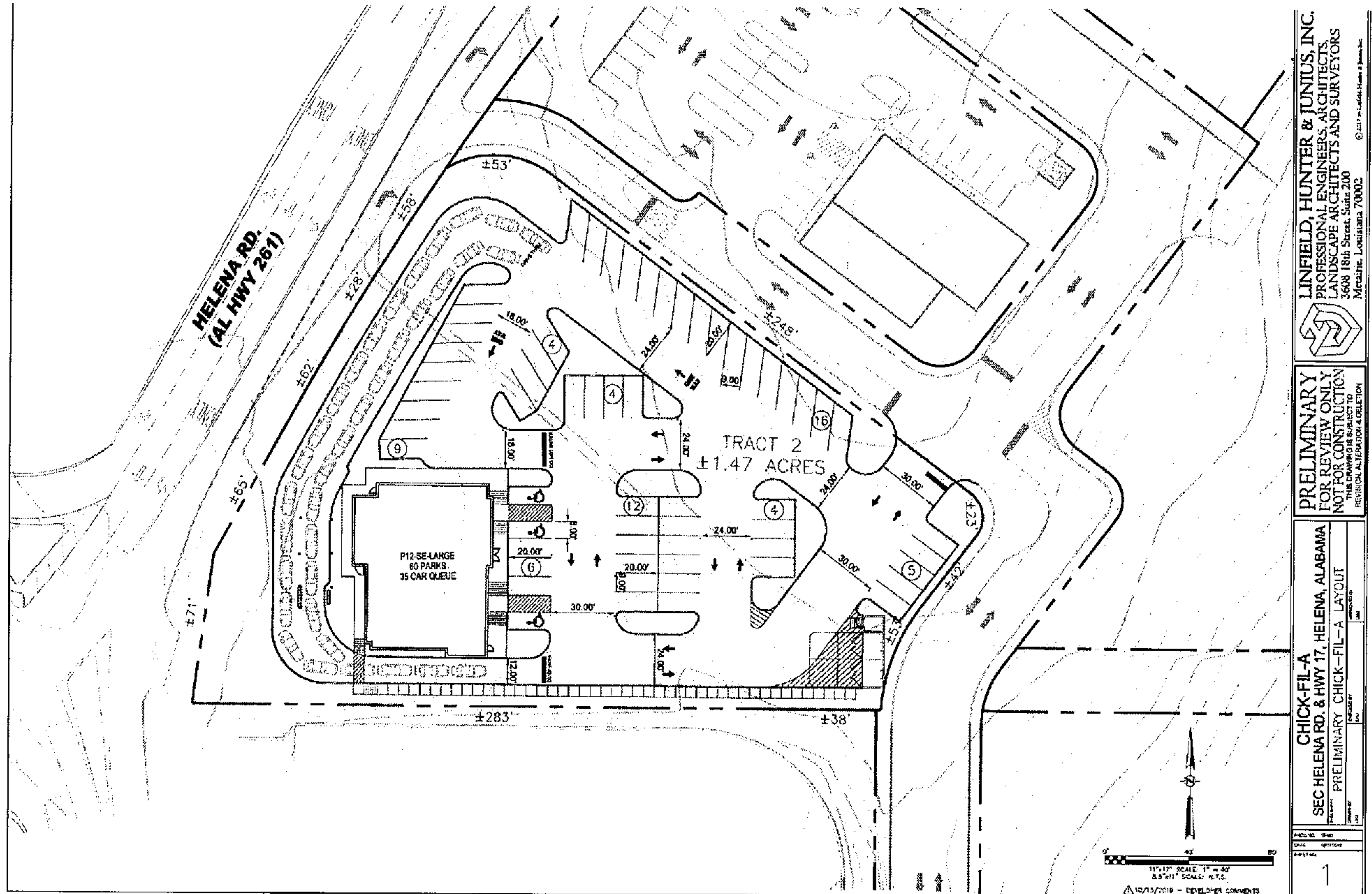
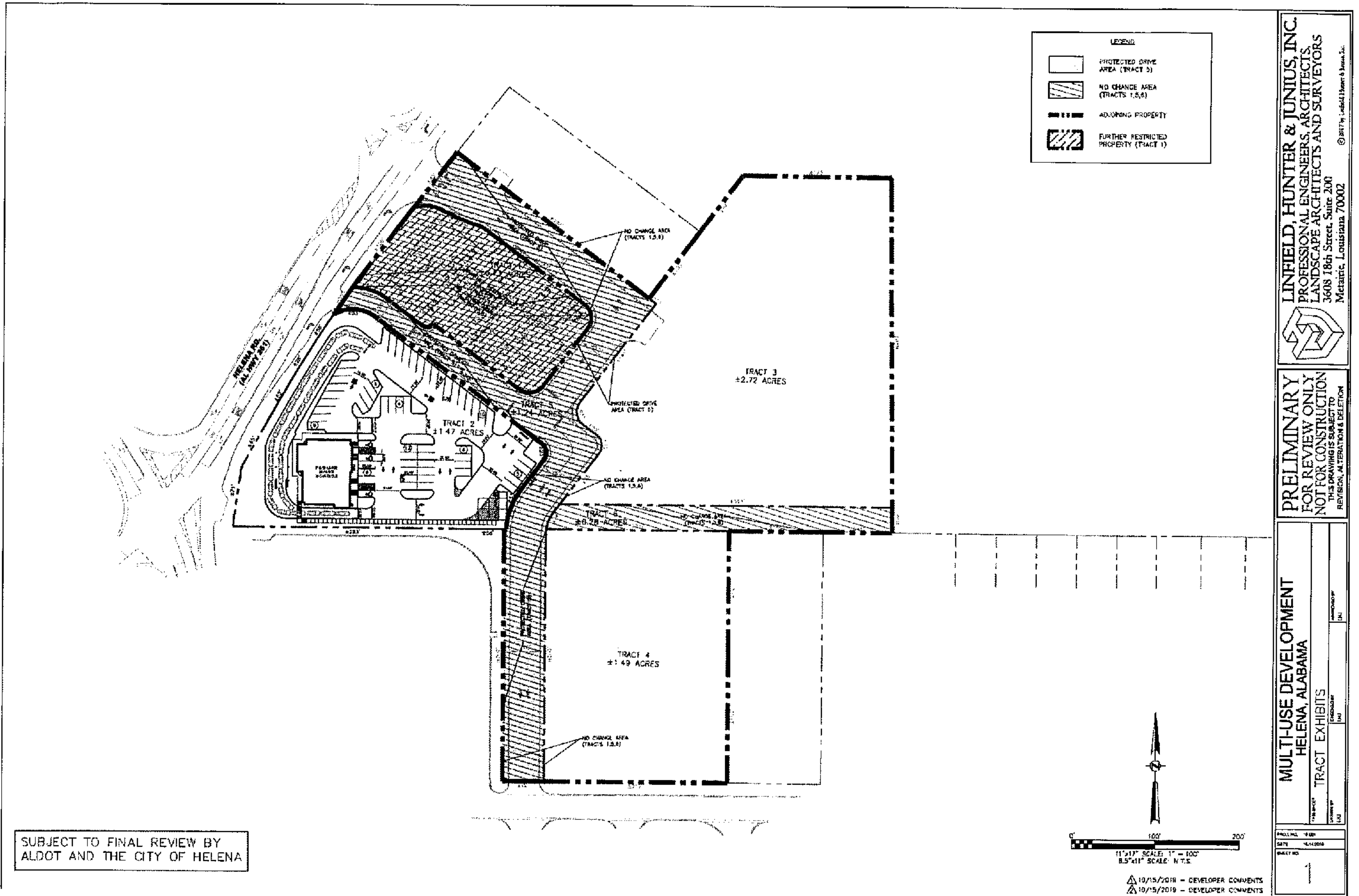


EXHIBIT A

DESCRIPTION OF LAND



DESCRIPTION AND DEPICTION OF ADJOINING PROPERTY



Filed and Recorded
Official Public Records
Judge of Probate, Shelby County Alabama, County
Clerk
Shelby County, AL
12/03/2019 12:01:32 PM
\$916.00 CHARITY
20191203000446370

Allen S. Bayl