

(a) The term “Drainage System” shall mean the underground storm water discharge facility, pipe(s) and related improvements installed by Declarant on the Parcels in order to provide a facility for the discharge of surface storm water for the benefit of the Parcels.

(b) The term “Owner” or “Owners” shall mean the owners of the individual Parcels and any and all successors, assigns, or grantees of such persons as the owner or owners of fee simple title to all or any portion of the Property, whether by sale, assignment, inheritance, operation of law, trustee’s sale, foreclosure, or otherwise, but not including the holder of any lien or encumbrance on such real property.

(c) The term “Parcel” or “Parcels” shall mean each separately identified parcel of real property now constituting a part of the Property subjected to this Declaration as described in the Recitals, that is, the Lot 3A and the Lot 3B, and any future subdivisions thereof.

(d) The term “Permittees” shall mean the tenant(s), subtenants, or occupant(s) of a Parcel, and the respective employees, agents, contractors, customers, invitees, and licensees of (i) the Owner of such Parcel, and/or (ii) such tenant(s), subtenants, or occupant(s).

(e) The term “Site Plan” shall mean Site Plan attached hereto as Exhibit A depicting the proposed layout of the Property, together with the proposed buildings and other improvements constructed or to be constructed thereon.

3. Grant of Easements.

(a) *Reciprocal Access Easements Benefitting the Parcels.* Declarant hereby declares, grants, bargains, sells, and conveys reciprocal and mutual non-exclusive permanent, perpetual, irrevocable, transmissible, and assignable easements for vehicular and pedestrian access, ingress, egress, construction, repair, and maintenance over and across all roads, drives, and (for pedestrian usage only) walkways as existing from time to time, or as may be relocated from time to time, on each Parcel for the benefit of the other Parcel so as to provide for the passage of motor vehicles and pedestrians between the Parcels and the abutting public and private roads (collectively, the “Access Easements”). The “Shared Driveway” as shown the Site Plan, or as it may be relocated from time to time in accordance with the terms of this Declaration, over each Parcel, is sometimes referred to herein to as the “Access Driveway.” The Access Easements shall be for the benefit of all Owners of any portion of the Parcels, and each such Owner may grant the benefit of such Access Easements to their respective Permittees, but any such grant is not intended to nor shall it be construed as creating any right in or for the benefit of the general public or for any other real estate. The Access Easements granted herein are non-exclusive and shall be used in a manner so as not to unreasonably interfere with the business operations conducted, in any case, on the Parcels. The Access Easements include but are not limited to the right to enter, and reasonable ingress and egress over, the Parcels for the purposes of repairing and maintaining the Access Driveways in accordance with the terms of this Declaration. Upon completion of initial construction thereof, the Access Driveways will not be blocked, altered, or removed, except blockages on a temporary basis (not to exceed twenty-four (24) hours and provided that a reasonable alternative access for ingress and egress is provided) to perform necessary maintenance or to prevent a public taking.

(b) *Drainage Easement Benefitting Lot 3A.*

(i) Declarant hereby declares, grants, bargains, sells, and conveys a non-exclusive permanent, perpetual, irrevocable, transmissible, and assignable easements for the benefit of and as an appurtenance to Lot 3A, in, on, over and to the Drainage System on Lot 3B for the purpose of providing connection point for piping storm water from the Lot 3A to the Drainage System,

together with a temporary construction easement to allow the Owner of Lot 3B to extend the piping from Lot 3A to the discharge facility located on Lot 3B (and which is part of the Drainage System).

(ii) The Owners of Lot 3A and Lot 3B hereby agrees to use the Drainage System for its intended use only and shall be responsible for the prevention of any Hazardous Substances or Waste (as defined herein) entering the Drainage System from its Parcel beyond amounts permitted by applicable laws. For purposes of this Agreement, "Hazardous Substances or Waste" means petroleum (including gasoline, crude oil or any crude oil fraction), waste, trash, garbage, industrial by-product, and chemical or hazardous substances of any nature, including without limitation, radioactive materials, PCBs, asbestos, pesticides, herbicides, pesticide or herbicide containers, untreated sewerage, industrial process sludge, and any other substance identified as a hazardous substance or waste in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (commonly known as CERCLA"), as amended, the Superfund Amendment and Reauthorization Act (commonly known as "SARA"), the Resource Conservation and Recovery Act (commonly known as "RCRA"), or any other Federal, state, county, or municipal legislation or ordinances applicable to the Parcels.

(c) *Reciprocal General Utility Easements Benefitting the Parcels.*

(i) Declarant does hereby declare, grant, bargain, sell, and convey reciprocal and mutual non-exclusive permanent, perpetual, irrevocable, transmissible, and assignable easements, varying in width, for the purpose of constructing, utilizing, maintaining, repairing, and replacing utility lines for electricity, water, sewer, cable, telephone, storm drainage, as well as fire lines and other utilities (individually, a "General Utility Line" or collectively, the "General Utility Lines") across, under and over the Parcels for the benefit of the Parcels (the "General Utility Easement"). The General Utility Easement shall include temporary staging reasonably necessary to construct and install General Utility Lines and related facilities, and ingress and egress rights for vehicular and pedestrian access over the Parcels as may be necessary during the installation, construction, maintenance, repair, and replacement of the General Utility Lines. The General Utility Lines will be located in accordance with requirements of the applicable utility service provider in such a manner as not to interfere with the existing development or intended development (to the extent known). No permanent buildings shall be placed in or allowed to encroach upon the utility easement areas. Declarant further reserves the right to specifically grant to the appropriate service providers such easements as are necessary to provide utility service to the Property, including without limitation, water, sewer, electricity, cable, and telephone. Any party obtaining an interest in any portion of the Property agrees to execute such documentation as the service provider may reasonably require, including, without limitation, the standard easements and deeds substantially in the form generally used by such service provider, to complete the transfer of the utility facilities for dedication and maintenance by such service provider.

(ii) Any party desiring to construct a utility line across another party's Parcel after the date hereof (for purposes hereof, the "Burdened Parcel") shall provide the party owning the Burdened Parcel a survey of the location of the proposed easement and plans and specifications with regard to the improvements to be constructed on the Burdened Parcel, all of which shall be subject to the written approval of the party owning the Burdened Parcel, which approval shall not be unreasonably withheld, conditioned or delayed. Except as otherwise agreed in writing, any party installing such utility lines pursuant to the provisions of this paragraph shall pay all costs and expenses with respect thereto and shall cause all work in connection therewith (including general clean-up and proper surface and/or subsurface restoration) to be completed as quickly as possible and in a manner so as to minimize interference with the use of the Burdened Parcel and in compliance with all applicable laws. Any party benefiting from any utility line installed pursuant

to this section (individually or collectively, a “Benefitting Party”) agrees to defend, protect, indemnify, and hold harmless the owner of the Burdened Parcel from and against all claims or demands, including any action or proceeding brought thereon, and all costs, losses, expenses and liabilities of any kind relating thereto, including reasonable attorneys’ fees and costs of suit, arising out of or resulting from the exercise of the right to install, maintain, and operate the said utility line. The Benefitting Party shall be responsible for the repair and maintenance of said line and all costs and expenses related thereto. No liens shall attach to the Burdened Parcel associated with utility lines installed pursuant to this Section 3(c)(ii), and during the utility installation process, no materials may be stored on the Burdened Parcel; provided, however, in the event that a lien or liens shall, in fact, attach to the Burdened Parcel, the Benefitting Party shall discharge or cause to be discharged, by payment, bonding, or otherwise, at its sole cost and expense, any lien(s) filed against the Burdened Parcel within thirty (30) days of the attachment thereof. If any Benefitting Party shall fail to cause such lien(s) to be discharged of record within such thirty (30)-day period, the owner of the Burdened Parcel shall have the right, but not the obligation, to discharge any such lien(s), without investigation as to the validity thereof or as to any offsets or defenses thereto, and charge all costs thereof, including without limitation, reasonable attorneys’ fees, to the Benefitting Party, and the Benefitting Party shall, upon demand, reimburse the owner of the Burdened Parcel for all amounts paid and costs incurred in having such lien(s) discharged of record, plus interest accruing from the date of attachment at the lesser of (i) the rate of eighteen (18%) percent per annum or (ii) the maximum rate of interest allowed under the laws of the State of Alabama.

To have and to hold all and singular the easements and rights conveyed hereby for the collective benefit of the Parcels and Declarant, and its successors and assigns forever, subject to the terms and conditions set forth herein.

4. As-Built Location; Further Assurances; Dedication to Service Provider. The Site Plan shows the general location of certain easements set forth in Section 3 above and the portion of the Property affected by the Easements. Declarant and any subsequent Owners of the Parcels agree to give further assurances by way of executing and providing for recordation such other and further instruments and documents as may be reasonably necessary to confirm the as-built locations of easement areas or matters generally affecting the Easements and to otherwise effectuate and carry out the intents and purposes of this Declaration. Declarant further reserves the right to specifically grant to the appropriate service providers such easements as are necessary to provide utility service to the Property, including without limitation, water, sewer, electricity, cable, and telephone. Any party obtaining an interest in the Property agrees to execute such documentation as the service provider may reasonably require, including, without limitation, the standard easements and deeds substantially in the form generally used by such service provider, to complete the transfer of the utility facilities for dedication and maintenance by such service provider.

5. Construction, Maintenance, Repair, and Restoration Obligations.

(a) *Construction.* Absent any other agreement, the Owners of the Parcels shall construct and be responsible for all costs associated with the construction of all buildings and improvements constructed or to be constructed on their respective Parcel(s). Such improvements shall include all buildings, driveways, parking spaces, utility lines, storm water facilities, and signs, which are located or to be located on a Parcel. All Owners of any portion of the Property shall comply with all requirements of the governmental regulatory authorities in connection with stormwater retention. With the exception of any utility line installed across a Burdened Parcel for the benefit of another Parcel Owner, which utility line must be constructed and maintained by the Benefitting Party of such utility easement, the Owner of a Parcel shall be responsible for the construction, maintenance, repair, and replacement of the easement improvements located on its Parcel(s) (including, but not limited to, all roads, drives and walkways (including the Access Driveways), utility and storm drainage facilities, and any signage located thereon,

subject to any right or rights of reimbursement, if any, as may be more particularly set forth herein). The Owners of the Parcels shall use only those reasonable measures during construction, maintenance, or repair which are least intrusive to and which have the least impact on the condition and operation of the property affected by such construction or repair, including but not limited to, protection of existing improvements, trees, bushes, and other landscaping on the Property from damage or destruction and maintenance of access to, egress from, and parking on the burdened Parcel. It is understood and agreed that any property damaged or affected thereby will be restored as near as practicable to its prior condition after construction of easement improvements and any repairs thereto. The Owners shall use reasonable and diligent efforts to prevent any material interference with the operations or business of any Permittees of the Parcels when performing any construction, repairs, or maintenance within any Parcel. Owners shall cause all construction on the Property to be performed in compliance with all applicable laws and shall not permit any such construction to: (i) materially interfere with the use, occupancy, or enjoyment of any part of the Property by any occupant thereof, or (ii) cause any portion of the Property to be in violation of any applicable laws. Each Owner performing construction on the Property shall at all times before and during the performance of any such construction maintain all construction areas in a neat and tidy condition. Once construction has commenced on any Parcel, such construction shall be diligently and continuously pursued to completion, subject in all cases to force majeure.

(b) *Repair and Maintenance Responsibilities.*

(i) General. With the exception of the General Utility Lines (which shall be maintained in accordance with Section 5(b)(ii) hereof), and the Drainage System (which shall be maintained in accordance with Section 5(b)(iii) hereof), the Owner of each Parcel shall at all times maintain, or cause to be maintained, all buildings and improvements on its respective Parcel, at its sole cost and expense, in good order, condition, and repair and in compliance with all applicable laws, and in a manner consistent with the highest standards of repair normally demanded in a first-class commercial development. To the extent applicable, the Owner of each Parcel shall maintain all sidewalks, remove all papers, debris, and other refuse from and periodically sweep all parking and road areas to the extent necessary to maintain the same in a clean, safe, and orderly condition and clear of ice, snow, and standing water, maintaining appropriate lighting fixtures for the parking areas and roadways, maintain marking, directional signs, lines and striping as needed, maintain landscaping, maintain signage in good condition and repair, and perform any and all such other duties as are necessary to maintain its Parcel in a clean, safe, and orderly condition. Nothing contained herein shall be deemed to allow an Owner to avoid a more stringent obligation for repair, restoration and rebuilding contained in a lease or other written agreement between an Owner and such Owner's Permittee. Until such time as improvements are constructed on a Parcel, the Owner thereof shall maintain (or cause to be maintained) said Parcel in a clean, neat and sightly condition and shall take such measures as are necessary to control grass, weeds, blowing dust, dirt, litter, or debris.

(ii) General Utility Lines. Unless otherwise provided for herein, all General Utility Lines shall be maintained and repaired, or caused to be maintained and repaired, in a good and safe condition by the Owner of the Parcel within which the General Utility Line is located; provided, however, if a General Utility Line serves only one Parcel, the Benefitting Party shall be responsible for the cost of such maintenance or repair.

(iii) Drainage System. Notwithstanding the foregoing, the Owner of Lot 3B covenants at all times during the term hereof to operate and maintain or cause to be operated and maintained at its expense, the Drainage System, in good order and repair and in compliance with all applicable laws.

- (1) Drainage System Expenses Defined. The Owners of Lot 3A shall reimburse the Owner of Lot 3B for such Owner's Pro Rata Share (defined herein) of the reasonable amounts the Owner of Lot 3B expends in maintaining, repairing and replacing Drainage System (the "Drainage System Expenses");
- (2) Pro Rata Share Defined. An Owner's "Pro Rata Share" means that the gross area of each Parcel. The initial Pro Rata Share for the Parcels shall be as follows:
 - a. Lot 1: 50%
 - b. Lot 2: 50%
- (3) Administration Fee. In addition to the reimbursements to be paid to the Owner of Lot 3B as set forth hereinabove, the Owner of Lot 3A shall be obligated to pay to the Owner of Lot 3B a certain administration fee ("Administration Fee"), which shall be payable with the payment of each Owner's Pro Rata Share of reimbursements for Drainage System Expenses and which shall be calculated as five percent (5%) of the sum total of all of each Owner's reimbursements for Drainage System Expenses hereunder.

(iv) Self-Help. In the event an Owner does not maintain any of the easement areas located on its Parcel to the reasonable satisfaction of another Owner (the "Complaining Owner"), the Complaining Owner shall provide the defaulting Owner with written notice indicating the maintenance deficiencies. Except in the case of an emergency, in which event no prior notice shall be required (but the Complaining Owner shall give notice as soon as practicable thereafter) and the Complaining Owner may commence with repair and maintenance activity immediately and be reimbursed as set forth below, the defaulting Owner shall have a reasonable amount of time from receipt of the notice to remedy the matters noted therein. In the event the defaulting Owner fails to remedy the matters noted in the notice within a reasonable amount of time after receipt of the notice (but in no event later than ten (10) days, unless such remedy cannot reasonably be completed within ten (10) days, in which case the defaulting Owner shall have such time as is reasonably necessary provided that the defaulting Owner shall commence the remedy within such ten (10) day period, and thereafter diligently prosecute same to completion), the Complaining Owner may take all reasonable actions to maintain the affected easement areas and may submit an invoice to the defaulting Owner for the prompt payment of all expenses incurred in connection therewith (but in no event shall payment be made later than thirty (30) day after the submission of an invoice for same). If the defaulting Owner fails to reimburse the Complaining Owner within thirty (30) days after receipt of an Assessment for same, then the unpaid Assessment amount shall bear interest shall bear interest from the due date at the lesser of (i) the rate of eighteen (18%) percent per annum or (ii) the maximum rate of interest allowed under the laws of the State of Alabama until fully paid by the defaulting Owner, and the unpaid Assessment shall be secured by an lien, affording the holder of such lien with all rights and remedies as more particularly set forth therein. The sale or transfer of the affected Parcel shall not affect any such lien, but a sale pursuant to the judicial foreclosure of a first priority deed of trust may (per applicable law) extinguish the lien; however such sale or transfer shall not relieve the Owner of such Parcel from any liability for any Assessments thereafter becoming due or from any future liens hereunder. For purposes of the foregoing only, "emergency" shall mean any event or events which may (i) constitute a threat to the health or welfare of any person or to the safety of any property or (ii) have a material adverse impact on an Owner's (or its Permittee's) use enjoyment of or operations on its respective Parcel.

6. Restrictions.

(a) *Use.* Declarant does hereby declare that the Property shall be held, transferred, sold, conveyed, mortgaged, given, donated, leased, occupied, possessed, and used subject to the conditions and restrictions more fully described on Exhibit C attached hereto and incorporated herein for all purposes, unless previously agreed to in writing by the Declarant (collectively, the “Use Restrictions”). The Use Restrictions shall constitute a covenant running with the land and pass with title to the Property, which covenant shall remain in full force and effect and be binding upon the owners of the Parcels for and during the Term of this Declaration.

(b) *Reserved.*

(c) *Signage.* Each Owner of a Parcel shall be solely responsible for obtaining any required permits and/or the payment of any fees or costs associated with its signage. All signage within the Property shall comply with applicable signage ordinances and the following requirements (collectively referred to as the “Signage Criteria”):

- (i) Any monument signage shall be controlled by this Signage Criteria;
- (ii) All signage must conform to all applicable recorded documents, codes and/or ordinances having jurisdiction over the Property; and
- (iii) Each Owner of a Parcel is solely responsible for any costs, permits and/or fees required and/or associated with its signage.

Subject to the foregoing, signs associated with the opening of business such as temporary “Opening Soon” signs shall not be prohibited as long as such signs are associated with a grand opening and are utilized for no more than sixty (60) days.

7. Insurance. The Owners of the Parcels hereby covenant to maintain or cause to be maintained on their respective Parcel(s) the following commercial general liability insurance: (a) personal and bodily injury and damage to property of \$1,000,000.00 per occurrence, with an annual aggregate limit of \$2,000,000.00.

The owners of the Parcels at their sole cost and expense shall keep or cause to be kept insured for the mutual benefit of the Owners, all improvements now or hereafter located on or appurtenant to each Owners’ respective portion of the Property, against loss or damage by fire and such other risks as are now or hereafter included in extended coverage endorsements, including vandalism, explosion and malicious mischief coverages for improvements of comparable size and quality. The amount of such insurance coverage shall be in commercially reasonable amounts with commercially reasonable deductibles sufficient to provide for replacement of all improvements, without deduction for depreciation.

The Owners of the Parcels shall name each other as additional insureds on all policies described in this Section 7. All policies described in this Section 7 shall contain full waiver of subrogation. In the event an Owner fails to provide any of the insurance coverages required by this Section 7, any other Owner of a Parcel shall have the right, but not the obligation, to provide any coverage that is not so provided. In the event a required coverage is not provided by a Parcel and is then provided by the Owner of another Parcel, the Parcel Owner providing the coverage shall have the right to invoice the non-providing Owner for reimbursement of the cost of the premium. Said invoice shall be paid within thirty (30) days of receipt.

8. Further Assurances. Upon the request of Declarant, the Owner of each Parcel also agrees to execute such documentation as the Declarant may reasonably require in order to effectuate, memorialize, or otherwise evidence the foregoing, including, without limitation, any amendment to or restatement of this Declaration required in order to effectuate same or an acknowledgement of any of the foregoing.

9. Notice. All notices, demands and requests required or permitted to be given under this Declaration (collectively the "Notices") must be in writing and must be delivered personally or by nationally recognized overnight courier or sent by United States certified mail, return receipt requested, postage prepaid and addressed to the parties at their respective addresses set forth below, or to any address established by the Owner of a Parcel pursuant to this Section 9, and the same shall be effective upon receipt or refusal. The initial addresses of the Owner shall be:

To Declarant:	AL Birmingham Meadowview, LLC
	201 Riverplace, Suite 400
	Greenville, SC, 29601
	Attn: Legal Department

Upon at least ten (10) days' prior written notice, each Owner shall have the right to change its address to any other address within the United States of America.

10. Notice of Sale or Transfer of Title; Establishment of Notice Address. Any Owner of a Parcel which is not the Declarant or an affiliate of the Declarant desiring to sell or otherwise transfer title to its Parcel shall, within ten (10) days of a sale or transfer, provide the Declarant written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Declarant may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the new Parcel owner, until the date upon which such notice is received by the Declarant, notwithstanding the transfer of title. Any transferee of a Parcel may, at its option, file a notice in the Register's Office establishing the notice address of said Parcel, which notice must also be mailed to the Declarant contemporaneously with such filing.

11. Legal Effect. The easements and restrictions set forth in this Declaration (collectively, the "Restrictions") shall run with the Property and shall bind Declarant, its successors and assigns, and every other person now or hereafter acquiring an interest in or lien upon the Property, or any portion thereof. The rights of the easements declared hereby: (i) shall be an estate prior to any lien, deed, estate or encumbrance whatsoever; (ii) shall be perpetual and shall run with the land, be binding upon, and inure to the benefit of the parties hereto, their heirs, successors, assigns, grantees and tenants; (iii) shall be, and are, appurtenant to, and essentially necessary for the enjoyment and use of the Property; and (iv) are made in contemplation of commercial use, and are of commercial character. It is Declarant's express intent that the easements granted herein shall not, at any time, merge by operation of law into an Owner's title or interest in any Parcel, but that such easements shall remain separate and distinct rights and estates in land, unless the Owner(s) of all affected parcels specifically evidence their intent by mutual agreement in writing to extinguish any such easement. It is further expressly provided that the acquisition hereafter by any other party (including, without limitation, a present or future mortgagee of any Parcel or any portion thereof) of an ownership interest (in fee, leasehold, or otherwise) shall not operate, by merger or otherwise, to extinguish, diminish, impair, or otherwise affect any easement granted herein, which easements shall remain separate and distinct and estates in land.

12. Enforcement. This Declaration shall be enforceable by Declarant and its successors and assigns owning the Property (or a portion thereof, as the case may be), by any tenants on the Property (or a portion thereof, as the case may be) pursuant to the terms of any applicable leases, by any proceeding at law or in equity against any person or persons, Owner or lessee of the Property or any portion thereof violating or

attempting to violate or circumvent this Declaration either to restrain a violation or to recover damages. The failure by any party to enforce this Declaration contained herein for any period of time shall in no event be deemed a waiver of the right of any of the foregoing to enforce the same, nor shall any failure by any party to enforce the Restrictions contained herein for any period of time work to stop any of the foregoing from enforcing the same. This provision does not exclude other remedies available at law or equity, including monetary damages. In any such actions, the prevailing party shall be entitled to reasonable attorneys' fees and costs of the action. In the event of any failure by the Owner of a Parcel to perform, fulfill or observe any covenant, condition, obligation or agreement herein to be performed, fulfilled or observed by it, continuing for thirty (30) days, or immediately in situations involving potential danger to the health or safety of persons in, or about or substantial deterioration of the Property or any portion thereof or improvements located thereon, in each case after written notice specifying such, the Owner of another Parcel which is a part of the Property, may, at such Owner's election, cure such failure or breach for and on behalf of the defaulting Owner, and any amount which such Parcel Owner shall expend for such purpose, or which shall otherwise be due by any Owner to such Parcel Owner, shall be paid to such Parcel Owner on demand, upon delivery of its invoice, together with interest thereon at the lesser of (i) the rate of eighteen (18%) percent per annum or (ii) the maximum rate of interest allowed under the laws of the State of Alabama, from the date when same shall have become due to the date of payment thereof to such parcel owner in full.

13. Captions, Gender and Number. Captions contained in this Declaration are inserted only as a matter of convenience and in no way define, limit, extend or describe the scope of this Declaration or the intent of any provision hereof. Whenever the context so requires, any pronouns used herein shall include the corresponding masculine, feminine, or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

14. Waiver. Any consent to or waiver of any provision hereof shall not be deemed or construed to be a consent to or waiver of any other provision of this Declaration. Failure on the part of any Owner to complain of any act or failure to act of any other owner, irrespective of the duration of such failure, shall not constitute a waiver or modification of rights hereunder. No waiver or modification hereunder shall be effective unless the same is in writing and signed by the owner against whom it is sought.

15. Binding Effect. Except as otherwise provided herein, all provisions of this Declaration shall be binding upon, inure to the benefit of and be enforceable by and against Declarant and its successors and assigns.

16. Severability. If any covenant, restriction, or provision contained in this Declaration is to any extent declared by a court of competent jurisdiction to be invalid or unenforceable, the remaining covenants, restrictions, and provisions contained herein (or the application of such covenants, restrictions, and provisions to persons or circumstances other than those in respect of which the determination of invalidity or unenforceability was made) will not be affected thereby and each covenant, restriction, and provision contained in this Declaration will be valid and enforceable to the fullest extent permitted by law.

17. Governing Law. This Declaration shall be governed by the laws of the State of Alabama, without regard to its conflicts of laws principles.

18. Term; Amendment. This Declaration and the covenants and restrictions set forth herein shall run with and bind all land within the Property, as applicable, for an initial term of forty (40) years from the date this Declaration is filed for record in the Register's Office (the "Term"). At the end of the initial Term, this Declaration shall be automatically renewed without any action by the parties hereto or their respective successors or assigns for successive terms of ten (10) years. This Declaration may not be amended absent the express written consent of the Declarant.

19. Condemnation. In the event of condemnation or a similar taking of all or any portion of any easement by the duly constituted authority for public or quasi-public use, compensation for the condemned portion within the easement will be payable to the Owner on whose property the easement is located, and no claim will be made by any other Owner. Another Owner may file a collateral claim over and above the value of the underlying fee title to the property so taken, to the extent of any damage suffered by another Owner as a result of the severance of the easement. If the taking affects the use of any easements, each party bound hereby will use its best efforts to modify, repair, and rebuild and otherwise revise the easement that burdens its Parcel, so that the benefits accruing to the beneficiaries hereof will be as nearly as reasonably possible or the same as those benefits existing before such taking.

20. Miscellaneous.

(a) *Consents.* Wherever in this Declaration the consent or approval of an owner of a Parcel who is not the Declarant or an affiliate of the Declarant is required, unless otherwise expressly provided herein, such consent or approval shall not be unreasonably withheld, conditioned, or delayed. Any request for consent or approval shall (a) be in writing; (b) specify the section hereof which requires that such notice be given or that such consent or approval be obtained; and (c) be accompanied by such background data as is reasonably necessary to make an informed decision thereon. The consent of the Owner of a Parcel under this Declaration, to be effective, must be given, denied, or conditioned expressly and in writing.

(b) *Covenants to Run with Land.* It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth herein shall run with the land and create equitable servitudes in favor of the real property benefited thereby, shall bind every person having any fee, leasehold or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs and personal representatives.

(c) *Grantee's Acceptance.* The grantee of any Parcel or any portion thereof, by acceptance of a deed conveying title thereto, whether from an original party or from a subsequent owner of such Parcel, shall accept such deed subject to each and all of the easements, covenants, conditions, restrictions and obligation contained herein. By such acceptance, any such grantee shall for himself and his successors, assigns, heirs and personal representatives, covenant, consent and agree to and with the other party, to keep, observe, comply with, and perform the obligations and agreements set forth herein with respect to the property so acquired by such grantee.

(d) *Time of Essence.* Time is of the essence with respect to this Declaration.

(e) *Estoppel Certificates.* Each Owner of a Parcel, within fifteen (15) days of its receipt of a written request from another Parcel Owner, shall from time to time provide the requesting owner, a certificate binding upon such owner stating: (a) to the best of such Parcel Owner's knowledge, whether any party to this Declaration is in default or violation of this Declaration and if so identifying such default or violation; and (b) that this Declaration is in full force and effect and identifying any amendments to the Declaration as of the date of such certificate.

(f) *Site Plan.* The Owners acknowledge and agree that by attaching the Site Plan hereto, the Owners are in no way obligated to each other to build or construct the improvements shown on the Site Plan, and each Owner may modify, revise, and/or reconfigure the improvements on such Owner's Parcel at any time and from time to time in such Owner's sole discretion without the prior written consent of the Declarant, as long as the Access Driveways and Pylon Sign are not affected in violation of the terms hereof.

(g) *Declarant Cessation and Designation of Rights.* In the event the named Declarant

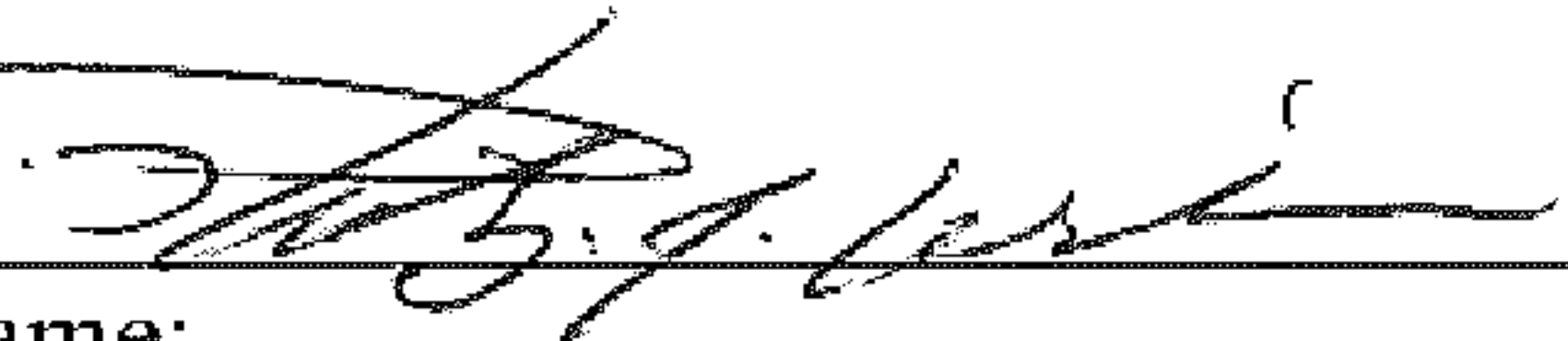
hereunder (AL Birmingham Meadowview, LLC) no longer holds fee simple title to any portion of the Property, any exercisable rights of Declarant not otherwise designated within this Declaration, shall automatically terminate without the need for any further action by Declarant, and any record holding owners of Parcel(s) and/or their respective successors and assigns.

*[Remainder of page intentionally left blank;
signatures appear on the following pages.]*

SIGNATURE PAGE TO
DECLARATION OF EASEMENTS, COVENANTS, AND RESTRICTIONS

Declarant has duly executed this Declaration as of the Effective Date.

AL Birmingham Meadowview, LLC,
a South Carolina limited liability company

By: 
Name:
Title:

ACKNOWLEDGEMENT

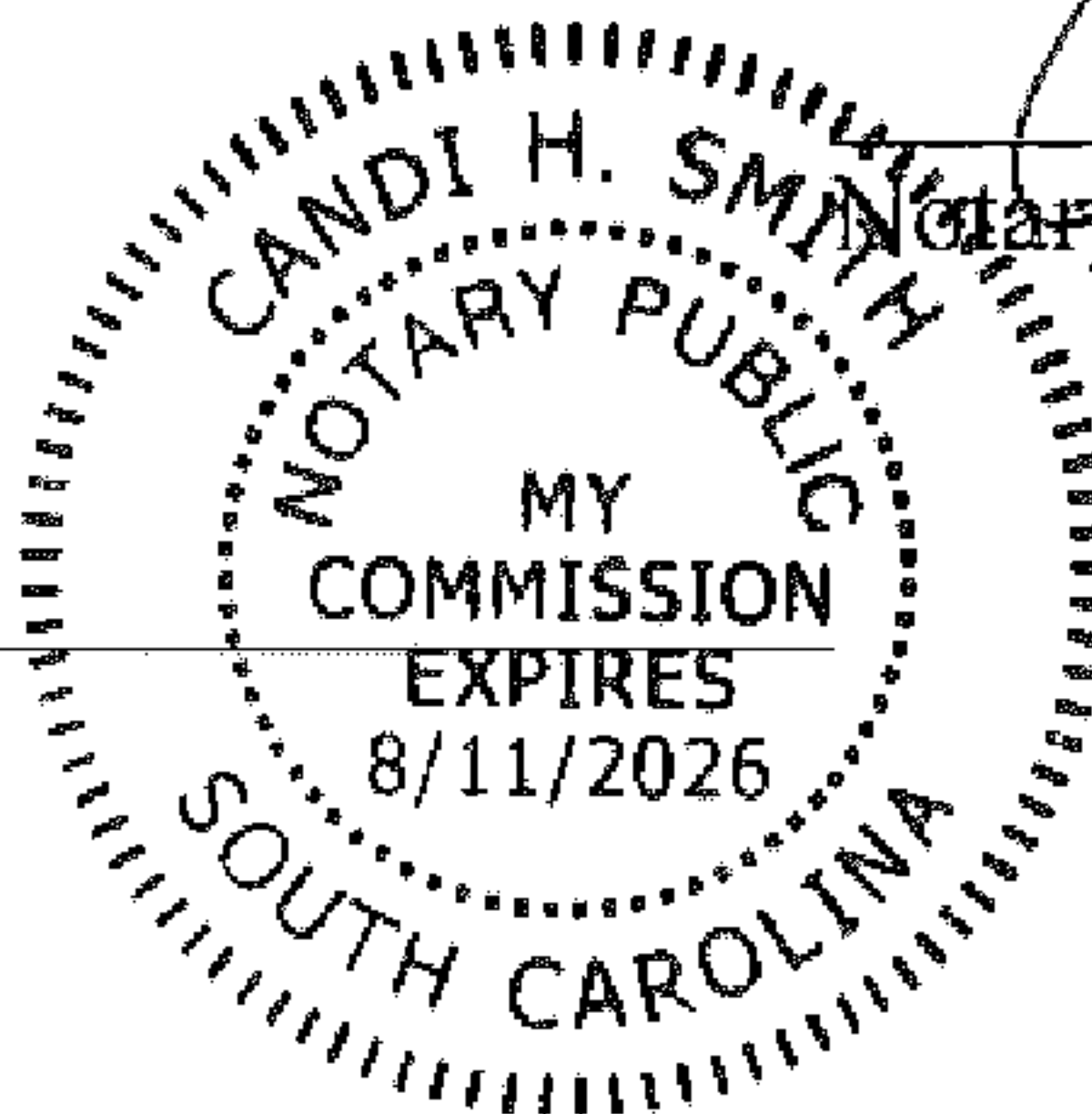
STATE OF SOUTH CAROLINA)
)
COUNTY OF Greenville)

Before me, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **AL Birmingham Meadowview, LLC, a South Carolina limited liability company**, by Philip J. Wilson, its manager, personally known to me, whose name is subscribed to the within instrument, appeared before me this day in person and acknowledged that he or she signed and delivered said instrument of writing as such officer, as his or her free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this 22 day of July, 2021.

My Commission Expires: _____

[AFFIX SEAL OR STAMP]



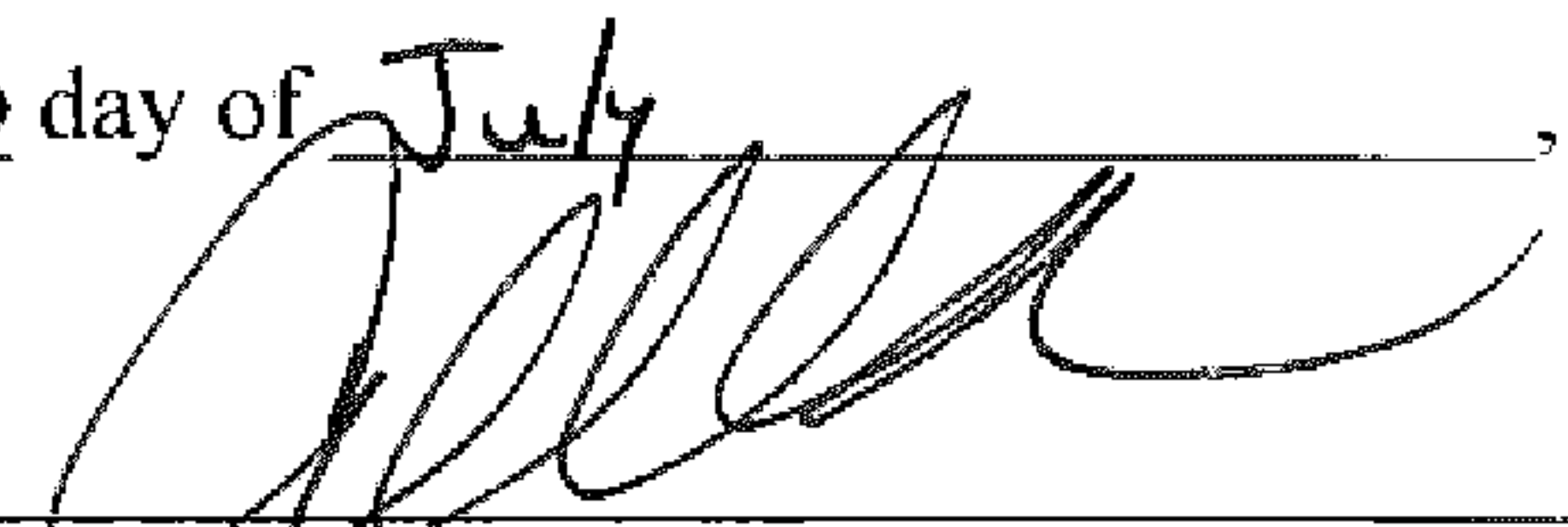

Notary Public

EXHIBIT A

Site Plan

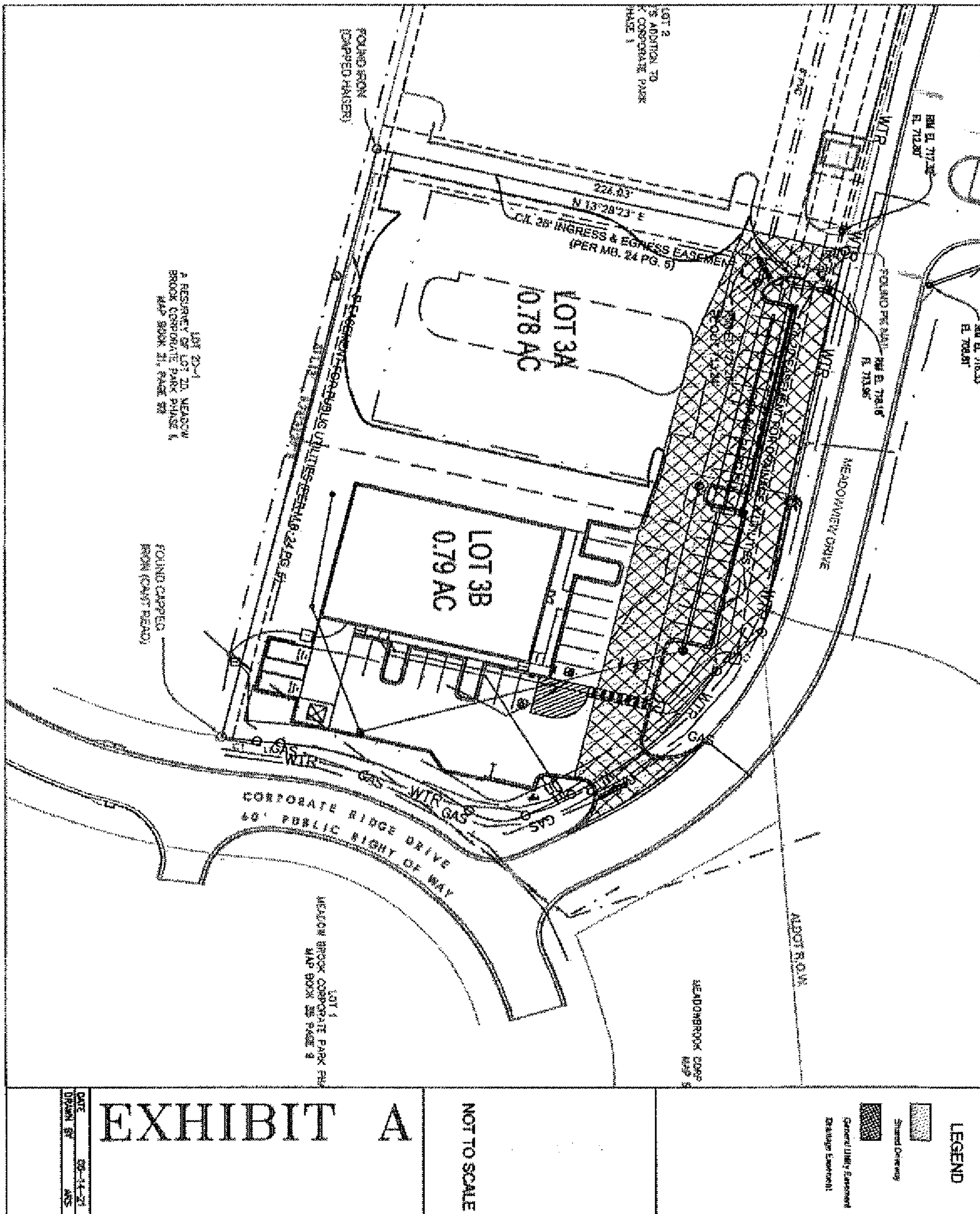


EXHIBIT B

Use Restrictions

PROHIBITED USES:

The Property and any portion thereof shall be used only for the construction, operation, maintenance, repair and replacement of buildings, improvements and common areas supporting retail businesses, restaurants, hospitality/hotels, financial institutions, entertainment facilities, business and professional offices, and educational and medical businesses common to mixed use commercial developments of a similar nature. In addition, and in furtherance of the immediately preceding sentence, the operation of any of the following uses shall be prohibited on the Land:

- a) a flea market;
- b) a funeral home, mortuary, crematorium, or similar use;
- c) a so-called "head shop" or a facility for the sale of paraphernalia for use with illicit drugs;
- d) a business of a sexually oriented nature, including but not limited to a facility for the sale or display of pornographic material or obscene materials (including, without limitation, magazines, books, movies, videos, photographs or so called "sexual toys") or providing adult-type entertainment or activities (provided that this provision shall not prohibit the operation of a bookstore or video or music store which carries a broad inventory of books or videos directed toward the interest of the general public [as opposed to a specific segment thereof]);
- e) a facility for any use which is illegal or dangerous or constitutes an unreasonable nuisance, including, but not limited to, a facility that emits offensive odors, fumes, dust or vapors, or creates fire, explosive or other hazards; provided, however, (i) normal and customary odors from restaurants or other similar food operations or other approved uses shall be deemed not to create conditions prohibited hereunder, (ii) outdoor customer calling systems in drive-through facilities customarily used by restaurants, banks or other similar operations not shall be deemed to be an obnoxious noise or sound, (iii) the use of any radio, television, loudspeaker, amplifier or other sound system used by restaurants or other similar food operations in outdoor areas shall not be deemed to be an obnoxious noise or sound so long as the same do not unreasonably disturb or endanger other occupants of the Property or unreasonably interfere with the use of their respective buildings and/or Parcels.
- f) a house of worship or church;
- g) any unlawful use;
- h) any mobile home park, trailer court, labor camp, junkyard or stockyard;
- i) any dumping, transfer, disposing, incineration or reduction of garbage (exclusive of screened garbage compactors);
- j) any laundry or dry-cleaning plant or laundromat; provided, however, this prohibition shall not be applicable to on-site service oriented to drop-off, pick-up and delivery by the ultimate consumer, including nominal supporting facilities; and
- k) any use related to industrial or manufacturing purposes, or for any assembling, distilling, refining, smelting, agricultural; or mining operation.

II. Existing Exclusives.

O'Reilly's:

No portion of Lot 3A shall be utilized for an auto parts company or other company which derives more than ten percent (10%) of their business from the sale and supply of commercial, professional, wholesale

and/or retail auto parts. This restriction shall include, but not be limited to, such companies as AutoZone, Advance Auto parts, CarQuest, NAPA and Pep Boys and their related entities (including service centers), successors and assignees, or other company which derives more than ten percent (10%) of their business from the sale and supply of commercial, professional, wholesale and/or retail auto parts.

Sonic:

No portion of Lot 3B shall be utilized for (A) any type of "quick serve restaurant" that: (I) serves either hamburgers, hot dogs, corn dogs, chili dogs, chicken sandwiches, ice cream or other frozen dairy products, or a combination of the foregoing; or (II) utilizes a drive-in service system similar to that used by a typical Sonic restaurant, including, without limitation, carhops, drive-in stalls and intercom ordering systems; or (B) any type of "diner" (collectively, the "Sonic Exclusive").



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Official Public Records
Judge of Probate, Shelby County Alabama, County
Clerk
Shelby County, AL
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Alexis S. Bayal