

**Prepared by and return to:**

Scott S. Frederick  
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC  
1901 Sixth Avenue North  
Suite 2600  
Birmingham, AL 35203

**STATE OF ALABAMA**                   )  
**SHELBY COUNTY**                   )

**EASEMENT AGREEMENT**

**THIS EASEMENT AGREEMENT** (this “Agreement”) is made and entered into this 13th day of September, 2023, by and between **CGP CALERA (HWY 31) TB, LLC**, a Delaware limited liability company, having an address at 361 Summit Blvd, Suite 110, Birmingham, Alabama 35243 (together with any successor and/or assign as owner of the Taco Lot hereinafter described, “**Taco Owner**”), and **CGP CALERA (HWY 31) 7B**, a Delaware limited liability company, having an office at 361 Summit Blvd, Suite 110, Birmingham, Alabama 35243 (together with any successor and/or assign as owner of the Coffee Lot hereinafter described, “**Coffee Owner**”).

**PRELIMINARY STATEMENT**

Taco Owner is the owner in fee simple of certain real property located in the City of Calera, Shelby County, Alabama as more particularly described in **Exhibit A** attached hereto and by this reference made a part hereof (the “**Taco Lot**”).

Coffee Owner is the owner in fee simple of certain real property located in the City of Calera, Shelby County, Alabama as more particularly described on **Exhibit B** attached hereto and by this reference made a part hereof (the “**Coffee Lot**”).

The Taco Lot and the Coffee Lot are contiguous and are more particularly shown on the site plan attached hereto as **Exhibit C** and by this reference made a part hereof (the “**Site Plan**”). The Taco Lot and the Coffee Lot are herein collectively referred to as the “**Lots**” and each individually as a “**Lot**”.

Taco Owner has agreed to grant to Coffee Owner an easement for ingress and egress to run to the benefit of, and bind, the respective Lots, and the owners thereof from time to time, in accordance with the terms and provisions hereof, together with other easements as hereinafter described. The terms “Taco Owner” and “Coffee Owner” shall be deemed to refer to such parties and the respective heirs, successors, grantees and assigns of such parties as owners of their respective Lots and are hereby also referred to, individually, as “**Owner**” or, collectively, as the “**Owners**”.

### **AGREEMENT**

**NOW, THEREFORE**, for and in consideration of Ten Dollars (\$10.00) in hand paid and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the parties hereto, Taco Owner (as Owner of the Taco Lot) and Coffee Owner (as Owner of the Coffee Lot), hereby agree as follows:

#### **1. Easements.**

(a) Access Easement. Taco Owner hereby grants, bargains, sells, and conveys, to Coffee Owner, for the benefit of the Coffee Lot, a perpetual non-exclusive easement for ingress, egress, passage and delivery by vehicular and pedestrian traffic by Owners, tenants, occupants, contractors, vendors, customers, employees, and invitees, upon, over and across the curb cuts, roadways, driveways, aisles, walkways and sidewalks now or hereafter located within that portion of the Taco Lot identified on the Site Plan as 30' ACCESS EASEMENT (the “**Access Easement Area**”), subject to the terms hereof. Without limiting the foregoing, Taco Owner shall not (a) relocate or restrict access to the Access Easement Area, other than restrictions reasonably required by routine maintenance and/or repair during which time an alternative route for access to any adjacent public right of way is provided, or (b) construct vertical improvements within the Access Easement Area.

(b) Maintenance Easement. The Owners hereby grant, bargain, sell, and convey, each to the other, for the benefit of their respective Lots, a non-exclusive maintenance easement for purposes of performing repair, maintenance, replacement, and cleaning work related to the Access Easement Area, subject to the following terms and conditions:

(i) Each Owner shall be responsible for one half of the costs to repair, maintain, replace and clean the driveway within the Access Easement Area as reasonably necessary to maintain such driveway in good condition and repair, reasonable wear and tear excepted. Any Owner performing such repair, maintenance, replacement and/or cleaning shall invoice the other Owner for its share thereof accompanied by such documentation as may reasonably be necessary to authenticate the costs incurred. Within thirty (30) days after receipt of an invoice from the performing Owner for such costs, the non-performing Owner shall pay performing Owner its share of such costs.

(ii) Neither Owner shall permit the Access Easement Area to be obstructed (other than on a temporary basis for maintenance repairs). Notwithstanding anything to the contrary contained in this Agreement, in the event access to the Access Easement Area is obstructed (each such event, an “**Obstruction Default**”), the non-defaulting Owner may notify the defaulting Owner by any means reasonable under the circumstances, including via facsimile or telephone, of the Obstruction Default and demand that the Obstruction Default be remedied. If, after 24 hours after such notice has been provided, the defaulting Owner has not remedied the Obstruction Default or commenced to remedy the Obstruction Default and thereafter remedied such Obstruction Default within 24 hours, the non-defaulting Owner shall have the right, but not the obligation, to remedy the Obstruction Default (including the right to enter upon the defaulting Owner’s property) and shall be reimbursed by the defaulting Owner for the reasonable costs for such remedy.

2. **Indemnification; Insurance.** Coffee Owner shall indemnify and hold Taco Owner harmless from and against any and all loss, cost, damage, liability or expense (including reasonable attorneys’ fees actually incurred and court costs) ever incurred by Taco Owner in connection with the exercise by Coffee Owner of the easements and rights created herein, except to the extent caused by the negligence or willful act of Taco Owner, its employees, tenants, contractors, agents or licensees.

3. **Notices.** Any notice, report, or demand that is required, permitted, or desired to be given under the Agreement shall be in writing and shall be deemed to have been sufficiently given or served for all purposes if it is mailed by registered or certified mail, return receipt requested, or sent by a recognized overnight service for next day delivery, to the addresses set forth below or such other addresses as the respective parties may from time to time designate by like notice, on the third business day following the date of such mailing:

If to Taco Owner:	CGP CALERA (HWY 31) TB, LLC 361 Summit Boulevard, Suite 110 Birmingham, Alabama 35243 Attention: Chad Post
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If to Coffee Owner:	CGP CALERA (HWY 31) 7B 361 Summit Boulevard, Suite 110 Birmingham, Alabama 35243 Attention: Chad Post
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4. **Non-Dedication.** Nothing contained in this Agreement shall be deemed to be a gift or dedication of the easements or of any portion of the Lots to the general public or for any public use or purpose whatsoever, it being the intention of the parties hereto that nothing in this Agreement, expressed or implied, shall confer upon any person, other than the parties hereto and their respective successors and assigns, any rights or remedies under or by reason of this Agreement.

5. **Extent of Liability.** Notwithstanding any other provision contained in this Agreement to the contrary, the Owners hereby expressly agree that the obligations and liability of each of them shall be limited solely to such party's interest in its respective Lot, as such interest is constituted from time to time. The Owners agree that any claim against a party hereto shall be confined to and satisfied only out of, and only to the extent of, such party's interest in its Lot, as such interest is constituted from time to time. Nothing contained in this paragraph shall limit or affect any right that any party might otherwise have to seek or to obtain injunctive relief or to specifically enforce the rights and agreements herein set forth, provided that such injunctive relief or specific performance does not involve the payment of money from a source other than such party's interest in its Tract, as such interest may be constituted from time to time.

6. **Miscellaneous.** This Agreement and the easements, rights and restrictions created hereby shall be perpetual to the extent permitted by law. This Agreement may not be changed orally, but only by an agreement in writing signed by the parties hereto. The provisions of this Agreement shall run with the land and shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, successors, assigns, and the legal representatives of their estates and the easements, rights and restrictions granted herein shall be burdens upon and appurtenances to each of the Lots in accordance with the provisions hereof and shall run with the title to the Lots. Time is of the essence of this Agreement. The failure of any party to insist upon strict performance of any of the terms, covenants or conditions hereof shall not be deemed a waiver of any rights or remedies which that party may have hereunder, at law or in equity, and shall not be deemed a waiver of any subsequent breach or default in any of such terms, covenants or conditions. No waiver by any party of any default under this Agreement shall be effective or binding on such party unless made in writing by such party and no such waiver shall be implied from any omission by a party to take action in respect to such default. All remedies set forth in this Agreement are cumulative and shall be deemed additional to any and all other remedies which any Party may be entitled in law or in equity. In any action arising out of this Agreement, the prevailing Party in such action shall be entitled, in addition to all other relief granted, to its reasonable costs and expenses, including, without limitation, reasonable attorneys' fees and costs set by the court. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument. This Agreement is to be governed by and construed in accordance with the laws of the State of Alabama.

7. **Unenforceable Provisions.** If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective during the term of this Agreement, then the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable provision, there shall be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and which shall be legal, valid and enforceable.



8. **Estoppel Certificate**. Each Owner agrees that within fifteen (15) days of written request from time to time of the other Owner, it will issue to a prospective mortgagee of such other Owner or to a prospective successor Owner to such other Owner, an estoppel certificate stating:

(a) whether the Owner to whom the request has been directed knows of any default by the requesting Owner under this Agreement, and if there are known defaults, specifying the nature thereof;

(b) whether this Agreement has been assigned, modified or amended in any way by such Owner (and if it has, then stating the nature thereof); and

(c) that to the requested Owner's knowledge this Agreement as of that date is in full force and effect.


Such statement shall act as a waiver of any claim by the Owner furnishing it to the extent such claim is based upon facts contrary to those asserted in the statement and to the extent the claims asserted against a bona fide encumbrancer or purchaser for value without knowledge of facts to the contrary of those contained in the statement, and who has acted in reasonable reliance upon the statement; however, such statement shall in no event subject the Owner furnishing it to any liability whatsoever, notwithstanding the negligent or otherwise inadvertent failure of such Owner to disclose correct and/or relevant information.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK  
SIGNATURES COMMENCE ON FOLLOWING PAGE]**

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

**Taco Owner:**

**CGP CALERA (HWY 31) TB, LLC,**  
a Delaware limited liability company

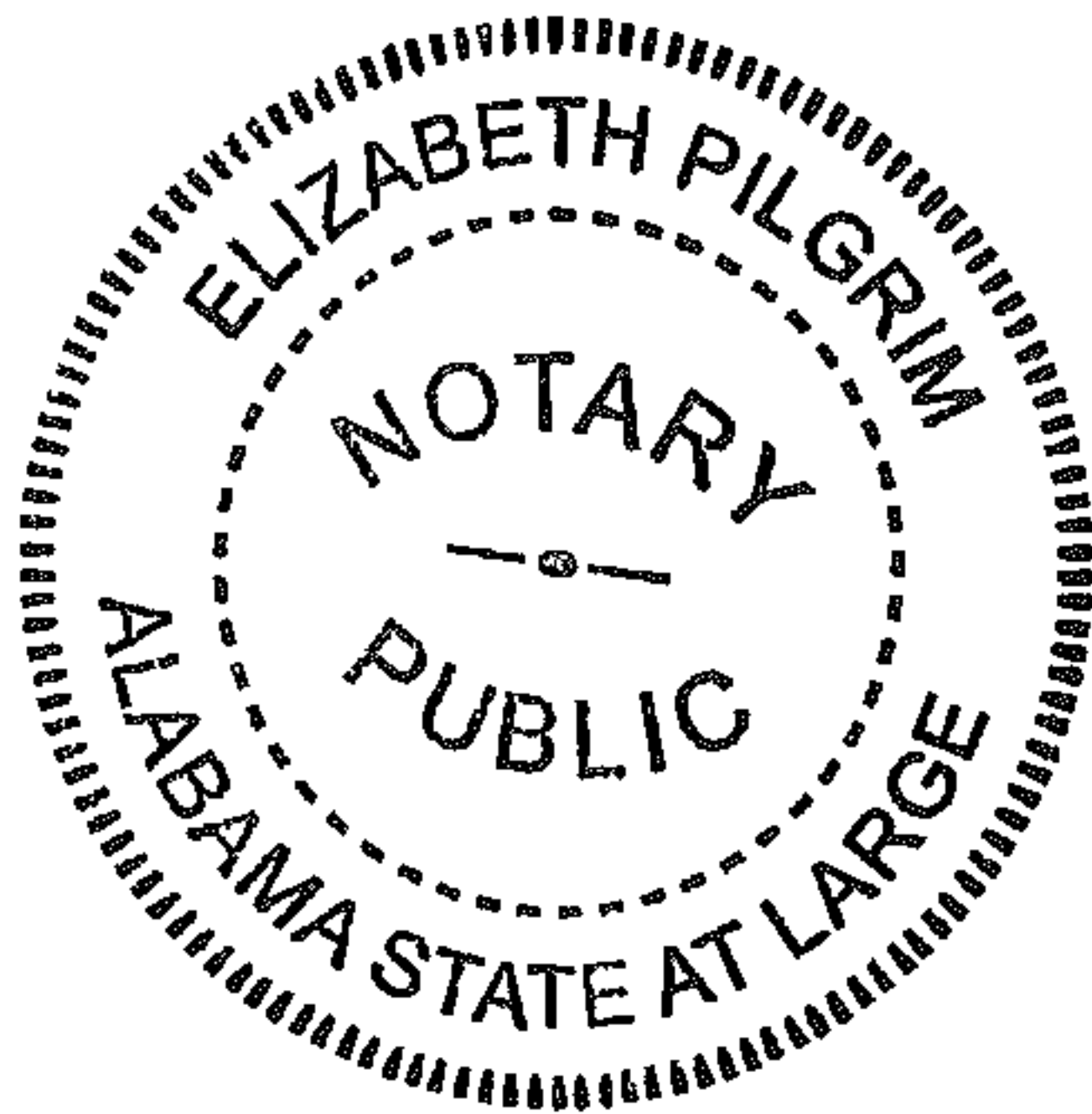
By:   
Its: Authorized Agent

**STATE OF ALABAMA**  
**COUNTY OF JEFFERSON**

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Danielle E. Yance whose name as Authorized Agent of **CGP CALERA (HWY 31) TB, LLC**, a Delaware 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/she, in his/her capacity as such Authorized Agent and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and seal this the 13th day of September, 2023.

[SEAL]




  
Notary Public Elizabeth Pilgrim

My Commission Expires: November 12, 2024

Coffee Owner:

**CGP CALERA (HWY 31) 7B,**  
a Delaware limited liability company

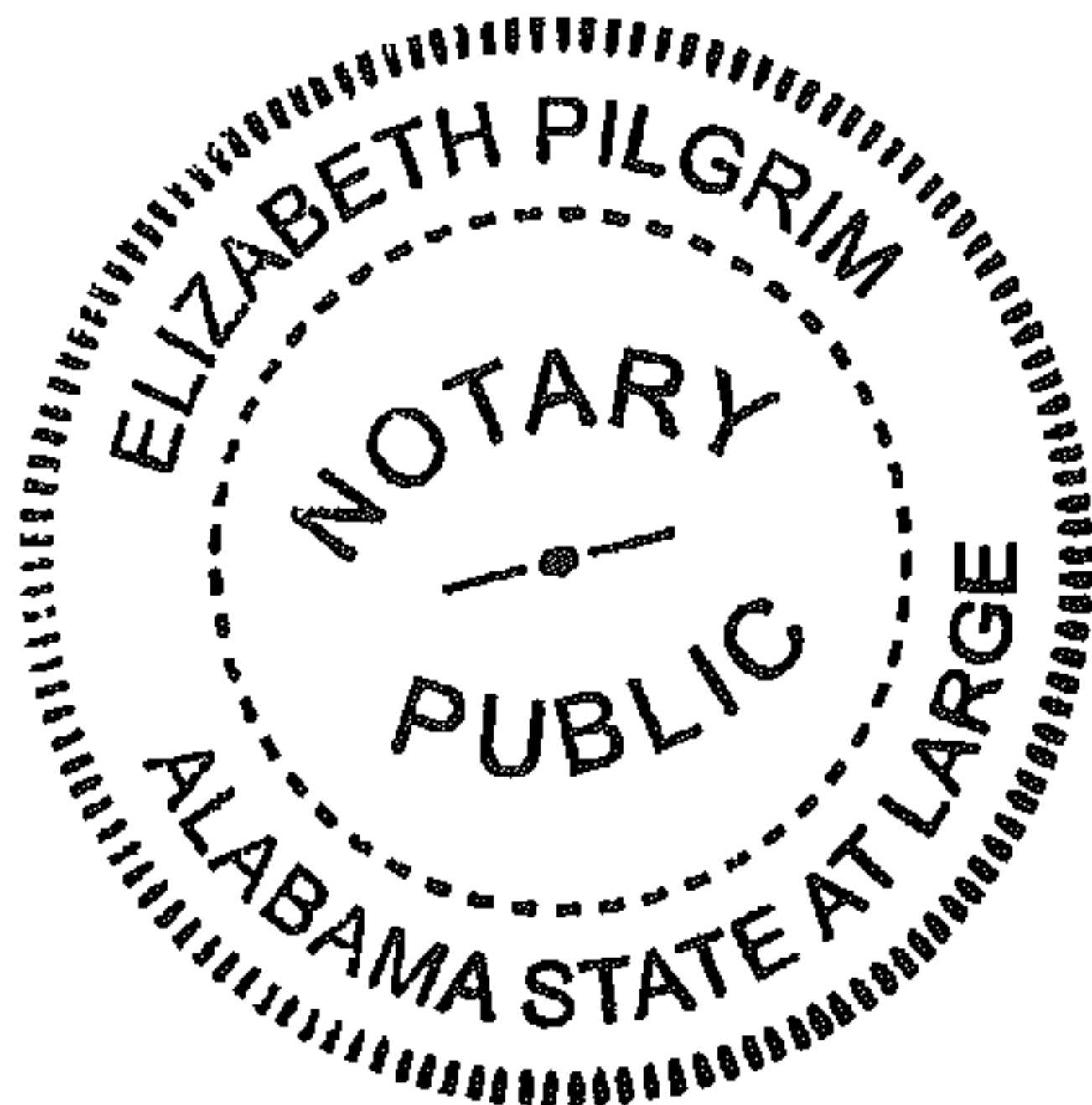
By:   
Its: Authorized Agent

**STATE OF ALABAMA**  
**COUNTY OF JEFFERSON**

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Danielle E. Yance whose name as Authorized Agent of **CGP CALERA (HWY 31) 7B**, a Delaware 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/she, in his/her capacity as such Authorized Agent and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and seal this the 13th day of September 2023.

[SEAL]



  
Notary Public Elizabeth Pilgrim

My Commission Expires: November 12, 2024

Exhibit A: Legal Description of Taco Lot  
Exhibit B: Legal Description of Coffee Lot  
Exhibit C: Site Plan showing Access Easement Area

**Exhibit A**

**“Taco Lot”**

Lot 1, according to the Map of Taco Bell Calera No. 1, as recorded in Map Book 58, Page 60, in the Probate Office of Shelby County, Alabama.



**Exhibit B**

**“Coffee Lot”**

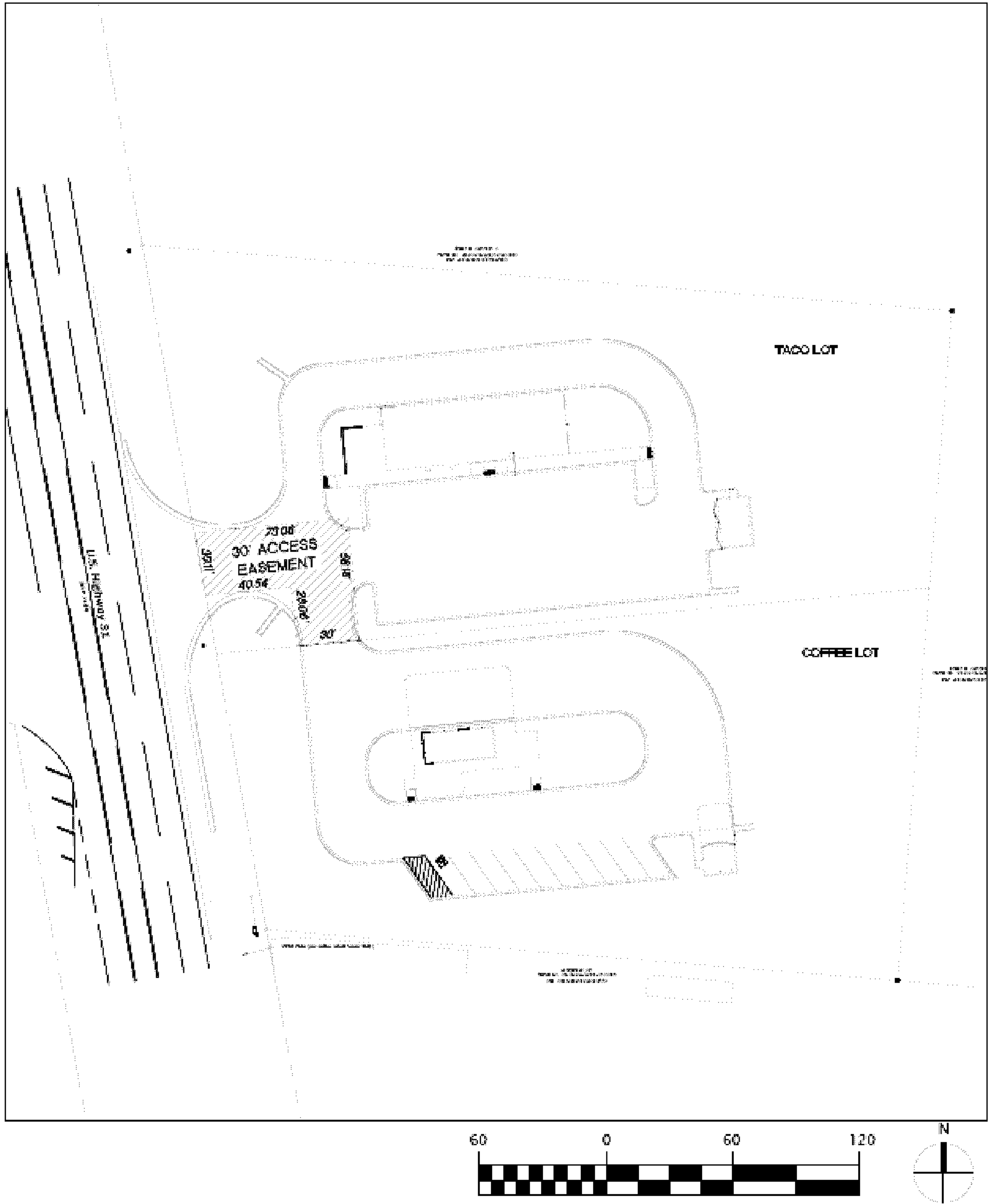
Lot 2, according to the Map of Taco Bell Calera No. 1, as recorded in Map Book 58, Page 60, in the Probate Office of Shelby County, Alabama.

Exhibit C  
Site Plan



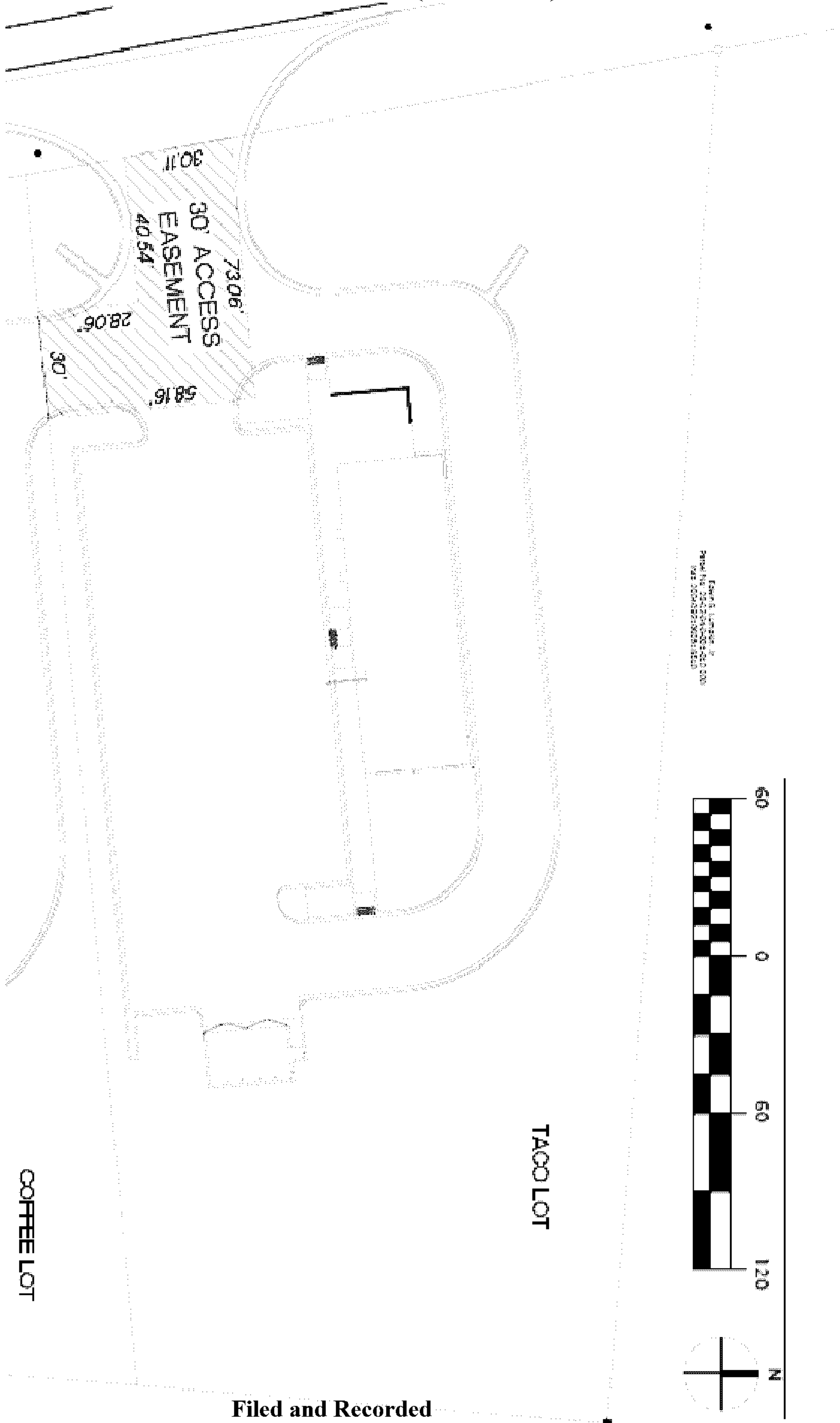
EXHIBIT C

Project Information	
Site:	TACO BELL - CALERA, AL
Address:	5065 HIGHWAY 31
City/State:	CALERA, AL 35040



See additional depiction of Access Easement Area on next page.

Exhibit C (continued)



Filed and Recorded  
Official Public Records  
Judge of Probate, Shelby County Alabama, County  
Clerk  
Shelby County, AL<sup>1</sup>  
09/20/2023 03:40:49 PM  
\$52.00 BRITTANI  
20230920000282670

*Allie S. Bayl*