

HOT Topics with Surveys and Easements

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Surveys and Land Descriptions

- Three General Methods of Land Description
 - Metes and Bounds
 - Government Survey System
 - Subdivision Plats

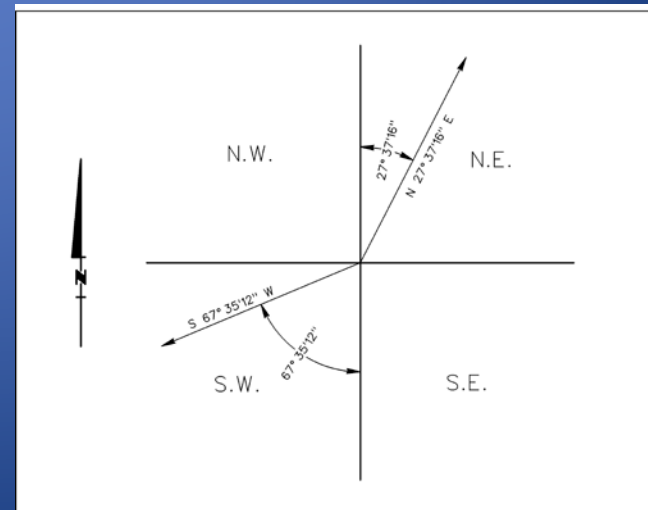
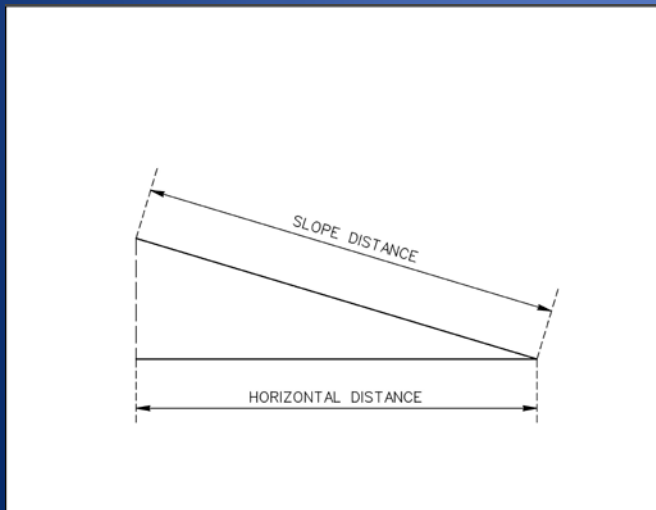
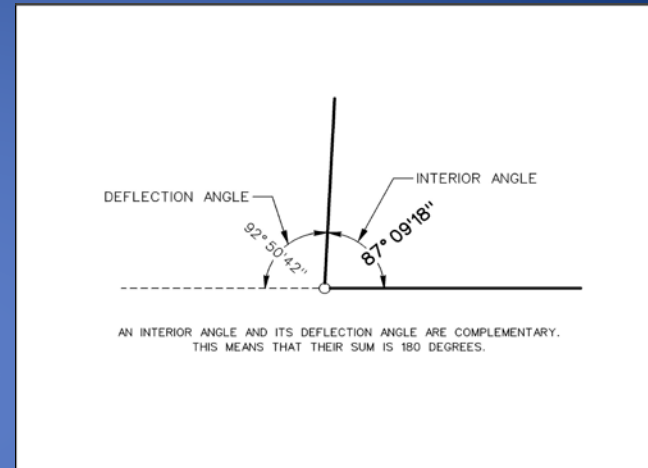
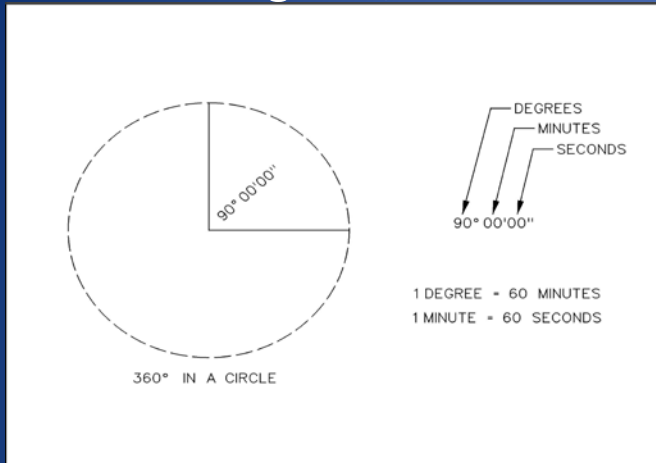
Surveys and Land Descriptions

- Metes and Bounds
 - Oldest Method of Description
 - Describes property lines through by courses and distances
 - Point of Commencement – “Commence at”
 - Description of the subject property begins and ends at “Point of Beginning”
 - Used to describe parcels of all shapes

Surveys and Land Descriptions

- EXAMPLE

- Show Degrees, Minutes and Seconds



Surveys and Land Descriptions

- Governmental Survey System
 - Established by Congress under the Land Ordinance of 1785
 - Divides land into townships and sections using a system of square and rectangular grids. Starting point is an intersection of the principal meridian [North-South Lines] and baseline [East-West Lines]
 - Each “Township” is a square of 6 miles a side (36 square miles)
 - Each township is divided into 36 “Sections” meaning that each Section is a one square mile area containing approximately 640 acres

Surveys and Land Descriptions

- Survey System
 - Subparts can be used to describe land
 - Examples are $\frac{1}{2}$ sections or $\frac{1}{4}$ sections
 - EXAMPLE:
 - The NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 17, Township 9, Range 10 West, Morgan County, Alabama

PLAT SHOWING U.S. SYSTEM OF PUBLIC-LAND SURVEYS

Townships and Ranges Within the Huntsville and St. Stephens Meridians in the State of Alabama

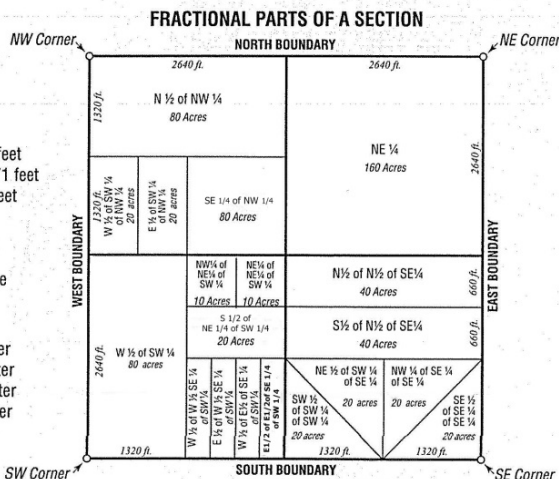
Ranges are East and West of Meridian
Townships are North and South of Base Line

MEASURING SYSTEM

- 1 Link7.92 inches
- 1 Chain100 links or 66 feet
- 1 Acre208.71 by 208.71 feet
- 1 Acre43,560 square feet
- 1 Section1 mile to side
- 1 Section640 acres
- 1 Township36 sections
- 1 Township6 miles each side

TERMS

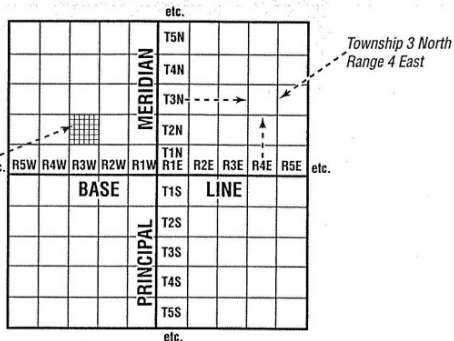
- NE ¼Northeast Quarter
- NW ¼Northwest Quarter
- SW ¼Southwest Quarter
- SE ¼Southeast Quarter



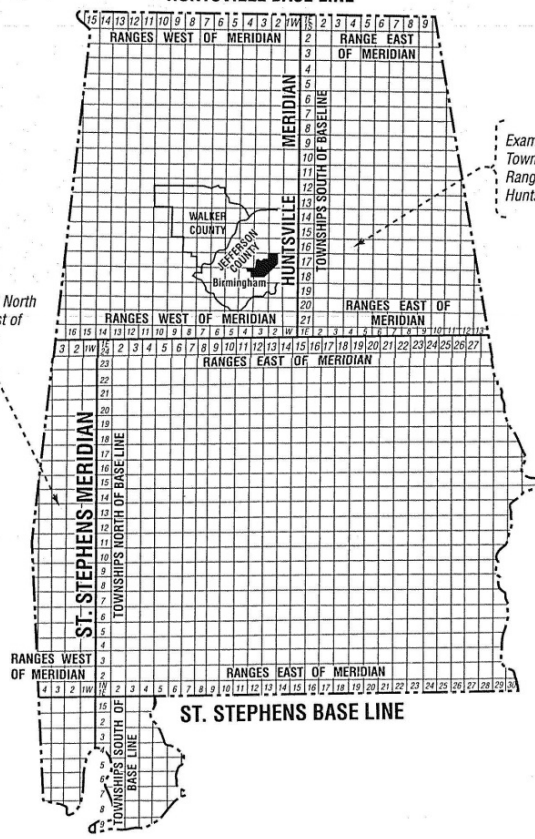
ARRANGEMENT OF TOWNSHIPS AND RANGES WITH REFERENCE TO MERIDIAN AND BASE LINE

TOWNSHIP SHOWING ARRANGEMENT OF SECTIONS WITH ADJOINING SECTIONS

36	31	32	33	34	35	36	31
1	6	5	4	3	2	1	6
12	7	8	9	10	11	12	7
13	18	17	16	15	14	13	18
24	19	20	21	22	23	24	19
25	30	29	28	27	26	25	30
36	31	32	33	34	35	36	31
1	6	5	4	3	2	1	6



HUNTSVILLE BASE LINE



Example:
Township 16 South
Range 4 East of
Huntsville Meridian

Example:
Township 13 North
Range 3 West of
St. Stephens
Meridian

TITLE EXAMINER'S PLAT

Of Standard Subdivisions of a Government Section

LINEAR MEASURE

7.92 inches 1 link
 25 links } 1 rod, perch or pole
 16½ feet }
 100 links } 1 chain
 4 poles }
 66 feet }
 80 chains } 1 mile
 320 rods or poles }
 5,280 feet }

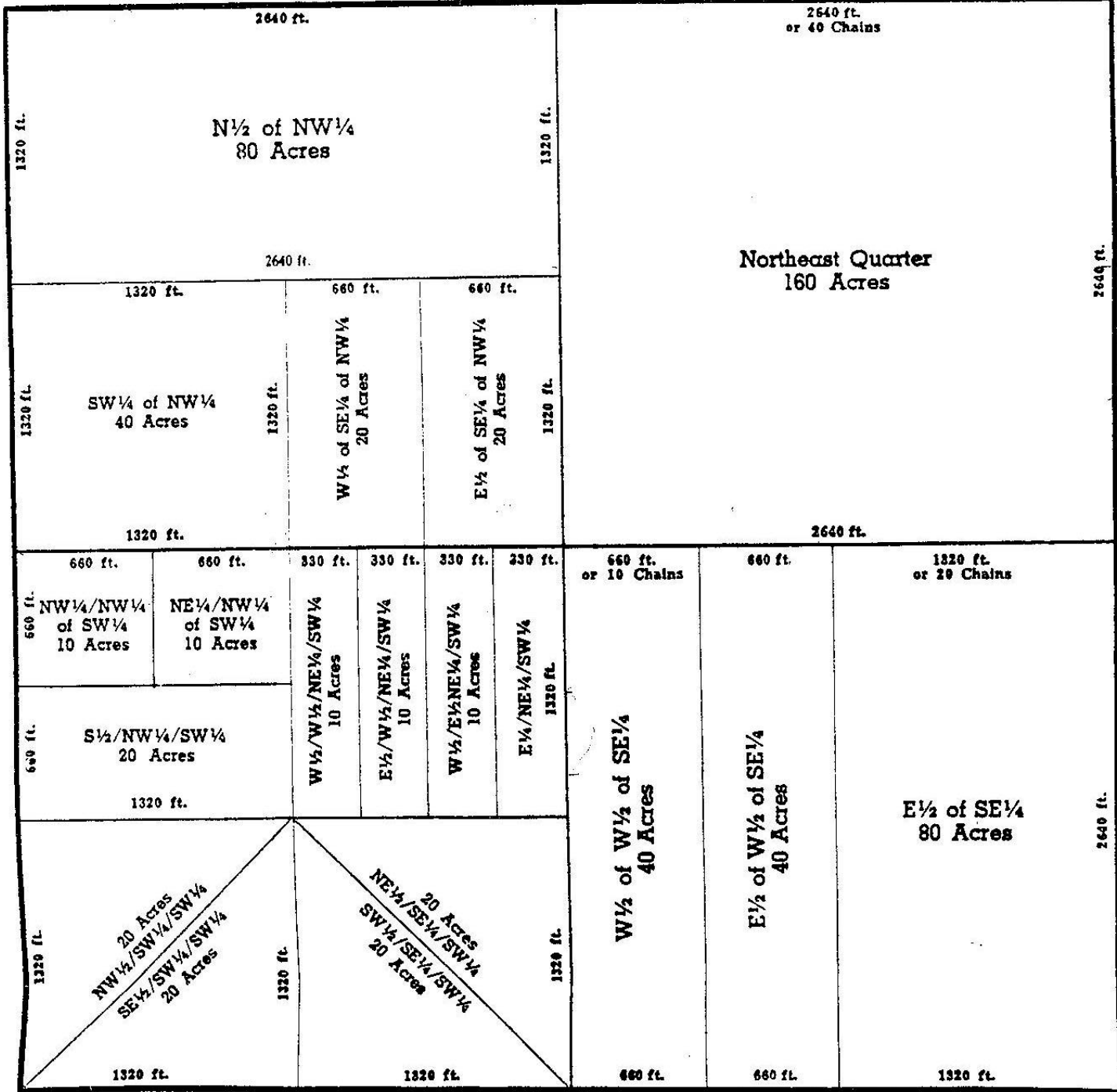
SQUARE MEASURE

208.708 x 208.708 feet 1 acre
 43,560 square feet 1 acre
 16 square rods or poles 1 square chain
 10 square chains 1 acre
 160 square rods or poles 1 acre
 640 acres (one section) 1 square mile
 36 square miles 1 township

Official Plat of Township Sectionized and
Numbered, With Adjoining Sections

36	31	32	33	34	35	36	31
1	6	5	4	3	2	1	6
12	7	8	9	10	11	12	7
13	18	17	16	15	14	13	18
24	19	20	21	22	23	24	19
25	30	29	28	27	26	25	30
36	31	32	33	34	35	36	31
1	6	5	4	3	2	1	6

LEGAL METHOD OF DESCRIBING FRACTIONAL PARTS OF A SECTION



Surveys and Land Descriptions

- Subdivision Maps or Plats
 - Create separate subdivided lots and the “Lot” is made a part of the Legal Description
 - Requires Governmental approval and Compliance with Subdivision requirements of the County/City
 - Executed by all parties with an interests, as well as an engineer and the applicable Governmental Agency

Surveys and Land Descriptions

- Subdivision Maps or Plats
 - Example:
 - Lot 8 according the Resurvey of Lot 2, Abingdon Subdivision, recorded in Map Book 12, Page 22 in the Office of the Judge of Probate of Baldwin County, Alabama

HIGHLAND LAKES 25th SECTOR PHASE I AN EDDELMAN COMMUNITY

SITUATED IN THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 18 SOUTH, RANGE 1 WEST, SHELBY COUNTY, ALABAMA

PREPARED BY: SURVEYING SOLUTIONS, INC. C/O: DANIEL MOORE, REG. L.S. NO. 12159, 2222 CANTON VALLEY DRIVE, BIRMINGHAM, ALABAMA 35242 (205) 961-4945

OWNER: HIGHLAND LAKES DEVELOPMENT, LTD. EDDELMAN PROPERTIES, INC. GENERAL PARTNER, 2700 HIGHWAY 200 EAST, SUITE 425 WEST, BIRMINGHAM, ALABAMA 35223 (205) 871-8795

SCALE: 1" = 60' DATE: JANUARY 27, 2005

SHELBY COUNTY JURISDICTION: BIRMINGHAM WATER AND SEWER BOARD

STATE OF ALABAMA, COUNTY OF SHELBY

The undersigned, Carl Daniel Moore, a registered Land Surveyor in the State of Alabama, and Highland Lakes Development Limited, Owner, hereby certify that this plan or map was made pursuant to a survey made by said Surveyor, and that said survey and the plan or map were made in accordance with the laws of this State and that this plan or map is a true and correct map of the lands shown thereon and known to him to be known as HIGHLAND LAKES 25th SECTOR PHASE I AN EDDELMAN COMMUNITY, showing the subdivisions and what is proposed to divide, and showing the length and angles of the boundaries of each lot to be shown, showing the streets, alleys and public grounds, giving the angles, bearings and names of each street, as well as the number of each lot and block, and showing the relation of the lands to the government survey of Section 9, Township 18 South, Range 1 West, and that such lots have been marked at all or certain and true points as shown and designated by small iron nails as used and set in place. Such signs and markers that in the course of said survey and that the same are not subject to any relocation.

I hereby certify that all parts of this survey and drawing have been completed in accordance with the current requirements of the Statutes of Practice for Surveying in the State of Alabama to the best of my knowledge, information, and belief.

DATE: 01-26-05 BY: Carl Daniel Moore, Reg. L.S. #12159



HIGHLAND LAKES DEVELOPMENT LIMITED, Owner: Eddeleman Properties, Inc., General Partner

BY: Douglas B. Eddeleman, President

APPROVED: Larry W. Reese, DATE: 4-7-05, SHELBY COUNTY ENGINEER FOR RECORDATION PURPOSES ONLY

APPROVED: Jeff Anniston, DATE: 7-16-05, SHELBY COUNTY ENGINEER

APPROVED: L.H. Hall, DATE: 4/14/04, SHELBY COUNTY ENGINEER

APPROVED: R. L. Lamm, DATE: 4-14-2005, SHELBY COUNTY PLANNING COMMISSION

STATE OF ALABAMA, COUNTY OF SHELBY

I, the undersigned, as Acting Public in and for said County in said State, hereby certify that Carl Daniel Moore, whose name is signed to the foregoing instrument as Land Surveyor, who is known to me, is duly qualified to practice as a Land Surveyor in the State of Alabama, and that the same is true to the best of my knowledge and belief.

Given under my hand and seal this 5th day of April, 2005.

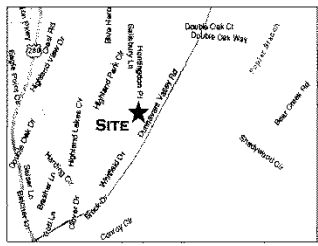
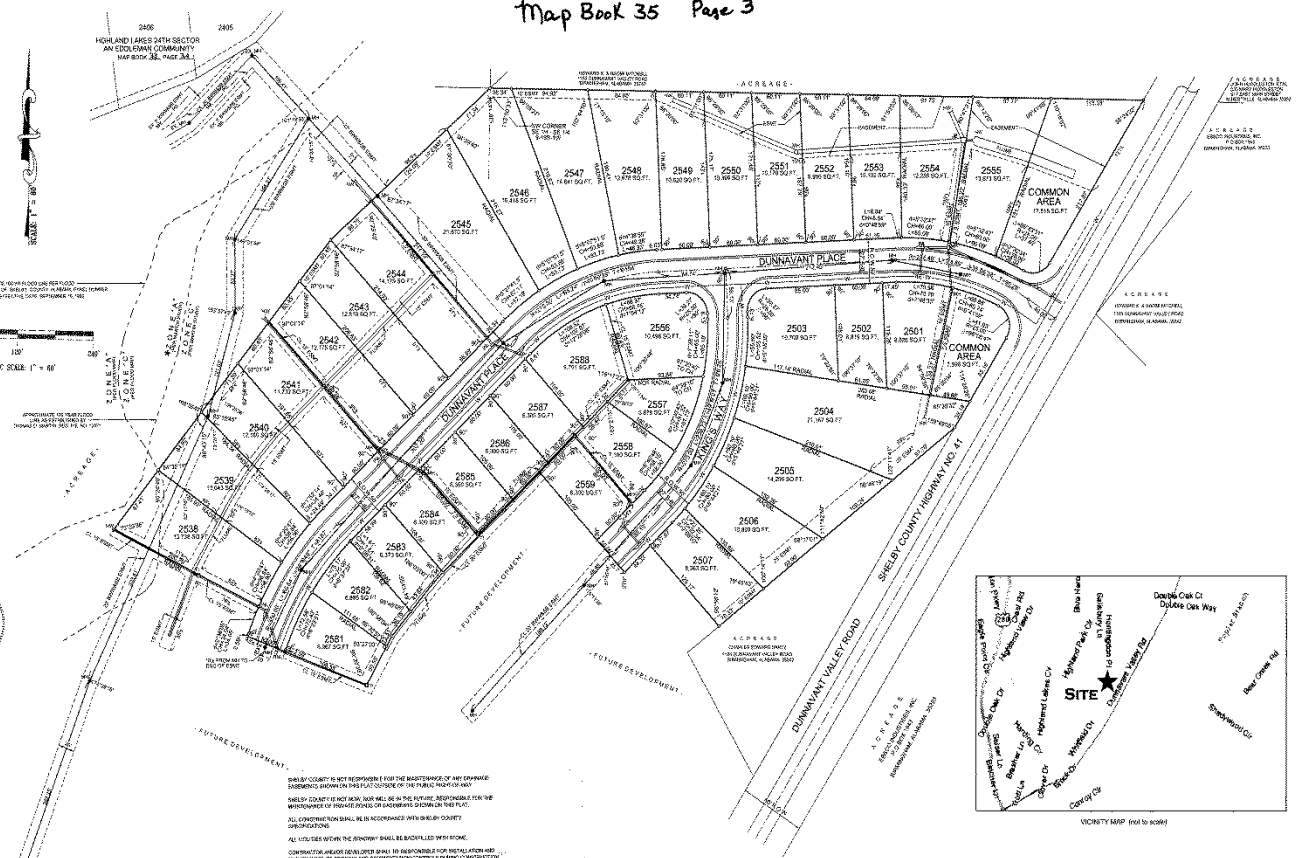
BY: John L. Damm, Notary Public

STATE OF ALABAMA, COUNTY OF SHELBY

I, the undersigned, as Acting Public in and for said County and State, do hereby certify that Douglas D. Eddeleman, whose name is signed to the foregoing instrument as President of Eddeleman Properties, Inc., General Partner of Highland Lakes Development Limited, Owner, and who is known to me, is duly qualified to practice as a President of a corporation in the State of Alabama, and that the same is true to the best of my knowledge and belief.

Given under my hand and seal this 5th day of April, 2005.

BY: Douglas B. Eddeleman, Notary Public



SHELBY COUNTY IS NOT RESPONSIBLE FOR THE MAINTENANCE OF ANY PRIVATE IMPROVEMENTS SHOWN ON THIS PLAN OR FOR THE PUBLIC PLANS ONLY. SHELBY COUNTY IS NOT NOW, NOR WILL BE IN THE FUTURE, RESPONSIBLE FOR THE MAINTENANCE OF PRIVATE ROADS OR EASEMENTS SHOWN ON THIS PLAN. ALL IMPROVEMENTS SHALL BE THE RESPONSIBILITY OF THE INDIVIDUAL OWNER'S DEVELOPMENTS. ALL UTILITIES WITHIN THE PROPERTY SHALL BE RELOCATED BY THE INDIVIDUAL OWNER. CONTRACTOR SHALL BE RESPONSIBLE FOR RELOCATION OF ALL UTILITIES AND FOR THE PROTECTION OF EXISTING UTILITIES. CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF EXISTING UTILITIES AND FOR THE PROTECTION OF EXISTING UTILITIES. CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF EXISTING UTILITIES AND FOR THE PROTECTION OF EXISTING UTILITIES.

NOTES: 1. ALL RIGHTS AND RESOURCES SHOWN ON THIS MAP ARE PRIVATE RIGHTS AND RESOURCES. 2. THIS PLAN IS SUBJECT TO THE TERMS AND CONDITIONS OF THE RECORDATION OF THIS INSTRUMENT. 3. THE INDIVIDUAL OWNER SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF ANY PRIVATE IMPROVEMENTS SHOWN ON THIS PLAN OR FOR THE PUBLIC PLANS ONLY. 4. SHELBY COUNTY IS NOT NOW, NOR WILL BE IN THE FUTURE, RESPONSIBLE FOR THE MAINTENANCE OF PRIVATE ROADS OR EASEMENTS SHOWN ON THIS PLAN.

5. THE INDIVIDUAL OWNER SHALL BE RESPONSIBLE FOR THE PROTECTION OF EXISTING UTILITIES AND FOR THE PROTECTION OF EXISTING UTILITIES. 6. CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF EXISTING UTILITIES AND FOR THE PROTECTION OF EXISTING UTILITIES. 7. CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF EXISTING UTILITIES AND FOR THE PROTECTION OF EXISTING UTILITIES.

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MAP DRAWN: COME 04.04 JLM (MAP/PROJECT/PLANS/24/21/2005/25THSECTORPHASEI.DWG)

Surveys and Land Descriptions

- Surveys
 - Actual drawings prepared by professional engineers or registered land surveyors for purposes of determining boundaries and other information
 - Not an exact science. Professional Opinion based upon Surveyor's review of the physical property, written evidence and measurements

Surveys and Land Descriptions

- Types of Surveys
 - Boundary or Land Surveys – show boundaries
 - As-Built Surveys – show relationship of new construction, “as built” in relation to a plan. May not show boundary issues
 - ALTA Surveys – show boundary and title issues and improvements. Most comprehensive survey.
 - Topographic Survey – shows land topography
 - Site Plans are NOT surveys

Surveys and Land Descriptions

- Why Get a Survey?
 - Establishes the existence of the property with the deed, legal description and other records
 - Establish relationship to other property
 - Establishes boundaries
 - Locates physical improvements
 - Locates unrecorded easements and recorded easements
 - Confirms Access and Location of Access
 - Identifies conditions that may affect development

Surveys and Land Descriptions

- Do you want a survey?
 - YES
 - Survey is the most up to date way of knowing what is there
 - Plats may not show everything
 - Old surveys are not up to date
 - There is really no substitute for a current survey
 - They are expensive, but worth the cost

Surveys and Land Descriptions

- American Land Title Association (ALTA) Survey
- American Congress on Surveying and Mapping
 - Establish Minimum Standard Detail Requirements for a survey.
 - Table A of the Standards contains a checklist of items for the surveyor to include
 - More checkmarks, more expense
 - Lenders may ask for special survey certificate
 - **KNOW WHAT YOU ARE GETTING**

Surveys and Land Descriptions

- Reading a Survey
 - Get the Title Commitment and all Exceptions
 - Get the Survey maps
 - Get the Survey Checklist and Instructions
 - Use different highlighters to mark specific items and areas

Surveys and Land Descriptions

- Know Your Survey Map Keys and Legend
 - Understand the symbols
 - Know the directions lines (North Arrow)
 - Know the date of the survey
 - Know the survey is signed
 - Know the Scale

Surveys and Land Descriptions

- Reading the Survey (continued)
 - Legal Description – Locate the legal on the boundary and on the survey; Trace the metes and bounds if need be; COMPARE the legal in the title commitment to the legal on the survey.
 - All Descriptions Must Match and be the same as in any Loan Documents
 - If Legal Descriptions are not the same – discuss the differences with the surveyor to determine whether discrepancy exist between descriptions.

Surveys and Land Descriptions

- Reading the Survey
 - Compare location of your property to adjoining property
 - Locate all easements as listed in the Title Exceptions; Surveyor needs the Commitment to locate those listed, as well as locate any unlisted surveyor may locate
 - Locate all utilities – are there Dedicated Easements or Public ROW
 - Electric, water, sewer, storm drainage, telephone, cable, and gas

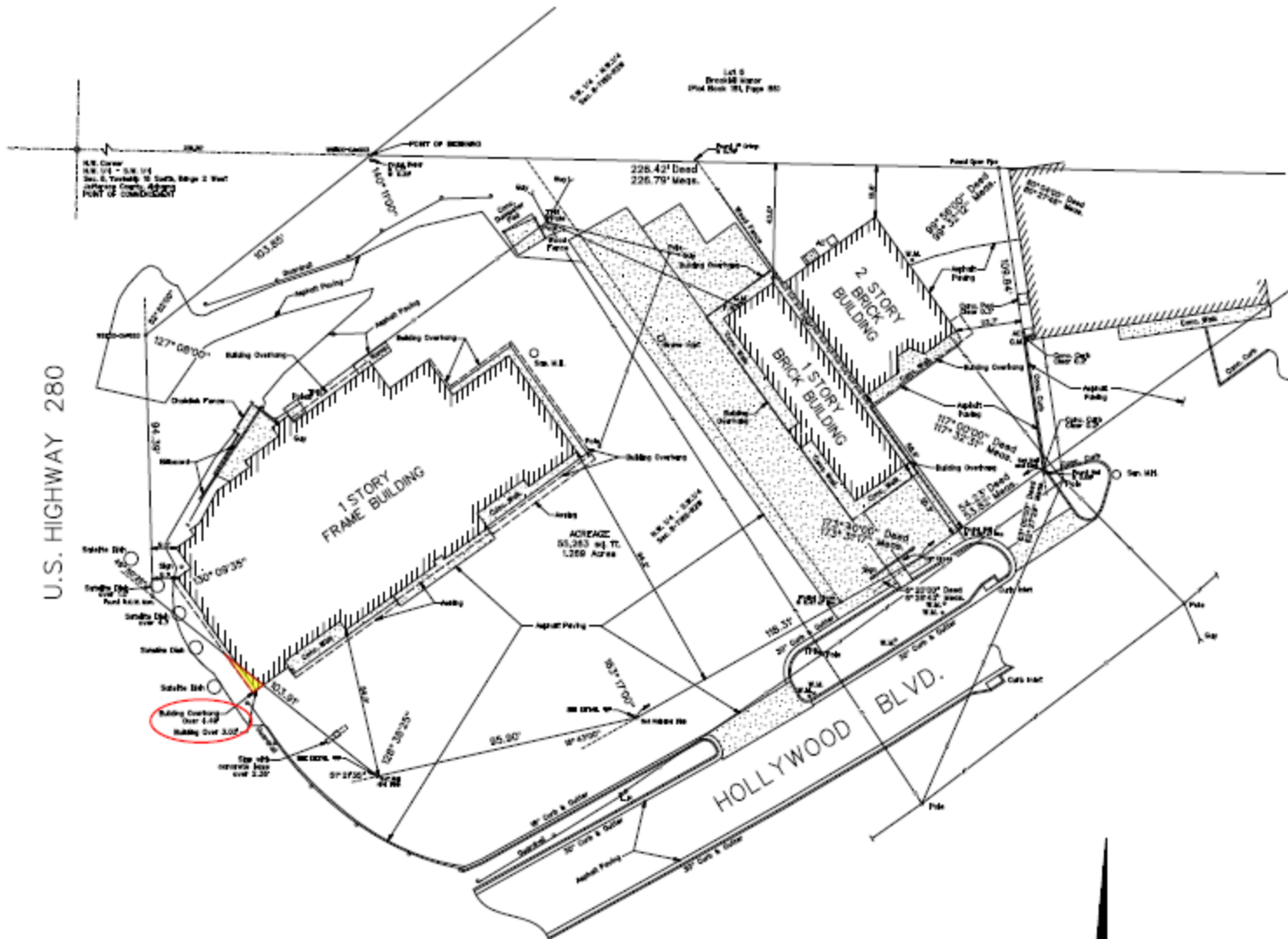
Surveys and Land Descriptions

- Reading Survey
 - Review placement of easements and whether any improvements will encroach (storm and sanitary sewer)
 - Locate Access (streets, roads, highways, alleys)
 - Is access Public or Private
 - Locate all buildings and improvements for encroachment on boundaries, easements and set backs

Surveys and Land Descriptions

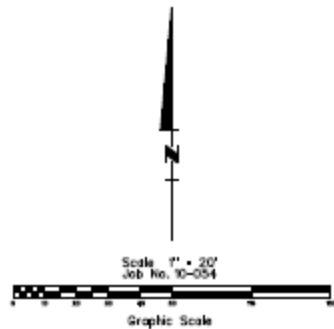
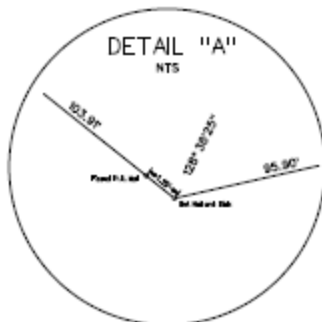
- Reading Surveys
 - Locate set back lines
 - Know location, size and placement of buildings and improvements
 - Total Land Area
 - Parking and whether it meets requirements
 - Flood Zone
 - Location of easements

U.S. HIGHWAY 280



LEGEND

- OVERHEAD UTILITIES
- ◻ WATER METER
- ◻ GAS METER
- ◻ LIGHT POLE
- ◻ TELEPHONE PULL BOX
- ◻ AIR CONDITIONING UNIT
- ◻ CONCRETE
- WALTER SCHMID ENGINEERING
- COMPANY 5/8" CAPPED REBAR



STATE OF ALABAMA
 ALBANY COUNTY

J. Joseph E. Brinkman, Jr., a Real Estate Broker, who has duly qualified under the supervision of a duly sworn and bonded surveyor and a registered professional engineer of the State of Alabama, do hereby certify that he has personally examined the above described plat and that the same is a true and correct copy of the original as shown to him by the surveyor and engineer.

This property is located within the boundaries of the Albany County, Alabama, as shown on the map of Albany County, Alabama, as published by the State of Alabama on September 15, 1938, as published by the State of Alabama.

WALTER SCHMID ENGINEERING CO., INC.
 Joseph P. Brinkman, Jr., Licensed Professional Engineer
 License Expires April 14, 1958

Part of the northwest 1/4 of the 30 acres in Albany County, Alabama, as shown on the map of Albany County, Alabama, as published by the State of Alabama on September 15, 1938, as published by the State of Alabama, is hereby divided into two (2) lots, to-wit: Lot 1, containing 0.125 acres, and Lot 2, containing 0.125 acres, as shown on the above described plat. The boundary lines between the two lots are as shown on the above described plat.

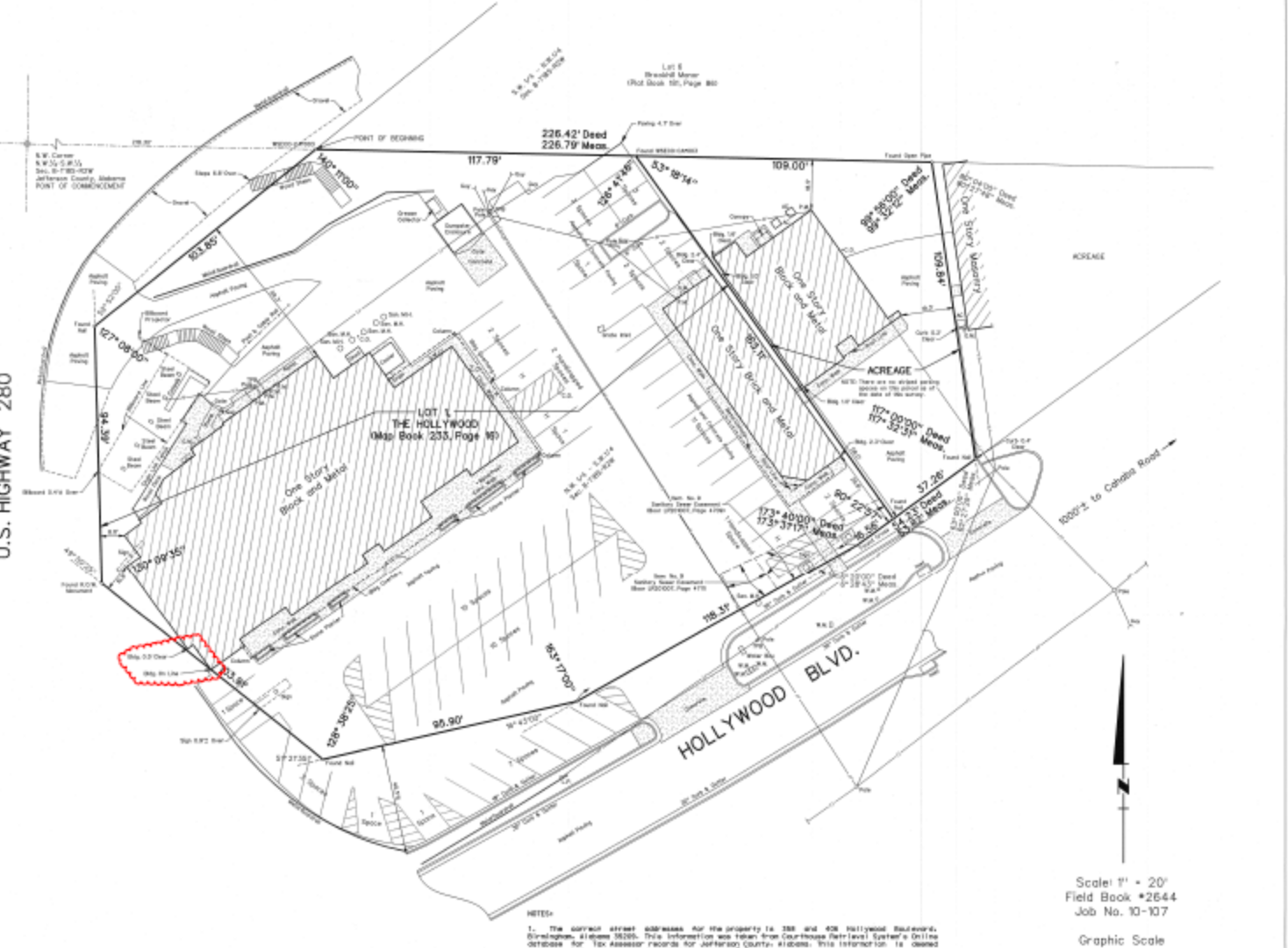
Filed for Record April 14, 1958

- NOTES:
1. No underground utility investigation was made.
 2. No investigation of foundation conditions was made.
 3. There has been no review of the existing old order books of record on this survey.

BOUNDARY SITUATED SECTION & TOWN

WALTER SCHMID ENGINEERING CO.

U.S. HIGHWAY 280



NOTES:

- The survey street addresses for the property is 398 and 408 Hollywood Boulevard, Birmingham, Alabama 35206. This information was taken from Courthouse District System's address for tax assessor records for Jefferson County, Alabama. This information is deemed reliable, but not guaranteed. (ALTA/ACSM Table "A" - Item No. 2)
- This property is not located within the 100 year Flood zone and is in Unshaded Zone "X" (area determined to be out of 500 year flood zone floodplated) as shown on the National Flood Insurance Program (NFIP) Flood Insurance Rate Map of Jefferson County, Alabama, according to Panel 857 of 855, Map Number 441030551A dated September 3, 2013, as published by the Federal Emergency Management Agency. (ALTA/ACSM Table "A" - Item No. 3)
- The subject property is zoned "B-2" General Business District in the City of Birmingham, Alabama. The subject's restrictions and weight restrictions are shown in the zoning table herein. The surveyor is unaware of any other requirements or restrictions for this property, but does not guarantee that other requirements or restrictions do not exist. It is not the responsibility of the surveyor to determine compliance with zoning ordinances, restrictions, or other rules and regulations that may exist. The zoning information was established by parcel identification from the City of Birmingham, Alabama. No other jurisdiction was provided. (ALTA/ACSM Table "A" - Item No. 6a)
- There are 47 standard parking spaces located on the subject property and 3 handicapped parking spaces. For a total of 50 parking spaces. There are also 15 standard parking spaces within the parking lot serving the subject property, but said spaces are not on the subject property and the width of the right-of-way of Hollywood Boulevard and U.S. Highway 280. (ALTA/ACSM Table "A" - Item No. 9)
- No investigation into the existence or location of underground utilities has been performed for the purpose of this survey; the information shown herein is from visible surface indications only. (ALTA/ACSM Table "A" - Item No. 11d)
- No investigation or research has been performed for the purpose of determining the location of subsurface features, such as footings, foundations or structural supports of the buildings shown herein.
- This survey is not valid without the original signature and seal of the Professional Land Surveyor.
- Joseph F. Bealgher, Jr. can be contacted by telephone at (205) 313-1167 or by email at jf@scholl.com.

Scale 1" = 20'
Field Book #2644
Job No. 10-107

Graphic Scale

85103-GP-022

ZONING DATA

DISTRICT: B-2 GENERAL BUSINESS DISTRICT
THE CITY OF BIRMINGHAM, ALABAMA

REQUIRED OFFICE REQUIREMENTS

PROJECT NAME:
JOB NAME:
JOB NAME:

DRAWN BY: ENCL
CHECKED BY: JFB
FIELD CHECK: RAB

85103-GP-022

SURVEY CERTIFICATION

To: The Hollywead, LLC d/b/a Hollywead, a division of USAA Bank, the successors and their interests may appear concerning: Lot 1116 Insurance Company Maple City 1116

This is to certify that this map or plat and the survey on which it is based are accordance with the 2011 National Standard Detail Requirements for ALTA/ACSM Land Title Surveys established and adopted by ALTA and NSPS, and includes Table 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 of Table A thereof. The field work was completed from November 13, 2012 to 15, 2012.

I further certify that this survey and drawing of the parcel described herein, as indicated under my supervision, and all parts of this survey and drawing have been by experience with the current requirements of professional practice for Survey State of Alabama to the best of my knowledge, information, and belief.

WALTER SCHOLL ENGINEERING COMPANY, INC.
Professional Seal
Walter Scholl, Professional Land Surveyor
No. 11166
Alabama License No. 11166
Date: 11/15/12

LEGAL DESCRIPTION

Part of the Northwest 1/4 of the Southwest 1/4 of Section 8, Township 18 South, Range 2 West, Jefferson County, Alabama, more particularly described as follows:

Begin at the northwest corner of said quarter quarter section and run thence East the North 1/4 line thereof for a distance of 218.35 feet to the point of beginning of new description; from the point of beginning this boundary continues southerly along the line of said quarter quarter section for a distance of 228.42 feet; thence runs a 90°00' to the right and run southerly for a distance of 158.43 feet; thence runs 89° to the right and run southerly for a distance of 54.33 feet; thence runs 89°30' to the right and continue southerly for a distance of 118.31 feet; the whole or 184°41' to the right and continue southerly for a distance of 65.90 feet; thence runs an angle of 51°21'30" to the right and run southerly for a distance of 65.90 feet; thence runs an angle of 88°32'30" to the right and run southerly for a distance of 102.85 feet to the point of beginning.

Part of the property now known as Lot 1, according to the First Plat of the subdivision 18 Map Book 233, Page 18, in the office of the Judge of Probate of Jefferson County, Alabama.

Containing 30.23 square feet or 1.268 acres.

Filed 8/10/191095/005/HC-HOLLYWOOD-ALTA-110212-00

Exceptions

2148 Map 1, 2141, 2041, 2141, 2141 and 3	These are not surveying matters or addressed by the surveyor.
Item No. 4 Volume 1983, Page 190	Right-of-way granted to Jefferson County. The surveyor is unable to determine if it applies to the subject property, however, if the document applies to the right of way conveyed would now be listed in the current right-of-way list of the current right-of-way Boulevard or U.S. Highway 280.
Volume 1983, Page 417	Right-of-way granted to Jefferson County. The surveyor is unable to determine if it applies to the subject property, however, if the document applies to the subject property, the right of way conveyed would now be listed in the current right-of-way Boulevard or U.S. Highway 280.
Item No. 5 Volume 2834, Page 432	Right-of-way and release of claims Jefferson County. The surveyor is unable to determine if the document applies to the subject property, however, if it does apply to the subject property, the right of way would now be within the limits of right-of-way of Hollywood Boulevard Highway 280.
Item No. 6	Title to all interests within and practices together with all other rights, privileges and interests therein, including release of claims.
Item No. 7 Sect Volume 518, Page 586	Right of Way granted to Alabama Power Company to locate and use new subject property in its entirety.
Item No. 8 Book 1420008, Page 1979	Agreement by and between Jefferson County and the Alabama Power Company to locate and use new subject property in its entirety.
Item No. 9 Book 1829197 Page 438	Right-of-Way granted to Jefferson County Sewer, Easement is shown on the subject property.
Book 1829197 Page 411	Right-of-Way granted to Jefferson County Sewer, Easement is shown on the subject property.

ALTA/ACSM LAND TITLE SURVEY OF LOT 1, THE HOLLYWOOD AND ACREAGE SITUATED IN THE NW 1/4 OF THE SW 1/4 OF SECTION 8, TOWNSHIP 18 RANGE 2 WEST, JEFFERSON COUNTY, ALABAMA

Easements

- Two Types of Easements
 - Appurtenant Easement.
 - Easement in Gross

Easements

- Appurtenant Easement
 - Appurtenant easement was two tenements: the dominant estate which is benefited by the easement and the servient tenement which is burdened by the easement.
 - The appurtenant easement is created for the benefit of the dominant estate and runs with the land of the dominant estate.

Examples:

- Ingress/Egress Easement
- Drainage Easement

Easements

- Easement in Gross

- An easement in gross is personal to the easement holder and has no dominant estate, and does not serve a particular tract of land.

Examples:

- Overhead transmission line for electricity
- Natural Gas Pipeline

Easements

- Creation of Easements
 - Express Conveyance
 - Reservation of Exception
 - Implication
 - Necessity
 - Prescription
 - Contract
 - By reference to boundaries or maps

Easements

- Termination of Easements
 - Merger
 - Abandonment
 - Release
 - Limited duration
 - Third party actions

Easements

- Underwriting Issues and Concerns
 1. Proper Creation and Description
 - Did the proper parties execute the easement agreement? (all co-tenants, joinder of spouse, joinder of a mortgage holder)
 - Does the easement instrument conform to the formalities of a proper conveyance of real property?
 - Is the easement area adequately described?

Easements

- Underwriting Issues and Concerns (continued)
 2. Proper Title Search of the Burdened Estate
 - Is the easement subject to attack from third party actions?
 - For non-exclusive easements, include an exception for “rights of others in and to the use of that certain easement described in . . .”
 - Also include an exception for any certain terms or conditions of the easement agreement.