

HOT Topics with Surveys and Easements

Price Evans

Associate Counsel/Commercial Underwriter
Mississippi Valley Title Insurance Company
pevans@mvt.com

Surveys and Land Descriptions

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

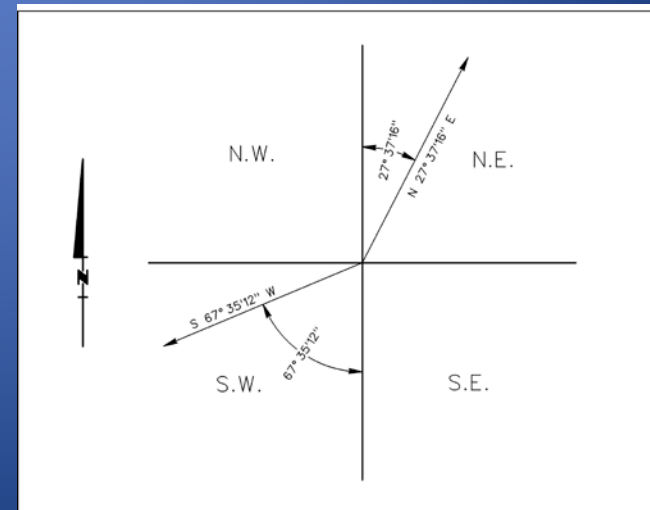
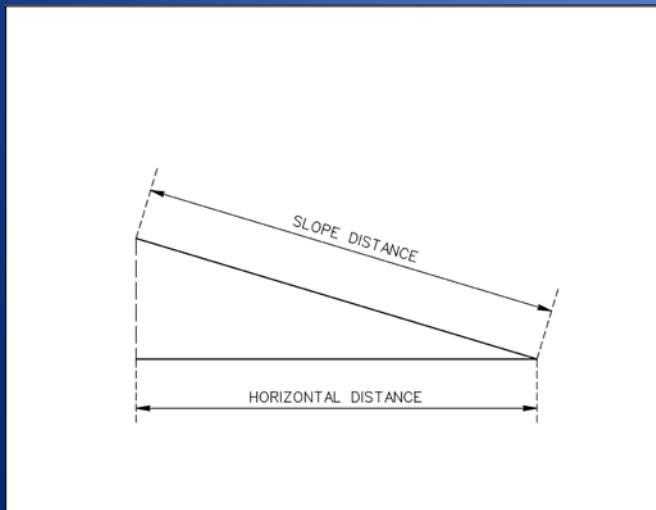
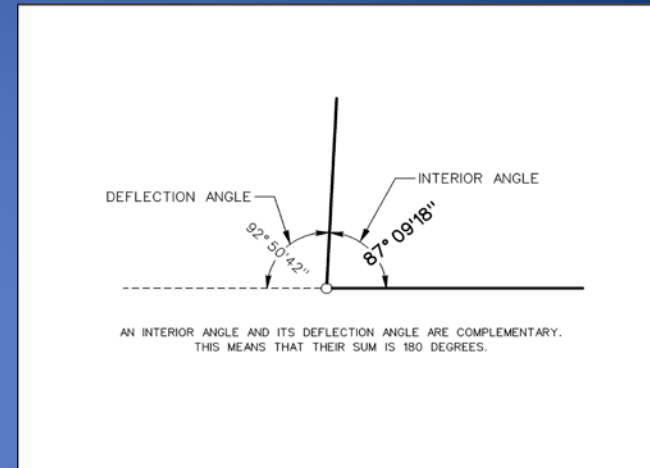
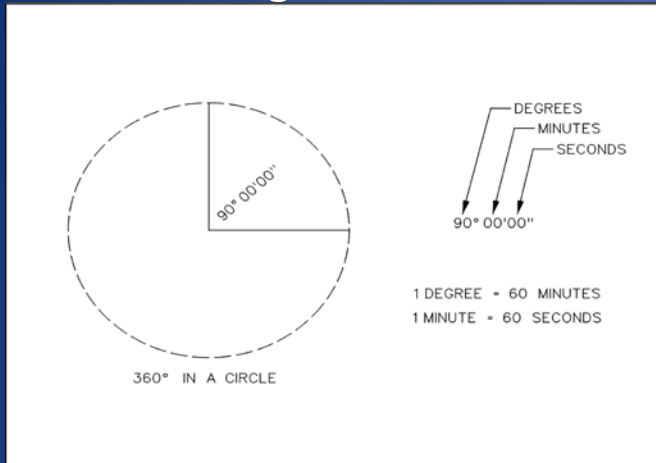
Surveys and Land Descriptions

- 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

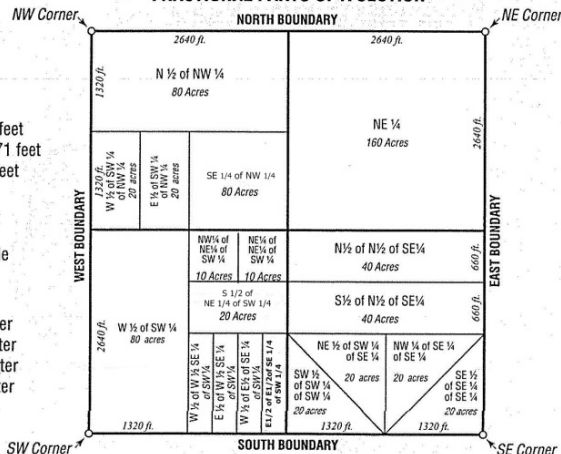
MEASURING SYSTEM

- 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

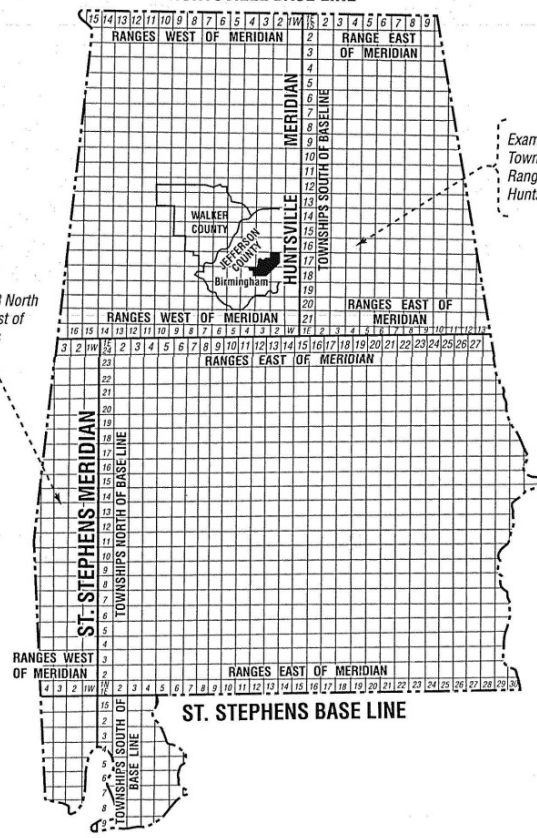
TERMS

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

FRACTIONAL PARTS OF A SECTION



HUNTSVILLE BASE LINE



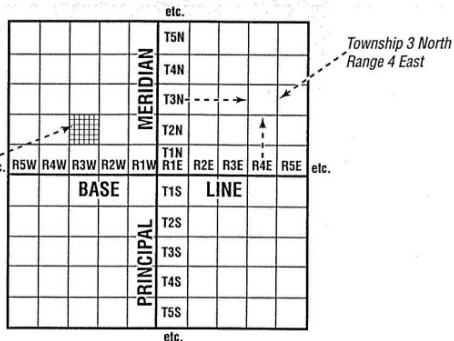
Example:
Township 13 North
Range 3 West of
St. Stephens
Meridian

Example:
Township 16 South
Range 4 East of
Huntsville Meridian

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



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 }

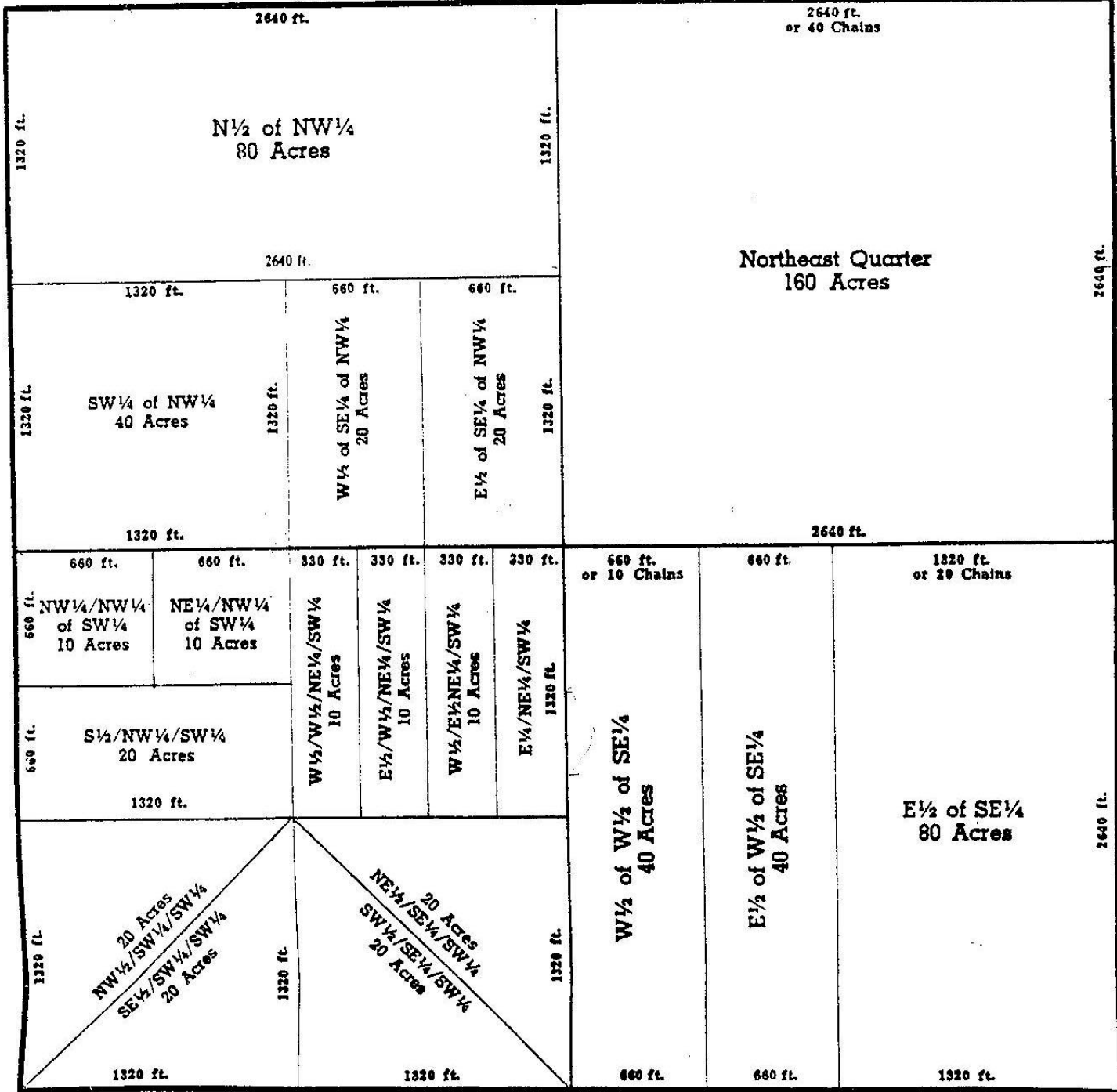
SQUARE MEASURE

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

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

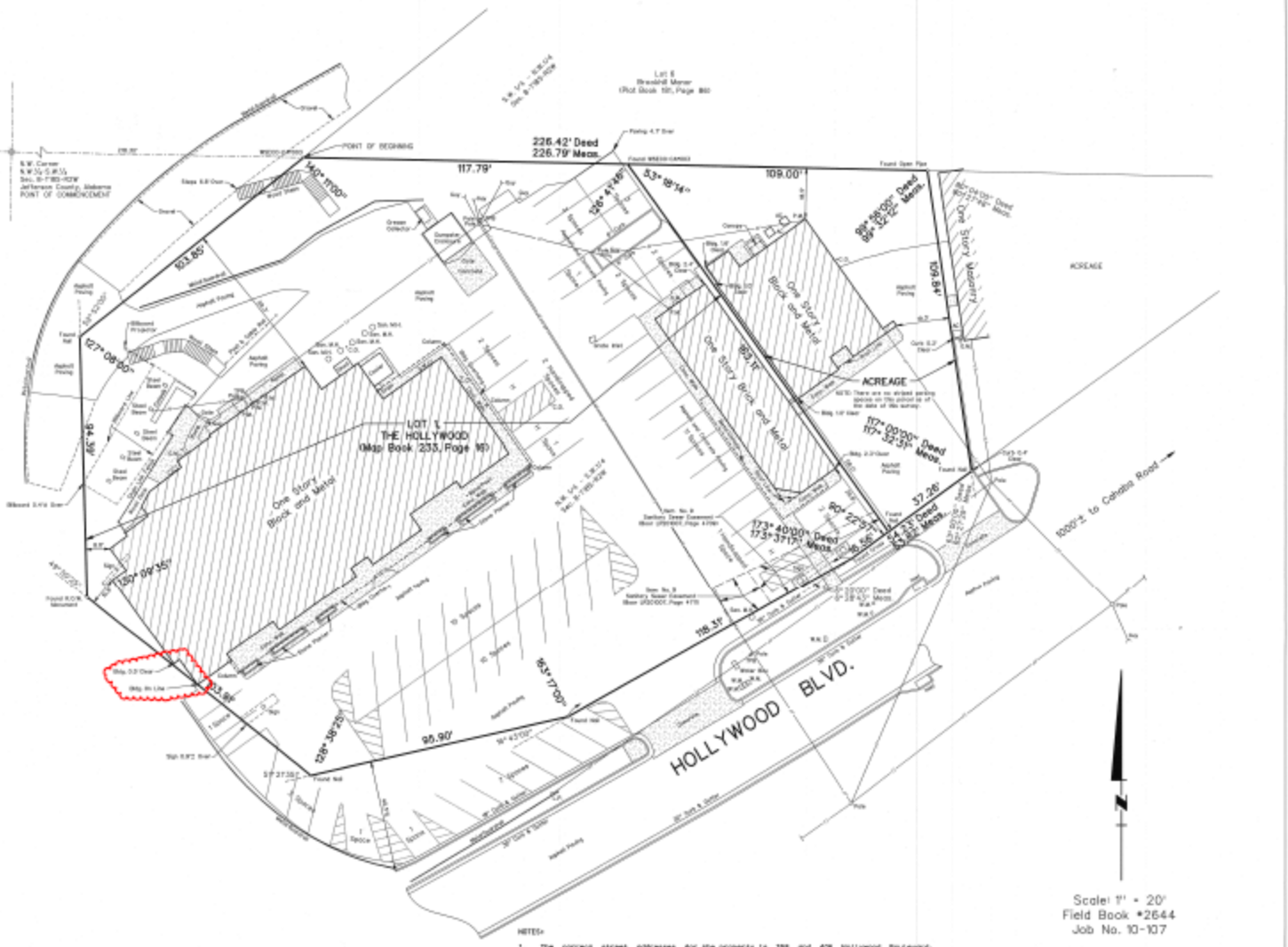
Surveys and Land Descriptions

- 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
 - FENCE
 - WATER METER
 - GAS METER
 - LIGHT POLE
 - CLEANOUT
 - POWER METER
 - TELEPHONE PULL BOX
 - AIR CONDITIONING UNIT
 - CONCRETE
 - WALL

- NOTES:**
- The survey street addresses for the property is 388 and 408 Hollywood Boulevard, Birmingham, Alabama 35205. 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 annual chance floodplains) as shown on the National Flood Insurance Program (NFIP) Flood Insurance Rate Map of Jefferson County, Alabama, according to Panel 867 of 550, Inc. Number 41030555A dated December 3, 2013, as published by the Federal Emergency Management Agency. (ALTA/ACSM Table "A" - Item No. 3)
 - The subject property is zoned "B-3" General Business District in the City of Birmingham, Alabama. The zoning requirements and height 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 verbal confirmation with 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 are within 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. 11)
 - 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 jbeal@jfb.com.

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

SURVEY CERTIFICATION

STATE OF ALABAMA
JEFFERSON COUNTY

I, the undersigned, J. Bealgher, Jr., a division of JFB&B, Inc. the successors and their interests may appear hereon, do hereby certify that this map or plan and the survey on which it is based is in accordance with the 2011 National Standard Detail Requirements for ALTA/ACSM Land Title Surveys established and adopted by ALTA and NSPS, and includes those 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

LEGAL DESCRIPTION

Part of the Northwest 1/4 of the Southwest 1/4 of Section 8, Township 19 South, Range 2 West, Jefferson County, Alabama, hereinafter described as follows:

Begin at the Northwest corner of said quarter quarter section and run due East the North 1/2 line thereof for a distance of 215.35 feet to the point of beginning of one acre, then from the point of beginning the line of said quarter quarter section due North for a distance of 158.40 feet to the East line of said quarter quarter section for a distance of 228.42 feet; thence run a 200' to the right and run Northwesterly for a distance of 158.40 feet; thence run 80' to the right and run Southwesterly for a distance of 54.53 feet; thence run 80' to the right and continue Southwesterly for a distance of 118.31 feet; thence run 18' to the right and continue Southwesterly for a distance of 95.90 feet; thence run an angle of 51°21'20" to the right and run Northwesterly for a distance of 105.90 feet; thence run an angle of 88°32'20" to the right and run Northwesterly for a distance of 105.90 feet; thence run an angle of 52°30" to the right and run Northwesterly for a distance of 105.90 feet to the point of beginning.

Part of the property now known as Lot 1, situated on the East 1/2 of the NE 1/4 of Section 18, Township 19 South, Range 2 West, Jefferson County, Alabama, hereinafter described as follows:

Containing 30.263 square feet or 1.265 acres.

Exception	Reference	Description
2140 No. 1, 2141, 2141, 2141	2141 and 2	These are not surveying errors or addressed by the surveyor.
Item No. 4	Volume 1963, Page 190	Right-of-way granted to Jefferson County. The surveyor is unable to determine if the right of way conveyed would now be within the limits of the current right-of-way Boulevard or U.S. Highway 280.
	Volume 1963, Page 417	Right-of-way granted to Jefferson County. The surveyor is unable to determine if the right of way conveyed would now be within the limits of 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 right of way conveyed would now be within the limits of the current right-of-way Boulevard or U.S. Highway 280.
Item No. 6		Title to all interests within and practices together with all other rights, privileges and interests therein.
Item No. 7	See Volume 516, Page 586	Right of way granted to Alabama Power Company to locate and use subject property in its entirety.
Item No. 8	Book 1420008, Page 1678	Agreed to by and between Jefferson County and the Alabama Power Company to locate and use subject property in its entirety.
Item No. 9	Book 1829197 Page 438	Right-of-way granted to Jefferson County Power. Easement is shown on the subject property.
	Book 1829197 Page 411	Right-of-way granted to Jefferson County Power. Easement is shown on the subject property.

ZONING DATA

DEFECTY "N" GENERAL BUSINESS DISTRICT
THE CITY OF BIRMINGHAM, ALABAMA

RECORDING OFFICE REQUIREMENTS

FRONT FENCE
SIDE FENCE
REAR FENCE

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

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 19 SOUTH, RANGE 2 WEST, JEFFERSON COUNTY, ALABAMA

DATE REVISIONS: 10/31/2012

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.