

STATE OF ALABAMA)

SHELBY COUNTY)

RESTRICTIVE COVENANTS

THESE RESTRICTIVE COVENANTS (the "Restrictive Covenants") are made and entered into as of the 6th day of May, 1997 by and between ROY W. GILBERT and wife, JUDITH L. GILBERT (collectively, "Gilbert"), and DANIEL OAK MOUNTAIN LIMITED PARTNERSHIP, an Alabama limited partnership ("Daniel").

RECITALS:

Gilbert is the owner of approximately 17 acres, more or less, of unimproved real property (the "17 Acre Tract") situated in Shelby County, Alabama which is more particularly described in Exhibit A attached hereto and incorporated herein by reference (which is more particularly shown on Exhibit B attached hereto and incorporated herein by reference.

Contemporaneously herewith, Daniel has transferred and conveyed to Gilbert approximately 28 acres, more or less, of unimproved real property (the "28 Acre Tract") situated in Shelby County, Alabama which is more particularly described in Exhibit C attached hereto and incorporated herein by reference; and

In consideration of the conveyance of the 28 Acre Tract to Gilbert by Daniel, Gilbert has agreed to subject the 17 Acre Tract and the 28 Acre Tract (hereinafter collectively referred to as the "Gilbert Property") to the terms, provisions, conditions and requirements of these Restrictive Covenants.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Gilbert hereby agrees that the Gilbert Property shall be held, owned, sold, transferred, conveyed, hypothecated, encumbered, leased, occupied, built upon and otherwise used, improved and maintained subject to the following covenants, conditions and restrictions:

1. Use Restrictions.

(a) Subject to the terms and conditions of Paragraph 5 below, the Gilbert Property shall be used for Single-Family Residential Purposes and Ancillary Purposes, as such terms are hereinafter defined. As used herein, the term "Single-Family Residential Purposes" shall mean and include

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any attached or detached dwelling units for single-family residential use and occupancy, including, without limitation, patio and garden homes and townhouses (hereinafter sometimes individually referred to as "Dwelling" and collectively as "Dwellings") which may include one or more of the following additional structures (collectively, "Additional Structures"): attached or detached garages, barns, stables, guest houses, servant quarters, pools, pool houses, cabanas, tennis courts, boat houses and similar structures as are normally and customarily found in single-family residential communities. As used herein, the term "Ancillary Purposes" shall mean and include any of the following uses and purposes:

(i) Public or private golf courses and related facilities and amenities normally and customarily found at public and private golf courses and country clubs, including, without limitation, maintenance buildings, golf cart storage areas, parking facilities, clubhouses (which may utilize modular buildings and may include administrative offices, pro shops, restrooms, locker rooms, kitchens, bars, grills, food and beverage preparation and consumption areas and other areas which are normally and customarily found in clubhouses of public or private golf courses or country clubs), on-course restroom, snack bar, grill and beverage facilities, lakes, ponds, retention ponds and swim and tennis facilities;

(ii) Golf and tennis tournaments and events, including any and all temporary or permanent structures, tents, grandstands, pavilions and other facilities and improvements which are normally and customarily utilized in connection with any golf or tennis tournaments and events;

(iii) Lakes and ponds for fishing and other water-related activities, equestrian, horseback riding and training facilities and any other private, non-commercial outdoor recreational pursuits;

(iv) Any and all lines, pipes, conduits, equipment, machinery and appurtenances which may be necessary or required in order to provide any utility services, master television and cable television systems and services, security systems and services and similar systems and services to any portion to the Gilbert Property or any other real property situated adjacent to or in close proximity with the Gilbert Property;

(v) Any and all public or private roadways and streets

as may be necessary in connection with the development and use of any portion of the Gilbert Property or any other real property situated adjacent to and in close proximity with the Gilbert Property; and

(vi) Such other buildings, structures, improvements or uses which are related to any of the foregoing.

(b) The use of any portion of a Dwelling as an office by any owner or occupant thereof shall not be considered a violation of the restrictions set forth in this Paragraph 1 if such use does not create regular customer, client or employee traffic. Furthermore, the leasing or rental of a Dwelling for Single-Family Residential Purposes only shall not be considered a violation of the restrictions set forth in this Paragraph 1.

2. **Mobile Homes and Trailers.** No temporary houses, mobile homes, trailers or similar buildings or structures of any nature shall be permitted, constructed, installed or allowed to remain on the Gilbert Property; provided, however, that the foregoing shall not be deemed to prohibit such structures when used as construction trailers and for sales offices or in connection with any Ancillary Purposes or any golf, tennis or similar recreational and/or athletic tournaments held on any portion of the Gilbert Property.

3. **Restrictive Covenants.** To the extent any portion of the Gilbert Property is subdivided for single-family residential purposes, then that portion of the Gilbert Property which has been subdivided shall be subjected to additional restrictive covenants (the "**Additional Covenants**") to be mutually agreed upon by Gilbert and Daniel, the form of which shall be substantially similar to the Greystone Residential Declaration of Covenants, Conditions and Restriction dated as of November 6, 1990 and recorded in Deed Book 317, Page 260 in the Office of the Judge of Probate of Shelby County, Alabama, as the same has been amended from time to time, which Additional Covenants shall also specify, among other things, minimum square footages of any Dwellings, minimum building setbacks and other terms and conditions as may be mutually agreed upon by Gilbert and Daniel.

4. **Exclusions.** Notwithstanding anything provided herein to the contrary, in the event any portion of the Gilbert Property is developed for use solely by Gilbert or any of their children or grandchildren, then the terms and provisions of Paragraph 3 above shall not be applicable and, for so long as all of the Gilbert Property is owned by Gilbert or any of their children or grandchildren, the Gilbert Property shall not be subject to any Additional Covenants.

5. **Termination of Restrictive Covenants.** Notwithstanding anything provided herein to the contrary, if, for any reason, Daniel (or any of its subsidiaries or affiliates) have not acquired on or before two (2) years from the date of these Restrictive Covenants that certain real

property situated directly adjacent to portions of the Gilbert Property which is owned by Stillmeadow Farms, Ltd., an Alabama limited partnership, then these Restrictive Covenants shall automatically terminate, be deemed null and void and of no further force or effect. If these Restrictive Covenants have been terminated in accordance with the terms and provisions of this Paragraph 5, then Daniel agrees to execute and deliver to Gilbert any and all documents, instruments and agreements which may be reasonably requested in order to acknowledge and agree that these Restrictive Covenants have been terminated.

6. **Miscellaneous.** Subject to the terms and provisions of Paragraph 5 above:

(a) These Restrictive Covenants and each term and provision hereof shall be deemed a covenant running with the land and shall be binding upon Gilbert and all subsequent owners of any portion of the Gilbert Property.

(b) These Restrictive Covenants constitutes the entire agreement between the parties with respect to the subject matter hereof and may be amended and modified only by the written consent of, (i) Daniel and (ii) the owners of the Gilbert Property.

(c) All of the terms, covenants, provisions, promises, conditions, rights and obligations granted, created or agreed to pursuant to these Restrictive Covenants shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

(d) If any provision of these Restrictive Covenants or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then the remainder of these Restrictive Covenant or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each provision shall be valid and enforceable to the fullest extent permitted by law.

(e) The captions and headings contained in these Restrictive Covenants are for convenience of reference only and shall not be used in the construction or interpretation of any of the provisions thereof.

(f) All personal pronouns used in these Restrictive Covenants, whether used in the masculine, feminine or neuter gender, shall include all other genders. The use of the singular tense shall include the plural and the plural shall include the use of the singular.

(g) In addition to the acts and deeds recited herein and contemplated to be performed, executed and delivered by the parties hereto, each party hereto agrees to perform, execute and deliver or cause to be delivered, executed and delivered, but without any obligation to incur any additional liability or expense, any and all further acts, deeds and assurances as may be reasonably necessary to consummate the transactions and obligations contemplated herein.

IN WITNESS WHEREOF, Gilbert has executed these Restrictive Covenants as of the day and year first above written.



Roy W. Gilbert, Jr.



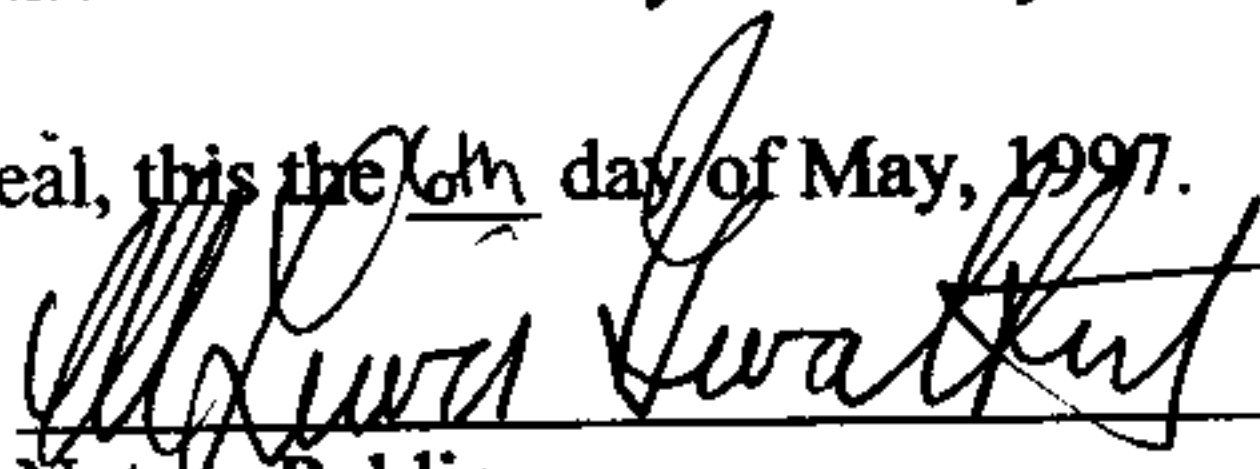
Judith L. Gilbert

STATE OF ALABAMA)

COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Roy L. Gilbert, Jr. and wife, Judith L. Gilbert, whose names are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of said instrument, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this the 10th day of May, 1997.



Notary Public

My Commission Expires: 1-27-2001

This instrument prepared by:

Stephen R. Monk, Esq.
Bradley Arant Rose & White LLP
2001 Park Place North, Suite 1400
Birmingham, Alabama 35203

EXHIBIT A

Legal Description of 17 Acre Tract

That portion of the following described real property (the "Property") lying east of the existing driveway (or roadway) situated on the Property which runs from that certain unnamed Shelby County roadway which intersects with Saddle Creek Trail, a private roadway, to the common boundary of the Property and certain real property situated directly adjacent to the Property owned by Walter D. Dickson. As used herein, the "Property" shall mean the following:

The NE1/4 of NE 1/4 of Section 28, Township 18 South, Range 1 West, and the SE 1/4 of SE1/4 of Section 21, Township 18 South, Range 1 West, Shelby County, Alabama, LESS AND EXCEPT the following described parcels of land:

(1) Begin at the Northwest corner of said SE1/4 of SE 1/4; thence 348.39 ft. south along the west line of said SE 1/4 of SE1/4 to top of ridge; thence Northwesterly 410.1 ft., more or less to a point on the North line of said SE1/4 of SE1/4, said point being 211.93 ft., east of the point of beginning as measured along said North line, thence 211.93 ft. westerly along the North line of said SE 1/4 of SE 1/4 to the Northwest corner of said SE1/4 of SE1/4 which is the point of beginning to the excepted area herein described.

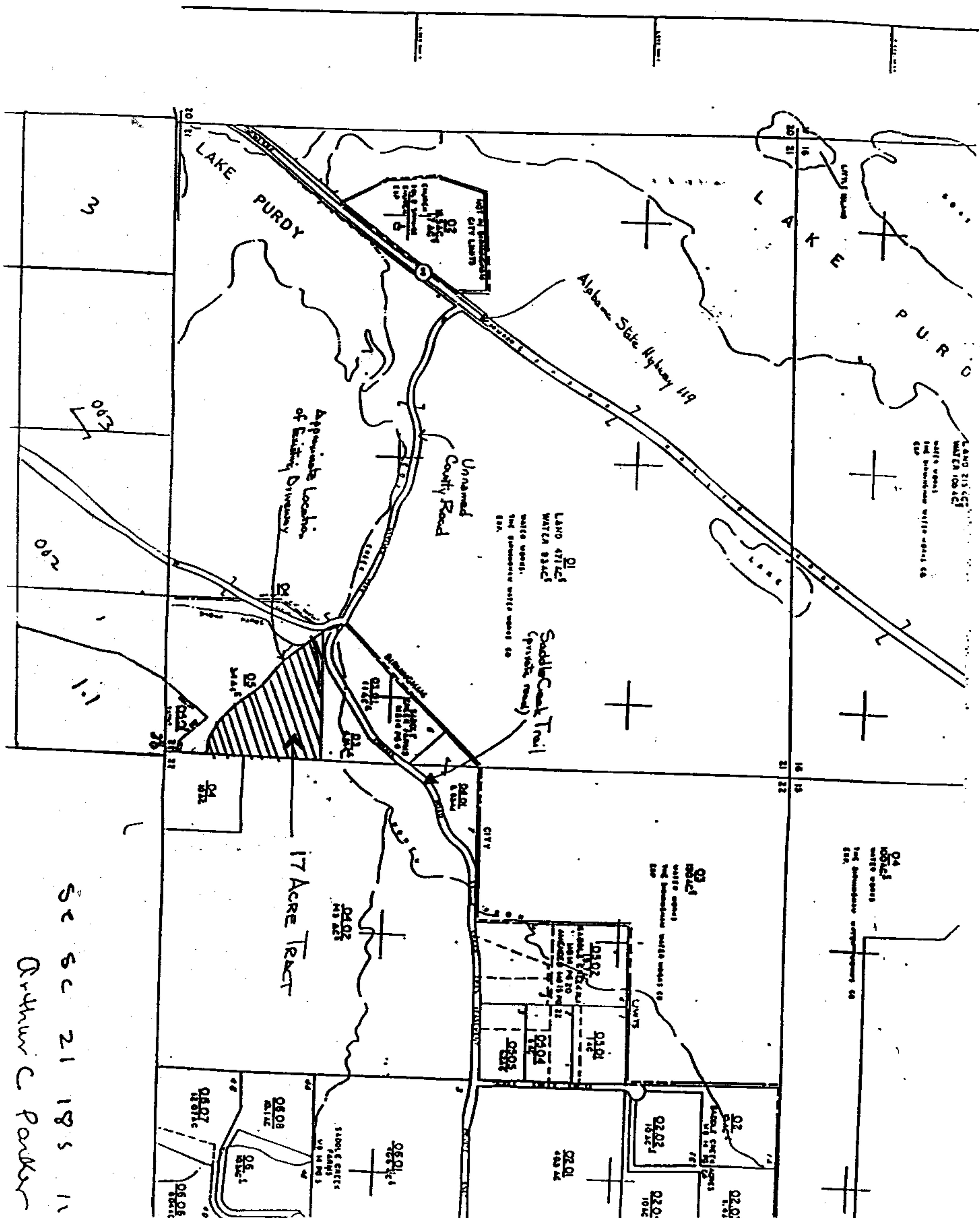
(2) Part of the SE1/4 of SE1/4 of Section 21 and the NE1/4 of NE1/4 of Section 28, all in Township 18 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Beginning at the southeast corner of said NE1/4 of NE1/4 of Section 28, run in a Northerly direction along the east line of said 1/4 - 1/4 Section for a distance of 1322.75 ft., more or less, to the southeast corner of the SE1/4 of SE1/4 of said Section 21; thence turn an angle to the right of 0 Deg. 35' and run in a northerly direction along the east line of said SE1/4 of SE 1/4 for a distance of 97.91 ft.; thence turn an angle to the left of 79 deg. 23' 10" and run in a northwesterly direction for a distance of 103.60 ft.; thence turn an angle to the right of 38 deg. 07' 40" and run in a northwesterly direction for a distance of 308.71 ft.; thence turn an angle to the left of 101 deg. 09' 05" and run in a southwesterly direction for a distance of 818.93 ft.; thence turn an angle to the left of 28 deg. 18' 57" and run in a southwesterly direction for a distance of 1049.84 ft., more or less, to a point on the south line of said NE1/4 of NE1/4 of Section 28, Township 18 South, Range 1 West; thence turn an angle to the left of 100 deg. 02' 43" and run in an easterly direction for a distance of 987.72 ft., more or less to the point of beginning.

(3) Starting at the northwest corner of SE1/4 of SE1/4 of Section 21, Township 18 South, Range 1 West, go south along the western line of said 1/4 - 1/4 Section for a distance of 348.39 ft. to the point of beginning; thence continue South along said westerly line of said 1/4 - 1/4 section for a distance of 335 feet, more or less to the point where said west line of said 1/4 - 1/4 section intersects with the county road, thence turn to the left and go northeasterly along and parallel with the western edge of said county road to the point where said western edge of said county road intersects with the north line of said 1/4 - 1/4 section; thence turn west and go along said north line of said 1/4 - 1/4 section to a point that is 211.93 ft. east of the northwest corner of said 1/4 - 1/4 Section; then turn to the left and go in a southwesterly direction 410.1 ft. to the point of beginning.

The 17 Acre Tract is also shown on Exhibit B attached hereto and incorporated herein by reference.

EXHIBIT B



Sec 21 1893
Arthur C Parker

EXHIBIT C

Part of the SE 1/4 of SE 1/4 of Section 21 and the NE 1/4 of NE 1/4 of Section 28, all in Township 18 South, Range 1 West, Shelby County Alabama, being more particularly described as follows:

Beginning at the Southeast corner of said NE 1/4 of NE 1/4 of Section 28, run in a northerly direction along the east line of said 1/4 1/4 section for a distance of 1322.75 feet, more or less, to the southeast corner of the SE 1/4 of SE 1/4 of said Section 21; thence turn an angle to the right of 0 deg. 35 min. and run in a northerly direction along the east line of said SE 1/4 of SE 1/4 for a distance of 97.91 feet; thence turn an angle to the left of 79 deg. 23 min. 10 sec. and run in a northwesterly direction for a distance of 103.60 feet; thence turn an angle to the right of 38 deg. 07 min. 40 sec. and run in a northwesterly direction for a distance of 308.71 feet; thence turn an angle to the left of 101 deg. 09 min. 05 sec. and run in a southwesterly direction for a distance of 818.93 feet; thence turn an angle to the left of 28 deg. 18 min. 57 sec. and run in a southwesterly direction for a distance of 1049.84 feet, more or less, to a point on the south line of said NE 1/4 of NE 1/4 of Section 28, Township 18 South, Range 1 West; thence turn an angle to the left of 100 deg. 02 min. 43 sec. and run in an easterly direction for a distance of 987.72 feet more or less to the point of beginning; being situated in Shelby County, Alabama.

Less and except the following:

Begin at a three inch capped iron locally accepted to be the southeast corner of said Section 21; thence run in a northerly direction along the east line of said Section 21 for a distance of 97.91 feet to an iron pin set, said iron being 0.42 feet southeast of a crimped iron found; thence turn an angle to the left of 79 deg. 17 min. 07 sec. and run in a northwesterly direction for a distance of 104.02 feet to a crimped iron found; thence turn an angle to the right of 38 deg. 08 min. 11 sec. and run in a northwesterly direction for a distance of 121.41 feet to an iron pin set; thence turn an angle to the left of 107 deg. 29 min. 36 sec. and run in a southwesterly direction for a distance of 426.15 feet to an iron pin set; thence turn an angle to the left of 66 deg. 13 min. 45 sec. and run in a southeasterly direction for a distance of 234.73 feet to an iron pin set; thence turn an angle to the left of 82 deg. 29 min. 34 sec. and run in a northeasterly direction for a distance of 306.33 feet to an iron pin set on the east line of said Section 28; thence turn an angle left of 63 deg. 18 min. 00 sec. and run in a northerly direction along east line of said Section 28 for a distance of 207.02 feet to the point of beginning; being situated in Shelby County, Alabama.

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