

Inst # 1999-12251

STATE OF ALABAMA)

COUNTY OF SHELBY)

03/23/1999-12251
03:36 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
008 RMS 26.00

PROPERTY COVENANTS AND RIGHT OF FIRST REFUSAL AGREEMENT

THIS PROPERTY COVENANTS AND RIGHT OF FIRST REFUSAL AGREEMENT (this "Agreement") is made and entered into as of the 23rd of March, 1999 by and among STILLMEADOW FARM, LTD., an Alabama limited partnership ("StillMeadow"), WALTER D. DICKSON, an unmarried man ("Dickson"), and GREYSTONE DEVELOPMENT COMPANY, LLC, an Alabama limited liability company ("Greystone Development").

RECITALS:

StillMeadow is the sole fee simple owner of that certain real property (the "StillMeadow Property") situated in Shelby County, Alabama which is more particularly described in Exhibit A attached hereto and incorporated herein by reference.

Dickson is the sole fee simple owner of that certain real property (the "Dickson Property") situated in Shelby County, Alabama which is more particularly described in Exhibit B attached hereto and incorporated herein by reference.

The StillMeadow Property and the Dickson Property (collectively, the "Property") are contiguous parcels of real property.

Contemporaneously herewith, StillMeadow has transferred and conveyed to Greystone Development certain real property which is situated directly adjacent to the Property.

StillMeadow, Dickson and Greystone Development desire to enter into this Agreement in order to set forth their understandings and agreements relating to certain use restrictions which shall be applicable to the Property and to evidence the right of first refusal to be granted by StillMeadow and Dickson in favor of Greystone Development to purchase all or any portion of the Property which either StillMeadow or Dickson may at any time in the future elect to transfer or sell to a third party.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Use Restrictions.** StillMeadow and Dickson do hereby covenant and agree that the Property (while owned by StillMeadow, Dickson or any of their respective Affiliates, as hereinafter defined) shall be used solely for "Single-Family Residential Purposes", as hereinafter defined. As used herein, the term "Single-Family Residential Purposes" shall mean and include any detached dwelling units for single-family residential use and occupancy and may also include any

one or more of the following additional structures: attached or detached garages, barns, stables, guest houses, servant quarters, pools, pool houses, cabanas, tennis courts, boat houses and similar buildings, structures and improvements as are normally and customarily found in single-family residential communities.

2. **Right of First Refusal.**

(a) If, at any time on or after the date of this Agreement, StillMeadow or Dickson (hereinafter collectively referred to as "**Seller**") desire to sell, transfer or convey any portion of the Property to any third party other than an Affiliate, as hereinafter defined, then Seller shall first give written notice (the "**Offer Notice**") of such intention to Greystone Development. The Offer Notice shall be in writing, shall identify the portion of the Property which Seller desires to sell (the "**First Refusal Property**") and state the minimum price and the other major economic terms upon which Seller would be willing to sell the First Refusal Property identified in the Offer Notice. Greystone Development shall have the right (the "**Right of First Refusal**"), on or before fourteen (14) days after receipt of the Offer Notice, to elect to purchase the First Refusal Property described in the Offer Notice on the terms and conditions set forth in the Offer Notice by providing written notice thereof to Seller. If Greystone Development timely exercises the Right of First Refusal, then on the 60th day following Greystone Development's receipt of the Offer Notice, (i) Seller shall transfer and convey the First Refusal Property described in the Offer Notice to Greystone Development (or its successors, assigns or designees) on the terms and conditions set forth in the Offer Notice and (ii) Greystone Development (or its successors, assigns or designees) shall contemporaneously therewith pay to Seller the consideration for the First Refusal Property described in the applicable Offer Notice.

(b) If Greystone Development fails to notify Seller in writing of its election to exercise the Right of First Refusal on or before fourteen (14) days following its receipt of the Offer Notice, then (i) Greystone Development shall, subject to the provisions of **Paragraph 2(c)** below, be deemed to have waived the Right of First Refusal with respect to the First Refusal Property described in the Offer Notice, (ii) Seller shall, for a period of nine (9) months following the giving of the applicable Offer Notice, be entitled to enter into a binding agreement (the "**Third Party Agreement**") to sell, transfer and convey the First Refusal Property described in the Offer Notice to any party for a purchase price not less than that set forth in the Offer Notice and upon such other terms which are not materially less favorable to the proposed purchaser than those set forth in the Offer Notice.

(c) If the Right of First Refusal has been waived (or, pursuant to **Paragraph 2(b)** above, deemed waived) by Greystone Development and Seller either (i) does not sell or consummate the sale of the First Refusal Property in accordance with the terms and provisions of the Third Party Agreement within nine (9) months following the giving of the applicable Offer Notice or (ii) desires to sell the First Refusal Property at a sales price less than that set forth in the Offer Notice or on other terms which are materially less favorable to Seller than those set forth in the applicable Offer Notice previously given to Greystone Development, then, in either event, Seller shall reoffer the First Refusal Property to Greystone Development pursuant to a new Offer Notice which shall be subject to all the terms and provisions of this **Paragraph 2**.

(d) The Right of First Refusal, if exercised by Greystone Development, shall be a binding agreement by Seller to sell and convey and Greystone Development to purchase and acquire the First Refusal Property on the terms and conditions set forth in the Offer Notice, which agreement shall be subject to enforcement by specific performance by both Seller and Greystone Development.

(e) If Greystone Development has timely exercised the Right of First Refusal, then the First Refusal Property shall be transferred and conveyed by Seller to Greystone Development by statutory warranty deed, free and clear of all liens and encumbrances and other matters of title other than real estate ad valorem taxes and fire district and library district dues for the then current year and all subsequent years thereafter. Real estate ad valorem taxes, library district and fire district dues for the then current tax year with respect to the First Refusal Property shall be prorated between Seller and Greystone Development as of the date of delivery of the deed.

(f) Notwithstanding anything provided herein to the contrary, the Right of First Refusal granted herein by StillMeadow and Dickson to Greystone Development shall not be applicable to any transfer, sale or conveyance of any portion of the Property by either StillMeadow or Dickson to any one or more of the descendants of Dickson or any entity created for the benefit of (e.g., a trust) or owned or controlled by any such descendants, or under common control with StillMeadow or Dickson or any of Dickson's descendants (collectively, "Affiliates"); provided, however, that the Right of First Refusal set forth in this Paragraph 2 shall be applicable to any subsequent transfer, sale or conveyance of any portion of the Property by such Affiliates to any third party (other than to any Affiliates), which terms and provisions shall be deemed covenants running with the land.

3. **Miscellaneous.**

(a) This Agreement embodies the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior written or oral agreements and undertakings of the parties relating to any of the subject matter of this Agreement. This Agreement may be modified, amended or supplemented only by an instrument in writing executed by Greystone Development and the then owners of the Dickson Property and the StillMeadow Property.

(b) The paragraph headings and captions used herein are for convenience of reference only and shall in no way define, limit, describe or restrict the scope or intent of this Agreement or in any way affect the terms and provisions hereof.

(c) This Agreement shall be binding upon and inure to the benefit of all present and future owners of the Property and their respective heirs, executors, successors and assigns.

(d) Whenever the context requires or permits, the use of the masculine gender shall be deemed to include the feminine, the singular shall include the plural and vice versa.

(e) If any provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then the remainder of this

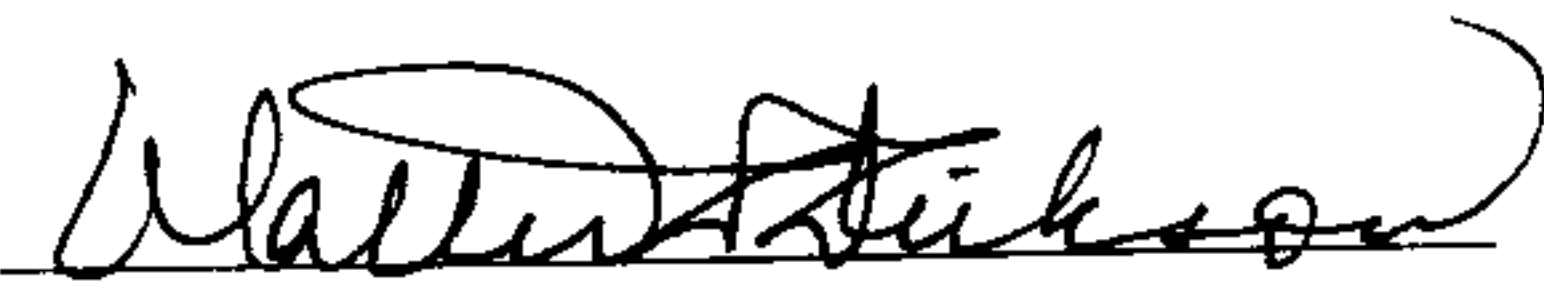
Agreement or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(f) This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama.

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

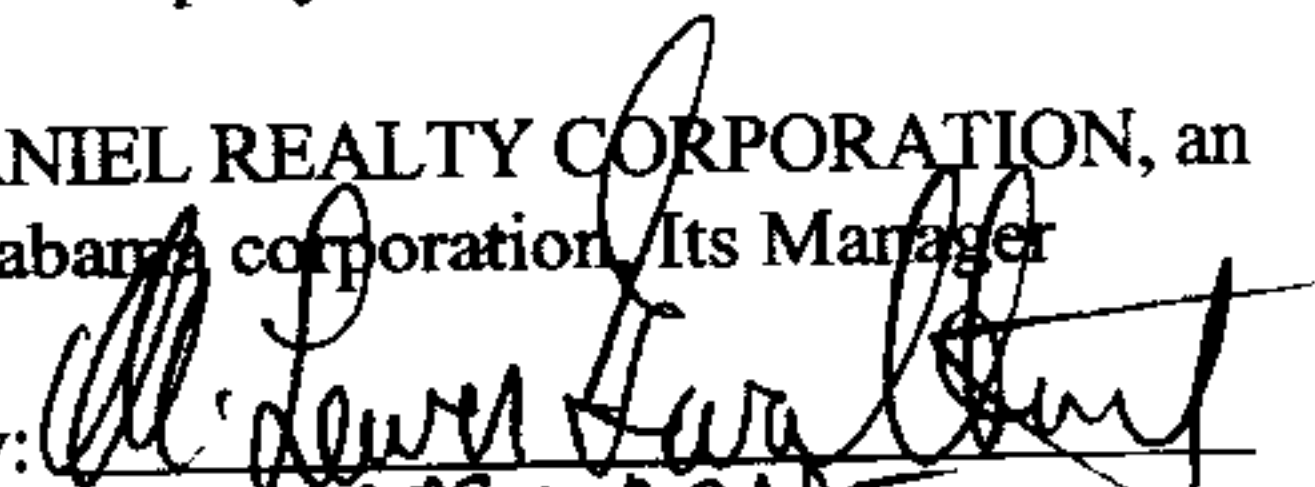
STILLMEADOW FARM, LTD., an Alabama limited partnership

By: 
Walter D. Dickson, Its Sole General Partner


Walter D. Dickson

GREYSTONE DEVELOPMENT COMPANY, LLC, an Alabama limited liability company

By: DANIEL REALTY CORPORATION, an Alabama corporation, Its Manager

By: 
Its: VICE-PRESIDENT

STATE OF ALABAMA)
 :
COUNTY OF JEFFERSON)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Walter D. Dickson, whose name as General Partner of StillMeadow Farm, Ltd., an Alabama limited partnership, 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, as such General Partner and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand and official seal this 23rd day of March, 1999.



Notary Public

[NOTARIAL SEAL]

My commission expires: 9/8/2001

STATE OF ALABAMA)
 :
COUNTY OF JEFFERSON)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Walter D. Dickson, whose name 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 executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 23rd day of March, 1999.



Notary Public

[NOTARIAL SEAL]

My commission expires: 9/8/2001

STATE OF ALABAMA)
 :
COUNTY OF JEFFERSON)

I, the undersigned, a notary public in and for said county in said state, hereby certify that M. Lewis Gwaltney, whose name as Vice President of Daniel Realty Corporation, an Alabama corporation, as Manager of Greystone Development Company, LLC, an Alabama 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 as such officer and with full authority, executed the same voluntarily for and as the act of said corporation in its capacity as Manager of Greystone Development Company, LLC.

Given under my hand and official seal this 23rd day of March, 1999.



Notary Public

[NOTARIAL SEAL]

My commission expires: 9/8/2001

This instrument prepared by and
upon recording should be returned to:

Stephen R. Monk, Esq.
Bradley Arant Rose & White LLP
2001 Park Place, Suite 1400
Birmingham, Alabama 35203
(205) 521-8429

EXHIBIT A

Legal Description of Stillmeadow Retained Acreage

A parcel of land situated in the Southwest quarter of Section 22, Township 18 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Begin at a 3" capped iron locally accepted to be the Southwest corner of said Section 22; thence run North along the west line of said Section 22 for a distance of 923.14 feet to an iron pin set; thence turn an angle to the right of 98 degrees, 48 minutes, 20 seconds and run in a Southeasterly direction for a distance of 72.98 feet to an iron pin set; thence turn an angle to the right of 03 degrees, 32 minutes, 10 seconds and run in a southeasterly direction for a distance of 208.51 feet to an iron pin set; thence turn an angle to the left of 21 degrees, 31 minutes, 33 seconds and run in a Northeasterly direction for a distance of 406.40 feet to an iron pin set; thence turn an angle to the left of 01 degree, 05 minutes, 51 seconds and run in a Northeasterly direction for a distance of 233.13 feet to an iron pin set; thence turn an angle to the right of 56 degrees, 46 minutes, 49 seconds and run in a Southeasterly direction for a distance of 415.93 feet to an iron pin set; thence turn an angle to the right of 17 degrees, 06 minutes, 05 seconds and run in a Southeasterly direction for a distance of 273.30 feet to an iron pin set; thence turn an angle to the right of 39 degrees, 44 minutes, 34 seconds and run in a Southwesterly direction for a distance of 218.12 feet to an iron pin set; thence turn an angle to the left of 15 degrees, 38 minutes, 57 seconds and run in a Southerly direction for a distance of 192.69 feet to an iron pin set on the South line of said Section 22 and also on the North line of Lot 40 in Greystone 7th Sector Phase II, as recorded in Map Book 19, on Page 121 in the Office of Judge of Probate, Shelby County, Alabama; thence turn an angle to the right of 91 degrees, 17 minutes, 16 seconds and run in a Westerly direction along the South line of said Section 22 and also along the North line of Lots 40, 39, 20, 19 and 18 in said Greystone 7th Sector Phase II and an extension thereof, for a distance of 1,271.84 feet to the point of beginning.

Less and except the Southwest quarter of the Southwest quarter of the Southwest quarter of Section 22, Township 18 South, Range 1 West, Shelby County, Alabama.

EXHIBIT B

Legal Description of Dickson Property

The Southwest quarter of the Southwest quarter of the Southwest quarter of Section 22, Township 18 South, Range 1 West, Shelby County, Alabama.

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