

STATE OF ALABAMA)

COUNTY OF SHELBY)

CONSENT AND ACKNOWLEDGMENT

THIS CONSENT AND ACKNOWLEDGMENT (this "Consent") is made and entered into as of the 15th day of June, 1999 by ~~LEWIS~~ MONTGOMERY, an unmarried man ("Montgomery") in favor of GREYSTONE DEVELOPMENT COMPANY, LLC, an Alabama limited liability company ("GDC").

* LOUIS

RECITALS:

Montgomery is the owner of Lots 4 and 5, according to the Amended Map of Saddle Creek Run, as recorded in Map Book 15, Page 22 in the Office of the Judge of Probate of Shelby County, Alabama (the "Montgomery Property").

GDC is the owner of Lot 3, according to the Amended Map of Saddle Creek Run, as recorded in Map Book 15, Page 22 in the Office of the Judge of Probate of Shelby County, Alabama ("Lot 3").

GDC is also the owner of that certain real property (the "Stanford Lot") which is situated in Shelby County, Alabama and more particularly described in Exhibit A attached hereto and incorporated herein by reference. The Montgomery Property and Lot 3 are subject to the terms and provisions of that certain Declaration of Restrictions for Saddle Creek Run Subdivision dated as of April 21, 1991 (the "Saddle Creek Run Restrictions") recorded in Real 340, Page 708 in the Office of the Judge of Probate of Shelby County, Alabama (the "Probate Office").

Saddle Creek Drive (which is also known as Saddle Creek Circle), as shown and described as Saddle Creek Drive (or Saddle Creek Circle) on the subdivision plat recorded in Map Book 15, Page 22 in the Probate Office ("Saddle Creek Drive"), is a private roadway situated on portions of the Stanford Lot owned by GDC (subject to certain easement rights reserved over and across that portion of the Stanford Lot upon which said Saddle Creek Drive is presently situated).

Saddle Creek Trail, as shown and described as Saddle Creek Trail on the subdivision plats recorded in Map Book 14, Page 5 and Map Book 15, Page 22 in the Probate Office ("Saddle Creek Trail"), is a private roadway situated adjacent to Lot 3.

GDC desires to construct a roadway (the "GDC Roadway") over, across, through, upon and along (a) Saddle Creek Trail, (b) portions of Lot 3, (c) portions of the existing Saddle Creek Drive (and, in connection therewith, GDC may utilize portions of the existing Saddle Creek Drive for the GDC Roadway or construct upon portions of the existing Saddle Creek Drive new roadway improvements which will constitute part of the GDC Roadway), and (d) portions of the

Stanford Lot, all shown in the approximate locations reflected on the plan (the "Preliminary Development Plan") attached hereto as Exhibit B and incorporated herein by reference.

In connection with the construction of the GDC Roadway, GDC may also construct one or more electronic gates (collectively the "Gates") over portions of the GDC Roadway, Saddle Creek Trail and Saddle Creek Drive.

Montgomery has agreed to consent to the construction of the GDC Roadway and the Gates by GDC and the utilization of Saddle Creek Trail and Saddle Creek Drive for access purposes in connection with the development by GDC of the Stanford Lot, those portions of Lot 3 depicted in the Preliminary Development Plan and approximately 700 other acres of real property situated adjacent thereto or in close proximity therewith (collectively, with the applicable portions of Lot 3 depicted in the Preliminary Development Plan and the Stanford Lot, the "Greystone Phase II Development").

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

1. Consent to Construction of GDC Roadway.

(a) Montgomery does hereby acknowledge, agree and consent to:

(i) the construction, installation, maintenance, repair and replacement of the GDC Roadway in the approximate locations reflected on the Preliminary Development Plan over, across, through, upon and along (1) Saddle Creek Trail, (2) portions of Lot 3, (3) portions of the existing Saddle Creek Drive, as the same may be improved by GDC (including, specifically, utilizing portions of the existing Saddle Creek Drive as part of the GDC Roadway or constructing new improvements upon portions of the existing Saddle Creek Drive as part of the GDC Roadway) and (4) portions of the Stanford Lot, in order to provide vehicular and pedestrian access to and from all portions of the Greystone Phase II Development and other real property commonly known as "Greystone", which has been developed by entities affiliated with GDC; and

(ii) the construction, installation, maintenance, use, operation and replacement of the Gates and either above ground or below ground golf cart/pedestrian paths, crossings or tunnels (collectively, the "Cart Paths") and Utility Lines, as hereinafter defined, on any portion of the GDC Roadway, Saddle Creek Trail, Saddle Creek Drive, the Stanford Lot and on those portions of Lot 3 depicted in the Preliminary Development Plan.

(b) Montgomery does further acknowledge, agree and consent to the development and use of all or any portion of the Stanford Lot and those portions of Lot 3 depicted in the Preliminary Development Plan for Golf Course Purposes, as hereinafter defined. As used

herein, the term "Golf Course Purposes" shall mean and include golf courses and related improvements, facilities and amenities, including, without limitation, the Cart Paths, an irrigation pump house and various temporary structures and other facilities which may be utilized in connection with golf tournaments; provided, however, that (i) other than the Cart Paths and the GDC Roadway, all other improvements, facilities and amenities on those portions of Lot 3 depicted in the Preliminary Development Plan shall be placed underground and (ii) the remaining portions of Lot 3 may be utilized for any of the purposes and uses set forth in the Saddle Creek Run Restrictions.

(c) In the event GDC determines that any portion of the GDC Roadway will be located in locations substantially different from those shown on the Preliminary Development Plan, then any such changes in the Preliminary Development Plan shall be subject to Montgomery's approval, which approval will not be unreasonably withheld or delayed. Furthermore, GDC covenants and agrees that no additional buildings and no additional above-ground utility equipment or fixtures will be constructed on those portions of Lot 3 depicted in the Preliminary Development Plan without the prior written consent of Montgomery, which consent shall not be unreasonably withheld or delayed.

2. **Saddle Creek Run Restrictions.** GDC and Montgomery (a) consent to and approve the proposed Amended and Restated Restrictive Covenants for Saddle Creek Run Subdivision (the "Amended and Restated Restrictions") attached hereto as Exhibit C and incorporated herein by reference, which Amended and Restated Restrictions will amend and restate the existing Saddle Creek Run Restrictions and (b) covenant and agree that, to the extent all other property owners subject to the existing Saddle Creek Run Restrictions and their respective mortgagees execute the Amended and Restated Restrictions, then GDC and Montgomery will also execute the same. The provisions of this Paragraph 2 shall run with title to Lot 3 and the Montgomery Property and shall be binding upon and inure to the benefit of GDC, Montgomery and their respective heirs, executors, successors and assigns.

3. **Additional Terms and Provisions.** Notwithstanding anything provided to the contrary in the Saddle Creek Run Restrictions, Montgomery does hereby acknowledge, agree and consent to the following: (a) the transfer and conveyance by GDC of the northernmost 66 feet of Lot 3 (the "66-Foot Property") along the common boundary line of Lot 3 and Lot 2, according to the Amended Map of Saddle Creek Run, as recorded in Map Book 15, Page 22 in the Office of the Judge of Probate of Shelby County, Alabama ("Lot 2") to the owner of Lot 2 and (b) the resubdivision of (i) the 66-Foot Property and Lot 2 into one (1) lot and (ii) the remainder of Lot 3 into two (2) lots, one of which will contain at least four (4) acres (which will include the real property upon which the existing dwelling on Lot 3 is situated), and the second of which will contain approximately one (1) acre, more or less (which will be utilized by GDC for the GDC Roadway, the Utility Lines and Golf Course Purposes)(the amended subdivision record map reflecting the foregoing is hereinafter referred to as the "Amended Map"). Montgomery and GDC acknowledge and agree that the resubdivided portion of Lot 3 containing approximately one (1) acre, more or less, will be substantially as depicted in the Preliminary Development Plan, and shall be excluded from the applicability of the Amended and Restated Restrictions. Notwithstanding the exclusion of such one (1) acre, more or less, portion of Lot 3 from the applicability of the Amended and Restated

Restrictions, GDC's development of such one (1) acre, more or less, shall be in conformance with, and subject to the terms and conditions of, this Consent. Under no circumstances shall the portion of Lot 3 upon which the existing residential dwelling is located consist of less than four (4) acres. GDC and Montgomery agree to execute and deliver any and all consents, documents and maps as may be required by all applicable governmental authorities in connection with the Amended Map. The Amended and Restated Restrictions shall reflect and refer to the Amended Map.

4. Miscellaneous.

(a) Amendments. This Consent may be amended or modified only by a written instrument executed by GDC and the then current owner(s) of the Montgomery Property and Lot 3.


(b) Applicable Law. This Consent shall be governed by, and considered in accordance with, the laws of the State of Alabama.

(c) Captions. The captions or headings used herein are included for convenience and general reference only and shall not be construed to describe, define or limit the scope, intent or construction of this Consent.

(d) Binding Effect. This Consent shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, personal representatives, administrators, successors and assigns.

(e) Covenants Running with the Land. All of the terms and provisions of this Consent shall be deemed and are covenants running with the land which shall be binding upon and inure to the benefit of Montgomery, GDC and their respective heirs, executors, personal representatives, successors and assigns.

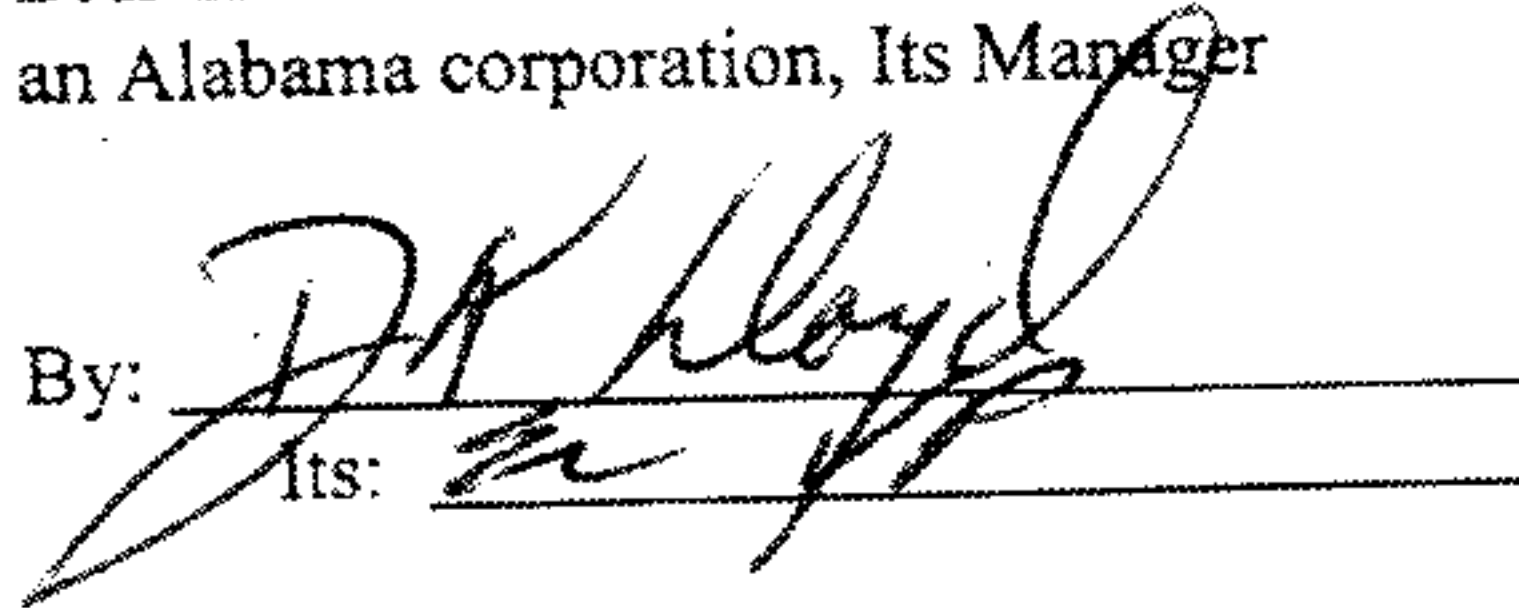
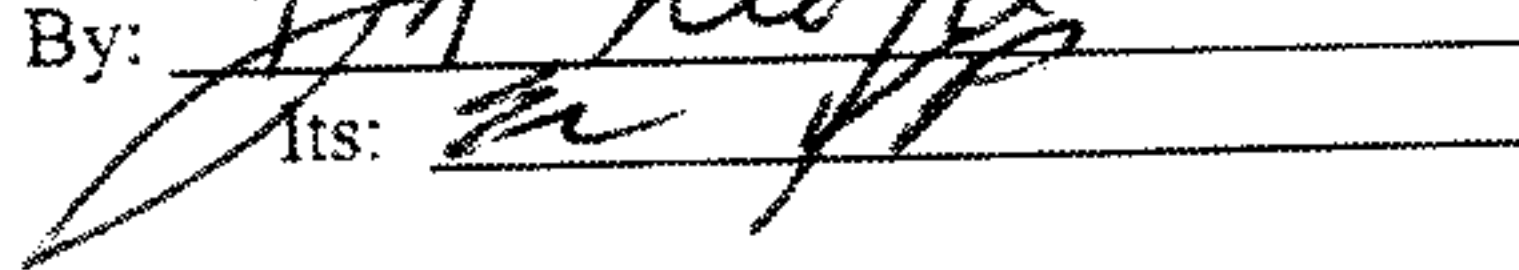
IN WITNESS WHEREOF, the parties hereto have executed this Consent as of the day and year first above written.



Lewis Montgomery
Lewis
REM

GREYSTONE DEVELOPMENT COMPANY,
LLC, an Alabama limited liability company

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

By: 
Its: 

STATE OF ALABAMA)

SHELBY COUNTY)

Louis I, the undersigned, a notary public in and for said county in said state, hereby certify that Louis Montgomery, an unmarried man, 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 15th day of June, 1999.

Diane S. Lively
Notary Public

My commission expires April 25, 2001

[NOTARIAL SEAL]

STATE OF ALABAMA)

SHELBY COUNTY)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Donald K. Lloyd, whose name as Senior 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 the aforesaid limited liability company.

Given under my hand and official seal this 15th day of June, 1999.

[Signature]
Notary Public

My commission expires: 9/8/2001

[NOTARIAL SEAL]

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

EXHIBIT A TO CONSENT AND ACKNOWLEDGMENT

LEGAL DESCRIPTION OF STANFORD LOT

A parcel of land situated in part of the Southwest quarter of the Northeast quarter of Section 22, Township 18 South, Range 1 West and also being a part of Lot 1-E in Saddle Creek Acres as recorded in Map Book 14 on Page 8 in the Office of Judge of Probate, Shelby County, Alabama, being more particularly described as follows:

Begin at a 5/8" rebar locally accepted to be the Southwest corner of said quarter-quarter section; thence run North along the West line of said quarter-quarter section for a distance of 1,333.44 feet to a 5/8" rebar and cap; thence turn an angle to the right of 89 degrees, 22 minutes, 24 seconds and run in a Easterly direction along the North line of said quarter-quarter section for a distance of 1,321.06 feet to a 3/8" rebar found; thence turn an angle to the right of 90 degrees, 28 minutes, 00 seconds and run in a Southerly direction along the East line of said quarter-quarter section for a distance of 923.72 feet to an iron pin set; thence turn an angle to the right of 114 degrees, 26 minutes, 19 seconds and run in a Northwesterly direction for a distance of 380.92 feet to an iron pin set; thence turn an angle to the left of 21 degrees, 36 minutes, 56 seconds and run in a Westerly direction for a distance of 69.01 feet to an iron pin set; thence turn an angle to the right of 25 degrees, 59 minutes, 52 seconds and run in a Northwesterly direction for a distance of 129.02 feet to an iron pin set; thence turn an angle to the left of 83 degrees, 53 minutes, 42 seconds and run in a Southwesterly direction for a distance of 205.10 feet to an iron pin set; thence turn an angle to the right of 11 degrees, 54 minutes, 55 seconds and run in Southwesterly direction for a distance of 139.64 feet to an iron pin set; thence turn an angle to the left of 09 degrees, 01 minutes, 56 seconds and run in Southwesterly direction for a distance of 477.66 feet to an iron pin set on the South line of said quarter-quarter section; thence turn an angle to the right of 51 degrees, 39 minutes, 53 seconds and run in a Westerly direction along the South line of said quarter-quarter section for a distance 283.88 feet to the point of beginning. Said part of the Southwest quarter of the Northeast quarter containing 30.37 acres, more or less.

EXHIBIT "B"
PRELIMINARY DEVELOPMENT PLAN

Prepared By: K.B. Wayland and Assoc.
2233 Cahaba Valley Drive
Birmingham, AL 35242
(205) 991-8965

Date: June 14, 1999

Scale: 1" = 200'

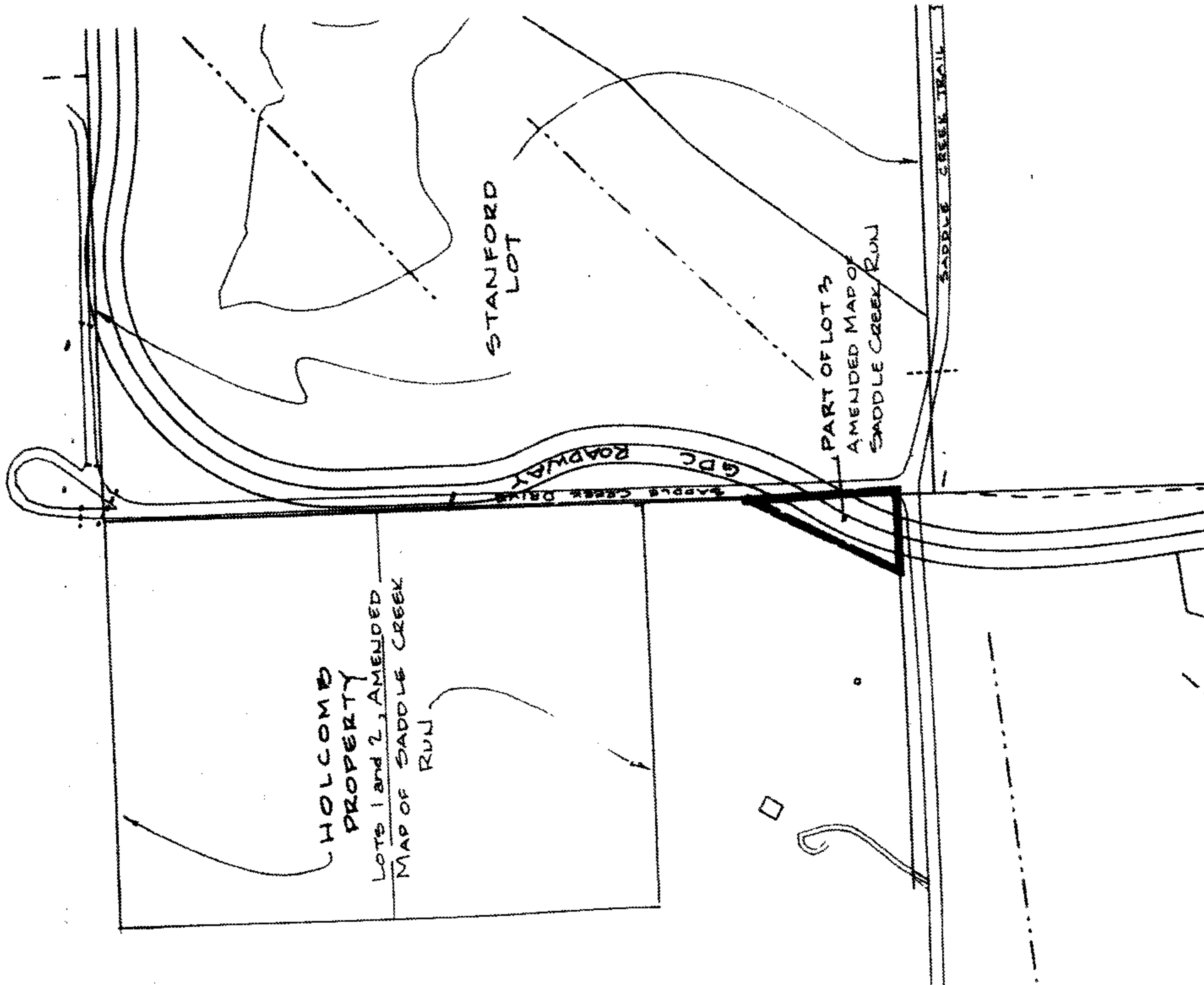


EXHIBIT "C"

**STATE OF ALABAMA
SHELBY COUNTY**

**AMENDED AND RESTATED
DECLARATION OF RESTRICTIONS
FOR SADDLE CREEK RUN SUBDIVISION**

THIS AMENDED AND RESTATED DECLARATION OF RESTRICTIONS FOR SADDLE CREEK RUN SUBDIVISION (these "Restrictions"), made and entered into as of the _____ day of _____, _____, by and among **DAVID G. HOLCOMB** and **GINGER J. HOLCOMB; GREYSTONE DEVELOPMENT COMPANY, LLC**, an Alabama limited liability company; and **LEWIS MONTGOMERY** (collectively referred to herein as the "Owners").

RECITALS

A. The Owners constitute all of the owners of all the real property located within Saddle Creek Run Subdivision (the "Original Property"), situated in Shelby County, Alabama, and as set forth and depicted in (a) the Amended Map of Saddle Creek Run, as recorded in Map Book 15, Page 22, and (b) the Resurvey of Lots 2 and 3 of Saddle Creek Run, as recorded in Map Book _____, Page _____ (collectively, the "Record Maps"), in the Probate Office of Shelby County, Alabama (the "Probate Office").

B. The Original Property has heretofore been subject to the terms and conditions of that certain Declaration of Restrictions or Saddle Creek Run Subdivision (the "Declaration"), as recorded in Real 340, Page 708, in the Probate Office.

C. The Owners desire to amend and restate the Declaration as herein provided.

NOW, THEREFORE, for and in consideration of the premises, and the mutual covenants herein expressed, and other good and valuable considerations, the Owners do hereby covenant and agree that no one of them, their heirs, executors, administrators, successors or assigns, will convey any of the Property, as hereinafter defined, unless such conveyance is made subject to the following conditions, restrictions and limitations:

1. As used herein, the term "Property" shall mean and refer only to (a) Lots 1, 4, and 5, according to the Amended Map of Saddle Creek Run, as recorded in Map Book 15, Page 22 in the Probate Office and (b) Lots 2-A and 3-A, according to the Resurvey of Lots 2 and 3 of Saddle Creek Run, as recorded in Map Book _____, Page _____ in the Probate Office. The Owners acknowledge and agree that Lot 3-B according to the Resurvey of Lots 2 and 3 of Saddle Creek Run, as recorded in Map Book _____, Page _____ in the Probate Office (the "Excluded Lot") is

not part of the Property and shall not be subject to these Restrictions. In addition, the Excluded Lot is not a Tract (as hereinafter defined) for purposes of paragraph 8 hereof or any other purpose. Each Tract within the Property shall be used for single-family residential purposes only, with no more than one primary residence and no more than one guest house on each Tract. There shall be no commercial or industrial use of the Property; nor shall any other such commercial activities be conducted on the Property in such a fashion so as to create an objectionable condition of noise pollution, odor pollution, sanitary pollution or physical intrusion as a direct or indirect consequence of such conduct. A condition shall be deemed objectionable when it shall impair the free and proper use of adjacent properties or any portion of the Property for residential purposes.

2. No Owner or subsequent owner shall create or permit a nuisance on any part of the Property.

3. There shall not be built, maintained, or kept on any portion of the Property a cesspool, privy, or privy vault or receptacle of any kind for the storage or liquid waste, except septic tanks of an improved type satisfactory to the Shelby County Health authorities properly laid with the under-drains. No septic tanks may be constructed within twenty (20) feet of an adjoining property line. No sewer or drainage line shall be laid on any Tract within the Property which shall empty on, or become a nuisance to an adjoining Tract or the remainder of the Property, or any Owner or occupant thereof.

4. The Property consists of forty (40) acres \pm , which is further divided into five (5) separate tracts (the "Tracts") in accordance with the Record Maps. No Tract shall at any time be divided in such a way as to create more than five (5) Tracts or to create a Tract that is less than four (4) acres in size.

5. All residential housing on the Property shall have a minimum square footage of 2,500 square feet in the main living areas which shall include the second story of a two story dwelling, but shall not include any area in a basement or garage, whether finished or unfinished. This restriction shall not prohibit the construction of one guest house per Tract which shall not be required to meet the minimum square footage requirements herein. Any guest house constructed on any Tract shall otherwise be subject to these Restrictions with the same force and effect as any primary residence to which such guest house is appurtenant.

6. All residences, stables, pump houses, garages, guest houses, and other out buildings, shall be set back a minimum of fifty (50) feet from any side boundary line and any back boundary line, and seventy-five (75) feet from any front boundary line.

As used herein, front boundary line shall be defined as any portion of the Property which is contiguous to or intersects with a roadway on the Property.

7. No satellite dish shall be placed on the Property in such a location that the satellite dish is visible from any roadway on the Property. Any satellite dish placed on the Property shall be

constructed of black mesh material and shall be subject to all set-back requirements set forth in paragraph six hereof.

No barbed wire shall be used on any fencing on the Property. All fencing along front boundary lines shall be restricted to materials made of wood and shall have a wood facade so that only wooden materials are visible for any roadway on the Property.

8. The Owners or subsequent owners of at least four (4) of the five (5) Tracts (or if only four (4) Tracts exist at least three (3) of the four (4) Tracts) comprising the Property which is subject to these Restrictions may at any time, by a declaration to that effect, in writing, filed for record in the Probate Office of Shelby County, Alabama, terminate or modify these Restrictions as to all the Property and the owners subject thereto; provided, however that the provision of paragraph 1 above relating solely to the exclusion of the Excluded Lot from these Restrictions may not be modified or amended without the prior written consent of the owner of the Excluded Lot.

9. Enforcement of these Restrictions shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant herein stated, either to restrain violation or to recover damages. Such enforcement action shall be brought by any Owner herein named, their heirs, executors, administrators, successors or assigns, and in the event any Owner or subsequent owner fails to act within thirty (30) days after receipt of written notice by any Owner or subsequent owner of the portion of the Property requesting enforcement action, then any Owner or subsequent owner of any portion of the Property shall have the right to institute an enforcement action hereunder. In the event any such action is brought against an Owner or subsequent owner of any portion of the Property to enforce any of the terms or provisions of these Restrictions, then the court costs and attorneys' fees incurred in such proceedings shall be taxed against the Owner or subsequent owner found in violation.

10. Invalidation of any of these Restrictions by judgment or court order shall in no way affect any of the other provisions hereof which shall remain in full force and effect.

11. These Restrictions shall take effect and be in full force immediately upon execution hereof by the Owners, and the same being filed for record, shall continue in force and shall be perpetual unless amended or terminated in accordance with paragraph 8 hereof. These Restrictions amend and restate the Declaration in its entirety and the Declaration is hereby cancelled and terminated and shall be of no further force or effect.

12. It is understood and agreed that as a part of the consideration of these Restrictions, the parties hereto agree to conform to the foregoing conditions, limitations, and restrictions and that said conditions, limitations, and restrictions shall attach to and be a mutual covenant running with the land, and all future owners of any portion of the Property shall have the same right to invoke and enforce the provisions of these Restrictions as the Owners herein named.

13. Any deed, lease, conveyance, or contract made in violation of these Restrictions shall be void and may be set aside on petition of one or more of the parties hereto, their successors in interest, executors, administrators, successors or assigns, who shall be deemed parties to the same effect as the Owners.

14. The provisions of these Restrictions are severable. If any clause, sentence, or paragraph of these Restrictions is declared invalid or unconstitutional, such declaration shall not affect any other provision hereof.

15. The Owners hereby consent to and approve the resubdivision of Lots 2 and 3, according to the resurvey thereof, recorded in Map Book _____, Page _____, in the Probate Office, and the exclusion from the applicability of these Restrictions to the Excluded Lot.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this _____ day of _____.

DAVID G. HOLCOMB

GINGER J. HOLCOMB

GREYSTONE DEVELOPMENT COMPANY,
LLC, an Alabama limited liability company

By: DANIEL REALTY CORPORATION,
Its Manager

By: _____

Its: _____

See next page for additional execution.

LEWIS MONTGOMERY

STATE OF ALABAMA)
_____ COUNTY)

I, the undersigned, a Notary Public in and for said county in said State, hereby certify that DAVID G. HOLCOMB and GINGER J. HOLCOMB, 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 the instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal on this the _____ day of _____,
_____.

NOTARY PUBLIC

My Commission Expires: _____

STATE OF ALABAMA)
_____ COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that LEWIS MONTGOMERY, 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 the instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal on this the _____ day of _____,
_____.

NOTARY PUBLIC

My Commission Expires: _____

STATE OF ALABAMA
_____ COUNTY

I, the undersigned, a notary public in and for said county in said state, hereby certify that _____, whose name as _____ 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 the 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 said limited liability company.

Given under my hand and official seal on this the _____ day of _____,

Notary Public

My Commission Expires: _____

Prepared By:
Kathryn S. Carver
Attorney at Law
1950 Stonegate Drive, Suite 350
Birmingham, Alabama 35242

Inst # 1999-25334

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06/16/1999-25334
12:33 PM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE

014 NMS

42.00