

STATE OF ALABAMA)
 :
COUNTY OF SHELBY)

CONSENT AND ACKNOWLEDGMENT

THIS CONSENT AND ACKNOWLEDGMENT (this "Consent") is made and entered into as of the 8th day of January, 2001 by GREYSTONE DEVELOPMENT COMPANY, LLC, an Alabama limited liability company ("GDC").

RECITALS:

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"). Lot 3 is 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").

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.

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.

Access to and from the Lot 3 is presently provided by means of Saddle Creek Drive.

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, as 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 (a) may also construct one or more electronic gates (collectively the "Gates") over portions of the GDC Roadway, Saddle Creek Trail and Saddle Creek Drive and (b) desires to grant to itself and any future owner of any portion of Lot 3 ("Future Owner"), for the sole benefit of Lot 3, the right to connect and tie-onto any underground utilities constructed or installed by GDC directly adjacent to the GDC Roadway, subject to the terms and conditions hereinafter set forth.

GDC, as the owner of Lot 3, for itself and its successors and assigns (including any Future Owner), desires to consent to the construction of the GDC Roadway and the Gates.

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

1. **Consent to Construction of GDC Roadway and Golf Course.**

(a) GDC, as the owner of Lot 3, for itself and its successors and assigns (including any Future Owner), 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 any and all portions of that approximately 700 acres of real property owned by GDC situated adjacent to or in close proximity with the Stanford Property (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) GDC, as the owner of Lot 3, for itself and its successors and assigns (including any Future Owner), 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.

2. **Saddle Creek Run Restrictions.** GDC, as the owner of Lot 3, for itself and its successors and assigns (including any Future Owner), (a) consents to and approves of 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) covenants and agrees 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, as the owner of Lot 3, for itself and its successors and assigns (including any Future Owner) will also execute the same. The provisions of this Paragraph 2 shall run with title to Lot 3 and shall be binding upon and inure to the benefit of GDC, as the owner of Lot 3, and its successors and assigns (including any Future Owner).

3. **Miscellaneous.**

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

(b) **Applicable Law.** This Consent shall be governed by, and construed 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.

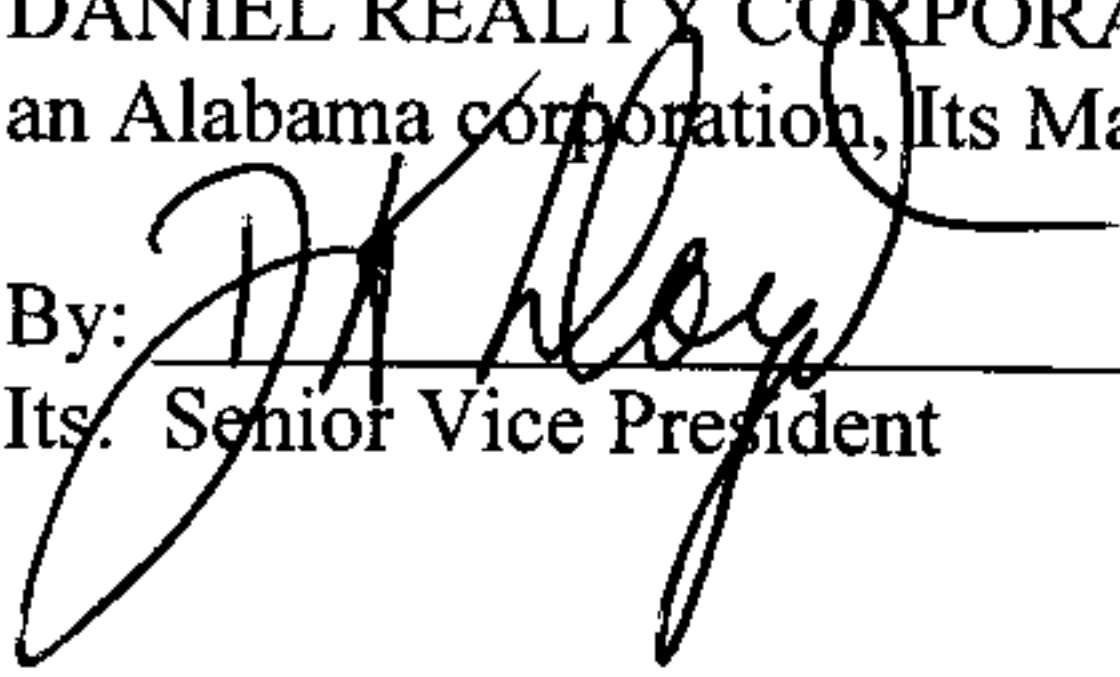
(d) **Binding Effect.** This Consent shall be binding upon and shall inure to the benefit of GDC and all present and future owners of Lot 3 (including any Future Owner) and their respective heirs, executors, personal representatives, administrators, successors and assigns.

(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 GDC and all present and future owners of Lot 3 (including any Future Owner) and their respective heirs, executors, personal representatives, administrators, successors and assigns.

IN WITNESS WHEREOF, GDC has executed this Consent as of the day and year first above written.

**GREYSTONE DEVELOPMENT COMPANY,
LLC, an Alabama limited liability company**

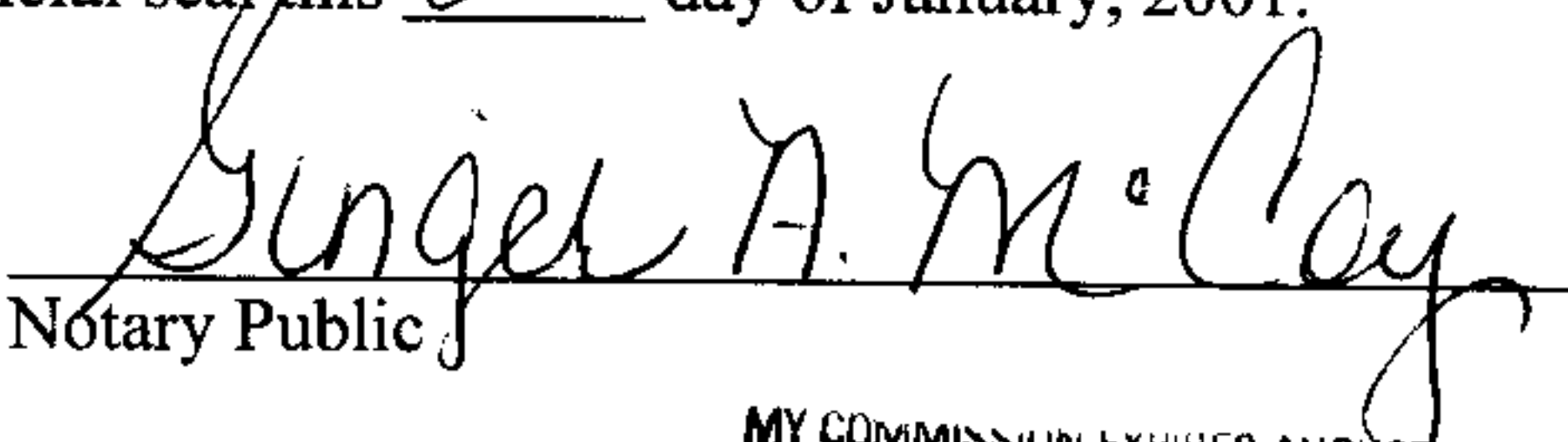
By: DANIEL REALTY CORPORATION,
an Alabama corporation, Its Manager

By: 
Its Senior Vice President

STATE OF ALABAMA)
 :
SHELBY COUNTY)

I, the undersigned, a notary public in and for said county in said state, hereby certify that D. 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 8th day of January, 2001.


Notary Public

[NOTARIAL SEAL]

My commission expires: MY COMMISSION EXPIRES AUGUST 2, 2004

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 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 TO CONSENT AND ACKNOWLEDGMENT
PRELIMINARY DEVELOPMENT PLAN

See Attached.

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'

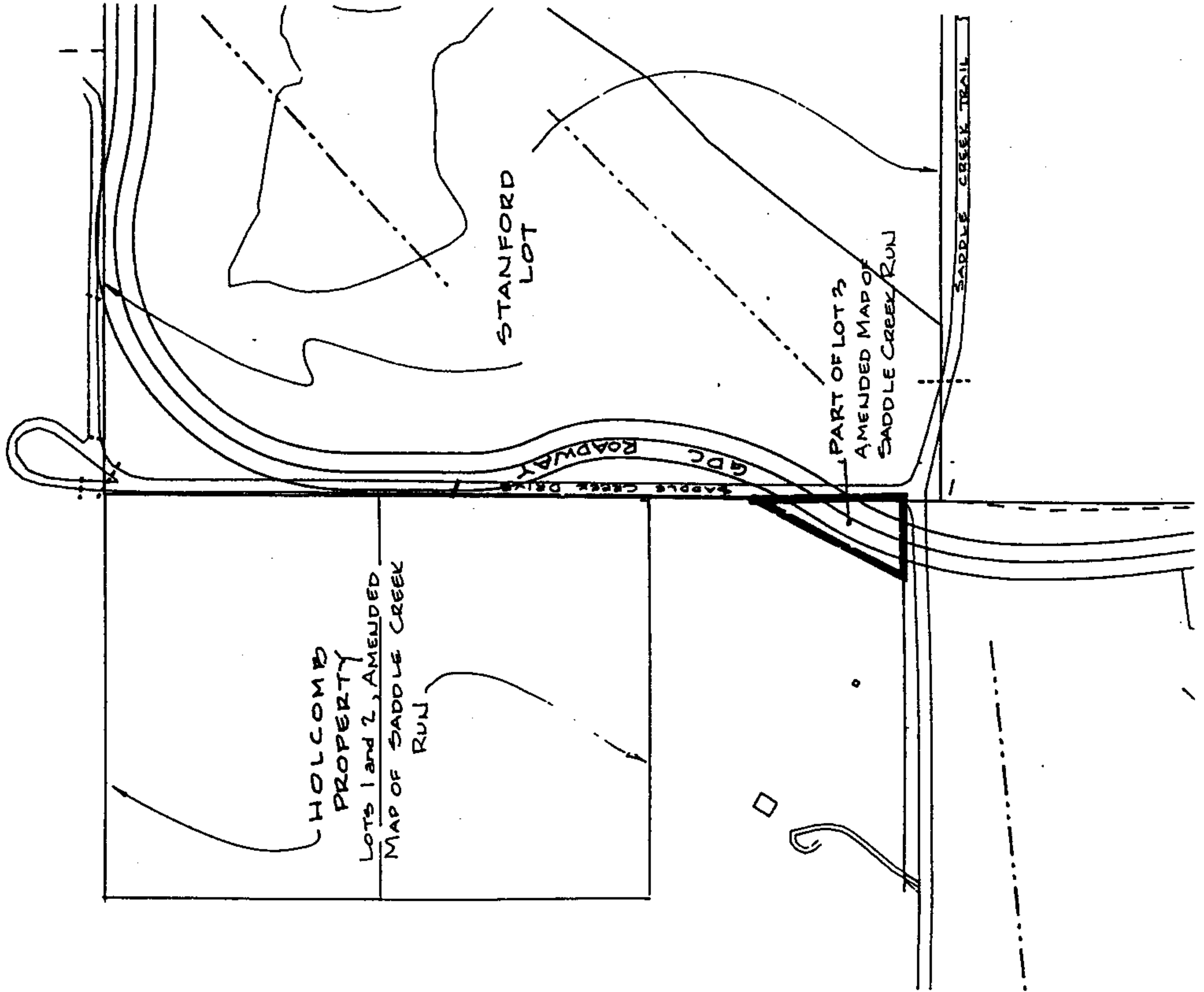


EXHIBIT C TO CONSENT AND ACKNOWLEDGMENT
PROPOSED AMENDED AND RESTATED RESTRICTIONS

See Attached.

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 =, 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. Invalidity 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: _____

Inst # 2001-02024

**01/19/2001-02024
08:44 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
014 MMB 53.00**

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

Inst # 1999-25333

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**06/16/1999-25333
12:33 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
016 HNS 47.00**