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**FIRST AMENDMENT TO DECLARATION  
OF PROTECTIVE COVENANTS FOR SILVER CREEK**

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This First Amendment to the Declaration of Protective Covenants for Silver Creek (the "First Amendment") is made this 14<sup>th</sup> day of September, 2004, by Silver Creek Development, L.L.C., an Alabama Limited Liability Company ("Developer").

WHEREAS, Developer has recorded a Declaration of Protective Covenants (the "Declaration") affecting that certain real property described therein, such document having been recorded in the Probate Office of Shelby County, State of Alabama, in Instrument Number 2000-30023;

WHEREAS, Developer now desires to amend the Declaration; and

WHEREAS, Developer has the right to amend the Declaration to add any properties owned by Developer to the provisions of the Declaration, pursuant to Article 8.4 thereof;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Developer hereby amends the Declaration as follows:

1. The properties covered by the Declaration are hereby changed by adding to the original Subject Property, the following described real property, which shall also become Subject Property (as that item is defined in the Declaration), immediately upon recordation hereof:
  - (a) Silver Creek Sector I, recorded in Map Book 26, Page 141 in the Probate Office of Shelby County, Alabama.
  - (b) Silver Creek Sector II, Phase I, recorded in Map Book 29, Page 81 in the Probate Office of Shelby County, Alabama.
  - (c) Silver Creek Sector II, Phase II, recorded in Map Book 31, Page 95 in the Probate Office of Shelby County, Alabama.
  - (c) Silver Creek Sector III, Phase I, as yet to be recorded.  
**MB 33 PG 151**
2. Attached hereto as Exhibit "A" is correspondence from Building & Earth Sciences, Inc., dated July 12, 2004, relating to subsurface conditions of Lots 503 and 504 in the Silver Creek Subdivision. For the purpose of informing the General Public of such subsurface

conditions of Lots 503 and 504, such correspondence is being recorded herewith.

IN WITNESS WHEREOF, the undersigned Developer has caused this First Amendment to be executed this 14 day of September, 2004.

Silver Creek Development, L.L.C.  
An Alabama Limited Liability Company

By: Michael D. Green  
Michael D. Green  
Its Authorized Member

STATE OF ALABAMA )

SHELBY COUNTY )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Michael D. Green, whose name as Authorized Member of Silver Creek Development, L.L.C., 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 Authorized Member and with full authority, executed the same voluntarily for and as the act of said limited liability company on the day the same bears date.

Given under my hand and office seal this the 14<sup>th</sup> day of September, 2004.

Judy C. Wagler  
Notary Public  
My Commission Expires: 3/27/05

This Instrument Was Prepared By:

Mark E. Hoffman, Esquire  
Mark E. Hoffman, P.C.  
2229 First Avenue North  
Birmingham, Alabama 35209  
(205) 241-9643



**BUILDING & EARTH**

Geotechnical, Environmental and Materials Engineers

5545 Derby Drive • Birmingham, AL 35210-5414 • Ph: (205) 836-6300 • Fax: (205) 836-9007

July 12, 2004

Carr & Associates Engineers, Inc.  
2052 Oak Mountain Drive  
Pelham, AL 35124

Attention: Mr. Bart Carr, P.E.

Subject: Report of Subsurface Exploration and  
Geotechnical Engineering Evaluation  
Lots 503 and 504- Silver Creek  
Subdivision  
Alabaster, Alabama  
BESI Project Number: 23277

Dear Mr. Carr:

Building & Earth Sciences, Inc. (BESI) has completed the authorized subsurface exploration and geotechnical engineering evaluation of Lots 503 and 504 in Silver Creek Subdivision. The purpose of this exploration and evaluation was to assess the subsurface conditions along the front building line with respect to the previous sinkhole dropouts and provide recommendations for the offset zone.

The scope of services consisted of a subsurface exploration that included 8 soil test borings. The borings were generally located near the front building line, as shown on the attached drawing. At each boring location, soil samples were obtained at standard sampling intervals with a split-tube sampler. The borehole was first advanced to the sample depth by augering, and the sampling tools were placed in the open hole. The sampler was then driven 18 inches into the ground with a 140-pound hammer free-falling 30 inches. The number of blows required to drive the sampler each 6-inch increment was recorded. The initial increment is considered the "seating" blows, where the sampler penetrates loose or disturbed soil in the bottom of the borehole. The blows required to penetrate the final two increments are added together and are referred to as the Standard Penetration Test (SPT) N-Value. The N-Value, when properly evaluated, gives an indication of the soil's strength and ability to support structural loads. Many factors can affect the SPT N-Value, so this result cannot be used exclusively to evaluate soil conditions. SPT testing was done in general accordance with ASTM D-1586.

**ATLANTA**

2720 Grassview Drive  
Alpharetta, Georgia 30004  
Ph: (770) 343-6499  
Fax: (678) 297-0678

**COLUMBUS**

5045 Milgen Court, Unit #2  
Columbus, Georgia 31907  
Ph: (706) 562-0048  
Fax: (706) 565-6733

**SAVANNAH**

3911 Old Louisville Road, Suite 107  
Savannah, Georgia 31408  
Ph: (912) 966-5044  
Fax: (912) 966-5057

**TULSA**

10828 East Newton Street, Suite 111  
Tulsa, Oklahoma 74116  
Ph: (918) 439-9005  
Fax: (918) 439-9255



At the time of the exploration, the lots had been graded and were relatively level. The borings generally encountered stiff to very stiff soil to a depth of about seven feet. A layer of soft to firm silty clay was found below the stiff soil in all borings. Auger refusal was encountered at depths ranging from 12 ½ to 23 feet, except Boring B-1a that refused on boulders at a depth of 3 feet. Auger refusal is defined as the depth below which the boring can no longer be advanced using the current soil drilling techniques.

Water was found in the borings at a depth of about 8 feet. Please note that short-term water level readings are not necessarily an accurate indication of the actual groundwater level. Also, fluctuations in the water level can occur due to seasonal rainfall. Long term borehole monitoring was not included as part of this exploration.

Relatively soft soils were encountered above the rock surface. Typically the soft soils were thicker where the rock was deeper. This condition is not atypical of conditions present in this geologic formation. Therefore, it is our opinion that the soft soils are not indicative of a ground loss condition related to active sinkhole formation.

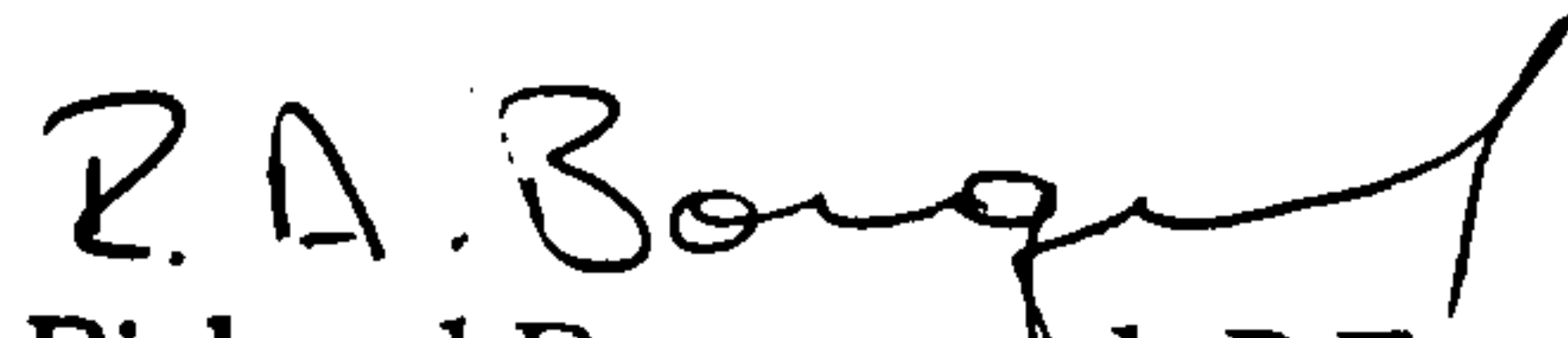
It is our opinion that the limits of the offset zone on Lot 503 should be established at a distance of 15 feet from the original front building line. Ancillary portions of the residence (such as steps, sidewalks, etc.) can be constructed at a set back of 10 feet. We believe the risk of sinkhole development outside the offset zone is no greater than the risk at other lots in the general area. The boring data indicate that no offset zone is required for lot 504.

This report was prepared for the exclusive use of Silver Creek Development, LLC. for specific application to the subject project. The information in this report is not transferable. This report should not be used for a different development on the same property without first being evaluated by the engineer. The recommendations in this report were based on the information obtained during the field exploration, and engineering judgment regarding conditions between borings. It would be prudent to require homeowners in this subdivision obtain sinkhole insurance. Sinkholes have occurred at the site, and the time and extent of future sinkhole formation is unpredictable.

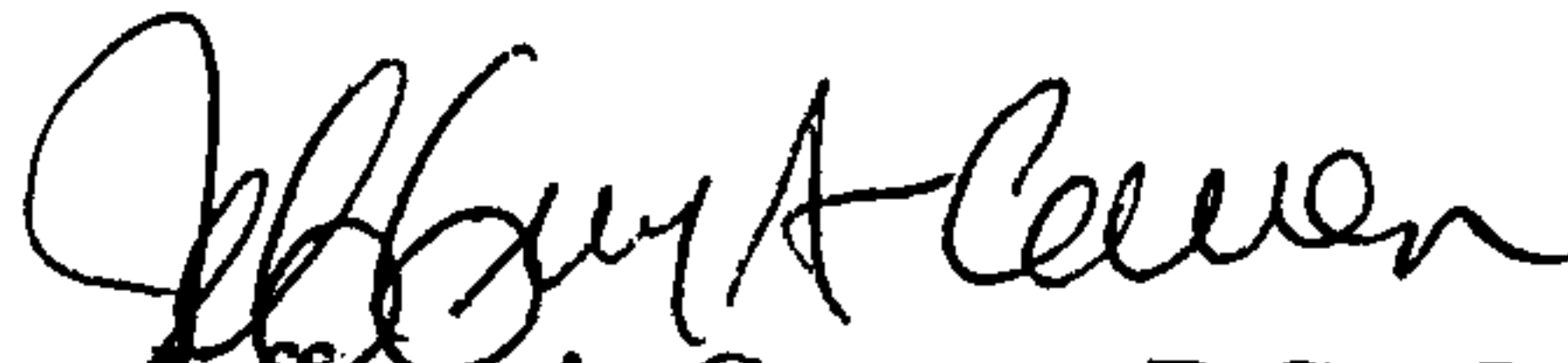
We appreciate the opportunity to provide consultation services for the subject project. If you have any questions regarding the information in this report or need any additional information, please contact the undersigned.

Respectfully submitted,

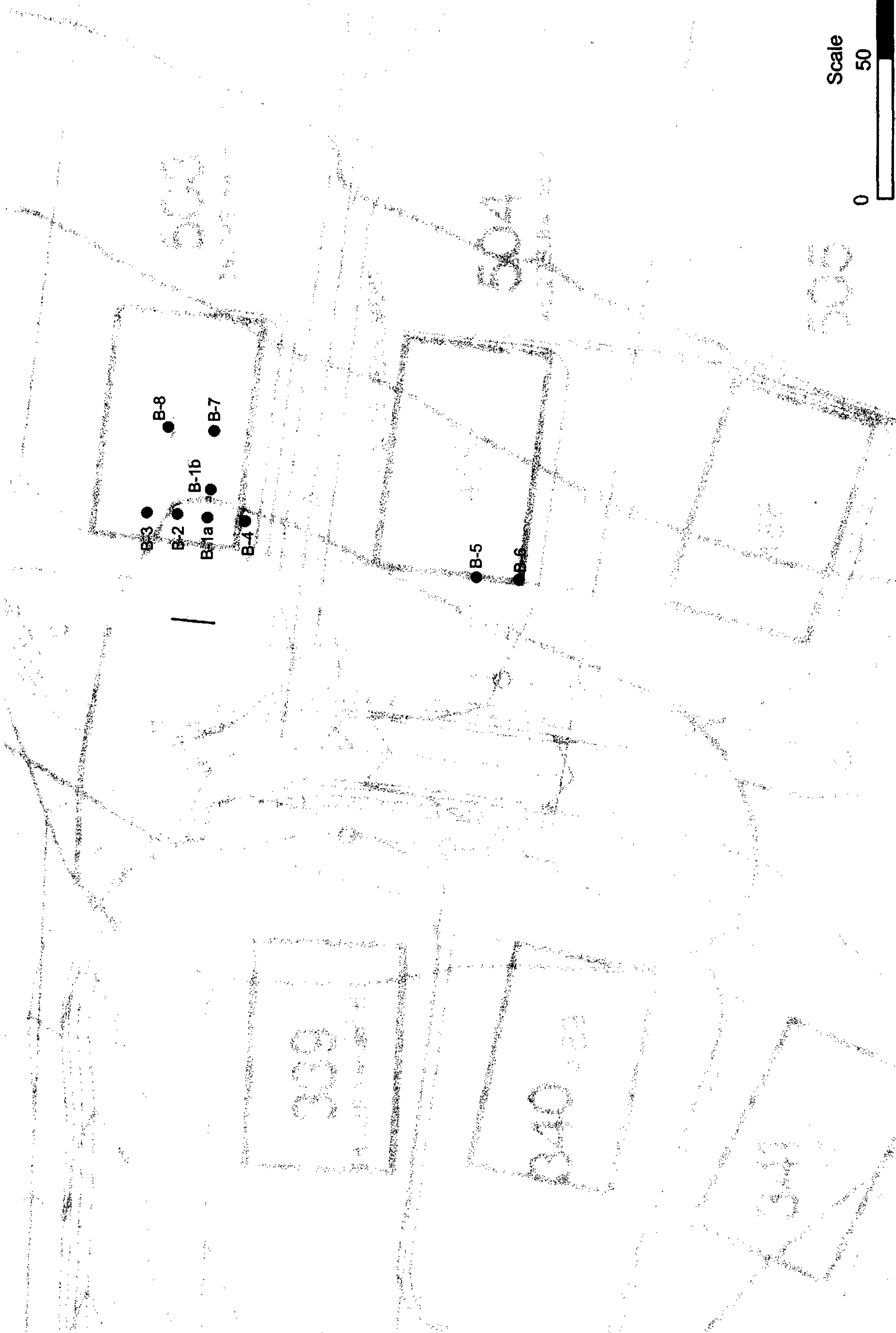
**BUILDING & EARTH SCIENCES, INC.**



Richard Bourquard, P.E.  
Senior Geotechnical Engineer



Jeffrey A. Cowen, P.G., P.E.  
Vice President



REFERENCE USED TO PRODUCE THIS DRAWING:	BUILDING & EARTH SCIENCES, INC.	APPROXIMATE TREATMENT LOCATIONS	
	PROJECT NAME:	PROJECT NO:	SCALE:
	Silver Creek Development Alabaster, Alabama	23277	As shown