291/826-830 Reg. # 953232

FILED FOR RECORD
AT 3:40 O'CLOCK P. M
AUG 29 1995
DORIS LANGE
CLERK COUNTY COURT
GILLESPIE COUNTY, TEXAS
By _____ Deputy

COPY

FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS, RESTRICTIONS AND MAINTENANCE AGREEMENTS

THE STATE OF TEXAS §
§ *KNOW ALL MEN BY THESE PRESENTS:*
COUNTY OF GILLESPIE §

WHEREAS, MARK DIZDAR (the "Developer") is the owner of the real property described in Exhibit "A" attached hereto (the "Property");

WHEREAS, Developer intends to construct one or more roads through the Property (the "Roadway") and sell off portions of the Property in smaller parcels, which shall in no event consist of less than five (5) acres, (the "Parcels") to interested third-party buyers; and

WHEREAS, Developer desires to subject all of the Property to the protective covenants, restrictions and maintenance agreements set forth herein.

NOW, THEREFORE, it is hereby declared that the Property shall henceforth be held, sold and conveyed subject to the following restrictions, covenants and agreements which are intended for the purpose of protecting the value and desirability of, and which shall run with, the Property and shall be binding on all parties now or hereafter owning an interest in any part of the Property (collectively, the "Owners"), and their heirs, successors and assigns, and which restrictions, covenants and conditions shall inure to the benefit of each Owner of any part of the Property:

1. **Building Restrictions.**

   a. No more than one single family dwelling, containing no less than 1400 square feet of living area, exclusive of porches, breezeways, carports or basements, may be erected on any Parcel. An Owner may also construct one or more guest homes an other related improvements on a Parcel, so long as such improvements are for the personal use of the Owner and guest or invitees of the Owner.

   b. Multiple story dwellings must contain not less than 1800 square feet of living area. The living area on its ground floor shall be a minimum of 1200 square feet.

   c. All residences shall be newly constructed. No second hand or used homes shall be moved on to the Property. An Owner shall be entitled, however, to incorporate historical and other previously used building materials and fixtures into a newly constructed residence.

   d. The exterior of any residence shall be completed not later than ten (10) months after laying the foundation for such residence.

e. A residence shall not be occupied until the exterior thereof shall be completely finished and connected to a septic tank or other waste disposal system approved by the County and/or State Health Department or other governing body controlling wells and septic tanks.

f. No mobile or modular home or other temporary structure shall be used as a residence on any Parcel. Recreational vehicles may be stored and kept upon the Property provided they are situated out of sight and to the rear of the principal residence.

g. All perimeter fences erected on any Parcel shall be of constructed from new material and shall be completed and maintained in a good and workmanlike manner, regarding quality and appearance.

2. Setbacks. For Parcels containing 25 acres of land or more, no residence or other permanent structure shall be constructed nearer than 250 feet from the front property line of the Parcel which abuts any Roadway running through the Property or nearer than 150 feet from side or rear property line of such Parcel. For Parcels containing less than 25 acres, no residence or other permanent structure shall be constructed nearer than 125 feet from the front property line of the Parcel which abuts any Roadway running through the Property or nearer than 75 feet from side or rear property line of such Parcel. The side set back restrictions referred to above shall not apply with respect to the common boundaries between any two adjacent Parcels which are owned by the same Owner.

3. Use Restrictions.

a. Except as otherwise provided below, no commercial or manufacturing activity shall be carried on upon any part of the Property, nor shall any activity be allowed which has the possibility of creating environmental hazard to other Owners of the Property, or which significantly increases traffic flow to and from any Parcel.

b. These use restrictions shall not prevent the growing and processing of various agricultural products or commodities, including by illustration a vineyard and winery, or the raising of livestock, poultry and other animals on a Parcel, except hogs and other similar stock shall be raised solely for the personal consumption of the Owner and no Owner may have more than 2 hogs at any time. Any animals, livestock and poultry raised by any Owner shall be kept under fence. Such restriction shall also not prohibit an Owner from conducting a craft or art related business on his portion of the Property, including a painting, photography, wood, metal or glass sculptor or fabrication business, or the conduct of a home office.

c. Any noxious or offensive activity shall not be permitted on any Parcel. Owners are to keep their Parcel clean and neat in appearance and free of litter at all

times, including the occasional mowing of grass and weeds which shall enhance the beauty of the Property and act as a fire protection measure. Garbage or refuse shall not be disposed of or buried on any Parcel.

d. Mineral exploration of any type which will damage the surface of the Property shall not be permitted on any Parcel.

4. Utility Easements. The Developer reserves unto himself and/or his assigns, an easement for utility purposes, ten (10) feet wide along the side boundaries of each Parcel and along all Roadways and twenty (20) feet along the entire perimeter boundary of the Property for the installation and maintenance of electric, telephone and utility lines. This reservation of a utility easement shall not apply, however, to the side boundaries of adjacent Parcels which are owned by the same Owner.

5. Maintenance of Roadways. If any Roadway running through the Property is not maintained by the County of Gillespie, each Owner shall be responsible for maintaining that portion of the Roadway which is adjacent to such Owner's Parcel.

6. Resubdivision of Parcels. Prior to April 1, 1996, the resubdivision or other dividing of ownership of any Parcel shall not be permitted without the prior written consent of the Developer. After April 1, 1996, an Owner shall be entitled to resubdivide his Parcel as he shall see fit, without first obtaining the consent of Developer, so long as all of the resubdivided tracts contain at least five (5) acres.

7. Miscellaneous.

a. The use restrictions contained in this Agreement shall remain in effect for twenty-five (25) years from the date this instrument is first recorded. Thereafter, these use restrictions shall automatically renew for successive periods of 10 years, unless an instrument signed by a majority of the Owners has been recorded, agreeing to change, amend or cancel these use restrictions, in whole or in part. For purposes of this Agreement a "majority of the Owners" shall mean the persons owning in the aggregate more than fifty percent (50%) of the Property as determined on an acreage basis.

b. The use restrictions set out herein are for the benefit of all Owners and their successors and assigns. Such restrictions shall be constructed as covenants running with land, enforceable at law or in equity by any one or more of the other Owners.

c. The invalidity of any one or more of the restrictions contained herein shall not affect the enforceability of the balance of such restrictions. The failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to future enforcement of the covenant or restriction breached or any other covenant or restriction.

d. By acceptance of a deed to any portion of the Property, each owner, his successor and assigns, agrees to be bound by all conditions and provisions of this Amended and Restated Declaration of Covenants, Restrictions and Maintenance Agreements.

e. This Amended and Restated Declaration of Covenants, Restrictions and Maintenance Agreements is intended to replace and supersede in all respects the original version of same which was recorded on April 17, 1995 in Volume 284, Page 689, Real Property Records of Gillespie County, Texas. To the extent that the earlier version of this Delcaration of Covenants, Restrictions and Maintenance Agreements covered additional real property not included in the real property described on Exhibit "A" attached hereto, it is the intent of the Developer that such additional property shall be released entirely from the coverage of this Declaration.

EXECUTED as of this 23rd day of August, 1995.

MARK DIZDAR

ACKNOWLEDGMENT

THE STATE OF TEXAS §
§
COUNTY OF HIDALGO §

This instrument was acknowledged before me on this the 24th day of August, 1995 by MARK DIZDAR.

LYDIA RAMIREZ
MY COMMISSION EXPIRES
May 30, 1997

Notary Public, State of Texas

AFTER RECORDING, RETURN TO:

JARVIS & KITTLEMAN, P.C.
Attorneys At Law
P.O. Box 1416
MAllen, Texas 78505-1416

EXHIBIT "A"

All of TRIPLE CREEK RANCH, a subdivision situated in Gillespie County, Texas, according to map or plat thereof found in Volume 2, Page 71 of the Plat Records of Gillespie County, Texas.