DENNIS KUSENBERGER TO THE PUBLIC

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

953869

THE STATE OF TEXAS X

COUNTY OF GILLESPIE X

THAT WHEREAS, DENNIS KUSENBERGER, not joined by his wife since the herein described property does not form any part of their homestead and is his sole and separate property, herein called "DEVELOPER", is the record owner of property located in Gillespie County, Texas, as described on Exhibit "A", attached hereto and made a part hereof ("Property"); and

WHEREAS, DEVELOPER will convey the above described lands subject to certain protective covenants, reservations, conditions, restrictions and charges as hereinafter set forth:

NOW, THEREFORE, it is hereby declared that all of the above referred lands shall be held, sold and conveyed subject to the following restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of, and which shall run with the land and shall be binding on all parties having a right, title or interest in or to the above described lands or any part thereof, and their heirs, successors and assigns, and which restrictions, covenants and conditions shall inure to the benefit of each owner thereof, and any contract or deed which may hereafter be executed in connection with said

lands or any part thereof, shall be conclusively held to have been executed, delivered and accepted subject to the terms and conditions contained in this instrument, regardless of whether or not such terms and conditions are specifically set out in said contract or deed.

I.

DEFINITIONS

1.01. "Owner" shall refer to the record owner whether one or more persons or entities, of the fee simple title to any portion of the above described land, excluding however, those having any interest therein merely as security for the performance of an obligation.

1.02. "Lot" shall refer to that portion of the Property described in Exhibit "A" attached hereto which is designated as a building lot (other than common area if any) on the plat filed or to be filed with regard to property.

II.

RESTRICTIONS

1. All Lots and every part thereof shall be used only for single family residential uses.

2. No building shall be placed, erected, altered or permitted to remain on any Lot:

(a) other than one detached single family dwelling not to exceed two stories in height, and

(b) other than a private garage, and

(c) other than storage buildings built as described below in these restrictions.

3. Any single story residence constructed on any Lot must have an enclosed and finished ground floor area of not less than 1400 square feet, exclusive of open or screened porches, terraces, patios, driveways and carports but inclusive of garage area, and not less than 1200 square feet of living area (i.e., ground floor area exclusive of garage area). Any residence other than a single story residence must have an enclosed and finished ground floor area of not less than 1400 square feet exclusive of open or screened porches, terraces, patios, driveways and carports but inclusive of garage area, and not less than 1200 square feet of living area (i.e., ground floor area exclusive of garage area). The exterior walls of the residence shall consist of not less than 100% masonry construction (brick, rock or stucco veneer) up to the eave.

4. Used construction materials are prohibited in the construction of any structure situated on a Lot (except for used brick or stone).

5. No dwelling house or other structure shall be moved upon a Lot from outside said subdivision.

6. All restrictive covenants and conditions herein shall apply to future remodeling of buildings and to rebuilding of buildings destroyed by fire or the elements.

7. No residence shall be occupied until construction of the interior and exterior of the residence is completed.

8. The erection or construction of log homes shall be prohibited on any Lot in this subdivision.

9. Every dwelling constructed upon any Lot shall be provided with sanitary, indoor plumbing and no permanent outdoor privies shall be permitted.

10. The exterior of any building shall be completed no later than 10 months after commencement of the foundation of the respective building.

11. If a resident chooses to receive U.S. mail delivery at his or her residence, the mailbox shall be encased in the same brick, rock, or stucco as is located on the residence. A planter box may be attached.

12. No structure of a temporary character, trailer, mobile home, modular home, tent, shack, garage, or other outbuilding shall be placed on or used on any Lot at any time as a residence, either temporarily or permanently. No servant's quarters shall be used as a primary dwelling on any Lot.

13. No swine, poultry, livestock or any other animals that are noxious, dangerous or offensive shall be kept upon any Lot or portions thereof. Dogs, cats, and other household pets may be kept provided they are kept in a clean and sanitary manner and they are not kept, bred or maintained for any commercial purpose.

14. No noxious or offensive activity shall be carried upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

15. All outbuildings such as tool or storage sheds, trailer ports, etc. shall have the exterior walls constructed of new standard building materials, which may include colored metals and painted concrete block, and shall be finished with exterior grade materials. Galvanized metal on the exposed walls of such outbuildings is expressly prohibited. Outbuildings may be constructed on a Lot only after completion of the dwelling house on such Lot, or simultaneously with its construction.

16. No inoperative vehicles shall remain parked on any Lot or in the streets, for longer than thirty (30) days.

17. All boats, boat trailers, trailers of all kinds, recreational vehicles and all vehicles having a load capacity of greater than one (1) ton, may be parked or stored on the property of the Lot Owner and shall not be parked on any street. Such items shall not be used for dwelling purposes or for commercial purposes, but may be placed on the Lot only if stored for the personal use of the occupant of the residence.

18. No fence or wall shall be erected nearer the front property line than the front of the dwelling.

19. Each owner of a Lot in the subdivision shall keep his or her property clean and neat in appearance and free of litter at all times, including the occasional mowing of grass and weeds sufficient to enhance the beauty of the subdivision and act as a fire protection measure.

20. No sign of any kind shall be displayed to the public view on any Lot except one sign of not more than five (5) square feet advertising the property for sale or rent, signs used by a builder to advertise the property during the construction and sales period and except public election signs which shall be removed within 15 days after an election. The developer may erect a sign of larger size in conformance with city ordinance to advertise the development as long as there remain any unsold Lots in the development.

21. No structure, landscaping or other improvement or other material shall be

placed or shall be permitted to remain on any Lot, and no other activity shall be permitted to be undertaken that may damage or interfere with water flow throughout the Property, create erosion or sliding problems, change the direction of flow of drainage channels, or obstruct or retard the flow of water through drainage channels located on the property.

III.

GENERAL PROVISIONS

3.01. DEVELOPER or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, covenants and conditions now or hereafter imposed by the provisions of this instrument. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

3.02. Invalidation of any one of the covenants or restrictions, contained herein, by judgment or court order shall in no way affect any other provision, and all other provisions shall remain in full force and effect.

3.03. The covenants, conditions and restrictions of this instrument shall run with and bind the land and shall inure to the benefit of, and be enforceable by DEVELOPER or the Owner of any tract subject to this instrument, and their respective legal representatives, heirs, successors and assigns, and shall be effective until January 1, 2010, after which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years, unless amended as provided herein. The covenants, conditions and restrictions contained in this instrument may be amended at any time after January 1, 2010, by an instrument signed by not less than the Owners of sixty-six per cent (66%) of the above described Lots (each Lot to have one vote). No

amendment shall be effective until duly recorded in the Deed Records of Gillespie County, Texas, nor until the approval of any governmental regulatory body, which may be then required, shall have been obtained.

3.04. This Declaration of Covenants, Conditions and Restrictions amends and supersedes, in its entirety, that certain Declaration of Covenants, Conditions and Restrictions filed of record on October 10, 1995, in Volume 294, Page 127-132, of the Real Property Records of Gillespie County, Texas.

EXECUTED this 13th day of October, 1995.

DENNIS KUSENBERGER

THE STATE OF TEXAS X

COUNTY OF GILLESPIE X

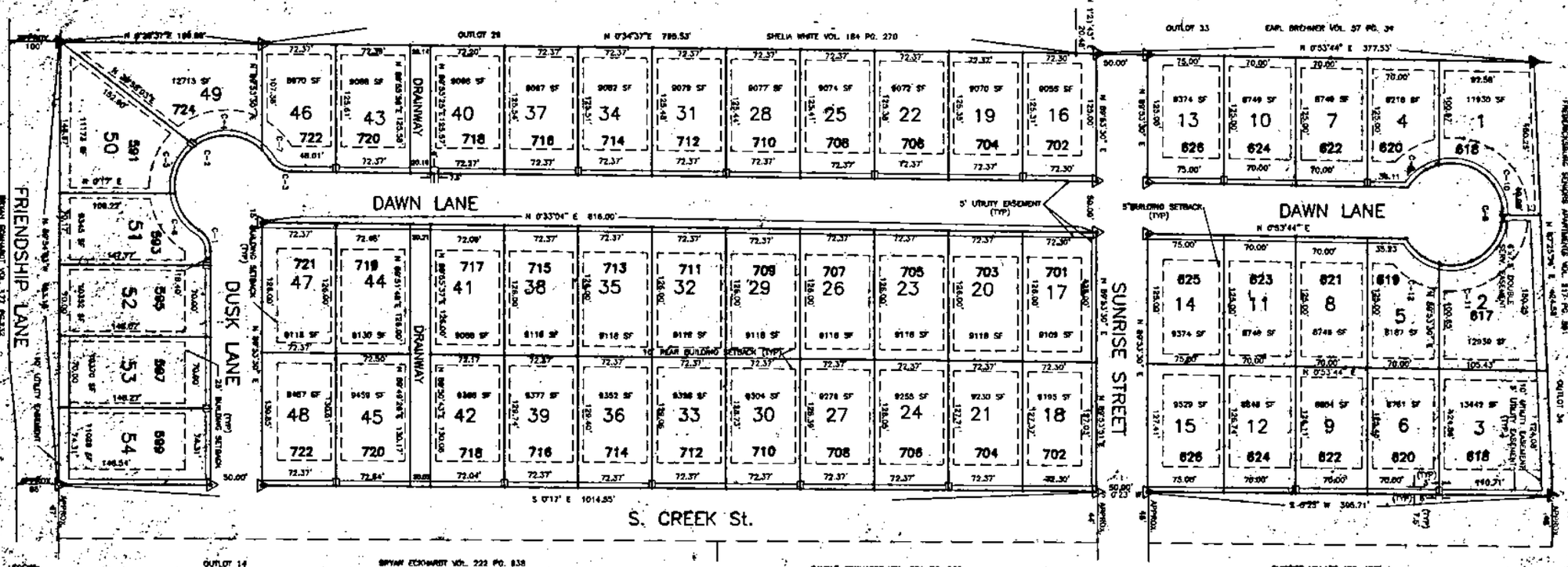
This instrument was acknowledged before me on this the 13th day of October, 1995, by DENNIS KUSENBERGER.

TINA MERZ
Notary Public
STATE OF TEXAS
My Comm. Exp. 08/05/98

Tina Merz
Notary Public in and for
the State of Texas

EXHIBIT "A"

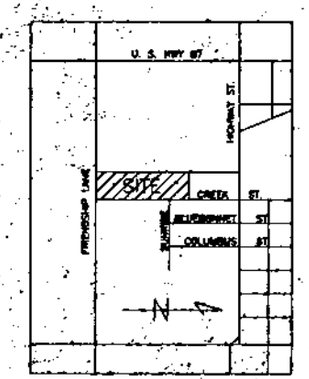
Being all of Lots 1 through 54, Southcreek Subdivision, as shown on the map or plat of said subdivision on file at Volume 2, Page 78 of the Plat Records of Gillespie County, Texas.



PLAT
OF
SOUTHCREEK

A REPLAT OF PHASE 2 OF SUNRISE VILLAGE ADDITION, UNIT 2
RECORDED VOL. 1 PAGE 194 GILLESPIE COUNTY PLAT RECORDS
COMPRISING 14.27 ACRES (OUTLOT 25 &PART OF OUTLOT 34)

0 100 200



LOCATION MAP
SCALE 1" = 1000'

CERTIFICATE OF OWNERSHIP AND DEDICATION

10-10 ,95

The State of Texas
County of Gillespie

This instrument was acknowledged before me on the 10th day of October

Notary Public in and for the State of Texas

My Commission Expires 2/6/97

Printed Name of Notary

SURVEYOR'S OR ENGINEER'S CERTIFICATE

10/10 ,95

Chairman, City Planning & Zoning Commission

CERTIFICATE OF RECORDATION

Filed for record at 2:45 o'clock P.m. this the 10th day of October

19 95 A.D. on Plat 78 Volume 2 of the Plat Records of Gillespie County, Texas

Deputy

County Clerk, Gillespie County, Texas