

Recording Requested By:

Fifty Associates
50 Congress Street, Suite 543
Boston, MA 02109-400

and

Demartini Joint Account
20 Sunnyside Avenue
Mill Valley, CA 94941

When Recorded, Mail To:

Loretta K. Barsamian, Executive Officer
California Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, California 94612
SLC-01-002293

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SANTA CLARA COUNTY RECORDER
Recorded at the request of
Commonwealth Land Title

RDE # 011

12/12/2001

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CALIFORNIA REGIONAL WATER

L K P

JAN 25 2002

QUALITY CONTROL BOARD

COVENANT AND ENVIRONMENTAL RESTRICTION ON PROPERTY

Mariposa Gardens Shopping Center
2600-2792 Homestead Road, City of Santa Clara, Santa Clara County, California

This Covenant and Environmental Restriction on Property (this "Covenant") is made as of the 11 day of December, 2001, by Fifty Associates, a Massachusetts corporation, and Demartini Joint Account, a California general partnership, as tenants-in-common (collectively, "Covenantor") who are the Owners of record of that certain property situated at 2600-2792 Homestead Road, in the City of Santa Clara, County of Santa Clara, State of California, which is more particularly described in Exhibit A attached hereto and incorporated herein by this reference (such portion hereinafter referred to as the "Burdened Property"), for the benefit of the California Regional Water Quality Control Board for the San Francisco Bay Region (the "Board"), with reference to the following facts:

A. The Burdened Property and groundwater underlying the property contains hazardous materials.

B. Contamination of the Burdened Property. Soil at the Burdened Property was contaminated by the leakage or spillage of chlorinated solvents conducted by a former dry cleaner located at 2660 Homestead Road between the mid-1960s and the early 1980s. These operations resulted in contamination of SOIL AND GROUNDWATER with INORGANIC AND/OR ORGANIC chemicals including Tetrachloroethene (PCE) and its breakdown products, Trichloroethene (TCE), Cis-1,2-dichloroethene (Cis-1,2-DCE) and Trans-1,2-dichloroethene (Trans-1,2-DCE), which constitute hazardous

materials as that term is defined in Health & Safety Code Section 25260. Groundwater monitoring to document natural attenuation is occurring as of the date of this instrument.

C. Exposure Pathways. The contaminants addressed in this Covenant are present in the soil and groundwater on the Burdened Property. Since chlorinated solvents have not been used on the Burdened Property since the early 1980s, no primary sources currently exist. Soils and groundwater are the two secondary sources. Exposure to the contaminants could take place via: volatilization of chemicals from contaminated soil and groundwater into indoor air in overlying buildings, ingestion of contaminated groundwater, and dermal contact from contaminated soil. The risk of public exposure to the contaminants has been substantially lessened by the remediation and controls described herein.

D. Adjacent Land Uses and Population Potentially Affected. The Burdened Property is used for a commercial retail shopping center and is adjacent to commercial and residential land uses.

E. Full and voluntary disclosure to the Board of the presence of hazardous materials on the Burdened Property has been made and extensive sampling of the Burdened Property has been conducted.

F. Covenantor desires and intends that in order to benefit the Board, and to protect the present and future public health and safety, the Burdened Property shall be used in such a manner as to avoid potential harm to persons or property that may result from hazardous materials that may have been deposited on portions of the Burdened Property.

ARTICLE I GENERAL PROVISIONS

1.1 Provisions to Run with the Land. This Covenant sets forth protective provisions, covenants, conditions and restrictions (collectively referred to as "Restrictions") upon and subject to which the Burdened Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. The restrictions set forth in Article III are reasonably necessary to protect present and future human health and safety or the environment as a result of the presence on the land of hazardous materials. Each and all of the Restrictions shall run with the land, and pass with each and every portion of the Burdened Property, and shall apply to, inure to the benefit of, and bind the respective successors in interest thereof, for the benefit of the Board and all Owners and Occupants. Each and all of the Restrictions are imposed upon the entire Burdened Property unless expressly stated as applicable to a specific portion of the Burdened Property. Each and all of the Restrictions run with the land pursuant to section 1471 of the Civil Code. Each and all of the Restrictions are enforceable by the Board.

1.2 Concurrence of Owners and Lessees Presumed. All purchasers, lessees, or possessors of any portion of the Burdened Property shall be deemed by their purchase,

leasing, or possession of such Burdened Property, to be in accord with the foregoing and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such owners, heirs, successors, and assignees, that the Restrictions as herein established must be adhered to for the benefit of the Board and the Owners and Occupants of the Burdened Property and that the interest of the Owners and Occupants of the Burdened Property shall be subject to the Restrictions contained herein.

1.3 Apportionment of Burden Among Multiple Owners. Where ownership of the Burdened Property is held by multiple persons, holding by several titles, the burdens imposed by this Covenant shall be apportioned between them proportionate to the value of the property held by each owner, if such value can be ascertained, and if not, then according to their respective interests in point of quantity. (Cal. Civ. Code, § 1467.)

1.4 Incorporation into Deeds and Leases. Covenantor desires and covenants that the Restrictions set out herein shall be incorporated in and attached to each and all deeds and leases of any portion of the Burdened Property. Recordation of this Covenant shall be deemed binding on all successors, assigns, and lessees, regardless of whether a copy of this Covenant and Agreement has been attached to or incorporated into any given deed or lease.

1.5 Purpose. It is the purpose of this instrument to convey to the Board real property rights, which will run with the land, to facilitate the remediation of past environmental contamination and to protect human health and the environment by reducing the risk of exposure to residual hazardous materials.

ARTICLE II DEFINITIONS

2.1 Board. "Board" shall mean the California Regional Water Quality Control Board for the San Francisco Bay Region and shall include its successor agencies, if any.

2.2 Improvements. "Improvements" shall mean all buildings, roads, driveways, regradings, and paved parking areas, constructed or placed upon any portion of the Burdened Property.

2.3 Occupants. "Occupants" shall mean Owners and those persons entitled by ownership, leasehold, or other legal relationship to the exclusive right to use and/or occupy all or any portion of the Burdened Property.

2.4 Owner or Owners. "Owner" or "Owners" shall mean the Covenantor and/or its successors in interest, who hold title to all or any portion of the Burdened Property.

ARTICLE III
DEVELOPMENT, USE AND CONVEYANCE OF THE BURDENED PROPERTY

3.1 Restrictions on Development and Use. Covenantor promises to restrict the use of the Burdened Property as follows:

- a. Development of the Burdened Property shall be restricted to industrial, commercial, retail or office space;
- b. No residence for human habitation shall be permitted on the Burdened Property;
- c. No hospitals shall be permitted on the Burdened Property;
- d. No schools for persons under 21 years of age shall be permitted on the Burdened Property;
- e. No day care centers for children or day care centers for Senior Citizens shall be permitted on the Burdened Property;
- f. Owners or Occupants of the Property or any portion thereof shall conduct any excavation work on designated areas of the Property including the former dry cleaning suite, 2660 Homestead Road, and the two adjacent suites, 2656 and 2666 Homestead Road, and the paved parking area behind these three suites (an area 70 feet by 110 feet as shown on the attached Figures 2 and 3), in accordance with a risk management plan (RMP) approved by the Board. Contaminated soils brought to the surface by grading, excavation, trenching, or backfilling are to be managed by Covenantor or its agent in accordance with all applicable provisions of local, state and federal law;
- g. All uses and development of the Burdened Property shall be consistent with any applicable Board Order or Risk Management Plan, each of which is hereby incorporated by the reference including future amendments thereto. All uses and development shall preserve the integrity of any cap, any remedial measures taken or remedial equipment installed, and any groundwater monitoring system installed on the Burdened Property pursuant to the reasonable requirements of the Board, unless otherwise expressly permitted in writing by the Board.
- h. No Owners or Occupants of the Property or any portion thereof shall drill, bore, otherwise construct, or use a well for the purpose of extracting water for any use, including but not limited to, domestic, potable, or industrial uses, unless expressly permitted in writing by the Board.
- i. The Owner shall notify the Board of each of the following: (1) The type, cause, location and date of any disturbance to any cap, any remedial measures taken or remedial equipment installed, and of the groundwater monitoring system installed on the Burdened Property pursuant to the requirements of the Board, which could affect the ability of such cap or remedial measures, remedial equipment, or

monitoring system to perform their respective functions and (2) the type and date of repair of such disturbance. Notification to the Board shall be made by registered mail within ten (10) working days of both the discovery of such disturbance and the completion of repairs;

j. The Covenantor agrees that the Board, and/or any persons acting pursuant to Board orders, shall have reasonable access to the Burdened Property, for the purposes of inspection, surveillance, maintenance, or monitoring, as provided for in Division 7 of the Water Code.

k. No Owner or Occupant of the Burdened Property shall act in any manner that will aggravate or contribute to the existing environmental conditions of the Burdened Property. All use and development of the Burdened Property shall preserve the integrity of any capped areas.

3.2 Enforcement. Failure of an Owner or Occupant to comply with any of the restrictions, as set forth in paragraph 3.1, shall be grounds for the Board, by reason of this Covenant, to have the authority to require that the Owner modify or remove any Improvements constructed in violation of that paragraph. Violation of the Covenant shall be grounds for the Board to file civil actions against the Owner as provided by law.

3.3 Emergency. In the event of an emergency required action that may include excavation, such as a burst of an underground water line or a break in a gas line, in the above described designated area, the Owner or its agent will act in accordance with the risk management plan (RMP) approved by the Board. The RMP will be sent to the Board for approval within 30 days of the recording of this deed restriction.

3.4 Notice in Agreements. After the date of recordation hereof, all Owners and Occupants shall execute a written instrument which shall accompany all purchase agreements or leases relating to the property. Any such instrument shall contain the following statement:

The land described herein contains hazardous materials in soils and in the ground water under the property, and is subject to a deed restriction dated as of _____, 2001, and recorded on _____, 2001, in the Official Records of Santa Clara County, California, as Document No. _____, which Covenant and Restriction imposes certain covenants, conditions, and restrictions on usage of the property described herein. This statement is not a declaration that a hazard exists.

ARTICLE IV VARIANCE AND TERMINATION

4.1 Variance. Any Owner or, with the Owner's prior written consent, any Occupant of the Burdened Property or any portion thereof may apply to the Board for a written variance from the provisions of this Covenant.

4.2 Termination. Any Owner or, with the Owner's prior written consent, any Occupant of the Burdened Property or a portion thereof may apply to the Board for a termination of the Restrictions as they apply to all or any portion of the Burdened Property.

4.3 Term. Unless terminated in accordance with paragraph 4.2 above, by law or otherwise, this Covenant shall continue in effect in perpetuity.

ARTICLE V MISCELLANEOUS

5.1 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Burdened Property or any portion thereof to the general public.

5.2 Notices. Whenever any person gives or serves any notice, demand, or other communication with respect to this Covenant, each such notice, demand, or other communication shall be in writing and shall be deemed effective (1) when delivered, if personally delivered or delivered by a overnight service to the person being served or official of a government agency being served, or (2) three (3) business days after deposit in the mail if mailed by United States mail, postage paid certified, return receipt requested, to the addresses listed below (or to any other address requested in writing by Covenantor, Board, or any of their respective successors or assigns):

If To: "Covenantor"
Fifty Associates
50 Congress Street, Suite 543
Boston, MA 02109-400
Attn: George M. Lovejoy, Jr.
Fax No.: 617-523-1388

with a copy to:

Louis W. Demartini
20 Sunnyside Avenue
Mill Valley, CA 94941
Attn: Louis W. Demartini
Fax No.: 415-383-9083

If To: "Board"
Regional Water Quality Control Board
San Francisco Bay Region
Attention: Executive Officer
1515 Clay Street, Suite 1400
Oakland, California 94612
Fax Number: 510-622-2460

5.3 Partial Invalidity. If any portion of the Restrictions or terms set forth herein is determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such portion had not been included herein.

5.4 Article Headings. Headings at the beginning of each numbered article of this Covenant are solely for the convenience of the parties and are not a part of the Covenant.

5.5 Recordation. This instrument shall be executed by the Covenantor and by the Executive Officer of the Board. This instrument shall be recorded by the Covenantor in the County of Santa Clara within ten (10) days of the date of execution.

5.6 References. All references to Code sections include successor provisions.

5.7 Construction. Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the Covenant to effect the purpose of this instrument and the policy and purpose of the Water Code. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

IN WITNESS WHEREOF, the parties execute this Covenant as of the date set forth above.

Covenantor:

FIFTY ASSOCIATES, a Massachusetts corporation

By: 

George M. Lovejoy, Jr., President

Date: December 10, 2001

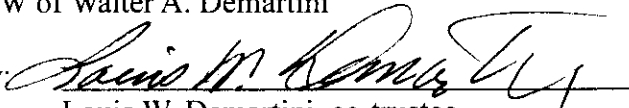


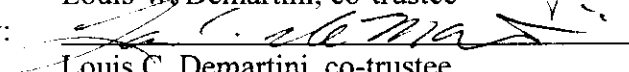
DEMARTINI JOINT ACCOUNT, a California general partnership by its partners

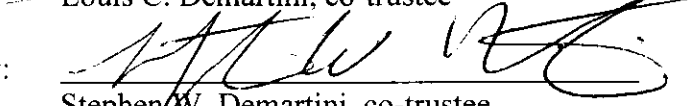
Louis W. Demartini, Louis C. Demartini, and Stephen W. Demartini, co-trustees of the Residuary Trust U/W of Louis J. Demartini

Louis W. Demartini, Louis C. Demartini, and Stephen W. Demartini, co-trustees of the Residuary Trust U/W of Walter A. Demartini

Louis W. Demartini, Louis C. Demartini, and Stephen W. Demartini, co-trustees of the Generation Skipping Trust U/W of Walter A. Demartini


By: 
Louis W. Demartini, co-trustee

By: 
Louis C. Demartini, co-trustee

By: 
Stephen W. Demartini, co-trustee

Date: 12-10-2001

Agency: State of California
Regional Water Quality Board,
San Francisco Bay Region

By: 

Title: Executive Officer

Date: 12 11 01

STATE OF MASSACHUSETTS)
COUNTY OF Suffolk)

On December 10, 2001 before me, the undersigned a Notary Public in and for said state, personally appeared George M. Lovejoy, Jr., personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument.

WITNESS my hand and official seal.

[Handwritten Signature]
Notary Public in and for said ANNOU S. SOLOD
County and State Suffolk County, Massachusetts
My Commission Expires October 18, 2002

STATE OF CALIFORNIA)
COUNTY OF _____)

On _____, 2001 before me, _____, Notary Public, personally appeared Louis W. Demartini, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

STATE OF MASSACHUSETTS)
)
COUNTY OF _____)

On _____, 2001 before me, the undersigned a Notary Public in and for said state, personally appeared George M. Lovejoy, Jr., personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument.

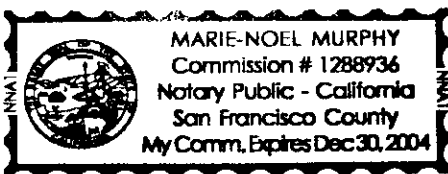
WITNESS my hand and official seal.

Notary Public in and for said
County and State

STATE OF CALIFORNIA)
)
COUNTY OF San Francisco)

On December 10, 2001 before me, Marie-Noel Murphy, Notary Public, personally appeared Louis W. Demartini, ~~personally known to me (or proved to me on the basis of satisfactory evidence)~~ to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(~~s~~) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Marie-Noel Murphy
Notary Public

STATE OF CALIFORNIA)

COUNTY OF San Francisco)

On December 10, 2001 before me, Marie-Noel Murphy,
Notary Public, personally appeared Louis C. Demartini, ~~personally known to me~~ (or
proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s)
is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~
executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~
signature(s) on the instrument the person(s), or the entity upon behalf of which the
person(s) acted, executed the instrument.



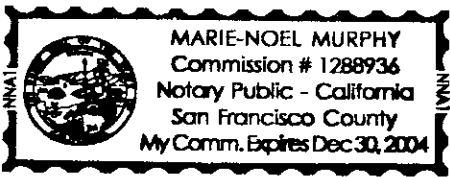
WITNESS my hand and official seal.

Marie-Noel Murphy
Notary Public

STATE OF CALIFORNIA)

COUNTY OF San Francisco)

On December 10, 2001 before me, Marie-Noel Murphy,
Notary Public, personally appeared Stephen W. Demartini, ~~personally known to me~~ (or
proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s)
is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~
executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~
signature(s) on the instrument the person(s), or the entity upon behalf of which the
person(s) acted, executed the instrument.




WITNESS my hand and official seal.

Marie-Noel Murphy
Notary Public

STATE OF CALIFORNIA)
COUNTY OF ALAMEDA)

On DEC 11, 2001 before me, HOWARD LEONG,
Notary Public, personally appeared LORETTA K. BARSAMIAN,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the
person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to
me that he/she/they executed the same in his/her/their authorized capacity(ies), and that
by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of
which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.


Notary Public

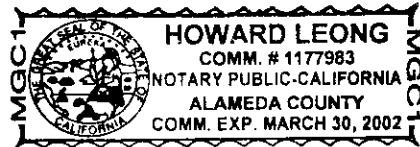


EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

[Follows this page.]

LEGAL DESCRIPTION

PARCEL ONE:

All of Lots 1 and 2, as shown upon that certain Map entitled, "Tract No. 1284 Mariposa Gardens, Unit No. 1", which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on March 24, 1954, in Book 48 of Maps, at Pages 28 and 29, and a portion of the Bennett Tract, and more particularly described as follows:

Beginning at an iron pipe set in the Southeasterly line of Homestead Road, as said line was established in the Deed from Beckett & Federighi, a partnership, et al., to the City of Santa Clara, a municipal corporation, dated February 17, 1958, and recorded March 27, 1958, in Book 4039 of Official Records, Page 112, Santa Clara County Records; distant thereon South $66^{\circ} 35'$ West 18.40 feet from the Westernmost corner of Lot 1, as said lot is shown upon the Map of Tract No. 1284 above referred to; thence from said point of beginning South $25^{\circ} 27' 37''$ East and parallel with the Southwesterly line of said Lot 1 and the Southwesterly line of Lot 2, as said lots are shown upon the map of said Tract No. 1284, for a distance of 125.92 feet to an iron pipe set in the Southwesterly prolongation of the Southeasterly line of said Lot 2; thence North $65^{\circ} 26' 54''$ East and along said last named prolongation 18.37 feet to an iron pipe set at the Southernmost corner of said Lot 2; thence continuing North $65^{\circ} 26' 57''$ East and along the said Southeasterly line of Lot 2 for a distance of 100.00 feet to an iron pipe set at the Easternmost corner thereof in the Southwesterly line of Layton Street, as said street is shown upon the map of said Tract No. 1284; thence North $25^{\circ} 27' 37''$ West and along the said Southwesterly line of Layton Street 100.85 feet to an iron pipe; thence Westerly along an arc of a curve to the left, tangent to the preceding course, with a radius of 20.00 feet through a central angle of $85^{\circ} 59' 23''$, for an arc distance of 30.62 feet to an iron pipe set to the Southeasterly line of Homestead Road, as shown upon the map of said Tract No. 1284; thence South $68^{\circ} 33' 00''$ West and along said Southeasterly line Homestead Road, 100.00 feet to the point of beginning, as surveyed and monumented in July 1958, by George S. Nolte, Civil Engineer and Surveyor.

Also, shown as Parcel B, as shown on Parcel Map, filed February 24, 1959 in Book 102 of Maps, page 50, Santa Clara County Records,

Excepting therefrom that portion thereof conveyed to the City of Santa Clara by instrument recorded March 01, 1974 in Book A786, Page 145, Official Records

PARCEL TWO:

Beginning at an iron pipe set in the Southeasterly line of Homestead Road, as said line was established in the Deed from Beckett & Federighi, a partnership, et al., to the City of Santa Clara, a municipal corporation, dated February 17, 1958, and recorded March 27, 1958, in Book 4039 of Official Records, Page 113, Santa Clara County Records; distant thereon South 68° 33' West 18.40 feet from the Westernmost corner of Lot 1, as said Lot 1 is shown upon that certain Map entitled, "Tract No. 1284 Mariposa Gardens Unit No. 1", which map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on March 24, 1954, in Book 48 of Maps, at Pages 28 and 29; thence from said point of beginning South 25° 27' 37" East and parallel with the Southwesterly line of said Lot 1, and the Southwesterly line of Lot 2, as said lots are shown upon the map of said Tract 1284 for a distance of 125.92 feet to an iron pipe set in the Southwesterly prolongation of the Southeasterly line of said Lot 2; thence North 65° 26' 54" East and along said last named prolongation 18.37 feet to an iron pipe set at the Southernmost corner of said Lot 2 in a Southwesterly line of said Tract No. 1284; thence South 25° 27' 37" East and along the said last named line 240.00 feet to an iron pipe set at the Northernmost corner of Lot 9, as said lot is shown upon the Map of said Tract No. 1284; thence South 65° 26' 54" West and along a Northwesterly line of said Tract No. 1284, for a distance of 490.61 feet to an iron pipe set at the Westernmost corner of Lot 17, as said lot is shown upon the map of said Tract No. 1284; thence South 25° 27' 37" East and along the Southwesterly line of said Lot 17 for a distance of 100.00 feet to an iron pipe set at the Southernmost corner thereof in the Northwesterly line of Barcells Avenue, as said Avenue is shown upon that certain map entitled, "Tract No. 1409 Mariposa Gardens Unit 2", which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on March 22, 1955 in Book 55 of Maps, Pages 28 and 29, Santa Clara County Records; thence South 65° 26' 54" West and along said Northwesterly line of Barcells Avenue 15.00 feet to an iron pipe set at the Easternmost corner of Lot 262 as said lot is shown upon the Map of said Tract No. 1409; thence North 25° 27' 37" West and along the Northeasterly line of said Lot 262, for a distance of 100.00 feet to an iron pipe set at the Northernmost corner thereof South 65° 26' 54" West and along the Northwesterly line of said Lot 262 and the Northwesterly line of Lot 263, as said Lots are shown upon the map of said Tract No. 1409 for a distance of 60.00 feet to an iron pipe; thence North 24° 33' 06" West 395.22 feet to an iron pipe set in the said Southeasterly line of Homestead Road; thence North 66° 33' 00" East and along said last named line 542.23 feet to the point of beginning, as surveyed and monumented in July 1958, by George S. Nolte, Civil Engineer and Surveyor.

PARCEL THREE:

Beginning at an iron pipe set at the Westernmost corner of Lot 272 in the Northeasterly line of Kiely Boulevard, as said Lot and Boulevard are shown upon that certain map entitled, "Tract No. 140, Mariposa Gardens, Unit 2", which map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on March 22, 1955 in Book 55 of Maps, at Pages 28 and 29, Santa Clara County Records; thence from said point of beginning, North 65° 26' 54" East and along a Northwesterly line of said Tract No. 1409 for a distance of 546.05 feet to an iron pipe; distant thereon South 65° 26' 54" West 33.89 feet from the point of intersection thereof with the Southwesterly line of that certain 33 acre tract of land described in the Deed from John J. Milovina, et al, to Miho Jurevich, et al, dated May 23, 1945, recorded May 25, 1945 in Book 1264 Official Records, Page 144, Santa Clara County Records; thence North 24° 33' 06" West 395.22 feet to an iron pipe set in the Southeasterly line of Homestead Road, as said line was established in the Deed from Beckett & Federighi, a partnership, et

al, to City of Santa Clara, a municipal corporation, dated February 17, 1958, recorded March 27, 1958 in Book 4039 Official Records, Page 113, Santa Clara County Records; thence South 68° 33' 00" West and along said Southeasterly line of Homestead Road, 338.14 feet to an iron pipe set at the point of intersection thereof with the Northeasterly line of that certain 0.576 acre tract of land described in the Deed from Elmer Hugh Caldwell, et ux, to Richfield Oil Corporation, a Delaware corporation, dated June 25, 1956, recorded July 13, 1956 in Book 3549 Official Records, Page 230, Santa Clara County Records; the South 25° 28' 38" East, and along the Northeasterly line of said 0.576 acre tract 204.64 feet to an iron pipe set at the Easternmost corner thereof; thence South 65° 54' 03" West and along the Southeasterly line of said 0.576 acre tract, 112.77 feet to an iron pipe set at the Southernmost corner thereof; thence North 25° 28' 38" West and along the Southwesterly line of said 0.576 acre tract, 99.90 feet to an iron pipe set at the Easternmost corner of that certain tract of land described in the Deed from Capital Company, et al, to Orla St. Clair, et ux, dated June 12, 1956, recorded July 1, 1956 in Book 4111 Official Records, at Pages 410 and 411, Santa Clara County Records; thence South 68° 33' 00" West and along the Southeasterly line of land so described in the Deed to said St. Clair, 156.55 feet to an iron pipe set at the Southernmost corner thereof in the said Northeasterly line of Kiely Boulevard; thence Southeasterly and along said Northeasterly line of Kiely Boulevard, for the following courses and distances; South 25° 27' 37" East 93.60 feet to an iron pipe; thence Southeasterly along an arc of a curve to the left, tangent to the preceding course with a radius of 414.85 feet, through a central angle of 22° 30' 48" for an arc distance of 163.01 feet to an iron pipe; thence Southeasterly along an arc of a curve to the right with a radius of 504.85 feet through a central angle of 7° 58' 39" for an arc distance of 70.29 feet to the point of beginning, as conveyed and monumented in July 1958 by George S. Nolte, Civil Engineer and Surveyor.

Excepting therefrom all of Lot 1, as shown upon that certain map entitled, "Amended Record of Survey a Portion of the Bennet Tract within the City of Santa Clara, California", which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on January 16, 1962 in Book 142 of Maps, at Page 8, containing approximately 0.317 acres, as granted by Fifty Associates, a Massachusetts corporation, to Ralph M. Minnich and Kathryn J. Minnich, husband and wife, an undivided 1/3rd interest, Stanley D. Green, and Joan E. Green, husband and wife, an undivided 1/3rd interest and Ben Ichikawa, a single man, an undivided 1/3rd interest, dated March 26, 1962, recorded July 06, 1962, in Book 5637, Official Records, Page 34, Recorder's Serial Number 2221515.

Parcels 2 and 3 are also shown as that 9.084 acre net Parcel, as shown on Map of Record of Survey filed November 08, 1984 in Book 348 of Maps, page 26, Santa Clara County Records.

Parcels Two and Three are more particularly described as follows:

Beginning at a point in the Southeasterly line of Homestead Road, as said line was established in the deed to the City of Santa Clara, a Municipal corporation recorded March 1, 1974, in Book A786 of Official Records, Page 145, Santa Clara County Records, thence from said point of beginning South 25°27'37" East and Parallel with the Southwesterly line of said Lot 1 and the Southwesterly line of Lot 2, as said lots are shown upon the Map of said Tract No. 1284, for a distance of 120.90 feet to an iron pipe set in the Southwesterly prolongation of the Southeasterly line of Lot 2; thence North 65° 26' 54" East and along said last named prolongation 18.37 feet to the Southernmost corner of said Lot 2; thence South 25° 27' 37" East and along the said last named line 240.00 feet to the Northernmost corner of Lot 9, as said lot is shown upon the Map of Said Tract No. 1284; thence South 65° 26' 54" West and along a Northwesterly line of said Tract No. 1284 for a distance of 490.61 feet to the Westernmost Corner of Lot 17 as said Lot is shown upon the Map of said Tract No. 1284; thence South 25° 27' 37" East and along the Southwesterly line of said Lot 17 for a distance of 100.00 feet to the Southernmost corner thereof in the Northwesterly line of Bacells Avenue, as said Avenue is shown upon that certain Map entitled, "Tract No. 1409 Mariposa Gardens Unit2", which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on March 22, 1955 in Book 55 of Maps, Pages 28 and 29, Santa Clara County Records; thence South 65° 26' 54" West and along said Northwesterly line of Barcells Avenue 15.00 feet to an iron pipe set at the Easternmost corner of Lot 262 as said Lot is shown upon the Map of said Tract No. 1409; thence North 25° 27' 37" West and along the Northeasterly line of said Lot 262, for a distance of 100.00 feet to the Northernmost corner thereof thence South 65° 26' 54" West and along the Northwesterly line of said Tract No. 1409 for a distance of 306.05 feet to the Westernmost corner of Lot 272 in the Northeasterly line of Kiely Boulevard, as said Lot and Boulevard are shown upon that certain Map entitled, "Tract No. 1409, Mariposa Garden, Unit 2", which Map was filed for record in the office of the Recorder of the County of Santa Clara, State of California, on March 22, 1955 in Book 55 of Maps at Pages 28 and 29, Santa Clara County Records, said point also being a point on a 504.85 foot radius curve whose center bears South 50° 00' 14" West; thence along the arc of said 504.85 foot radius curve to the left, through a central angle of 7° 58' 37" an arc length of 70.29 feet to a point on a tangent 414.85 feet radius reverse curve; thence along the arc of said 414.85 foot radius curve to the right through a central angle of 20° 38' 33" an arc length of 149.46 feet; thence leaving the Northeasterly line of Keily Boulevard North 65° 54' 03" East 156.02 feet to the Southeasterly line of that certain 0.576 acre tract of land described in the deed from Elmer Hugh Caldwell, et ux, to Richfield Oil Corporation, a Delaware corporation, dated June 25, 1956, recorded July 13, 1956 in Book 3549 Official Records, Page 230, Santa Clara County Records; thence continuing North 65° 54' 03" East 112.77 feet and along the Southeasterly line of said 0.576 acre tract thence North 25° 28' 38" West 199.62 feet along the Northeasterly line of said 0.576 acre tract to a point on the Southeasterly line of Homestead Road as said line was established in the deed to the City of Santa Clara, a Municipal corporation recorded March 1, 1974, in Book A786 of Official Records, Page 145, Santa Clara County Records, thence along said Southeasterly line North 68° 33' 00" East 880.45 feet to the point of beginning.

PARCEL FOUR:

Perpetual Exclusive Easement for the purpose of erecting, replacing, and maintaining one or more fences, walls and/or signs over the Northeasterly one foot of Lot 1, as shown upon that certain map entitled, "Amended Record of Survey a Portion of the Bennet Tract within the City of Santa Clara, California", which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on January 16, 1962 in Book 142 of Maps, at Page 8, containing approximately 0.317 acres, as reserved in the Deed from Fifty Associates, a Massachusetts corporation, to Ralph M. Minnich, Kathryn J. Minnich, husband and wife, an undivided 1/3rd interest, Stanley D. Green, and Joan E. Green, husband and wife, an undivided 1/3rd interest and Ben Ichikawa, a single man, an undivided 1/3rd interest, dated March 26, 1962, recorded July 06, 1962, in Book 5637, Official Records, Page 34, Recorder's Serial Number 2221515.

PARCEL FIVE:

Beginning at a 1 inch iron bar in the Southeasterly line of the Homestead Road, at the most Northerly corner of that certain 13 acre tract of land conveyed by Elmer H. Caldwell and Eleanor M. Caldwell, to the Veterans' Welfare Board, by Deed dated December 04, 1931 and recorded December 31, 1931 in Book 596 of Official Records, at Page 316, Records of Santa Clara County, California; and running thence along the Northeasterly line of said 13 acre tract of land South 25° 30' East 218.63 feet to a 3/4 inch pipe; thence South 65° 20' West 113.16 feet to a 3/4 inch pipe; thence parallel with the Northeasterly line of said 13 acre tract of land North 25° 30' West 224.90 feet to a 3/4 inch pipe in the Southeasterly line of the Homestead Road; thence along said Southeasterly line of the Homestead Road, North 68° 30' 30" East 113.45 feet to the place of beginning, and being a portion of said 13 acre tract of land, and situated in Bennet Tract, Santa Clara County, California.

Excepting therefrom any portion thereof lying within the premises described in a Deed from Fifty Associates, a Massachusetts corporation, to Ralphs M. Minnich, et al, recorded July 06, 1962, in Book 5637, Official Records, Page 34.

Also Excepting therefrom the Northwesterly 20.5 feet thereof as described in the Deed from Fifty Associates, a Massachusetts corporation, et al, city of Santa Clara, recorded March 1, 1974 in Book A786, page 154, Official Records.

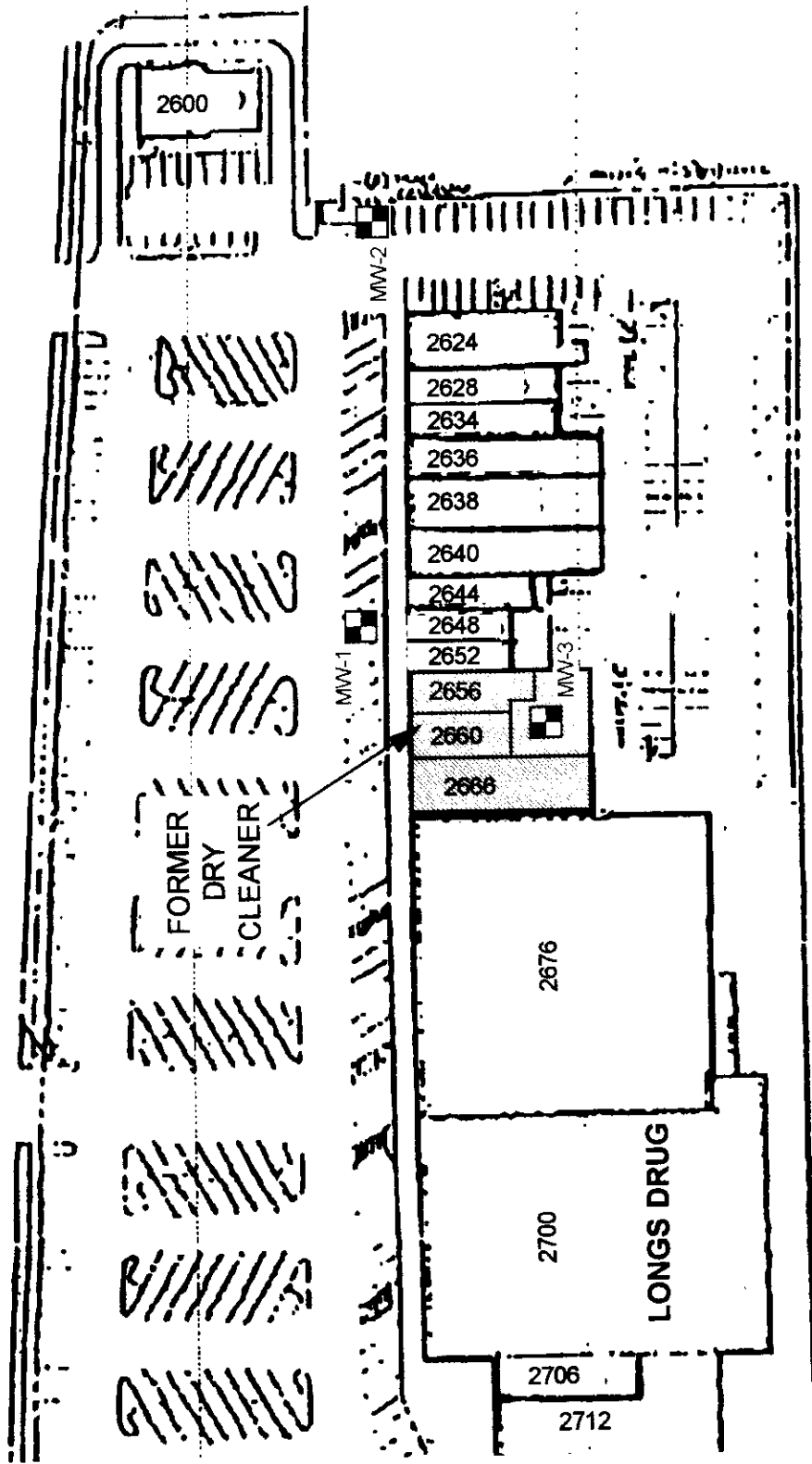
More particularly described as follows:


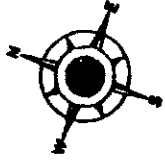
Beginning at a point on the Southeasterly line of Homestead Road as said line was established in the deed to the City of Santa Clara, a Municipal corporation recorded March 1, 1974 in Book A786 of Official Records, Page 145, Santa Clara County Records with the intersection thereof with the Northeasterly line of that certain 13 acre tract of land conveyed by Elmer H. Caldwell and Eleanor M. Caldwell, to the Veterans' Welfare Board, by deed dated December 4, 1931 and recorded December 31, 1931 in Book 596 of Official Records, at page 316, records of Santa Clara County, California; and running thence along the Northeasterly line of said 13 acre tract of land South 25° 28' 38" East 199.62 feet, thence South 65° 54' 03" West 112.77 feet; thence North 25° 28' 38" West 204.84 feet to a point on the Southeasterly line of Homestead Road as said line was established in the deed to the City of Santa Clara, a Municipal corporation recorded March 1, 1974 in Book A786 of Official Records, page 145, Santa Clara County Records; thence along said Southeasterly line North 68° 33' 00" East 112.92 feet to the point of beginning.

Assessor's Parcel Number: 294-18-034, 294-18-035 and 294-18-036



HOMESTEAD ROAD

LAYTON STREET



SITE MAP WITH RESTRICTED SOIL AREAS	
FIGURE 2	
MARIPOSA SHOPPING CENTER	
SANTA CLARA, CALIFORNIA	
SOURCE: ALLWEST	
PREPARED BY: J.K.M. TINGIN	
DATE: 11/28/2001	
 AllWest	PROJECT NO. 21187.28
 Approximate Scale 0 1" = 75'	

LEGEND

-  Groundwater well
-  Areas covered by soil portion of Deed Restriction



0 20
1" = 20"

2876

2866

2860

2858

2852

(FORMER
DRY CLEANING
AREA)

LEGEND



Area covered by soil
portion of Deed Restriction



AllWest

PROJECT NO.
21187.25

ENLARGE VIEW OF SOIL PORTION OF DEED RESTRICTION

FIGURE 3

HOMESTEAD & KIELY

SANTA CLARA, CALIFORNIA

SOURCE: ALLWEST

PREPARED BY: J.K.M. TINGIN (11/28/2001)