

MINUTE ITEM

This Calendar Item No. 37
was approved as Minute Item
37 by the State Lands
Commission by a vote of 7
to 8 at its 8/18/81
meeting.

CALENDAR ITEM

8/20/81
W 503.1075
Kiley

37

AUTHORIZATION TO SETTLE CASE OF
AMERICAN SAVINGS V. STATE OF CALIFORNIA;
MARIN COUNTY SUPERIOR COURT NO. 88601

BACKGROUND:

Novato Creek, at the location in question, was historically natural, navigable and tidal, and is sovereign land of the State administered by the State Lands Commission. American Savings and Loan Association sued the State on June 2, 1980 to quiet title to certain lands and for declaratory relief, arguing that Novato Creek at the subject location was neither navigable nor tidal, that the historic location could not be ascertained, that the old creek bed was filled through State action and is no longer of any sovereign use, and that the State is estopped from claiming any interest in the former bed.

Novato Creek now flows through a channelized flood control channel originally constructed by the old Department of Highways during the early 1930's.

Negotiations have proceeded during the pendency of the lawsuit and a settlement proposal has been made which staff and the Attorney General believe would be in the best interest of the State.

PRESENT SITUATION:

The major points of the proposed settlement are:

1. American Savings and Loan Association will grant by deed to the State an interest in fee in an approved exchange parcel. The value of the interest granted will be \$30,000.
2. American Savings and Loan Association will confirm by deed the Public Trust Easement over the existing channel and levees of Novato Creek, as shown in Exhibit B, and described in Exhibit C.

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(Added 8/18/81)

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3. American Savings will grant to the Marin County Flood Control District an easement for flood control purposes over the existing channel and levees of Novato Creek, as shown on Exhibit B, and described in Exhibit C.
4. The State would relinquish, by patent, its sovereign interest within the lands described in Exhibit D, and in the process would free those lands from the public trust.
5. The State would receive, without cost to it, title insurance for the interests it is to receive.

There are no convenient off-site exchange parcels in the precise dollar amount required available to American Savings at the present time; however, it is anticipated that such a parcel will become available in the near future through a Land Bank Agreement.

Staff has made an appraisal and evaluation of the State's interest in the property described in Exhibit D. Its recommendation is that the value be found to be \$30,000. American Savings will deposit that amount in an interest bearing escrow account.

The proposed settlement applies to pending litigation only, and American Savings remains subject to all other lawful requirements of public agencies for permits, mitigation, use, etc., independent of this agreement.

Staff recommends approval of the settlement as to dollar amount and concept, with recordation of documents to occur after a suitable exchange parcel has been found. American Savings has development plans pending before the City of Novato which require that the basic title dispute be settled.

When an approved Land Bank property is available, staff will present to the Commission the proposed exchange parcel so the Commission can determine that the land received is of equal or greater value than the interest exchanged that the exchange is in the State's interest, and that escrow for the exchange may be closed.

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- EXHIBITS:
- A. & A-1. Location Maps.
 - B. Easement Sketch.
 - C. Easement Description.
 - D. Description of parcel to be freed from trust.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE PROPOSED EXCHANGE AGREEMENT IS IN SETTLEMENT OF TITLE AND BOUNDARY LITIGATION AND THAT CEQA IS THEREBY INAPPLICABLE.
2. APPROVE THE FORM OF EXCHANGE AGREEMENT ON FILE AT THE OFFICE OF THE STATE LANDS COMMISSION.
3. DIRECT STAFF TO OBTAIN THE COMMISSION'S APPROVAL OF A PROPOSED EXCHANGE PARCEL PRIOR TO THE RELEASE OF THE STATE'S INTEREST.
4. FIND THAT THE VALUE OF THE STATE'S INTEREST IN THE PARCEL DESCRIBED IN EXHIBIT D IS \$30,000.
5. AUTHORIZE STAFF TO OPEN AN ESCROW ACCOUNT FOR RECEIPT OF THE \$30,000.

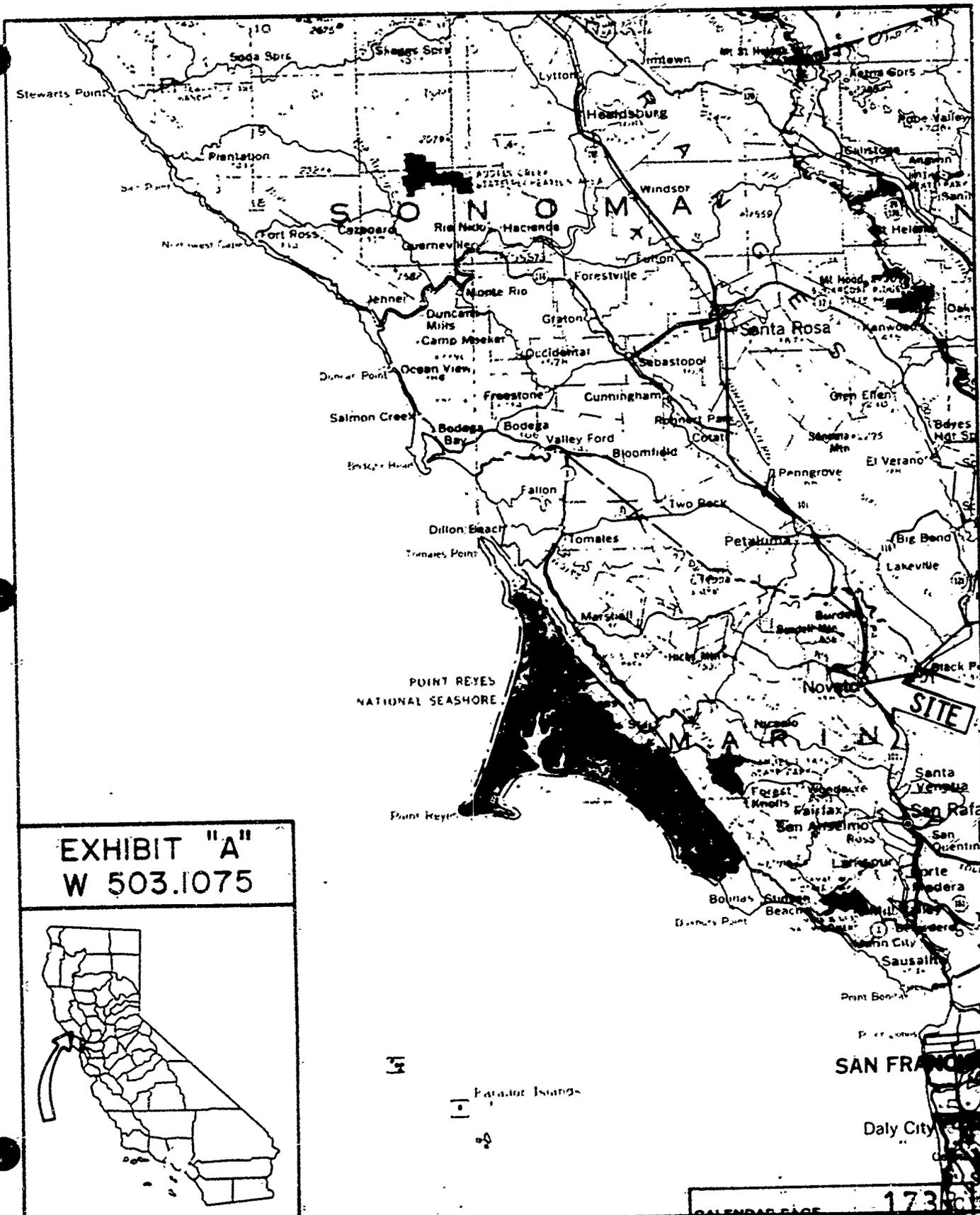


EXHIBIT "A"
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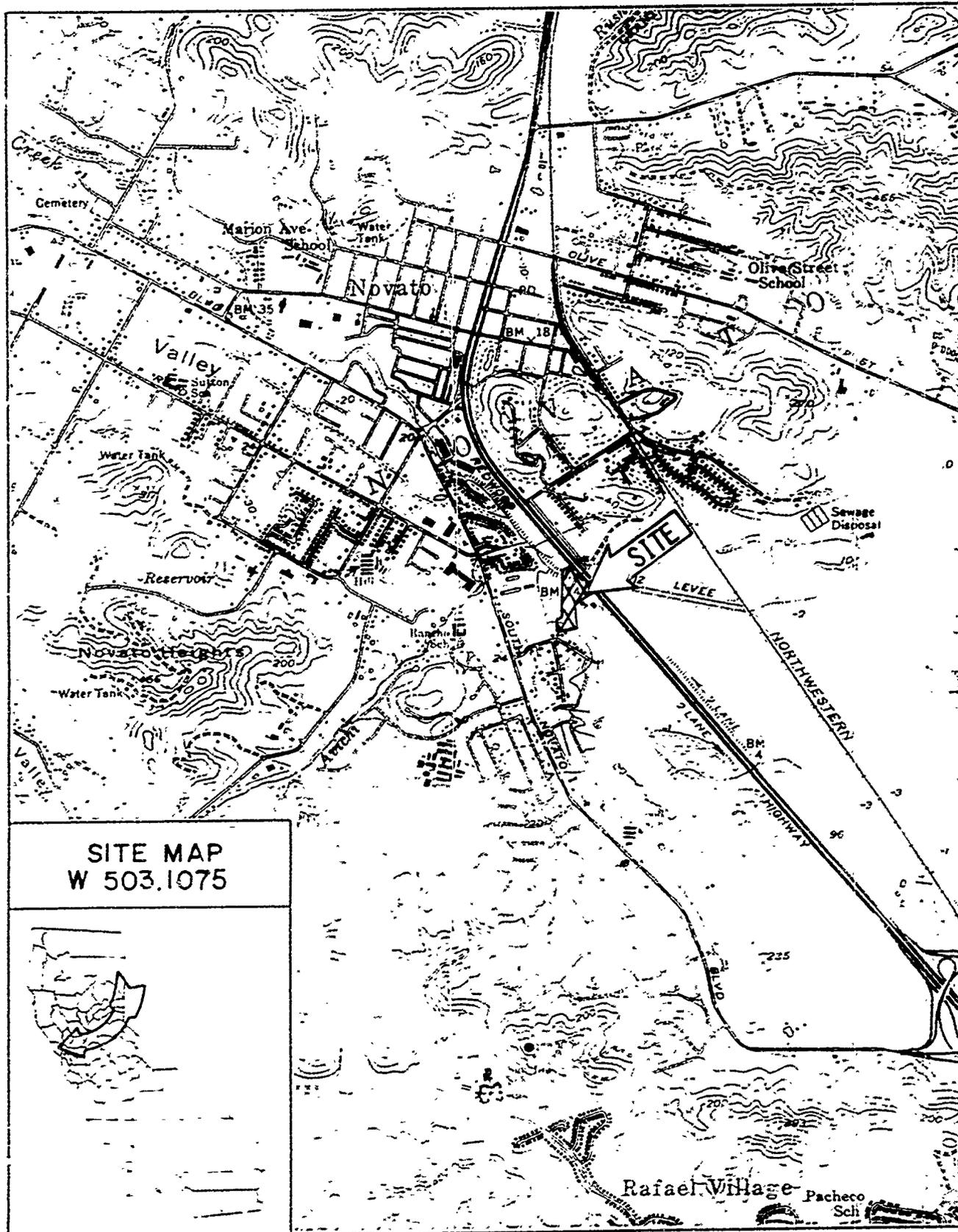


EXHIBIT "A-1"

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EXHIBIT C

Parcel One.

Beginning at a point on the northeasterly line of that certain parcel of land described in the Trustee's Deed to American Savings and Loan Association, recorded January 11, 1967 in Book 2102 of Official Records at page 516, Marin County Records, said point being distant thereon 23.93 feet northerly of the easterly corner of said parcel of land, said easterly corner being the northerly corner of Lot 1 as shown on that certain map entitled "Map of Novato Auto Mart", recorded in Book 14 of Maps at page 14, Marin County Records; running thence from said point of beginning North 83° 23' 24" West 178.19 feet; thence along a tangent curve to the right, having a radius of 655.00 feet, through a central angle of 30° 27' 44", an arc distance of 348.24 feet; thence North 52° 55' 40" West 39.17 feet to a point on the westerly line of said parcel of land (2102 O.R. 516); thence along said westerly line North 0° 05' 10" East 34.93 feet to an angle point therein, said angle point being the southeasterly corner of Lot 16 as shown on that certain map entitled "Map of Nave Gardens" recorded in Book 7 of Maps, at page 29, Marin County Records; thence along the easterly line of said Lot 16 being the westerly line of said parcel of land (2102 O.R. 516) North 0° 36' 30" East 33.70 feet to the northwesterly corner of said parcel of land (2102 O.R. 516), said corner being the southerly corner of Lot 1, as shown on that certain map entitled "Map of Schuman Center" recorded June 17, 1969, in Book 14 of Maps, at page 54, Marin County Records; thence along the southeasterly line of said Lot 1, being the northwesterly line of said parcel of land (2102 O.R. 516) North 45° 11' 39" East 55.56 feet; thence leaving said southeasterly line South 52° 55' 40" East 72.36 feet; thence along a tangent curve to the left having a radius of 545.00 feet, through a central angle of 30° 27' 44" an arc distance of 289.76 feet; thence South 83° 23' 24" East 59.22 feet to a point on said northeasterly line of said parcel of land (2102 O.R. 516), distant thereon 162.04 feet from the point of beginning; thence along said northeasterly line South 40° 38' 00" East 162.03 feet to the Point Of Beginning.

Containing 1.277 acres, more or less.

Parcel Two:

Beginning at a point on the northeasterly line of that certain parcel of land described in the Trustee's Deed to American Savings and Loan Association, recorded January 11, 1967 in Book 2102 of Official Records at page 516, Marin County Records, said point being distant thereon 185.97

feet northerly of the easterly corner of said parcel of land, said easterly corner being the northerly corner of Lot 1 as shown on that certain map entitled "Map of Novato Auto Mart", recorded in Book 14 of Maps at page 14, Marin County Records; running thence from said point of beginning North 83° 23' 24" West 59.22 feet; thence along a tangent curve to the right having a radius of 545.00 feet, through a

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Parcel Two (continued)

central angle of $30^{\circ} 27' 44''$, an arc distance of 289.76 feet; thence North $52^{\circ} 55' 40''$ West 72.36 feet to a point on the northwesterly line of said parcel of land (2102 O.R. 516); said northwesterly line being the southeasterly line of Lot 1 as shown on that certain map entitled "Map of Schuman Center", recorded in Book 14 of Maps at page 54, Marin County Records; thence along the southeasterly line of said Lot 1 North $45^{\circ} 11' 39''$ East 20.20 feet; thence leaving said southeasterly line South $52^{\circ} 55' 40''$ East 69.51 feet; thence along a tangent curve to the left having a radius of 525.00 feet, through a central angle of $30^{\circ} 27' 44''$, an arc distance of 279.12 feet; thence South $83^{\circ} 23' 24''$ East 37.59 feet to a point on said northeasterly line of said parcel of land (2102 O.R. 516), distant thereon 29.46 feet from the point of beginning; thence along said northeasterly line South $40^{\circ} 38' 00''$ East 29.46 feet to the Point Of Beginning.

Containing 0.185 acres, more or less.

Parcel Three:

An easement for access and maintenance purposes, 20.00 feet in width, lying adjacent to and southwesterly of the southwesterly line of the hereinabove described Parcel One and more particularly described as follows:

Beginning at a point on the northeasterly line of that certain parcel of land described in the Trustee's Deed to American Savings and Loan Association, recorded January 11, 1967 in Book 2102 of Official Records at page 516, Marin County Records, said point being distant thereon 23.93 feet northerly of the easterly corner of said parcel of land, said easterly corner being the northerly corner of Lot 1 as shown on that certain map entitled "Map of Novato Auto Mart" recorded in Book 14 of Maps at page 14, Marin County Records; running thence from said point of beginning North $83^{\circ} 23' 24''$ West 178.19 feet; thence along a tangent curve to the right having a radius of 655.00 feet, through a central angle of $30^{\circ} 27' 44''$, an arc distance of 348.24 feet; thence North $52^{\circ} 55' 40''$ West 39.17 feet to a point on the westerly line of said parcel of land (2102 O.R. 516); thence along said westerly line South $0^{\circ} 05' 10''$ West 25.04 feet; thence leaving said westerly line South $52^{\circ} 55' 40''$ East 24.11 feet; thence along a tangent curve to the left having a radius of 675.00 feet, through a central angle of $30^{\circ} 27' 44''$, an arc distance of 358.87 feet; thence South $83^{\circ} 23' 24''$ East 192.29 feet to a point on the southeasterly line of said parcel of land (2102 O.R. 516), said southeasterly line being the northwesterly line of said Lot 1 (14 R.M.14); thence along said southeasterly line North $49^{\circ} 22' 00''$ East 5.11 feet to the easterly corner of said parcel of land (2102 O.R. 516); thence along the northeasterly line of said parcel of land North $40^{\circ} 38' 00''$ West 23.93 feet to the Point Of Beginning.

Containing 0.263 acres, more or less.

EXHIBIT D

All that certain real property situate in the County of Marin, State of California, described as follows:

Beginning at the easterly corner of that certain parcel of land described in the Trustee's Deed to American Savings and Loan Association, recorded January 11, 1967 in Book 2102 of Official Records at page 516, Marin County Records, said easterly corner being the northerly corner of Lot 1 as shown on that certain map entitled "Map of Novato Auto Mart", recorded in Book 14 of Maps at page 14, Marin County Records; running thence from said point of beginning along the southeasterly line of said parcel of land (2102 O.R. 516), being the northwesterly line of said "Novato Auto Mart", South 49° 22' 00" West 530.82 feet, South 0° 06' 00" West 105.00 feet, along a tangent curve to the right, having a radius of 80.00 feet, through a central angle of 77° 25' 41", an arc distance of 108.11 feet and South 0° 35' 00" West 83.50 feet to the southeasterly corner of said parcel of land (2102 O.R. 516), being the westerly corner of said "Novato Auto Mart"; thence continuing along the southerly and westerly lines of said parcel of land (2102 O.R. 516) South 71° 59' 10" West 124.70 feet, North 0° 34' 10" East 134.55 feet, North 77° 30' 50" East 40.45 feet and North 0° 05' 10" East 732.67 feet to the southeasterly corner of Lot 16 as shown on that certain map entitled "Map of Nave Gardens" recorded in Book 7 of Maps, at page 29, Marin County Records; thence continuing along the westerly line of said parcel of land (2102 O.R. 516), being the easterly line of said Lot 16, North 0° 36' 30" East 33.70 feet to the northwesterly corner of said parcel of land (2102 O.R. 516), being the southerly corner of Lot 1, as shown on that certain map entitled "Map of Schuman Center", recorded June 17, 1969, in Book 14 of Maps, at page 54, Marin County Records; thence along the northerly line of said parcel of land (2102 O.R. 516), being the southerly line of said "Schuman Center" North 45° 11' 39" East 244.01 feet to the northerly corner of said parcel of land (2102 O.R. 516), being a point on the westerly line of Redwood Boulevard (formerly State Highway 101) as described in the deed to the State of California, recorded March 9, 1945 in Liber 480 of Official Records, at Page 188, Marin County Records; thence along the northeasterly line of said parcel of land (2102 O.R. 516), being last said westerly line South 40° 38' 00" East 567.80 feet to the Point of Beginning.

Containing 6.78 acres, more or less.

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