

MRD:BD 2-1-78

For benefit of the City of
Santa Clara. Recorded free
of charge under Section 6105
of the Government Code.

5964644

D 552 PAGE 242

AGREEMENT

(COVENANT RUNNING WITH THE LAND)

3/14/78 THIS AGREEMENT, made this 20th day of February, 1978,
by and between the CITY OF SANTA CLARA, California, a municipal
corporation, hereinafter called "CITY", and "NORBERT R. SILVEIRA"

as executor on behalf of the estate of Mary S. Silva, hereinafter
"OWNERS".

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS
FOLLOWS:

WHEREAS, OWNERS are the owners of certain real property located
at 1560 and 1582 Jackson Street, Santa Clara, California, which
property is shown on 1977 Santa Clara County Property Tax rolls as
Assessor's Parcel Nos. 224-26-047

and is hereinafter referred to collectively as "PROPERTY"; and,

WHEREAS, PROPERTY once was a single lot with approximately
84.6 feet of frontage on Jackson Street; and,

WHEREAS, the single lot with the 84.6 foot frontage was zoned
R3-36D; and,

WHEREAS, the CITY was willing to permit a lot split into two
lots, each with substandard area and width, in order to expedite
settlement of a probate estate; and,

WHEREAS, the CITY was willing to permit the split into two
lots only if the OWNERS would be willing to assure the CITY that
the density on the two lots would not be increased; and,

WHEREAS, the City Council permitted the OWNERS' variance
request for a lot split, reduction in lot size, reduction in lot
width, and reduction in side yard, on the basis that OWNERS would
execute a covenant running with the land restricting OWNERS to the
existing single story, single family dwellings, on each of the two
lots (with no possibility of size addition, replaceable only by
dwellings of similar size and character); and,

WHEREAS, it is further the intent of the parties hereto to
bind all OWNERS of PROPERTY, present and future, their assigns and

S.C. #14628

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Santa Clara, Recorded free
of charge under Section 6109
of the Government Code.

D 532 PAGE 243

successors in interest, by giving notice that this agreement shall constitute a covenant running with the land, and it shall be binding upon all said OWNERS of PROPERTY, present and future, their assigns or successors in interest.

NOW, THEREFORE, IT IS HEREBY FURTHER AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Whenever the term "OWNERS" is used herein, it shall refer collectively to the OWNERS signing this agreement and/or their assigns or successors in interest.
2. OWNERS agree that the dwellings situated on said PROPERTY shall remain single story, single family residential dwellings, and that in the event that replacement is necessary, that the dwellings will be replaced with structures of similar residential character and with square footage that will not exceed the square footage of the currently existing structures.
3. Each and every covenant made by OWNERS and the CITY is made for the direct benefit of the hereinafter indicated respective lands or interest in lands held by the parties hereto, their assigns and/or successors in interest, and shall run with said respective lands or interests in lands and, if applicable, their responsibilities and burdens thereof are imposed on and shall run with said respective lands or interests in lands held by the parties hereto, their assigns or successors in interest.
4. The land of OWNERS which is benefitted by this agreement is the above mentioned PROPERTY.
5. The land of CITY which is benefitted by this agreement is Jackson Street, a public street owned by the CITY.

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FILED FOR RECORD
AT REQUEST OF
CITY OF SANTA CLARA
MAY 27 1 24 PM '78
CLERK OF SUPERIOR COURT
SANTA CLARA COUNTY
REGISTERED IN RECORDS

For benefit of the City of
Santa Clara. Recorded free
of charge under Section 6108
of the Government Code.

D 552 PAGE 244

6. This agreement shall be recorded by CITY in the Office
of the County Recorder of Santa Clara County.

IN WITNESS WHEREOF, the parties hereto have executed this
agreement in duplicate the date and year first above written.

ATTEST:

CITY OF SANTA CLARA
a municipal corporation

[Signature]
City Clerk

[Signature]
Mayor

APPROVED AS TO FORM:

[Signature]
Assistant City Attorney

[Signature]
City Manager

The Estate of Mary S. Silva

[Signature]
As Executor on Behalf of the Estate

(Attach copy of Probate Court Authorization)

STATE OF CALIFORNIA }
COUNTY OF SANTA CLARA }

D 552 PAGE 245

On this 21st day of March, 19 78, before me,
LILLIAN S. WILLIAMS, a Notary Public in and for the County of Santa Clara,
State of California, residing therein, duly commissioned and sworn per-
sonally appeared W. A. Gissler, D. R. Von Roesfeld and A. S. Belick
known to me to be the Mayor, City Manager and City Clerk, respectively of
the municipal corporation described herein, and that they executed the
within instrument on behalf of the said municipal corporation therein named,
and acknowledged to me that such municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
seal in the County of Santa Clara the day and year in this certificate first
above written.



[Signature]
LILLIAN S. WILLIAMS
Notary Public in and for the County of
Santa Clara, State of California.
My Commission expires July 21, 1979.

MAR 27 1978

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D 217 JUL 1977

Recorded here
 under Section 6102
 of the Government Code COVENANT AGREEMENT

THIS AGREEMENT, made and entered into this 4th day
 of October, 1977, between the CITY OF SANTA CLARA, a
 municipal corporation of the State of California, hereinafter called
 "CITY" and NORBERT R. SILVEIRA, executor of the estate of MARY S. SILVA,
 deceased, hereinafter called "EXECUTOR".

WITNESSETH

WHEREAS, there exists a single parcel of real property
 located in the City of Santa Clara, County of Santa Clara, State of
 California, described as follows:

PORTION OF SUB LOT 19 as shown upon that certain
 Map entitled, "Map of the Town and Sub-Lots of Santa
 Clara, Santa Clara County, California, surveyed by
 J. J. Bowen, County Surveyor, July 1866, which Map was
 filed for record in the office of the Recorder of the
 County of Santa Clara, State of California, in Book B
 of Maps, at page 103, and more particularly described
 as follows:

BEGINNING at a point on the Westerly line of Jackson
 Street distant thereto 144 feet Northerly from the point of
 intersection of the Northerly line of Clay Street with
 the Westerly line of Jackson Street; thence running
 Westerly and along the Northerly line of land conveyed
 by H. H. Warburton to C. H. Wilson by Deed dated
 January 27, 1899 and recorded January 28, 1899 in
 Book 215 of Deeds, page 512, 75 feet to a point on
 the Easterly line of land conveyed by H. H. Warburton,
 et ux, to Antone Freitas by Deed dated October 29, 1902
 and recorded in Book 256 of Deeds, page 512; thence
 running Northerly and along said Easterly line of
 land so conveyed to Antone Freitas 6 inches to the
 Northeast corner of said land; thence running
 Westerly and along the Northerly line of said land
 and the Northerly line of land conveyed by H. H.
 Warburton et ux, to Mrs. Betty F. Lundin by Deed
 dated August 4, 1892 and recorded in Book 151 of
 Deeds, page 56, 198 feet to a point on the Westerly
 line of Sub Lot 19 in the City of Santa Clara; thence
 running Northerly and along the Westerly line of said
 Sub Lot 19, 84 feet; thence running Easterly and parallel
 with the Northerly line of Clay Street 273 feet to a
 point on the Westerly line of Jackson Street; thence
 running Southerly and along said Westerly line of
 Jackson Street 84.50 feet to the point of beginning.

WHEREAS, there currently exists on said parcel of real property
 two (2) single family residential structures, more commonly known as
 1560 Jackson Street and 1582 Jackson Street, and that said
 structures are being used as single family residences; and

City of Santa Clara, California

For benefit of the City of
Santa Clara. Recorded from
of charge under Section 6105
of the Government Code.

0 217 MAY 1978

WHEREAS, pursuant to an order of the Probate Department of the Superior Court of California, County of Santa Clara, in Case No. 92647, Estate of Mary S. Silva, deceased, entitled ORDER DETERMINING INTEREST IN ESTATE AND ORDER INSTRUCTING NORBERT R. SILVEIRA, EXECUTOR, the said parcel of real property described above has been ordered partitioned by said Executor so as to create separate and distinct parcels of real property out of the single parcel described above, each of which separate parcels contains one of the mentioned residential structures and encompassing approximately one-half of said parcel described above; and

WHEREAS, said Executor, on February 23, 1977, petitioned CITY to permit a variance from the provisions of Zoning Ordinance No. 1204 of the City of Santa Clara to permit substandard lot size, frontage, and side yard areas for each of said proposed separate parcels; and

WHEREAS, the Planning Commission of the City of Santa Clara denied said petition for variance on March 23, 1977; and

WHEREAS, EXECUTOR appealed said decision to the City Council of the City of Santa Clara; and

WHEREAS, the City Council of the City of Santa Clara voted to grant said variance on certain terms, conditions and restrictions, more fully set forth hereinafter.

NOW, THEREFORE, EXECUTOR AGREES, WARRANTS, AND COVENANTS, as follows:

FIRST: EXECUTOR will deliver or cause to be delivered to the City Council of CITY, or to the authorized agent of said Council, a letter signed by said EXECUTOR in his capacity and on behalf of the beneficiaries under the final order of distribution of the Estate of MARY S. SILVA, deceased, assuring said City Council that no objection or protest will be lodged with the CITY to the rezoning of the newly created parcels above from R3-36D to R-1

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of the Government Code.

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(single family residence);

SECOND: That the single family residential structures existing on the newly created parcels described above shall be retained as dwelling units and may be replaced only with dwellings of similar size and character;

THIRD: That EXECUTOR will deposit, or cause to be deposited, with the Planning Department of the CITY, all necessary plot maps or other descriptions of said parcels as may be from time to time required by said Planning Department;

FOURTH: Terms, conditions, and covenants set forth herein shall run with said parcels of real property and shall be binding on all parties having or acquiring any right, title, or interest in said parcels of real property, whether by grant, assignment or operation of law.

FIFTH: That failure to comply with the terms, conditions, and covenants set forth herein shall result in the revocation of the variance grant and shall entitle CITY to recover all expenses, including reasonable attorneys fees, incurred in any repair, restoration or rebuilding necessary to conform said parcels of real property to the zoning requirements and building code;

SIXTH: That this Agreement shall be recorded in the Office of the County Recorder of the County of Santa Clara.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

ATTEST:

CITY OF SANTA CLARA

[Signature]
City Clerk

By: William A. Quinlan
Mayor

APPROVED FOR FORM:

By: [Signature]
City Manager

[Signature]
City Attorney

[Signature]
Norbert R. Silveira
Executor of the Estate of
Mary S. Silva, deceased

STATE OF CALIFORNIA

D 217 215380

County of Santa ClaraOn this 23th day of September in the year one thousand nine hundred and seventy-seven
before me, SHIRLEY M. COLLINS, a Notary Public in and for the City andCounty of Santa Clara, State of California, residing therein,
duly commissioned and sworn, personally appeared Norbert R. Silveiraknown to me to be the person whose name is subscribed to the within instrument
and acknowledged to me that he executed the same.IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal
in the City and County of Santa Clara the day and year in this
certificate first above written Shirley M. CollinsNotary Public in and for the City & County of Santa Clara
State of California
My Commission Expires April 5, 1979

STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

SS

On this 4th day of October, 19 77, before me,
LILLIAN S. WILLIAMS, a Notary Public in and for the County Santa Clara,
State of California, residing therein, duly commissioned and sworn, per-
sonally appeared William A. Gissler, D. R. Von Raesfeld and A. S. Belick
known to me to be the Mayor, City Manager and City Clerk, respectively of
the municipal corporation described herein, and that they executed the
within instrument on behalf of the said municipal corporation therein named,
and acknowledged to me that such municipal corporation executed the same.IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
seal in the County of Santa Clara the day and year in this certificate first
above written.

Lillian S. Williams
LILLIAN S. WILLIAMS
Notary Public in and for the County
of Santa Clara, State of California
My Commission expires July 21, 1979

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DH D 217 215381

FILED FOR RECORD
AT REQUEST OF
City of Santa Clara
Oct 18 11 46 AM '77
OFFICIAL RECORDS
SANTA CLARA COUNTY
REGISTER & RECORDER

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