



Staff Report

RESOLUTION ACCEPTING A CONSERVATION EASEMENT AND AN ASSOCIATED OWNERSHIP/OPEN SPACE MANAGEMENT PLAN FOR THE SENDING PARCEL (APN: 043-104-580) TO AN APPROVED FLOOR AREA TRANSFER BETWEEN SAID PARCEL AND A DISCONTIGUOUS RECEIVING PARCEL (APN: 043-104-560) AT NAUGHTON AVENUE.

Honorable Mayor and Council Members:

Summary/Background

On March 19, 2008, Ken Hall (applicant), submitted an application for a Floor Area Transfer from Assessor's Parcel 043-104-580 (sending parcel) to Assessor's Parcel 043-104-560 (receiving parcel - at Naughton Avenue). The applicant also submitted a Lot Line Adjustment, application that would incorporate and reconfigure the sending parcel as a conservation easement. The subject properties are located within the Hillside Residential and Open Space (HRO-2) District on the western section of Naughton Avenue, which is accessed from Belmont Canyon Road. According to Section 4.7.11(d) of the City of Belmont Zoning Code, the HRO-2 District allows the permanent transfer of floor area development potential from one site to a non-contiguous site with approval of an Administrative Conditional Use Permit (ACUP) by the Zoning Administrator.

On June 5, 2008, notice of conditional approval of the floor area transfer was published in the San Mateo County Times in accordance with Section 4.7.11(g)(2) of the Belmont Zoning Code (BZO). Notice was also sent to adjacent property owners of both the sending and receiving lots, the Planning Commission and the City Council. No appeals were received within the 10-day appeal period. On June 26, 2008, the Zoning Administrator approved the ACUP allowing the Floor Area Transfer, conditioned on City Council acceptance of the conservation easement over the sending parcel. The BZO allows 1,200 square feet to be transferred from the sending lot to the receiving lot for a total development potential of 2,400 square feet on the receiving lot. The applicant intends to construct a 2,400 square-foot home on the receiving lot.

The sending lot would be merged with three adjacent lots and reconfigured as a conservation easement (see Attachments B and D). Specifically, the rectangular 3,616.2 sq. ft. lot would be merged with the adjacent lots, and an L-shaped conservation easement of the same size would be created on the new property. The reconfigured conservation easement would dedicate the same amount of open space, reduce grading necessary for the construction of a new home on site, and provide a landscape buffer between the site and adjacent residential properties to the south. The new homes will be required to obtain Single Family Design Review approval by the Planning

Commission. Two applications for Single Family Design Review applications have been submitted for the two properties and are expected to be reviewed by the Planning Commission in October or November of this year, provided that the subject conservation easement is accepted and the Lot Line Adjustment is approved.

The City's Ground Movement Potential and Geologic Hazard Policy Map of the San Juan Hills Study Area identifies both the sending and receiving parcels as being in an area characterized as relatively stable, level ground (Sbr – (Development and Road Expansion Permitted). Both the sending and receiving parcels are situated on Naughton Avenue which is a fully developed roadway.

A resolution, including a map indicating the sending and receiving properties, is attached for Council's consideration.

Discussion

With the acceptance and recording of the conservation easement, the findings for a floor area transfer as indicated in the BZO will have been sufficiently met. These findings include that the transfer is consistent with the policies of the San Juan Hills Area Plan and the Geologic Hazards Ordinance. The San Juan Hills Area Plan establishes policies regarding development within the Plan Area. These policies include allowing density transfers in vacant, subdivided areas such as those including, and in the vicinity of, the sending and receiving sites.

It should be noted that the required findings for approval of a floor area transfer are as follows:

- That adequate infrastructure exists or its construction is assured;
- That the pattern of development as a result of the floor area transfer is better than could be achieved through the application of the ordinance without a floor area transfer;
- The establishment of a conservation easement over the entire sending parcel is assured;
- The receiving lot is not in an area designated Md (Major Debris Flow/Landslide) or Pdf (Potential Debris Flow/Landslide) on the current geologic hazards map; and
- All floor area transfer standards shall be met.

All findings were made in the affirmative.

General Plan/Vision Statement

The transfer of floor area from one lot to another and the establishment of a conservation easement over the sending site would further the more rural, open space/residential character of the area. The floor area transfer and associated conservation easement eliminates the possibility of any future development for the sending parcel. As such, the transfer of floor area potential from the vacant sending parcel to the existing home on the receiving parcel eliminates one new home from potentially being constructed along this section of Naughton Avenue. In addition, a Lot Line Adjustment application has been submitted, and would be administratively approved subsequent to approval of the Floor Area Transfer, that would merge the sending parcel with three adjacent lots. Thus, four potentially developable lots would be merged into one lot with the

aforementioned conservation easement included within the amended lands, and, in total, five potentially developable lots on this portion of Naughton Avenue would be reduced to two.

The action associated with adopting a conservation easement over the sending parcel also furthers the City's General Plan Goals as follows:

Goal 1015.2

"To preserve and enhance the attractive, family-oriented and tranquil quality of Belmont's residential neighborhoods."

Goal 1015.3

"To preserve significant open spaces, trees, views, waterways, wildlife habitats, and other features of the natural environment."

Goal 1015.4

"To maintain and enhance the appearance of the City through controlling the location, timing, design and landscaping of new development and encouraging renovation of older areas."

Fiscal Impact

None at this time.

Public Contact

1. The City placed public notice in the San Mateo Times (local newspaper of general circulation) as per Section 4.7.11(g)(2) (Notification of Zoning Administrator Decisions – Floor Area Transfers) of the BZO on June 5, 2008.
2. A notice of intent to approve the ACUP/Floor Area Transfer was mailed to all adjacent property owners.
3. This matter was placed on the agenda and posted as required by the California Government Code.

Conclusion/Recommendation

Staff recommends that the City Council accept the attached conservation easement, thereby completing the floor area transfer. A Resolution approving the Conservation Easement and associated Ownership/Open Space Management Plan is attached for Council review and adoption.

Alternatives

1. Refer back to staff for additional information.
-

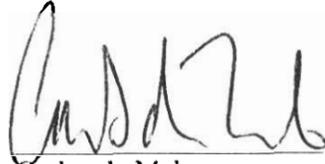
Attachments

- A. City Council Resolution Accepting the Conservation Easement as part of an approved Floor Area Transfer
- B. Site Location Map – Sending and Receiving Properties
- C. Draft Conservation Easement/Open Space Management Plan
- D. Tentative Lot Line Adjustment Map

Respectfully submitted,



Damon DiDonato
Senior Planner



Carlos de Melo
Community Development Director

Jack R. Crist
City Manager

Staff Contact:

Damon DiDonato, Senior Planner
(650) 637-2908
ddidonato@belmont.gov

RESOLUTION NO. _____

RESOLUTION APPROVING A CONSERVATION EASEMENT
AND ASSOCIATED OWNERSHIP/OPEN SPACE MANAGEMENT PLAN FOR THE
SENDING PARCEL (APN: 043-104-580) IN AN APPROVED FLOOR AREA TRANSFER
BETWEEN SAID PARCEL AND A DISCONTIGUOUS RECEIVING PARCEL
(APN: 043-104-560) LOCATED AT NAUGHTON AVENUE

WHEREAS, Ken Hall, applicant, has applied for an Administrative Conditional Use Permit (ACUP) for a Floor Area Transfer from Assessor's Parcel 043-104-580 to Assessor's Parcel 043-104-560, on the western section of Naughton Avenue; and,

WHEREAS, pursuant to Section 4.7.11(d) of the City of Belmont Zoning Code, the permanent transfer of floor area development potential in the HRO-2 Zoning District from one site to another discontinuous site along the same roadway and within the same statistical subarea as shown on the San Juan Hills Area Plan shall be permitted upon approval of an Administrative Conditional Use Permit (ACUP) by the Zoning Administrator; and,

WHEREAS, pursuant to Section 4.7.11(g) of the City of Belmont Zoning Code, notice of the Zoning Administrator action on the Floor Area Transfer was sent to adjacent property owners via U.S. mail, as well as the notice made to the general public by publication in the San Mateo County Times on June 5, 2008; and

WHEREAS, no appeals of the administrative approval were received by the City within the required 10-day appeal period; and

WHEREAS, the City Council hereby adopts the staff report dated August 12, 2008 and the facts contained therein as its own findings of fact; and

WHEREAS, the Zoning Administrator finds the required Floor Area Transfer Standards, Section 7.4.11(d)(2) and Findings, Section 4.7.11(d)(3) are made in the affirmative as follows:

- a. *The proposed transfer of density is consistent with the policies of the San Juan Hills Area Plan and the Geologic Hazards Ordinance.*

The transfer is consistent with the goals of the San Juan Hills Area Plan (SJHAP). The goals in the Hillside Residential and Open Space (HRO-2) Areas include preserving and enhancing the present character of established residential areas. The subject receiving lot is located in a residential area. The transfer of floor area will occur from one vacant lot to another vacant lot, which is proposed to be developed with a new single family home. Establishment of a conservation easement on the sending site will provide a buffer between existing developed properties and the lot proposed for development, maintaining the rural, open residential character of the neighborhood. In addition, the project site is in an area characterized on the San Juan Hills Geologic Hazard Policy Map as relatively stable, level ground (Sbr - (Development and Road Expansion Permitted). Thus, the floor area transfer would be in conformance with SJHAP policies that seek to reflect a distribution of development that is consistent with the existing slopes and geologic hazards in the undeveloped parts of the San Juan Area. This finding is affirmed.

- b. *Adequate infrastructure exists or its construction is assured, and for sites requiring road improvement plans, such plans have been approved.*

Surrounding properties are developed with single family homes that take access from Naughton Avenue, a fully improved roadway. Standard utilities are available. This finding is affirmed.

- c. *The pattern of development which would result from the transfer of floor area is better than could be achieved through the application of this ordinance without floor area transfer, due to less grading, less street and utility extension, and better building site locations.*

The transfer of floor area will occur from one vacant lot to another vacant lot along the same section of roadway. However, the transferring lot has a steeper street frontage than the receiving lot and would thus require more grading to develop. In addition, transferring the allowable 1,200 square feet from the sending parcel to the receiving parcel would eliminate one potential new home from being constructed along the subject section of Naughton Avenue, ultimately resulting in less development and related disturbance (i.e., grading and utility extension) in the area. This finding is affirmed.

- d. *The sending property will be protected from development by the establishment of a conservation easement over its entirety, or be merged with an adjacent lot and a conservation easement established over land equal in area to the sending site, and the ownership and management of such property will be adequately provided for.*

A conservation easement, if accepted by the City Council, will be recorded over the entire sending property. The applicant had indicated a desire to merge the vacant sending parcel with the adjacent single family residential parcel to the west. This finding is affirmed.

- e. *The proposed building sites will not be in an area designated Md or Pdf on the current geologic hazards map.*

The City's Ground Movement Potential and Geologic Hazard Policy Map of the San Juan Hills Study Area identify both the sending and receiving parcels as Sbr – (Development and Road Expansion Permitted). This finding is affirmed.

- f. *All floor area transfer standards will be met.*

Prior to issuance of building permits for construction of a new single-family dwelling on the receiving parcel, all floor area transfer standards shall be met. This finding is affirmed.

WHEREAS, the City Council is required to approve the conveyance of a conservation easement on the property known as Assessor's Parcel 043-104-580, as described in Attachment C, and such conveyance must be recorded prior to issuance of a building permit for construction of any transferred floor area at Parcel 043-104-560; and,

WHEREAS, acceptance of this conservation easement is contingent upon the associated Lot Line Adjustment being recorded to reflect the legal description in Exhibit A to Attachment C of this report; and

WHEREAS, the City Council did hear and use their independent judgment and considered all said reports, recommendations and testimony herein above set forth.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Belmont hereby approves the acceptance of a conservation easement over Assessor's Parcel 043-104-580 as part of an approved Floor Area Transfer, subject to the standards identified in the City of Belmont Zoning Code.

* * * * *

I hereby certify that the foregoing resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting held thereof on August 12, 2008, by the following vote:

AYES, COUNCILMEMBERS: _____

NOES, COUNCILMEMBERS: _____

ABSTAIN, COUNCILMEMBERS: _____

ABSENT, COUNCILMEMBERS: _____

RECUSED, COUNCILMEMBERS: _____

CLERK of the City of Belmont

APPROVED:

MAYOR of the City of Belmont

ATTACHMENT B

SITE LOCATION MAP

**DESCRIPTION OF FLOOR AREA TRANSFER
AND LOT LINE ADJUSTMENT**



Summary Description of Floor Area Transfer and Lot Line Adjustment

There are currently five potentially developable vacant lots along a curve of Naughton Avenue (Map #1).

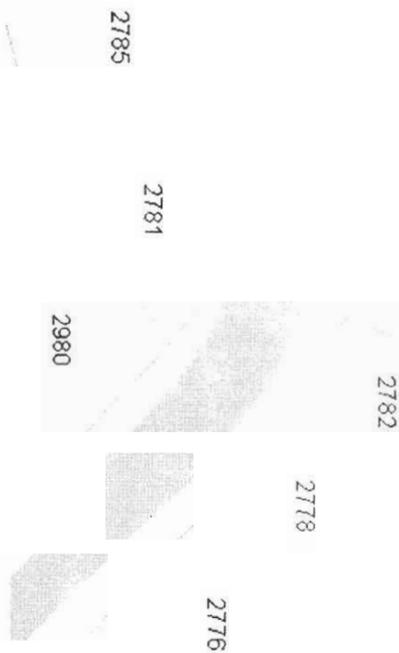
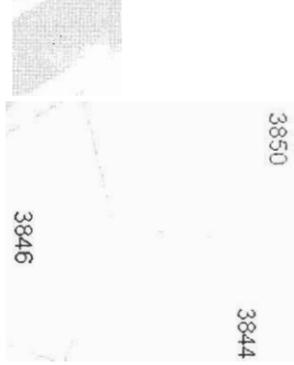
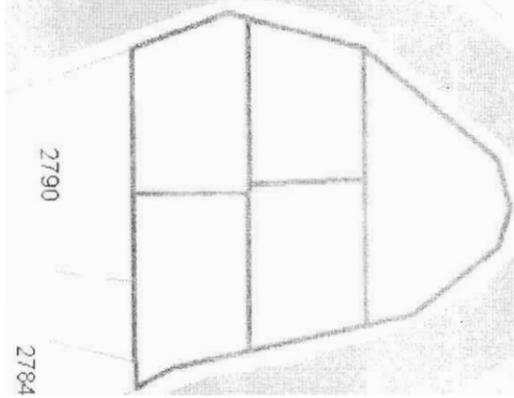
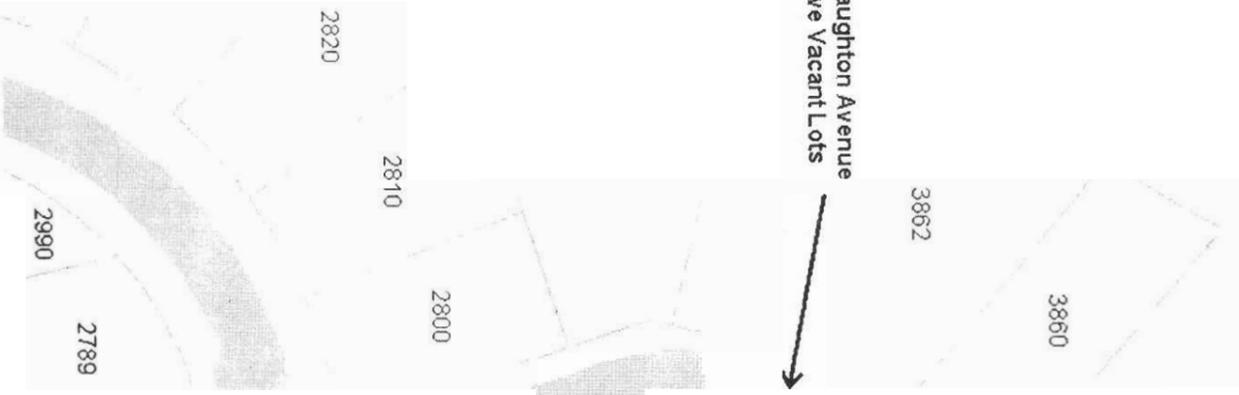
On June 26, 2008, the Zoning Administrator approved the ACUP allowing the Floor Area Transfer, from one vacant lot to another (Map #2). As a result of the transfer, 3,616.2 sq. ft. of area is required to be dedicated as open space or conservation easement (Map #3).

The applicant also submitted a Lot Line Adjustment, application that would incorporate and reconfigure the sending parcel as a conservation easement. Specifically, the rectangular 3,616.2 sq. ft. lot would be merged with the adjacent lots, and an L-shaped conservation easement of the same size would be created on the new property. The reconfigured conservation easement would dedicate the same amount of open space (Maps #4 and #5).

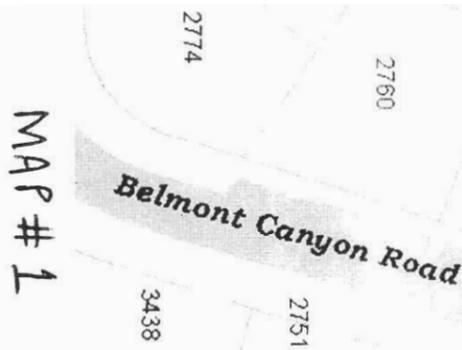
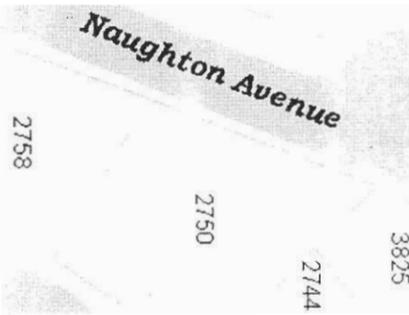
Thus, four potentially developable lots would be merged into one lot with the aforementioned conservation easement included within the amended lands, and, in total, five potentially developable lots on this portion of Naughton Avenue would be reduced to two (Map #6).

39000

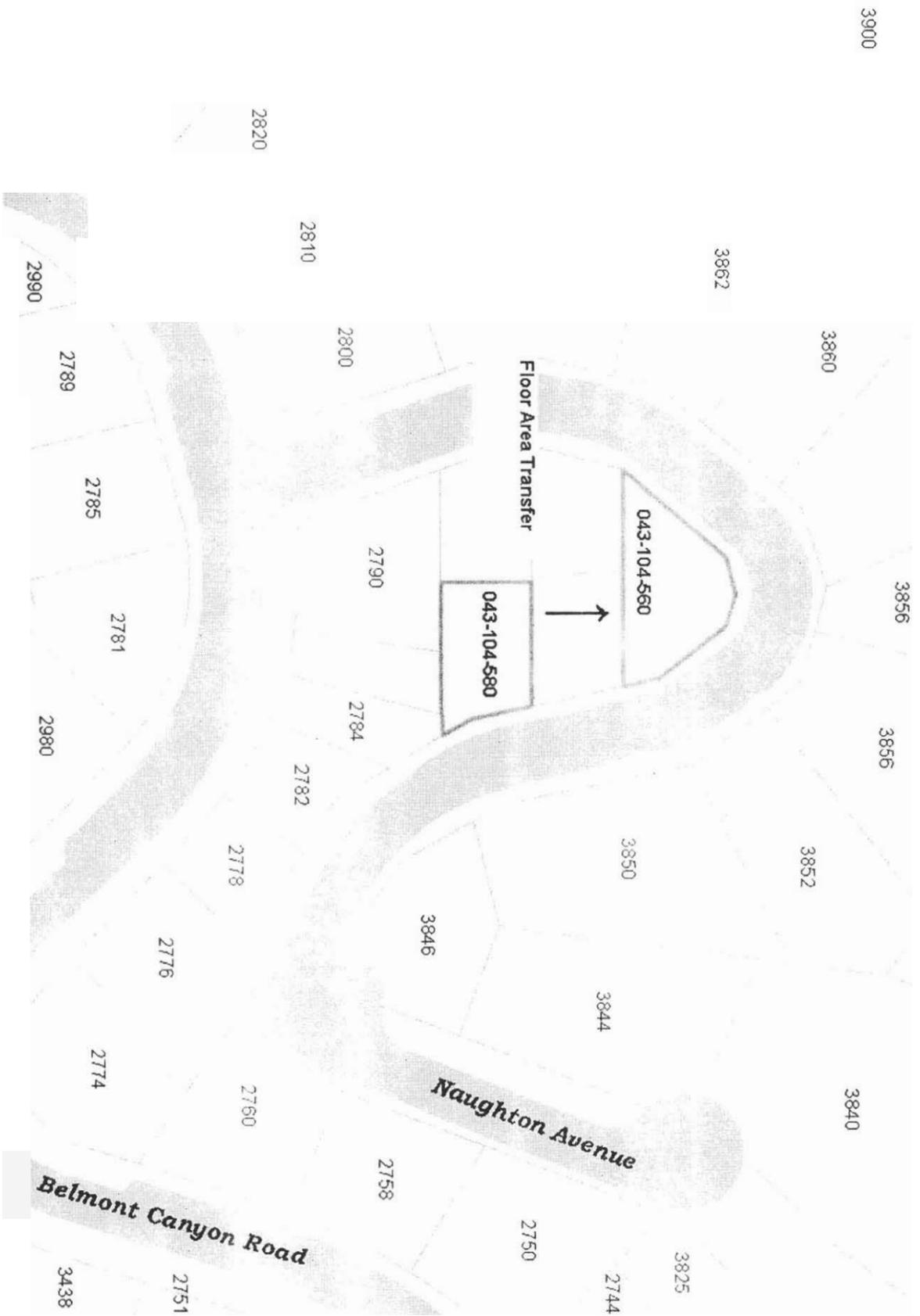
Naughton Avenue
Five Vacant Lots



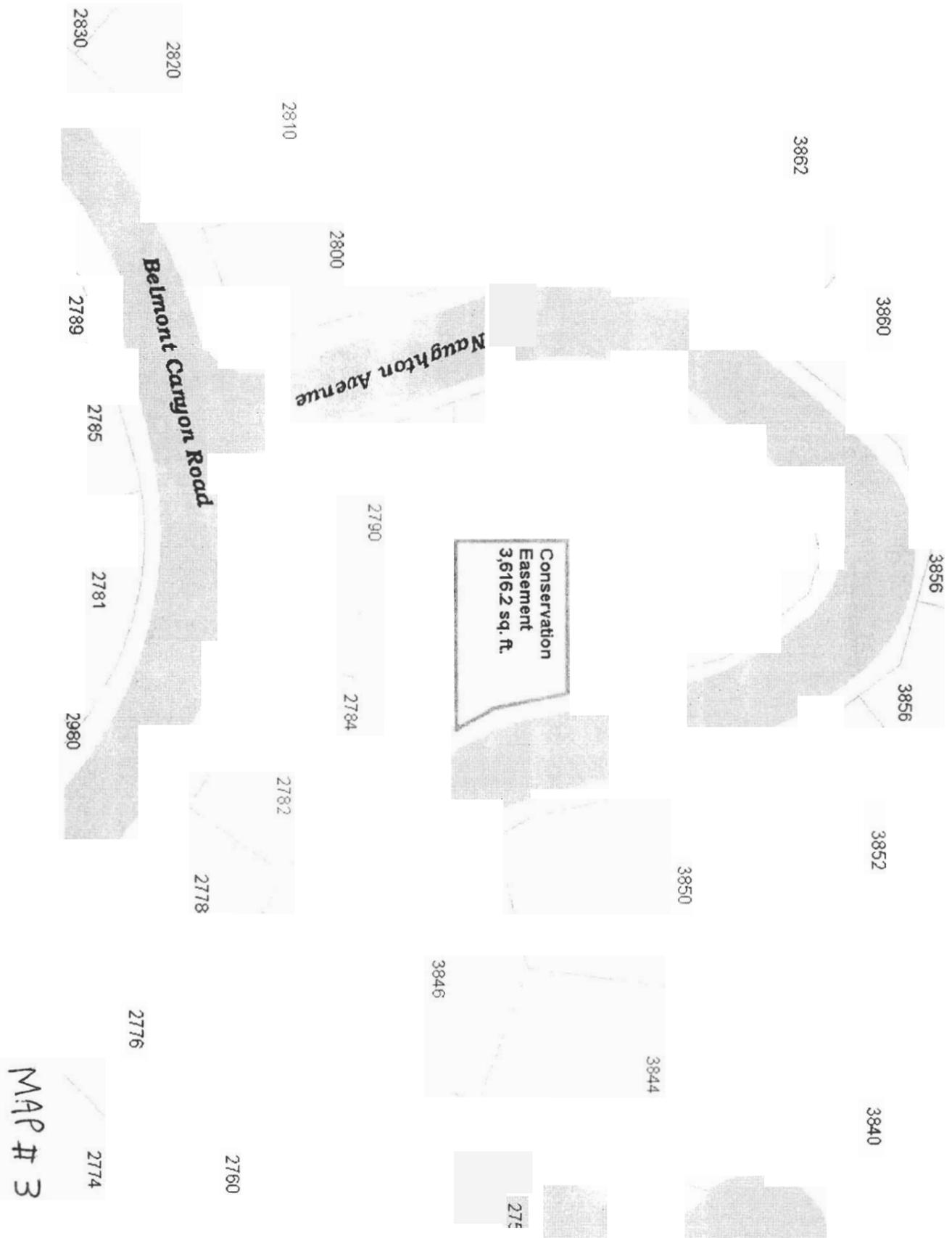
3840



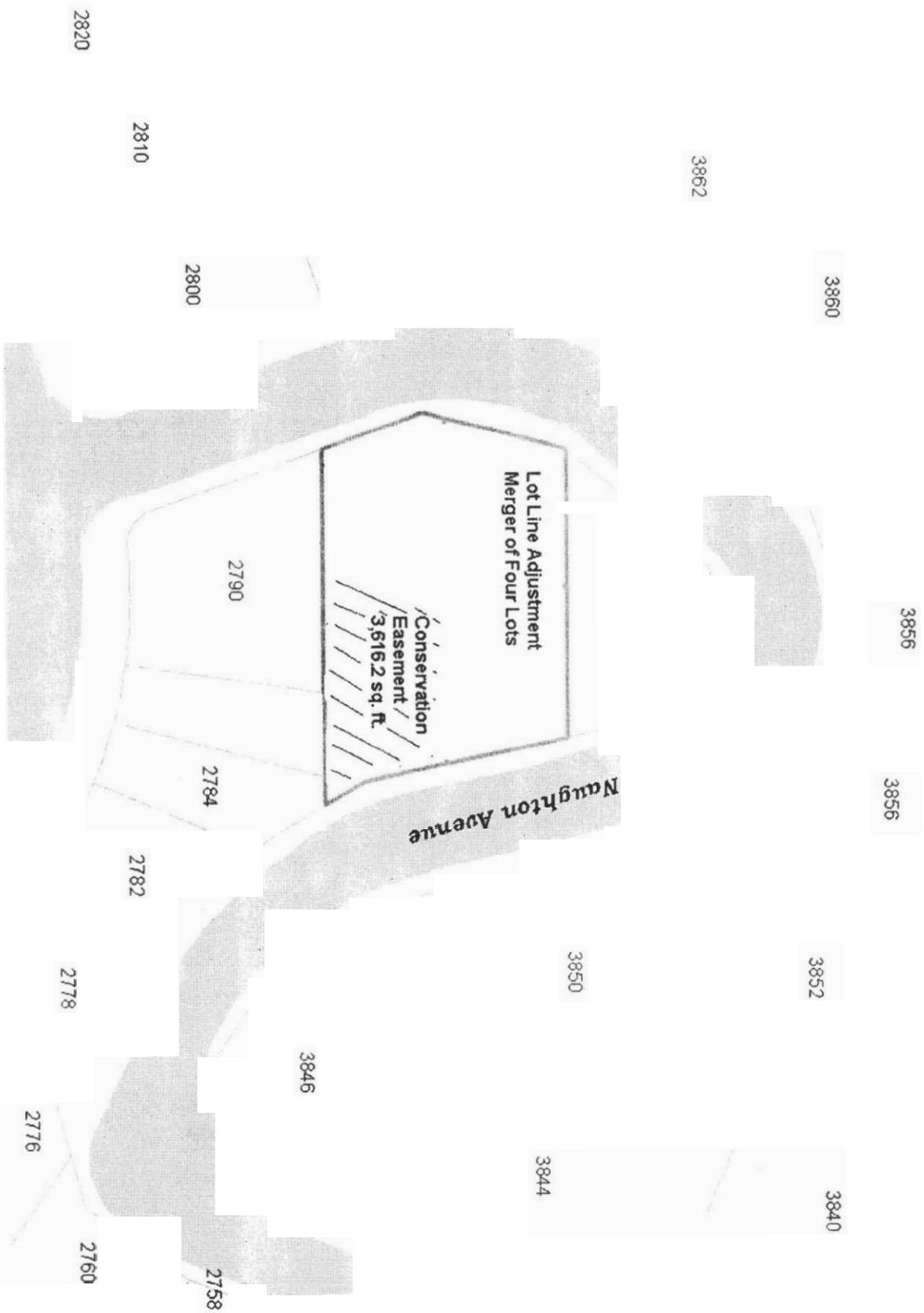
MAP # 1



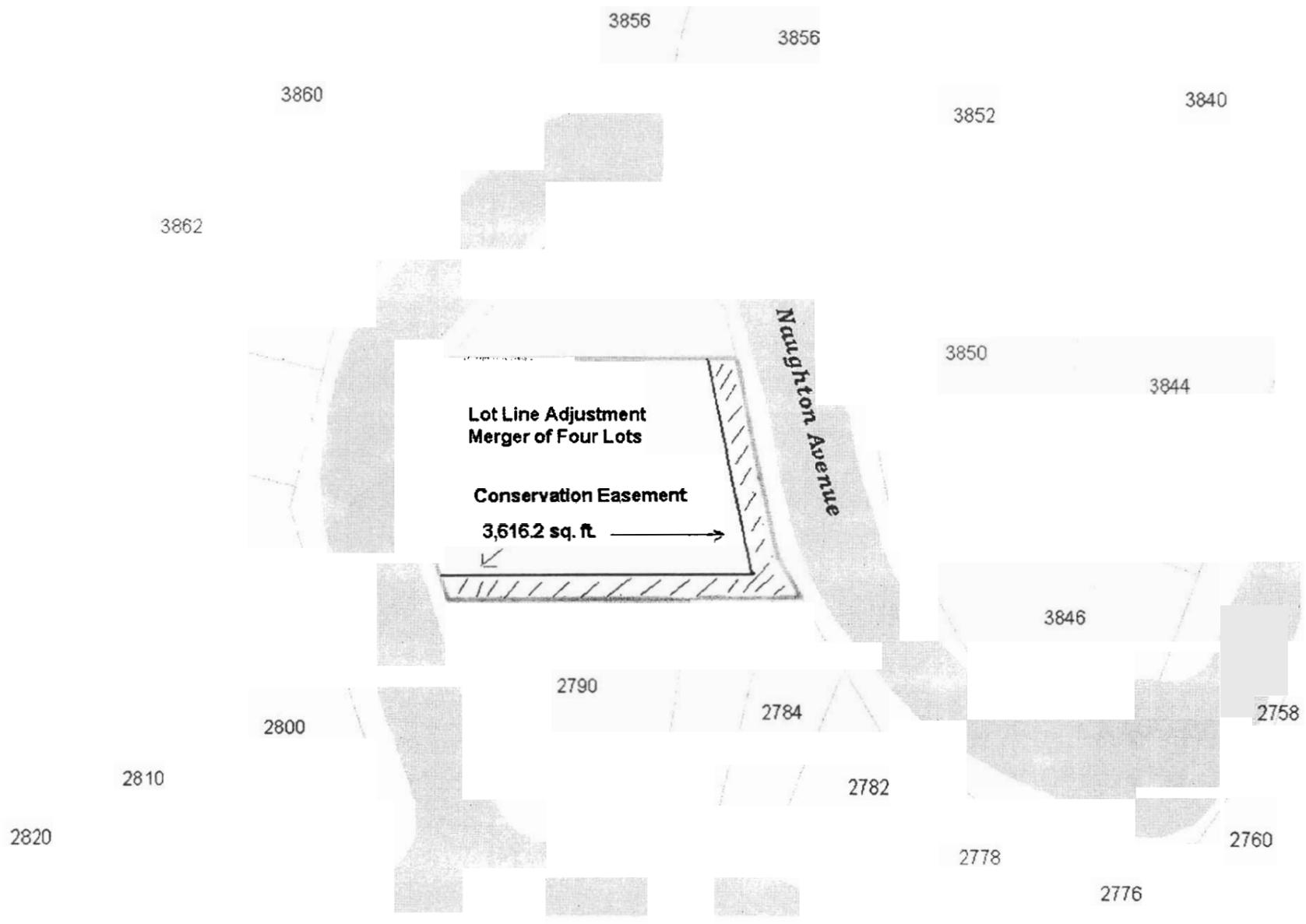
MAP # 2



MAP # 3



MAP # 4



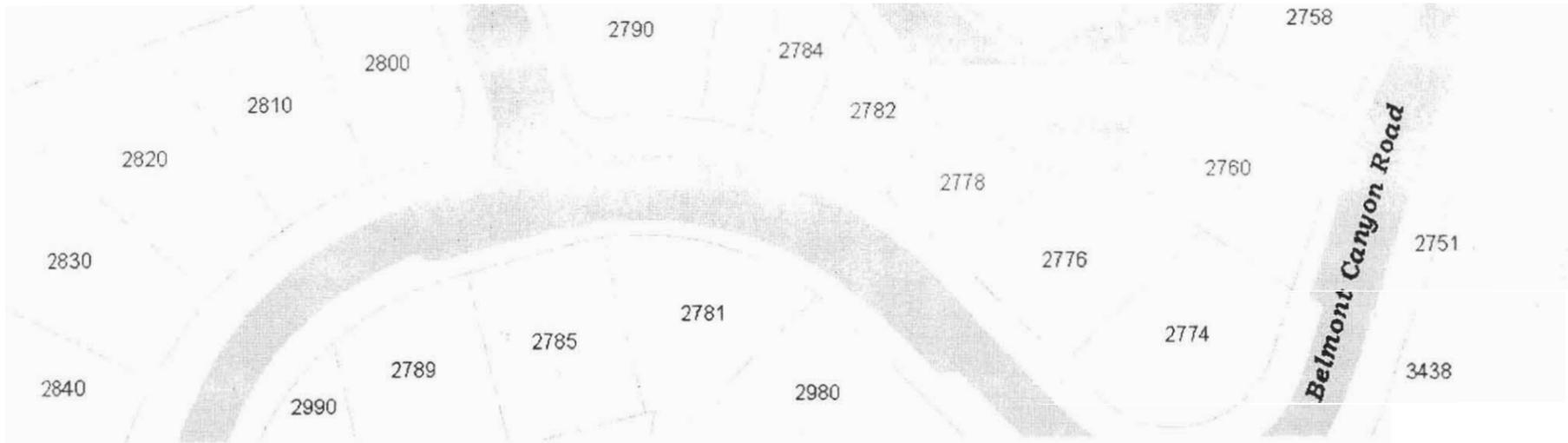
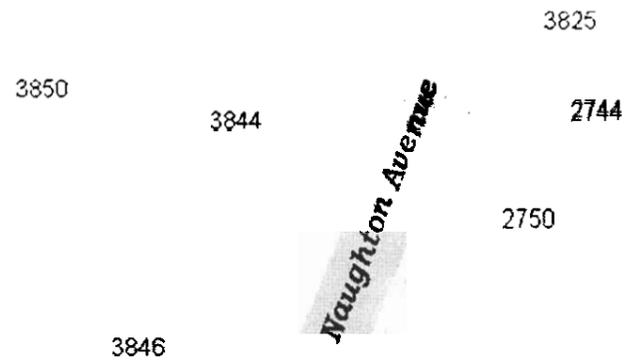
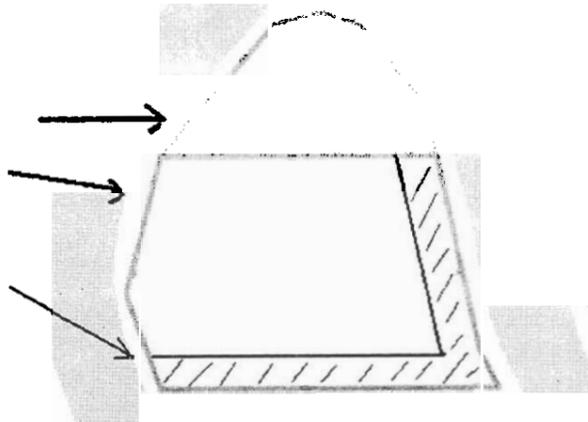
MAP #5

3900



3862
FAR Transfer and Lot
Line Adjustment
(Merger) Results in
Reduction from Five
Lots to Two Lots

Area of Conservation
Easement Remains the
Same at 3,616.2 Sq. Ft.



MAP # 6

ATTACHMENT C

**DRAFT CONSERVATION EASEMENT/OPEN
SPACE MANAGEMENT PLAN**



RECORDING REQUESTED BY
MYREI LLC

WHEN RECORDED SEND TO:
City of Belmont
Community Development Dept
One Twin Pines Lane, Suite 310
Belmont, CA 94002

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

Grant Deed Conservation Easement

For valuable consideration, I, Michael Yurovitsky, President of MYREI LLC, duly authorized by the members of MYREI LLC, hereby grant to the City of Belmont, a governmental subdivision of the State of California, Grantee, and its governmental successor or successors, a conservation easement, as defined herein over a portion of that real property described in Exhibit "A", attached hereto and made a part hereof.

Conservation easement is defined to mean, and refer to, the prohibition of any and all construction, development, or improvement except as otherwise permitted herein. The conservation easement is and shall be a form of negative easement which shall run with the said property and shall bind the current owner and any future owners of all or any portion of said property. Use of, and construction within, the easement area shall require approval by the Grantee, or its successor, except the following: natural open space, landscaping and irrigation systems, footpaths, underground utilities and utility easement areas, drainage facilities and systems, perimeter walls and/or fencing, and all reasonable and necessary incidents to any of the foregoing.

Any owner or owners of all or any portion of said property desiring to develop any improvement not listed herein shall first obtain approval by the Grantee, or its successor, and shall submit to such entity a written proposal describing the nature, extent, and location of such improvement. In the event of a disapproval of proposed construction by the Grantee, or its successor, said proposed construction shall not be performed. Grantee or its successor may condition its approval of any proposed construction upon prior to, or subsequent performance of, such conditions as Grantee may deem appropriate.

Grantor Signature: _____

Typed name: Michael Yurovitsky

2008/7/17

PLEASE SEE ATTACHED
ACKNOWLEDGMENT/JURAT
FROM NOTARY PUBLIC

Grantee Signature: _____

Typed name: MAYOR, City of Belmont

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Mateo }

On JULY 17TH 2008 before me, ALBERT SIU TOUNG, NOTARY PUBLIC

personally appeared MICHAEL YUROVITSKY

who 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~~ executed the same in his/~~her~~ authorized capacity(ies), and that by his/~~her~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature]

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: GRANT DEED, CONSERVATION EASEMENT

Document Date: 7-17-2008 Number of Pages: 1

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

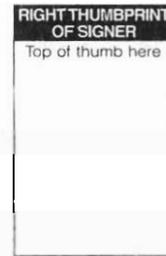
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

EXHIBIT A

PARCEL B

A portion of Lots 50, 53 and 54 in Block 107 as shown on that certain map entitled "MAP OF SUBDIVISION NO. 8 BELMONT COUNTRY CLUB PROPERTIES" filed in the Office of the Recorder of the County of San Mateo, State of California on December 24, 1926 in Book 14 of Maps at Pages 65, 66, 67 and 68, more particularly described as follows:

Beginning at the southwesterly corner of said Lot 50, and running thence along the westerly line of Lot 50, North 19°15'00" West, 12.71 feet; thence leaving the line of Lot 50, East, 117.36 feet; thence North 09°20'37" West, 89.18 feet to the north line of said Lot 53; thence East, 20.08 feet to the northeasterly corner of Lot 53; thence, along the easterly line of Lots 53 and 54, South 10°58'00" East, 83.03 feet; thence South 30°19'00" East, 21.42 feet to the southeasterly corner of said Lot 54; thence West, 145.38 feet to the Point of Beginning.



CITY OF BELMONT
PLANNING

PROGRAM FOR OWNERSHIP AND MANAGEMENT OF CONSERVATION EASEMENT

This program defines the terms of ownership and management of a conservation easement established in conjunction with the application for Floor Area Transfer from APN# 043-104-580 to APN# 043-104-560 submitted to the City of Belmont on March 19th, 2008.

1. Conservation Easement

The conservation easement subject to this agreement ("the Easement") is a 3616.2 sq.ft. parcel of land, equal in size to the area of APN# 043-104-580 from which the buildable square footage will be transferred in accordance with Section 4.7.11(d) of the City of Belmont Zoning Ordinance. The Easement is shown as Parcel B on the record of survey submitted to the City as part of the Floor Area Transfer application ("the Application"). The legal description of the Easement will be established once the Application is approved by the City of Belmont Planning Commission.

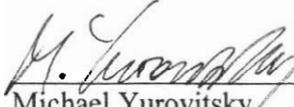
2. Ownership

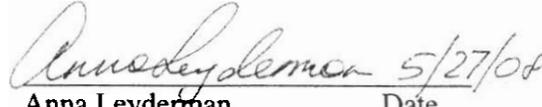
The Easement, being an L-shaped parcel, is contiguous with and is bordered on two sides by the lot identified as Parcel A on the record of survey submitted as part of the application for Lot Line Adjustment affecting lots APN# 043-104-540, 550, and 570, which was submitted simultaneously with the Application ("the Adjacent Lot").

The Easement will be merged with the Adjacent Lot, and will be owned by the current owners of the Adjacent Lot (Michael Yurovitsky and Anna Leyderman, husband and wife), their successors or assigns.

3. Open space management plan

The owners of the Adjacent Lot will be solely responsible for maintaining the Easement free of any improvements or structures, and in accordance with the landscape plan to be approved by the City of Belmont Planning Commission. The owners of the Adjacent Lot assume full responsibility for keeping the vegetation on the Easement properly watered, trimmed, and otherwise maintained in accordance with all applicable City laws and regulations affecting landscaping.


Michael Yurovitsky
Date 5/27/08

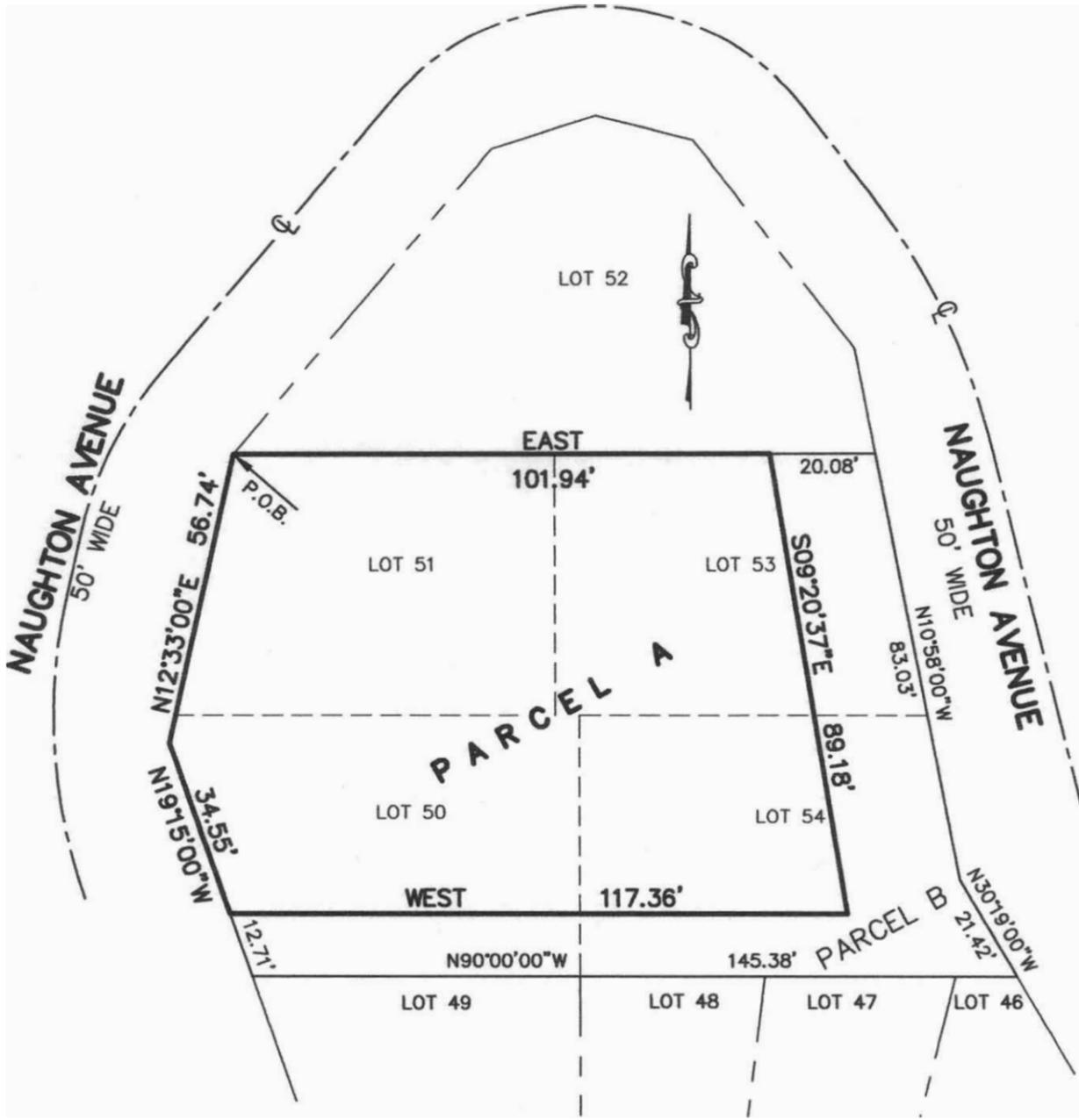

Anna Leyderman
Date 5/27/08



ATTACHMENT D

TENTATIVE LOT LINE ADJUSTMENT MAP





B & H SURVEYING, INC. 901 WALTERMIRE ST., BELMONT, CA 94002 (650) 637-1590

SURV:	SCALE: 1" = 30'	FOR: MICHAEL YUROVITSKY	JOB NO. 5331-08
PLAT: W.H.	DATE: 7/3/08		DWG NO. 5331-EX-B-PLATS