



Midpeninsula Regional
Open Space District

R-15-39
Meeting 15-06
March 11, 2015

AGENDA ITEM 6

AGENDA ITEM

Proposed Purchase of the Burton/Robinson Property as an addition to Sierra Azul Open Space Preserve located off of Mt. Umunhum - Loma Prieta Road in unincorporated Santa Clara County (Assessor's Parcel Number 562-20-023).

GENERAL MANAGER'S RECOMMENDATIONS

A handwritten signature in black ink, appearing to be "J. G. G.", is written over the end of the "GENERAL MANAGER'S RECOMMENDATIONS" heading.

1. Determine that the recommended actions are categorically exempt from the California Environmental Quality Act (CEQA) as set out in the staff report.
2. Adopt a Resolution authorizing the purchase of the Burton property.
3. Adopt a Preliminary Use and Management Plan for the property as contained in the staff report.
4. Indicate the intention to withhold dedication of the Burton/Robinson property as public open space.

SUMMARY

The Midpeninsula Regional Open Space District (District) is proposing to purchase the 40-acre Burton/Robinson property (Property) at a purchase price of \$400,000.00 as an addition to the Sierra Azul Open Space Preserve (Preserve). The following report presents a description of the Property, a Preliminary Use and Management Plan, the District's environmental review, the purchase terms and conditions, and financial considerations. The proposed purchase is identified as part of Measure AA Project # 25-1. The Fiscal Year (FY) 2014-15 Budget contains sufficient funds to cover the cost of this purchase.

MEASURE AA

The purchase of the Property would further the District's Vision Plan Priority Action Items and Measure AA Projects. The Measure AA Project List was approved by the Board on October 29, 2014, which includes Project #25-1 (Sierra Azul: Loma Prieta Area Public Access, Regional Trails, and Habitat Protection). This project meets the criteria to further the goals of Project #25-1 as it conserves open space, protects beautiful scenery and panoramic views, protects the Guadalupe River watershed resources and its wildlife habitats, facilitates future development of public access and trails, and is a desirable addition to the Preserve.

DISCUSSION

The Property is an in-holding in the 18,831 acre Sierra Azul Open Space Preserve and drains into the Guadalupe River watershed. The property is highly visible from Mt. Umunhum within the Preserve and from Loma Prieta Mountain, which is immediately adjacent to the Preserve. The reasons for this purchase include advancement of both the Measure AA Priority Project #25 and elimination of an in-holding within the Preserve.

Property Description and Regional Context (see attached map)

The rectangular 40-acre property consists of one legal parcel, situated in unincorporated Santa Clara County. Access to the property is from Mt. Umunhum - Loma Prieta Road, by way of a non-exclusive easement over a fire break road. The property is approximately 1.5 miles from the summit of Loma Prieta Mountain and 3.5 aerial miles from the summit of Mt. Umunhum. The property is entirely contained within the Preserve. Rising to approximately 3,200 feet in elevation, panoramic views of the Preserve, Santa Clara Valley, the Diablo Range, Monterey Bay, and the Santa Cruz Mountains are visible from many locations on the property. Situated within the Guadalupe River Watershed, the western portion of the property drains into an upper tributary of Alamitos Creek and the eastern portion drains into a tributary of Barret Creek. Downstream, both creeks join near the intersection of Hicks Road and Alamitos Road in the Twin Creeks area, and flow into the Almaden Reservoir.

The landscape of the property consists of oak woodland and mixed chaparral, on a high ridgeline between two steep canyons. Stands of oak woodland, including tanbark oak and canyon live oak, are dispersed along the edge of the disturbed areas and distributed through shrub lands of manzanita, chamise, and other plants associated with mixed chaparral. The property provides varied habitat for animals associated with the upper elevations of the Preserve, including large mammals such as deer, coyotes, bobcats, and mountain lions. A wide variety of bird species occupy and migrate through the general area.

Land Use and Improvements

The property has been operated as a private horse ranch since purchased by Ellen Burton in 1985. Five horses are still onsite. Richard Robinson still resides on the property. The property contains three mobile home trailers, two unpermitted structures erected by Ms. Burton, the remains of a burned mobile home, various outbuildings, vehicles and machinery, horse corrals and paddocks, and associated personal property and debris. Utilities consist of a potable well served by a diesel generator to operate the pump, and underground telephone service. A rudimentary septic system is in place. No electricity is available.

USE AND MANAGEMENT

Planning Considerations

The Property is comprised of one legal parcel, located in unincorporated Santa Clara County, and outside the urban service area or sphere of influence of any incorporated municipality. The 40-acre parcel has a General Plan designation of Hillside, with a zoning designation Hillside District (HS District). Per the Santa Clara County General Plan and zoning regulations, recreation, open space, and natural preserves are allowable uses in HS Districts. A finding of compliance with the General Plan for all open space acquisitions by the District in Santa Clara County was made by the Santa Clara County Planning Department in 1999.

If purchased, the property will be incorporated into the Sierra Azul Open Space Preserve. Subsequent planning for the property will be coordinated with the District's planning efforts for the Preserve. The planning effort will analyze opportunities for natural resource management and compatible public trail use as outlined in Measure AA Priority Project #25. Subsequent planning will include consultation with appropriate agencies and organizations. The planning process will include public workshops to gather input on the draft and final plans. Further environmental review will be prepared as needed.

Williamson Act Considerations

The Burton/Robinson property is subject to a Land Conservation Agreement between the County of Santa Clara and Ellen L. Burton under the California Land Conservation Act of 1965 (also known as the Williamson Act), recorded in 1986 (Contract #86.005). The Williamson Act Contract (Contract) is a voluntary agreement between a landowner and the County to encourage ongoing commercial agricultural use in exchange for property tax reduction. The Contract also provides for the compatible uses of open space and recreation. Per the County of Santa Clara Planning Office's database of Williamson Act Contracts, a Contract non-renewal was filed by the property owner with the County in October 2008 (Recorded Document #20012768). The Contract will therefore terminate on October 14, 2018. If the purchase is approved, the District will continue to comply with the Contract provisions during the non-renewal period until the Contract termination date.

Preliminary Use and Management Plan

The Preliminary Use and Management Plan (PUMP) establishes a status quo land management approach in the interim between the purchase and the completion of a subsequent long-term plan. The PUMP will take effect at the close of escrow and remain effective until the PUMP is amended or a Comprehensive Use and Management Plan or Preserve Plan is approved for Sierra Azul Open Space Preserve. The PUMP includes minor restoration and maintenance of the property in its natural condition, as described more fully below. If changes to land use or the physical environment are proposed in the future, the plan would be subject to further environmental review and public input.

Public Access: Designate the property as closed to public use at this time.

Signs and Site Security: Install Preserve boundary and closed area signs, where appropriate.

Fences and Gates: Install gates as necessary on access road to prevent unauthorized vehicular entry. Remove internal fences and gates that impede patrol or wildlife movement.

Roads and Trails: Maintain access route through site in a serviceable condition. Scarify and re-contour disturbed areas to facilitate natural re-vegetation of site. Implement maintenance and minor erosion and sediment control measures in accordance with District standards.

Patrol: Routinely patrol property using existing access.

Structures and Improvements:	Demolish and remove all structures and any remaining materials. Remove septic system. Assess whether to secure or decommission the well located on the property.
Resource Management:	Conduct invasive plant and animal management activities consistent with the District's Resource Management Policies.
Wildfire Fuel Management:	Implement standard District-wide fuel management and defensible space practices consistent with the District's Resource Management Policies.
Williamson Act Contract:	Comply with the existing Williamson Act contract during the nonrenewal period.
Name:	Name the property as an addition to Sierra Azul Open Space Preserve.
Dedication:	Indicate the District's intention to dedicate the subject property as open space.

CEQA COMPLIANCE

Project Description

The project consists of the purchase of the 40-acre Burton/Robinson property as an addition to the District's Sierra Azul Open Space Preserve and concurrent adoption of a Preliminary Use and Management Plan for the property, which includes demolition of all structures per the provisions of required demolition permits issued by the County of Santa Clara; re-contouring and implementation of erosion control measures in disturbed areas as needed to prevent water quality degradation and facilitate re-vegetation; and minor resource management activities to control invasive plants. The land would be permanently preserved as open space and maintained in a natural condition.

CEQA Determination

The District concludes that this project will not have a significant effect on the environment. It is categorically exempt from the California Environmental Quality Act (CEQA) under Article 19, Sections 15301, 15316, 15317, 15325 and 15061 of the CEQA Guidelines as follows:

Section 15301 exempts the repair, maintenance, or minor alteration of existing public or private structures, facilities, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The Preliminary Use and Management Plan specifies no alteration or expansion of use at this time beyond activities associated with the clean up and re-vegetation of the site.

Section 15316 exempts the acquisition of land in order to create parks if the land is in a natural condition and the management plan proposes to keep the area in a natural condition. The Preliminary Use and Management Plan specifies that the land will not be developed and will remain in a natural condition.

Section 15317 exempts the acceptance of fee interests in order to maintain the open space character of an area. The District will acquire fee interest in the property in order to maintain the open space character of the site.

Section 15325 exempts transfers of ownership of interests in land in order to preserve open space. This acquisition will transfer fee ownership of the property to the District and ensure that the open space will be preserved. The Preliminary Use and Management Plan ensures that the property is preserved as open space by incorporating it into the Sierra Azul Open Space Preserve.

Section 15061(b)(3) exempts actions recommended in the Preliminary Use and Management Plan as it has been determined that there is no possibility the recommended actions will have a significant effect on the environment.

TERMS AND CONDITIONS

The 40-acre Burton/Robinson property is proposed for purchase at a price of \$400,000.00 or 10,000 per acre. The property is currently listed on the open real estate market for sale at \$400,000. This price is considered fair and reasonable for a single building site improved with a well, rudimentary structures and year round road access. The property would be purchased on an all-cash basis.

As part of this proposed purchase, the District is withholding \$50,000.00 from the purchase price in escrow to ensure removal by seller of personal property, trailers, vehicles, five horses, and cleanup of the remains of a burned trailer, and debris. The District will issue Mr. Robinson a license agreement to continue to reside on the property to complete the site cleanup and removal personal belongings from the property. After the close of escrow, staff will regularly monitor the site cleanup and removal work. If this work is completed to the District's satisfaction, the funds withheld in escrow will be released to the sellers. If cleanup work is not completed, the District will use these funds to complete this work. Preliminary site demolition and site restoration costs are estimates at \$243,000.

BUDGET CONSIDERATIONS

FY2014–2015 Budget for New Land Purchases:

New Land Purchases Budget	\$8,500,000.00
Land approved for purchase this year	(\$4,157,500.00)
Burton/Robinson Property	(\$ 400,000.00)
New Land Purchase Budget Remaining	\$3,757,500.00

The District Controller was consulted on this proposed purchase and has indicated that, considering cash flow and account balances, funds are available for this property purchase.

Installation of boundary demarcation and gates/fencing as necessary to prevent unauthorized vehicular entry is estimated at \$5,000. Demolition of structures and erosion control measures are estimated at \$243,000. These costs are included in the Real Property budget for FY2015-16. No other capital costs are required as part of the purchase.

BOARD COMMITTEE REVIEW

The District's Real Property Committee held a meeting on February 17, 2015 to review information about the property and receive public input on the proposed purchase. Notice of the meeting was distributed on February 10, 2015 to property owners of land located adjacent to or

surrounding the property and interested parties. No members of the public were in attendance. Staff provided an overview and photo tour of the property, described how it would be managed as an extension of the surrounding Preserve, and reviewed the purchase terms and proposed Preliminary Use and Management Plan. The Real Property Committee approved recommending this purchase to the full Board of Directors in a vote of 2-0.

PUBLIC NOTICE

Property owners of land located adjacent to or surrounding the subject property and interested parties have been mailed a copy of the agenda for this meeting. Accordingly, all notice required by the Brown Act has been provided.

NEXT STEPS

Upon approval by the Board of Directors, staff would proceed with the close of escrow for the purchase of the property is anticipated to close on March 31, 2015, execute a license agreement with Mr. Robinson to allow him to reside on the property until September 30, 2015, for the purposes of site clean-up and removal of personal property, and take the next steps identified in the Preliminary Use and Management Plan as contained in this report. The District's South Area Outpost Field Office would manage the property as an addition to Sierra Azul Open Space Preserve.

Attachments:

1. Resolution – Authorizing Acceptance of Purchase Agreement, Authorizing General Manager or Other Officer to Execute Certificate of Acceptance of Grant to District, and Authorizing General Manager to Execute Any and All Other Documents Necessary or Appropriate to Closing of the Transaction (Sierra Azul Open Space Preserve - Lands of Burton/Robinson)
2. Location Map

Responsible Department Manager:
Michael Williams, Real Property Manager

Prepared by:
Michael Williams, Real Property Manager
Elish Ryan, Real Property Planner III

Graphics prepared by:
Casey Hiatt, GIS Administrator



Midpeninsula Regional
Open Space District

RESOLUTION 15-__

RESOLUTION OF THE BOARD OF DIRECTORS OF MIDPENINSULA REGIONAL OPEN SPACE DISTRICT AUTHORIZING ACCEPTANCE OF PURCHASE AGREEMENT, AUTHORIZING GENERAL MANAGER OR OTHER OFFICER TO EXECUTE CERTIFICATE OF ACCEPTANCE OF GRANT TO DISTRICT, AND AUTHORIZING GENERAL MANAGER TO EXECUTE ANY AND ALL OTHER DOCUMENTS NECESSARY OR APPROPRIATE TO CLOSING OF THE TRANSACTION (SIERRA AZUL OPEN SPACE PRESERVE - LANDS OF BURTON/ROBINSON)

The Board of Directors of Midpeninsula Regional Open Space District does hereby resolve as follows:

SECTION ONE. The Board of Directors of Midpeninsula Regional Open Space District does hereby accept the offer contained in that certain Purchase and Sale Agreement between Ellen L. Burton, an Unmarried Woman and Richard C. Robinson, an Unmarried man, as Joint Tenants and the Midpeninsula Regional Open Space District, a copy of which purchase agreement is attached hereto and by reference made a part hereof, and authorizes the President of the Board of Directors, General Manager or other appropriate officer to execute the Agreement and all related transactional documents on behalf of the District to acquire the real property described therein (“the Burton/Robinson Property”).

SECTION TWO. The General Manager, President of the Board of Directors, or other appropriate officer is authorized to execute a Certificate of Acceptance for the Grant Deed on behalf of the District.

SECTION THREE. The General Manager or the General Manager’s designee shall cause to be given appropriate notice of acceptance to the seller and to extend escrow if necessary.

SECTION FOUR. The General Manager or the General Manager’s designee is authorized to expend up to \$10,000.00 to cover the cost of title insurance, escrow fees, and other miscellaneous costs related to this transaction, and up to \$243,000.00 for the demolition and restoration of the property.

SECTION FIVE. The General Manager and General Counsel are further authorized to approve any technical revisions to the attached Agreement and documents, which do not involve any material change to any term of the Agreement or documents, which are necessary or appropriate to the closing or implementation of this transaction.

SECTION SIX. The purpose of this Section is to enable the District to reimburse its general fund for the cost of certain land acquisitions. The District wishes to finance certain of these real property acquisitions and expects to use tax-exempt debt, such as bonds, but a tax-exempt financing is not cost-justified for the District unless the principal amount of the financing is large enough to justify the related financing costs. Consequently, it is the District’s practice to buy property with its general funds and, when a tax-exempt financing is cost-justified based on the aggregate value of acquisitions, to issue tax-exempt obligations to reimburse itself for previous expenditures of general funds. These general funds

are needed for operating and other working capital needs of the District and are not intended to be used to finance property acquisitions on a long-term basis.

* * * * *

PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on _____, 2015, at a Regular Meeting thereof, by the following vote:

- AYES:**
- NOES:**
- ABSTAIN:**
- ABSENT:**

ATTEST:

APPROVED:

Secretary
Board of Directors

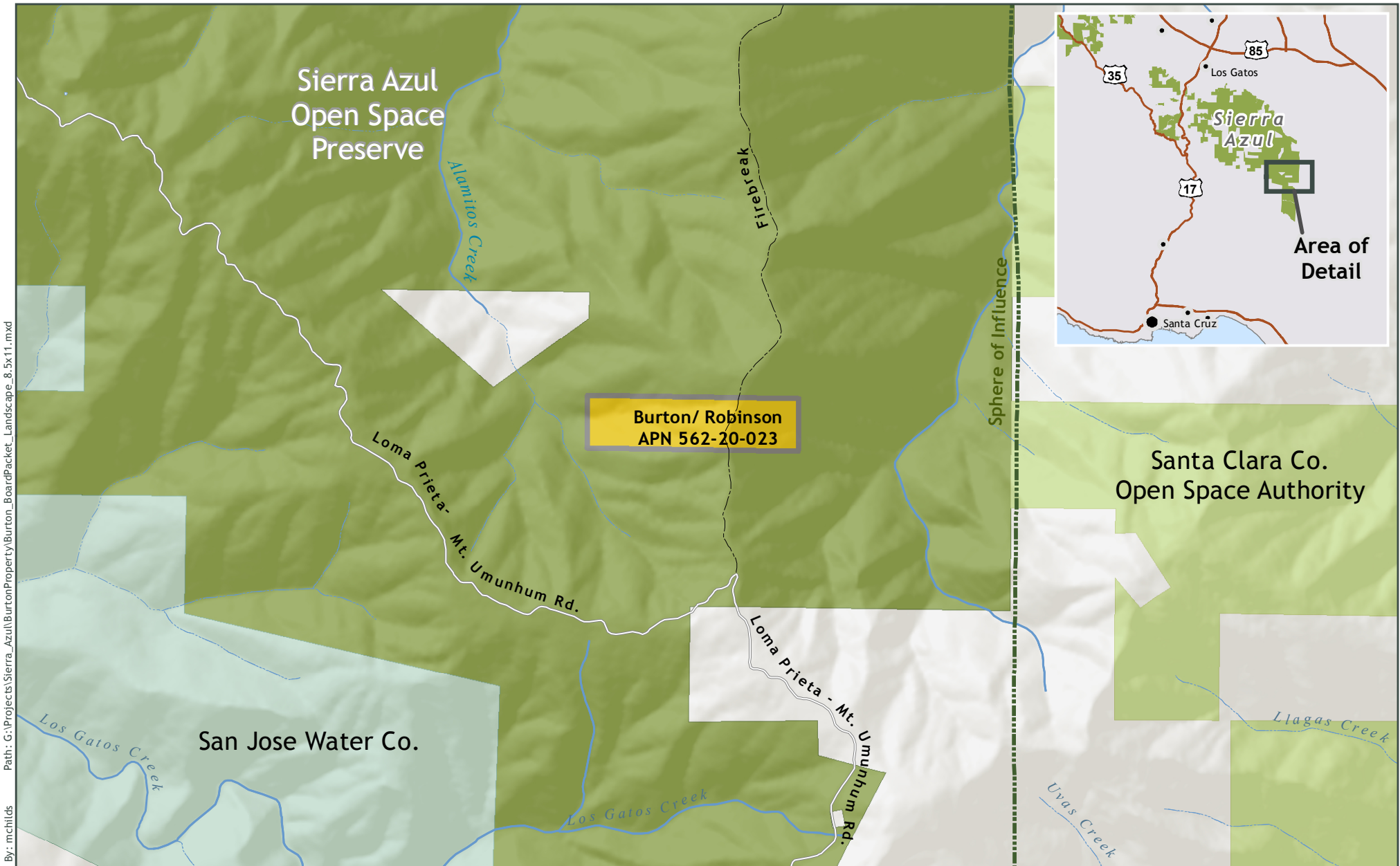
President
Board of Directors

APPROVED AS TO FORM:

General Counsel

I, the Interim District Clerk of the Midpeninsula Regional Open Space District, hereby certify that the above is a true and correct copy of a resolution duly adopted by the Board of Directors of the Midpeninsula Regional Open Space District by the above vote at a meeting thereof duly held and called on the above day.

Interim District Clerk



Burton/ Robinson Property

- | | |
|---|--|
|  MROSD Preserves |  Highlighted Property |
|  Other Protected Open Space or Park Lands |  Private Property |
|  Watershed Land |  Developed Land |

ATTACHMENT 2

Midpeninsula Regional Open Space District (MROSD)



February, 2015

