



Midpeninsula Regional
Open Space District

R-17-59
Meeting 17-12
May 24, 2017

AGENDA ITEM 4

AGENDA ITEM

Proposed Purchase of the HR2LG, LLC (Kahn) property as an addition to Sierra Azul Open Space Preserve located off Hicks Road in unincorporated Santa Clara County (Assessor's Parcel Number 575-11-008)

GENERAL MANAGER'S RECOMMENDATIONS

1. Determine that the recommended actions are categorically exempt under the California Environmental Quality Act (CEQA), as set out in the staff report.
2. Adopt a Resolution authorizing the purchase of the Kahn property at a cost of \$550,000, with corresponding authorization for a Fiscal Year 2016-17 budget increase of the same amount.
3. Adopt a Preliminary Use and Management Plan for the property, as set out in the staff report.
4. Withhold dedication of the Kahn property as public open space.

SUMMARY

The General Manager recommends purchasing the 24.02-acre Kahn property (Property) at a purchase price of \$550,000 as an addition to Sierra Azul Open Space Preserve (Preserve). As part of the purchase approval, a line item budget increase of \$550,000 to the Fiscal Year 2016-17 budget is required to proceed with the acquisition. This report contains a description of the Property, a Preliminary Use and Management Plan, findings of the environmental review, the purchase terms and conditions, and financial considerations.

DISCUSSION

The Property is bounded on two sides by the 18,993-acre Sierra Azul Open Space Preserve and drains into the Guadalupe Creek watershed. The Property is visible from within the Preserve and from Almaden Quicksilver County Park. The reasons for this purchase includes advancement of Measure AA Portfolio #24 to protect natural resources, including viewshed protection, habitat protection, and protection of the Guadalupe Creek Watershed, as well as control of an inholding adjacent to lands of the Midpeninsula Regional Open Space District (District).

Property Description and Regional Context (see attached map)

The triangle shaped 24.02-acre Property consists of one legal parcel, situated in unincorporated Santa Clara County. Access to the property is via a dirt road from Hicks Road. The property is situated above Hicks Road and across from Guadalupe Reservoir. Rising to approximately 1,200 feet in elevation, the property has an excellent view of the higher elevations within the Preserve,

Guadalupe Reservoir, and Almaden Quicksilver County Park. The Property is situated in the Guadalupe Creek Watershed and includes a small tributary that flows into Guadalupe Reservoir.

Blue Oak/California Grasslands Association vegetation dominates the property. This vegetation association is biologically highly significant due to its fire adaptations, and is locally unique to the Santa Cruz Mountains. The remainder of the parcel is a mix of oak woodland and chaparral. The Property provides varied habitat for animal species associated with the lower elevations of the Preserve, including larger 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 is vacant, with a graded dirt road that provides direct access from Hicks Road to the interior of the property. The main access road lacks a recorded access easement. There is an existing seasonal access road on the District's adjacent property. There is evidence of trespassing by off road vehicles. There are currently no utilities on the Property, but power is available along Hicks Road near the property line.

Water Rights

As recorded on title, the Property is entitled to the use of water to the extent of one-half of the normal flow from a spring located on the adjacent private parcel (APN 575-11-009). These rights follow title of the Property. The District has no plans to exercise its rights at this time.

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 24.02-acre parcel has a General Plan designation of Hillside with a zoning designation of Hillside-Design Review-Scenic Road Combined District (HS-d1-sr) over the property. Per the Santa Clara County General Plan and zoning regulations, recreation, open space, and natural preserves are allowable uses in HS-d1-sr zoning designation. 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 would be incorporated into the Sierra Azul Open Space Preserve. Subsequent planning for the property would be coordinated with the District's planning efforts for the Preserve and include consultation with appropriate agencies and organizations.

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 would 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.
Fences and Gates:	Install gates and fencing on the access roads and property boundary as necessary to prevent unauthorized entry and use.
Roads and Trails:	Maintain the seasonal access route to the site and on the site in a serviceable condition. Implement maintenance and minor erosion and sediment control measures in accordance with District standards. Access road to be used for District patrol, maintenance and emergency purposes.
Water Rights and Water Resources:	There are no wells on the property. There is a spring located near the northwest property boundary. As recorded on title, the property has the right to use one-half the normal flow of water from a spring located on the adjacent parcel to the southeast (APN 575-11-009). The District has no plans to exercise its rights at this time.
Patrol:	Routinely patrol property using existing seasonal access road until permanent access rights can be secured over the main access point.
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.
Name:	Name the property as an addition to Sierra Azul Open Space Preserve.
Dedication:	Indicate the District's intention to withhold dedication of the subject property as open space at this time.

TERMS AND CONDITIONS

The 24.02-acre Kahn Property is proposed for purchase at a bargain sale price of \$550,000 as the fair market value for the property is estimated at approximately \$750,000 (based on 2008 appraisal). The property would be purchased as-is on an all-cash basis. Escrow would close by May 31, 2017.

FISCAL IMPACT

Beginning in FY2016-17, the District amended its approach on budgeting for land acquisitions. For FY2017-18, the District only budgeted for costs associated with the option deposit, appraisals, property purchase research, and early negotiations. Land acquisitions brought before the Board for approval include a budget adjustment/increase to the adopted budget. If approved, a budget adjustment/increase of \$540,000 to the FY2016-17 budget is required.

Kahn Property Exchange Amount	\$540,000
Kahn Option Deposit	\$ 10,000
POST (Conley) Property Purchase (also on this agenda)	\$500,000
Total Land purchases approved to date for FY 2017-18	\$5,539,000
Total Land Purchases (if approved)	\$6,589,000

The following table outlines the Measure AA Portfolio #24 budget, costs to date, and the fiscal impact related to the Kahn Property Purchase:

MAA 024 Portfolio Allocation:	\$10,078,000
Spent to Date (May 15):	\$1,049,866
Kahn Property Purchase:	\$540,000
Balance Remaining (Proposed):	\$8,488,134

BOARD COMMITTEE REVIEW

The District's Real Property Committee held a meeting at the District Administrative Office on April 11, 2017 to discuss the proposed property purchase. Notice of the meeting was distributed to property owners of land located adjacent to and surrounding the property. No neighbors or members of the public attended the meeting. Three members of the Real Property Committee were in attendance. Staff provided a presentation of the property, described how it would be managed as an extension of the adjacent Preserve, and reviewed the proposed PUMP and the purchase terms. The Real Property Committee unanimously recommended forwarding this purchase to the full Board of Directors by a 3-0 vote.

PUBLIC NOTICE

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

CEQA COMPLIANCE

Project Description

The project consists of the purchase of the 24.02-acre Kahn Property as an addition to the District's Sierra Azul Open Space Preserve and concurrent adoption of a Preliminary Use and Management Plan (PUMP), including minor erosion control and sediment control measures that may be conducted along existing roads to prevent erosion and water quality degradation. Minor resource management activities may be conducted 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 under the California Environmental Quality Act (CEQA) under Article 19, Sections 15301, 15316, and 15325 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 PUMP specifies no

alteration or expansion of use at this time beyond activities associated with the maintenance of the existing access road, installation of boundary gates and fencing, and minor activities to implement maintenance and minor erosion and sediment control measures in accordance with District standards.

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 PUMP specifies that the land will not be developed, will remain in a natural condition, and will be designated as an addition to the District's Sierra Azul Open Space Preserve.

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 PUMP ensures that the property is preserved as open space by incorporating it into the Sierra Azul Open Space Preserve.

NEXT STEPS

Upon approval by the Board of Directors, staff would proceed with the close of escrow for the purchase of the property by May 31, 2017, and take the next steps identified in the PUMP 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 and Sale 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 Kahn)
2. Location Map

Responsible Department Manager:
Michael Williams, Real Property Manager

Prepared by:
Allen Ishibashi, Senior Real Property Agent, Real Property Department

Graphics prepared by:
Nathan Greig, GIS Technician

RESOLUTION 17-__

RESOLUTION OF THE BOARD OF DIRECTORS OF MIDPENINSULA REGIONAL OPEN SPACE DISTRICT AUTHORIZING ACCEPTANCE OF PURCHASE AND SALE 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 KAHN)

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 (District) does hereby accept the offer contained in that certain Purchase and Sale Agreement between HR2LG, LLC (Kahn), 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 Kahn Property”).

SECTION TWO. The Board of Directors of Midpeninsula Regional Open Space District authorizes the expenditure of \$550,000.00 covering the purchase price funds for the Kahn Property including an option deposit of \$10,000.

SECTION THREE. The Board of Directors of Midpeninsula Regional Open Space District authorizes amending the Budget and Action Plan for the Midpeninsula Regional Open Space District for Fiscal Year 2016-17 by increasing the Measure AA Capital budget in the amount of \$540,000.00. Except as herein modified, the FY 2016-17 Budget and Action Plan, Resolution No. 16-25 as amended, shall remain in full force and effect.

SECTION FOUR. 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 FIVE. The General Manager or the General Manager’s designee is authorized to provide notice of acceptance to the seller, sign all escrow documents and to extend escrow if necessary.

SECTION SIX. 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.

SECTION SEVEN. 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.

* * * * *

PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on _____, 2017, at a regular meeting thereof, by the following vote:

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

ATTEST:

APPROVED:

Secretary
Board of Directors

President
Board of Directors

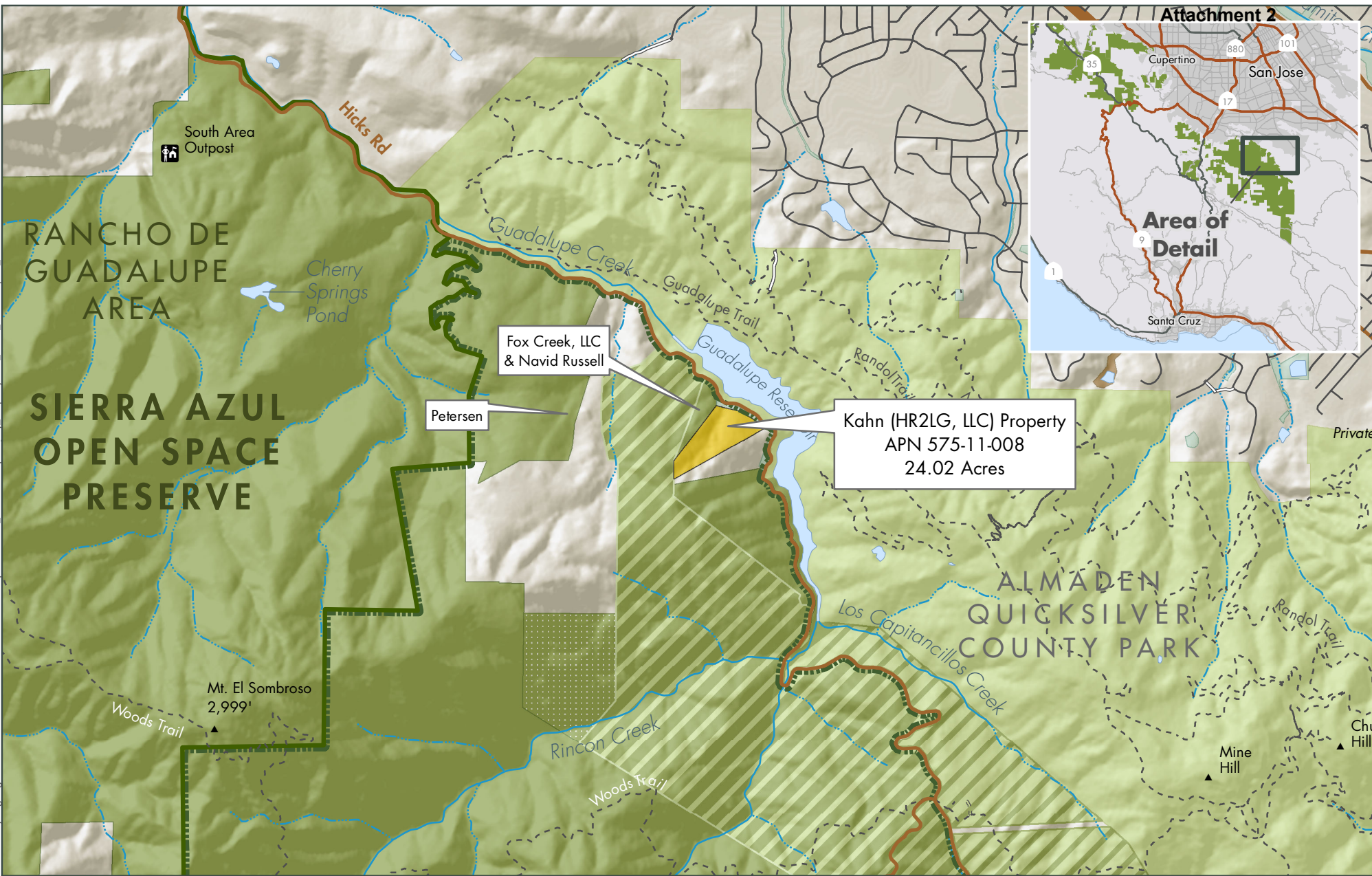
APPROVED AS TO FORM:

General Counsel










I, the 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.

District Clerk

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Kahn (HR2LG, LLC) Property

-  MROSD Preserves
-  Other Protected Lands
-  Private Property
-  Non-MROSD Easement over MROSD
-  MROSD Easement over Other Protected Land
-  Partial MROSD Ownership
-  Kahn (HR2LG, LLC) Property
-  MROSD Boundary
-  MROSD Sphere of Influence

Midpeninsula Regional
Open Space District
(MROSD)
April 2017



While the District strives to use the best available digital data, these data do not represent a legal survey and are merely a graphic illustration of geographic features.