



Midpeninsula Regional
Open Space District

R-21-159
Meeting 21-33
December 8, 2021

AGENDA ITEM 2

AGENDA ITEM

Annual Dedication Report of Certain Lands of the Midpeninsula Regional Open Space District

GENERAL MANAGER'S RECOMMENDATIONS

1. Accept the annual report on the status of dedicated interests in lands of the Midpeninsula Regional Open Space District held for public open space purposes.
2. Adopt a Resolution dedicating interests in certain District lands for public open space purposes.

SUMMARY

In accordance with the Midpeninsula Regional Open Space District's (District) Policy for Dedication of District Lands, adopted in January 1986 (Attachment 1), an annual report of the status of District lands as dedicated or undedicated is prepared each December/January. To date, approximately 65.11% of District lands are dedicated. Based on an annual, parcel-specific analysis of District property, staff recommends dedicating the 182.15-acre former Peninsula Open Space Trust (POST)/San Jose Water Company (SJWC) property at El Sereno Open Space Preserve.

BACKGROUND

In accordance with the Policy for Dedication of District Lands, the Board of Directors (Board) receives an annual report indicating the status of District lands as dedicated or undedicated as of December 1st of the reporting year. The annual report may also contain recommendations for additional dedication of specific District properties or interests in lands. Upon dedication, those properties effectively become permanently protected, and the District voluntarily eliminates its ability to sell or otherwise convey those dedicated properties without voter consent, except under narrow statutory exceptions. The exceptions are referenced in the District's enabling legislation within Public Resources Code Section 5540. The statutory exceptions only permit the following: (a) exchanges of dedicated land of equal or greater open space value not to exceed a total of 40 acres in a calendar year, or (b) the transfer of land to another government agency upon the condition that the land will continue to be protected as open space in perpetuity.

Undedicated lands within District boundaries are reserved for future dedication to park and/or open space purposes, but only after the necessary planning, boundary adjustments, provision for permanent access, and other changes in configuration, which may involve the disposal or exchange of interests in all or portions of such lands, have been completed. Retaining certain

lands in an undedicated status is often in the public's best interest as this affords maximum flexibility to achieve these modifications and secure the rights necessary for priority goals such as wildlife and trail connectivity. In the interim, undedicated District lands may be used for park or open space purposes within the meaning of Section 5540 of the Public Resources Code.

When considering the adoption of a Use and Management Plan, the Board determines whether the underlying land is to be dedicated at the time of the annual report or to be withheld until a later time, such as when comprehensive planning has been completed. Dedication status is also reviewed as part of the regular land use and management planning process, such as approval of a Site Plan, Preserve Plan or Master Plan. When approving such plans, the Board may adopt a motion of intention to dedicate at that time or to withhold dedication until a future time. Another factor for consideration is when a granting agency requires land dedication as a condition of funding support.

DISCUSSION

Dedication Status Summary

The Dedication Status Summary Report 2021 (Attachment 2) provides the total acres held within each District preserve and their dedication status. Only those lands for which title has passed to the District on or before December 1, 2021 are included in the acreage totals. The interests in land that the District holds, i.e., fee title, easement, or other (lease, management agreement, etc.), are listed for each category. Rights of first refusal and/or reversions to the District are not included. The table below provides a summary of the dedication status of District lands.

<i>Land Interests of the District</i>		<i>Acres</i>
Fee Title Interests		59,870.17
Lesser Interests		5,928.22
Total District Interests		65,798.39
Lands with lesser interest that prevent dedication		-2,615.56*
Total acres of lands with marketable interests		63,182.83
<i>Dedication status of lands with marketable interests</i>		<i>Percentage</i>
Dedicated lands	65.11%**	41,138.00
Undedicated lands	34.89%	22,044.83
Total acres of lands with marketable interests		63,182.83

*Lands with lesser interest include lands protected by District funding contributions and long-term agreements with other agencies.

**Includes all dedicated lands (fee title, easements on public and private lands, leases and CC&Rs). 64% of lands held in fee title interest are dedicated.

Open Space Lands Acquired and Protected since January 1, 2021

The last annual report was presented to the Board on January 27, 2021 ([R-21-17](#)) and included all lands acquired through December 31, 2020. The table below reports total lands acquired since that date that have closed escrow as of December 1, 2021.

<i>Year</i>	<i>Interest Type</i>	<i>Acres</i>	<i>Appraised Value</i>	<i>District Expenditure</i>	<i>Partner funds, exchanges, grants or gifts</i>
2021	Fee	314.84	\$3,115,000	\$1,665,000	\$1,075,000*
2021	Easement	1.38	\$0	\$0	\$0
2021	Lease Agreement	644.00	\$5,500,000**	\$0**	\$0**
Total		960.22	\$8,615,000	\$1,665,000	\$1,075,000

*Includes receipt of \$1,075,000 from the California Wildlife Conservation Board for the purchase of the 182.15-acre Peninsula Open Space Trust (POST) (SJWC) Property in El Sereno Open Space Preserve.

**On November 10, 2021, the Board of Directors approved the future purchase and current lease and management agreement for the 644-acre Johnston Ranch Uplands property effective December 1, 2021 as an addition to Miramontes Ridge Preserve ([R-21-132](#)). The Johnston Ranch Uplands property has an appraised fair market value of \$5.5M. The approved future purchase price will be \$4.8M with a gift component of \$700,000. In addition, it is anticipated that \$700,000 in grant funds will be used for the property acquisition for a net District purchase cost of \$4.1M. Upon approval of a lot line adjustment by the County of San Mateo anticipated for mid-2022, the District will purchase the Johnston Ranch Uplands property and the lease and management agreement will terminate at the close of escrow. The future fee ownership, purchase expenditure and grant disbursement will be reflected in the 2022 Dedication report.

Dedication Recommendations for 2021

The District annually conducts a parcel-specific analysis to provide dedication recommendations. The analysis includes consideration of criteria identified in the governing policy (Attachment 1). Staff also consider preserve parcel configuration, surrounding land use, pending negotiations for adjacent acquisitions, project coordination with partner agencies, and other relevant factors.

Based upon the analysis conducted, staff has concluded that it is appropriate to dedicate the following land at this time:

El Sereno Open Space Preserve - The 182.15-acre former POST (SJWC) property, purchased on June 22, 2021 with funding from the California Wildlife Conservation Board and surrounded by existing dedicated lands at El Sereno Open Space Preserve, is recommended for dedication. This acquisition removes a significant inholding within the Preserve and directly supports a major Bay Area Ridge Trail (Ridge Trail) milestone: a portion of the District's Aquinas Trail, which crosses through the property, was a high-priority gap in the Ridge Trail. Following the acquisition, 2.2 miles of the 3.7-mile Aquinas Trail in the Preserve were designated by the Board on October 27, 2021, as a new segment of the Ridge Trail ([R-21-132](#)), effectively closing the gap and facilitating the dedication of 400 miles of Ridge Trail by the Bay Area Ridge Trail Council. In addition, the trail segment provides a key piece of a planned regional trail connection between El Sereno Open Space Preserve and Sanborn County Park in association with the Highway 17 Regional Trails Crossing Project.

Recommendations for Later Dedication

Pockets of undedicated lands occur throughout the District, but the majority of the District's undedicated land lies within La Honda Creek and Sierra Azul Open Space Preserves (OSP). At La Honda Creek OSP, 48% (3,038.61 acres) of the 6,333.70-acre preserve is undedicated. Development of public access improvements are underway in the Preserve. When the 2012 Master Plan is amended to include property acquired since 2012, and public access improvements are completed, the status of undedicated lands will be reevaluated. At Sierra Azul OSP, 71.5% (13,802.22 acres) of the 19,300.82-acre preserve is undedicated. Completion of the Sierra Azul OSP Master Plan was deferred to allow for a focused implementation of the Mount Umunhum

Public Access and Environmental Restoration Project. When long-term management goals for the entire Preserve are approved, the status of undedicated lands will be reevaluated.

FISCAL IMPACT

None.

BOARD AND COMMITTEE REVIEW

No Board Committee review is required for this item.

PUBLIC NOTICE

Public notice was provided pursuant to the Brown Act. Notice was also given to the California Coastal Conservancy, County of Santa Clara, County of San Mateo, Santa Clara Valley Open Space Authority, Santa Clara Valley Water District, and Peninsula Open Space Trust. No additional notice is necessary.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE

No compliance is required as this action is not a project under CEQA.

NEXT STEPS

In December 2022, Real Property staff will review with other Departments the District lands that may be suitable for dedication in the future and provide these findings as part of the 2022 Annual Dedication Report.

Attachments:

1. Policy for Dedication of District Lands
2. Dedication Status Summary Report 2021
3. Resolution Dedicating Interests in Certain District Lands for Public Open Space Purposes

Responsible Department Head and Staff Contact:

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Prepared by:

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RESOLUTION OF THE BOARD OF DIRECTORS OF THE
MIDPENINSULA REGIONAL OPEN SPACE DISTRICT
ADOPTING AN AMENDED POLICY FOR THE DEDICA-
TION OF DISTRICT LANDS

POLICY FOR DEDICATION OF DISTRICT LANDS

WHEREAS, this Board desires to reaffirm and memorialize its policy concerning the status of District lands, now owned or later acquired, with respect to the distinction between dedicated and non-dedicated land:

NOW, THEREFORE, BE IT RESOLVED that the policy of the Midpeninsula Regional Open Space District concerning the status of land it owns or administers is as follows:

1. Dedicated Land. Dedicated land means all real property or interests therein, formally dedicated for park or open space, or both, purposes by resolution of this Board.

2. Undedicated Land. Undedicated land means all real property, or interests therein, that is not "dedicated land" as defined above. Undedicated land shall be considered to be held in a "planning reserve" status and shall not be considered to be dedicated for park or open space, or both, purposes within the meaning of Section 5540 of the Public Resources Code.

Normally, undedicated lands within the District's boundaries will be held for future dedication to park or open space, or both, purposes, but only after the necessary planning, boundary adjustments, provision for permanent access and other changes in configuration, which may involve the disposal or exchange of interests in all or portions of such lands, have been completed. Nevertheless, undedicated land may be used on a limited basis for park or open space, or both, purposes within the meaning of Section 5540 of the Public Resources Code.

At the time of adoption of the Interim Use and Management Plan following acquisition, the Board shall decide by adopted motion whether or not the acquired parcel of land is intended to be dedicated at the time of the annual report described below. The status of each such parcel shall also be reviewed as part of the regular land use and management planning process, and the Board may then adopt a motion of intention to dedicate at the time of the annual report.




An annual report shall be made in December of each year showing which District lands are in planning reserve status. At that time, the Board of Directors will normally dedicate by resolution any lands which it deems appropriate, but may also dedicate lands at any other time.

3. Transfer-Dedicated Land. Dedicated land may not be conveyed except as provided in Section 5540, Section 5540.5 or Section 5540.6 of the Public Resources Code.

4. Transfer-Undedicated Land. Undedicated land may be conveyed, transferred, leased, or disposed of at the sole discretion of the Board of Directors.

5. This resolution supercedes Resolution 79-54.

 Dedicated
 Intended
 Withheld

 Dedicated
 Intended
 Withheld

Preserve dedication status



RESOLUTION 21-__

**RESOLUTION OF THE BOARD OF DIRECTORS OF MIDPENINSULA
REGIONAL OPEN SPACE DISTRICT DEDICATING INTERESTS IN
CERTAIN DISTRICT LANDS FOR PUBLIC OPEN SPACE PURPOSES**

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

SECTION ONE. Pursuant to California Public Resources Code section 5540 and Board Resolution 86-6, Policy for Dedication of District Lands, the Board of Directors does hereby dedicate for public open space purposes the interests in land held by the District shown herein, except for density credits on such lands, if any:

INTERESTS IN LAND TO BE DEDICATED

Open Space Preserve	Grantor	Board Approval Date	Closing Date	Acreage	Property Interest
El Sereno	POST (San Jose Water Company)	7/22/2020	6/22/2021	182.15	Fee
TOTAL				182.15	

* * * * *

PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on _____, 2021, at a regular meeting thereof, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

Larry Hassett, Secretary
Board of Directors

Curt Riffle, President
Board of Directors

APPROVED AS TO FORM:

Hilary Stevenson, 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.

Jennifer Woodworth, District Clerk