



Midpeninsula Regional
Open Space District

R-22-07
Meeting 22-02
January 12, 2022

AGENDA ITEM 7

AGENDA ITEM

Proposed Purchase of the Vielbaum Property as an addition to Sierra Azul Open Space Preserve located in unincorporated Santa Clara County (Assessor's Parcel Number 562-10-003)

GENERAL MANAGER'S RECOMMENDATIONS *den*

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 Vielbaum Property at a cost of \$168,000 with corresponding authorization for a Fiscal Year 2021-22 budget adjustment of the same amount, and an additional adjustment of \$10,000 for miscellaneous costs related to this transaction, for a total budget adjustment of \$178,000.
3. Adopt a Preliminary Use and Management Plan for the Property, as set out in the staff report.
4. Withhold dedication of the Vielbaum Property as public open space at this time.

SUMMARY

The General Manager recommends purchasing the 41.76-acre Vielbaum Property (Property) at a purchase price of \$168,000 (\$4,023 per acre) as an addition to Sierra Azul Open Space Preserve (Preserve). The following report provides a description of the Property, a Preliminary Use and Management Plan, findings of the environmental review, the purchase terms and conditions, and financial considerations. A budget adjustment/increase of \$168,000 to the Fiscal Year 2021-22 (FY22) budget would be required to proceed with the acquisition. An additional \$10,000 budget adjustment is needed to cover the title insurance, escrow fees, and miscellaneous costs related to this transaction. Currently, there is no budget allocation for this project; if approved, the total increase to the FY22 budget would be \$178,000.

DISCUSSION

The Midpeninsula Regional Open Space District (District) proposes to purchase the 41.76-acre Property consisting of one legal parcel. The Property is located a half-mile north of Mount Thayer, 1.25 miles northwest of Mount Umunhum, and is bordered by the 19,300.82-acre Sierra Azul Open Space Preserve to the north, west, and east and private property to the south. Purchase of the Property would permanently protect forested lands and wildlife habitat within the Upper Los Gatos Creek watershed and further the greenbelt connection of protected open space and wildlife corridors. This purchase advances Measure AA Portfolio #23, *Sierra Azul*:

Mt. Umunhum Public Access and Interpretation Projects, as it secures additional property rights in the Mount Umunhum area.

Property Description and Regional Context (see Attachment 2 – Location Map)

Situated on the slopes above Soda Spring Canyon, the rhombus-shaped Property is highly visible from District lands and is a natural extension to the Mount Umunhum area of the Preserve. The Property is approximately 3,000 feet in elevation and drains into the Upper Los Gatos Creek watershed. The Property cannot be accessed via any existing roads.

Land Use and Improvements

The Property is vacant and unimproved, with no utilities. The Property falls within Santa Clara County's landslide hazard zone and the State's seismic hazard zone.

Habitat and Natural Resources Value

The dominant vegetation community on the Property is the fire-adaptive California Bay Forest, which covers about 90% of the area. The Property is within the Santa Clara County Wildfire Influence Zone, which contains wildfire susceptible vegetation up to 1.5 miles from the Wildland Urban Interface or Wildland Urban Intermix. The Property provides habitat for several large animal species, including deer, coyotes, foxes, bobcats, and mountain lions. In addition, a wide variety of small mammals, including woodrats, birds, and other species occupy or migrate through the area. The Property is part of a landscape-level terrestrial linkage between the Santa Cruz Mountains and the Diablo and Gabilan ranges. These linkages are critical for maintaining genetic diversity, facilitating migration and dispersion, and supporting large home ranges.

Water Resources and Rights

The Property falls within the Guadalupe Creek parent watershed and more specifically within the Upper Los Gatos Creek watershed. An unnamed intermittent tributary of Soda Springs Creek flows down through the northeast corner of the Property through Soda Spring Canyon and into Lexington Reservoir.

USE AND MANAGEMENT

Planning Considerations

The Property is located in unincorporated Santa Clara County and outside the urban service area or sphere of influence of any incorporated municipality. The Property has a County General Plan and zoning designation of Hillside (HS). In 1999, the Santa Clara County Planning Department found that all open space acquisitions by the District in unincorporated areas that are classified as a Resource Conservation Area in the County's General Plan comply with the General Plan. Per the County's Zoning Ordinance Section 1.20.070, low-intensity outdoor recreation and open space preserves are allowable uses in an HS zoning designation and shall be exempt from the Zoning Ordinance.

If purchased, the Property will be incorporated into 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 preservation of the Property in its natural condition, as described more fully below. If changes to land use or the physical environment were proposed in the future, the plan would be subject to further environmental review and public input.

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.
Public Access:	Designate the Property as closed to public use at this time.
Signs and Site Security:	Install preserve boundary signs as needed.
Fences and Gates:	Install and maintain fences and gates as needed.
Patrol:	Routinely patrol the Property.
Resource Management:	Conduct plant and animal management activities to protect natural resources as well as minor erosion and sediment control measures to protect water resources, consistent with the District's adopted Resource Management Policies, Integrated Pest Management Program Guidance Manual, Open Space Maintenance and Restoration Program, and regulatory permits.
Wildfire Fuel Management:	Implement standard District-wide fuel management and defensible space practices consistent with the District's adopted Wildland Fire Resiliency Program.

CEQA COMPLIANCE

Project Description

The project consists of the purchase of the 41.76-acre Property as an addition to the District's Sierra Azul Open Space Preserve and concurrent adoption of a PUMP, including minor erosion control and sediment control measures that may be conducted to prevent erosion. 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 operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, or topographical features, involving negligible or no expansion of use beyond the existing uses. The PUMP will maintain the Property as status quo with no expansion or changes to its existing uses. The PUMP includes minor erosion control work as necessary, wildland fuel management, and minor natural resource management activities, covered under the District's adopted Resource Management Policies, Integrated Pest Management Program Guidance Manual, Wildland Fire Resiliency Program, the mitigation measures adopted pursuant to Final Environmental Impact Reports of the cited plans and policies, and the District's Open Space Maintenance and Restoration Program and Mitigated Negative Declaration, and regulatory permits as applicable.

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 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 to be preserved as open space and incorporate it into the Sierra Azul Open Space Preserve.

TERMS AND CONDITIONS

The 41.76-acre Vielbaum Property is proposed for purchase at a sale price of \$168,000 (\$4,023 per acre). The Property would be purchased as-is on an all-cash basis. Escrow would close on or before January 31, 2022.

FISCAL IMPACT

Land acquisitions brought before the Board for approval include a budget adjustment/increase to the adopted budget. If approved, an increase of \$168,000 for the acquisition and \$10,000 to cover associated costs related to this transaction are required. If approved, a total increase of \$178,000 to the FY22 budget is required.

Vielbaum Property Purchase Amount <i>(includes \$10,000 option deposit, which is separate from misc transactional fees)</i>	\$168,000
Total Land Purchases approved to date for FY22	\$4,800,000
Total FY22 Land Purchases (if approved)	\$4,968,000

The following table outlines the Measure AA Portfolio 23 *Sierra Azul: Mt. Umunhum Public Access and Interpretation Projects* allocation, costs-to-date, projected future project expenditures and projected portfolio balance remaining.

MAA23 Sierra Azul: Mount Umunhum Public Access and Interpretive Projects Portfolio Allocation:	\$27,972,000
Grant Income (through FY25):	\$1,320,000
Total Portfolio Allocation:	\$29,292,000
Life-to-Date Spent (as of 11/18/21):	(\$22,966,838)
Encumbrances:	\$0

Vielbaum Property Acquisition:	(\$168,000)
MAA23-009 Title Insurance, Escrow Fees, Survey and Miscellaneous Costs:	(\$10,000)
Remaining FY22 Project Budgets:	\$0
Future MAA23 project costs (projected through FY25):	\$0
Total Portfolio Expenditures:	(\$23,144,838)
Portfolio Balance Remaining (Proposed):	\$6,147,162

The following table outlines the Measure AA Portfolio 23 *Sierra Azul: Mt. Umunhum Public Access and Interpretation Projects* allocation, costs-to-date, and the fiscal impact related to the Property purchase.

MAA23 Sierra Azul: Mount Umunhum Public Access and Interpretive Projects Portfolio Allocation:	\$27,972,000
Grant Income (through FY25):	\$1,320,000
Total Portfolio Allocation:	\$29,292,000
Projected Project Expenditures (life of project):	
23-001 Mt. Um Road & Trail Property Rights	(\$1,271,318)
23-002 Mt. Um Trail	(\$959,548)
23-004 Mt. Um Summit Restoration, Parking & Landing Zone	(\$10,458,358)
23-005 Mt. Um Guadalupe Creek Overlook & Bridges	(\$259,311)
23-006 Mt. Um Road Design/Permitting/Construction	(\$6,282,378)
23-007 Twin Creeks Land Conservation	(\$3,735,925)
23-009 Vielbaum Property Acquisition	(\$178,000)
Total Portfolio Expenditures:	(\$23,144,838)
Portfolio Balance Remaining (Proposed):	\$6,147,162

BOARD COMMITTEE REVIEW

Due to the simple nature and low value of this potential purchase, this item was not presented to the Real Property Committee.

PUBLIC NOTICE

Property owners and occupants of land located adjacent to or surrounding the subject Property as well as the Sierra Azul interested parties list have been mailed or emailed a copy of the agenda for this meeting. Accordingly, all notice required by the Brown Act and District policy has been provided.

NEXT STEPS

Upon approval by the Board, staff would proceed with the close of escrow for the purchase of the Property by January 31, 2022, and take the next steps identified in the PUMP as contained in this report. The District's South Area Field Office would manage the property as an addition to the Sierra Azul Open Space Preserve.

Attachments:

1. Resolution Authorizing Acceptance of Purchase and Sale Agreement, Amending the Fiscal Year 2021-22 General Fund Capital Budget, Authorizing the General Manager or Other Officer to Execute Certificate of Acceptance of Grant to District,

and Authorizing the General Manager to Execute any and all Other Documents Necessary or Appropriate to Closing of the Transaction (Sierra Azul Open Space Preserve - Lands of Vielbaum)

2. Vielbaum Property Location Map

Responsible Department Manager:
Michael Williams, Real Property Manager

Prepared by:
Jasmine Leong, Real Property Agent I, Real Property Department

Graphics prepared by:
Francisco Tapia Lopez, GIS Technician

RESOLUTION 22-__

RESOLUTION OF THE BOARD OF DIRECTORS OF MIDPENINSULA REGIONAL OPEN SPACE DISTRICT AUTHORIZING ACCEPTANCE OF THE PURCHASE AND SALE AGREEMENT, AMENDING THE FISCAL YEAR 2021-22 GENERAL FUND CAPITAL BUDGET, AUTHORIZING GENERAL MANAGER OR OTHER APPROPRIATE OFFICER TO EXECUTE CERTIFICATE OF ACCEPTANCE AND GRANT TO DISTRICT, 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 VIELBAUM)

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 Walter H. Vielbaum, Norma E. Vielbaum 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 Vielbaum Property”).

SECTION TWO. The Board authorizes the expenditure of \$168,000.00 covering the purchase of the Vielbaum Property, including an option deposit of \$10,000.00.

SECTION THREE. 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, survey and miscellaneous costs related to this transaction.

SECTION FOUR. The Board approves an amendment to the Budget and Action Plan for Fiscal Year 2021-22 by increasing the Measure AA Fund Capital budget in the amount of \$168,000.00 for the purchase, and \$10,000 for associated costs related to this transaction, for a total budget adjustment of \$178,000. Except as herein modified, the FY 2021-22 Budget and Action Plan, Resolution No. 21-18 as amended, shall remain in full force and effect.

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

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

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 _____, 2022, at a regular meeting thereof, by the following vote:

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

ATTEST:

APPROVED:

Secretary
Board of Directors

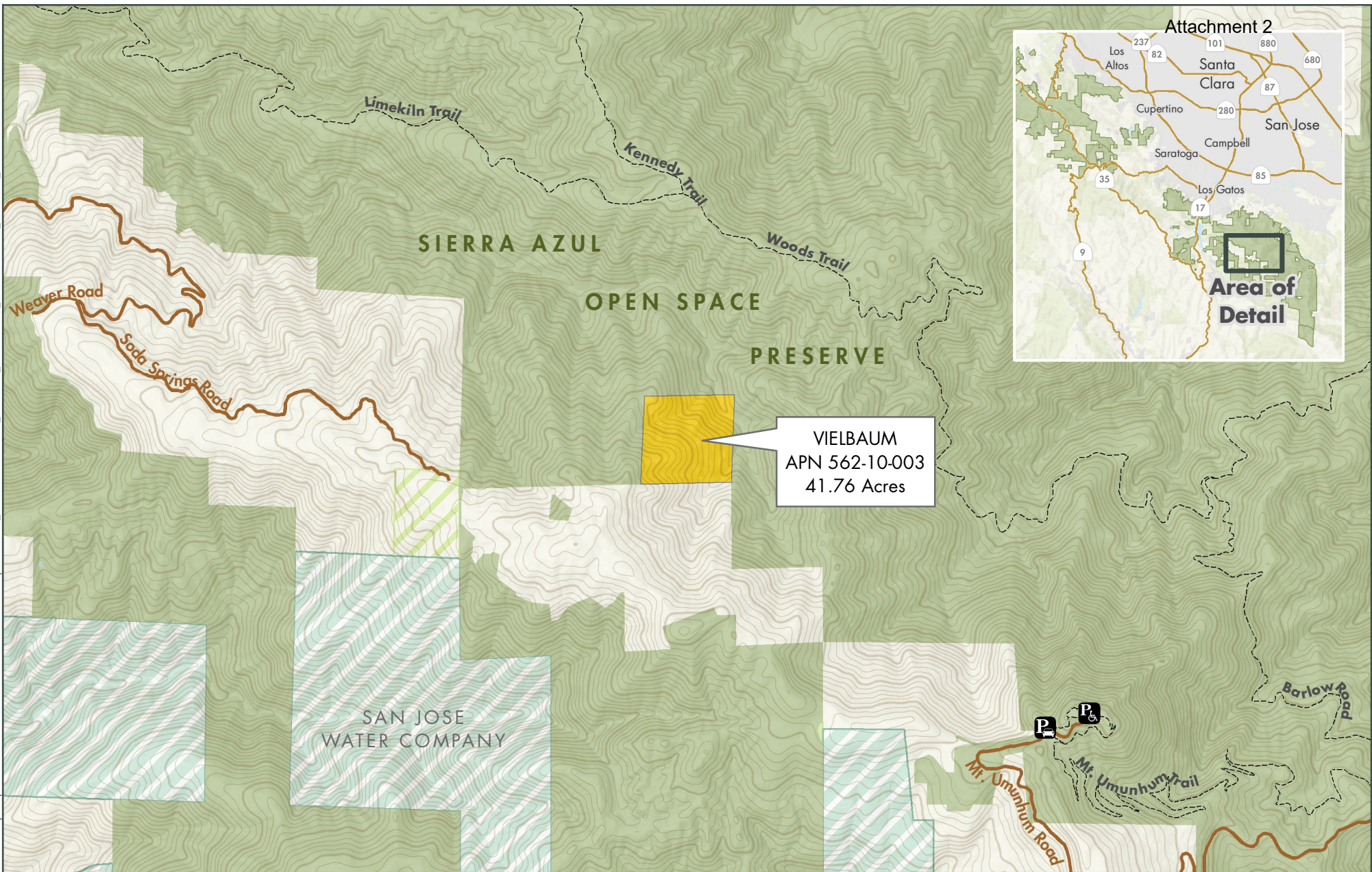
President
Board of Directors

APPROVED AS TO FORM:





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



Vielbaum

-  MROSD Preserves
-  Highlighted Property
-  Private Watershed Land
-  Private Property

Midpeninsula Regional
Open Space District
(Midpen)
10/13/2021

