



Midpeninsula Regional
Open Space District

R-23-14
Meeting 23-03
January 25, 2023

AGENDA ITEM 8

AGENDA ITEM

Proposed purchase of the 96.77-acre Eberhard Property located in unincorporated San Mateo County (Assessor's Parcel Numbers 072-343-010, 072-343-020, 075-330-100, and 075-340-130 (portion)) as an addition to La Honda Creek Open Space Preserve

GENERAL MANAGER'S RECOMMENDATIONS *den*

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 Eberhard Property for \$3,290,180 with a corresponding authorization for a Fiscal Year 2022-23 budget adjustment of the same amount.
3. Adopt a Preliminary Use and Management Plan, as set out in the staff report.
4. Withhold dedication of the Eberhard Property as public open space at this time.

SUMMARY

The General Manager recommends purchasing the 96.77-acre Eberhard Property (Property) at a purchase price of \$3,290,180 (\$34,000 per acre) as an addition to La Honda Creek Open Space Preserve (Preserve). The following report includes 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 of \$3,290,180 to the Fiscal Year 2022-23 (FY23) budget would be required to proceed with the acquisition.

DISCUSSION

The Midpeninsula Regional Open Space District (District) proposes to purchase the 96.77-acre Property consisting of four legal parcels that form a part of the larger Eberhard land holdings. All four parcels are unimproved except for unpaved access roads and are zoned Timber Preserve Zone (TPZ). Three of the parcels, totaling 83.07 acres, would be purchased in their entirety. The fourth parcel, APN 075-340-130, is 21.2 acres and is to be split into a 7.5-acre parcel that would be retained by the seller and a 13.7-acre open space parcel that would be purchased by the District. There are three ways to access the Property: two separate, unpaved road entrances off of Highway

35 (Skyline Boulevard) and one unpaved road entrance off of Allen Road.

As part of the transaction, the District and seller would exchange access easements over their respective properties to retain road access for both parties between Skyline Boulevard and Allen Road. This purchase would advance Measure AA Portfolio #5, *La Honda Creek: Habitat Restoration and Conservation Grazing Projects*.

Property Description (see Attachment 2 - Location Map)

The proposed 96.77-acre Property is located between Highway 35 (Skyline Boulevard) and Allen Road in the unincorporated area of San Mateo County and is visible from the Highway 35 scenic corridor. The parcels are approximately 1.25 miles northwest of the Highway 35 and Highway 84 (La Honda Road) intersection. The Property is adjacent to the District's La Honda Creek Open Space Preserve to the south and east of the 2015 Toepfer property addition to the Preserve along Bear Gulch Road (see report [R-15-94](#)). The District's El Corte de Madera Creek Open Space Preserve is located on the west side of Bear Gulch Road. Several private properties 12 to 20 acres in size are also adjacent to the Property. The Property would facilitate a future connection between the two District preserves.

Land Division

The Property purchase is contingent upon the completion of a land division through the San Mateo County Planning and Building Department (County). The land division application will be submitted to the County by late winter to early spring of 2023, and the County will review the application over the following 3-9 months (estimated timing). Due to the large window of time, it is possible that the purchase will not be completed during Fiscal Year 2022-23 (FY23) but instead sometime in FY24. The land division would occur on the 21.2-acre parcel to create a new 13.7-acre open space parcel and a 7.5-acre parcel to be retained by the Eberhards. The District would be responsible for applying for and processing the land division application and the costs thereof.

Land Use

The Property's terrain is generally west-facing and steep, ranging from 1,740 feet to 2,200 feet. The average slope across all four parcels is in the 40%-60% range, with slopes near Allen Road and La Honda Creek around 0%-20%. The main access to the Property is via dirt roads from Skyline Boulevard and Allen Road. The interior of the Property is improved only with dirt access roads that have been rocked and improved with drainage to resist erosion. In past ownership, the Property was utilized as an unofficial dirt motorcycle course, but the Eberhards completed extensive clean-up and restoration of the Property (approximately \$450,000 in work). However, the partial remains of a small log cabin and at least two abandoned vehicles (no engines or fuel tanks present) remain on the property. No evidence of hazardous materials has been detected.

Habitat and Natural Resources Value

The Property is densely wooded with mixed hardwood forest. Fire-adaptive redwood forest covers over 90% of the property. The remaining property consists of a mix of live oak, tan oak, madrone, Douglas fir, and other conifers and hardwoods. The Property provides habitat for animal species associated with the upper elevations of the San Gregorio watershed, including

deer, coyotes, bobcats, and mountain lions. A wide variety of small mammals, birds, and other species occupy or migrate through the general area.

Water Resources and Rights

The headwaters of La Honda Creek, a perennial stream in the San Gregorio watershed, runs southeast through two of the four parcels proposed for purchase. The greater watershed supports spawning habitat for the endangered Coho salmon and threatened steelhead trout. Surface flow eventually travels to San Gregorio Creek, listed under the federal Clean Water Act as an impaired water body for sediment, before it discharges into the ocean. The Eberhards have made improvements to the stream crossings, including retaining walls and culvert replacements throughout the Property. There are no adjudicated water rights associated with the Property.

USE AND MANAGEMENT

Planning Considerations

The Property consists of four parcels located in unincorporated San Mateo County. All four parcels have a General Plan designation of Open Space with a zoning designation of Timberland Preserve Zone (TPZ). The Property collectively has 5 density credits. Natural resource management, habitat preservation, and low intensity recreation are allowable uses within this land use designation. Staff has requested the San Mateo County Planning Commission to confirm that the acquisition of the Property for open space complies with the County's General Plan, contingent on the land division approval.

If purchased, the Property will be incorporated into the La Honda Creek Open Space Preserve, and a Preliminary Use and Management Plan will be implemented. When undertaken, a future planning process would analyze opportunities for compatible public use, including use of the Property for a potential Bay Area Ridge Trail Connection between La Honda Creek Open Space Preserve and El Corte de Madera Creek Open Space Preserve. Further environmental review would be prepared as needed. Subsequent planning would be in accordance with the District's Service Plan, including 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 future long-term plan. The PUMP includes site security and maintenance of the Property in its natural condition, as described below. The PUMP takes effect at the close of escrow and remains effective until changes warrant an amendment or a Preserve Master Plan is developed to include this Property. 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 La Honda Creek Open Space Preserve.
- Dedication: 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. Issue a hiking permit to the former owner.
Signs and Site Security:	Install Preserve boundary and closed area signs where appropriate.
Fences and Gates:	Install, maintain, and replace gates and fencing as necessary to prevent unauthorized entry.
Roads and Trails:	Continue to maintain existing dirt roads in a serviceable condition in accordance with the District's adopted Resource Management Policies standards and Open Space Maintenance and Restoration program.
Patrol:	Routinely patrol Property using the access easement granted by the seller and further described in the Terms and Conditions of the proposed purchase.
Resource Management:	Maintain the Property in its natural condition. Conduct plant and animal management activities consistent with the District's adopted Resource Management Policies, Integrated Pest Management Program Guidance Manual, Open Space Maintenance and Restoration Program, Wildland Fire Resiliency Program, Best Management Practices, and regulatory permits as needed.
Water Resources:	Protect the creeks on the Property consistent with the District's adopted Resource Management Policies and Best Management Practices.
Wildfire Fuel Management:	Implement standard District-wide fuel management and defensible space practices consistent with the District's adopted Wildland Fire Resiliency Program.
Clean-up:	Remove abandoned vehicles from the property and eliminate any safety concerns associated with the partial remains of a small log cabin.

CEQA COMPLIANCE

Project Description

The project consists of the purchase of the 96.77-acre Property as an addition to the District's open space preserve system, as set forth in the Purchase and Sale Agreement, and the concurrent adoption of a PUMP. The adoption of a PUMP establishes a status quo land management approach, with no expansion or changes to the Property's existing use as open space and maintains it in a natural condition. As directed in the proposed PUMP, maintenance and minor resource management activities will be conducted in accordance with adopted District policies and programs and their associated CEQA documents.

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, 15325, and 15330 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 will maintain the Property as status quo with no expansion to its existing use as open space. The PUMP includes maintenance of the existing roads as necessary, as well as maintenance of or minor alterations to the property for wildland fuel management and other natural resource management activities in accordance with the District's adopted policies and programs and their associated CEQA documents.

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 for the Property specifies that the land will remain in a natural condition and will be designated as an addition to the District's La Honda Creek Open Space Preserve.

Section 15325 exempts transfers of ownership of interests in land to preserve open space. This acquisition will transfer fee ownership of the Property to the District to ensure that the open space will be preserved and incorporated into La Honda Creek Open Space Preserve.

Section 15330 exempts minor clean-up actions taken to prevent, minimize, stabilize, mitigate or eliminate the release of threat or release of a hazardous waste or substance which are small or medium removal actions costing \$1 million dollars or less. The PUMP includes clean-up of abandoned vehicles on the property that will not exceed \$1 million dollars in removal costs.

In addition, none of the exceptions listed in Section 15300.2 apply to this project.

TERMS AND CONDITIONS

The purchase price of the 96.77-acre Eberhard Property is \$3,290,180 (\$34,000 per acre), and it is contingent on San Mateo County approving a land division of the 21.2-acre parcel (creating a 13.7-acre open space parcel to be purchased by the District and a 7.5-acre parcel to be retained by the seller). The Property would be purchased "as-is" and on an all-cash basis. The District had an appraisal of the Property completed, which came in at the purchase price.

In addition to the fee property purchase, the seller would grant the District a patrol and maintenance easement over the retained parcel for the existing access road that exits onto Allen Road, and the District would concurrently grant the seller an access easement over the purchased property to provide a secondary access route exiting onto Skyline Boulevard.

FISCAL IMPACT

Land acquisitions brought before the Board for approval include a budget adjustment/increase to the adopted budget. If approved, an increase of \$3,290,180 to the FY23 budget is required; however, since the purchase is contingent upon the County's approval of the land division and the application submittal and review process could take up to a year, it is possible that the purchase will not be completed until FY24. Should the acquisition not materialize in FY23, \$3,290,180 will be budgeted towards the acquisition during the annual Budget and Action Plan process for FY24.

Eberhard Property Purchase <i>(including \$10,000 option deposit)</i>	\$3,290,180
Total Land purchases approved to date for FY2022-23	\$15,920,000
Total FY2022-23 Land Purchases <i>(if approved)</i>	\$19,210,180

The following table outlines the Measure AA Portfolio 5 La Honda Creek—Upper Area Recreation, Habitat Restoration and Conservation Grazing Projects allocation, costs-to-date, projected future project expenditures and projected portfolio balance remaining. There is a \$2.4 million funding gap projected in the portfolio in the foreseeable future. A future reallocation of MAA funds, allocation of interest earnings or general fund reserves may be needed to close the funding gap.

MAA05 La Honda Creek—Upper Area Recreation, Habitat Restoration and Conservation Grazing Projects Portfolio Allocation:	\$11,733,000
Life-to-Date Spent (as of 12/20/22):	(\$3,013,410)
Encumbrances:	(\$71,037)
Eberhard Property Acquisition:	(\$3,290,180)
MAA05-015 Title insurance, escrow fees, survey, and miscellaneous costs:	(\$50,000)
Remaining FY23 Project Budgets:	(\$1,074,749)
Future MAA05 project costs (projected through FY26):	(\$6,617,650)
Total Portfolio Expenditures:	(\$14,117,026)
Portfolio Balance Remaining (Proposed):	(\$2,384,026)

The following table outlines the Measure AA Portfolio 5 allocation, projected life of project expenditures and projected portfolio balance remaining.

MAA05 La Honda Creek—Upper Area Recreation, Habitat Restoration and Conservation Grazing Projects Portfolio Allocation:	\$11,733,000
Projected Project Expenditures (life of project):	
05-001 La Honda Creek Land Conservation Opportunities	(\$1,756,093)
05-002 Upper La Honda Creek Grazing Infrastructure	(\$297,432)
05-005 La Honda Creek Red Barn Parking Area and Easy Access Trail	(\$327,513)
05-007 La Honda Creek Phase II Trail Connection	(\$984,578)
05-008 La Honda Creek White Barn Structural Rehabilitation	(\$558,446)

05-009 La Honda Creek Redwood Cabin Removal and Site Restoration	(\$582,375)
05-010 Restoration Forestry Demonstration Project	(\$1,770,795)
05-011 Lone Madrone Ranch Fence Installation	(\$257,614)
05-012 Paulin Culvert/Bridge Improvements	(\$629,000)
05-013 La Honda Parking and Trailhead Access – Implementation	(\$3,556,000)
05-014 Lone Madrone Corrals	(\$57,000)
05-015 Eberhard Land Acquisition	(\$3,340,180)
Total Portfolio Expenditures:	(\$14,117,026)
Portfolio Balance Remaining (Proposed):	(\$2,384,026)

BOARD AND COMMITTEE REVIEW

The District distributed a notice of the Real Property Committee (RPC) meeting on October 27, 2022 to property owners located adjacent to or surrounding the subject property. The meeting was held on November 8, 2022, on the Property off of Allen Road in Woodside to review information about the Property and receive public input on the proposed purchase ([Committee meeting fact sheet](#); see Attachment 3 for draft meeting minutes (minutes are not finalized until approved by the RPC at their next meeting)). Staff presented the reasons for purchase of the Property, reviewed the purchase terms, and described how the Property would remain closed and managed as an extension of the surrounding Preserve. Three members of the Real Property Committee attended the meeting, as well as approximately seven members of the public, including the seller. The Real Property Committee unanimously recommended forwarding the proposed purchase to the full District Board of Directors.

PUBLIC NOTICE

Public notice was provided as required by the Brown Act, and a copy of this agenda was mailed to property owners of land located adjacent to or surrounding the Property.

NEXT STEPS

Upon approval, staff will continue to work towards the required approval of the land division with San Mateo County. Upon approval of the land division, the General Manager will direct staff to proceed with the close of escrow for the purchase of the Property and implement the PUMP. The District's Skyline Field Office will manage the Property as an addition to La Honda Creek Open Space Preserve.

Attachments:

1. Resolution Authorizing Acceptance of Purchase and Sale Agreement, Authorizing the 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 (La Honda Creek Open Space Preserve - Lands of Eberhard)
2. Eberhard Property Location Map
3. 11/8/2022 Draft Real Property Committee Meeting Minutes

Responsible Department Head:
Michael Williams, Real Property Manager

Prepared by:
Jasmine Leong, Real Property Specialist I
Allen Ishibashi, Sr. Real Property Agent

Graphics prepared by:
Anna Costanza, GIS Technician

RESOLUTION 23-__

RESOLUTION OF THE BOARD OF DIRECTORS OF MIDPENINSULA REGIONAL OPEN SPACE DISTRICT AUTHORIZING EXECUTION OF PURCHASE AND SALE AGREEMENT, AMENDING THE FISCAL YEAR 2022-23 GENERAL FUND CAPITAL BUDGET, AUTHORIZING GENERAL MANAGER OR OTHER APPROPRIATE OFFICER TO EXECUTE CERTIFICATE OF ACCEPTANCE AND GRANT TO DISTRICT, AND AUTHORIZING GENERAL MANAGER TO EXECUTE ANY AND ALL OTHER DOCUMENTS NECESSARY OR APPROPRIATE TO CLOSING OF THE TRANSACTION (LA HONDA CREEK OPEN SPACE PRESERVE - LANDS OF EBERHARD)

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 (Agreement) between Martin Eberhard and Carolyn Eberhard, Trustees of the Eberhard Family Trust dated 5 June 2010, and the Midpeninsula Regional Open Space District, a copy of which 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 (Eberhard Property).

SECTION TWO. The Board of Directors of Midpeninsula Regional Open Space District authorizes the expenditure of \$3,290,180.00 covering the purchase of the Eberhard Property, including a deposit of \$10,000.00.

SECTION THREE. The Board of Directors of Midpeninsula Regional Open Space District does hereby amend the Budget and Action Plan for the Midpeninsula Regional Open Space District for Fiscal Year 2022-23 by increasing the Measure AA Fund Capital budget in the amount of \$3,290,180.00. Except as herein modified, the FY 2022-23 Budget and Action Plan, Resolution No. 22-21 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 and 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, execute all escrow docs, and to extend escrow if necessary.

SECTION SIX. The General Manager or the General Manager's designee is authorized to expend up to \$50,000.00 to cover the cost of title insurance, escrow fees, survey and 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 January 25, 2023, at a regular meeting thereof, by the following vote:

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

ATTEST:

APPROVED:

Craig Gleason, Secretary
Board of Directors

Yoriko Kishimoto, President
Board of Directors

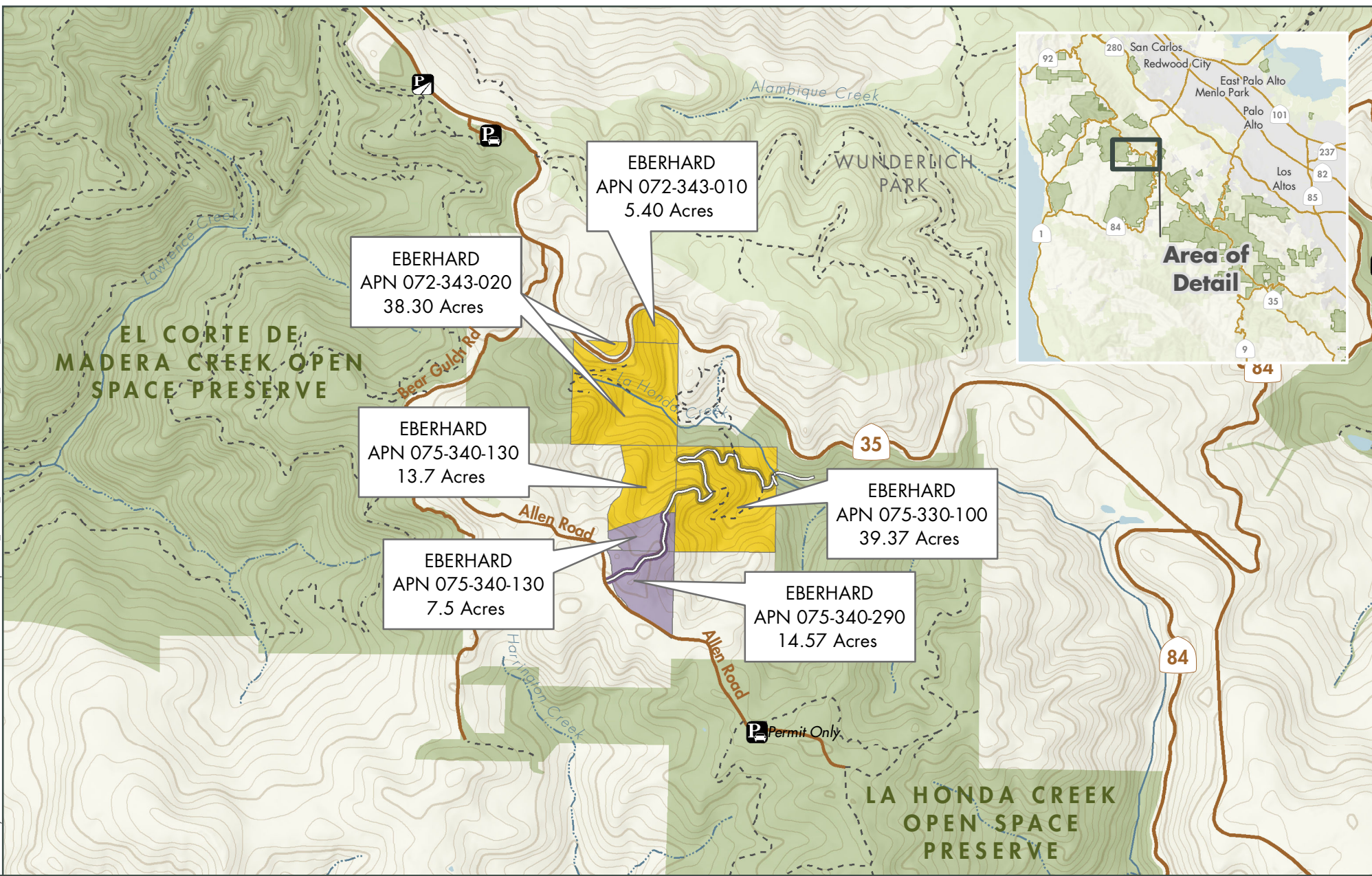
APPROVED AS TO FORM:

Hilary Stevenson, General Counsel












I, the Acting 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.

Maria Soria, Acting District Clerk

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Eberhard

- | | | | | | |
|---|-----------------------|---|---------------------|---|-----------------------------|
|  | Midpen preserves |  | MROSD fee interest |  | Access easement to Eberhard |
|  | Other protected lands |  | Retained by owner |  | Access easement to Midpen |
|  | Private property |  | Perennial stream |  | Minor unpaved road |
| | |  | Intermittent stream |  | Trail (public or private) |

Midpeninsula Regional
 Open Space District
 (Midpen)
 1/11/2023



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.



Midpeninsula Regional
Open Space District

MIDPENINSULA REGIONAL OPEN SPACE DISTRICT

REAL PROPERTY COMMITTEE

Eberhard Property
300 Allen Road
Woodside, CA 94062

Tuesday, November 8, 2022

DRAFT MINUTES

CALL TO ORDER

Director Cyr called the meeting of the Real Property Committee to order at 10:03 a.m.

ROLL CALL

Members Present: Jed Cyr, Larry Hassett, Karen Holman

Members Absent: None

Staff Present: General Manager Ana Ruiz, General Counsel Hilary Stevenson, Assistant General Manager Susanna Chan, Assistant General Manager Brian Malone, Assistant General Counsel Egan Hill, Real Property Manager Mike Williams, Sr. Real Property Agent Allen Ishibashi, Real Property Specialist I Jasmine Leong, and Executive Assistant/Legal Secretary Irma Mora

ADOPTION OF AGENDA

Motion: Director Hassett moved, and Director Holman seconded the motion to adopt the agenda.

VOTE: 3-0-0

ORAL COMMUNICATIONS

No speakers present.

COMMITTEE BUSINESS

1. Approval of Real Property Committee Minutes for October 18, 2022.

Motion: Director Hassett moved, and Director Cyr seconded a motion to approve the October 18, 2022 Real Property Committee meeting minutes.

**Real Property Committee
November 8, 2022**

VOTE: 2-0-1 Director Holman Abstained

2. Consideration of a new land purchase known as the Eberhard property in unincorporated San Mateo County (APNs 072-343-010, 072-343-020, 075-330-100, and a portion of 075-340-130).

Senior Real Property Agent Allen Ishibashi provided the staff presentation describing the Eberhard property, geographical features of the area, habitat and resource values of the property, and reasons for the proposed purchase. Mr. Ishibashi explained the property is in unincorporated San Mateo County, directly south of Skyline Boulevard (Highway 35) and east of Allen Road. The 96.77-acre property consists of four (4) unimproved parcels within a Timer Preserve Zone (TPZ). Three of the four parcels would be purchased in their entirety, and one parcel requires a lot-line adjustment where the District would purchase 13.7 of the 21.2 acres and the seller would retain 7.5 acres. The main access to the property is via dirt roads from Skyline Boulevard. The property is densely wooded with mixed hardwood forest, including redwood, tanoak and California live oak. Mr. Ishibashi explained that as part of the transaction, there would be an exchange of two easements: the first being a patrol and maintenance easement from the Eberhards to the District that provides access to Allen Road, and the second being an access easement from the District to the Eberhards that provides access to Skyline Boulevard. Mr. Ishibashi stated that Mr. Eberhard has removed vehicles, motorcycles, and debris and completed road and culvert work that has benefited the District with the purchase of the property. The purchase price for the proposed property is \$3,290,180, or \$34,000 an acre.

Director Holman inquired if the roads would be accessible if there was a fire.

Mr. Eberhard stated if there was a fire, no one would be denied access to the road.

Director Hassett inquired about the cleaning up of the property, and if there were any expected surprises.

Mr. Eberhard stated there were two cars remaining on the property.

Director Holman inquired if there were any toxins remaining after the removals of the motorcycles and vehicles that were on the property.

Mr. Eberhard reported all the vehicles removed from the property did not have engines or tires attached, and they were just basically the sheet metal frame.

Director Holman inquired if the lot-line adjustment and easements would occur concurrently, or in a sequence.

Mr. Ishibashi stated the lot-line adjustment and easements would be recorded at the same time, and it would take about six to nine months from the date the board approves the purchase.

Public comments opened at 10:24 a.m.

No speakers present.

Public comments closed at 10:24 a.m.

**Real Property Committee
November 8, 2022**

Motion: Consideration of a new land purchase known as the Eberhard property in unincorporated San Mateo County (APNs 072-343-010, 072-343-020, 075-330-100, and a portion of 075-340-130).

Director Hassett moved, and Director Holman seconded a motion to recommend to the Board approval of the Eberhard property purchase for the proposed price of \$3,290,180.

VOTE: 3-0-0

ADJOURNMENT

Director Cyr adjourned the meeting of the Real Property Committee at 10:25 a.m.

Irma Mora
Acting Deputy District Clerk