



Midpeninsula Regional
Open Space District

R-24-105
Meeting 24-23
August 28, 2024

AGENDA ITEM 3

AGENDA ITEM

Proposed Purchase of the 1.39-acre Dunham Property located in Santa Clara County (APN: 517-24-020) as an addition to El Sereno Open Space Preserve

GENERAL MANAGER'S RECOMMENDATIONS

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 Dunham Property for \$900,000 with a corresponding authorization for a Fiscal Year 2024-25 budget adjustment of the same amount.
3. Amend the Use and Management Plan for El Sereno Open Space Preserve to include the acquisition of real property, as set out in the staff report.
4. Withhold dedication of the Dunham Property as public open space at this time.

SUMMARY

The General Manager recommends purchasing the 1.39-acre Dunham Property (Property) at a discounted purchase price of \$900,000 as an addition to El Sereno Open Space Preserve (El Sereno OSP or Preserve). The following report includes a description of the Property, an amendment to the Use and Management Plan, findings of the environmental review, the purchase terms and conditions, and financial considerations. Currently, there is no budget allocation for this project. If approved, a budget adjustment of \$900,000 to the Fiscal Year 2024-25 (FY25) budget would be required to proceed with the acquisition.

DISCUSSION

Background

On June 4, 2018, the Midpeninsula Regional Open Space District (District) acquired, under the General Manager's authority in accordance with the District's Rules of Procedure, Section 2.60 (2) as amended on October 8, 2003 (see Report R-03-103), a Public Access, Patrol and Maintenance Easement (Easement) from Anne and Gordon Dunham over Bohlman Road as it traverses their property. The 142-foot-long, 100-foot-wide easement terminates at Gate ES04 of El Sereno OSP. This Easement and Property are critical as they serve as the main entry point for public trail access, maintenance, ranger patrol, and emergency response into the preserve from the north.

At the time the Easement was acquired, the property owner indicated that they would like to sell their property to the District in the future. The property owner recently approached the District about purchasing their 1.39-acre property consisting of one legal parcel in unincorporated Santa Clara County improved with a single-family home.

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

The Property sits adjacent to El Sereno OSP and is bordered by the Preserve to the east, south, and west, and private property to the north. The Property can be accessed by Bohlman Road, which provides public access to El Sereno OSP via the Montevina Ridge Trail. The Property may also be accessed from the east via Montevina Road by way of El Sereno OSP. The northern half of the property is improved with a modest home, and the southern half is unimproved with steeply sloping shrubland. Purchase of the Property would permanently protect and secure access into El Sereno OSP for the future extension of the Bay Area Ridge Trail and avoid potential contentions of public trail and agency operational use, provide an important ranger residence, and protect wildlife habitat within the Guadalupe and San Tomas Aquino watersheds. Acquisition of the Property would also advance Measure AA Portfolio #19: *Dog Trails and Connections [to Skyline Boulevard, Sanborn County Park, and Lexington Reservoir]*.

Land Use and Improvements

The Property is improved with Bohlman Road; a 1,233 square foot, 2-bedroom, 1-bathroom single-family residence; and a concrete-floor workshop. The house is in good condition with a 200-amp electrical panel, a high efficiency furnace, a newer water heater, and a newer insulating foam roof and floors. The home's utilities include PG&E electricity, propane gas, a private well, and a septic system. The workshop's utilities consist of PG&E electricity. The southern half of the property is steep and densely shrubbed with an old road cut that terminates on District property (the former Wong property).

Habitat and Natural Resources Value

The Property contains Monterey pines, cypress, oaks, manzanitas, and ornamentals/non-natives such as Coulter pines and Italian stone pine. The Property also includes a garden containing rosemary, apricots, figs, blueberries, strawberries, and other herbs and fruits.

Water Resources and Rights

The Property is served by a 100-foot-deep, 3.4 gallons-per-minute well system which has served the property owner for the past 52 years. All of the pipes are original galvanized steel, which will eventually need to be replaced with PVC or polyethylene. The well water system also includes a pump and a 3,000-gallon water tank.

USE AND MANAGEMENT

Planning Considerations

The Property consists of one parcel located in unincorporated Santa Clara County with a General Plan designation of Hillsides and a 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 2.20.010, very low-density residential use, low intensity recreation and land in its natural state (open space preserves) are allowable uses in HS zoning designation and shall be exempt from the Zoning Ordinance.

If purchased, the Property will be incorporated into El Sereno 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.

Amended Use and Management Plan

In May 2018, the General Manager adopted, under her authority, a Preliminary Use and Management Plan (PUMP) for the Dunham Easement via the District's Rules of Procedure, Section 2.60 (2) as amended on October 8, 2003 (see Report R-03-103). This acquisition of real property requires an amendment to the Use and Management Plan for El Sereno OSP. This amendment would take effect at the close of the transaction and remain effective until further amended or a Comprehensive Use and Management Plan or Preserve Plan is approved for El Sereno OSP. 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. Amendments to the Dunham Property's Use and Management Plan are shown in tracked changes below:

- Name: Name the Property as an addition to El Sereno Open Space Preserve.
- Dedication: Withhold dedication of the subject Property as open space at this time.
- Public Access: Allow public access over the Property to El Sereno OSP (existing condition).
- Signs and Site Security: Install Preserve boundary signs and Preserve use signs where appropriate.
- Residence: Designate the residence as staff housing. Maintain the residence, accessory structures, and associated improvements as needed.
- 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 existing road as part of El Sereno Open Space Preserve.
- 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: Maintain the well 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.

CEQA COMPLIANCE

Project Description

The project consists of the purchase of the 1.39-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, 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 will maintain the Property as status quo with no expansion to its existing use as open space. The PUMP includes maintenance of the existing residence, accessory structures, associated improvements, and 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 El Sereno 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 El Sereno Open Space Preserve.

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

TERMS AND CONDITIONS

The 1.39-acre Dunham Property is proposed for purchase at a sale price of \$900,000. The Property would be purchased as-is on an all-cash basis. Escrow would close on or before September 13, 2024. If approved, the current Public Access, Patrol and Maintenance Easement would be merged into the District's fee title at the close of escrow.

For additional context, the total estimated cost to construct a 1,500 square foot, 3-bedroom, 2-bathroom ranch style house on District owned property (including a well, septic, PG&E hook-up,

grading, permitting, and all other soft costs) would range between \$800,000 to over \$1,000,000 depending upon site conditions.

FISCAL IMPACT

Land acquisitions brought before the Board for approval include a budget adjustment to the adopted budget. If the purchase of the Dunham Property is approved, a budget increase of \$900,000 to the FY25 budget is required.

Dunham Property Purchase Amount (including \$10,000 deposit)	\$900,000
Graf-Scholer Property Purchase Amount (including \$15,000 deposit) <i>Also on the August 28, 2024 board meeting agenda</i>	\$1,000,000
Total Land purchases approved to date for FY25	\$0
Total Land Purchases (if approved)	\$1,900,000

The following table outlines the *Measure AA Portfolio 19 El Sereno — Dog Trails and Connections* allocation, costs-to-date, projected future project expenditures and projected portfolio balance remaining.

MAA19 El Sereno — Dog Trails and Connections Portfolio Allocation:	\$2,254,000
Grant Income (through FY28):	\$1,266,578
Total Portfolio Allocation:	\$3,520,578
Life-to-Date Spent (as of 07/26/24):	(1,564,764)
Encumbrances:	\$0
Remaining FY25 Project Budgets*:	(\$900,000)
Future MAA19 project costs (projected through FY28):	\$0
Total Portfolio Expenditures:	(\$2,464,764)
Portfolio Balance Remaining (Proposed):	\$1,055,814

**If budget adjustment approved*

The following table outlines the Measure AA Portfolio 19 allocation, projected life of project expenditures and projected portfolio balance remaining.

MAA19 El Sereno — Dog Trails and Connections Portfolio Allocation:	\$2,254,000
Grant Income (through FY28):	\$1,266,578
Total Portfolio Allocation:	\$3,520,578
Projected Project Expenditures (life of project):	
19-001 Gupta/Khan Property Purchase	(\$406,553)
19-002 Dunham-Bohlman Easement	(\$19,997)
19-003 Haight-Perry LV Land Acquisition	(\$52,977)
19-004 San Jose Water Co Land Purchase	(\$1,085,237)

19-005 Dunham Property Acquisition*	(\$900,000)
Total Portfolio Expenditures:	(\$2,464,764)
Portfolio Balance Remaining (Proposed):	\$1,055,814

**If budget adjustment approved*

PRIOR BOARD AND COMMITTEE REVIEW

The Real Property Committee did not review the purchase due to the compressed timeline of this acquisition.

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 by the Board, staff would proceed with the close of escrow for the purchase of the Property by September 13, 2024, and take the next steps identified in the PUMP as contained in this report. The District's Foothills Field Office would manage the property as an addition to the El Sereno Open Space Preserve.

Attachments

1. Resolution Authorizing Acceptance of Purchase and Sale Agreement, Amending the Fiscal Year 2024-25 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 (El Sereno Open Space Preserve - Lands of Dunham)
2. Dunham Property Location Map

Responsible Department Head:
Allen Ishibashi, Real Property Manager

Prepared by/Contact person:
Jasmine Leong, Real Property Agent I
Lupe Hernandez, Real Property Agent II

Graphics prepared by:
Lilian Amaral, GIS Intern

RESOLUTION 24-__

RESOLUTION OF THE BOARD OF DIRECTORS OF MIDPENINSULA REGIONAL OPEN SPACE DISTRICT AUTHORIZING EXECUTION OF PURCHASE AND SALE AGREEMENT, AMENDING THE FISCAL YEAR 2024-25 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 (EL SERENO OPEN SPACE PRESERVE - LANDS OF DUNHAM, APN 517-24-020)

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 Anne W. Dunham, Trustee of the Dunham Family Trust created on August 11, 1995, 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, Assessor's Parcel Number 517-24-020 (Dunham Property).

SECTION TWO. The Board of Directors of Midpeninsula Regional Open Space District authorizes the expenditure of \$900,000.00 covering the purchase of the Dunham 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 2024-25 by increasing the Measure AA Fund Capital budget in the amount of \$900,000.00. Except as herein modified, the FY 2024-25 Budget and Action Plan, Resolution No. 24-18 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 the Certificate of Acceptance and the Grant Deed on behalf of the District.

SECTION FIVE. The General Manager or the General Manager's designee (Real Property Manager) 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 (Real Property Manager) 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 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 August 28, 2024, at a regular meeting thereof, by the following vote:

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

ATTEST:

APPROVED:

Curt Riffle, Secretary
Board of Directors

Margaret MacNiven, President
Board of Directors

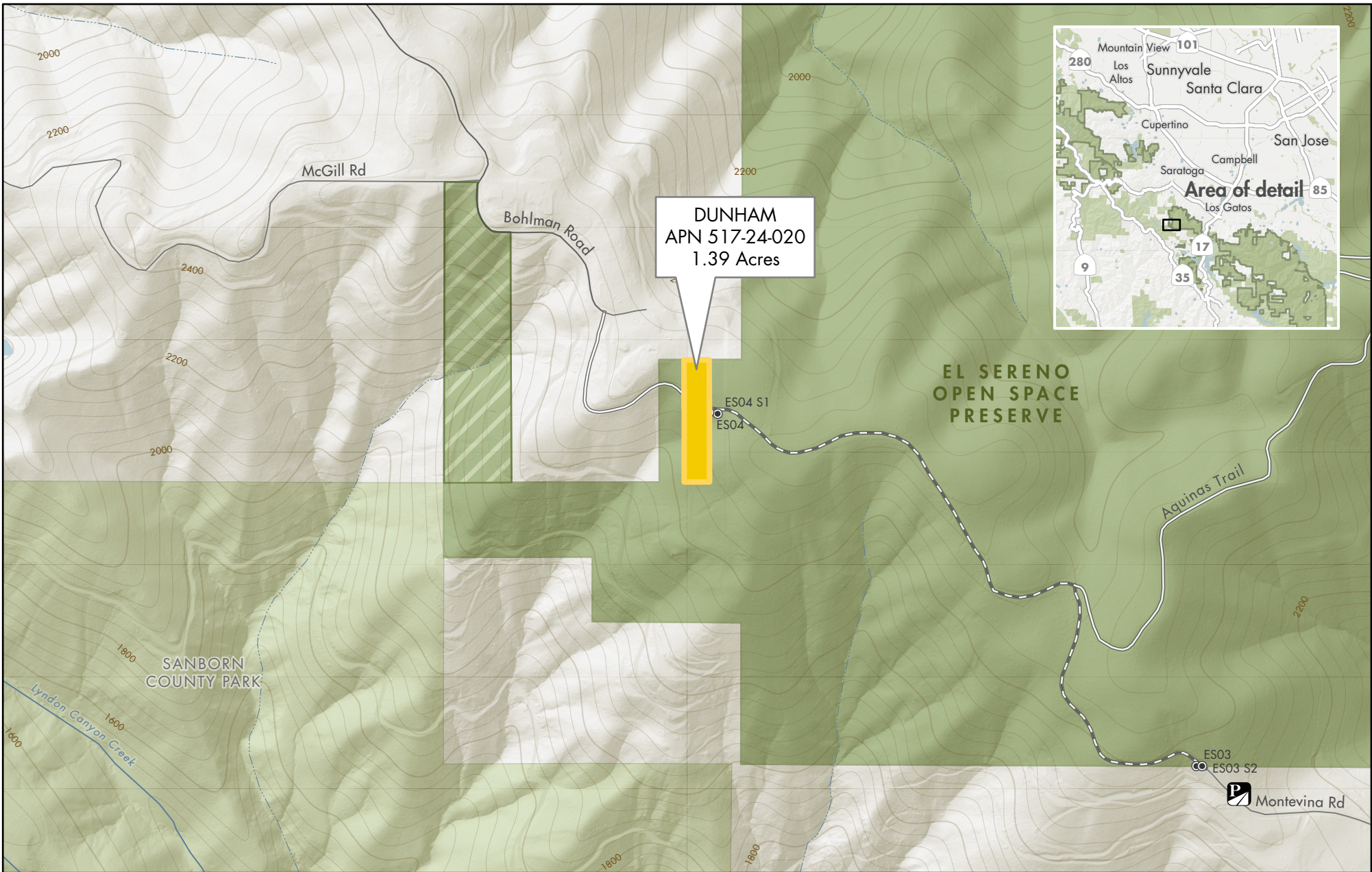
APPROVED AS TO FORM:

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.

Maria Soria, District Clerk

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Dunham Property

- Dunham property
- Other protected lands
- Midpen preserves
- Private property

- P** Roadside parking
- Paved road
- Unpaved all-season road
- Unpaved seasonal road

Midpeninsula Regional
Open Space District
(Midpen)
5/9/2024



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.

Please note the trail easement would be merged (absorbed) into the fee title.